

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG

**LYNCHBURG RANGE & TRAINING, LLC
d/b/a SafeSide Lynchburg,**

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

and

ASSOCIATION OF VIRGINIA GUN RANGES,

Plaintiffs,

v.

**HON. RALPH S. NORTHAM
(In his Official Capacity as
Governor of the Commonwealth of Virginia),**

and

**GARY T. SETTLE
(In his Official Capacity as
Superintendent of the Virginia State Police),**

Defendants.

AFFIDAVIT OF MITCHELL TYLER

1. My name is Mitchell Tyler, and I am Chief Operating Officer of Lynchburg Range & Training, LLC, d/b/a SafeSide Lynchburg (hereinafter "LRT").
2. LRT operates a commercial, indoor shooting range located at 2309 Mayflower Drive, Lynchburg, Virginia 24501.
3. LRT opened to the public in October 2017, after making a multi-million dollar investment into an indoor shooting range facility in Lynchburg.

4. LRT operates a facility in Lynchburg with two components. Part of the facility is a retail firearms store, offering sales of firearms, ammunition, and firearms accessories, as well as gunsmithing services. The store portion of the facility is currently operating in accordance with the limitation on customers, distancing, and other requirements of EO 53.

5. The other part of LRT's facility is a three-bay indoor shooting range, consisting of 18 shooting lanes that are 25-yards long lanes (mostly used for pistols), and 4 shooting lanes that are 112-yards long (mostly used for rifles). (The facility's 112-yard shooting lanes are the longest at any privately owned indoor facility east of the Mississippi River.) Each lane is separated by bulletproof dividers. The range has been shut down in response to the express language of EO 53, with the exception of being open to serve law enforcement, as allowed by our understanding of EO 53.

6. The LRT range has a million-dollar-plus state-of-the-art air ventilation/filtration automatically monitored and computer-controlled, "smart" system, provided by Carey's Small Arms Ventilation, and is designed to achieve a complete air exchange every 90 seconds, with HEPA filtration which continuously cleans and scrubs 99.97 percent of contaminants from the air. While the range is open, air is continuously channeled downrange, away from the shooters. It is my understanding that similar ventilation and filtration systems are required for all indoor shooting ranges.

7. LRT provides individual and group firearms training at its range and a concealed carry course. The range offers annual and monthly memberships. It has a special, lower-cost "Heroes" program for first responders, veterans, etc.

8. As a direct result of being shut down by EO 53, the range has been required to lay off more than one-half of its staff.

9. Insofar as the range was closed, LRT suspended monthly membership charges (via credit card) causing the loss of that monthly income. LRT has advised its annual (pre-paid) members that it would extend their memberships by the length of the shutdown, causing additional losses. Lastly, LRT has received no revenue for use of the range by the public.

10. When they are open, customers use our range for a wide variety of purposes. Whenever a person acquires a new firearm, that firearm must be tested. Whether the firearm is purchased new, purchased used, or recently repaired by a gunsmith, it must be tested to ensure that it is functioning properly before it can be relied upon. And the firearm should be tested with the same ammunition that the gun owner has purchased for that gun, as some guns will jam or fail to operate with one type of ammunition, but work perfectly with another. Whether the firearm can be trusted can only be learned by test firing the weapon, mostly on a range. And, even when the firearm works properly with the ammunition purchased, each firearm has different characteristics, such as location of its safety and re-loading procedures, familiarity must be achieved with each specific firearm for safe and effective operation. Some refer to these rules and procedures for each firearm as a "manual of arms." And even when the shooter knows how the gun functions mechanically, there is no substitute for actually shooting the gun to experience how easy it is to control, to acquire a target with the sights on the firearm, and to experience and control the gun's recoil.

11. Some customers use our range to achieve and maintain firearms proficiency to be ready to use firearms, as may be needed, for self-defense purposes. Some customers are

competitive shooters, such as the Liberty University shooting team, and some customers are recreational shooters, for whom shooting is a sport. However, perhaps the greatest need for range times is by those persons who have not had prior experience with firearms, who purchase a firearm at our store or at another store, and who then often seek training at our range. As an operator of a firearms retail store, and an NRA-certified instructor, as well operating as an indoor range, I can testify to the great increase in purchases of firearms in recent weeks by persons who have little or no familiarity with shooting, and I am very concerned that these new gun owners are being prevented from going to an indoor range to learn to safely handle their new firearms. With our range closed, these persons who have not had any, or significant, prior experience with firearms are particularly handicapped by the inability to have safety and operational training.

12. There are a number of outdoor ranges which remain open under EO 53. However, for a variety of reasons, these outdoor ranges are no substitute for the shuttered indoor ranges. First, many of these ranges are membership clubs that are not open to the public. And I have heard that some of these ranges have waiting lists of those who wish to become members. In some clubs, like the Izaak Walton League, donating time as a volunteer is required as a condition of membership. Some of these ranges are known as "Sighting-In-Ranges" operated by the Virginia Department of Game and Inland Fisheries." These ranges are open during limited months of the year for hunters. They may not be used for handguns. Many outdoor ranges do not have barriers between shooters, provide constant staff supervision, or offer training. And many of the outdoor ranges are physically distant from population centers in large part due to the amount of space required for their safe operation.

13. I understand that on March 28, 2020, the U.S. Department of Homeland Security has determined that the Firearms Industry is part of the nation's Essential Critical Infrastructure. By this determination, the federal government has protected the important work being done by: "Workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges." I fully agree with this determination, and have been unable to explain to our customers why the Commonwealth of Virginia refuses to follow this federal guidance.

14. In response to the Governor's order, a number of businesses operating indoor shooting ranges have gathered to form the Association of Virginia Gun Ranges to defend their interests, and join this lawsuit seeking to re-open these ranges. Our company is part of this effort. Other ranges are located in Roanoke, Richmond, Newport News, and Lynchburg.

15. I have reviewed the complaint being filed on my behalf, and to the extent that it discusses factual matters, believe them to be true and accurate to the best of my knowledge, information, and belief.

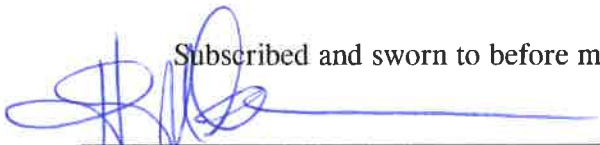


Mitchell Tyler

4-7-2020

Date

Subscribed and sworn to before me in my District, this 7 day of April, 2020.



Notary Public

My Commission Expires: 01-31-2021

