

THE LITIGATOR



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A PRINCIPLE OF LIBERTY

The Right to Bear Arms is Fundamental & Worth Fighting For

Ellie Sullivan told me that she's always enjoyed the sorts of things others find disgusting. She just likes the ooze and guts of life, which is a big reason why she decided to become a nurse near the Seattle, Washington, region where she grew up. "I like being useful, especially in emergencies. I also happened to like gross stuff, too."

That theme—being useful in emergencies—has been a large part of Ellie's upbringing. Her father, seeing the growing insanity of Seattle, raised his children to have a sense of self-sufficiency and autonomy. No doubt, any parent who sees where the world is now can sympathize. Part of that effort, Ellie said, was becoming proficient and familiar with firearms. "We weren't once-a-week at the range folks, but I grew up around them and came to understand and respect these tools."

When Ellie decided to enroll in nursing school, she knew that eventually she would have to do a practicum in Seattle itself, which she frankly wasn't looking forward to. She wanted the opportunity to engage in her studies in a real-world setting, but things in the city weren't looking great. Just a year or two before her practicum was scheduled, Seattle became a hotbed for all things Black Lives Matter, including the infamous riots and notorious (and failed) "Capitol Hill Autonomous Zone," or CHAZ, where protestors established a sort of Marxist make-believe world without law or law enforcement.

Those chaotic and violent events are what prompted Ellie to purchase a Sig P365 handgun. "I could see the writing on the wall. I needed something light, compact, but something that could get the job done." By "get the job done," she meant having enough ammunition to end a confrontation swiftly and effectively, which is why she acquired an extended magazine that carried enough rounds for her needs. "In life-or-death scenarios, the last thing I want to do is reload, spending precious seconds that could be otherwise used in maximizing impact and preserving life."

Ellie's logic is what most politicians forget when crafting laws. In Washington, the state legislature and governor passed magazine-capacity restrictions, limiting the number of rounds in a magazine to ten or fewer. For them, this was the "standard" size for a magazine, and anything over that would be considered "high capacity." What they fail to remember, however, is that the true standard size of a magazine is whatever is necessary to protect yourself from an aggressor (or multiple aggressors) in the most effective fashion possible. The only people who can actually make that judgment are those who are preparing for their own self-defense. People like Ellie.

"I want those additional rounds because, frankly, I'm not a big person. I live in a quieter area, but with the decriminalization of the open use of drugs, we're seeing more hostility and craziness even out here. I hope ten rounds is enough, but if it isn't, I don't want to be caught without more."



MSLF Client John Hwang

Ellie's story is not much different from the story of another MSLF client- John Hwang. John is the quintessential manifestation of the American Dream. His family moved to America from South Korea when he was seven, and they lived, as he said, a standard immigrant life. "You know, we were a bit on the lower income level, but my parents worked hard for years in their flower shop to where we could call ourselves middle class." No doubt, their example inspired John's own industriousness.

After graduating from the University of Washington, and having an early career in the financial services sector, John eventually returned to take over a different business within their family: a teriyaki restaurant. "In Korean culture, the first-born son just has certain responsibilities, so I assumed the mantle, so to speak." That mantle was significant. John's father was also a Christian minister, who had purchased a property for a church, and the property was becoming difficult to manage financially.

Eventually, John returned to the insurance industry, using his respectable salary and brass-tacks determination to help his family. Within seven years, John had gotten his family clear of debt.

Those years of managing family affairs and clearing the books provided invaluable lessons, John said. He learned the realities of business from tough experiences. Far from despair, though, John relished in the practical education. So much so that around 2004, he began a side-gig business on nights and weekends selling firearms.

He chuckled as he told me, "Well, it really started out as a way for me to get guns on the cheap! I first acquired a dealer's license, and then I went out and bought parts and platforms in bulk at a discount. I would sell the excess to friends, keep one for myself at cost basically, and have some cash leftover. It was great!"

"His true innovation, however, was realizing in the early 2000s how the Internet was underutilized in firearms sales, and how impactful good quality photographs could be for customers looking to make a purchase."

