IN THE COURT OF APPEALS OF GEORGIA

GEORGIACARRY.ORG, INC., And EDWARD A. STONE, Appellants,	)	
v.	)	Appeal No. A07A2036
COWETA COUNTY, GEORGIA Appellee	)	

APPELLANTS' BRIEF

Appellants state the following as their Brief.

Part One – Statement of Facts and Proceedings Below

A – Introduction

State law absolutely forbids local governments, like Coweta County, from regulating firearms in any manner. In the nineteenth century, Georgia adopted a state constitutional provision protecting the right to bear arms and reserving to the General Assembly alone the power to regulate that right. Following this, the General Assembly proceeded to heavily regulate that right, implicitly preempting local regulation through the state's comprehensive regulatory scheme. Then, because even that was not enough to keep local governments in check, the General Assembly passed a statute expressly preempting anything a county government might choose to regulate

pertaining to firearms, leaving to county authority only three narrow exceptions on which counties might exercise their legislative discretion.

Not content with state law as is, and in complete disregard of O.C.G.A. § 16-11-173(b), Coweta County wished to "enhance," "supplement," and generally expand the state law prohibiting firearms at publicly owned buildings[1] by banning guns at some of Coweta County's "public places," in spite of the fact that the very law Coweta County sought to "supplement" expressly permits the carry of concealed firearms "in any other public place" by those persons licensed to carry firearms.

Appellants GeorgiaCarry.Org, Inc. and Edward A. Stone (collectively, "GCO") appeal from the order of the court below granting summary judgment to Defendant-Appellee and denying summary judgment to GCO on the issue of whether Coweta County's ordinance banning firearms from various areas of its "public places" was preempted. R-156. In the order, the court ruled erroneously that Georgia's express preemption law, O.C.G.A. § 16-11-173, does not preempt county ordinances banning the carry

[1] O.C.G.A. § 16-11-127.

and possession of firearms on county recreation facilities. GCO seeks reversal of that order. *Id.*

B – Background

In August 2006, GCO contacted Appellee, Coweta County, observing that Appellee had enacted a preempted Ordinance banning firearms from Appellee's "recreation facilities, sports fields, or any surrounding areas being property of the county." R-8. GCO pointed out that O.C.G.A. § 16-11-173(b) prohibits counties from "regulating in any manner" the carry and possession of firearms and that § 173 contains only three narrow exceptions not applicable to Coweta County's ordinance. R-9. GCO sought the repeal of the ordinance because of its obvious conflict with state preemption law. R-11. In response, Appellee's attorney issued a written opinion to the Appellee that the Ordinance was "constitutional" (GCO had not raised any constitutional issues at that point) and that the state statute preempting Coweta County's ordinance had been "repealed." R-18.

Over the course of the next several months, GCO tried in vain to convince Appellee's attorney that the Ordinance is invalid and to convince Appellee to repeal it. R-19 through R-34. When these efforts all proved fruitless, GCO commenced the

action below in February 2007, seeking declaratory and injunctive relief. R-1.

C – The Proceedings Below

Because the essential facts in the Complaint were admitted, GCO filed a motion for summary judgment on May 14, 2007. R-45 through R-113. On May 31, 2007, Appellee responded to GCO's motion and filed a cross motion for summary judgment. R-119 through R-155. Just two business days after Coweta County filed its motion, the trial court entered an order denying GCO's motion and granting Appellee's without giving GCO an opportunity to respond to it.[2] R-156. GCO appeals from that Order.

[2] GCO filed a reply in support of its own motion on June 5, 2007, before GCO received a copy of the court's order. That reply is part of the record on appeal. Although GCO intended to file a response to Appellee's motion within the 30 days allowed by Uniform Superior Court Rule 6.2, the trial court's order made such a response pointless. Although granting a summary judgment the second business day without permitting a response is clearly a reversible error, GCO is not relying on this argument on appeal, as it believes that with its reply brief all arguments

D – Preservation of Issues on Appeal

GCO preserved each issue on appeal by raising it in its motion for summary judgment. The Order from which GCO appeals was filed on June 4, 2007, and GCO filed a Case Disposition Form and a Notice of Appeal on June 7, 2007. Pursuant to O.C.G.A. § 9-11-58, the Order is considered entered when both it and the Case Disposition Form have been filed. The Notice of Appeal was filed on the same date the Order was entered, so this appeal is timely.

