

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES M. MALONEY,

CV-02-0786 (ADS) (AKT)

Plaintiff,

AFFIDAVIT

- against -

KATHLEEN M. RICE, individually and
in her official capacity as District Attorney
of the County of Nassau,

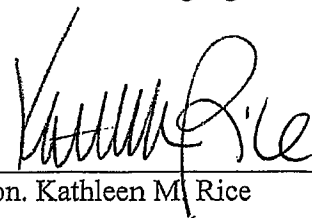
Defendant.

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State of New York)
) ss.:
County of Nassau)

Kathleen M. Rice, being duly sworn, deposes and says:

1. I am the District Attorney for the County of Nassau, State of New York.
2. I am the defendant in the above-captioned action in which James Maloney, acting *pro se*, is challenging section 265.01 of the New York State Penal Law which, among other things, prohibits the possession of nunchaku.
3. It is my understanding that Maloney was permitted by the Court to add new claims against me in my individual and official capacities concerning an allegedly unlawful public disclosure of certain information about him that was contained in an appellate brief filed on my behalf in this action.
4. Plaintiff Maloney has unilaterally noticed a deposition in the above-captioned matter without prior consultation with my counsel, the Nassau County Attorney's Office, as to my availability.

5. More importantly, however, I have no personal knowledge of the facts and circumstances of Maloney's claims.
6. Assistant District Attorney Peter Mancuso has some knowledge about the issues raised in Maloney's complaint, as amended; in particular, ADA Mancuso received Maloney's unfounded allegation of illegal conduct by appellate counsel at the Nassau County Attorney's Office.
7. My responsibilities as the District Attorney are vast and I do not personally handle case files. Matters are delegated to the various bureaus within my office. Plaintiff Maloney's criminal and civil proceedings were no different.
8. There are 173 Assistants in my office among eighteen different bureaus.
9. I have been apprised that the federal Local Civil Rules of procedure contain a provision wherein a governmental official whose deposition is noticed or subpoenaed about a matter of which she lacks knowledge may identify an individual within the governmental entity who has knowledge of the subject matter involved in the pending action. In light of that provision, ADA Mancuso is designated as a person knowledgeable about the language in the appellate brief that Maloney finds objectionable.



Hon. Kathleen M. Rice

Sworn to before me this
21st day of June, 2011


Notary Public

Margaret M Leniston
Notary Public, State of New York
No. 01LE6002121
Commission Expires 2-2-2014