

LOUISIANA DEPARTMENT OF HEALTH

SUIT NO. 167038 D

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21st JUDICIAL DISTRICT COURT

VERSUS

PARISH OF LIVINGSTON

GOD'S TABLE, LLC, EUNICE BUNCH, AND DANIELLE BUNCH

STATE OF LOUISIANA

**PETITION FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY, AND PERMANENT INJUNCTION**

The petition of **Jimmy Guidry, M.D.**, duly appointed State Health Officer ("SHO") of the Louisiana Department of Health ("LDH"), Office of Public Health ("OPH"), acting with the concurrence of the Secretary of LDH and appearing herein through undersigned counsel, respectfully represents:

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PARISH OF LIVINGSTON
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1.

Made defendants herein are **God's Table, LLC** (hereinafter "God's Table"), a Louisiana limited liability company domiciled in Livingston Parish, whose registered address is 1449 Cottonwood Drive, Denham Springs, Louisiana 70762, **Eunice Bunch**, on information and belief a resident of and domiciled in Livingston Parish, and **Danielle Bunch**, on information and belief a resident of and domiciled in Livingston Parish (hereinafter collectively "Defendants").

2.

God's Table is the owner of Firehouse BBQ restaurant, located at 33875 LA-16, Denham Springs, LA 70706 (hereinafter the "Facility"). The Facility is a "food establishment" as that term is defined in Louisiana Sanitary Code (LAC Title 51) Part XXIII, §101.

3.

Per the website of the La. Secretary of State, Defendant Eunice Bunch is a Manager/Member and the registered agent of the LLC.

4.

Defendant Danielle Bunch has represented to LDH personnel that she is an owner/member of the LLC.

5.

On or about July 22, 2020, OPH Sanitarian Jennifer Taylor telephoned and spoke with Danielle Bunch regarding several complaints LDH and/or the State Fire Marshal had received concerning a "Masks Not Required" sign taped to the front door of the Facility. Ms. Taylor

explained that pursuant to the declared state of emergency and/or public health emergency related to the COVID-19 pandemic, Louisiana Governor John Bel Edwards has issued Proclamation Number 89 JBE 2020 (hereinafter "Proclamation 89 JBE 2020"), which requires the wearing of masks/face coverings and spacing of tables, as set forth therein, at the Facility and similar places of public accommodation. A copy of Proclamation 89 JBE 2020 is attached hereto as **Exhibit A**. Ms. Taylor thereafter emailed information from the OpenSafely.la.gov website concerning the mask/face covering and table spacing requirements for restaurants to Danielle Bunch (see attached **Exhibit B**).

6.

On July 27, 2020, Ms. Taylor conducted an inspection of the Facility to determine compliance with the applicable requirements of Proclamation 89 JBE 2020. The inspection report that Ms. Taylor prepared that day, a copy of which is attached hereto as **Exhibit C**, noted non-compliance with the mask/face covering and table spacing requirements of Proclamation 89 JBE 2020. The inspection occurred early/mid-afternoon, at a time that the Facility had customers. Ms. Taylor observed that none of the approximately five (5) employees present in the facility, including those in the kitchen and including Danielle Bunch, were wearing masks/face coverings. Ms. Taylor also noted that the aforementioned "Masks Not Required" sign, which she took a photo of (see attached **Exhibit D**), was still taped to the door when Ms. Taylor left the Facility.

7.

While there at the Facility on July 27, 2020, Ms. Taylor discussed the inspection report with Danielle Bunch, who expressed a willingness to undertake the required table distancing requirements, but an unwillingness to enforce the mask/face covering requirements with respect to her employees or customers. Ms. Taylor provided a copy of the inspection report to Danielle Bunch, but did not require that she sign it as "received"-- due to COVID-19, LDH has largely adopted a "no touch" policy concerning inspection reports.

8.

As noted above, Jimmy Guidry, M.D., is the "State Health Officer", designated as such by the Secretary of LDH pursuant to La. R.S. 40:2.

