

The *Litigator*

Officials Ignore U.S. Supreme Court Rulings!

MSLF SUES TO ENFORCE 2ND AMENDMENT

On behalf of an Ohio woman, an Idaho law student, and a rural Colorado couple, MSLF is seeking to enforce the rulings of the Supreme Court of the United States in *District of Columbia v. Heller* (2008) and *McDonald v. Chicago* (2010) regarding the Second Amendment right “to keep and bear arms.”

Although the Supreme Court made clear the Second Amendment means what it says, applies to Washington, D.C., and applies, via the Fourteenth Amendment’s Due Process Clause to the States, federal agencies and state and local governments continue to resist full compliance. For example, following the Supreme Court’s rulings in *Heller* and *McDonald*, Washington, D.C. and Chicago respectively adopted burdensome new regulations making handgun ownership for self-defense all but impossible. MSLF is fighting back.

In Nevada federal district court, MSLF represents a University of Idaho law student in his challenge to a state law banning possession and discharge of a handgun for self-defense in a state park. Al Baker, an NRA-certified Home Firearms Safety & Basic Pistol Instructor who is licensed in Idaho, Utah, and Oregon to carry a concealed handgun, is also an avid outdoorsmen and camps in northern Nevada, a few hours south of his permanent residence in Boise. One of the camping areas he visits is the Wild Horse State Recreation Area in Elko, Nevada, which provides campsites and other primitive amenities and makes an ideal base camp for hunters, hikers, and

other outdoor enthusiasts. Mr. Baker has been advised that, if he brings a firearm for protection, he will be in violation of state law.

The Nevada Division of State Parks prohibits possession of firearms in state parks, with two narrow exceptions—an unloaded firearm inside a vehicle and a concealed handgun carried by a person licensed pursuant to Nevada law—and prohibits the discharge of firearms, with no exception for self-defense. Mr. Baker’s applications for a special use permit were denied.

In Illinois federal district court, MSLF represents an Ohio woman who travels frequently to Illinois to visit and to stay with friends who lawfully possess firearms, but who is barred from lawfully purchasing a firearm or ammunition because she is not an Illinois resident. Ellen Mishaga sued Jonathon E. Monken, the Director of the Illinois Department of State Police and the official responsible for issuing Firearms Owner Identification Cards (FOIDs); FOIDs are required before lawfully purchasing or possessing a firearm or ammunition. On April 30, 2010, and again on June 14, 2010, Mr. Monken denied Ms. Mishaga’s application for a FOID, stating, “No Illinois driver’s license number or state identification number provided.”

Among the requirements for a FOID for anyone over the age of eighteen is an Illinois driver’s license number or Identification Card number. Nonresidents are exempt from most FOID Act restrictions when hunting, target shooting, or if “licensed or registered to possess a firearm



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MOUNTAIN STATES LEGAL FOUNDATION

Executive Offices:
2596 South Lewis Way
Lakewood, Colorado 80227

303-292-2021
Fax 303-292-1980

www.mountainstateslegal.org

in their resident state”; however, a nonresident without a FOID cannot otherwise possess a functional firearm.

In Colorado, MSLF represents a rural couple who drive 25 miles roundtrip through the White River National Forest to the Avon Post Office because mail delivery is not available at their home. When Tad and Deborah Bonity, both of whom are licensed to carry a handgun and regularly carry a handgun for self-defense from wild animals and criminals, arrive in Avon, however, they are barred by federal regulation from carrying a firearm or parking their vehicle, if it contains a firearm, on Postal Service property.

MSLF advised the Postal Service that, if the regulation is not withdrawn, a challenge to its constitutionality will be filed. MSLF believes the Postal Service’s ban on firearms possession impairs Second Amendment rights because they cannot be exercised when individuals are traveling to, from, or through Postal Service property.

APPEALS COURT WIN IN STATE GUN CASE

A three-judge panel of the Colorado Court of Appeals ruled in favor of MSLF's clients, a national organization and three of its Colorado members, when it reversed an April 2009 ruling by an El Paso County state district court that the University of Colorado's (CU's) ban on students with concealed carry permits from carrying on campus is legal and constitutional. The appeals court held that Colorado's 2003 Concealed Carry Act (CCA) bars local regulations, including those by CU, that conflict with the CCA and that CU's ban, as applied to guns in vehicles is unconstitutional. Declared the Court of Appeals, "Had the legislature intended to exempt universities, it knew how to do so."

