IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. and DR. GENE A. REISINGER,	)	
Plaintiffs,	)	No. 08 CV 3696
v.	)	Honorable Milton I. Shadur
VILLAGE OF OAK PARK,	)	
Defendant.	)	

NOTICE OF APPEAL

Notice is hereby given that Plaintiffs, NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. and DR. GENE A. REISINGER, appeal to the United States Court of Appeals for the Seventh Circuit from this Court's Memorandum Opinion and Order entered in this action on December 22, 2010 denying Plaintiffs' motion for Section 1988 attorneys' fee award. (A true and correct copy of the December 22, 2010 Memorandum Opinion and Order is attached hereto as **Exhibit "A"** and made a part hereof.)

Dated: December 27, 2010

Respectfully submitted,

NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. and DR. GENE A. REISINGER
Plaintiffs

BY: s/ William N. Howard
One of Their Attorneys

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Plaintiffs,	)	
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VILLAGE OF OAK PARK and DAVID POPE, President,	)	
Defendants.	)	

CERTIFICATE OF SERVICE

The undersigned attorney certifies that he caused a true and correct copy of the foregoing instrument to be served upon the parties of record, as shown below, via the Court's CM/ECF filing system on the **27th** day of **December 2010.**

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s/ William N. Howard

EXHIBIT A

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MEMORANDUM OPINION AND ORDER

National Rifle Association of America, Inc. ("NRA") has filed motions, pursuant to 42 U.S.C. §1988,[1], each seeking an award of attorney's fees in a now-closed Section 1983 lawsuit that had been initiated by NRA some 2-1/2 years ago -- one of them targeting the Village of Oak Park ("Village") and the other brought against the City of Chicago ("City"). Both motions[2]

[1] All further references to Title 42's provisions will simply take the form "Section --."

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follow the cases' journey to the Supreme Court and back again, ending with the dismissal of both actions by this Court on mootness grounds. For the reasons stated below, both NRA motions are denied.

Factual Background

NRA filed these lawsuits one day after the Supreme Court decided Dist. of Columbia v. Heller, 554 U.S. 570 (2008). This Court properly requested, and the Executive Committee of this District Court granted, the reassignment of both cases to its docket based on their relatedness to McDonald v. City of Chicago, 08 C 3645, which had been filed on the same morning that Heller was decided. All three cases charged that municipal ordinances that made it unlawful for any person to posses a handgun ran afoul of the Second Amendment, as incorporated against the States via the Fourteenth Amendment.

Because this Court followed (as it was obligated to do) existing Supreme Court and Seventh Circuit precedent (both pre-Heller, of course), it ruled that the Second Amendment was not incorporated against the States, and Village and City were therefore granted judgment on the pleadings. After consolidating the appeals in all three cases, our Court of Appeals affirmed this Court's ruling in NRA v. City of Chi., 567 F.3d 856 (7th Cir. 2009).

Village responses as "C. Mot. -."

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Attorney's Fee Awards under Section 1988

Both sides agree that the Supreme Court opinion in Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health &

Human Resources, 532 U.S. 598 (2001) brought a sea change in the jurisprudence governing Section 1988 attorney's fee awards. It deep-sixed the "catalyst" concept that the vast majority of federal courts had been applying consistently in that area, replacing it instead with a more demanding standard.

Section 1988(b) states that in a Section 1983 action "the court, in its discretion, may allow the prevailing party ... a reasonable attorney's fee as part of the costs." In the wake of Buckhannon the Supreme Court has reconfirmed its earlier view that "[t]he touchstone of the prevailing party inquiry ... is the material alteration of the legal relationship of the parties in a manner which Congress sought to promote in the fee statute" (Sole v. Wyner, 551 U.S. 74, 82 (2007) (internal quotation marks omitted)).

On that score Buckhannon, 532 U.S. at 604 had held "that enforceable judgments on the merits and court-ordered consent decrees create" the essential "material alteration." Thus the Court distinguished settlements memorialized by consent decrees from private settlements on the ground that consent decrees are "court-ordered" (id.). In elaborating on its reasons for rejecting the "catalyst theory," the Court reasoned that a "defendant's voluntary change in conduct, although perhaps accomplishing what the plaintiff sought to achieve by the lawsuit, lacks the necessary judicial imprimatur on the change"

(id. at 605). Buckhannon, id. at 606 (internal quotation marks omitted) succinctly summarized the Court's concerns and the applicable standard:

> We cannot agree that the term "prevailing party" authorizes federal courts to award attorney's fees to a plaintiff who, by simply filing a nonfrivolous but nonetheless potentially meritless lawsuit (it will never be determined), has reached the sought-after designation without obtaining any judicial relief.

Closer to the bone, our Court of Appeals has implemented Buckhannon in Zessar v. Keith, 536 F.3d 788 (7th Cir. 2008), a case where as here a statute had been found unconstitutional. Zessar, id. at 796 held that alone was not enough -- instead such a situation "gives a plaintiff a hurdle to overcome if he is to show that he is a prevailing party because the Supreme Court has repeatedly held that, other than a settlement made enforceable under a consent decree, a final judgment on the merits is the normative judicial act that creates a prevailing party." NRA fails to clear that hurdle.

