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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF COLUMBIA

IN THE MATTER OF THE PETITION of the
Board of County Commissioners of
COLUMBIA COUNTY, a political subdivision
of the State of Oregon,

Petitioner,

For a Judicial Examination and Judgement of
the Court as to the regularity, legality, validity
and effect of the Columbia County Second
Amendment Sanctuary Ordinance

Case No. 21CV12796

MOTION TO INTERVENE
(ORS 33.720(3) appearance and ORCP 33
Motion to Intervene)

UTCR 5.010

Intervenors’ counsel, Tyler Smith conferred with Petitioner’s Council Sarah Hanson by telephone prior to the filing of this motion and the parties have not yet been able to agree to stipulate to intervention.

MOTION TO INTERVENE

Raven Chris Brumbles, a resident of Columbia County, an interested person, and the chief petitioner of both the 2018 Initiative Measure 5-270 (SAPO) and the 2020 Initiative Measure 5-278 (SASO) at issue in this case, together with Gun Owners of America, Inc., Gun Owners Foundation, Oregon Firearms Federation, Larry Erickson, Keith Forsythe, and Ruth Nelson (together “Movants”) hereby seek to intervene in this matter. Movants seek to “contest the validity of [this] proceeding” pursuant to ORS 33.720(3), and object to the tactics used by the County to bring this matter to this Court, whereby the Board of County Commissioners (“Board”) enacted Ordinance 2021-1 (“Ordinance”) which it now seeks to undermine through this action. Indeed,

1 the filing of the petition in this matter is a violation by the county of both the Initiatives and of that
2 very Ordinance it enacted, both of which prohibit county “officials” from using county funds and
3 resources “for the purpose of enforcing any element of such acts, laws, orders, mandates, rules or
4 regulations, that infringe on the right by People to keep and bear arms....” The Board’s petition
5 violates this prohibition, by using county resources to seek this Court’s permission to enforce gun
6 control laws, by way of a declaration that county officials not only may, but also “must” enforce
7 and are “required to follow Federal and State laws.”

8 Movants therefore petition this Court pursuant to ORCP 33 to grant their Motion to
9 Intervene in the place of a Respondent/Defendant opposing the County’s Petition. Moreover,
10 Movants challenge the authority of the Board to have enacted the Ordinance in the first place.
11 Movants seek to defend those Initiatives on behalf of the voters who enacted them. Movants have
12 standing, and jointly move this Court to allow them to appear and intervene in this matter as a
13 party.

14 **PARTIES**

15 Raven Chris Brumbles is a resident, and voter in Columbia County. Mr. Brumbles was the
16 Chief Petitioner both on initiative petition 5-270 (SAPO), enacted in November of 2018, and
17 initiative petition 5-278 (SASO), enacted in November of 2020. Mr. Brumbles also voted in favor
18 of passage of both measures. As such, he has a direct interest in the validity of those measures,
19 and the outcome of this case. Mr. Brumbles is a member of Gun Owners of America, Inc. and the
20 Oregon Firearms Federation, Inc. Brumbles Decl. ¶ 3.

21 Larry Erickson, Keith Forsythe, and Ruth Nelson, are residents Columbia County, voters,
22 and were supporters of ballot measures 5-270 and 5-278. Brumbles Decl. ¶ 4. They are interested
23 in defending the SASO and having both sides of the legal issues that may be involved in this

1 validation proceeding represented and presented to the court, rather than having the County Board
2 conspire and seek to invalidate the people’s initiatives without opposition, by enacting and then
3 challenging an ordinance the Board apparently opposes, yet just approved. *Id.*

4 Gun Owners of America, Inc. (“GOA”) is a California non-stock corporation with its
5 principal place of business in Virginia, at 8001 Forbes Place, Springfield, VA 22151. GOA is
6 organized and operated as a non-profit membership organization that is exempt from federal
7 income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. GOA was formed in
8 1975 to preserve and defend the Second Amendment rights of gun owners. GOA has thousands of
9 members and supporters in Oregon, including within this county who, like Mr. Brumbles, voted
10 in favor of passage of measures 5-270 and 5-278. GOA has been a strong advocate of, and driving
11 force behind, the enactment of Second Amendment Sanctuary Ordinances across the nation.

