

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

DONALD TODD VANDERMYDE, and
ANA ZAVALA, individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

COOK COUNTY, ILLINOIS, a body politic,
MARIA PAPPAS, as Treasurer of Cook County,
Illinois, and **KENNETH HARRIS**, as Interim
Director of the Department of Revenue of Cook
County,

Defendants.

Case No. 2022CH05563

Jury Trial Demanded

CLASS ACTION COMPLAINT

Plaintiffs DONALD TODD VANDERMYDE (“Vandermyde”), and ANA ZAVALA (“Zavala”) (collectively, “Plaintiffs”), individually, and on behalf of all others similarly situated, by and through counsel, bring this Class Action Complaint against Defendants COOK COUNTY, ILLINOIS, a body politic (“Cook County” or the “County”), MARIA PAPPAS, as Treasurer of Cook County, Illinois (“Treasurer”), and KENNETH HARRIS, as Interim Director of the Department of Revenue of Cook County (“Director”) (collectively, “Defendants”), as follows:

INTRODUCTION

1. Plaintiffs bring this suit individually and on behalf of a Class of similarly situated individuals and entities (defined *infra*) seeking, among other things, the return of unconstitutional taxes demanded and collected by Defendants.

2. On November 9, 2012, Cook County enacted Cook County Ordinance No. 12-O-64 (the “Firearm Ordinance”), which imposed a \$25 tax on the retail purchase of a firearm within Cook County (the “Firearm Tax”).

3. On November 18, 2015, Cook County also enacted Cook County Ordinance No. 15-6469 (the “Ammunition Ordinance”), which imposed a tax on the retail purchase of firearm ammunition within Cook County at a rate of \$0.05 per cartridge for centerfire ammunition and \$0.01 per cartridge for rimfire ammunition (the “Ammunition Tax”).

4. On October 21, 2021, however, the Illinois Supreme Court declared both the Firearm Ordinance and the Ammunition Ordinance (collectively, the “Ordinances”)—as they read at the time—unconstitutional on the grounds that they violated Article IX, Section 2, of the Illinois Constitution (*i.e.*, the “uniformity clause”). *Guns Save Life, Inc. v. Ali*, 2021 IL 126014, at ¶ 38.

5. As a result, Defendants have collected and retained taxes—*i.e.*, the Firearm Tax and/or the Ammunition Tax (collectively, the “Taxes”)—from Plaintiffs and Class members to which they were not entitled.

6. On November 4, 2021, in response to the *Guns Save Life* decision, Cook County enacted Cook County Ordinance Amendment No. 21-6225 (the “Amendment”), which amended the Ordinances to direct the proceeds from Taxes to a “Special Purpose Equity Fund.” The Amendment attempts to bring the Ordinances into compliance with the uniformity clause.¹ This case concerns whether the Old Ordinances and the New Ordinances, and the Taxes collected

¹ For clarity, the Ordinances, as they read prior to the Amendment shall be referred to herein as the “Old Ordinances,” and the Ordinances, as they read after the Amendment was enacted, shall be referred to herein as the “New Ordinances.”

under both the Old Ordinances and the New Ordinances, are invalid in violation of the Second and Fourteenth Amendments to the United States Constitution.

PARTIES

7. Plaintiff Vandermyde is a natural person and a resident of Illinois.

8. Plaintiff Zavala is a natural person and a resident of Illinois.

9. Defendant Cook County is a county in the State of Illinois, and a body politic.

10. Defendant Treasurer is the Treasurer of Cook County, and is being sued in that capacity. The Treasurer is named as a defendant herein as a necessary party.

11. Defendant Director is the Interim Director of the Department of Revenue of Cook County, and is being sued in that capacity. The Director is named as a defendant herein as a necessary party.

JURISDICTION AND VENUE

12. This court has jurisdiction pursuant to 735 ILCS 5/2-209 because Defendants are residents of Cook County, Illinois.

13. Venue is proper pursuant to 735 ILCS 5/2-101 because Defendants are residents of Cook County, Illinois, and the transactions and occurrences giving rise to the claims asserted herein occurred in Cook County, Illinois.