Simply put, there has never been a final judgment on the merits in these cases. There was no final court order requiring Village or City to do anything. After the Supreme Court remanded the cases to the Seventh Circuit for proceedings consistent with its McDonald opinion, this Court never had the opportunity to conduct such proceedings because it was ordered by the Court of Appeals to dismiss the cases as moot. Both Village (by repealing its ordinance) and City (by adopting a new one that eliminated

any outright prohibition) forwent the alternative of litigating the actions to an ultimate conclusion.

It must be remembered that these cases have been closed by final judgments of dismissal. If either Village or City were to decide to reenact its previous ordinance, NRA would not be able to bring an enforcement action based upon some action previously taken by this Court. It would instead be required to file new lawsuits to seek judgments on the merits. This is just another way of demonstrating that there was no court-ordered or court-implemented material alteration of any legal relationship in either action. Under the prevailing precedents, NRA cannot fairly be said to be a "prevailing party" under Section 1988.

And there is more to the same effect from our Court of Appeals. Walker v. Calumet City, 565 F.3d 1031 (7th Cir. 2009), considered a case that had originated before this Court, one in which plaintiff had sued claiming that municipality's point-of-sale ordinance violated plaintiff's constitutional rights. Upon reinspection of plaintiff's property, Calumet City found it to be in compliance and moved to dismiss the case as moot (id. at 1033). This Court issued a dismissal order that in part listed representations made by the city that it would not renege on its promises (id.). Then our Court of Appeals reversed this Court's later award of attorney's fees under Section 1988 because there, as here, this Court had "never reached the merits of

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Fed'n of Adver. Representatives, Inc. v. City of Chi., 326 F.3d 924 (7th Cir. 2003) is also instructive. There plaintiff claimed that City's advertising restrictions violated the First Amendment (id. at 928). After the Supreme Court had invalidated a similar restriction in a Massachusetts case,[3] Judge Kennelly granted City's motion for dismissal on mootness grounds in response to plaintiff's motion for summary judgment. In deciding the "prevailing party" issue on appeal, the Seventh Circuit assumed without deciding that City had changed its ordinance in response to the Supreme Court decision but still found that plaintiff was not entitled to "prevailing party" status (id. at 933).

NRA correctly points out that one reason for that decision was that plaintiff was not a party to the relevant Supreme Court case (id.). But even if NRA can distinguish the instant cases from Federation on the basis that it was a party to the Supreme

[3] Ironically the Federation case had originally been assigned to this Court's calendar, and it held City's ordinance invalid on preemption grounds. Then our Court of Appeals held such total preemption was incorrect and reversed in part, sending the case back. Further District Court proceedings were before this Court's colleague Honorable Matthew Kennelly, and it was during those later proceedings that the Supreme Court's decision on the Massachusetts statute confirmed the correctness of this Court's original preemption decision.

Court decision in McDonald,[4] that contention blithely ignores the second and independent reason announced in Federation, id. as to why City's change of conduct in response to the Supreme Court decision did not confer "prevailing party" status on the plaintiff there:

> Even assuming after [the Supreme Court decision], the district court would have granted [plaintiff's] motion had the [defendant] not repealed its ordinance, the fact remains that no such ruling was made and thus no judicial relief was awarded to Federation.

By the same token, even assuming that this Court would have ruled for NRA had Village and City not done away with their challenged ordinances, no such relief was awarded, and so no "prevailing party" status can be conferred.

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[4] N. Mot. 2-3 argues in contrast that NRA should win prevailing party status by virtue of being designated a party respondent by the Supreme Court in McDonald. But that argument is a red herring. As Village and City correctly point out and as evidenced by the rest of this opinion, NRA's party-respondent status in the Supreme Court is irrelevant because the Supreme Court's decision in McDonald -- which, it will be remembered, resulted in no judicial implementation on remand -- did not meet the requirements of Section 1988 under Buckhannon (C. Mot. 5-6). Indeed, NRA's argument demonstrates its essential reliance on the "catalyst theory." Disputes over whether a litigant was a party to a decision where the bound parties cannot easily be determined, unlike a judgment on the merits or a consent decree, invite the additional round of litigation expressly disfavored by Buckhannon, 532 U.S. at 609. That said, this discussion should not be misunderstood as foreclosing any arguments that the plaintiff in McDonald may raise to differentiate himself from NRA for the purposes of "prevailing party" inquiry (more on this later).

Buckhannon and its progeny as already described, this action will go on to treat them -- albeit with some brevity.

First NRA argues that in the wake of McDonald, Village and City publicly acknowledged that their handgun bans were unconstitutional (N. Mot. 6-9). NRA cites numerous public statements to that effect, both to the press and in the context of local political proceedings (id.). But that amounts to nothing more than (to paraphrase Matthew 9:17) seeking to put the old "catalyst theory" wine into new bottles. Public statements, however numerous and forceful, do not grant "prevailing party" status when they have not received the essential judicial imprimatur.

NRA also contends that it received "judicial relief" because Village and City "fought hard all the way to the Supreme Court" (N. Mot. 11). But that is plainly not enough -- as Farrar v. Hobby, 506 U.S. 103, 112-13 (1992) (internal quotation marks and citation omitted) put it:

> To be sure, a judicial pronouncement that the defendant has violated the Constitution, unaccompanied by an enforceable judgment on the merits, does not render the plaintiff a prevailing party. Of itself, the moral satisfaction [that] results from any favorable statement of law cannot bestow prevailing party status. No material alteration of the legal relationship between the parties occurs until the plaintiff becomes entitled to enforce a judgment, consent decree, or settlement against the defendant.

