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PLF asks Supreme Court to restore serious constitutional protection for all individual rights

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Today, we at the [Pacific Legal Foundation](#) are filing [this friend of the court brief](#) in the crucial gun rights case now pending before the United States Supreme Court. The brief, which was co-signed by our friends at the [Cato Institute](#), asks the Supreme Court to overrule the 1873 Slaughter-House Cases, a decision that radically undermined constitutional protections for individual freedom and civil rights.

I'm very proud of writing this brief. This case could easily be the most important Supreme Court decision of the decade. This case isn't just about gun rights, as important as those are. This is a case about whether and how states are required to respect individual rights. It gets to the core of the constitutional system.

Over the past week, I've been blogging about the history of the Fourteenth Amendment and the Slaughter-House Cases. That was the case in which the Supreme Court decided that the "privileges or immunities" clause of the Amendment protected only a very narrow set of individual rights—indeed, that decision basically erased from the Constitution the Amendment's most important provision. That gave states latitude to do more or less whatever they felt like, even if they ignored constitutional rights. As a result, federal protections for former slaves were severely weakened, and it took another century for the government to take serious steps to protect civil rights in the south.

In the decades that followed, courts did impose some significant limits on state powers, but many of these decisions were distortions of constitutional language that wasn't really intended to do the job. So the result was haphazard protections for individual freedom, and particularly for economic freedom. There's very old precedent saying everyone has a constitutional right to earn an honest living without unreasonable government interference, but courts today rarely give this right any serious protection. States and local governments are allowed to put very severe burdens on entrepreneurs and business owners. But if the Court overrules Slaughter-House and restores vigor to the privileges or immunities clause, then there will be a strong basis for protecting the rights of entrepreneurs and other working people.

You can [read the brief online here](#), and learn more about the Slaughter-House Cases and the importance of reviving the Constitution's privileges or immunities clause [here](#).

On a personal note, let me add how exciting it is to be able to write a brief in what may come to be one of the most important cases in constitutional law. It's an honor to work with our friends at the Cato Institute, which has also produced some [important scholarship](#) on Slaughter-House and the need to revive the privileges or immunities clause.

Update: Josh Blackman has posted a podcast interview with me about the brief [here](#).