

COPY

IN THE SUPERIOR COURT OF FLOYD COUNTY  
STATE OF GEORGIA

GEORGIACARRY.ORG, INC., and,  
DAN HAITHCOCK,

PLAINTIFFS,

V.

TOM CALDWELL, individually and in,  
His official capacity as Chief Deputy of,  
The Floyd County, Georgia Sheriff's  
Office, and FLOYD COUNTY, GEORGIA,

DEFENDANTS.

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CIVIL ACTION FILE NO.  
14CV01823JFL002

**SPECIAL APPEARANCE AND ANSWER TO VERIFIED COMPLAINT**

COME NOW Defendants named in the above action, via special appearance only, and hereby make this their Special Appearance and Answer and defenses to Plaintiff's verified complaint (hereinafter "complaint"), subject to the defenses set forth below and without waiving said defenses, and respectfully show this Honorable Court the following, to-wit:

**FIRST DEFENSE**

The complaint fails to state a claim upon which relief can be granted against Defendants.

**SECOND DEFENSE**

Plaintiffs lack standing to assert the claims in this matter.

**THIRD DEFENSE**

At all material times, Defendant Caldwell was performing discretionary acts in good faith within the scope of his duties as the Chief Deputy of the Floyd County Sheriff, and, by reason thereof, Defendant Caldwell is immune from suit under the doctrine of good faith immunity and/or qualified immunity.

**FOURTH DEFENSE**

Defendants are entitled to immunity including, but not limited to, sovereign immunity, governmental immunity, qualified immunity, and official immunity.

**FIFTH DEFENSE**

Defendants are not liable to Plaintiffs because Plaintiffs have not suffered any injuries or damages.

**SIXTH DEFENSE**

Any actions taken by Defendants were correct, made in good faith, reasonable and in accordance with the law.

**SEVENTH DEFENSE**

Defendants are not liable to Plaintiffs because Defendants, at all times, were acting pursuant to proper authority, and Plaintiffs have suffered no damages thereby.

**EIGHTH DEFENSE**

The complaint should be dismissed due to lack of process and insufficiency of service of process.

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## NINTH DEFENSE

Without waiving any of the foregoing defenses and subject to said defenses, Defendants respond as follows to the complaint, to-wit:

1.

No response is required to paragraph one of the complaint because it merely states the nature of Plaintiffs' cause of action. To the extent further response is required, paragraph 1 is denied.

2.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of said complaint.

3.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of said complaint.

4.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of said complaint.

5.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of said complaint.

6.

Defendants admit that Defendant Caldwell is the Chief Deputy to the Floyd County Sheriff. Defendants deny the remaining allegations contained in paragraph 6 of said complaint.

7.

Defendants admit the allegations contained in paragraph 7 of said complaint.

8.

Defendants deny the allegations contained in paragraph 8 of said complaint.

9.

Defendants admit the allegations contained in paragraph 9 of said complaint.

10.

Defendants deny as alleged the allegations contained in paragraph 10 of said complaint because it mischaracterizes what is stated on the website for the air show. Defendants aver that a properly authenticated copy of said security guidelines will speak for itself. To the extent further response is required, the allegations contained in paragraph 10 of said complaint are denied.

11.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of said complaint.

12.

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Defendants deny that Plaintiff carrying a handgun to the air show would be in

accordance with state law. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 12 of said complaint.

**13.**

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of said complaint. Furthermore, there are only two plaintiffs in this action, and the instant action has not been certified as a class action.

**14.**

Defendants admit that, on or about September 11, 2014, someone purporting to be Plaintiff Haithcock posted on the Facebook page of the Floyd County Sheriff's Office. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 14 of said complaint are denied.

**15.**

Defendants deny as alleged the allegations contained in paragraph 15 of said complaint. Defendants aver that a properly authenticated copy of said posting will speak for itself.

**16.**

Defendants deny the allegations contained in paragraph 16 of said complaint.

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Defendants aver that a properly authenticated copy of said posting will speak for itself.

**17.**

Defendants admit that someone purporting to be Plaintiff Haithcock posted on the Facebook page of the Floyd County Sheriff's Office on or about September 16, 2014. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 17 of said complaint are denied.

**18.**

Defendants admit that on either September 16, 2014, or September 17, 2014, Defendant Caldwell responded to a posting on the Facebook page of the Floyd County Sheriff's Office by someone purporting to be Plaintiff Haithcock. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 18 of said complaint are denied.

**19.**

Defendants deny as alleged the allegations contained in paragraph 19 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 19 of said complaint are denied.

**20.**

Defendants deny as alleged the allegations contained in paragraph 20 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 20 of said complaint are denied.

**21.**

Defendants deny as alleged the allegations contained in paragraph 21 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 21 of said complaint are denied.

**22.**

Defendants deny as alleged the allegations contained in paragraph 22 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 22 of said complaint are denied.

**23.**

Defendants deny as alleged the allegations contained in paragraph 23 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a

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properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 23 of said complaint are denied.

