

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

NATIONAL RIFLE ASSOCIATION
OF AMERICA,

Plaintiff,

v.

ACKERMAN MCQUEEN, INC.

And

MERCURY GROUP, INC.

Defendants.

Case Nos. CL19001757,
CL19002067

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CLERK OF COURT'S
CITY OF ALEXANDRIA
2019 OCT 31 PM 4:25
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**PLAINTIFF'S ANSWER AND AFFIRMATIVE DEFENSES TO DEFENDANTS'
AMENDED AND SUPPLEMENTAL COUNTERCLAIM**

COMES NOW Plaintiff/Counterclaim Defendant the National Rifle Association (the "NRA"), by counsel, and hereby submits its Answer and Affirmative Defenses to the Amended and Supplemental Counterclaim ("Counterclaim") filed by Defendants Ackerman McQueen, Inc. and Mercury Group, Inc. (together, "AMc") as part of Defendants' Responsive Pleadings: Answer, Affirmative Defenses, Plea in Bar, Demurrer, and Counterclaim deemed filed as of October 8, 2019, in the consolidated matters numbered CL-19001757 and CL-19002067, and states as follows:

**ANSWER TO DEFENDANTS' AMENDED AND
SUPPLEMENTAL COUNTERCLAIM**

PARTIES

1. The NRA admits that Ackerman McQueen, Inc. is an Oklahoma corporation with its principal place of business in Oklahoma City, OK. The NRA lacks knowledge or sufficient

information upon which to form a belief as to whether AMc “maintains a key office” in Dallas or whether Dallas is “the former headquarters of NRATV.”

2. The NRA admits that Mercury Group, Inc. is a subsidiary of Ackerman McQueen, Inc. with its principal place of business in Alexandria, VA.

3. The NRA admits the factual allegations contained in this paragraph.

JURISDICTION

4. The NRA admits that this Court has jurisdiction over the matter.

SUMMARY OF COUNTERCLAIM

5. The NRA admits that on or about April 12, 2019, it filed a Complaint against AMc arising from the AMc’s refusal to furnish books and records under the Services Agreement between the NRA and AMc in which the NRA seeks specific performance of an unambiguous books-and-records inspection right. The NRA denies the remaining factual allegations in this paragraph.

6. The NRA admits that on or about April 24, 2019, it filed a Motion for Leave to Amend its Complaint to clarify its factual allegations and, in part, recognize a change in factual circumstances: namely that Colonel Oliver North finally disclosed a copy of his contract with AMc to the NRA on or about April 11, 2019. The NRA denies the remaining factual allegations in this paragraph.

7. The NRA admits that on or about May 22, 2019, it filed a Complaint in a case asserting claims for breach of contract and breach of fiduciary duty and that the case was assigned Case Number CL19002067. The NRA denies the remaining factual allegations in this paragraph.

8. This paragraph is a characterization of documents to which no response is required because the documents speak for themselves. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

9. The NRA admits that AMc provided a notice of termination on May 29, 2019. To the extent that this paragraph asserts a legal argument or conclusion, no response is required. To the extent a response is required, the NRA denies all remaining factual allegations in this paragraph.

10. The NRA denies the factual allegations in this paragraph. In addition, some of the allegations contained in this paragraph assert legal arguments and conclusions to which no response is required.

11. The NRA incorporates by reference its responses to Defendants' allegations contained in their prior Counterclaims against the NRA in Case numbers CL19001757 and CL19002067.

12. The allegations contained in this paragraph assert a legal conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph. Furthermore, Defendants' allegations in this paragraph are contrary to this Courts' Order dated October 8, 2019, wherein this Court denied Defendants' Pleas in Bar. The allegations contained in this paragraph are therefore moot.

13. The NRA denies the factual allegations in this paragraph.

THE SERVICES AGREEMENT

14. This paragraph asserts a legal conclusion to which no response is required. To the extent a response is required, the NRA admits that this suit concerns, *inter alia*, the parties' Services Agreement.

15. This paragraph is a characterization of a document to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

16. This paragraph is a characterization of a document to which no response is required because the document speaks for itself. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

17. This paragraph is a characterization of a document to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

18. This paragraph asserts a legal argument or conclusion to which no response is required. The NRA admits that Wayne LaPierre has held the position of Executive Vice President of the NRA at times relevant to this litigation. To the extent any further response is required, the NRA denies all remaining factual allegations in this paragraph

19. This paragraph includes a characterization of a document to which no response is required because the document speaks for itself. This paragraph also asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

20. This paragraph includes a characterization of a document to which no response is required because the document speaks for itself. This paragraph also asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

THE DOCUMENT DEMAND

21. This paragraph asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations contained in this paragraph.

22. This paragraph asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph, except that the NRA admits that it requested documents from Defendants pursuant to the Services Agreement.

