

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BRANDON LEWIS.
THE FIRING PIN, LLC.
SHANNON JOY,
JAMES OSTROWSKI
STEPHEN FELANO,
DUANE WHITMER,
SETH DUCLOS,
LISA REEVES, d/b/a, Big Red Barber Shop,

20-CV-00583
May 15, 2020

Plaintiffs,

COMPLAINT

v.

ANDREW M. CUOMO, individually and as Governor of New York,
LETITIA JAMES, individually and as Attorney General
of the State of New York; and,
KEITH M. CORLETT, individually and as Superintendent of the New
York State Police,
DOUGLAS A. RANDALL, individually and as Monroe County pistol
permit licensing officer,
TODD K. BAXTER, individually and as Sheriff of Monroe County,
JAMIE ROMEO, individually and as Monroe County Clerk,
INVESTIGATOR CORREA, individually and as an investigator employed
by the State of New York,
EMPIRE STATE DEVELOPMENT CORPORATION,

Defendants.

There's something happening here
What it is ain't exactly clear
There's a man with a gun over there
Telling me I've got to beware

Think it's time we stop
Hey, what's that sound
Everybody look what's going down

Paranoia strikes deep
Into your life it will creep
It starts when you're always afraid
Step outta line the men come and take you away

--Buffalo Springfield (1967)

“No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.”

--Magna Carta (1215)

“Some truths are so basic that, like the air around us, they are easily overlooked. Much of the Constitution is concerned with setting forth the form of our government, and the courts have traditionally invalidated measures deviating from that form. The result may appear "formalistic" in a given case to partisans of the measure at issue, because such measures are typically the product of the era's perceived necessity. But the Constitution protects us from our own best intentions: It divides power among sovereigns and among branches of government precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crisis of the day.”

--Justice Sandra Day O'Connor
New York v. United States,
505 U. S. 144 (1992)

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, the Plaintiffs hereby demand a jury trial of all issues so triable.

INTRODUCTION

1. This is an action to vindicate the right of the plaintiffs to exercise various rights, including natural rights, protected by the United States Constitution, including the right of public and religious assembly under the First Amendment, the right to keep and bear arms under the Second Amendment, the right to be free from unlawful seizures under the Fourth Amendment, the right to operate a business under the Fifth and Fourteenth Amendments, and the right secured by the Fifth,

Ninth, Tenth and Fourteenth Amendments and the Guarantee Clause to be free of all restrictions unlawfully decreed by the Governor in response to the coronavirus (Covid-19) pandemic.

2. The Governor and the Legislature have used a serious pandemic as an excuse to revoke a long list of natural rights of the people of the State, which rights are unalienable and guaranteed by the United States Constitution. These natural rights were recognized in the Declaration of Independence, proving that they pre-existed even the founding of the United States.
3. They have done this while the state courts were basically closed for business and while the President and Congress, both of which have the authority to intervene in these constitutional violations, have sat on their hands.
4. This is a petition within the meaning of the First Amendment for a redress of these grievances and is within the American tradition of exhausting every peaceful and lawful means of protecting our rights.¹
5. To the extent that the defendants will argue in their defense that these circumstances justify their emergency powers, they are in effect arguing that the American people lack the intellectual and moral competence to govern their own lives under constitutionally limited government, which undercuts the rational basis for the very same constitution these defendants will claim as the basis for the authority they exercise.
6. The regime that has been in place in New York and many other states in the last several weeks violates every known precept of American republican government

¹ See, the Declaration of Independence.

whose origins date back at least to circa 1650 England. That form of government is based on pre-existing natural rights which the regime may never violate on pain of revolution² and on popular sovereignty in which limited powers are delegated by the people to the government through constitutional means.

7. Those powers may not be inflated by officials who are themselves subordinate to the constitution and to the ultimate sovereignty of the people.
8. If this new regime is allowed to persist by the courts and by federal officials, that would mean the death of American republican government, announced by the very courts whose function was supposed to be to preserve and protect natural rights, constitutionalism, limited government, popular sovereignty and republican government itself.
9. To be blunt, a bloodless coup against the constitution has been undertaken by the State itself.
10. The basic question then before this Court is whether the coup will be successful or will fail.
11. Is republican government dead or alive?
12. Are natural rights dead or alive?
13. Has the accomplishment of 1776 been eviscerated?
14. If so, the question then arises, why do the American people have any obligation to recognize the authority of the State?

² Algernon Sydney, *Discourses Concerning Government* (1698).

PARTIES

15. The plaintiff BRANDON LEWIS at all times hereinafter mentioned was and still is a resident of the Town of Sweden, located within the County of Monroe and the State of New York.
16. He is the sole owner of THE FIRING PIN, LLC., a limited liability company operating under the laws of New York State with offices in the Town of Bergen, located within the County of Genesee and the State of New York.
17. The plaintiff SHANNON JOY at all times hereinafter mentioned was and still is a resident of the Town of Fairport, located within the County of Monroe and the State of New York.
18. The plaintiff JAMES OSTROWSKI at all times hereinafter mentioned was and still is a resident of the City of Buffalo, located within the County of Erie and the State of New York.
19. The plaintiff STEPHEN FELANO at all times hereinafter mentioned was and still is a resident of the Town of Amherst, located within the County of Erie and the State of New York.
20. The plaintiff DUANE WHITMER at all times hereinafter mentioned was and still is a resident of the Town of Hamburg, located within the County of Erie and the State of New York.
21. The plaintiff SETH DUCLOS at all times hereinafter mentioned was and still is a resident of the Town of West Henrietta, located within the County of Monroe and the State of New York.

22. The plaintiff LISA REEVES at all times hereinafter mentioned was and still is a resident of the Village of Trumansburg, located within the County of Tompkins and the State of New York.
23. Defendant ANDREW M. CUOMO is the Governor of the State of New York whose principal place of business is in Albany (Albany County), New York.
24. Defendant LATITIA JAMES is the Attorney General of the State of New York whose principal place of business is in Albany (Albany County), New York.
25. Defendant KEITH M. CORLETT is Superintendent of the New York State Police whose principal place of business is in Albany (Albany County), New York.
26. DOUGLAS A. RANDALL is a Monroe County pistol permit licensing officer.
27. He is also a judge but is not acting in a judicial capacity when issuing permits.
28. He is sued herein as a necessary party to granting the relief requested.
29. Licensing officers in New York State, in addition to determining applications for pistol permits, on information and belief, also engage in investigations of applicants and work closely with various police agencies in monitoring the behavior of permit holders, applicants and those whose permits have been suspended.
30. Licensing officers also act as prosecutors of permit applicants and those whose permits have been suspended.
31. Thus, licensing officers do not act in a judicial capacity but rather their duties include investigatory, prosecutorial and law enforcement functions fundamentally inconsistent with the judicial function.

