

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CONFEDERATED TRIBES OF THE
CHEHALIS RESERVATION,

Plaintiff,

v.

THURSTON COUNTY BOARD OF
EQUALIZATION, et al.,

Defendants.

CASE NO. C08-5562 BHS

ORDER DENYING
DEFENDANTS' MOTION FOR
DECLARATORY JUDGMENT

This matter comes before the Court on Defendants Patricia Costello, Shawn Myers, and Thurston County's ("Defendants") motion for declaratory judgment (Dkt. 210). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion and directs the Clerk to enter judgment in favor of Plaintiff Confederated Tribes of the Chehalis Reservation for the reasons stated herein.

On July 30, 2013, the Court of Appeals for the Ninth Circuit "reverse[d] the [D]istrict [C]ourt's summary judgment order and remand[ed] for proceedings consistent

1 with this opinion.” Dkt. 206 at 15. On October 4, 2013, the Ninth Circuit issued its
2 Mandate. Dkt. 209.

3 On November 21, 2013, Defendants filed a motion for declaratory judgment
4 requesting that the Court “enter a declaratory judgment that the property taxes on the
5 non-permanent, removable business personal property are not preempted as a matter of
6 law” Dkt. 210 at 8–9. On December 9, 2013, Plaintiff opposed the motion on the
7 grounds that it is procedurally improper and seeks relief outside of the pleadings. Dkt.
8 217 at 4–8. The Court agrees with Plaintiff on both points because (1) the amended
9 complaint for declaratory judgment seeks relief for improvements that are not removable
10 (Dkt. 46, ¶ 19) and (2) “a party may not make a motion for declaratory relief, but rather,
11 the party must bring an action for a declaratory judgment.” *Kam-Ko Bio-Pharm Trading*
12 *Co. Ltd-Australasia v. Mayne Pharma (USA) Inc.*, 560 F.3d 935, 943 (9th Cir. 2009)
13 (citing *Int’l Brotherhood of Teamsters v. E. Conference of Teamsters*, 160 F.R.D. 452,
14 456 (S.D.N.Y. 1995)). Therefore, the Court **DENIES** Defendants’ motion.

15 Upon review of the Mandate and the file, the Court directs the Clerk to enter
16 judgment in favor of Plaintiff.

17 **IT IS SO ORDERED.**

18 Dated this 16th day of December, 2013.

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21 BENJAMIN H. SETTLE
22 United States District Judge