

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NEW YORK STATE RIFLE AND
PISTOL ASSOCIATION, INC., et al.,

Plaintiffs,

**NOTICE OF MOTION TO
APPEAR PRO HAC VICE**

v.

Case No.: 13-cv-00291-WMS

ANDREW M. CUOMO, et al.,

Defendants.

PLEASE TAKE NOTICE that upon the affidavit of John G. Schmidt Jr., sworn to May 2, 2013, and the petition and affidavit of Charles J. Cooper, sworn to April 25, 2013, and all the pleadings and proceedings herein, the National Rifle Association of America, Inc. (“NRA”) will move this Court, at a date and time to be determined by the Court, for an Order pursuant to Rule 83.1(i) of the Local Rules of Civil Procedure for the United States District Court for the Western District of New York, admitting Charles J. Cooper *pro hac vice* to represent the NRA as *amicus curiae* before this Court in all proceedings in this action.

Dated: Buffalo, New York
May 2, 2013

PHILLIPS LYTTLE LLP

By /s/ John G. Schmidt

John G. Schmidt Jr.

Nicolas J. Rotsko

*Attorneys for National Rifle Association of
America, Inc.*

One HSBC Center, Suite 3400

Buffalo, New York 14203-2887

Telephone No.: (716) 847-8400

JSchmidt@phillipslytle.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE APPLICATION OF

CHARLES J. COOPER

**SPONSORING
AFFIDAVIT**

TO BE ADMITTED TO PRACTICE AS AN ATTORNEY

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

JOHN G. SCHMIDT JR., being duly sworn, deposes and says:

1. I am a partner at Phillips Lytle LLP, 3400 HSBC Center, Buffalo, New York 14203.
2. I am an attorney at law, admitted to practice in the State of New York. I was admitted to practice in the United States District Court for the Western District of New York on the 9th day of August, 1996.
3. I have known Mr. Cooper since April, 2013 under the following circumstances: Phillips Lytle LLP was retained by the National Rifle Association, Inc. (“NRA”) to serve as local counsel in conjunction with Mr. Cooper’s law firm, Cooper & Kirk PLLC, for the NRA’s *amicus curiae* participation in *New York State Rifle and Pistol Association Inc., et al. v. Andrew M. Cuomo., et al.*, Case No.: 13-cv-00291-WMS.
4. Mr. Cooper is an attorney with a reputation for the highest standards of integrity, morality, responsibility, and professionalism in the practice of law.
5. Phillips Lytle LLP will serve as local counsel for the NRA during the above referenced action.

6. I respectfully request that Charles J. Cooper, Esq. be admitted to practice *pro hac vice* before this Court to represent the NRA as *amicus curiae* herein.

/s/ John G. Schmidt, Jr.

JOHN G. SCHMIDT, JR.

Sworn to before me, this
2nd day of May, 2013

/s/ Deborah A. Gessner

Deborah A. Gessner

No. 01GE4526830

Notary Public, State of New York

Qualified in Erie County

My Commission Expires: October 31, 2014

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE APPLICATION OF

Charles J. Cooper

(Name)

TO BE ADMITTED TO PRACTICE AS AN ATTORNEY

TO THE HONORABLE JUDGE Hon. William M. Skretny OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK:

Charles J. Cooper, petitioner herein, respectfully states:

1. That petitioner has an office for the practice of law at: Cooper & Kirk, PLLC

2. That petitioner attended the following educational institutions and received the following degrees: _____

University of Alabama School of Law in 1977, J.D.

University of Alabama School of Business Administration in 1974, B.S.

3. Please complete either (a), (b) or (c):

Admission by Petition

(a) That petitioner was admitted to practice by the Appellate Division of the Supreme Court, _____ Department of the State of New York on the _____ day of _____, _____.

Additional Requirements: Admission Sponsoring Affidavit
Attorney's Oath
Civility Principles Oath
Attorney Database Form
Attorney CM/ECF Registration Form
*If the attorney or the firm with which the attorney is associated with maintains an office in this District, a required pro bono service form

Admission by Certificate of Good Standing

(b) That petitioner was admitted to practice in the United States District Court of the _____ District of _____ on the _____ day of _____, _____, and is a member of the bar of the State in which that district court is located and in which the petitioner maintains an office for the practice of law.

Additional Requirements: Certificate of Good Standing from the Clerk of Court of which he or she is a member (dated no earlier than six months prior to submission to this Court)
Check or money order in the amount of the Attorney Admission fee set forth in the District Court Schedule of Fees
Attorney's Oath
Civility Principles Oath
Attorney Database Form
Attorney CM/ECF Registration Form
*If the attorney or the firm with which the attorney is associated with maintains an office in this District, a required pro bono service form

Pro Hac Vice Admission

(c) That petitioner is admitted to practice in the State of District of Columbia.

