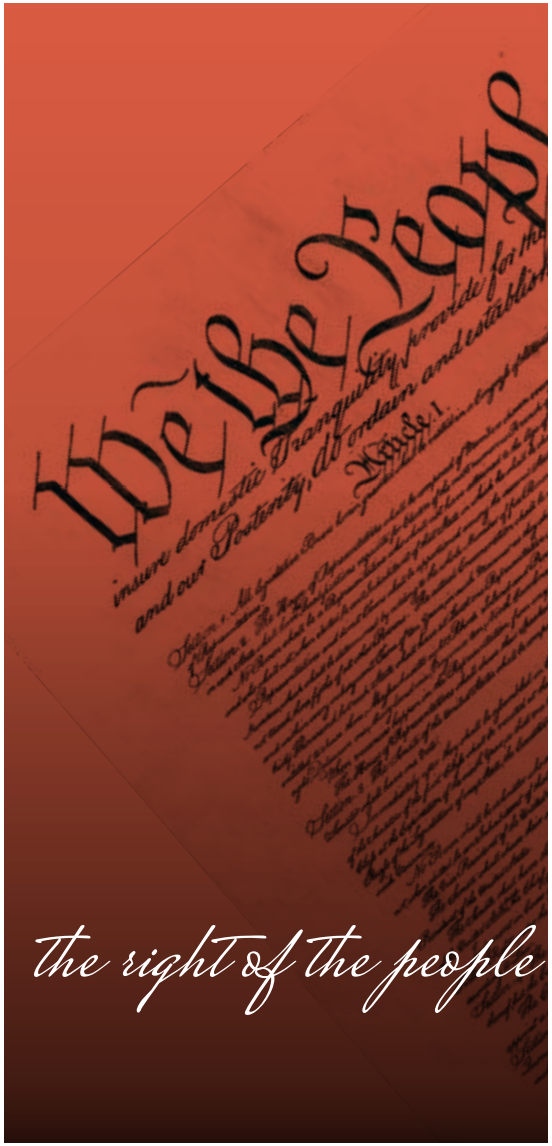
NRA
CIVIL RIGHTS
DEFENSE FUND



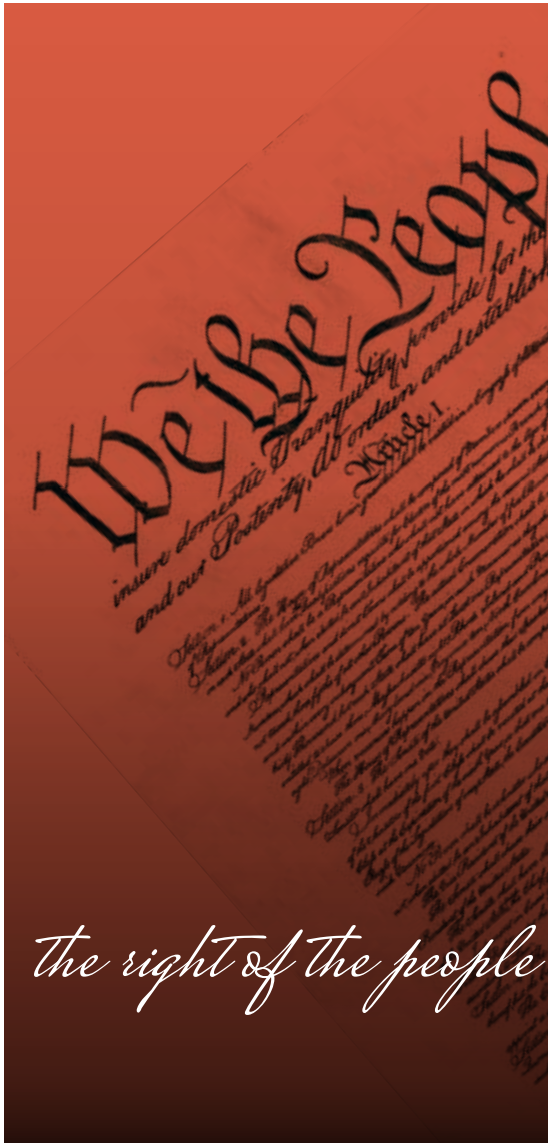
ANNUAL REPORT 2019

The NRA Civil Rights Defense Fund, a tax-exempt 501(c)(3) fund founded by former NRA Director George S. Knight, has supported more than 1,000 cases involving the civil rights of firearm owners, including New Orleans' gun confiscations in the aftermath of Hurricane Katrina; and the landmark Second Amendment cases, *D.C. v. Heller*; and *McDonald v. Chicago* on whether the Second Amendment applies to the state and its local government.

If you would like more information about CRDF legal activities, contact NRA CRDF, 11250 Waples Mill Road, Fairfax, VA 22030-9400 or call 703-267-1250.

To make your tax-deductible contribution, please make checks payable to NRA CRDF. Mail your tax-deductible contribution to NRA CRDF, P.O. Box 1884, Merrifield, VA 22116-9717 or make an online contribution through our secure server by visiting us online at www.nradefensefund.org.

NRA
CIVIL RIGHTS
DEFENSE FUND



the right of the people

to keep and bear arms

shall not be infringed.

ANNUAL REPORT **2019**

FROM THE CHAIRMAN

The NRA Civil Rights Defense Fund works diligently to secure justice for law-abiding gun owners all across America. As a supporter of the Fund, you have our deep gratitude for making this precedential work possible. The activities of the Fund speak clearly to the dedication of the Fund Trustees in answering the mandate of the Board of Directors of the National Rifle Association of America when it created the Fund in 1978.

In the Litigation Activities section of this report, review the dozens of cases supported by the Fund in 2019 to correct the injustice that exists in our laws today.

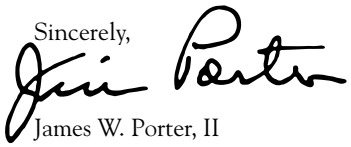
In addition to our case law work, we continue to reach citizens in all walks of life with the help of our research programs, grants and writing contest awards. Each year, our writing contests are held at junior and senior high school levels. Additionally, we distribute thousands of pertinent books and articles to libraries and individuals. Through these ongoing efforts we educate and help shape the opinions of students, lawyers, legislators and everyday citizens.

The Fund must continue to meet the present and future challenges certain to rise threatening our constitutional right to keep and bear arms. You can support the Fund's work through direct donations, estate planning, or through the Combined Federal Campaign (CFC) or United Way payroll deductions. Our CFC number is 10006.

Please take the time to share this 2019 annual report with your friends and family. Ask them to step forward and make a commitment to secure their civil right to keep and bear arms across America.

On behalf of the Board of Trustees, and the millions of law-abiding gun owners across America, thank you for your support of the NRA Civil Rights Defense Fund.

Sincerely,



James W. Porter, II
Chairman

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The NRA Civil Rights Defense Fund was established by the NRA Board of Directors in 1978 to become involved in court cases establishing legal precedents in favor of gun owners.

To accomplish this, the Fund provides legal and financial assistance to selected individuals and organizations defending their right to keep and bear arms.

Additionally, the Fund sponsors legal research and education on a wide variety of gun-related issues, including the meaning of the Second Amendment and nature of the right to keep and bear arms provisions in state constitutions.

Tax-Exempt Status The Fund is a charitable/educational entity which has been granted tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. Donations are tax-deductible for federal income tax purposes.

Financial Information The financial records of the Fund are audited annually by a Certified Public Accountant as required by the Bylaws of the Fund. RSM US performed the audit for the year ended December 31, 2018.

Which Cases are Accepted? The NRA Civil Rights Defense Fund supports litigation involving significant legal issues relating to the right to keep and bear arms.

Among the Fund's activities are:

- **Defense of persons** charged with criminal violations of federal, state, and local laws that prohibit the acquisition or possession of firearms by peaceful and honest Americans;
- **Civil challenges** to federal, state, and local laws that prohibit a law-abiding citizen or class of citizens from possessing or using firearms;
- **Opposition** to unlawful forfeitures of firearms seized by federal, state or local authorities in violation of the Fourth, Fifth or Fourteenth Amendments;
- **Civil actions** against federal, state, and local authorities who, while enforcing unfair gun laws, violate citizens' rights under the First, Second, Fourth, Fifth, Sixth, and Fourteenth Amendments;
- **Challenges** to administrative interpretations of federal, state and local laws that infringe the right to keep and bear arms guaranteed by the Common Law, the Constitution of the United States, or the constitutions of various states;
- **Challenges** to administrative actions denying or restricting a citizen's right to possess or carry firearms.

The NRA Civil Rights Defense Fund makes numerous grants for legal assistance throughout the year for the representation of individuals and organizations where issues in litigation are directly related to the preservation of the human, civil, and constitutional rights of the individual to keep or bear arms. The attorneys representing the applicants for funding provided the below summarized information regarding these cases. Some of the cases granted money in 2019 include:

ALASKA

John Sturgeon v. Bert Frost, in His Official Capacity as Alaska Regional Director of the National Park Service, et al The applicant, Mr. John Sturgeon, has sued the National Park Service in Alaska to prevent it from imposing restrictive federal regulations on lands and waters not owned by the federal government. The applicant has used a hovercraft to traverse the Nation River—a navigable river where the State of Alaska owns the submerged lands and waters—as a part of his moose hunts in Alaska since 1990. In 2007, Mr. Sturgeon was using a small hovercraft to traverse the waters of the Nation River on a moose hunting trip in the Alaska wilderness, and was on an area of the Nation River surrounded by the federal Yukon-Charley National Preserve. Mr. Sturgeon was stopped by two National Park Service rangers and notified that federal regulations prohibited the use of hovercrafts on federal land. Mr. Sturgeon argues that since the Nation River is navigable, it is state land, and per the Alaska National Interest Land Conservation Act of 1980 ("ANILCA"), it is not subject to federal regulation.

According to the applicant's attorney, this was a…compromise [which] addressed land owned by the State of Alaska, Alaska Native Corporations, or private individuals, that was about to be surrounded by the new ANILCA parks and preserves. The agreement was that these non-federal lands would not be part of the new ANILCA parks and in no way would be subject to federal regulation....The Federal Government did not keep its side of the bargain.

This prohibition on NPS regulating non-federal lands within national parks and preserves in Alaska was set forth in ANILCA Section 103(c) which provides: Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after December 2, 1980, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly. 16 U.S.C. § 3103(c).

While the National Park Service did not initially appear to contest such an interpretation after the passage of the ANILCA in 1980, the National Park Service revised its regulations concerning non-federal waters within the boundaries of National Park lands in 1996. The revised regulations covered all waters within the boundaries of the National Park system in Alaska, irrespective of other ownership interests. 36 C.F.R.§1.2(a)(3). This revision resulted in the federal government's ban on hovercraft use within National Parks being extended to the section of the Nation River in question.

Mr. Sturgeon filed a lawsuit seeking to have the above regulation declared invalid in Alaska, alleging that it violates the ANILCA prohibition on the National Park Service subjecting non-federal lands within Alaska to federal regulation. The case was litigated in the United States District Court for the District of Alaska, where Mr. Sturgeon lost. He appealed to the Ninth Circuit Court of Appeals. The Court of Appeals also ruled against Mr. Sturgeon. Certiorari was granted by the United States Supreme Court in October 2015, and the case was briefed and argued on January 20, 2016. In June 2016, this matter was remanded to the Ninth Circuit.

On October 25, 2016, oral argument on remand was held before the United States Court of Appeal for the Ninth Circuit. The State of Alaska was also granted argument time as an amicus. On October 2, 2017, the United States Court of Appeal for the Ninth Circuit ruled against the applicant. On January 2, 2018, the applicant file a petition for certiorari with the United States Supreme Court. Certiorari was granted by the United States Supreme Court. On March 26, 2019, the United States Supreme Court, reversed and remanded, holding that: (1) The Nation River is not public land for purposes of ANILCA; (2) Non-public lands within Alaska's national parks are exempt from the Park Service's ordinary regulatory authority, and that the effect of that exclusion is to exempt non-public lands, including waters, from Park Service regulations; (3) Navigable waters within Alaska's national parks are exempt from the Park Service's normal regulatory authority.

ANILCA, like much legislation, was a settlement. The statute set aside more than a hundred million acres of Alaska for conservation. In so doing, it enabled the Park Service to protect—if need be, through expansive regulation—"the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska." 16 U. S. C. §3101(d). But public lands (and waters) was where it drew the line—or, at any rate, the legal one. ANILCA changed nothing for all the state, Native, and private lands (and waters) swept within the new parks' boundaries. Those lands, of course, remain subject to all the regulatory powers they were before, exercised by the EPA, Coast Guard, and the like. But they did not become subject to new regulation by the happenstance of ending up within a national park. In those areas, Section 103(c) makes clear, Park Service administration does not replace local control. For that reason, park rangers cannot enforce the Service's hovercraft rule on the Nation River. And John Sturgeon can once again drive his hovercraft up that river to Moose Meadows. This matter may now be considered closed.

CALIFORNIA

Duncan, et al. v. Becerra This case was filed in May 2017, in response to both a state bill and Proposition 63 that placed a ban on the possession of magazines that have a capacity of more than ten (10) rounds. The lawsuit challenges California's regulatory scheme against standard capacity magazines on the grounds that it violates the Second Amendment, Due Process Clause, and Takings Clause of the United States Constitution. In June 2017, the trial court issued an order staying enforcement of the possession ban while the case is being litigated. The State appealed the preliminary injunction order to the Ninth Circuit, but the District Court rejected the State's request to stay the case pending appeal. Briefing of the appeal was completed and oral argument was heard on May 14, 2018. On July 17, 2018, the Ninth Circuit affirmed the temporary injunction order. In the District Court, plaintiffs filed a motion for summary judgment, which was argued on May 10, 2018. On March 29, 2019, the District Court issued a ruling in favor of the plaintiffs and permanently enjoined the California magazine ban. California appealed to the United States Circuit Court for the Ninth Circuit. The case is now fully briefed. Oral argument has not yet been scheduled.

Duncan v. Becerra An amicus brief on behalf of the National African American Gun Association, Inc. and Pink Pistols was filed on September 20, 2019. Please see case description above.

Flanagan, et al. v. Becerra, et al. (formerly **Flanagan, et al. v. Harris, et al.)** On August 17, 2016, in the aftermath of the *Peruta en banc* decision by the Ninth Circuit Court of Appeals, a lawsuit was filed in the United States District Court for the Central District, Western Division, of California. The lawsuit seeks to force the court to decide whether or not California's entire regulatory scheme prohibiting both open and concealed carry violates the Second Amendment. The State and Sheriff both filed motions to dismiss the claims concerning concealed (but not open) carry and the Equal Protection claims. Oppositions to the motions were filed. The court granted the motions to dismiss in light of *Peruta*. The case continued, but only the Second Amendment open carry claims were considered by the lower court. Both parties filed motions for summary judgment, which were argued on November 6, 2017. The Court ordered supplemental summary judgment briefs on November 6, 2017. Those briefs were filed on November 13, 2017. In May of 2018, the District Court granted the State's motion for summary judgment. Plaintiffs appealed the case to the Ninth Circuit. The case was petitioned for en banc review. It was then stayed pending the *Young v. Hawaii* appeal, which case is stayed pending a decision in the *New York State Rifle and Pistol Association, et al v. City of New York, et al.* case.

Gurbir S. Grewal and Paul R. Rodríguez v. James Tromblee, Jr. d/b/a U.S. Patriot Armory, Jane and John Does 1-20, and XYZ Corporations 1-20 The applicant is a small business owner in California who sells firearms related parts and accessories. Among other firearms-related goods, the applicant advertises and sells 80% receivers, as well as parts kits which enable a purchaser to finish the 80% receiver into an unserialized firearm. These parts kits are legal to purchase and sell under federal law in all 50 states. New Jersey is the only state that prohibits the manufacture of a firearm for personal use without a manufacturing license, however, the applicable law does not regulate the sale of 80% receivers. The New Jersey Attorney General filed a lawsuit against the applicant alleging that the applicant violated the New Jersey Consumer Fraud Act. The New Jersey Attorney General alleges that the failure to disclose the following constituted consumer fraud: (1) that it is unlawful in New Jersey to purchase an 80% Receiver with the purpose of finishing it into a completed firearm and (2) that it is unlawful to assemble the receiver into a configuration that would violate New Jersey's 'assault firearms' law. The applicant recently filed a motion to dismiss the complaint for failure to state a claim. "In an oral opinion, the Court expressed concern over the breadth of the theory of the case (and also that the AG appeared to be proceeding purely vindictively against a defendant that had already agreed to cease all sales to New Jersey) but denied the motion without prejudice in order to permit discovery." Discovery is proceeding.

Rhode, et al. v. Becerra California enacted ammunition sales restrictions, including requirements that all sales be conducted via face-to-face transactions, all ammunition sales be recorded with California's Department of Justice, and purchasers undergo a background check. On April 26, 2018, a lawsuit was filed in the United States District Court for the Southern District of California challenging these restrictions on Second Amendment, Commerce Clause, Equal Protection Clause, and federal preemption grounds. California brought a motion to dismiss the Commerce Clause, Equal Protection, and federal preemption claims; but not the Second Amendment claim. In June 2018, the trial judge denied the State's motion to dismiss on all but the Equal Protection claim. On July 22, 2019, due to reported problems with the background check system, plaintiffs filed a preliminary injunction motion. The parties have since filed a joint status report requesting that all discovery deadlines be postponed until a ruling on the preliminary injunction motion and that the court rule without holding an evidentiary hearing after allowing the State an opportunity to respond to plaintiffs' supplemental brief. A response from the court to those requests is expected any day. This case is currently on appeal to the United States Circuit Court for the Ninth Circuit.

Rupp, et al. v. Becerra This suit was filed in April of 2017, in response to two bills, both of which redefine California's "assault weapon" restrictions to include certain firearms that were previously required to be equipped with "bullet buttons." The lawsuit challenges California's "assault weapon" regulatory scheme as a violation of the Second Amendment, Due Process Clause, and Takings Clause of the United States Constitution. Summary judgment motions were filed by March 25, 2019 and a hearing occurred May 31, 2019. On July 22, 2019, the United States District Court granted California's motion for summary judgment. The plaintiffs' appealed to the United States Court of Appeals for the Ninth Circuit. The plaintiffs' opening brief was due December 5, 2019.

Rupp, et al. v. Becerra An amicus brief on behalf of the National African American Gun Association, Inc. and Pink Pistols was filed. Please see case description above.

Mark Towns v. Raymond Harrell The applicant has had a private shooting range on his property, which is zoned A/R, for many years. The plaintiff recently moved into the adjacent property, and intends to open a rehab/detox center in his single family dwelling next to the applicant. The plaintiff claims that the range is within 150 yards of his dwelling and that the range denies plaintiff full enjoyment of his property. The plaintiff has filed complaints with the sheriff's department. However, the sheriff's department has found no violations on the applicant's property. The Sacramento County Zoning Department has found no zoning violations on the applicant's property. The plaintiff then filed a private nuisance lawsuit alleging that the applicant is not in compliance with the county zoning ordinances. The complaint seeks compensatory damages, punitive damages, and a permanent injunction prohibiting the applicant from shooting firearms on the applicant's property. The applicant filed a demurrer, which was denied.

The applicant's attorney anticipates that this matter will go to jury trial. The applicant will need to hire an expert witness to testify whether the applicant is in violation of any zoning ordinances. The plaintiff is running out of funds and has offered to settle for $1.00, on the condition that the applicant tear down his berm and range. The applicant's attorney believes that the state's range protection law is not applicable because the range is not open to the public. The legal issues presented in this case include the doctrine of coming to the nuisance and the doctrine of exhaustion of administrative remedies.

Discovery is ongoing. On March 1, 2018, the plaintiff filed a second amended complaint with various counts alleging the applicant's violation of various sections of the Sacramento county code and the zoning code, public nuisance per se, trespass, extra hazardous activities, private nuisance, intentional infliction of emotional distress, negligent infliction of emotional distress, and negligence. On March 5, 2018, the plaintiff filed a statement of damages in excess of $5 million. The applicant's attorney prepared a motion in limine on the grounds that declaratory relief is not available in a jury trial. The applicant's homeowner's insurance, Nationwide Insurance, has agreed to provide coverage under a reservation of rights. Nationwide has appointed the applicant's attorney as Coomis counsel. At a mandatory settlement conference, the parties failed to settle the matter. The case is set for trial sometime in 2020. Plaintiff's deposition was scheduled for July 22, 2019, but has been postponed by plaintiff's counsel. The applicant will file a motion to compel. The applicant has filed a motion for summary judgment and the parties are awaiting the court's ruling.

Ukiah Rifle and Pistol Club Ukiah Rifle and Pistol Club, founded in 1945, is a members-only nonprofit corporation located in Ukiah, Calif. It provides shooting range facilities and services for both law enforcement and the local community on land owned by the City of Ukiah. In 2018, two lawsuits were filed against the applicant. On February 20, 2018, the Mateel Environment Justice Foundation filed a civil suit against the applicant seeking injunctive relief and civil penalties for violations of California's Proposition 65, alleging lead contamination. One legal issue presented in the case is whether a nonprofit private club is subject to California's Proposition 65, also known as the Safe Drinking Water and Toxic Environment Act of 1986. This act regulates businesses with ten (10) or more employees. The applicant has no employees and operates with an all-volunteer staff. Another legal issue that has arisen in discovery is whether the plaintiff can obtain the applicant's membership list or whether the freedom of association and right to privacy protect against such disclosure.

