

J. S. [Signature]
COBB COUNTY CLERK

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

MICHAEL J. MENKUS,

*

Plaintiff,

*

*

*

v.

*

CIVIL ACTION

*

FILE NO: 06-1-8834-33

DAVID A. DODD, Judge of the
Cobb County Probate Court,

*

*

*

Defendant.

*

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

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

THIRD DEFENSE

Plaintiff's suit does not present an actual controversy as required for declaratory judgment under O.C.G.A. § 9-4-2.

FOURTH DEFENSE

Plaintiff's suit is moot.

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

1.

Defendant admits paragraph 1.

2.

Defendant admits paragraph 2.

3.

Defendant admits paragraph 3.

4.

Defendant admits that Plaintiff requested a temporary renewal of his Georgia Firearms' License. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining averments of paragraph 4.

5.

Defendant admits paragraph 5.

6.

Defendant admits that Plaintiff was referred to the Clerk of the Probate Court, Charles Evans. Defendant further admits that the individuals discussed the current state of the law. Defendant denies all other averments of paragraph 6.

7.

Defendant admits paragraph 7.

8.

Defendant admits paragraph 8.

9.

Defendant admits that Plaintiff provided Evans with a copy of the said statute. Defendant denies all other averments of paragraph 9.

10.

Defendant admits paragraph 10.

11.

Defendant admits paragraph 11.

12.

Defendant admits that the Probate Court received a faxed copy of Exhibit A on October 19, 2006. Defendant further admits the Probate Court did not provide Plaintiff with a response by October 26, 2006. Defendant denies all other averments of paragraph 12.

13.

Defendant admits that the statute speaks for itself.

14.

Defendant admits paragraph 14.

15.

Defendant admits that the statute speaks for itself.

16.

Defendant admits that at this time, he is not aware of any information that would make Plaintiff ineligible for a renewal of his Georgia Firearms' License.

17.

Defendant admits paragraph 17.

18.

Defendant admits the Probate Court did not issue the temporary license immediately. Defendant denies all other averments of paragraph 18.

19.

Defendant denies that Plaintiff has not subsequently been issued a temporary renewal Georgia Firearms' License. Defendant denies all other averments of paragraph 19.

20.

Defendant denies paragraph 20.

21.

Defendant denies paragraph 21.

22.

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

23.

Plaintiff was issued a temporary Georgia Firearms' License, and Plaintiff no longer seeks a mandamus action pursuant to correspondence with the Court of November 1, 2006. (Attachment 1). Since there is no remaining justiciable issue before the Court, declaratory judgment and injunctive relief are not appropriate.

24

Defendants deny that Plaintiff is entitled to any of the relief he seeks.

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

This 27th day of November, 2006.

COBB COUNTY ATTORNEY'S OFFICE

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

By: Deborah Dance, by HLR
DEBORAH L. DANCE *w/permission*
Assistant County Attorney
State Bar No. 203765

Attorneys for Defendant

100 Cherokee Street, Suite 395
Marietta, GA 30090
770-528-4000 – Facsimile 770-528-4010

JOHN R. MONROE ATTORNEY AT LAW

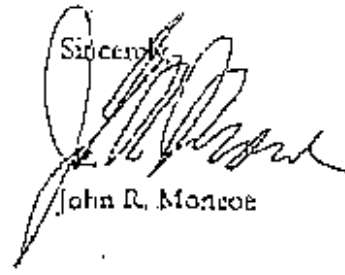
November 1, 2006

Clerk of Superior Court
30 Waddell St
Marietta GA 30090-2905

RE: **Menkus v. Dodd**
06-1-8843-33

Dear Sir/Madame:

I represent the plaintiff in the case referenced above, which is scheduled for a mandamus nisi hearing on November 15, 2006 at 8:30 before Judge Bodiford. The defendant has provided the relief requested by mandamus, so there no longer is any need for the hearing. Please note that only the hearing should be adjourned, but that the case should go forward.

Sincerely,

John R. Monroe

CC: The Hon. David A. Dodd
(Via Facsimile, 770-244-1026)
528

6640 COLLEMAN ROAD • ROSWELL, GEORGIA • 30075
PHONE: 404-582-7650 • FAX: 770-552-9318

ATTACHMENT 1

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

MICHAEL J. MENKUS,

Plaintiff,

v.

DAVID A. DODD, Judge of the
Cobb County Probate Court.

Defendant.

*
*
*
*
*
*
*
*
*
*

CIVIL ACTION
FILE NO: 06-1-8834-33

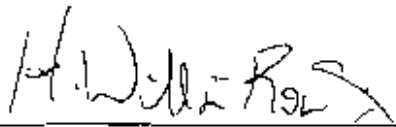
CERTIFICATE OF SERVICE

It is hereby certified that I have this day served a true and correct copy of
Answer by causing a copy of the same to be deposited in the mail with proper
postage affixed thereto and addressed as follows:

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

This the 27th day of November, 2006.

By: _____


H. WILLIAM ROWLING, JR.
Sr. Associate County Attorney
State Bar No. 617225

Attorney for Defendant

100 Cherokee Street, Suite 595
Marietta, GA 30090
770-528-4000 – Facsimile 770-528-4010