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CASE

HIGBIE, et al. v JAMES, et al.

HELD

Friday, September 20, 2024

WITNESS

SERGEANT MICHAEL BRENNAN



Exhibit 2

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Reported by: Stephan Sudano

ACR Job#: 2024-0920SS_Wit 1 of 2

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THROUGHOUT NEW YORK STATE AND BEYOND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

----- X

CARL HIGBIE, JOSEPH HARRIS, and
MICHAEL VOTRUBA,

Plaintiffs, Civil Action No:

-v- 1:24-cv-00174-MAD-TWD

STEVEN G. JAMES, in his Official Capacity as
Superintendent of the New York State Police,
SHERIFF KYLE BOURGAULT, in his Official
Capacity as the Sheriff of Rensselaer County,
New York, SHERIFF DONALD J. KRAPP, in his
Official Capacity as the Sheriff of Columbia
County, New York, and JOHN DOES 1-10,
Defendants.

----- X

EXAMINATION BEFORE TRIAL

OF

SERGEANT MICHAEL BRENNAN,

CALLED AS A NON-PARTY WITNESS HEREIN

HELD: Friday, September 20, 2024

9 a.m.- 9:33 a.m.

JOB # PC 2024-0920SSW1

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2 This is the EXAMINATION BEFORE TRIAL of
3 SERGEANT MICHAEL BRENNAN, called as a
4 Non-Party Witness herein, taken pursuant to
5 Subpoena to Testify at a Deposition in a Civil
6 Action, held at:

7

8 ALBANY COURT REPORTING
9 125 Wolf Road
 Albany, New York 12207

10

11 said witness being duly sworn and record
12 reported via steno writer by STEPHEN P.
13 SUDANO, Certified Court Reporter and Notary
14 Public within and for the State of New York.

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A P P E A R A N C E S

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1 I N D E X

2 TO TESTIMONY

3 WITNESS: SHERIFF DONALD J. KRAPF

4 EXAMINATION BY PAGE

5 MR. STAMBOULIEH 11

6

7 TO EXHIBITS MARKED

8 PLAINTIFF'S DESCRIPTION PAGE

9 Exhibit 2 PPB-3 (previously marked) 22

10 Exhibit 6 Subpoena to Testify at a Deposition in a Civil Action with Affidavit of Service, consisting of 5 page(s); attached hereto 12

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1 F E D E R A L S T I P U L A T I O N S

2 IT IS HEREBY STIPULATED AND AGREED, by and
3 between the attorneys for the respective
4 parties hereto, that filing, sealing, and
5 certifications of the within deposition are
6 hereby waived;

7 IT IS FURTHER STIPULATED AND AGREED that
8 the original of the within deposition may be
9 sworn to and signed before any officer
10 authorized to administer an oath, with the
11 same force and effect as if signed and sworn
12 to before the Court;

13 IT IS FURTHER STIPULATED AND AGREED that an
14 unsigned copy of the deposition may be used
15 with the same force and effect as if signed by
16 the witness, 30 days after service of the
17 original & one copy of same upon counsel for
18 the witness.

19 IT IS FURTHER STIPULATED AND AGREED that
20 all parties shall bear their own costs in the
21 conduct of this deposition.

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1 F E D E R A L S T I P U L A T I O N S

2 IT IS FURTHER STIPULATED AND AGREED that
3 all objections except as to form, are reserved
4 to the time of trial.

5
6 IT IS FURTHER STIPULATED AND AGREED that
7 exhibits may be marked by the attorney
8 presenting the exhibit to the witness; and
9 THAT a copy of any exhibit presented to a
10 witness shall be emailed to or otherwise in
11 possession of all counsel prior to any
12 questioning of a witness regarding the exhibit
13 in question; and

14
15 THAT all parties shall bear their own costs
16 in the conduct of this deposition.

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024
2 THIS IS THE ORAL DEPOSITION OF SERGEANT
3 MICHAEL BRENNAN, called as a Non-Party witness
4 herein, produced pursuant to Subpoena to
5 Testify at a Deposition in a Civil Action, on
6 Friday, September 20, 2024, before STEPHEN P.
7 SUDANO, a Court Reporter and Notary Public in
8 and for the State of New York.

9 * * * * *

10 (Whereupon the witness,
11 SERGEANT MICHAEL BRENNAN,
12 presented their work badge for
13 identification.)

14 * * * * *

15 SERGEANT MICHAEL BRENNAN
16 called as the witness, hereinbefore named,
17 being first duly cautioned and sworn or
18 affirmed by STEPHEN P. SUDANO, the Court
19 Reporter and Notary Public herein, to tell the
20 truth, the whole truth, and nothing but the
21 truth, was examined and testified as follows:

22 THE REPORTER: Please state
23 your name for the record.

24 THE WITNESS: Michael J.
25 Brennan.

1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 THE REPORTER: Is your
3 present work address 1220
4 Washington Avenue, Building 22,
5 Albany, New York 12226?