That hobby, however, was a true business in the making. The year he began his outfit was when the 1994 Assault Weapons Ban came to an end. "Really cool things" that were prohibited were finally coming back to the market, and John was not going to miss out on the opportunity to sell them. His true innovation, however, was realizing in the early 2000s how the internet was underutilized in firearms sales, and how impactful good quality photographs could be for customers looking to make a purchase. With the "assault weapons" ban coming to an end, a photography buddy at the ready, and a reliable website, John's side-gig became his full-time business. Now, Rainier Arms in Washington is one of the most prolific distributors of high-end tactical rifles, pistols, and shotguns, as well as parts, optics, and accessories. Many in firearms circles know of John and his company, and rely on his team's insights and dependable service for their regular purchases, including magazines of all shapes and sizes.

I asked John what got him into guns in the first place. "I've always loved them. I love adrenaline—fast cars, motorcycles, you name it... Who doesn't love firing a gun? It's one of the most American things you can do."

Ellie Sullivan and Rainier Arms are leading plaintiffs in the case of *Sullivan v. Ferguson*, where Mountain States Legal Foundation, Firearms Policy Coalition, and Cooper & Kirk, PLLC, are taking on the state of Washington for their laws restricting magazine sizes greater than ten rounds. What struck me in my separate conversations with Ellie and John was how strikingly similar their reasons were for getting into the fight.

Ellie said, “Courts are one of the only arenas left for folks like me who just want to defend ourselves. No one is as small as they think they are. Fighting for our rights is a marathon that needs patience, endurance, and conviction. If we come together, we can make a real difference. I’m really grateful I have the opportunity to do something to help take back our values and stand up to tyranny.”

John told me, “We gun owners have a natural opposition to government overreach. At the end of the day, laws don’t affect criminals, so we need liberty to defend ourselves. You can write a thousand letters to your congressman or state representative—but our best chance for protecting our rights is in the courts. I’m so thankful folks like Mountain States exist to take up those fights.”



Ellie Sullivan



At the heart of both Ellie and John’s responses is a principle of liberty. Ellie and John equally understand that what is at stake is not only a practical and useful tool for self-defense. They share an awareness that the fabric of our fundamental natural rights is worth fighting for, and that the courts are one of the best grounds for those fights.

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Sullivan v. Ferguson is set to file cross-motions for summary judgment in August. That means that both the plaintiffs and defendants will be laying their arguments out for the judge and explaining why they ought to win. Its very likely that the judge’s ruling on those motions will resolve the case (of course, pending appeal which seems very likely no matter the result).

Mountain States is proud to represent Ellie and Rainier Arms. We look forward to winning this case for them and all peaceable Washingtonians who seek to defend themselves with whatever size of magazine they deem appropriate.



OFFENSE IS THE BEST DEFENSE

An Interview with MSLF's Director of the Center to Keep & Bear Arms, Brian Abbas

The Center to Keep and Bear Arms has been very active the last few months. We secured a victory in VanDerStok, we are revving up to file another case going after the National Firearms Act, and our work in Washington for Ellie Sullivan is aimed at illegal state gun control. What's the goal here?

The goal is to get back to what the Second Amendment has always meant to be and was until 1934. Since the National Firearms Act (NFA) was passed 90 years ago, the federal government has implemented unconstitutional and illogical restrictions on Americans and their right to keep and bear arms. It wasn't until *DC v. Heller* in 2008 that the Supreme Court finally began to take the Second Amendment seriously. After decades of treating it like some third-rate legal provision, we're finally in a place with *NYSRPA v. Bruen*, from last year, that we can begin to dismantle illegal federal, state, and municipal laws.

What does it mean to take the Constitution on the offense? Isn't it a document meant to defend rights?

Since the NFA's passage, gun owners have had to constantly go to court to defend their basic rights. A law designed to target Prohibition-era gangsters has been wielded against every-day Americans to stifle even the most basic of firearm tools such as mufflers and pistol braces.

Gun control advocates follow the same formula like clockwork. They wait for a tragedy, use that tragedy to develop political willpower, and create a coalition to force restrictions on individual liberties and constitutional rights. The formula is so reliable entire organizations are built around its implementation and the ultimate elimination of gun rights.

Thankfully, Bruen has set the parameters for how to undo that formula and compel judges to protect the Second Amendment. However, the biggest wins are still out there as very old laws like the NFA are still on the books. Invalidating parts of the oldest gun laws that underpin many new gun laws is the best way to undermine the entire gun-control narrative.

What are some examples of this?

Part of what MSLF's Center to Keep and Bear Arms is doing includes a transformation of the culture when it comes to gun control. We sent a letter to the dean of Berkeley's law school, expressing our concern that they hired a notorious anti-gun advocate as a professor. Aggressive left-wing professors are known for explicitly lowering grades of students who do not conform with the anti-gun doctrine of the professor. If we can make them think twice before hiring intolerant and extremist professors, hopefully we can stop them from discouraging non-extremist students.

