

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----x  
 3 JOHN DiSALVO, et al., 26-CV-00274 (NCM)  
 4 Plaintiffs, United States Courthouse  
 5 - versus - Brooklyn, New York  
 6 THE CITY OF NEW YORK, et March 4, 2026  
 7 al., 10:30 a.m.  
 8 Defendants.

9 -----x  
 10 TRANSCRIPT OF CIVIL CAUSE FOR ORAL ARGUMENT  
 11 ALL PRESENT VIA TELECONFERENCE  
 12 BEFORE THE HONORABLE NATASHA C. MERLE  
 13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES

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\*correction at p 22 made by Lask pending revised transcript  
 Proceedings recorded by mechanical stenography. Transcript  
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1 (In open court; All present via teleconference.)

2 THE COURTROOM DEPUTY: Civil cause for oral  
3 argument, DiSalvo et al. versus the City of New York et al,  
4 docket number 26-Civil-274.

5 Before I ask you to state your appearance, I just  
6 want to remind you all to please state your name each time you  
7 speak, speak slowly, and mute your phone when you're not  
8 speaking to eliminate background noises.

9 Would you now please state your appearances for the  
10 record, starting with the plaintiff.

11 MS. LASK: Good morning, Your Honor.

12 Susan Chana Lask for the plaintiff.

13 THE COURT: Good morning.

14 THE COURTROOM DEPUTY: For defendants.

15 MR. CIAPPETTA: Good morning.

16 Nicholas Ciappetta for defendants, along with my  
17 colleague, Kevin Rizzo.

18 MR. RIZZO: Good morning, Your Honor.

19 THE COURT: Good morning.

20 So we're here for oral argument on plaintiffs'  
21 motion for a temporary restraining order and preliminary  
22 injunction. I've reviewed the parties' filings, including the  
23 plaintiffs' motion for a TRO, and the accompanying  
24 declaration, as well as the defendants' response and  
25 declarations and plaintiffs' reply. I will preview at this

1 time -- so that the parties can address their argument as  
2 necessary, I will preview that I have questions about  
3 plaintiffs' argument that the motion for a TRO is not mooted  
4 in light of the relief I explicitly requested, and in that  
5 vein, I have questions about plaintiffs' request for relief as  
6 presented in their TRO or their amended complaint versus their  
7 reply brief.

8 I'm also concerned that some of the relief requested  
9 is vague and thereby, seemingly overbroad where the full suite  
10 of statutes and regulations and policies and practices  
11 challenge has not been outlined for the Court. So I will ask  
12 the parties to keep those two issues at least in mind when  
13 making their argument.

14 And with that I'll start with plaintiff since this  
15 is your motion. Ms. Lask, if you have any remarks.

16 MS. LASK: Yes, Your Honor.

17 As to -- I'll start with the mootness voluntary  
18 cessation capable repetition and review. It's all within  
19 everything, the same arguments. You know, Your Honor, first  
20 of all, the Second Amendment, as I detail and I give the case  
21 of *Ortega* in the Tenth Circuit that had some great review of  
22 the Constitutional issue on the Second Amendment, **it's the**  
23 **right to possession.** You know, the right to bear arms is --  
24 **the right to bear arms is possession, not just a piece of**  
25 **paper that the defendants decided to give 24 hours after I**

1 served them with this action and they turned around, in an  
2 attempt at voluntary cessation, to say, oh, we adjudicated  
3 your licenses. But Your Honor, the complaint is complaining  
4 about a license process. It says that continually. The TRO  
5 talks about a licensing process. At the time, you know, they  
6 had not even looked at the -- when we filed this, the  
7 applications. Their attempt to, like I said, 24 hours  
8 later --

9 THE COURT: I'm sorry, let me just ask you about  
10 that.

11 How do we know they hadn't looked at it?

12 MS. LASK: The certifications of all the plaintiffs  
13 state they have called repeatedly and repeatedly, they have  
14 sent e-mails, they were ignored for up to two years, you know,  
15 and this is something that's ongoing. Other people complain.  
16 But right now, we're concerned about these people. They have  
17 not looked at it. The defendants did not respond in any way.  
18 They were able to pull them immediately once I filed this --  
19 well, served them with this. So that's how I know, Your  
20 Honor.

21 Continuing on, Your Honor?

22 THE COURT: I think I understand you to be arguing  
23 that the -- your complaint or your TRO discusses, you know,  
24 the Second Amendment generally and the right to bear arms and  
25 that it's not about the application process specifically. But

1 your TRO does request, right -- specifically, the relief  
2 you're requesting is the issuance of the license or the  
3 adjudication of the firearm license application. So even if  
4 the atmosphere of your complaint may be broader than that --  
5 and I'm not sure that it is -- but even if it is, your TRO  
6 specifically is requesting the adjudication of the firearms  
7 license application for the named plaintiff.

8 MS. LASK: Correct. And the -- it's a process,  
9 though. We repeatedly say in the complaint and the TRO, we  
10 discuss the process. The licensing process is not just the  
11 adjudication, it's a next step that's completely unbounded, no  
12 deadlines, of now purchasing a gun and going through that  
13 whole process with no deadline, and now something new they  
14 brought up is these appeals that they put on two of the  
15 plaintiffs. And when you read those letters and that law, as  
16 well, there's absolutely no adjudicatory timeline.

17 So Your Honor, I think where you're getting at is,  
18 you know, plaintiffs, you're stuck with what you asked for.  
19 But I respectfully disagree because under *Trump* and *Brinkman*,  
20 the cases I cite in the opening memo and cited, again, in the  
21 reply, the Court -- and also in the Second Circuit -- the  
22 Court can fashion a remedy, as long as the Court can give any  
23 effectual relief to what we're requesting, then there's no  
24 reason why we can't have an order that says, wait a minute,  
25 this process is ongoing, now they're in these continuing

1 processes of the licensing regime that they complained about,  
2 the Court can direct the defendants to provide answers within  
3 seven days to what appears to be their final process in this  
4 regime of an appeal. So if two of the plaintiffs submit their  
5 applications for the appeal, we should get an answer within  
6 seven days and three --

7 THE COURT: Have they submitted an appeal?

8 MS. LASK: Not yet. I was waiting on this. They're  
9 working on it.

10 THE COURT: And have the other plaintiffs submitted  
11 the required -- you know, whatever is required for the  
12 post-approval process, like, purchasing the gun, getting the  
13 gun listed on the license?

14 MS. LASK: Not yet. Not yet, Your Honor.

15 He's -- he will do that. What I'm saying is -- I  
16 mean, they could do that, all of them could do that within a  
17 week or so.

