

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

MELEANIE & SCOTT HAIN,
individually and as husband and wife,
Plaintiffs,

v.

MICHAEL J. DeLEO, et al.,
Defendants.

CIVIL ACTION NO. 1:08-CV-2136-YK
(Honorable Yvette Kane)

ELECTRONICALLY FILED

JURY TRIAL DEMANDED

JOINT CASE MANAGEMENT PLAN

Having complied with the meet and confer requirements set forth in the LOCAL RULES, or with any orders specifically modifying their application in the above-captioned matter, the parties hereby submit the following Joint Case Management Plan.

1.0 Principal Issues

1.10 Separately for each party, please give a statement summarizing this case:

By plaintiff:

To satisfy his constituents and at the behest of a co-governmental actor, Sheriff DeLeo revoked Plaintiff, Meleanie Hain's permit to conceal her firearm without pre-deprivation due process so to infringe upon her openly carrying her firearm (which open carrying was disconcerting to those constituents though admittedly Constitutionally permissible). This is Civil Rights action in primary part under the 2nd, 4th and 14th Amendments for substantive and procedural due process violations, equal protection violations, and violation of Hain's right to bear arms.

By defendant:

The instant action purports to be brought pursuant to 42 U.S.C. §1983 for alleged civil rights violations related to the revocation of Plaintiff Meleanie Hain's license to carry firearms

Defendant DeLeo revoked Plaintiff Meleanie Hain's license to carry firearms pursuant to 18 Pa.C.S. §6109. Defendant DeLeo revoked the license based on Plaintiff's character and reputation as permitted by 18 Pa.C.S. 6109 after receiving complaints about Hain and making an investigation of the incident. Following an appeal of the decision pursuant to the statutory procedure established under Pennsylvania law, the Court of Common Pleas of Lebanon County, reinstated Plaintiff's license.

Defendant DeLeo, the Sheriff's Office, and Lebanon County did not violate any of Plaintiff's constitutional rights. Moreover, Defendants are not otherwise liable to Plaintiffs.

The principal factual issues that the parties dispute are:

- 1.11 Plaintiff Meleanie Hain's character and reputation for purposes of carrying a concealed weapon.**
- 1.12 The facts leading to Defendant DeLeo's decision to revoke Plaintiff's license.**
- 1.13 The reasons why DeLeo revoked Plaintiff's permit.**

agree upon are:

- 1.20 Sheriff DeLeo issued Meleanie Hain a license to carry a concealed weapon.**
- 1.21 Sheriff DeLeo revoked Meleanie Hain's license to carry a concealed weapon.**

1.30 The principal legal issues that the parties dispute are:

1.31 The applicability of the Second, Fourth, and Fourteenth Amendments to the present matter.

1.32 The cause of any alleged damages suffered by Plaintiffs.

1.33 Whether Plaintiffs fail to state a claim.

1.34 The ability of Plaintiffs to maintain any state law actions.

1.35 Whether Defendant DeLeo is entitled to qualified immunity.

1.36 The policy, custom, and practice of the municipal defendants.

1.37 At all times, Hain, prior to permit revocation, had the right to conceal as well as openly carry her firearm.

agree upon are:

1.40 DeLeo was acting under color of state law.

1.50 Identify any unresolved issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue:

None.

1.60 Identify any named parties that have not yet been served:

None.

1.70 Identify any additional parties that:

plaintiff(s) intend to join:

defendant(s) intend to join: **None**

1.80 Identify any additional claims that:

plaintiffs intend to add:

defendants intend to add: **None at this time**

2.0 Alternative Dispute Resolution (“ADR”)

2.10 Identify any ADR procedure to which this case already has been assigned or which the parties have agreed to use.

ADR procedure: **None**

Date ADR to be commenced:

Date ADR to be completed:

2.20 If the parties have been unable to agree on an ADR procedure, but one or more parties believes that the case is appropriate for such a procedure, identify the party or parties that recommend ADR and the specific ADR process recommended: **None**

2.30 If all the parties share the view that no ADR procedure should be used in this case, set forth the basis for that view:

This is a civil rights action, which will be primarily controlled by principles of law.

