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Roger Williams University School of Law

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# Newsroom

## Huffington Post: Bogus on Gun Rights

Professor Carl Bogus talks to the Huffington Post about the race to expand gun rights through litigation -- with potentially more impact than any legislation can counter.

**From The Huffington Post:** "[Second Amendment Lawsuits Expose Rift At The Top Of Gun Rights Movement](#)" by Christina Wilkie



**WASHINGTON, Feb. 25, 2013 --** In the insular world of gun rights groups, Alan Gottlieb is a man on the make. Over the past five years, his Bellevue, Wash.-based nonprofit, the Second Amendment Foundation (SAF), has raced to expand gun rights, building on one of the most significant court rulings in decades. Now, Gottlieb is hoping to open the legal floodgates by litigating dozens of cases nationwide.

The December shooting at Sandy Hook Elementary School in Newtown, Conn., galvanized the public in support of gun control measures, but so far, the national conversation has revolved almost entirely around legislation. Many of the most significant changes to U.S. firearms law today are happening not in Congress, however, but in the courts.

Much of the SAF's reputation in the courtroom can be attributed to a Northern Virginia-based litigator, Alan Gura, who is best known for successfully arguing *District of Columbia v. Heller* before the Supreme Court. That landmark 2008 decision held that the Second Amendment protects the right of the individual, not just the state militia, to possess a gun.

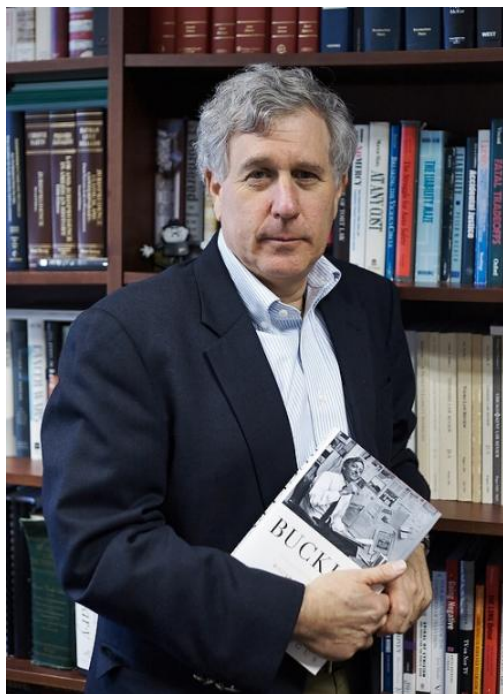
Gura and Gottlieb teamed up after the *Heller* victory and filed more than 40 lawsuits, quickly establishing the SAF as a prolific player in Second Amendment litigation. In 2010, the duo scored a major win with a case they had initiated, *McDonald v. Chicago*, which extended the *Heller* decision to cover the states. In doing so, the Supreme Court overturned the Windy City's handgun ban, on the books for 28 years.

While the political world obsesses over the legislative muscle of the National Rifle Association, the outcome of the SAF's lawsuits could have an even larger impact on the future of Second Amendment rights -- affecting everything from concealed carry laws, to background checks, to the liability that the firearms industry could face if their products cause harm.

Not everyone in the gun rights movement is thrilled about Gura and the SAF's recent flurry of lawsuits. Depending upon whom you ask, the SAF is either a brave defender of the Second Amendment or a sketchy upstart with the potential to significantly damage gun rights in the long term.

"If the Second Amendment Foundation makes a mistake at this stage, it can stymie protections for gun owners for years to come," said Adam Winkler, a professor of constitutional law at the University of California, Los Angeles, and author of *Gunfight: The Battle Over the Right to Bear Arms in America*.

"That's why it's important to be strategic about your cases, and I think they are certainly being strategic -- I'm just not sure it's always the right strategy."



Because court cases can set long-lasting legal precedent, advocacy organizations are often careful about which cases they pursue, lest they risk unfavorable rulings that harm their cause. "The typical strategy for any savvy advocacy group would be to say, 'What are the most appealing cases that we have the best chance of winning, and where do we have the best chances of winning them?'" **said Carl Bogus, a constitutional law expert and professor of law at Roger Williams University.**

In the wake of the Heller decision, the NRA pursued a strategy of expanding gun rights gradually. "This makes sense, because many courts are reluctant to offer broad constitutional rulings with regard to individual rights," said Richard Broughton, a professor of law at the University of Detroit and a former Justice Department prosecutor. "The NRA takes on specific issues, and they're not going for broad Second Amendment rulings. Instead, they're asking the courts to narrowly interpret gun regulations and working to win smaller victories they can build on."

Ken Klukowski, a constitutional law professor at Liberty University and former NRA staffer, agrees. "The NRA takes the long view. They are extraordinary minds for the long ball and the big picture," he said. [...]

*For full story, click [here](http://www.huffingtonpost.com/2013/02/25/second-amendment-foundation_n_2745038.html). [http://www.huffingtonpost.com/2013/02/25/second-amendment-foundation\_n\_2745038.html]*