

EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES CAMP,

Plaintiff,

v.

BETTY B. CASON, in her official capacity
as the Probate Judge for Carroll County,
Georgia, and BILL HITCHENS, in his official
Capacity as the Commissioner of the Georgia
Department of Public Safety,

Defendants.

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* CIVIL ACTION FILE
* NO. 1:06-CV-1586-CAP
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AFFIDAVIT OF COLONEL WILLIAM W. HITCHENS

Personally appears before me, the undersigned officer duly authorized to administer oaths in and for the State of Georgia, **William W. Hitchens**, who, after being duly sworn, deposes and states his oath as following:

1.

My name is Willaim Hitchens, I am *sui juris*, over the age of 18, and competent to testify in this matter. I give this affidavit as evidence in the above-styled action and for any lawful purpose. I make this affidavit based on my personal knowledge of its contents.

2.

Since December 16, 2004, I have served as the Commissioner of Georgia Department of Public Safety (DPS) and Colonel of the Georgia State Patrol.

3.

On or about June 19, 2006, I received a letter from John Monroe on behalf of James Camp, regarding the application form for a Georgia Firearms License ("GFL"), created by DPS pursuant to O.C.G.A. § 16-11-129(a). Specifically, the letter challenged those portions of the form which requested the applicant's social security number and employment information. A true and correct copy of the June 16, 2006, letter is attached to hereto as **Attachment 1**. I have reviewed the June 19, 2006, letter attached to Plaintiff's Complaint and, but for the date, it is identical in content to the June 16, 2006, letter received by our office.

4.

The letter was given to my legal staff for consideration and response on June 21, 2006. On June 26, 2006, Lee O'Brien, the Deputy Director of Legal Services, spoke to Mr. Monroe by phone regarding the concerns raised in his June 16, letter. Mr. O'Brien advised Mr. Monroe that the Department took seriously the concerns raised in his letter, that the Department would investigate those concerns, and that we would respond as expeditiously as possible to the specific concerns of his client.

5.

On June 30, 2006, a follow up letter was sent to Plaintiff's counsel confirming the conversation that took place on June 26.

6.

On July 5, 2006, and twelve business days after receiving his June 16, 2006, letter to me and while the Department was still conducting its investigation into the concerns raised in his letter, Plaintiff filed his Complaint in this action.

7.

On July 12, 2006, this Court issued a temporary restraining order directing the Probate Court of Carroll County to accept and process Plaintiff's GFL application without requiring him to provide his social security number. The Court's Order did not compel any action by the Department with regard to the Plaintiff, his GFL renewal, or the GFL application form. In fact, the July 12 Order did not address in any way Plaintiff's allegations against or prayers for relief from me.

8.

On July 13, 2006, eighteen business days after Mr. Monroe's June 16, 2006, letter to me, the Department distributed a revised GFL application form to Betty Cason, Judge of the Probate Court of Carroll County and President of the Council of Probate Judges. This revised form clearly indicated that the GFL applicant's

social security number and employment information were not mandatory but could be provided voluntarily by the applicant in order to avoid misidentification and to aid contacting the applicant. A true and correct copy of the July 2006 revised GFL application form was previously filed with the Court as Exhibit "A" to Defendant Hitchens' July 17, 2006, Notice of Filing and is attached hereto as **Attachment 2**.

9.

The Department informed Judge Cason that an applicant's decision to provide social security and employment information would be voluntary. A true and correct copy of the July 13, 2006, letter from Lee O'Brien to the Honorable Betty Cason, Judge, was previously filed with the Court as Exhibit "B" to Defendant Hitchens' July 17, 2006, Notice of Filing and is attached hereto as **Attachment 3**.

10.

Copies of the July 2006 revised GFL application form were distributed to all Probate Courts in the State in Microsoft Word and Adobe Acrobat (pdf) format, on or about July 31, 2006 noting that provision of the applicant's social security number and employment application were voluntary, not mandatory.

11.

It is my understanding that after July 12, 2006, Plaintiff was issued a GLF by the Probate Court for Carroll County.