12 Gun Owners Foundation (“GOF”) is a Virginia non-stock corporation, with its principal
13 place of business in Virginia, at 8001 Forbes Place, Springfield, VA 22151. GOF is organized and
14 operated as a non-profit legal defense and educational foundation that is exempt from federal
15 income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. GOF is supported by
16 gun owners across the country, including residents of this state who have an interest in the validity
17 of the state constitutional initiative process, especially when used to enact Second Amendment
18 Sanctuary Ordinances.

19 Oregon Firearms Federation (“OFF”) is an Oregon based nonprofit organization founded
20 in 1998, and exempt from federal income taxes under Section 501(c) of the U.S. Internal
21 Revenue Code, which operates as Oregon’s no-compromise voice for gun owners, defending the
22 Second Amendment rights of its members and all citizens. OFF has members across the state,
23 including within this county whose rights are being adversely affected by the Board’s actions.

1 **BACKGROUND**

2 Intervenor Brumbles was the Chief Petitioner of the 2018 SAPO. It was submitted on
3 August 22, 2016 to clerk’s office, sufficient signatures were obtained to place the measure on the
4 ballot and it was adopted by the voters of Columbia County.

5 On January 7, 2019 Mr. Brumbles submitted an Oregon Secretary of State SEL 370 form,
6 properly filled out, to the Columbia County clerk, along with the complete and full text of a
7 proposed initiative called the “Second Amendment Sanctuary Ordinance.” Thereafter, the County
8 clerk rejected the proposed initiative. Mr. Brumbles then appealed to this Court, challenging the
9 clerk’s rejection of the initiative for circulation. This court ruled that, but for one vagueness
10 problem, in one portion of the ballot measure, the remainder of the measure could be legally placed
11 before the voters if enough signatures were obtained. That vague provision of the ballot measure
12 was corrected, and the County Clerk approved the initiative for circulation. Enough signatures
13 were obtained and the measure was placed on the ballot as measure 5-278. On November 3, 2020,
14 measure 5-278 was passed by the voters of Columbia County and became law.

15 As noted above, measures 5-270 and 5-278 were enacted by the popular vote of the people
16 of this county, pursuant to “the initiative power ... reserve[d]” by the people “to themselves” under
17 Article IV, Section 1(2)(a) of the state constitution. Yet less than five months after the people of
18 Columbia County most recently exercised that power, the county Board – who had paid for legal
19 services to oppose the initiative even before it was circulated – purported to “amend” the SASO
20 and “repeal[]” the SAPO, and replace both with Ordinance 2021-1.

21 These actions by the Board were undertaken without any kind of direct or realistic notice
22 to Mr. Brumbles, or opportunity for him or any of those who voted to enact the SAPO and SASO
23 to be heard. Mr. Brumbles has a direct interest in the outcome of this case as it pertains to

1 Ordinance 2021-1, which the county now seeks to undermine.

2 Apparently in preparation for its scheme to immediately challenge enactment of its own
3 ordinance as illegal and unconstitutional, the Board first included in its Ordinance a statement that
4 it “shall be automatically repealed” if it is “overturned or declared invalid by a court.” Second,
5 further evidencing its plot to undermine the people’s initiatives, the Ordinance purported to repeal
6 the “penalties” enacted by voters in Section 4 and thereby insulate the Board and its agents from
7 their intended future acts, including the filing of this action. Third, the Ordinance removed the
8 severability clause of the SASO, in an attempt to have it declared entirely invalid if only a portion
9 thereof is struck down. In sum, while claiming that “the purpose of this Ordinance is to implement
10 the intent of the voters,” the Board in truth passed the Ordinance in order to frustrate the intent and
11 undermine the actions of the voters.