FACTUAL ALLEGATIONS

The Taxes

14. On November 9, 2012, Cook County enacted the Firearm Ordinance, which imposed the Firearm Tax. The Firearm Tax was a \$25 tax on the retail purchase of a firearm within Cook County.

15. On November 18, 2015, Cook County enacted the Ammunition Ordinance, which imposed the Ammunition Tax. The Ammunition Tax was a tax on the retail purchase of firearm ammunition within Cook County at a rate of \$0.05 per cartridge for centerfire ammunition and \$0.01 per cartridge for rimfire ammunition.

16. Pursuant to the Cook County Code of Ordinances, retailers are generally responsible for collecting the Taxes from purchasers of firearms and/or ammunition, and then remitting the revenue from the Taxes to the County's Department of Revenue, which is overseen and controlled by the Director. *See*, Cook County Code of Ordinances, § 74-670(a). However, the Cook County Code of Ordinances further provides that "if for any reason a retailer dealer fails to collect the" Taxes, the purchaser becomes responsible for paying the Taxes to the County's Department of Revenue directly. *See*, Cook County Code of Ordinances, § 74-670(c).

17. Pursuant to the Cook County Code of Ordinances, any person who fails to remit either of the Taxes to the County's Department of Revenue is subject to a \$1,000 fine for the first offense and a \$2,000 fine for subsequent offenses. *See*, Cook County Code of Ordinances, § 74-671.

18. All money collected by the County's Department of Revenue is ultimately paid into the County Treasury. *See*, Cook County Code of Ordinances, § 2-439(a). As such, the revenue generated from the Taxes is held by the Director and/or the Treasurer.

19. Under the Old Ordinances, the revenue generated as the result of the Ammunition Tax was directed to the County's "Public Safety Fund" for operations related to public safety, while the revenue generated as the result of the Firearm Tax was not directed to any specific fund or program. *Guns Save Life*, 2021 IL 126014 at ¶ 5.

20. On October 21, 2021, the Illinois Supreme Court declared the Old Ordinances unconstitutional on the grounds that they violated the Illinois Constitution's "uniformity clause" because "nothing in the [Old Ordinances] indicate[d] that the proceeds generated from the [Taxes] must be specifically directed to initiatives aimed at reducing gun violence." *Guns Save Life*, 2021 IL 126014 at ¶ 38.

21. As a result, on November 4, 2021, Cook County enacted the Amendment, which amended the Old Ordinances in an attempt to render them in compliance with the Illinois Constitution's "uniformity clause." *See*, Cook County Ordinance Amendment No. 21-6225.

22. Under the New Ordinances, the revenue generated from the Taxes is now directed to a "Special Purpose Equity Fund" which funds "gun violence prevention programs as well as operations and programs aimed at reducing gun violence." *See*, Cook County Code of Ordinances, § 74-677.

23. Plaintiffs and Class members paid one, or both, of the Taxes at some point during when the Old Ordinances and New Ordinances were in force.

24. Plaintiffs and Class members were the ultimate purchasers of the firearms and/or ammunition that they purchased, and therefore bore the burden of the Taxes directly. In other words, Plaintiffs and Class members did not "pass on" the Taxes to any other individual or entity.

25. Based on the provisions of the Cook County Code of Ordinances discussed above, the Taxes paid by Plaintiffs and Class members were transferred to, possessed, and retained by Cook County and controlled by the Treasurer and the Director.

26. Accordingly, Defendants improperly collected and retained unlawful Taxes paid by Plaintiffs and Class members since 2012.

Plaintiffs and Class Members Paid the Unconstitutional Taxes Involuntarily

27. Although, ordinarily, “a taxpayer may not recover taxes that are voluntarily paid” (*Alvarez v. Pappas*, 229 Ill.2d 217, 221 (2008)), “a payment is considered involuntary where (1) the payor lacked knowledge of the facts upon which to protest the payment at the time of payment, or (2) the payor paid under duress” (*Midwest Med. Records Ass’n, Inc. v. Brown*, 2018 IL App (1st) 163230, ¶ 25 (internal quotations omitted)).