12.

While the DPS is charged by O.C.G.A. § 16-11-129(a) with preparing the GFL application form and distributing copies of the form to Probate Judges in the State, DPS has no other role, statutory or otherwise, in the processing of, evaluation of, or ultimate decision of whether to issue or deny a GFL license to an applicant. Furthermore, I do not know the clerk in Carroll County who processed Plaintiff's application; nor was I present for any communications between the clerk or Judge Cason and the Plaintiff regarding the application in this case.

13.

On September 11, 2006, this Court granted Defendants' Motions to Dismiss, finding that Plaintiff received his GFL without being required to provide his social security number or his employment information.

14.

Despite the granting of the motion to dismiss, and even after the July 2006 revisions to the GLF application form, the Department continued to look into the propriety of the GFL application form to ensure that the GFL application form was fully compliant with the law.

15.

As a part of the process, the Legal Section undertook to survey probate court judges to determine the nature and extent of the need for the information at issue.

16.

Partly based on the response to the Department's request, and further review of the application form and federal and state law, Mr. O'Brien was instructed to circulate an addendum to the previously revised form to probate court judges.

17.

The current GFL application form, a true and correct copy of which is attached hereto as **Attachment 4**, does not require disclosure of or make any request for the applicant's social security number or employment information.

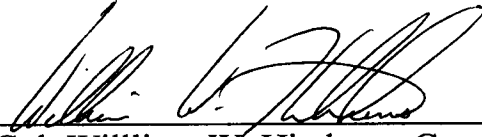
18.

This current application form was distributed via email to the probate judges of State of Georgia in May 2007, with instructions to destroy all older versions of the GLF application and to immediately utilize the new GFL application form.

19.

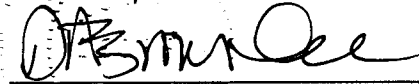
Although the GFL application form has been revised, the Department has no authority to "insure" that the form be used properly or used at all. The Department has no authority to review the use of the form, and the Department has no statutory basis for even seeing a completed form. The Department does not receive a copy of completed forms. Use of the form is totally a matter for each individual probate court judge.

This 15th day of May, 2007.



Col. William W. Hitchens, Commissioner
Department of Public Safety

Sworn to and subscribed before
me this 15th day of May, 2007.



NOTARY PUBLIC

My commission expires:

D. A. Brownlee
Notary Public, DeKalb County, Georgia
My Commission Expires September 26, 2009

Attachment 1

JUN 21 2006
CARROLL COUNTY, GA

**JOHN R. MONROE
ATTORNEY AT LAW**

RECEIVED

June 16, 2006

JUN 19 2006

Col. Bill Hitchens
Commissioner
Georgia Department of Public Safety
POB 1456
Atlanta, GA 30371-1456

Dept. of Public Safety
Commissioner's Office

RE: Application form for Georgia Firearms Licenses

Dear Col. Hitchens:

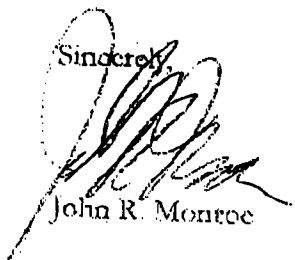
I am writing you on behalf of my client, James Camp. Mr. Camp recently applied for a Georgia Firearms License ("GFL") from Judge Cason of the Carroll County Probate Court. Judge Cason refused to process Mr. Camp's application because Mr. Camp declined to provide his social security number ("SSN") on the application.

Pursuant to O.C.G.A. § 16-11-129(a), your department is charged with creating the forms used to apply for GFLs. I have reviewed the form currently in use, and have concluded that it does not comply with the federal Privacy Act in multiple respects. The form has a space on it for the applicant's SSN. The Privacy Act forbids state or local governments from requiring citizens to provide their SSNs.