32. On information and belief, licensing officers routinely receive information and evidence about permit applicants or suspended holders of permits on an informal basis and on occasion without the knowledge of the applicant or holder of a permit.
33. Defendant TODD K. BAXTER is the Sheriff of Monroe County whose principal place of business is in Rochester (Monroe County), New York.
34. JAMIE ROMEO is Monroe County Clerk and is in charge of the Monroe County Pistol Permit Office.
35. On information and belief, Investigator CORREA is an employee of the State of New York who resides in New York City.
36. Defendant EMPIRE STATE DEVELOPMENT CORPORATION ("ESD") was and is a business corporation formed and existing under the laws of the State of New York with authority to determine which are "essential services" delegated to it under New York's Executive Order No. 202.6, one of the Executive Orders complained of herein. As such, it is a person acting under color of state law pursuant to authority delegated by the Governor.
37. All Defendants herein are being sued individually and in their official capacities.

JURISDICTION

38. Jurisdiction is founded on 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, and under 28 U.S.C. § 1343(a)(3) as this action seeks to redress the deprivation, under of color of the laws, statutes, ordinances, regulations, customs and usages of the State of New York, of rights, privileges or immunities secured by the United States Constitution.

39. This action seeks relief pursuant to 28 U.S.C. §§ 2201, 2202, 42 U.S.C. § 1983.
40. Venue lies in this district pursuant to 28 U.S.C. § 1391.

FACTUAL ALLEGATIONS RELATED TO ALL CAUSES OF ACTION

41. On March 2, 2020, apparently in response to the Coronavirus, the New York State Legislature passed a bill amending Section 29-a of the Executive Law to increase the Governor's powers to deal with a broad array of emergencies.
42. On information and belief, there was no debate, no prior public notice, and no media coverage.
43. The bill was rushed through in record time with a message of necessity from the Governor and was signed into law by him the very next day.
44. Based on that process, the Legislature purported to give the Governor power to rule by decree and the Governor has used that power to impose the greatest disruption in American society and personal liberty since 1776.
45. The following language was added to the statute:

"The governor, by executive order, may issue any directive during a state disaster emergency declared in the following instances: fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse. Any such directive must be necessary to cope with the disaster and may provide for procedures reasonably necessary to enforce such directive."
46. On March 7, 2020, the Governor issued executive Order No. 202 and declared a state of emergency throughout the state until September 7, 2020.
47. On March 16, 2020, the Governor issued Executive Order No. 202.3 which stated in part:

“Any restaurant or bar in the state of New York shall cease serving patrons food or beverage on-premises effective at 8 pm on March 16, 2020, and until further notice shall only serve food or beverage for off-premises consumption. Notwithstanding any provision of the alcohol and beverage control law, a retail on-premises licensee shall be authorized for the duration of this Executive Order to sell alcohol for off-premises consumption, which shall include either take-out or delivery, subject to reasonable limitations set by the State Liquor Authority.”

“Any gym, fitness centers or classes, and movie theaters shall also cease operation effective at 8 pm on March 16, 2020 until further notice.”

48. On March 18, 2020, the Governor issued Executive Order No. 202.5

which stated in part:

“Effective at 8 p.m. March 19, 2020, all indoor common portions of retail shopping malls with in excess of 100,000 square feet of retail space available for lease shall close and cease access to the public. Any stores located within shopping malls, which have their own external entrances open to the public, separate from the general mall entrance, may remain open, subject to the requirements of Executive Order 202.3 that any restaurant shall limit itself to take out or delivery food services, and that any interior entrances to common areas of the mall remain closed and locked.

“Additionally, all places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement rides, carnivals, amusement parks, water parks, aquariums, zoos, arcades, fairs, children’s play centers, funplexes, theme parks, bowling alleys, family and children’s attractions shall likewise be closed to the public at 8 p.m. on March 19. This directive shall not apply to public parks and open recreation areas.”

49. Executive Order No. 202.7 issued on March 19, 2020, closed all barber shops and hair salons, effective March 21, 2020, at 8:00 p.m.

50. On March 20, 2020, the Governor issued Executive Order No. 202.8

which stated in part:

“The provisions of Executive Order 202.6 are hereby modified to read as follows: Effective on March 22 at 8 p.m.: All businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. Each employer shall reduce the in-person workforce at any work locations

by 100% no later than March 22 at 8 p.m. Any essential business or entity providing essential services or functions shall not be subject to the in-person restrictions. An entity providing essential services or functions whether to an essential business or a non-essential business shall not be subjected to the in-person work restriction, but may operate at the level necessary to provide such service or function. Any business violating the above order shall be subject to enforcement as if this were a violation of an order pursuant to section 12 of the Public Health Law.”

51. Section 12 is a poorly drafted statute that contains vague references to prosecution for a misdemeanor or a felony. In its more lucid language, it allows those who violate an order to be fined \$2,000 in a civil proceeding.
52. On March 23, 2020, the Governor issued Executive Order No. 202.10 which stated in part: “Non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations or other social events) are canceled or postponed at this time.”
53. The EMPIRE STATE DEVELOPMENT CORPORATION issued guidance about Executive Order 202.10, stating that “congregate services within houses of worship are prohibited.”
54. On March 27, 2020, the Governor issued Executive Order No. 202.11 which stated in part:

“During the period when an Executive Order limiting operation of a type of facility or limiting the number of persons who may occupy any space is in effect, any operation of such a facility or occupancy of any such space by more than the number of persons allowed by said Executive Order shall be deemed to be a violation of law and in particular, but not by way of limitation, shall be deemed to be a violation of the Uniform Code or other local building code in effect in the jurisdiction in which the facility or space is located. In the event of any such violation, any state, county, or local police officer authorized to enforce laws within the jurisdiction in which the space or facility is located is authorized to remove persons from such space or facility. In addition, in the event of such violation, any state, county, or local code enforcement official or fire marshal authorized to enforce the Uniform Code or other local building code within the

jurisdiction in which the facility or space is located is authorized to issue an appearance ticket, a Notice of Violation, an Order to Remedy such violation, which shall require immediate compliance, and/or a Do Not Occupy Order to any owner, operator, or occupant of any such facility or space. Nothing in this provision shall limit the authority of any governmental unit or agency to take such other and/or additional enforcement actions to the extent necessary to ensure compliance with such occupancy-related directives or facility operation-related directives.”

55. On March 30, 2020, the Governor issued Executive Order No. 202.13 which continued Order Nos. 202.3, 202.4, 202.5, 202.6, 202.7 202.8, 202.10 and 202.11 until April 15, 2020.
56. On April 7, 2020, the Governor issued Executive Order No. 202.14 which stated in part:

“By virtue of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, and 202.13 which closed or otherwise restricted public or private businesses or places of public accommodation, and which required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations, games, meetings or other social events), all such Executive Orders shall be continued, provided that the expiration dates of such Executive Orders shall be aligned, such that all in-person business restrictions and workplace restrictions will be effective until 11:59 p.m. on April 29, 2020, unless later extended by a future Executive Order.

