

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

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New York State Rifle and Pistol Association, Inc.;	:
Westchester County Firearms Owners Association, Inc.;	:
Sportsmen's Association for Firearms Education, Inc.;	: Civil Action Number:
New York State Amateur Trapshooting Association, Inc.;	: 1:13-cv-00291 (WMS)
Bedell Custom; Beikirch Ammunition Corporation;	:
Blueline Tactical & Police Supply, LLC; Batavia Marine &	:
Sporting Supply, LLC; William Nojay; Thomas Galvin;	:
and Roger Horvath,	:
	:
Plaintiffs,	:
	:
-against-	:
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Andrew M. Cuomo, Governor of the State of New York;	:
Eric T. Schneiderman, Attorney General of the State of	:
New York; Joseph A. D'Amico, Superintendent of the	:
New York State Police; Lawrence Friedman, District	:
Attorney for Genesee County; and Gerald J. Gill, Chief of	:
Police for the Town of Lancaster, New York,	:
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	:
Defendants.	:

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DECLARATION OF KATHLEEN M. RICE

Kathleen M. Rice, under penalty of perjury and in accordance with 28 U.S.C. §1746, states and declares as follows:

1. I am the District Attorney of Nassau County, New York. I am also the incoming president of the District Attorneys Association of the State of New York.
2. I submit this Declaration in support of the State Defendants' Motions to Dismiss and for Summary Judgment and in Opposition to the Plaintiffs' Motion for Preliminary Injunctive relief and the Amended Complaint challenging the constitutionality of the SAFE Act. See New York Penal Law §§ 265.00 *et seq.* and 460.22. I make this declaration based upon my personal knowledge, having spent more than twenty years as a prosecutor, including nearly eight

years as District Attorney of Nassau County.

3. Gun violence has ended far too many promising lives, in Nassau County and elsewhere. It has a devastating effect on victims and their families, and the fear of gun violence holds many of our neighborhoods hostage every day.

4. Prosecutors see first-hand the effects of criminal violence, and gun violence in particular, on victims and communities. District Attorneys are duty-bound to do everything within their authority to protect the citizens of their jurisdictions. Along with the police, the District Attorney is the first line of defense for New York and Nassau County citizens against gun violence.

5. As District Attorney of Nassau County, I believe that we must do whatever we can to reduce the threat of gun violence and get dangerous firearms off the streets. I have undertaken aggressive measures to reduce the toll of gun violence.

6. For example, a recent gun buyback program supported by my office took in, among other firearms, fifteen assault weapons. As part of the gun buyback program, operable firearms could be turned in, anonymously, in exchange for cash. The program's intent was to take these firearms off the street, making them unavailable for use in crime, and preventing them from being found or misused by children or those who should not have access to guns. Those who turned in an assault weapon received \$400, more than twice the amount of money we paid for the return of operable handguns. That cash payment reflects the heightened risk we see from the potential criminal misuse of assault weapons, as well as the fear that the use of such dangerous, military-style weapons instills in our communities.

7. Legislation, like the SAFE Act, that limits access to assault weapons and high capacity magazines ("LCMs") increases public safety. Assault weapons are combat weapons.

8. Assault weapons pose particular public health dangers to New Yorkers because their rapid rate of fire, large ammunition capacity, long range accuracy and high velocity enable shooters without training or experience to injure and kill large numbers of people easily and rapidly. These weapons can also be used to terrify and intimidate, and they increase fear in our communities.

9. LCMs pose particular public health dangers to New Yorkers because they enable individuals determined to inflict mass injury to shoot large numbers of rounds before having to stop to reload. The few seconds it takes to reload may be enough to provide bystanders and potential victims an opportunity to intervene and stop the shooter or take cover. LCMs allow shooters to keep shooting without pause, dramatically reducing the opportunity of an intervening force.

10. In addition, assault weapons and LCMs are used in significant numbers by criminals in mass shootings, gang-related shootings, and in shootings of police officers.

11. The SAFE Act's provisions regarding ammunition sales, which require background checks and face-to-face sales of ammunition and prevent the anonymous bulk sale of ammunition over the internet, for example, are also likely to increase public safety by making sure that those who are not legally entitled to purchase ammunition cannot easily order unlimited rounds on the internet or by mail. Law abiding citizens are still free to purchase as many rounds of ammunition as they desire, but this provision is a common sense step to prevent those we have determined should not be permitted to buy ammunition from actually doing so.

12. New York has long had bans on assault weapons and LCMs. The SAFE Act merely strengthened these bans. For example, although New York has long banned LCMs, that ban did not apply if the LCM was manufactured before 1994, an exception which was difficult to

enforce. The SAFE Act toughened this law and, I believe, makes New York safer. The SAFE Act will restrict criminals' access to assault weapons and LCMs and thereby significantly reduce the devastation caused by mass shooters, gang-members, and other criminals.

13. Assault weapons and LCMs have been banned in New York since 1994. Neither the definitions of military-style features, nor the definitions of ammunition capacity limitations have been problematic in our enforcement and prosecution efforts.

14. Banning assault weapons and LCMs will not compromise people's ability to defend themselves in their homes, because numerous other weapons are available and more suited to purposes of home defense.

15. Assault weapons equipped with LCMs are not suited to self-defense in the home. Because the fire power of assault weapons is so great, rounds that miss their target can penetrate walls and injure or kill innocent family members, neighbors, bystanders, and passersby.

16. Although criminals will, by definition, ignore some laws, New York's tough gun laws do have an effect. For example, a recent large-scale prosecution being handled by my office involved a takedown of a violent street gang. This gang has been involved in gun violence and intimidation for over a decade and we believe that, to avoid New York's tough gun laws, gang members have traveled to other states with less stringent gun laws to obtain the weapons used for their criminal enterprise.

17. The SAFE Act's ban on assault weapons and the ban on LCMs will not end all gun violence in Nassau County or in New York, but it is an important tool in our effort to do so. Prosecutors need a wide range of tools to prevent gun violence, and the assault weapons ban and the LCM ban enable prosecutors to implement common sense measures that increase public safety.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 18, 2013

A handwritten signature in black ink, appearing to read "Kathleen M. Rice". The signature is written in a cursive style with a large, prominent "R" and "C".

Kathleen M. Rice