

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

GEORGIA CARRY ORG., INC. and
MAHLON THEOBALD,

Plaintiffs

v.

BRIAN KABLER,

Defendant

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* Case Number: _____
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NOTICE OF REMOVAL OF CIVIL ACTION

COMES NOW, the defendant in the above styled case, and files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and respectfully show the Court the following:

1. The case of Georgia Carry Org., Inc., et al. v. Brian Kabler, was filed and is presently pending in the Superior Court of McIntosh County, Georgia, the same being Civil Action Number 12V-217.
2. Plaintiffs contend that defendant violated certain rights provided by the United States Constitution. Plaintiffs' federal claim is brought pursuant to 42 U.S.C. § 1983.
3. This Court has jurisdiction in this matter on the basis of federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and §1441(b).
4. Additionally, there is supplemental jurisdiction regarding the other claims in this action pursuant to 28 U.S.C. § 1367.
5. This Notice of Removal has been timely filed within thirty days of initial receipt of the plaintiffs' complaint by defendant, and is therefore timely pursuant to 28 U.S.C. § 1446 (b).

6. Venue properly rests in the Brunswick Division of the United States District Court for the Southern District of Georgia, as this case is being removed from the Superior Court of McIntosh County, Georgia.

7. True and correct copies of all process, pleadings and orders served in this action are attached hereto as Exhibit "A", as required by 28 U.S.C. §1446(a).

8. The defendant consents to the removal of this action to the United States District Court for the Southern District of Georgia, Brunswick Division.

This twenty-second day of October, 2012.

/s/ Richard K. Strickland

Richard K. Strickland

Georgia Bar Number: 687830

BROWN, READDICK, BUMGARTNER,
CARTER, STRICKLAND & WATKINS, LLP

Attorney for Defendant Kabler

5 Glynn Avenue

Post Office Box 220

Brunswick, GA 31521

(912) 264-8544

(912) 264-9667 FAX

rstrickland@brbcsw.com

EXHIBIT A

General Civil Case Filing Information Form (Non-Domestic)

Court Superior State County McIntosh Date Filed
 MM-DD-YYYY
 Docket # 124-27

Plaintiff(s)

GeorgiaCarry.Org, Inc.

Last	First	Middle I.	Suffix	Prefix	Maiden
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Theobald Mahlon

Last	First	Middle I.	Suffix	Prefix	Maiden
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Last	First	Middle I.	Suffix	Prefix	Maiden
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Last	First	Middle I.	Suffix	Prefix	Maiden
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No. of Plaintiffs 2

Plaintiff/Petitioner's Attorney Pro Se

Monroe John R
 Last First Middle I. Suffix

Bar # 516193

Defendant(s)

Kabler Brian

Last	First	Middle I.	Suffix	Prefix	Maiden
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Last	First	Middle I.	Suffix	Prefix	Maiden
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Last	First	Middle I.	Suffix	Prefix	Maiden
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No. of Defendants 1

2012 SEP 21 AM 11:03
 CLERK OF COURTS
 FILED IN OFFICE
 MCINTOSH COUNTY GEORGIA

Check Primary Type (Check only ONE)

- Contract/Account
- Wills/Estate
- Real Property
- Dispossessory/Distress
- Personal Property
- Equity
- Habeas Corpus
- Appeals, Reviews
- Post Judgment Garnishment, Attachment, or Other Relief
- Non-Domestic Contempt
- Tort (If tort, fill in right column)
- Other General Civil Specify _____

If Tort is Case Type:

(Check no more than TWO)

- Auto Accident
- Premises Liability
- Medical Malpractice
- Other Professional Negligence
- Product Liability
- Other Specify Civil Rights Violations

Are Punitive Damages Pleaded? Yes No

IN THE SUPERIOR COURT OF McIntosh COUNTY

STATE OF GEORGIA

**GeorgiaCarry.Org, Inc. and
Mahlon Theobald**

CIVIL ACTION
NUMBER: 12V-317

PLAINTIFF

VS.

