

JAMES M. MALONEY

**ATTORNEY AT LAW
PROCTOR IN ADMIRALTY**



**P.O. Box 551
33 BAYVIEW AVENUE
PORT WASHINGTON, NY 11050**

**TEL: (516) 767-1395
FAX: (516) 767-1326**

**E-MAIL ADDRESS:
maritimelaw@nyu.edu**

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

June 30, 2010

C. Cecelia Chang, Esq.
Assistant Solicitor General
120 Broadway
New York, NY 10271

Karen Hutson, Esq.
Deputy County Attorney
1 West Street
Mineola, NY 11501

Re: *Maloney v. Rice*
2d Cir. Docket No. 07-0581-cv

Dear Counsel:

As you may be aware, yesterday the Supreme Court issued the following Order:

08-1592 MALONEY, JAMES M. v. RICE, KATHLEEN

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *McDonald v. Chicago*, 561 U.S. ____ (2010). Justice Sotomayor took no part in the consideration or decision of this petition.

See <http://www.supremecourt.gov/orders/courtorders/062910zr.pdf>

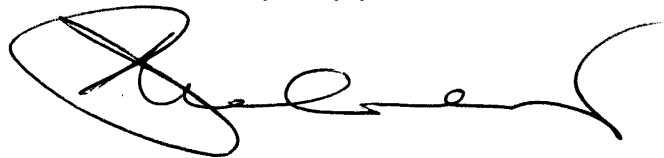
It is my intention to move before the Second Circuit for leave to file an additional brief limited to the application of the Supreme Court's decisions in *District of Columbia v. Heller*, 554 U. S. ____ (2008), and *McDonald v. Chicago*, 561 U.S. ____ (2010), to this case. As you know, the Second Circuit has received no supplemental briefing regarding either case, the only additional argument relating to *Heller* having been made in 28(j) letters and at oral argument, and *McDonald* having been handed down only this past Monday.

Local Rule 27.1(b) (“Notification; Disclosure of Opponent’s Position”) requires that, “[i]n a case in which all parties are represented by counsel, a motion must state: (1) that the movant has notified opposing counsel, or why the movant was unable to do so; (2) opposing counsel’s position on the relief requested; and (3) whether opposing counsel intends to file a response to the motion.”

Having satisfied (1), I now request your responses regarding (2) and (3). I therefore ask that each of you please let provide your written position as to: (1) whether you would oppose the motion; and (2) whether you intend to file a response to the motion.

Thank you for your courtesy and cooperation in having this appeal decided on the legal/constitutional merits.

Very truly yours,

A handwritten signature in black ink, appearing to read "James M. Maloney". The signature is written in a cursive style with a large, looped initial "J" and a long horizontal stroke extending to the right.

James M. Maloney

JAMES M. MALONEY
ATTORNEY AT LAW
PROCTOR IN ADMIRALTY

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



P.O. Box 551
33 BAYVIEW AVENUE
PORT WASHINGTON, NY 11050

TEL: (516) 767-1395
FAX: (516) 767-1326

E-MAIL ADDRESS:
maritimelaw@nyu.edu

June 30, 2010

C. Cecelia Chang, Esq. ✓
Assistant Solicitor General
120 Broadway
New York, NY 10271

Karen Hutson, Esq.
Deputy County Attorney
1 West Street
Mineola, NY 11501

**COURTESY
COPY**
**SECOND
REQUEST**
7/23/10

Certified Mail
Return Receipt Requested

7006 3450 0000 8007 6242

Re: *Maloney v. Rice*
2d Cir. Docket No. 07-0581-cv

Dear Counsel:

As you may be aware, yesterday the Supreme Court issued the following Order:

08-1592 MALONEY, JAMES M. v. RICE, KATHLEEN

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *McDonald v. Chicago*, 561 U.S. ___ (2010). Justice Sotomayor took no part in the consideration or decision of this petition.

