

HONORABLE LORI K. SMITH
Hearing Date: July 28, 2017
Hearing Time: 10:00 a.m.
Oral Argument Requested

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SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

DAVE WORKMAN, an individual; and THE
SECOND AMENDMENT FOUNDATION,
INC., a Washington nonprofit corporation,

Plaintiffs,

v.

CITY OF SEATTLE, a municipality,

Defendant.

No. 16-2-21410-0 SEA

**DECLARATION OF MICHAEL
COOMBS IN SUPPORT OF
PLAINTIFFS' RENEWED MOTION FOR
SUMMARY JUDGMENT**

1 Michael Coombs states and declares as follows:

2 1. I am the co-owner and operator of Farwest Sports, Inc., dba Outdoor Emporium.
3 I am over eighteen years of age, competent to testify and submit this declaration based upon
4 personal knowledge in support of Plaintiffs' Renewed Motion for Summary Judgment.

5 2. Outdoor Emporium is a sporting goods store that has offered its Seattle customers
6 the largest selection of outdoor-related products for hunting, fishing, camping, athletics, and
7 hiking since 1975. Outdoor Emporium is the largest retailer of firearms and ammunition in
8 Seattle, although it is also one of Seattle's largest retailer of other sporting goods as well.

9 3. Outdoor Emporium has no objection to efforts to improve firearm safety in Seattle.
10 Outdoor Emporium is heavily involved in firearms safety programs in and around Seattle,
11 including partnering with Seattle Children's hospital to provide safety training and to give away
12 lock boxes and trigger locks. In the past two years, Outdoor Emporium has sought to improve
13 firearm safety in Seattle by giving away hundreds of lock boxes and trigger locks and hosting free
14 firearms safety programs in its store.

15 4. Outdoor Emporium paid the following to Seattle in satisfaction of its firearm and
16 ammunition tax assessment during 2016:

Quarter 1 - 2016	\$21,444.48
Quarter 2 - 2016	\$19,341.00
Quarter 3 - 2016	\$19,890.80
Quarter 4 - 2016	\$25,734.15
2016 Total	\$86,410.43

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21 5. I am aware that Seattle has publicly announced that it has collected less than
22 \$200,000 from the firearm and ammunition tax and that it has revealed in discovery in this case
23 that one retailer has paid 80% or more of the total firearm and ammunition tax collected every
24 quarter and for the entire year. When Seattle's statements are compared with Outdoor
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1 Emporium's \$86,410.43 tax payment for 2016, it is mathematically certain that Outdoor
2 Emporium is the retailer that has paid more than 80% of the firearm and ammunition tax.

3 6. As the overwhelming majority payer of Seattle's firearm and ammunition tax,
4 Outdoor Emporium does not believe that its confidential tax information would be revealed by
5 the release of the aggregate number collected under that tax. Releasing the aggregate number
6 would not inform the public about how many firearms or rounds of ammunition Outdoor
7 Emporium or any other retailer sold since it could be any combination of amount and type of item
8 sold that incurred the total tax paid. To the extent there is any confidential information that would
9 be released about Outdoor Emporium through the release of the aggregate number collected under
10 the firearm and ammunition tax because of Outdoor Emporium's position as the retailer paying
11 nearly all of the tax, Outdoor Emporium waives any confidentiality in that aggregate number,
12 consents to its release, and requests and that it be released immediately.

13 7. If Outdoor Emporium paid at least 80% of the total collected for the firearm and
14 ammunition tax, then it is likely that Seattle did not collect more than \$108,013.04 ($\$86,410.43 /$
15 $.80 = \$108.013.04$). This is \$200,000 to \$400,000 less than Seattle claimed it would make from
16 this tax.