12 Through this validation proceeding, the Board seeks to invalidate an ordinance that it just
13 voted to approve (ironic and illogical but true). The County’s petition affirmatively takes the
14 position and argues vociferously that Ordinance 2021-1 is invalid or is likely invalid under a
15 plethora of theories, unlawful under a number of Oregon statutes, and takes a position in which
16 the County does not defend the SAPO, the SASO, or Ordinance 2021-1. Thus, unless Movants are
17 allowed to intervene, the County will by default and design see presented only one side of the legal
18 issues.

19 The Board apparently believes that if its Ordinance falls, then so do the initiatives enacted
20 by the people. That is not the case. This Court has authority under ORS 33.710(g) to “conduct a
21 judicial examination and provide a judgment” *only* as to “any ordinance, resolution or regulation
22 enacted by *the governing body*” – *i.e.*, the county Board – not to invalidate a different and previous
23 initiative enacted by the people. Thus, the validity of measures 5-270 and 5-278 are not and cannot

1 be at issue in this case, and if the Ordinance is determined to be null and void (and treated as if it
2 had never been enacted), the state of county law would return to the *status quo* as it existed prior
3 to enactment of the Ordinance – meaning that measures 5-270 and 5-278 would no longer be
4 “amended” and “repealed.”

5 This ironic positioning of the County – to permit enactments of the voters to be invalidated
6 without any opposition - would never be allowed in Federal Court, as it violates the federal
7 constitutional requirement for a Case or Controversy, and asks this Court to issue an advisory
8 opinion while presenting only one side’s position. Yet ORS 33.710(4) clearly states that “[n]othing
9 in this section allows a governing body to have a judicial examination and judgment of the court
10 without a justiciable controversy.” There is no justiciable controversy in this case, because the
11 Board cannot contrive an Ordinance to undermine the voters, and then enlist this Court in order to
12 engage in a legal battle *with itself*.

13 Thus, Movants should be permitted to represent themselves other voters of Columbia
14 County, who enacted the SAPO and SASO, so the ballot measures the voters enacted will be
15 provided a robust defense. Many other counties across the state and country have passed different
16 but similar types of Second Amendment protections for their own residents, and while their
17 ordinances are not under attack here, this issue should not be adjudicated without a full opportunity
18 for both sides of the legal issues to be heard.

19 **POINTS AND AUTHORITIES**

20 ORS 33.720(1) states that validation proceedings, “shall be in the nature of a proceeding
21 in rem; and the practice and procedure therein shall follow the practice and procedure of an action
22 not triable by right to a jury, as far as the same is consistent with the determination sought to be
23 obtained, except as provided in this section”. ORS 33.720(1). One such “practice and procedure”

1 for actions in Oregon is intervention. ORCP 33 allows intervention into a matter either as a matter
2 of right (ORCP 33B) or as permissive intervention (ORCP 33C). Both kinds of intervention are
3 allowed any time before trial.

4 **B Intervention of right.** At any time before trial, any person shall be permitted to intervene
5 in an action when a statute of this state, these rules, or the common law, confers an
unconditional right to intervene.

6 **C Permissive intervention.** At any time before trial, any person who has an interest in
7 the matter in litigation may, by leave of court, intervene. In exercising its discretion, the
8 court shall consider whether the intervention will unduly delay or prejudice the
adjudication of the rights of the original parties.

9 In this case, trial has not yet been set, nor will permitting Movants to intervene prejudice
10 the other litigants, or delay resolution of this matter which has only just begun. Movants have a
11 right as interested parties to appear and be heard pursuant to ORS 33.710 and ORS 33.720. Thus,
12 Movants have an unconditional right to intervene under ORS 33.720. Movants have an interest
13 in the subject of this litigation that cannot adequately be presented and protected and by the existing
14 parties and, without their participation, disposition of this matter may as a practical matter impair
15 or impede their ability to protect that interest. Indeed, this action seeks to undermine and undo
16 everything that Mr. Brumbles and other movants have sought to accomplish over the last five
17 years. Courts across the country routinely grant initiative sponsors permission to intervene to
18 defend the validity of initiatives they worked to enact.

