

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS

VERSUS

KRISTI JENNINGS

* SUIT NO. 2015-3771 B
*
* 14th JUDICIAL DISTRICT COURT
*
* PARISH OF CALCASIEU
*
* STATE OF LOUISIANA

EX PARTE PETITION TO MAKE COMPLIANCE ORDER(S) EXECUTORY
PURSUANT TO LA. R.S. 40:6(G)

The petition of Dr. Jimmy Guidry, M.D., in his official capacity as State Health Officer, Louisiana Department of Health and Hospitals (“DHH”), Office of Public Health, through undersigned counsel, respectfully represents:

FILED **SEP 18 2015**
Delorse Costare
Deputy Clerk of Court
Calcasieu Parish, Louisiana

1.

Dr. Jimmy Guidry, State Health Officer for DHH, Office of Public Health, is granted jurisdiction and authority to enforce the State Sanitary Code (Louisiana Administrative Code Title 51) pursuant to La. R.S. 40:4 and R.S. 40:5, including enforcement of compliance orders pursuant to LSA R.S. 40:6(G).

2.

Made defendant herein is **Kristi Jennings** (hereinafter “Defendant”), a person of full age of majority domiciled in Calcasieu Parish, Louisiana.

3.

Defendant is the owner of the house and premises located at 954 Green Moore Road, Starks, Louisiana 70661.

4.

A Compliance Order issued pursuant to La. R.S. 40:4, 40:5, 40:6, and Sanitary Code Part I, §111, signed by Dr. Jimmy Guidry, State Health Officer, and J.T. Lane, DHH Assistant Secretary for the Office of Public Health, was hand delivered to Defendant on July 15, 2013. A certified copy of said Compliance Order, which bears the DHH-assigned number OPH-2013-OW-006, together with all attachments thereto, is attached to this petition as **Exhibit DHH-A**. The process server’s return associated with the hand delivery of Compliance Order No. OPH-2013-OW-006 is attached hereto as **Exhibit DHH-B**.

5.

As more particularly described therein, Compliance Order No. OPH-2013-OW-006 was issued only after DHH personnel conducted various inspections and provided Defendant with all

notice(s) required under Sanitary Code Part I.

6.

Compliance Order No. OPH-2013-OW-006 was issued to Kristi Jennings because she failed, after numerous notices and other attempts by DHH to obtain voluntary compliance, to comply with Sanitary Code Part XIII, §303(A), which states that:

A person, who owns, operates, manages, or otherwise controls any premises, shall provide for sewage disposal in a manner which is in compliance with this Code.

7.

As noted in the exhibits attached to Compliance Order No. OPH-2013-OW-006, the onsite sewerage treatment system presently in use at Defendant's house has no proper cover, and the associated waste plumbing lines are also in disrepair. Therefore, both the holding tank and broken plumbing lines are leaking sewage onto the ground. These conditions are in violation of Sanitary Code Part XIII, §305(A), which states that:

Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard.

8.

Upon being properly served with Compliance Order No. OPH-2013-OW-006, Defendant submitted a hand written request to DHH for an administrative appeal of said Compliance Order. The associated request for appeal is attached hereto as **Exhibit DHH-C**.

9.

DHH subsequently submitted the request for an appeal to the Division of Administrative Law ("DAL"). The DAL sent a hearing notice on November 12, 2014, to Kristi Jennings, notifying her that her hearing was scheduled for January 13, 2015, at 9:00 a.m. Kristi Jennings did not appear for the hearing and the DAL subsequently issued a dismissal of the appeal in accordance with Louisiana Revised Statute 49:955(D). The DAL Order Terminating Adjudication is attached hereto as **Exhibit DHH-D**.

10.

As noted therein, a Post Order Inspection Report ("POIR"), attached hereto as **Exhibit DHH-E**, conducted and completed by DHH personnel on July 1, 2015, and served upon Kristi Jennings via hand delivery on the same date, as evidenced by the process server's return attached hereto as **Exhibit DHH-F**, shows that the Defendant is still in violation.

11.


The Defendant has not complied with all of the actions required by Compliance Order No. OPH-2013-OW-006. DHH is thus entitled to an ex parte judgment making Compliance Order No. OPH-2013-OW-006 a judgment of the district court and making the judgment executory, pursuant to La. R.S. 40:6(G).

12.

Petitioner also suggests that the filing of this Petition and attached documents should be free from payment of any costs of court or other security bonds pursuant to La. R.S. 40:31, which exempts the Department of Health and Hospitals, and its agents and subdivisions, from court costs in any suit.

WHEREFORE, petitioner Dr. Jimmy Guidry, State Health Officer, Louisiana Department of Health and Hospitals ("DHH"), Office of Public Health, prays that Compliance Order No. OPH-2013-OW-006 be made executory in this court, pursuant to La. R.S. 40:6(G), that all costs of these proceedings be taxed against the defendant, and for all other general and equitable relief warranted.

Respectfully Submitted:



David L. McCay (Bar Roll No. 23527)
La. Department of Health and Hospitals
Bureau of Legal Services
P.O. Box 3836
Baton Rouge, Louisiana 70821-3836
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LOUISIANA DEPARTMENT OF
HEALTH AND HOSPITALS

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SUIT NO. 2015-3771

14th JUDICIAL DISTRICT COURT

VERSUS

PARISH OF CALCASIEU

KRISTI JENNINGS

STATE OF LOUISIANA

AFFIDAVIT

FILED SEP 18 2015

STATE OF LOUISIANA

Delaine Castani
Deputy Clerk of Court
Calcasieu Parish, Louisiana

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:

Dr. Jimmy Guidry, State Health Officer

who, after being duly sworn, did depose and state:

That he is the petitioner in the above and foregoing petition, that he has read the above-captioned petition, and that all of the allegations of fact contained therein are true and correct to the best of his information, knowledge, and belief.

Jimmy Guidry MD

Jimmy Guidry, M.D.

SWORN TO AND SUBSCRIBED before me, Notary Public, on this 16th day of September, 2015.

D. L. McCay

NOTARY PUBLIC
DAVID L. McCAY
LA BAR ROLL #23527
NOTARY PUBLIC, STATE OF LOUISIANA
MY COMMISSION IS FOR LIFE.

LOUISIANA DEPARTMENT OF
HEALTH AND HOSPITALS

VERSUS

KRISTI JENNINGS

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SUIT NO. 2015-3771
14th JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU
STATE OF LOUISIANA

JUDGMENT

The court, having reviewed the above and foregoing petition, together with all exhibits and affidavits attached thereto, finds the law and evidence in favor of plaintiff, Louisiana Department of Health and Hospitals, and against the defendant, Kristi Jennings (whose date-of-birth and social security number are unknown to plaintiff). Accordingly:

IT IS ORDERED, ADJUDGED, AND DECREED that Compliance Order No. OPH-2013-OW-006, issued by the Louisiana Department of Health and Hospitals to Kristi Jennings, a copy of which is attached hereto, is hereby made an executory judgment of this court.

SIGNED in chambers this 21st day of September, 2015, at
Lake Charles, Louisiana.

S/ Clayton Davis
JUDGE, 14th Judicial District Court

PLEASE SERVE NOTICE, PETITION WITH ATTACHMENTS, AND JUDGMENT ON:

Kristi Jennings
954 Green Moore Road
Starks, Louisiana 70661

SEP 18 2015
FILED
Delane Castani
Deputy Clerk of Court
Calcasieu Parish, Louisiana