Additional Requirements: Motion to Appear Pro Hac Vice
Check, Money Order or payment of fee on line in the amount of the Pro Hac Fee set forth in the District Court Schedule of Fees
Admission Petition Form
Admission Sponsor Affidavit
Attorney's Oath
Civility Principles Oath
Attorney Database Form
Attorney CM/ECF Registration Form

4. Petitioner is admitted to the following courts: See attachment.

5. Since such admission(s), petitioner has practiced in the following courts: See attachment.

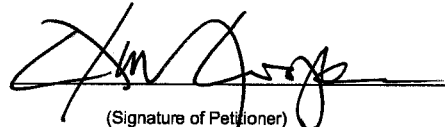
and has been involved in the following professional activities: See attachment.

6. That petitioner or the petitioner's client (in a case in which the applicant represented the client) has never been held in contempt of court, sanctioned, censured in a disciplinary proceeding, suspended or disbarred by any court or admonished by any disciplinary committee of the organized bar, nor is the subject of any pending complaint before any court. If the answer is in the affirmative, the applicant shall file a separate confidential statement under seal specifying the court or disciplinary committee imposing the sanction, the date, the facts giving rise to the disciplinary action or complaint, the sanction imposed, and such other information, including any facts of a mitigating or exculpatory nature as may be pertinent, and such confidential statement, together with the petition, shall promptly be transmitted by the Clerk to the Chief Judge of the District for review.

7. That petitioner has read and is familiar with the provisions of Title 28 of the United States Code which pertains to jurisdiction of and venue in a United States District Court, the Federal Rules of Civil and Criminal Procedures, the Federal Rules of Evidence, the Local Rules of Practice for the United States District Court for the Western District of New York, the Code of Professional Responsibility as adopted by the Appellate Division of the State of New York and as interpreted and applied by the United States Supreme Court, the United States Court of Appeals for the Second Circuit, and this Court.


WHEREFORE, the petitioner respectfully requests to be admitted as an attorney in the United States District Court for the Western District of New York.

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


(Signature of Petitioner)

Sworn to before me this 25th day of APRIL, 2013

Notary Public


John C. Brown
Notary Public, District of Columbia
My Commission Expires 6/14/2017



Attachment

4. Petitioner is admitted to the following courts:

(A)	United States Supreme Court	Date Admitted: 10/16/82
(B)	District of Columbia	Date Admitted: 12/02/91
(C)	U.S. Court of Appeals – 2nd Circuit	Date Admitted: 11/28/83
(D)	U.S. Court of Appeals – 3rd Circuit	Date Admitted: 09/25/92
(E)	U.S. Court of Appeals – 4th Circuit	Date Admitted: 07/19/91
(F)	U.S. Court of Appeals – 5th Circuit	Date Admitted: 01/11/83
(G)	U.S. Court of Appeals – 6th Circuit	Date Admitted: 07/25/91
(H)	U.S. Court of Appeals – 7th Circuit	Date Admitted: 10/13/00
(I)	U.S. Court of Appeals – 8th Circuit	Date Admitted: 03/02/93
(J)	U.S. Court of Appeals – 9th Circuit	Date Admitted: 02/14/96
(K)	U.S. Court of Appeals – 10th Circuit	Date Admitted: 01/24/92
(L)	U.S. Court of Appeals – 11th Circuit	Date Admitted: 09/04/02
(M)	U.S. Court of Appeals – D.C. Circuit	Date Admitted: 01/26/79
(N)	U.S. Court of Appeals – Federal Circuit	Date Admitted: 08/17/92
(O)	State of Alabama	Date Admitted: 09/22/77
(P)	State of Georgia	Date Admitted: 11/13/79
(Q)	State of Massachusetts	Date Admitted: 03/19/86

5. Since such admission(s), petitioner has practiced in the following courts: See 4.

and has been involved in the following professional activities:

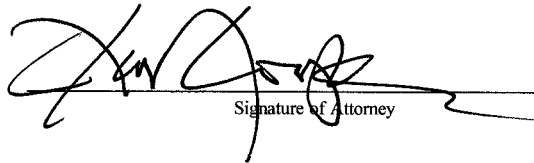
- American Academy of Appellate Lawyers
- American Law Institute
- Federal Bar Council
- Supreme Court Historical Society

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

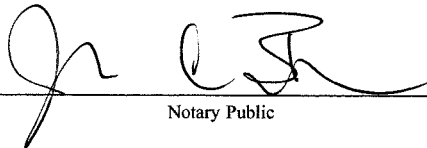
ATTORNEY'S OATH

STATE OF District of Columbia)
) SS:
City of Washington COUNTY)

I, Charles J. Cooper of Bonita Springs, Florida
City, State
do solemnly swear or affirm that I will demean myself, as an attorney and counselor of the United States District Court for the Western District of New York, uprightly and accordingly to law; and I will support the Constitution of the United States. So help me God.


