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KEVIN STOCK
COUNTY CLERK
NO: 18-2-08733-9

STATE OF WASHINGTON
PIERCE COUNTY SUPERIOR COURT

TAYLOR BLACK, ANNE BLACK, JERRY
KING, RENE KING, ROGER
STRUTHERS, MARY LOUISE
STRUTHERS, and FRANK MAIETTO,
individually and on behalf of a class of all
persons similarly situated,

Plaintiff,

v.

CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY, and STATE OF
WASHINGTON

Defendants.

No.:

COMPLAINT – CLASS ACTION

I. PRELIMINARY STATEMENT

1. This action seeks to recover over \$240 million of unauthorized taxes paid to Sound Transit by vehicle owners in King, Pierce, and Snohomish counties, and to prevent the collection of such unauthorized taxes in the future.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this lawsuit and over the parties to the lawsuit.

3. Venue is proper in this Court with respect to Defendant Central Puget Sound Regional Transportation Authority pursuant to RCW 4.12.020.

1 19. In 1992, the Legislature authorized the formation of a regional transit authority
2 in the central Puget Sound region for the purposes of designing and implementing a high-
3 capacity transportation system.

4 20. In 1993, the county councils of King, Pierce, and Snohomish counties voted to
5 form Sound Transit.

6 21. Sound Transit is the regional transit authority for the central Puget Sound
7 region.

8 22. Sound Transit plans, builds and operates express bus, light rail and commuter
9 train services.

10 23. Sound Transit serves the urban areas of King, Pierce and Snohomish counties.

11 24. Sound Transit may not levy taxes except pursuant to statutory authorization.

12 25. The State has granted Sound Transit certain specific statutory authorization to
13 seek voter approval to levy taxes.

14 26. After specific statutory authorization has been granted to it, Sound Transit may
15 submit an authorizing proposition to the voters.

16 27. If the proposition is approved by majority vote of voters in the three county
17 area of Sound Transit, *i.e.*, King, Pierce, and Snohomish counties, Sound Transit may levy
18 and collect an excise tax, at a rate approved by the voters, on the annual registration of every
19 motor vehicle owned by a resident of the taxing district.

20 28. The amount of the motor vehicle excise tax is known as the “MVET.”

21 29. The Sound Transit MVET levy is a locally imposed motor vehicle excise tax.

22 30. Before beginning collection of MVET, a local government, which includes
23 Sound Transit, must contract with the Washington State Department of Licensing (DOL) for
24 the collection of the tax.

25 31. MVET is collected by the State of Washington DOL at the time a vehicle
26 owner applies for State of Washington license plate tabs.

1 32. A vehicle owner must pay the MVET as a condition of registering a vehicle.

2 33. After collecting MVET, the State holds the proceeds in one or more of its
3 treasury accounts.

4 34. The State periodically remits the relevant portion of the levies it has collected
5 to Sound Transit.

6 35. The amount of MVET due annually is calculated by multiplying the tax rate
7 by the value of the vehicle.

8 36. The value of the vehicle is calculated by a statutorily-established formula that
9 multiplies the manufacturer's suggested retail price ("MSRP") by a depreciation schedule
10 based on the age and type of the vehicle.

11 37. In 1990, the legislature established a depreciation schedule by statute.

12 38. The depreciation schedules in legal force from 1990 to 1999 were as follows:

<u>Year</u>	<u>Schedule 1</u>	<u>Schedule 2</u>
1	100%	100%
2	95%	90%
3	89%	83%
4	83%	75%
5	74%	67%
6	65%	59%
7	57%	52%
8	48%	44%
9	40%	36%
10	31%	28%
11	22%	21%
12	14%	13%

<u>Year</u>	<u>Schedule 1</u>	<u>Schedule 2</u>
13 and older	10%	10%

39. The foregoing valuation and depreciation schedules were codified at RCW 82.44.041.

40. In the foregoing valuation and depreciation schedules, Schedule 1 applied to passenger vehicles, motorcycles, light-duty trucks, and small trailers.

41. In the foregoing valuation and depreciation schedules, Schedule 2 applied to certain trucks with scale weight of over 6,001 pounds.

42. In the foregoing valuation and depreciation schedules, the vehicle value for purpose of calculating MVET was determined by multiplying the MSRP times the relevant percentage reflecting the age of the vehicle.

43. In 1996, pursuant to express statutory authorization, Sound Transit sought voter approval for a ballot proposition called “Sound Move.”

44. In the November 1996 general election, voters approved Sound Move.

45. Pursuant to that voter approval, Sound Transit, through the Department of Licensing, levied a tax of 0.3 percent of the vehicle value (MVET) on vehicles registered in King, Pierce, and Snohomish counties.

