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ATTORNEY AT LAW

Via facsimile (770-528-1996) and email (probatecourt@cobbcounty.org)

October 19, 2006

The Hon. David A. Dodd
Probate Judge of Cobb County
32 Waddell Street
Marietta, GA 30060

RE: Mike Menkus
Refusal to Issue a Temporary Renewal Georgia Firearms License

Dear Judge Dodd:

I am writing you regarding my client, Mike Menkus, and his application for a temporary renewal Georgia firearms license (“GFL”) which your office has denied. Mr. Menkus has retained me to commence an action for mandamus against you, in order to obtain his temporary renewal GFL as required by law. I would prefer, however, to amicably resolve this matter without resorting to litigation. I am writing to inquire whether there is some sort of misunderstanding in your office about the law, and to request that you issue Mr. Menkus and all future applicants a temporary renewal GFL when requested.

On October 17, 2006, Mr. Menkus applied at your office for a renewal GFL. At the time of his application, he requested that he be issued a temporary renewal GFL pursuant to O.C.G.A. § 16-11-129(i). The clerk that took his application told him that because of changes to the law in July your office no longer issues temporary renewal GFLs. When Mr. Menkus informed the clerk that the law had not changed with respect to temporaries, and that subsection (i) was still a part of the law as amended in July, she said he would have to speak to Charles Evans., who was summoned to speak to Mr. Menkus..

Mr. Menkus again requested of Mr. Charles Evans the issuance of a temporary renewal GFL, but Mr. Evans also refused, basing his decision on a “change of law in July” that resulted in your office no longer issue temporary renewal GFLs. Mr. Menkus then provided Mr. Evans a paper copy of O.C.G.A. § 16-11-129(i) downloaded from the State of Georgia website (www.legis.ga.gov) on October 16, 2006, the subsection of the Georgia Firearms Act dealing with temporary renewal GFLs. Mr. Evans said he would discuss he matter personally with you and asked Mr. Menkus to telephone him later. On Oct 18, Mr. Menkus called Mr. Evans to learn the results of his conversation with you. Mr. Evans called back and recorded a voicemail stating that you refuse to issue a temporary renewal GFL to Mr. Menkus.

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The only modification made to the Georgia Firearms Act this year was 2006 HB 1032. That bill revised several aspects of the GFL application process in subsections (a) through (d) of O.C.G.A. §16-11-129, but notably, it did not modify O.C.G.A. § 16-11-129(i). I will not restate the entire code section here, but I wish to reiterate that O.C.G.A. § 16-11-129(i)(2) says, in part, “the judge **shall** at the time of application **issue** a temporary renewal license to the applicant . . .” (Emphasis supplied).

This language compels issuance of a temporary renewal GFL at the time of application, which was October 17, 2006. Because the language was unchanged by HB 1032, there is no basis to the assertion of your chief clerk that a change in law this year prohibits issuance of temporary renewals. The language of the statute is clear and mandatory. I ask that you reconsider your decision to refuse to issue a temporary renewal GFL to Mr. Menkus, a responsible law abiding citizen and long time Cobb County resident. Please reply by October 26, 2006. If I do not hear from you by that date that you will issue Mr. Menkus and future applicants a temporary renewal GFL upon payment of a \$1.00 fee, I shall assume that you do not intend to do so, and I shall move forward with pursuing the writ of mandamus.

Sincerely,

John R. Monroe