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Dr. Sandra M. Hewlett
Audrain County Health Department
1130 South Elmwood
Mexico, MO 65265

April 20, 2020

Via U.S. Mail and e-mail shewlett@audraincountyhealth.org

In Re: Cease and Desist Demand

Dear Dr. Hewlett,

This office has been contacted and retained by Mexico Strength & Fitness, LLC, a fitness club in Mexico Missouri.

You have issued what are purported to be "shutdown" orders generally in the County, which purport to require various businesses, including my client's, to shut down, due to the threat of the so called COVID-19 virus. As of this date, there has apparently been a total of ONE case of COVID-19 in Audrain County, Missouri, which was identified two days ago, well after your initial shut down orders were issued.

Be advised, you have no authority, under the existing Statutes, Rules, Regulations or Constitution of the State of Missouri, or Audrain County, to issue such a mandatory order, I note that none is cited in your purported orders, and I was unable to find any public record of one being enacted. I also note that Governor Parson's directives are voluntary, to the extent they even apply, not mandatory. Thus, your "orders" are "illegal orders" usurping authority that you simply do not have, to the substantial detriment of my client. Notably, no COVID-19 cases have been identified at my client's business.

When pressed, instead of providing a legal basis for your purported order, I am advised that you simply threatened to go to various persons and try to have business licenses revoked. Of course, absent a court proceeding, and a prior published ordinance, this would violate basic due process and/or the *ex post facto* clauses of both the U.S. and Missouri Constitutions.

Be advised, within 48 hours of your receipt of this letter, you are DIRECTED to CEASE AND DESIST any and all attempts to enforce this, or any other "shutdown" order on Mexico Strength & Fitness, LLC, including on its owners, officers, agents and employees. This would include, but not be limited to, any attempt by you, or your office, to have any other person or office revoke necessary licenses to operate, which would violate basic Constitutional Due process, under the Fourth and Fourteenth Amendments. I

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note there is no COVID-19 exception to the Bill of Rights, and it is irrational to shut down an entire county of healthy people because one solitary case of a flu like disease has been identified in the County.

My client intends to re-open his facility 48 hours after your receipt of this letter.

If, or your office, continues to try to enforce this, or any other, "shutdown" order on Mexico Strength & Fitness, LLC, more than 48 hours after your receipt of this letter, this office will file suit against you personally, your office, and anyone else you are acting in concert with, on behalf of Mexico Strength & Fitness, LLC, under 42 U.S.C. 1983, seeking, *inter alia*, an injunction, as well as costs and attorney fees, pursuant to 42 U.S.C. 1988.

Within this 48 hours, I encourage you to speak with your legal counsel, and once you do so, we would appreciate a response that you and your office will take no action against my client for re-opening. If we do not hear from you, we will presume that a lawsuit is necessary, filing and serving same without any other prior notice to you.

Very truly yours,



Thomas G. Maag

Mr. Pilger:

This is Ann Hagan, attorney for the Audrain County Department of Health. Dr. Hewlett asked for me to respond to your recent email.

"A gym is considered a non essential business under the Stay at Home Order issued by the Governor through the Missouri Department of Health and Senior Services. This was based on guidance developed by the U. S. Department of Homeland Security. This was a state-wide effort to prevent and control the spread of COVID-19.

To the Health Department's knowledge, every gym in the County voluntarily closed, except Mexico Strength & Fitness. The Health Department received phone calls about Mexico Strength & Fitness. Dr. Hewlett and staff met with Mr. Tracy Graham and Mr. Gib Graham at the gym and it closed voluntarily.

Due to ongoing discussions, Dr. Hewlett checked with the Director of the Missouri Department of Health and Senior Services, Dr. Randall W. William's office, and his Counsel, and they also confirmed that a gym was not an essential business. Two days before the new guidelines came out the business reopened. The business posted that it was going to meet the guidelines.

It is the duty of the Audrain County Health Officer to protect the Health of the citizens of the County. That is what the Audrain County Department of Health shall continue to do. We hope all businesses are following the guidelines published by the Missouri Department of Health and Senior Services to stop the spread so no family has to unnecessarily lose a loved one. "

No further comment. Thank you.