And at the risk of repetition, none of those things occurred in these cases.

Nor is NRA assisted by any of the Seventh Circuit cases that it seeks to call to its aid. Although a mere reading of these opinions confirms their inapplicability to the situation here. this opinion will touch on the obvious distinctions.

Thus Riviera Distribs., Inc. v. Jones, 517 F.3d 927-28 (7th Cir. 2008) found that the plaintiffs were "prevailing parties" under the Copyright Act of 1976, though the district judge had never reached the merits of the case, because the case was dismissed with prejudice. That of course materially altered the legal relationship of the parties, in contrast to the wholly nonsubstantive dismissal of the cases here as moot.

Palmetto Props., Inc. v. County of DuPage, 375 F.3d 542 (7th Cir. 2004) presents a different scenario. There the district court dismissed the case as moot when defendants repealed an ordinance after the district court had held the ordinance unconstitutional on a motion for summary judgment, but before the Court entered final judgment (id. at 545-46). NRA's efforts to parallel its cases with Palmetto totally ignores the wholly different posture of the judicial rulings involved, as explained expressly in Palmetto, id. (emphasis in original):

> In Buckhannon the challenged state law was repealed, thereby mooting the case, before the district court had made any substantive rulings. ... In this case, not only did the district court make a substantive determination ... the County repealed the ordinance only after that determination had been made and presumably because of it.

Indeed, Zessar, 536 F.3d at 797 distinguished Palmetto from its

situation, where the district court found an Illinois statute unconstitutional on a motion for summary judgment but did not direct the parties to do anything pending further proceedings as to the appropriate relief.

Lastly in that group, NRA fares no better in its attempted reliance on Southworth v. Bd. of Regents of Univ. of Wis. Sys., 376 F.3d 757 (7th Cir. 2004). There our Court of Appeals (id. at 770) took pains to distinguish between post-trial court-ordered changes and voluntary changes made by the defendant -- the very distinction that this opinion has stressed in the present cases.

NRA tries to attach one more string to its bow, but that too is broken. It cites Young v. City of Chi., 202 F.3d 1000 (7th Cir. 2000)(per curiam), in which the district court granted plaintiffs a preliminary injunction against City, enjoining its imposition of a security perimeter around the 1996 Democratic National Convention. Though City's appeal of the preliminary injunction was later dismissed as moot after the convention ended, because the preliminary injunction of course applied only to that specific convention, Young, id. at 1000-01 upheld the award of fees to plaintiff under Section 1988.

On that score the obvious distinction is that the district court there had already granted relief to plaintiffs via its preliminary injunction order, clearly altering the legal relationship between the two parties. Hence the awarding of fees

simply prevented City from "taking steps to moot the case after the plaintiff has obtained the relief he sought" (id.).

Conclusion

In the context of this case, the lesson taught by Buckhannon and its relevant progeny is that the proverbial handwriting on the wall does not alone suffice to trigger a Section 1988 entitlement to attorney's fees, no matter how clear the penmanship may appear to be. Instead that figurative handwriting must have been memorialized in a judicial ruling or like judicial action, and nothing of the sort had taken place in these two cases before Village and City dispatched their challenged ordinances and thus mooted the two cases. Accordingly NRA's motions for Section 1988 fee awards are denied.[5]

Date: December 22, 2010

Milton I. Shadur
Senior United States District Judge

[5] When these actions came on for a preset status hearing on December 21 for the sole purpose of confirming that the litigants had met head-on in addressing the issues posed by NRA's motions, counsel for plaintiff in the McDonald case appeared and voiced vigorous criticism at having assertedly been kept out of the loop by NRA's counsel. This Court, which of course had no knowledge of anything of the sort (it will be recalled that the cases had been terminated by the dismissal orders based on mootness, so that this Court had no need to follow its normal practice of setting periodic status hearing in all cases pending on its calendar), rejected the motion by McDonald's counsel to stay the determination of the fully briefed motions in these two cases. As this Court assured that lawyer, as and when he may advance a Section 1988 motion in that case this Court will address it on the merits, for which purpose it may or may not find that the McDonald plaintiffs occupy the same position announced here as to NRA (a function of whatever similarities and differences may exist as between the McDonald case and the two NRA cases).

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 08cv3696

PLAINTIFF (Petitioner)	v.	DEFENDANT (Respondent)
National Rifle Association of America, Inc. Et al/Appellant		Village of Oak Park, et al/Appellee

(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	William Howard	Name	Lance C. Malina
Firm	Freeborn & Peters	Firm	Klein, Thorpe & Jenkins, Ltd.
Address	311 South Wacker Drive Suite 3000 Chicago, IL 60606	Address	20 North Wacker Drive Suite 1660 Chicago, IL 60606
Phone	312-360-6000	Phone	312-984-6400

Other Information			
District Judge	Shadur	Date Filed in District Court	6/27/2008
Court Reporter	R. Scarpelli 5815	Date of Judgment	12/22/2010
Nature of Suit Code	890	Date of Notice of Appeal	12/27/2010

COUNSEL: Appointed [ ] Retained [X] Pro Se [ ]

FEE STATUS: Paid [X] Due [ ] IFP [ ]
IFP Pending [ ] U.S. [ ] Waived [ ]

Has Docketing Statement been filed with the District Court Clerk's Office? Yes [ ] No [X]

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:
Granted [ ] Denied [ ] Pending [ ]

If Certificate of Appealability was granted or denied, date of order: _____

If defendant is in federal custody, please provide U.S. Marshall number (USM#): _____

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

UNITED STATES DISTRICT COURT
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National Rifle Association of America, Inc., et al.