Signature of Attorney

Subscribed and sworn to before me this 25th
day of April, 2013.


Notary Public

John C. Brown
Notary Public, District of Columbia
My Commission Expires 6/14/2017



Rev. 2/2000

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

**CIVILITY PRINCIPLES
PREAMBLE**

A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as lawyers, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe to all participants in a legal proceeding respect, diligence, punctuality, and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice.

The following Guidelines are designed to encourage us, judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We encourage judges, lawyers and clients to make a mutual and firm commitment to these Guidelines.

We support the principles espoused in the following Guidelines, but under no circumstances should these Guidelines be used as a basis for litigation or for sanctions or penalties.

Lawyers' Duties to Other Counsel

1. We will practice our profession with a continuing awareness that our role is to zealously advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. We will treat all other counsel, parties, and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications. We will refrain from acting upon or manifesting bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status toward any participant in the legal process.
2. We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties, or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel.
5. We will not lightly seek court sanctions.
6. We will in good faith adhere to all express promises and to agreements with other counsel, whether oral or in writing, and to all agreements implied by the circumstances or local customs.
7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide other counsel the opportunity to review the writing. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to other counsel's attention. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing

of the addition.

8. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement to obtain unfair advantage.

9. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.

10. We will not use any form of discovery or discovery scheduling as a means of harassment.

11. Whenever circumstances allow, we will make good faith efforts to resolve by agreement objections before presenting them to the court.

12. We will not time the filing or service of motions or pleadings in anyway that unfairly limits another party's opportunity to respond.

13. We will not request an extension of time solely for the purpose of unjustified delay or to obtain unfair advantage.

14. We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

15. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel.

16. We will promptly notify other counsel and if appropriate, the court or other persons, when hearings, depositions, meetings, or conferences are to be canceled or postponed.

17. We will agree to reasonable requests for extensions of time and for waiver of procedural

formalities, provided our clients legitimate rights will not be materially or adversely affected.

18. We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity, unless the rules provide otherwise.

19. We will take depositions only when actually needed. We will not take depositions for the purposes of harassment or other improper purpose.

20. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

21. We will not obstruct questioning during a deposition or object to deposition questions unless permitted under applicable law.

22. During depositions we will ask only those questions we reasonably believe are necessary, and appropriate, for the prosecution or defense of an action.

23. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary, and appropriate, for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party, or for any other improper purpose.

24. We will respond to document requests reasonably and not strain to interpret requests in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents, or to accomplish any other improper purpose.

25. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary, and appropriate, for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party, or for any other improper purpose.

26. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information, or for any other improper purpose.

27. We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information, or for any other improper purpose.

28. When a draft order is to be prepared by counsel to reflect a court ruling we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

29. We will not ascribe a position to another counsel that counsel has not taken.

30. Unless permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

31. Nothing contained in these Guidelines is intended or shall be construed to inhibit vigorous advocacy, including vigorous cross-examination.

Lawyers' Duties to the Court

1. We will speak and write civilly and respectfully in all communications with the court.

2. We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.
5. We will not knowingly misrepresent mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.
6. We will not write letters to the court in connection with a pending action, unless invited or permitted by the court.
7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.
8. We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks with an awareness that they, too, are an integral part of the judicial system.

Courts' Duties to Lawyers

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.
2. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.
3. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

4. In scheduling all hearings, meetings and conferences we will be considerate of time schedule of lawyers, parties, and witnesses.
5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.
6. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.
7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.
8. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.
9. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which a lawyer represents.
10. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.
11. We will not adopt procedures that needlessly increase litigation expense.
12. We will bring to lawyers' attention uncivil conduct which we observe.

Judges' Duties to Each Other

1. We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

2. In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.

3. We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

ADOPTED ON THE 28TH DAY OF SEPTEMBER, 1998

BY ORDER OF THE COURT

Honorable David G. Larimer, Chief District Judge

Honorable Richard J. Arcara, District Judge

Honorable William M. Skretny, District Judge

Honorable Charles J. Siragusa, District Judge

Honorable John T. Curtin, Senior District Judge

Honorable John T. Elfvin, Senior District Judge

Honorable Michael A. Telesca, Senior District Judge

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

APPENDIX TO CIVILITY PRINCIPLES

OATH OF OFFICE

I do solemnly swear (or affirm):

I will support the Constitution of the United States and the Constitution of the State of New York;

I will maintain the respect due to Courts of Justice and judicial officers;

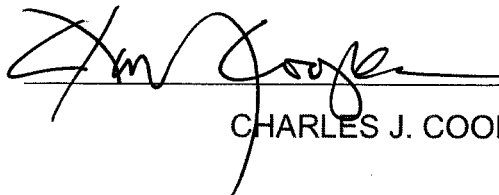
I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor and will never seek to mislead the judge or jury by an artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;

I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed on members of the bar as conditions for the privilege to practice law in this State and before this Court.



