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SUPERIOR COURT OF WASHINGTON  
IN AND FOR KING COUNTY

PHILIP WATSON, an individual, RAY  
CARTER, an individual, FARWEST SPORTS,  
INC., dba OUTDOOR EMPORIUM, a  
Washington corporation, PRECISE  
SHOOTER, LLC, a Washington limited  
liability company, THE SECOND  
AMENDMENT FOUNDATION, INC., a  
Washington nonprofit corporation; NATIONAL  
RIFLE ASSOCIATION OF AMERICA, INC., a  
New York non-profit association; AND  
NATIONAL SHOOTING SPORTS  
FOUNDATION, a Connecticut non-profit  
association,

Plaintiffs,

v.

CITY OF SEATTLE, a municipality;  
ED MURRAY, Mayor of the City of Seattle, in  
his official capacity; SEATTLE  
DEPARTMENT OF FINANCE AND  
ADMINISTRATIVE SERVICES, a department  
of the City of Seattle; and GLEN LEE, Director  
of Finance and Administrative Services, in his  
official capacity,

Defendants.

No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 Plaintiffs, by and through their attorneys, allege the following Complaint for declaratory  
2 and injunctive relief against Defendants City of Seattle, Mayor Ed Murray, and City of Seattle  
3 Finance Director Glen Lee:

4 **I. NATURE OF THE CASE**

5 The City of Seattle has passed an ordinance regulating the sale of firearms and  
6 ammunition which imposes a tax on every firearm and ammunition sale in the city, with the  
7 purpose of making it more difficult to access firearms and ammunition. However, the ordinance  
8 serves only as a piece of propaganda, because the ordinance's mandates are legally  
9 unenforceable. The State of Washington has the exclusive right to regulate the sale of firearms  
10 in Washington, and cities may not enact local laws or regulations related to the sale of firearms.  
11 RCW 9.41.290. The City of Seattle has simply ignored this clear rule of preemption—a rule  
12 which it has been found to have violated in the past, *see Chan v. City of Seattle*, 164 Wn. App.  
13 549, 265 P.3d 169 (2011)—by purporting to regulate the sale of firearms and ammunition  
14 through a tax that is punishable as a gross misdemeanor. The rule of preemption could not be  
15 clearer: the City of Seattle (like any municipality in the state of Washington) is not permitted to  
16 pass laws that target the sale of firearms and ammunition through any means, be it through the  
17 suppressive effect of a \$25 tax, the operative prohibition of sales through a \$1000 tax, or an  
18 outright ban. By ignoring this clear principle, the City of Seattle has wasted public resources in  
19 a futile effort to skirt the State's exclusive powers to regulate firearms and ammunition.  
20 Accordingly, Plaintiffs bring this action for injunctive and declaratory relief, and ask this Court  
21 for an order that would require the Defendants to follow the law.

22 **II. PARTIES**

23 Plaintiff Philip Watson is an individual residing in Lakewood, Washington. Philip Watson has  
24 purchased ammunition in Seattle at least once a year for the past six years, including from  
25

1 Plaintiff Farwest Sports, Inc., dba Outdoor Emporium. Philip Watson intends to continue  
2 purchasing ammunition in Seattle, but will not be able to do so if the firearm and ammunition  
3 tax is imposed and the cost is passed on to the consumer.

4 Plaintiff Ray Carter is an individual residing in West Seattle. Ray Carter has purchased firearms  
5 and ammunition in Seattle at least once a year for the past six years, including from Plaintiffs  
6 Farwest Sports, Inc., dba Outdoor Emporium and Precise Shooter, LLC. Ray Carter intends to  
7 continue purchasing ammunition in Seattle, but will not be able to do so if the firearm and  
8 ammunition tax is imposed and the cost is pass on to the consumer.

9 Farwest Sports, Inc., dba Outdoor Emporium ("Outdoor Emporium"), is incorporated in  
10 Washington, with is principle place of business in Seattle, Washington. Outdoor Emporium is  
11 the largest firearm and ammunition dealer in Seattle. Outdoor Emporium retails firearms and  
12 ammunition to consumers, approximately 70% of whom are non-Seattle residents. Outdoor  
13 Emporium also wholesales ammunition to other retails in the Seattle area.

14 Plaintiff Precise Shooter, LLC ("Precise Shooter") is incorporated in Washington, with its  
15 principle place of business in Seattle, Washington. Precise Shooter specializes in serving  
16 precision shooters seeking products for highly accurate target shooting, as used in shooting  
17 sports, competitive events, ranges, and hunting.