3.0 Consent to Jurisdiction by a Magistrate Judge

Indicate whether all parties agree, pursuant to 28 U.S.C. Section 636(c)(1), to have a magistrate judge preside as the judge of the case with appeal lying to the United States Court of Appeals for the Third Circuit:

All parties agree to jurisdiction by a magistrate judge of this court:

___ Y **X** N.

If parties agree to proceed before a magistrate judge, please indicate below which location is desired for the proceedings:

___ Scranton
___ Wilkes-Barre
 Harrisburg

4.0 Disclosures

4.100 Separately for each party, list by name and title/position each person whose identity has been disclosed.

4.101 Disclosed by plaintiff:

<u>Name</u>	<u>Title/Position</u>
Parties	

4.151 Disclosed by defendants:

<u>Name</u>	<u>Title/Position</u>
Michael DeLeo	Sheriff
Charlie Jones, Esq.	Witness
Nigel Foundling	Witness

4.200 Separately for each party, describe by categories the documents that have been disclosed or produced through formal discovery, indicating which categories relate (even if not exclusively) to damages:

4.201 Categories of documents disclosed by Plaintiff:

4.202 **None**

4.203

4.251 Categories of documents disclosed by Defendant:

None

4.300 Additional Documents Disclosures: Separately for each party, describe each additional category of documents that will be disclosed without imposing on other counsel the burden of serving a formal request for production of documents:

4.301 Additional categories of documents Plaintiff will disclose:

4.302 **Plaintiffs' entire discoverable file**

4.303

4.351 Additional categories of documents Defendants will disclose:

4.352 **Sheriff's office file with respect to issuance and revocation of license.**

4.353

4.400 Separately for each party who claims an entitlement to damages or an offset, set forth the computation of the damages or of the offset:

4.401 **None**

4.402 **Plaintiff: (1) Statutory Damage-\$1; (2) Pain and Suffering; (3) Wage Loss; (4) Punitive Damages; (5) Attorneys fees and costs.**

4.403

5.0 Motions

Identify any motion(s) whose early resolution would likely have a significant effect either on the scope of discovery or other aspects of the litigation:

<u>Nature of Motion</u>	<u>Moving Party</u>	<u>Anticipated Filing Date</u>
Motion to Stay	Defendants	Filed March 5, 2009
Motion to Dismiss	Defendants	Filed December 26, 2008

6.0 Discovery

6.100 Briefly describe any discovery that has been completed or is in progress:

By plaintiff: **None**

By defendants: **None**

6.200 Describe any discovery that all parties agree should be conducted, indicating for each discovery undertaking its purpose or what kinds of information will be developed through it (e.g., "plaintiff will depose Mr. Jones, defendant's controller, to learn what defendant's revenue

recognition policies were and how they were applied to the kinds of contracts in this case”):

By Plaintiff: **Deposition Sheriff DeLeo and 30(b)(6) witnesses of the municipalities as to liability (see above issues in dispute).**

Written Discovery.

By Defendants: **Depositions of Plaintiffs as to liability and damages**

Depositions of parents attending soccer game where Plaintiff was openly carrying a firearm as to liability.

Deposition of Charlie T. Jones, Jr., Esq. as to liability.

Deposition of Nigel Foundling as to liability.

Deposition of John Singletary as to liability and damages.

Interrogatories and Requests for Production of Documents related to liability and damages.

6.300 Describe any discovery that one or more parties want(s) to conduct but to which another party objects, indicating for each such discovery undertaking its purpose or what kinds of information would be developed through it:

None at this time.

6.400 Identify any subject area limitations on discovery that one or more parties would like imposed, at the first stage of or throughout the litigation:

None at this time.