Part Two – Enumerations of Error

1. The trial court erred by finding that the Ordinance is not expressly preempted by statute.[3]

2. The trial court erred by finding that the Ordinance is not preempted by the Georgia Constitution.

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necessary for this appeal to be decided on the merits are in the record.

[3] Because the Order is not accompanied by any indication of the trial court's reasoning, GCO is assuming for the purpose of this appeal that the trial court adopted the arguments of Appellee and rejected the arguments of GCO.

3. The trial court erred by finding that the Ordinance is not impliedly preempted by the State's comprehensive regulatory scheme pertaining to the carry and possession of firearms.

Statement on Jurisdiction

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is one of statutory and constitutional construction related to the carrying of firearms and the power of counties to regulate such carry, and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

Part Three – Argument and Citations of Authority

Standard of Review

The appellate court reviews orders granting summary judgment *de novo. Rubin v. Cello Corp.*, 235 Ga. App. 250, 510 S.E.2d 541 (1998).

1 – The Ordinance is Preempted by O.C.G.A. § 16-11-173(b)

1.A. – *The General Assembly explicitly declared no county may regulate the carry or possession of firearms*

Georgia adopted an express preemption statute which declares "that the regulation of firearms is properly an issue of general, statewide concern." O.C.G.A. § 16-11-173(a)(1). See Sturm, Ruger & Co., Inc. v. City of Atlanta, 253 Ga. App. 713, 718, 560 S.E.2d 525 (2002) ("More importantly, the State has also expressly preempted the field of firearms regulation in" Code Section 173). If the ruling of the Coweta County Superior Court in favor of Coweta County is allowed to stand by this Court, it will result in a confusing patchwork quilt of local laws throughout the state pertaining to the regulation of firearms. This is precisely the situation the General Assembly sought to avoid when it passed section 173(b)(1), which states:

> ***No county*** or municipal corporation, by zoning or ***by ordinance***, resolution, or other enactment, ***shall regulate in any manner*** gun shows; ***the possession***, ownership, transport, ***carrying***, transfer, sale, purchase, licensing, or registration ***of firearms*** or

components of firearms; firearms dealers, or dealers in firearms components.

[emphasis supplied]. Obviously, the General Assembly attempted to create a laundry list to cover anything a local government like Coweta County might dream up in an attempt to regulate firearms. Distilling § 173(b) down to the emphasized language yields, "No county by ordinance shall regulate in any manner the possession [or] carrying of firearms." The text of a statute rarely gets much plainer than this. "Where the language of a statute is plain and unambiguous, judicial construction is not only unnecessary but forbidden. All words, except words of art, shall be given their ordinary significance." *Wheeler County Bd. of Tax Assessors v. Gilder*, 256 Ga. App. 478, 479, 568 S.E.2d 786, 788 (2002).

1.B. *Captions do not control the interpretation of statutory text*

Appellee did not attempt to claim this very plain statutory preemption language means something other than what it says. Instead, Appellee dismissed the text of the statute in favor of pointing to an article heading. Coweta County argued that § 173 applies only to the "***transfer and purchase***" of firearms, and not

to the carry or possession of firearms. R-135. Appellee offered no explanation for how statutory language regarding the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or components of firearms (as well as gun shows, firearms dealers, and dealers in firearms components) applies only to the transfer and purchase of firearms. Coweta County also made no attempt to explain how the three narrow exceptions the General Assembly left to county regulation apply only to the transfer and purchase of firearms (probably because Coweta County fully realizes they do not). Appellee relied solely on its mistaken belief that the heading of the part of the Code (Part 5 of Article 4 of Chapter 11 of Title 16) in which § 173 is found is "Transfer and Purchase of Firearms." R-135. Apparently, the trial court bought this argument.[4] GCO is not sure where Coweta County found this heading,[5] as the correct heading of Part 5 is

[4] We may never know, however, since the trial court failed to explain its reasoning.

[5] GCO observes that it may have come from a small portion of the title of O.C.G.A. § 16-11-172, a Code Section adjacent to the one at issue in this case.

