

November 22, 2013

U.S. District Judge William M. Skretny
 United States District Court
 2 Niagara Square
 Buffalo, NY 14202

In Re: New York State Rifle & Pistol Association v. Cuomo, et al
 Case No.: 1:13-cv-00291-WMS
 GS File No.: 11350.0010

Your Honor:

Please be advised that this office represents all of the plaintiffs in the above-referenced action.

As you are aware, the plaintiffs have filed a Complaint challenging the constitutionality of New York's SAFE Act. (Doc. #1). Shortly after filing this complaint, the plaintiffs filed a motion for a preliminary injunction (Doc. #23) seeking to enjoin the enforcement of and/or the prosecution of citizens under, *inter alia*, N.Y. Penal Law §§ 265.37 (which makes it unlawful to possess an ammunition feeding device containing more than seven rounds of ammunition), 265.02(8), 265.36, and 265.10(2) & (3) (which make it unlawful to possess transport, ship, or dispose of a large capacity ammunition feeding device), and 265.00(22) (which expands the definition of "assault weapon"). Both the plaintiffs and defendants have moved for summary judgment (Doc. ## 70, 113). These dispositive motions have been fully briefed.

Under the SAFE Act, owners of "large capacity feeding devices" are required to either transfer them out of state or render them inoperable on or before January 14, 2014. (Penal Law § 265.00(22)(h)). Owners of "assault weapons" are required to register these firearms with State Police on or before February 2, 2014 or divest themselves of these arms. (Penal Law §§ 400.00(16-a)(a), (c) and 265.00(22)(h)). The plaintiffs' challenge to the constitutionality of Penal Law §§ 265.37, 265.02(8), 265.36, 265.10(2) & (3) and 265.00(22), if successful, would obviate the registration and transfer requirements of Penal Law §§ 400.00(16-a)(a), (c) and 265.00(22)(h). Plaintiffs' request for preliminary injunctive relief against enforcement of §§ 265.37, 265.02(8), 265.36, 265.10(2) & (3) and 265.00(22) necessarily implicates the obligations of plaintiffs to either transfer their "large capacity magazines" by January 14, 2014 or register their "assault weapons" by February 2, 2014.

With the registration and transfer deadlines quickly approaching, the plaintiffs and other law-abiding citizens in New York who currently and lawfully possess "large capacity feeding devices" are threatened with the imminent harm of having to divest themselves of these devices. Plaintiffs and other law abiding citizens who fail to register the "assault weapons" they currently lawfully possess face the imminent threat of having their firearms confiscated and face criminal prosecution for failing to register them.

The issues raised in the summary judgment motions are complex and far-reaching. Although these issues have been fully briefed, there has been no hearing date scheduled. It is anticipated that a

The Hon. William Skretny
November 22, 2013
Page 2 of 4

decision on these dispositive motions will not be issued before the transfer and registration deadlines go into effect.

Given the complexity of the dispositive issues and the rapidly approaching transfer and registration deadlines, plaintiffs are respectfully renewing their request that the Court issue preliminary injunctive relief enjoining the enforcement of the Penal Law sections cited herein prior to January 14, 2014.

Plaintiffs are also requesting a conference to discuss this instant request, and also to schedule a hearing on the dispositive motions currently before the Court. We are available to discuss these issues at the Court's earliest convenience.

Thank you very much for your consideration of these requests.

Respectfully Submitted,

GOLBERG SEGALLA, LLP

Brian T. Stapleton

Brian T. Stapleton, Esq.

The Hon. William Skretny

November 22, 2013

Page 3 of 4

BTS/ma

Cc:

Mr. William Taylor, Esq.

By e-mail to william.taylor@ag.ny.gov

Ms. Monica Connell, Esq.

By e-mail to monica.connell@ag.ny.gov

Mr. Kevin Kearney, Esq.

By e-mail to kkearney@hodgsonruss.com

The Hon. William Skretny

November 22, 2013

Page 4 of 4

Bcc:

Mr. Thomas King

By e-mail to tking@nysrpa.org

Mr. Scott Sommavilla

By e-mail to wcofoa@wcofoany.org

Mr. John Cushman

By e-mail to jcushman@juno.com

Mr. Jonathan Karp, Esq.

By e-mail to jon@karp-law.com

Mr. Dan Bedell

By e-mail to bedellcustom@yahoo.com

Mr. Thomas Galvin

By e-mail to Tgalvin41@aol.com

Mr. Hans Beikirch

By e-mail to hans@beikirchs.com

Mr. Roger Horavath

By e-mail to R79racing@aol.com

Mr. William Nojay

By e-mail to wnojay1@rochester.rr.com

Mr. Michael Barrett

By fax to (585) 343-4869