18 The appeal process, just to give you a insight,  
19 those two plaintiffs are going to various venues like the -- I  
20 think the DMV and they're getting abstracts. They do not have  
21 criminal records. That is not why, you know, they were thrown  
22 in the appeal process. It appears to be something about car  
23 tickets, tickets for driving, or something like that. I think  
24 one plaintiff wasn't wearing a helmet on a motorcycle. I  
25 mean, very minimal things that I will make a point, I strongly

1 object to the defendants' characterizations of these people as  
2 dishonest on their applications when we all know, you know,  
3 people might forget about a helmet licensing a long time,  
4 don't know, don't remember. So you fix it. But those --  
5 anyhow, they are in the process of filing that. So all we ask  
6 for is the same exact relief. We're still in the same  
7 position, Your Honor.

8 THE COURT: So why is it not speculative, though, as  
9 to the delay of those parts? I think you request a  
10 licensing -- the licenses be adjudicated. You're saying that  
11 the process of the post-approval and the appeal is still part  
12 of it. I don't know if that's actually accurate. But even  
13 assuming it was, they haven't entered that process of  
14 post-approval and appeals, so why is it not speculative how  
15 long that may take?

16 MS. LASK: It's not speculative because this is  
17 exactly -- in the complaint, I foresaw the prospect -- the  
18 ongoing relief and I added the two plaintiffs, Peter Cairney  
19 and Biancaniello -- Chris Biancaniello -- who exemplify the  
20 post process, these exact post processes, except for the  
21 appeal. So number one, it took years, until I filed this,  
22 that they were, their post process, the same thing the gun  
23 application purchase. So it's not speculative. And second,  
24 it's not speculative because defendants even admit in their  
25 declaration -- which I also object to, but you know, I'll

1 continue -- they admit that they have delays and they don't  
2 have the manpower. So it's going to happen. It's not  
3 speculative.

4 THE COURT: I think they said that -- I don't know  
5 if they said they were delayed, but there was some -- it was  
6 slow going, and so they set up some online process where now  
7 they can add the gun, perhaps, or the person can seek to have  
8 the gun added to the license online.

9 Is that what they put this place to deal with that  
10 plaintiffs' issue?

11 MS. LASK: They -- no. They didn't put it in place  
12 for this particular case. I think they were saying --

13 THE COURT: Well, not in place for this case. But  
14 they had said since that plaintiff went through the issue of  
15 there being some delay in getting the gun on the license,  
16 there's now a way to do it online that will expedite the  
17 process.

18 MS. LASK: And I think most of those applicants went  
19 through the online process. And that process still delays  
20 because they -- yes, they send the pictures online. Yeah,  
21 it's the same process they went through, from what I  
22 understand.

23 THE COURT: Okay.

24 MS. LASK: So, you know, doing it online, still they  
25 need somebody to review it and look at it, and they are

1 admitting they do not have the manpower, which, by the way, is  
2 not a defense to infringing on a Constitutional right.  
3 Administrative delays are no excuse. So it is -- it's not  
4 speculative, whatsoever.

5 And more so, third, it's not speculative because  
6 they have no deadline, no deadline, and I see that they have  
7 no deadline because they want to, you know, indiscriminately  
8 have the power to take their time like they did in plaintiffs'  
9 Cairney and Biancaniello. So all we ask is simply some  
10 effectual relief in the same process that's ongoing which  
11 would be fine. They'll submit their application, but you  
12 know, in seven days, act on it, do not leave them on an  
13 open-ended deadline.

14 Your Honor, again --

15 THE COURT: Why seven days?

16 MS. LASK: Make it 10. But I say seven --

17 THE COURT: I mean, you have the Second Circuit case  
18 that says 30 days is not unduly long for the Second Amendment  
19 right. So why are we doing seven days? I mean, I think this  
20 kind of gets to the fundamental problem of why this is maybe  
21 more appropriate with a more developed record.

22 But why is seven days appropriate versus 30 days, at  
23 the very least, or even longer?

24 How is the Court supposed to determine what is  
25 appropriate to uphold your clients' Second Amendment right on

1 this record?

2 MS. LASK: Okay, Your Honor. I think you're  
3 referring to that Second Circuit case of *Frey*, and the other  
4 ones, and they didn't -- the Second Circuit never created a  
5 bright-line rule. What they said in that case -- if I'm  
6 correct, if it's *Frey* or *Giambalvo*, I can't remember -- but  
7 the 30-day issue before the Second Circuit was that applicant  
8 said, I want the Second Circuit to mandate, a 30-day decision  
9 and the Second Circuit said no. That was what they were  
10 deciding. The Second Circuit then went into, you know, a year  
11 or two years can be a problem, but we're not going to create  
12 any bright-line rule right now. But we do note -- and I think  
13 it was in *Giambalvo* -- they said, we do note that *Bruen* did  
14 take issue with delays.

15 So to answer your questions, you know, this case is  
16 about how long is too long, Your Honor. And I will tell you  
17 that the legislature -- and it's in my papers, as you know --  
18 came up with penal law -- I think four decades ago -- I think  
19 it was in the '80s they created this Penal Law 400, and I give  
20 you the notes to that penal law that says, it was to be -- the  
21 point of that six months, which is a -- you know -- a gracious  
22 amount of time to finish this process, is to expeditiously  
23 give these people possession of the guns. Remember, it's  
24 possession. Expeditiously. These defendants had six months  
25 to complete their process, and they couldn't even do it within

1 then. And I would say that the expeditiously note of the  
2 legislature in that statute is obvious that the legislature,  
3 first of all, that, hey, look, we're dealing with the Second  
4 Amendment right. It is a Constitutional right. It gets every  
5 guarantee like everything else. We cannot delay this for too  
6 long. And they put a ceiling of six months.

7 But yes, these defendants -- so anyhow, to answer  
8 your question, the plaintiffs already went through a year and  
9 two years delay. Why not seven days, you know, and get this  
10 over with? Especially when they had defendants for six months  
11 that the legislature had said, get this done, either grant or  
12 deny, but get it done in six months. They wouldn't -- they  
13 won't get it done. They wouldn't get it done. So now they  
14 have everything, and incredibly, they proved to us that they  
15 could have gotten this done a while ago because they did it in  
16 24 hours when I served them with these papers. So they have  
17 all the information they need, all they have to do -- you  
18 know, if you want it make it 14 days. But don't you think  
19 that over a year is way too long already that they've been  
20 waiting for their Second Amendment right to possess?