"Brady Law Regulations." On the other hand, the Code heading on the precise Code ***Section*** (§ 173) that GCO shows preempts the Ordinance is "Regulatory Authority of Political Subdivisions; Limitations." If this were a battle of Code Section headings, then, clearly, GCO would win, as § 173 is ***exactly*** what it purports to be: a limitation on the regulatory authority of political subdivisions such as Coweta County. But this is not a battle of Code Section (or Part) headings, as, "the descriptive headings or catchlines immediately preceding or within the text of the individual Code sections of this Code . . . ***do not constitute part of the law and shall in no manner limit or expand the construction of any Code section***." O.C.G.A. § 1-1-7 (emphasis added). A Code heading cannot create a legal requirement. *South v. Bank of America,* 250 Ga. App. 747, 749, 551 S.E.2d 55, 56 (2001)("Moreover, contrary to South's contention, the caption of O.C.G.A. § 7-1-816, which refers to 'payment on signature of one party,' does not create a requirement that banks obtain the signature of at least one party to the account"). *See also Legum v. Crouch*, 208 Ga. App. 185, 189, 430 S.E.2d 360 (1993) ("The descriptive heading or catch line immediately preceding the text of a Code section does

not constitute a part of such statute and is not controlling regarding the construction or interpretation thereof"). Even if Appellee had correctly quoted the Code heading, which it did not, the heading is irrelevant.

"A better source for determining the intent of the legislature in enacting [a Code section] would be the preamble of the act creating the Code section." *Brown v. Earp*, 261 Ga. 522, 523 407 S.E.2d 737 (1991). When the General Assembly adopted Code Section 16-11-184[6] in 1995, the preamble included the purposes of passing the law, which included, *inter alia* "to restrict the authority of political subdivisions with respect to certain regulations of firearms" and later in the preamble, "to restrict the authority of political subdivisions with respect to certain regulations of firearms but to authorize certain local regulations under certain conditions." S.B. 106 (preamble) (this is the bill that added all of part 5 to Article 4). The preamble is two pages long. Since then, this part has been amended more than once, and both times the preambles declare further the intent of the General Assembly to preempt local ordinances and protect the right to bear arms. *See*, *e.g.*, SB 59

[6] Subsequently re-numbered as O.C.G.A. § 16-11-173.

(1995) ("so as to protect from infringement the right of the people to keep arms and the subsumed right to obtain firearms for security and protection of person, property, and state"); HB 189 (1999) ("To amend Code Section 16-11-184 of the Official Code of Georgia Annotated, relating to regulatory authority of local political subdivisions over firearms and limitations thereon, so as to reserve to the state the right to bring certain civil actions against firearms or ammunition manufacturers . . ."). Both the preambles and the actual text of the statute clearly evince an intent by the General Assembly to bar counties from regulating firearms, except as expressly permitted in the Code section.

After its feeble attempt to avoid application of § 173, the Code section that blatantly, expressly, and unequivocally preempts the Ordinance, Appellee never again mentioned § 173. Appellee likewise never addressed the language of § 173 or attempted to explain how it possibly can be read any other way than as an ***express*** preemption.

There are three narrow exceptions to § 173(b)'s broad preemption, but they are not applicable to Coweta County's ordinance, and Coweta County did not rely upon them in the trial

court. The legislature made no exception for ordinances regulating possession of firearms on county recreational facility property, and "the inclusion of one implies the exclusion of others." *Sturm, Ruger & Co. v. City of Atlanta*, 253 Ga. App. 713, 721, 560 S.E.2d 525, 531 (2002). *City of Atlanta v. SWAN Consulting & Security Servs., Inc.*, 274 Ga. 277, 280, 553 S.E.2d 594, 596 (2001) ("By expressly authorizing additional local regulation . . . in that limited instance, the Act impliedly preempts the City's regulation" outside of that instance); *Franklin County v. Fieldale Farms Corp.*, 270 Ga. 272, 277, 507 S.E.2d 460, 463 (1998) ("the General Assembly expressly granted local governments limited authority to act," but by "explicitly granting this narrow power to local governments, the statute by implication precludes counties from exercising broader powers."). The expressly granted authority in subsections (c), (d), and (e) of Code section 173 *strengthens* preemption, because the grant of these particular powers to counties means that counties may not exercise any other powers on the same subject (regulation of firearms) not granted in the statute.

The Attorney General of the State of Georgia came to the same conclusion when he issued U98-6, an opinion regarding a proposed safe storage ordinance in the city of Columbus, Georgia. The Attorney General determined that the ordinance would conflict with the state law on carrying concealed weapons and that because the ordinance did not pertain to one of the matters contained in the three narrow exceptions to section 173, "it is my opinion that the ordinance is preempted by Georgia law." As previously noted, this Court, in *Sturm, Ruger*, came to the same conclusion. 253 Ga. App. at 721.[7]

Coweta County made no attempt to explain how the three exceptions in O.C.G.A. § 16-11-173 ((c), (d), and (e)), granting authority to counties to regulate certain matters, relate to only the "transfer and purchase" of firearms. Each of these exceptions to preemption relates to possession of firearms (by county employees while at work or by heads of household) and the discharge of firearms. The General Assembly made no exclusion

[7] In the *Sturm, Ruger* case the State of Georgia argued via an amicus curiae brief that "the State has preempted the field of gun regulation," a statement with which this Court agreed. *Id*. at 717.

for county ordinances prohibiting the carrying or possession of firearms in any other place by a person licensed to carry such firearm.