Plaintiff,

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Honorable Milton I. Shadur

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Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, December 22, 2010:

MINUTE entry before Honorable Milton I. Shadur: Enter Memorandum Opinion and Order. Accordingly NRA's Motions for Section 1988 fee awards are denied. [54] Mailed notice(srn,)

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[4] N. Mot. 2-3 argues in contrast that NRA should win prevailing party status by virtue of being designated a party respondent by the Supreme Court in McDonald. But that argument is a red herring. As Village and City correctly point out and as evidenced by the rest of this opinion, NRA's party-respondent status in the Supreme Court is irrelevant because the Supreme Court's decision in McDonald -- which, it will be remembered, resulted in no judicial implementation on remand -- did not meet the requirements of Section 1988 under Buckhannon (C. Mot. 5-6). Indeed, NRA's argument demonstrates its essential reliance on the "catalyst theory." Disputes over whether a litigant was a party to a decision where the bound parties cannot easily be determined, unlike a judgment on the merits or a consent decree, invite the additional round of litigation expressly disfavored by Buckhannon,532 U.S. at 609. That said, this discussion should not be misunderstood as foreclosing any arguments that the plaintiff in McDonald may raise to differentiate himself from NRA for the purposes of "prevailing party" inquiry (more on this later).

Buckhannon and its progeny as already described, this action will go on to treat them -- albeit with some brevity.

First NRA argues that in the wake of McDonald, Village and City publicly acknowledged that their handgun bans were unconstitutional (N. Mot. 6-9). NRA cites numerous public statements to that effect, both to the press and in the context of local political proceedings (id.). But that amounts to nothing more than (to paraphrase Matthew 9:17) seeking to put the old "catalyst theory" wine into new bottles. Public statements, however numerous and forceful, do not grant "prevailing party" status when they have not received the essential judicial imprimatur.

NRA also contends that it received "judicial relief" because Village and City "fought hard all the way to the Supreme Court" (N. Mot. 11). But that is plainly not enough -- as Farrar v. Hobby, 506 U.S. 103, 112-13 (1992) (internal quotation marks and citation omitted) put it:

> To be sure, a judicial pronouncement that the defendant has violated the Constitution, unaccompanied by an enforceable judgment on the merits, does not render the plaintiff a prevailing party. Of itself, the moral satisfaction [that] results from any favorable statement of law cannot bestow prevailing party status. No material alteration of the legal relationship between the parties occurs until the plaintiff becomes entitled to enforce a judgment, consent decree, or settlement against the defendant.

And at the risk of repetition, none of those things occurred in these cases.

Nor is NRA assisted by any of the Seventh Circuit cases that it seeks to call to its aid. Although a mere reading of these opinions confirms their inapplicability to the situation here. this opinion will touch on the obvious distinctions.

Thus Riviera Distribs., Inc. v. Jones, 517 F.3d 927-28 (7th Cir. 2008) found that the plaintiffs were "prevailing parties" under the Copyright Act of 1976, though the district judge had never reached the merits of the case, because the case was dismissed with prejudice. That of course materially altered the legal relationship of the parties, in contrast to the wholly nonsubstantive dismissal of the cases here as moot.

Palmetto Props., Inc. v. County of DuPage, 375 F.3d 542 (7th Cir. 2004) presents a different scenario. There the district court dismissed the case as moot when defendants repealed an ordinance after the district court had held the ordinance unconstitutional on a motion for summary judgment, but before the Court entered final judgment (id. at 545-46). NRA's efforts to parallel its cases with Palmetto totally ignores the wholly different posture of the judicial rulings involved, as explained expressly in Palmetto, id. (emphasis in original):

> In Buckhannon the challenged state law was repealed, thereby mooting the case, before the district court had made any substantive rulings. ... In this case, not only did the district court make a substantive determination ... the County repealed the ordinance only after that determination had been made and presumably because of it.

Indeed, Zessar, 536 F.3d at 797 distinguished Palmetto from its

situation, where the district court found an Illinois statute unconstitutional on a motion for summary judgment but did not direct the parties to do anything pending further proceedings as to the appropriate relief.

Lastly in that group, NRA fares no better in its attempted reliance on Southworth v. Bd. of Regents of Univ. of Wis. Sys., 376 F.3d 757 (7th Cir. 2004). There our Court of Appeals (id. at 770) took pains to distinguish between post-trial court-ordered changes and voluntary changes made by the defendant -- the very distinction that this opinion has stressed in the present cases.

NRA tries to attach one more string to its bow, but that too is broken. It cites Young v. City of Chi., 202 F.3d 1000 (7th Cir. 2000)(per curiam), in which the district court granted plaintiffs a preliminary injunction against City, enjoining its imposition of a security perimeter around the 1996 Democratic National Convention. Though City's appeal of the preliminary injunction was later dismissed as moot after the convention ended, because the preliminary injunction of course applied only to that specific convention, Young, id. at 1000-01 upheld the award of fees to plaintiff under Section 1988.

