



Written by [Bob Adelman](#) on August 31, 2017

## Federal Judge Refuses Chicago's Request to Dismiss Long-running Gun Shop Suit Against it

In a long-running lawsuit that should be testing the limits of the patience of the Second Amendment Foundation (SAF), U.S. District Court Judge Robert Dow on Wednesday [denied](#) the city's latest request to dismiss the case, and set September 28 as the next date to discuss the amount of damages Chicago owes to the long-suffering plaintiff.



A measure of the intransigence of mayors of Chicago Richard Daley and Rahm Emanuel is the lengths to which they will go — or pay to have their lawyers go — to defer, delay, stall, and use other legal machinations to wear out the plaintiffs in the case known as *Second Amendment Arms v. City of Chicago*. Following the Supreme Court's decision in *McDonald v. City of Chicago* in 2010, the city, at the direction of the Mayor Richard Daley and a compliant city council, decided to redraft its gun control laws (referred to in the case as the "Old Gun Ban Ordinance") into a new equally onerous, offensive, and unconstitutional set of laws (called the "New Gun Ban Ordinance").

Following the *McDonald* decision Joseph Franzese, the owner of Second Amendment Arms gun shop, applied for a license to open a store in downtown Chicago. His first attempt succeeded, and he was granted permission. But following the "New Gun Ban Ordinance," the city withdrew its permission, and Franzese, with the help of the SAF, sued.

In the initial complaint, running 26 pages, Franzese listed all the ways in which the new set of restrictions impeded his ability to open a gun shop and do business in downtown Chicago. He started the complaint by outlining what then-Chicago's anti-gun Mayor Richard Daley proposed to do, which included:

Limiting registration of no more than one handgun per month ... and generally prohibiting the possession of [that] handgun by any person except in the person's home;

Establishing a two-step process to own and register a handgun...;

Prohibiting handgun ownership by anyone who has been convicted of any violent crime, has two or more offenses for driving under the influence of alcohol or drugs and under state law has been convicted of domestic violence;



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Banning “assault weapons” and providing mandatory jail time ... for anyone who is caught with one;

Requiring firearms safety training, both in a classroom and on a firing range;

Banning gun shops; and

Including “severe” penalties for violating the ordinance, including hefty fines and jail time.

This was an attempt, said Franzese, by Mayor Daley “to circumvent the Supreme Court ruling in *McDonald v. Chicago* and deliberately deny Chicago’s law-abiding residents and others wishing to purchase or use lawful firearms in the city the ability to acquire obtain, keep and bear arms.”

Thus began the long tortuous journey through the courts that resulted in the decision by Judge Dow on Wednesday to rule against the city’s new request to dismiss the case and instead set a date to determine the amount of the damages the city owes to Franzese for his trouble and expense.

As noted by SAF, Dow’s decision

is the latest in a string of court battles between Chicago and SAF, causing SAF founder and Executive Vice President Alan M. Gottlieb to observe, “We’ve already beat Chicago three times, in the *McDonald* case before the Supreme Court, and both *Ezell 1* and *Ezell 2* [which prevents Chicago from banning gun ranges inside city limits] before the federal court of appeals. I’m reminded of the folk song by Peter, Paul and Mary that asked, “When Will They Ever Learn?”

The SAF added:

Since losing its gun ban fight in the Supreme Court’s 2010 *McDonald* ruling, Chicago has been digging its heels in deeper and deeper, throwing every kind of legal roadblock it could in an effort to delay what seems inevitable.

The city has got to follow the law and the Constitution, and as long as they keep fighting, we’ll keep suing.

There have been more than 200 pre-trial motions filed in the case, with responses by the SAF to every one. Said Gottlieb: “That’s what winning firearms freedom one lawsuit at a time is all about.”

Photo of pistol: [Clipart.com](#)

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