

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIACARRY.ORG, INC., et al.)	
)	
Plaintiffs,)	CIVIL ACTION FILE
)	
vs.)	NO. 1:08-CV-2171-MHS
)	
THE CITY OF ATLANTA, et al.)	
)	
Defendants.)	
)	
)	
)	

**DEFENDANTS’ MEMORANDUM OF LAW IN SUPPORT OF
EMERGENCY MOTION FOR BRIEF CONTINUANCE
OF JULY 18, 2008 HEARING**

Named Defendants City of Atlanta, Mayor Shirley Franklin, Ben DeCosta, and Hartsfield-Jackson Atlanta International Airport¹ (“Defendants”), pursuant to L.R. 7.2(B), request a continuance of the July 18, 2008 hearing on Plaintiffs’ Motion for a Temporary Restraining Order or Preliminary Injunction which seeks a dramatic change in the long-standing prohibition on the carrying of firearm weapons at the Airport.

¹ Plaintiffs have named Hartsfield-Jackson Atlanta International Airport as a defendant, however, the airport is not a separate legal entity from the City of Atlanta.

PROCEDURAL HISTORY

Plaintiffs filed their Complaint on July 1, 2008. *See* Complaint (Dkt. No. 1). On that same day, Plaintiffs purportedly served each Defendant with the summons and Complaint. *See* Returns of Service (Dkt. Nos. 2-5).² Pursuant to Fed. R. Civ. P. 12(a), Defendants' responses to the Complaint are due July 22, 2008.

Yesterday, on July 8, Plaintiffs filed their Motion for Temporary Restraining Order or Preliminary Injunction. Plaintiffs did not file the motion under L.R. 7.2(B), have not requested expedited briefing, and have not made the required showing under that Rule to expedite resolution of the motion. Pursuant to L.R. 7.1(B), Defendants' response to the motion is due July 25, 2008.

On the same day they filed the Motion (July 8), Plaintiff scheduled an evidentiary hearing for July 18 – without consulting defense counsel about the propriety of, or conflicts with, the hearing date. The July 18 hearing date is only 10 days after service of the motion, but seven days before Defendants' brief in response to the motion is due (July 25), and four days before Defendants' pleading in response to the Complaint is due (July 22). Plaintiffs challenge a reasonable, narrowly tailored measure that is designed to protect the safety and welfare of the tens of thousands of persons who travel through Hartsfield-Jackson Atlanta

² Defendants do not concede that service of process was properly effected by Plaintiffs.

International Airport (“Airport”) on a daily basis. For 20-plus years this prohibition on the carrying of firearms at the Airport has served to protect patrons and visitors alike. Under such circumstances, Defendants submit that a short continuance to allow the parties an adequate opportunity to prepare is appropriate.³

ARGUMENT AND CITATION OF AUTHORITIES

I. Pursuant to L.R. 7.2(B), the Court Should Waive the Time Requirements of L.R. 7 and Immediately Decide Defendants’ Motion

Pursuant to L.R. 7.2(B), the Court, for good cause shown, may waive the time requirements associated with responding to the present motion, and immediately decide the motion or immediately schedule a hearing. *See* L.R. 7.2(B). Good cause exists to decide this motion for a continuance on an emergency basis because the July 18 hearing is fewer than 10 days from now, and Defendants received notice of Plaintiffs’ motion and hearing only yesterday. Emergency relief is necessary to allow Defendants adequate time to prepare for the hearing and file responsive papers.

³ Yesterday, when Defendants first learned of the July 18 hearing date, defense counsel contacted Plaintiffs’ counsel to request the short continuance requested in this Motion. Plaintiffs would not consent to the continuance.

II. The Court Should Continue the July 18 Hearing to the Week of August 11, 2008.

A. The Court Should Allow Defendants Adequate Time to Prepare for the Hearing and File Responses to Plaintiffs' Motion

Temporary restraining orders and preliminary injunctions are “extraordinary” and “drastic” remedies. *See Haitian Refugee Center v. Christopher*, 43 F.3d 1431, 1432 (11th Cir 1995). Plaintiffs seek a temporary restraining order or preliminary injunction that, if granted, would require the City to drastically alter the status quo – change its policy and practice, for the last 20-plus years, of prohibiting individuals from carrying firearms into the Airport except as allowed under federal regulations promulgated by the Federal Aviation Authority and the Transportation Security Administration. Given the personal safety and security issues at stake, it is imperative that Defendants have adequate time to respond to Plaintiffs’ motion seeking this drastic departure from the status quo. *See U.S. v. DBB, Inc.*, 180 F.3d 1277, 1282 (11th Cir. 1999) (“[T]emporary restraining orders and preliminary injunctions as those terms are used in the Federal Rules of Civil Procedure [] both serve to maintain the status quo until a final decision on a matter can be reached.”).

Defendants also need adequate time to prepare their evidence for the hearing. Defendants expect to present evidence that would show the public policy

benefits of the long-standing prohibition on the carrying of loaded guns in the Airport, and the harm to Defendants, employees at the Airport and visitors to the Airport if the Court were to issue an order that required the City to drastically change this policy. Defendants similarly expect to present evidence that important public interests, including the safety and welfare of visitors and employees at the Airport, would be harmed if an injunction were issued. Defendants may also request expedited discovery for purposes of opposing Plaintiffs' motion. Under the current schedule, Defendants effectively have no time to take any such discovery of Plaintiffs or third parties. Defendants respectfully submit that 10 days is not adequate time to prepare their own evidence or obtain discovery of Plaintiffs.

The short continuance requested by Defendants will also allow for the orderly presentation of the arguments and evidence to the Court. As it currently stands, Defendants will have not have filed their briefs in response to Plaintiffs' motion or their pleadings in response to the Complaint at the time of the July 18 hearing. If the continuance is granted, the issues will have been fully briefed well in advance of the hearing, and the parties can properly address all matters at the hearing.

B. Plaintiffs Will Not Be Prejudiced by a Short Continuance

If the Court grants Defendants' request for a short continuance, Plaintiffs will still have their day in court – with a full-blown evidentiary hearing – within six weeks of the filing of the Complaint. Plaintiffs will not be prejudiced by such an expedited schedule. Indeed, nowhere do Plaintiffs contend that the security provided by the Atlanta Police Department and Airport security is insufficient such that Plaintiffs will suffer any harm with the short continuance requested by Defendants.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court continue the July 18 hearing to the week of August 11.

[SIGNATURES ON NEXT PAGE]

Respectfully submitted this 9th day of July, 2008.

/s/ Christopher A. Riley

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the within and foregoing **DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF EMERGENCY MOTION FOR BRIEF CONTINUANCE OF JULY 18, 2008 HEARING** with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

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This 9th day of July, 2008.

/s/Christopher A. Riley