1.C. *The public gathering law expressly allows the carry of concealed firearms in public places (not public gatherings) by persons licensed to do so*

Having dismissed the State's express preemption statute as merely governing preemption relating to "transfer and purchase" of firearms, even though it clearly states "carry" and "possession," Coweta County claimed that *another* state statute supposedly *authorized* its ordinance as an "enhancement" or a "supplement." R-136. Appellee contended the state public gathering law, O.C.G.A. § 16-11-127, permits Coweta County to "supplement" the Code by banning carry in its "public places." R-136, R-137, R-138, and R-140.[8] Appellee quoted the public gathering subsection in part, but ***completely omitted*** the very

[8] If, in fact, counties had the power to ban firearms in "public places" belonging to the county, as Appellee contends it may do, what is to stop a county from banning the possession or carrying of firearms on county roads and sidewalks?

next sentence following Appellee's quote that eviscerates Appellee's argument. That sentence reads, "Nothing in this Code section shall otherwise prohibit the carrying of a firearm ***in any other public place by a person licensed*** or permitted to carry such firearm by this part." O.C.G.A. 16-11-127(b) (emphasis added). As noted by this Court, a local government may not seek "to punish conduct which the State, through its regulatory scheme, expressly allows and licenses." *Sturm, Ruger*, 253 Ga. App. at 719.

Although it is beyond doubt that there will be times and places in recreational areas that constitute public gatherings,[9] the statute does not equate "public place" with "public gathering." *See State v. Burns*, 200 Ga. App. 16 (1991) ("this broad interpretation equates 'public gathering' to 'public place' and blurs the distinction we must assume the legislature intended to make in specifically referring to gatherings in O.C.G.A. § 16-11-127 and by limiting its restriction to gatherings as opposed to proscribing the carrying of deadly

[9] Sporting events and publicly owned or operated buildings are two examples expressly listed in the statute. *See* O.C.G.A. § 16-11-127(a).

weapons in public places"). In addition to the six places listed in the statute, public gatherings include only "when people *are* gathered or will be gathered **for a particular function** and not when a weapon is carried lawfully to a public place, where people *may* gather." Id. (emphasis in italics in original) (emphasis in bold added). Coweta may not "supplement" Georgia's law by further banning firearms in its "public places." ***Not only does the text of the public gathering provision Coweta County quoted not include any language authorizing Coweta County's ordinance, but the sentence Coweta County omitted from its brief to the trial court is directly contrary to Coweta County's argument.***

2 - The Ordinance is Preempted by the Georgia Constitution

Article I, Section 1, Paragraph 8 of the Georgia Constitution states:

> The right of the people to keep and bear arms shall not be infringed, but the ***General Assembly*** shall have the power prescribe the manner in which arms may be borne.

[Emphasis supplied]. The emphasis above is important, because the exception to the general rule, that the right to keep and

bear arms shall not be infringed, applies only to the General Assembly, which is explicitly granted the power to prescribe the manner of bearing.[10] Related to this constitutional provision, this Court stated that the "General Assembly has exercised this power given by the Constitution to create a regulatory scheme for the distribution and ***use*** of firearms." *Sturm, Ruger*, 253 Ga. App. at 718 (emphasis added) (citation omitted). The Constitution gives no power to any other governmental entity to infringe on this important right. This did not deter Appellee from boldly asserting that, because the ***General Assembly*** has the power to regulate the manner in which arms may be borne, Coweta County can, too. R-140.

It is a little silly to have to argue the axiom that the Coweta County Board of Commissioners is not the General Assembly. The Constitution restrains the actions of Appellee's commissioners, and prohibits them from infringing on GCO's right

[10] And it has. *See* O.C.G.A. §§ 16-11-126, 127, 127.1, 127.2, 128, 129, and 130, as well as 16-12-123, 127, 12-3-10, 16-3-21, 16-11-34.1, 16-11-122, 16-11-123, 27-3-1.1, and 27-4-11.1, *inter alia*.

to bear arms, even if the General Assembly may constitutionally enact regulations pertaining to this right.

