

THE LITIGATOR

MOUNTAIN STATES LEGAL FOUNDATION

VOL. 4, 2020



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A Powerful New Voice for Gun Rights

Launching MSLF's Center to Keep and Bear Arms

Sean Paige and Cody J. Wisniewski

Mountain States Legal Foundation is preparing to launch its first-ever legal center of excellence, dedicated to defending Second Amendment protected rights. Communications Director Sean Paige sat down with attorney Cody J. Wisniewski to learn more about the strategy and motivation behind the creation of MSLF's Center to Keep and Bear Arms.

(Paige) First, let's start with the big news. Tell us about the new MSLF initiative you'll be heading-up and explain what led to its creation and why it's needed now:

(Wisniewski) The purpose of MSLF's new Center to Keep and Bear Arms is to renew MSLF's litigation efforts in the gun rights and Second Amendment area. Mountain States is no stranger to this type of litigation. We successfully represented an individual in a self-defense case after he was nearly attacked by a grizzly bear in the 1980s and continued on with major litigation victories throughout the 2000s. Our arguments were highlighted and cited by the Supreme Court in two landmark Second Amendment cases—*D.C. v. Heller* and *McDonald v. Chicago*.

Building on that success, we saw an opportunity for Mountain States to become an even greater resource to the national gun rights movement.

A lot of gun rights organizations have done great work, but there was no group that solely focused its efforts on litigation. Some organizations have focused solely on appellate courts, waiting for cases to be litigated in trial courts and then taking them over on appeal. But this approach does not lay a strong foundation for cases in the trial court. By focusing on trial court litigation, all the way through the Supreme Court, the Center will become a major resource to the gun rights movement as a whole.

What will set the Center's work apart from work done by other Second Amendment organizations?

First and foremost, we are litigation-only, meaning that we do not lobby or write policy. Other organizations have achieved good results through legislative action or by working with their legislatures but the Center will focus on setting sturdy, long-lasting legal precedent in courtrooms across the nation. This allows the Center to avoid any political issues and focus simply on bringing cases to vindicate our Republic's foundational principles. Second, all of the Center's litigation will be done in-house by MSLF attorneys. Keeping our cases in-house allows us to direct the arguments and the narrative from day one, from the trial court all the way through the Supreme Court if necessary.

How will the Center to Keep and Bear Arms decide which cases to take?

The Center will focus on cases within its issue areas—Keep, Bear, and Arms. “Keep” focuses on individuals’ ability to own and possess the arms they deem necessary, for instance, to defend their lives, loved ones, and property. “Bear” focuses on individuals’ ability to carry arms on their person, both in their home and in public. And “Arms” focuses on ensuring that courts and legislatures respect the broad definition of protected arms envisioned by the Founders and Framers. While based in the West and founded on preserving the Western way of life, the Center will litigate across the nation, as needed, to fight for all Americans’ right to keep and bear arms.

Where is the biggest threat to the Second Amendment coming from these days?

Guns and gun owners have been demonized for the past few decades. In reality, gun owners are simply everyday Americans, rural or urban, who recognize the importance of being able to defend themselves. The Founders and Framers recognized the importance of individual arms ownership. Specifically, I expect very extreme city governments and municipalities to continue trying to push the envelope on gun control ordinances that they cannot get passed through state legislatures—everything from semi-automatic firearm and magazine bans to carry prohibitions.

How does this fit into the core mission of Mountain States Legal Foundation?

Nothing is more sacred to the Western way of life than individual responsibility and property rights. Gun owners take responsibility for their own safety and that of their community. Owning a firearm, or any other type of arm, allows them to protect their lives and their property.



Cody J. Wisniewski will serve as director of MSLF’s Center to Keep and Bear Arms

How long have you been with Mountain States Legal Foundation and what motivated you to join the legal team?

