

STATE OF MICHIGAN JUDICIAL DISTRICT 30th JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>	CASE NO. <i>15-574-CZ</i>
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Court address: 313 W. Kalamazoo Street, Lansing, MI 48933

**JUDGE JAMES S. JAMO**

Court telephone no. (517) 483-6500

Plaintiff's name(s), address(es), and telephone no(s).  
 Michigan Department of Agriculture and Rural Development  
 525 West Allegan Street  
 Lansing, MI 48913

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Plaintiff's attorney, bar no., address, and telephone no.  
 Danielle Allison-Yokom (P70950)  
 Kelly M. Drake (P59071)  
 Assistant Attorneys General, ENRA Division  
 P.O. Box 30755, Lansing, MI 48909  
 (517) 373-7540

v Defendant's name(s), address(es), and telephone no(s).  
 Hill High Dairy, LLC  
 Resident Agent: Joseph J. Golimbieski  
 2366 South M-76  
 Standish, MI 48658

**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

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3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued <i>JUL 14 2015</i>	This summons expires <i>OCT 13 2015</i>	Court clerk <i>FARA DUFFEY</i>
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This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.

**Family Division Cases**

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.

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**VENUE**

Plaintiff(s) residence (include city, township, or village) Lansing, Ingham County, MI	Defendant(s) residence (include city, township, or village) Standish, Arenac County, MI
Place where action arose or business conducted Standish, Arenac County, MI	

07/14/2015  
Date

*Danielle Allison-Yokom*  
Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

STATE OF MICHIGAN JUDICIAL DISTRICT 30th JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>	CASE NO. <span style="font-size: 1.5em; color: blue;">15-574-C2</span>
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Court address: 313 W. Kalamazoo Street, Lansing, MI 48933  
 Court telephone no. (517) 483-6500

JUDGE JAMES S. JAMO

Plaintiff's name(s), address(es), and telephone no(s). Michigan Department of Agriculture and Rural Development 525 West Allegan Street Lansing, MI 48913
Plaintiff's attorney, bar no., address, and telephone no. Danielle Allison-Yokom (P70950) Kelly M. Drake (P59071) Assistant Attorneys General, ENRA Division P.O. Box 30755, Lansing, MI 48909 (517) 373-7540

v	Defendant's name(s), address(es), and telephone no(s). B J's Cow Boarding, LLC Resident Agent: Brenda L. Golimbieski 2366 South M-76 Standish, MI 48658
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07/14/2015  
Date

*Danielle Allison-Yokom*  
Signature of attorney/plaintiff

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 Danielle Allison-Yokom (P70950)  
 Kelly M. Drake (P59071)  
 Assistant Attorneys General, ENRA Division  
 P.O. Box 30755, Lansing, MI 48909  
 (517) 373-7540

Defendant's name(s), address(es), and telephone no(s).  
 v Joseph J. Golimbieski  
 2366 South M-76  
 Standish, MI 48658

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07/14/2015  
 Date *Danielle Allison-Yokom*  
Signature of attorney/plaintiff

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 Michigan Department of Agriculture and Rural Development  
 525 West Allegan Street  
 Lansing, MI 48913

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Plaintiff's attorney, bar no., address, and telephone no.  
 Danielle Allison-Yokom (P70950)  
 Kelly M. Drake (P59071)  
 Assistant Attorneys General, ENRA Division  
 P.O. Box 30755, Lansing, MI 48909  
 (517) 373-7540

v

Defendant's name(s), address(es), and telephone no(s).  
 Brenda L. Golimbieski  
 2366 South M-76  
 Standish, MI 48658

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 Date

*Danielle Allison Yokom*  
 Signature of attorney/plaintiff

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STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30<sup>TH</sup> JUDICIAL CIRCUIT  
INGHAM COUNTY

MICHIGAN DEPARTMENT OF  
AGRICULTURE AND RURAL  
DEVELOPMENT,

Plaintiff,

v

HILL HIGH DAIRY, LLC, B J'S COW  
BOARDING, LLC, JOSEPH GOLIMBIESKI,  
and BRENDA GOLIMBIESKI,

Defendants.

File No. 15- 574 -CZ

HON.

JUDGE JAMES S. JAMO

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Danielle Allison-Yokom (P70950)  
Kelly M. Drake (P59071)  
Assistant Attorneys General  
Environment, Natural Resources, and  
Agriculture Division  
Attorneys for Michigan Department of  
Agriculture and Rural Development  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540

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There are no other civil actions arising from the facts or  
occurrences pending before this Court or previously  
dismissed between the parties.

**COMPLAINT**

Plaintiff Michigan Department of Agriculture and Rural Development  
(MDARD), by its attorneys, Bill Schuette, Attorney General of the State of  
Michigan, and Danielle Allison-Yokom and Kelly M. Drake, Assistant Attorneys  
General, says:

## NATURE OF THE CASE

1. This civil action is being brought pursuant to the Food Law, 2000 PA 92, MCL 289.1101 *et seq.*, the Grade A Milk Law of 2001, 2001 PA 266, MCL 288.471 *et seq.*, and the Manufacturing Milk Law of 2001, 2001 PA 267, MCL 288.561 *et seq.* Pursuant to MCL 289.5111, MCL 288.524, and MCL 288.686, the Michigan Department of Agriculture and Rural Development (MDARD) is seeking a permanent injunction restraining Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and Brenda Golimbieski from violating any provision of the Food Law, the Grade A Milk Law and the Manufacturing Milk Law.

## JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to MCL 288.524 and MCL 289.5111.

3. This Court has personal jurisdiction over the Defendants pursuant to MCL 600.701 and MCL 600.711(1) and (3).

4. Venue is proper in this Court pursuant to MCL 600.1631(a).

## PARTIES

5. Plaintiff, MDARD, is the state agency with authority to implement and enforce the Food Law, MCL 288.1101 *et seq.*, the Grade A Milk Law of 2001, MCL 288.471 *et seq.*, and the Manufacturing Milk Law of 2001, MCL 288.561 *et seq.*

6. Defendant Hill High Dairy, LLC, is a Michigan limited liability company with its principal place of business at 2366 South M-76, Standish, Michigan.

7. Hill High Dairy, LLC is a licensed "dairy farm" under the Grade A Milk Law (MCL 288.473(e)) and is a "dairy farm" under the Manufacturing Milk Law (MCL 288.572(b)).

8. Defendant B J's Cow Boarding, LLC, is a Michigan limited liability company with its principal place of business at 2366 South M-76, Standish, Michigan.

9. Defendant Joseph Golimbieski resides at 2366 South M-76, Standish, Michigan and is a member of Hill High Dairy, LLC.

10. Defendant Brenda Golimbieski resides at 2366 South M-76, Standish, Michigan and is a member of Hill High Dairy, LLC and B J's Cow Boarding, LLC.

11. Hill High Dairy, LLC, B J's Cow Boarding, LLC, Joseph Golimbieski, and Brenda Golimbieski are each a "person" within the meaning of the Grade A Milk Law (MCL 288.476(b)), the Manufacturing Milk Law (MCL 288.576(c)) and the Food Law (MCL 289.1109(s)).

## GENERAL ALLEGATIONS

### Background

12. All entities that produce grade A milk that will be offered for sale are required to obtain a license under the Grade A Milk Law. MCL 288.500(1).

13. The Grade A Milk Law adopts and incorporates by reference the 2007 edition of the Grade A Pasteurized Milk Ordinance, recommendations of the United States Department of Health and Human Services as set forth in the Public Health Service/Food and Drug Administration Publication No. 229. MCL 288.490.

14. The Grade A Pasteurized Milk Ordinance, § 5, p 17, requires that dairy farms are inspected every six months.

15. Hill High Dairy is a licensed dairy farm under the Grade A Milk Law.

16. MDARD inspects Hill High Dairy approximately every six months as required for facilities licensed under the Grade A Milk Law.

17. A dairy farm license under the Grade A Milk Law permits a licensee to produce Grade A milk to be offered for sale and to collect Grade A milk for regulatory purposes.

18. A license under the Grade A Milk Law does not allow a person to process dairy products like cream, kefir, and yogurt.

19. The processing of dairy products, as defined under the Grade A Milk Law, requires a dairy plant license under that law. MCL 288.500.

20. Hill High Dairy, B J's Cow Boarding, and the Golimbieskis are not and have never been licensed as a dairy plant under the Grade A Milk Law.



21. In addition, the Grade A Milk Law provides that “[o]nly pasteurized milk and milk products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments.” MCL 288.538.

22. Dairy products for human consumption that are not regulated under the Grade A Milk Law are regulated under the Manufacturing Milk Law.

23. The Manufacturing Milk Law requires a dairy plant license for the processing of dairy products, as defined under that law, including butter. MCL 288.572(d); MCL 288.670(1).

24. Hill High Dairy, B J’s Cow Boarding, and the Golimbieskis are not and have never been licensed as a dairy plant under the Manufacturing Milk Law.

25. In addition, the Manufacturing Milk Law provides that “[o]nly pasteurized milk and milk products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments . . . .” MCL 288.696. The Manufacturing Milk Law allows for sale of raw milk cheeses, as long as they have been aged for the required length of time.

26. An establishment that processes food or drinks, whether dairy or non-dairy, is considered a “food establishment” under the Food Law. MCL 289.1107(p).

27. A food establishment is required to obtain a license under the Food Law. MCL 289.4101.

28. Additionally, with some limited exceptions that are not applicable here, in order to engage in the sale of food, including dairy products, a person is required to obtain a license under the Food Law. MCL 289.4101.

29. Hill High Dairy, B J's Cow Boarding, and the Golimbieskis are not and have never been licensed under the Food Law to engage in the processing or sale of dairy products or other food products.

#### **Hill High Dairy, B J's Cow Boarding, and raw milk**

30. In addition to its operations as a licensed dairy farm under the Grade A Milk Law, Hill High Dairy, along with B J's Cow Boarding and the Golimbieskis, operates a herd share for the distribution of raw milk.

31. Herd shares allow for shareholders to become partial owners of a farmer's dairy animal or dairy herd in order to obtain raw milk. Under these agreements, the farmer will generally provide the services of caring for and milking the shareholder's animal or animals for a fee.

32. Raw milk, also known as fresh unprocessed whole milk, is milk that is unpasteurized.

33. Michigan law prohibits the sale of unpasteurized milk. MCL 288.538(1).

34. However, MDARD in consultation with raw milk proponents and the milk industry, developed a policy under which MDARD exercises its enforcement discretion and does not take enforcement action against herd shares if they operate pursuant to the policy. (Ex A, MDARD's Food & Dairy Division Policy 1.40.)

35. Policy 1.40 specifically states that it applies only to raw milk (i.e., fresh unprocessed whole milk) and does not apply to other dairy products processed from raw milk.

36. A person who processes dairy products must be licensed as a dairy processing plant or dairy plant under either the Grade A Milk Law or the Manufacturing Milk Law, depending on the product being produced.