23. This paragraph asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

24. This paragraph asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

25. The NRA denies the factual allegations in this paragraph.

26. This paragraph includes a characterization of a document to which no response is required because the document speaks for itself. This paragraph also asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

27. The NRA admits that it has conducted annual audits of some of its vendors. The NRA denies the remaining factual allegations in this paragraph.

28. The NRA admits that individuals visited AMc's offices to review records, but it denies the allegations to the extent they assert that the reviews proceeded unimpeded by AMc.

29. The NRA denies the factual allegations in this paragraph.

30. This paragraph is a characterization of deposition testimony to which no response is required because the statements as recorded in the corresponding deposition transcript speak for themselves. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

31. This paragraph is a characterization of emails to which no response is required because those documents speak for themselves. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

32. The NRA denies the factual allegations in this paragraph.

NRA DISCLOSES AMC PROPRIETARY INFORMATION

33. This paragraph is a characterization of a document to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

34. This paragraph is a characterization of a document to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

35. The NRA denies the allegations that it made “deliberate false statements.” This paragraph also asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

36. This paragraph is a characterization of a document to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

37. This paragraph is a characterization of a document to which no response is required

because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA admits that Frazer sent a response on March 14, 2019 and denies all the remaining factual allegations in this paragraph.

38. The NRA denies the allegations that it “misuse[d]” – “deliberately” or otherwise – AMc’s confidential information. This paragraph also asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

39. The NRA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. To the extent a response is required, the NRA denies the same.

40. This paragraph purports to quote from the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

41. The NRA denies the factual allegations in this paragraph. Moreover, this paragraph purports to rely on certain terms of the Services Agreement to which no response is required because the document speaks for itself.

42. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

COUNT I – BREACH OF CONTRACT

[Breach of Payment Obligations and Required \$3 Million Letter of Credit]

43. The NRA incorporates its responses to paragraphs 1 through 42 as fully set forth

herein.

44. The NRA incorporates its responses to Defendants' allegations of the Breach of Contract Count I stated in AMc's Counterclaims in the pre-consolidated lawsuits.

45. This paragraph purports to rely on certain provisions of the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

46. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

47. This paragraph asserts legal arguments to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

Breach of NRA's Obligations to Pay for Services Rendered During Litigation.

48. The NRA denies the allegations in this paragraph.

49. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

50. The NRA admits that Craig Spray is the NRA Treasurer. The remaining allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies all remaining factual allegations in this paragraph.

51. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. To the extent a response is required, the NRA denies the allegations in this paragraph.

52. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. To the extent a response is required, the NRA denies the allegations in this paragraph.

53. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. To the extent a response is required, the NRA denies the allegations in this paragraph.

54. This paragraph purports to quote from the Services Agreement to which no response is required because the document speaks for itself. To the extent that a response is required, the NRA denies the same.

55. The NRA denies the factual allegations in this paragraph.

56. The NRA denies the factual allegations in this paragraph.

57. The NRA admits that it has not made payment to Defendants for certain invoices because Defendants have not complied with their obligation to provide the NRA with certain information concerning those invoices. The NRA denies all remaining factual allegation contained in this paragraph.

58. This paragraph contains a characterization of a voicemail and an email to which no response is required because they speak for themselves. To the extent a response is required, the NRA denies the allegations in this paragraph.

59. This paragraph contains a characterization of a voicemail to which no response is required because it speaks for itself. To the extent a response is required, the NRA denies the allegations contained in this paragraph.

60. This paragraph contains a characterization of a document to which no response is required because it speaks for itself. This paragraph also contains legal conclusions for which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

61. This paragraph contains a characterization of a document to which no response is required because it speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

62. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

Supplemental Claim for Breach of the NRA's Obligation to Pay Invoices for Services Prior to Termination.

63. This paragraph contains a characterization of documents to which no response is required because they speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

64. This paragraph asserts legal conclusions to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

Supplemental Claim for NRA's Breach of Indemnification Clause of the Services Agreement.

65. This paragraph is a characterization of the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

66. The NRA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. To the extent a response is required, the NRA denies the same.

67. The NRA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. To the extent a response is required, the NRA denies the same.

68. This paragraph asserts a legal conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

69. This paragraph is a characterization of the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

Breach of NRA's Obligation to Post a \$3 Million Letter of Credit.

70. This paragraph contains a characterization of the Services Agreement to which no response is required because the document speaks for itself. This paragraph also asserts legal conclusions to which no response is required. To the extent that a response is required, the NRA denies the factual allegations in this paragraph.

71. This paragraph purports to quote the Services Agreement to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

72. This paragraph asserts legal arguments and conclusions to which no response is required. In addition, this paragraph is a characterization of the Services Agreement to which no response is required because the document speaks for itself. To the extent that a response is required, the NRA denies the factual allegations in this paragraph.

