

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----x
DEBRA MULÉ and SCOTT DAVIS,

Plaintiffs,

-against-

COUNTY OF NASSAU, BRUCE BLAKEMAN, in his
official capacity as Nassau County Executive, and
ANTHONY J. LaROCCO, in his official capacity as
Nassau County Sheriff,

Defendants.

Index No.:
Date Purchased:

Plaintiffs designate
Nassau County as the
Place of Trial

S U M M O N S

The basis of venue is
Place of occurrence

County of Nassau

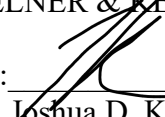
-----x
To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on Plaintiff(s) Attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
February 4, 2025

Yours, etc.,

KELNER & KELNER, ESQS.

By: 
Joshua D. Kelner
7 World Trade Center, Suite 2700
New York, New York 10007
(212) 425-0700

Carey R. Dunne
Kevin Trowel
Martha Reiser
FREE + FAIR LITIGATION GROUP
266 W 37th Street, 20th Floor
New York, New York 10018

Defendants' Addresses:

COUNTY OF NASSAU
Nassau County Attorney
One West Street
Mineola, NY 11501

BRUCE BLAKEMAN
Nassau County Executive
1550 Franklin Avenue
Mineola, NY 11501

ANTHONY J. LaROCCO
Nassau County Sheriff
100 Carman Avenue
East Meadow, NY 11554

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
DEBRA MULÉ and SCOTT DAVIS,

Index No.:

Plaintiffs,

VERIFIED COMPLAINT

-against-

COUNTY OF NASSAU, BRUCE BLAKEMAN, in his
official capacity as Nassau County Executive, and
ANTHONY J. LaROCCO, in his official capacity as
Nassau County Sheriff,

Defendants.

-----X

Plaintiffs, by their attorneys, KELNER & KELNER, ESQS., and FREE + FAIR
LITIGATION GROUP, as and for their Verified Complaint in the above-referenced action,
hereby allege as follows upon information and belief:

Preliminary Statement

1. On March 17, 2024, Nassau County Executive Bruce Blakeman announced his
intention to deputize private citizens to act as “special deputy sheriffs” for the County in case of
an “emergency.” These private citizens will, under the announced program, carry guns and
perform functions that otherwise would be the responsibility of the police or other authorized law
enforcement personnel. The County has already expended, and will continue to expend,
taxpayer money to screen, enlist, and train these “provisional” special deputies, and to subject
them to ongoing drug testing.

2. New York State law does not authorize defendants to create a taxpayer funded
militia. In case of an emergency, the County is permitted to accept help from New York State
and from other municipalities’ law enforcement agencies. It is not allowed to hand badges to

private citizens, pronounce them to be members of law enforcement when they are not, and authorize them to wield force and make arrests on behalf of the government.

3. Nassau County is ably and professionally protected by the Nassau County Police Department – one of the largest police forces in the United States – and the Nassau County Sheriff’s Department, officers from the New York State Police, and officers from dozens of city, village, and local police departments across the County.

4. There are presently more than 3,000 trained, sworn, registered, and armed “police officers” and “peace officers” serving the residents of Nassau County. In the event of an emergency, defendants can call upon these dedicated public servants to address the needs of Nassau County residents.

5. In an emergency, defendants can also call upon hundreds of unarmed civilian volunteers in the Nassau County Auxiliary Police and the Nassau County Office of Emergency Management Community Emergency Response Team.

6. If these many thousands of trained Nassau County officers and volunteers are, together, insufficient to address an emergency, defendants are authorized by New York State law to request assistance from nearly 60,000 trained, registered, sworn, and armed police and peace officers from across New York State.

7. Defendants have not publicly explained how a group of less than one hundred armed civilians would materially aid the thousands of trained, registered, sworn, and armed police and peace officers available to meet the needs of Nassau County residents in the event of an emergency. Authorizing minimally trained private citizens to wield force on behalf of the government – and during an emergency no less – poses clear and obvious safety risks, both to trained law enforcement and the public at large.

