

**SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY**

**PRESENT:** MELISSA A. CRANE  
Justice

**PART 15**

NATIONAL RIFLE ASSOCIATION OF AMERICA,

Petitioner,

- v -

LETITIA JAMES, IN HER OFFICAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF NEW YORK,

Respondent.

INDEX NO. 158019/2019  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. 001  
MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered \_ to \_ were read on this motion to/for \_\_\_\_\_.

	<u>PAPERS NUMBERED</u>
Notice of Motion/Order to Show Cause — Affidavits — Exhibits ...	_____
Answering Affidavits — Exhibits _____	_____
Replying Affidavits _____	_____

**CROSS-MOTION: YES NO**

After oral argument, and for the reasons stated on the record of 8-19-2019, the court denies the application of the NRA to sit in on the investigatory deposition of Mr. North. As explained on the record, the balance of the equities does not favor the NRA. The Attorney General has reiterated time and again that they are not seeking privileged information and just now represented that If Mr. North starts to reveal privileged information, they are going to “cut him off.” Moreover, Mr. North has his own counsel who can protect the privilege, and is likely to protect the privilege given that otherwise Mr. North could be vulnerable to a claim for breach of fiduciary duty.

On the other side, the equities favor the AG. Having the NRA or its Board sit in on an investigatory deposition by law enforcement could have the serious consequence of compromising the integrity of that investigation, particularly given the seemingly acrimonious

**MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):**

relationship between Mr. North and the NRA Board. For the purposes of this investigation, the NRA and its Board are one and the same. Their interests are united.


In reaching this conclusion, the court notes that Mr. North and his counsel appear to be operating in good faith as they gave notice to the NRA of the subpoena; and filed at least some documents in redacted form in a case in the Commercial Division. Although some documents were filed in non-redacted form, the court notes that it has been at least a month and there has been no motion to seal from the NRA. Similarly, there was no effort made to have the court review *in camera* the document that is completely redacted and attached as an exhibit to the NRA's papers. Consequently, the court is unable to assess the depth, if any, to which the privilege would have been compromised.

It would also likely compromise the investigation were the transcript to be handed over to the NRA during the investigation. I am not sure of the harm once the investigation is over, but that issue is not ripe yet. The court will retain jurisdiction, should that issue ever arise.

Accordingly, it is

**ORDERED** that the court denies the application and dismisses the petition.

DATED: 8-19, 2019

  
MELISSA A. CRANE, J.S.C

Check one:  FINAL DISPOSITION     NON-FINAL DISPOSITION  
 Check if appropriate: MOTION IS:  GRANTED     DENIED     GRANTED IN PART     OTHER  
 Check if appropriate:  DO NOT POST     REFERENCE     SETTLE ORDER     SUBMIT ORDER  
 FIDUCIARY APPOINTMENT