

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

TAXI TOURS INC., Plaintiff, -against- GO NEW YORK TOURS, INC., Defendant.	Index No. 653012/2019 I.A.S. Part 54 Hon. Jennifer G. Schecter, J.S.C. <u>AFFIRMATION OF PETER M. SARTORIUS IN FURTHER SUPPORT OF COUNTERCLAIM-DEFENDANTS' MOTION TO PRECLUDE THE EXPERT REPORT AND TESTIMONY OF STEVEN M. SHEFFIELD AND IN OPPOSITION TO GO NEW YORK'S CROSS-MOTION TO RE-OPEN FACT DISCOVERY</u>
GO NEW YORK TOURS, INC., Counterclaim- Plaintiff, -against- BIG BUS TOURS LIMITED, OPEN TOP SIGHTSEEING USA, INC., TAXI TOURS, INC., GO CITY LIMITED, GO CITY NORTH AMERICA, LLC, GO CITY, INC., GRAY LINE NEW YORK TOURS, INC., TWIN AMERICA, LLC, and SIGHTSEEING PASS LLC, Counterclaim- Defendants.	

PETER M. SARTORIUS, an attorney duly admitted to practice before the courts of the State of New York, affirms under penalties of perjury as follows:

1. I am a partner at the law firm Olshan Frome Wolosky LLP, counsel for Counterclaim-Defendants Open Top Sightseeing USA, Inc., Taxi Tours, Inc., Go City North America, LLC, and Go City Inc. (collectively, "**Counterclaim-Defendants**") in this action. Unless otherwise stated, I make this affirmation on my own personal knowledge.

2. I respectfully submit this reply affirmation in further support of their motion for an order excluding the expert report of Steven M. Sheffield dated April 27, 2023, proffered by counterclaim-plaintiff Go New York Tours, Inc. (“**Go New York**”) and precluding Go New York from proffering testimony by Mr. Sheffield in connection with any substantive motions or at trial; and in opposition to Go New York’s cross-motion to re-open fact discovery.

3. Go New York deposed Counterclaim-Defendants’ representatives Charles Nolen, on November 11, 2022, and Julia Conway, on November 17, 2022. Both deponents testified under oath that Counterclaim-Defendants were not involved in any supposed “fake” review program.

4. Counterclaim-Defendants requested that Go New York identify the specific reviews which it believes were fraudulently posted by or on behalf of Counterclaim-Defendants. These requests were made by way of written discovery, correspondence, and multiple meet-and-confers between counsel. To my knowledge, Go New York has not produced any alleged “fake” reviews among the 20,000-plus documents produced by Go New York in this action and, to this day, Go New York has not identified a single “fake” review. Instead, Go New York continues to rely solely on the RANE Memos to support its “astroturfing” claim.

5. Attached hereto as **Exhibit A** is a true and correct copy of correspondence between Go New York, Counterclaim-Defendants, and this Court regarding the schedule for fact depositions, ending with an email from Mr. Michael Rand on December 22, 2022.

WHEREFORE, Counterclaim-Defendants respectively request that the Court grant their motion and direct entry of an order (a) excluding the expert report of Steven M. Sheffield dated April 27, 2023, proffered by counterclaim-plaintiff Go New York Tours, Inc., and precluding counterclaim-plaintiff from proffering testimony by Mr. Sheffield in connection with any

substantive motions or at trial; (b) denying Go New York's cross-motion to re-open fact discovery; and (c) granting all other relief to counterclaim-defendants as this Court deems just and proper.

Dated: New York, New York
 July 14, 2023

/s/ Peter M. Sartorius

PETER M. SARTORIUS

CERTIFICATION

I hereby certify that the word count of this document complies with the word limits of 22 New York Codes, Rules and Regulations § 202.8-b. According to the word-processing system used to prepare this document, the total word count for all printed text exclusive of the material omitted under the aforementioned rule is 396 words.

Dated: New York, New York
 July 14, 2023

/s/ Peter M. Sartorius

PETER M. SARTORIUS