8. Defendants' militia is illegal and represents a substantial and ongoing waste of public funds.

9. Defendants also have sought to shroud their illegal program in secrecy. They have refused to comply with legitimate Freedom of Information Law (FOIL) requests, leaving the public in the dark as to its essential particulars. On May 17, 2024, plaintiffs Scott Davis and Debra Mulé, who are Members of the Public Safety Committee of the Nassau County Legislature, directed a FOIL request to defendants, seeking basic information about the program. Defendants stonewalled, and then effectively denied, the request, without justification. Defendants even withheld all information about how the program is being paid for from their proposed 2025 budget to the Legislature, despite the fact that public funds have been, and are continuing to be, used. They are hiding the ball from the Legislature and the public.

10. This action seeks, among other things, an order and judgment as follows: (1) declaring and determining, pursuant to General Municipal Law §51 and/or CPLR 3001, that defendants' use of public funds and resources in connection with their plan to deputize private citizens to be provisional special sheriff's deputies is unlawful and represents a waste of public funds; (2) permanently enjoining and restraining defendants from using public funds and resources in connection with their plan to deputize private citizens to be special sheriff's deputies or provisional sheriff's deputies in the future and/or otherwise purporting to authorize private citizens to act with police powers; and (3) pursuant to Article 78 of the CPLR, directing defendants to respond to plaintiffs' Freedom of Information Law request in its entirety.

Parties

11. At all times herein mentioned, plaintiff DEBRA MULÉ (hereinafter "Mulé"), was and remains a citizen, resident, and taxpayer of the County of Nassau, who owns real property in

the County and has been assessed and paid taxes in said County upon such assessments of more than \$1,000 within one year from the time of the commencement of this action. She is a duly elected Nassau County Legislator, representing Legislative District 6.

12. At all times herein mentioned, plaintiff SCOTT DAVIS (hereinafter “Davis”) was and remains a citizen, resident, and taxpayer of the County of Nassau, who owns real property in the County and has been assessed and paid taxes in said County upon such assessments of more than \$1,000 within one year from the time of the commencement of this action. He is a duly elected Nassau County Legislator, representing Legislative District 1.

13. At all times herein mentioned, defendant COUNTY OF NASSAU was and remains a municipal corporation, duly organized and existing under the laws of the State of New York.

14. At all times herein mentioned, defendant BRUCE BLAKEMAN, sued herein in his official capacity, was and remains the Nassau County Executive.

15. At all times herein mentioned, defendant ANTHONY J. LaROCCO, sued herein in his official capacity, was and remains the Nassau County Sheriff.

Facts

Defendants’ Establishment of an Illegal Taxpayer Funded Militia

16. On March 17, 2024, defendant Blakeman announced that the County would be “establishing a team of Provisional Emergency Special Deputy Sheriffs” who will exercise police powers on behalf of the County during an “emergency declared by the County Executive.” See Exhibit A.

17. The announcement set forth a set of easily attainable application criteria, which included, *inter alia*, possession of a pistol license and “[n]o Misdemeanor convictions within the

previous 5 years.” It also included several completely meaningless qualifications like the “[a]bility to express oneself effectively.”

18. The announcement set forth a number of ways in which defendants intended to expend taxpayer money to advance this program. The County will pay for background checks during the hiring process; will conduct random drug screenings of persons enlisted into the program; will provide training; and will pay participants a “\$150 stipend per day, for each day of activation during a County declared emergency.”

19. The announcement identified the purported source of legal authority for the program as New York State County Law §655.

20. Since establishing the program, defendants have failed and/or refused to provide meaningful information about it to the public and have flouted their obligations under the Freedom of Information Law (FOIL).

21. However, defendants revealed in response to inquiries by Newsday that, as of September of 2024, 25 people already have been enlisted into the militia.¹ Of those 25 people, defendants provided general background information about only 19 of them. They refused to provide Newsday with any information about the remaining members.

22. Defendants have expended public funds and/or resources for training, screening, and/or orientation of the individuals already accepted into the militia and intend to make further such expenditures in the future.

¹ See Michael O’Keefe, “Plan for new armed deputy force in Nassau County moving forward despite criticism,” *Newsday*, September 15, 2024.

