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SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

OMAR ABDUL ALIM, an individual;
MICHAEL THYNG, an individual; THE
SECOND AMENDMENT FOUNDATION,
INC., a Washington non-profit corporation; and
NATIONAL RIFLE ASSOCIATION OF
AMERICA, INC.; a New York non-profit
association;

Plaintiffs,

v.

CITY OF SEATTLE, a municipality;
JENNY DURKAN, Mayor of the City of
Seattle, in her official capacity; SEATTLE
POLICE DEPARTMENT, a department of the
City of Seattle; and CARMEN BEST, Chief of
Police, in her official capacity,

Defendants.

No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs, by and through their attorneys, allege the following Complaint for declaratory and injunctive relief against Defendants City of Seattle, Mayor Jenny Durkan, the Seattle Police Department and Chief of Police Carmen Best:

I. NATURE OF THE CASE

The City of Seattle has passed an ordinance regulating the possession of firearms by mandating how firearms must be stored within the city. However, the ordinance's mandates are

1 legally unenforceable. The state of Washington has the exclusive right to regulate the possession
2 of firearms in Washington, and cities may not enact local laws or regulations related to the
3 possession of firearms. RCW 9.41.290. The City of Seattle has ignored this clear rule of
4 preemption—a rule which it has been found to have violated in the past, *see Chan v. City of*
5 *Seattle*, 164 Wn. App. 549, 265 P.3d 169 (2011)—by purporting to regulate the manner in which
6 Seattle citizens may possess firearms. The rule of preemption could not be clearer: the City of
7 Seattle (like any municipality in the state of Washington) is not permitted to pass laws that target
8 the possession of firearms through any means. Accordingly, Plaintiffs bring this action for
9 injunctive and declaratory relief, and ask this Court for an order that would require the Defendants
10 to follow the law.

11 **II. PARTIES**

12 1. Plaintiff Omar Abdul Alim is an individual residing in Seattle, Washington. Mr.
13 Alim is a U.S. Army veteran with extensive experience with firearms and firearms safety. Mr.
14 Alim and his wife have valid concealed pistol licenses. Mr. Alim currently owns a firearm that
15 he keeps unlocked in his home for self-defense and defense of his family. Mr. Alim has been the
16 victim of a previous home invasion and brandished his firearm to scare off the intruder. Mr. Alim
17 has a strong desire to continue having his firearm in an unlocked and usable state in his home as
18 his training and experience tell him that a person cannot be reasonably expected to access a locked
19 firearm under the time and pressure imposed by a home invasion. Mr. Alim fears enforcement of
20 the Ordinance were he to continue his possession of an unlocked firearm. In addition, Mr. Alim
21 would be forced to purchase a safe or gun lock to comply with the law.

22 2. Plaintiff Michael Thyng is an individual residing in Seattle, Washington. Mr.
23 Thyng has extensive experience with firearms and has been certified to teach various firearms
24 safety courses. Mr. Thyng currently owns a firearm that he keeps unlocked in his home for self-
25

1 defense and defense of his family. Mr. Thyng has previously been the victim of a breaking and
2 entering at his home, although he was not at home at the time. Mr. Thyng has a strong desire to
3 continue having his firearm in an unlocked and usable state in his home as his training and
4 experience tell him that a person cannot be reasonably expected to access a locked firearm under
5 the time and pressure imposed by a home invasion. Mr. Thyng fears enforcement of the Ordinance
6 were he to continue his possession of an unlocked firearm.

7
8 3. Plaintiff Second Amendment Foundation, Inc. ("SAF") is a non-profit membership
9 organization incorporated under the laws of Washington with its principal place of business in
10 Bellevue, Washington. SAF has over 600,000 members and supporters nationwide, including
11 thousands in the state of Washington. The purposes of SAF include education, research,
12 publishing, and legal action focusing on the constitutional right to own and possess firearms. SAF
13 brings this action on behalf of itself and its members.

14 4. Plaintiff National Rifle Association of America, Inc. ("NRA") is a non-profit
15 association incorporated under the laws of New York, with its principal place of business in
16 Fairfax, Virginia. NRA has over five million members, including members in the state of
17 Washington. NRA's purposes include protection of the right of citizens to have firearms for lawful
18 defense, hunting, and sporting use, and to promote public safety. NRA brings this action on behalf
19 of itself and its members.

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

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

1 7. Defendant Seattle Police Department ("SPD") is an agency of the City of Seattle,
2 which oversees the enforcement of Seattle's laws and promulgation of relevant regulations.

3 8. Defendant Carmen Best ("Chief Best") is the Chief of Police. Chief Best oversees
4 the enforcement of Seattle's laws.