37. This Complaint is not seeking any enforcement action related to Hill High Dairy's, B J's Cow Boarding's, or the Golimbieskis' activities as they relate to the sale of raw milk. Rather, MDARD is seeking to enforce Michigan laws that prohibit the processing and sale of food without the required licenses and prohibit the sale of unpasteurized, processed dairy products.

#### **August 2013 inspection and cease and desist order**

38. On August 22, 2013, MDARD Dairy Inspectors Erin Quaine and Amber Parmelee visited Hill High Dairy to conduct a routine dairy farm inspection.

39. During the inspection, Inspectors Quaine and Parmelee observed raw dairy products being offered for sale including buttermilk, butter, cream and kefir in violation of MCL 289.4101 and as specifically prohibited by MCL 289.5101(d) and (q).

40. In addition to the raw dairy products being offered for sale, Hill High Dairy was offering for sale meat marked as "not for sale," eggs, cheese, maple syrup, and honey in violation of MCL 289.4101 and as specifically prohibited by MCL 289.5101(d) and (q).

41. On September 19, 2013, Inspectors Quaine and Parmelee returned to Hill High Dairy with Food Inspector Steve Czarnecki. Inspector Czarnecki explained to Mr. Golimbieski verbally and in writing that he could not engage in the sale of food products without a food establishment license. (Ex B, 9/19/13 Special Report.)

42. Inspectors Quaine and Parmelee issued Mr. Golimbieski and Hill High Dairy a cease and desist order instructing Mr. Golimbieski to stop processing, selling, and/or distributing dairy products produced in an unlicensed establishment because Hill High Dairy was licensed as a dairy farm but not as a dairy plant. (Ex C, 9/19/13 Order to Cease and Desist Activities.)

43. Mr. Golimbieski refused to sign the cease and desist order.

#### **January 2014 inspection**

44. On January 14, 2014, Inspector Parmelee and Food and Dairy Division Deputy Director and Dairy Program Manager Terrance Philibeck visited Hill High Dairy to conduct a routine dairy inspection.

45. Inspector Parmelee and Deputy Director Philibeck again observed evidence that Hill High Dairy was engaged in the sale of food and dairy products in violation of MCL 289.4101 and as specifically prohibited by MCL 289.5101(d) and (q).

46. Inspector Parmelee and Deputy Director Philibeck observed signage on refrigerators and freezers indicating product prices; a purchase chart indicating the name of purchaser, product sold, amount paid, and method of payment; and products on display with corresponding price charts.

47. During the inspection, Inspector Parmelee and Deputy Director Philibeck informed Mr. Golimbieski that the cease and desist order remained in effect and that the processing of any dairy products for sale without a license violated the Grade A Milk Law, the Manufacturing Milk Law, and the Food Law.

#### **June 2014 inspection**

48. On June 3, 2014, Inspector Parmelee visited Hill High Dairy to conduct a routine inspection.

49. Inspector Parmelee observed dairy product processing equipment and packaging equipment in the utility room and storage room.

50. Inspector Parmelee also observed honey products on display and a corresponding price list.

51. Inspector Parmelee observed a sign on a refrigerator indicating the price of cheese and cream and found cheese and cream on display inside the refrigerator. The sign also listed butter and hamburger, but there were no prices associated with those products.

52. Inspector Parmelee observed a payment sheet that appeared to indicate the sale of a number of dairy and food products. Each entry indicated the name of the purchaser, the product purchased, the amount paid, and the payment method.

53. These observations indicated that Hill High Dairy was engaged in the sale of food products without a license in violation of MCL 289.4101 and as specifically prohibited by MCL 289.5101(d) and (q).

54. Inspector Parmelee again informed Mr. Golimbieski that the cease and desist order remained in effect and that the processing of any dairy products for sale without a license violated the Grade A Milk Law and the Food Law.

#### **My Family Co-op**

55. During the inspections of Hill High Dairy, MDARD inspectors became aware that Hill High Dairy and the Golimbieskis were supplying dairy products and food products to My Family Co-op and that My Family Co-op was then offering the products for sale.

56. On July 15, 2014, MDARD conducted a licensing investigation into My Family Co-op and its mobile retail facility.

57. The investigation found that My Family Co-op was offering a number of food products for sale without a license as required by the Food Law.

58. All of the food products on the My Family Co-op truck were seized, including raw milk, butter, kefir, buttermilk, and cream.

59. The operator of the My Family Co-op truck identified Hill High Dairy as the source of the raw milk and processed dairy products found on the truck.

#### **Hill High Dairy's no-trespassing notice**

60. On or about September 23, 2014, MDARD received a document from Mr. Golimbieski entitled "Legal Notice NO TRESPASSING." The document stated that "[MDARD was] hereby advised and put on legal notice that [its] unauthorized invasion of the Private property described herein shall cease and desist . . . ." (Ex D.)

61. The property described in the notice is the property located at 2366 M-76, Standish, Michigan and is the location of Hill High Dairy.

62. The notice threatened both criminal and civil penalties for the "entry or invasion" of the private property described in the notice.

#### **Administrative warrant and December 2014 inspection**

63. Although MDARD has authority under the Grade A Milk Law to conduct routine inspections of licensed dairy farms and enter onto property where licensed dairy farms are located without a warrant (MCL 288.492), given Mr. Golimbieski's notice, MDARD obtained an administrative inspection warrant to conduct its next routine inspection. (Ex E, December 2014 Administrative Inspection Warrant.)

