

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CARL HIGBIE, JOSEPH HARRIS, and  
MICHAEL VORTUBA,

*Plaintiffs,*

-against-

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. KRAPF, in  
his Official Capacity as the Sheriff of Columbia  
County, New York, and JOHN DOES 1-10,

*Defendants.*

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**DEFENDANT STEVEN G.  
JAMES' ANSWERS TO  
PLAINTIFFS' FIRST SET OF  
INTERROGATORIES**

1:24-CV-174  
(MAD/TWD)

Defendant, Steven G. James, sued in his Official Capacity as Superintendent of the New York State Police ("NYSP") (the "Superintendent"), by his attorney, Letitia James, Attorney General of the State of New York, Matthew J. Gallagher, of counsel, pursuant to Federal Rule of Civil Procedure 33(b), responds to Plaintiffs' First Set of Interrogatories as follows.

**REQUESTS**

**INTERROGATORY NO. 1:** Identify all documents that may potentially be offered as evidence to use at trial of this matter and/or to support or oppose a Motion for Summary Judgment.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory as premature. The Superintendent also objects to this interrogatory to the extent it seeks information intended to be used only for impeachment purposes. The Superintendent further objects to this interrogatory as vague and ambiguous to the extent that the term "potentially" includes documents in a perpetually variable state (i.e., documents that may potentially be used at trial or in a motion, or documents

that potentially may not be used at trial or in a motion). Additionally, the Superintendent objects to this interrogatory because the documents sought are not described with reasonable particularity. Notwithstanding, and without waiving the foregoing objections, the Superintendent responds as follows:

It has not yet been determined whether any document will be, or may potentially be, offered as evidence to be used at the trial of this matter or to support or oppose a motion for summary judgment.

**INTERROGATORY NO. 2:** Identify all persons or entities, whether civilian, or sworn law enforcement, who participate in or have knowledge of any discoverable matter regarding the subject matter of this lawsuit.

**RESPONSE**

Plaintiffs are referred to the Superintendent's Rule 26 Initial Disclosures, dated April 30, 2024, for persons or entities with knowledge or discoverable matter regarding the subject of this lawsuit.

**INTERROGATORY NO. 3:** Identify all individuals with whom you have spoken or communicated orally or in writing, other than your lawyers retained to represent you in this matter, about the subject matter of this lawsuit, or about the conduct, actions, behavior, or statements of Plaintiffs and for each individual identified, describe the person(s) with whom you were speaking, the substance of the communication, the place, time and date of the communication, any witnesses to the communication, and identify by giving a description and location of any documents that may relate in any way to the communications.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory to the extent it seeks

privileged work product. Notwithstanding, and without waiving the foregoing objection, the Superintendent answers as follows:

The Superintendent has not spoken with anyone regarding the subject of this lawsuit except counsel.

**INTERROGATORY NO. 4:** For each person you expect to call as an expert witness at trial, including physicians or generally employed expert(s) whose information was not acquired in preparation for this particular trial, state the following:

- (1) The name, address, and qualifications of each expert;
- (2) The subject matter on which the expert is expected to testify;
- (3) The substance of the facts and opinions to which the expert is expected to testify;
- (4) A summary of the grounds for each such opinion; and
- (5) The expert's resume or *Curriculum Vitae*.

**RESPONSE**

It has not yet been determined whether any expert witness(es) will be called to testify at trial. In the event any expert witness(es) is called to testify at trial, said witness(es) will be disclosed pursuant to applicable rules and orders.

**INTERROGATORY NO. 5:** State all facts relevant to your denial in paragraph 5 of your Answer.

**RESPONSE**

The Superintendent refers Plaintiff to New York Penal Law § 400.00 and Osterweil v. Bartlett, 21 N.Y.3d 580 (2013).

**INTERROGATORY NO. 6:** State all facts relevant to your denial in paragraph 15 of your Answer.

**RESPONSE**

Regarding the portions of paragraph 15 of the Complaint denied by the Superintendent, the Superintendent refers Plaintiff to New York Penal Law § 400.00 and Osterweil v. Bartlett, 21

N.Y.3d 580 (2013).

**INTERROGATORY NO. 7:** State all facts relevant to your denial in paragraph 6 of your Answer.

**RESPONSE**

The Superintendent refers Plaintiff to New York Penal Law § 400.00 and Osterweil v. Bartlett, 21 N.Y.3d 580 (2013).

**INTERROGATORY NO. 8:** State all facts relevant to your affirmative defense in paragraph 138 of your Answer, wherein you state: “The Complaint is barred because Plaintiff’s (sic) claims are not covered by the plain text of the Second Amendment.” State all facts relevant to how Plaintiffs’ “claims are not covered by the plain text of the Second Amendment.”

**RESPONSE**

The Superintendent refers Plaintiff to New York Penal Law § 400.00 and Osterweil v. Bartlett, 21 N.Y.3d 580 (2013).

**INTERROGATORY NO. 9:** Please describe all communication you have had with New York State Police staff, Sheriffs and their staff, or other licensing officials regarding issuing permits to out of state residents and list who these communications were directed to, the date of the communication, the substance of the communication, and whether you have copies of these communications.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory to the extent it seeks privileged work product. Notwithstanding, and without waiving the foregoing objection, the Superintendent answers as follows:

The Superintendent has not had any conversations with NYSP staff or Sheriffs’ staff about

issuing permits to out of state residents.