Students for Concealed Carry on Campus (SCCC), a national advocacy group with 35,000 members, which supports legalization of concealed



carry by licensed persons on college campuses, and CU-Colorado Springs alumnus Eric Mote, former CU-Denver student Martha Altman, and CU-Colorado Springs student John Davis, all filed their lawsuit in December 2008. The appeal was argued March 23, 2010, two weeks after a Denver television station reported a "rash of violence" on CU's Auraria Campus and issued a "warning" that "several people were attacked and robbed on campus or inside their dorm rooms," including "two students... stabbed with a hatchet."

The CCA requires concealed handgun permit applicants to undergo an extensive background check to ensure they have no history of substance abuse or criminal activity, are not subject to a protection order, and have demonstrated competency with a handgun.

DOUBLE YOUR MSLF GIFT! TELL THE BOSS

Did you know that you might be able to double your gift for free? Thousands of companies match their employee's charitable contributions. Matching gifts play a key role in helping MSLF fight its court battles. Please ask if your employer has a matching

gift program. Contact your human resources or personnel department to see if your company will match your gift to MSLF. Then, each time you mail your gift, please include a matching gift form from your employer. MSLF will do the rest!

WEB PAGE POLL

Visitors to MSLF's website at www.mountainstateslegal.org responded to the following question: "A federal court ordered a rural county to racially gerrymander commissioner districts to guarantee the election of an American Indian. Is this constitutional?" One hundred percent (100%) said, "No: The Supreme Court has made clear that any use of the Voting Rights Act in this way may be unconstitutional." Zero percent (0%) said, "Yes: Under the Voting Rights Act, creation of such minority-majority districts is needed to ensure the right result."

Vote on the new question at MSLF's web site today!

Remember, the best way to keep abreast of MSLF's precedent-setting, national-significant litigation is to check MSLF's highly acclaimed website. MSLF's website is updated at least every week and often daily. In particular, check for updates on MSLF's "Legal Cases" and "Press Releases."

PENDLEY'S VIEW

In 1996, when the U.S. Court of Appeals for the Fifth Circuit ruled the University of Texas Law School's use of race to grant admission unconstitutional, Texas enacted a law granting automatic admission to any of the state's public colleges or universities to Texas students in the top 10 percent of their high school class; minority enrollment soared. Nonetheless, after the U.S. Supreme Court ruled in *Grutter v. Bollinger* that universities could use racial preferences for admission for another 25 years, the University of Texas reinstated its race-based plan. As a result, two Texas coeds were denied admission; in April 2008, they sued. In August 2009, a Texas federal district court ruled for the University; the Texans appealed. The question now is whether *Grutter* squares with the Supreme Court's equal protection jurisprudence. It does not!

In 1995, the Supreme Court, in *Adarand Constructors, Inc. v. Peña*, reversed its opinion in *Metro Broadcasting, Inc. v. FCC*, decided five years earlier, which had authorized the use of racial quotas by federal agencies, because, in the words of Justice O'Connor, "the Court took a surprising turn" that "undermined important principles of this Court's equal protection jurisprudence, established in a line of cases stretching back over 50 years. . . ." Like *Metro Broadcasting*, *Grutter* took the same "surprising turn" by "undermin[ing]" the most "important principle[]" of equal protection jurisprudence, that is, application of "strict scrutiny." Thus, instead of viewing racial classifications with skepticism and demanding that their use be justified, *Grutter* presumed that a law school's use of racial preferences to grant admission was constitutional by assuming that the school had a compelling interest and that it had acted in good faith.

The Fifth Circuit and then the Supreme Court should rule that *Grutter* is a constitutional aberration and set it aside.

TRIBAL COURT JURISDICTION IS LIMITED

At the specific request of the Navajo Supreme Court, MSLF filed a friend of the court brief with the court regarding a tribal court ruling in a civil lawsuit filed by tribal members against non-Indians for allegedly torturous conduct on a federal highway within the

Navajo Nation. MSLF advised that an examination of the Navajo Treaty of 1868 and the various rulings of the Supreme Court of the United States as to the authority of American Indian tribes over non-Indians demonstrates that the Navajo District Court lacks jurisdiction over non-Indians. Specifically, MSLF urged that the Navajo Supreme Court reverse the ruling below, overturn an erroneous ruling of the Navajo Supreme Court on which that court relied, and bar the District Court from hearing the lawsuit filed against the non-Indians.

