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Outside Counsel Worked Landmark Gun Case Pro Bono

Lawyers for the District of Columbia who are fighting an effort to expose the time and money the city and its outside attorneys spent in its ultimately unsuccessful defense of the city's handgun ban said this week that the private counsel who helped the District all served pro bono.

The District's Office of the Attorney General does not want to provide billing record information to the attorneys who defeated the firearm ban in the U.S. Supreme Court in 2008. Those attorneys, including Alan Gura of Alexandria, Va.'s Gura & Possesky, said information about the city's effort is relevant to the plaintiffs' request for more than \$3.5 million in fees.

The plaintiffs' team, led by Gura and financed by the Cato Institute's Robert Levy, said in court papers in the U.S. District Court for the District of Columbia that they clocked at least 3,273 hours in District of Columbia v. Heller.

On April 26, the District's lawyers filed for a protective order to keep its records out of the hands of the plaintiffs' attorneys. "The District of Columbia was required to defend a law it viewed as critical to its exercise of its police powers for the protection of public safety," government attorneys Ellen Efros and Andrew Saindon said in the court papers. "Its motivations and interests simply cannot be compared to those of a private litigant."

Efros and Saindon said the "feared precedential value of the Heller decision was a matter of a profound concern to the District." The fact that the city may have "expended far greater effort and time in defending its law, potentially more than private counsel would invest in defense of a similar case, is of no moment."

In court papers May 12, Gura wrote in response: "It is well-established that the government's attorney billing records, and other basic information about attorneys engaged to represent the government, are subject to disclosure under public records laws." Among other things, he said, the city's records are relevant to assist the trial judge in evaluating the city's claims about the quality of the plaintiffs' billing records.

But District attorneys said in court papers filed Wednesday that Gura's "ultimate proposition is based on a flawed premise—that the District retained paid counsel in this matter." The city said all of the outside counsel—including attorneys from Covington & Burling, Akin Gump Strauss Hauer & Feld and O'Melveny & Myers—worked pro bono.

Typically, the city receives voluntary services through a "donation retainer agreement" that does not require the law firm to maintain billing records of time spent, the District attorneys said. The city did not request billing records from any of the pro bono counsel.

Posted by Mike Scarcella on May 20, 2010 at 03:53 PM in [Crime and Punishment](#), [Current Affairs](#), [D.C. Courts and Government](#), [Legal Business](#), [Politics and Government](#), [Supreme Court](#) | [Permalink](#)
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If counsel really worked Pro Bono then why would DC object to releasing their billing records? It makes no sense.

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