28. Here, as explained below, Plaintiffs’ and Class members’ payments of unconstitutional Taxes were involuntary because they were made under duress, as a matter of law.

29. For purposes of the voluntary payment doctrine, “in assessing whether a tax was paid under duress...implied duress will suffice.” *E.g., Wexler v. Wirtz Corp.*, 211 Ill.2d 18, 24 (2004). Implied duress “exists where the taxpayer’s refusal to pay the tax would result in loss of reasonable access to a good or service considered essential” or necessary. *E.g., Wexler*, 211 Ill.2d at 24; *Brown*, 2018 IL App (1st) 163230 at ¶ 39 (Duress may be implied where “nonpayment would have resulted in loss of access to a necessary good or service.”); *Walker v. Chasteen*, 2021 IL 126086, ¶¶ 26-28; *Geary v. Dominick’s Finer Foods, Inc.*, 129 Ill.2d 389, 398 (1989).

30. Goods or services deemed “necessary” or “essential” in this context include access to the courts (*Brown*, 2018 IL App (1st) 163230 at ¶ 39; *Walker*, 2021 IL 126086 at ¶ 28), telephone or electricity service (*See, e.g., Ross v. City of Geneva*, 71 Ill.2d 27, 33-34 (1978); *Getto v. City of Chicago*, 86 Ill.2d 39, 51 (1981)), and tampons and sanitary napkins (*Geary*, 129 Ill.2d at 398).

31. Goods or services can be categorized as “necessary” or “essential” because people commonly rely upon them (*See, Geary*, 129 Ill.2d at 398 (noting that “telephones and electricity are necessities” because “the invention of telephones and electricity generated a reliance on those services”)), or where there is a constitutional right to acquire/utilize them (*Walker*, 2021 IL 126086 at ¶¶ 28, 37 (holding that duress was implied because “refusal to pay the [challenged] fee would have resulted in loss of access to the courts,” which is “a fundamental right”)).

32. Firearms are “overwhelmingly chosen by American society” as a means of exercising the “inherent right of self-defense.” *Dist. of Columbia v. Heller*, 554 U.S. 570, 628-29 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 767, 787 (2010) (“Self-defense is a basic right, recognized by many legal systems from ancient times to the present day...We [have] stressed that...the possession of firearms [is] essential for self-defense.”). Therefore, “a law-abiding citizen’s right to use a firearm for self-defense...implies a corresponding right to acquire [firearms and] the ammunition necessary to use them.” *See, Guns Save Life*, 2021 IL 126014 at ¶ 29.

33. Since firearms and ammunition are fundamental prerequisites to the ability to exercise a constitutional right, they are necessary and essential goods. *See, e.g., Geary*, 129 Ill.2d at 398; *Walker*, 2021 IL 126086 at ¶ 28.

34. Here, had Plaintiffs and Class members *not* paid the Taxes, they would have been unable to acquire, at least within Cook County, necessary and essential goods—*i.e.*, firearms and ammunition—and would have lost reasonable access to the means necessary to exercise a fundamental right, given that “retail stores simply do not sell a product if the purchaser does not pay the taxes imposed on the product.” *Geary*, 129 Ill.2d at 400.

35. In addition, pursuant to the Cook County Code of Ordinances, any person who fails to remit either of the Taxes to the County's Department of Revenue is subject to a \$1,000 fine for the first offense and a \$2,000 fine for subsequent offenses. *See*, Cook County Code of Ordinances, § 74-671. This provision of the Cook County Code of Ordinances applies to *both* retailers and purchasers of firearms and ammunition. *Id.* As such, the County possessed the legal power and authority to punish Plaintiffs and Class members (and/or the retailers from whom they purchased their firearms and ammunition) if they did not pay the Taxes.

36. Accordingly, Plaintiffs and Class members had no choice but to pay the Taxes if they wanted to legally purchase firearms and ammunition within Cook County.