See <http://www.supremecourt.gov/orders/courtorders/062910zr.pdf>

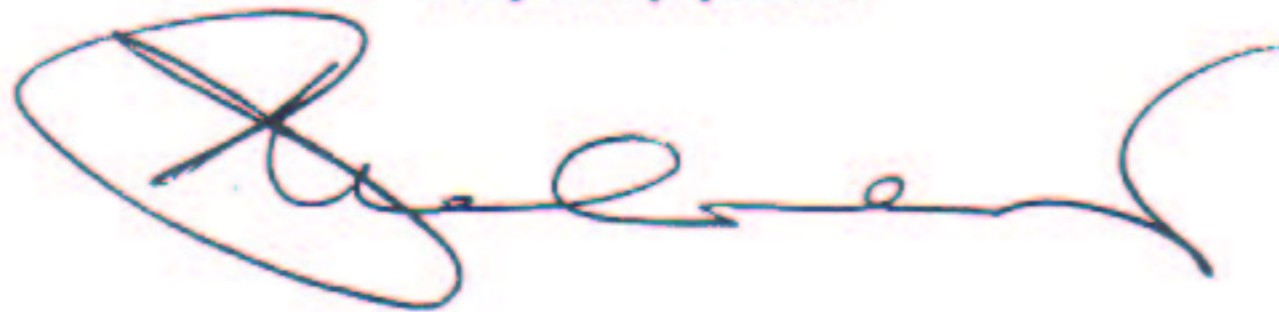
It is my intention to move before the Second Circuit for leave to file an additional brief limited to the application of the Supreme Court's decisions in *District of Columbia v. Heller*, 554 U. S. ___ (2008), and *McDonald v. Chicago*, 561 U.S. ___ (2010), to this case. As you know, the Second Circuit has received no supplemental briefing regarding either case, the only additional argument relating to *Heller* having been made in 28(j) letters and at oral argument, and *McDonald* having been handed down only this past Monday.

Local Rule 27.1(b) ("Notification; Disclosure of Opponent's Position") requires that, "[i]n a case in which all parties are represented by counsel, a motion must state: (1) that the movant has notified opposing counsel, or why the movant was unable to do so; (2) opposing counsel's position on the relief requested; and (3) whether opposing counsel intends to file a response to the motion."

Having satisfied (1), I now request your responses regarding (2) and (3). I therefore ask that each of you please let provide your written position as to: (1) whether you would oppose the motion; and (2) whether you intend to file a response to the motion.

Thank you for your courtesy and cooperation in having this appeal decided on the legal/constitutional merits.

Very truly yours,



James M. Maloney

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>C. CECILIA CHANG, ESQ. ASSISTANT SOLICITOR GENERAL</p> <p>120 BROADWAY NEW YORK, NY 10271</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes</p>
<p>2. Article Number (<i>Transfer from service label</i>)</p>	<p>7006 3450 0000 8007 6242</p>
<p>PS Form 3811, February 2004</p>	<p>Domestic Return Receipt 102595-02-M-1540</p>

JAMES M. MALONEY
ATTORNEY AT LAW
PROCTOR IN ADMIRALTY

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



P.O. Box 551
33 BAYVIEW AVENUE
PORT WASHINGTON, NY 11050

TEL: (516) 767-1395
FAX: (516) 767-1326

E-MAIL ADDRESS:
maritimelaw@nyu.edu

June 30, 2010

C. Cecelia Chang, Esq.
Assistant Solicitor General
120 Broadway
New York, NY 10271

Karen Hutson, Esq. ✓
Deputy County Attorney
1 West Street
Mineola, NY 11501

**COURTESY
COPY**
**SECOND
REQUEST**
7/23/10

Certified Mail
Return Receipt Requested

7006 3450 0000 8007 6259

Re: *Maloney v. Rice*
2d Cir. Docket No. 07-0581-cv

Dear Counsel:

As you may be aware, yesterday the Supreme Court issued the following Order:

08-1592 MALONEY, JAMES M. v. RICE, KATHLEEN

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *McDonald v. Chicago*, 561 U.S. ___ (2010). Justice Sotomayor took no part in the consideration or decision of this petition.

See <http://www.supremecourt.gov/orders/courtorders/062910zr.pdf>

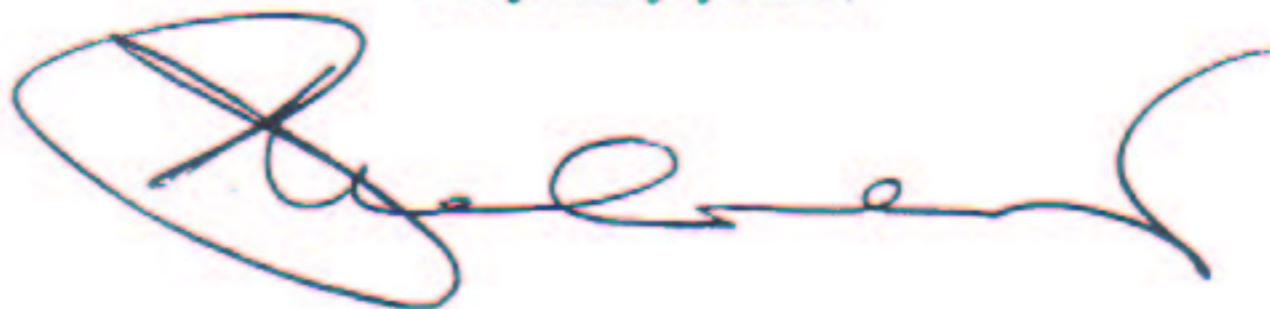
It is my intention to move before the Second Circuit for leave to file an additional brief limited to the application of the Supreme Court's decisions in *District of Columbia v. Heller*, 554 U. S. ___ (2008), and *McDonald v. Chicago*, 561 U.S. ___ (2010), to this case. As you know, the Second Circuit has received no supplemental briefing regarding either case, the only additional argument relating to *Heller* having been made in 28(j) letters and at oral argument, and *McDonald* having been handed down only this past Monday.