46. In 1999, Sound Transit issued bonds under Sound Move.

47. In 1999, Sound Transit pledged its MVET receipts to repay bond debt.

48. The last maturity date for those bonds is 2028.

49. In the November 1999 general election, state voters enacted Initiative 695.

50. Initiative 695 purported to repeal the state MVET, including the valuation schedule.

51. In early 2000, the Washington Supreme Court ruled Initiative 695 unconstitutional.

52. The Court’s ruling reinstated the MVET and valuation schedule.

1 53. In the 2000 legislative session, the Legislature repealed the state MVET and
2 valuation schedule.

3 54. Sound Transit continued to collect 0.3% MVET after the repeal.

4 55. In the November 2002 general election, voters enacted Initiative 776, which,
5 among other things, purported to remove Sound Transit's authority to impose the 0.3 percent
6 MVET.

7 56. In 2006, the Washington Supreme Court ruled Initiative 776 unconstitutional
8 on the grounds, *inter alia*, that it impermissibly impaired the contractual obligations between
9 Sound Transit and its bondholders in violation of the state Constitution's contract clause.

10 57. In 2006, the Washington Supreme Court permitted Sound Transit to continue
11 to levy the 0.3% MVET for so long as the bonds remain outstanding.

12 58. In 2006, the legislature established a depreciation schedule by statute.

13 59. The 2006 depreciation schedule was codified at RCW 82.44.035.

14 60. The 2006 depreciation schedule codified at RCW 82.44.035 establishes the
15 value of a vehicle subject to MVET for purposes of calculating local governments' MVET
16 levies.

17 61. The depreciation schedules in RCW 82.44.035 are as follows:

<u>Year</u>	<u>Schedule A</u>	<u>Schedule B</u>
1	100%	100%
2	81%	81%
3	67%	72%
4	55%	63%
5	45%	55%
6	37%	47%
7	30%	41%

<u>Year</u>	<u>Schedule A</u>	<u>Schedule B</u>
8	25%	36%
9	20%	32%
10	16%	27%
11	13%	26%
12	11%	24%
13	9%	23%
14	7%	21%
15	3%	16%
16 and older	0%	10%

62. In the foregoing valuation and depreciation schedules, Schedule A applies to heavy and medium trucks whose empty scale weights exceed 6,000 pounds, including commercial and log-use trucks.

63. In the foregoing valuation and depreciation schedules, Schedule B applies to all other vehicles.

64. In the foregoing valuation and depreciation Schedule A, the vehicle value for purpose of calculating MVET was determined by multiplying the latest purchase price times the relevant percentage determined by the age of the vehicle.

65. In the foregoing valuation and depreciation Schedule B, the vehicle value for purpose of calculating MVET was determined by multiplying the MSRP times 85%, then times the relevant percentage determined by the age of the vehicle.

66. The foregoing valuation and depreciation schedules codified at RCW 82.44.035 apply “[f]or the purpose of determining any locally imposed motor vehicle excise tax . . .”

1 67. The foregoing valuation and depreciation schedules codified at
2 RCW 82.44.035 result in significantly lower value basis for levying MVET in each of the
3 first ten years of a vehicle’s service than the repealed valuation schedules formerly codified
4 at RCW 82.44.041.

5 68. In July 2015, the Legislature passed and the Governor signed Senate Bill 5987
6 (“ESSB 5987”).

7 69. Attached hereto as Exhibit A is a true and correct copy of ESSB 5987.

8 70. In relevant part, that act purported to authorize Sound Transit to seek voter
9 approval to levy additional MVET.

10 71. In the November 2016 general election, Sound Transit sought voter approval
11 for, *i.a.*, additional MVET levy, through a ballot proposition (“ST3”).

12 72. Attached hereto as Exhibit B is a true and correct copy of the King County
13 Voter Pamphlet from the 2016 general election which includes the ST3 ballot proposition at
14 p. 28 and full text of the ST3 measure at pp. 47-50.

15 73. A majority of all votes cast in King, Pierce, and Snohomish counties favored
16 ST3.

17 74. Pursuant to ST3, Sound Transit has contracted with the State of Washington
18 DOL to collect an additional 0.8 percent MVET.

19 75. Through the procedure of State collection and remission to Sound Transit
20 describe above, Sound Transit has levied MVET pursuant to the purported authorization of
21 ESSB 5987 and voter approval of ST3.

22 76. Through the procedure of State collection and remission to Sound Transit
23 describe above, Sound Transit began levying MVET pursuant to the purported authorization
24 of ESSB 5987 and voter approval of ST3 on or about March 1, 2017.