3 – The Ordinance is Preempted by Implication

3.A. *The General Assembly implicitly preempted local ordinances through its comprehensive regulation of the subject matter*

Appellee correctly noted that state preemption of local laws can come in three forms: expressly, by implication, or by conflict.[11] *Sturm, Ruger & Co. v. City of Atlanta,* 253 Ga. App. 713, 560 S.E.2d 525 (2002). GCO already has shown how the Ordinance is preempted expressly (O.C.G.A. § 16-11-173(b) expressly forbids counties such as Appellee from passing provisions such as those in the Ordinance). The Ordinance also is preempted by implication. "[P]reemption can be inferred from the comprehensive nature of the statutes regulating firearms in Georgia, among which are the Georgia Firearms and Weapons Act,

[11] Coweta County chose to ignore completely the first two and argue solely that its ordinance did not "conflict" with O.C.G.A. § 16-11-127 (overlooking that its ordinance directly conflicted with the sentence Appellee omitted).

codified at OCGA § 16-11-125, and OCGA § 16-11-126 through 16-11-134, the Brady Handgun Violence Protection Act, codified at OCGA §§ 16-11-170 through 16-11-184, and also OCGA §§ 43-16-1 through 43-16-12 which regulate the licensing of firearms dealers." *Sturm Ruger*, 253 Ga. App. 713, 718, 560 S.E.2d 525, 529.[12] Therefore, in *Sturm Ruger*, this Court specifically mentioned O.C.G.A. § 16-11-126 through 129 as creating implicit preemption. These are statutes that pertain both to how and ***where*** one may carry, and this category ***also includes*** the statute Coweta County contends it may "supplement" by expanding its reach through a county ordinance to ban firearms in Coweta County's "public places." "[T]he General Assembly has created a regulatory scheme for the distribution and use of firearms…. We

[12] Reference to footnote 10 reveals that there are several statutes this Court did not include, and even that footnote is not a complete list of statutes regulating firearms in Georgia. Most of the statutes listed pertain to ***where*** one may carry a firearm in Georgia, so that the State has comprehensively regulated the issue of where one may carry, thus preempting Coweta County's ordinance even without reference to the express preemption statute.

must conclude that the General Assembly does not intend to control further the … use of handguns." *Rhodes v. R.G. Industries, Inc.,* 173 Ga. App. 51, 54, 325 S.E.2d 465, 467 (1984). The *Rhodes* case clearly shows that the General Assembly intended for state law to fully cover the issue of firearms regulation and that the General Assembly had passed all of the regulations it intended to pass and no more. There is a comprehensive regulatory scheme in place.

Appellee completely misconstrues and misapplies preemption jurisprudence. The Supreme Court of Georgia provided a thorough and detailed recipe for the application of preemption by implication in *Franklin County v. Fieldale Farms Corp.,* 20 Ga. 272, 507 S.E.2d 460 (1998). The Georgia Constitution "preclude[es] local or special laws when general laws exist on the same subject." 20 Ga. at 275. There is "an exception to the general rule of preemption when general law authorizes the local government to act and the local ordinance does not conflict with general law." *Id.*

In *Franklin County,* there was a state general law regulating the deposit of sludge on the land, with a grant of power to local governments to charge a fee for such deposit.

The court found that "the general law does not give local governments broad authority to regulate the application of sludge to the land. Preemption may be inferred generally from the comprehensive nature of [the statute]…." 20 Ga. at 276. The court also found, "By explicitly granting this narrow power [i.e., the fees] to local governments, the statute by implication precludes counties from exercising broader powers." 20 Ga. at 277.

O.C.G.A. § 16-11-173(a) states that "the regulation of firearms is properly an issue of general, state-wide concern." As discussed above, § 173(b) continues by expressly disallowing local regulation of firearms. As if that were not enough, it continues further by granting three narrow exceptions for localities like Coweta County to regulate. Stating these three implies the exclusion of all others, just like in *Franklin County*, *supra*, and Coweta County has not contended that its ordinance fits into one of the three narrow exceptions. By no means can it be said that the Ordinance is allowed by general laws, when a law of general application expressly forbids it.