9.

Pursuant to La. R.S. 40:5(A)(2), the State Health Officer has authority "to take such action as is necessary to accomplish the subsidence and suppression of diseases of all kinds in order to

prevent their spread.”

10.

La. R.S. 40:4(A)(13) provides that:

(13) The state health officer, through the office of public health, shall be expressly empowered and authorized to issue emergency rules and orders when necessary and for the purposes of controlling nuisances dangerous to the public health and communicable, contagious, and infectious diseases, and any other danger to the public life, health, and safety.

Authority to issue Emergency Orders pursuant to said statute is expressly recognized in Sanitary Code Part I §115 (“Emergency Situations”).

11.

Pursuant to the authority set forth in the above-noted statutes, on July 31, 2020, Dr. Jimmy Guidry, with the concurrence of the LDH Secretary, issued an Emergency Order to the Defendants, a copy of which is attached hereto as **Exhibit E** (hereinafter “the Emergency Order”). As noted therein, the Emergency Order was issued based upon Dr. Guidry’s determination that the failure and refusal of the Defendants to comply with the mask/face covering requirements of Proclamation 89 JBE 2020 constitutes a serious and imminent danger to the public health.

12.

The Emergency Order was served on Danielle Bunch on July 31, 2020 by LDH sanitarian Abraham Anderson, as evidenced by the Process Server’s return attached hereto as **Exhibit F**.

13.

As noted therein, the Emergency Order ordered the Defendants to cease operations at the Facility immediately.

14.

As a procedural mechanism to augment the ordered cessation of operations, the Emergency Order also suspended the food establishment permit previously issued by LDH to God’s Table. Said permit, a copy of which is attached hereto as **Exhibit G**, included the following pertinent language (emphasis added):

The applicant agrees to comply with the relevant provisions of Title 51 of the Louisiana Administrative Code **and all other applicable laws and regulations.**

15.

The Emergency Order contains language stating that:

... The abatement actions necessary for the lifting of this order to be considered are:

- The Facility must mandate the wearing of masks by its employees and patrons/customers as required by the applicable La. Governor's Executive Orders or Proclamations, provide and maintain table spacing compliant with applicable La. Governor's Executive Orders or Proclamations, and sign an Agreement or Acknowledgment of same.

When Abraham Anderson served the Emergency Order, he offered Defendants the opportunity to have it lifted, that same day, by signing an Agreement to Comply, a copy of which is attached hereto as **Exhibit H**. Defendants refused to sign the Agreement to Comply or to otherwise indicate or assure that they would comply. Defendants have since indicated on Facebook and to local Baton Rouge area media that they do not intend to comply with the Emergency Order or with the mask/face covering requirements of Proclamation 89 JBE 2020, which Defendants have characterized on the Facility's Facebook page as "illegal mandates." Copies of said Facebook posts are attached hereto as **Exhibit I**.

16.

La R.S. 40:4(B)(4) provides that:

(4) Nothing in this Section shall prohibit the state health officer acting through the office of public health, with the concurrence of the secretary of the Louisiana Department of Health, from seeking civil injunctive relief from a district court to assist in enforcing emergency orders when there exists serious and imminent danger to the public health. The proceeding before the district court shall be an adversary proceeding, and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with other provisions of state or federal law or regulations.

17.

Pursuant to La R.S. 40:4(B)(4) LDH is entitled to an Injunction enforcing the Emergency Order, because it addresses a serious and imminent danger to the public health, and because the actions ordered therein (suspension of permit and cessation of operations) are not inconsistent with other laws nor beyond the control of Defendants.

18.

Because the injunction sought is expressly authorized by statute and the actions of Defendants are in violation of law, a showing of irreparable injury is not required. LDH avers,

however, that due to the nature of the Defendants' conduct as set forth herein, irreparable harm to the public health, in the form of unnecessary risk of additional spread of COVID-19, is presently occurring and will continue to occur before a preliminary injunction hearing can be held in this matter.

