

**CIVIL CASE MANAGEMENT PLAN**  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ALFRED G. OSTERWEIL,

*Plaintiff,*

NO. 09-CV-0825GLS/DRH

-against-

GEORGE R. BARTLETT, In his official capacity as Licensing Officer in the County of Schoharie; DAVID A. PATTERSON, In his official capacity as Governor of the State of New York; ANDREW M. CUOMO, In his official capacity as Attorney General of the State of New York,

*Defendants.*

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**IT IS HEREBY ORDERED that**, pursuant to Rule 16(b), Federal Rules of Civil Procedure, a status and scheduling conference will be held in this case before the Honorable David R. Homer, United States Magistrate Judge, on Monday, March 22, 2010 at 9:30 A.M. at the United States Courthouse, Room No. 434, at Albany, New York.

Counsel for all parties or individuals appearing pro se in the above-captioned action are directed to confer in accordance with Fed. R. Civ. P. 26(f) with respect to all of the agenda items listed below. That meeting must be attended in person or, if counsel for the parties are not located in the same city and do not agree to meet in person, then by telephone, and must be held at least twenty-one (21) days before the scheduled Rule 16 Conference. Following that Rule 26(f) meeting, a report of the results of that meeting, in the format set forth below, must be filed with the clerk within fourteen (14) days after the date of the Rule 26(f) meeting or not later than ten (10) days prior to the scheduled Rule 16 conference with the Court, whichever date is earlier. Matters which the Court will discuss at the status conference will include the following: (Insert a separate subparagraph as necessary if parties disagree):

**1) JOINDER OF PARTIES:** Any application to join any person as a party to this action shall be made on or before the first day of May, 2010.

**2) AMENDMENT OF PLEADINGS:** Any application to amend the pleadings to this action shall be made on or before the first day of May, 2010.

**3) DISCOVERY:** All discovery in this action shall be completed on or before the first day of August, 2010. (Discovery time table is to be based on the complexity of the action).

**4) MOTIONS:** All motions, including discovery motions, shall be made on or before the first day of October, 2010. (Non-Dispositive motions including discovery motions will be heard by the assigned Magistrate Judge).

**5) PROPOSED DATE FOR THE COMMENCEMENT OF TRIAL:** The action will be ready to proceed to trial on or before the first day of December, 2010. It is anticipated that the trial will take approximately 2 days to complete. The parties request that the trial be held in Albany. (The proposed date for the commencement of trial must be within 18 months of the filing date).

**6) HAVE THE PARTIES FILED A JURY DEMAND:** yes

**7) DOES THE COURT HAVE SUBJECT MATTER JURISDICTION? ARE THE PARTIES SUBJECT TO THE COURT'S JURISDICTION? HAVE ALL PARTIES BEEN SERVED?**  
Yes

**8) WHAT ARE THE FACTUAL AND LEGAL BASES FOR PLAINTIFF'S CLAIMS AND DEFENDANTS' DEFENSES (INCLUDE COUNTERCLAIMS & CROSSCLAIMS IF APPLICABLE)?**  
Change in the law expected.

**9) WHAT FACTUAL AND LEGAL ISSUES ARE GENUINELY IN DISPUTE?**  
Constitutional Issue does the second amendment apply to the states

**10) CAN THE ISSUES IN LITIGATION BE NARROWED BY AGREEMENT OR BY MOTIONS? ARE THERE DISPOSITIVE OR PARTIALLY DISPOSITIVE ISSUES APPROPRIATE FOR DECISION ON MOTION?**  
Motion

**11) WHAT SPECIFIC RELIEF DO THE PARTIES SEEK? WHAT ARE THE DAMAGES SOUGHT?**  
Declaratory Judgment

**12) DISCOVERY PLAN**

**A) What changes (if any) should be made to the disclosure requirements under Rule 26(a), as well as to the limitations on discovery set forth in the Federal Rules of Civil Procedure, as amended?**  
No

**B) When will the mandatory disclosures required under Rule 26(a)(1) be made, or when were they made?**  
4/10/2010

**C) Describe the timetable for discovery, identify the subjects to be addressed, state whether discovery should be conducted in phases, and discuss why there are no less costly and time consuming alternative methods available to obtain the same information:**

All discovery will be conducted at the same time

**D) What forms of discovery does each party intend to pursue?**

Documents only, the parties do not anticipate depositions

**E) Are any protective orders required or requested under Fed. R. Civ. P. 26(c)?**

No

**13) IS IT POSSIBLE TO REDUCE THE LENGTH OF TRIAL BY STIPULATIONS, USE OF SUMMARIES OR STATEMENTS, OR OTHER EXPEDITED MEANS OF PRESENTING EVIDENCE? IS IT FEASIBLE AND DESIRABLE TO BIFURCATE ISSUES FOR TRIAL?**

Unknown at this time

**14) ARE THERE RELATED CASES PENDING BEFORE THE JUDGES OF THIS COURT?**

No, US Supreme Court case pending

**15) IN CLASS ACTIONS, WHEN AND HOW WILL THE CLASS BE CERTIFIED?**

No

**16) WHAT ARE THE PROSPECTS FOR SETTLEMENT? Please circle below the prospects for settlement:**

[1] 2 3 4 5 6 7 8 9 10

(VERY UNLIKELY)

(LIKELY)

**CANNOT BE EVALUATED PRIOR TO August 1, 2010 (DATE)**

**HOW CAN SETTLEMENT EFFORTS BE ASSISTED?**

Unknown at this time

**(Do not indicate any monetary amounts at this time, settlement will be explored by the Magistrate Judge at the time of the initial status conference)**

*COMPLETE QUESTION 17 ONLY IF YOUR FILING ORDER COVER SHEET WAS CHECKED AS AN ADR TRACK CASE: THE PROGRAMS LISTED BELOW ARE COURT-ANNEXED AND NON-BINDING.*

**17) IF YOUR CASE WAS SELECTED AS A QUALIFYING CONTRACT, TORT, OR NON-PRISONER CIVIL RIGHTS ACTION, PLEASE SELECT THE PREFERRED ADR METHOD:\*\*\*Preferred ADR\*\*\***

Pursuant to Fed. R. Civ. P. 26(f) a meeting was held on 2/15/2010 by telephone and was attended by: (Date) (Place)

Pro Se for plaintiff(s) ALFRED G. OSTERWEIL

Roger W. Kinsey for defendant(s) GEORGE R. BARTLETT  
(party name)

\_\_\_\_\_ for defendant(s) \_\_\_\_\_  
(party name)

At the Rule 16(b) conference, the Court will issue an order directing the future proceedings in this action. The parties are advised that failure to comply with this order may result in the imposition of sanctions pursuant to Federal Rules of Civil Procedure 16(f).

**Please detach this form and return it to the clerk for filing at least ten (10) days in advance of the conference date.**

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Case Management Plan  
FRM-Date 04/01/02