

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

|                                  |   |                                  |
|----------------------------------|---|----------------------------------|
| DEACON MORRIS                    | ) |                                  |
| AND                              | ) |                                  |
| FIREARMS POLICY COALITION, INC., | ) |                                  |
| Plaintiffs,                      | ) |                                  |
|                                  | ) | Civil Action No. SPCV25-00883-KA |
| v.                               | ) |                                  |
|                                  | ) |                                  |
|                                  | ) |                                  |
| THE MAYOR AND ALDERMAND OF       | ) |                                  |
| THE CITY OF SAVANNAH, GEORGIA,   | ) |                                  |
| Defendant.                       | ) |                                  |

**BRIEF IN SUPPORT OF PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY  
 JUDGMENT**

Plaintiffs Deacon Morris (“Morris”) and Firearms Policy Coalition, Inc. (“FPC”) (collectively, “Plaintiffs”) commenced this action after Defendant Mayor and Alderman of the City of Savannah (“Savannah”) passed ordinances regulating firearms in parked vehicles within the city and after Savannah issued a citation against Morris for an alleged violation of the ordinances, causing Morris to suffer damages. Plaintiffs now move for partial summary judgment pursuant to O.C.G.A. § 9-11-56. A party may move for summary judgment at any time after 30 days from the commencement of the action. O.C.G.A. § 9-11-56(a). Summary judgment may be rendered on the issue of liability alone even though there is a genuine issue as to the amount of damage. O.C.G.A. § 9-11-56(c); *Automated Print, Inc. v. Edgar*, 288 Ga.App. 326, 329 (2007). A party may move for summary judgment that will not fully adjudicate a case. O.C.G.A. § 9-11-56(d). The essence of a motion for summary judgment is that there is no genuine issue of material fact to be resolved by the trier of facts and that the movant is entitled to judgment on the law applicable to the established facts. *Mcarty v. National Life & Accident Ins. Co.*, 107 Ga.App. 178 (1962).

### **Statement of Material Facts**

On or about April 11, 2024, the Savannah city council passed new ordinances, Sections 9-1027 and 9-1028, regulating “Report of Theft or Loss of a Firearm, Rifle, or Shotgun” and “Secured Storage of Firearms, Rifles, and Shotguns in Parked Vehicles”, respectively (“the Ordinances”). Certified Copy of Ordinance filed August 24, 2025. On or about April 15, 2024, the mayor of Savannah signed the Ordinances into law. *Id.* Section 9-1027 requires the owner of a firearm that is lost or stolen to report the loss or theft to the Savannah Police Department within 24 hours. Certified copy of Ordinances. *Id.* Section 9-1028(a) requires every person who possesses a firearm within a vehicle to store such firearm in a glove compartment, console, locked trunk or area behind the last upright seat in a vehicle when the vehicle is unoccupied. *Id.* Section 9-1028(b) requires every person with a firearm in a vehicle to ensure the firearm is not visible at any time when the vehicle is unoccupied. *Id.* Section 9-1028(c) requires every person with a firearm in a vehicle to ensure that all doors and hatches are locked when the vehicle is unoccupied. *Id.* Violations of the Ordinance are punishable by a fine of up to \$1,000 and imprisonment of up to 6 months. *Id.*

Deacon Morris is a natural person who resides in Savannah, Chatham County, Georgia. Affidavit of Deacon Morris, ¶ 3. Morris is a resident, citizen, and taxpayer of Savannah. *Id.*, ¶ 4. Morris is a “lawful weapons carrier” as that term is used in O.C.G.A. § 16-11-125.1. *Id.*, ¶ 5. Morris is a member of FPC. *Id.*, ¶ 6. FPC is a nonprofit membership organization incorporated in Delaware with a primary place of business in Clark County, Nevada. Affidavit of Brandon Combs, ¶ 4. FPC works to create a world of maximal human liberty and freedom and to promote and protect individual liberty, private property, and economic freedoms. *Id.*, ¶ 5. FPC seeks to protect, defend, and advance the People’s rights, especially but not limited to the inalienable,

fundamental, and individual right to keep and bear arms and protect the means by which individuals may exercise the right to carry and use firearms. *Id.*, ¶ 6. FPC serves its members and the public through legislative advocacy, grassroots advocacy, litigation and legal efforts, research, education, outreach, and other programs. *Id.*, ¶ 7. FPC’s members reside both within and outside the city of Savannah. *Id.*, ¶ 8.