17 8. In the meantime, Outdoor Emporium's sales have plummeted since the tax was
18 imposed. Outdoor Emporium's 2016 firearm sales were down approximately 20% from 2015
19 and its ammunition sales were down approximately 50% over the same period. More importantly,
20 Outdoor Emporium's overall sales are down over 15% from 2015 to 2016 because customers who
21 purchased firearms and ammunition simultaneously purchased other sporting goods supplies.
22 Many of our customers have told me that they stopped shopping at our store because of the firearm
23 and ammunition tax, and that has meant that they have started shopping at stores outside Seattle
24 for all their sporting goods needs. I believe most of Outdoor Emporium's loss of sales is directly
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1 linked to the firearm and ammunition tax, because another sporting goods store I co-own and
2 operate in Fife has not shown any similar losses during the same time period.

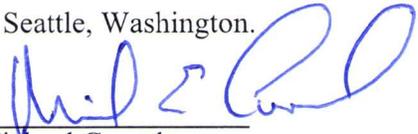
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4 9. Outdoor Emporium's request for the release of the aggregate number is to allow
5 the public to understand how harmful the firearm and ammunition tax is to Seattle. Outdoor
6 Emporium's loss of sales as a result of the firearm and ammunition tax has three significant
7 impacts on Seattle and its citizens. First, Outdoor Emporium has sadly laid off hardworking
8 Seattle citizens in order to continue operating. Second, Outdoor Emporium collected \$183,747
9 less in sales tax for 2016 than it did in 2015 because of lost sales. It is my understanding that
10 Seattle receives approximately a third of sales tax we collect, which means Seattle lost about
11 \$61,000 in sales tax by imposing the firearm and ammunition tax on Outdoor Emporium while
12 the State lost an additional \$122,000. Notably, this loss in tax revenue indicates that Seattle netted
13 only around \$25,000 from its imposition of the firearm and ammunition new tax on Outdoor
14 Emporium, putting it even further behind on its estimates that it would collect an additional
15 \$300,000 to \$500,000 from the tax. Third, Outdoor Emporium will likely be forced to leave
16 Seattle when its lease ends next year because it will no longer be able to afford to remain. Beyond
17 the loss of what I believe is the city's best sporting goods store, Outdoor Emporium's departure
18 will mean that Seattle will lose: a) all of Outdoor Emporium's tax revenue; b) the forty jobs
19 currently provided by Outdoor Emporium; c) the primary payer of the firearms and ammunition
20 tax; and d) the free firearm safety instruction and equipment provided by Outdoor Emporium.

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22 10. I believe that if the citizens of Seattle were aware of the details of how the firearms
23 and ammunition tax operates, how the burden is falling primarily on Outdoor Emporium, and
24 how Seattle has lost money by imposing the tax, then the citizens would call on the City Council
25 to repeal the tax. The only way for Outdoor Emporium to get citizens all the

1 information and to make their case is for Seattle to release the aggregate number collected from
2 the firearm and ammunition tax. Seattle's choice to withhold the tax is not protecting the
3 confidentiality of Outdoor Emporium or other smaller firearm and ammunition retailers in
4 Seattle, it is protecting a faulty tax from public scrutiny. I ask that the Court require Seattle to
5 make the aggregate number public.

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7 I declare under penalty of perjury under the laws of the state of Washington that the
8 foregoing is true and correct.

9 DATED this 13th day of June, 2017, at Seattle, Washington.

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11 _____
12 Michael Coombs
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1 **CERTIFICATE OF SERVICE**

2 The undersigned declares as follows:

3 1. I am employed at Corr Cronin Michelson Baumgardner Fogg & Moore LLP,
4 attorneys of record for Plaintiffs herein.

5 2. On June 14, 2017, I caused a true and correct copy of the foregoing document to be
6 served on the following parties as indicated:

7 Peter S. Holmes (Seattle City Attorney)
8 Kent C. Meyer, WSBA #17245
9 Jessica Nadelman, WSBA #27569
10 Seattle City Attorneys Office
11 701 Fifth Avenue, Suite 2050
12 Seattle, WA 98104-7097
kent.meyer@seattle.gov
carlton.seu@seattle.gov
Attorneys for Defendant City of Seattle

13 ***Via KCSC E-Service***

14 I declare under penalty of perjury under the laws of the state of Washington that the
15 foregoing is true and correct.

16 DATED: June 14, 2017, at Seattle, Washington.

17
18 *s/ Leslie Nims*

19 Leslie Nims