

Legal action against Cuomo gun law

Written by Administrator

Tuesday, 15 January 2013 09:01 - Last Updated Wednesday, 07 January 2015 13:26

NYSRPA, in co-operation with the NRA, has filed a lawsuit in federal court challenging the SAFE Act on constitutional grounds. Involved with the suit are some of the nations most experienced 2nd Amendment attorneys. We ask that no other 3rd party legal action be taken without prior consultation. We realize that this law impacts a very large number of people, but this is an extremely important case and must be handled properly with the best lawyers. Please do not call or e-mail the office or directors asking for more information. Any announcements will be published here on our website.

We will not win without support from gun owners. You can help either by [joining/renewing your membership](#) or [making a online donation](#)

. Thank you all for your support.

Note: NYSRPA has not authorized any 3rd party to solicit donations or offer legal advice or legal intervention in our lawsuit. **Only** donations made through our website or sent directly to our Albany office benefit our lawsuit.

Here is a copy of [the legal filing](#) (pdf).

- **March 21, 2013:** Initial filing.
- **April 15, 2013 Update:** [Motion for Preliminary Injunction](#) and [Motion for Expedited Hearing](#) filed. [Memorandum in support of a preliminary injunction](#)
- **April 22, 2013 Update:** NRA files a [Amicus Curiae](#) in support of our lawsuit.
- **May 14, 2013 Update:** [New York State Sheriff's Association](#) files a [Amicus Curiae](#) in

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support of our lawsuit.

- **May 15, 2013 Update:** We have filed both a Complaint and an Amended Complaint in the USDC for the Western District of New York. Our Amended Complaint claims that the SAFE Act is unconstitutional in that it violates the Second Amendment, the Equal Protection Clause, and is unconstitutionally vague. Subsequent to the filing of our Amended Complaint, we filed a Motion for Preliminary Injunction asking the Court to Order all defendants to cease the enforcement and prosecution of the SAFE Act. The Court has not yet decided our request. After a hearing to establish a briefing schedule, Judge William Skretny issued a Scheduling Order. Under the Order, the following deadlines were set: the time for all defendants to file an Answer to the Amended Complaint was stayed until June 7. All defendants have until June 7 to respond to our motion for preliminary injunction or cross-move for dispositive relief; The plaintiffs have until July 8 to oppose any cross-motion by the defense and/or reply to any opposition to the motion for PI; and the defendants' time to reply to any opposition filed by the plaintiffs was not decided, but will be addressed by the Court at a later date. The Court set August 23 as the next date for the parties to return to court, characterizing this date as a "status conference/hearing date, with emphasis for now on status conference." To date we have spent \$164,000 on the suit and have received an additional \$80,000 from the NRA Civil Rights Defense Fund.

- **June 13, 2013 Update:** The State has until June 22 to respond to our amended complaint. Afterwards we have 30 days to respond to them. Both parties are due in court August 23. To date we have spent \$225,000 on the lawsuit.

- **July 1, 2013 Update:** [Response from Attorney General Eric Schneiderman](#) with cross-motion to dismiss and/or summary judgement.

[Nassau County District Attorney Kathleen Rice](#)

and

[State Police legal counsel Kevin Bruen](#)

have also filed briefs in support of SAFE.

- **July 26, 2013 Update:** The August date has been moved back. Both parties are due in court on September 12.

- **August 23, 2013 Update:** [Senator Kathy Marchione](#) filed a [Amicus Curiae](#) in support of our lawsuit.

- **August 28, 2013 Update:** We have filed the following documents: [Memo of Law](#) , [Notice of Cross-Motion](#)

, [Counter Statement of Undisputed Facts](#)

and

[Response to the State Defendants' Statement of Undisputed Facts](#)

- **September 13, 2013 Update:** Yesterday's court meeting was postponed. No new date has been set yet.

- **September 30, 2013 Update:** The [NSSF](#) filed a [Amicus Curiae](#) in support of our lawsuit.

- **October 31, 2013 Update:** The State has requested a [motion for summary judgement](#) in

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an attempt to have our lawsuit thrown out.

- **November 19, 2013 Update:** [Our lawyers have asked the Judge to schedule a public hearing to outline our case against the law](#)
- **November 25, 2013 Update:** Our lawyers have responded to the State's request for a *motion for summary judgement* and have requested our own *motion for summary judgement*. Since briefing is complete, we believe the Court will schedule an oral argument on the motions. Normally, for cases involving controversial of issues, courts will hold an oral argument although they are not required to as the issues involved in the motions are purely legal. No testimony is required and the Court may just rule on the papers that have been filed. At this time we do not know if the Court will have a hearing. Procedural rules do not require the Court either to set a hearing or to decide the motion within a specified amount of time.
- **December 26, 2013 Update:** Judge William Skretny has decided oral arguments are unnecessary and he will make his decision based upon the briefs submitted by both parties.
- **December 31, 2013 Update:** The Court ruled against us on guns, but dismissed 7 round limit. [Here is a copy of the decision](#). A formal opinion of this decision will be posted here at a later date.
- **January 3, 2014 Update:** We will appeal the court decision. [Here is a draft copy of the filing](#)
- **January 13, 2014 Update:** Here is [our critique of Judge Skretny's decision](#).
- **March 7, 2014 Update:** Here is a rough schedule of the appeals process: Appellant briefs and their replies should be done by mid-August 2014. There may be a CAMP conference in this case as they are common in the 2nd Circuit and are aimed at pre-appeal resolution. Oral arguments in the 2nd Circuit are generally scheduled approximately three months after the briefing is completed.
- **March 26, 2014 Update:** [State Police are not enforcing 7-round magazine limits](#).
- **May 7, 2014 Update:** 22 States led by Alabama have filed a [Amicus Curiae](#) in support of our lawsuit. Here is the [press release](#). Additional supporting briefs by [NRA](#),
, [NSSF](#),
, [Remington](#),
, [Empire State Arms Collectors](#),
, [New York State Sheriff's Association](#) and [Pink Pistols](#)

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have also been filed.

- **May 8, 2014 Update:** [Here is a copy of our Appellants brief](#) .
- **July 30, 2014 Update:** [Here is a copy of the State's Appellants brief](#) .
- **August 22, 2014 Update:** Our case has been scheduled for briefing and argument before the same panel of judges that will hear the Connecticut case as was expected. Both New York and Connecticut are in the Second Circuit and are close enough in time that no other move would be reasonable by the court. The two cases going before the same court will allow our counsel to show how anti-gunners use whatever definition they want for an “assault weapon” and that it is a political term, not a real one, and has no meaning because it is defined differently in every jurisdiction that tries to use it. Each case will be argued on its own, just before the same judges.
 - **October 1, 2014 Update:** [Here is a copy of our Response and Reply Appellants brief](#) .
 - **October 4, 2014 Update:** [FOIL opinion on SAFE records by Committee on Open Government](#)
 - **October 9, 2014 Update:** Oral arguments have been tentatively scheduled for the week of December 18.
 - **November 9, 2014 Update:** Oral arguments have been set for December 9.
 - **December 9, 2014 Update:** Oral arguments were presented to the 2nd Circuit Court of Appeals today. We do not expect a decision before the end of February 2015 at the earliest.
 - **January 7, 2015 Update:** Here is [mp3 audio](#) of the oral arguments presented before the 2nd Circuit Court.