37. Moreover, Plaintiffs' and Class members' payment of the Taxes was involuntary regardless of whether they *may* have been able to purchase firearms and ammunition outside of Cook County. Indeed, for purposes of implied duress, the issue is not whether an individual could have *potentially* purchased a particular product without paying the disputed tax; instead, the issue is whether there was a "*reasonable* source from which to obtain [the product] without paying the tax." *Geary*, 129 Ill.2d at 400 (emphasis added).

38. Here, as noted above, *all* retailers in Cook County were required by law to charge the Taxes. Therefore, unlike in cases where a single retailer *erroneously* charges an inapplicable tax, Plaintiffs and Class members would have been required to travel to an entirely different jurisdiction to avoid paying the Taxes; they could not simply walk across the street to find a retailer who was not charging the Taxes.

39. For this reason, although Plaintiffs and Class members *may* have been able to avoid paying the Taxes by purchasing firearms and ammunition outside of Cook County, it would have been burdensome for them to do so.

40. In light of the burdens associated with traveling to another jurisdiction simply to avoid paying the Taxes, Plaintiffs and Class members “had no other reasonable source from which to obtain” firearms and ammunition. *Geary*, 129 Ill.2d at 399-400 (“We will not force plaintiffs to buy [necessary goods] outside the [jurisdiction where the complained-of tax was imposed].”).

41. Furthermore, unlike other consumer goods, firearms and ammunition are tightly regulated at the state and federal level. For example, Illinois residents, such as Plaintiffs, cannot purchase *handguns* in any state other than Illinois, and can only purchase *rifles* and *shotguns* in a small number of other states. *See, e.g.*, 18 U.S.C. § 922(a)(5) (prohibiting the sale of firearms to individuals who are not residents of the state in which the firearm is sold, unless otherwise permitted by the laws of both the state in which the transaction occurs and the state in which the purchaser resides); 430 ILCS 65/3a(a) (only permitting Illinois residents to “purchase or obtain a *rifle or shotgun* or ammunition for a *rifle or shotgun* in Iowa, Missouri, Indiana, Wisconsin or Kentucky”) (emphasis added).

42. For this reason, the locations in which Plaintiffs and Class members could have legally purchased firearms and ammunition were relatively limited.

43. Plaintiffs’ and Class members’ purchasing options were further reduced by supply-chain shortages and high consumer demand for firearms and ammunition.

44. As a result, at least some of the firearms and ammunition that Plaintiffs and Class members purchased were *only* available within Cook County, or only reasonably² available in Cook County. Therefore, with respect to these purchases, Plaintiffs and Class members “had no

² For example, although a Cook County resident could technically travel to Massac County, Illinois to legally purchase a particular firearm or ammunition, the time and expense associated with doing so would outweigh the cost of the Taxes.

other reasonable source from which to obtain [the firearms and ammunition that they purchased] without paying the Taxes.” *Geary*, 129 Ill.2d at 399.

45. Regardless, even if the firearms and ammunition that Plaintiffs and Class members purchased were reasonably available outside of Cook County, they still would have been required “to check every retail store in the[] state to determine whether they could purchase [firearms and ammunition] from another store without paying the Tax[es],” which is, in itself, “absurd and burdensome.” *Geary*, 129 Ill.2d at 399.

46. In other words, duress is implied precisely because Plaintiffs and Class members “had to choose between paying the Taxes or scouring the[] state to find a retail store that would allow them to purchase [firearms and ammunition] without paying the Taxes,” if one even existed. *Geary*, 129 Ill.2d at 399.

47. Therefore, regardless of whether Plaintiffs and Class members could have purchased firearms and ammunition outside of Cook County, they paid the unconstitutional Taxes under duress.