“The enforcement of any violation of the foregoing directives on and after April 7, 2020, in addition to any other enforcement mechanism stated in any prior executive orders, shall be a violation punishable as a violation of public health law section 12-b(2) and the Commissioner of Health is directed and authorized to issue emergency regulations. The fine for such violation by an individual who is participating in any gathering which violates the terms of the orders or is failing to abide by social distancing restrictions in effect in any place which is not their home shall not exceed \$1,000.”
57. On April 15, 2020, the Governor issued Executive Order No. 202.17 which stated in part:

“Effective at 8 p.m. on Friday, April 17, 2020 any individual who is over age two and able to medically tolerate a face-covering shall be required to

cover their nose and mouth with a mask or cloth face-covering when in a public place and unable to maintain, or when not maintaining, social distance.”

58. On April 16, 2020, the Governor issued Executive Order No. 202.18

which stated in part:

“Any person utilizing public or private transportation carriers or other for-hire vehicles, who is over age two and able to medically tolerate a face covering, shall wear a mask or face covering over the nose and mouth during any such trip; any person who is operating such public or private transport, shall likewise wear a face covering or mask which covers the nose and mouth while there are any passengers in such vehicle. This directive shall take effect in the same manner as Executive Order 202.17, at 8 p.m. on Friday, April 17, 2020.

“Executive Order 202.14, which extended the provisions of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, and 202.13 which each closed or otherwise restricted public or private businesses or places of public accommodation, and which required postponement or cancellation of all non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations, games, meetings or other social events), is hereby continued, provided that the expiration date of such provisions of such Executive Orders shall be aligned, such that all in-person business restrictions and workplace restrictions will be effective until 11:59 p.m. on May 15, 2020, unless later extended by a future Executive Order. All enforcement mechanisms by state or local governments shall continue to be in full force an effect until May 15, 2020 unless later extended by a future Executive Order.”

59. On May 7, 2020, the Governor extended the lockdown until June 6, 2020.

Executive Order 202.28.

60. At a press conference on May 11, 2020, the Governor stated that he was, effective May 15, 2020, delegating his emergency powers to regional committees and officials, who would then have vast discretion to continue any of his emergency decrees they believe are necessary.

61. There are indications that some portion of the State may partially reopen on May 15, 2020, however, this policy does not apply to barber shops.

62. Guidance as to the reopening of gun stores has been unclear, however, it has been alleged that gun stores in the Finger Lakes region, which includes Genesee County, may open for curbside service only.
63. Restricting gun shops to curbside service only is a significant violation of their Second Amendment and due process rights as it significantly hinders the provision of services to their customers, interferes with regulatory compliance and creates a significant security risk by forcing the stores to do business outside their normal secured perimeter.
64. Moreover, it has also been alleged that local law enforcement officials may have a different opinion on whether gun stores may operate on a curbside basis and with what precautions.
65. That being the case, it is essential that this Court issue injunctive and declaratory relief on an emergency basis to protect the plaintiff BRANDON LEWIS's rights and provide him with legal guidance so he can avoid arrest, harassment, prosecution and/or having his license revoked.
66. Thus, the Governor has now unlawfully delegated the very same legislative powers that were unlawfully delegated to him, all in violation of due process and the Guarantee Clause as noted elsewhere herein.
67. In so doing, he explicitly stated that this power would be exercised by those unelected regional bodies and officials and not by himself.
68. It is clear that the result of this chaotic and illegal redistribution of legislative powers to large numbers of unelected officials throughout the State has and will create hopeless confusion about which constitutional rights

citizens can exercise at any given time and creates the grave risk of rampant corruption and favoritism and cronyism, such corruption being sharply correlated with arbitrary government power over the economy.

69. The legal ground is constantly shifting beneath the feet of the plaintiffs, requiring emergency declaratory and injunctive relief.
70. The Governor further stated on May 11th that any regional opening could be revoked at the discretion of regional officials.
71. On May 14, 2020, the Governor once again extended the majority of the lockdown until either May 28, 2020, or June 13, 2020, depending on how one reads the order. Executive Order 202.31.
72. The same order formalized what the Governor stated on May 11, 2020, that he was unlawfully delegating the powers illegally transferred to him by the Legislature to a large group of unelected local officials.
73. However, the lockdown has been repeatedly extended and there is no assurance that it will not be extended again and again or modified but with numerous unlawful conditions violating the rights specified herein.
74. Further, without the relief requested herein, the Governor could at any time reimpose the lockdown on flimsy evidence, on the basis of the virus, or any of the other ill-defined emergency conditions listed in the statute.
75. Particularly concerning is the Governor's alleged right to rule by decree in response to "terrorism."

76. There is no scientific definition of “terrorism” and anti-lockdown protesters have already been accused of being terrorists while acting peacefully and violating no law. *The Intercept*, May 7, 2020.
77. The combined effect of these unlawful orders (not the virus itself), replicated in numerous other states, has been the most massive violation of the liberty of American citizens in the history of the country, plunging the economy into near-depression status and leading to the expenditure of trillion of dollars borrowed, in effect, from young people and people yet to be born.
78. The failure to respect our constitutional rights has led to a catastrophe with no precedent in American history.
79. This catastrophe is the direct result of the unconstitutional concentration of power into the hands of one highly fallible person, utterly unfamiliar with the facts on the ground, or with the unique circumstances of 19 million people, whose errors are then magnified throughout the State in a manner that would be impossible if the Constitution’s “diffusion of power” had not been flouted. *New York v. United States*, 505 U. S. 144 (1992); F. A. Hayek, “The Use of Knowledge in Society,” *The American Economic Review*, Vol. 35, No. 4. (Sep., 1945), pp. 519-530.

BRANDON LEWIS/THE FIRING PIN, LLC.

80. Brandon Lewis is the sole owner of The Firing Pin, LLC, in Bergen, New York, Genesee County, a firearms retailer.
81. As a result of the Governor's order requiring "nonessential" firms to reduce their workforce by 100 percent, he was forced to close his business at the cost of many thousands of dollars in lost sales.
82. To ensure gun stores remain closed, Governor Cuomo launched his own unofficial police force on April 1st, 2020, under the euphemism 'New York State PAUSE Enforcement Assistance Task Force.'
83. Mr. Lewis captivated the nation when he attended the highly-publicized Second Amendment civil rights rally in Richmond, Virginia earlier this year. He stole the show with his 50-caliber Barrett rifle and full-throated defense of 'We The People' over progressive big government.
84. Governor Cuomo has fashioned his new-found economic shutdown authority into a club to crush Mr. Lewis's firearms business.
85. On April 3rd, 2020, Mr. Lewis and his employees at The Firing Pin received a series of harassing calls from a state government investigator 'Correa.'
86. Claiming unlimited authority in these 'unprecedented times,' the state unilaterally shut down The Firing Pin, causing many thousands of dollars in financial damages due to lost sales resulting from government-compelled closure.
87. The Firing Pin remained closed indefinitely, however, will reopen today on a curbside basis only.
88. BRANDON LEWIS did request that the Empire State Development Corporation grant him status as an essential business, however this request was ignored.

89. The Governor's second-hand delegation of legislative powers to a public authority is obviously unconstitutional.

SHANNON JOY

90. The executive actions imposed by Governor Cuomo have affected the plaintiff's life and her family in a myriad of ways detrimental to her pursuit of happiness and right to liberty.