In addition, the current application form requests information about an applicant's employment status. The statute authorizes you to design the form "to elicit information from the applicant pertinent to his or her eligibility under this Code section but shall not require data which is nonpertinent or irrelevant..." I am not aware of any pertinence employment status has to eligibility. Nothing in the criteria indicates that a person must be employed in order to obtain a GFL.

My client has authorized me to commence litigation against you to remedy the apparent violations of the Privacy Act and Georgia law. I am writing to request that you voluntarily modify the application form to comply with state and federal law. Unfortunately, my client has a very tight time frame, as his current GFL will expire soon. I request, therefore, that you reply to this letter by June 26, 2006. If you wish, you may email me at john.monroe1@earthlink.net.

Sincerely,



John R. Monroe

9640 COLEMAN ROAD • ROSWELL, GEORGIA • 30075
PHONE: 678 362 7650 • FAX: 770-532-9318

Attachment 2

APPLICATION FOR FIREARMS LICENSE

County, Georgia

County Number

Applicant's Name:

First Middle Last (or as registered with INS)

Date of Birth: / / Sex: Race:

Social Security No.: - - - - - Eyes: Weight: (SSN Optional, but will help prevent misidentification)

INS Alien/Admission No.: Hair: Height:

Place of Birth: City State, Province or District Country

Residence/Street Address: County:

Mailing Address if different:

Phone Numbers: Home () Work ()

Employed By: How long?

Employer's Address: (Employment information Optional, but will be helpful for contacting applicant)

1. Are you currently a United States Citizen? Yes No

If you have ever renounced your U.S. citizenship, attach a copy of the reversal of such renunciation.

If you are not a U.S. Citizen:

- you must show proof of name/address/date of birth/INS number/photo ID.
• Identify all countries of citizenship:
• Attach: (a) documentation of your lawful presence in the United States, and (b) proof of residency in the State of Georgia for at least 90 days.

2. Are you a non-immigrant or non-resident alien? Yes No

If yes, attach proof that you fall within an exemption establishing your eligibility.

3. Have you ever been convicted of, pled guilty or nolo contendere to, or received first offender treatment for any offense involving the unlawful manufacture, distribution, possession or use of a controlled substance or dangerous drug? Yes No

If pardoned or rights restored, specify date(s) and attach proof.

4. Have you ever been convicted of, pled guilty or nolo contendere to, or received first offender treatment for any crime involving domestic violence, violence towards a family member, child or significant other? Yes No

If pardoned or rights restored, specify date(s) and attach proof.

5. Have you ever been convicted of, pled guilty or nolo contendere to, or received first offender treatment for any felony offense or any offense punishable by a term of imprisonment/probation over one year, or court-martial charge punishable by imprisonment over one year? Yes No

If pardoned or rights restored, specify date(s) and attach proof.

6. Have you ever been convicted of, pled guilty or nolo contendere to, or received first offender treatment for any offense involving force or violence or a forcible misdemeanor? Yes No

7. Have you ever been convicted of, or pled guilty or nolo contendere to, or received first offender treatment for carrying a concealed weapon, having a deadly weapon at a public gathering, carrying a pistol without a license or any other offense involving a weapon? Yes No