64. On December 3, 2014, MDARD obtained an administrative inspection warrant from the 66<sup>th</sup> District Court, permitting it to enter upon the property located at 2366 M-76, Standish, Michigan and to conduct its routine inspection of Hill High Dairy under the Grade A Milk Law.

65. That same day, Inspector Parmelee and Deputy Director Philibeck visited Hill High Dairy to conduct a routine inspection.

66. Upon arrival, Inspector Parmelee and Deputy Director Philibeck presented Mr. Golimbieski with the administrative search warrant and their identification.

67. Mr. Golimbieski initially indicated that Inspector Parmelee and Deputy Director Philibeck could inspect the dairy portion of the facility but would not be permitted entry to the cow share portion of the facility.

68. Inspector Parmelee and Deputy Director Philibeck informed Mr. Golimbieski that the warrant allowed them to inspect the entire dairy operation, and Mr. Golimbieski reluctantly allowed them to proceed with the inspection of the entire operation.

69. Inspector Parmelee and Deputy Director Philibeck observed dairy product production equipment in the utility room.

70. Inspector Parmelee and Deputy Director Philibeck also observed honey products on display and a corresponding price list.



71. Inspector Parmelee and Deputy Director Philibeck observed signage on a refrigerator indicating the price of cheese, milk, and eggs and found cheese, milk, and eggs on display inside the refrigerator.

72. Additionally, a dry erase board on the refrigerator had names along with products written on it that appeared to indicate orders placed by individuals for cream and butter products.

73. In addition to the cheese, milk, and eggs on display in the refrigerator, cartons of cream were on display.

74. Inspector Parmelee and Deputy Director Philibeck observed a payment sheet that appeared to indicate the sale of milk and cheese. Each entry indicated the name of the purchaser, the product purchased, the amount paid, and the payment method. The sheet included columns for the purchase of "milk"; "cheese" "cream" "butter"; "eggs"; "honey"; and "meat".

75. On one of the freezers in the milking facility utility room was a price list for different types of meat. Inside the freezer were packages of meat, some of which were clearly marked "not for sale."

76. In addition, there was a cash box in the milking facility utility room which displayed a sign that stated, "Only milk, cheese, hamburger, honey and eggs are for sale."

77. Mr. Golimbieski admitted that he continued to provide his herd share members with processed, unpasteurized dairy products such as butter and cream.

78. Inspector Parmelee and Deputy Director Philibeck again informed Mr. Golimbieski that the cease and desist order remained in effect and that the processing of any dairy products for sale without a license violated the Grade A Milk Law.

#### **Administrative warrant and June 2015 inspection**

79. On June 15, 2015, MDARD again obtained an administrative inspection warrant from the 66<sup>th</sup> District Court, permitting it to enter upon the property located at 2366 M-76, Standish, Michigan and to conduct its routine inspection of Hill High Dairy under the Grade A Milk Law. (Ex F, June 2015 Administrative Inspection Warrant.)

80. That same day, Inspector Parmelee and Deputy Director Philibeck visited Hill High Dairy to conduct a routine inspection.

81. Upon arrival, Inspector Parmelee and Deputy Director Philibeck presented Mrs. Golimbieski with the administrative search warrant and their identification. Mr. Golimbieski arrived shortly after Inspector Parmelee and Deputy Director Philibeck began the inspection.

82. Mr. Golimbieski indicated that Inspector Parmelee and Deputy Director Philibeck would not be permitted to inspect a utility room adjacent to the milking parlor that had a sign posted on the door that stated "restricted area cow share customers only."

83. Mr. Golimbieski indicated to Inspector Parmelee and Deputy Director Philibeck that the utility room was the property of B J's Cow Boarding.

84. Inspector Parmelee and Deputy Director Philibeck informed Mr. Golimbieski that the warrant allowed them to inspect the entire dairy operation and they proceeded with the inspection.

85. Inspector Parmelee and Deputy Director Philibeck observed dairy product production equipment in the utility room.

86. Inspector Parmelee and Deputy Director Philibeck also observed honey products on display and a corresponding price list.

87. Inspector Parmelee and Deputy Director Philibeck observed signage on a refrigerator indicating the price of cheese and milk and found cheese and milk on display inside the refrigerator.

88. Additionally, a dry erase board on the refrigerator had names along with products written on it that appeared to indicate orders placed by individuals for chicken, bread, and honey.

89. In addition to the cheese and milk on display in the refrigerator, packages of meat marked "not for resale" and butter were found in the freezer.

90. Inspector Parmelee and Deputy Director Philibeck observed a payment sheet that appeared to indicate the sale of milk and cheese. The sheet also indicated the sale of butter, which was written in several spots on the "cheese" line.

91. Each entry indicated the name of the purchaser, the product purchased, the amount paid, and the payment method. The sheet included columns for the purchase of "milk"; "cheese" "cream" "butter"; "eggs"; "honey"; and "meat".

92. In addition, there was a cash box in the milking facility utility room which displayed a sign that stated, "Only milk, cheese, hamburger, honey and eggs are for sale."

93. Mrs. Golimbieski stated that the butter was produced by the Golimbieskis and provided to their friends.

#### COUNT I – FOOD LAW

94. Paragraphs 1 through 93 of this Complaint are re-alleged and incorporated herein by reference.

95. The Food Law defines "food" as "articles used for food or drink for humans or other animals, chewing gum, and articles used for components of any such article." MCL 289.1107(m).

96. Cream, kefir, yogurt, buttermilk, butter, eggs, meat, honey, and cheese all fall under the Food Law's definition of food.