91. The closure of all business has made it extremely difficult for her to pursue advertising sales and engage in basic client management for her company, Joy Media.

92. The inability to go to the radio station has made it more difficult to produce and disseminate her radio program "The Shannon Joy Show."

93. The closure of churches has deprived her of the ability to worship with her family on Sundays and assemble on Tuesdays as part of the ladies' Bible Study she attends at Pittsford Community Church.

94. Her children have been deprived of basic education in both public and private schools for the better half of the 2020 school year.

95. Online learning has been severely lacking despite the best efforts of individual teachers and administrations. Fairport Central Schools and The Charles Finney School have been prohibited from providing adequate educational instruction as a result of the lockdown.

96. Her ability to attend and sponsor public assemblies, including to protest the lockdown, are threatened with interference by law enforcement due to the Governor's orders.

97. Finally, she is forced to wear a mask in public or face exclusion from vital services and the risk of arrest or being fined.

98. She seeks injunctive and declaratory relief against these illegal actions.

JAMES OSTROWSKI

99. As a result of the Governor's orders, JAMES OSTROWSKI's rights under the First, Fourth, Fifth and Fourteenth Amendments have been violated.

100. He cannot attend or organize a public or religious assembly without the risk of being arrested for violating the Governor's orders.

101. Prior to the illegal lockdown, he attended Roman Catholic Mass at the combined parishes of St. Rose of Lima and St. Mark's in North Buffalo for 21 years.

102. At a rally to reopen Buffalo on April 20, 2020, while filming the rally live on Facebook to promote the mission of the rally, including by live commentary, he was accosted by a Buffalo police officer and told he could not film from the otherwise empty steps of City Hall.

103. At a rally to reopen Rochester on May 1, 2020, he was being closely observed and monitored by police officers and was under contrast threat of being arrested or otherwise harassed for violating the Governor's orders.

104. He must wear a mask in public or risk arrest or fines.

105. The stores he frequents display signs mandating wearing a mask, citing the Governor's orders. None had previously required a mask.

106. He cannot work out at a gym to maintain his weight and health.

107. At age 62, with a doctor's recommendation of regular exercise, JAMES OSTROWSKI's health has been jeopardized by the Governor's orders.

SETH DUCLOS

108. SETH DUCLOS turned 21 during the COVID outbreak.
109. Previously, he went to the Monroe County Clerk's office and received a pistol permit application and had it completed and ready to be submitted on his birthday, March 26th.
110. Due to the closure of the Monroe County Clerk's office, he was unable to submit his application to exercise his Second Amendment rights.
111. Until the reopening of the office and until his permit is approved, he is devoid of his right to protect himself in public and protect his family in the confines of his home with a handgun.
112. JAMIE ROMERO, the Monroe County Clerk, closed the County pistol permit office she controls on or about March 18, 2020, in response to the Governor's orders concerning reduction of the workforce and the office has remained closed ever since.
113. The pistol permit office does not take applications online.
114. Monroe County Pistol Permit Judge DOUGLAS A. RANDALL, is joined herein as a necessary party to the relief requested, to wit, allowing Mr. Duclos to have a pistol permit upon clearing a federal background check.

STEPHEN FELANO

115. STEPHEN FELANO is a Second Amendment civil rights advocate and responsibly armed civilian.
116. Mr. Felano is the founder of 2ANY.COM, New York State's premier civilian rearmament enterprise securing maximal Second Amendment civil rights by, with, and through The People.
117. Before the lockdown, Mr. Felano was attending or hosting numerous public meetings and events all across the state addressing the indisputable legality of Second Amendment Sanctuary Ordinances and other critical civil rights issues where he and hundreds of other New Yorkers expressed pro-Second Amendment and other views extolling the supremacy of individual liberty and limited government over compelled collectivism and centralized bureaucracy.
118. Since the lockdown, Mr. Felano has sponsored no such events due to the deterrent effect of New York State Governor Andrew Cuomo's illegal orders.
119. As a responsibly armed civilian, Mr. Felano regularly engages in combat marksmanship training and a range of focused exercises designed to improve his firearms proficiency, tactical decision-making, and other lawful lethal force projection skills.
120. The lockdown has massively reduced Mr. Felano's options for adequate and effective firearms training, as well as obtaining ammunition and firearms, without which the right to bear arms is meaningless.

121. Mr. Felano strenuously objects to Governor Cuomo's illegal and compulsory order directing him to wear a mask in public based on subjective and inconsistently applied social distancing criteria.
122. Mr. Felano cites New York State lawmakers' unlawful, irresponsible, and total abdication of all legislative deliberation and authority to Governor Cuomo – effectively transforming New York State into a dictatorship for the duration of the COVID-19 pandemic, and likely beyond.
123. Mr. Felano cites the wholesale cancellation of the Second Amendment by New York State officials via pre-existing, unconstitutional regulation and recent COVID-19 shutdown mandates forcing the closure of firearms manufacturers, retailers, and pistol permitting offices as proof positive that government agents cannot be trusted to responsibly regulate civilian Second Amendment exercise without effectively and illegally eviscerating the fundamental human right to keep and bear arms.
124. Mr. Felano cites as tyrannical and unlawful Governor Cuomo's April 3rd, 2020 public threat to engage in state-mandated kleptomania of ventilators from Upstate New York hospitals by force of armed National Guard troops.
125. Mr. Felano maintains this threat placed on full display the governor's naked aggression against equal protection and due process constitutional mandates while communicating a forceful preference for sacrificing the lives and health of Upstate residents for the benefit of the life and health of Downstate residents.

126. Mr. Felano cites as tyrannical and unlawful New York City Mayor Bill de Blasio's April 29, 2020 public threat to project armed government force against Hasidic Jews for congregating to mourn the death of a rabbi.
127. Mr. Felano maintains this threat placed on full display the mayor's naked aggression against constitutional protections of free assembly and religious expression while encouraging, through his forceful rhetoric, the police misconduct that occurred on May 2, 2020 when a New York City Police Department officer beat a bystander and knelt on his head during a social distancing enforcement operation in Manhattan.
128. Mr. Felano cites the aforementioned despicable threats of armed government force made by Governor Cuomo and Mayor de Blasio against the largely disarmed populace of New York State as proof positive that civilian New Yorkers must certainly require open and lawful access to combat-accessorized AR pattern rifles and standard ammunition magazines with a capacity far in excess of a paltry 10 rounds in order to effectively dissuade and defend against the growing level of tyrannical action promulgated by New York State government agents amid the COVID-19 pandemic.
129. Mr. Felano cites the aforementioned instances of legislative abdication, government irresponsibility and overreach, and unprecedented threats of armed violence by the state against largely disarmed New York residents amid the COVID-19 pandemic as proof positive that New York State government has voluntarily relinquished its public mandate to regulate civilian Second Amendment exercise.