21 And Your Honor, may I remind you, you know, I really  
22 really think the Tenth Circuit hit it when they talk about the  
23 originalists of the Second Amendment had no intent to withhold  
24 the right to bear arms by further steps of processing that  
25 these defendants are putting us in. It's kind of -- it's

1 elusive because we have a six-month deadline, and then all of  
2 a sudden now we have this unbounded appeal. So give us a  
3 date, fourteen days, seven days. Give us a decision. We  
4 already waited. And all of a sudden we have this unbounded,  
5 no-deadline gun purchase. And the Tenth Circuit explained,  
6 common sense dictates the right to bear arms requires the  
7 right to acquire arms and that means possession. We still  
8 don't have possession.

9 So Your Honor, my argument is every day past that  
10 six months is a problem. It's a Constitutional infringement.  
11 I'm here to answer anything further. I think you might have  
12 asked something else. You know...

13 THE COURT: I just want to understand, also, for  
14 emergency relief you're requesting, specifically, what the  
15 difference is between the interim relief you're seeking and  
16 the ultimate relief. It seems that you're requesting your  
17 ultimate relief now.

18 MS. LASK: Because -- yes, Your Honor. Because it's  
19 a Constitutional -- a Constitutional right is being  
20 prohibited. Our position is every minute that is being  
21 infringed is a violation. The law is clear that defendants  
22 are not allowed to violate these rights. Whether it's the  
23 First Amendment or the Second Amendment, there's a  
24 Constitutional right that they cannot interfere with. No  
25 different than, I give you the First Amendment case examples,

1 you go and apply for something to -- you know, a license to  
2 have a protest, and the City Hall delays it for weeks. You  
3 know, you're prohibited from protesting at a certain time.  
4 That interferes with your Constitutional right. And the  
5 Second Amendment, again, is a possession -- possession is the  
6 key.

7 So every minute past --

8 THE COURT: I understand that. But to the extent  
9 that emergency relief, it should not be focused on the  
10 ultimate relief, I guess I'm struggling to see what the  
11 difference is between your interim relief and your ultimate  
12 relief, and it seems that you're just asking for the case to  
13 be litigated on these TRO papers and then you be granted all  
14 this relief, and that's the end of the case, it would seem.

15 MS. LASK: No, Your Honor, respectfully. It is not  
16 the end of the case, because they ask for nominal damages.  
17 The case continues. And we would have to get, you know, the  
18 nominal damages on the Constitutional infringement that you  
19 could decide either exist or didn't exist, which I would say  
20 would be hard to deny when *Bruen* exists and says that the  
21 Second Amendment is a right that shouldn't be infringed, and  
22 then their Footnote 9 specifically warns, by the way, don't  
23 delay, don't delay this. Meaning, you know, if you look at  
24 that case *Srouer*, S-R-O-U-R, the District Court straight out  
25 said it is an irreparable harm, the Second Amendment. So

1 we're not asking for any relief -- it is an emergency, is what  
2 I'm saying, when Constitutional rights are denied because  
3 things happen, Your Honor.

4 And let me explain the emergency. I'll give an  
5 example. Their right to possess is right now right here. You  
6 know, there's no reason to keep delaying it. If they don't --  
7 the basis to possess is to -- is self-protection. That's the  
8 background of the Second Amendment. If someone -- and I gave  
9 all these examples, Your Honor, in the papers I filed, various  
10 examples. And in their declarations, the plaintiffs  
11 explained, some of them have been victims of crime. Plaintiff  
12 Gottlieb, the mother, her child was almost abducted by a  
13 person on the street who tried to kill her baby, and she had  
14 to fight them off with her bare hands. The other plaintiffs  
15 in their declarations talk about home invasions in Queens  
16 happening right now. They're, like, it's only a matter of  
17 time it happens to us next.

18 Your Honor, can you deny, you know, at least even  
19 the seven days and you say it's not an emergency, what  
20 happens, Your Honor, when, tomorrow, Plaintiff -- I don't  
21 know -- Torres, he's waiting for his purchase, his home is  
22 invaded, and his child is killed? But if he had a gun, Your  
23 Honor -- so this is the emergency -- he would have had that  
24 chance to self-defend for his family, his baby. So I think it  
25 is an emergency. The whole point of the Second Amendment is

1 to protect your home, yourself, your family, and, Your Honor,  
2 everything that happens past -- and they don't have the gun  
3 that they have been asking for, for years. It does become an  
4 emergency if someone's life is taken --

5 THE COURT: -- regulations are you arguing infringes  
6 on their Second Amendment right? You said that there's some  
7 policies and practices in place.

8 Can you tell me which statutes governing the  
9 pre-approval or the post-approval or appeals you're raising  
10 issue with specifically?

11 MS. LASK: Yes. Hold on. Let me just do -- it's  
12 the RCNY which is the City's rules. Let me give you those.  
13 One sec.

14 THE COURT: I see you have cited 38 RCNY Section  
15 5-26(d) and 38 RCNY Section 5-07(f).

16 Are those the only two you're challenging or are  
17 their others?

18 MS. LASK: I have, in addition, 38 RCNY Section  
19 5-25(d), before possession is authorized, they have to provide  
20 all this documentation. That's the statute to get the gun.

21 So what we have is an elusory, hey, we adjudicated  
22 your license, but then we have this whole other process of the  
23 appeal which you cited, I think, 5-07 and then 5-25. Both of  
24 those do not have any deadlines.

25 THE COURT: So the issue with those three statutes

1 are that there are no deadlines, not the regulations  
2 themselves? Yes, not the regulations themselves, but that  
3 there is no deadline is what you take issue with?

4 MS. LASK: Yeah. Yeah. I'm -- I need -- we need a  
5 deadline already. We need these things -- they need  
6 possession. And we can't go through another process. And  
7 again, defendants admit, hey, look we don't have the manpower.  
8 You know, there are delays. So --

9 THE COURT: Do I have to find that the alleged delay  
10 is purposeful or systemic in order to find for plaintiff?

11 MS. LASK: No. Not at all. I know defendants  
12 started raising that in their papers. This is for the  
13 defendants right now, and we've already proved the time has  
14 long passed their own statutory deadline. You know, six  
15 months. We have already proved that two other plaintiffs have  
16 waited in this post-process for two years. We have already  
17 proved that for years all five of these plaintiffs did  
18 everything possible to call NYPD and e-mail, and even the  
19 council-member, they went to their council-member and she's  
20 gotten involved. All were ignored. They only woke up when I  
21 filed this. And their attempt -- Your Honor, may I -- hold  
22 on.