5 **III. JURISDICTION AND VENUE**

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

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

9 **IV. FACTUAL ALLEGATIONS**

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

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

20 RCW 9.41.290 ("Preemption Clause").¹

21 12. On July 9, 2018, the Seattle City Council passed Council Bill 119266, titled "An
22 Ordinance relating to the safe storage of and access to firearms." On July 18, 2018, Mayor Durkan
23 approved and signed the Ordinance, making the Ordinance effective and in force on August 17,
24 2018. The Ordinance states that the substantive provisions will be imposed beginning on
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¹ RCW 9.41.300, which is referenced in the Preemption Clause, permits cities, towns, counties, and other municipalities to enact laws and ordinances restricting the discharge of firearms in certain locations and restricting the possession of firearms in a municipality-owned stadium or convention center. RCW 9.41.300(2). This statutory provision is inapplicable to the present case, which concerns city restrictions that have nothing to do with the discharge of firearms or the possession of firearms in stadiums or convention centers.

1 January 14, 2019, as administrated by the SPD and Chief Best.

2 13. The Ordinance added Chapter 10.79 to the Seattle Municipal Code, which states,
3 in part:

4 **10.79.020 Safe storage of firearms**

5 It shall be a civil infraction for any person to store or keep any firearm in any
6 premises unless such weapon is secured in a locked container, properly engaged so
7 as to render such weapon inaccessible or unusable to any person other than the
8 owner or other lawfully authorized user. Notwithstanding the foregoing, for
9 purposes of this Section 10.79.020, such weapon shall be deemed lawfully stored
or lawfully kept if carried by or under the control of the owner or other lawfully
authorized user.

10 **10.79.030 Unauthorized access prevention**

11 It shall be a civil infraction if any person knows or reasonably should know that a
12 minor, an at risk person, or a prohibited person is likely to gain access to a firearm
13 belonging to or under the control of that person, and a minor, an at-risk person, or
a prohibited person obtains the firearm.

14 14. The Ordinance makes a violation of these provisions a civil infraction subject to a
15 penalty of up to \$10,000.

16 15. Defendants have enacted and are required to enforce this regulation despite the fact
17 that the authority to regulate firearms rests exclusively with the state of Washington. The
18 Ordinance attempts to avoid the Preemption Clause by stating that it “is not intended to regulate
19 the . . . possession . . . of firearms.” The Ordinance also implies that RCW 9.41.290 is not
20 implicated because the Ordinance “does not impose criminal penalties,” despite RCW 9.41.290
21 applying to both civil and criminal regulation and the imposition of a \$10,000 civil infraction
22 serving as a de facto criminal fine.

23 16. Defendants’ refusal to recognize the State’s basic preemption principle will cause
24 irreparable harm to citizens who are hindered in their ability to exercise a basic constitutional right
25 of possessing a firearm in the City of Seattle.

1 17. The individual Plaintiffs possess firearms in Seattle and plan to do so in the future.
2 The Second Amendment's Seattle members also possess firearms in Seattle and plan to do so in
3 the future. If the Ordinance becomes effective, these Plaintiffs will be forced to alter the manner
4 in which they possess firearms to their detriment.

5 18. Irreparable harm is faced by those individual Plaintiffs who require a firearm to be
6 unlocked and usable in their home.

7 **V. CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION: DECLARATORY RELIEF**

9 **-Against All Defendants-**

10 19. Plaintiffs repeat and reallege paragraphs 1 through 18 as if fully set forth herein.

11 20. A present controversy exists concerning whether Defendants have legal authority
12 to regulate the possession of firearms by regulating the manner in which firearms are possessed.
13 The Plaintiffs' statutory right to be free from local interference with the possession of firearms is
14 affected by this controversy. In addition, the individual Plaintiffs' and the organizational
15 Plaintiffs' Seattle members' rights to possess firearms in Seattle is affected by this controversy,
16 and the protection of those rights is germane to the organizational Plaintiffs' purposes.

17 21. Plaintiffs are entitled, under RCW 7.24 and CR 57, to an accelerated judicial
18 declaration that:

19 a. The Ordinance violates Washington statutory and constitutional law and is
20 therefore null and void;

21 b. Defendants lack legal authority to enact any ordinance, law, or rule that regulates
22 the manner in which firearms are stored; and

23 c. Defendants may not enforce the Ordinance.

24 22. Such declaration will conclusively terminate the controversy giving rise to this
25

1 proceeding.

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

3 **- Against All Defendants -**

4 23. Plaintiffs repeat and reallege paragraphs 1 through 22 as if fully set forth herein.

5 24. The Plaintiffs' statutory rights to be free from local interference with the
6 possession of firearms is in jeopardy of immediate invasion, causing actual and substantial injuries
7 without any adequate remedy at law. In addition, the individual Plaintiffs' and the organizational
8 Plaintiffs' Seattle members' rights to possess firearms in Seattle is in jeopardy of immediate
9 invasion, causing actual and substantial injuries without any adequate remedy at law.

10 25. Plaintiffs are entitled, under RCW 7.40 and CR 65, to an injunction as enjoining
11 Defendants from enforcing the Ordinance.

12 **VI. REQUEST FOR RELIEF**

13 WHEREFORE, Plaintiffs request that judgment be entered against Defendants as follows:

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

16 b. Awarding Plaintiffs' fees, costs, and disbursements incurred in this action
17 as the Court deems just and equitable; and

18 c. Awarding any additional or further relief which the Court finds appropriate,
19 equitable, or just.
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DATED this 20th day of July, 2018.

CORR CRONIN LLP

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