130. As such, Mr. Felano maintains that the entire New York State civilian disarmament industrial complex – to include the SAFE Act, pistol permitting regime, red flag disarmament, and sum total of New York State gun control imperial edicts – should be declared constitutionally null and void.
131. Mr. Felano forcefully maintains that the Second Amendment civil right to keep and bear arms has proven itself indispensable to the task of restraining tyrannical government overreach, and thus should be preserved and expanded, particularly amid the COVID-19 pandemic when it has become fashionable to unilaterally expand, by orders of magnitude, the inherently dangerous force projection capability of government agents.

DUANE WHITMER

132. DUANE WHITMER is a libertarian and Second Amendment activist and firearms owner.
133. He is also a candidate for Congress in the 27th District of New York as candidate of the Libertarian Party and is Chairman of the Erie County Libertarian Party.
134. Before the lockdown, he was attending or hosting many public meetings and events where he and others expressed pro-Second Amendment and other libertarian views.
135. Since the lockdown, he has sponsored no such events due to the deterrent effect of the Governor's illegal orders.

136. As a responsible gun owner, he regularly engages in target shooting to improve his efficiency and ensure that during any lawful discharge of firearms, no innocent bystanders are harmed.
137. The lockdown has greatly reduced his options for obtaining ammunition and firearms, without which the right to bear arms is pointless.
138. He also objects to the Governor's illegal order directing him to wear a mask.

LISA REEVES, d/b/a, Big Red Barber Shop

139. LISA REEVES is the sole proprietor of Big Red Barber Shop in Ithaca, New York.
140. On March 21, 2020, the Shop was ordered by Governor Cuomo to shut down due to the pandemic.
141. The Governor stated that there would be pandemic unemployment insurance available to businesses that were forced to shut down.
142. LISA REEVES spent over 60 hours on the website and phone trying to get this insurance.
143. Six times she got to the point where a recording said to complete the process that she needed to talk to a representative and that a representative would call her back within 72 hours.
144. She is still waiting for the call back six weeks later.
145. With no income and her savings depleted, on May 11, 2020, she reopened her shop to keep from losing everything she has worked for the past 17 years.

146. She applied full precautions including masks and allowing only one customer in the ship at a time.
147. Nevertheless, after three hours of work the Tompkins County Health Department, acting solely on the basis of Executive Order 202.7, called and ordered her to shut down immediately.
148. She is in fear of losing her license and being fined if she reopens without an order from this Court.

COVID-19

149. Covid-19 is a contagious virus which causes severe respiratory distress and can cause death.
150. There is no cure, however, a number of treatment modalities have been shown to reduce the impact of the virus.
151. About 90% of hospitalized patients had one or more underlying conditions, the most common being obesity, hypertension, chronic lung disease, diabetes mellitus, and cardiovascular disease. (CDC).
152. Hospitalization rates ranged from 0.1 per 100,000 population in persons aged 5–17 years to 17.2 per 100,000 population in adults aged ≥ 85 years. (CDC)
153. About fifty percent of infected persons experience no symptoms.
154. About 10 percent of infected persons require hospitalization.
155. There is no agreement on the percentage of persons infected who will die from the disease.

156. Estimates range from 0.1 percent to one percent. (A. Fauci, et al, “Covid 19—Navigating the Uncharted,” *New England Journal of Medicine* (Mar. 26, 2020).
157. Influenza is generally understood to have an infection fatality rate (IFR) of 0.1 percent.
158. There is a sharp distinction in death rates based on age, with one analyst reporting that, as of April 28, 2020, deaths among those under 14 totaled just five; deaths among those 15 through 64 amounted to 3.6 per 100,000; and those over 64 accounted for 80% of deaths. David Stockman, “The Three Nations of Covid and a Windbag Named Fauci, *LewRockwell.com* (May 2, 2020).
159. There is little if any solid data to show that locking down society yields a better result with respect to the virus, than merely taking precautionary measures.
160. South Korea and portions of Italy showed great success in mass testing which does not require a societal lockdown.
161. Data indicating that the virus targets the elderly and those in ill health shows a clear path to fighting the virus without resorting to unconstitutional measures.
162. Allowing younger and healthier people at low risk to resume normal activities and develop herd immunity while encouraging those at high risk to take precautionary measures is not only the best and most rational strategy but one that does not impinge on constitutional rights.

163. Not only is the Governor's lockdown approach not warranted in dealing with the virus, but it is a complete disaster for society and the economy upon which the health and welfare of all us ultimately depends.
164. There is exactly zero evidence that this lockdown is on the whole, beneficial to society, to the economy or to our overall health and welfare.
165. The death rate from Covid-19 is dwarfed by the main causes of death in the United States, none of which has ever been alleged to provide justification for suspending the Bill of Rights:
166. Constitutional rights were developed at a time when there were many more dangerous epidemics and pandemics and the people had far less ability to combat them and had a drastically lower life expectancy.
167. It is preposterous that the founders thought there was a disease exception to rights.
168. On the contrary, everything we know about them indicates they would have said: we need liberty the most during emergencies.

ALL OF GOVERNOR'S CUOMO'S EMERGENCY DIRECTIVES ARE UNLAWFUL

169. On March 2, 2020, the State Legislature passed a bill that gave the Governor unprecedented powers to rule by degree in vaguely defined emergency situations.
170. The law had previously given the Governor only the power to suspend statutes in such cases.
171. The statute improperly delegates wholesale legislature power to the Governor which was delegated by the people only to the Legislature and only under strict

procedural requirements including dividing the legislative power into two separate houses, the Senate and the Assembly, and requiring their election by district every two years and by dispersing that power among what is currently 213 legislators. NY Constitution, Article III, Section 1, et seq.; *Cf.*, German Enabling Act of 1933 (“Laws enacted by the Reich government shall be issued by the Chancellor and announced in the Reich Gazette.”)

172. The State Constitution gives all legislative power to the Legislature only.
173. Thus, the Governor has no legal authority or jurisdiction to issue directives and all such directives are null and void *ab initio* just as they would be if issued by any other of the other 19,440,469 other residents of New York.
174. In addition to the Governor and his agents violating other specific provisions of the Bill of Rights and Constitution, for them to impose legal obligations, legal coercion and various penalties on citizens, without the slightest hint of legal authority is a violation of due process under the 5th and 14th Amendments to the Constitution as well as the Guarantee Clause (“The United States shall guarantee to every state in this union a republican form of government.” Article IV)
175. Thus, the Governor’s orders closing businesses, limiting public assembly, religious gatherings, forcing people to wear masks in public, etc. are all illegal.
176. As Governor of the State of New York, defendant ANDREW M. CUOMO “shall take care that the laws are faithfully executed.” N.Y. Const., Art. IV, §3. As such, the Governor is responsible for the administration and enforcement of the Penal Law, which he conducts through various officers, agents, and employees.

