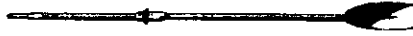


C/M  
O/F

ADMITTED TO PRACTICE IN:  
NEW YORK; NEW JERSEY;  
UNITED STATES SUPREME  
COURT; UNITED STATES  
COURTS OF APPEALS FOR THE  
SECOND AND THIRD CIRCUITS;  
UNITED STATES DISTRICT  
COURTS FOR THE SOUTHERN  
AND EASTERN DISTRICTS OF  
NEW YORK; DISTRICT OF NEW  
JERSEY; DISTRICT OF  
CONNECTICUT; NORTHERN  
DISTRICT OF ILLINOIS;  
UNITED STATES COURT OF  
INTERNATIONAL TRADE;  
COURT OF FEDERAL CLAIMS.

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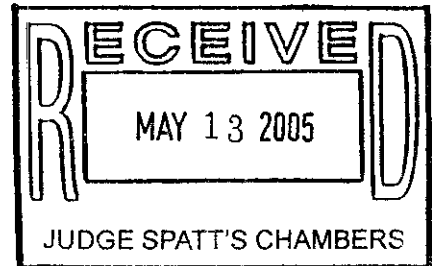
E-MAIL ADDRESS:  
**jmm80@earthlink.net**

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May 10, 2005

ORIGINAL FILED VIA ECF

The Honorable Arthur D. Spatt  
United States District Court Judge  
United States District Court for the  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722



Re: *Maloney v. Spitzer* (CV- 03-786) (ADS) (MLO)

Honorable Sir:

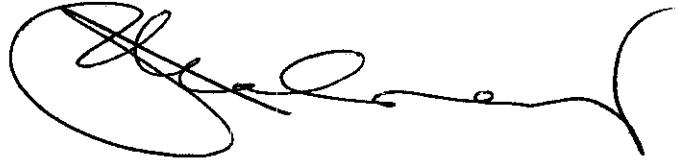
I am the *pro se* Plaintiff in the above-captioned case, in which I have sought declaratory judgment on the question of the constitutionality of certain provisions of the New York Penal Law to the extent that those statutes define as a crime the simple possession of nunchaku (a martial-arts weapon) in one's own home.

As is my duty, I am writing to inform the Court of a recent Second Circuit decision that is dispositive as to one of the arguments that I made in support of my pending motion for summary judgment. Specifically, on May 6, 2005, in *Bach v. Pataki* (Docket No. 03-9123), the Second Circuit held that the Second Amendment of the United States Constitution has no application as against the states. This holding, unless reversed by the United States Supreme Court, disposes of my argument that the state statutes prohibiting simple possession of nunchaku in the home are violative of the guarantees of the Second Amendment.

Accordingly, I urge the Court to consider the unenumerated-rights-based arguments that I have proffered as an alternative to the Second Amendment argument. Given that a substantial portion of my briefing focused on the Second Amendment, I would also welcome the opportunity

to brief the unenumerated-rights-based arguments more fully, and stand ready to do so should the Court wish to receive additional briefing.

Respectfully,

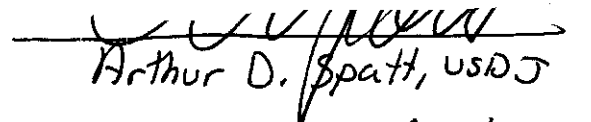


James M. Maloney

cc.: The Honorable Michael L. Orenstein  
Chief Magistrate Judge  
United States District Court for the  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

Application to file an  
additional and/or supplemental  
brief is DENIED.  
SO ORDERED.

Dorothy Oehler Nese, Esq. (~~without enclosures~~)  
Assistant Attorney General  
State of New York  
200 Old Country Road, Suite 460  
Mineola, NY 11501

  
Arthur D. Spatt, USDJ  
5/19/05

*Mr. Maloney*  
**MOVANT'S COUNSEL IS DIRECTED TO SERVE A  
COPY OF THIS ORDER ON ALL PARTIES UPON  
RECEIPT.**