Separately, Vichy Springs Resort, Inc., and its owner, Gilbert Ashoff, have sued the applicant alleging that the applicant has allowed the release and/or discharge of lead from the premises, contaminating neighboring properties and nearby waterways. The plaintiffs allege that the applicant built a new range sound wall without predetermining the potential environmental impact of the additions, and that said construction invalidates the County's prior determination that the use of the land as a shooting range was a legal non-conforming use. The applicant "recently prevailed on its motion for summary judgment against Mateel, and…as a result all Prop 65 claims stand as dismissed at the trial level. The grounds were that insofar as URPC is an all-volunteer organization, it qualified for the exemption under Prop 65 (i.e. less than 10 employees)." The applicant expects the plaintiff to appeal.

COLORADO

Chambers, et al. v. City of Boulder The City of Boulder enacted an ordinance which prohibits the possession of "assault weapons" by citizens unless they obtain approval from municipal authorities through a certification process. The ordinance also prohibits "large-capacity magazines" that hold more than ten (10) rounds of ammunition, and raises the age of majority for purchasing and possessing firearms to 21 years of age. Colorado has enacted preemption. A municipal ordinance that regulates firearms ownership and possession and conflicts with state law is preempted and may not be enforced. On June 14, 2018, a lawsuit was filed challenging the ordinance on state-law preemption grounds. Boulder's ordinance conflicts with controlling Colorado state law on several material points because, under Colorado law, the possession of "assault weapons" is legal, "large-capacity magazines" are defined as those which hold more than fifteen (15) rounds of ammunition, and the age of majority for purchasing and possessing firearms is 18 years of age. On June 19, 2018, the Boulder Ordinance was amended to remove an exemption from the ordinance for handgun magazines that are legal under state law, further exacerbating the conflict between state and local law. Plaintiffs filed an amended complaint to add this additional point of conflict between state and local law. Boulder moved to dismiss. The motion has been fully briefed, and oral argument occurred April 30, 2019. The case is currently in discovery.

FLORIDA

City of Weston v. Scott; Daley v. Florida; Broward County v. Florida Florida law broadly preempts the regulation of firearms and ammunition by municipalities, and it imposes penalties on local officials and municipalities who violate the preemption statute. These three consolidated cases are brought by local officials and municipalities challenging the penalty provisions of Florida law. The plaintiffs filed their complaints at various points during late spring 2018, and after obtaining consolidation of the three cases, Florida moved to dismiss the complaints on July 9, 2018, arguing that the plaintiffs lack standing and that their claims fail for various other procedural reasons. On July 19, 2018, the NRA filed an amicus brief in support of the State's motion to dismiss. The amicus brief explained the reasoning behind the penalty provisions and their importance for safeguarding the right to keep and bear arms, the traditional power that state legislatures have over municipalities, the lack of any First Amendment problem with the penalty provisions, and the lack of any legislative or sovereign immunity problem with the provisions. The case is pending in the Circuit Court of the Second Judicial Circuit, Leon County, Fla. Briefing on the motion to dismiss was completed by September 10, 2018 and oral argument occurred September 28, 2018. The trial court denied the motion to dismiss. Motions for summary judgment were due on January 21, 2019. The NRA filed an amicus brief in support of a motion for summary judgment by the State. The Court accepted the NRA's amicus brief on December 5, 2019. The case is still being briefed and no arguments have been scheduled.

Gilchrist County Sheriff's Office v. Deputy Jefferson Davis This case is one of the first cases to arise from a new Florida law, which came into effect on March 9, 2018. On March 18, 2018, Deputy Jefferson Davis visited the Gilchrist County Sheriff's Office to see his girlfriend who was working as a dispatcher. Davis was off duty and unarmed. During the visit, Davis learned that his girlfriend was having an affair with another law enforcement officer at their agency. Upon discovering this information, Davis "became highly upset, punched a file cabinet, kicked a door in at headquarters, and made statements that he wanted to shoot the co-worker who had been having and [*sic*] affair with his girlfriend."

Supervisory personnel met with Davis and decided to have him involuntarily committed for psychiatric evaluation under the Florida Baker Act, which allows holding an individual for up to 72 hours. Davis was transported to the mental health facility, and after a brief interview with a psychiatrist, was informed that he did not meet Baker Act criteria. Davis was released and was given a discharge letter indicating he could return to work as a law enforcement officer. Davis, however, was administratively suspended from duty as a law enforcement officer pending an Internal Affairs investigation. The Sheriff's Office also filed a petition for risk protection order. The petition for ex-parte risk protection order was granted by the Court. Per the Court's ex-parte order, all of the applicant's weapons, ammunition, and magazines were surrendered to the Sheriff's Office.

The Sheriff's Office attempted to block Davis from accessing all witnesses who are Sherriff's Office employees, as well as blocking Davis from accessing information pertaining to this matter, including all related public records request properly submitted under the Florida Sunshine Law. Davis's attorney filed a motion to compel discovery. The Court ruled in Davis's favor, ordered some production of documents, and permitted discovery depositions to be taken of five Sheriff's Office employees.

The Court used a legally fabricated basis for renewal of a red flag order. There was no evidence of prospective harm to self or others in evidence. There were three psychiatrist statements that the applicant did not pose a risk of harm to himself or others, stating they are aware of his occupation and training and that he carried a firearm for work, and had access to firearms off duty. As a result, Davis has lost his employment and cannot gain employment as a police officer—even though he won a licensing hearing—because the red flag prevents him from being in possession of weapons. An appeal was filed on the standard to maintain a restraining order when there is no evidence of current or future threat.

National Rifle Association of America v. Moody (formerly **National Rifle Association of America v. Bondi)** On March 9, 2018, a lawsuit was filed in the United States District Court for the District of Florida, challenging Florida's ban on the purchase of firearms by adults between the ages of 18 and 21. The State previously banned these adults from purchasing handguns, but it recently extended this ban to encompass long guns as well. Plaintiff argues that this ban violates both the Second Amendment and the Equal Protection Clause of the Fourteenth Amendment. On April 26, 2018, NRA moved for leave to amend its complaint to add a named individual plaintiff, allegations concerning another named individual harmed by the ban, and additional named defendants. Plaintiff simultaneously moved for leave to allow the named individuals to participate under pseudonyms. The State opposed this request. On May 13, 2018, the United States District Court issued an order denying the request to proceed anonymously. An interlocutory appeal was filed with the United States Court of Appeals for the Eleventh Circuit. The appellants' opening brief was filed June 27, 2018. The Eleventh Circuit initially issued a jurisdictional question querying whether it had jurisdiction to entertain the appeal. Both parties agreed that jurisdiction exists, and on July 16, 2018, the Court noted probable jurisdiction. The appellees' brief was filed August 15, 2018. Briefing was completed on October 19, 2018. The case is pending resolution of interlocutory appeal. The anonymity issues were successfully negotiated out and the case is proceeding at the District Court level.

IDAHO

Nicholas Lion v. Thomas E. Brandon This matter involves the denial by the Bureau of Alcohol, Tabaco, Firearms and Explosives ("BATFE") of a proposed transfer of a silencer. Mr. Lion, who resides near Sandpoint, Idaho, sought to purchase a firearm silencer from a licensed dealer. The Form 4 was submitted to the BATFE in November 2014. In late March 2016, the application to transfer

the silencer was denied based on two charges against Mr. Lion in 1987: one charge of disorderly conduct under N.J. Stat. Ann. § 2C:33-2, and one charge of simple assault under N.J. Stat. Ann. § 2C:12-1(a)(1) which, according to the BATFE, made the applicant a prohibited person under 18 U.S.C. § 922(g)(1). Both of these charges stemmed from a single incident in July 1987. No disposition is shown for either charge in the local court records. Under New Jersey law, the disorderly conduct charge is a petty disorderly person offense, which carries a maximum penalty of 30 days in jail and/or a fine of up to $500. The simple assault charge is a disorderly person offense, which carries a maximum penalty of six months in jail and/or a fine of up to $1,000. Neither is considered "crime" under New Jersey law, and even a conviction on these charges would not make one a prohibited person under § 922(g)(1).

BATFE informed the applicant that the transfer would be denied if no disposition of these charges could be found. However, even a conviction would not disqualify him. BATFE also informed that the applicant would have to prove that that charges were not misdemeanor crimes of domestic violence under § 922(g)(9). This reverses the burden of proof. "If ATF has adopted a practice of reversing the burden of proof on minor assaults, and requiring the applicant to show that all such convictions are not domestic violence cases, the effect will be severe and unjustified under the law."

Mr. Lion filed a pro se lawsuit against the BATFE in federal district court in Idaho. On the advice of counsel, on June 9, 2016, Mr. Lion voluntarily dismissed, without prejudice, the pro se lawsuit he had filed in federal district court. Mr. Lion's attorney tried to resolve the matter through the BATFE and NICS. BATFE informed that Mr. Lion would have to prove that that charges were not misdemeanor crimes of domestic violence under § 922(g) (9) and did not make one a prohibited person under § 922(g) (1). The applicant's attorney drafted a declaration by Mr. Lion, which had been requested by the BATFE, and prepared an extensive package of documents in support of the declaration. These materials were sent to the BATFE on July 14, 2017. The documentation provided the requested proof that neither charges, even if they had resulted in a conviction, would have disqualified the applicant form possessing a firearm.

The applicant's attorney also argued that…[T]he relevant statute, 26 U.S.C. § 5812(a), is mandatory and requires ATF to approve a transfer unless the transferee is affirmatively shown to be disqualified. That statute provides that "Applications shall be denied if the transfer, receipt, or possession of the firearm *would place the transferee in violation of law*." (emphasis added). Thus, unless there is proof that receipt or possession of the silencer by Mr. Lion would place him in violation of law, the transfer must be approved. As matters stand, the burden of proof is being reversed. It is not an applicant's burden to show that he has never been convicted of a disqualifying crime or of a misdemeanor crime of domestic violence. Unless proof of such a conviction is in possession of ATF, the transfer must be approved.

Since a resolution with the BATFE could not be reached, the applicant filed a lawsuit against the BATFE in the District Court for the District of Columbia on November 1, 2018, to prevent the agency from reversing the burden of proof. The government subsequently agreed to settle the case by granting approval of Mr. Lion's application to transfer the silencer. Mr. Lion submitted a new application for transfer, because the dealer in possession of the particular silencer had changed. The case has been voluntarily dismissed without prejudice pursuant to a stipulation by both plaintiff and defendant. Thereafter, ATF did, in fact, approve the new paperwork to transfer the silencer on March 15. However, it was subsequently discovered that the silencer had a cracked tube. New paperwork will have to be submitted and approved by ATF to get a replacement silencer transferred by the manufacturer to Mr. Lion. Accordingly, this matter is not yet resolved. Should there be any problem with that—which is not expected—the case can be reinstated.

State of Idaho v. Nicholas Brian Sunseri On April 15, 2016, Mr. Sunseri, who has no prior criminal history, was arrested and charged with domestic battery or assault in the presence of a child, and interfering with a 911 phone call. He was held in Kootenai County jail without bond over the weekend. After spending the weekend incarcerated, Mr. Sunseri appeared, without the assistance of legal counsel, by video in front of an Idaho magistrate judge. The magistrate advised all defendants in the court room of their right to remain silent, their right to counsel, the appointment of counsel at public expense if the defendant could not afford an attorney, and the right to trial by jury. When Mr. Sunseri's case was heard, the magistrate asked if Mr. Sunseri recalled the aforementioned defendants' rights that the judge mentioned. Mr. Sunseri indicated that he did. The magistrate then informed Mr. Sunseri of the potential maximum punishment for conviction of domestic violence in front of a child; up to one year in jail and a $1,000 fine. The magistrate conveyed the prosecuting attorney's plea offer; namely, Mr. Sunseri's immediate release from jail (three days already served), a $300 fine, two years of unsupervised probation, and the dismissal of charge for interfering with a 911 phone call.

The audio recording reflects that Mr. Sunseri wanted to get out of jail as soon as possible, instead of continuing to be held without bond until the date of a future hearing, because he needed get back to work, so as not to lose his job. Mr. Sunseri entered a guilty plea to a misdemeanor crime of domestic violence in Idaho. No one informed him that by accepting this plea deal, he would permanently be deprived of his Second Amendment rights. When Mr. Sunseri was informed of the consequences of his domestic violence conviction (after obtaining counsel), he moved to withdraw the guilty plea, showing "just cause" by claiming that he was unaware of the impending loss of rights when entering that guilty plea. The motion was denied by the magistrate's court based upon Idaho law, which states that a magistrate judge need not advise a defendant of "collateral consequences."

The applicant appealed the magistrate's decision to the district court. The district judge affirmed the magistrate's decision but urged the applicant to appeal and to challenge the existing law. The district court judge stated the following: "This Court is not aware of any other misdemeanor offense that would result in the lifetime loss of a fundamental right.…This court cannot conceive that the loss of a substantial right predicated upon a misdemeanor conviction should require anything less [than advisement of the loss prior to the plea]; particularly when a

defendant is appearing via video from jail and is not represented by counsel.…It strains credulity to believe that a right described by former Justice Joseph Story as the 'palladium of the liberties of a republic' may be relinquished for life without informing a defendant that such a consequence exists. Yet it is so.…The loss of the right to possess firearm is a collateral consequence regardless of the legal fiction that characterizes it as such. Though it seems it should require, at a minimum, notice prior to the entry of a guilty plea. Particularly when a defendant is incarcerated and presented with a Hobson's choice to plead not guilty and potentially remain in jail and lose employment, or accept the plea offer and be released. Therefore, inasmuch as the Court would like to find that fairness and justice require that a defendant be informed of the loss of a fundamental right prior to entering a guilty plea for a misdemeanor charge of domestic violence, that is not currently the state of the law."

In regard to other criminal offenses, "collateral consequences" are disclosed prior to a defendant entering pleas; including, for instance, the consequences sex offender registry, and non-citizens convicted of deportable crimes, etc. Yet if a misdemeanor defendant, like Mr. Sunseri, engages in a scuffle with his ex-wife, is implicated upon false accusations, has legitimate defenses to the charges, but chooses to take the state's deal rather than lose his job, he has fewer rights than the sex offender or non-citizen to know in advance that a domestic violence conviction will result in a lifetime ban on his fundamental right to own and possess firearms and ammunition.…Mr. Sunseri challenges this loss of his Second Amendment rights because he did not receive notice of this consequence at the time he entered his plea and would not have pleaded guilty had he been properly advised.

Mr. Sunseri's attorney frames the issues presented as follows: Whether Mr. Sunseri should have been advised of the immediate deprivation of his right to own and possess firearms and ammunition upon conviction by Idaho courts prior to accepting his guilty plea to a misdemeanor crime of domestic violence. Even if the Courts were not required to advise the defendant of this consequence to his fundamental rights, whether Mr. Sunseri should be permitted to withdraw his plea where he demonstrates he had meritorious defenses to the charges and would not have pleaded guilty had he known of this substantial deprivation of his Second Amendment rights.

Mr. Sunseri filed his opening brief with the Idaho Supreme Court on November 14, 2017. The State of Idaho Attorney General's Office filed their brief on February 6, 2018. The applicant filed his reply brief March 14, 2018. On June 8, 2018, oral argument was heard before the Idaho Supreme Court. Mr. Sunseri's attorney informs that the "[a]rgument went very well and the Justices seemed very concerned both that the plea offer and the acceptance of this guilty plea were uncounseled and that the Magistrate and District Court on appeal did not engage in the required 'just cause' analysis to determine whether Mr. Sunseri had demonstrated the requisite just cause to withdraw his pre-sentencing guilty plea."

On October 31, 2018, the Idaho Supreme Court ruled in Mr. Sunseri's favor, reversing the denial of Mr. Sunseri's motion to withdraw his guilty plea and remanding to the district court with directions to consider Mr. Sunseri's "grounds using a far more favorable 'just cause' analysis than the lower courts had allowed." Mr. Sunseri must now establish such "just cause" to the magistrate's satisfaction. A hearing was expected in December 2018 or January 2019.

ILLINOIS

Guns Save Life, Inc. v. Village of Deerfield This case is a challenge to an "assault weapons" and "large capacity" magazine ban enacted by the Village of Deerfield, Ill. While Illinois law prohibits localities from enacting new assault weapons bans, Deerfield argues that the ban actually is an allowed amendment of a prior "assault weapon" storage regulation. The plaintiffs disagree, and they argue that the ban therefore is preempted. They also argue that the ban is preempted by State hunting law and that it is an unconstitutional taking without just compensation. As originally drafted, the Deerfield ordinance also defined "large capacity magazines," but, despite public statements by Village officials to the contrary, did not actually ban them. Plaintiffs sought a declaration that large capacity magazines are not banned or, in the alternative, that any ban is preempted or an uncompensated taking.

On April 19, 2018, the plaintiffs' filed a lawsuit in the Illinois State Court, Lake County, challenging the ban. The Court issued a temporary restraining order blocking enforcement of the ordinance on July 12, 2018. The Court concluded that the ordinance's ban on certain popular firearms was preempted by Illinois law and that the ordinance did not actually prohibit possession of any magazines. The Village subsequently amended its ordinance to expressly ban "large capacity" magazines but issued a press release acknowledging that the ban will not go into effect so long as the temporary restraining order remains in place. On October 12, 2018, oral argument on a motion to convert the temporary restraining order to a preliminary injunction was held. On October 26, 2018, the plaintiffs moved for summary judgment and a permanent injunction. The defendant responded on November 30, 2018. Plaintiffs filed a reply brief on December 14, 2018. On March 22, 2019, the trial court granted plaintiffs' motions for summary judgment on all claims, except the Takings and Eminent Domain claims, and it issued the permanent injunction barring enforcement of the ordinances. The Village of Deerfield appealed to the Second District Appellate Court. In late July 2019, the Court ruled that the appeal was not properly filed and was out of time to be corrected by the defendants. Subsequently, in the trial court, after briefing and oral argument as to whether the consolidation was a full merger or not, the trial court held that the consolidation was a full merger. The defendant then filed a new notice of appeal and the case is back in the Second District Appellate Court to address the merits of the trial court's March 22 ruling. The parties are to submit their briefs by the end of February 2020.

Guns Save Life INC., DPE Services, Inc. d/b/a Maxon Shooter's Supplies and Indoor Range, and Marilyn Smolenski, v, Zahra Ali, Thomas J. Dart, County of Cook, Illinois This case is a challenge to both

an ammunition "violence tax" and to a gun tax imposed by Cook County, Ill., in 2015. In March 2016, the defendant filed a motion to dismiss, which was denied. The plaintiffs filed a motion for summary judgment. In February 2017, the Court granted a motion by the defendant to delay briefing during discovery. After limited discovery, the defendant cross-moved for summary judgment on November 6, 2017. On August 17, 2018, the district court granted the defendant's motion for summary judgment. The plaintiffs appealed to the Illinois Appellate Court, First Judicial District. On July 19, 2019, briefing in the Illinois Appellate Court concluded. The parties await action by the court.

Shawna Johnson v. Illinois State Police The Illinois State Police revoked the applicant's Firearms Owner's Identification ("FOID") card after learning of a 2001 misdemeanor battery conviction involving her ex-husband. The applicant had pleaded guilty to that charge after the prosecutor assured her that the conviction would not permanently prevent her from holding a FOID. After the revocation, the applicant commenced a pro se action, in the Circuit Court for Wabash County, against the Illinois State Police and obtained a ruling that substantively indicated that she could obtain relief notwithstanding the federal prohibition, based on the rationale in *Coram v. State*, 996 N.E. 1057 (Ill. 2013). The issue was whether a circuit court can remove federal firearms disabilities for individuals who have been convicted of a misdemeanor domestic violence charge. Citing 430 Ill. Comp. Stat. 65/10(b), the Illinois State Police argued that circuit courts cannot grant relief because Illinois statutory law prohibits restoration of rights to those prohibited from possessing firearms pursuant to federal law. The applicant argued that federal law enables the removal of a federal firearms disability if one's "civil rights" have been restored. The applicant also argued that 18 U.S.C. § 922(g) (9) as applied to her is unconstitutional under the Second Amendment.

An evidentiary hearing was held in this matter on January 20, 2016. Subsequently, the court directed each side to submit post-hearing briefs by May 13, 2016. A hearing took place August 20, 2018, at which the judge scheduled another follow-up conference for September 17, 2018. On October 1, 2018, the court finally issued an order, holding the following federal and state laws and regulations unconstitutional as-applied: "430 ILCS 65/8(n)—which authorizes denial or revocation of a FOID when federal law prohibits the possession of firearms; 430 ILCS 65/10(b) & (c)(4)—which prohibits granting relief from FOID disabilities when it would 'be contrary to federal law'; 20 Ill. Admin. Code § 1230.20(h)—which directs ISP to deny FOID applications from individuals "prohibited under federal law from possessing or receiving a firearm"; and 18 U.S.C. § 922(g)(9)—which prohibits anyone with a conviction for "a misdemeanor crime of domestic violence" from possessing firearms."