19.

LDH is additionally or alternatively entitled to injunctive relief based on La. R.S. 40:6(C)(2):

(2) The secretary of the Louisiana Department of Health or the state health officer may also petition the court to seek injunctive relief for violations of the state Sanitary Code.

Because the Emergency Order suspended the permit to operate as a food establishment issued by LDH to God's Table, the Defendants' continued operation of the Facility is in direct violation of Sanitary Code Part XXIII §501, which prohibits the operation of a food establishment without a valid permit from the State Health Officer.

20.

Because such injunctive relief is expressly provided for by La. R.S. 40:6(C)(2), and because the Defendants' actions are expressly prohibited by law, there is no requirement that LDH demonstrate irreparable harm. As noted above, LDH avers that irreparable harm is occurring.

21.

Pursuant to La. R.S. 13:4581, LDH is not required to furnish the security otherwise required by La. Code of Civil Procedure Article 3610 for the issuance of injunctive relief.

22.

Defendants should be ordered to show cause why a preliminary writ of injunction should not issue herein restraining, enjoining, and prohibiting Defendants from disobeying the Emergency Order and from operating the Facility.

23.

Because of the serious, imminent, and irreparable threat to public health, a Temporary Restraining Order should issue herein restraining, enjoining, and prohibiting Defendants from disobeying the Emergency Order and from operating the Facility.

24.

In due course, a final injunction should issue herein in the form and substance of the preliminary writ of injunction.

25.

Venue is proper in Livingston Parish pursuant to La. Code of Civil Procedure Art. 42.

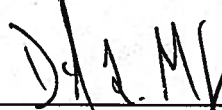
26.

LDH's filing of this Petition and attached/related documents should be free from payment of any costs of court in accordance with La. R.S. 40:31, which exempts LDH, and its agents and subdivisions, from court costs in any suit.

WHEREFORE, the premises considered, the State Health Officer prays that this court issue the following Orders:

1. That a Temporary Restraining Order issue herein according to law, directed to Defendants, restraining, enjoining, and prohibiting Defendants from disobeying the Emergency Order attached to this petition as Exhibit E, and from operating the Facility, until further order of this court;
2. That Defendants be duly Ordered to show cause on a day and at a time to be fixed by this Court, why a Preliminary Injunction in the form and substance of the Temporary Restraining Order prayed for above should not issue herein;
3. That after all due proceedings be had, there be Judgment herein that a Preliminary Injunction be issued as prayed for herein;
4. That Defendants be duly cited to appear and answer this Petition, and that after due proceedings be had, Judgment be entered herein in favor of Plaintiff, LDH, and against Defendants, perpetuating the said Preliminary Injunction and making it permanent in the form and substance of the Preliminary Injunction mentioned hereinabove; and
5. That the bond required by C.C.P. Art. 3610 be waived.

Respectfully Submitted:



David L. McCay (Bar Roll No. 23527)
Neal R. Elliott (Bar Roll No 24084)
Stephen R. Russo (Bar Roll No. 23284)
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LOUISIANA DEPARTMENT OF HEALTH

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SUIT NO. _____

21st JUDICIAL DISTRICT COURT

VERSUS

PARISH OF LIVINGSTON

GOD'S TABLE, LLC, EUNICE BUNCH,
AND DANIELLE BUNCH

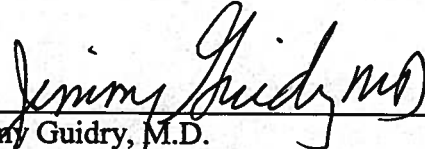
STATE OF LOUISIANA

VERIFICATION/AFFIDAVIT

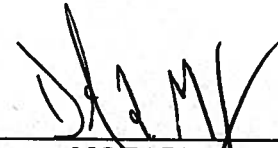
BEFORE ME, the undersigned Notary, personally came and appeared Jimmy Guidry, M.D., who did depose and state that he is the LDH/OPH State Health Officer, appointed pursuant to La. R.S. 40:2, and that all of the allegations contained in the foregoing Petition for Temporary Restraining Order, Preliminary, and Permanent Injunction are true and correct to the best of his knowledge, information and belief.