On that score the obvious distinction is that the district court there had already granted relief to plaintiffs via its preliminary injunction order, clearly altering the legal relationship between the two parties. Hence the awarding of fees

simply prevented City from "taking steps to moot the case after the plaintiff has obtained the relief he sought" (id.).

Conclusion

In the context of this case, the lesson taught by Buckhannon and its relevant progeny is that the proverbial handwriting on the wall does not alone suffice to trigger a Section 1988 entitlement to attorney's fees, no matter how clear the penmanship may appear to be. Instead that figurative handwriting must have been memorialized in a judicial ruling or like judicial action, and nothing of the sort had taken place in these two cases before Village and City dispatched their challenged ordinances and thus mooted the two cases. Accordingly NRA's motions for Section 1988 fee awards are denied.[5]

Date: December 22, 2010

Milton I. Shadur
Senior United States District Judge

[5] When these actions came on for a preset status hearing on December 21 for the sole purpose of confirming that the litigants had met head-on in addressing the issues posed by NRA's motions, counsel for plaintiff in the McDonald case appeared and voiced vigorous criticism at having assertedly been kept out of the loop by NRA's counsel. This Court, which of course had no knowledge of anything of the sort (it will be recalled that the cases had been terminated by the dismissal orders based on mootness, so that this Court had no need to follow its normal practice of setting periodic status hearing in all cases pending on its calendar), rejected the motion by McDonald's counsel to stay the determination of the fully briefed motions in these two cases. As this Court assured that lawyer, as and when he may advance a Section 1988 motion in that case this Court will address it on the merits, for which purpose it may or may not find that the McDonald plaintiffs occupy the same position announced here as to NRA (a function of whatever similarities and differences may exist as between the McDonald case and the two NRA cases).

APPEAL, ASHMAN, TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 4.2 (Chicago)
CIVIL DOCKET FOR CASE #: 1:08-cv-03696
Internal Use Only

National Rifle Association of America, Inc. et al v. Village of Oak Park et al
Assigned to: Honorable Milton I. Shadur
Case in other court: 08-04243
Cause: 28:2201 Injunction

Date Filed: 06/27/2008
Date Terminated: 12/18/2008
Jury Demand: Defendant
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

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Stephen P. Halbrook
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PRO HAC VICE
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Plaintiff

Dr. Gene A. Reisinger

represented by **William Nicholas Howard**
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Defendant

David Pope
President
TERMINATED: 09/19/2008

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Jacob Henry Karaca
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ATTORNEY TO BE NOTICED

Movant

Otis McDonald

Movant

David Lawson

Movant

Colleen Lawson

Movant

Adam Orlov

Movant

Second Amendment Foundation, Inc.

Movant

Illinois State Rifle Association

Date Filed	#	Docket Text
06/27/2008	1	COMPLAINT filed by National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger; Filing fee $350.(hp,) (Entered: 06/30/2008)
06/27/2008	2	CIVIL Cover Sheet (hp,) (Entered: 06/30/2008)
06/27/2008	3	ATTORNEY Appearance for Plaintiffs National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger by William Nicholas Howard (hp,) (Entered: 06/30/2008)
06/27/2008	4	LR 3.2 Notification of Affiliates by National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger (hp,) (Entered: 06/30/2008)
06/27/2008	5	(Court only) RECEIPT regarding payment of filing fee paid on 6/27/2008 in

		the amount of $350.00, receipt number 2894293 (hp,) (Entered: 06/30/2008)
07/07/2008	6	MOTION for Leave to Appear Pro Hac Vice Filing fee $ 50, receipt number 07520000000002913710. (Halbrook, Stephen) (Entered: 07/07/2008)
07/23/2008	7	ATTORNEY Appearance for Defendants Village of Oak Park, David Pope by Jacob Henry Karaca (Karaca, Jacob) (Entered: 07/23/2008)
07/23/2008	8	SUMMONS Issued as to Defendants Village of Oak Park, David Pope. (ep,) (Entered: 07/24/2008)
07/28/2008	9	ATTORNEY Appearance for Defendants Village of Oak Park, David Pope by Lance C. Malina (Malina, Lance) (Entered: 07/28/2008)
07/30/2008	10	EXECUTIVE COMMITTEE ORDER: Case reassigned to the Honorable Milton I. Shadur for all further proceedings. Case No. 08 C 3696 is related to Case No. 08 C 3645. (For further details see order.) Signed by Honorable Milton I. Shadur on 7/29/2008. (hp,) (Text Modified on 8/18/2008)(hp,). (Entered: 08/04/2008)
07/30/2008		Case Reassigned to the Honorable Milton I. Shadur. The Honorable Joan H. Lefkow no longer assigned to the case. Cases associated: Case No. 08 C 3696 is related to Case No. 08 C 3645. (hp,) (Entered: 08/18/2008)
08/14/2008	11	AFFIDAVIT of Service filed by Plaintiffs National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger regarding Summons and Complaint served on Village of Oak Park and David Pope on August 1, 2008 (Howard, William) (Entered: 08/14/2008)
08/18/2008	12	MINUTE entry before the Honorable Milton I. Shadur:Status hearing held on 8/18/2008. Status hearing set for 9/10/2008 at 09:00 AM.Mailed notice (srn,) (Entered: 08/18/2008)
08/22/2008	13	MINUTE entry before the Honorable Milton I. Shadur: Steven Holbrook's motion for leave to appear pro hac vice 6 is granted. Mailed (vmj,) (Entered: 08/25/2008)
09/02/2008	14	MOTION by Defendants Village of Oak Park, David Pope to dismiss *Plaintiffs' Claims Against David Pope* (Malina, Lance) (Entered: 09/02/2008)
09/02/2008	15	NOTICE of Motion by Lance C. Malina for presentment of motion to dismiss 14 before Honorable Milton I. Shadur on 9/10/2008 at 09:00 AM. (Malina, Lance) (Entered: 09/02/2008)
09/02/2008	16	ANSWER to Complaint with Jury Demand by Village of Oak Park, David Pope(Malina, Lance) (Entered: 09/02/2008)
09/02/2008	17	NOTICE by Village of Oak Park, David Pope re answer to complaint 16 (Malina, Lance) (Entered: 09/02/2008)
09/10/2008	18	MINUTE entry before the Honorable Milton I. Shadur:Motion to dismiss 14 is entered and continued. Plaintiff's response is due September 22, 2008. Status hearing held on 9/10/2008. Status hearing set for 11/10/2008 at 09:00 AM.Mailed notice (srn,) (Entered: 09/10/2008)