The court reversed the decision of the director of the Illinois State Police in its denial of petitioner's request to reinstate/reissue her a FOID card and ordered the Illinois State Police to reinstate and reissue to the applicant a FOID card. The Court reasoned that the applicant has no means available to obtain a restoration of her Second Amendment rights. Unlike several other individuals who have challenged the application of the Lautenberg Amendment in Illinois, the applicant had applied for—and been denied—a gubernatorial pardon. Many Illinois courts have declined to reach similar Constitutional claims on the ground that they were premature because the person asserting those claims had not sought to obtain a pardon. See, e.g., *People v. Heitmann*, 2017 IL App (3d) 160527, ¶ 40; *Baumgartner v. Greene Cnty. State's Attorney's Office*, 2016 IL App (4th) 150035, ¶ 61. The two Justices who dissented in *Coram* had considered the constitutional claim premature in light of the fact that the plaintiff had not requested a pardon. See *Coram*, 2013 IL 113687 at ¶¶ 132-34 (Theis, J., dissenting). Because the applicant had attempted to obtain a pardon, the Court distinguished these authorities. On October 15, 2018, the applicant filed a petition for an award of attorney's fees and submitted a brief in support of the petition. The basis for the petition is that the court found an administrative rule of the State invalid. The court has stayed that petition pending the appeal noted below.

The Illinois Attorney General's Office moved for a stay on October 22, 2018. The State appealed to the Supreme Court of Illinois and filed its notice of appeal on November 1, 2018. The Court stayed that part of the order that directed Illinois State Police to issue a new Firearms Owner's Identification card: "At the Illinois Supreme Court, we…rely on two alternative arguments. First, we…argue that a Circuit Court's order granting relief under 430 ILCS 65/10 is sufficient to invoke the "civil rights restored" exception contained in the 1968 Gun Control Act. See 18 U.S.C. §921(a)(20) & (33)(i).…[W]e intend to advance the conclusion the Supreme Court of New Hampshire reached in *DuPont v. Nashua Police Dep't,* 113 A.3d 239, 167 N.H. 429 (2015)—to wit, that by "remov[ing a] restriction…[on the] civil right to keep and bear arms," a state can "thereby restore [an individual]'s civil rights within the meaning of § 921(a)(20)" & (33)(i). Id. at 250, 167 N.H. at 442-43. Next, we…argue that (as the Circuit Court found) the incorporation of the Lautenberg Amendment to perpetually deny the right to keep and bear arms is unconstitutional as-applied to Ms. Johnson.…

On May 8, 2019, the State filed its Appellant's Brief. On July 29, 2019, the applicant filed the Brief of Petitioner-Appellee. The State's Reply Brief was filed on September 16, 2019, and The Supreme Court of Illinois conducted oral argument on November 19, 2019. Another case, *People v. Brown*, in which the circuit court held the FOID Act unconstitutional on the facts presented, is also currently pending before the Illinois Supreme Court. "In light of the fact that the Brown case concerns the constitutionality of the FOID Act as a whole (at least in the context of home possession), we have added a section…that also addresses this issue." On January 24, 2020, the Illinois Supreme Court, in an unanimous (7-0) decision, concluded that restoration of gun rights under the FOID Act met the "civil rights restored" language in the 1968 Gun Control Act. *courts.illinois.gov/Opinions/SupremeCourt/2020/124213.pdf*.

INDIANA

Jefferson County Plan Commission v. Joseph Chapo, Sherry Chapo, and Deputy Big Shot, LLC; Jefferson County Plan Commission v. Joseph Chapo and Sherry Chapo; Joseph Chapo and Sherry Chapo v. Jefferson County Plan Commission; Joseph Chapo, Sherry Chapo, Deputy Big Shot, LLC v. Jefferson County, Indiana; Darrell M. Auxier, R. Patrick Magrath, Jefferson County Plan Commission, Warren Auxier, Jeffrey Daghir, Lonnie Mason, Gene Riedel, Jerry Yancy, Dennis Boyer, Virginia Franks, Laura Boldery, Jefferson County Board of Zoning Appeals, James Griffith, Robert Jacobson, Mike Shelton, Alana G. Jackson, Jesse Duquette, Tamara Duquette, Jeffrey Sharp, Jefferson County Circuit Court, Court of Appeals of Indiana In 1991, Joseph and Sherry Chapo, purchased their property in Deputy, Ind., and set up a shooting range. They own and operate Deputy Big Shot, LLC, the only public shooting range in Jefferson County. In August 2012, Jefferson County passed the Jefferson County Zoning Ordinance. The ordinance did not address shooting ranges or gun shops in the Agricultural Zone in which the Chapos' property was located. The Chapos made an inquiry with the Jefferson County Plan Commission regarding both uses, and were instructed by the Secretary of the Jefferson County Board of Zoning Appeals and the Jefferson County Plan Commission that a permit was required for each use. The Chapos filed the required applications. On October 2, 2012, the Board of Zoning Appeals approved the gun shop application and deferred the range application. On November 11, 2012, the Board of Zoning Appeals denied the range conditional use application. On October 24, 2012, the applicants "organized and registered Deputy Big Shot[,] LLC in Indiana to include a gun shop and expand the original shooting range to accommodate the public." By January 2013, Deputy Big Shot, LLC had applied for and received a federal firearms license and had registered with Indiana to sell handguns. On November 7, 2012, the Jefferson County Board of Zoning Appeals denied the range conditional use application solely on noise, without any such provision in the cited ordinance and contrary to state law.

On March 31, 2016, neighbors Jesse and Tamara Duquette filed a complaint with the Jefferson County Zoning Officer against Deputy Big Shot, LLC and The Chapos. On April 6, 2013, the Zoning Enforcement Officer served the applicants with an enforcement order to discontinue the illegal use of the land, building, and structures. The Chapos responded in writing to the zoning enforcement order on April 19, 2016. A public hearing regarding these alleged zoning violations was held on April 20, 2016. On April 27, 2016, the Zoning Enforcement Officer issued an amended enforcement order. On May 25, 2016, the Jefferson County Plan Commission filed a complaint and injunction against The Chapos only, even though Deputy Big Shot, LLC was actually operating the shooting range. The Madison County Circuit Court issued a preliminary injunction enjoining Joseph and Sherry Chapo from operating the range on November 17, 2016. The Chapos filed an interlocutory appeal on December 14, 2016.

Deputy Big Shot, LLC was added as a Defendant in an amended complaint on December 20, 2016. On January 4, 2017, a preliminary injunction was issued enjoining Joseph and Sherry Chapo and Deputy Big Shot, LLC from operating the range. The applicants appealed the granting of the preliminary injunctions to the Indiana Court of Appeals. On June 15, 2017, the applicants filed their appellate brief, and on August 14, 2017, Jefferson County Plan Commission filed its appellate brief and a motion to strike. The Chapos filed their reply brief on October 2, 2017.

In the meantime, litigation continued in the trial court. The Chapos filed a 12(b)(6) motion to dismiss on February 1, 2017, based on the following grounds: "The Amended Complaint fails to state a claim upon which the Court can grant relief for the following reasons: (1) JCPC fails to establish an ordinance or provision of an ordinance was violated; (2) The attempt to enjoin the defendants from operating a shooting range is in violation of the 2nd Amendment right to bear arms and Article I, Section 32; (3) The attempt to enjoin the Defendants from operating a shooting range is prohibited by the Jefferson County Home Rule; and (4) The attempt to regulate the Defendants from operating a shooting range is in violation of the Indiana Range Protection Act IC § 14-22-31.5[.]"

On July 14, 2017, the Jefferson County Plan Commission filed a citation for contempt and a motion to enforce. On September 7, 2017, the trial court heard the applicants' motion to dismiss and the Jefferson County Plan Commission's motion for contempt. On October 17, 2017, the trial court issued an order denying the applicants' motion to dismiss and granted the Jefferson County Plan Commission's motion for contempt. On October 26, 2017, the Jefferson County Plan Commission filed a motion for a permanent injunction. On October 30, 2017, the circuit court stayed the proceedings pending the appeal. The stay, however, did not affect the preliminary injunctions nor the finding of contempt. On November 17, 2017, the applicants filed, with the Indiana Court of Appeals, an emergency motion to stay the proceedings in the trial court pending the appeal. On May 29, 2018, the Indiana Court of Appeals denied the motion for an emergency stay and issued an opinion upholding the Circuit Court's opinion. Both the November 17, 2017, order and the January 4, 2018, order were upheld by the Court of Appeals. On June 26, 2018, the applicants filed a petition for rehearing, which was denied on November 1, 2018.

The original judge recused himself in November of 2017 and, on December 6, 2018, a new judge was assigned to the case. On January 11, 2019, the new judge lifted the stay. The Chapos filed an answer on February 10, 2019, and a motion for judgment on the pleadings on February 11, 2019. On February 20, 2019, the JCPC filed a response and a motion to strike to which the applicants field a reply and a response. On February 26, 2019, The Chapos filed responses thereto. A hearing occurred July 12, 2019, on the motions. On November 25, 2019, the Court ruled adversely on the applicant's motions but denied Jefferson County's motion for sanctions against the applicants.

A scheduling conference was held on September 17, 2018, and a case management schedule was issued. Trial has been scheduled for December 6, 2019, but, per the order of November 25, 2019, the trial date will be reconsidered at a pre-trial conference set for December 2, 2019.

On May 26, 2018, the applicant's filed a 1983 action in the United States District Court for the Southern District of Indiana: "The…1983 action is based on the violations of the plaintiffs' 2nd Amendment rights by the defendants….: (1) The Jefferson County Board of Zoning Appeals had no Constitutional authority, nor legal authority to require the Chapos to obtain a conditional use permit in 2012, based on the *Ezell* case, Indiana Shooting Range law, and the fact that the Jefferson County Zoning ordinance had no provision addressing shooting ranges; (2) The Jefferson County Plan Commission had no Constitutional authority, nor legal authority to initiate an action against the Chapos in 2016, based on the *Ezell* case, Indiana Shooting Range law, and the fact that the Jefferson County Zoning Ordinance had no provision addressing shooting ranges. Without a violation of a provision the Jefferson County Plan Commission had no jurisdiction [to] initiate the lawsuit; (3) [The state court] had no subject matter or personal jurisdiction to hear the case…The actions of some of the defendants in 2012 also ignored and violated the Indiana Shooting Range statutes, Chapter IC §14-22-31.5 which protected shooting ranges in existence prior to July 1, 1996. The statutes protected said ranges from noise liability (IC §14-22-31.506) and allows said ranges to 'Expand or increase the membership of the shooting range or opportunities for public participation at the shooting range,' (IC §14-22-31.5-7(3)). The Indiana Shooting Range statutes prohibit local government from pursuing shooting ranges for activities falling under the Shooting Range statutes. Any actions by local governments in violation of the Shooting Rage statutes have strong subject matter jurisdiction implications. The 1983 action also sought preliminary injunctions against the Jefferson County Circuit Court and the Indiana Court of Appeals."

Two Rule 12(b) motions to dismiss were filed by some of the defendants, and the rest of the defendants filed an answer on July 23, 2018. On August 27, 2018, the applicants filed responses to both motions to dismiss. The Court has not yet ruled on these motions. Depositions have been scheduled for February 2020.

Jerry W. Wise, Kathy Lee Wise, David A. Drake and Brozia Lee Drake v. Precision Gun Range, LLC; Lane L. Jorgensen, Katheryn A. Jorgensen, as the trustees of the Jorgensen Family Trust v. Precision Gun Range, LLC The applicant, Precision Gun Range, LLC, located in Spencer, Ind., is a for-profit organization providing sport shooting and self-defense shooting training to the public. In 2017, two separate lawsuits were filed in the Owen County Circuit Court, Indiana, against the applicant by downrange land owners who "appear to have development interests." The complaints allege that projectiles from the applicant's rifle range have impacted their properties. The complaints alleged negligence, nuisance, and trespass, and seek a permanent injunction and actual, consequential, and punitive damages. According to the applicant, other nearby land owners have allowed hunters to shoot on their own land and there is also a private range adjacent to the applicant's range. The applicant maintains that the projectiles allegedly impacting the plaintiffs' property do not originate from the applicant's range.

The State Police completed an initial investigation of the trespassing projectiles and concluded that the applicant's range was the source. However, "the investigation failed to gather the type of evidence required to draw expert conclusions concerning the point of origin of projectiles found at such a distance," and did not involve experts with long range ballistics expertise. The plaintiffs attempted to persuade the local zoning board to take enforcement action against the range. After a February 2, 2018 public meeting, the Board of Zoning decided not to take action against the range. In May 2018, new complaints were filed against the applicant by a neighbor. Subsequently, the applicant completed the safety enhancement structures that the range agreed to put in place to satisfy the Board of Zoning Appeals. With prepared expert opinions and safety enhancements in place, the applicant forced the Board of Zoning Appeals' hand by reopening its range—despite the Board of Zoning Appeals' initial refusal to allow the resumption of operations—effectively forcing the Board of Zoning Appeals to go to court or to approve the reopening. In June of 2019, the Board of Zoning Appeals voted unanimously to allow the applicant to reopen its rifle range.

However, the litigation continues. The two cases pending in state court against the range have been consolidated. September 4, 2019, was the mediation deadline, and trial is scheduled for January 2020. The applicant is preparing to renew motions for summary judgement in these consolidated cases. On July 17, 2019, a third lawsuit was filed in the Owen County Circuit Court, Indiana, against the applicant by the same individuals who are plaintiffs in the two prior pending lawsuits. The new lawsuit seeks to overturn the June 2019 unanimous decision by the Owen County Board of Zoning Appeals that allowed the applicant to resume operation of its rifle range. The new lawsuit also includes a self-styled private enforcement, public nuisance type claim concerning alleged bullet impacts to down range residences caused by bullets from the applicant. "The newest case challenges the range's zoning permit years after the fact and seeks to litigate the very safety and causation issues before the court in the first two lawsuits, this time under the guise of a self-styled nuisance-type private enforcement action of the zoning code." The applicant is seeking to have this third lawsuit dismissed. The plaintiffs have obtained an order from the court requiring expedited discovery in the new lawsuit and have filed a motion for a preliminary injunction.

MARYLAND

Norris Paul Carey, Jr. v. Maryland Natural Resources Police, Joanne Throwe, Deputy Secretary Department of Natural resources, Captain Edward Johnson, Maryland Natural Resources Police, and Captain Charles Vernon, Maryland Natural Resources Police On January 18, 2018, Mr. Carey filed a lawsuit in the United States District Court for the District of Maryland against the Maryland Natural Resources Police ("MNRP"); Deputy Secretary Joanne Throwe ("Deputy Secretary Throwe") of the Maryland Department of Natural Resources ("DNR") in her individual

capacity; Captain Edward Johnson ("Captain Johnson") of the MNRP in his individual capacity; and Captain Charles Vernon ("Captain Vernon") of the MNRP in his individual capacity. Mr. Carey "asserts a claim against Deputy Secretary Throwe, Captain Johnson, and Captain Vernon for First Amendment retaliation under 42 U.S.C. § 1983…; a claim against MNRP under § 1983 for violation of rights granted by the Law Enforcement Officer Safety Act, 18 U.S.C. § 926C ("LEOSA"); and, a claim for defamation against Captain Johnson." Mr. Carey filed the lawsuit against the defendants after MNRP rescinded his LEOSA card and brought about his termination from the DNR in retaliation for Mr. Carey exercising his right to free speech. This case involves the denial of privileges and rights by unconstitutional practices inherent within the Maryland Natural Resources Police and buttresses the contention that retired law enforcement officers have an enforceable Federal right to obtain a concealed carry firearm permit and can sue in Federal court when their rights have been violated.

Mr. Carey retired from MNRP on December 31, 2013, after 26 years of service. Throughout his career with MNRP, Mr. Carey received excellent evaluations and no disciplinary actions. He received multiple career-related awards from MNRP and retired from MNRP in good standing. Prior to his retirement, Mr. Carey was interviewed by MNRP as a witness in the ongoing investigation of a missing M-16 patrol rifle. Unbeknownst to Mr. Carey, a former MNRP officer was a suspect in the investigation. Three months prior to his retirement, Mr. Carey received a notification of complaint, dated September 26, 2013. The notice alleged that Mr. Carey was communicating with the former MNRP officer who was under investigation by MNRP, and that he had shared information with that officer about the investigation. Mr. Carey admitted speaking to the former officer, but denied sharing any information with him. No charges were brought against Mr. Carey or the any other officers.

On August 2, 2015, Mr. Carey began working for the DNR. This was a civilian position within DNR under a long-term contract. Mr. Carey applied for a "Retired Law Enforcement Officer Card," qualifying him to carry a semi-automatic weapon, and received the card on April 25, 2017. Three days later, Captain Vernon contacted Mr. Carey and informed him that he was not in good standing, and demanded that Mr. Carey return his card. Mr. Carey contacted the Maryland Police and Correctional Training Commission to inquire about his retirement status, which confirmed that he was in good standing, but informed him that someone had attempted to try to change the applicant's retirement standing earlier that morning. Captain Vernon then informed the applicant's DNR supervisor of Mr. Carey's "revoked" LEOSA card.

Mr. Carey performed his duties at the DNR to the satisfaction of his supervisor, and consistently received excellent reviews. There was never any disciplinary action. Mr. Carey's supervisor informed him that his contract would be renewed by the expiration date of August 8, 2017. However, on May 25, 2017, Mr. Carey was fired personally by Deputy Secretary Throwe. He was not given any reason for his termination, despite his request for an explanation. Mr. Carey's direct supervisor was shocked by the termination. Mr. Carey asserts that he was terminated as a result of exercising his right to free speech and publicly calling attention to questionable conduct by MNRP personnel. "Mr. Carey was terminated in retaliation for exercising his right to free speech and publicly calling attention to information that called MNRP into dishonor and disgrace." On December 14, 2016, Mr. Carey had posted a report on the Salisbury News Blog about Captain Johnson's posts on his own personal Facebook page. These posts included photos of Captain Johnson in his MNRP uniform with "scantily clad women in sexually provocative poses and the back of a man wearing a Pagan motorcycle jacket." Mr. Carey alleged that Captain Johnson violated the MNRP's code of conduct and was "duplicitous" in his investigation of fellow officers for suspicions of misconduct. Mr. Carey alleged that the "chain of command was aware of Captain Johnson's questionable behavior and failed to take remedial action." In another blog posting, Mr. Carey "showed photographs of Captain Johnson's assault weapon…along with other photographs and comments making light of gun violence and death."

In retaliation for Mr. Carey's postings on the Salisbury News Blog, the MNRP engaged in a campaign to harass him, including in his subsequent work place at the DNR: "Following his retirement, he was unfairly denied his retirement credentials and 'blacklisted' by the agency, foreclosing his ability to find re-employment in the same field.…Following Mr. Carey's disclosures, officials within the MNRP used the prestige of their office to bring about Mr. Carey's termination from DNR and to rescind his properly issued LEOSA card."

On April 13, 2018, the defendants moved to dismiss the three counts, or, in the alterative, for summary judgment on counts one and two. On April 25, 2018, and May 7, 2018, Mr. Carey filed his memoranda of law in opposition to these motions. On May 7, 2018, Mr. Carey filed an amended complaint. The defendants filed a motion to dismiss the first amended complaint or, in the alternative, for summary judgment on July 2, 2018. On August 14, 2018, Mr. Carey filed his opposition to motion to dismiss. On January 31, 2019, the United States District Court for the District of Maryland granted the defendants' motion to dismiss. Mr. Carey appealed to the United States Court of Appeals for the Fourth Circuit. Mr. Carey and the defendants have filed their briefs and the case is now fully briefed. The parties are awaiting a ruling by the United States Court of Appeals for the Fourth Circuit.

Malpasso v. Pallozzi Maryland requires those wishing to carry firearms outside the home to obtain a license to do so, which it will issue only upon a showing of a "good and substantial reason." While the Fourth Circuit's decision in *Woolard v. Gallagher* upheld this requirement, this litigation is designed to prompt reconsideration of that opinion in light of the DC Circuit's decision in *Grace*. On April 12, 2018, a lawsuit was filed in the United States District Court for the District of Maryland challenging Maryland's concealed carry restrictions. Maryland moved to dismiss on June 11, 2018. The plaintiffs filed a response on June 25, 2018. The NRA filed an amicus brief supporting the plaintiffs on July 2, 2018. On October 15, 2018, the United States District Court granted the defendants' motion to dismiss. An appeal to the Fourth Circuit was filed. On April 29, 2019, the United

States Court of Appeal Fourth Circuit affirmed the judgment of the district court. A petition for certiorari was filed in the Supreme Court on September 26, 2019. On November 15, 2019, the NRA filed an amicus brief in support of the plaintiff.

Maryland Shall Issue, Inc., et al. v. Hogan, et al This case challenges the Maryland handgun qualification license. Maryland currently requires all handgun purchasers to obtain a handgun qualification license, which requires a formal class with live fire, fingerprinting, a background check, and payment of numerous fees, in addition to the background check and fees associated with any subsequent handgun purchase. The State filed a motion to dismiss. Following a hearing on the motion on August 7, 2017, the judge found that the plaintiffs had stated plausible claims for relief under the Second and Fourteenth Amendments and the State's motion to dismiss was denied. Discovery has now been completed. Dispositive motions were briefed by November 5, 2018. The judge assigned to the case retired and the new judge has not acted on the matter.

MASSACHUSETTS

Gould v. Morgan (formerly **Gould v. O'Leary)** This challenge to Massachusetts restrictions on the carrying of firearms in public was filed on February 4, 2016. Massachusetts requires a license to carry firearms in public, which may be granted only upon demonstration of a "good reason," and it delegates to local licensing authorities the power to require the showing of a heightened need for self-defense before issuance of a license to carry. Cross-motions for summary judgment were filed in 2017. In December, 2017, the district court granted summary judgment to the defendants. The plaintiffs appealed to the United States Court of Appeals for the First Circuit. Oral argument occurred on July 25, 2018. On November 2, 2018, the United States Court of Appeals for the First Circuit ruled adversely, upholding the "good reason" restriction under intermediate scrutiny. A petition for certiorari with the United States Supreme Court was filed on March 29, 2019. After an initial conference, the United States Supreme Court is holding this in abeyance.