I have been with Mountain States for just over three years. I started my legal career at the Department of Justice and took an Oath of Office to uphold and defend the Constitution of the United States of America. After spending a short amount of time working for the federal government, I realized the best way to uphold my oath was to join Mountain States Legal Foundation and bring the fight to the government on behalf of



MOUNTAIN STATES LEGAL FOUNDATION CENTER TO KEEP AND BEAR ARMS

MSLF’s Center to Keep and Bear Arms will renew our efforts on strategic Second Amendment litigation

everyday people. I saw an opportunity to build on Mountain States’ history of Second Amendment litigation.

Looking five or ten years into the future, what do you hope the Center will have accomplished?

We are at a turning point. Ever since the late Justice Scalia brought constitutional originalism into the mainstream, and as Justice Thomas has continued to advocate, more Judges are respecting the original public meaning of the Constitution. What we are seeing now is the importance of setting good legal precedent in courts. I am confident that, with the partnership of Mountain States’ generous donors, the Center will grow to be the foremost gun rights litigation outfit in the United States. In 10 years, we will have a massive impact in courts across the nation and will continue to establish legal precedents that protect the rights of all Americans.

How did you gravitate toward Second Amendment work as an area of interest?

I’m not a typical gun owner. I didn’t grow up in a household with guns and didn’t shoot my first gun until I was 20 years old. However, I have always had a healthy distrust of government overreach—growing up in California will do that to you. When I saw what my dad had to go through to buy and own a gun in California, simply to defend his home, I began to see just how detrimental gun control laws are to hard-working Americans. As I went to law school and experienced classmates’ and even professors’ lack of care for our nation’s founding principles, I saw where the problem came from. To me, the natural right to self-defense is one of the most important foundations of our system, and if we allow that to be trampled upon by government, we will be on a road to forfeiting all of our other rights. I saw the gun control movement as a microcosm of the macrocosm—what happens to gun rights over the next 20 years will signal what happens to all of our rights. But the fight is far from over. There is still time to positively impact gun rights across our nation. And that’s what we intend to do with our Center to Keep and Bear Arms, with the help of MSLF’s generous supporters.



MSLF TAKES COLORADO GUN CASE TO THE U.S. SUPREME COURT

Big Second Amendment News

Mountain States Legal Foundation has formally petitioned the United States Supreme Court to overturn the Tenth Circuit's decision to deny a federal hearing in the gun owners' rights case *Caldara v. Boulder*. MSLF is asking the high court to allow our clients their day in federal court.

Residents of Boulder face heavy fines and jail time for the mere possession of firearms that are legal elsewhere throughout Colorado and the United States. The city imposed a sweeping ban of the most popular and widely owned firearms and ammunition magazines in America.

In an act of blatant disregard for the Constitution, the city council also raised the minimum age for firearm possession within Boulder city limits to 21.

Plaintiffs in the case, who include Boulder resident Jon Caldara, have yet to get a hearing in court.

MSLF's action before the Supreme Court is intended to end the logjam and force the wheels of justice to begin rolling forward.

The City of Boulder illegally raised the minimum age for firearm ownership to 21.

"Our clients have been waiting for over two years simply to have their day in Court," said MSLF Attorney Cody J. Wisniewski, upon filing the petition. "The rights involved in this case, namely Boulder residents' natural right to self-defense, are too important for a federal court to stay its hand."

"We believe this case presents the Supreme Court with the perfect opportunity to recognize the importance of the Second Amendment, and other natural rights, and to ensure no other litigant is forced to wait to vindicate their rights in a federal court," Wisniewski added. "Those rights cannot be violated by a city or state without allowing for federal court intervention."

MSLF ANNOUNCES \$75,000 CHALLENGE GRANT TO LAUNCH

MSLF'S CENTER TO KEEP AND BEAR ARMS



Give by check or online at
www.mslegal.org/2A

A Major Donor Wants to Match Your Gift!

