

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

GEORGIACARRY.ORG, INC.,

Plaintiff,

v.

**STONE MOUNTAIN MEMORIAL
ASSOCIATION**

Defendant.

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CIVIL ACTION NO. 08CV5812-6

VERIFIED ANSWER AND DEFENSES

COMES NOW, Stone Mountain Memorial Association (“SMMA”), Defendant in the above-styled civil action by and through the Attorney General of the State of Georgia Thurbert E. Baker, and files this its Verified Answer and Defenses to the Plaintiff’s Verified Complaint (“Complaint”) as follows:

Affirmative Defenses

FIRST AFFIRMATIVE DEFENSE

The Complaint fails, in whole or in part, to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff lacks standing to bring the claims set forth in the Complaint.

THIRD AFFIRMATIVE DEFENSE

This Court lacks subject matter jurisdiction over the Plaintiff's claims.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of Sovereign Immunity.

FIFTH AFFIRMATIVE DEFENSE

The Complaint is barred under the Eleventh Amendment.

SIXTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are moot.

SEVENTH AFFIRMATIVE DEFENSE

SMMA is not a person under 42 U.S.C. § 1983.

EIGHTH AFFIRMATIVE DEFENSE

Subject to and without waving its foregoing defenses, for its Eighth Defense, SMMA responds to the allegations within the individually numbered paragraphs of the Complaint as follows:

1. The first sentence of Paragraph 1 of the Complaint is an explanatory statement by the Plaintiff and as such requires no response from SMMA. SMMA denies the allegations contained in the second sentence of Paragraph 1 of the Complaint.
2. SMMA lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint. To the extent a response is required, SMMA denies the allegations contained in Paragraph 2 of the Complaint.
3. SMMA admits the allegations contained in Paragraph 3 of the Complaint.
4. Paragraph 4 of the Complaint contains a partial quote of a statute which speaks for itself and as such requires no response from SMMA.

5. SMMA admits that the Plaintiff wrote a letter that made allegations as set forth in Paragraph 5 of the Complaint.

6. Paragraph 6 of the Complaint references a letter which speaks for its self and as such requires no response from SMMA.

7. SMMA lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint. To the extent that a response is required, SMMA denies the allegations contained in Paragraph 7 of the Complaint.

8. SMMA lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint. To the extent that a response is required, SMMA denies the allegations contained in Paragraph 8 of the Complaint.

9. Paragraph 9 of the Complaint contains a quoted portion of SMMA's Ordinance 4-104 which speaks for itself and as such requires no response from SMMA.

10. Paragraph 10 of the Complaint contains a quoted portion of SMMA's Ordinance 4-106 which speaks for itself and as such requires no response from SMMA.

11. SMMA denies that it routinely prosecutes violators and confiscates firearms from violators. SMMA admits the remaining allegations contained in Paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint contains a quote of a statute which speaks for itself and as such requires no response from SMMA.

13. Paragraph 13 of the Complaint quotes the Georgia Constitution which speaks for itself and as such requires no response from SMMA.

14. Paragraph 14 of the Complaint quotes the Georgia Constitution which speaks for itself and as such requires no response from SMMA.

15. SMMA admits that the General Assembly has made laws for the carrying and possession of firearms. SMMA denies the remaining allegations contained in Paragraph 15 of the Complaint.

16. SMMA admits the allegations contained in Paragraph 16 of the Complaint.

Count I – The Ordinances are Preempted, Ultra Vires, Void, and Unenforceable

SMMA restates, realleges and reaffirms each of its above responses to Paragraphs 1 through 16 of the Complaint above as if set forth in full herein.

17. SMMA denies the allegations contained in Paragraph 17 of the Complaint.

18. SMMA denies the allegations contained in Paragraph 18 of the Complaint.

19. SMMA denies the allegations contained in Paragraph 19 of the Complaint.

20. SMMA denies the allegations contained in Paragraph 20 of the Complaint.

21. Paragraph 21 of the Complaint consists of a legal conclusion and as such requires no response from SMMA. To the extent a response is required, SMMA denies the allegations contained in Paragraph 21 of the Complaint.

22. SMMA denies the allegations contained in Paragraph 22 of the Complaint.

23. SMMA denies the allegations contained in Paragraph 23 of the Complaint.

24. SMMA denies the allegations contained in Paragraph 24 of the Complaint.

25. SMMA lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint. To the extent a response is required, SMMA denies the allegations contained in Paragraph 25 of the Complaint.