6 THE WITNESS: Yes.

7 * * * * *

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 EXAMINATION

3 BY MR. STAMBOULIEH:

4 Q. Sergeant Brennan, my name is
5 Stephen Stamboulieh. I represent the
6 plaintiffs in this action.

7 Is it okay if I just call you
8 "Sergeant"?

9 A. Yes.

10 Q. Perfect.

11 MR. STAMBOULIEH: I'm going
12 to go over the rules of the
13 deposition in a minute, but
14 before I do that, I'm going to
15 hand your attorney the Subpoena
16 and the Proof of Service and
17 enter those as an exhibit.

18 MR. GALLAGHER: (Handing.)

19 MR. STAMBOULIEH: Can I have
20 this marked as the next exhibit.
21 I believe, Number 6, please.

22 * * * * *

23 (Subpoena to Testify at a
24 Deposition in a Civil Action
25 with Affidavit of Service,

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024
2 consisting of 5 page(s), was
3 marked as Plaintiff's Exhibit 6
4 for identification as of this
5 date; attached hereto.)

6 BY MR. STAMBOULIEH:

7 Q. Sergeant, have you ever been
8 deposed before?

9 A. Yes.

10 Q. Okay. The rules -- kind of the
11 rules of the deposition: We're going to
12 be just sitting around here talking. I'm
13 going to ask you some questions about the
14 case, and we'll expect answers like "yes"
15 or "no" rather than shaking your head left
16 or right or up and down.

17 As you see, we have a court
18 reporter here, who's going to be taking
19 down all the words that we speak. And for
20 those reasons, we need to say "yes" or
21 "no" versus "uh-huh" or "uh-uh," because
22 it looks very similar on the transcript.

23 If, at any time, you need to use
24 the restroom -- I don't think you're going
25 to be here very long today -- but if you

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024
2 need to use the restroom or step outside
3 to take a phone call, the only request I
4 have is that you answer the question I
5 have posed before we take a break. And
6 after that, you're free to do whatever you
7 want.

8 I have a tendency to talk quickly.
9 You heard the court reporter admonish me
10 earlier to try to go a little slower.

11 If, for any reason, I move too
12 quickly or you don't understand one of the
13 questions that I ask, please don't answer
14 it. Please tell me that you don't
15 understand it, and I'll rephrase it. If
16 you do answer it and then we get a
17 transcribed answer and then later on
18 there's a question about whether you
19 understood it or not, we just assumed that
20 you understood the question.

21 would you agree to that for me?

22 A. Yes.

23 Q. Thank you, sir.

24 You received the subpoena that I
25 sent to you and served upon you that we've

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 marked as Exhibit 6.

3 Did you receive that?

4 A. Yes.

5 Q. Okay. Excellent.

6 And you also should have received a
7 check with that.

8 Did you get the check?

9 A. I don't recall if there was a
10 check.

11 Q. Because it hasn't been cashed yet,
12 so I'm wondering if someone took your
13 check.

14 A. Um, no.

15 Q. Okay. It's like for \$43.

16 A. Yeah, I have no intention of
17 cashing that check. I don't know what the
18 rules are about it.

19 Q. I have to pay a witness fee for you
20 to appear here. I'm on a subpoena, so I
21 submitted a check.

22 I just wanted to make sure you got
23 it, and it looks like you didn't.

24 A. It's possible I did. I don't
25 recall.

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 Q. Okay. Are you familiar with the
3 facts of this case at all?

4 A. No.

5 Q. Okay. So I'll give you a brief
6 overview.

7 We have three plaintiffs that have
8 sued the Superintendent of New York State
9 Police and two sheriffs, the sheriff of
10 Columbia County and the sheriff of
11 Rensselaer County -- which I'm probably
12 saying wrong; I apologize -- that want to
13 be able to apply to carry a pistol in New
14 York for an out-of-state pistol license.

15 And one of these plaintiffs
16 contacted you, or alleges to have
17 contacted you.

18 Do you remember speaking to anyone
19 about whether or not New York allows for
20 out-of-state residents to apply for a
21 pistol license?

22 A. I have spoken to people about that.

23 Q. Okay. And what do you tell people
24 when they call and ask if they can apply
25 for an out-of-state pistol license?

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 A. So in order to apply for a New York
3 pistol license --

4 The penal law doesn't specifically
5 limit applications to residents only, um,
6 but it requires the applications be filed
7 in the county of your residence or your
8 employment.

9 So if you don't live in New York,
10 there would be -- or work in New York,
11 there would be no mechanism for you to
12 apply.

13 Q. Is that --

14 Does that track with what you tell
15 people typically, that if you don't live
16 in New York, you can't apply because of
17 the residency?

18 A. Residency or employment.

19 Q. Residency or employment.

20 And that --

21 was that a "yes" to my answer, that
22 that's what you typically tell people?

23 A. Repeat the question.

24 Q. Sure.

25 Is that --

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 what you just told me about the
3 residency or employment, does that track
4 with what you tell people when they call?

5 A. Yes.

6 Q. Okay. Do you have anyone else --
7 Let me back up.

8 what's your role at the New York
9 State Police?

10 A. I'm a technical sergeant in New
11 York State Police. I'm assigned to the
12 pistol permit bureau located in Albany.

13 Q. And what do you say your job --
14 Obviously your job title, but what
15 does your job entail?

16 A. So the pistol permit bureau is the
17 repository for all the pistol license
18 applications and amendments that are filed
19 throughout the State of New York.