Facts Relevant to Plaintiff Vandermyde

48. While the New Ordinances were in force, Vandermyde purchased ammunition in Cook County.

49. When Vandermyde made his purchase of that ammunition, he paid the Ammunition Tax.

50. Prior to purchasing his ammunition, Vandermyde researched the availability of this particular ammunition from retailers throughout the state—including outside of Cook County—to determine whether they had the ammunition that we wished to purchase in stock. However, the only retailer that stocked the ammunition that Vandermyde wanted to purchase

was located in Cook County. Therefore, Cook County was the *only* place that Vandermyde could have legally purchased his ammunition.

Facts Relevant to Plaintiff Zavala

51. While the Old Ordinances were still in force, Zavala purchased a handgun and ammunition in Cook County.

52. When Zavala made her purchase of that handgun and ammunition, she paid both the Firearm Tax and the Ammunition Tax.

53. As a Cook County resident, it would have been burdensome on Zavala to survey retail stores outside of Cook County to see if they had the handgun and ammunition she wanted to purchase in stock, and to travel to another jurisdiction outside of Cook County simply to avoid paying the Taxes. Thus, Zavala had no other reasonable source from which to obtain her firearm and ammunition.

CLASS ACTION ALLEGATIONS

54. Plaintiffs bring this action pursuant to 735 ILCS 5/2-801, on behalf of a class of similarly situated individuals and entities (the “Class”) defined as follows:

All individuals and entities that paid the Firearm Tax or the Ammunition Tax since November 9, 2012.

Excluded from the Class are: (1) Defendants, Defendants’ agents, subsidiaries, parents, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest, and those entities’ current and former employees, officers, and directors; and (2) the Judge to whom this case is assigned and the Judge’s immediate family.

55. Zavala also seeks to represent a subclass of similarly situated individuals and entities who paid one or both of the Taxes while the Old Ordinances were in force (the “Old Ordinances Subclass”). The Old Ordinances Subclass is defined as follows:

All individuals and entities that paid the Firearm Tax or the Ammunition Tax prior to November 4, 2021.

Excluded from the Old Ordinances Subclass are: (1) Defendants, Defendants' agents, subsidiaries, parents, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest, and those entities' current and former employees, officers, and directors; and (2) the Judge to whom this case is assigned and the Judge's immediate family.

56. Vandermyde also seeks to represent a subclass of similarly situated individuals and entities who paid one or both of the Taxes while the New Ordinances were in force (the "New Ordinances Subclass"). The New Ordinances Subclass is defined as follows:

All individuals and entities that paid the Firearm Tax or the Ammunition Tax on or after November 4, 2021.

Excluded from the New Ordinances Subclass are: (1) Defendants, Defendants' agents, subsidiaries, parents, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest, and those entities' current and former employees, officers, and directors; and (2) the Judge to whom this case is assigned and the Judge's immediate family.

57. **Numerosity:** The members of the Class and Subclasses are so numerous that joinder of all members is impracticable. Total revenue from the Taxes in Cook County was more than \$1.9 million in 2020 alone.³ Thus, it is likely that the Class and Subclasses comprises thousands of members, if not more. The exact number of Class and Subclass members can be determined from records maintained by Defendants, or other means.

58. **Commonality and Predominance:** Common questions of law and fact exist as to all Class and Subclass members, including, but not limited to:

A. Whether the Ordinances impose an undue burden on the exercise of a fundamental right protected by the Second Amendment to the United

³ <https://abc7chicago.com/gun-sales-cook-county-guns-illinois-covid-19-pandemic/10317548/>

States Constitution, such that they do not pass muster under a strict scrutiny analysis;

- B. Whether Cook County's imposition and collection of unconstitutional Taxes violated Plaintiffs' and Class members' rights under the Second and Fourteenth Amendments to the United States Constitution;
- C. Whether firearms and ammunition are necessary and essential goods inasmuch as they are fundamental prerequisites to the ability to exercise a constitutional right; and
- D. Whether Plaintiffs and Class members paid the Taxes under duress in light of the fact that they had a fundamental right to acquire firearms and ammunition necessary for their own self-defense, but could not exercise that right unless they paid the Taxes.

59. Common questions of law and fact that exist as to the Class predominate over questions, if any, affecting solely individual Class members.

