To be Argued by:
CHRISTIAN D. KILLORAN
(Time Requested: 15 Minutes)

New York Supreme Court
Appellate Division – Second Department

Appellate Case No.: 2018-06959

HUNTERS FOR DEER, INC. and MICHAEL LEWIS,

Plaintiffs-Appellants,

– against –

TOWN OF SMITHTOWN,

Defendant-Respondent.

BRIEF FOR PLAINTIFFS-APPELLANTS

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Preliminary Statement

The Town of Smithtown has adopted a local law known as "Smithtown Town Code Chapter 160" which states in relevant part:

> * *160-2 Definitions – The following definitions shall govern the interpretation of this chapter unless otherwise expressly defined herein FIREARM – Includes a weapon which acts by the force of gunpowder or from which a shot is discharged by the force of an explosion, as well as an air rifle, an air gun, a BB gun, a slingshot and a bow and arrow.*
>
> * *160-3. Purpose – The purpose of this chapter is to prohibit any person from discharging a firearm in those areas of the Town of Smithtown in which such activity may be hazardous to the general public or nearby residents.*
>
> * *160-4. Prohibited areas – The discharge of firearms is deemed hazardous to the general public and therefore, prohibited in all areas of the Town of Smithtown except those areas as stipulated under Section 160-5, Exceptions.*
>
> * *160-5. Exceptions – Firearms may be discharged upon one's property and upon the property of another with the written consent of the landowner, provided that any such discharge of firearms does not occur within 500 feet from a dwelling, school or occupied structure, or a park, beach, playground or any other place of outdoor recreational or nonrecreational activities; and further provided that any such discharge of firearms does not violate the provisions of the New York State Environmental Conservation Law.*

On 12/6/17, the plaintiffs/appellants commenced suit against the Town of Smithtown, seeking a declaratory judgment that the local town code was invalid, particularly due to the fact that the Town of Smithtown should be effectively pre-empted from legislating in the field in which New York had otherwise extensively legislated.

The plaintiffs/appellants subsequently filed a summary judgment seeking a decision.

The defendant/appellee, filed a cross motion to dismiss, arguing that pursuant to Town Law, specifically Town Law Section 130, sub-section (27), the Town of Smithtown was specifically endowed with the authority to regulate "firearms".

Specifically, in this regard, and in attempt to support its position, the defendant/ appellee cited Town Law, Section 130, sub-section (27), which states in pertinent part:

> * *The town board after a public hearing may enact, amend and repeal ordinances, rules and regulations not inconsistent with law, for the following purposes in addition to such other purposes as may be contemplated by the provisions of this chapter or other laws. In order to accomplish the regulation and control of such purposes, the town board may include in any such ordinance, rule or regulation provision for the issuance and revocation of a permit or permits, for the appointment of any town officers or employees to enforce such ordinance, rule or regulation and/or the terms and conditions of any permit issued thereunder, and for the collection of any reasonable uniform fee in connection therewith. The town clerk shall give notice of such hearing by the publication of a notice in at least one newspaper circulating in the town, specifying the time when and the place where such hearing will be held, and in general terms describing the proposed ordinance. Such notice shall be published once at least ten days prior to the day specified for such hearing.*
>
> * *27. Firearms. In the towns of Huntington, Babylon, Smithtown, Islip, Brookhaven, Riverhead and Southampton, in the county of Suffolk, in the town of Niskayuna in the county of Schenectady, in the town of Ramapo in the county of Rockland, in the towns of Irondequoit, Greece, Pittsford, Brighton, Penfield, Perinton, Webster and Gates in the county of Monroe, in the town of Colonie in the county of Albany, and in the towns of Vestal and Union in the county*

> *of Broome prohibiting the discharge of firearms in areas in which such activity may be hazardous to the general public or nearby residents, and providing for the posting of such areas with signs giving notice of such regulations, which ordinances, rules and regulations may be more, but not less, restrictive than any other provision of law. Thirty days prior to the adoption of any ordinance changing the five hundred foot rule, a notice must be sent to the regional supervisor of fish and game of the environmental conservation department, notifying him of such intention.*

On May 21, 2018, the Honorable Joseph A. Santorelli issued a decision, dismissing the plaintiffs/appellant's motion for summary judgment, and furthermore conversely granting the defendant/appellee's motion for dismissal. (*See*: Judge Santorelli Decision)

In rationalizing his decision, Judge Santorelli stated that the State had not preempted the entire field for regulations to firearm discharge, as evidenced by New York Town Section 130, holding that "this section specifically allows the Town of Smithtown, among several other towns, to enact laws related to firearm discharge when such activity may be hazardous to the general public or nearby residents and allows for those laws to be more, but not less, restrictive than any other provision of law".