The Second Amendment is under attack. That's why MSLF is launching the Center to Keep and Bear Arms: to bolster efforts to challenge unconstitutional gun laws in court.

You have a golden opportunity to be on the ground floor of this effort.

A generous donor from California—knowing full well what happens when the government infringes on constitutionally protected rights—recognized the importance of the Center to Keep and Bear Arms and has issued a \$75,000 Challenge Grant.

For every dollar you donate, he will match it, all the way up to \$75,000. If we reach our goal of \$150,000, it will mean MSLF can officially found the Center to Keep and Bear Arms and bring precedent-setting litigation to defend individuals' Second Amendment protected rights.

This is your chance to make a maximum impact and have every dollar doubled!



MOUNTAIN STATES LEGAL
- FOUNDATION -

\$75,000 MATCHING CHALLENGE GRANT

YOUR GIFT WILL BE DOUBLED

Your donation is urgently needed to launch MSLF's Center to Keep and Bear Arms. Thanks to the generosity of an Anonymous Donor, your gift to help launch the Center will be doubled for a limited time.

MEET SOME OF OUR CLIENTS



Jon Caldara

The city of Boulder, CO turned Jon into a criminal overnight by banning many common firearms.



Elizabeth Nesbitt

We successfully defended her right to carry firearms for self-defense on federal lands.

Mountain States Legal Foundation is a non-profit, 501(c)3 organization. Please send your tax-deductible gift along with this form in the pre-addressed envelope. Thank you for defending liberty!

Or donate securely online:
www.mslegal.org/2A

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Be Bold Like Belynda

What one MSLF supporter is doing to fight for our country—and what you can do

Belynda grew up in a small town of only 6,000 people. Her father had come of age during the Great Depression. From the day he and her mother married in 1949, they saved up and paid cash for everything—even their house. He worked hard all his life, building up a small business and achieving the American Dream.

Her father's frugal and diligent ways made an impression on Belynda. Maybe that's why she feels so strongly today about the importance of private property rights. When you work so hard for something, you understand that it's worth protecting.

Belynda later ventured beyond the small town where she grew up. But she still has a small town appreciation for the simple things in life. She doesn't splurge much.

Over the years she has donated to causes she believes in, often giving modest gifts of around \$100.

Lately, however, she has become more concerned about the direction of the country. She sees it drifting away from the free market system that allowed her father to work hard and build a life for the family. She doesn't want to see the nation she grew up in ruined by the far-left activists now intent on imposing their socialist views on the country.

That's why she recently gave \$1,000 to Mountain States Legal Foundation. It's well above what she usually gives to charitable causes.

"I thought about it for two full months," she says. For her, it was a way to honor her father's legacy.

With her gift, Belynda became the newest member of MSLF's Freedom Club, gaining exclusive benefits, including a monthly letter from our president and CEO. Freedom Club members give \$1000 or more in a single calendar year, at least one of the last two years.

Belynda loves her country. She hopes that her example inspires others to be bold and give more during this pivotal time in our nation's history.

Mountain States
Legal Foundation

Notes

Although my normal donations are along the \$100 level, I've thought about your goals for some time. My conclusion is that your support for personal property rights is worthy of a more substantial donation. Please accept this contribution knowing that there are many of us out here who know our personal property rights are critical to the American system of capitalism and growth.

Thank you for your efforts and for contacting me!

Belynda

Be Bold Like Belynda. Join MSLF's Freedom Club today. To learn more visit:

www.mslegal.org/Belynda



Back to Grizzly Country

Wyoming ranchers call the cattle home, counting their blessings, and their losses

Sean Paige

Albert Sommers looks grim—and not just because he’s standing in the pre-dawn dark and cold, restless horse in hand, with a very long day of gathering and sorting cattle ahead of him. It’s something else that’s making him somber this morning.

“Do the math,” he says.