25 77. Sound Transit has collected over \$240 million in MVET pursuant to the
26 purported authorization of ESSB 5987 and ST3.

1 78. In relevant part, ESSB 5987 is codified at RCW 81.104.160(1).

2 79. In relevant part, RCW 81.104.160(1) reads as follows:

3 Notwithstanding any other provision of this subsection or chapter 82.44
4 RCW, a motor vehicle excise tax imposed by a regional transit
5 authority before or after July 15, 2015, must comply with chapter 82.44
6 RCW as it existed on January 1, 1996, until December 31st of the year
7 in which the regional transit authority repays bond debt to which a
8 motor vehicle excise tax was pledged before July 15, 2015. Motor
9 vehicle taxes collected by regional transit authorities after December
10 31st of the year in which a regional transit authority repays bond debt
11 to which a motor vehicle excise tax was pledged before July 15, 2015,
12 must comply with chapter 82.44 RCW as it existed on the date the tax
13 was approved by voters.

9 80. ESSB 5987 did not repeal a statute.

10 81. ESSB 5987 did not repeal a section of a statute.

11 82. ESSB 5987 did not repeal an act.

12 83. ESSB 5987 did not repeal RCW 82.44.035.

13 84. ESSB 5987 did not adopt a prior act by reference.

14 85. ESSB 5987 did not supplement a prior act.

15 86. ESSB 5987 did not repeal the MVET valuation schedule codified at
16 RCW 82.44.035.

17 87. ESSB 5987 purported to amend the MVET valuation schedule codified at
18 RCW 82.44.035.

19 88. ESSB 5987 did not reference the MVET valuation schedule codified at
20 RCW 82.44.035.

21 89. ESSB 5987 did not set forth at full length RCW 82.44.035.

22 90. ESSB 5987 as codified at RCW 81.104.160(1) requires reference to another
23 statute to determine its meaning.

24 91. To determine its meaning, ESSB 5987 as codified at RCW 81.104.160(1)
25 requires reference to a statute that had, at the time of passage, been repealed.
26

1 92. ESSB 5987 as codified at RCW 81.104.160(1) renders an existing statute
2 erroneous.

3 93. ESSB 5987 as codified at RCW 81.104.160(1) renders RCW 82.44.035
4 erroneous.

5 94. In relevant part, ESSB 5987 as codified at RCW 81.104.160(1) violates Art. II
6 § 37 of the Washington state constitution.

7 95. Sound Transit lacks statutory authorization to levy the MVET which was
8 purportedly authorized by the November 2016 ballot proposition.

9 96. Plaintiffs have paid MVET to the State which has in turn remitted them to
10 Sound Transit but which there exists no valid statutory authorization to collect.

11 97. But for the foregoing actions, Plaintiffs would have paid less in MVET.

12 **V. CLASS ALLEGATIONS**

13 98. As authorized by CR 23(b)(2), Plaintiffs bring this action on behalf of a class
14 consisting of all persons who paid MVET in King, Pierce, and Snohomish Counties from the
15 onset of the ST3 MVET levy to present.

16 99. Plaintiffs allege that at least a portion of MVET collected by the State from
17 class members and remitted to Sound Transit were collected without constitutionally
18 adequate statutory authorization, and therefore, should not have been collected in the past
19 and should not be collected in the future.

20 100. Plaintiffs seek refunds of MVET paid in excess of the amount that was
21 authorized by constitutionally valid legislation.

22 101. Plaintiffs seek injunctions prohibiting future collections and impositions of
23 unauthorized MVET.

24 102. The class is identifiable through Defendants' business records.
25
26

1 NUMEROSITY OF CLASS MEMBERS

2 103. On information and belief, the potential class members number over one
3 million.

4 104. Joinder of all members is impracticable.

5 COMMONALITY

6 105. All class members have in common the question of whether ESSB 5987
7 complied with Art. II § 37 of the state constitution.

8 106. All class members have in common the question of whether Sound Transit
9 obtained adequate constitutional statutory authorization to seek voter approval for levying
10 additional MVET in the November 2016 general election.

11 TYPICALITY

12 107. The Blacks' claims are typical of those of the class. They have paid at least
13 one annual MVET in King County, of which at least a portion was imposed as a result of the
14 ST3 levy and remitted to Sound Transit.

15 108. The Kings' claims are typical of those of the class. They have paid at least one
16 annual MVET in Pierce County, of which at least a portion was imposed as a result of the
17 ST3 levy and remitted to Sound Transit.

18 109. The Struthers' claims are typical of those of the class. They have paid at least
19 one annual MVET in Snohomish County, of which at least a portion was imposed as a result
20 of the ST3 levy and remitted to Sound Transit.

