

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
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NRA

March 9, 2011

The Hon. Patrick J. Leahy
Chairman
Senate Committee on the Judiciary
224 Dirksen Building
Washington, DC 20510

The Hon. Charles E. Grassley
Ranking Member
Senate Committee on the Judiciary
152 Dirksen Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

I am writing to express the National Rifle Association's opposition to the nomination of Caitlin Halligan to the United States Court of Appeals for the District of Columbia Circuit.

Our opposition is based on Ms. Halligan's attacks on the Second Amendment rights of law-abiding Americans. Specifically, she worked to undermine the Protection of Lawful Commerce in Arms Act (PLCAA), enacted in 2005 with strong bipartisan support. This legislation was critically important in ending a wave of lawsuits sponsored by anti-gun organizations and governments, which sought to blame firearms manufacturers and dealers for the criminal misuse of their products by third parties. This bill was an essential protection both for the Second Amendment rights of honest Americans and for the continued existence of the domestic firearms industry as a supplier of arms for our nation's defense.

Among the governments that sued the industry was the state of New York. This case was pending while Ms. Halligan was New York's solicitor general, and she strongly supported the litigation both inside and outside the courtroom.

Ms. Halligan represented the state in its 2001 lawsuit against numerous gun manufacturers, in which the state argued that the legal sale of handguns created a "public nuisance" under state law. In a 2003 speech while that case was pending, Ms. Halligan claimed that the PLCAA "would likely cut off at the pass any attempt by States to find solutions—through the legal system or their own state legislatures—that might reduce gun crimes or promote greater responsibility among gun dealers." That statement was simply wrong. The legislation then under debate—like the version that finally passed two years later—only prohibited lawsuits "resulting

from the criminal or unlawful misuse” of firearms or ammunition by third parties. It exempted traditional tort actions against gun makers. The bill most certainly did not restrict the actions of state legislatures, as the introduction of numerous anti-gun bills in the New York legislature proves each year.

Ms. Halligan also claimed the PLCAA “would make the gun industry the only industry in the country to be so broadly shielded from lawsuits.” In fact, Congress had previously passed targeted liability protection for many industries and other enterprises, ranging from aircraft manufacturers to food banks to makers of medical implants.

After passage of the PLCAA, Ms. Halligan participated in the legal attack on the PLCAA. The state filed an *amicus curiae* brief in the U.S. Court of Appeals for the Second Circuit supporting New York City’s attack on the law’s constitutionality. The arguments in that brief were ultimately rejected by the Second Circuit, as they have been by every other appellate court (and every federal court at any level) that has considered the issue.

Given Ms. Halligan’s clear opposition to a major federal law that was essential to protecting law-abiding Americans’ right to keep and bear arms, as well as an important industry that equips our military and law enforcement personnel, we must respectfully oppose her confirmation.

We greatly appreciate your attention to our concerns. If you have any questions, please don’t hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris W. Cox". The signature is fluid and cursive, with a large, stylized "C" at the beginning and a long, sweeping tail.

Chris W. Cox
Executive Director
NRA Institute for Legislative Action