09/18/2008	19	RESPONSE by National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger to MOTION by Defendants Village of Oak Park, David Pope to dismiss *Plaintiffs' Claims Against David Pope* 14 (Howard, William) (Entered: 09/18/2008)
09/19/2008	20	MINUTE entry before the Honorable Milton I. Shadur:Enter Memorandum Order. Motion to dismiss David Pope 14 is granted. David Pope is dismissed as a defendant with prejudice and without the imposition of any conditions. David Pope terminated.Mailed notice (srn,) (Entered: 09/19/2008)
09/19/2008	21	MEMORANDUM Order Signed by the Honorable Milton I. Shadur on 9/19/2008:Mailed notice(srn,) (Entered: 09/19/2008)
10/21/2008	22	MOTION by Plaintiffs National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger to strike *Jury Demand* (Howard, William) (Entered: 10/21/2008)
10/21/2008	23	NOTICE of Motion by William Nicholas Howard for presentment of motion to strike 22 before Honorable Milton I. Shadur on 10/28/2008 at 09:15 AM. (Howard, William) (Entered: 10/21/2008)
10/23/2008	24	MOTION by Plaintiffs National Rifle Association of America, Inc., Robert Klein Engler, Gene A. ReisingerTo Brief Threshold Legal Issues and Stay Discovery, MOTION by Plaintiffs National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger to stay *discovery* (Attachments: # 1 Notice of Filing, # 2 Certificate of Service)(Howard, William) (Entered: 10/23/2008)
10/28/2008	25	MINUTE entry before the Honorable Milton I. Shadur:Motion to strike 22 is entered and continued to November 10, 2008 at 9:15 a.m. Motion to stay discovery 24 is granted; Motion hearing held on 10/28/2008. Status hearing set for 12/4/2008 at 09:00 AM. Parties' submission is due on or before December 1, 2008.Mailed notice (srn,) (Entered: 10/29/2008)
11/07/2008	26	MINUTE entry before the Honorable Milton I. Shadur:Motion to strike 22 is denied as moot. By agreement of the parties the jury demand is withdrawn. Status hearing set for 12/4/2008 at 09:00 AM. The November 10 status date is stricken.Mailed notice (srn,) (Entered: 11/07/2008)
12/01/2008	27	MEMORANDUM by National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger *in Support of Claim That the Second Amendment is Incorporated into the Fourteenth Amendment so as to be Applicable to States and Localities* (Howard, William) (Entered: 12/01/2008)
12/03/2008	28	MINUTE entry before the Honorable Milton I. Shadur:The December 4, 2008 status date is stricken. This Court will set a new status date after the completion of the trial that it is currently conducting.Mailed notice (srn,) (Entered: 12/03/2008)
12/04/2008	29	MINUTE entry before the Honorable Milton I. Shadur:Enter Memorandum Opinion and Order. Status hearing set for 12/9/2008 at 08:45 AM.Mailed notice (srn,) (Entered: 12/04/2008)
12/04/2008	30	MEMORANDUM Opinion and Order Signed by the Honorable Milton I.