- 8. Are you subject to any pending charge or charges in any court including matters under indictment, accusation, on appeal, uncompleted first offender treatment or other court order? Yes No
 If yes, do the pending charges involve or arise out of any felony, any crime that is possibly punishable by imprisonment for over one year, or any misdemeanor involving force or violence, or any offense or conduct involving a weapon or any offense involving a controlled substance or other dangerous drug?..... Yes No
- 9. Have you left any state, or any foreign state, to avoid criminal prosecution, to avoid giving testimony in any criminal proceeding, or knowing that charges are pending against you?.....Yes No
- 10. Have you been the subject of any proceedings (including arrests, matters on appeal, under indictment or accusation, or cases which were *nolle prossed*) within the past five years for any offense arising out of the unlawful possession or use of a controlled substance or other dangerous drug, or found through a drug test to have used such a substance or drug unlawfully within the past year?Yes No
- 11. Do you use any controlled substance or illegal drug other than as prescribed by a licensed physician, or have you done so within the past year, or regularly used any such drug within the past five years?Yes No
- 12. Are you addicted to or have you lost self-control over any controlled substance or drug?Yes No
- 13. Are you, or have you ever been, subject to any court order (including but not limited to restraining orders, protective orders, peace bonds & good behavior bonds) restraining you from harassing, stalking, threatening, engaging in communication with, or refraining in any manner from contact with or coming in proximity to any person, individual, spouse, child or former or current intimate partner, parent or their property, residence or other location frequented by such person?... Yes No
 * If yes, attach a copy of the court order and any terminating or final disposition order.
- 14. Have you ever been dishonorably discharged from the U.S. Armed Forces, or separated from the U.S. Armed Forces under a dismissal adjudged by a general court-martial? Yes No
- 15. Have you ever been found by a civil or criminal court, board, commission or other lawful authority, as a result of subnormal intelligence, incompetency, mental illness, condition or disease, to be a danger to yourself or others, to lack the mental capacity to manage your own affairs, or to be incompetent to stand trial, insane, guilty but mentally ill, or not guilty for lack of mental responsibility?Yes No
- 16. Have you ever been ordered to receive inpatient or outpatient treatment at any treatment facility, mental health center, hospital, sanitarium, clinic or program for a mental condition, drug abuse, or alcohol abuse, by any court, board, or other authority in any civil, criminal or administrative proceeding? (If yes, attach a copy of the order)Yes No

I do swear and affirm under penalty of false swearing or perjury that the foregoing information is true and correct to the best of my knowledge and belief.

Sworn to and subscribed before me
this _____ day of _____, _____

APPLICANT'S SIGNATURE

Clerk of Probate Court

Attachment 3



**GEORGIA DEPARTMENT OF PUBLIC SAFETY
LEGAL SERVICES OFFICE**

POST OFFICE BOX 1456
ATLANTA, GEORGIA 30371-1456
404/ 624-7423
FAX · 404/ 624-778

July 13, 2006

Colonel Bill Hitchens
Commissioner

Melissa Rodgers
Director

Lee O'Brien
Deputy Director

Chiquita T. Johnson
Deputy Director

Dee Brophy
*Attorney
ALS Administrator*

Maree Kattaron
Paralegal

Honorable Betty Cason, Judge
President, Council of Probate Court Judges
Probate Court of Carroll County

Re: Change in Firearms Permit Application

Dear Judge Cason:

It was a pleasure to meet you Tuesday. We have determined that the Social Security Number should be optional as well as employment information. The revised form designates those items as optional.

Attached is a revised application form in Word format with the changes we discussed. We will be preparing a new compact disk to send out to all of the Probate Judges with the revisions, but in the interim we appreciate your cooperation in getting this advance copy to all the judges.

Each judge may simply add the additional language to the form before it is printed. If a separate form is printed for use by the clerk then it must have the new language on that form to indicate the optional information.

Thank you so much for your help in disseminating this information to the judges. Please let me know if you need anything further on this or if we can be of help to you on anything else.

Sincerely,

Lee O'Brien

Attachment 4

APPLICATION FOR FIREARMS LICENSE

_____ County, Georgia County Number _____

Applicant's Name: _____
First Middle Last (or as registered with INS)

Date of Birth: _____ / _____ / _____ INS Alien/Admission No.: _____
Month/Day/Year

Sex: _____ Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
(inches) (pounds)

Place of Birth: _____
City State, Province or District Country

Residence Street Address: _____

City, State, Zip: _____ County: _____

Mailing Address if different: _____

Phone Numbers: Home (____) _____ Other (____) _____

1. Are you currently a United States Citizen?.....Yes No

If you have ever renounced your U.S. citizenship, attach a copy of the reversal of such renunciation.

If you are not a U.S. Citizen:

- you must show proof of name/address/date of birth/INS number/photo ID.
- Identify all countries of citizenship: _____.
- Attach: (a) documentation of your lawful presence in the United States, and
(b) proof of residency in the State of Georgia for at least 90 days.