97. The Food Law defines "food establishment" as "an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, sold, or offered for sale. Food establishment includes, but is not limited to, a food processor, a food warehouse, a food service establishment, and a retail grocery. . . ." MCL 289.1107(n).

98. Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and/or Brenda Golimbieski (1) process unpasteurized dairy products like cream, kefir, yogurt, and butter, and (2) offer unpasteurized dairy products, eggs, meat, honey, and cheese for sale.

99. The Food Law provides that a person cannot operate a food establishment unless licensed by MDARD. MCL 289.4101(1).

100. Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and Brenda Golimbieski are not licensed under the Food Law.

101. The Food Law prohibits the operation of a food establishment without a license:

(1) A person shall not do or cause to be done any of the following:

\* \* \*

(d) Sell, deliver for sale, hold for sale, or offer for sale food unless that person holds a license issued under chapter IV.

\* \* \*

(q) Operate without a license, registration, permit, or endorsement.

(r) Violate a provision of this act or a rule. [MCL 289.5101(1).]

102. As set forth above, Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and/or Brenda Golimbieski have violated the Food Law by engaging in the sale and processing of food without a license.

103. The Food Law provides that:

In addition to the remedies provided for in this act, the department may apply to the circuit court for, and the court shall have jurisdiction upon hearing and for cause shown, a temporary or permanent injunction restraining any person from violating any provision of this act or rules promulgated under this act irrespective of whether or not there exists an adequate remedy at law. [MCL 289.5111.]

104. MDARD requests that this Court issue a permanent injunction prohibiting Hill High Dairy's, B J's Cow Boarding's, Joseph Golimbieski's, and Brenda Golimbieski's continued violation of the Food Law.

#### COUNT II – GRADE A MILK LAW

105. Paragraphs 1 through 104 of this Complaint are re-alleged and incorporated herein by reference.

106. The Grade A Milk Law prohibits the processing of certain dairy products without a license, including cream, kefir, and yogurt.

107. Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and/or Brenda Golimbieski are processing dairy products without a license in violation of MCL 288.500.

108. In addition, the Grade A Milk Law provides that “[o]nly pasteurized milk and milk products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments.” MCL 288.538.

109. Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and/or Brenda Golimbieski are processing and selling unpasteurized milk products to consumers in violation of MCL 288.538.

110. The Grade A Milk Law provides for injunctive relief for violations:

In addition to the remedies otherwise provided in this act, the department may apply to circuit court to grant a temporary or permanent injunction restraining any person from violating this act or any rule promulgated pursuant to this act, irrespective of whether there exists an adequate remedy at law. [MCL 288.524.]

111. MDARD requests that this Court issue a permanent injunction prohibiting Hill High Dairy's, B J's Cow Boarding's, Joseph Golimbieski's, and Brenda Golimbieski's continued violation of the Grade A Milk Law.

### COUNT III – MANUFACTURING MILK LAW

112. Paragraphs 1 through 111 of this Complaint are re-alleged and incorporated herein by reference.

113. The Manufacturing Milk Law prohibits the processing of certain dairy products without a license, including butter.

114. Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and/or Brenda Golimbieski are processing dairy products without a license in violation of MCL 288.670.

115. In addition, the Manufacturing Milk Law provides that “[o]nly pasteurized milk and milk products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments . . . .” MCL 288.696.

116. Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and/or Brenda Golimbieski are processing and selling unpasteurized milk products to consumers in violation of MCL 288.696.

117. The Manufacturing Milk Law provides for injunctive relief for violations:

In addition to the remedies otherwise provided in this act, the department may apply to circuit court to grant a temporary or permanent injunction restraining any person from violating this act or any rule promulgated pursuant to this act, irrespective of whether there exists an adequate remedy at law. [MCL 288.686.]

118. MDARD requests that this Court issue a permanent injunction prohibiting Hill High Dairy's, B J's Cow Boarding's, Joseph Golimbieski's, and Brenda Golimbieski's continued violation of the Manufacturing Milk Law.

### RELIEF REQUESTED

MDARD respectfully requests that this Court grant the following relief:

A. Enter an order permanently enjoining Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and Brenda Golimbieski from selling or processing food without a license or otherwise violating the Food Law;

B. Enter an order permanently enjoining Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and Brenda Golimbieski from processing dairy products without a license in violation of the Grade A Milk Law and the Manufacturing Milk Law;

C. Enter an order permanently enjoining Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and Brenda Golimbieski from selling unpasteurized, processed dairy products in violation of the Grade A Milk Law and the Manufacturing Milk Law;



D. Enter an order permanently enjoining Hill High Dairy, B J's Cow Boarding, Joseph Golimbieski, and Brenda Golimbieski from interfering with MDARD's dairy inspections conducted pursuant to MCL 288.492 and MCL 288.650; and

E. Grant MDARD further relief as this Court finds just and appropriate.

Respectfully submitted,

Bill Schuette  
Attorney General



Danielle Allison-Yokom (P70950)  
Kelly M. Drake (P59071)  
Assistant Attorneys General  
Attorneys for Plaintiff MDARD  
Environment, Natural Resources, and  
Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540

Dated: July 14, 2015

Ex A

# Food Safety & Inspection Program

SECTION: General  
Fresh Unprocessed Whole Milk

Policy # 1.40  
Date: 3/12/2013

## Policy

This policy is built upon the recommendations of the Fresh Unprocessed Whole Milk Workgroup. The workgroup agreed to use the term Fresh Unprocessed Whole (FUW) milk to describe the product intended for direct human consumption since "raw milk" is used to describe milk intended for pasteurization.

