

IN THE  
CIRCUIT COURT OF BARRY COUNTY  
STATE OF MISSOURI

2008 08 29 AM 10:30

STATE OF MISSOURI ex rel. )  
JEREMIAH W. (JAY) NIXON, Attorney )  
General of Missouri, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SONI COPELAND, )  
d/b/a Herb Depot & Organic Market, )  
 )  
Defendant. )

Case No. 08BR-CC00096

Please serve: Soni Copeland  
c/o Herb Depot & Organic Market  
600 Bridle Lane  
Monett, Missouri 65708

**VERIFIED PETITION FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

Plaintiff, by and through Attorney General Jeremiah W. (Jay) Nixon and Assistant Attorney General Mary Moulton Bryan, states the following as its Petition for Preliminary and Permanent Injunctive Relief, pursuant to §196.953.<sup>1</sup>

**Allegations Common to All Counts**

1. Jeremiah W. (Jay) Nixon is the duly elected, qualified, and acting Attorney General of the State of Missouri and brings this action in his official capacity pursuant to §196.953.

2. Section 196.953 provides.

... the attorney general of the state ... is authorized to apply to any court of competent jurisdiction for, and the court shall have jurisdiction upon hearing

<sup>1</sup> All statutory references are to the Revised Statutes of Missouri, 2000, unless otherwise noted.

and for cause shown to grant, a temporary or permanent injunction to restrain any person, partnership, corporation, or association from violating any provisions of sections 196.931 through 196.953.

3. Defendant Soni Copeland ("Copeland") does business as "Herb Depot & Organic Market".

4. Herb Depot & Organic Market is located at 600 Bridle Lane in Monett, Barry County, Missouri.

5. Venue is proper before this Court pursuant to §508.010.

6. Section 196.935 forbids the sale of raw milk except in limited circumstances that are inapplicable here.

7. Section 196.935 provides:

No person shall sell, offer for sale, expose for sale, transport, or deliver any graded fluid milk or graded fluid milk products in this state unless the milk or milk products are graded and produced, transported, processed, manufactured, distributed, labeled and sold under the state milk inspection and the same has also been produced or pasteurized as required by regulation authorized by section 196.939 and under the proper permits issued thereunder. Only pasteurized graded fluid milk and fluid milk products as defined in subdivision (3) of section 196.931 shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments, except an individual may purchase and have delivered to him for his own use raw milk or cream from a farm.

8. The statute provides a limited exception that allows a dairy farmer to sell raw milk directly from the farm premises where the milk originated or to personally deliver raw milk directly to the purchaser.

9. As explained in Attorney General Opinion No. 113-73,<sup>2</sup> raw milk cannot be sold to the general public from a distribution center located away from the farm premises where the milk was produced.

10. At the beginning of May 2008, officials with the Missouri State Milk Board and the Missouri Department of Health and Senior Services received information that Copeland had sold raw goat milk to at least two individuals.

11. Copeland did, in fact, sell raw goat milk to at least two individuals.

12. Copeland does not own or operate the farm from which the raw goat milk referenced in the immediately-preceding paragraph was produced.

13. Raw milk and products made with it have not gone through the pasteurization process.

14. The pasteurization process kills harmful organisms by heating the milk to a specific temperature for a set length of time.

15. Raw milk potentially contains a wide variety of harmful bacteria including Salmonella, Escherichia coli ("E.coli"), Listeria, Campylobacter and Brucella, all of which can cause serious illness and possibly even death.

16. Young children, the elderly, pregnant women and immune-compromised individuals, as compared to the general population, are at especially high risk to develop infections from consuming raw dairy products.

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<sup>2</sup> Attorney General Opinion No. 113-73 is attached hereto as Exhibit A and incorporated herein by reference. This Opinion was issued shortly after the General Assembly amended §196.935 to add the exception for purchases of unpasteurized milk.

Count I

17. Plaintiff incorporates herein by reference paragraphs 1 through 16.
18. Copeland sold raw goat milk to Consumer A.<sup>3</sup>
19. Copeland sold the raw goat milk referenced in the immediately-preceding paragraph through her business known as "Herb Depot & Organic Market".
20. Copeland encouraged Consumer A to have her one-year-old son drink the raw goat milk.
21. Consumer A followed Copeland's suggestion.
22. Consumer A's son consumed the raw goat milk on or about April 21, 2008
23. On or about April 25, 2008, Consumer A's son began passing bloody diarrhea.
24. Within days of consuming raw goat milk, Consumer A's son developed Hemolytic-uremic syndrome.
25. Hemolytic-uremic syndrome initiates an inflammatory reaction leading to acute renal failure and possible death.
26. Consumer A's son was transported to a hospital in St. Louis where he was admitted as a patient and underwent treatment, including dialysis, for three weeks.
27. Copeland violated §196.935 by purchasing raw goat milk from the farm premises where it was produced and then reselling it to Consumer A.
28. Plaintiff is at risk to suffer irreparable damage to public health, safety and welfare because Copeland's violations of §196.935 pose a substantial and ongoing health risk.

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<sup>3</sup> "Consumer A" is a pseudonym being used in this pleading in place of the consumer's real name, and is being done in order to protect her, and her child's, privacy.

29. Plaintiff has no adequate remedy at law. Preliminary and permanent injunctive relief should issue against Copeland.

30. Section 526.070 provides that no bond is required as Plaintiff brings this suit on its own behalf.

WHEREFORE, Plaintiff prays this Court to order the following relief:

- a) An Order of this Court finding that the Copeland has violated the provisions of §196.935.
- b) A Preliminary and Permanent Injunction issued pursuant to §196.953, prohibiting and enjoining Copeland and her agents, employees, representatives, and other individuals acting at her direction or on her behalf, who have notice of the Injunction, from selling, offering for sale, exposing for sale, transporting or delivering any raw milk or raw milk products in violation of §196.935.
- c) An Order of this Court awarding Plaintiff its attorney fees and costs.
- d) Any such other relief that is necessary and appropriate under the circumstances.