Breach of NRA's Obligation to Pay Invoices Timely.

73. This paragraph purports to quote the Services Agreement to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

74. The NRA denies the factual allegations in this paragraph.

75. The NRA denies the factual allegations in this paragraph.

76. This paragraph is a characterization of the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the allegations in this paragraph.

77. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

78. The NRA lacks knowledge or information sufficient to form a belief as to the truth of AMc's statement regarding AMc's future conduct. This paragraph asserts legal arguments and conclusions to which no response is required. The NRA denies the remaining factual allegations in this paragraph.

79. This paragraph purports to quote the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations

contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

80. This paragraph asserts legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

Obligation to Pay Costs to Return NRA Property.

81. This paragraph purports to quote the Services Agreement to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

82. This paragraph asserts legal arguments and conclusions to which no response is required. In addition, this paragraph is a characterization of the Services Agreement to which no response is required because the document speaks for itself. To the extent that a response is required, the NRA admits that AMc has relayed that the digital files exceed 1.7 petabytes, the NRA lacks knowledge or information sufficient to form a belief as to the truth of AMc's statement regarding its "transition[] of digital video files," and denies the remaining factual allegations in this paragraph.

83. This paragraph includes a characterization of "a 1060 page transmission," to which no response is required because the document speaks for itself. The NRA denies the remaining allegations in this paragraph.

84. The NRA admits that AMc transmitted a document styled a "Production Invoice" to the NRA one day before claiming in this paragraph that the NRA has "failed to pay" the purported invoice. To the extent that this paragraph characterizes that document, no response is required because the document speaks for itself. The NRA otherwise denies the remaining factual allegations in this paragraph.

85. This paragraph asserts a legal conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

Breach of Obligation to Pay a Termination Fee.

86. This paragraph asserts a legal conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

87. This paragraph, which purports to quote the Services Agreement, requires no response because that document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

88. This paragraph asserts legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

89. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

90. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

91. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

92. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

93. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent this paragraph includes a characterization of the Code of Virginia §

59-1-5707.1, no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

COUNT II – BREACH OF CONTRACT

[Breach of Implied Covenant of Good Faith and Fair Dealing]

94. The NRA incorporates its responses to paragraphs 1 through 93 as if fully set forth herein.

95. The NRA incorporates its responses to Defendants' allegations of the Breach of Contract Count II stated in AMc's Counterclaims in the pre-consolidated lawsuits.

96. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

97. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

98. This paragraph includes a characterization of the Services Agreement to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

99. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

100. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

101. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

102. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

103. The NRA denies the factual allegations in this paragraph. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

104. The NRA denies the factual allegations in this paragraph. This paragraph also asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

105. This paragraph asserts legal arguments and conclusions to which no response is required. This paragraph also includes a characterization of the Services Agreement and of the law, to which no response is required because those records speak for themselves. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

106. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

107. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

108. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

109. This paragraph asserts legal arguments and conclusions to which no response is required. This paragraph also includes a characterization of the Code of Virginia § 59-1-507.1, to which no response is required because that record speaks for itself. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

COUNT III – ABUSE OF PROCESS

110. The NRA incorporates its responses to paragraphs 1 through 109 as fully set forth herein.

111. The NRA incorporates its responses to Defendants' allegations of the Abuse of Process Count III stated in AMc's Counterclaims in the pre-consolidated lawsuits

112. This paragraph is AMc's characterization of the NRA's lawsuit as articulated in the Amended Complaint to which no response is required because the Amended Complaint speaks for itself. Furthermore, no response is required as this paragraph characterizes deposition testimony, which testimony speaks for itself as recorded in the corresponding deposition transcript. To the extent that a response is required, the NRA denies the factual allegations in this paragraph.

113. The NRA denies the factual allegations in this paragraph.

114. This paragraph is a characterization of the NRA's lawsuit to which no response is required because the Complaint and Amended Complaint speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is

required. To the extent a response is required, the NRA admits that it filed suit on April 12, 2019, seeking access to AMc's files, books and records. The NRA denies the remaining factual allegations of this paragraph.

115. This paragraph is a characterization of the allegations in the Amended Complaint to which no response is required because that document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA admits that it filed a Motion for Leave to Amend Complaint on April 24, 2019, and a proposed Amended Complaint seeking access to AMc's files, books and records. The NRA denies the remaining factual allegations of this paragraph.

116. The NRA denies the factual allegations in this paragraph.

117. The NRA admits that Lt. Col. North was not reappointed as NRA President. The NRA denies the other factual allegations in this paragraph.