20 And one of the other tasks of our
21 office --

22 There's four sergeants currently
23 assigned there, and one of our tasks is
24 that we answer a phone line for the public
25 to call in and ask questions about gun

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 laws.

3 Q. You said there are four sergeants
4 assigned?

5 A. Currently, yes.

6 Q. Can you tell me their names?

7 A. Yes.

8 Christopher Alberts; Brandon
9 Bailey; Eric Bonci.

10 Q. Can you spell that?

11 A. Yeah. B-O-N-C-I.

12 Q. would not have spelled it that way.
13 And then you?

14 A. Yes.

15 Q. Perfect.

16 You said that all -- or that you're
17 a repository for the pistol licenses?

18 A. Yes.

19 Q. Does that mean that if I get a
20 pistol license in Columbia County, that
21 license gets filed with the New York State
22 Police?

23 A. The application.

24 Q. Only the application?

25 A. And subsequent amendments.

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 Q. Okay. So the issued license
3 doesn't get back to you, just the
4 application and amendments?

5 A. Correct.

6 Q. Okay. Do you ever --

7 I guess, does the New York State
8 Police ever audit the applications to make
9 sure they're done correctly or something
10 like that?

11 A. They're reviewed by staff when they
12 come in.

13 Q. Every application?

14 A. Yes.

15 Q. Okay. If, for instance --

16 This is a hypothetical, okay?

17 If I had applied to the sheriff of
18 Columbia County and you saw that I don't
19 live in New York, would that raise any red
20 flags with New York -- the New York State
21 Police if you saw that?

22 A. Um, can you be more specific?

23 Q. Sure.

24 So there are some exceptions in New
25 York Penal Law 400, Subsection 3, that

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 says if I live in New York, primarily work
3 in New York, or I'm a storekeeper or a
4 shopkeeper.

5 Are those the exceptions?

6 A. Yes.

7 Q. Okay. If I, as a Virginia
8 resident, don't meet any of the
9 qualifications for applying for a New York
10 permit, but I had applied, and the sheriff
11 of Columbia County accepted my
12 application, forwarded it up to the New
13 York State Police, and then you review it,
14 would you have any concern about me as a
15 Virginia resident applying for a New York
16 State permit?

17 A. Not necessarily.

18 Q. Okay. And why is that?

19 A. Because you could have --

20 You could reside in New York. You
21 could own a business in New York.

22 Q. well, I'm telling you that I don't
23 meet any of those exceptions in 400,
24 Subsection 3.

25 So if I don't meet any of the

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 exceptions but they still accept my
3 application, does that cause you any
4 concern?

5 A. well, it wouldn't necessarily be
6 apparent on the application.

7 Q. That I don't fit any of the
8 exceptions, is what you're saying?

9 A. Yes.

10 Q. Okay. Because there's nothing that
11 says "what exceptions do you fit" on the
12 application, right?

13 A. Correct.

14 Q. Okay. In fact, what we've
15 previously marked as Exhibit 2 --

16 Are you familiar with the
17 application, the PPB-3?

18 A. Yes.

19 Q. Okay. Perfect.

20 MR. STAMBOULIEH: I'm going
21 to hand you what we've
22 previously marked as Exhibit 2.

23 * * * * *

24 (At which time, PPB-3,
25 previously marked and identified

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024
2 as Plaintiff's Exhibit 2 at a
3 prior deposition, held September
4 19, 2024, was shown to the
5 witness.)

6 * * * * *

7 MR. GALLAGHER: (Hanging.)

8 * * * * *

9 (Brief pause while witness
10 reviews document.)

11 * * * * *

12 BY MR. STAMBOULIEH:

13 Q. Is that the PPB-3 that is the
14 current one?

15 A. Yes.

16 Q. And if I can point you to right
17 there (indicating), where it talks about
18 New York driver's license.

19 * * * * *

20 (Brief pause while witness
21 reviews document.)

22 * * * * *

23 Q. It doesn't say anything about
24 Virginia driver's license or out-of-state
25 driver's license, does it?

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 A. No.

3 Q. And as you were just saying,
4 there's nothing else on this form, except
5 the address for where I live now and the
6 New York driver's license, that would tell
7 you where I lived, is there?

8 A. No.

9 Q. And again, there's nothing on the
10 form that talks about any of the
11 exceptions about --

12 Actually, there is. Just the
13 employer name, business address, things of
14 that nature.

15 That would be the only suggestion
16 that you might have that I could possibly
17 meet an exception; isn't that right?

18 A. Correct.

19 Q. Have you had any conversations with
20 any of your staff about permitting for
21 out-of-state residents?

22 MR. GALLAGHER: Outside of
23 any possible conversation with
24 counsel?

25 MR. STAMBOULIEH: Sure.

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 MR. GALLAGHER: Okay.

3 A. Yes.

4 BY MR. STAMBOULIEH:

5 Q. Okay. And what have those
6 conversations been like?

7 what have you said during those
8 conversations?

9 A. Typically, what we have already
10 discussed; that without being a New York
11 resident or being employed in New York,
12 there's no mechanism to apply.