21 110. Maitto's claims are typical of those of the class. He has paid at least one
22 annual MVET in Snohomish County, of which at least a portion was imposed as a result of
23 the ST3 levy and remitted to Sound Transit.

1 ADEQUACY OF REPRESENTATION

2 111. The Blacks have been fully informed of the responsibilities of being a class
3 representative and have agreed to fully and fairly represent the class. The Blacks’ interests do
4 not conflict with the interests of the class.

5 112. The Kings have been fully informed of the responsibilities of being a class
6 representative and have agreed to fully and fairly represent the class. The Kings’ interests do
7 not conflict with the interests of the class.

8 113. The Struthers have been fully informed of the responsibilities of being a class
9 representative and have agreed to fully and fairly represent the class. The Struthers’ interests
10 do not conflict with the interests of the class.

11 114. Maietto has been fully informed of the responsibilities of being a class
12 representative and has agreed to fully and fairly represent the class. Maietto’s interests do not
13 conflict with the interests of the class.

14 CERTIFICATION UNDER CR 23(b)(2)

15 115. The actions of Defendants Sound Transit and the State of Washington have
16 affected all members of the class and are generally applicable to the class as a whole and to
17 Plaintiffs.

18 116. Common questions of law and fact predominate over questions affecting only
19 individual class members.

20 117. A class action is the superior method for fair and efficient adjudication of the
21 controversy.

22 118. The only individual issue that will require resolution concerns the
23 identification of class members, which will be ascertainable from records maintained by
24 Defendant and/or its agents.

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1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT**

3 119. Plaintiff incorporates Paragraphs 1 through 118 as if fully restated herein.

4 120. RCW 81.104.160(1) is unconstitutional for failing to comply with Art. II § 37
5 of the Washington state constitution in that it purported to amend existing statutory
6 provisions without setting them out in full.

7 **SECOND CAUSE OF ACTION: DECLARATORY JUDGMENT**

8 121. Plaintiff incorporates Paragraphs 1 through 120 **Error! No bookmark name**
9 **given**.as if fully restated herein.

10 122. Defendant Sound Transit and the State of Washington are not authorized to
11 collect MVET pursuant to ESSB 5987 and ST3.

12 123. Defendants Sound Transit and the State of Washington are not authorized to
13 collect MVET in excess of 0.3 percent of value as authorized by Sound Move.

14 **THIRD CAUSE OF ACTION: INJUNCTIVE RELIEF**

15 124. Plaintiff incorporates Paragraphs 1 through 123 as if fully restated herein.

16 125. The State of Washington, acting through its Department of Licensing, has
17 been collecting the MVET in the amount and at the valuation schedules purportedly
18 authorized by ESSB 5987 and ST3.

19 126. The MVET, in the amount and at the valuation schedules purportedly
20 authorized by ESSB 5987 and ST3, is a void levy.

21 127. The State intends to continue collecting the MVET in the amount and at the
22 valuation schedules purportedly authorized by ESSB 5987 and ST3 unless enjoined by this
23 Court.

24 128. No legal remedy can adequately provide relief to Plaintiffs and the class.

25 **FOURTH CAUSE OF ACTION: TAX REFUND**

1 129. Plaintiff incorporates Paragraphs 1 through 128 126116as if fully restated
2 herein.

3 130. The MVET, in the amount and at the valuation schedules purportedly
4 authorized by ESSB 5987 and ST3, is a void levy.

5 131. Neither Defendant has any right to those MVET amounts, and they should be
6 refunded to taxpayers.

7 **VII. PRAYER FOR RELIEF**

8 WHEREFORE, on behalf of Plaintiff and all class members, Plaintiff prays for the following
9 relief:

10 1. For a declaratory judgment that the relevant portion of ESSB 5987, as codified
11 at RCW 81.104.160(1), is unconstitutional for failure to comply with Art. II § 37 of the state
12 constitution.

13 2. For a declaratory judgment that the portion of the MVET collected in reliance
14 on ESSB 5987, as codified at RCW 81.104.160(1), and ST3, is void.

15 3. For injunctive relief prohibiting future collections of the portion of the MVET
16 collected in reliance on ESSB 5987, as codified at RCW 81.104.160(1), and ST3.

17 4. For a refund of portion of the MVET collected in reliance on ESSB 5987, as
18 codified at RCW 81.104.160(1), and ST3.

19 5. For an award of Plaintiffs' and the class' costs of this suit and attorney's fees.

20 6. For all other relief the Court may deem just and proper.

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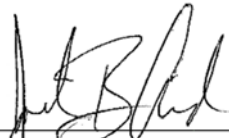
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DATED: June 5, 2018

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