What's the next front in our offensive fight for the Constitution?

Our next front is challenging the National Firearms Act as it relates to short-barreled rifles and firearm mufflers. There is no reason for them to be restricted under the NFA. Neither item fits the law's "dangerous or unusual" requirement. Both are also in common use, which gives them a measure of protection under the *Bruen* decision.



TELL THE ATF NOT TODAY

Can the ATF make you a criminal by redefining what you already have in your home as a “firearm”? Not in this case. MSLF obtained a major victory, along with its co-counsel the Firearms Policy Coalition, in the *VanDerStok v. Garland* matter.

Supporters of Mountain States are well-aware of *VanDerStok*. Last year, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) issued a new rule that improperly defined a range of inert objects as “firearms.” But the definition contradicted the text of the federal Gun Control Act. With this effort to rewrite federal regulations, the Biden Administration tried to make countless individuals criminals. But Mountain States and FPC sued, and argued that the rule was illegal, on behalf of Jennifer VanDerStok, Mike Andren, and Tactical Machining. Our winning argument was that the ATF exceeded its authority as outlined by Congress.

On June 30th, Judge Reed O'Connor of the US District Court for the Northern District of Texas issued an order granting summary judgment in favor of our clients! **That is, we won!** This is a huge step forward to undoing the damage wrought by the ATF. Shortly after, the ATF submitted an appeal to stay the decision which has now made it to the Supreme Court. On August 2nd, Mountain States submitted a brief to the Supreme Court requesting that the ATF's appeal be denied and that our client's victory be upheld.



"Mountain States and FPC sued, and argued that the rule was illegal, on behalf of Jennifer VanDerStok, Mike Andren, and Tactical Machining. Our winning argument was that the ATF exceeded its authority as outlined by Congress."

Read some of Judge O'Connor's concluding words in his opinion (note: “defendants” refers to the ATF):

In sum, there is a legal distinction between a weapon parts kit, which may be an aggregation of partially manufactured parts not subject to the agency's regulatory authority, and a “weapon” which “may readily be completed [or] assembled . . . to expel a projectile.” Defendants contend that drawing such a distinction will produce the absurd result whereby a person lawfully prohibited from possessing a firearm can obtain the necessary components and, given advances in technology, self-manufacture a firearm with relative ease and efficiency. Even if it is true that such an interpretation creates loopholes that as a policy matter should be avoided, its not the role of the judiciary to correct them. That is up to Congress. And until Congress enacts a different statute, the Court is bound to enforce the law as written.

We couldn't agree more.





**OCTOBER 4TH
FROM 5PM-8PM**



**THE WESTIN
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You are invited to spend an intimate evening with MSLF and the Producer of Created Equal: Clarence Thomas in His Own Words, Michael Pack. Enjoy a dinner, reception and hear from Michael Pack on the Reclaiming of America and sharing about the creation of the film on SCOTUS Judge Clarence Thomas' life.

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So a Neighbor Asked... What is wrong with the ATF?

Earlier this year, Brian Abbas—director for MSLF's Center to Keep and Bear Arms—sat down with John Mertens of Pia Hoyt, LLC to talk about the nonsense happening at the ATF.

The conversation started out with a brief overview of the history and beginning of the ATF (Alcohol, Tobacco & Firearm Bureau) in 1972. The discussion then moved to talking about what the ATF currently regulates and looking at some of the crucial changes the ATF has made to the way they look at firearms and firearm components.

Brian went on to explain the context behind the NFA (National Firearms Act), including how its original purpose was to help prosecute gangsters back in the 1930s. A law that was used for the purpose of prosecuting gangsters is now being used against American citizens today. With the redefining and highly restrictive regulations on pistol braces, short-barreled rifles, and mufflers, millions of Americans are now at risk of getting up to 10 years in prison (a felony level charge) simply for owning one of these items.

The conversation came to a close by detailing the actions that MSLF will be taking in the future, including a lawsuit against the ATF, where we'll argue that short-barreled rifles and mufflers are in common use and therefore protected by the Second Amendment.

"The only thing the NFA does is make it harder for law abiding gun owners to comply with the law especially when the ATF twists its definitions to try to redefine various things to turn law abiding gun owners into felons."

— Brian Abbas

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the Webinar here

