

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Alan Kachalsky, Christina Nikolov, Eric Detmer,	:	
Johnnie Nance, Anna Marcucci-Nance,	:	
and Second Amendment Foundation, Inc.,	:	
	:	
Plaintiffs,	:	<b>Civil Action Number:</b>
	:	<b>10-cv-5413</b>
-against-	:	
	:	<b>(Hon. Cathy Seibel)</b>
Susan Cacace, Jeffrey A. Cohen,	:	
Albert Lorenzo, Robert K. Holdman	:	
and County of Westchester,	:	
	:	
Defendants.	:	
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**DECLARATION OF BRUCE BELLOM**

The undersigned declares under penalty of perjury and in accordance with 28 U.S.C. §1746 as follows:

1. I am a Sergeant within the Westchester County ("County") Department of Public Safety, assigned to the Pistol Licensing Unit as the Commanding Officer. I make this declaration in support of the Defendants' Cross-Motion for Summary Judgment and in Opposition to the Plaintiffs' Motion for Summary Judgment.

2. I have been employed by the County of Westchester for 29 years, was promoted to Sergeant in 1991, and have been the Commanding Officer of the Pistol License Unit of the Westchester County Department of Public Safety since May 2007. As such, I am familiar with the practices and procedures of the County regarding the application for pistol permit licenses within the County, and thus make this declaration based upon personal knowledge of those practices and procedures as well as upon my review of records kept in the normal course of business by the County.

3. The Pistol Licensing Unit conducts the investigations directed by the statutory mandate of Penal Law §400.00(4) for applications made within the geographical location of Westchester County. In connection with this mandate, the Pistol Licensing Unit investigates each application, compiles an investigative file for each such application, and summarizes the investigation for the New York State Judge acting as licensing officer pursuant to Penal Law §265.00(10). The Pistol License Unit maintains a copy of the applications submitted within the geographical area of Westchester County.

4. An individual may obtain an application from the County Clerk's Office, which maintains the blank application packets as well as the original completed application files. An application packet includes the New York State application form (Exhibit B<sup>1</sup>), and the New York State Police approved Pistol License Safety Information Handbook for Westchester County and investigation information forms, including Character Reference Letter forms (Exhibit C).

5. As Exhibit A indicates, after requiring basic identifying information the applicant must state for which type of pistol/revolver license he/she is applying. The application form provides three (3) boxes, one of which must be checked, to indicate whether the applicant seeks: a) a "carry concealed" license; b) a "possess on premises" license; or c) "possess/carry during employment" license. The application form also requires the applicant to set forth the "reason" why he/she claims that "[a] license is required...".

6. The application form requires the applicant to provide four (4) character references "who by their signature attest to [the applicant's] good morale

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<sup>1</sup> All Exhibits referenced herein are attached to the Declaration of Anthony J. Tomari, Esq., sworn to on January 26, 2011.

character" and to disclose whether he/she has "ever been arrested, summoned, charged or indicted anywhere for any offense, including DWI, (except traffic infractions)" and if so, to disclose the date, police agency, charge and disposition, including the court and date of disposition. (Exhibit B).

7. In addition, the applicant must disclose whether he/she has ever: a) been discharged from any employment or the armed forces for cause; b) undergone treatment for alcoholism or drug use; c) suffered from any mental illness; d) had a pistol license; dealer's license; gunsmith license; or any application for such a license disapproved or had such a license revoked or cancelled; e) any physical condition which could interfere with the safe and proper use of a handgun; and f) been charged, petitioned against, a respondent, or otherwise been a subject of a proceeding in family court. If the "YES" box to any of these questions is checked, the applicant must provide a written explanation. (Exhibit B).

8. One set of fingerprints is collected in a digital fingerprinting system by the police members Pistol Permit Unit.

9. The applicant must also complete the investigation information attachment applicable to the type of pistol license requested. A copy of the investigation information attachment for a full carry pistol permit license entitled "Attachment: Full Carry", Exhibit D.

10. A separate form is used for individuals seeking to amend a current pistol permit license, entitled "Application for Amended or Duplicate Pistol License" (hereinafter "Amendment Form", Exhibit E). The Amendment Form requests the same identifying information as the initial application form, but requests the original pistol

license number and asks the applicant to circle the reason why an amendment to the license is being sought. The Amendment Form lists as reasons: a) residence change; b) disposal of the gun; c) acquired a new gun; d) name change; e) restriction change; f) transfer; g) a duplicate license; h) surrendering the license; i) requesting a license be suspended; j) or revoked; k) the holder of the license is deceased; and l) some "other" reason.

11. Depending upon the reason selected, the applicant is directed to provide certain pertinent information. Where the applicant is requesting a current license be changed to a "full" or concealed carry permit, the applicant must complete the same "full carry" attachment as required by an original application. *See* Exhibit C.

12. Upon receipt of a completed initial application, a police member of the Pistol Permit Unit conducts the investigation as required under Penal Law §400.00(4). For an initial application, this investigation includes a fingerprint based criminal background check with the New York State Department of Criminal Justice Services, the Federal Bureau of Investigation and the National Instant Criminal Background system. When the applicant is filing for a restriction change, the criminal background check is updated by a search of the National Instant Criminal Background system.

13. As part of the investigation, the applicant's identifying information is forwarded to the New York State Department of Mental Hygiene to determine if the applicant had any hospitalizations for mental illness.

14. In addition to the background and mental health check, the investigation includes, but is not limited to, a review of the application form, Character Reference Letters submitted with the application form, and the application attachment

completed by the applicant. I review these materials and, once the investigation is deemed complete, I compile an investigation summary for the Judge. I submit this investigation and summary to my superiors. A lieutenant, the Chief Inspector of Administrative Services, and the Commissioner or a Deputy Commissioner also review the materials and return an investigation summary to me for submission to the Judge.

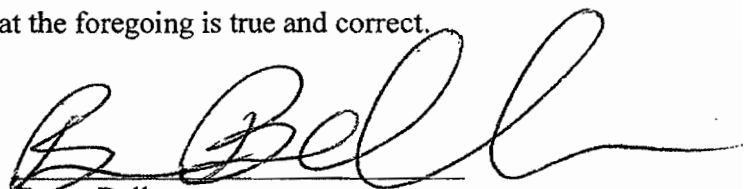
15. The entire investigation file is submitted to the Judge for review and decision on the application. The role of the Pistol Permit Unit is limited to the investigation described herein. The County has no ability to grant or deny license applications or amendments.

16. The process described above was used to compile the investigative files for Plaintiffs Alan Kachalsky (Exhibit F), Christina Nikolov (Exhibit G), Eric Detmer (Exhibit H), Johnnie Nance (Exhibit I) and Anna Marcucci-Nance (Exhibit J), and these are true and accurate copies of the files maintained by the Pistol Permit Unit.

17. Based upon my review of the unofficial file management system of the Pistol Permit Unit, the Judges granted approximately 130 full carry pistol permit licenses, approximately 471 pistol permit licenses restricted to target shooting, and approximately 41 pistol permit licenses restricted to carrying during the course of employment out of the applications submitted in 2010. Approximately 76 applications from 2010 remain pending.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: White Plains, NY  
January 24, 2011

  
Bruce Bellom