**INTERROGATORY NO. 10:** Please describe the permitting process from application to issuance of the permit, including the application process itself, with respect to how these Plaintiffs and out of state residents in general can apply for and receive a permit to carry a firearm in New York.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking irrelevant information because NYSP only considers pistol permit licenses for retired NYSP members, which Plaintiffs are not. NYSP has no authority or responsibility for any county-issued permits, and NYSP does not direct how counties conduct licensing operations.

**INTERROGATORY NO. 11:** State all facts relevant to who out of state residents, like the Plaintiffs, would apply to in order to be issued a permit to carry a firearm in New York.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking irrelevant information because NYSP only considers pistol permit licenses for retired NYSP members, which Plaintiffs are not. NYSP has no authority or responsibility for any county-issued permits, and NYSP does not direct how counties conduct licensing operations.

**INTERROGATORY NO. 12:** Have you or any previous Superintendent of the New York State Police ever issued a permit to carry a firearm in New York to an out of state resident who does not fall into any of the excepted categories of who can apply for a permit to carry a firearm in New York? If the answer is in the affirmative, please describe the process, recipient, date of

issuance, and reason(s) for issuing such permit(s).

**RESPONSE**

Objection: The Superintendent objects to this interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case, and seeking irrelevant information because NYSP only considers pistol permit licenses for retired NYSP members, which Plaintiffs are not. NYSP has no authority or responsibility for any county-issued permits, and NYSP does not direct how counties conduct licensing operations. The Superintendent also objects to this interrogatory as it is not reasonably limited in scope. The Superintendent further objects to this interrogatory as vague and ambiguous because the term “excepted categories of who can apply for a permit to carry a firearm” is not defined.

**INTERROGATORY NO. 13:** Please describe in detail all documents, things, individuals, or other data source you reviewed while answering the request for admission and/or the first set of interrogatories.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory to the extent it is overly broad, unduly burdensome, and seeks irrelevant information. Notwithstanding, and without waiving the foregoing objection, the Superintendent answers as follows:

The Superintendent spoke with counsel and NYSP counsel spoke with Sgt. Michael Brennan regarding the allegations identifying him in the Complaint.

**INTERROGATORY NO. 14:** Since the filing of this lawsuit, have you discussed with Sergeant Michael Brennan or anyone else on your staff whether or not out of state residents can apply for and be issued a permit to carry a firearm in New York? If so, please describe that discussion and any directive, order, or policy regarding out of state residents applying for permits

to carry firearms in New York.

**RESPONSE**

Objection: The Superintendent objects to this interrogatory to the extent it seeks privileged work product. Notwithstanding, and without waiving the foregoing objection, the Superintendent answers as follows:

The Superintendent has spoken with counsel, and NYSP counsel has communicated with Sgt. Brennan regarding this matter. Such communications are privileged under the attorney-client privilege.

Dated: Albany, New York  
July 12, 2024

LETITIA JAMES  
Attorney General  
State of New York  
Attorney for Defendant Steven G. James  
The Capitol  
Albany, New York 12224

By: s/ Matthew J. Gallagher  
Matthew J. Gallagher  
Assistant Attorney General, of Counsel  
Bar Roll No. 701111  
Telephone: (518) 776-2284  
Fax: (518) 915-7734 (not for service of papers)  
Email: matthew.gallagher@ag.ny.gov

TO: Stephen D. Stamboulieh  
(via e-mail) Stamboulieh Law, PLLC  
*Attorney for Plaintiffs*  
P.O. Box 428  
Olive Branch, MS 38654  
stephen@sdslaw.us

Robert J. Olson  
William J. Olson, PC  
*Attorneys for Plaintiffs*  
370 Maple Ave. West, Suite 4  
Vienna, VA 22180-5615  
rob@wjopc.com

Cc:	Carl J. Kempf III	Robert J. Fitzsimmons
(via e-mail)	Rensselaer County Attorney	Columbia County Attorney
	<i>Attorney for Defendant Sheriff</i>	<i>Attorney for Defendant Sheriff</i>
	<i>Kyle Bourgault</i>	<i>Donald Krapf</i>
	Rensselaer County Office Building	401 State Street
	East Greenbush, NY 12061	Hudson, NY 12534
	ckempf@rensco.com	robertfitzsimmons@me.com
		rob.fitzsimmons@columbiacountyny.com



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NORTHERN DISTRICT OF NEW YORK

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CARL HIGBIE, JOSEPH HARRIS, and MICHAEL  
VORTUBA,

*Plaintiffs,*

-against-

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. KRAPF, in his Official Capacity as the  
Sheriff of Columbia County, New York, and JOHN DOES  
1-10,

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*Defendants.*

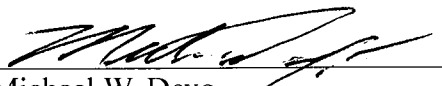
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**VERIFICATION**

1:24-CV-174

(MAD/TWD)

I, Michael W. Deyo, New York State Police Counsel and Counsel to Steven G. James, in his Official Capacity as Superintendent of the New York State Police, a party to the above-captioned action, declare under penalty of perjury pursuant to 28 USC § 1746 that I have read the foregoing interrogatory responses, that the responses are true to the Superintendent's knowledge, except as to those matters alleged on information and belief, and as to those matters, he believes them to be true.

  
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Michael W. Deyo  
New York State Police Counsel