

COPY

IN THE SUPERIOR COURT OF CARROLL COUNTY

STATE OF GEORGIA

GEORGIACARRY.ORG, INC. and JOHN)
MILLER,)

Plaintiffs,)

v.)

CITY OF CARROLLTON,)
GEORGIA,)

Defendant.)

CIVIL ACTION FILE NO.
13CV00764

ANSWER OF DEFENDANT CITY OF CARROLLTON, GEORGIA

Defendant City of Carrollton (hereinafter the "Defendant"), by and through its undersigned counsel of record, hereby files this answer to Plaintiffs' Complaint and shows the Court as follows:

FIRST DEFENSE

Plaintiffs' Complaint and each Count contained therein fails to state a claim against Defendant upon which relief can be granted and should therefore be dismissed.

SECOND DEFENSE

Plaintiffs lack standing to assert the claims in this matter.

THIRD DEFENSE

In further defense to Plaintiff's Complaint, Defendant responds to the individually numbered paragraphs as follows:

Introduction

Paragraph 1 of Plaintiffs' Complaint is nothing more than a summary of this action, to which no factual response is required. To the extent, however, that such a factual response is required, the allegations in paragraph 1 of Plaintiffs' Complaint are denied.

2.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 2 of the Plaintiffs' Complaint, which therefore stand denied.

3.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 3 of the Plaintiffs' Complaint, which therefore stand denied.

4.

Denied as stated. Defendant admits that "it has offices at 315 Bradley Street, Carrollton, Carroll County, Georgia 30117," but Defendant states in further response that it is a municipal corporation organized and existing under the laws of the State of Georgia.

5.

Denied. Presumably, Plaintiffs are referring instead to Section 82-100(a)(4) of the Code of Ordinances, City of Carrollton, Georgia, which provides that "[n]o parade participant shall carry arms or other weapons (or facsimiles thereof), nor bricks, bats, sticks, rocks, bottles or other items which may be used as weapons."

6.

Admitted.

7.

Denied. Presumably, Plaintiffs are referring instead to Section 70-77 of the Code of Ordinances, City of Carrollton, Georgia, which provides that “[i]t shall be unlawful to possess any alcoholic beverages, illegal drugs, or non-permitted firearms on the Greenbelt Trail.”

8.

Denied. Presumably, Plaintiffs are referring instead to Section 1-11(a) of the Code of Ordinances, City of Carrollton, Georgia, which provides that “[i]n addition to any other penalties allowable under state law, any person violating or failing to comply with any provision of this Code or committing any act or omission to act declared to be an offense or unlawful, where no specific penalty is provided therefor, shall be punished by fine not exceeding \$1,000.00 or imprisonment for not more than six months, or both such fine and imprisonment in the discretion of the court.”

9.

The allegations in paragraph 9 of Plaintiffs’ Complaint refer to a document, the contents of which speak for themselves. Except as thus stated, the allegations in paragraph 9 of Plaintiffs’ Complaint are denied.

10.

Denied.

11.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 11 of the Plaintiffs’ Complaint, which therefore stand denied.

12.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 12 of the Plaintiffs’ Complaint, which therefore stand denied.

13.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 13 of the Plaintiffs' Complaint, which therefore stand denied.

14.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 14 of the Plaintiffs' Complaint, which therefore stand denied.

15.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 15 of the Plaintiffs' Complaint, which therefore stand denied.

16.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 16 of the Plaintiffs' Complaint, which therefore stand denied.

17.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 17 of the Plaintiffs' Complaint, which therefore stand denied.

18.

Defendant lacks knowledge sufficient to admit or deny the allegations contained in paragraph 18 of the Plaintiffs' Complaint, which therefore stand denied.

19.

Paragraph 19 of Plaintiffs' Complaint sets forth legal contentions that do not warrant a factual response.

20.

Paragraph 20 of Plaintiffs' Complaint sets forth legal contentions that do not warrant a factual response.

21.

Paragraph 21 of Plaintiffs' Complaint sets forth legal contentions that do not warrant a factual response.

22.

Paragraph 22 of Plaintiffs' Complaint sets forth legal contentions that do not warrant a factual response.

23.

Denied.

24.

Denied.

Count I – The Ordinances are Preempted

25.

Denied.

26.

Denied.

27.

Denied.

Count II – The Ordinances are *Ultra Vires*

28.

Denied.

Count III – The Ordinances are Void

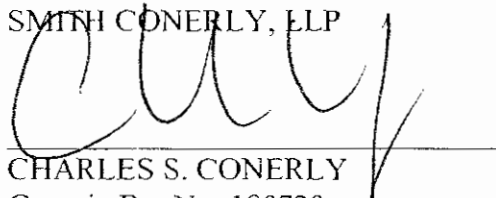
Denied.

WHEREFORE, Defendant respectfully requests pursuant to its Answer that:

- (a) Plaintiffs takes nothing by their Complaint herein;
- (b) Judgment is entered for Defendant and against Plaintiffs on all counts asserted in the Complaint;
- (c) Defendant is awarded its attorneys' fees incurred herein, as well as the costs of suit and litigation expenses; and
- (d) Defendant is awarded such other and further relief as the Court deems just and proper.

This 10 day of July, 2013.

SMITH CONERLY, LLP



CHARLES S. CONERLY

Georgia Bar No. 180720

R. CADE PARIAN

Georgia Bar No. 331408

ATTORNEYS FOR DEFENDANT CITY OF
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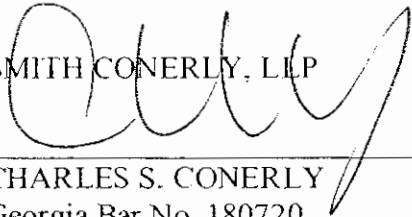
CERTIFICATE OF SERVICE

This shall certify that a copy of the foregoing **ANSWER OF DEFENDANT CITY OF CARROLLTON, GEORGIA** has been served by depositing a copy of same into the United States Mail with adequate postage affixed thereto and addressed to the following:

John R. Monroe
9640 Coleman Road
Roswell, Georgia 30075

This 10 day of July, 2013.

SMITH CONERLY, LLP



CHARLES S. CONERLY

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