Brian Kabler

DEFENDANT

McINTOSH COUNTY, GEORGIA
FILED IN OFFICE
2012 SEP 21 AM 11:03
Barbara W. Macdonald
CLERK OF COURTS

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**John R. Monroe
9640 Coleman Road
Roswell, GA 30075**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 21st day of Sept., 2012.


Clerk of Superior Court

By *Dawn M. Kieckhefer*
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

**SUPERIOR COURT OF MCINTOSH COUNTY
STATE OF GEORGIA**

GEORGIACARRY.ORG, INC. and)
MAHLON THEOBALD,)

Plaintiffs,)

CIVIL ACTION FILE NO.

v.)

12v-217

BRIAN KABLER,)

Defendant.)

MCINTOSH COUNTY GEORGIA
FILED IN OFFICE
2012 SEP 21 AM 11:03
Walter W. Hoodrick
CLERK OF COURTS

VERIFIED COMPLAINT

I. INTRODUCTION

1. This is in action under 42 U.S.C. § 1983 for violations of Plaintiffs' constitutional rights and under O.C.G.A. §§ 16-11-173 and 51-7-20. Plaintiff Theobald seeks damages and declaratory relief and Plaintiff GeorgiaCarry.Org, Inc. seeks declaratory relief.
2. Plaintiff Theobald is a citizen of the United States and a resident of the State of Florida. Plaintiff Theobald is a member of Plaintiff GeorgiaCarry.Org, Inc.

3. Plaintiff GeorgiaCarry.Org, Inc. ("GCO") is a corporation organized under the laws of the State of Georgia whose mission is to foster the rights of its members to keep and bear arms.
4. Defendant was, for all time relevant to this Complaint, a deputy with the McIntosh County, Georgia Sheriff's Office.
5. Just after midnight on August 3, 2012, Plaintiff Theobald was traveling in his automobile on Interstate 95 in McIntosh County, Georgia.
6. Plaintiff Theobald was wearing a handgun in a waistband holster.
7. At the time, Plaintiff Theobald had a license to carry a concealed weapon issued to him by the State of Florida.
8. Georgia has reciprocity with Florida for recognition of weapons licenses, so that Theobald's Florida license is treated by the State of Georgia as a Georgia weapons carry license ("GWL") issued pursuant to O.C.G.A. § 16-11-129.
9. At the time of the incident, Defendant was on duty as a deputy of the McIntosh County Sheriff's Office.
10. Defendant had followed Theobald from a convenience store at which Theobald had purchased gasoline, a snack, and a soft drink.

11. Defendant activated his emergency lights and initiated a traffic stop of Theobald.
12. Defendant had no reasonable, articulable suspicion to believe that Theobald had committed, was committing, or was about to commit a crime.
13. Defendant approached Theobald's vehicle and demanded to see Theobald's driver's license, which Theobald provided.
14. Theobald asked Defendant why Defendant had stopped Theobald, and Defendant responded that he would explain that to Theobald "just as soon as I see your license."
15. Defendant asked Theobald if Theobald had a weapon.
16. Theobald responded, "Do I have to answer that question?"
17. Defendant said, "Yes, pretty much. I'm going to ask if you have a weapon on you. Do you or do you not have a weapon on you?"
18. Theobald responded that he has a concealed weapons permit and provided it to Defendant.
19. Defendant looked at Theobald's licenses and told Theobald that the reason Defendant stopped Theobald was because Defendant had noticed at the convenience store that Theobald had a weapon.

20. Defendant said that Theobald has a concealed weapons permit, "which means concealed." Defendant said that Theobald's weapon was "in an open carry position."
21. Theobald verified that they were in Georgia, which Defendant confirmed. Theobald said that his understanding was that in Georgia, a firearm may be carried openly or concealed.
22. Theobald was correct in his understanding of Georgia law.
23. Defendant responded, "Why are you being evasive? I'm just asking you random questions. You're being real evasive."
24. Theobald said he did not understand why he was being questioned at all, and did not understand why Defendant had not approached him at the convenience store if Defendant had a question.
25. Defendant said it was "not a big deal," and told Theobald to "hang tight." Defendant returned to his squad car with Theobald's driver's license and weapons permit.
26. Upon information and belief, Defendant ran a background check on Theobald and found nothing amiss.