177. The Governor exercises direct supervisory control over the State Police and can hire or fire its Superintendent at his discretion.
178. As Attorney General for the State of New York, defendant LATITIA JAMES shall “prosecute and defend all actions and proceedings in which the state is interested . . .” Executive Law § 63(1).
179. The Attorney General also has significant criminal jurisdiction and her predecessor directly involved her office in firearms law enforcement, for example, by launching an investigation of sales of guns at gun shows without background checks.
180. On information and belief, the Attorney General can investigate and prosecute various crimes if asked to do so by the State Police or another state agency.
181. As Superintendent of the New York State Police, defendant KEITH M. CORLETT is required to enforce the criminal and administrative provisions of the Penal Law throughout the State. “It shall be the duty of the superintendent of the state police and of members of the state police to prevent and detect crime and apprehend criminals.” Executive Law § 223.
182. The State Police is a quasi-military organization in which all officers must follow the orders of the Superintendent on pain of being immediately terminated.
183. The Superintendent, with the approval of the Governor, his superior officer, is committed to violating the plaintiffs’ rights whenever he or his subordinates can do so and by whatever means are available.

184. With the approval and under the direction of the Superintendent, the State Police are engaged in the regular investigation, arrest and prosecution of anyone they believe to be in violation of the State's gun laws and related criminal statutes.
185. On information and belief, the State Police regularly refer matters to the relevant pistol permit licensing officer when they believe that any permit holder has violated a criminal statute.
186. If any one of the plaintiffs was found by the State Police to be in unlawful possession of a handgun, they would be immediately arrested by the State Police and thus the State Police are a direct, palpable and immediate threat to violate their right to bear arms whenever the plaintiffs choose to exercise that right.
187. Because of the administration and enforcement of the above executive orders and related statutes by the defendants, the plaintiffs have been, and will continue to be, subjected to irreparable harm.
188. At all times herein, the defendants were acting under color of state law.
189. All of the statutes, regulations, court actions, customs and practices referenced herein constitute state action within the meaning of the Constitution.
190. At all times herein, the actions of the defendants have been intentional or in reckless disregard of the clearly established rights of the plaintiffs.

**THE DEVASTATING IMPACT OF THE LOCKDOWN ON
SOCIETY, THE ECONOMY AND THE YOUNG**

191. The Governor's unlawful lockdown of society and the economy, mirrored in most other states by their own governors, has devastated American society and its economy.
192. The lockdown has not only caused an unprecedented disruption in American society but has forced the economy into near-Depression-era numbers.
193. Over twenty million jobs have been lost and unemployment hit a record of over 14 percent.
194. Over thirty-five million have filed for unemployment benefits.
195. About 30 percent of small businesses have closed.
196. There is a \$3.7 trillion federal deficit, the highest since World War II and the federal debt has reached the \$25 trillion mark.
197. There are credible reports of increases in overdoses and suicides, and an increase in alcohol consumption (associated with a wide range of diseases).
198. There are credible reports of people deferring needed medical care due to the lockdown.
199. It must be emphasized that the lockdown is a policy that explicitly sacrifices the young for the old given the huge disparity in how the virus affects each age group.
200. The Constitution does not countenance the wholesale sacrifice of one age group for the benefit of another age group, especially considering that a huge portion of the sacrificed group cannot even vote.

201. Nothing like this has ever happened in American history. The young are being deprived of their youth; their social life; their education; their sports; their arts; their graduations; their careers; their job market; and to add insult to injury, many of them cannot even vote against their sacrifice but they will be for many decades stuck with the bill for the mistakes of the old.

GOVERNMENT CREATES ITS OWN DEMAND

202. This entire mess was the product of failed government policies that violate liberty. Our federal government, which has absolute control over the channels of international travel, utterly failed to prevent the virus from entering our country.

203. Once it entered the country, the next line of defense should have been mass testing as they did in South Korea and in the town of Vo, Italy, where such testing worked.

204. However, to date, the government, which has an effective legal monopoly on testing, has utterly failed to make testing available to more than a tiny percentage of the population.

205. The last line of defense, our mostly socialized health care industry, in spite of heroic work by front line nurses and doctors, who face combat-level casualties themselves from the virus, has not been able to figure out how to cure the gravely ill and are overwhelmed with cases and, given their highly regulated, monopolized and bureaucratized nature, has been slow to respond to the increased demand and cannot even keep their medical personnel fully protected with equipment.

206. The problem is most severe in and around industries or services either owned by the government or heavily regulated and funded by the government including the New York City Subway and nursing homes and veterans' homes.
207. Yet another government blunder is the heavy reliance on ventilators for severely ill patients, a treatment which is now being seriously questioned due to its high failure rate.
208. Government should not be allowed to use the problems caused by its own failures as a justification to expand its own powers in violation of numerous provisions of the Constitution.
209. These failed policies undercut the argument for emergency dictatorial powers: the government is not more competent than the people themselves. This catastrophe proves it.
210. There is no policy justification to expand the constitutional authority of government officials so they can try to remediate problems caused by their prior incompetence.

INABILITY TO OBTAIN REDRESS THROUGH THE STATE OF NEW YORK

211. No state law claims are being asserted herein.
212. Nevertheless, the plaintiffs do not believe they could possibly obtain any redress in state courts or in the legislature due to the nature of the New York State political and legal system.
213. New York politics is extremely uncompetitive due in part to arcane election law rules and judges who are all too willing to keep viable candidates off the ballot for hyper-technical reasons. See, e.g. *Saunders v. Egriu*, CAE 20-00547 (App. Div. 4th

Dept. May 13, 2020. (Congressional candidate ordered off the ballot to a minor error in cover sheets which was corrected!).

214. All appellate judges in the state are both appointed by the Governor, and, unlike in Federal Court, all are subject to reappointment by the governor.
215. The New York courts have repeatedly refused to respect the Second Amendment and there are several petitions for certiorari from New York State pending in the Supreme Court.
216. New York courts have not to our knowledge granted any relief based on the revolutionary holdings of *Heller* and *McDonald* which flew in the face of 100 years of gun control policies in New York.
217. Worse yet, in the infamous case of *Bordeleau v. State of New York*, 18 N.Y. 3d 305 (2011), the New York Court of Appeals refused to follow the crystal clear language of its very own constitution, riding roughshod over a provision enacted in 1846 and which survived many revisions and held that the clause, “The money of the state shall not be given or loaned to or in aid of any private corporation or association, or private undertaking” means the opposite!
218. All of the plaintiffs are from Upstate New York.
219. Due to the political structure of New York State, Upstate is essentially a political colony of Downstate.
220. The politics and government of the state are completely dominated by forces from the New York City metropolitan area and Upstate interests are almost completely ignored.

221. Numerous destructive policies popular in New York City are foisted on Upstate, which, as a direct result has been declining and in distress and losing population for decades.
222. The lockdown of the entire state due to a severe pandemic in New York City is simply the latest example.
223. An incredible 91% of statewide cases are in the New York City Metropolitan area (New York City plus Long Island, Westchester and Rockland counties.)
224. An unlawful regime is being imposed on Upstate mainly because of a problem Downstate.
225. All of the key state elected officials are Democrats from the New York City metropolitan area.
226. As a result of the stranglehold on power by one party in one city, New York State has become one of the most corrupt states and the least free state in the union.³
227. The plaintiffs have no confidence in their ability to redress any of the grievances herein in New York State courts or legislatures.
228. At all times herein, the defendants were acting under color of state law.