In rendering his decision however, Judge Santorelli seemingly overlooked one very important point, namely that the Town of Smithtown is not empowered to define a "long bow" or "bow "as a firearm, specifically since New York State had

already extensively defined not only what constitutes a "firearm", but also what constitutes a "long bow" or "bow".

As such, although Judge Santorelli may be correct in deciding that New York Town Law, Section 130 permits the Town of Smithtown to regulate "firearm discharge", he is incorrect in failing to recognize that a "long bow" or "bow" is not a firearm, and therefore is beyond regulation of the Town Law.

Moreover, since a "long bow" or "bow" is not a "firearm", the Town of Smithtown is therefore clearly prohibited, pursuant to the alternating legal doctrines of "conflict preemption" and "field preemption", from regulating the discharge thereof, as clearly only New York State may exercise such exclusive province.

Argument

Point I: Judge Santorelli Overlooks the Seminal Fact That a Bow is Not a Firearm

Irrespective of the argument of whether "conflict preemption" or "field preemption" should bar the Town of Smithtown from passing its local law, Judge Santorelli fatally ignores the fact that a "bow" is not a "firearm".

Indeed, Judge Santorelli's decision seems to assume that a bow is a "firearm" simply because the Town of Smithtown has decided to label it as such within its own local law.

In fact, however, a bow is not *a* "firearm", as clearly indicated within the New York State Environmental Conservation Law, as well as the New York State Penal Law.

Specifically, in this regard, the New York State Environmental Conservation Law, Section 11-0931(4)(a)(1)-(2) defines a firearm as:

> * *"any rifle, pistol, shotgun or muzzleloading firearm which by force of gunpowder, or an airgun (using ammunition no smaller than .17 caliber and producing projectile velocities of 600 feet per second or more) ... that expels a missile or projectile capable of killing, wounding or otherwise inflicting physical damage upon fish, wildlife or other animals."*

Moreover, New York State Penal Law, Section 265.00 (3) defines a firearm as:

> * *Firearm means (a) any pistol or revolver; or (b) a shotgun having one or more barrels less than eighteen inches in length; or (c) a rifle having one or more barrels less than sixteen inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches; or (e) an assault weapon. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm."*

Clearly, therefore, New York State has taken specific measure to define exactly what a "firearm" is, and what a "firearm" is not. As such, it remains clear that a "long bow" or "bow" is not a "firearm", as defined by New York State.

Additionally, New York State's intent to segregate the definition of a "firearm" from the definition of a "long bow" or "bow" is further illuminated in light of New York State's direct act of defining exactly what a "long bow" or "bow" actually is. In this regard, New York State Environmental Conservation Law, Section 11-0931(4)(a)(2) defines a "bow" as:

> * *"a longbow, recurve bow or compound bow which is designed to be used by holding the bow at arm's length, with arrow on the string, and which is drawn, pulled and released by hand or with the aid of a hand-held trigger device attached to the bowstring".*

As such, it remains clear that New York State has defined what a "firearm" is; and what a "long bow" or "bow" is; and moreover, that such terms are not synonymous.

In light of the foregoing, while New York Town Law, Section 130 may grant a Town, such as Smithtown, the right to regulate "firearms", it does not grant a Town, such as Smithtown, the right to regulate the discharge of a "long bow" or "bow".

Indeed, the Town of Smithtown's Town Code, Section 160-2, improperly attempts to define a "bow" as a "firearm", and therefore improperly attempts not only to impinge upon New York State's exclusive authority to define what

constitutes a "firearm", but also by extension, improperly attempts to impinge upon New York State's exclusive authority to regulate the discharge of a "long bow" or "bow", which distinctly remain "non-firearms".