## Count II

31. Plaintiff incorporates herein by reference paragraphs 1 through 30.

32. Copeland sold raw goat milk to Consumer B.<sup>4</sup>

33. Copeland sold the raw goat milk referenced in the immediately-preceding paragraph through her business known as "Herb Depot & Organic Market".

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<sup>4</sup> "Consumer B" is a pseudonym being used in this pleading in place of the consumer's real name, and is being done in order to protect her, and her child's, privacy.

34. Copeland encouraged Consumer B to have her one-year-old son drink the raw goat milk.

35. Consumer B followed Copeland's suggestion.

36. Consumer B's son consumed the raw goat milk on or about April 29 and 30, 2008

37. On or about May 2, 2008, Consumer B's son began to suffer from stomach cramps, bloody diarrhea, a fever and vomiting.

38. Within days of consuming raw goat milk, Consumer B's son developed an infection associated with harmful E.coli bacteria.

39. Copeland violated §196.935 by purchasing raw goat milk from the farm premises where it was produced and then reselling it to Consumer B.

40. Plaintiff is at risk to suffer irreparable damage to public health, safety and welfare because Copeland's violations of §196.935 pose a substantial and ongoing health risk.

41. Plaintiff has no adequate remedy at law. Preliminary and permanent injunctive relief should issue against Copeland.

42. Section 526.070 provides that no bond is required as Plaintiff brings this suit on its own behalf.

WHEREFORE, Plaintiff prays this Court to order the following relief:

- a) An Order of this Court finding that the Copeland has violated the provisions of §196.935.
- b) A Preliminary and Permanent Injunction issued pursuant to §196.953, prohibiting and enjoining Copeland and her agents, employees, representatives, and other individuals acting at her direction or on her behalf, who have notice of the Injunction, from selling,

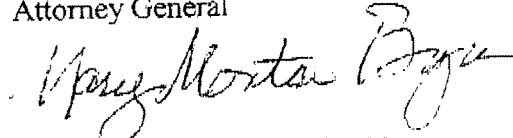
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offering for sale, exposing for sale, transporting or delivering any raw milk or raw milk products in violation of §196.935.

- c) An Order of this Court awarding Plaintiff its attorney fees and costs.
- d) Any such other relief that is necessary and appropriate under the circumstances.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
Attorney General



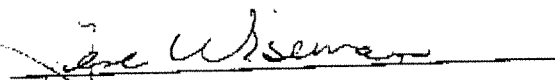
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Assistant Attorney General  
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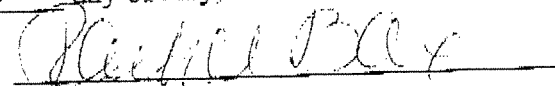
State of Missouri )  
                          )       ss  
County of Cole     )

**VERIFICATION**

Comes now, Gene Wiseman, Executive Secretary of the Missouri State Milk Board, and states on his oath that the allegations contained in the foregoing Petition are true to the best of his knowledge and belief.

  
Gene Wiseman

Subscribed and sworn to before me this 3 day of July, 2008.

  
Notary Public

My commission expires: December 1, 2008



RACHEL BAX  
My Commission Expires  
December 1, 2008  
Miller County  
Commission #04644063

MILK:  
FARMERS:  
DAIRIES:  
AGRICULTURE:

Section 4 of House Bill No. 1280 prohibits a dairy farmer from selling raw milk to the general public from a distribution center set up by the dairy farmer and located away from his farm premises.

OPINION NO. 113

March 29, 1973

Honorable R. Wendell Bailey  
Representative, District 152  
Room 100-C, State Capitol Building  
Jefferson City, Missouri 65101

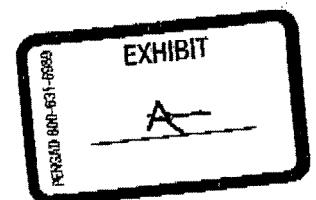
Dear Representative Bailey:

This is in response to your request for an opinion as to whether or not Section 4 of House Bill No. 1280, 76th General Assembly, prohibits a dairy farmer from selling raw milk to the general public from a distribution center set up by the dairy farmer at a location other than his farm premises.

House Bill No. 1280, Section 4, provides as follows:

"No person shall sell, offer for sale, expose for sale, transport, or deliver any graded fluid milk or graded fluid milk products in this state unless the milk or milk products are graded and produced, transported, processed, manufactured, distributed, labeled and sold under state milk inspection and the same has also been produced or pasteurized as required by a regulation authorized by section 6 of this act and under proper permits issued thereunder. Only pasteurized graded fluid milk and fluid milk products as defined in section 2(4) shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; except an individual may purchase and have delivered to him for his own use raw milk or cream from a farm."

It is obvious that this section prohibits the sale of milk in this state unless it has been produced in accordance with regulations issued pursuant to this statute and under proper permits as



Honorable R. Wendell Bailey

issued thereunder, with the limited exception allowing an individual to purchase raw milk or cream directly from the farm premises where it originated and have it delivered to him for his own use.

CONCLUSION

It is the opinion of this office that Section 4 of House Bill No. 1280 prohibits a dairy farmer from selling raw milk to the general public from a distribution center set up by the dairy farmer and located away from his farm premises.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard L. Wieler.

Yours very truly,



JOHN C. DANFORTH  
Attorney General