Michigan Dairy Laws state in MCL 288.538 and in MCL 288.696, "Only pasteurized milk and milk products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments". The Food Law states in MCL 289.6140, "Only pasteurized ingredients from a department-approved source shall be used for milk and milk products manufactured, sold, served, or prepared at a retail food establishment."

In a herd share operation, consumers pay a farmer a fee for boarding their animal (or a share of an animal), caring for the animal and milking the animal. The herd share shareholder then obtains (but does not purchase) the raw milk from his or her own animal.

Herd share operations include the following elements.

- There should be a signed and dated written contract between a single herd share farmer and shareholder
- There must be a workable means of communication between the farmer and all of the households receiving milk
- Milk should be from a single farm and not co-mingled

## Key points

- The Michigan Department of Agriculture and Rural Development (MDARD) does not license or inspect the herd share portion of a dairy farm.
- Herd share programs are considered to include only FUW milk intended to be consumed by people.
- FUW milk is not for sale or resale.
- FUW milk cannot be distributed from a licensed food establishment.
- Products such as butter, yogurt, cheeses, etc. made from FUW milk were not included in the workgroup's discussions and are not considered by MDARD to be part of a herd share operation and therefore are subject to applicable MDARD laws and regulations.
- Advertising of herd shares is not regulated by MDARD.

The workgroup felt comfortable with these decisions based on the fact that there is a defined consumer pool, rapid traceback is possible and the farmer and shareholder are both responsible for maintaining the quality of the milk.



**SPECIAL REPORT**

(In accordance with P.A. 380, Public Acts 1965 as amended)

Date: 9-19-2013 Time: 10:10 a.m. p.m.

Estab. I.D. #

Person or Firm Name: High Dairy / Joe Colembeski

Inspector: STEVE CZARNECKI

Street Address: 7366 m-76

City: Standish

Zip Code: 48678

County: ARENAC

Subject: CEASE and DESIST Activities

Be advised that the Michigan Food Law, Act 92 of 2000 as amended, sec. 289.5101(1)(d) states it is a violation to sell, deliver for sale, hold for sale or offer for sale food unless the person holds a valid food establishment license.

The ABOVE PERSON/FIRM is ordered to cease and desist any and all of the activities listed above for any food products, including but not limited to: meat, poultry, eggs, honey and maple syrup (except for honey and maple syrup of your own production).

The above activities can only resume if a valid food establishment license is obtained.

Be advised also that all food must be produced and obtained from sources that comply with applicable laws.

INSPECTOR Steve Czarnacki 484-234-1343

FOOD + Dairy Division, Lansing office 1-800-297-3939

Refused to sign

Copy Received By (signature)

Division: Food + Dairy

Inspector (signature)

Ex C

MICHIGAN DEPARTMENT OF AGRICULTURE & RURAL DEVELOPMENT  
FOOD & DAIRY DIVISION  
DAIRY SECTION  
P.O. BOX 30017  
LANSING, MI 48909

Distribution:  
White - Office  
Canary - Inspector  
Pink - Operator

**ORDER TO CEASE AND DESIST ACTIVITIES**

violating Act 266, PA, 2001 or Act 267, PA 2001

Name: Hill High Dairy - Joe Golimbieski  
Permit/License Number (if applicable) \_\_\_\_\_ Date: 9-19-13 Time: 10:33am  
Address: 2366 M-71e City: Standish  
State: MI Zip: 48658 County #: 01e Twp. #: 08 Sec: 28

The listed activities are in direct violation of the Grade A Milk Law of 2001, 2001 PA 266 MCL 288.471 or the Manufacturing Milk Law of 2001, 2001 PA 267 MCL 288.561. You are therefore ordered to cease and desist the following:

the production, sale and/or distribution of any processed dairy products i.e. cream, buttermilk, yogurt, kefir, ~~soft cheese~~ butter produced in an unlicensed establishment. Herd share fresh unprocessed whole milk is allowed for pick-up by herd share owners; in accordance with the fresh unprocessed whole milk workgroup and MDARD policy #1.40.

Failure to comply with the above orders may result in further legal action.

Copy Received By (print): Spoke to JOE - refused to sign

Copy Received By (signature): \_\_\_\_\_

Inspector (printed name and #): QUAIN #107, Parmelee #45

Inspector (signature): [Signature]

EX D



**Legal Notice**  
**NO TRESPASSING**

Date: Monday, September 23, 2014

From: **JOSEPH GOLIMBIESKI**  
**2366 S. M-76**  
**STANDISH, MI**

SENT VIA EMAIL: [MDA-Info@Michigan.gov](mailto:MDA-Info@Michigan.gov)

Property Location:

a. Prop #:005-0-028-300-010-00, Prop Addr: 2366 M-76, Legal Description: T19N R4E SEC 28. PART OF SW 1/4 LYING N OF N BR OF PINE RIVER & W OF NYC RR R/W, EXC N 60 RDS.( PA116 1983 - 2032, 410-75 4). BEING 58.35 ACRES.

b. Prop #:005-0-029-400-010-00  
Prop Addr: 2366 M-76, Legal Description: Prop Addr: EDDIE RD, Legal Description: T19N R4E SEC 29. E 1/2 OF SE 1/4 EXC THE NE 1/4 OF NE 1/4 OF SE 1/4. (PA116 1983 - 2032, 410-758). BEING 70.00 ACRES

c. Prop #: 005-0-022-300-015-05, 2366 S. M-76, Prop Addr: ELLISON/DEEP RIVER RD, Legal Description: T19N R4E SEC 22. S 1/2 OF SW 1/4 EXC THE N 240', ALSO EXC THE E 500', ALSO THE W 100' OF THE E 600' OF THE S 300'.( PA116 1983-2032, 410-756). BEING 52.37 ACRES.