On September 21, 2004, an automobile/tour bus accident occurred within

the Navajo Nation on U.S. Highway 160, near Kayenta, Arizona. The bus passengers had stayed overnight at a hotel on Navajo Nation land, and the following day, had left the hotel. As the bus proceeded westward on Highway 160, it collided head on with a 1997 Pontiac that contained two members of the Navajo Nation. One of the Navajo passengers was killed and the other passenger was injured. The survivor and relatives filed a lawsuit seeking compensatory and punitive damages against the bus owners, operators, driver, and insurance company—all non-Indians—in the District Court of the Navajo Nation for the Kayenta District.

Those sued filed a motion to dismiss the lawsuit, alleging a lack of subject matter jurisdiction, which was denied. They then filed a petition asking the Navajo Supreme Court to bar the District Court from proceeding with the case.



SPECIES LAW VOID!

Use of the Endangered Species Act (ESA) to restrict water flows to protect the delta smelt, a three-inch fish, is unconstitutional, MSLF advised the U.S. Court of Appeals for the Ninth Circuit, because the fish does not substantially affect interstate commerce. The *Wall Street Journal* reports that, on orders from the U.S. Fish and Wildlife Service (FWS), “tens of billions of gallons of water” have been sent into the ocean, “leaving hundreds of thousands of acres of arable land fallow or scorched” in California’s San Joaquin Valley. Unemployment in formerly fertile farming areas ranges from 14 to 40 percent.

MSLF argues that the Constitution’s Commerce Clause restricts the authority of Congress and, because the FWS made no finding that “taking” the delta smelt substantially affects interstate commerce, its action is unconstitutional.

The case was brought by Pacific Legal Foundation (PLF), which represents a number of water users adversely affected by the FWS’s decision.

SUPREME COURT FIRES WARNING SHOT: STRIKES DOWN LAW

In what may be a foreshadowing of future rulings regarding acts of Congress, the Supreme Court of the United States struck down a provision of the Sarbanes-Oxley Act as unconstitutional, consistent with MSLF’s friend of the court brief. In a 5-4 ruling, the Court accepted the reasoning of the dissenting judge from the District of Columbia Court of Appeals that the Act violates the Constitution. MSLF had urged the Court both to review a 2-1 Court of Appeals ruling and to rule consistent with the opinion of the dissenting judge.

MSLF, which had filed a brief at the Court of Appeals, argued that Section 404, which created an accounting oversight panel, violates the Appointments Clause. Section 404 of Sarbanes-Oxley Act—passed by Congress following scandals regarding publicly held corporations—and

its burdensome audit requirements have been the cause of market distortion. MSLF had argued that there is no constitutional basis for “independent agencies” or Congress’s “quasi” powers.” Although the Court did uphold the Act, after severing its unconstitutional provisions, the Court rejected the government’s argument that the Act was a “practical accommodation between the Legislature and the Executive that should be permitted in a ‘workable government’” due to “the era’s perceived necessity.”

In 2002, Congress passed the Act and created the Public Company Accounting Oversight Board (PCAOB) to oversee audits of public companies. The five members of the PCAOB are appointed by the Securities and Exchange Commission (SEC), which vests the PCAOB with certain duties. All PCAOB rules must be approved by the SEC.



In February 2006, the Free Enterprise Fund, a nonprofit, public-interest organization, and Beckstead & Watts, a small Nevada accounting firm, challenged the law alleging that the Act violates: (1) the separation of powers principal; (2) the Appointments Clause; and (3) the non-delegation doctrine.

On January 5, 2009, Supreme Court review was sought and was granted on May 18, 2009.

KEEP READING!

The Litigator, MSLF’s quarterly newsletter, is the indispensable tool for staying informed regarding the latest in MSLF’s precedent-setting, nationally-significant, public-interest litigation. *The Litigator* is mailed on the first of February, May, August, and November. **Ensure that you keep receiving *The Litigator* by contributing \$25 annually.**

CHARITABLE GIFT ANNUITY—A FINE GIFT

A charitable gift annuity (CGA) is a contract between MSLF and a donor under which MSLF agrees to pay a fixed amount periodically for the lifetime of one or two named individuals, in exchange for a contribution to MSLF. The amount of the payment is fixed at the time the contribution is made and cannot be changed; most often the amount is set based on the rates recommended by the American Council on Gift Annuities (ACGA). Payments may begin immediately or be deferred but must be made at least annually; however, they can be made more often; in fact, quarterly is a common payment schedule. The payments are taxed in one of three ways: tax-free; as capital gain income if funded with appreciated property; and as ordinary income. A CGA may be regulated by the state in which the donor resides.

