

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

GEORGIACARRY.ORG, INC., and)	
PHILLIP EVANS,)	
Plaintiffs,)	
)	Civil Action No.
v.)	
)	
THE ATLANTA BOTANICAL)	
GARDEN, INC.,)	
Defendant)	

COMPLAINT

Plaintiffs state the following as their Complaint:

1. This is a Complaint for declaratory and injunctive relief, seeking a declaration that Defendant may not prohibit people with Georgia weapons carry licenses (“GWLs”) from carrying weapons on property Defendant leases from the City of Atlanta.
2. Defendant is a non-profit corporation organized under the laws of the State of Georgia.
3. Defendant’s principle place of business is 1345 Piedmont Ave., NE; Atlanta, Fulton County, Georgia 30309.
4. Defendant operates a botanical gardens complex, including indoor and outdoor plant exhibits, on property Defendant leases from the City of Atlanta.
5. Plaintiff GeorgiaCarry.Org, Inc. (“GCO”) is a non-profit corporation organized under the laws of the State of Georgia.
6. GCO’s mission is to foster the rights of its members to keep and bear arms.
7. Plaintiff Phillip Evans (“Evans”) is a natural person who resides in Gwinnett County, Georgia.
8. Evans is a citizen of the State of Georgia and of the United States.

9. Evans possesses a valid GWL issued to him pursuant to O.C.G.A. 16-11-129.
10. Evans is a member of GCO.
11. Evans is a member of Defendant.
12. On August 30, 2014, Evans called Defendant to inquire about whether it had a policy regarding weapons at Defendant's gardens.
13. Evans spoke to Jason Diem, a member of Defendant's management team.
14. Evans followed up with an email to Diem on August 31, 2014 and again on September 26, 2014.
15. On September 30, 2014, Diem emailed Evans and told Evans, "The Garden's policy is no weapons except as permitted by law."
16. Evans took that policy to mean that people with GWLs are free to carry weapons in accordance with state law.
17. On October 12, 2014, Evans visited the gardens while openly carrying a firearm in a holster on his waistband.
18. No one on Defendant's staff objected to Evans' firearm.
19. On October 19, 2014, Evans and his wife and children visited Defendant's botanical gardens.
20. Evans was openly wearing a handgun in a waistband holster.
21. After obtaining admission and proceeding to enjoy the exhibits, Evans was accosted by Diem.
22. Diem told Evans that weapons are not allowed at the gardens.

23. Evans reminded Diem that Diem said weapons could be carried in accordance with state law.
24. Diem told Evans that Evans could not carry a weapon in the gardens.
25. Diem called Defendant's security department. A security officer detained Evans until Atlanta police could arrive.
26. Atlanta police officer P.A. White arrived.
27. Ofc. White escorted Evans to Evans' car and off the premises of the garden, and Diem's request.
28. After the October 19, 2014 incident, Evans contacted Mary Pat Matheson, Defendant's president and CEO, via email and asked for clarification of Defendant's weapons policy.
29. On October 22, 2014, Matheson responded that weapons are prohibited at the botanical gardens except for police officers.
30. An actual controversy exists between Evans and Defendant as to whether Defendant may lawfully prohibit weapons at its botanical garden for people with GWLs.
31. O.C.G.A. 16-11-127(c) states, in pertinent part, "A license holder ... shall be authorized to carry a weapon ... in every location in this state [with exceptions not applicable to this case], provided, however, that ... persons in legal control of private property through a lease [or other agreement] shall have the right to exclude or eject a person who is in possession of a weapon or long gun on their private property"
32. Evans intends to continue to visit the gardens and desires to carry a weapon while he does so.

33. GCO has other members that visit the gardens, who have GWLs, and who desire to carry weapons while they are at the gardens.

Count 1 – Violations of O.C.G.A. § 16-11-127(c)

34. By prohibiting GWL holders from carrying weapons in the gardens, Defendant is violating Plaintiffs’ rights to carry a weapon “in every location in this state.”

35. The exception in O.C.G.A. 16-11-127(c) for property owners applies only to private property owners and lessees of private property, but not to public property owners and lessees of public property.

36. Defendant is a lessee of public property and therefore cannot ban GWL holders from carrying weapons at the botanical gardens.

Relief Demanded

Plaintiff demands the following relief:

37. A declaration that Defendant may not ban the carrying of weapons at the botanical gardens by people with GWLs.

38. An injunction prohibiting Defendant from causing the arrest or prosecution of people with GWLs for carrying weapons at the botanical gardens.

39. An interlocutory injunction prohibiting Defendant from banning the carrying of weapons at the botanical gardens by people with GWLs or from causing the arrest or prosecution of people with GWLs for carrying weapons at the botanical gardens.

40. The costs of bringing and maintaining this action.

41. A jury to try this case.

42. Any other relief the court deems proper.

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VERIFICATION

I verify under penalty of perjury that the facts alleged in the foregoing Complaint are true.

Phillip Evans

The above-named Phillip Evans appeared before me on November ____, 2014 in
_____ County, _____ and swore to and subscribed to this document.

Notary Public

My commission expires: