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U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

NOV 29 2002

LAWRENCE C. BERMAN, CLERK
ALBANY

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

02-CV-1500

David D. BACH,

Plaintiff,

v.

Civil Action No.

MAH DRH

George E. PATAKI, in his official
capacity as Governor of New York;
Eliot SPITZER, in his official capacity
as Attorney General of New York; James
W. MCMAHON, in his official capacity as
Superintendent, New York State Police;
J. Richard BOCKELMANN, in his official
capacity as Ulster County Sheriff,

NOTICE OF MOTION AND MOTION
FOR PRELIMINARY AND
PERMANENT INJUNCTION, AND
DECLARATORY RELIEF

Defendants.

TO: DEFENDANTS AND THEIR ATTORNEYS

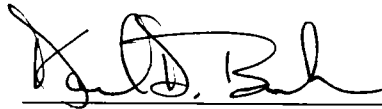
PLEASE TAKE NOTICE that on the 8th day of January, 2003, at 10:00
o'clock A.m., or as soon thereafter as the matter may be heard, at the Courtroom of the
Honorable Norman A. Mordue located at Syracuse, NY,
plaintiff will, and by this notice does move the Court for a preliminary and permanent
injunction, and declaratory relief ordering that defendants, their officers, agents, servants,
employees, and attorneys, and persons in active concert or participation with them, be
enjoined and prohibited from continuing to enforce NY Penal Law §§ 265.00 and
400.00(3)(a) *et seq.*, which when read together, bar ordinary, law-abiding, nonresident
citizens of the United States from obtaining the required license to possess, carry or transport
an otherwise lawful, personal firearm while temporarily, residing, visiting, or traveling in or
through the State of New York solely because they live out of State; and declaring said
provisions unconstitutional facially, and as applied under the Second and Fourteenth
Amendments, and Article IV, § 2 of the United States Constitution.

This motion is made pursuant to Rule 65 of the Federal Rules of Civil Procedure to protect
plaintiff and others similarly situated, pending final judgment, from further violation of their
constitutional rights as nonresident citizens of the United States.

The grounds for the motion are that plaintiff has demonstrated a substantial likelihood of success on the merits and the existence of irreparable injury; in addition, serious questions are raised and the balance of hardships tip sharply in plaintiff's favor as set forth in plaintiff's attached memorandum in support and affidavit, exhibits, and by the Complaint, pleadings, records and files of this case filed herewith.

The motion will be based on all papers and pleadings on file in the action as well as such further evidence and argument as may be presented at the hearing on the motion.

Dated: November 29, 2002



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