Indeed, unless Judge Santorelli is stating the Town of Smithtown has the right to define a "bow" as a "firearm", in direct contravention to New York State's exclusive authority, his justification must fail, and his decision must be reversed.

Point II: In Light of the Inapplicability of New York Town Law, Section 130 (27) to the Facts at Hand, the Legal Doctrines of "Content" & "Field Pre-emption" Render the Town of Smithtown's Local Code Illegal

Again, Judge Santorelli erroneously utilized Town Law, Section 130, sub-section (27) to support his decision.

For the reasons previously stated, Town Law, Section 130, sub-section (27) remains inapplicable to the discharge of a "long bow" or "bow", and therefore is misplaced as a foundational premise to support the defendant/appellee's and/or Judge Santorelli's reasoning.

As such, while the Town of Smithtown may be endowed to regulate in the area and/or "field" of "firearm" discharge pursuant to Town Law, Section 130, sub-section (27), it is not similarly endowed to regulate in the area of defining what constitutes a "firearm" or a "bow", or to furthermore regulate in the area of defining the permissible scope of discharge for a "long bow" or "bow", which again, clearly remain "non-firearms".

In fact, in this regard, New York State has certainly "occupied the field", therein preempting the Town of Smithtown's local law. In this regard, the esteemed Professor, Gary E. Kalbaugh, has written the preeminent and seminal treatise on the subject. (*See:* "A Sitting Duck: Local Government Regulation of Hunting and Weapons Discharge in the State of New York", Hofstra University, Maurice A. Deane School of Law, Pace Environmental Law Review, Volume 32, Issue 3, Summer 2015, Article 6, October 2015).

As Professor Kalbaugh points out within his treatise, the outer boundary of municipal home rule authority can be approximated as where a State "has demonstrated its intent to preempt an entire field and thereby preclude any further local regulation". (*See:* City of New York v. Town of Blooming Grove Zoning Bd. of Appeals, 761 N.Y.S.2d 241, 242 (App. Div. 2003) (citing Inc. Vill. Of Nyack v. Daytop Vill., 583 N.E.2d 928 (N.Y. 1991)), perm. app. Denied, 799 N.E.2d 619 (N.Y. 2003). *See also:* Ardizzone v. Elliott, 550 N.E.2d 906, 909 (N.Y. 1989).

Indeed, in such cases, "local laws regulating the same subject matter will be deemed inconsistent and will not be given effect." (*See:* Town of Blooming Grove Zoning Bd. of Appeals, 761 N.Y.S.2d at 242). In fact, in this regard, the State Legislature's interest in regulating "matters of statewide importance" has been described as "transcendent". (*See:* Cohen v. Bd. of Appeals of Saddle Rock, 795 N.E.2d 619, 621 (N.Y. 2003).

Indeed, in this regard, the jurisprudence is clear. In fact, in declaring unlawful a portion of a city ordinance prohibiting the carrying or possession of firearms or other weapons in an emergency, the Court noted that a "local ordinance attempting to impose any additional regulation in a field where the state has already acted will be regarded as conflicting with the state law and will be held to be invalid". (*See:* People v. Kearse, 289 N.Y.S.2d 346, 352 (Syracuse City Ct. 1968), appeal dismissed, 295 N.Y.S.2d 192 (Onondaga Cnty. Ct. 1968). *See*: N.Y. Exec. Law, Section 24(1)(d) (McKinney 2014), *See also*: People v. Delgardo, 146 N.Y.S.2d 350, 357 (N.Y.C. Magis. Ct. 1955).

Further illustrating this point is a case relating to whether Suffolk County, out of concern for the county's water supply, could prohibit septic additives not already prohibited by New York State's Environmental Conservation Law. In such case, New York's Court of Appeals noted "although the constitutional home rule provision confers broad police powers upon local governments relating to the welfare of its citizens, local governments may not exercise their police power by adopting a law inconsistent with … any general law of the State." (*See:* Jancyn Mfg. Corp. v. Cnty of Suffolk, 518 N.E.2d 903, 905 (N.Y. 1987).