13 Q. Okay. So with that said, how would
14 someone like any of the plaintiffs from
15 Massachusetts, either Plaintiff Harris or
16 Plaintiff Votruba, how would someone like
17 that be able to apply in New York if they
18 don't reside in New York or work in New
19 York?

20 where would they apply to?

21 A. I don't know.

22 Q. Okay. They wouldn't apply to the
23 superintendent, though, right?

24 A. No.

25 Q. And why is that?

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 A. So the superintendent issues pistol
3 licenses for retired state police members.

4 Q. Okay.

5 A. Not civilians.

6 Q. Only retired state troopers?

7 A. Correct.

8 Q. Okay. Does he have --

9 And you might not know, and it's
10 okay if you don't. "I don't know" is a
11 perfectly acceptable answer.

12 Do you know if the superintendent
13 issues pistol licenses to retired state
14 troopers that live out of state that no
15 longer work for New York but have, like,
16 retired to Florida?

17 A. Yes.

18 Q. Okay. Do you have any information
19 about how he issues permits to
20 out-of-state residents?

21 Is there an exception for retired
22 state troopers?

23 MR. GALLAGHER: Objection.

24 You can answer.

25 A. So the only permits he issues would

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 be for retired state police members.

3 BY MR. STAMBOULIEH:

4 Q. Yes, sir.

5 But for those state troop --

6 I keep saying state troopers, and I
7 don't mean to.

8 "Retired state police members" is
9 the proper phraseology of that?

10 A. Yeah.

11 Q. Okay. So for the retired state
12 police members that no longer live in New
13 York, they can still be issued permits to
14 carry in New York?

15 A. So this is a fairly recent change
16 in policy.

17 Q. Okay.

18 A. That a retired member -- retiring
19 member could apply with an out-of-state
20 residence.

21 Q. Okay. And I don't want to get too
22 granular on that, but you're saying,
23 "Retiring member," so someone that still
24 works for New York State Police that's in
25 the process of retiring is still working

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1 SERGEANT MICHAEL BRENNAN - September 20, 2024
2 for, primarily, I would assume; is that
3 right?

4 A. Yes.

5 Q. Primarily working for.

6 So he would still meet one of the
7 exceptions under state law, right?

8 A. Yes.

9 Q. Okay. For someone that retired and
10 moved to, let's say, Florida, are they
11 still entitled to receive a retired pistol
12 permit from the superintendent of state
13 police?

14 MR. GALLAGHER: Objection.

15 A. I don't know. I have not seen
16 that.

17 BY MR. STAMBOULIEH:

18 Q. Okay. Okay. Because it sounded
19 like you had said that he has issued
20 permits to out-of-state residents if
21 they're retired state police members.

22 A. Okay. To clarify, there is a
23 current member who's retiring --

24 Q. Okay.

25 A. -- and listed an out-of-state

1 SERGEANT MICHAEL BRENNAN - September 20, 2024
2 address.

3 Q. Okay.

4 A. I haven't seen a retired member
5 file an application with an out-of-state
6 address.

7 Q. I got you. I got you.

8 But the retiring member, after he's
9 retired, if he renews his permit then the
10 superintendent will make a decision at
11 that point?

12 A. There's no renewing of state New
13 York pistol licenses.

14 Q. Okay. Recertifying, maybe, I
15 should have said.

16 A. Okay. Recertifying, yes.

17 Q. Okay. But that's kind of just
18 something that you do online that
19 automatically is approved, isn't it?

20 A. The recertification process is
21 completed online, and it's more of a
22 updating a website -- a database with your
23 current information.

24 Q. Okay. But if you saw someone that
25 is retired and lived in Florida and

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2 updated their information on the
3 recertification page with an out-of-state
4 address, is that going to cause any
5 concern with the New York State Police?

6 MR. GALLAGHER: Objection.
7 You can answer.

8 A. We --
9 Our office requires that the
10 address filed in a recertification is the
11 same address that is on the pistol
12 license.

13 So, in other words, if you have a
14 license and you move, the penal law
15 requires you to update your license within
16 10 days --

17 BY MR. STAMBOULIEH:

18 Q. I got you.

19 A. -- to notify the licensing office.
20 So as long as that address matches
21 the address on your recertification, it's
22 okay.

23 Q. I understand.

24 You said Sergeant Bailey -- or all
25 of these sergeants: Alberts, Bailey,

1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 Bonci, and yourself, are the ones that are
3 tasked with answering the phones for the
4 -- what is it, 1-855-GUN-LAWS?

5 A. LAW-GUNS.

6 Q. LAW-GUNS.

7 I'm dyslexic. I don't mean to be.

8 Do you also respond to emails sent
9 in to the trooper's email on the pistol
10 permit email address?

11 A. Yes.

12 Q. Okay. And what is that email
13 address?

14 Do you recall it?

15 A. Yes.

16 Q. Can you tell me what it is?

17 A. It's pistolpt@troopers.ny.gov.

18 Q. Give me one second, please.

19 * * * * *

20 (At which time, there was a
21 brief pause in the proceedings.)

22 * * * * *

23 BY MR. STAMBOULIEH:

24 Q. In the request for admissions that
25 we had sent previously to Superintendent

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2 James, they responded that the New York
3 State Police gun line does not create any
4 records of phone calls from the public.