**24.**

Defendants admit that someone purporting to be Plaintiff Haithcock posted on the Facebook page of the Floyd County Sheriff's Office on or about September 17, 2014. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 24 of said complaint are denied.

**25.**

Defendants deny as alleged the allegations contained in paragraph 25 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 25 of said complaint are denied.

**26.**

Defendants deny as alleged the allegations contained in paragraph 26 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 26 of said complaint are denied.

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27.

Defendants deny as alleged the allegations contained in paragraph 27 of said complaint because it does not quote Caldwell's complete response. Defendants aver that a properly authenticated copy of said posting will speak for itself. To the extent further response is required, the remaining allegations contained in paragraph 27 of said complaint are denied.

28.

No response is required to paragraph 28 of said complaint because it purportedly quotes a provision of the Floyd County Code of Ordinances. Defendants aver that a properly authenticated copy of said provision will speak for itself. To the extent further response is required, the allegations of paragraph 28 of said complaint are denied.

29.

As to Defendant Haithcock, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of said complaint. As to Plaintiff GeorgiaCarry.org, Defendants deny the allegations contained in paragraph 29 of said complaint.

30.

No response is required to paragraph 30 of said complaint because it purports to quote a provision of the Official Code of Georgia Annotated. To the extent further response is required, the allegations of paragraph 28 of said complaint are denied.

**31.**

Defendants deny the allegations contained in paragraph 31 of said complaint.

**32.**

Defendants deny the allegations contained in paragraph 32 of said complaint.

**33. – 39.**

Defendants deny that Plaintiffs are entitled to any relief whatsoever from any Defendant herein, including, but not limited to, the relief requested in paragraphs 33 through 39 of said complaint.

**40.**

All other allegations of said complaint whether numbered or unnumbered not heretofore admitted or denied are specifically denied.

WHEREFORE, DEFENDANTS PRAY:

- (a) Plaintiffs' complaint be dismissed;
- (b) Plaintiffs be granted no relief whatsoever against Defendants;
- (c) Judgment be granted in favor of Defendants;
- (d) Plaintiffs be charged with Defendants' attorney's fees and expenses incurred in the defense of this case;
- (e) A jury try this action; and
- (f) Defendants be granted such other and further relief as provided by law.

RESPECTFULLY SUBMITTED,

WOMACK, GOTTLIEB & RODHAM, P.C.

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RONALD R. WOMACK  
GEORGIA BAR NO. 773650

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STEVEN M. RODHAM  
GEORGIA BAR NO. 611404

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109 EAST PATTON AVENUE  
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MCRAE, STEGALL, PEEK, HARMAN,  
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THOMAS H. MANNING  
GA. BAR NO. 004430

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ROME, GEORGIA 30162-0029  
706-291-76223

ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served the Plaintiff with a copy of the above and foregoing Answer and defenses, prior to filing same, by hand delivery in open court to

John R. Monroe, Esquire

THIS 8<sup>TH</sup> DAY OF OCTOBER, 2014.

WOMACK, GOTTLIEB & RODHAM, P.C.

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STEVEN M. RODHAM  
GEORGIA BAR NO. 611404

P. O. BOX 549  
109 EAST PATTON AVENUE  
LaFAYETTE, GEORGIA 30728  
706/638-2234

OF COUNSEL FOR DEFENDANTS

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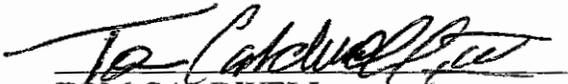
DEFENDANTS.

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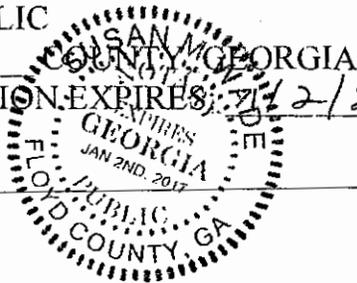
VERIFICATION

Before me, the undersigned appeared, TOM CALDWELL, who on oath, states the facts set forth in the foregoing Answer are true and correct to the best of his knowledge.

  
TOM CALDWELL

SWORN TO AND SUBSCRIBED BEFORE  
ME THIS 7 DAY OF October, 2014.

  
NOTARY PUBLIC  
Floyd  
MY COMMISSION EXPIRES: 1/2/2017



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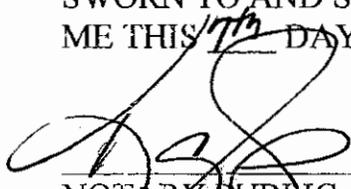
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VERIFICATION

Before me, the undersigned appeared, IRWIN BAGWELL, as Chairman of the  
Floyd County Board of Commissioners, who on oath, states the facts set forth in the  
foregoing Answer are true and correct to the best of his knowledge.

  
IRWIN BAGWELL, As Chairman of the  
Floyd County Board of Commissioners

SWORN TO AND SUBSCRIBED BEFORE  
ME THIS 17<sup>th</sup> DAY OF October, 2014.

  
\_\_\_\_\_  
NOTARY PUBLIC

Charboga  
02-26-10 COUNTY, GEORGIA

MY COMMISSION EXPIRES: 02-26-14