

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:22-cv-04022-BCW
	)	
THE STATE OF MISSOURI, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**DEFENDANTS’ RESPONSE TO THE UNITED STATES’ NOTICE OF  
SUPPLEMENTAL AUTHORITY AND NOTICE OF SUPPLEMENTAL AUTHORITY**

1. On June 24, 2022, the United States filed a notice of Notice of Supplemental Authority and attached the Supreme Court’s recent decision of *United States v. Washington*, 142 S. Ct. 1976 (2022). *See* ECF 56 (slip opinion attached as Ex. 1). The United States said that “[j]ust like the statute at issue in *Washington*, [SAPA] ‘discriminates against the Federal Government and its contractors’ by ‘singling out the Federal Government for unfavorable treatment’ based solely on ‘governmental status’—*i.e.*, by purporting to nullify federal authority, imposing monetary penalties expressly related to the exercise of only federal authority, and imposing unique hiring disabilities only on those who previously exercised federal authority.” *Id.* at 2 (alterations omitted) (quoting *Washington*, slip op. at 5–6)).

Not so. The law at issue in *Washington* expressly applied to contractors who worked “for the United States.” *Washington*, slip op. at 2 (quoting the law). And, in doing so, made “it easier for federal contract workers . . . to establish their entitlement to workers’ compensation” relative “to the general state workers’ compensation regime.” *Id.* at 3. The law thus “increase[d] workers’ compensation costs for the Federal Government.” *Id.* SAPA, by contrasts, does *not* expressly apply to the United States; by its terms, its substantive terms apply only to Missouri entities—as

the Missouri Supreme Court has held. *See City of St. Louis v. Missouri*, 643 S.W.3d 295, 298–97 (Mo. banc 2022) (discussing Mo. Ann. Stat. §§ 1.450–.485). The law therefore does not “regulate the United States directly *or* discriminate against the Federal Government or those with whom it deals.” *Washington*, slip op. at 5 (quotations and alterations omitted).

2. The Supreme Court recently re-affirmed the fundamental nature of the right to keep and bear arms; that right “is not ‘a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.’” *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 2022 WL 2251305, at \*34 (U.S. June 23, 2022) (quoting *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010) (plurality opinion)). Because the right to keep and bear arms is just as fundamental as the freedom of speech, free exercise, or the right to confront witnesses, “the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.” *Id.* at \*9. That holding directly supports SAPA’s stated purpose of respecting the fundamental nature of the right to keep and bear arms. *See* Mo. Ann. Stat. § 1.410.2(5). It also reinforces the Missouri General Assembly’s conclusion that activity such as federal registration and tracking of firearms is unconstitutional and violates the fundamental rights of Missouri citizens.

Dated: July 5, 2022

Respectfully Submitted,

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*/s/ Michael E. Talent* \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that on this July 5, 2022, I electronically filed the foregoing with the Clerk of Court using the Court's electronic filing system, to be served on all counsel of record.

*/s/ Michael E. Talent* \_\_\_\_\_