5 Is that your understanding?

6 A. Yes.

7 Q. So there's no, like, phone call log
8 that, when someone calls that number, that
9 the New York State Police gets, like, a
10 phone call log that's generated?

11 A. Not to my knowledge.

12 Q. Okay. And if someone didn't
13 identify themselves by name, you would
14 have no idea who that person is?

15 A. Correct.

16 Q. There's no caller ID or anything
17 that pops up on your phone?

18 A. There's a number caller ID.
19 we don't have any recording of it.
20 we don't make a log.

21 Q. Okay. Is that something that, if I
22 asked IT, or whoever's in charge of that,
23 that they could pull to see if this
24 specific number called at this specific
25 day?

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2 A. I have no idea.

3 Q. Okay. Are you familiar with the
4 term "reciprocity" as it pertains to
5 carrying a firearm?

6 A. Yes.

7 Q. And can you explain what your
8 understanding of that is?

9 A. Typically, reciprocity implies that
10 New York, or any state, would honor
11 concealed weapons permits issued by other
12 states.

13 Q. Okay. And do you know if New York
14 State has reciprocity with any other
15 state?

16 A. New York does not recognize
17 concealed carry permits issued in other
18 states.

19 Q. Okay. Going back to the plaintiffs
20 in this case, you don't --

21 You testified that you don't recall
22 speaking with one of our specific
23 plaintiffs, and then you told me what --
24 what you normally tell them.

25 Did you tell them that he could not

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2 apply for a New York State pistol permit?

3 MR. GALLAGHER: Objection.

4 A. I don't recall that conversation.

5 BY MR. STAMBOULIEH:

6 Q. Okay. Would you tell people, in
7 the phrasing that you use, if you could
8 think back, would you tell them, "You have
9 to be a resident? "You have to be" -- you
10 know, you have your employment requirement
11 or storekeeper, shopkeeper.

12 would that disqualify someone from
13 applying for a permit?

14 MR. GALLAGHER: Objection.

15 A. Can you repeat that one?

16 BY MR. STAMBOULIEH:

17 Q. I'll do my best.

18 what I'm trying to get at is, if
19 the plaintiff saying this conversation
20 that he had with you in the complaint is
21 an accurate description of the
22 conversation that he had.

23 So if you're telling people that
24 they have to be -- they have to apply to
25 the county in which they're a resident or

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2 they have to have employment in New York
3 State to be able to apply for a permit,
4 does that mean that someone that doesn't
5 have the exception, like they don't live
6 in New York, they don't own a -- they
7 don't own property in New York, they're
8 not a storekeeper or shopkeeper, would
9 they understand that is to mean they can't
10 apply in New York State for a permit?

11 MR. GALLAGHER: Objection.

12 A. I can't infer what a caller would
13 understand.

14 BY MR. STAMBOULIEH:

15 Q. Okay. How many times would you say
16 that you get phone calls from out of state
17 asking specific questions about applying
18 for a permit?

19 A. Numerous. I'm not going to
20 speculate about a number, but numerous.

21 Q. Okay. Is it more than ten a week
22 or less than ten a week, do you think?

23 A. Probably more than ten.

24 Q. Okay. And do you also get those in
25 emails to the pistolpt email address that

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2 you said earlier?

3 A. Sometimes.

4 Q. Okay. And Sergeant Bailey responds
5 to that email, as well?

6 A. All four of us do.

7 Q. Oh, it's like a rotating --
8 whoever's there gets to answer?

9 A. Yes.

10 Q. Okay. Do you have any role in the
11 permitting process for retired state
12 police members?

13 A. Yes.

14 Q. And what's your role in that
15 process?

16 A. Sort of like a clerk.

17 when the applications come in, we
18 make sure that all the -- you know, it's
19 filled out properly; that we have all the
20 information that we need to generate a
21 permit. And then we pass the request
22 along to the superintendent's office.

23 Q. Okay. Are you aware that New York
24 City recently changed their policy on
25 accepting out-of-state pistol permit

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2 applications?

3 A. Yes, I am.

4 Q. Did you, personally, have any
5 conversation with New York City about
6 their policy change?

7 A. Yes.

8 Q. Who did you speak with?

9 A. Um, I can't --

10 I can't recall his name. There's
11 an attorney from the NYPD licensing unit
12 that I have spoken to.

13 Q. And what was that conversation
14 about?

15 A. We had been receiving phone calls
16 about that policy change, and so I
17 contacted the NYPD licensing unit to see
18 if I could get some clarity on their --
19 their new policy.

20 Q. Okay. So New York State Police is
21 receiving phone calls about New York
22 City's licensing?

23 A. Yes.

24 Q. And for what purpose?

25 A. Inquiring about the policy change.

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2 Q. Can you be more specific when you
3 say just, "Inquiring about the policy
4 changes"?

5 Were they also wanting to be able
6 to apply to New York State for a permit,
7 the people that are calling you, or just
8 asking what the policy is?