		Shadur on 12/4/2008:Mailed notice(srn,) (Entered: 12/04/2008)
12/08/2008	31	ATTORNEY Appearance for Defendant Village of Oak Park by Marc Richard Kadish (Kadish, Marc) (Entered: 12/08/2008)
12/08/2008	33	ATTORNEY Appearance for Defendant Village of Oak Park by Alexandra Elaine Shea (hp,) (Entered: 12/10/2008)
12/09/2008	32	MINUTE entry before the Honorable Milton I. Shadur:Status hearing held on 12/9/2008. Counsel is to submit a draft order for consideration. Status hearing set for 12/18/2008 at 08:45 AM.Mailed notice (srn,) (Entered: 12/09/2008)
12/18/2008	34	NOTICE of appeal by National Rifle Association of America, Inc., Robert Klein Engler, Gene A. Reisinger, Filing fee $ 455, receipt number 07520000000003368275. (Howard, William) Modified on 12/18/2008 (aac,). (Entered: 12/18/2008)
12/18/2008	35	MINUTE entry before the Honorable Milton I. Shadur: Status hearing held. Pursuant to the Stipulation of Dismissal filed 12/18/2008, Court III of the Complaint is hereby dismissed with prejudice. Enter Order. This Court hereby grants the oral motion of the City of Chicago pursuant to Fed. R. Civ. P. 12(c) for judgment on the pleadings on Counts I and II of the Complaint. Judgment is hereby entered in favor of the City of Chicago and against Plaintiffs on Counts I and II of the Complaint. (For further detail see separate order.) Civil case terminated. Mailed notice (hp,) (Entered: 12/18/2008)
12/18/2008	36	ORDER Signed by the Honorable Milton I. Shadur on 12/18/2008: Mailed notice(hp,) (Entered: 12/18/2008)
12/18/2008	37	ENTERED JUDGMENT on 12/18/2008: Mailed notice(hp,) (Entered: 12/18/2008)
12/18/2008	38	STIPULATION of Dismissal *of Count III of the Complaint With Prejudice* (Howard, William) (Entered: 12/18/2008)
12/19/2008	39	TRANSMITTED to the 7th Circuit the short record on notice of appeal 34 . Notified counsel (gej,) (Entered: 12/19/2008)
12/19/2008	40	NOTICE of Appeal Due letter sent to counsel of record. (gej,) (Entered: 12/19/2008)
12/19/2008	41	ACKNOWLEDGEMENT of receipt of short record on appeal regarding notice of appeal 34 ; USCA Case No. 08-4243 (Attachment # 1 Notice of Docketing) (hp,). (Entered: 12/22/2008)
01/16/2009	42	TRANSMITTED to the USCA for the 7th Circuit the long record on appeal 34 (USCA no. 08-4243) consisting of 1 volume of pleadings. (gej,) (Entered: 01/16/2009)
01/20/2009	43	USCA RECEIVED on 1/20/2009 the long record regarding notice of appeal 34 . (gej,) (Entered: 01/22/2009)
06/24/2009	44	LETTER from the Seventh Circuit returning the record on appeal in USCA no. 08-4241 consisting of three volumes of pleadings. (hp,) (Entered: 06/26/2009)

12/31/2009	45	CERTIFIED copy of order dated 12/30/2009 from the Seventh Circuit regarding notice of appeal 34 ; Appellate case no. : 08-4241 & 08-4243. Pursuant to a request from the Supreme Court of the United States dated 12/22/2009. The original record on appeal has been returned to the District Court upon issuance of this Court's mandate. This Court, by copy of this document, requests the District Court to transmit the record directly to the Supreme Court. (hp,) (Entered: 12/31/2009)
12/31/2009		(Court only) FORWARDED copy of USCA order dated 12/30/2009 to the Appeal's Clerk. (hp,) (Entered: 12/31/2009)
01/04/2010	46	TRANSMITTED to the US Supreme Court the long record on appeal 34 (USCA no. 08-4243)(US Supreme Ct #08-1521)(via E-mail) (dj,) (Entered: 01/04/2010)
09/16/2010	47	LETTER from the Seventh Circuit regarding the record on appeal in USCA no. 08-4243. The is no record to be returned. (hp,) (Entered: 09/17/2010)
09/16/2010	48	FINAL JUDGMENT of USCA dated 8/25/2010 regarding notice of appeal 34 ; USCA No. 08-4243. ON REMAND FROM THE UNITED STATES SUPREME COURT We VACATE the district courts judgments and REMAND with instructions to dismiss as moot. The above is in accordance with the decision of this court entered on thisdate. Appellants (McDonald and NRA) recover costs. (hp,) (Entered: 09/17/2010)
09/16/2010	49	CERTIFIED COPY OF ORDER from the USCA for the Seventh Circuit Decided 8/25/2010. If plaintiffs believe that the repeals entitle them to attorneys fees under 28 U.S.C. §1988, they may file appropriate motions in the district court. We do not express any opinion on the question whether the repealers, enacted before the Supreme Court's decision could be implemented on remand, affect the availability of fees under the approach of Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources, 532 U.S. 598 (2001). (hp,) (Entered: 09/17/2010)
09/16/2010	50	BILL OF COSTS dated 9/16/2010 from the Seventh Circuit regarding notice of appeal 34 ; Appellate case no. : 08-4243. Taxed in Favor of: Appellants in 08-4244 - Colleen Lawson, David Lawson, Otis McDonald, Adam Orlov and Second Amendment Foundation, Incorporated, in the amount of: $829.26. (hp,) (Entered: 09/17/2010)
09/16/2010	51	BILL OF COSTS dated 9/16/2010 from the Seventh Circuit regarding notice of appeal 34 ; Appellate case no. : 08-4243. Taxed in Favor of: Appellant in 08-4241- National Rifle Association of America, Incorporated. BILL OF COSTS issued in the amount of: $902.80. (hp,) (Entered: 09/17/2010)
09/16/2010	52	BILL OF COSTS dated 9/16/2010 from the Seventh Circuit regarding notice of appeal 34 ; Appellate case no. : 08-4243. Taxed in Favor of: Appellant in 08-4243 - National Rifle Association of America,Incorporated in the amount of $450.00. (hp,) (Entered: 09/17/2010)
10/12/2010	53	MINUTE entry before Honorable Milton I. Shadur:This action is hereby dismissed as moot.Mailed notice (srn,) (Entered: 10/12/2010)

