

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

MICHAEL J. MENKUS,)	
Plaintiff,)	
)	Civil Action No.
vs.)	
)	
DAVID A. DODD,)	
Judge of the Cobb)	
County Probate Court ,)	
)	
Defendant)	

VERIFIED COMPLAINT

Plaintiff Michael J. Menkus, by counsel, John R. Monroe, states the following as his Complaint:

1. Plaintiff is a natural person who resides in Cobb County, Georgia.
2. Defendant David A. Dodd is a natural person who holds the office of Judge of the Cobb County Probate Court, and has offices at 32 Waddell Street; Marietta, Cobb County, Georgia 30090.
3. On or about October 17, 2006, Plaintiff applied to Defendant to issue Plaintiff a renewal Georgia firearms license (“GFL”), pursuant to OCGA § 16-11-129.
4. At the time of his application, Plaintiff requested of the clerk processing his application that he be issued a temporary renewal GFL, pursuant to O.C.G.A. § 16-11-129(i). Plaintiff had in his possession \$1.00 to pay the fee required by O.C.G.A. § 16-11-129(i)(5).
5. The clerk processing Plaintiff’s application told Plaintiff that Defendant no longer issues temporary renewal GFLs, because of a change in the law effective July 1, 2006.

6. Plaintiff informed the clerk that the law regarding issuance of temporary renewal GFLs had not changed, and the clerk referred Plaintiff to clerk Charles Evans (“Evans”).
7. Plaintiff repeated to Evans his request that Plaintiff wished to be issued a temporary renewal GFL pursuant to O.C.G.A. § 16-11-129(i).
8. Evans told Plaintiff that because of a change in the law, Defendant no longer issues temporary renewal GFLs.
9. Plaintiff provided Evans with a current copy of O.C.G.A. § 16-11-129(i), printed out from the general assembly’s internet site, to show Evans that temporary renewal GFLs still are required by law.
10. Evans told Plaintiff that Evans would review the matter with Defendant Dodd and that Plaintiff should call him later that day.
11. On October 18, 2006, Plaintiff called Evans, and Evans returned Plaintiff’s call the same day, recording a statement stating that Defendant refuses to issue Plaintiff a temporary renewal GFL pursuant to O.C.G.A. § 16-11-129.
12. On October 19, 2006, Plaintiff’s attorney wrote Defendant a letter, sent via facsimile and email, asking Defendant to issue Plaintiff a temporary renewal GFL, and to respond in any event by October 26, 2006. A true and correct copy of the letter is attached as Exhibit 1. Defendant has not replied to the letter.
13. O.C.G.A. § 16-11-129(i)(1) provides, “Any person who holds a license under this Code section to carry a pistol or revolver may, at the time he applies for a renewal of the license, also apply for a temporary renewal license if less than 90 days

remain before expiration of the license he then holds or if his previous license has expired within the last 30 days.”

14. On October 17, 2006, there were less than 90 days remaining before expiration of Plaintiff’s GFL.
15. O.C.G.A. § 16-11-129(i)(2) requires that “Unless the judge of the probate court knows or is made aware of any fact which would make the applicant ineligible for a five-year renewal license, the judge shall at the time of application issue a temporary renewal license to the applicant.”
16. On information and belief, Defendant neither knows, nor has he been made aware of, any fact which would make Plaintiff ineligible for a five-year renewal GFL.
17. At the time of Plaintiff’s application for a renewal GFL, he also applied for a temporary renewal GFL.
18. Defendant refused to issue Plaintiff a temporary renewal GFL “at the time of application.”
19. Defendant has subsequently refused to issue Plaintiff a temporary renewal GFL, in spite of repeated requests.
20. By refusing to issue Plaintiff a temporary renewal GFL, Defendant violated the Georgia Firearms and Weapons Act, specifically O.C.G.A. § 16-11-129(i)(2).
21. If Plaintiff’s current GFL expires without receipt of a temporary renewal GFL, Plaintiff will be irreparably harmed.

Prayer for Relief

Based on the foregoing, Plaintiff demands the following relief:

1. Mandamus *nisi*, requiring Defendant to appear and show cause why mandamus absolute should not issue.
2. A writ of mandamus, ordering Defendant to issue a temporary renewal GFL to Plaintiff in the form of a paper receipt indicating the date on which the court received the renewal application and showing the name, address, sex, age, and race of the applicant without delay, for which issuance Defendant shall charge a \$1.00 fee.
3. A declaratory judgment that OCGA § 16-11-129(i) requires Defendant to issue a temporary renewal GFL to a renewal GFL applicant at the time of application for a renewal GFL, unless Defendant knows or is made aware of any fact which would make the applicant ineligible for a five-year renewal license.
4. A permanent injunction requiring Defendant to issue a temporary renewal GFL to a renewal GFL applicant if the applicant meets the requirements of O.C.G.A. § 16-11-129(i).
5. Costs to bring and maintain this action.

Dated the 27th day of October, 2006.

John R. Monroe,
Attorney for Plaintiff
9640 Coleman Road
Roswell, GA 30075
678-362-7650
State Bar No. 516193

VERIFICATION

I, Michael J. Menkus, plaintiff in this case, upon oath swear or affirm that I know of my own knowledge that the factual allegations stated in this Complaint are true, except that allegations identified as being based on information and belief are true to the best of my knowledge.

Michael J. Menkus

The above named Michael J. Menkus appeared before me on the 27th day of October, 2006, and swore and subscribed to this document in Fulton County, Georgia.

Notary Public

My commission expires _____