Granby Bow & Gun Club, Inc., et al. v. Town of Granby Zoning Board of Appeals, et al The applicant is a not-for-profit corporation, founded in the 1940s, which operates a rifle, pistol, and archery shooting range on approximately 260 acres of land that it owns in Granby, Mass. The range predates any enacted zoning ordinances. In the spring of 2017, some property owners near the range began a public campaign to shut down the club. After the building inspector stepped down in September 2017, the Town of Granby's Board of Selectman took over those duties and acted on three letter complaints against the applicant. The letter complaints alleged noise nuisance, safety and zoning law violations. The Board of Selectman issued a cease and desist letter ordering that the applicant immediately "cease and desist using its rifle range shooting shed and cease shooting at 1,000-yard targets from its upper firing area on the rifle range." The applicant was not given an opportunity to be heard prior to the Board of Selectman's action.

The applicant appealed to the Granby Zoning Board of Appeals. In November 2017, the Zoning Board of Appeals upheld the Board of Selectmen's decision. There were no public hearings or deliberations prior to the Zoning Board of Appeals issuing its ruling. The Zoning Board of Appeals did not hear or review any evidence supporting the three complaint letters other than a few aerial photos provided by the Board of Selectmen. On January 5, 2018, the applicant appealed to the Massachusetts Land Court (Hampshire County). The issues presented include: (1) [W]hether the [Zoning Board of Appeals] can eliminate vested constitutionally protected property rights that predate zoning via a pretextual zoning enforcement action; and (2) [W]hether range opponents can circumvent the protections afforded ranges by the Massachusetts Range Protection Act via a pretextual zoning enforcement action. At the judge's urging, the applicant and the Town entered into a stipulation to attempt to resolve the dispute through permits, while preserving all rights to move forward with the appeal. The court approved the stipulation and remanded the case to the Zoning Board of Appeals. In late 2018, the parties went back to the Zoning Board of Appeals to try to attempt to resolve the upper firing area permit by working though the permit process. A public hearing on the permit application took place on April 9, 2019. The permit for a shooter shed to mitigate noise while exercising grandfathered shooting rights at the range's precision firing line was denied, and litigation has resumed. Efforts to settle the matter proved unsuccessful and the litigation in Massachusetts Land Use Court has resumed.

A status conference was held on November 21, 2019. The following case management deadlines were set: Discovery, including expert disclosures, is to be completed by March 30, 2020. Dispositive motions are to be filed by May 30, 2020. Trial has been set for late June or early July 2020, unless there are no dispositive motions, in which case trial will be scheduled an earlier. (The applicant also intends to file a 1983 action against the Town under the Second and Fifth Amendments to the U.S. Constitution in the United States District Court, District of Massachusetts.)

Pullman Arms, Inc., et al. v. Healy In a July 20, 2016, editorial in the *Boston Globe*, State Attorney General Maura Healy announced for the first time a radical reinterpretation of Massachusetts' long standing gun ban that mirrors the 1994 Clinton federal gun ban and that had been on the books in Massachusetts for approximately 20 years. She unilaterally declared almost every semiautomatic firearm on the market to be illegal under Massachusetts law. Suit was filed in the United States Distinct Court for the District of Massachusetts on September 22, 2016 by the National Shooting Sports Foundation. The lawsuit challenges the reinterpretation of Massachusetts' long standing gun ban. On November 22, 2016, Massachusetts filed a motion to dismiss. The motion was heard in April 2017. On March 14, 2018, the Massachusetts's motion to dismiss was denied. Massachusetts filed an appeal from the District Court's rejection of its Eleventh Amendment claim with the United States Circuit Court for the First Circuit. While still technically pending in the District Court, no action is being taken because Massachusetts refused to move forward in the district court until its appeal is resolved.

Worman, et al. v. Healy, et al In a July 20, 2016, editorial in the *Boston Globe*, State Attorney General Maura Healy announced for the first time a radical reinterpretation of Massachusetts' long standing gun ban that mirrors the 1994 Clinton federal gun ban and that had been on the books in Massachusetts for approximately 20 years. She unilaterally declared almost every semiautomatic firearm on the market to be illegal under Massachusetts law. On January 23, 2017, a complaint was filed in the United States District Court, Massachusetts. The state filed an answer on March 16, 2017. The defendants asserted Eleventh Amendment defenses of immunity from suit as part of their answer. Written discovery has been exchanged. Certain defendants—the Governor of Massachusetts, Massachusetts State Police, and Superintendent McKeon of the Massachusetts State Police—moved to dismiss on July 14, 2017, and moved to stay discovery against them on July 17, 2017. Other defendants—Attorney General and Secretary of Office of Public Safety—did not move to dismiss or stay discovery. The plaintiff's counsel dropped the Governor without discovery, and dropped Massachusetts State Police, but noticed its deposition, and opposed the motions with respect to Superintendent McKeon. Plaintiffs took the depositions of representative witnesses from the Executive Office of Public Safety, the Massachusetts State Police, and the Office of the Attorney General. Plaintiffs also took the depositions of the fact witnesses identified the defendants in their interrogatories. Fact discovery ended on September 15, 2017, and the defendants have withheld nearly all internal communications, claiming privilege. The parties took depositions of each other's expert witnesses.

On April 6, 2018, the United States District Court for the District of Massachusetts upheld Massachusetts ban. ILA Litigation Counsel informed as follows: "After discovery, on cross-motions for summary judgment, Judge Young granted Defendants summary judgment on the Second Amendment and vagueness claims and dismissed the retroactivity claim as unripe. The Court held that the firearms and magazines banned by Massachusetts are outside the protection of the Second Amendment, largely following the *Kolbe* decision. The Court held that commonality is not a relevant issue in a Second Amendment analysis, and that the proper test for whether a firearm is protected is whether it is 'most useful in military service.'" Plaintiffs appealed to the United States Court of Appeals for the First Circuit. Briefs were filed by October 5, 2018. Oral argument occurred on January 9, 2019. On April 26, 2019, the United States Court of Appeals for the First Circuit upheld the Massachusetts law. A petition for certiorari in the United States Supreme Court has been filed.

MICHIGAN

Nancy Woehlke v. Timothy Craig Milko The applicant owns and operates a gunsmithing, firearms, and outdoors shop. The applicant has a Michigan Concealed Pistol License, is a certified NRA instructor, has no criminal record, and has been found to be of good moral character. The applicant and his ex-wife went through a divorce. They share joint custody of their children. The Oakland County Circuit Court, Family Division, issued a "consolidated order regarding custody and parenting time," which included the following restriction: "No guns of any kinds [*sic*] are to be present or in the presence of the children when the minor children are with Father during his parenting time in a vehicle and if in the home they are to be locked and out of sight." When the applicant challenged this restriction, a subsequent order provided that the applicant may also not hunt with his children. An appeal was rejected on the grounds that the applicant had not exhausted all his remedies in family court.

The applicant wishes to challenge the prohibitions and restrictions relating to firearms and hunting. The issues raised include: whether, in light of *Heller*, restricting the applicant's right to possess firearms for self-defense, infringes the Second Amendment; whether the applicant's Michigan Constitutional right to keep and bear arms for self-defense is infringed; in light of the fact that the applicant is a gunsmith and firearms dealer, whether the order limits the applicant's right to work; and, whether the order infringes the applicant's and his children's statutory right to hunt. The applicant's attorney believes that a favorable outcome is likely. *Heller* held the right to possess firearms for self-defense as the core of the Second Amendment. "That right is most acute within the home." The Michigan Constitution provides that "[e]very person has a right to keep and bear arms for the defense of himself and the state." Mich. Const. art. I, § 6. See also, *People v Zerillo*, 219 Mich. 635, 640; 189 N.W.2d. 927 (1922). "The right to earn a living has been recognized by the Michigan Supreme Court as [being guaranteed by] the 5th and 14th Amendments." The Michigan Code protects the right to hunt. Mich. Comp. Laws § 324.40113a.

A motion to modify custody and parenting time orders was filed at the end of March 2019. "The court denied [the applicant's] request for an extended page limit and dismissed [the applicant's] motions based on the denial of that request." The applicant's attorneys redrafted and filed the motion. On October 30, 2019, the applicant's motion was granted. The order provides that the applicant has "to make all firearms safe when not on his person or otherwise in us' and that the daughter "will not participate in hunting until furtherorder of this court." The applicant may petition the court in the future to allow the daughter to hunt.

Oakland Tactical Supply, LLC, Jason Raines, Matthew Remenar and Scott Fresh v. Howell Township The applicant, Michael Paige, is the owner of Oakland Tactical Supply, LLC., a tactical firearms retailer. In business since 2003, Mr. Paige has operated a retail store in Hartland Township Livingston County, Mich., since 2011. Mr. Paige is planning to build an extensive outdoor range facility for both private and public use in neighboring Howell Township, and has secured rights to a 350-acre parcel, zoned AR, and applied for the necessary local permits.

In 2017, Mr. Paige applied to the Planning Board for a special permit. The application was denied after neighbors opposed the application based on shooting ranges now being allowedin the AR district. Mr. Paige was informed that he needed to apply to the Township to "seek a text amendment to the AR district in order to permit shooting ranges there." At a subsequent public meeting, neighbors

opposed the text amendment. The text amendment proposal was denied, with no opportunity being given to the applicant to be heard. The applicable zoning ordinances do not prohibit shooting ranges nor mention them.

The Township's effective ban on shooting ranges is an "impermissible infringement on the Second Amendment right to practice with firearms at a range," in violation of the holdings on *Ezell, et al. v. City of Chicago*, 651 F.3rd 684 (7th Cir. 2011) (*Ezell I*) and *Ezell, et al. v. City of Chicago*, 846 F.3rd 888 (7th Cir. 2017) (*Ezell II*). This case "presents the next logical extension of Ezell II to the Sixth Circuit. Here, the zoning laws fail to address the siting of shooting ranges altogether, and this has made it virtually impossible to site an outdoor range despite the Township's location in a part of the country that would normally be thought of as friendly to ranges." Although the 6th Circuit has not had the opportunity to consider whether shooting ranges are protected by the Second Amendment, related rulings suggest that the 6th Circuit will be receptive to extending Second Amendment protections to shooting ranges and firearms training activities.…As in *Ezell II*, the practical effect of the zoning ordinance is a total ban on outdoor shooting ranges, which the 7th Circuit has made clear is unconstitutional.…[T]he 6th Circuit has confirmed that after determining whether the activity (training) is historically protected, the burden is on the government to establish that the restrictions comply with the requirements of intermediate scrutiny. See *Tyler v, Hillsdale County Sheriff's Department*, 837 F.3d 678, 685, 6th Cir. 2016 (Mich.)… and *Stimmel v. Sessions*, 879 F.3d 198, 203, 6th Cir. 2018 (Ohio).…Intermediate scrutiny requires '(1) the government's stated objective to be significant, substantial, or important; and (2) a reasonable fit between the challenged regulation and the asserted objective.' *Tyler*, 837 F.3d at 693.…[T]he zoning restrictions applied by the Town provide a facial, absolute bar prohibiting siting of a gun range in any location within the Town. Therefore, the challenge would meet the more restrictive standards applied in cases such as *Chicago Gun Club, LLC v. Vill. of Willowbrook, Illinois*, No. 17 C 6057, 2018 WL 2718045 (N.D. III. June 6, 2018) and *Teixeira v. Cty. of Alameda*, 873 F.3d 670, 678-79 (9th Cir. 2017), cert. denied sub nom. *Teixeira v. Alameda Cty., Cal.*, 138 S. Ct. 1988 (2018).

On November 2, 2018, the applicant's attorney filed a lawsuit, on behalf of the applicant and three individual plaintiffs, in the United States District Court, Eastern District of Michigan—seeking injunctive relief, fees and costs—challenging the constitutionality of the Township's zoning laws which effectively ban outdoor shooting ranges, as a violation of the Second Amendment. Settlement negotiations ended unsuccessfully in February 2019 and litigation has resumed. On April 10, 2019, applicant filed a motion of summary judgment and a supporting memorandum of law. The Township filed a motion for summary judgment and motions to dismiss, raising, amongst other issues, standing ripeness, and mootness. These motions have not yet been acted upon. "During the summer of 2019, several individual plaintiffs were added to the lawsuit, effectively cutting off the Township's strongest arguments for dismissal (that none of the individual plaintiffs resided within the Township)."

The court scheduled settlement discussions and a status and settlement conference occurred on August 28, 2019. Litigation has been stayed until January 7, 2020. Oakland is completing the written proposal and documentation by experts that the Township requested in order to vote to settle the case. This information will be submitted to the Township within the next few weeks, and the Township is expected to vote on the proposal within the next couple of months. If the settlement efforts fail, Oakland is prepared to resume the litigation.

Joshua Wade v. University of Michigan Mr. Wade works for the University of Michigan Credit Union and holds a valid Michigan Concealed Pistol License. While open carrying in downtown Ann Arbor, Mich., Mr. Wade encountered a campus police officer who told him if he brought his gun onto campus property he would be arrested. After researching the relevant gun laws, Mr. Wade determined that he could apply to the University of Michigan's Director of Public Safety for permission to carry a firearm on campus. Mr. Wade applied to the Director of Public Safety for the personal waiver in September 2014, and his request was delegated to the Chief of the University of Michigan Police before being ultimately denied. The University of Michigan's powers, as an arm of the state government, are set forth in the Michigan Constitution, pursuant to which the University is given the power to exercise general supervision of its property.

Mr. Wade challenged the University of Michigan's ban on the carry of firearms on University property under Michigan's preemption statute. Mich. Comp. Laws § 123.1101 *et seq*. Michigan's Court of Appeals has interpreted the firearms preemption statute broadly. In *Capital Area District Library v. Michigan Open Carry*, the Court of Appeals held that the preemption statute and Michigan's state firearms regulations preempted the entire field of firearm regulations and that quasi-municipal entities are subject to the state firearms preemption. Furthermore, in *Branum v. Board of Regents of the University of Michigan*, it was held that—despite the grant of "general supervision powers to the University—the University was subject to generally applicable state laws. In November 2015, the Court granted the University's motion for summary disposition. Counsel for Mr. Wade filed an appeal with the Michigan Court of Appeals on December 4, 2015. Briefs have been filed and this matter is currently pending oral argument in the Michigan Court of Appeals.

The Michigan Court of Appeals has consolidated two school district cases (Clio and Ann Arbor) which involved the Michigan preemption statute. Oral argument occurred in December 2016 and the Court of Appeals held the applicant's case in abeyance until those cases were decided. Recently, the Michigan Court of Appeals has ruled in the two cases, holding that the two K-12 school districts were not subject to preemption and rejecting the argument that the Michigan legislature completely preempted the field of firearms regulation. *Michigan Gun Owners, Inc. v Ann Arbor Public Schools*, Mich. App. N.W.2d (2016) (Docket No. 32693) and *Michigan Open Carry Inc. v Clio School District*, Mich. App. N.W.2d (2016) (Docket No. 329418). Mr. Wade's attorney believes that this flies in the face of the Michigan Supreme Court holding in *CADL v. MOC* that the Michigan legislature had occupied the field. Those two cases were appealed to Michigan Supreme Court.

The Court of Appeals issued its opinion for publication on June 6, 2017, affirming the lower court's summary disposition for the Appellee. However, the dissenting opinion was favorable to the applicant's position and supports grounds for appeal to the Michigan Supreme Court. On July 18, 2017, Mr. Wade's attorney filed an application for leave to appeal to the Michigan Supreme Court. A brief opposing was filed. On September 1, 2017, the applicant filed his reply brief. On December 20, 2017, the Michigan Supreme Court issued an order holding this case in abeyance until the cases of *Michigan Gun Owners, Inc. v Ann Arbor Public Schools* and *Michigan Open Carry Inc. v Clio School District*, were resolved by the Michigan Supreme Court. On July 27, 2018, the Supreme Court issued its opinions in those two cases.

On June 6, 2017, the Michigan Supreme Court issued an order holding this case in abeyance pending the outcome of *New York State Rifle & Pistol Association, Inc. v. City of New York*.

NEW JERSEY

Association of New Jersey Rifle & Pistol Clubs, Inc., Blake Ellman, and Alexander Dembowski v. Gurbir Grewal, Patrick J. Callahan, Thomas Williver, and James B. O'Connor New Jersey enacted a ban on the possession of any firearm ammunition magazines capable of holding over ten (10) rounds. On June 13, 2018, a lawsuit was filed in the United States District Court for the District of New Jersey, on behalf of ANJRPC and several New Jersey residents, challenging the new magazine ban on Second Amendment, Takings Clause, and Equal Protection Clause grounds. On June 21, 2018, the plaintiffs moved for a preliminary injunction. Briefing was completed on July 9, 2018. Following an evidentiary hearing, post-hearing briefing, and oral argument, the District Court denied the motion on September 28, 2018. The plaintiffs appealed to the United States Court of Appeals for the Third Circuit, moved for an injunction pending appeal, and moved for expedited briefing. The Third Circuit granted the motion for expedited briefing, and briefing concluded by November 2, 2018. The Court of Appeals denied the motion for an injunction pending appeal without prejudice. Oral argument was held on November 14, 2018 and November 20, 2018. On December 5, 2018 the Third Circuit panel affirmed the District Court. Plaintiffs petitioned for rehearing en banc, which was denied on January 9, 2019. The defendants moved for summary judgment and the plaintiffs cross-moved for a stay of all proceedings pending the Supreme Court's decision in *New York State Rifle & Pistol Association, Inc. v. City of New York*, No. 18-280 (U.S.). Briefing was completed in April, 2019. The plaintiffs have appealed to the United States Court of Appeals for the Third Circuit.

Rogers v. Grewal New Jersey requires those wishing to carry firearms outside the home to obtain a license to do so, which it will issue only upon a showing of "justifiable need." In addition, without such a permit it is nearly impossible to obtain a handgun for home defense. While the Third Circuit's decision in *Drake v. Filko* upheld this requirement, this litigation is designed to prompt reconsideration of that opinion in light of the DC Circuit's decision in *Grace v. DC*. On February 5, 2018, in coordination with ANJRPC, a lawsuit was filed in the United States District Court for the District of New Jersey challenging New Jersey's concealed carry restrictions. On April 3, 2018, the defendants filed a motion to dismiss. On June 18, 2018, the district court granted the motion and dismissed the case. The plaintiffs appealed to the United States Court of Appeals for the Third Circuit. On July 3, 2018, the plaintiffs filed an unopposed motion asking the Court of Appeals to act on the appeal summarily, given the binding decision in *Drake*. On September 21, 2018, the Third Circuit granted that motion and summarily affirmed. A writ of certiorari was filed with the United States Supreme Court on December 20, 2018. New Jersey initially waived its right to respond to the petition, but the Court requested a response. New Jersey filed its brief in opposition to the writ on May 3, 2019. Petitioners filed their reply brief on May 7, 2019. On May 7, the filings were distributed for the Supreme Court's conference on May 23, 2019. After an initial conference the United States Supreme Court is holding this case in abeyance pending the outcome of *New York State Rifle & Pistol Association, Inc. v. City of New York*.

NEW YORK

Lambert Henry v. County of Nassau, Nassau County Police Department, Thomas Krumpter, Patrick Ryder, Marc Timpano, Adam Fischer, Stephen Triano, Jeffrey Kuchek, Mark Simon and Jeffrey Toscano Mr. Henry is a retired law enforcement officer who seeks a declaratory judgement, injunctive relief, and monetary damages in regard to the revocation of his pistol permit. Causes of action and claims under the Second Amendment, Monell liability, 42 U.S.C. §1981, and 42 U.S.C. §1983 were apparently raised in the complaint. On October 20, 2014, the Nassau County Sheriff's Office entered Mr. Henry's residence to serve an ex parte order of protection. The order did not include any provision regarding the removal of firearms and was dismissed days later. Despite these facts, Nassau County subsequently revoked Mr. Henry's pistol license. As a result of that license revocation, Mr. Henry also lost his right to possess long arms in Nassau County. Nassau County claims the authority to revoke a pistol license "at any time…for any reason" under Penal Law § 400.00(11). Mr. Henry disputes this and argues that revocations are limited to "a series of specific occurrences clearly set forth in Penal Law § 400.00(11)(a)." The defendants filed a motion to dismiss. On July 26, 2019, Mr. Henry filed a memorandum of law in opposition to defendants' motion to dismiss. The parties are still awaiting a decision on defendants' motion to dismiss.

Hunter Sports Shooting Grounds, Inc. v. Brian X. Foley, Steve Fiore-Rosenfeld, Kevin T. McCarrick, Kathleen Walsh, Connie Kepert, Carol Bissonette, and Timothy P. Mazzei, and the County of Suffolk Suffolk County has operated a trap and skeet shooting range in Suffolk County, N.Y., since 1963 on County-owned land. The applicant, Hunter

Sports Shooting Grounds, Inc., has a license to operate the trap and skeet shooting range as the County's concessionaire. In 1987, the Town of Brookhaven passed a noise ordinance that prohibits the operation of the property as a trap and skeet range. Suffolk County also passed a noise ordinance, but it specifically exempts the County shooting range. The Town of Brookhaven has been trying to shut down the applicant's shooting range based on alleged violations of its noise ordinance. To date, 89 summonses for violating the noise ordinance have been dismissed and one—the first trial—resulted in a conviction. Approximately 150 summonses for violating the noise ordinance are pending. The applicant had to defend each individual summons at various trials in the District Court.