23. Defendant Blakeman also revealed that even more taxpayer funds will be wasted as the program expands. Defendants intend to enlist some 75 militia members, thereby requiring additional expenditures from the public fisc.²

24. The Nassau County Police Department has more than 2,500 sworn police officers. Nonetheless, at a news conference on April 4, 2024, defendant Blakeman stated that his militia could be used to break up protests. He also has said that militia members could be used to guard “infrastructure or government buildings or schools or hospitals.”

25. In performing their functions, the militia members will, despite not being police officers, sheriffs, or even regular public employees, be armed.

26. Defendants have expended taxpayer money and/or governmental resources for the program in the past and will continue to do so in the future.

Defendants’ Refusal to Disclose Details of Their Illegal Program to the Public

27. Since establishing the program, defendants have failed and/or refused to provide meaningful information about it to the public and have flouted their obligations under the Freedom of Information Law.

28. On April 12, 2024, Leg. Siela Bynoe, who was then the Ranking Member of the Nassau County Legislature’s Public Safety Committee, wrote a letter to defendant Blakeman, requesting information about the program. Among other things, she requested information about the training and application process that defendants were following, and the guidelines and protocols that the special deputies would be expected to follow.

29. Defendants provided no meaningful information in response to the letter.

² See *id.*

30. On April 24, 2024, the entire Democratic Minority Caucus, which included plaintiffs Davis and Mulé, sent a further letter to defendants.

31. This letter was likewise ignored.

32. By May 17, 2024, plaintiffs still had received no meaningful information about the program, despite repeated efforts.

33. On May 17, 2024, plaintiffs Davis and Mulé, together with Leg. Bynoe, made an official FOIL request, in their capacities as members of the public.

34. The FOIL request was assigned reference number 344649. *See* Exhibit B.

35. The request sought a litany of public records, which included, but were not limited to, materials regarding the training provided to applicants, the location where the training was being held, who was conducting the training, the total hours of training required, the anticipated costs to the public, and the written protocols “for ensuring compliance with best practices.”

36. Defendants failed to respond in a timely manner to the request.

37. The failure to respond to the request represented a constructive denial thereof.

38. On June 13, 2024, plaintiffs Davis and Mulé, together with Leg. Bynoe, filed an appeal of the denial of their FOIL request. *See* Exhibit C.

39. On June 13, 2024, the County’s FOIL Appeals Officer acknowledged receipt of the appeal. *See* Exhibit D.

40. On June 24, 2024, the FOIL Appeals Officer responded to the appeal by providing only *one* document: the original press release from Newsday announcing the program. He wrote: “The County Executive’s Office has provided me with the attached document in response. To the extent your appeal claims constructive denial, it is now moot.” *See* Exhibit E.

41. The FOIL Officer did not address, or invoke any legal exception relating to, the numerous remaining items sought by plaintiffs' request.

As and For a First Cause of Action

42. Plaintiffs repeat, reiterate, and reallege the allegations set forth at items 1 through 41 as though set forth more fully herein.

A. New York law does not allow defendants to establish a standing militia made up of private citizens

43. General Municipal Law §51 authorizes taxpayers in a jurisdiction to bring suit against public officers relating to the illegality of programs and the waste of public funds associated therewith.

44. County Law §655 does not authorize defendants to designate private citizens as special sheriff's deputies to act and bear arms under color of State law or to establish any form of emergency special deputy program in the absence of a declared emergency.

45. County Law §655 allows local sheriffs³ to designate "special deputies" when there exists a "special emergency," as defined by General Municipal Law §209-f. GML §209-f sets out specific procedures for the declaration of such an emergency, which include, but are not limited to, prior notice to the Governor. The Governor is authorized to terminate the declaration of any such emergency.

46. There is no special emergency in effect and defendants have not notified the Governor of their intent to declare one.

47. There also is no authority under the law for defendants to "provisionally" assemble a list of special deputies in the absence of an emergency.

³ General Municipal Law §209-f(2)(h)(i) provides that "All powers vested in the sheriff by this section shall only be exercised in the county of Nassau by the county executive of Nassau county."