³ Freedom in the Fifty States (Cato Institute, 2018).

VI. DAMAGES

229. On account of the Defendants' actions and violations of their rights as set forth above, the Plaintiffs suffered actual damages, including loss of liberty, pain, suffering, humiliation and emotional distress, and were forced to expend funds for permit fees and related expenses.
230. Plaintiffs are entitled to recover compensatory and punitive damages, attorney's fees and costs.
231. Plaintiffs demand prejudgment interest on all elements of out-of-pocket loss including attorneys' fees.
232. The eighth cause of action seeks injunctive and declaratory relief and attorneys' fees only.

LEGAL CLAIMS

FIRST CAUSE OF ACTION-- ORDERING GUN STORES TO CLOSE

BY: BRANDON LEWIS.
THE FIRING PIN, LLC.
SETH DUCLOS

AGAINST: ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT
INVESTIGATOR CORREA
EMPIRE STATE DEVELOPMENT
CORPORATION

CAUSES OF ACTION: 2nd, 4th, 5th, 9th, 10th and 14th Amendments;
Guarantee Clause, Takings Clause, Commerce
Clause; 42 U. S. C. 1983

233. The Governor’s executive orders and the phone calls made by Investigator CORREA, forcing the plaintiffs BRANDON LEWIS and his company THE FIRING PIN, LLC. to close on or about April 3, 2020, violated the plaintiffs’ rights under the Second, Fifth and Fourteenth Amendments. See, *Teixeira v. Alameda County*, 873 F.3d 670, 677 (9th Cir. 2017) (en banc) (gun store operator has derivative stand to challenge the subsidiary right to acquire arms on behalf of his customers).
234. On information and belief, other gun stores throughout the state were also forced to close.
235. The right to sell firearms is an integral and indisputable element of the Second Amendment.
236. While every colony maintained a militia, there was not a single founding-era law restricting arms sales to militiamen.

237. “Regulations on the commercial sale of firearms did not exist at the time of the passage of the Second Amendment.”⁴
238. As Thomas Jefferson wrote, “Our citizens have always been free to make, vend, and export arms. It is the constant occupation and livelihood of some of them.”⁵
239. The defendant’s actions violated the Plaintiffs’ clearly established right to keep and bear arms and rights to liberty and personal security, equal protection and due process as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.
240. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiffs’ clearly established constitutional rights.
241. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiffs’ clearly established Fourth and Fourteenth Amendment rights.
242. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive plaintiffs of their constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).
243. On information and belief, the defendants LETITIA JAMES and KEITH M. CORLETT support and stand ready to enforce with the powers of their offices the

⁴ Carlton Larson, *Four Exceptions in Search of a Theory: District of Columbia v. Heller and Judicial Ipse Dixit*, 60 HASTINGS L.J. 1371, 1379 (2009).

⁵ Secretary of State Thomas Jefferson, letter to George Hammond, British Ambassador to the U.S., May 15, 1793, in 7 THE WRITINGS OF THOMAS JEFFERSON 325, 326 (Paul Ford ed., 1904) (rejecting British demand that U.S. forbid individuals from selling arms to the French).

acts complained of herein and they should be enjoined from doing so by the Court.

244. As a direct result of the Defendants' conduct, the Plaintiffs have suffered actual damages, attorneys' fees, and costs.

SECOND CAUSE OF ACTION—RIGHT TO PUBLIC ASSEMBLY

PLAINTIFFS: SHANNON JOY,
JAMES OSTROWSKI
STEPHEN FELANO,
DUANE WHITMER,

DEFENDANTS: ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT
TODD K. BAXTER

CAUSES OF ACTION: 1st, 4th, 5th, 9th, 10th and 14th Amendments;

42 U. S. C. 1983

245. The Governor's executive orders violated the plaintiffs' rights to public assembly and speech guaranteed by the First Amendment and Fourteenth Amendments.
246. The defendant's actions violated the Plaintiffs' clearly established rights as guaranteed by the First, Fourth and Fourteenth Amendments to the United States Constitution.
247. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiffs' clearly established constitutional rights.
248. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiffs' clearly established First Amendment rights.

249. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive the plaintiffs of their constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).

250. On information and belief, the defendants LETITIA JAMES and KEITH M. CORLETT support and stand ready to enforce with the powers of their offices the acts complained of herein and they should be enjoined from doing so by the Court.

251. As a direct result of the Defendants' conduct, the Plaintiffs have suffered actual damages, attorneys' fees, and costs.

THIRD CAUSE OF ACTION—FREE EXERCISE OF RELIGION

PLAINTIFFS: SHANNON JOY,
JAMES OSTROWSKI

DEFENDANTS: ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT

CAUSES OF ACTION: 1st, 14th Amendments; 42 U. S. C. 1983

252. The Governor's executive orders violated the plaintiffs' right to the free exercise of religion guaranteed by the First Amendment and Fourteenth Amendments.

See, *Tabernacle Baptist Church, Inc. v. Andrew Beshear*, Civil No. 3:20-cv-00033-GFVT (E. D. KY. 2020).

253. The First Amendment to the Constitution protects the "free exercise" of religion. Fundamental to this protection is the right to gather and worship. See *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943) ("The very purpose of a Bill of

Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts ... [such as the] freedom of worship and assembly." The Free Exercise Clause was incorporated against the states in *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

254. As the Supreme Court has noted, "a law burdening religious practice that is not neutral or not of general application must undergo the most rigorous of scrutiny." *Church of the Lukwni Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520,546 (1993).
255. Defendants prohibit in-person religious services, under penalty of law, and have thus substantially burdened Plaintiffs' religious exercise.
256. Requiring Plaintiffs to abstain from religious gatherings, regardless of precautions that might be taken, violates their constitutional right to the free exercise of religion.
257. The defendants' actions violated the Plaintiffs' clearly established rights as guaranteed by the First and Fourteenth Amendments to the United States Constitution.
258. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiffs' clearly established constitutional rights.
259. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiffs' clearly established First Amendment rights.
260. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive plaintiffs of their constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).

265. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiffs' clearly established constitutional right to keep and bear arms.
266. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiffs' clearly established Second and Fourteenth Amendment rights.
267. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive the plaintiffs of their constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).
268. As a direct result of the Defendants' conduct, the Plaintiffs have suffered actual damages, attorneys' fees, and costs.

FIFTH CAUSE OF ACTION—MASK REQUIREMENT

PLAINTIFFS: SHANNON JOY
JAMES OSTROWSKI
STEPHEN FELANO
DUANE WHITMER

DEFENDANTS: ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT

CAUSES OF ACTION: 4th, 5th, 9th, 10th and 14th Amendments;

42 U. S. C. 1983

269. The Governor's executive order to wear a mask in public violated the plaintiffs' rights under the Fourth, Fifth and Fourteenth Amendments and the Guarantee Clause.