60. **Typicality:** Plaintiffs' claims are typical of the claims of the proposed Class and Subclasses. All claims are based on the same legal and factual issues, to wit: Defendants' unlawful imposition and collection of unconstitutional Taxes under the Ordinances. The monetary damages suffered by Plaintiffs and each member of the Class were caused by Defendants' same misconduct.

61. **Adequacy of Representation:** Plaintiffs will fairly and adequately protect the interests of the members of the Class and Subclasses. Plaintiffs have retained competent counsel experienced in class action litigation in state and federal courts nationwide, and Plaintiffs have no interest adverse to any member of the Class. Plaintiffs intend to prosecute this case vigorously on behalf of themselves and the Class.

62. **Appropriateness:** A class action is an appropriate method for the fair and efficient adjudication of this controversy, because it involves a uniform course of conduct equally applicable to Plaintiffs and all Class and Subclass members. A class action can therefore

best secure the economies of time, effort, and expense or accomplish the other ends of equity and justice that this action seeks to obtain.

COUNT I
Violation of 42 U.S.C. § 1983
(On Behalf of Plaintiffs and the Class and Against the County)

63. Plaintiffs adopt and incorporate by reference paragraphs 1-62 of this Complaint as if fully set forth herein.

64. At all relevant times, the County was a “person” as interpreted in 42 U.S.C. § 1983. *E.g., Monell v. Dep’t of Soc. Services of City of New York*, 436 U.S. 658, 690 (1978) (“Congress *did* intend municipalities and other local government units to be included among those persons to whom § 1983 applies. Local governing bodies, therefore, can be sued directly under § 1983 for monetary, declaratory, or injunctive relief where, as here, the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body’s officers.”).

65. At all relevant times, there was in effect 42 U.S.C. §1983, which states in relevant part:

Every person, who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States, or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

66. The Second Amendment to the United States Constitution “protects an individual right of law-abiding citizens to keep and bear arms for self-defense.” *Johnson v. Dep’t of State Police*, 2020 IL 124213, ¶ 35; *Guns Save Life*, 2021 IL 126014 at ¶ 28.

67. The Fourteenth Amendment to the United States Constitution guarantees that no unit of government shall “deprive any person of life, liberty or property, without due process of law.”

68. Through the Fourteenth Amendment to the United States Constitution, the Second Amendment to the United States Constitution applies to the County. *E.g., McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 750 (2010); *Johnson*, 2020 IL 124213 at ¶ 37; *Guns Save Life*, 2021 IL 126014 at ¶ 28.

69. At all relevant times, the County had a duty and obligation to comply with the Second and Fourteenth Amendments to the United States Constitution when acting under color of law.

70. The County was acting under color of law when it passed the Ordinances, which, in turn, led to the imposition of the Taxes.

71. However, as explained below, the Ordinances—and the Taxes collected pursuant thereto—violated Plaintiffs’ and Class members’ rights under the Second and Fourteenth Amendments to the United States Constitution.

72. The question of whether a law violates a constitutional right begins with determining the level of scrutiny under which to evaluate that law. *See, e.g., People v. Conroy*, 2019 IL App (2d) 180693, ¶¶ 10–14. From the lowest level of scrutiny to the highest, these levels are typically defined as “rational basis,” “intermediate scrutiny,” and “strict scrutiny.” *Id.*

73. Although, in *Heller*, the United States Supreme Court indicated that the level of scrutiny under which laws that burden the Second Amendment are to be evaluated was greater than “rational basis” scrutiny (*Heller*, 554 U.S. at 628, n. 27), it ultimately “declin[ed] to

establish a [precise] level of scrutiny for evaluating Second Amendment restrictions” (*Id.* at 634).

74. In light of the absence of definitive guidance from the United States Supreme Court, courts have applied differing levels of scrutiny to laws that burden the Second Amendment, ranging from the most rigorous—*i.e.*, “strict scrutiny” (*E.g.*, *Gowder v. City of Chicago*, 923 F. Supp. 2d 1110, 1124 (N.D. Ill. 2012))—to, at the very least, “intermediate scrutiny” (*E.g.*, *United States v. Skoien*, 614 F.3d 638, 641 (7th Cir. 2010)).