In January 2007, the applicant filed a declaratory judgment action in the New York Supreme Court, County of Suffolk, seeking damages, including attorney's fees pursuant to 42 U.S.C. § 1983, and injunctive relief. The action has continued since then, with the matter being considered by the District Court, the Supreme Court and the Appellate Division. The parties have engaged in extensive motions practice and appeals throughout these years. The issue is whether the applicant's range, located in Suffolk County, has the right to continue use as such despite the noise ordinance passed by the Town of Brookhaven. The applicant's attorney argues that the Suffolk County noise ordinance—which specifically exempts the County shooting range—"should trump the Town's regulation" and that the Town of Brookhaven has deprived the applicant "…of vested property rights, effecting a 'taking' of Hunter Sport's property interests, in violation of its rights of substantive and procedural Due Process and Equal Protection of the laws under Articles 5 and 14 of the United States Constitution, 42 U.S.C. Section 1983, and Article I Section 6 and 7(a) of the New York State Constitution." Discovery has been completed.

On April 10, 2018, the applicant filed a motion for summary judgment on some of the causes of action. On May 17, 2018, the County of Suffolk filed an affirmation in support of the applicant's motion for summary judgment. On May 17, 2018, the defendants filed their memorandum of law in opposition. On September 14, 2018, the applicant's motion for summary judgment was denied. On October 18, 2018, the applicant simultaneously moved for leave to reargue, a stay of proceedings pending appeal, and a notice of appeal. The court denied the applicant's motions. Trial commenced on January 30, 2019 and concluded on February 5, 2019. On June 14, 2019, the applicant filed its post-trial memorandum. On November 21, 2019, the Court ruled against applicant, dismissing all of the applicant's causes of action. The applicant intends to appeal.

John Copeland, Pedro Perez, Native Leather Ltd, Knife Rights, Inc., Knife Rights Foundation, Inc. v. Cyrus R. Vance, Jr., Barbara Underwood This is a challenge, on Fourteenth Amendment vagueness grounds, to New York City's enforcement of state laws that prohibit "switchblade" and "gravity" knives. This case is a challenge to the vague and unconstitutional manner in which the Manhattan District Attorney's Office and the New York City Police Department enforce New York State knife law. The Defendants routinely arrest and prosecute individuals and businesses for possessing and selling ordinary pocket knives falsely claiming that they are illegal "gravity knives." Under Defendants' approach to enforcement it is impossible to know what knives are legal or illegal. Significantly, the knife possession charges are also being used as a pretext to subsequently confiscate licensed, registered firearms from many of those who have been arrested (including some of the plaintiffs in this case). The applicants' attorney informs that the standing issue is of importance in other firearms related and Second Amendment cases: "Judges in the Second and Third Circuits have for several years been bending standing rules to the breaking point in an apparent effort to stop Second Amendment cases from proceeding (the Gregg Revell Port Authority FOPA case is one example). A loss on the pending appeal in this case further threatens the ability of other plaintiffs to bring firearms-related cases in the Second Circuit, while a win would prove useful in subsequent cases."

The complaint was filed in the U.S. District Court for the Southern District of New York on June 9, 2011. The court dismissed the lawsuit based on plaintiffs' lack of standing. It held that no plaintiff alleged a "concrete, particularized, and actual or imminent" injury that would be "redressable by a favorable ruling." A motion for reconsideration was denied on November 20, 2013. The dismissal was appealed to the U.S. Court of Appeals for the Second Circuit on May 15, 2014. Briefs were filed and argument was held on January 13, 2015. On September 23, 2015, the United States Court of Appeals for the Second Circuit affirmed the lower court's holding that the organizations Knife Rights and Knife Rights Foundation do not have standing, but vacated and remanded the district court's holding as to Copeland, Perez, and Native Leather, finding those plaintiffs sufficiently alleged an injury in fact to satisfy standing. The favorable Second Circuit opinion is being used in several Second Amendment cases in other parts of the country in cases challenging firearms restrictions. (For instance, a Rule 28(j) submission, citing this case, was filed with the Ninth Circuit in *Haynie v Harris*, a vagueness challenge to the overly broad enforcement of California's "assault weapon" law.)

On June 16, 2016, the bench trial concluded. On January 30, 2017, the District Court ruled against the applicants, holding that the statute is not applied by the defendants in an unconstitutionally vague manner—even though there is no means by which a person can determine whether they are in possession of a legal or an illegal folding knife. On February 16, 2017, the applicants filed their notice of appeal to the United States Court of Appeals for the Second Circuit. The appeal was briefed, and arguments occurred on January 18, 2018. On June 22, 2018, the Second Circuit Court of Appeals ruled against the applicants. On July 6, 2018, the applicants filed a petition for panel rehearing and rehearing en banc. On August 29, 2018, the Second Circuit denied the petition for rehearing en banc.

In affirming the trial court's ruling, the Second Circuit employed a disturbing and controversial approach to Constitutional claims by pigeon-holing the case narrowly as a facial challenge and then refusing to reach the merits. By doing so, the Second Circuit disregarded clearly establish Supreme Court precedent and proceeded in a manner squarely and starkly at odds with the manner in which the Fourth and Eighth Circuits decide similar types of cases. The decision below creates a clear circuit split worthy of review by the Supreme Court: "The critical issue arises in the context of the recently decided Supreme Court cases *Johnson v. United States*

and *Sessions v. Dimaya*, both of which had the effect of relaxing the standard for maintaining a facial Constitutional challenge. The Second Circuit is steadfastly resisting this change in the law, and in doing so is blocking civil rights cases in their infancy without consideration of the merits. This issue (and the related circuit split) arises particularly in the context of Second Amendment challenges. In *Kolbe v. Hogan*, the Fourth Circuit explicitly acknowledged the impact of *Johnson* and *Dimaya* in relaxing the requirements for a facial vagueness challenge. On the other hand, in *New York State Rifle & Pistol Association v. Cuomo*, the Second Circuit, as in our case, disregarded the Supreme Court's holding in *Johnson* and *Dimaya*."

On January 14, 2019, the applicants filed a petition for certiorari to the United States Supreme Court: "May 30, 2019, Governor Andrew Cuomo signed into law a repeal of a portion of New York's gravity knife law. Unfortunately, the repeal was not a full repeal and also was not retroactive. Therefore, some exposure to liability remains, and the NYPD has made it clear that they intend to continue their efforts to enforce the law against law abiding knife owners."

On June 4, 2019, the District Attorney filed a letter with the clerk of the United States Supreme Court regarding arguing that the case has become moot. On June 7, 2019, the applicants filed a supplemental brief in the United States Supreme Court regarding the issue of mootness, arguing as follows: "(1) Assembly Bill 5944 Did Not Moot the Petition Because Gravity Knives Remain Illegal on New York City Subways and Buses, and the NYPD has Announced its Intention to Enforce Those Prohibitions; (2) Assembly Bill 5944 Did Not Moot the Petition Because Retailers Potentially Remain Subject to Future Prosecution for Conduct Prior to the Repeal." The applicant's attorney informs: "[A]lthough our petition for certiorari before the U.S. Supreme Court was denied, prior to the consideration of our petition by the Supreme Court, Knife Rights was instrumental in advancing a bill in the New York State legislature repealing the criminal prohibitions on gravity knives that gave rise to the lawsuit. We understand that the pendency of our cert. petition, was one of the material inducements to Governor Cuomo finally signing the bill after his two prior vetoes." This matter may now be considered closed.

New York State Rifle & Pistol Association v. Beach New York requires those wishing to carry firearms outside the home to obtain a license to do so, which it will issue only upon a showing of "proper cause." While the Second Circuit's decision in *Kachalsky v. County of Westchester* upheld this requirement, this litigation is designed to prompt reconsideration of that opinion in light of the D.C. Circuit's decision in *Grace*. On January 31, 2018, a lawsuit was filed in the United States District Court for the District of New York challenging New York's concealed carry restrictions. On March 26, 2018, the defendant's filed a motion to dismiss, which the district court granted on December 17, 2018. The plaintiffs appealed to the United States Court of Appeals for the Second Circuit. The opening brief was filed March 10, 2019. On August 28, 2019, the United States Court of Appeals for the Second Circuit the case was stayed pending a decision in the *New York State Rifle and Pistol Association, et al v. City of New York, et al.* case.

New York State Rifle and Pistol Association, et al v. City of New York, et al. After reducing most handgun permits issued by the city from full-carry to "premises only" over the course of decades, the New York City Police Department ("NYPD") added further regulations limiting the places a premises permit holder could transport a gun to only ranges approved by the NYPD located within the Five Boroughs of NYC, with a small exception for hunting on New York State approved hunting land. This regulation, enforced by revocation of the person's firearm permit (forfeiture of all handguns and essentially a revocation of Second Amendment rights as to handguns) was put into place several years ago and enforced on a case-by-case basis. This lawsuit, filed in 2013, challenged the law by raising, among other things, the Second Amendment and the right to travel. In February 2015, the United States District Court ruled in favor of the city by granting its motion for summary judgment. The district court held that the restrictions in premises licenses do not violate the Second Amendment, the Commerce Clause, the fundamental right to travel, or the First Amendment. An appeal to the United States Court of Appeals for the Second Circuit was filed in March 2015. Argument before the Second Circuit was held on August 17, 2016. On February 23, 2018, the United States Court of Appeals for the Second Circuit upheld the trial court decision. A petition for certiorari was filed, and on January 22, 2019, the United States Supreme Court granted certiorari. The case was argued on December 2, 2019.

New York State Rifle and Pistol Association, et al. v. City of New York, et al. A NRA Civil Rights Defense Fund grant supported the preparation and filing of an *amicus curiae* in the United States Supreme Court on behalf of a number of law enforcement organizations, including the International Law Enforcement Educators and Trainers Association, the International Association of Law Enforcement Firearms Instructors, the Law Enforcement Legal Defense Fund, the Law Enforcement Action Network, and the Law Enforcement Alliance of America. The amicus brief is in support of granting a petition for certiorari seeking review of a decision by the Second Circuit denying relief to the plaintiffs.

The State of New York prohibits residents from possessing a handgun unless they have a license. To obtain a license, a resident must apply "to the licensing officer in the city or county…where [he or she] resides." The only license most residents may obtain is a "premises license"which limits the possession of handguns to the address listed on the license. The sole exception is that the license holder "may transport her/his handgun(s) directly to and from an authorized small arms range/shooting club, unloaded, in a locked container, the ammunition to be carried separately." New York City interprets "authorized" ranges or clubs to mean only those within the city, of which there are only seven. Thus, licensees cannot transport an unloaded handgun, even in a locked container, to a range outside the city or to a second home elsewhere in the state. The plaintiffs, including the New York State Rifle and Pistol Association, challenged the law as violating, among other things, the Second Amendment, the Commerce Clause, and the fundamental right to travel. The plaintiffs did not prevail in either the District Court or the Second Circuit. The Second Circuit held that the restriction on being able to take one's firearms outside the city was justified by "public safety," because licensees are just as susceptible

as others to "stressful situations" on the public streets, including "road rage" and "crowd situations, demonstrations, family disputes" and other situations "where it would be better not to have the presence of a firearm." That interest easily justified the "insignificant and indirect" burdens on Second Amendment rights.

The law enforcement amicus brief was filed in support of a petition for certiorari in the United States Supreme Court. The amicus brief will supplement the constitutional arguments by showing factually that the alleged "public safety" benefits cited by the Second Circuit under "intermediate scrutiny" are non-existent. License holders undergo exhaustive screening, and are comparable to concealed carry permit holders in other states, who are extraordinarily law-abiding according to empirical data. Most homicides and violent crimes are committed by individuals with a criminal record, who are not even eligible for a premises license. New York City has produced no actual evidence that license holders pose a threat when transporting their unloaded, locked up firearms, and relied solely on speculation. The amicus brief was filed on October 9, 2018. On January 22, 2019, the United States Supreme Court granted certiorari. The case was argued on December 2, 2019.

NORTH CAROLINA

Robert Navarro and the Caldwell Gun Club, LLC. In March of 2016, the Caldwell Gun Club received a zoning compliance permit for a "private" gun club that may not be used for "commercial purposes." However, according to the applicant's attorney, neither the permit nor the ordinance define a "private" gun club, nor the terms "private" or "commercial." Neighbors of the club filed a complaint with the zoning enforcement officer, who then revoked the club's zoning permit for non-compliance. One allegation of non-compliance was that the website mentioned instructional classes "to serve our members and the public." The applicant argued that members of the "public" are still required to purchase daily memberships. However, the zoning enforcement officer argued that "allowing members of the public to use the range—even if using it as members—violates the permit." Another allegation of non-compliance was that the range had created a nuisance because the decibel levels were unacceptable. However, there are no decibel limitations in the ordinances: "Despite the fact that shooting ranges are permitted uses in RA-20 districts, the county's zoning administrator revoked the Gun Club's Zoning Compliance Permits because (1) she determined that the 30-bay range she previously had approved violated the county's highly subjective Noise Ordinance; and (2) she used information from the Gun Club's website to speculate that the Gun Club had become "commercial" and ceased to be 'private.'"

The applicant appealed to the Board of Adjustment. The applicant's attorney identified the issues in the case as including: "Whether a county enforcement officer can revoke a permit because, on subjective grounds, a permitted gun range has become a nuisance; whether daily memberships can be sold for a 'private' gun club in the absence of any zoning regulations specifying what constitutes a "private" club; can a "private" gun club be commercial." The applicant's attorney argued that there are no definitions of "private" versus "commercial" use in the zoning ordinances, that there are no decibel limitations in the county ordinances, and case law dictates that ambiguities in the ordinance are to be decided in favor of the free use of land. "The nuisance aspect of this case will be difficult for the county to prove when it has no decibel limitations in its ordinance and the decision is entirely subjective. Additionally, the Sport Shooting Range Protection Act of 1997 potentially provides additional protection.…"

On June 15, 2017, the Board of Adjustment voted to uphold the zoning administrator's decision rescinding the use permit, and effectively shutting down the operation of the shooting range. The applicant's attorney informs that there were many legal and procedural errors, including, but not limited to: (1) Only the Sheriff can enforce the Noise Ordinance, and after 60-70 complaints, the Sheriff had not enforced the ordinance. The zoning administrator had no authority to assume powers exclusively delegated to the Office of Sheriff; (2) The Zoning Ordinance unequivocally required the zoning administrator to provide the Gun Club with a notice of violation so that it could explain or respond. Instead, she proceeded straight to revocation. This is a procedural violation as well as a due process issue; (3) The County actually argued—despite holdings we provided from numerous appellate cases—that it was not obligated to follow its own enforcement laws; (4) Because the Gun Club was an appellant of a final order issued by a zoning administrator and a petitioner to the Board, due process required that the Gun Club proceed first with evidence and have the final position at closing. The County refused to follow standard procedure, another due process violation; (5) There was no citation from the Sheriff to be appealed or heard by the Board. We objected to testimony related to noise on the grounds of relevance and prejudice. Nonetheless, the Board allowed the County to present its case first, which included recordings from the shooting range which we believed were manipulated with volume controls from the hearing room sound booth; (6) The zoning administrator used the volume of calls to complain about noise as her evidence that she should enforce the Noise Ordinance. These calls, however, were generated by the administrator herself and the county attorney who instructed neighbors to make multiple calls. A government official cannot manufacture the evidence to be used against a citizen; and (7) The County's claims and the Board's findings were contradicted by substantial evidence appearing in the record.

A petition for Certiorari to the Caldwell County Superior Court was filed. A writ of certiorari was issued on July 26, 2017. On April 23, 2018, the Caldwell County Superior Court heard the matter. On July 13, 2018, the Court found in favor of the county Board of Adjustment, sustaining the county's revocation of the zoning permits for the applicant, and forcing a shutdown of the shooting range. On August 14, 2018, the applicant filed notice of appeal to the North Carolina Court of Appeals. The County of Caldwell moved to dismiss the appeal as untimely. After hearing in the Superior Court the County's motion to dismiss was denied. The County then filed notice of appeal to the Court of Appeals as to the Superior Court's denial of their motion to dismiss.

OHIO

Erin Gabbard, Aimee Robson and Dallas Robson, Benjamin Tobey, and Benjamin Adams v. Madison Local School District Board of Education and Lisa Tuttle-Huff The applicant is the Madison Local School District Board of Education in Butler County, Ohio. Between April and June 2018, the Madison Schools Board of Education adopted a resolution adopting a firearms authorization policy, which permits certain trained staff members to carry concealed firearms on school grounds. On September 12, 2018, "a small handful of residents, backed and funded by Everytown for Gun Safety…filed a lawsuit to prevent the implementation of this policy" in the Butler County Common Pleas Court. On October 10, 2018, the applicant filed a partial motion to dismiss on the complaint's public records count. On October 31, 2018, the plaintiffs filed a motion for preliminary injunction regarding the implementation of the firearms authorization policy. The applicant replied to this preliminary injunction on November 21, 2018. The applicant's attorney informs: "The legal question in this case is whether Ohio law permits local boards of education to allow employees who are authorized by the board and licensed to carry a concealed firearm to conceal carry on school grounds. In their complaint, the Plaintiffs contend that a statute concerning security personnel, which requires police academy training, applies to any employee who is authorized to carry firearms. Madison Schools disagrees, and follows the Ohio Attorney General's (now Governor's) written opinion regarding the interpretation of the statute. This case has a widespread impact because the Plaintiffs (backed by Everytown for Gun Safety) are seeking to prohibit the authorization of conceal carry by school staff who are not trained as peace officers. This case is a case of first impression in Ohio, and would therefore have a chilling effect on similar policies throughout the state of Ohio. More generally, the Plaintiffs have attacked the sufficiency of conceal carry and other tactical response training (for example, FASTER Saves Lives training). This case could have widespread impact on whether courts in other states would support efforts by local school boards to authorize concealed carrying of firearms by school staff who have received concealed carry and other tactical response training."

A consolidated trial on the merits was scheduled for February 25, 2019. The final pretrial conference occurred on February 11, 2019. On February 22, 2019, the Butler County Common Pleas Court granted in part and denied in part the defendants' motion for protective order. The defendants filed a summary judgement motion on February 1, 2019. The plaintiffs also filed a summary judgement motion. The hearing was held on February 25, 2019. On February 28, 2019, the Court granted the defendants' motion for summary judgment and denied the plaintiffs' motion for summary judgment: "Madison Local School District successfully defended the lawsuit following a consolidated hearing on the parties' motions for summary judgment and trial on the merits. On February 28, 2019, the Butler County Court of Common Pleas ruled in Madison's favor, granting our motion for summary judgment. Ultimately, the Court held that under Ohio law, Madison is permitted to authorize individuals to carry a firearm on school grounds."

On March 26, 2019, the plaintiffs filed their notice of appeal to the Twelfth District Court of Appeals, Ohio. On June 14, 2019, the plaintiffs-appellants filed their merit briefs. "The plaintiffs-appellants focus on an interpretation of R.C. 109.78(D), which plaintiffs-appellants assert requires individuals authorized to carry a firearm on school property to complete police academy training. This is largely the same argument that the plaintiffs-appellants made at summary judgment." On July 12, 2019, the applicant filed its brief in opposition. The plaintiffs-appellants reply brief was filed on July 22, 2019. The Ohio Attorney General and the Buckeye Firearms Foundation have both filed amicus briefs in support of the applicant. On the other side amicus briefs have been filed by Professor Peter M. Shane and "Experts in School Safety and Firearms Training." Initially, the date for oral argument was set for October 7, 2019, but was rescheduled for December 2, 2019.

Lucas Burwell, Michelle Yarbrough, Katherin Kirkpatrick; and Christopher S. Johnson v. Portland School District No. 1J by and through the Portland School Board, an Oregon public school entity; and Guadalupe Guerrero in his official capacity as Superintendent of Portland School District No. 1J The Portland Public Schools system ("PPS") organized demonstrations in favor of gun control. The PPS superintendent ordered staff to organize the students in these demonstrations. The PPS also has passed a formal resolution calling for a ban on the manufacture, sale, and possession of all semi-automatic weapons: "Oregon educational regulations provide that '[t]he ethical educator, in fulfilling obligations to the student, will…[r]efrain from exploiting professional relationships with any student for personal gain, *or in support of persons or issues*.' OAR 582-020-0035(1)(b) (emphasis added)."

The applicant suspects widespread violations of this regulation. Furthermore, pursuant to Or. Rev. Stat. §294.100, education funds must be spent for education. "It is unlawful for any public official to expend any moneys in excess of the amounts provided by law, or for any other or different purpose than provided by law." *Id.* Partisan political spending by public officials are unlawful: "No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. Or. Rev. Stat. §260.432(2)."