Further, in an Appellate Division case, emanating from Nassau County, which undertook evaluating whether Nassau County could lawfully prohibit pistols with an exterior substantially comprised of any color other than black, grey, silver, steel,

nickel, or army green, owners of pistols of various colors, including a gold pistol commemorating Port Authority officers killed in the September 11, 2001 attacks, the Court held that the State had preempted the field via the pistol licensing requirements in section 400.00 of the Penal Law. (*See:* Chwick v. Mulvey, 915 N.Y.S.2d 578, 581 (App. Div. 2010)). Indeed, in such case, the Court noted, "conflict preemption" occurs when a local law prohibits what a State Law explicitly allows, or when a State Law prohibits what a local law explicitly allows. (*See:* Id. at 584). The Court further noted, the Legislature's enactment of a comprehensive and detailed regulatory scheme in an area in controversy is deemed to demonstrate an intent to preempt local laws. (*See:* Id. at 585). Indeed, because of the detailed regulatory edifice already in existence at the state-level, Nassau County's local law was deemed invalid. (*See:* Id., at 587).

In fact, the Court of Appeals has further established that a "local law may be ruled invalid as inconsistent with State law … where an express conflict exists between the State and local laws … (and) where the State has clearly evidenced a desire to preempt an entire field. (*See:* Jancyn Mfg. Corp. v. Cnty. of Suffolk, 518 N.E.2d 903, 905 (N.Y. 1987).

Similarly, a "comprehensive and detailed statutory scheme" may evidence implied preemption by the State. (*See:* Cohen v. Bd of Appeals of Saddle Rock, 795 N.E.2d at 622). In this regard, an inconsistency is found to exist where the local law

"(1) prohibits conduct which the State law, although perhaps not expressly speaking to it, considers acceptable or at least does not prescribe or (2) imposes additional restrictions on rights granted by State law. (*See:* Jancyn Mfg. Corp., 518 N.E.2d at 905).

In accord with the foregoing, the seminal question thus becomes whether New York State has "occupied the field" with respect to defining what a "firearm", "long bow", or "bow" are, and furthermore, at least with respect to the case at hand, whether New York State has "occupied the field" with respect to regulating the discharge of a "long bow" or "bow".

In this regard, as pointed out within "Point I" herein, and as evidenced in both the New York State Environmental Conservation Law, as well as the New York State Penal Law, New York State has specifically defined what constitutes a "firearm". Moreover, New York State Environmental Conservation Law has specifically defined what constitutes a "long bow" or "bow". Finally, it remains telling that no definition of "firearm" is provided in New York State's laws related to local government. (*See:* N.Y. County Law, N.Y. General Municipal Law, N.Y. Municipal Home Rule Law, N.Y. Town Law, and N.Y. Village Law). As such, New York State has clearly "occupied the field" in relation to defining what exactly constitutes both a "firearm" and/or a "long bow" or "bow", and moreover has clearly indicated that a "long bow" and/or "bow" is not a "firearm". Therefore, in clear

consequence of the foregoing, and in clear conformity with the doctrine of "preemption", the Town of Smithtown should be preempted from defining its own definition of what constitutes a "firearm" and/or "long bow" or "bow".

In addition, New York State has further "occupied the field" in relation to governing the manner in which "firearms" and/or "long bows" or "bows" are discharged. Indeed, even assuming Town Law has granted twenty towns (inclusive of Smithtown) and one village, the distinct authority to regulate the discharge of "firearms", the same cannot be said of such municipalities' authority and ability to regulate the discharge of "long bows" or "bows".

Indeed, in this regard, New York State has been clear regarding its intent to "occupy the field". In fact, New York State has vested a state agency, namely the Department of Environmental Conservation, with the authority to promulgate rules and regulations to carry out the purposes of the Environmental Conservation Law. (*See:* N.Y. Envtl. Conserv. Law, Section 3-0101), and the Environmental Conservation Law is clear regarding the permissible scope of "long bow" or "bow" discharge.

