

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

GEORGIACARRY.ORG, INC., and)	
PHILLIP EVANS,)	
Plaintiffs,)	
)	Civil Action No. 2014-CV-253810
v.)	
)	
THE ATLANTA BOTANICAL)	
GARDEN, INC.,)	
Defendant)	

**PLAINTIFFS’ BRIEF IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM**

Defendant moves to dismiss on the grounds that Plaintiffs may not seek declaratory judgment pertaining to a criminal statute. Defendant misunderstands the Complaint. Plaintiffs are not suing to block enforcement of a criminal statute. Indeed, Plaintiffs know of no criminal statute that even purports to ban the carrying of firearms by Georgia weapons carry license (“GWL”) holders. Instead, Plaintiffs are suing for a declaration that Defendant, a private entity, lacks the power to prevent Plaintiffs from carrying firearms on property Defendant leases from the City of Atlanta. Because none of the grounds stated in Defendant’s Motion apply to the actual claims made in the Complaint, Defendant’s motion must be denied.

Even if Defendant’s Motion actually did apply, if a criminal statute affects property or contract rights, declaratory relief is available. Because Plaintiffs specifically pleaded that Plaintiff Evans has a membership at the Atlanta Botanical Gardens, the Court must accept that fact to be true. As a member, Evans has certain contract rights that have accrued to him, and he is entitled to a declaration of the application of the criminal laws to him vis a vis his contract rights.

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CERTIFICATE OF SERVICE

I certify that on January 16, 2015, I served a copy of the foregoing via U.S. Mail upon:

Michael L. Brown
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John R. Monroe