3.B. *Cases including express authority of a local government to pass ordinances on a matter do not control the outcome in this case*

The two cases relied upon by Coweta County for its "Similar Preemption Analyses by the Georgia Supreme Court" are not similar at all to this case. R-136 through R-139. . In both of those cases there was ***expressly granted*** statutory authority to enact the ordinances in question. In *Pawnmart, Inc. v. Gwinnett County,* 279 Ga. 19, 608 S.E.2d 639 (2005), there was a general law, but it contained an express exception allowing for local laws, and even specifically not superceding them. 279 Ga. at 19. Of course, there was no preemption when there was an express grant of local authority.

Similarly, in *Grovenstein v. Effingham County,* 262 Ga. 45, 414 S.E.2d 207 (1992), the ordinance at issue was authorized expressly by the statute the plaintiff claimed preempted the ordinance. 262 Ga. at 47. There is no such statutory authority for Coweta County's ordinance.

4 – Appellee's Policy Arguments Fall Flat

When Appellee's legal arguments come up short, Appellee resorts to public policy arguments and scare tactics in an

attempt to create hysteria over citizens' exercise of their right to carry firearms. Appellee discusses "numerous incidents of violence by parents and spectators at youth sporting events" as a reason why it should be permitted to do that which the General Assembly has said it cannot do.[13] R-136, R-145 through R-154.

Appellee's arguments fail for two reasons. First, neither the trial court nor this Court should be in the business of setting the public policy of the state. That is the role of the General Assembly. As this Court has said of its own role, "This court is prohibit[ed] from altering the status quo since the

[13] Oddly, not a single one of the "internet news stories" Coweta County attached to its brief as Exhibits involve a Georgia Firearms License holder displaying or using a firearm in a county recreation facility. This is significant in that since Gwinnett County, with a population of three quarters of a million people, amended its ordinance on June 5, 2007, to except firearms from regulation, Coweta County is one of only five counties in the entire state that attempt to violate the state preemption law in this manner. Georgia has 159 counties. Obviously, the sky is not falling in the remaining 154 counties.

legislature's present position is within constitutional limits. We cannot change the laws, we can only interpret them. While we recognize with regret the numerous deaths caused by firearms, we are powerless to remedy the situation without a clear legislative mandate." *Rhodes,* 173 Ga. App. at 52.

Second, if it matters to the resolution of this appeal, the General Assembly already has addressed Appellee's great anxiety over keeping firearms out of "little league baseball fields and gymnasiums." R-136, R-139. State law prohibits carrying a firearm to "athletic or sporting events," and in "publicly owned and operated buildings." O.C.G.A. § 16-11-127. Thus, even when Coweta County's Ordinance inevitably is struck down, state law keeps Appellee's little league baseball fields and gymnasiums free of peaceable citizens lawfully carrying concealed firearms.[14]

[14] Although the same cannot be said with assurance of criminals, such as the carjackers that struck in the parking lot of a Little League game in Gwinnett County, 2 days before Gwinnett County's commission voted unanimously to amend its preempted ordinance so as not to regulate firearms.

To be clear, however, Appellee is ***not*** free to revise its Ordinance to mimic O.C.G.A. § 16-11-127. "Because the City sought to establish a ***duplicate*** regulatory system which was not authorized by the comprehensive general law . . . the trial court was correct in its limited holding that the Act preempts by implication the City's enforcement . . . of the municipal Code . . ." City of Atlanta v. SWAN Consulting & Security Servs., Inc., 274 Ga. 277, 280, 553 S.E.2d 594, 596 (2001) (emphasis added). Furthermore, Appellee is absolutely prohibited by O.C.G.A. § 16-11-173 from enacting ***any*** ordinances regulating the carry of firearms, even if such ordinances are identical to state regulations. "The practical effect of the preemption doctrine is to preclude all other local or special laws on the ***same*** subject." *Sturm, Ruger*, 253 Ga. App. at 718. (emphasis added).

CONCLUSION

O.C.G.A. § 16-11-173 clearly, unambiguously, and unquestionably preempts the Ordinance. Article 1, Section 1, Paragraph 8 of the Georgia Constitution guarantees to Georgians the right to keep and bear arms, and reserves ***solely to the General Assembly*** the power to regulate the manner in which arms

are borne. Finally, the Code's comprehensive regulation of firearms generally and the regulations pertaining to the carrying of firearms in particular impliedly preempt any local ordinances on that topic. Accordingly, the decision of the trial court should be reversed, with instructions to grant summary judgment in favor of GCO and to deny summary judgment to Coweta County.

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CERTIFICATE OF SERVICE

I certify that I have this day served Nathan T. Lee, Esq. with a copy of this Brief by mailing a copy first class mail postage prepaid to him at 10 Brown Street; Newnan, Georgia 30264.

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