

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

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Alan Kachalsky, Christina Nikolov, Eric Detmer, :  
Johnnie Nance, Anna Marcucci-Nance, :  
and Second Amendment Foundation, Inc., :  
: :  
Plaintiffs, : **Civil Action Number: 10-cv-5413**  
: **(Hon. Cathy Seibel)**  
-against- :  
: :  
Susan Cacace, Jeffrey A. Cohen, :  
Albert Lorenzo, Robert K. Holdman :  
and County of Westchester, :  
: :  
Defendants. :  
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**NOTICE OF CROSS-MOTION FOR SUMMARY JUDGMENT**


**PLEASE TAKE NOTICE** that, upon the Memorandum of Law dated January 26, 2011; the State Defendants' Rule 56.1 Statement of Undisputed Material Facts ("State Defs. 56.1"); the Declaration of Philip Cook ("Cook Decl.") and the exhibits thereto; the Declaration of Franklin E. Zimring ("Zimring Decl."); the Declaration of Susan Cacace ("Cacace Decl."); the Declaration of Jeffrey A. Cohen ("Cohen Decl."); the Declaration of Albert Lorenzo ("Lorenzo Decl."); the Declaration of Robert K. Holdman, ("Holdman Decl."); the Declaration of the Hon. David R. Roefaro, Mayor of Utica ("Utica Decl."); the Declaration of the Hon. Stephanie A. Miner, Mayor of Syracuse ("Syracuse Declaration"); the Declaration of State Police Col. Thomas L. Fazio ("Fazio Decl."); the Declaration of State Police Sgt. James Sherman and the exhibits thereto ("Sherman Decl."); the Declaration of New York City Police Department Deputy Inspector Andrew Lunetta ("Lunetta Decl."); the Declaration of Westchester County Pistol Licensing Unit Commanding Officer Bruce Bellom ("Bellom Decl."); the Declaration of Marge Cohen,

New York State Division of Criminal Justice Service and the exhibits thereto ("Cohen Decl."); and the Declaration of Assistant Attorney General Anthony J. Tomari ("Tomari Decl.") and the exhibits thereto, State Defendants will cross-move for summary judgment, before the Honorable Cathy Seibel, at a time and place to be determined by the Court, granting declaratory judgment that the provisions of New York Penal Law § 400.00(2)(f) are constitutional, dismissing plaintiffs' First Amended Complaint, and this action, in its entirety as against the State Defendants, and granting such other and further relief as the Court deems just, proper and appropriate.

**PLEASE BE FURTHER ADVISED** that pursuant to the Federal Rules of Civil Procedure, and Order of this Court, opposition papers to this motion, if any, must be served on counsel for the State Defendants by February 9, 2011. Reply papers are to be served by February 23, 2011.

Dated: New York, New York  
January 26, 2011

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State of New York  
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