9 A. Mostly, they're inquiring about the
10 New York City application; about the
11 permit for New York City.

12 Q. All right. Did you tell them that
13 they're calling the wrong people?

14 A. Eventually, yes.

15 Q. Good. Good.

16 Do you know who approves the PPB-3
17 form?

18 A. The superintendent.

19 Q. Okay. And do you know --

20 Are you familiar with the
21 changes --

22 MR. STAMBOULIEH: I'm sorry,
23 let me start over.

24 BY MR. STAMBOULIEH:

25 Q. Are you familiar with the process

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2 in which he changes the form?

3 A. Can you be more specific?

4 Q. Sure.

5 The superintendent -- this December
6 23rd --

7 I'm sorry. This December 2023 form
8 is an amended form, isn't it?

9 A. Yes.

10 Q. Prior to that, it had a bunch of
11 social media requirements on it, didn't
12 it?

13 A. Yes.

14 Q. At some point, that form was
15 amended, right?

16 A. Yes.

17 Q. Are you familiar with the way that
18 this form is amended?

19 A. Yes.

20 Q. Okay. And do you have anything to
21 do with the amendments of the forms?

22 A. Yes.

23 Q. Okay. And what's your role in
24 amending the forms?

25 A. Um, we would, discussing with the

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2 other members of my office, notice a
3 change that needed to be made to be
4 consistent with law and then have
5 discussions from there with counsel's
6 office. And then they would take it from
7 there.

8 Q. Okay. Is the superintendent
9 involved in the amendment of the form?

10 A. I don't specifically know.

11 Q. Okay. So if you wanted to, you
12 could amend the form to take off the New
13 York designation on the driver's license,
14 couldn't you?

15 MR. GALLAGHER: Objection.

16 A. I could not do that, no.

17 BY MR. STAMBOULIEH:

18 Q. Your team could do it with you?

19 A. I could have a suggestion, pass it
20 to counsel's office. Counsel could weigh
21 in and then bring it to the
22 superintendent.

23 Q. Got you. Okay.

24 I think you would agree with me
25 that --

1 SERGEANT MICHAEL BRENNAN - September 20, 2024

2 Just take me, for instance. And

3 I'll wrap you up here really quickly.

4 As someone who doesn't live in New
5 York, doesn't primarily work in New York,
6 I don't own any property in New York,
7 there's nowhere for me to apply to get an
8 out-of-state -- or to get a pistol license
9 in New York, is there?

10 A. Well, now you could apply with New
11 York City.

12 Q. Okay, New York City.

13 I could apply to New York City.

14 In Upstate New York, there's
15 nowhere for me to apply, or anywhere but
16 New York City?

17 A. At this point in time, I am unaware
18 of any Upstate New York licensing office
19 that is accepting applications from
20 non-New York State residents, unless
21 they're employed in New York or have a
22 residency in New York.

23 Q. I got you. Okay.

24 Unless they meet one of the
25 exceptions?

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2 A. Correct.

3 Q. Okay. Where --

4 Are you told how to respond to
5 these calls or emails that come in asking
6 about out-of-state permits?

7 Does someone direct you or instruct
8 you on how to answer those?

9 A. Yes.

10 Q. And who is that?

11 A. Ultimately, counsel's office.

12 Q. Okay. And do you have separate New
13 York State counsel?

14 Is it Michael Deyo?

15 A. Yes, Michael Deyo.

16 * * * * *

17 (At which time, a
18 discussion was held off the
19 record.)

20 * * * * *

21 BY MR. STAMBOULIEH:

22 Q. So the counsel's office tells you
23 how to respond to these inquiries, I
24 guess, on pistol applications?

25 MR. GALLAGHER: Objection.

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2 which types of inquiries?

3 I just want it to be more
4 specific.

5 MR. STAMBOULIEH: The pistol
6 application for a nonresident,
7 pistol application.

8 A. So ultimately, yes.

9 But typically, throughout the
10 course of the day, the four sergeants in
11 the office, you know, respond to
12 questions.

13 BY MR. STAMBOULIEH:

14 Q. Okay. The reason that I ask is
15 that one of my organizations received an
16 email that was sent by Sergeant Bailey
17 that says exactly what you say, that
18 unless you're a resident of New York,
19 unless you own property, or meet one of
20 the exceptions, that there's basically no
21 way to apply in New York.

22 So it sounded a lot like what you
23 said, so I was wondering if there was,
24 like, an instruction of how that answer
25 was supposed to be given.

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2 MR. GALLAGHER: Objection to
3 the extent it seeks privileged
4 communications with counsel.

5 THE WITNESS: So --

6 MR. GALLAGHER: So to the
7 extent you can answer that
8 without direct communication
9 from counsel, you can answer.

10 THE WITNESS: Okay.

11 So there's -- as I previously
12 stated, there's four sergeants
13 in my office. We -- we're all
14 trained through the on-the-job
15 training sort of policy and
16 program.

17 Our responses would be the
18 same --

19 BY MR. STAMBOULIEH:

20 Q. Okay.

21 A. -- and...

22 MR. STAMBOULIEH: Okay. I
23 don't have any other questions.
24 I'll tender the witness.

25 MR. GALLAGHER: No questions.

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2 MR. STAMBOULIEH: Okay.