On May 3, 2024, Attorney General Christopher Carr wrote a letter to Savannah City Attorney Bates Lovett (the “Letter”). In the Letter, Attorney General Carr observed that, had Savannah consulted his office before promulgating the ordinances, “our analysis would have concluded that the ordinances directly conflict with, and are preempted by, state law.” The Letter. Attorney General Carr continued, “[b]ecause the City of Savannah lacks authority to regulate the possession, ownership, and transportation of firearms, this Office’s view is that the ordinances are ultra vires and void.” *Id.* The Letter is being filed contemporaneously with this Brief for the Court’s convenience.

On August 9, 2024, the Savannah Police Department issued a citation to Morris for a violation of Section 9-1028(c) (the “Citation”). Affidavit of Deacon Morris, ¶ 7. FPC undertook the costs of Morris’s legal representation in defense against the Citation. Affidavit of Brandon Combs, ¶ 9. On October 4, 2024, Morris filed a general demurrer to the citation, on various grounds including that the Ordinance was ultra vires and void. Affidavit of Deacon Morris, ¶ 8. On October 28, 2024, the Chatham County Recorder’s Court called the case, and Savannah orally announced it would enter a *nolle prosequi* and give Morris a warning. *Id.*, ¶ 9. FPC incurred additional expenses defending Morris because Savannah did not dismiss the case prior to the date the case was set for Morris’s arraignment and motions. Affidavit of Brandon Combs, ¶ 10.

On November 12, 2025, the Recorder’s Court of Chatham County, the Hon. Brian Joseph Huggman, Jr. presiding, entered an Order Sustaining Demurrer in *State v. Papp*, Case No. RCCR24-19404 (the “Order”)<sup>1</sup>. In *Papp*, Savannah charged the defendant with violating § 9-1028. The Order. The defendant filed a general demurrer and in the Order the Court sustained the demurrer, finding the Ordinance was preempted by O.C.G.A. § 16-11-173. *Id.* The Court also found the Ordinance violated the Second Amendment to the United States Constitution.<sup>2</sup> *Id.* The Order is being filed contemporaneously with this Brief for the Court’s convenience.

### **Applicable Law**

O.C.G.A. § 16-11-173(a) states, “It is declared by the General Assembly that the regulation of firearms is properly an issue of general, state-wide concern.” O.C.G.A. § 16-11-173(b)(1) states, “No county or municipal corporation, by zoning or by ordinance, resolution, or other enactment, shall regulate in any manner gun shows; the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or components of firearms; firearms dealers; or dealers in firearms components.”

Article IX, Section II, Paragraph I(a) of the Georgia Constitution states, in pertinent part, “The governing authority of each county shall have legislative power to adopt clearly reasonable ordinances...for which no provision has been made by general law.... This, however, shall not restrict the authority of the General Assembly by general law to further define this power or to ... limit ... the exercise thereof.” Article III, Section VI, Paragraph IV(a) of the Georgia

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<sup>1</sup> Plaintiffs believe the caption in the Order erroneously listed the State as the plaintiff. Because this was a prosecution for violating a Savannah ordinance, the plaintiff in that case was Savannah. This clerical error has no bearing on the substance of the Order.

<sup>2</sup> Given the finding of preemption, the Court’s finding of unconstitutionality was unnecessary and a moot question. *State v. Randall*, 318 Ga. 79, 81 (2024). Plaintiffs in the present case do not challenge the constitutionality of the Ordinances in this matter beyond noting that they are *ultra vires*.

Constitution states, “Laws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law....”