Assumptions:

| | |
|----------------------------|-----------|
| Annuitant (Donor) Age..... | 72 |
| Principal Donated..... | \$10,000 |
| Cost Basis | \$10,000 |
| Annuity Rate | 5.9% |
| Payment Schedule..... | quarterly |

Charitable Deduction:\$3,909

Annuity:

| | |
|-----------------------|-------|
| Tax-free Portion..... | \$420 |
| Ordinary Income..... | \$170 |

After 14.5 years, the entire annuity becomes ordinary income. Income tax regulations and estate tax laws are complex and vary state to state. PLEASE consult a tax advisor before making any decision.

ACT NOW: REMEMBER MSLF IN YOUR WILL

Suggest this bequest language to your attorney:

"I [name], of [city, state, ZIP] give, devise and bequeath to Mountain States Legal Foundation (MSLF), (tax identification number 84-0736725) 2596 South Lewis Way, Lakewood, Colorado 80227, [written dollar amount or percentage of the estate or description of the property] to continue its mission to protect and preserve individual liberty, the right to own and use property, limited and ethical government, and the free enterprise system."

When you add MSLF to your will, be sure to tell us! We want to thank you by adding your name to MSLF's Legacy Society wall plaque.

GIVING: LIFE ESTATE

A great gift to MSLF that does not often come to mind is the contribution of a donor's personal residence or farm while retaining a right to live on the property for the donor's lifetime; that is, a "retained life estate."

The donor receives an instant income tax deduction for the value of the remainder interest in the real property that was contributed to MSLF; however, the donor continues to be responsible for routine expenses regarding the property.

NEED TO DRAFT OR REVISE YOUR WILL?

More than 60 percent of adults living in households with children do NOT have wills. You need one if:

- You are married;
- You have minor children or ailing parents;
- Your entire estate is valued at more than \$50,000;
- You own real estate;
- You own a business;
- You support MSLF!

You need to revise your will if there have been changes in any of the following:

- Marital status;
- Desired executor / guardian;
- Finances;
- Beneficiaries;
- Place of residence;
- Tax laws;
- Children's financial needs;
- Degree of support for MSLF!

HELP MSLF FIGHT FOR FREEDOM: JOIN THE LEGACY SOCIETY

Name _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ Cell Phone _____ E-Mail _____

- Send me FREE information on Planned Giving.
- Call me! I have planned giving questions.
- I have added MSLF to my estate plans. Put my name on the plaque.
- Send me the MSLF E-Newsletter.

Mail to: MSLF, 2596 SOUTH LEWIS WAY, LAKEWOOD, CO 80227

Mountain States Legal Foundation (MSLF) Is A Nonprofit, Public-Interest Law Firm, Certified As A 501(c)(3) Organization Since Its 1977 Founding.

Therefore, Your Generous Contributions to MSLF Are Tax Deductible!

- Fact** MSLF receives no government funds (except when it wins in court and the judge orders the federal government to pay attorneys' fees and expenses).
- Fact** MSLF's sole source of support is the tax-deductible contributions of those who support its aggressive litigation program.
- Fact** MSLF is a nonprofit, public-interest I.R.C. 501(c)(3) corporation, which makes the contributions it receives tax deductible.
- Fact** MSLF is committed to the vision of the Founding Fathers: individual liberty, the right to own and use property, limited and ethical government, and the free enterprise system.
- Fact** MSLF's commitment to the Constitution ensures that America remains a nation of laws and not of men and that the rich liberty legacy of this nation continues.
- Fact** MSLF does only one thing: it goes to court in defense of the Constitution, strict adherence to the laws of the land, and those who cannot afford to hire legal counsel to protect their rights.
- Fact** Only YOU can ensure that MSLF may continue its vital work.

Problem ➤ Federal, state, and local taxes take an ever-increasing share of one's income.

Solution ➤ Gift giving decreases taxes while advancing charitable goals.