18 Plaintiff Second Amendment Foundation, Inc. ("SAF") is a non-profit membership organization  
19 incorporated under the laws of Washington with its principal place of business in Bellevue,  
20 Washington. SAF has over 600,000 members and supporters nationwide, including thousands in  
21 the State of Washington. The purposes of SAF include education, research, publishing, and  
22 legal action focusing on the constitutional right to own and possess firearms. SAF brings this  
23 action on behalf of itself and its members.  
24  
25

1  
6. Plaintiff National Rifle Association of America, Inc. ("NRA") is a non-profit association  
2 incorporated under the laws of New York, with its principal place of business in Fairfax,  
3 Virginia. NRA has almost four million members, including thousands of members in the State  
4 of Washington. NRA's purposes include protection of the right of citizens to have firearms for  
5 lawful defense, hunting, and sporting use, and to promote public safety. NRA brings this action  
6 on behalf of itself and its members.

7  
7. Plaintiff National Shooting Sports Foundation ("NSSF") is a non-profit trade association for  
8 America's firearms, hunting, and recreational shooting sports industry, incorporated and with its  
9 principle place of business in Connecticut. NSSF has a membership of more than 9,000  
10 federally-licensed firearms and ammunition manufacturers, distributors, retailers; companies  
11 manufacturing, distributing, and selling shooting and hunting-related goods and services; public  
12 and private shooting ranges; and sportsmen's organizations, including members in the State of  
13 Washington. NSSF's members supply the firearms and ammunition used by the U.S. Military  
14 and Federal, State, and Local law enforcement to protect America's national security and keep  
15 our communities safe, and also supply sportsmen and gun owners throughout the State with the  
16 firearms and ammunition they use for lawful purposes. NSSF's purpose is to promote, protect,  
17 and preserve hunting and the shooting sports. NSSF brings this action on behalf of itself and its  
18 members.

19  
8. Defendant City of Seattle ("Seattle" or "the City") is a municipal corporation and first-class city  
20 organized under the laws of the State of Washington.

21  
9. Defendant Ed Murray ("Mayor Murray") is the Mayor of the City of Seattle. Mayor Murray is  
22 the head of the Executive Department, and in that capacity directs and controls all City offices  
23 and departments except where that authority is granted to another office by the Seattle City  
24 Charter.  
25

1 Defendant Seattle Department of Finance and Administrative Services ("Finance Department")  
2 is an agency of the City of Seattle which oversees the business taxes in Seattle, Washington.  
3 Defendant Glen Lee ("Director Lee") is the Director of Finance and Administrative Services.  
4 Director Lee oversees the collection and enforcement of business taxes in the City of Seattle.  
5

### 6 **III. JURISDICTION AND VENUE**

7 This Court has jurisdiction under RCW 2.08.010, RCW 7.24.010, and RCW  
8 7.40.010.

9 Venue is properly in this Court under RCW 4.12.020(2) and RCW 4.12.025(1).

### 10 **IV. FACTUAL ALLEGATIONS**

11 Washington law states in no uncertain terms that the authority to regulate firearms  
12 rests exclusively with the State. Washington law expressly states:

13 The state of Washington hereby fully occupies and preempts the entire field of  
14 firearms regulation within the boundaries of the state, including the registration,  
15 licensing, possession, purchase, sale, acquisition, transfer, discharge, and  
16 transportation of firearms, or any other element relating to firearms or parts  
17 thereof, including ammunition and reloader components. Cities, towns, and  
18 counties or other municipalities may enact only those laws and ordinances relating  
19 to firearms that are specifically authorized by state law, as in RCW 9.41.300, and  
20 are consistent with this chapter.

21 RCW 9.41.290 ("Preemption Clause").<sup>1</sup>

22 On August 10, 2015, the Seattle City Council passed Council Bill 118437, entitled  
23 "An Ordinance related to imposing a tax on engaging in the business of making retail sales of  
24 firearms and ammunition." On [X], 2015, Mayor Murray approved and signed the Ordinance,  
25

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26 1 RCW 9.41.300, which is referenced in the Preemption Clause, permits cities, towns, counties,  
27 and other municipalities to enact laws and ordinances restricting the discharge of firearms in  
28 certain locations and restricting the possession of firearms in a municipality-owned stadium or  
29 convention center. RCW 9.41.300(2). This statutory provision is inapplicable to the present case,  
30 which concerns city restrictions that have nothing to do with the discharge of firearms or the  
31 possession of firearms in stadiums or convention centers.

1 making the Ordinance effective on [X], 2015. The Ordinance states that the tax itself will be  
2 imposed beginning on January 1, 2016 on every person engaging within the City in the business  
3 of making sales of firearms or ammunition, as administrated by the Finance Department and  
4 Director Lee.

5  
16. The Ordinance added Chapter 5.50 to the Seattle Municipal Code, which states, in  
6 part:

7  
8 **5.50.030 Tax imposed; rates**

9 A. There is imposed a tax on every person engaging within the City in the  
10 business of making retail sales of firearms or ammunition. The amount of the tax  
11 due shall be equal to the quantity of firearms sold at retail and the quantity of  
ammunition sold at retail multiplied by the applicable tax rates that are stated in  
Section 5.50.030.B.

12 B. The tax rate shall be \$25 per firearm sold at retail, \$.02 per round of  
13 ammunition that contains a single projectile that measures .22 caliber or less sold  
at retail, and \$.05 per round of ammunition for all other ammunition sold at retail.

147. The Ordinance also amended 5.55.220 of the Seattle Municipal Code to make failure  
15 to pay the firearm and ammunition tax a gross misdemeanor, punishable by a fine of up to  
16 \$5,000, imprisonment for a term not to exceed 364 days, or both.

178. Defendants have enacted and are required to enforce this tax despite the fact that the  
18 authority to regulate firearms rests exclusively with the State of Washington. The City Council's  
19 materials attempt to avoid preemption by stating, without support, that RCW 9.41.290 is not  
20 implicated because taxation and regulation are legally distinct functions. Beyond having no  
21 legal basis, the fanciful notion that a tax can exist without implicating or requiring regulation  
22 quickly collapses when one considers the context surrounding passage of the ordinance. For  
23 example, the statements in support of the Ordinance by council members demonstrate a desire to  
24 suppress the sale of firearms and ammunition: council member John Okamoto showed his  
25 support by reading a citizen statement that "[p]rohibiting guns completely will not stop every

1 shooting, but I do believe that making it more difficult to access guns and ammunition will save  
2 more lives”, council member Bruce Harrell issued his support for the ordinance by stating “[t]he  
3 fact is, in simple terms, access to guns is too high”, and council member Sally Bagshaw’s  
4 statement that “we cannot rely upon our federal government to do what’s right here.”<sup>2</sup> The  
5 strawman of taxation is also undermined by the City’s wildly erroneous estimates of what funds  
6 would be raised by this tax, which were based on inaccurate assumptions on the price of  
7 firearms and ammunition, the number of sales taking place in Seattle, and the firearms  
8 businesses that would be able to continue operating in Seattle after imposition of the tax. The  
9 anticipated funds that would be earmarked for gun violence education and research will not be  
10 realized, but Seattle’s tax will have exactly the regulatory effect the City Council intended by  
11 passing this tax: a dramatic suppression in the number of firearm and ammunition sales that will  
12 take place within the Seattle city limits.

13  
19. Defendants’ refusal to recognize the State’s basic preemption principle will cause  
14 irreparable harm to citizens who are hindered in their ability to exercise a basic constitutional  
15 right of purchasing firearms and ammunition in the City of Seattle.

16  
20. Plaintiffs Phillip Watson, Ray Carter, and SAF all purchase ammunition in Seattle  
17 and plan to do so in the future. If the tax becomes effective, these Plaintiffs will be forced to  
18 seek firearms and ammunition outside Seattle, either because it is economically infeasible to  
19 purchase in Seattle or because those selling firearms and ammunition will be required to  
20 relocate.

21  
21. Irreparable harm is faced by those individual Plaintiffs who engage in the business of  
22 selling firearms, by requiring them to impose a tax on each sale or face penalty or prosecution.

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24 2 August 10, 2015 Seattle City Council Meeting at 1:24:39, 1:25:44 & 1:27:39 (available at  
25 [http://www.seattlechannel.org/mayor-and-council/city-council/full-council?  
videoid=x57446&Mode2=Video](http://www.seattlechannel.org/mayor-and-council/city-council/full-council?videoid=x57446&Mode2=Video))

1  
22. Precise Shooter faces irreparable harm from a tax that will either force it to pass on  
2 the tax to their customers or force it to move outside Seattle. Applying the tax to Precise  
3 Shooter's sales to date in 2015, it would owe more for this increased tax than it has earned in  
4 profit. However, passing the tax on to the customer would result in a catastrophic loss of  
5 business for Precise Shooter. For example, one of the most popular rounds of ammunition at  
6 Precise Shooter, the .22 caliber, costs \$.05 to \$.10 a round. The next most popular ammunition  
7 at Precise Shooter, the 9mm, costs approximately \$.20 to \$.30 a round. A \$.02 and \$.05  
8 respective tax increase per round would result in a tax rate from 20% to 40% on ammunition, an  
9 increase that would send customers to online retailers or to those just outside Seattle. Given that  
10 the tax will make the firearm business in Seattle unprofitable, Precise Shooter must relocate  
11 north outside the city limits if the tax is not struck down. Although the tax will not go into effect  
12 until January 1, 2016, Precise Shooter must make decisions now about moving outside the city  
13 limits in order to continue its business after that date.