Who did further state that in his opinion as State Health Officer, the failure of the owners of Firehouse BBQ restaurant to comply with the mask/face covering and/or table spacing requirements contained in Proclamation 89 JBE 2020 constitutes a serious and imminent danger to the public health, warranting the ordered closure of the restaurant.

THUS DONE AND PASSED before me, the undersigned Notary, this 7th day of August, 2020, at Baton Rouge, Parish of East Baton Rouge, State of Louisiana.



Jimmy Guidry, M.D.
LDH State Health Officer



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

LOUISIANA DEPARTMENT OF HEALTH

VERSUS

GOD'S TABLE, LLC, EUNICE BUNCH, AND DANIELLE BUNCH

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SUIT NO. _____

21st JUDICIAL DISTRICT COURT

PARISH OF LIVINGSTON

STATE OF LOUISIANA

CERTIFICATE

Pursuant to Louisiana Code of Civil Procedure Article 3603(A)(2), undersigned counsel certifies to the Court that the Defendants God's Table, LLC, Eunice Bunch, and Danielle Bunch, have been informed of the intent to apply for the requested Temporary Restraining Order by U.S. Mail postage prepaid on the 7th day of August, 2020.

Additionally, undersigned counsel certifies that because of the public health implications noted in the accompanying Petition and included Verification/Affidavit of the State Health Officer, particularly the risk of additional spread of COVID-19, issuance of a TRO without notice is warranted.

Thus read and signed this 7th day of August, 2020.

Respectfully Submitted:

David L. McCay (Bar Roll No. 23527)
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Attorneys for LDH

LOUISIANA DEPARTMENT OF HEALTH
VERSUS
GOD'S TABLE, LLC, EUNICE BUNCH,
AND DANIELLE BUNCH

* SUIT NO. 107630 D
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* 21st JUDICIAL DISTRICT COURT
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* PARISH OF LIVINGSTON
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* STATE OF LOUISIANA
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ORDER

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Considering the foregoing Petition for Temporary Restraining Order, Preliminary and Permanent Injunction filed by Petitioner, the Louisiana Department of Health:

IT IS ORDERED that, in accordance with the court's determination that the requirements of La. C.C.P. Art. 3603 have been met, such that granting a TRO without notice is warranted, a **TEMPORARY RESTRAINING ORDER** be and is hereby issued, without bond, this 7th day of August, 2020 at 3:30 P. M., restraining, enjoining, and prohibiting **God's Table, LLC, Eunice Bunch, and Danielle Bunch** ("Defendants") from disobeying the Emergency Order issued by the State Health Officer to God's Table, LLC on July 31, 2020, a copy of which is attached hereto, and accordingly restraining, enjoining, and prohibiting Defendants from operating Firehouse BBQ restaurant, located at 33875 LA-16, Denham Springs, LA 70706, until further order of the court. As used in this Order, the term "operating" includes the serving, selling, or preparation of any "food" as that term is defined in Sanitary Code (La. Administrative Code Title 51) Part XXIII §101.

IT IS FURTHER ORDERED that the Defendants, **God's Table, LLC, Eunice Bunch, and Danielle Bunch** appear and show cause on the 18th day of August, 2020, at 2:00 o'clock, P. M., at the Livingston Parish Courthouse, 20300 Government Blvd., Livingston, LA 70754, Courtroom _____ why a preliminary injunction should not be issued restraining, enjoining, and prohibiting Defendants from disobeying the above described Emergency Order, and accordingly restraining, enjoining, and prohibiting Defendants from operating Firehouse BBQ restaurant, located at 33875 LA-16, Denham Springs, LA 70706, until further order of the court; and why the Defendant should not be cast with all costs of these proceedings.