10/21/2010	54	MOTION by Plaintiffs Robert Klein Engler, National Rifle Association of America, Inc., Gene A. Reisinger for attorney fees *(Motion for Entry of Schedule for Motion for Attorneys' Fees)* (Howard, William) (Entered: 10/21/2010)
10/21/2010	55	NOTICE of Motion by William Nicholas Howard for presentment of motion for attorney fees 54 before Honorable Milton I. Shadur on 10/26/2010 at 09:15 AM. (Howard, William) (Entered: 10/21/2010)
10/25/2010	56	ATTORNEY Appearance for Defendant Village of Oak Park by Ranjit James Hakim (Hakim, Ranjit) (Entered: 10/25/2010)
10/26/2010	57	MINUTE entry before Honorable Milton I. Shadur:Motion for attorney fees 54 is entered and continued. Simultaneous cross filings and supporting memorandum as to prevailing party status are to be filed on or before 11/23/10. Motion hearing held on 10/26/2010. Status hearing set for 11/29/2010 at 08:45 AM.Mailed notice (srn,) (Entered: 10/26/2010)
11/10/2010	58	MOTION by Defendant Village of Oak Park for extension of time to file *briefs regarding prevailing party status (unopposed)* (Hakim, Ranjit) (Entered: 11/10/2010)
11/10/2010	59	NOTICE of Motion by Ranjit James Hakim for presentment of motion for extension of time to file 58 before Honorable Milton I. Shadur on 11/16/2010 at 09:15 AM. (Hakim, Ranjit) (Entered: 11/10/2010)
11/12/2010	60	MINUTE entry before Honorable Milton I. Shadur:Motion for extension of time to file briefs regarding prevailing party status to and including December 15, 2010 58 is granted. Status hearing reset for 12/21/2010 at 09:00 AM. The 11/29/10 status is vacated. Mailed notice (srn,) (Entered: 11/12/2010)
12/15/2010	61	MEMORANDUM by Robert Klein Engler, National Rifle Association of America, Inc., Gene A. Reisinger *in Support of Plaintiffs' "Prevailing Party" Status in Relation to Their Motion for Attorney's Fees* (Attachments: # 1 Appendix)(Howard, William) (Entered: 12/15/2010)
12/15/2010	62	MEMORANDUM by Village of Oak Park , *of Law Contesting Plaintiffs' Status as Prevailing Parties Entitled to Attorneys' Fees.* (Attachments: # 1 Exhibit 1)(Hakim, Ranjit) (Entered: 12/15/2010)
12/21/2010	63	MOTION by Movants Otis McDonald, David Lawson, Colleen Lawson, Adam Orlov, Second Amendment Foundation, Inc., Illinois State Rifle AssociationHold Fee Proceedings In Abeyance (Attachments: # 1 Declaration of Alan Gura)(Sigale, David) (Entered: 12/21/2010)
12/21/2010	64	NOTICE of Motion by David G. Sigale for presentment of motion for miscellaneous relief 63 before Honorable Milton I. Shadur on 12/28/2010 at 09:15 AM. (Sigale, David) (Entered: 12/21/2010)
12/21/2010	65	MINUTE entry before Honorable Milton I. Shadur:Status hearing held on 12/21/2010.Mailed notice (srn,) (Entered: 12/21/2010)
12/22/2010	66	MINUTE entry before Honorable Milton I. Shadur: Enter Memorandum Opinion and Order. Accordingly NRA's Motions for Section 1988 fee awards

		are denied. 54 Mailed notice (srn,) (Entered: 12/22/2010)
12/22/2010	67	MEMORANDUM Opinion and Order Signed by the Honorable Milton I. Shadur on 12/22/2010:Mailed notice(srn,) (Entered: 12/22/2010)
12/27/2010	68	NOTICE of appeal by National Rifle Association of America, Inc., Gene A. Reisinger regarding orders 67 Filing fee $ 455, receipt number 0752-5553133. (Attachments: # 1 Exhibit A)(Howard, William) (Entered: 12/27/2010)
12/27/2010	69	Notice of Withdrawl of Motion to Hold Fee Proceedings In Abeyance by Illinois State Rifle Association, Colleen Lawson, David Lawson, Otis McDonald, Adam Orlov, Second Amendment Foundation, Inc. (Sigale, David) (Entered: 12/27/2010)
12/27/2010	70	NOTICE by Illinois State Rifle Association, Colleen Lawson, David Lawson, Otis McDonald, Adam Orlov, Second Amendment Foundation, Inc. re other 69 (Sigale, David) (Entered: 12/27/2010)
12/28/2010	71	MINUTE entry before Honorable Milton I. Shadur:Motion to hold fee proceeding in abeyance 63 is denied. Mailed notice (srn,) (Entered: 12/28/2010)
12/28/2010	72	NOTICE of Appeal Due letter sent to counsel of record. (gel,) (Entered: 12/28/2010)