Local Rule 27.1(b) ("Notification; Disclosure of Opponent's Position") requires that, "[i]n a case in which all parties are represented by counsel, a motion must state: (1) that the movant has notified opposing counsel, or why the movant was unable to do so; (2) opposing counsel's position on the relief requested; and (3) whether opposing counsel intends to file a response to the motion."

Having satisfied (1), I now request your responses regarding (2) and (3). I therefore ask that each of you please let provide your written position as to: (1) whether you would oppose the motion; and (2) whether you intend to file a response to the motion.

Thank you for your courtesy and cooperation in having this appeal decided on the legal/constitutional merits.

Very truly yours,

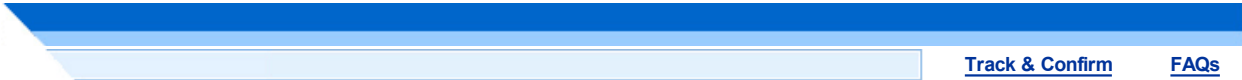


James M. Maloney

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: KAREN HUTSON, ESQ. DEPUTY COUNTY ATTORNEY 1 WEST STREET MCNEOLA, NY 11501		B. Received by (Printed Name)	C. Date of Delivery
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3811, February 2004		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
Domestic Return Receipt		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7006 3450 0000 8007 6259		102595-02-M-1540	



[Home](#) | [Help](#) | [Sign In](#)



Track & Confirm

Search Results

Label/Receipt Number: **7006 3450 0000 8007 6242**

Class: **First-Class Mail®**

Service(s): **Certified Mail™
Return Receipt**

Status: **Delivered**

Your item was delivered at 2:05 pm on July 26, 2010 in NEW YORK, NY 10271.

Detailed Results:

- **Delivered, July 26, 2010, 2:05 pm, NEW YORK, NY 10271**
- **Arrival at Unit, July 26, 2010, 7:59 am, NEW YORK, NY 10005**
- **Acceptance, July 23, 2010, 1:04 pm, PORT WASHINGTON, NY 11050**

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

Track & Confirm

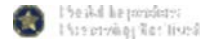
Enter Label/Receipt Number.

[Go >](#)

[Site Map](#) [Customer Service](#) [Forms](#) [Gov't Services](#) [Careers](#) [Privacy Policy](#) [Terms of Use](#) [Business Customer Gateway](#)

Copyright© 2010 USPS. All Rights Reserved.

No FEAR Act EEO Data FOIA





[Home](#) | [Help](#) | [Sign In](#)

[Track & Confirm](#) [FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: **7006 3450 0000 8007 6259**

Class: **First-Class Mail®**

Service(s): **Certified Mail™**

Return Receipt

Status: **Delivered**

Your item was delivered at 2:54 pm on July 26, 2010 in MINEOLA, NY 11501.

Detailed Results:

- **Delivered, July 26, 2010, 2:54 pm, MINEOLA, NY 11501**
- **Notice Left, July 26, 2010, 11:46 am, MINEOLA, NY 11501**
- **Notice Left, July 24, 2010, 1:07 pm, MINEOLA, NY 11501**
- **Arrival at Unit, July 24, 2010, 6:56 am, MINEOLA, NY 11501**
- **Acceptance, July 23, 2010, 1:04 pm, PORT WASHINGTON, NY 11050**

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email.

[Go >](#)

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

[Site Map](#)

[Customer Service](#)

[Forms](#)

[Gov't Services](#)

[Careers](#)

[Privacy Policy](#)

[Terms of Use](#)

[Business Customer Gateway](#)

Copyright© 2010 USPS. All Rights Reserved.

No FEAR Act EEO Data

FOIA