26. SMMA denies the allegations contained in Paragraph 26 of the Complaint.

COUNT II – Civil Rights Violations

SMMA restates, realleges and reaffirms each of its above responses contained in Paragraphs 1 through 26 of the Complaint as if set forth in full herein.

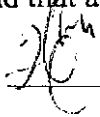
27. Paragraph 27 contains a quoted portion of the Fourteenth Amendment to the United States Constitution which speaks for itself and as such requires no response from SMMA.

28. SMMA denies the allegations contained in Paragraph 28 of the Complaint.

SMMA denies any and all other allegations in the Complaint not referred to herein specifically, denies all prayers of the Plaintiff, and denies that the Plaintiff is entitled to recover against SMMA in this case.

THIS DEFENDANT DEMANDS A TRIAL BY A TWELVE (12) PERSON JURY
ON ANY ISSUE OF FACT NOT CAPABLE OF RESOLUTION AS A MATTER OF
LAW.

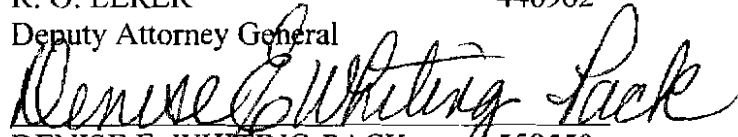
WHEREFORE, having fully answered the allegations in the Complaint, SMMA denies that the Plaintiff is entitled to any of its requests as set forth in the individually numbered paragraphs 29 through 37 under the section of the Complaint entitled "Prayer for Relief." Furthermore, SMMA states that the Plaintiff is not entitled to relief in any form, content or amount. SMMA denies any and all other allegations in the Complaint not specifically responded to herein. SMMA prays that the Complaint be dismissed with prejudice and that all fees and court costs be taxed to the Plaintiff in their entirety.

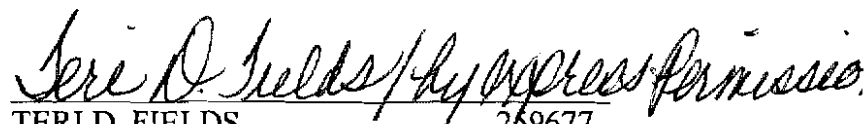
This  day of June 2008.

Respectfully submitted,

THURBERT E. BAKER 033887
Attorney General

R. O. LERER 446962
Deputy Attorney General


DENISE E. WHITING-PACK 558559
Senior Assistant Attorney General

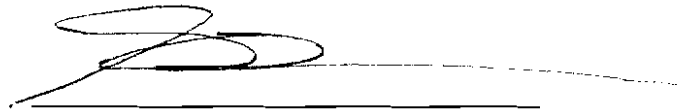

TERI D. FIELDS 259677
Assistant Attorney General

PLEASE ADDRESS ALL
COMMUNICATIONS TO:

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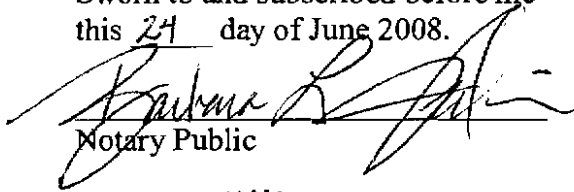
VERIFICATION

The undersigned, G. Curtis Branscome, C.E.O., Stone Mountain Memorial Association, being first duly sworn, deposes and says that he has read and is familiar with the foregoing Verified Answer and that the responses stated therein are true and correct to the best of his knowledge and belief.

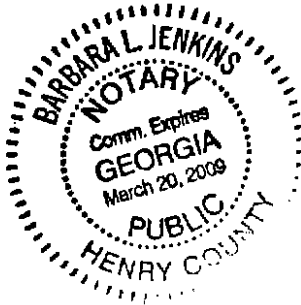


G. Curtis Branscome
C.E.O., Stone Mountain Memorial
Association

Sworn to and subscribed before me
this 24 day of June 2008.




Notary Public




CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the within and foregoing **VERIFIED ANSWER AND DEFENSES** by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

John R. Monroe
Attorney for Plaintiff
9640 Coleman Road
Roswell, Georgia 30075

This  day of June 2008.


TERI D. FIELDS 735037
Assistant Attorney General *permission*