CHARLES J. COOPER

**ATTORNEY DATABASE INFORMATION
For Newly-Admitted Attorneys**

The Clerk's Office maintains a computerized database of attorneys admitted in the District. To ensure the data we enter for you is correct, please fill out the form below and submit it with your other papers when you are admitted. Our local rules require you to report name, firm affiliation, office address or phone number changes within 30 days.

Attorney Database Input Sheet	
Please print. If you use two surnames or have a hyphenated surname, please indicate how you would like the name entered into our records, i.e., first surname as middle name, both surnames in last name field, etc.	
First Name: Charles	
Middle Name or Initial: J.	
Last Name: Cooper	
Firm: Cooper & Kirk, PLLC	
Address: 1523 New Hampshire Avenue, N.W.	
Suite: _____	
City: Washington	State: D.C. Zip: 20036 - 1203
Phone: 202 - 220 - 9660	FAX: 202 - 220 - 9601
Bar ID Number: 248070 (D.D.C.)	**Required
Date Applied: ___ / ___ / ___	Date Admitted: 12 / 02 / 1991
Method of Admission: pro hac vice _____ (petition, certificate of good standing, pro hac vice)	

UNITED STATES DISTRICT COURT
Western District of New York

ELECTRONIC CASE FILING SYSTEM REGISTRATION FORM

This form shall be used to register for an account on the Courts' Case Management/Electronic Files (CM/ECF) system. Registered attorneys will have privileges to electronically submit and to view the electronic docket sheets and documents. By registering, attorneys consent to receiving electronic notice of filings through the system. The following information is required for registration:

PLEASE TYPE

First/Middle/Last Name: Charles J. Cooper

Firm Name: Cooper & Kirk, PLLC

Firm Address: 1523 New Hampshire Avenue, N.W.

Voice Phone Number: 202-220-9660 FAX Number: 202-220-9601

Internet E-Mail Address: ccooper@cooperkirk.com

Additional E-Mail Address (optional): _____

Does your E-Mail Software support HTML messages? Yes No

Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Western District of New York or otherwise permitted as a filing user.

Date admitted to practice in this Court: _____

If admitted pro hac vice:

Date motion for pro hac vice granted: _____ in case number: 13-291

By submitting this registration form, the undersigned agrees to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system. The undersigned also consents to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) via the Court's electronic filing system. The combination of user id and password will serve as the signature of the attorney filing the documents. Attorneys must protect the security of their passwords and immediately notify the court if they learn that their password has been compromised.


Signature of Registrant

4-25-2013
Date

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NEW YORK STATE RIFLE AND
PISTOL ASSOCIATION, INC., et. al.,

Plaintiffs,

v.

Case No.: 13-cv-00291-WMS

ANDREW M. CUOMO, et al.,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2013, I electronically filed a copy of the foregoing **Notice of Motion for Pro Hac Vice Admission of Charles J. Cooper, Esq., Affidavit of John G. Schmidt, Jr., in Support of Motion Pro Hac Vice Admission, and Petition of Charles J. Cooper with forms**, with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants in this case:

Brian T. Stapleton
GOLDBERG SEGALLA LLP
11 Martine Avenue, Suite 750
White Plains, New York 10606-1934

Stephen P. Halbrook, Esq.
3925 Chain Bridge Road, Suite 403
Fairfax, Virginia

Benjamin K. Ahlstrom
NEW YORK STATE ATTORNEY GENERAL'S OFFICE
Main Place Tower
Suite 300A

350 Main Street
Buffalo, NY 14202

Kevin M. Kearney
Hodgson Russ LLP
The Guaranty Building, Suite 100
140 Pearl Street
Buffalo, NY 14202

And, I hereby certify that I have mailed the foregoing, by the United States Postal Service, to the following Defendant, whose counsel has yet to enter an appearance in the case:

Lawrence Friedman
District Attorney for Genesee County
Genesee County District Attorney's Office
One West Main Street
Batavia, NY 14020

PHILLIPS LYTLE LLP

By /s/ John G. Schmidt
John G. Schmidt Jr.
*Attorneys for National Rifle Association of
America, Inc.*
One HSBC Center, Suite 3400
Buffalo, New York 14203-2887
Telephone No.: (716) 847-8400
jschmidt@phillipslytle.com