48. Even if there were an emergency in effect, County Law §655 does not authorize private citizens to act as special sheriff's deputies.

49. County Law §655 was enacted simultaneously with General Municipal Law §209-f. The purpose of the provisions was to authorize county sheriffs to obtain emergency aid from other municipalities.

50. As the New York State Attorney General wrote in his memorandum to the Governor analyzing the bill that included the provisions now codified in General Municipal Law §209-f and County Law §655: "The bill would...empower the sheriff declaring such state of emergency to request aid from any municipal police department, parkway and state park police forces or sheriffs department in any other part of the State." Similar language recurs throughout the legislative history.

51. The statutory text effectuates this intent. General Municipal Law §209-f(2)(b) sets forth the powers of sheriffs to designate special deputies during emergencies. It provides that the "sheriff who declared such emergency" "shall have the power to request any or any number of sheriffs in the state to aid him by detailing, assigning and making available to him, for duty and use in his county, such number of their deputy sheriffs as may be available, together with equipment and supplies, and to deputize as emergency special deputy sheriffs of his county any or all personnel so supplied by the sheriff of any other county..."

52. County Law §655 confers upon sheriffs the authority to make use of the personnel loaned to them from other jurisdictions. It does not authorize defendants to deputize civilians and charge them with functions that are properly the province of law enforcement.

53. New York law tightly restricts the right to use force to a defined class of public officers. It also subjects police and peace officers to rigorous training and registration

requirements. It would defeat the design and intention of this comprehensive statutory scheme to allow minimally trained, unregistered private civilians to act as special sheriff's deputies with authority to use deadly force and make arrests under color of law.

54. Defendants also lack the authority to pay special deputies the announced stipend of \$150 per day when activated. County Law §655 provides that special deputies may only be paid compensation "not exceeding three dollars per hour" absent legislative approval. There has been, to date, no such approval here.

B. At a minimum, and in the alternative, defendants may not authorize civilians to exercise police powers

55. At a minimum, and in the alternative, to whatever extent County Law §655 authorizes defendants to deputize private citizens not currently a part of law enforcement, defendants do not have the authority to confer police powers on such civilians.

56. Under New York State law, law enforcement authority – including the authority to make arrests and use deadly force – is carefully circumscribed by statute and conferred only on those who are hired, trained, sworn, and registered as "police officers" or "peace officers." *See* N.Y. Crim. Pro. Law §§ 1.20(34); 2.10.

57. New York State law requires that both police officers and peace officers complete lengthy, organized training courses.

58. Most "peace officers," including "peace officers" employed by the Nassau County Sheriff's Department, complete substantially more training than is required by state statute and regulation.

59. "Police officers" and "peace officers" must also be registered with the New York State Division of Criminal Justice Services. *See* N.Y. Exec. Law §845.

60. Members of defendants' civilian militia are not qualified as "police officers" or

“peace officers” under New York State law. They therefore have no authority to use deadly force, to make arrests, or otherwise to exercise police powers beyond the authority that which may be exercised by any civilian in the State of New York.

61. Current members of the militia have been, and future members of the militia will be, improperly trained on the scope of their authority to use deadly force, to make arrests, and otherwise to exercise “police powers” when called upon to do so by defendants.

62. Defendants’ creation and maintenance of an armed force whose members have been improperly trained to believe that, when activated by defendants, they will have authority to use deadly force and make arrests at defendants’ direction to the same extent as a “police officer” or “peace officer” poses a threat to members of the public and law enforcement.

C. Defendants’ provisional special deputies program is illegal and wastes public funds and resources, and they should be permanently enjoined from maintaining it

63. Defendants’ provisional special deputies program is illegal and represents a waste of public funds and resources.

64. Plaintiffs request that judgment be entered declaring that defendants’ use of public funds and resources for the provisional special sheriff’s deputies program is unlawful and exceeds the authority conferred by General Municipal Law §209 and County Law §655 and that defendants be permanently enjoined from maintaining any program which purports to enlist private citizens to act as special sheriff’s deputies and/or to exercise police powers.