23 I'll go into voluntary cessation right now or do you  
24 want to ask other questions?

25 THE COURT: Go ahead.

1 MS. LASK: So their attempt at a voluntary cessation  
2 just doesn't fly. It doesn't work. You know, most courts  
3 realize, you know, the, I guess gamesmanship is a good word to  
4 use, when a defendant tries to see avoid any kind of review  
5 and says, hey, look we solved it, we adjudicated their  
6 licenses. It's the process and it's the possession that  
7 matters here. And again, the emergency is the whole reason  
8 for possession quickly and not to delay it, is for  
9 self-defense. Anything happens to any of these people  
10 tomorrow, next week, whatever, and they still don't have their  
11 guns, I call that an emergency.

12 And you know, put that aside, honestly, I call any  
13 infringement on a Constitutional right, due process, First  
14 Amendment, these are Constitutional rights that we as citizens  
15 of the United States, we live here, we're born here, have  
16 these rights, we stay here because of those rights, and any  
17 infringement on that does become an emergency at some point.  
18 They've had their time, Your Honor.

19 When you talk about the 30 days, I explained that,  
20 there was no bright-line rule, and the Second Circuit did say  
21 there is a problem with delay, but we're not going to figure  
22 out, you know, how long it could be. But *Srouer*, S-R-O-U-R,  
23 that case -- I apologize if I misstated it -- it, you know,  
24 that District Court in the Southern District did say, oh, no,  
25 you know, this is a irreparable harm, and that's the

1 Constitution, Your Honor. It's the Constitution. I live here  
2 for those rights and I would be outraged if they were  
3 infringed this long like that. Again, six months, maybe 30  
4 days after, you know, we could have been quiet, maybe 60 days  
5 after. But we're talking a year, two years.

6 And Your Honor, may I also say that I did talk about  
7 the \$6.14 billion that the NYPD has as a annual budget, plus  
8 whether this is in their or not, but they say in their  
9 declaration, oh, we got 23,000 applications in 2025. We just  
10 can't handle it. Like I told you, the law is that  
11 administrative delay is no excuse. And particularly, I'm  
12 pointing out \$6.14 billion. The problem is easily solvable.  
13 They could have done in a while ago. Just use a fraction of  
14 that, I don't know, 100,000, 200,000, hire more clerks to go  
15 over these applications, and get them done within the six  
16 months. They have all the remedies available to them. They  
17 just refuse to use it.

18 THE COURT: Do plaintiffs agree -- going to another  
19 one of your relief requested -- that preliminary declaratory  
20 judgment is not appropriate? You would at least agree with  
21 that?

22 MS. LASK: Yeah, I do at least agree.

23 I don't know, I think it is, and it isn't. But yes,  
24 I agree to just stick with, if the Court can at least give us  
25 a deadline on this process, we could end this, this ongoing

1 process.

2 Yes, I agree. You don't have to get into it.

3 THE COURT: Okay. And just to make sure I  
4 understand, the irreparable harm is the fact that plaintiffs  
5 may need to be able to use a gun in the short term?

6 MS. LASK: Not necessarily. No. The irreparable  
7 harm is the violation of the possession. I was giving an  
8 example that, think about it, what -- you know, they could  
9 have had these guns, you know, a year ago, but for the delay.  
10 You know, it's continuing. And so no, the irreparable harm  
11 is -- that was just an example of why the Second Amendment  
12 says you have the right to possess and why the defendants' own  
13 Penal Law Section 400 says, make it expeditious on this  
14 possession, because clearly, the legislature knew that, you  
15 know, you just can't keep prolonging their Second Amendment  
16 rights.

17 Does that answer your question?

18 THE COURT: Thank you. Yes.

19 Let me hear from defense counsel.

20 MR. CIAPPETTA: Good morning, Your Honor.

21 This is Nick Ciappetta. I'm going to get to the two  
22 areas that you wanted us to address. But first, I want to  
23 note that this injunctive relief is an extraordinary remedy  
24 and their motion doesn't even come close to meeting the  
25 exacting standard. In fact, as we can hear from this morning,

1 no pun intended, plaintiffs' argument is a moving target.  
2 This entire motion, when it came in and the three prongs for  
3 relief which we think are all inappropriate, was about  
4 adjudication, adjudicating the outstanding application. The  
5 NYPD has adjudicated those applications. They've given  
6 decisions for each of the five plaintiffs.

7 Now, in reply, plaintiffs have completely switched  
8 and they've moved the goalpost. It's become about possession,  
9 rather than adjudication. That's a completely separate  
10 argument and it seems that the plaintiffs want to litigate the  
11 entire case here on this motion for interim injunctive relief.

12 With respect to possession, two of the plaintiffs,  
13 the NYPD has decided are not entitled to possession because  
14 they lack the good moral character necessary. That's Gottlieb  
15 and DiSalvo. As to the other two, they have decided that they  
16 are entitled to possess, they just need to submit their  
17 post-approval documents. There's no delay on the part of the  
18 license division after that. We haven't even gotten those  
19 documents in. The delay is on the part of the plaintiffs. So  
20 we think that their request for injunctive relief is entirely  
21 inappropriate. There's no irreparable harm at this point in  
22 time, and that is the most important element for a motion for  
23 a preliminary injunction or a TRO. So we started there in  
24 their brief.

25 There's no irreparable harm because they sought

1 approval -- excuse me, they sought a determination and they  
2 got that determination. That was it. All I hear now is  
3 entire speculation as to the length of the approval process,  
4 post-approval process, rather, and as to the length of the  
5 appeals process. It's a complete speculation. They haven't  
6 even filed their appeals.

7 **THE COURT:** I think the plaintiffs says as to one or  
8 two of the plaintiffs they were already in the post-approval  
9 process with the purchase of the firearm piece I believe and  
10 that there was delay there.

11 **MR. CIAPPETTA:** I think that's correct. They might  
12 be speaking about Plaintiff Cairney. Cairney's license has  
13 been issued now. So he's out of the post-approval process.  
14 If she wants to make some arguments that that post-approval  
15 process for Cairney took so long, she can make that with  
16 respect to the underlying complaint during the regular  
17 litigation.

18 But Torres and Biancaniello, those were the two  
19 applications that were approved. We have not received a  
20 request to add a firearm yet. In that process itself, even  
21 though certainly, plaintiffs' argument that it takes too long  
22 is entirely speculative. From experience, it's not that long  
23 of a process. Really, what the NYPD is doing is making sure  
24 that the guns that they're seeking to purchase comply with New  
25 York City law. In other words, that the guns are legal to

1 possess here, that they're not some kind of automatic assault  
2 weapon, or that they're not an appropriate color. For  
3 example, the gun is not painted pink or a color that's not  
4 allowed under the rules. This is not really a very long  
5 process at all. And themselves, they could have submitted  
6 those post-approval documents and potentially gotten approved  
7 already. So they have no irreparable harm, they --

8 THE COURT: Do you have any information about, the  
9 plaintiff says there's no timeline for the post-approval  
10 process, and separately, for that those who were denied the  
11 appeals.