19 Due to COVID, a lack of open public meetings, and the lack of publicity of this validation
20 proceeding, Movants discovered the existence of this matter only this week, and therefore should
21 at least be allowed permissive intervention. Movants were aware of the recent enactment of
22 Ordinance 2021-1, but not this validation proceeding, wherein the County surreptitiously seeks to
23 overturn an Ordinance that the Board just passed, and thereby undermine the SASO which the

1 people just enacted. Brumbles Decl. ¶ 5. Movants and the voters of Columbia County were not
2 heard from during the passage of Ordinance 2021-1, nor was anyone directly informed of this
3 validation proceeding. However, interestingly enough, a New York based anti-gun group
4 somehow became aware of this proceeding and managed to prepare and file its own papers on
5 behalf of other alleged “interested” individuals within the county

6 The generally accepted rule is that the right or interest that will authorize a third party to
7 intervene must be of such direct and immediate character that the intervenor will gain or lose by
8 the direct legal operation of the judgment. *Lambert v. Multnomah County Civil Service*
9 *Commission*, 227 Or 432, 363 P2d 54 (1961). Here, Mr. Brumbles and the other Movants will
10 quite literally lose a local protection of their Constitutional rights to keep and bear arms, a matter
11 which was directly presented to the voters, which prevailed in an initiative campaign, and which
12 Movants supported throughout that process. Both of these ballot measures were passed in the last
13 three years, and establish prohibitions on regulating and enforcing firearms restrictions that
14 originate from outside jurisdictions. Movants will lose those new protections if the SAPO and
15 SASO are repealed or invalidated. Not only that, the people’s constitutional initiative power
16 pursuant to Article IV, Section 1(2)(d) will have been undermined. Clearly there is and has been a
17 concerted effort by the County to undermine and defeat SASO and SAPO. Thus, there is the need
18 for someone to take the role of defending these enactments of the people against their elected
19 representatives who seek to nullify the people’s status as sovereign.

20 Organizational intervenors such as GOA, GOF, and OFF also have standing under Oregon
21 law when their members would have a qualifying interest. *Rendler v. Lincoln Cty.*, 302 Or 177,
22 181, 728 P2d 21, 23 (1986). Mr. Brumbles’ interests, as well as those of the organizations and
23 their members, give all Movants a sufficient legal interest to be “interested parties”. Accordingly,

1 Movants have a direct interest in the outcome of this litigation, have statutory standing to intervene,
2 and should be allowed to step into this case in the place of a Defendant/Respondent to defend the
3 SAPO and SASO initiatives, so that the Court has the benefit of having parties and legal
4 representation on both sides of the various legal issues.

5

6

CONCLUSION

7 Movants should be granted intervenor status, and given 10 days to file a Responsive
8 Pleadings pursuant to ORCP 33D.

9 DATED this 24th day of May 2021.

10

Tyler Smith & Associates, P.C.

11

s/ Tyler Smith

Tyler Smith, OSB# 075287

Of Attorneys for Movants

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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 24th of May 2021 I caused a true copy of MOTION TO
3 INTERVENE, DECLARATION OF RAVEN CHRIS BRUMBLES to be served upon the
4 following named parties, or their registered agents or their attorney by first class mail as indicated
5 below and addressed to the following:

6 Sarah Hansen
7 Columbia County Counsel
8 230 Strand St.
9 St. Helens OR 97051
10 Attorney for Petitioner

11
12
13
14
15 Steven Berman
16 209 SE Oak St. STE 500
17 Portland, OR 97204
18 Of Attorneys for Pile, Cavanaugh, Dudzic and Lewis

19
20 Mailing was done by X first class mail, and by certified or registered mail,
21 return receipt requested with restricted delivery, or express mail, eFiling X , and e-mail
22 .

23 DATED this 24th day of May 2021.

Tyler Smith & Associates, P.C.

s/ Tyler Smith _____
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