Initiative Petition No. 43 is expected to be put on the Oregon ballot this fall, effectively outlawing most modern semi-automatic rifles. As of this time, the initiative has not yet qualified to appear on the ballot. The applicants expects further violations of Or. Rev. Stat. §260.432(2). The applicant requested that PPS disclose records under Oregon's Public Records Act concerning the aforementioned activities to determine whether PPS is engaged in partisan and ideological activities. PPS is allowed, under Oregon law, to charge a fee for the production of such records. The applicant attempted to get the fee waived as public interest is involved, but PPS demanded payment to release these records. The applicant provided the funds demanded. The first batch of records arrived on July 19, 2018. They are: "utterly non-responsive and a waste of time.…[T]hey do not concern

"Second Amendment Subjects" as defined in the request at all, much less constitute communications between the Portland Police Bureau and PPS." The applicant has demanded production of responsive documents and that the costs of producing the non-responsive material be subtracted from the costs demanded by PPS for production. When provided with responsive materials, the applicant will analyze the records produced, and prepare a written analysis as to whether further litigation should be pursued. The applicant will provide electronic copies of such materials.

The applicant cites *Galda v. Rutgers*, 772 F.2d 1060 (3d Cir. 1985), *Board of Education v. Barnette*, 319 U.S. 624, 87 L. Ed. 1628, 63 S. Ct. 1178 (1943), *International Association of Machinists v. Street*, 367 U.S. 740, 6 L. Ed. 2d 1141, 81 S. Ct. 1784 (1961), *Railway Clerks v. Allen*, 373 U.S. 113, 10 L. Ed. 2d 235, 83 S. Ct. 1158 (1963), *Abood v. Detroit Board of Education*, 431 U.S. 209, 52 L. Ed. 2d 261, 97 S. Ct. 1782 (1977), *Ellis v. Brotherhood of Railway, Airline & Steamship Clerks*, 466 U.S. 435, 80 L. Ed. 2d 428, 104 S. Ct. 1883, 52 U.S.L.W. 4499 (1984), *Wooley v. Maynard*, 430 U.S. 705, 715, 51 L. Ed. 2d 752, 97 S. Ct. 1428 (1977), *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, , 85 L. Ed. 2d 652, 105 S. Ct. 2265, 53 U.S.L.W. 4587, 4594 (1985), *Buckley v. Valeo*, 424 U.S. 1, 46 L. Ed. 2d 659, 96 S. Ct. 612 (1976), *Federal Election Comm'n. v. National Conservative Political Action Committee*, 470 U.S. 480, 84 L. Ed. 2d 455, 105 S. Ct. 1459, 53 U.S.L.W. 4293 (1985), *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 55 L. Ed. 2d 707, 98 S. Ct. 1407 (1978), as potentially favorable precedent for a potential federal lawsuit.

The applicant informs: "Since my last report, in which PPS had finally made an initial, worthless production, the District Attorney resolved my appeal by decision issued September 7, 2018…, decreeing that all documents must be produced by December 6th....I have reviewed most of the material produced.From what I have seen so far, it seems clear that: (1) The PPS e-mail system is awash with left-wing news feeds rife with anti-gun propaganda, and many PPS educators subscribe to feeds from anti-gun organizations through their PPS e-mails; (2) There is almost no hint of any dissenting voices among PPS staff, and very few parent complaints; (3) On March 6th, PPS adopted a resolution banning all semi-automatic weapons, with close coordination with local Democratic politicians, the teacher's union, and associations of school administrators; (4) Anti-gun instructional materials and guidance for student activists were prepared; (5) The PPS Superintendent articulated his "expectation" that every school would facilitate and support the March 14th demonstrations, while carefully asserting that PPS was without power to encourage students to walk out on their own; (6) The anti-gun effort extends all the way down to kindergarten....In short, the materials begin to support the federal case I am hoping to develop, asserting that forced taxpayer funding of these sorts of activities violates the First Amendment rights of parents (and threatens their Second Amendment rights). There might be also be pendant state law claims to recover funds expended for "another or different purpose than provided by law" (ORS 294.100(1))."

Last summer's Supreme Court decision in *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448 (2018), further strengthens the First Amendment arguments presented. Materials received in response to the applicant's record request prove that the PPS organized, supported and required each individual school to engage in District-wide anti-gun protests which were then repeatedly and falsely claimed to be the product of student initiative. The Portland Public Schools have continued to provide additional responsive documents but have yet to provide everything requested. On March 13, 2019, the applicants field a lawsuit in the United States District Court for the District of Oregon, Portland Division, on behalf of certain parents, challenging the actions of the Portland Public Schools as a violation of First Amendment Rights, because of forced subsidization of speech and compelled speech, and 42 U.S.C. § 1983, and also as a violation of the Oregon Public Records Act. The complaint seeks a declaratory judgment, a permanent injunction, and attorney fees and costs.

The defendants filed a motion to dismiss. The applicants filed a response to the motion to dismiss on June 17, 2019. The defendants filed a reply and briefing has now been completed on the defendants' motion to dismiss. The magistrate judge refused the requests of both sides for oral argument: "[O]n August 23, 2019, Magistrate Judge Julie Russo dismissed the First Amended Complaint (her Findings and Recommendations are attached). The gist of her ruling was that with respect to the claim for forced subsidization of speech, that the children were in substance third-party contractors employed by the government, thus invoking the "government speech" doctrine. Magistrate Russo recognized, however, that the complaint had alleged that the students were private parties, but concluded, for reason not clear to me, that such allegations were not sufficient, and offered a chance to replead them. It is not clear to me how the allegations were deficient, because the truth of the matter is that PPS was propagandizing the students with a message it desired to promote, and the students were private actors, which is precisely what the complaint says. (*See also* Objection to Findings and Recommendations, at 18-22.) I have attached a copy of the First Amended Complaint for reference....With respect to the claim for compelled speech by the students themselves, the Magistrate Judge argued that the level of compulsion alleged was insufficient, in that students did not suffer any punishment for not participating in the demonstrations. This is true, but an altogether different view of "compulsion" than that which applies in other First Amendment contexts."

On September 6, 2019, the applicant filed an appeal to the United States District Court. On September 19, 2019, Portland Public Schools filed a response.

Students for Concealed Carry Foundation, Inc., Ohioans for Concealed Carry & Mr. Michael W. Newbern v. The Ohio State University d/b/a The Ohio State University at Marion The defendant, Ohio State University ("OSU"), currently has various rules, regulations and policies (the "Firearms Policies") that prohibit otherwise lawful firearms use by persons affiliated with the university—such as students and faculty members—but do not prohibit such conduct by persons unaffiliated with OSU. If students or faculty members violate the Firearms Policies, the penalties include, but are not limited to, termination of employment and/or expulsion from the university.

The applicants filed a lawsuit in the Marion County Common Pleas Court, Marion County, Ohio, on November 2, 2016, challenging the Firearms Policies as a violation of: Article I, Section 4 of the Ohio Constitution—Ohio's Right to Keep and Bear Arms guarantee; Ohio Revised Code § 9.68—Ohio's preemption statute; and Ohio Revised Code § 2923.126(B)(5) —Ohio's concealed carry license statute. Discovery is ongoing. The defendant has filed a summary judgment motion, which is pending. The applicants' attorney expects the case to go to trial. The applicants' attorney states the issues presented as including: "Are public universities within the state of Ohio subject to Ohio Revised Code § 9.68…? If public universities are subject to Ohio's preemption statute, then are university policies that prohibit those associated with the university (i.e. students, faculty, members, etc.) from possessing or otherwise utilizing firearms or their components protected under the Ohio Revised Code? Are public universities within the state of Ohio that prohibit those associated with the university from possessing or otherwise utilizing firearms or their components protected under the United States Constitution?" According to the applicants' attorney, "the policies are in clear contradiction of state law."

In May 2018, the parties agreed to a settlement pursuant to which Ohio State University will modify its student code of conduct. Ohio State agreed to use its best efforts to amend its Student Code to clarify that the student code does not prohibit a student with a concealed handgun license from transporting or storing a firearm on university property in compliance with R.C. 2923.1210. On May 21, 2018, the Court stayed all litigation pending implementation of the settlement agreement. The stay expires on February 1, 2019. A status conference is scheduled for January 11, 2019 regarding the status of the implementation of the terms of the settlement agreement. If the student code is amended by January 31, 2019, the plaintiffs have agreed to dismiss the lawsuit.

PENNSYLVANIA

Doe, et al. v. Wolf, et al. Pennsylvania has enacted a mental health treatment scheme that allows physicians to commit citizens involuntarily for mental health treatment for up to five days without any judicial oversight. Pennsylvania law also prohibits anyone who has been involuntarily committed under this scheme from possessing firearms. The result is that law-abiding citizens are divested of their Second Amendment rights without having basic due process rights, including the opportunity to go before a court, examine witnesses, or present a case. On November 16, 2016, suit was filed arguing that the deprivation of their Second Amendment rights, as a result of their involuntary commitments, violates the Due Process clause of the Fourteenth Amendment because it occurs without constitutionally adequate legal process. On January 30, 2017, the defendants moved to dismiss the complaint, arguing that the plaintiffs have no Second Amendment rights because they were declared mentally ill, and, therefore, cannot challenge the process by which they were declared mentally ill, and were divested of their Second Amendment rights. On February 13, 2017, the plaintiffs filed an opposition and a sur-reply to the defendants' reply. Oral argument was held before the Court on May 16, 2017. On August 8, 2017, the Court, while not reaching the State's motion to dismiss, did grant leave under seal to allow additional fact investigation to the plaintiffs. On August 23, 2017, the Court entered an order granting in part and denying in part defendant's motion to dismiss. The Court dismissed several defendants but rejected all of defendant's arguments as to the sufficiency of the pleadings, suggesting in many footnotes that if the allegations in the complaint are true, there may be a due process violation and finding that the reporting of Section 302 commitments to NICS might permanently deprive citizens of their firearms rights without an adequate available remedy. On March 26, 2018, the Court entered an amended scheduling order setting the close of fact discovery at July 30, 2018; setting the date for the close of expert discovery at September 24, 2018; setting the dispositive motion deadline at November 12, 2018; setting the final pretrial hearing for December 17, 2018; and setting a trial date of January 7, 2019. With the consent of Defendant, a new plaintiff was substituted for one of the original plaintiffs.

Discovery has revealed that Pennsylvania State Police began reporting Section 302 and other mental health commitments to NICS in 2013, without specific legal authority. As a result, state restoration procedures cannot restore firearms rights because they cannot affect federal disqualification. On January 10, 2019, the United States District Court for the Eastern District of Pennsylvania ruled adversely on. The case is on appeal to the United States Court of Appeals for the Third Circuit. The case was argued on December 9, 2019.

TEXAS

Robert Arwady and Samuelia Arwady v. Tommy Ho, Jane Doe Ho, and the United States of America Mr. Arwady owned and operated Arwady Sales, a Federal Firearms Licensee ("FFL"), between the period of 1989 and 2007. During this time, Mr. Arwady had an antagonistic relationship with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("BATFE"). According to the applicant's attorney, this arose out of Mr. Arwady's refusal to become an informant for the BATFE in the BATFE's illegal "Fast and Furious" program, "where he was told that if he cooperated with [BATFE], he could keep his license."

In 1998, Mr. Arwady was indicted, on charges arising from alleged record keeping violations during the course of a 1996 BATFE compliance inspection. Mr. Arwady was acquitted on all counts. In 2004, Arwady Sales was again the subject of a BATFE compliance inspection, and again record keeping violations were alleged by the BATFE. These allegations included five missing silencers – which the applicant's attorney alleges "were a complete fraud" as they had never been registered to, nor presumably possessed or sold by, Mr. Arwady or his business—and over 600 missing firearms. Mr. Arwady claims that these record keeping discrepancies—as well as those that caused the 1998 indictment mentioned above—were due to the fault of Mr. Jeffrey Lewis, a Sergeant with the Houston Police Department, who had worked at Arwady Sales from 1991-1998 as a part time employee. This employee had been falsifying the business's records in order to cover the fact that he had been stealing firearms from the business. The BATFE's criminal

investigation, and subsequent indictment of and plea agreement with Mr. Lewis led to Mr. Lewis' agreement to testify against Mr. Arwady. Despite Mr. Arwady's best efforts to reconcile the discrepancies alleged by the BATFE, including accounting for all but 30 of the over 600 missing firearms, in 2006, Mr. Arwady was notified that the BATFE would not be renewing Arwady Sale's FFL. Mr. Arwady's appeal was denied at a BATFE administrative hearing. His appeal to the United States District Court for the Southern District of Texas was also unsuccessful. Mr. Arwady filed an appeal with the United States Court of Appeals for the Fifth Circuit, but subsequently withdrew his appeal and closed Arwady Sales. However, Mr. Arwady continued to run another non-FFL business at the same location, selling ammunition, and firearms accessories.

At the time Arwady Sales closed, there were roughly 150 firearms left in inventory. Based on BATFE regulations and federal law, Mr. Arwady believed it to be legal for him to transfer these firearms into his personal collection, and then sell most of them. He began to do this shortly thereafter, offering the firearms for sale on the internet, while storing them in safes at his business (though his attorney notes he never displayed any of these firearms for sale at the business). In July of 2009, the BATFE executed search warrants on Mr. Arwady's business, residence and vehicle, seizing 165 firearms, and subsequently commencing civil forfeiture proceedings against the firearms. The civil forfeiture action was dismissed on mutual agreement of the parties after the Court denied the government's summary judgment motion. In February of 2014, a federal grand jury in Houston returned an eight count indictment against Mr. Arwady, which included a "notice of forfeiture," for 162 of the 165 firearms. Trial was set for October 19, 2015. In October 2015, six of eight counts were dismissed. Mr. Arwady was found not guilty of the remaining two counts on October 21, 2015. The court also ordered the return of the 165 firearms that were seized.

In the aftermath of the government's civil forfeiture having been dismissed by the court sua sponte, and the criminal forfeiture attempt ending with Mr. Arwady's acquittal, Mr. Arwady sought the return of his firearms. The BATFE eventually returned the firearms but in extraordinarily worse condition than when they were seized. The firearms had been seized in new in box condition. They were returned without the boxes, piled in the bed of a pickup truck, with many having been stripped of parts or of magazines.

The applicant's attorney recently filed a Federal Tort Claims Act and a Bivens action, seeking damages for false arrest, trespass to chattels, and takings without compensation. The applicant's attorney identifies the legal issues as follows: (1) Liability of the government for a false arrest of a firearm owner, an arrest which disregarded the definition of "engaged in the business" inserted by the 1986 Firearm Owners Protection Act, as well as the requirement for a "willful" state of mind. The grand jury transcript shows that neither the agent nor the prosecutor informed the grand jury of the restrictive definition of "engaged in the business" created by the 1986 FOPA; (2) Liability of the government for a mass seizure of 160+ firearms, a seizure that disregarded the restrictions placed upon such seizure by the 1986 FOPA (e.g., that seized arms must be "individual identified" as having been used in a violation, and that the violation must be willful); (3) Liability of the government for an uncompensated "taking" of private property, where agents used Mr. Arwady's detained firearms as a parts bin, taking parts and magazines from them at will. The applicant's attorney believes that there is a high potential for a favorable result because: "Mr. Arwady was prosecuted in clear violation of FOPA's provisions. His guns were seized in violation of FOPA as well. The fact that the government dismissed six out of eight counts on the eve of trial, and that a jury acquitted him of the other two, speaks for itself. So does the court's sua sponte dismissal of the civil forfeiture, without the government objecting or appealing."

The Department of Justice denied Mr. Arwady's claim on January 24, 2018. The first amended complaint was filed in the United States District Court for the Southern District of Texas, Houston Division on or about January 24, 2018 alleging cause so of action arising under the Federal Torts Claims Act and the Fourth Amendment to the United States Constitution. On or about May 7, 2018, the government responded with two motions to dismiss, which the applicant opposed on or about May 28, 2018. On March 26, 2019, the Court dismissed the Bivens claim and the false arrest claim based on the statute of limitations but allowed the negligent storage claim to move forward.

VERMONT

In re: Laberge Shooting Range, J.O. 4-247; In re: Jurisdictional Opinion 4-247-Alerted, Laberge Shooting Range; In re: Firing Range Neighborhood Group, LLC. The applicant, Laberge & Sons, Inc., has operated a shotgun shooting range in Charlotte, Vt., for approximately 60 years. The range is available for use by the shooting public at no admission charge. The range's activities have been protected under Vermont's range protection statute and have thus avoided regulation under Vermont's development laws. In the 1990s, a group of neighbors challenged the range. The State issued a jurisdictional opinion in the range's favor allowing the range to continue to operate.

Two years ago, the plaintiffs asked the State to revisit the jurisdictional opinion, alleging changes to the range justified the elimination of its grandfathered status. The plaintiffs argue that minor improvements to the range require that the range obtain an Act 250 permit. Specifically, the plaintiffs argued that the construction of one new shooting bench and the repair of six existing benches, the erection of three small berms, and the continued collection of donations triggered Act 250 jurisdiction. Act 250 imposes a noise limit of 70 dBA at the property line, or 55 dBA at the nearest residence. This is a limit that few outdoor ranges, if any, can comply with and one that this range cannot satisfy. The plaintiffs are attempting to circumvent the range protection law, which expressly prohibits neighbors from suing a range for noise-related nuisance claims. If it is held that these minimal changes trigger Act 250 jurisdiction and remove a range's grandfathered status, then no range in Vermont will be able to make any repairs to its facility or make minor improvement to their property without triggering Act 250. The State issued a new jurisdictional opinion holding that an Act 250 permit was now required. The

applicants have appealed the jurisdictional opinion to the Vermont Environmental Court. The plaintiffs unsuccessfully sought to have the appeal stricken as untimely. The plaintiffs appealed that decision to the Vermont Supreme Court, but were unsuccessful in that effort also because they failed to follow the rules for an interlocutory appeal. The Court agreed with the range that the appeal was interlocutory in nature and did not meet the standard for an immediate appeal.

The Environmental Court granted the Range's motion to amend its Statement of Questions (the filing that establishes the scope of the appeal) over the neighbors' objection. The parties both moved for summary judgment on May 12, 2017. Various replies and memorandum in opposition were filed by the parties May through June 2017. The Court denied the competing motions for summary judgment, but held that the new exemption for shooting ranges related to safety improvements applies retroactively. Thus, if the applicant can show the improvements that triggered the permit process were safety related, the applicant will prevail and no permit will be required. The applicant's attorney believes that the range will prevail because the improvements included the placement of berms behind the targets, the repair of several shooting benches, and the elimination of two shooting locations and their associated lines of fire.

The applicant has engaged an NRA-certified gun safety expert to execute an affidavit and testify that all the improvements make the range safer. A merits hearing was held on January 31, 2018. The two issues were: (1) whether the alleged improvements were exempt from regulation because they were undertaken for safety purposes; and (2) whether there had been a change if use (i.e. had the range become a commercial operation). On March 9, 2018, the trial court held in favor of the applicant.

The neighbors have filed an appeal to the Vermont Supreme Court. On April 20, 2018, the neighbors filed their appellate brief. On May 11, 2018, the applicant filed its appellate brief. On May 25, 2018, the neighbors filed their reply brief. On August 17, 2018, the Vermont Supreme Court ruled in the applicant's favor, affirming the judgement below. On October 1, 2018, the Vermont Supreme Court denied the appellant's motion for reargument. The applicants are negotiating with the plaintiff neighbors to see if the parties can agree on certain noise mitigation measures. The neighbors have offered to pay for the noise mitigation and forgo any further litigation if the applicants agree to install the improvements. On January 7, 2020, the applicant's attorney informed: "The Laberges have elected to close this file and handle any settlement negotiations on their own. Therefore, there will be no further updates."

North Country Sportsman's Club, Inc. v. The Town of Williston, Vermont The applicant, the North Country Sportsman's Club, Inc., with 120 members, has operated a shotgun shooting range in the Town of Williston, Vt., for approximately 50 years. Under the Vermont range protection statute, local municipalities may not "prohibit, reduce, or limit discharge at any existing sport shooting range." Vt. Stat. Ann. tit. § 2291(8) and § 5227. In 2004, the Town of Williston enacted a noise ordinance, which, in relevant part, states as follows: "No person shall make, cause to be made, assist in making, or continue any excessive, unnecessary, unreasonably loud noise or disturbance, which disturbs, destroys, or endangers the comfort, health, peace, or safety of others within the immediate vicinity of the noise or disturbance. Williston, Vt., Noise Control Ordinance § 4 (2004)." The ordinance specifically excludes: "[t]he use of firearms…when used for sport shooting consistent with any permitting conditions placed on such use. For sport shooting uses permitted prior to January 1, 2005, the hours of operation will be determined through a written agreement with the Town." Williston, Vt., Noise Control Ordinance § 6.13 (2004).

The applicant entered into an agreement with the Town of Williston in 2007, limiting the club's hours of operation, reducing the number of events at the club, and requiring the club to provide advance notice to the Town of any special events. This agreement automatically renewed each year, and could be cancelled via notice by either party. In 2014, the Town asked the club to renegotiate the agreement. The new agreement proposed by the Town sought to further limit the club's hours of operation and the number of special events. The club did not agree to these new terms, and no new agreement was executed by the parties. "Shortly after the [a]greement was terminated, on May 6 and 10, 2015, the Town cited the [c]lub for violation of the Town's Noise Ordinance." The Town of Williston contended that in the absence of an agreement as to operating hours, the club was subject to the noise ordinance, that the club's activities violated that ordinance's noise levels, and that the club is only entitled to the state law preemption protection if the club enters into an agreement with the Town of Williston as per the ordinance. The club's attorney argued that the Town of Williston had no right to compel the club to enter into an agreement. The club then filed a complaint for a declaratory injunction, asking the Vermont Superior Court to find the regulation invalid. The Superior Court held that the Town of Williston did not have the right to compel the club to enter into such an agreement. However, the judge also stated, in dicta, that the club could still be required to meet the noise restrictions imposed by the Town of Williston noise ordinance. Contrary to the judge's dicta, the club cannot comply with the ordinance's noise restrictions. The judge's advice, to enclose the skeet shooting field was impractical, prohibitively expensive, and beyond the club's means.