12 Do you have any information about how long that  
13 takes?

14 MR. CIAPPETTA: I don't. I mean, as the post-approval  
15 process I know that that is a fairly short period of time, in  
16 my experience, because it's largely just confirming that the  
17 weapon itself is legal, whether as to color or type. And we  
18 have expedited that process by allowing applicants to file  
19 documents on the public portal. And that process has been  
20 instituted, plaintiff has not criticized that, said that this  
21 process delays, at all. In fact, based on our experience, it  
22 moves things along, it's more efficient, and expedites the  
23 process. And that is one of the changes that we've made.

24 The plaintiffs are saying that we've conceded that  
25 we lack manpower, that we delay. There's no such concession

1 on the licensing division's part. We have the declaration of  
2 Nicole Berkovich merely speaks to the fact there was an  
3 overwhelming flood of applications that came in as a result of  
4 geopolitical situations and/or the Bruen situation. That's a  
5 matter of fact. We've showed how the application have  
6 increased at least five-fold, where we get tens of thousand  
7 per year. So that required the license division to modify its  
8 procedures. That's good administrative practice. That's good  
9 government, to adjust to the realities on the ground and to  
10 adapt to the new environment.

11 We have not conceded that there's any lengthy wait  
12 times. In fact, as we demonstrate in our papers, the  
13 plaintiffs themselves delayed their own application process.  
14 Of the four that are really at issue here, Gottlieb, Torres,  
15 Biancaniello, and DiSalvo, they were all missing multiple  
16 required documents to consider their applications. So their  
17 applications themselves were incomplete. Plaintiffs are  
18 talking about a six-month deadline. But they haven't even  
19 shown that that six-month deadline hasn't been complied with  
20 respect to their own applications, never mind the applications  
21 of anyone else.

22 As we argue in our papers, plaintiffs need to  
23 establish a *Monell* claim to prevail on that case. Plaintiffs  
24 entirely ignore that in their reply briefings, along with  
25 almost all of the defendants' arguments, they ignore as well.

1 But even if these four applications were delayed beyond six  
2 months, which they haven't shown because they were all  
3 woefully incomplete, they haven't shown that this is a  
4 practice that extends beyond those four. And the caselaw is  
5 very clear that you can't make a *Monell* violation based on a  
6 handful of violations. I'm not even sure, Your Honor, what  
7 the *Monell* violation would be based upon. There's various  
8 branches, as you know, to establish a *Monell* claim.  
9 Plaintiffs don't really try to do that. Their theory seems to  
10 be one of insufficient resource allocation which, as far as  
11 we're aware of, has never been held to make out a *Monell*  
12 claim. So we think that their underlying complaint is flawed.  
13 But beyond that, this request for injunctive relief is flawed  
14 on many many grounds.

15 Plaintiffs succeeded conceded that they're not  
16 entitled to a preliminary declaratory judgment, whatever that  
17 is. We had to point out the fact that the caselaw has  
18 repeatedly rejected that. They seek to enjoin policies that  
19 delay adjudication beyond six months, but never identified any  
20 of those. Instead, they seek to ask the Court essentially to  
21 rewrite the rules of the City of New York by putting in a  
22 bright-line time limit where none exists right now.

23 THE COURT: Is that all defendants have?

24 MR. CIAPPETTA: Your Honor, also, you know, we -- as  
25 I discussed, there's no irreparable harm. This haven't

1 attempted to show the equities are in their favor, their  
2 relief is inappropriate, and as to livelihood of success on  
3 the merits, they have not shown that there is some kind of  
4 across-the-board purposeful delay on the part of the license  
5 division, such that the City's licensing scheme has been put  
6 towards abusive ends.

7 THE COURT: It would be the defendants' argument  
8 that it has to be purposeful and systemic?

9 MR. CIAPPETTA: Yes.

10 THE COURT: And why is that?

11 MR. CIAPPETTA: So we take the Footnote 9 from the  
12 Supreme Court where the Supreme Court has already tacitly  
13 blessed the type of licensing scheme in effect by the City of  
14 New York, and that footnote itself talks about that they  
15 didn't rule out, as applied challenges in the event of abuse.  
16 And also, the *Frey* and *Giambalvo* decisions that were mentioned  
17 a little bit before, that adds further support. *Giambalvo*  
18 said that they didn't want to engage in any lengthy -- or  
19 excuse me, any bright-line rule process where they rejected a  
20 30-day limit. Instead, they said that if it was a year or  
21 two, then that would likely be too long. So they were  
22 talking, in *Giambalvo*, about years, not months, as we're faced  
23 here. And *Frey* itself, as well as other caselaw, has talked  
24 about, when you have a licensing system such as the NYPD has,  
25 that there's some kind of inherent delay in those decisions

1 because you need to review the applications. You need to  
2 get -- do your finger printing, you need to get back the  
3 criminal history of the defendant, you need to review any  
4 convictions that they had, any arrests that they have to make  
5 the good moral character determinations. And the good moral  
6 character standard has already been upheld by the Second  
7 Circuit in *Antonyuk*. That's not a snap decision. It's a very  
8 important decision that does take a little bit of time to make  
9 a determination, because you need to review these factors, and  
10 the licensing officer needs to come to a conclusion that the  
11 applicant lacks -- that the applicant possesses the good moral  
12 character to be entrusted with a deadly instrument. And the  
13 license division determined for the two of the four plaintiffs  
14 at issue that they lack the good moral character. I'm putting  
15 aside Cairney, because really, he seems he should be out of  
16 the case, honestly, I think. He's already been approved and  
17 his license has already been issued.

18 THE COURT: And he's already been through the  
19 post-approval process?

20 MR. CIAPPETTA: He's been through everything, yeah.

21 THE COURT: So you would agree with the plaintiff  
22 then, that the post-approval process is part of the licensing  
23 process, it's not just approving the license, but that  
24 post-approval process is part of the licensing requirement?