65. Failing to enjoin or restrain defendants from maintaining such a program will cause irreparable harm to plaintiffs and other taxpayers in the County. Absent such relief, defendants will continue to squander public monies for an illegal program.

66. Defendants will suffer no harm if they are so enjoined and restrained.

67. Given the significant public and taxpayer interest at stake in this action, it is respectfully submitted that the filing of a bond should be dispensed, or, in the alternative, that the Court should fix a bond in a de minimis sum representing security for costs taxable pursuant to CPLR 8101.

68. Plaintiffs are therefore entitled to a permanent injunction enjoining and restraining defendants from using public funds to maintain a special sheriff's deputies program which enlists private citizens.

As and For a Second Cause of Action

69. Plaintiffs repeat, reiterate, and reallege the allegations set forth in items 1 through 68 as though set forth more fully herein.

70. Article 78 is the appropriate method for the review of final agency determinations concerning FOIL requests.

71. Governmental records are presumed to be public. The Freedom of Information Law provides: "The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality." Public Officers Law §84.

72. Plaintiffs Mulé and Davis made a valid FOIL request.

73. Defendants denied and/or constructively denied the request.

74. Defendants denied and/or constructively denied the appeal from said denial.

75. By producing only a single document and refusing to produce the numerous remaining documents which were sought, defendants denied and/or constructively denied said request and appeal, and/or portions thereof.

76. Defendants have not produced the records sought by plaintiffs and have failed properly to invoke any exemptions under FOIL.

77. Defendants did not meet their burden of providing specific and particularized justification for withholding the requested records from disclosure under FOIL.

78. Plaintiffs Mulé and Davis have exhausted their administrative remedies and have no other remedy at law.

79. Defendants should be directed to produce all documents responsive to plaintiffs' FOIL request, without exception, and plaintiffs demand judgment to such extent.

80. Because there was no reasonable basis for the actual and/or constructive denial of plaintiffs' FOIL request, they are entitled to attorney's fees and litigation costs under Public Officers Law § 89(4)(c).⁴

81. No prior applications have been made for the relief requested herein.

Conclusion

WHEREFORE, plaintiffs demand judgment against the defendants to the following extent: (1) declaring and determining, pursuant to General Municipal Law §51 and/or CPLR 3001, that defendants' use of public funds and resources in connection with their plan to deputize private citizens to be provisional special sheriff's deputies is unlawful and represents a waste of public funds; (2) permanently enjoining and restraining defendants from using public funds and resources in connection with their plan to deputize private citizens to be special sheriff's deputies or provisional sheriff's deputies in the future and/or otherwise purporting to authorize private citizens to act with police powers; (3) pursuant to Article 78 of the CPLR, directing defendants to respond to plaintiffs' Freedom of Information Law request dated June 13,


⁴ Plaintiffs intend to collect such judgment only to the extent of the actual costs of this litigation.

2024, in its entirety; (4) awarding fees and costs associated with the cause of action for enforcement of their FOIL request; and (5) awarding plaintiffs the costs and disbursements herein.

Dated: New York, New York
February 4, 2025

Yours, etc.,

KELNER & KELNER, ESQS.

By: 
Joshua D. Kelner
7 World Trade Center, Suite 2700
New York, New York 10007
(212) 425-0700

Carey R. Dunne
Kevin Trowel
Martha Reiser
FREE + FAIR LITIGATION GROUP
266 W 37th Street, 20th Floor
New York, New York 10018

VERIFICATION

JOSHUA D. KELNER, an attorney duly admitted to practice law in the State of New York, hereby affirms as follows under penalties of perjury:

I am associated with the law firm of KELNER & KELNER, ESQS., attorneys for the plaintiffs in the above-referenced action. I have read the foregoing **COMPLAINT** and known the contents thereof. The same is true to the best of my knowledge about belief, and as to those matters alleged upon information and belief, I believe them to be true. The reason this verification is made by the undersigned and not by the plaintiffs is that said plaintiffs do not reside in the county wherein the undersigned maintains his office.

Dated: New York, New York
February 4, 2025



JOSHUA D. KELNER