2. Are you a non-immigrant or non-resident alien?Yes No
If yes, attach proof that you fall within an exemption establishing your eligibility.

3. Have you ever been convicted of, pled guilty or *nolo contendere* to, or received first offender treatment for any offense involving the unlawful manufacture, distribution, possession or use of a controlled substance or dangerous drug?Yes No
If pardoned or rights restored, specify date(s) _____ and attach proof.

4. Have you ever been convicted of, pled guilty or *nolo contendere* to, or received first offender treatment for any crime involving domestic violence, violence towards a family member, child or significant other? Yes No
If pardoned or rights restored, specify date(s) _____ and attach proof.

5. Have you ever been convicted of, pled guilty or *nolo contendere* to, or received first offender treatment for any felony offense or any offense punishable by a term of imprisonment/probation over one year, or court-martial charge punishable by imprisonment over one year?..... Yes No
If pardoned or rights restored, specify date(s) _____ and attach proof.

6. Have you ever been convicted of, pled guilty or *nolo contendere* to, or received first offender treatment for any offense involving force or violence or a forcible misdemeanor? Yes No

7. Have you ever been convicted of, or pled guilty or *nolo contendere* to, or received first offender treatment for carrying a concealed weapon, having a deadly weapon at a public gathering, carrying a pistol without a license or any other offense involving a weapon? Yes No

- 8. Are you subject to any pending charge or charges in any court including matters under indictment, accusation, on appeal, uncompleted first offender treatment or other court order? Yes No
If yes, do the pending charges involve or arise out of any felony, any crime that is possibly punishable by imprisonment for over one year, or any misdemeanor involving force or violence, or any offense or conduct involving a weapon or any offense involving a controlled substance or other dangerous drug?..... Yes No
- 9. Have you left any state, or any foreign state, to avoid criminal prosecution, to avoid giving testimony in any criminal proceeding, or knowing that charges are pending against you?..... Yes No
- 10. Have you been the subject of any proceedings (including arrests, matters on appeal, under indictment or accusation, or cases which were *nolle prossed*) within the past five years for any offense arising out of the unlawful possession or use of a controlled substance or other dangerous drug, or found through a drug test to have used such a substance or drug unlawfully within the past year? Yes No
- 11. Do you use any controlled substance or illegal drug other than as prescribed by a licensed physician, or have you done so within the past year, or regularly used any such drug within the past five years? Yes No
- 12. Are you addicted to or have you lost self-control over any controlled substance or drug? Yes No
- 13. Are you, or have you ever been, subject to any court order (including but not limited to restraining orders, protective orders, peace bonds & good behavior bonds) restraining you from harassing, stalking, threatening, engaging in communication with, or refraining in any manner from contact with or coming in proximity to any person, individual, spouse, child or former or current intimate partner, parent or their property, residence or other location frequented by such person?... Yes No
* If yes, attach a copy of the court order and any terminating or final disposition order.
- 14. Have you ever been dishonorably discharged from the U.S. Armed Forces, or separated from the U.S. Armed Forces under a dismissal adjudged by a general court-martial? Yes No
- 15. Have you ever been found by a civil or criminal court, board, commission or other lawful authority, as a result of subnormal intelligence, incompetency, mental illness, condition or disease, to be a danger to yourself or others, to lack the mental capacity to manage your own affairs, or to be incompetent to stand trial, insane, guilty but mentally ill, or not guilty for lack of mental responsibility? Yes No
- 16. Have you ever been ordered to receive inpatient or outpatient treatment at any treatment facility, mental health center, hospital, sanitarium, clinic or program for a mental condition, drug abuse, or alcohol abuse, by any court, board, or other authority in any civil, criminal or administrative proceeding? (If yes, attach a copy of the order) Yes No

I do swear and affirm under penalty of false swearing or perjury that the foregoing information is true and correct to the best of my knowledge and belief.

Sworn to and subscribed before me
this ____ day of _____, _____

Clerk of Probate Court

APPLICANT'S SIGNATURE