3 Do you want to explain to him
4 read and sign?

5 MR. GALLAGHER: Sure.

6 So you'll have an
7 opportunity --

8 Once we get a copy of the
9 transcript, we will send it to
10 you. You will have an
11 opportunity to review it, make
12 any minor changes to it, to the
13 extent that the court reporter
14 did not hear you correctly, and
15 you'll be able to make changes
16 to it, and then you can sign as
17 to the accuracy of the
18 transcript.

19 Is that something you would
20 like to do?

21 THE WITNESS: Yes.

22 MR. GALLAGHER: Okay.

23 * * * * *

24 (Whereupon, the examination
25 of SERGEANT MICHAEL BRENNAN

1

2

concluded at 9:33 a.m.)

3

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2

This is the Deposition of

3

SERGEANT MICHAEL BRENNAN

4

taken in the matter, on the date, and at the
time and place set out on the title page

5

hereof.

6

7

8

It was requested that the deposition be taken
by the reporter and that same be reduced to
typewritten form.

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1 DEPONENT'S CERTIFICATE

2 STATE OF _____:

3 COUNTY/CITY OF _____:

4
5 Before me, this day, personally
6 appeared SERGEANT MICHAEL BRENNAN, who, being
7 duly sworn, states that the foregoing
8 transcript of his/her Deposition, taken in the
9 matter, on the date, and at the time and place
10 set out on the title page hereof, constitutes
11 a true and accurate transcript of said
12 deposition.

13
14
15 SERGEANT MICHAEL BRENNAN

16
17
18
19 Signed and subscribed to before me
20 this ____ day of _____, 20__.

21
22 _____
23 NOTARY PUBLIC, STATE OF NEW YORK

1 DEPONENT'S DECLARATION

3 DECLARATION UNDER PENALTY OF PERJURY

4 I, SERGEANT MICHAEL BRENNAN, declare, under
5 penalty of perjury, that I have read the
6 entire transcript of my Deposition taken in
7 the above-captioned matter, or the same has
8 been read to me, and the same is true and
9 accurate, save and except for changes and/or
10 corrections, if any, as indicated by me on the
11 ERRATA SHEET hereof, with the understanding
12 that I offer these changes as if still under
13 oath. I would like changes made to my
14 deposition transcript as indicated on the
15 following page.

16
17 Signed on the ____day of _____, 20____.

18
19 _____
20 SERGEANT MICHAEL BRENNAN
21
22
23
24
25

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1 ERRATA SHEET

2 INSTRUCTIONS: After reading the transcript of
3 your testimony, please note any change,
4 addition or deletion on this sheet. DO NOT
make any marks or notations on the actual
transcript.

5 WITNESS: SERGEANT MICHAEL BRENNAN

6 JOB NO.: PC 2024-0920SSW1

7 CASE NAME: HIGBIE, et al. v JAMES, et al.

8 HELD: Friday, September 20, 2024

9 Page Line CORRECTION

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23 Signature_____Date_____

24 SERGEANT MICHAEL BRENNAN

25

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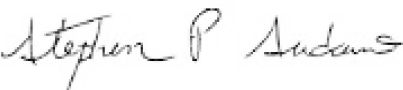
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23	Signature_____Date_____		
24	SERGEANT MICHAEL BRENNAN		
25			

1 REPORTER'S CERTIFICATION

2 I, Stephen P. Sudano, Court
3 Reporter, do hereby certify that I recorded
4 stenographically the proceedings herein at the
5 time and place noted in the heading hereof,
6 and that the foregoing transcript is true and
7 accurate to the best of my knowledge, skill
8 and ability.

9 IN WITNESS WHEREOF, I have hereunto
10 set my hand.

11
12 
13 Stephen P. Sudano

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HIGBIE, et al. v.

JAMES, et al.

