



Dated: April 8, 2013

Respectfully Submitted,

LAW OFFICE OF STEVEN HALBROOK

GOLDBERG SEGALLA, LLP

By: /s/ Stephen P. Halbrook  
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By: /s/ Brian T. Stapleton  
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*Counsel For Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK  
Buffalo Division

NEW YORK STATE RIFLE AND PISTOL	)	
ASSOCIATION, INC., et al.,	)	
	)	
Plaintiffs,	)	Case No.: 1:13-cv-00291-WMS
	)	
v.	)	<b>AFFIDAVIT</b>
	)	
ANDREW M. CUOMO, et al.,	)	
	)	
Defendants.	)	

STATE OF NEW YORK	)
COUNTY OF WESTCHESTER	) SS:
CITY OF WHITE PLAINS	)

1. I am an attorney at law duly licensed to practice in the State of New York and am a partner with the law firm Goldberg Segalla, LLP, counsel to plaintiffs New York State Rifle and Pistol Association, Inc.; Westchester County Firearms Owners Association, Inc.; Sportsmen’s Association for Firearms Education, Inc.; New York State Amateur Trapshooting Association; Bedell Custom; Beikirch Ammunition Corporation; Blueline Tactical & Police Supply, LLC; William Nojay; Thomas Galvin; and Roger Horvath, in the above-captioned action. As such, I am familiar with the facts and circumstances involved in this litigation.

2. I submit this affidavit in support of Plaintiff’s Motion for an Expedited Hearing made pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Local Rule 7.1(d), and Motion to Exceed the Page Limitation for a Memorandum of Law in Support of a Preliminary Injunction.

3. Plaintiffs submit this motion to shorten the notice requirements of Local Rule 7.1(b) & (c).

4. Plaintiffs are filing this motion contemporaneously with their Motion to Exceed the Page Limitation for a Memorandum of Law in Support of a Preliminary Injunction pursuant to Local Rule 7(a)(2)(C).

5. Plaintiffs seek to challenge the constitutionality of the New York Secure Ammunition and Firearms Enforcement Act (“the Act”), which was passed as “emergency legislation” without notice to the public or committee hearings and enacted on January 15, 2013. Some provisions are already in effect, and certain provisions concerning “large capacity feeding devices” will take effect on April 15, 2013.

6. The Act creates new offenses with severe criminal penalties for previously-lawful activities involving the acquisition and possession of rifles, handguns, shotguns, ammunition magazines, and ammunition.

7. The Act also severely and adversely affects millions of other law-abiding gun owners in New York. Their core Second Amendment right is at issue in this challenge. For example, the Act’s arbitrary limitation of the number of rounds allowable for a firearm in the home causes a profound loss of a sense of security and, more important, irreparable harm from a successful criminal attack in the home.

8. Plaintiffs William Nojay, Thomas Galvin, and Roger Horvath are law-abiding gun owners. The Act has impinged on the individual Plaintiffs’ Second Amendment right to defend themselves, their families, and their property.

9. Plaintiffs New York State Rifle and Pistol Association, Inc.; Westchester County Firearms Owners Association, Inc.; Sportsmen’s Association for Firearms

Education, Inc.; New York State Amateur Trapshooting Association are associations that are dedicated to the preservation of Second Amendment rights and the promotion of firearm safety, education and training, and the shooting sports.

10. Plaintiff Bedell Custom, Beikirch Ammunition Corporation, and Blueline Tactical & Police Supply, LLC are either manufacturers or gunsmiths of firearms, or sellers of firearms and ammunition.

11. Plaintiffs seek an expedited hearing for this Court to consider its Motion to Exceed the Page Limitation for a Memorandum of Law in Support of a Preliminary Injunction.

12. Plaintiffs assert that the hastily-passed Act is unconstitutional on many grounds. There are numerous sections of the Act that unconstitutionally impact, among other things, the ownership, sale, and purchase of pistols, rifles, shotguns, and magazines for rounds of ammunition.

13. As one example of many amendments, the Act has broadened the definition of an “assault weapon,” using a one-feature test. In order to adequately address the amended definition of an “assault weapon” in their Memorandum of Law, Plaintiffs need to discuss and explain all the features that are part of the consideration of what constitutes an “assault weapon”. Those features are many.

14. Respectfully, a 25-page limit is insufficient to discuss the landscape of recent developments of Second Amendment jurisprudence, as well as the complex “emergency legislation” that has impacted Plaintiffs and law-abiding New Yorkers since January 15, 2013.

15. Plaintiffs respectfully request that this Court expand by fifteen (15) pages the page limitation for its Memorandum of Law in Support of Their Request for a Preliminary Injunction.

16. I have reviewed the preceding statements, and they are true and accurate according to the best of my information, knowledge and belief.