In fact, New York State's Environmental Conservation Law, Section 11-0931(4)(a)(2) clearly states:

> ** a. No person shall: (1) discharge a firearm, crossbow, or long bow in such a way as will result in the load, bolt, or arrow thereof passing over a public highway or any part thereof; (2) discharge a firearm within five hundred feet, a long bow within one hundred and*

fifty feet, or a crossbow within two hundred fifty feet from a dwelling house, farm building or farm structure actually occupied or used, school building, school playground, public structure, or occupied factory or church; ... b) The prohibitions contained in subparagraph 2 of paragraph a above shall not apply to (1) The owner of lessee of the dwelling house, or members of his immediate family actually residing therein, or a person in his employ, or the guest of the owner or lessee of the dwelling house acting with the consent of said owner or lessee, provided however, that nothing herein shall be deemed to authorize such persons to discharge a firearm within five hundred feet, a long bow within one hundred fifty feet, or a crossbow within two hundred fifty feet of any other dwelling house, or a farm building or farm structure actually occupied or used, or a school building or playground, public structure, or occupied factory or church.

Moreover, the Court has held that New York State Department of Environmental Conservation's view, regarding whether a provision in the Environmental Conservation Law preempts local laws on the same subject matter, should be afforded special deference, particularly since it is charged with the responsibility of enforcing the Environmental Conservation Law. (*See:* Jancyn Mfg. Corp. 518 N.E.2d 903, 904). Indeed, in this regard, the New York State Department of Environmental Conservation has observed:

** Clearly, enactment of a local law prohibiting discharge of firearms where a general state law expressly permits such discharge would prohibit an activity specifically permitted by state law. Accordingly, such a law is inconsistent with a general law and beyond the authority of the municipality that enacted it.*

** By enactment of ECL, Section 11-0931(4)(a)(2) prohibiting discharge of firearms within 150 feet of certain structures ... the Legislature has shown its intention to occupy the field of regulation in this area and to preempt any inconsistent local enactment ... to hold otherwise would have the effect of rendering the State law a nullity, and*

> *lead to a subdividing of the State into jurisdictions with different discharge of firearms provisions …*

In fact, as the dynamics of "long bow" and "bow" discharge are inextricably linked with the regulation of hunting, it remains unequivocally clear that New York State has "occupied the field" in this regard. Again, it remains pertinent for the Court to recognize that the Legislature's 2014 "set back" reduction enactment, therein reducing the applicable bow discharge setbacks from *500* feet to 150 feet, was done specifically to aid hunting as a means to control and regulate the state-wide epidemic deer populations, and the attendant health and environmental concerns stemming therefrom. (*See:* U.S. Dep't of Health & Human Services, Centers for Disease Control & Prevention, Tickborne Diseases of the United States: A Reference Manual for Health Care Providers, 2014); *See also:* N.Y. Dep't of Envtl. Conservation, Management Plan for White Tail in New York).

Indeed, the New York State Attorney General has consistently held that local governments cannot restrict or otherwise regulate hunting since this power is exclusively vested with the state. (*See:* N.Y. Op. Att'y Gen. 326 (1976) ("Control, regulation and licensing of hunting and fishing is a function reserved exclusively to the State …"). *See also:* 84-86 N.Y. Op. Att'y Gen 170 (1984); State Compt. Op. No. 8408 (1956); N.Y. Op. Att'y Gen. 169 (1947); N.Y. Op. Att'y Gen. 324 (1935)).

Finally, New York State's expansive regulatory edifice of licensing hunters is clear evidence of the New York State's intent to "occupy the field".

Accordingly, in light of the clear inapplicability of New York Town Law, Section 130, sub-section (27) to the facts at hand, coupled with the fact that New York State has clearly "pre-empted" and/or "occupied the field" relevant to not only defining what a "firearm", "long bow" or "bow" are, but also, in relation to defining the permissible scope of discharge for a "long bow" or "bow", Judge Santorelli's decision must be reversed.

Point III: Even Assuming Town Law, Section 130 (27) Empowers the Town of Smithtown to Regulate a "Long Bow" or "Bow", Which it Clearly Does Not, the Smithtown Town Code Itself "Self-Nullifies" Any Application to the Discharge of a "Long Bow" or "Bow"

Reference is drawn to Chapter 160-5 of the subject Town Code. In this regard, the Town of Smithtown Town Code states:

> * *160-5. Exceptions – Firearms may be discharged upon one's property and upon the property of another with the written consent of the landowner, provided that any such discharge of firearms does not occur within 500 feet from a dwelling, school or occupied structure, or a park, beach, playground or any other place of outdoor recreational or nonrecreational activities; and further provided that any such discharge of firearms does not violate the provisions of the New York State Environmental Conservation Law.*

In this case, the New York State Environmental Conservation Law, clearly regulates the discharge of "long bows" and/or "bows" by providing that such discharge may occur within 150 feet of a dwelling ….