270. The defendants' actions violated the Plaintiffs' clearly established rights to liberty and personal security and due process as guaranteed by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.
271. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiffs' clearly established constitutional rights to liberty, personal security and due process.
272. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiffs' clearly established Fourth and Fourteenth Amendment rights.
273. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive plaintiffs of their constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).
274. On information and belief, the defendants LETITIA JAMES and KEITH M. CORLETT support and stand ready to enforce with the powers of their offices, the acts complained of herein and they should be enjoined from doing so by the Court.
275. As a direct result of the Defendants' conduct, the Plaintiffs have suffered actual damages, attorneys' fees, and costs.

SIXTH CAUSE OF ACTION-- PURCHASING AMMUNITION

OUT OF STATE

PLAINTIFFS

STEPHEN FELANO
DUANE WHITMER

DEFENDANTS:

ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT

CAUSES OF ACTION:

2nd, 14th Amendments; Interstate

Commerce Clause; 42 U. S. C. 1983

276. The closing of New York gun stores makes it critical that New York’s ban on ordering ammunition online for home delivery be overturned.
277. The consistent inability of New Yorkers to order ammunition online for at-home delivery stems from New York State Penal Law § 400.02 and § 400.03.
278. The vast majority of online ammunition retailers that ship to home addresses across the U.S. interpret the aforementioned sections of the Penal Law as a total ban on their ability to sell ammunition online to New Yorkers for direct-to-home shipment. They believe they must ship to a New York State Federal Firearms License (FFL) holder in order to comply with state law.
279. AMMO.COM, a major supplier of ammunition, has posted a statement on their website as follows:

“Lockdown of FFLs Due to Governor Andrew Cuomo’s lockdown of businesses deemed non-essential, we are forced to suspend ammo sales to the state of New York. Without FFLs open, we have no way to legally ship ammo to our customers in The Empire State. Once Cuomo lifts the lockdown and we legally can serve you again, we have every intention of helping keep New Yorkers loaded up. Thank you for your understanding

as we all work through this wild situation. We appreciate your support and will be praying New Yorkers avoid further spread of the virus.”

280. The Governor’s executive orders in combination with pre-existing unconstitutional red-tape crushing the life out of the Second Amendment, results in a de facto ban on the ability of citizens to procure common ammunition for the duration of the governor’s imperial decrees.
281. The vast majority of online ammunition retailers willing to ship-to-home believe that New York State will attempt to prosecute them for shipping ammunition direct to the homes of New York State residents. No doubt, this is likely due to the fact that language offensive to the fully constitutional practice of direct-to-home online ammunition sales is contained in Section 400 of the state Penal Law.
282. New York’s ban on out of state ammunition sales violates both the right to bear arms and the interstate commerce clause.
283. The plaintiff asks the Court to declare the ban unconstitutional and enjoin all enforcement of it.

SEVENTH CAUSE OF ACTION—CLOSING THE BIG RED BARBER SHOP

PLAINTIFF: LISA REEVES

DEFENDANTS: ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT

CAUSES OF ACTION: 5th, 9th, 10th and 14th Amendments;
Guarantee Clause; Takings Clause;
42 U. S. C. 1983

284. The Governor’s executive orders forcing the plaintiff to close her barber shop, regardless of any safety measures plaintiff instituted, violated the plaintiff’s rights under the Fifth and Fourteenth Amendments and the Guarantee Clause, specifically, her right to run a business and her right not to be subject to unlawful orders.
285. The defendants’ actions violated the Plaintiff’s clearly established rights to due process and liberty, to operate a business free of unreasonable burdens and to live under a republican form of government as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and the Guarantee Clause.
286. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiff’s clearly established constitutional rights.
287. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiff’s clearly established Fifth and Fourteenth Amendment rights.
288. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive plaintiff of her constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).

289. On information and belief, the defendants LETITIA JAMES and KEITH M. CORLETT support and stand ready to enforce with the powers of their offices, the acts complained of herein and they should be enjoined from doing so by the Court.
290. As a direct result of the Defendants' conduct, the Plaintiff has suffered actual damages, attorneys' fees, and costs.

**EIGHTH CAUSE OF ACTION—FOR INJUNCTIVE AND DECLARATORY RELIEF
AGAINST SECTION 29-a OF THE EXECUTIVE LAW AND ALL DIRECTIVES ISSUED
THEREUNDER**

PLAINTIFFS: BRANDON LEWIS.
THE FIRING PIN, LLC.
SHANNON JOY,
JAMES OSTROWSKI
STEPHEN FELANO,
DUANE WHITMER,
SETH DUCLOS,
LISA REEVES, d/b/a,
Big Red Barber Shop,

DEFENDANTS: ANDREW M. CUOMO
LETITIA JAMES
KEITH M. CORLETT

CAUSES OF ACTION: 1st, 2nd, 4th, 5th, 9th, 10th and 14th
Amendments; Guarantee Clause,
Commerce Clause, 42 U. S. C. 1983

291. As described herein, the Legislature's illegal delegation of power to the Governor and the combined impact of the Governor's unlawful executive orders have devastated the rights of New Yorkers, wrecked the economy and caused significant damage to each of the plaintiffs' lives, both directly and indirectly.

292. The defendants' actions violated the Plaintiffs' clearly established rights to liberty and personal security and due process as guaranteed by the Constitution.
293. The defendants knew, or reasonably should have known, that their conduct violated the Plaintiffs' clearly established constitutional rights.
294. The Defendant acted with intent to violate, or with deliberate or reckless indifference to the Plaintiffs' clearly established rights.
295. At all times relevant herein, the Defendants were acting under color of state law, or conspired with individuals acting under color of state law to deprive plaintiffs of their constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970).
296. On information and belief, the defendants ANDREW CUOMO, LETITIA JAMES and KEITH M. CORLETT support and stand ready to enforce with the powers of their offices the acts complained of herein and they should be enjoined from doing so by the Court.
297. As a direct result of the Defendants' conduct, the Plaintiffs have suffered actual damages, attorneys' fees, and costs.
298. The Court should issue full declaratory and injunctive relief to halt the unconstitutional acts of the defendants and to prevent any further damage to the People of New York State.

WHEREFORE, the plaintiffs respectfully request that the Court:

1. Assume jurisdiction of this action;
2. Enter judgment against the Defendants and in favor of the Plaintiffs;

3. Enter a declaratory judgment that the actions of the defendants described herein infringe on the rights of the plaintiffs in violation of the First, Second, Fourth, Fifth, Ninth, Tenth and Fourteenth Amendments to the United States Constitution and the Guarantee Clause, the Interstate Commerce Clause, the Privileges and Immunities Clause of the Constitution and are null and void.
4. Issue preliminary and permanent injunctions enjoining the defendants and their officers, agents, and employees from administration and enforcement of the provisions alleged herein to violate the United States Constitution.
5. Award each Plaintiff compensatory damages, including prejudgment interest on any out of pocket damages;
6. Impose punitive damages against each individual defendant;
7. Award Plaintiffs all costs and disbursements incurred in the prosecution of this action, including reasonable attorneys' fees under 42 U.S.C. §1988; and
8. Grant such other and further relief as may be proper.

Dated: Buffalo, New York
May 15, 2020

/s/ James Ostrowski
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