“As of what I know now, we had 54 confirmed grizzly kills and 11 or 12 confirmed wolf kills this summer,” he says, describing that as par for the course in an era in which federally-protected predators treat livestock like a silver-platter buffet. And that’s only confirmed kills, as verified by the state of Wyoming. It doesn’t count the additional animals that just vanish from the herd each summer, never to be found.

Sommers says his ranching association averages about 200 such losses each year on the Wind River Range. Some are confirmed kills, others are just suspected. If a missing animal is worth roughly \$1,000 to the rancher, it’s not hard to see the bite that bears are taking from the bottom line.

Yes, the state of Wyoming compensates ranchers for those losses, as best it can. But add in the extra stress, strain, and workload protected predators impose on ranchers, who already are facing severe market adversity, and one can see why this is a serious, perhaps existential threat.

The damages and dangers facing ranchers probably can’t be erased, but they could be minimized if grizzlies were removed from the endangered species list, in recognition of their recovery and rebounding numbers, and if management responsibilities were assumed by the states, as the law requires. This is how the Endangered Species Act should work. But wolves and grizzlies are too important to the green lobby as fundraising tools and political pawns. They

won’t concede that species recovery has been achieved. That’s where the attorneys at Mountain States Legal Foundation come in.

MSLF won an early round in this fight this summer, defeating an attempt by green activists to halt state removal of documented problem bears. But MSLF is still fighting the larger battle over how these predators should be managed in the future.

In the meantime, Sommers and other family ranchers like Kent Price (pictured above) are determined to continue the work their frontier-era forebearers did. Despite the obstacles erected by government bureaucrats and anti-grazing extremists, they are doing the critical work of feeding and clothing America.

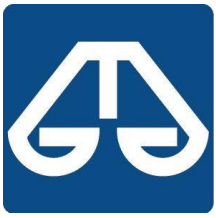
Ranchers are doing the critical work of feeding America.

When we visited with the Upper Green River ranchers in early October, it was day four of the fall “gathering”—a time when the cows had already begun to “drift” down from their summer pastures, driven by their instinct to head for shelter before the savage Wyoming winter blows in.

The Drift’s mounted cowboys and cowgirls were there waiting to gather, count, sort, and lead the animals home, or transport them to market. Next summer, the cycle will begin all over again, as it has for more than a century. MSLF is determined to stand alongside the ranchers in court, making sure they are able to make a living and continue putting food on America’s tables.

Sean Paige is the Director of Communications for Mountain States Legal Foundation.





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THE SUPREME MERIT OF AMY CONEY BARRETT

News Flash: Trump's Supreme Court pick, Amy Coney Barrett, is a woman. And a mother of seven. And a Catholic.

But none of those things are what really matters. Just like you, at MSLF, we would never interview a job applicant based on the factors above. While nothing should be ignored when vetting someone for a position this important, here at Mountain States, we abhor identity politics. We still believe that merit is the most important factor in hiring decisions.

Amy Coney Barrett has spent her professional life demonstrating her merit. She graduated first in her class at Notre Dame law school, where she later taught. After law school she clerked for Justice Antonin Scalia. Professor Robert P. George of Princeton University, one of our nation's leading conservative intellectuals, praised Barrett with these words: "On character, temperament, and intellect she is the top of the top—of any group."

But what excites us the most is that she has a demonstrated record as a constitutional jurist. She interprets the text but only the text. She recognizes it isn't her job to invent laws from the bench. It is her job to simply interpret the laws our elected representatives have written.



Justice Amy Coney Barrett

Thus, although she is a woman, and the mother of seven, and a faithful Catholic—all admirable traits—it is her record as a judge and scholar that makes her worthy of the bench. At MSLF we don't care what your race, creed, color—or in this case, gender—is. We care that you respect the Constitution. She does. That's why Amy Coney Barrett is where she belongs—on the Supreme Court.

***Cristen Wohlgemuth is President and
CEO of Mountain States Legal Founda-
tion.***