118. The NRA denies the factual allegations in this paragraph.

119. The NRA denies the factual allegations in this paragraph.

120. The NRA denies the factual allegations in this paragraph.

121. The NRA admits that it filed a second lawsuit against the Defendants on May 22, 2019, which seeks \$40 million in damages. The NRA denies the other factual allegations in this paragraph.

122. The NRA denies the factual allegations in this paragraph.

123. The NRA admits that on or about May 24, 2019, it filed a document titled Plaintiffs Request For An Emergency Hearing and Emergency Motion For Entry Of An Order Staying This Action So That Plaintiff May Conduct Limited Discovery Into Defendants' Theft Of Plaintiffs Property. The NRA denies the other allegations in this paragraph.

124. This paragraph is a characterization of a pleading to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

125. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

126. This paragraph is a characterization of a pleading to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

127. The NRA admits that it issued subpoenas for documents and depositions to Oliver North. This paragraph contains a characterization of pleadings to which no response is required because the documents speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. The NRA otherwise denies the remaining factual allegations in the paragraph.

128. This paragraph contains characterization of pleadings to which no response is required because the documents speak for themselves. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

129. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent the paragraph includes a characterization of deposition testimony, no response is required because the statements as recorded in the corresponding deposition transcripts

speak for themselves. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

130. This paragraph includes a characterization of deposition testimony to which no response is required because the statements as recorded in the corresponding deposition transcript speak for themselves. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

131. The NRA admits that it has retained the law firm of Brewer Attorneys & Counselors, and that an attorney from that law firm has been admitted *pro hac vice* in this case. The NRA otherwise denies the factual allegations in this paragraph.

132. This paragraph includes a characterization of a document to which no response is required because the document speaks for itself. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

133. This paragraph includes a characterization of a document to which no response is required because the document speaks for itself. In addition, some of the allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

134. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

135. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

136. This paragraph asserts legal arguments and conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

137. This paragraph asserts legal arguments or conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

138. The NRA lacks knowledge or information sufficient to form a belief as to the truth of the statement that out-of-state legal actions have “interfered with AMc’s compliance with the Services Agreement”; admits that AMc is not in compliance with the Service Agreement; defers to the Services Agreement for the content of that document; and otherwise denies the allegations in the paragraph.

139. This paragraph asserts a legal argument or conclusion to which no response is required. To the extent a response is required, the NRA denies the factual allegations in this paragraph.

140. The NRA denies the factual allegations in this paragraph.

141. The NRA denies the factual allegations in this paragraph. This paragraph also asserts legal arguments or conclusions to which no response is required. To the extent a response is required, the NRA denies the factual allegations in the paragraph.

All factual allegations contained in the paragraphs of the Counterclaim not herein specifically admitted are denied.

AFFIRMATIVE DEFENSES

Without assuming the burden of proof as to any issue that would otherwise rest upon AMc, the NRA asserts the following affirmative defenses:

FIRST DEFENSE

AMc's Counterclaim fails to state a claim upon which relief can be granted. Separately, the NRA has filed a Demurrer to AMc's Amended and Supplemental Counterclaim and incorporates it herein by reference.

SECOND DEFENSE

AMc's claims are barred, in whole or in part, by the doctrine of unclean hands.

THIRD DEFENSE

As a result of AMc's conduct, works, and/or actions, AMc's Counterclaim is barred, in whole or in part, by the doctrine of waiver.

FOURTH DEFENSE

To the extent that AMc suffered any injury, such injury was not caused by the NRA.

FIFTH DEFENSE

AMc failed to allege sufficient facts to support the damages claimed.

SIXTH DEFENSE

AMc failed to mitigate damages.

SEVENTH DEFENSE

AMc's prior material breach of the Services Agreement excuses the NRA's performance under the agreement.

EIGHTH DEFENSE

AMc failed to satisfy conditions precedent.

NINTH DEFENSE

AMc's claims are barred by its fraudulent conduct.

TENTH DEFENSE

The NRA is entitled to setoff and/or recoupment.

ELEVENTH DEFENSE

The matters addressed by AMc in their Counterclaim against the NRA are subject to the litigation privilege.

The NRA will rely on all defenses available to it and reserves the right to supplement this pleading and assert any additional defenses that may be discovered during the course of this litigation.


WHEREFORE, having filed its Answer and Affirmative Defenses, Plaintiff/Counterclaim Defendant the NRA respectfully requests the Court to dismiss the Defendants' Amended and Supplemental Counterclaim or enter an order consistent with the NRA's responsive pleadings and motions.

Dated: October 31, 2019

Respectfully submitted,

PLAINTIFF NATIONAL RIFLE ASSOCIATION
OF AMERICA

By Counsel


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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2019, I caused the foregoing to be served via electronic mail and first-class mail upon:

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David Dickieson, Esq.
Joseph Gonzalez, Esq.
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