O.C.G.A. § 16-11-173(g) provides for a private right of action by anyone “aggrieved by a violation of [O.C.G.A. § 16-11-173].” O.C.G.A. § 16-11-173(g) provides that the “aggrieved person shall be entitled to reasonable attorney’s fees and expenses of litigation.” O.C.G.A. § 16-11-173(g)(1) provides for the recovery of damages of not less than \$100.

### **Argument**

#### **1. The Ordinances Are Preempted**

O.C.G.A. § 16-11-173(a) states, “It is declared by the General Assembly that the regulation of firearms is properly an issue of general, state-wide concern.” Thus, the General Assembly has declared its policy that firearms regulation is not a local concern but that firearms laws are to have uniform operation throughout the state. *See also* Ga.Const. Art. III, § VI, ¶ IV (providing that local laws cannot be enacted when the object of the local law is already the object of a general law). Thus, because the General Assembly has declared “regulation of firearms” to be the object of general law, there can be no local laws regulating firearms. *Cheatham v. Palmer*, 176 Ga. 227 (1933) (a local law is invalid if it deals with a subject as to which a provision has already been made by a general law); *Atlanta v. Hudgins*, 193 Ga. 618, 629 (1942) (a special law dealing with the subject that has already been dealt with by an existing general law can not stand under the constitution.) Every local law is special relatively to a general law. *Hudgins, Id.*

More specifically, O.C.G.A. § 16-11-173(b)(1) states:

No county or municipal corporation, by zoning or by ordinance, resolution, or other enactment, shall regulate in any manner gun shows; the possession,

ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or components of firearms; firearms dealers; or dealers in firearms components.

This state statute expressly preempts the Ordinance because any local ordinance that regulates in any manner the possession, transport, or carrying of firearms is invalid. As if to emphasize the point, the General Assembly left to cities only three very narrow exceptions to the state law preemption of firearms regulation, none of which are applicable here. Those three exceptions are:

- (1) regulation of City employees while they are actually working;
- (2) regulations *requiring* heads of households within the City to own and maintain a firearm, and
- (3) reasonable regulation of the actual discharge of weapons within the City.

*See* O.C.G.A. § 16-11-173 (c), (d), and (e).

The Ordinances are preempted because they do not seek to regulate the City's employees while they are at work; they do not require heads of households to own and maintain firearms; and they do not pertain to the discharge of firearms. The legislature made no exception for ordinances regarding possession of firearms in motor vehicles. "It is a well-established canon of statutory construction that the inclusion of one implies the exclusion of others." *Sturm, Ruger & Co. v. City of Atlanta*, 253 Ga. App. 713, 721, 560 S.E.2d 525, 531 (2002). "By expressly authorizing local governments" to exercise one power, "the legislature impliedly preempted all other" powers. *Id. City of Atlanta v. SWAN Consulting & Security Servs., Inc.*, 274 Ga. 277, 553 S.E.2d 594 (2001) ("By expressly authorizing additional local regulation ...in that limited instance, the Act impliedly preempts the City's regulation" outside of that instance). *See also*

*GeorgiaCarry.Org, Inc. v. Coweta County* (2007) (holding that the preemption statute preempts county ordinance banning carrying firearms in county recreation areas).

By regulating how firearms may be possessed in motor vehicles, Savannah is regulating firearms, which it is prohibited from doing by virtue of O.C.G.A. § 16-11-173(a). Moreover, Savannah also is regulating the possession, transport, and carrying of firearms, all of which are preempted by § 16-11-173(b).

Moreover, Ga. Const. Art. III, § VI, ¶ IV(a) provides, “[N]o local or special law shall be enacted in any case for which provision has been made by an existing general law.” The Constitution therefore withholds from Savannah the power to make any laws pertaining to firearms, because the General Assembly has made a provision for regulating firearms by existing general law.