Reason ➤ At a time when many mechanisms for legally lowering taxes have been eliminated, the opportunities for reducing taxes by planned charitable giving have been increased!

The Means ➤ **Income Tax** – Each year a person may deduct as much as 50 percent of his or her adjusted gross income (AGI) for gifts of cash to a qualified charity; that limit is only 30 percent for gifts of appreciated property.

Estate Tax – A person who died in 2009 is entitled to an exclusion of up to \$1,000,000; however, estates in excess of that amount may deduct charitable gifts, by will or trust. Because federal estate taxes over \$1,000,000 range from 37 percent to 50 percent, for every charitable gift of \$1,000, the estate saves up to \$500 in taxes. Please consult your tax adviser.

Stock Transfer Information ➤ Contributions of stock can be made electronically to MSLF's brokerage account DTC 0164. When transferring stock, indicate acct. #7080-3528, Charles Schwab & Co., 518 17th St., Suite 100; Denver, CO 80202. (Derek Tuz 303-260-5916; Fax: 303-260-5911). **Please notify MSLF BEFORE making the transfer; there is no way to identify a stock donor without prior notification.**

MSLF CANNOT REST; ITS ROLE ESSENTIAL TO REMAINING FREE

In 2010, MSLF will have been going to court for 33 years, fighting to compel compliance with the commands of the Constitution and federal law to ensure that America remains a nation of laws. At no time during these three decades has the need for MSLF to go to court on behalf of those who could not afford legal representation been lessened. In fact, as the federal bureaucracy has grown and as federal laws have become more far-reaching and intrusive, MSLF's caseload has increased dramatically. That is obvious from a review of the scores of MSLF cases.

Your Support Is Vital

If there is one lesson MSLF has learned over the past 33 years, it is that, regardless of which party occupies the White House or controls Congress, the threat to liberty remains and MSLF must be ready, willing, and able to go to court to defend freedom. As Thomas Jefferson once said, "Eternal vigilance is the price of liberty." One of the prices that must be paid for MSLF to remain vigilant is the price that tens of thousands of Americans pay annually by making their tax-deductible contributions to MSLF and its litigation.

The support of MSLF by tens of thousands of Americans committed to freedom could not be more important. Your support will ensure that MSLF remains IN THE COURTS FOR GOOD!

Yes! I want to help MSLF in its brave fight to ensure the guarantees of the U.S. Constitution and to preserve the rule of law throughout the land!

- Enclosed is a tax-deductible contribution of \$25. Please keep sending me *The Litigator!*
- Enclosed is a tax-deductible contribution of \$ _____ to help MSLF in its courtroom battles.
- Enclosed is a tax-deductible contribution of \$ _____ for MSLF's Endowment Fund.
- PLEASE send me information on planned giving.

Name _____

Street _____

City _____ State _____ Zip _____

Day Phone (_____) _____ E-mail Address _____

MSLF FIGHTS OVER ACCESS TO MONUMENT

In January 2001, President Clinton used the Antiquities Act of 1906 to designate 375,000 acres of federal land in Montana managed by the Bureau of Land Management (BLM) as the Upper Missouri River Breaks National Monument. All of these lands were thus withdrawn from operation of the General Mining Law and oil, gas, and geothermal leasing. Grazing and other uses remained unchanged and "valid existing rights" were protected.



In December 2008, the BLM issued a Resource Management Plan (RMP) for the Monument, which authorized continued oil and gas development but barred new leases; allowed continued

motorized boat use along the river corridor; recognized 400 miles of roads (and permits off-road camping and travel within 100 feet of roadway); recognized six airstrips; authorized limited animal damage control; permitted development of new recreational facilities; authorized rights-of-way and utility corridors; and recognized grazing as an authorized use. In April 2009, the BLM implemented the RMP, whereupon environmental groups sued the BLM.

On behalf of an assortment of interested groups and entities, MSLF has intervened in the lawsuit to fight for their access and property rights.

FAMILY FIGHTS ON

A young New Jersey family fighting against an outrageous lawsuit filed by the National Park Service (NPS) draws closer to being able to enter a federal court and demand that title to the property be quieted in the family's name. Matthew and Aaron Hull and Matthew's wife, Michelle, of Layton, New Jersey, who were sued after they erected gates across Old Mine Road, which bisects the Hulls' property for 300 yards and passes within 20 feet of their house, to keep trespassers off their land, are represented by MSLF.