In fact, the New York State Legislature was clear in articulating its reasoning supporting the 150 set-back reduction, which was effectuated in 2014, and was

supported not only upon safety considerations, but also upon the proven health and environmental benefits of utilizing deer hunting as the most effective deer management tool available.

Notably, the set-back reduction was recommended by New York State's Department of Environmental Conservation due to the occurrence of only two reported bow hunting injuries in the State of New York, both due to self-inflicted accidental cuts while handling arrowheads. (*See:* N.Y. Dep't of Envtl. Conservation Management Plan for White Tailed Deer in New York State 54 92011).

Further, the set-back reduction was recommended in order to aid the myriad of health and environmental benefits associated with controlling deer populations, including but not limited to, avoiding deer-vehicle collisions (*See:* White Tailed Deer Mgmt Plan, note 13 at 54), reduction of Lyme Disease, Babesiosis, Rocky Mountain Spotted Fever and other diseases for which ticks resident on deer are a direct or indirect vector (*See:* U.S. Dep't of Health and Human Services, Centers for Disease Control & Prevention, Tickborne Diseases of the United States: A Reference Manual for Health Care Providers (2014), reduced destruction of agriculture (*See:* White Tailed Deer Mgmt Plan, note 13 at 22), and mitigation of other negative environmental externalities associated with high deer populations, such as depletion of forest undergrowth and displacement of other wildlife. (*See:* Id. at 49-52).

Nevertheless, even assuming that "long bows" and/or "bows" may be considered "firearms", which they cannot be for the reasons previously expounded upon herein, since the Smithtown Town Code, Section 160.5 clearly states that such discharge must not occur within 500 feet from a dwelling …, and the Environmental Conservation Law clearly states that the discharge of a "long bow" or "bow" must not occur within 150 feet of a dwelling …, the two laws self-evidently conflict, and therefore run afoul of the Smithtown Code, Section 160.5 own internal provision, which clearly states in pertinent part, that the law may only be binding:

> * *"provided that any such discharge of firearms does not violate the provisions of the New York State Environmental Conservation Law"*.

Again, in this regard, it remains clear that more restrictive "set-back" discharge requirement does in fact violate the provisions of the New York State Environmental Conservation Law.

As such, since the subject Smithtown Code itself, particularly Section 160.5, self-nullifies its own application upon circumstances where the law violates the provisions of the New York State Environmental Conservation Law, the portion of the law which attempts to classify a "long bow" or "bow" as a "firearm" must be held invalid, and therefore by extension, so must any attempt to regulate the discharge thereof.

Indeed, the necessity of invalidating Smithtown's local law becomes even more important particularly since the municipality has utilized such code provision to issue violations against hunters who would otherwise be legally able to hunt and discharge their bows within a 150 distance "set-back" distance, in clear violation of their State endowed rights.

Conclusion

WHEREFORE, the plaintiff/appellant, herein respectfully requests the Appellate Court to reverse Judge Santorelli's decision, and to issue an order declaring that, at least with respect to the classification and discharge of a "long bow" or "bow", the local Smithtown Town Code is invalid. In addition, the plaintiff/appellant, requests the reimbursement of reasonable attorney fees.

Dated: September 28, 2018

Respectfully submitted,

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STATEMENT PURSUANT TO CPLR 5531

New York Supreme Court

Appellate Division – Second Department

HUNTERS FOR DEER, INC. and MICHAEL LEWIS,

Plaintiffs-Appellants,

– against –

TOWN OF SMITHTOWN,

Defendant-Respondent.

1. The index number of the case in the court below is 623373/17.

2. The full names of the original parties are as above. There have been no changes.

3. The action was commenced in Supreme Court, Suffolk County.

4. The action was commenced on or about December 6, 2017, by the filing of a Summons and Verified Complaint. The Answer was filed thereafter on December 18, 2017.

5. The nature and object of the action is as follows: to declare a locally enacted law on firearm discharge is illegal in nature.

6. The appeal is from a Decision and Order of the Honorable Joseph A. Santorelli, entered on May 22, 2018.

7. This appeal is being perfected on a full reproduced record.