25 MR. CIAPPETTA: Yes. With respect to the

1 post-approval. Appeal is separate. I can come to that in a  
2 minute. That's a separate thing. But essentially that  
3 there's two steps. There's the first step where the NYPD  
4 issues a determination on your application, and in the case of  
5 Biancaniello and Torres, they received notice of application  
6 approvals. So we do consider them, at that point, Your Honor,  
7 just to be clear, that they are licensees at that point. So  
8 the NYPD does consider them licensees, but their actual  
9 license card is not issued at that moment in time. The  
10 license card is not actually issued until they submit their  
11 weapon or weapons that they want to be associated with that  
12 license. Once we review that, then -- and assuming that the  
13 firearms are appropriate for the reasons I mentioned before,  
14 color, type, then they will issue the license card, and then  
15 the back of the card it has the weapons that are associated  
16 with that license. That ends the approval. So it is two  
17 steps, but they are considered a licensee as soon as they're  
18 approved.

19 With respect to appeals, we --

20 THE COURT: So when the plaintiff says that they're  
21 requesting to adjudicate the firearm license application, when  
22 would you consider that complete, at Step 1 or at Step 2?

23 MR. CIAPPETTA: At Step 1, Your Honor. They have  
24 been adjudicated. It is adjudicated once we determine that  
25 they possess good moral character. So at that point, we have

1 determined that they are entitled to a license. And really  
2 it's more -- I don't want to say there's no discretion at that  
3 second step, but it's certainly much more ministerial than the  
4 first step.

5           We're not going to deny somebody at that point for  
6 lacking good moral character. The only reason they really  
7 wouldn't get the license is if they didn't submit the  
8 paperwork, which would be on them, or they submitted paperwork  
9 for a gun that's colored pink, for example, or camouflage,  
10 which does happen from time to time. For that process, it's  
11 much more routine and it doesn't, at that point, involve  
12 review of their criminal record or anything. That's all  
13 already occurred.

14           THE COURT: Understood.

15           MS. LASK: Your Honor, may I reply?

16           MR. CIAPPETTA: Sorry.

17           THE COURT: I think the defendant wasn't finished  
18 yet.

19           MS. LASK: Okay.

20           MR. CIAPPETTA: And appeal is entirely separate,  
21 Your Honor. I mean, you know, that certainly wasn't part of  
22 the case to begin with, because they didn't know how their  
23 applications were going to be decided. That's a separate  
24 process. We've already made our determination that they lack  
25 good moral character. If they disagree with that, they have

1 administrative remedies that they can pursue. They can file  
2 an appeal. If they're still unhappy with that decision, then  
3 there is a newly-created State appeals board that they can go  
4 to. And if they're displeased with that, then they can file  
5 an Article 78. So there's a number of routes that we can go  
6 through you.

7 In addition, Your Honor, just a separate point that  
8 we didn't mention really before. Really, this case we think  
9 was really inappropriate to begin with. We think that this  
10 was more of a request, at least on the injunction phase, for  
11 *Mandamus* to compel, which have typically been brought as  
12 Article 78. That was really the recourse for them if they  
13 wanted their applications to be decided. And I can tell you,  
14 we have seen a number of those cases filed in Supreme Court  
15 pursuant to Article 7803 Subsection 1.

16 **THE COURT:** And I believe plaintiff is saying that  
17 their issues will be resolved if they can have a timeline on  
18 the post-approval process for the two or three who are  
19 remaining and for the appeals.

20 Do you think the parties, at least from the  
21 defendants' point, could resolve this short of court  
22 intervention if we're just talking about setting a timeline  
23 for those plaintiffs who are remaining and who need a  
24 timeline?

25 **MR. CIAPPETTA:** I don't want to -- it's possible,

1 Your Honor. But I don't want to say definitely, because, one,  
2 it's dependent on them actually submitting their paperwork,  
3 and two, we do have a number of applications that need to go  
4 through the post-approval process. So I don't necessarily  
5 think it's fair to the other people who are not before the  
6 Court, that they get to jump over the process simply because  
7 they haven't filed a lawsuit. So I would say that they would  
8 be reviewed in due course of time which I know from experience  
9 is not that long.

10 THE COURT: Okay. Let me hear from plaintiff.

11 MR. CIAPPETTA: So sorry, Your Honor. One more.  
12 I'm sorry.

13 THE COURT: Go ahead.

14 MR. CIAPPETTA: And the last point I wanted to make  
15 was with respect to prospect injunctive relief which goes to  
16 the likelihood of success on the merits. They're seeking some  
17 kind of prospect injunctive relief. We think that's also  
18 inappropriate because once again this is about adjudication.  
19 Their applications were decided. That's what they wanted.  
20 They haven't shown that they intend to submit any future  
21 application so that such that they would be subject to delay  
22 or made any claims with respect to the renewal process which  
23 we don't think they could make any way because as we set forth  
24 in the Berkovich declaration, the approval process is quite a  
25 bit faster for quite a number of reasons.

1 I'll rest, Your Honor, unless you have some  
2 additional questions for me.

3 THE COURT: No. Let me hear from plaintiff.

4 You had a short reply?

5 MS. LASK: Your Honor, they basically proved our  
6 position. First, they are claiming, well, we adjudicated  
7 their license finally, so that's it. But again, it's  
8 possession of the gun. That's the Second Amendment. So they  
9 are in violation of the Second Amendment. Two, under *Bruen*,  
10 they keep switching the burdens. *Bruen* puts a burden on  
11 defendants. There's no doubt that this is a Constitutional  
12 issue under *Bruen*. That's fine. We passed the first test of  
13 textural position that this is a Second Amendment statute.  
14 They even admitted in their declaration the second part is  
15 their burden, the defendants, it shifts to them to prove any  
16 kind of history analogue. And I was hoping or expecting that  
17 they would, you know, in their opposition papers, provide  
18 historical analogues that allow this absurd, bizarre process  
19 of six months, you make a decision, but then defendants add to  
20 it, these unending non-deadline RCNYs that we discussed  
21 earlier. So you know, they admit that they're not giving  
22 possession, they're just giving this elusory paper that says,  
23 hey, you're a licensee. That means nothing under the Second  
24 Amendment.

25 Again, I'm going to object. The defendants'

1 counsel, again, said they lack good moral character. That is  
2 not true. That has not been decided. That is -- and in the  
3 end, when the defendants come and show these -- I'm sorry,  
4 when plaintiffs show the documents that there is no issue that  
5 they should have been thrown an appeal, the defendants are  
6 going to have mud on their face. It's not going to look good.  
7 There's nothing saying that the defendants didn't make a huge  
8 error by denying them.

9           And you know, they keep saying there was no delay on  
10 the applications. They also blame -- everyone gets blamed  
11 in this case but defendants. They blame plaintiff and say,  
12 oh, look, their applications were not full -- were not  
13 completely, it's their fault. That is fault. Look at the  
14 declarations we submitted. All their applications were  
15 complete when they went to their interviews. That's part of  
16 the initial process too, the interview. Everything was  
17 complete.