6.500 For each of the following discovery tools, recommend the per-party or per-side limitation (specify a number) that should be fixed, subject to later modification by stipulation or court order on an appropriate showing (where the parties cannot agree, set forth separately the limits recommended by plaintiff(s) and by defendant(s)):

6.501 depositions (excluding experts) to be taken by:

plaintiff recommends: **15**

defendants recommend: **10**

6.502 interrogatories to be served by:

plaintiffs recommend: **Unlimited**

defendants recommend: **30**

6.503 document production requests to be served by:

plaintiffs recommend: **Unlimited**

defendants recommend: **30**

6.504 requests for admission to be served by:

plaintiffs recommend: **Unlimited**

defendants recommend: **30**

6.600 All discovery commenced in time to be completed by:

Defendants have filed an uncontested Motion to Stay proceedings pending resolution of the pending Motion to Dismiss. Dates are provided in the event that the Court denies the Motion for a stay.

plaintiffs recommend: **Stay**

defendants recommend: **October 1, 2009**

6.700 Reports from retained experts due:

from plaintiffs by: **October 15, 2009**

from defendants by: **November 15, 2009**

6.800 Supplementations due: **November 30, 2009**

7.0 Protective Order

7.1 If entry or a protective order is sought, attach to this statement a copy of the proposed order:

None

7.2 If there is a dispute about whether a protective order should be entered, or about certain terms of the proposed order, briefly summarize each party's position below:

N/A

8.0 Certification of Settlement Authority (All Parties Shall Complete the Certification)

I hereby certify that the following individual(s) have settlement authority.

For Plaintiff: Parties

For Defendants:

**Teresa Isabella
CCAP Insurance Programs
P.O. Box 60769
Harrisburg, PA 17106**

9.0 Scheduling

Defendants have filed an uncontested Motion to Stay proceedings pending resolution of the pending Motion to Dismiss. Dates are provided in the event that the Court denies the Motion for a stay.

9.1 This case may be appropriate for trial in approximately:

_____ 240 Days from the filing of the action in this court

_____ 365 Days from the filing of the action in this court

X 460 Days from the filing of the action in this court

9.2 Suggested Date for Trial:

plaintiff: **Stay pending adjudication of Motion to Dismiss**

defendants: **March 2010**

9.3 Suggested Date for the final Pretrial Conference:

plaintiff: **See above**

defendants: **February 2010**

9.4 Final Date for joining additional parties:

plaintiff recommends: **See above**

defendants recommend: **June 1, 2009**

9.5 Final date for amending pleadings:

plaintiff recommends: **See above**

defendants recommend: **June 1, 2009**

9.6 All potentially dispositive motions should be filed by:

plaintiff recommends: **See above**

defendants recommend: **December 15, 2009**

10.0 Other Matters

Make any suggestions for the case development process, settlement, or trial that may be useful or necessary to the efficient and just resolution of the dispute.

None

Plaintiff: Plaintiff requests participation in conferences/hearings via telephone due to distance

11.0 Identification of Lead Counsel

Identify by name, address, and telephone number lead counsel for each party. Also please indicate ECF User status below.

(Attorneys for Plaintiff)

Matthew B. Weisberg, Esq.

7 S. Morton Ave., Morton, PA 19070

610-690-0801

Active

(Attorneys for Defendants)

DAVID L. SCHWALM, ESQUIRE

Attorney I.D. No. 32574

305 North Front Street

P.O. Box 999

Harrisburg, PA 17108-0999

Attorneys for Defendants Michael DeLeo,

Office of the Lebanon County Sheriff, and

Lebanon County

Registered ECF User

Dated: March 6, 2009

/s/ Matthew B. Weisberg

Attorney for Plaintiff

Dated: March 6, 2009

/s/ David L. Schwalm

Attorney for Defendants

CERTIFICATE OF SERVICE

I, David L. Schwalm, Esquire, of the law firm of Thomas, Thomas & Hafer, LLP, hereby state that a true and correct copy of the foregoing document(s) was served upon all counsel of record in the manner and on the date set forth below:

By the Middle District Court via Electronic Filing:

Matthew B. Weisberg, Esquire

mweisberg@ppwlaw.com

THOMAS, THOMAS & HAFFER, LLP

Dated: March 6, 2009

/s/ David L. Schwalm

David L. Schwalm, Esquire