To: Jamie Clover Adams, DIRECTOR  
Michigan Department of Agriculture & Rural Development  
**Actors, Agents, Employees and Departments**  
P.O. Box 30017  
Lansing, Michigan, 48909

Send Email to MDARD: [MDA-Info@Michigan.gov](mailto:MDA-Info@Michigan.gov)

Dear Sirs and Madams:

Take Notice:

Every unauthorized invasion of private property is a trespass that can give rise to a civil action. In addition, MCLA 750.552 provides a criminal penalty for any individual who, after being forbidden from entry, willfully enters on the property of another without lawful authority or upon being told to leave the property of another without lawful authority or upon being told to leave the property of another refuses to leave without proper authority.

1. **Legal authority** is conferred upon an individual by statute, and it authorizes an individual to enter the property of another. Legal authority is conferred only to the extent the applicable law dictates.
2. **Express consent** allows an individual to enter another person's private property when the property owner or occupant gives the express permission. Express consent is limited by the fact that it may be revoked at any time, and the individual operation upon such consent must leave the property when it is revoked.
3. **Implied consent** allows for consent to be implied from custom, usage or conduct. For example, a doorbell on the front of a residence is an invitation to enter another's property for the purpose of calling the occupant to come to the door and speak to you. However, consent cannot be implied when the property owner or occupant has outwardly evidenced an intent that consent is not given, such as a "do not trespass" or "keep out" sign. Implied consent is limited to accomplishing the purpose for which consent was given.

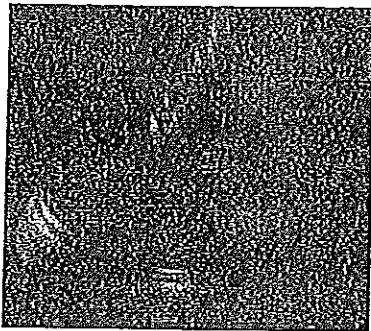
You are hereby advised and put on legal notice that your unauthorized invasion of the Private property described herein shall cease and desist as of this date above. You are hereby given further notice that any further such entry or invasion of Private Property shall be brought to the authorities of proper jurisdiction for criminal and or civil action.

Sincerely

/s/ Joseph Golimbieski

2366 S. M-76  
STANDISH, MI

[http://www.fbi.gov/about-us/investigate/civilrights/color\\_of\\_law/color-of-law](http://www.fbi.gov/about-us/investigate/civilrights/color_of_law/color-of-law)  
**Color of Law Abuses**



U.S. law enforcement officers and other officials like judges, prosecutors, and security guards have been given tremendous power by local, state, and federal government agencies—authority they must have to enforce the law and ensure justice in our country. These powers include the authority to detain and arrest suspects, to search and seize property, to bring criminal charges, to make rulings in court, and to use deadly force in certain situations.

Preventing abuse of this authority, however, is equally necessary to the health of our nation's democracy. That's why it's a federal crime for anyone acting under "color of law" willfully to deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. "Color of law" simply means that the person is using authority given to him or her by a local, state, or federal government agency.

The FBI is the lead federal agency for investigating color of law abuses, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority. Off-duty conduct may be covered if the perpetrator asserted his or her official status in some way.

During 2009, the FBI investigated 385 color of law cases. Most of these crimes fall into five broad areas:

- Excessive force;
- Sexual assaults;
- False arrest and fabrication of evidence;
- Deprivation of property; and
- Failure to keep from harm.

**Excessive force:** In making arrests, maintaining order, and defending life, law enforcement officers are allowed to use whatever force is "reasonably" necessary. The breadth and scope of the use of force is vast—from just the physical presence of the officer... to the use of deadly force. Violations of federal law occur when it can be shown that the force used was willfully "unreasonable" or "excessive." Sexual assaults by officials acting under color of law can happen in jails, during traffic stops, or in other settings where officials might use their position of authority to coerce an individual into sexual compliance. The compliance is generally gained because of a threat of an official action against the person if he or she doesn't comply.

**False arrest and fabrication of evidence:** The Fourth Amendment of the U.S. Constitution guarantees the right against unreasonable searches or seizures. A law enforcement official using authority provided under the color of law is allowed to stop individuals and, under certain circumstances, to search them and retain their property. It is in the abuse of that discretionary power—such as an unlawful detention or illegal confiscation of property—that a violation of a person's civil rights may occur.

Fabricating evidence against or falsely arresting an individual also violates the color of law statute, taking away the person's rights of due process and unreasonable seizure. In the case of deprivation of property, the color of law statute would be violated by unlawfully obtaining or maintaining a person's property, which oversteps or misapplies the official's authority.

The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. During an arrest or detention, these rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

**Failure to keep from harm:** The public counts on its law enforcement officials to protect local communities. If it's shown that an official willfully failed to keep an individual from harm, that official could be in violation of the color of law statute.

#### Filing a Complaint

To file a color of law complaint, contact your local FBI office by telephone, in writing, or in person. The following information should be provided:

- All identifying information for the victim(s);
- As much identifying information as possible for the subject(s), including position, rank, and agency employed;
- Date and time of incident;
- Location of incident;
- Names, addresses, and telephone numbers of any witness(es);
- A complete chronology of events; and
- Any report numbers and charges with respect to the incident.