18           Which, by the way, so that was within the first few  
19 months of this six-month these defendants had. They keep  
20 ignoring the fact that defendants are obligated, under even  
21 just state law, their own legislature says, get this done in  
22 six months, okay, and either deny or grant. They blame the  
23 defendants -- you know, oh, their applications were not  
24 complete. I said they were complete. They, you know  
25 conspicuously don't tell Your Honor when they were not

1 complete and were complete. But if they weren't complete,  
2 then why did the defendants ignore the calls and e-mails, and  
3 even from the council-member, her communications to them  
4 saying what's going on with these applications. So plaintiffs  
5 did everything they were supposed to do. Defendants did  
6 everything they're not allowed to do, which is prolong any  
7 possession of a firearm.

8           Next, they say there's no irreparable harm because  
9 they got their license. Again, yes, there is irreparable harm  
10 when you violate a Constitutional mandate. Under *Bruen*,  
11 again, no historical analog they have provided whatsoever, and  
12 that's part of the TRO, you know, the preliminary injunction  
13 relief. We proved everything, likelihood, public policy.  
14 They were supposed to prove why they have this delay process.

15           Hold on one second.

16           A lot of what counsel said for defendants is his own  
17 statements without any proof. And I heard Your Honor  
18 constantly ask, well, what proof or where is this coming from  
19 of these delays of this process, and he says, in my  
20 experience. He is not a licensing officer. He is not in that  
21 department. And they have not provided any declaration or  
22 exhibit confirming what he says, which is his comment now is,  
23 oh, the post-delays won't -- the post-processing won't be of  
24 any delay. That's my experience. Attorneys can't make these  
25 kind of statements. You need somebody with personal knowledge

1 and in the office.

2           You had asked about there is no timeline for the  
3 post-approval, and he could not explain that, the defendant.  
4 There are no deadlines, there are no proof. At one point, he  
5 said they changed the process, but again, an attorney can't  
6 say that, and they did not change any process. It's the same  
7 delay.

8           He talks about -- Your Honor rightfully asks the  
9 systemic issue. And again, we don't have to prove systemic.  
10 This is for these people right now. The delay happened to  
11 them. It's their Constitutional right. That's what the TRO  
12 is about.

13           They also said that they have an overwhelming flood  
14 of applications, but it's not due to a lack of manpower.  
15 Well, I am almost 100 percent sure that is the actual word  
16 used, manpower, or something to that effect, in their own  
17 declaration saying, hey, we were flooded with twenty-three  
18 hundred applications, we just don't have the administrative --  
19 the manpower at the time.

20           Again, I object to him saying that the plaintiffs  
21 delayed the process. They absolutely did not. I told you  
22 that they have not proved in any way that their applications  
23 were not fulfilled, even by the interview process, which  
24 happens months before the six months terminate.

25           Hold on, Your Honor. I'm sorry.

1           He says they were woefully incomplete. They were  
2 not. He did not prove that.

3           Defendants discussed *Monell* violations. *Monell* is  
4 not even part of the TRO. That's part of the final relief.  
5 We're not talking about *Monell* violations right now. So --

6           THE COURT: But isn't that how you're going to have  
7 to make out your -- the likelihood of success for your Second  
8 Amendment claim is going to have to be through a *Monell*  
9 violation?

10           Is that not correct?

11           MS. LASK: I don't believe we have to -- we -- I  
12 included a *Monell* violation which is what policies and  
13 procedures of the delay as a treated cause of action -- it's  
14 in the complaint, but no, we do not have to prove a *Monell*  
15 violation. We have proven the Constitutional violation. I  
16 don't think we have to prove a policy and procedure, all we  
17 have -- right now. All we have to prove is their  
18 Constitutional right was delayed, and it's still delayed, and  
19 the defendants are not giving any answer with how long this  
20 processing period is going to be, which they have now admitted  
21 that it is part of the whole licensing process.

22           And I also --

23           THE COURT: Sorry. Just for clarity, and correct me  
24 if I'm misunderstanding, my understanding was your Second  
25 Amendment claim, you can't bring it directly against the

1 municipality, you have to bring it through 1983 claim, which  
2 is a *Monell* claim.

3 Are you saying you can bring the Second Amendment  
4 claim against the City through another vehicle other than 1983  
5 and *Monell*?

6 MS. LASK: It's a 1983 claim. It is correctly a  
7 1983 claim. I think *Monell* is just an additional layer that  
8 we can add to it. But we do not have to prove -- I do not  
9 think we have to prove a *Monell* claim, not at this point,  
10 anyhow. The *Monell* -- the violation is the violation of the  
11 Second Amendment right, end of story. No other case in these  
12 restraining orders, these TROs, these injunctive relief gun  
13 cases start with a *Monell* claim. They start with the  
14 Constitutional right that is burdened. And it's proven by the  
15 fact that they never got their licenses, even within the time  
16 that New York City has by their own law.

17 He also says, by the way -- and he mischaracterizes  
18 *Bruen* by saying that *Bruen* agreed to New York's -- you know,  
19 approved New York City's process. It did not. It had nothing  
20 to do with New York City's process. It's never discussed it's  
21 post -- you know, all this additional processing, except in  
22 Footnote 9 *Bruen* said, by the way, delays will -- you know,  
23 can be a problem to the Constitutional rights. *Bruen* had one  
24 narrow issue which was New York State, you know, the licensing  
25 process was denying law-abiding citizens the right to possess,

1 because before *Bruen*, New York was denying licenses unless  
2 people stated a cause. You know, like, I'm a jeweler, I carry  
3 a lot of cash with me, so I deserve a license, but the  
4 law-abiding citizen standing next to me doesn't deserve one.  
5 That's not what the Second Amendment was about and that's what  
6 *Bruen* fixed.

7           Again, defendants, you know, complain, oh, we got  
8 23,000 applications. That's by their own delaying because  
9 they were denying all these law-abiding citizens for years  
10 their right, and once *Bruen* gave them their rights, then, you  
11 know, there was an influx of law-abiding citizens requesting  
12 their rights. Defendants' obligation, this comes down to  
13 their burden, is to satisfy, to abide by the Second Amendment.  
14 And they just aren't doing it. And all of their hollow  
15 excuses they've provided here and in their paperwork just  
16 doesn't satisfy the Constitutional accountability that they  
17 have as state actors.