75. Other courts—including the Illinois Supreme Court—have applied a degree of scrutiny that falls somewhere in the middle of strict scrutiny and intermediate scrutiny to laws that burden the Second Amendment. *Ezell v. City of Chicago*, 651 F.3d 684, 708 (7th Cir. 2011) (describing the level of scrutiny it applied as requiring “a more rigorous showing than [intermediate scrutiny, but] not quite [as much as] strict scrutiny”); *People v. Chairez*, 2018 IL 121417, ¶ 50. This degree of scrutiny has been described as “elevated intermediate scrutiny.” *Chairez*, 2018 IL 121417 at ¶ 50. “Under this more rigorous review, the government bears the burden of showing a very strong public-interest justification and a close fit between the government’s means and its end.” *Id.*

76. The Old Ordinances “directly burden a law-abiding citizen’s right to acquire a firearm and the necessary ammunition for self-defense,” and thus “impose a burden on the exercise of a fundamental right protected by the Second Amendment to the United States Constitution.” *Guns Save Life*, 2021 IL 126014 at ¶¶ 28-29.

77. Since the New Ordinances simply change the fund in which the proceeds from the Taxes are held by the County, and do not change the applicability or amount of the Taxes,

the Second Amendment burdens imposed by the New Ordinances are the same as, or substantially similar to, the Second Amendment burdens imposed by the Old Ordinances.

78. Accordingly, the Ordinances violate Plaintiffs' and Class members' rights under the Second and Fourteenth Amendments to the United States Constitution unless the County can demonstrate that the Ordinances serve "a very strong public-interest justification and" that there is "a close fit between" the Taxes and the purpose of the Ordinances—which is, according to the Amendment, curbing gun violence. *See*, Cook County Ordinance Amendment No. 21-6225.

79. Here, however, the County cannot make such a showing. For example, although the Amendment states that the proceeds from the Taxes are to be used to fund gun violence prevention programs, it is "devoid of any useful statistics or empirically supported conclusions" demonstrating that such programs have any effect on the rate of gun violence. *Chairez*, 2018 IL 121417 at ¶ 53.

80. Since the County cannot sufficiently justify the burdens imposed by the Ordinances, the Ordinances—and the County's collection of the Taxes pursuant thereto—violated Plaintiffs' and Class members' constitutional rights under the Second and Fourteenth Amendments to the United States Constitution.

81. The County committed its violations of Plaintiffs' and Class members' constitutional rights intentionally, knowing said acts would violate Plaintiffs' and Class members' constitutional rights.

82. As a direct and proximate result of the County's actions, Plaintiffs and Class members suffered financial damages and violations of their constitutional rights.

83. Plaintiffs and Class members paid the Taxes under duress because firearms and ammunition are necessary goods.

WHEREFORE, Plaintiffs, individually, and on behalf of all others similarly situated, pray for an Order as follows:

- A. Finding that this action satisfies the prerequisites for maintenance as a class action set forth in Illinois, and certifying the Class and/or Subclasses defined herein;
- B. Designating Plaintiffs as representatives of the Class and/or Subclasses and their undersigned counsel as Class Counsel;
- C. Entering judgment in favor of Plaintiffs and the Class and/or Subclasses and against the County;
- D. Awarding Plaintiffs and the Class and/or Subclasses all damages incurred in connection with the County's collection of unconstitutional Taxes in an amount to be determined at trial;
- E. Granting an award of reasonable attorneys' fees and all expenses and costs of this action; and
- F. Granting all such further and other relief as the Court deems just and appropriate.

JURY DEMAND

Plaintiffs demand a trial by jury on all counts so triable.

Plaintiffs DONALD TODD VANDERMYDE, and
ANA ZAVALA, individually, and on behalf of all
others similarly situated,

By: /s/ Thomas A. Zimmerman, Jr.

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