On October 25, 2016, the Court entered final judgment in the matter. On October 26, 2016, the applicant filed a notice of appeal to the Vermont Supreme Court. The applicant's appellate brief was filed on December 7, 2016 and the appellee's brief one month thereafter. On June 2, 2017, the Vermont Supreme Court ruled in the applicant's favor. As a result, the Town of Williston cannot mandate that the applicant enter into an agreement as to the operating hours nor can it cite the applicant for violating the Town of Williston's noise ordinance unless there is a material change in the amount of activity at the club. The applicant has negotiated an Assurance of Discontinuance with the Agency of Natural Resources related to the continued efforts by the Club to address lead deposits. The Assurance of Discontinuance was executed on November 16, 2018. The Assurance of Discontinuance does not include the payment of any fines. The Assurance of Discontinuance does require the club to undertake particular remedial measures. If the club completes these remedial measures, the matter will be closed; if not, the club

will be subject to fines. Neighbors of the club have sought to challenge the Assurance of Discontinuance, seeking the imposition of more punitive fines that could shut the club down. On January 15, 2019, these neighbors filed an Amended Motion for Permissive Intervention in Assurance of Discontinuance in the Superior Court, Environmental Division: "The Town of Williston is still considering an amended noise ordinance that includes restrictions on the number of special events, which include everything from corporate outings to gun safety courses, which the Club can host annually. The Club is seeking to remove this restriction or negotiate a greater number of permitted events. There was an agreement with the Town, but opponents to the negotiated resolution appeared … and the negotiated version was abandoned."

WASHINGTON

Mitchell, et al. v. Atkins, et al On November 15, 2018, the National Rifle Association of America, the Second Amendment Foundation, and local activists filed a lawsuit challenging a Washington State antigun initiative (I-1638) which had passed. Among other things the law bans the sale of any semiautomatic rifle to a person between 18 and 21 years old, and bans the sale of any semiautomatic rifle to a non-resident of the state. The plaintiffs have defeated motions to dismiss based on lack of standing, lack of harm, and that the interstate commerce clause does not protect Washington firearms dealers from Washington laws that burden them. Discovery is ongoing and contended.

WEST VIRGINIA

Ben and Diane Goldstein v. Peacemaker Properties, LLC, and Peacemaker National Training Center, LLC. The applicants, Peacemaker Properties, LLC and Peacemaker National Training Center, LLC (hereinafter collectively referred to as "PNTC") are the Defendants in the above-referenced civil action. The PNTC's range is a nationally recognized shooting range and firearm training center located in Berkeley County, W Va. The PNTC hosts national firearms competitions and training events. The range is open to the public and has approximately 1,000 members.

The plaintiffs, Ben and Diane Goldstein, reside across the state border in Frederick County, Va., and allege that the activity at PNTC is a nuisance to the enjoyment of their property. The plaintiffs purchased their Frederick County, Va. property in 1976. The PNTC opened in September 2011. Prior to construction, the PNTC applied to the Berkeley County Planning Commission for approval of the shooting range. The plaintiffs allege that the PNTC provided an environmental stewardship plan and promised to be "sensitive to neighbors" regarding their noise concerns. The plaintiffs also allege that the PNTC represented to the Berkeley County Planning Commission that the PNTC's goal was to be below sixty-five (65) decibels (dB) during operating hours. Sixty five decibels is the noise level allegedly associated with the sound of a normal human conversation. Further, plaintiffs allege that the PNTC agreed to amend the PNTC's hours of operation in response to the neighboring community's alleged concerns over noise levels. The plaintiffs also contend that, despite the alleged promises, the PNTC has deviated from its published hours of operation, including allowing shooting as early as 7 a.m. on both weekends and weekdays, and as late as 7:30 p.m. on both weekends and weekdays. Additionally, the plaintiffs allege that PNTC has produced sounds as loud as ninety-four (94) decibels (dB), which is loud enough to damage human hearing.

On September 18, 2015, the plaintiffs filed a private nuisance against PNTC in the Circuit Court of Berkeley County, W Va., alleging violations of both the City of Winchester, Va., Noise Control Ordinance, as well as the Berkeley County, W. Va., Noise Ordinance. The plaintiffs' residence is located in Virginia, and the PNTC is largely located in West Virginia. Choice of law is disputed in this matter. However, regardless of which state's law the court decides to apply, the applicants' attorney argues that the PNTC is either exempt from any relevant noise ordinances, or that any such claims are barred by the statute of limitations.

Under Virginia law, "[n]o local ordinance regulating any noise shall subject a sport shooting range to noise control standards more stringent than those in effect at its effect date." Va. Code Ann. § 15.2-917. The Berkeley County, W. Va., noise ordinance expressly excluded shooting ranges when the PNTC was established. Further, at the time of the PNTC's establishment, the Frederick County, Va., noise ordinance contained a list of different zones in which the County's ordinance applies. The plaintiffs' property is not in any of these zones. Therefore, the applicants' attorney argued that under Virginia law there cannot be any noise control standards applicable to the PNTC, as none applied to the PNTC at the time of its establishment. Further, even if West Virginia law were to apply, the plaintiffs' claim is barred by the statute of limitations. Under West Virginia law: "[A] person who owned property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that range only if the action is brought within four years after establishment of the range or two years after a substantial change in use of the range. W. Va. Code §61-6-23(c)."

The PNTC was established as a company an LLC in June of 2010. Shooting activity at the range began in April 2011. The plaintiffs filed their complaint on September 18, 2015. The applicants' attorney argues that the plaintiffs' complaint is therefore barred by the statute of limitations under West Virginia law. However, the plaintiffs' attorney contends that the PNTC was not established until September 22, 2011, based on a September 22, 2011 Facebook post on the PNTC Facebook page, announcing that "[a]t long last—Peacemaker is open!" The applicants' attorney argued that the plaintiffs' complaint should be dismissed pursuant to Rule 19 of the West Virginia Rules of Civil Procedure for the failure to join an indispensable party. The plaintiffs' complaint did not include the Shadow Hawk Defense Range, nor any number of home ranges, all of which are located near the PNTC and the plaintiffs' property and allegedly produce sounds substantially similar to the PNTC. The Court denied the applicants' motion to dismiss and the

applicants filed an answer to the complaint. The applicants filed a motion to certify the choice of law issue to the West Virginia Supreme Court. After briefing, Court denied this motion and the choice of law question remained pending before the trial court. Discovery was contested.

A new range protection law came into effect in West Virginia on July 3, 2017, which provides immunity in cases such as this. Based upon this new law, the applicants filed a motion for summary judgment. In August 2017, the court granted summary judgment in favor of the defendants. The Goldsteins appealed to the Supreme Court of Appeals of West Virginia. Their brief was filed on December 12, 2017. The applicants' response was filed on January 26, 2018. On March 15, 2019, the Supreme Court of Appeals of West Virginia affirmed in part, reversed in part, and remanded. The former attorney informs: "The Supreme Court has affirmed the Circuit Court's Order finding that the range protection statute is constitutional, that it does indeed bar the Goldsteins' request for an injunction and that the Goldsteins are not entitled to fees/costs as related to the discovery dispute.… However, the Supreme Court further reversed the Circuit Court's Order as related to any monetary damages that the Goldsteins may have suffered prior to the enactment of the range protection statute. The case will be remanded to the Circuit Court for further proceedings on damages, if any."

The new attorney informs: "…[T]he Supreme Court affirmed the lower court's dismissal of the nuisance claim seeking injunctive relief and its denial of the Goldsteins' fee petition and motion for sanctions against PNTC for alleged litigation misconduct. However, the Court found that the Goldsteins had adequately pled a claim for money damages which claim accrued prior to the 2017 amendment of W.Va. Code § 61-6-23 and that such accrued nuisance claim for money damages was a vested property right which the WV Legislaturecould not eliminate by retroactive legislation. The Court therefor remanded the case to the Circuit Court "to resume proceedings in the Petitioners' nuisance claim for money damages…PNTC remains exposed to the Goldsteins' claim that its range constitutes a private nuisance and that the Goldsteins' claim that its range constitutes a private nuisance and that the Goldsteins should recover money damages for an alleged nuisance caused by the shooting range's operations regardless of PNTC's legal operations. Since the Supreme Court ruled that a nuisance claim seeking money damages constituted a vested property right which the WV Legislature could not retroactively bar, all shooting ranges in West Virginia have potential exposure as respects such claims which were vested as of the date on which the amendments to the WV Code were enrolled…[A]dditional discovery will need to be conducted by the parties to determine *inter alia*, (a) whether the Goldsteins' nuisance claim is barred by the 4-year statute of limitations in effect for bringing this nuisance claim under W.Va. Code § 61-6-23 as the same stood on September 21, 2015 when their suit was filed; (b) the nature and extent of the nuisance being claimed; and (c) the extent of the damages allegedly incurred.

In addition to this West Virginia litigation, in May of 2017, the plaintiffs also filed a nuisance claim in Virginia.

WYOMING

Jose Antonio Lopez v. State of Wyoming The Circuit Court in Teton County, Wyo., issued a protective order against the applicant for the past three years, thus depriving him of his rights to possess and use the many firearms he has collected over the years. Mr. Lopez is 51 years old and, up until November 2014, had been an 11-year National Park Service employee with security clearance, working as an electrician specialist in Grand Teton National Park. In November 2014, Mr. Lopez's wife alleged that he had put an unloaded gun to her head and pulled the trigger, and that the applicant hit his minor child. The applicants denied these allegations. The Teton County prosecutor brought felony charges of child abuse and aggravated assault against Mr. Lopez. He was found not guilty of the charges after a three-day jury trial in April of 2015. In October 2015, Mr. Lopez's wife filed a motion in the Teton County Circuit Court to renew a protective order she had obtained in November 2014. A hearing was held on the motion to renew and, despite her lack of any evidence that the applicant had violated the protective order or threatened the applicant's wife, the judge extended the protective order for another year. The basis for that order was her allegation that he slowed down and gave her the finger as he drove down the highway. Subsequently, Mr. Lopez and his wife were divorced in the District Court of Teton County. Because the lower Circuit Court's protective order conflicted with the orders of the District Court in the divorce case, the judge issued an amended protective order that also precluded the applicant from possessing any firearms or hunting bows.

On September 27, 2016, Mr. Lopez's wife filed a motion to extend the protective order for another year, and on December 19, 2016, another hearing was held. The only new evidence presented was the statement of Mr. Lopez's wife, which was entirely unsupported or corroborated about a brief encounter that allegedly occurred sometime in April 2016, five to six months before the motion was filed.

Mr. Lopez denied the allegations and presented evidence that he no longer lived in Jackson, Wyo., after April 18, 2016. Despite the complete lack of any credible evidence, the Judge extended the protective order even though a jury had found Mr. Lopez innocent of the acts alleged by his wife. The only thing the protective order does now is prevent Mr. Lopez from shooting or possessing firearms and hunting. The divorce decree specifies what conduct is permissible between the parties.

A Notice of Appeal was filed. Mr. Lopez plans to petition the Wyoming Supreme Court to bypass the District Court and hear this appeal. The Wyoming Supreme Court has not considered a case like this and as such the courts have no guidance in deciding whether there has been a showing of "good cause" to revise a protective order each year, as the statute requires. "Good Cause" is not defined in Wyoming Statute § 35-21-106(b).

WAYS OF GIVING

The NRA Civil Rights Defense Fund offers many flexible options for individuals, organizations, and companies to support the Fund's work through charitable giving. Call 1-877-NRA GIVE (1-877-672-4483) for details on the options available. These include:.

Direct Contribution

By check or credit card, this is the easiest way to contribute to the Fund.

Online Contribution

Through our secure server, cyber donors are giving to the Fund by visiting *www.nradefensefund.org*.

Matching Gifts

Many corporations will match their employees' gifts to charitable organizations, effectively doubling or tripling your charitable contribution. Donors should check with their personnel office and follow directions to initiate a match. For a complete list of companies, contact the Office of Advancement at 877-NRA-GIVE.

Gifts of Stocks, Bonds, and Other Securities

The NRA Civil Rights Defense Fund welcomes gifts of stocks, bonds, and other securities. A gift of appreciated securities allows you to take an income tax deduction for the fair market value of the asset to the extent allowable by law, regardless of the original purchase price.

Workplace Giving Campaigns

Workplace giving campaigns offer a convenient way to make payroll deduction contributions to the NRA Civil Rights Defense Fund. In 2018, donors contributed generously through workplace giving campaigns. These contributions represent support from thousands of individual employees across the country, and in the case of federal employees, around the world. Workplace giving campaigns include the Combined Federal Campaign (CFC); State, City, and Local Government Campaigns; The United Way Campaign and other workplace giving programs.

COMBINED FEDERAL CAMPAIGN (CFC #10006)

The Combined Federal Campaign is the only authorized solicitor of employee contributions in the federal workplace. The NRA Civil Rights Defense Fund is considered a National Unaffiliated Organization and can be found in that section of the CFC campaign booklet. The NRA Civil Rights Defense Fund currently receives donor designations from more than 200 federal workplace campaigns.

STATE, CITY, & LOCAL GOVERNMENT EMPLOYEE CAMPAIGNS

Employees of these agencies may also contribute to the NRA Civil Rights Defense Fund at their workplace if the Fund meets the agencies' eligibility criteria. Specifically designating the Fund in campaigns where eligibility has not yet been determined is often the catalyst for the Fund becoming eligible.

Tribute Gifts

Through a Special Tribute gift, your thoughtfulness can help sustain our Second Amendment freedoms for the future, while serving as a fitting tribute to an individual who has cherished these freedoms throughout their life. Special Tribute gifts can be made in memory of a deceased loved one, to celebrate a special occasion, or in honor of an important accomplishment.

Wills and Bequests

After personal and family needs are met, donors can bequeath a specific amount or a percentage of their remainder estate to the NRA Civil Rights Defense Fund. Contributions by bequest are deductible from the taxable estate as a charitable gift. As an alternative, the NRA Civil Rights Defense Fund can be named a contingent beneficiary in the event the first-named beneficiary(ies) should not live to receive the inheritance. If your will is already prepared, a simple codicil (a supplement or addition) can be added to the existing document.

Since local laws differ, a professional advisor should be contacted for the preparation of all wills and trusts. As a reference, the NRA Civil Rights Defense Fund recommends that supporters consider the following language for use in their wills.

General bequest language is as follows: I give, devise, and bequeath to the NRA Civil Rights Defense Fund, 11250 Waples Mill Road, Fairfax, VA 22030, the sum of $_____ (or here otherwise describe the gift) for its general purposes as such shall be determined by its Board of Trustees.

Bequest language to benefit the NRA Civil Rights Defense Fund endowment is as follows: I give, devise, and bequeath to the NRA Civil Rights Defense Fund, 11250 Waples Mill Road, Fairfax, VA 22030, the sum of $ _____ (or here otherwise describe the gift) for the NRA Civil Rights Defense Fund Endowment.

Other Planned Giving

The Fund offers several other options in addition to wills and bequests for individuals to make a planned gift. An individual can provide a bright future for our firearms heritage through trusts, or through charitable gift annuities which can provide the donor needed income and a generous tax deduction. The Fund stands ready to assist you in the selection of what type of gift will work best to help you meet your charitable giving goals.

Contributions to the NRA Civil Rights Defense Fund are tax-deductible to the fullest extent of the law. The Fund is recognized as a 501(c)(3) entity under the Internal Revenue Code.

The Fund's mailing address is: 11250 Waples Mill Road, Fairfax, VA 22030. Credit card contributions may be made by telephoning 1-877-NRA GIVE (1-877-672-4483), or make an online contribution through our secure server by visiting www.nradefensefund.org.

To learn more about how you can ensure the Fund's future with a planned or strategic gift, please call (877) NRA-GIVE (672-4483).

Independent Auditor's Report

To Board of Trustees

NRA CIVIL RIGHTS DEFENSE FUND

FAIRFAX, VIRGINIA

Report on the Financial Statements

We have audited the accompanying financial statements of The NRA Civil Rights Defense Fund (the Fund), which comprise the Statement of Financial Position as of December 31, 2019, and the related Statements of Activities, Functional Expenses, and Cash Flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of December 31, 2019, and the changes in their net assets and their cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 1, in 2019, the Fund adopted Accounting Standards Update No. 2018-08 – Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made. Our opinion is not modified with respect to this matter.

Prior Period Financial Statements

The financial statements of the Fund as of December 31, 2018, were audited by other auditors whose report dated March 13, 2019, expressed an unmodified opinion on those statements.

Aronson LLC

Rockville, Maryland
March 11, 2020

NRA Civil Rights Defense Fund

Statements of Financial Position

AS OF DECEMBER 31, 2019 AND 2018

	2019	2018
Assets		
Cash	$ 441,995	$ 600,423
Investments	4,324,696	3,692,026
Pledges and contributions receivable, net	1,013,393	59,368
Due from affiliates	2,346,661	2,558,868
Other assets	113,902	107,757
Split interest agreements	823,445	658,516
Total assets	**$ 9,064,092**	**$ 7,676,958**
Liabilities		
Accounts payable	$ 217,609	$ 55,300
Annuities payable	138,570	151,367
Total liabilities	**356,179**	**206,667**
Net Assets		
Without donor-restrictions	3,407,156	3,213,462
With donor-restrictions	5,300,757	4,256,829
Total net assets	**8,707,913**	**7,470,291**
Total liabilities and net assets	**$ 9,064,092**	**$ 7,676,958**

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

NRA Civil Rights Defense Fund

Statement of Activities

FOR THE YEAR ENDED DECEMBER 31, 2019

	2019		
	Without Donor Restrictions	With Donor Restrictions	Total
Revenue and Other Support			
Contributions	$ 539,515	$ 637,614	$ 1,177,129
Net investment income	577,971	374,727	952,698
Change in value of split interest agreements	—	164,929	164,929
Other Income	4,020	—	4,020
Net assets released from restrictions	133,342	(133,342)	—
Total revenue and other support	**1,254,848**	**1,043,928**	**2,298,776**
Expenses			
Program	976,500	—	976,500
Administrative	82,147	—	82,147
Fundraising	2,507	—	2,507
Total expenses	**1,061,154**	**—**	**1,061,154**
Change In Net Assets	193,694	1,043,928	1,237,622
Net Assets			
Beginning of year	3,213,462	4,256,829	7,470,291
End of year	**$ 3,407,156**	**$ 5,300,757**	**$ 8,707,913**

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

NRA Civil Rights Defense Fund

Statement of Activities

FOR THE YEAR ENDED DECEMBER 31, 2018

	2018		
	Without Donor Restrictions	With Donor Restrictions	Total
Revenue and Other Support			
Contributions	$ 687,643	$ 1,273,418	$ 1,961,061
Net investment loss	(255,489)	(95,859)	(351,348)
Change in value of split interest agreements	—	(73,902)	(73,902)
Other Income	—	—	—
Net assets released from restrictions	138,889	(138,889)	—
Total revenue and other support	**571,043**	**964,768**	**1,535,811**
Expenses			
Program	727,932	—	727,932
Administrative	63,403	—	63,403
Fundraising	3,085	—	3,085
Total expenses	**794,420**	**—**	**794,420**
Change In Net Assets	(223,377)	964,768	741,391
Net Assets			
Beginning of year	3,436,839	3,292,061	6,728,900
End of year	**$ 3,213,462**	**$ 4,256,829**	**$ 7,470,291**

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

NRA Civil Rights Defense Fund

Statements of Functional Expenses

FOR THE YEARS ENDED DECEMBER 31, 2019 AND 2018

	2019			
	Program	Administrative	Fundraising	Total
Grants and assistance	$ 966,500	$ —	$ —	$ 966,500
Legal, audit and filing fees	10,000	42,923	—	52,923
Printing and publications	—	20,692	—	20,692
Information technology	—	—	5	5
Office supplies	—	4,391	—	4,391
Bank fees and services	—	4,128	—	4,128
Meetings	—	7,250	—	7,250
Other	—	2,763	2,502	5,265
Total	**$ 976,500**	**$ 82,147**	**$ 2,507**	**$ 1,061,154**

	2018			
	Program	Administrative	Fundraising	Total
Grants and assistance	$ 717,932	$ —	$ —	$ 717,932
Legal, audit and filing fees	10,000	18,411	—	28,411
Printing and publications	—	18,003	—	18,003
Information technology	—	10,000	5	10,005
Office supplies	—	3,735	1,829	5,564
Bank fees and services	—	4,234	—	4,234
Meetings	—	6,106	—	6,106
Other	—	2,914	1,251	4,165
Total	**$ 727,932**	**$ 63,403**	**$ 3,085**	**$ 794,420**

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

NRA Civil Rights Defense Fund

Statements of Cash Flows

FOR THE YEARS ENDED DECEMBER 31, 2019 AND 2018

	2019	2018
Cash Flows From Operating Activities		
Change in net assets	$ 1,237,622	$ 741,391
Adjustments to reconcile change in net assets to net cash used in operating activities:		
Net increase in investment in endowment	(15,535)	(16,976)
Net unrealized (gain) loss on investments	(768,745)	585,947
Net realized gain on investments	(13,342)	(88,760)
(Increase) decrease in value of split interest agreements	(164,929)	73,902
Changes in operating assets and liabilities:		
(Increase) decrease in pledges and contributions receivable	(954,025)	20,862
Decrease (increase) in amounts due from affiliates	212,207	(1,984,770)
Increase in other assets	(6,145)	(16,548)
Increase in accounts payable	162,309	11,340
Net cash used in operating activities	**(310,583)**	**(673,612)**
Cash Flows From Investing Activities		
Purchases of investments	(13,181)	(1,464,150)
Proceeds from sales of investments	162,598	1,160,080
Net cash provided by (used in) investing activities	**149,417**	**(304,070)**
Cash Flows From Financing Activities		
Proceeds from contributions restricted for:		
Investment in endowment	15,535	16,976
Payments on annuity obligations	(12,797)	(11,643)
Net cash provided by financing activities	**2,738**	**5,333**
Net Decrease In Cash	(158,428)	(972,349)
Cash		
Beginning of year	600,423	1,572,772
End of year	**$ 441,995**	**$ 600,423**

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

1. Nature of Activities and Significant Accounting Policies

NRA Civil Rights Defense Fund (the "Fund") was organized on July 22, 1978, as a nonprofit organization to voluntarily assist in the preservation and defense of the human, civil, and/or constitutional rights of the individual to keep and bear arms in a free society. The Fund receives the majority of its operating funds from general contributions.