Witness: SERGEANT MICHAEL BRENNAN

Held: Friday, September 20, 2024

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<p>T</p> <p>there's... [3] 42/20 43/11 43/12</p> <p>this [23] 2/2 7/21 8/16 8/19 11/6 11/20 12/4 15/3 19/16 23/4 26/15 31/23 31/24 32/20 33/19 38/5 38/7 38/18 40/17 45/3 47/5 47/20 49/3</p> <p>THOMPSON [1] 3/21</p> <p>three [1] 15/7</p> <p>throughout [2] 17/19 42/9</p> <p>time [9] 8/4 12/23 21/24 30/20 40/17 41/17 46/5 47/9 51/5</p> <p>times [1] 34/15</p> <p>title [3] 17/14 46/5 47/10</p> <p>today [1] 12/25</p> <p>took [1] 14/12</p> <p>track [2] 16/14 17/3</p> <p>trained [1] 43/14</p> <p>training [1] 43/15</p> <p>transcribed [1] 13/17</p> <p>transcript [11] 12/22 44/9 44/18 46/14 47/8 47/11 48/6 48/14 49/2 49/4 51/6</p> <p>trial [3] 1/18 2/2 8/4</p> <p>troop [1] 26/5</p> <p>trooper's [1] 30/9</p> <p>troopers [4] 25/6 25/14 25/22 26/6</p>	<p>troopers.ny.gov [1] 30/17</p> <p>Troy [1] 4/16</p> <p>true [3] 47/11 48/8 51/6</p> <p>truth [3] 9/20 9/20 9/21</p> <p>try [1] 13/10</p> <p>trying [1] 33/18</p> <p>TWD [1] 1/8</p> <p>two [1] 15/9</p> <p>types [1] 42/2</p> <p>typewritten [1] 46/10</p> <p>typically [5] 16/15 16/22 24/9 32/9 42/9</p> <p>U</p> <p>uh [3] 12/21 12/21 12/21</p> <p>uh-huh [1] 12/21</p> <p>uh-uh [1] 12/21</p> <p>ultimately [2] 41/11 42/8</p> <p>um [5] 14/14 16/5 19/22 36/9 38/25</p> <p>unaware [1] 40/17</p> <p>under [4] 27/7 48/3 48/4 48/12</p> <p>understand [5] 13/12 13/15 29/23 34/9 34/13</p> <p>understanding [3] 31/5 32/8 48/11</p> <p>understood [2] 13/19 13/20</p> <p>unit [2] 36/11 36/17</p> <p>UNITED [1] 1/2</p> <p>unless [4] 40/20 40/24 42/18 42/19</p>	<p>unsigned [1] 7/14</p> <p>update [1] 29/15</p> <p>updated [1] 29/1</p> <p>updating [1] 28/22</p> <p>upon [2] 7/17 13/25</p> <p>Upstate [2] 40/14 40/18</p> <p>us [1] 35/6</p> <p>use [3] 12/23 13/2 33/7</p> <p>used [1] 7/14</p> <p>V</p> <p>versus [1] 12/21</p> <p>via [1] 2/12</p> <p>Virginia [3] 20/7 20/15 22/24</p> <p>VOTRUBA [2] 1/6 24/16</p> <p>W</p> <p>waived [1] 7/6</p> <p>wanting [1] 37/5</p> <p>Washington [1] 10/4</p> <p>way [3] 18/12 38/17 42/21</p> <p>we [22] 12/17 12/19 12/20 13/5 13/16 13/19 15/7 17/24 24/9 29/8 30/25 31/19 31/20 35/17 35/19 35/20 35/21 36/15 38/25 43/13 44/8 44/9</p> <p>we'll [1] 12/14</p> <p>we're [2] 12/11 43/13</p> <p>we've [3] 13/25 21/14 21/21</p> <p>weapons [1] 32/11</p>	<p>website [1] 28/22</p> <p>week [2] 34/21 34/22</p> <p>weigh [1] 39/20</p> <p>when [6] 15/24 17/4 19/11 31/8 35/17 37/2</p> <p>WHEREOF [1] 51/9</p> <p>while [2] 22/9 22/20</p> <p>who's [2] 12/18 27/23</p> <p>whoever's [2] 31/22 35/8</p> <p>whole [1] 9/20</p> <p>within [4] 2/14 7/5 7/8 29/15</p> <p>without [2] 24/10 43/8</p> <p>witness [18] 1/21 2/4 2/11 7/16 7/18 8/8 8/10 8/12 9/3 9/10 9/16 14/19 22/5 22/9 22/20 43/24 49/5 51/9</p> <p>Wolf [1] 2/8</p> <p>wondering [2] 14/12 42/23</p> <p>words [2] 12/19 29/13</p> <p>works [1] 26/24</p> <p>would [28] 13/21 16/10 16/11 18/12 19/19 20/14 23/6 23/15 24/13 24/16 24/20 25/25 27/2 27/6 31/13 32/10 33/6 33/8 33/12 34/8 34/12 34/15 38/25 39/6 39/24 43/17 44/19 48/13</p>
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Witness: SERGEANT MICHAEL BRENNAN

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W	24/19 25/15 26/13		
wouldn't [2] 21/5	26/14 26/24 28/13		
24/22	29/5 31/2 31/9		
wrap [1] 40/3	32/10 32/13 32/16		
writer [1] 2/12	33/2 34/2 34/6 34/7		
wrong [2] 15/12	34/10 35/23 36/5		
37/13	36/20 36/21 37/6		
Y	37/10 37/11 39/13		
	40/5 40/5 40/6 40/9		
Yeah [3] 14/16	40/11 40/12 40/13		
18/11 26/10	40/14 40/16 40/18		
yes [43] 10/6 11/9	40/20 40/21 40/22		
12/9 12/14 12/20	41/13 42/18 42/21		
13/22 14/4 16/21	47/23		
17/5 18/5 18/7	you'll [2] 44/6		
18/14 18/18 19/14	44/15		
20/6 21/9 21/18			
22/15 24/3 25/17			
26/4 27/4 27/8			
28/16 30/11 30/15			
31/6 32/6 35/9			
35/13 36/3 36/7			
36/23 37/14 38/9			
38/13 38/16 38/19			
38/22 41/9 41/15			
42/8 44/21			
yet [1] 14/11			
YORK [86] 1/3 1/10			
1/13 1/15 2/9 2/14			
3/12 3/19 3/19 4/2			
4/7 4/17 5/6 9/8			
10/5 15/8 15/14			
15/19 16/2 16/9			
16/10 16/16 17/8			
17/11 17/19 18/21			
19/7 19/19 19/20			
19/20 19/25 20/2			
20/3 20/9 20/13			
20/15 20/20 20/21			
22/18 23/6 24/10			
24/11 24/17 24/18			