27. Defendant returned to Theobald's vehicle said, "For future reference, at any time I see a weapon, I can ask for your permit, OK?"
28. Defendant further said that he did not want to stop Theobald in the parking area of the convenience store, so "I conducted a traffic stop."
29. Defendant further said, "I can ask at any time. It is a concealed weapons permit, not an open carry permit. There is a difference in the State of Georgia."
30. Theobald asked for an incident number, and Defendant responded that there was none.
31. Defendant offered to provide Theobald a business card, which Theobald said he would like.
32. Defendant returned Theobald's driver's license and weapons permit and went to his squad car to retrieve a business card.
33. Defendant was unable to find a business card and told Theobald that Theobald was free to go.
34. Theobald asked Defendant to write down Defendant's name and department name.
35. Defendant responded, "What seems to be the problem?"

36. Theobald said he wanted the information for his reference, and that he might want to get clarification about the situation.
37. Defendant told Theobald that Theobald would not need Defendant's name or badge number to get clarification on Georgia's firearms laws.
38. Theobald asked what jurisdiction they were in, and Defendant told Theobald that it was McIntosh County, near Darien, Georgia.
39. Defendant said again that Theobald was free to go.
40. Theobald asked one more time for Defendant's name, and Defendant said he was Deputy Kabler.
41. There is no distinction between open carry and concealed carry of handguns under Georgia law.
42. No provision of Georgia law empowers law enforcement to demand a GWL of a person seen carrying a firearm.
43. Theobald travels frequently for his work, and intends to travel through McIntosh County, Georgia on a regular basis.
44. Theobald generally carries a firearm with him as he travels, in exercise of his constitutional right to keep and carry a firearm in case of confrontation.

45. GCO has other members who live in, work in, or travel through McIntosh County, who possess GWLs, and who carry firearms in exercise of their constitutional rights to keep and carry firearms.
46. Both Theobald and GCO's other members want to avoid detention and harassment by Kabler and other law enforcement officers in McIntosh County on account of carrying firearms.
47. O.C.G.A. § 16-11-173 prohibits local governments in Georgia from regulating the carrying of firearms "in any manner."

Count 1 – Violations of Fourteenth Amendment

48. By detaining Theobald without reasonable, articulable suspicion, and by demanding Theobald's driver's license and weapons permit, Defendant violated Theobald's right to be free from unreasonable seizures.
49. By telling Theobald that "for future reference," Defendant could ask to see Theobald's weapons permit any time Defendant saw a weapon, Defendant had a chilling effect on Theobald's and GCO's other members' right to bear arms in case of confrontation and have put GCO's other members' in fear of unlawful detention and harassment.

Count 2 – Violation of O.C.G.A. § 16-11-173

50. By detaining Theobald on account of Theobald's carrying of a firearm and by establishing a custom, policy, or practice of detaining anyone seen carrying a firearm, Defendant has violated O.C.G.A. § 16-11-173's prohibition against local regulation of carrying of firearms.

Count 3 – Violation of O.C.G.A. § 51-7-20

51. By detaining Theobald whereby Theobald was deprived of his personal liberty, Defendant violated O.C.G.A. § 51-7-20.

Prayer for Relief

Plaintiffs demand the following relief:

52. Damages to Theobald in an amount to be determined at trial.
53. A declaration for Theobald and GCO that a person may not be detained solely on account of that person's carrying a firearm.
54. A declaration for Theobald and GCO that a person wearing a firearm may not be detained solely to see if that person has a GWL or to run a background check on such person.
55. A declaration for Theobald and GCO that Defendant may not establish a custom, policy, or practice of detaining people on account of their carrying firearms.

- 56. Attorney's fees and costs for bringing and maintaining this action.
- 57. A jury to try to this case.
- 58. Any other relief the Court deems proper.

JOHN R. MONROE,



/s/ John R. Monroe

John R. Monroe
Attorney at Law
9640 Coleman Road
Roswell, GA 30075
Telephone: (678) 362-7650
Facsimile: (770) 552-9318
john.monroe1@earthlink.net

ATTORNEY FOR PLAINTIFFS

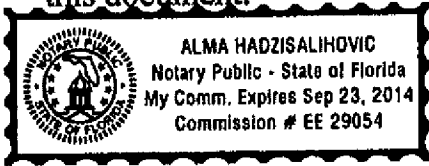
VERIFICATION

I verify under penalty of perjury that the facts alleged in this complaint are true and correct.