**WHEREFORE**, your deponent respectfully requests that this Court grant Plaintiffs' Motion for an Expedited Hearing, as well as their Motion to Exceed the Page Limitation for a Memorandum of Law in Support of a Preliminary Injunction Pursuant to Fed. R. Civ. P. 65(a), along with further relief the Court deems just and proper.

GOLDBERG SEGALLA LLP

*s/Brian T. Stapleton*

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11 Martine Avenue, Suite 750

White Plains, New York 10606-1934

(914) 798-5400

[bstapleton@goldbergsegalla.com](mailto:bstapleton@goldbergsegalla.com)

Sworn to before me this  
8th day of April 2013

*s/Kathy E. Patrick*

Notary Public No. 01PA5078241, Westchester County, Expires May 19, 2015.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK  
Buffalo Division

NEW YORK STATE RIFLE AND PISTOL )  
ASSOCIATION, INC., et al., )  
 )  
Plaintiffs, ) Case No.: 1:13-cv-00291-WMS  
 )  
v. )  
 )  
ANDREW M. CUOMO, et al., )  
 )  
Defendants. )

Upon consideration of Plaintiffs NEW YORK STATE RIFLE AND PISTOL ASSOCIATION, INC.; WESTCHESTER COUNTY FIREARMS OWNERS ASSOCIATION, INC.; SPORTSMEN’S ASSOCIATION FOR FIREARMS EDUCATION, INC.; NEW YORK STATE AMATEUR TRAPSHOOTING ASSOCIATION; BEDELL CUSTOM; BEIKIRCH AMMUNITION CORPORATION; BLUELINE TACTICAL & POLICE SUPPLY, LLC; WILLIAM NOJAY; THOMAS GALVIN; and ROGER HORVATH’s Motion for Expedited Hearing, made pursuant to Rule 6 of the Federal Rules of Civil Procedure and Local Rule 7.1(d), any opposition thereto, and for good cause shown; it is hereby

**ORDERED** that the Motion for Expedited Hearing is GRANTED; and it is further

**ORDERED** that Plaintiffs shall serve their Motion to exceed the page limit for a memorandum of law in support of a preliminary injunction under F. R. Civ. P. 65 (a), together with all papers on which each Motion is based, via hand delivery on Defendant Andrew M. Cuomo at the New York State Capitol Building, Albany, New York 12225,

Defendant Joseph A. D'Amico at the Office of the Superintendent of the State of New York, New York State Police, at 1220 Washington Avenue, Building 22, Albany, New York 12226-2252, Defendant Gerald J. Gill, Jr., the Office of the Chief of Police of the Lancaster Police Department at Lancaster Police Department Headquarters, 525 Pavement Road, Lancaster, New York 14086, Defendant Eric Schneiderman at the Office of Attorney General of New York State, The Capitol, Albany, New York 12224-0341, Defendant Frank A. Sedita, III, Office of the District Attorney for Erie County, Erie County Executive's Office, Edward A. Rath County Office Building, 95 Franklin Street, 16th Floor, Buffalo, New York 14202, no later than \_\_\_\_ on April \_\_, 2013; and also by overnight trackable mail on defendants at the above-referenced offices; and it is further

**ORDERED** that responding papers be served via CM/ECF and by hand delivery to Court chambers, by or before \_\_\_\_ April \_\_, 2013; and it is further

**ORDERED** that the hearing for both Motions shall be on April \_\_, 2013 at \_\_\_\_.

DATED: Buffalo, New York  
April \_\_, 2013

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Hon. William M. Skretny, U.S.D.J.

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Buffalo Division

NEW YORK STATE RIFLE AND PISTOL )  
ASSOCIATION, INC., et al., )  
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Plaintiffs, ) Case No.: 1:13-cv-00291-WMS  
 )  
v. )  
 )  
ANDREW M. CUOMO, et al., )  
 )  
Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2013, I filed the foregoing Motion for An Expedited Hearing and Leave to Exceed the Page Limit for Memorandum of Law, consisting of Notice of Motion and Affidavit of Brian T. Stapleton via overnight mail upon the following defendants who have not yet appeared:

Andrew M. Cuomo, Governor of the State of New York  
NYS State Capitol Building  
Albany, NY 12224

Eric T. Schneiderman, Attorney General of the State of New York  
Office of the Attorney General  
The Capitol  
Albany, NY 12224-0341

Joseph D'Amico, Superintendent of the New York State Police  
New York State Police  
1220 Washington Avenue  
Building 22  
Albany, NY 12226-2252

Frank A. Sedita III  
District Attorney for Erie County  
25 Delaware Avenue  
Buffalo, New York 14202

Gerald J. Gill, Jr.  
Chief of Police, Lancaster Police Department  
525 Pavement Road  
Lancaster, New York 14086

Dated: April 8, 2013

LAW OFFICE OF STEVEN HALBROOK

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