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September 16, 2015

By ECF

Hon. Pamela K. Chen
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Maloney v. Singas
CV-03-786 (PKC) (AYS)

Dear Judge Chen:

This office represents District Attorney Madeline Singas in connection with Plaintiff's Second Amendment challenge to the New York State Statute prohibiting the in-home possession of chuka sticks. This letter is sent to update the Court on the status of this matter.

Plaintiff's deposition was scheduled to take place tomorrow but due to scheduling issues, has been adjourned until September 30, 2015 and will take place at the U.S. District Court, Brooklyn Courthouse.

During the most recent Court conferences, Plaintiff expressed his intent to call two witnesses, Chris Pellitteri and Kevin Orcutt, on the issue of the commonality of chuka sticks. On September 9, 2015 copies of these witness' 26(a)(2) disclosures were served upon the County Attorney's Office. Arrangements to take the depositions of the witnesses are being made (both of whom are on the West Coast) and shall be noticed soon.

Notably Plaintiff prefers not to refer to Pellitteri or Orcutt "expert witnesses," despite characterizing their disclosures as rule 26(a)(2) disclosures. Defendant objects to Pellitteri or Orcutt testifying in this case in any capacity *other* than as expert witnesses. The basis for this objection is that neither of these individuals had been previously identified as a fact witness.

Because the Court rejected what it termed “anecdotal evidence” from the parties in denying summary judgment, it permitted reopening of discovery for the limited purpose of responding to the Court’s specific request for empirical support to demonstrate whether or not chuka sticks are in common use for lawful purposes.

Thank you for your time and attention in this matter.

Respectfully submitted,

/s/

Liora M. Ben-Sorek
Deputy County Attorney

cc: James M. Maloney, Esq. (Via ECF)