18           The declaratory relief, again, I don't see that as a  
19 big deal, you know, to decline at this point. I do believe  
20 that it could be requested. But we'll decline it. I'm trying  
21 to make this a simple streamline of just, you know, we asked  
22 about a process, the defendants admit all this post going on  
23 is part of the process, and now we have no deadlines there.  
24 So you know -- and yes, we didn't provide the application or  
25 the appeals yet. It's not a delay by us. What we're saying

1 is, when we submit that, just give us an answer within seven  
2 days, two weeks. There's no reason. Defendants say, well,  
3 other people are before them now and just because they filed  
4 this case. The reason why a lot of people can't file cases is  
5 they -- you know, I'm sure they're all held up too. You know,  
6 a lot of times attorneys don't do this, Your Honor. There's  
7 really no money in this. You know, if you look at -- there  
8 just isn't money. You have to do it from your heart. And  
9 it's a civil rights issue.

10 One last thing. Let's see.

11 Oh, last thing, they talk about Article 78. And  
12 actually, claim that, oh, they should go through an Article 78  
13 process. That's their only recourse. It is not. This is a  
14 Constitutional rights issue. And that's why you will see all  
15 of these -- you know, *Bruen* wasn't an Article 78. You know,  
16 all these others, *Giambalvo* and *Srour*, their Constitutional  
17 rights, Article 78 is not the answer. The answer is  
18 accountability to the Constitution, and that's what we're  
19 asking for.

20 And by the way, if they really think that they want  
21 to start kicking everybody out to Article 78, the delay just  
22 goes on and on. And that's the whole point. They're delaying  
23 the right to possess.

24 Any questions, Your Honor? I hope I answered  
25 everything.

1 THE COURT: No additional questions. Thank you.

2 MS. LASK: Thank you.

3 THE COURT: Just a moment.

4 (Pause in the proceedings.)

5 THE COURT: Thank you for your patience and for your  
6 preparation today. I am prepared to rule on plaintiffs'  
7 request for a temporary restraining order.

8 At this time, I am denying plaintiffs' request for a  
9 temporary restraining order. I'll address plaintiffs' TRO  
10 requesting the adjudication of their firearm licenses and  
11 their request for deadlines at other steps in the approval  
12 processes. I'll note here that generally a Court does not  
13 consider issues raised in a reply brief for the first time in  
14 the interest of the fairness to the parties. However, because  
15 the issues regarding the approval process and the licensing  
16 requirement as a whole has been vaguely raised in their TRO,  
17 I'll address plaintiffs' request for relief regarding the  
18 other statutes, regulations, and policies and practices that  
19 they challenge.

20 Plaintiffs request to have their firearm license  
21 applications adjudicated is moot as all plaintiffs'  
22 applications have been adjudicated as requested in the  
23 plaintiffs' TRO. By adjudicating plaintiffs' applications,  
24 defendants have eradicated the effects of the alleged  
25 violations. The defendants' adjudication of plaintiffs'

1 firearm license application demonstrate that there can be no  
2 further delay with respect to those specific applications. To  
3 the extent that plaintiffs argue that post-approval is part of  
4 the license application, that argument fails to revive the  
5 claim from mootness, given that there has been no  
6 post-approval process or appeal instigated by plaintiff.

7 Thus, plaintiffs do not make the necessary showing that there  
8 will be delays in adjudicating firearms license applications  
9 so far as they're concerning the pre-approval process and the  
10 appeal process.

11 As to plaintiffs' request for declaratory judgment  
12 that delays beyond six months and firearm license adjudication  
13 violates the Second and Fourteenth Amendment, that is denied  
14 the Court will not grant a preliminary declaratory judgment.

15 Plaintiffs' request for an injunction as to any  
16 policy or practice that delay adjudication of firearm licenses  
17 beyond six months is denied as vague. The Court declines  
18 invitation to enter an injunction that would generally impact  
19 the administration of gun license applications by defendant  
20 without a clear articulation of which policies or statutes the  
21 Court should be specifically enjoining or somehow impacting in  
22 full. It is not clear to the Court at this time, at least,  
23 that such a broad injunction would not restrict legal actions  
24 as well by the defendants. And to the extent the plaintiffs  
25 request that the three City regulations that we discussed

1 during argument, that the plaintiff requested that those three  
2 regulations be at least amended by the Court in order to  
3 include a deadline, the Court declines that invitation, as  
4 well, on this record.

5           Concerning the plaintiffs' TRO, specifically, and  
6 whether there's been a showing of a strong irreparable harm or  
7 a clear and convincing likelihood of success on the merit, the  
8 Court finds that there's no irreparable harm, given that any  
9 harm that did occur is now moot, given that the licenses have  
10 been adjudicated, and again, as to any post-approval and  
11 appeal process that the plaintiffs may take, they cannot show  
12 irreparable harm on this hard at this time, given that the  
13 harm is speculative given plaintiffs have not engaged in those  
14 processes.

15           The Court will also note that plaintiffs do make the  
16 argument that the Court should presume irreparable harm, given  
17 that they're alleging a Constitutional violation, the Second  
18 Amendment Constitutional violation. The Court has not seen  
19 such a presumption expanded to the Second Amendment. However,  
20 nevertheless, even if plaintiffs had made a strong showing of  
21 irreparable harm, they have not made a substantial showing of  
22 likelihood of success on the merits. The plaintiffs appear to  
23 be requesting a bright-line rule as to the adjudication of  
24 licensing applications, rather than a flexible approach for  
25 determining when a delay has resulted in a deprivation of an

1 individual's Second Amendment right, yet they have not made a  
2 substantial showing that they will succeed on such a claim and  
3 that the law so requires such a bright-line rule.

4 For those reasons, plaintiffs' request for a TRO is  
5 denied.

6 I want to, again, thank the parties for their  
7 arguments today. That's the end of my agenda.

8 Is there anything additional from the parties before  
9 we adjourn?

10 MS. LASK: Your Honor, will you be putting this  
11 in -- writing this decision?

12 THE COURT: No.

13 MS. LASK: It's on the record?

14 THE COURT: I have a court reporter, so I believe  
15 so.

16 MS. LASK: Okay. Thank you, Your Honor.

17 THE COURT: Thank you. Anything from defense  
18 counsel?

19 MR. CIAPPETTA: No, Your Honor. Thank you for the  
20 time that you've devoted to this issue.

21 THE COURT: Thank you. We're adjourned.

22  
23 (Whereupon, the matter was concluded.)

24 \* \* \* \* \*

25

*AVERY N. ARMSTRONG, RPR, NYRCR*

I certify that the foregoing is a correct transcript from the  
record of proceedings in the above-entitled matter.

/s/ Avery N. Armstrong

March 13, 2026