## 2. The Attorney General’s Briefs Support Plaintiffs

Savannah did not heed the advice or conclusions of the Attorney General’s Letter, when four months later it cited Morris for violating the Ordinances. Savannah cited the defendant in *Papp* just a few days later. In the face of Savannah’s intransigence, the Attorney General’s took the most unusual step on July 28, 2025, of filing an *amicus curiae* brief in this case in support of Morris and FPC (“Brief of A.G.”). In the Brief of A.G., the Attorney General observed that he is the chief law enforcement officer of the State of Georgia and he is charged with enforcing and defending the State’s laws. Brief of A.G., p. 1. He stated, the “ordinances are preempted by the laws of the State of Georgia and are, therefore, invalid.” *Id.*

In support of this conclusion, the Attorney General said that the General Assembly has occupied the field of firearms regulation by enacting O.C.G.A. § 16-11-173, so that the “field must thereafter be reserved exclusively to general legislation and cannot be open to special or local

laws.” Brief of A.G., p. 2, citing *Franklin County v. Fieldale Farms Corp.*, 270 Ga. 272, 273 (1998). The Attorney General concluded that, by virtue of Ga. Const. Art. III, § VI, ¶ IV(a) (“[N]o local or special law shall be enacted in any case for which provision has been made by an existing general law.”), “this Court should declare Sections 9-1027 and 9-1028 of the City of Savannah’s Ordinances ultra vires and void.” Brief of A.G., p. 2. The Attorney General urged this Court to grant Plaintiffs’ requested relief of declaratory and injunctive relief and damages. *Id.*, p. 3.

Undeterred by the Attorney General’s Letter and then the Brief, on August 26, 2025, Savannah filed a response in opposition to the Brief of A.G. (“Response to A.G.”). In its Response to A.G., Savannah admitted to the basic facts of the Ordinances. Response to A.G., p. 2. Savannah insists, however, that the Ordinances are not preempted. *Id.* Savannah concedes that its powers are strictly construed and any doubt concerning the existence of a particular power must be resolved against it. *Id.*

Savannah defends the Ordinances by arguing that they do not regulate firearms, but instead regulate unoccupied vehicles. In the alternative, Savannah argues that the Ordinances regulate the *storage* of firearms, which Savannah claims is not preempted.

On August 28, 2025, the Attorney General filed a reply brief (“Reply of A.G.”). In his Reply, the Attorney General counters that the Ordinances regulate firearms. Reply of A.G., p. 2. He points out that Ordinance § 9-1027 requires reporting of stolen firearms but no other stolen property. *Id.* He further shows that Ordinance § 9-1028 dictates how firearms may be transported in a vehicle. *Id.*, p. 3. If a firearm is in a parked vehicle, the firearm must be securely stored, out of view, and in a locked vehicle. *Id.* The Attorney General points out that all these regulations apply only when a firearm is present. *Id.*

The Attorney General also responds to Savannah’s argument that O.C.G.A. § 16-11-173 does not mention *storage* of firearms. He notes, “[I]mposing obligations [on] those who *own* or *possess* firearms as to how those firearms must be kept in a vehicle is a regulation of the *possession, ownership, transport, and carrying* of a firearm. *Id.* (emphasis in original). After further discussion of Savannah’s arguments, the Attorney General once again urges this Court to declare the Ordinances void. *Id.*, p. 5.

### 3. Savannah’s Reading of the Ordinances is Novel and Unpersuasive

As noted above, Savannah makes the unusual argument that it is not regulating firearms, only unoccupied vehicles. It borders on the frivolous to say that a requirement to report a stolen firearm is not a regulation of firearms, or even that a regulation of the circumstances under which firearms can be left in unoccupied vehicles is not a regulation of firearms. The logical extension of Savannah’s position would enable Savannah to regulate all aspects of firearms possession and use merely by regulating some ancillary activity.

Consider, for example, if Savannah decided it wanted to ban firearms in its many parks? That seems problematic, given that the Court of Appeals has said such bans are preempted by O.C.G.A. § 16-11-173. *GeorgiaCarry.Org, Inc. v. Coweta County*, 288 Ga.App. 748, 748 (2007). But under Savannah’s logic, it could just pass an ordinance that instead regulates *being in a park*, so that no one can be in a park if he has a firearm. Savannah would be regulating use of a park, not possession of firearms. And if that is okay, Savannah could just ban guns in the city by prohibiting being present in the city with a gun—after all, that would be regulating being in the city, not possessing firearms.

