

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

GEORGIACARRY.ORG, INC. and
CHAD SLATER,

Plaintiffs,

vs.

DAVID A. DODD in his official
capacity as Probate Judge for
Cobb County, Georgia

Defendant.

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CIVIL ACTION
FILE NO: 1:07-cv-2107-ODE

ANSWER

COMES NOW David A. Dodd and answers the Complaint as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs' suit against Judge David A. Dodd is barred by judicial immunity and sovereign immunity.

THIRD DEFENSE

Plaintiffs' state law claims are barred by the doctrines of sovereign and official/governmental immunity.

FOURTH DEFENSE

Defendant states that he did not breach, by any act or omission to act, any duty owed to Plaintiffs.

FIFTH DEFENSE

Defendant asserts the lack of jurisdiction in 14 U.S.C. § 1983 in that the facts alleged do not show any unlawful conduct or actionable constitutional violations.

SIXTH DEFENSE

Some or all of Plaintiffs' state law claims may be barred because of Plaintiffs' failure to provide sufficient *ante litem* notice pursuant to O.C.G.A. §§ 36-11-1, *et seq.*

SEVENTH DEFENSE

Some or all of Plaintiffs' claims may be barred because Plaintiff GeorgiaCarry.org, Inc. is not a real party in interest and does not have standing to bring this action.

EIGHTH DEFENSE

Defendant responds as follows to the numbered paragraphs of the Complaint:

I. INTRODUCTION

1.

Defendant admits that the claims were brought pursuant to the statutes cited.

Defendant denies all other averments of paragraph 1.

2.

Defendant denies paragraph 2.

3.

Defendant denies paragraph 3.

4.

Defendant denies paragraph 4.

II. JURISDICTION

5.

Defendant admits that this Court has jurisdiction pursuant to the statutes cited. Defendant denies all other averments of paragraph 5.

III. VENUE

6.

Defendant admits paragraph 6.

IV. PARTIES

7.

Defendant admits that Plaintiff Slater is a United States citizen and has identified himself as a legal resident of the State of Georgia. Defendant is without sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 7.

8.

Defendant is without sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 8. Defendant further denies Plaintiff GeorgiaCarry.Org, Inc. is a real party in interest with standing to assert the claims in the Complaint.

9.

Defendant admits he is the Judge of the Probate Court of Cobb County and that this suit is filed against him in his official capacity for the specific relief sought. Defendant denies all other averments of paragraph 9.

V. FACTUAL BACKGROUND

10.

Defendant admits paragraph 10.

11.

Defendant denies paragraph 11.

12.

Defendant denies paragraph 12.

13.

Defendant admits that he acted under color of law while in the course of performing official duties as Cobb County Probate Court judge. Defendant denies all other averments of paragraph 13.

14.

Defendant denies paragraph 14.

15.

Defendant denies paragraph 15.

VI. LEGAL BASIS
Count 1 – Violation of the Privacy Act

16.

Defendant admits that the specific statutes and notes referenced in paragraph 16 speak for themselves. Defendant denies all other averments of paragraph 16.

17.

Defendant admits that the Privacy Act speaks for itself. Defendant denies all other averments of paragraph 17.

18.

Defendant admits there are many reasons why any specific legislation was passed. To the extent that Plaintiffs have attempted to limit the enactment of the Privacy Act to one single issue, Defendant denies paragraph 18.

19.

Defendant admits paragraph 19. Defendant further admits that the Cobb Probate Court destroyed the older GFL forms and started using the new GFL form thereafter. Plaintiff Slater completed his GFL application on the new form.

20.

Defendant denies paragraph 20.

21.

Defendant admits the Privacy Act speaks for itself. Defendant denies all other averments of paragraph 21.

22.

Defendant denies that the new GFL application form completed by Slater required the disclosure of a social security number.

23.

Defendant denies that the new GFL application form completed by Slater required any warning by Section 7(b) of the Privacy Act.

Count 2 – Violations of Georgia Firearms Act

24.

Defendant admits that the cited statute speaks for itself. Defendant denies all other averments of paragraph 24.

25.

Defendant admits that employment information is not a factor in an applicant's eligibility under O.C.G.A. § 16-11-129(b). Defendant denies all other averments of paragraph 25.

26.

Defendant denies paragraph 26.

VII. DECLARATORY AND INJUNCTIVE RELIEF UNDER
42 U.S.C. (1983) FOR VIOLATIONS OF THE FEDERAL PRIVACY ACT

27.

Defendant denies paragraph 27.

28.

Defendant admits that an applicant has rights, benefits and privileges provided by law in the application for a GFL or renewal of a GFL. Defendant denies all other averments of paragraph 28.

29.

Defendant denies paragraph 29.

30.

Defendant denies paragraph 30.

31.

Defendant denies that Plaintiffs are entitled to any of the relief they seek in paragraph 31.

**DECLARATORY AND INJUNCTIVE RELIEF
FOR VIOLATION OF O.C.G.A. § 16-11-129**

32.

Defendant admits that employment information is not a factor in an applicant's eligibility under O.C.G.A. § 16-11-129(b). Defendant denies all other averments of paragraph 32.

33.

Defendant denies that Plaintiffs are entitled to any of the relief they seek in paragraph 33.

34.

All averments of the claim not specifically admitted herein are denied.

DEMAND FOR JURY TRIAL

Defendant demands a trial by jury on issues triable by jury.

WHEREFORE, Defendant demands that the Complaint be dismissed, judgment be entered in Defendant's favor, all costs be cast upon Plaintiffs, and Defendant have such other and further relief as the Court deems appropriate.

CERTIFICATE OF TYPE STYLE

This document was prepared using Times New Roman 14 point font.

This 19th day of September, 2007.

COBB COUNTY ATTORNEY'S OFFICE

By: /s/H. William Rowling, Jr.

H. WILLIAM ROWLING, JR.

Sr. Associate County Attorney

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	*	
Defendant.	*	

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed Defendant's Answer with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

John R. Monroe, Esq.
9640 Coleman Road
Roswell, GA 30075

This the 19th day of September, 2007.

By: /s/H. William Rowling, Jr.
H. WILLIAM ROWLING, JR.
Sr. Associate County Attorney
State Bar No. 617225

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