Discovery has ended in the case, which was filed in New Jersey federal district court. The NPS argues the road is property of the United States.

FREMONT COUNTY LOSES ITS RACIAL GERRYMANDER LAWSUIT

Despite the election in November 2006 of an American Indian Commissioner, a Wyoming federal district court ruled that the manner in which Fremont County elects its commissioners, that is, in accordance with state law, violates Section 2 of the federal Voting Rights Act (VRA).

In so ruling, the district court rejected arguments made by Fremont County that American Indians are able to participate equally in the political process and to elect candidates of choice on an equal basis with non-Indians. Instead, the court held that, due to the vestiges of past racial discrimination and racial bloc voting, American Indians were not able to participate equally. The district court directed Fremont County to create single-member commissioner districts, with at least one district containing an effective voting majority of American Indians, to be submitted to the district court for approval.

Fremont County elects its Commissioners at-large in partisan races in accordance with Wyoming law. The County's population consists of 75 per-



cent non-Hispanic Whites and 20 percent American Indians. Historically, the commissioners have been mostly Republicans given that 60 percent of the County's registered voters are registered as Republicans; however, in November 2006, an American Indian Democrat was elected to the Board of County Commissioners.

The lawsuit, filed on October 20, 2005, by the American Civil Liberties Union (ACLU), on behalf of five Eastern Shoshone and Northern Arapahoe tribal members, is one of several filed by the federal government and the ACLU in the Mountain West against rural, sparsely populated, farming, or ranching counties.

Fremont County argued that the use of at-large elections did not violate the VRA because there was no evidence of invidious discrimination or racial bias in the electorate and because electoral defeats suffered by American Indian candidates could be explained by partisanship. In addition, Fremont County argued that American Indians in Fremont County, consisting of two tribes and two tribal governments, are not politically cohesive nor do they have distinctive and unique political interests that may be

addressed by the commissioners. Fremont County also faulted the testimony of the ACLU's "expert" witnesses, which Fremont County's experts had discredited, especially regarding: the relevance of past discrimination by the United States, the impact of past discrimination on current voting behavior, and the relationship between socio-economic disparities and voting. Finally, Fremont County pointed to various electoral successes enjoyed by American Indian candidates including the election of Commissioner Whiteman in 2006.

According to media reports, Ms. Keja Whiteman of Arapahoe, an enrolled member of the Turtle Mountain Band of Chippewa, social worker, mental health advocate, policy consultant, and former school board member who is active in 4H and barrel racing, was successful because her campaign went throughout the county to Dubois, Lander, Riverton, Shoshoni, and Pavillion. Fremont County argued that such campaigning is essential to success for any candidate, regardless of race or party affiliation.

No decision regarding an appeal to the Tenth Circuit has been made by Fremont County.

LEGAL



ACTION

- The Interior Board of Land Appeals (IBLA) has ordered the Bureau of Land Management (BLM) to virtually “stand and deliver” as to the claims filed by an Alaska family that its valuable mining claims were illegally terminated by the BLM.
- The U.S. Court of Appeals for the District of Columbia has ruled against Montana miners whose valuable claims were invalidated on the testimony of an “expert” whose expertise was challenged by MSLF.
- A disabled miner living on fixed income who prevailed, against all odds against an attempt by federal officials to remove him from his mining claim filed a lawsuit seeking payment of his legal fees and expenses under the Equal Access to Justice Act (EAJA) after his claim for reimbursement was denied by the IBLA.
- The Montana Petroleum Association challenged the qualifications of an “expert” who seeks to testify on behalf of environmental groups in a lawsuit challenging continued oil and gas leasing in eastern Montana.
- The appeal by a Wyoming couple whose land is coveted by the U.S. Forest Service for construction of a high altitude bicycle trail was argued at the U.S. Court of Appeals for the Tenth Circuit.
- Several California miners whose mining claims were patented sued the U.S. Forest Service for its refusal to

permit them full use of their private property.

- The Obama Administration and environmental groups quietly settled a lawsuit filed by the groups demanding that the BLM conduct National Environmental Policy Act (NEPA) analysis regarding green house gases and ozone prior to any oil and gas leasing. On behalf of the Independent Petroleum Association of Mountain States (IPAMS), MSLF unsuccessfully challenged the sweetheart settlement.
- On behalf of a South Dakota couple whose valuable mining workings, including a shaft and adit, were either destroyed or barricaded, MSLF engaged in pre-trial discovery. The couple seeks recovery of the cost of restoring their property pursuant to the Federal Tort Claims Act.

NOTABLE



QUOTES

“Good luck in court.”

Brice Bender
Traverse City, MI

“Thank you so much for your monthly column.... PLEASE KEEP UP THE GOOD WORK!”

Betty Sue Edling
Canon City, CO

“How right you are. Don’t give up.”

Bob Beebe
Lake Montezuma, AZ

“[T]hanks for all you do, including boosting our morale.”

Ken & Ginny Brown
Herndon, VA

“Your legal actions to check our RULERS in Washington, D.C. are very much appreciated. God bless this Republic.”

Rod Dolph
Santaquin, UT

“Congratulations on your success with the Allegheny National Forest case.”

R.E. Smith, Jr.
Wilmington, NC

“May God bless you and yours and grant you the means to continue to carry the battle for those of us who can no longer do so.”

David A. Russell
Crestview, FL

“It is a pleasure to donate to your organization because of what you do and how effective you are.”

Arthur Matthews
Oklahoma City, OK

“Keep up the Great Work!”

Michael Oberndorf
Apache Junction, AZ

“We Americans need to recognize the precious freedoms we so cherish are not FREE.”

Kevin Paulson
Spokane, WA

“Keep up the good work.”

John Draper
Kremmling, CO

“Thank you for the recent Action Update.”
Marguerite A. Lane
Grand Rapids, MI

“[MSLF] attempts to preserve our freedoms!”

Robert Osmundson
Fort Collins, CO

“Thank you for your work.”

Nancy L. Emory
Pueblo, CO

“You ain’t nothing but a do-gooder. Keep it up!”

Robert B. Tenison
Abilene, TX

“Wish this could be more; you do such a great job for us.”

Rhee Lathrop
Lostine, OR

MSLF AIDS IN U.S. SUPREME COURT 2ND AMENDMENT VICTORY

On behalf of two Colorado gun-owner groups, MSLF helped to ensure the victory won when the Supreme Court of the United States ruled, 5-4, that the Second Amendment right to “keep and bear arms” applies against the States via the Fourteenth Amendment. Rocky Mountain Gun Owners (RMGO) and the National Association for Gun Rights (NAGR), both Colorado corporations, had filed a friend of the court brief arguing that the Supreme Court’s earlier holdings that the Second Amendment applies only to the federal government were overturned by the Supreme Court’s 2008 ruling in *District of Columbia v. Heller*. RMGO, Colorado’s largest state-based gun lobby, is dedicated solely to protecting the natural right to keep and bear arms by way of grass-roots and professional lobbying; NAGR assists state-based gun-rights organizations by providing information and lobbying support nationally and in Washington, D.C. On their behalf, MSLF argued, in its *amici curiae* brief, that westerners believe that gun rights are a fundamental liberty that has always applied to the States.

In fact, Justice Alito, in writing for the majority, cited to MSLF’s brief for the following proposition: “In the frontier towns that did not have an effective police force, law enforce-

ment often could not pursue criminals beyond the town borders.” Whereupon, Justice Alito concluded, “[I]t is clear that the Framers and ratifiers of the Fourteenth Amendment counted the right to keep and bear arms among those fundamental rights necessary to our system of ordered liberty.”

The Constitution’s Second Amendment provides, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.” In its ruling against Washington, D.C., the

Supreme Court held that the Second Amendment protects the individual’s right to keep and bear arms for self-defense by striking down a

Washington, D.C. law because the law banned handgun possession and required other firearms to be kept locked and unloaded. (MSLF filed a friend of the Court brief in that case on behalf of the would-be gun owners.)

With that ruling, the Court doomed its

19th-century holdings that the Second Amendment applies only to the federal government and is not incorporated against the States by way of the Fourteenth Amendment. When the U.S. Court of Appeals for the Seventh Circuit refused to apply the Second Amendment to Illinois, the Supreme Court, in September 2009, agreed to review the ruling.



2596 South Lewis Way
Lakewood, Colorado 80227

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William Perry Pendley

VICE PRESIDENT AND CHIEF LEGAL OFFICER

Steven J. Lechner

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