Basis of Presentation

The financial statements have been prepared on the accrual basis of accounting. The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Classification of Net Assets

To identify the observance of limitations and restrictions placed on the use of the resources available to the Fund, the accounts of the Fund are maintained in two separate classes of net assets: without donor-restrictions, and with donor-restrictions, based on the existence or absence of donor-imposed restrictions.

Net assets without donor-restrictions represent resources that are not restricted by donor-imposed stipulations. They are available for support of the Fund's general operations.

Net assets with donor-restrictions represent contributions and other inflows of assets whose use by the Fund for its programs are limited by donor-imposed stipulations. Some of these restrictions are temporary in that they either expire by passage of time or can be fulfilled and removed by actions of the Fund pursuant to those stipulations. Other donor-restrictions are perpetual in nature, whereby the donor has stipulated the funds be maintained in perpetuity.

Concentration of Credit Risk

The Fund maintains its cash accounts in one commercial bank located in the Washington, DC, metropolitan area. During the normal course of business, the Fund may have funds on deposit exceeding the insurance limits of the Federal Deposit Insurance Corporation. The Fund's policy is to deposit these funds in only financially sound institutions. Nevertheless, these deposits are subject to some degree of credit risk, although the Fund has not experienced any such losses.

The Fund invests in a professionally managed portfolio that primarily contains money market funds, equity securities, and fixed income securities. Such investments are exposed to various risks, such as market and credit. Due to the level of risk associated with such investments, and the level of uncertainty related to changes in the value of such investments, it is at least reasonably possible that changes in risk in the near term would materially affect investment balances and the amounts reported in the financial statements.

Investments

Investments consist primarily of money market funds, equity securities, and fixed income securities which are carried at fair value, as determined by an independent market valuation service using the closing prices at the end of the period. In calculating realized gains and losses, the cost of securities sold is determined by the specific-identification method. To adjust the carrying value of the investments to their fair value, the change in fair value is included in revenue and other support in the statements of activities.

Pledges and Contributions Receivable

Unconditional pledges and contributions receivable consist of irrevocable and measurable bequest proceeds due to the Fund and donor promises to give in future periods, over a period of one to five years. An allowance for uncollectible pledges and contributions receivable is provided based upon management's judgment of potential defaults.

Split Interest Agreements

The Fund is the beneficiary under two charitable remainder unitrust agreements held by a third party. Under the terms of the agreements, the Fund has the irrevocable right to receive a portion of the remaining trust assets upon expiration of the trusts. Split interest agreements are recorded as an asset based on the actuarially computed fair value and adjusted as of the end of each year. The difference between the amount received for the agreement and its actuarially computed value at each year end is recorded as changes in present value of split interest agreement. The receivable from the trusts has been recorded at the present value of estimated cash flows. The discount rate applied ranged from 1.83% to 1.92% for the year ended December 31, 2019,

and 2.59% to 2.69% for the year ended December 31, 2018, and incorporated future life expectancies of 6 and 10 for the year ended December 31, 2019, and 7 and 11 for the year ended December 31, 2018.

Annuities Payable

Donors have established and funded gift annuity contracts. Under terms of the contracts, the Fund has the irrevocable right to receive the remaining contract assets upon termination of the contract. Amounts payable under annuity contracts are recorded as a liability based on the actuarially computed value at the time of gift. The difference between the amount received for the contract and its actuarially computed liability is recorded as revenue. For both the years ended December 31, 2019, and December 31, 2018, the discount rate applied ranged from 1.4% to 3.2%.

Outstanding Legacies

The Fund is the beneficiary under various wills and trust agreements, the total realizable amounts of which are not presently determinable. The Fund's share of such amounts is not recorded until the Fund has an irrevocable right to the bequest and the proceeds are measurable.

Revenue Recognition

Unconditional contributions, whether without donor restrictions or with donor restrictions, are recognized as revenue upon notification of the unconditional gift or pledge and classified in the appropriate net asset category. Contributions that are restricted by the donor are reported as an increase in net assets without donor restrictions if the restriction expires in the reporting period in which the contribution is recognized. All other donor restricted contributions are reported as an increase in net assets with donor restrictions, depending on the nature of restriction. When a restriction expires (that is, when a stipulated time restriction ends or purpose restriction is accomplished), net assets with donor restrictions are reclassified to net assets without donor restrictions and reported in the statements of activities as net assets released from restrictions.

Pledges receivable are stated at the estimated net present value, net of an allowance for uncollectible amounts. Conditional promises to give are not recognized until the conditions on which they depend are substantially met.

Tax Status

The Fund is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code and from state income taxes. In addition, the Fund is not classified as a private foundation.

The Fund follows the accounting standard on accounting for uncertainty in income taxes, which addresses the determination of whether tax benefits claimed or expected to be claimed on a tax return should be recorded in the financial statements. Under this guidance, the Fund may recognize the tax benefit from an uncertain tax position only if it is more-likely-than-not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. The guidance on accounting for uncertainty in income taxes also addresses de-recognition, classification, interest and penalties on income taxes, and accounting in interim periods. Tax years from 2016 through the current year remain open for examination by tax authorities, which is the standard statute of limitations look-back period. Currently, there are no examinations in process.

Management evaluated the Fund's tax positions and concluded that the Fund had taken no uncertain tax positions that require adjustment to the financial statements to comply with the provisions of this guidance.

Functional Allocation of Expenses

The costs of providing program services and supporting activities have been accounted for on a functional basis in the statements of activities. All costs are recorded directly, with no further allocations between program services and supporting activities.

Adopted Accounting Pronouncements

During 2019, the Fund adopted ASU No. 2016-01 – Recognition and Measurement of Financial Assets and Financial Liabilities, Financial Instruments – Overall (Subtopic 825-10), which improves the reporting model for users of financial information. Among the guidance improvements included in the ASU, the update eliminates classification distinctions for equity investments (other than those disclosed under the equity method), provides an alternative valuation for securities without readily determinable fair values, addresses impairment issues related to equity securities and modifies

the disclosure requirements associated with debt securities held to maturity. Adoption of the ASU's amendments did not affect amounts reported or the classification of investments disclosed in the accompanying financial statements.

During 2019, the Fund adopted ASU No. 2018-08 – Not-for-Profit Entities: Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made. This guidance is intended to clarify and improve the scope and the accounting guidance for contributions received and contributions made. Key provisions in this guidance include clarification regarding the accounting for grants and contracts as exchange transactions or contributions, and improve guidance to better distinguish between conditional and unconditional contributions. Analysis of the various provisions of this standard resulted in no significant changes in the way the Fund recognizes revenue; however, the presentation and disclosures of revenue has been enhanced.

During 2019, the Fund adopted ASU No. 2014-09 – Revenue from Contracts with Customers (Topic 606), as amended. This guidance provides the framework for recognizing revenue and is intended to improve comparability of revenue recognition practices across for-profit and not-for-profit entities. Analysis of the various provisions of this standard resulted in no significant changes in the way the Fund recognizes revenue. The Fund adopted ASC 606 using the modified retrospective method. Results for reporting periods beginning after January 1, 2019, are presented under ASC 606, while prior period amounts are not adjusted and continue to be reported in accordance with the Fund's historic revenue recognition methodology under ASC 605 *Revenue Recognition*.

Subsequent Events

The Fund evaluated subsequent events through March 11, 2020, which is the date the financial statements were available to be issued.

2. Availability and Liquidity

The Fund maintains a policy of structuring its financial assets to be available as its general operating expenses come due. This includes the appropriation of income from donor restricted endowments and contributions, in satisfaction of those restrictions.

The table below represents the Fund's financial assets available to meet general expenditures within one year as of December 31, 2019 and 2018:

	2019	2018
Financial assets at year-end:		
Cash and cash equivalents	$ 441,995	$ 600,423
Investments	4,324,696	3,692,026
Pledges and contributions receivable, net	1,012,393	57,368
Total financial assets	**5,779,084**	**4,349,817**
Less amounts not available to be used within one year:		
Net assets with donor restrictions	1,741,858	727,576
Financial assets not available to be used within one year	**1,741,858**	**727,576**
Financial assets available to meet general expenditures within one year	**$ 4,037,226**	**$ 3,622,241**

3. Investments

Investments, at fair value, as of December 31, 2019 and 2018 consisted of the following:

	2019	2018
Money market	$ 113,050	$ 111,424
Equity securities	2,401,858	1,917,964
Fixed income securities	1,809,788	1,662,638
Total	**$ 4,324,696**	**$ 3,692,026**

Investment income (loss) is composed of the following:

	2019	2018
Interest/dividend income	$ 170,611	$ 145,839
Net realized gain on investments	13,342	88,760
Net unrealized gain (loss) on investments	768,745	(585,947)
Total	**$ 952,698**	**$ (351,348)**

4. Pledges and Contributions Receivable

At December 31, 2019 and 2018, donors to the Fund have unconditionally promised to give amounts as follows:

	2019	2018
Within one year	$ 1,013,143	$ 57,368
One to five years	1,000	2,000
	1,014,143	59,368
Less: allowance on pledges receivable	750	—
Total	**$ 1,013,393**	**$ 59,368**

Proceeds bequeathed and due to the Fund in the amount of $1,000,000 and $0 were included in contributions receivable at December 31, 2019 and 2018, respectively.

One donor represented 98.7% of pledges and contributions receivable at December 31, 2019, corresponding to 26.3% of total 2019 revenue. Another donor represented 84.2% of pledges and contributions receivable at December 31, 2018, which was less than 10% of total 2018 revenue.

5. Commitments

Awards to reimburse legal costs in association with the Fund's mission are committed upon action of the Board, and subsequently become a program expense and a liability once legal work has been performed. At December 31, 2019 and 2018, $430,833 and $500,723 have been committed, respectively. Legal costs incurred on Board approved actions, and included in accounts payable at December 31, 2019 and 2018 were $114,000 and $51,500, respectively.

6. Fair Value Measurements

The Fund follows the Codification topic, *Fair Value Measurement*, which defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date and sets out a fair value hierarchy. The fair value hierarchy gives the highest priority to quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). Inputs are broadly defined as assumptions market participants would use in pricing an asset or liability. The three levels of the fair value hierarchy are described below:

LEVEL 1: Unadjusted quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. The type of investments included in Level 1 include listed equities and listed derivatives.

LEVEL 2: Inputs other than quoted prices within Level 1 that are observable for the asset or liability, either directly or indirectly; and fair value is determined through the use of models or other valuation methodologies.

LEVEL 3: Inputs are unobservable for the asset or liability and include situations where there is little, if any, market activity for the asset or liability. The inputs into the determination of fair value are based upon the best information in the circumstances and may require significant management judgment or estimation.

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, an investment's level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The Fund's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment, and considers factors specific to the investment.

In determining the appropriate levels, the Fund performs a detailed analysis of the assets and liabilities that are subject to topic *Fair Value Measurement*. At each reporting period, all assets and liabilities for which the fair value measurement is based on significant unobservable inputs are classified as Level 3.

The estimated fair values of the Fund's short-term financial instruments, including receivables and payables arising in the ordinary course of operations, approximate their individual carrying amounts due to the relatively short period of time between their origination and expected realization.

The tables below present the balances of assets measured at fair value on a recurring basis by level within the hierarchy.

	As of December 31, 2019			
	Total	Level 1	Level 2	Level 3
Available-for-sale equity securities:				
Consumer discretionary	$ 23,802	$ 23,802	$ —	$ —
Consumer staples	12,288	12,288	—	—
Financial services	17,710	17,710	—	—
Healthcare	46,531	46,531	—	—
Industrials	9,961	9,961	—	—
Information technology	49,325	49,325	—	—
Materials	10,943	10,943	—	—
Telecommunication services	20,001	20,001	—	—
Multi-strategy mutual funds	2,211,297	2,211,297	—	—
Total available-for-sale equity securities	**2,401,858**	**2,401,858**	**—**	**—**
Available-for-sale fixed income securities:				
U.S. Treasury security funds	479,870	479,870	—	—
Multi-strategy bond funds	1,329,918	1,329,918	—	—
Total available-for-sale fixed income securities:	**1,809,788**	**1,809,788**	**—**	**—**
Money market	113,050	113,050	—	—
Split interest agreements	823,445	—	—	823,445
Total	**$ 5,148,141**	**$ 4,324,696**	**$ —**	**$ 823,445**

	As of December 31, 2018			
	Total	**Level 1**	**Level 2**	**Level 3**
Available-for-sale equity securities:				
Consumer discretionary	$ 17,183	$ 17,183	$ —	$ —
Consumer staples	24,265	24,265	—	—
Financial services	5,608	5,608	—	—
Healthcare	21,829	21,829	—	—
Industrials	14,050	14,050	—	—
Information technology	46,383	46,383	—	—
Materials	8,398	8,398	—	—
Telecommunication services	15,323	15,323	—	—
Multi-strategy mutual funds	1,764,925	1,764,925	—	—
Total available-for-sale equity securities	**1,917,964**	**1,917,964**	**—**	**—**
Available-for-sale fixed income securities:				
U.S. Treasury security funds	466,691	466,691	—	—
Multi-strategy bond funds	1,195,947	1,195,947	—	—
Total available-for-sale fixed income securities:	**1,662,638**	**1,662,638**	**—**	**—**
Money market	111,424	111,424	—	—
Split interest agreements	658,516	—	—	658,516
Total	**$ 4,350,542**	**$ 3,692,026**	**$ —**	**$ 658,516**

Money market funds, equity securities and fixed income securities are classified as Level 1 instruments, as they are actively traded on public exchanges.

Split interest agreements are classified as Level 3 instruments, as there is no market for the Fund's interest in the trusts. Further, the Fund's asset is the right to receive cash flows from the trusts, not the assets of the trusts themselves. Although the trust assets may be investments for which quoted prices in an active market are available, the Fund does not control those investments.

For assets and liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3), *Fair Value Measurement* requires reconciliation of the beginning and ending balances, separately for each major category of assets and liabilities, except for derivative assets and liabilities, which may be presented net. The table below represents the reconciliation of the Fund's assets measured at fair value on a recurring basis using significant unobservable inputs:

	2019	2018
Split interest agreements, beginning of year	$ 658,516	$ 732,418
Change in value	164,929	(73,902)
Split interest agreements, end of year	**$ 823,445**	**$ 658,516**

7. Net Assets with Donor Restrictions and Endowment Funds

Net assets with donor-restrictions are restricted as follows:

	2019	2018
Perpetual in nature	$ 3,533,907	$ 2,766,807
Program awards	1,185,409	1,180,504
Endowment earnings – general operations	360,102	143,330
Other, including passage of time	221,339	166,188
Total	**$ 5,300,757**	**$ 4,256,829**

The Fund follows the Codification subtopic *Reporting endowment funds*. The Codification addresses accounting issues related to guidelines in the Uniform Prudent Management of Institutional Funds Act of 2006 (UPMIFA), which was adopted by the National Conferences of Commissioners on Uniform State Laws in July 2006 and enacted in the Commonwealth of Virginia on July 1, 2008. The Management of the Fund has interpreted UPMIFA as requiring the preservation of the fair value of original donor-restricted endowment gifts as of the date of the gift or Board designation absent explicit donor stipulations or Board action to the contrary. As a result of this interpretation, the Fund classifies as net assets with donor-restrictions (a) the original value of cash gifts donated to permanent endowment, (b) the discounted value of future gifts promised to permanent endowment, net of allowance for uncollectible pledges, and (c) the fair value of non-cash gifts received whereby the proceeds of any future sale are donor-restricted to permanent endowment. Board designated endowment funds are classified in net assets without donor-restrictions until utilized by the Fund for the Board designated purpose. In accordance with UPMIFA, the Fund considers the following factors in making a determination to appropriate or accumulate donor-restricted and/or Board designated endowment funds:

- The duration and preservation of the endowment fund
- The purposes of the Fund, donor-restricted endowment and/or Board designated endowment fund
- General economic conditions
- The possible effect of inflation and deflation
- The expected total return from income and the appreciation of investments
- Other resources of the Fund
- The investment policies of the Fund

The Fund has adopted investment and spending policies for donor-restricted endowment assets that attempt to provide a predictable stream of funding to the programs supported by the endowment while seeking to maintain purchasing power of the endowment assets. The investment policy of the Fund is to achieve, at a minimum, a real (inflation adjusted) total net return that exceeds spending policy requirements. Investments are diversified both by asset class and within asset classes. The purpose of diversification is to minimize unsystematic risk and to provide reasonable assurance that no single security or class of securities will have a disproportionate impact on the total portfolio. The amount appropriated for expenditure from endowments with donor-restrictions ranges from 1% to 5% of the endowment fund's fair value as of the end of the preceding year, as long as the value of the endowment does not drop below the original contribution(s). The amount appropriated for endowments without donor-restrictions is made in accordance with donor stipulations and Board designations, respectively. The earnings on donor-restricted endowments are reflected as net assets with donor-restrictions until appropriated for expenditure in the form of program spending, generally for the purpose of awarding exemplary activities in support of the Right to Keep and Bear Arms.

The changes in endowment net assets for the years ended December 31, 2019 and 2018 are as follows:

	Year Ended December 31, 2019			Year Ended December 31, 2018		
	Without Donor Restrictions	With Donor Restrictions	Total	Without Donor Restrictions	With Donor Restrictions	Total
Endowment net assets, beginning of year	$ 762,679	$ 3,846,800	$ 4,609,479	$ 763,646	$ 2,922,974	$ 3,686,620
Interest and dividends, net	36,038	64,600	100,638	22,965	60,536	83,501
Net appreciation (depreciation)	130,993	417,118	548,111	(86,300)	(199,267)	(285,567)
Designations and contributions	—	614,829	614,829	62,368	1,129,916	1,192,284
Amount appropriated for expenditure	—	(59,356)	(59,356)	—	(67,359)	(67,359)
Endowment net assets, end of year	**$ 929,710**	**$ 4,883,991**	**$ 5,813,701**	**$ 762,679**	**$ 3,846,800**	**$ 4,609,479**

The related assets are included in investments, amounts due from affiliates, and split interest agreements.

The portion of perpetual endowment funds that is required to be retained permanently either by explicit donor stipulation or by UPMIFA as of December 31, 2019 and 2018 is $3,533,908 and $2,766,808, respectively. Perpetually restricted endowments and related time restricted investment gains were included in net assets with donor restrictions as follows:

	2019	2018
Original donor-restricted gift amount and amounts required to be maintained in perpetuity by donor	$ 3,533,908	$ 2,766,808
Time restricted accumulated investment gains	1,350,083	1,079,992
Total donor-restricted perpetual endowment fund	**$ 4,883,991**	**$ 3,846,800**

8. Related Parties

The Fund is affiliated with the National Rifle Association of America ("NRA") by virtue of the control vested in the Board of Directors of the NRA to appoint the members of the Board of Trustees of the Fund. The Fund has received certain benefits from this affiliation at no cost, among which are the use of office space and administrative services. Management has determined that the fair value of these benefits is minimal, and accordingly, no amounts are reflected in these financial statements.

The Fund reimburses the NRA for general operating expenses, paid by the NRA on the Fund's behalf. These expenses totaled $41,831 and $39,341 for the years ended December 31, 2019 and 2018, respectively.

The Fund made awards to NRA to reimburse qualified legal costs in association with Fund's mission totaling $652,384 and $433,872 for the years ended December 31, 2019 and 2018, of which $0 are included in due from affiliates as of December 31, 2019 and 2018.

The NRA Foundation, Inc., an affiliated entity, maintains certain endowments and gift annuities benefiting the Fund. Additionally, the NRA Foundation, Inc. funded certain qualified Fund programs with grant awards totaling $21,035 and $141,500 for the years ended Dec 31, 2019 and 2018, respectively.

The following amounts were due from (to) affiliates at December 31:

	2019	2018
NRA Foundation, endowment	$ 2,152,039	$ 2,314,383
NRA Foundation, gift annuities	263,420	234,164
NRAF Foundation, grant refunds	(75,114)	—
NRA Foundation, other	7,690	13,482
Total NRA Foundation	2,348,035	2,562,029
NRA, awards	—	—
NRA, other	(1,374)	(3,161)
Total affiliates	**$ 2,346,661**	**$ 2,558,868**

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