14  
23. Outdoor Emporium faces similar irreparable harm. To ensure customer satisfaction  
15 and maintain its position as the largest firearm retailer in Seattle, Outdoor Emporium has  
16 historically matched any advertised price on firearms and ammunition. As a result, Outdoor  
17 Emporium's margin on firearms and ammunition is significantly lower than required, even  
18 before the imposition of a good-specific tax. A firearm and ammunition specific tax on Seattle  
19 retailers will erase that thin margin if it is not passed on to customers or drive customers outside  
20 the city limits if it is passed on to customers (especially considering approximately 70% of  
21 Outdoor Emporium's firearms customers are non-Seattle residents). Outdoor Emporium's  
22 wholesale business would also be affected, because it will no longer be able to provide the  
23 cheapest price on ammunition to local retailers. Should the tax go into effect on January 1,  
24 2016, Outdoor Emporium will be required to either relocate outside Seattle to maintain its  
25



1 firearm and ammunition sales, cut its firearm and ammunition department entirely, or refrain  
2 from selling all but the most expensive and highly-specialized firearm and ammunition. Any of  
3 these choices will damage Outdoor Emporium's brand as a location for a wide array of sporting  
4 goods and irreparably damage its customer base. Outdoor Emporium must make this choice  
5 now so that it may take the appropriate action prior to the end of the year.

6  
24. Outdoor Emporium and Precise Shooter sell the vast majority of firearms and  
7 ammunition in Seattle. However, neither Outdoor Emporium nor Precise Shooter will be able to  
8 continue selling firearms or ammunition in Seattle after the imposition of the newly-passed tax,  
9 with the possible exception of a select few high-end firearms and ammunition. The exit of these  
10 retailers from the Seattle firearm market will make purchasing a generic firearm (such as a  
11 handgun or range rifle) or common ammunition (such as .22 caliber or 9mm) in Seattle a  
12 practical, if not total, impossibility.

### 13 **V. CAUSES OF ACTION**

#### 14 **FIRST CAUSE OF ACTION: DECLARATORY RELIEF**

##### 15 **-Against All Defendants-**

16  
25. Plaintiffs repeat and reallege paragraphs 1 through \_\_\_ as if fully set forth herein.

17  
26. A present controversy exists concerning whether Defendants have legal authority to  
18 regulate the sale of firearms and ammunition by imposing a tax, the non-payment of which is  
19 punishable as a gross misdemeanor. The retailer Plaintiffs' statutory right to be free from local  
20 interference with the sale of firearms is affected by this controversy. In addition, the individual  
21 Plaintiffs' and the organizational Plaintiffs' Washington members' constitutional rights to  
22 purchase firearms and ammunition in Seattle is affected by this controversy, and the protection  
23 of those rights is germane to the organizational Plaintiffs' purposes.  
24  
25

1  
27. Plaintiffs are entitled, under RCW 7.24 and CR 57, to an accelerated judicial  
2 declaration that:

- 3 a. The Ordinance violates Washington statutory law and is therefore null and void;  
4 b. Defendants lack legal authority to enact any ordinance, law, or rule that imposes a tax on the  
5 sale of firearms or ammunition; and  
6 c. Defendants may not collect the firearm or ammunition tax or enforce the Ordinance by any other  
7 means.

8  
28. Such declaration will conclusively terminate the controversy giving rise to this  
9 proceeding.

10 **SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

11 **- Against All Defendants -**

12  
29. Plaintiffs repeat and reallege paragraphs \_\_ through \_\_ as if fully set forth herein.

13  
30. The retailer Plaintiffs' statutory rights to be free from local interference with the sale  
14 of firearms is in jeopardy of immediate invasion, causing actual and substantial injuries without  
15 any adequate remedy at law. In addition, the individual Plaintiffs' and the organizational  
16 Plaintiffs' Washington members' constitutional rights to purchase firearms and ammunition in  
17 Seattle is in jeopardy of immediate invasion, causing actual and substantial injuries without any  
18 adequate remedy at law.

19  
31. Plaintiffs are entitled, under RCW 7.40 and CR 65, to an injunction as enjoining  
20 Defendants from collecting the firearm or ammunition tax or enforcing the Ordinance by any  
21 other means.

22 **VI. REQUEST FOR RELIEF**

23 WHEREFORE, Plaintiffs request that judgment be entered against Defendants as  
24 follows:  
25

1 a. Declaring that Defendants' actions in enacting and enforcing the Ordinance were  
2 contrary to law and the Ordinance is null and void.

3 b. Awarding Plaintiffs fees, costs, and disbursements incurred in this action as the  
4 court deems just and equitable.

5 c. Awarding any additional or further relief which the court finds appropriate,  
6 equitable, or just.

7  
8 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

9  
10 CORR CRONIN MICHELSON  
BAUMGARDNER FOGG & MOORE LLP

11  
12 \_\_\_\_\_  
Steven W. Fogg, WSBA No. 23528  
13 David B. Edwards, WSBA No. 44680

14 *Attorneys for Plaintiffs*