As the foregoing examples illustrate, Savannah actually is regulating firearms. The key component of the Ordinances—what makes them firearms regulations—is that they are dependent

on the presence of firearms for their application. If a car has to be parked in a certain way, but only when a firearm is present, the Ordinances regulate firearms. If stolen property has to be reported, but only if the property is a firearm, the Ordinances regulate firearms. And the Court of Appeals has ruled that Savannah may not regulate firearms, even indirectly. *Sturm, Ruger & Co. v. City of Atlanta*, 253 Ga.App. 713, 718 (2002) (“The practical effect of the preemption doctrine is to preclude all other local or special laws on the same subject. That the City has filed a lawsuit rather than passing an ordinance does not make this any less a usurpation of State power. The City may not do indirectly that which it cannot do directly.”)

#### 4. Remedies

Plaintiffs have shown they are entitled to judgment as to liability of Savannah. The Ordinances plainly are preempted, *ultra vires*, and void. The question then becomes the appropriate remedies to be applied. Plaintiffs request a declaration that the Ordinances are preempted, *ultra vires*, and void. Despite the overwhelming authority against it, Savannah continues to defend the present case. Apparently, Savannah does not intend to cease enforcing the Ordinances voluntarily, so declaratory relief is necessary “to settle and afford [Plaintiffs] relief from uncertainty and insecurity with respect to rights, status, and other legal relations....” O.C.G.A. § 9-4-1. The proper scope of declaratory judgment is to adjudge those rights among parties upon which their future status depends. *Fourth Street Baptist Church v. Board of Registrars*, 253 Ga. 368, 369 (1984). In the present case, Plaintiffs are concerned about their future actions in Savannah when it comes to guns and automobiles. They therefore need declaratory relief to determine their future status.

Plaintiffs also seek injunctive relief, but they will wait for a hearing on damages to argue that point. In January 2026, the General Assembly passed a bill (SB 204) that amends O.C.G.A.

§ 16-11-173 so that it explicitly prohibits cities from regulating storage of firearms. The bill has not yet been signed by the governor and has not become law. Savannah Mayor Van Johnson has been quoted in the press as saying Savannah will cease enforcing the Ordinances if the governor signs the bill. If, before the Court holds a hearing on Plaintiffs' request for damages and attorney's fees and costs, Savannah does not stop enforcing the Ordinances, Plaintiffs also request a hearing on the issuance of an injunction against enforcement of the Ordinances.

Plaintiffs also seek damages. Both Morris and FPC have suffered damages as a result of Savannah's issuance of a citation to Morris, and those damages were exacerbated by Savannah's failure to dismiss the citation until the day set for Morris' trial. Damages that are unliquidated generally cannot be determined without a hearing. *Pure Hospitality Solutions, Inc. v. Canouse*, 347 Ga.App. 592, 596 (2018). Plaintiffs therefore request a hearing on damages.

Finally, Plaintiffs seek an award of attorney's fees and expenses of litigation under O.C.G.A. § 16-11-173(g) ("The aggrieved person shall be entitled to reasonable attorney's fees and expenses of litigation...") Plaintiffs ask that the Court rule that Plaintiffs are entitled to an award of attorney's fees and expenses of litigation and that the amount of such fees and expenses shall be determined at the same hearing as the hearing on the amount of damages.

### **Conclusion**

Plaintiffs have shown that they are entitled to a declaration that the Ordinances are preempted, void, and ultra vires. They ask for declaration to that effect and a ruling that they are entitled to an award of attorney's fees and expenses, in an amount to be determined at a hearing at which Plaintiffs also may prove their damages. Plaintiffs also ask for a hearing on their request for an injunction if Savannah has not ceased enforcement of the Ordinances by the time of the hearing.

/s/ John R. Monroe

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John R. Monroe,  
John Monroe Law, P.C.  
Attorneys for Plaintiffs  
156 Robert Jones Road  
Dawsonville, GA 30534  
678-362-7650  
State Bar No. 516193  
[jrm@johnmonroelaw.com](mailto:jrm@johnmonroelaw.com)