Mahlon Theobald

Mahlon Theobald

The above-named Mahlon Theobald appeared before me in Duval County of the State of Florida on September 15, 2012 and subscribed to this document.



Alma Hadzisalihovic

Notary Public

My commission expires: *Sept. 23, 2014*

Sharon W. Goodrich
CLERK OF COURTS

2012 SEP 21 AM 11:04

DUVAL COUNTY GEORGIA
FILED IN OFFICE

SHERIFF'S ENTRY OF SERVICE

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 12V-217
Date Filed 9-21-12

Superior Court
State Court
Juvenile Court
Magistrate Court
Probate Court

Georgia, McIntosh COUNTY

Attorney's Address
John R. Monroe
9640 Coleman Road
Roswell GA 30075

Georgia Cany. Org., Inc
+ Mablon Theoball
Plaintiff

Name and Address of Party to be Served.
Brian Kabler
McIntosh County Sheriff's Deputy
12317 Georgia Hwy 251
Darien, GA 31305

Brian Kabler
vs
Defendant

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL
NOTORIOUS
CORPORATION
TACK & MAIL
NON EST

I have this day served the defendant _____ personally with a copy of the within action and summons.

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in the County.

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This _____ day of _____, 20_____.

DEPUTY

SHERIFF'S ENTRY OF SERVICE

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 12V-217
Date Filed 9-21-12

Superior Court
State Court
Juvenile Court
Magistrate Court
Probate Court

Georgia, McIntosh COUNTY

Attorney's Address
John R. Monroe
9640 Coleman Road
Roswell GA 30075
Name and Address of Party to be Served.
Brian Kabler
McIntosh County Sheriff's Deputy
12317 Georgia Hwy 251
Darien, GA 31305

Georgia Carry. Org., Inc
+ Mahlon Theobald
Plaintiff

Brian Kabler vs.
Defendant

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL

I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in the County.

TACK & MAIL

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST

Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This _____ day of _____, 20_____.

PZ KHL 9-21-12

DEPUTY

SHERIFF DOCKET PAGE

WHITE-CLERK CANARY-PLAINTIFF PINK-DEFENDANT

SHERIFF'S ENTRY OF SERVICE

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 12V-217
Date Filed 9-21-12

Superior Court
State Court
Juvenile Court
Magistrate Court
Probate Court

Georgia, McIntosh COUNTY

Attorney's Address
John R. Monroe
9640 Coleman Road
Roswell GA 30075
Name and Address of Party to be Served.
Brian Kabler
McIntosh County Sheriff's Deputy
12317 Georgia Hwy 251
Darien, GA 31305

Georgia Carry Org, Inc.
+ Mablon Theoball
Plaintiff

Brian Kabler vs.
Defendant

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL
NOTORIOUS
CORPORATION
TACK & MAIL
NON EST

I have this day served the defendant Kabler / Atty. Adam Pappell personally with a copy of the within action and summons.

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, residing at the residence of defendant.

Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in the County.

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 21 day of Sept, 2012.

[Signature]
DEPUTY

2012 OCT 22 AM 11:21
CLERK OF COURTS
McIntosh County Georgia
FILED IN OFFICE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

GEORGIA CARRY ORG., INC. and
MAHLON THEOBALD,

Plaintiffs

v.

BRIAN KABLER,

Defendant

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*
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*
*
*
*
*

* Case Number: _____

CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties with a copy of the foregoing pleading,
by depositing same in the United States mail with adequate postage thereon to assure delivery to:

John R. Monroe, Esquire
9640 Coleman Road
Roswell, GA 30075

This twenty-second day of October, 2012.

/s/ Richard K. Strickland
Richard K. Strickland
Georgia Bar Number: 687830
Attorney for Defendant Kabler
BROWN, READDICK, BUMGARTNER,
CARTER, STRICKLAND & WATKINS, LLP
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(912) 264-9667 FAX