You may also contact the United States Attorney's Office in your district or send a written complaint to:

Assistant Attorney General

Civil Rights Division

Criminal Section

950 Pennsylvania Avenue, Northwest

Washington, DC 20530

FBI investigations vary in length. Once our investigation is complete, we forward the findings to the U.S. Attorney's Office within the local jurisdiction and to the U.S. Department of Justice in Washington, D.C., which decide whether or not to proceed toward prosecution and handle any prosecutions that follow.

Civil Applications

Title 42, U.S.C., Section 14141 makes it unlawful for state or local law enforcement agencies to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or U.S. laws. This law, commonly referred to as the Police Misconduct Statute, gives the Department of Justice authority to seek civil remedies in cases where law enforcement agencies have policies or practices that foster a pattern of misconduct by employees. This action is directed against an agency, not against individual officers. The types of issues which may initiate a pattern and practice investigation include:

- Lack of supervision/monitoring of officers' actions;
- Lack of justification or reporting by officers on incidents involving the use of force;
- Lack of or improper training of officers; and
- Citizen complaint processes that treat complainants as adversaries.

Under Title 42, U.S.C., Section 1997, the Department of Justice has the ability to initiate civil actions against mental hospitals, retardation facilities, jails, prisons, nursing homes, and juvenile detention facilities when there are allegations of systemic derivations of the constitutional rights of institutionalized persons.

#### Report Civil Rights Violations

- [File a Report with Your Local FBI Office](#)
- [File a Report over Our Internet Tip Line](#)
- [Visit Our Victim Assistance Site](#)

#### Resources

- [Deprivation of Rights Under Color of Law Statute](#)
- [Principles for Promoting Police Integrity \(pdf\)](#)
- [Addressing Police Misconduct Brochure](#)
- [Law Enforcement Misconduct FAQs](#)

Ex E

STATE OF MICHIGAN  
IN THE 66<sup>TH</sup> DISTRICT COURT

IN THE MATTER OF:

CASE NO.

HON.

ADMINISTRATIVE INSPECTION WARRANT  
HILL HIGH DAIRY, JOE GOLIMBIESKI  
and the property located at  
2366 SOUTH M-76  
STANDISH, ARENAC COUNTY, MICHIGAN

---

ADMINISTRATIVE INSPECTION WARRANT

TO: Any employee or authorized representative of the Michigan  
Department of Agriculture and Rural Development (MDARD).

MDARD has established sufficient cause for issuance of this Administrative  
Inspection Warrant to investigate and inspect conditions relating to Hill High  
Dairy's compliance with the requirements of the Grade A Milk Law, 2001 PA 266,  
as amended, MCL 288.471 *et seq.*, and other applicable laws related to the  
production and sale of milk, by the Affidavit and Application for Administrative  
Inspection Warrant made by MDARD Dairy Industry Field Scientist, Amber A.  
Parmelee, and attached hereto.

IT IS HEREBY ORDERED that Hill High Dairy, Joe Golimbieski, the owners  
of the property located at 2366 South M-76, Standish, Arenac County, Michigan,  
and any of their agents or employees, permit MDARD, through any of its employees  
or authorized representatives acting at the direction of MDARD, to enter and, as  
needed, reenter the premises for the purpose of conducting the activities described

in the Affidavit and Application for Administrative Inspection Warrant. Those activities are necessary to determine compliance with the Grade A Milk Law and other applicable laws related to the production and sale of dairy products and include: walking the property, milk house, and any other structures where the cows or milk products are produced or stored; inspecting equipment, milk tanks, structures and surroundings, cows, and animal shelters; taking samples; taking photographs and/or video; checking all veterinary medications for proper labeling and storage; taking the temperature of any milk that is present in the bulk tank(s); checking the water temperature for the hot water supply; inspecting the toilet room(s); inspecting the water supply location, water lines, and well head; reviewing records; and seizing any illegally processed milk products found during its inspection.

IT IS FURTHER ORDERED that a copy of this Warrant shall be left at the premises at or before the time of the initial entry pursuant to this Warrant.

IT IS FURTHER ORDERED that Hill High Dairy, Joe Golimbieski, their employees or agents, or any other persons, shall not interfere with the execution of this Warrant by MDARD or in the carrying out of those activities authorized by this Warrant.

IT IS FURTHER ORDERED that the duration of this entry authorization shall be three (3) days from the date this Warrant is issued.

IT IS FURTHER ORDERED that the entry and activities authorized by this warrant shall be carried out between the hours of 8:00 am and 8:00 pm.


IT IS FURTHER ORDERED that MDARD shall prepare a written inventory of all items seized or removed and provide a copy of that inventory to Hill High Dairy and Joe Golimbieski.

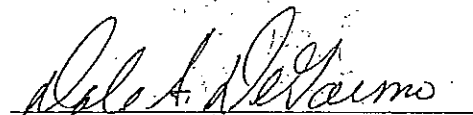
IT IS FURTHER ORDERED that MDARD shall make a return of this Administrative Inspection Warrant to this Court within ten (10) days following the expiration of this Warrant.

Dated this 3 day of December, 2014.

This Administrative Inspection Warrant is Hereby Authorized.

Bill Schuette  
Michigan Attorney General

  
Danielle Allison-Yokom (P70950)  
Assistant Attorney General  
Environment, Natural Resources,  
and Agriculture Division  
PO Box 30755  
Lansing, Michigan 48909  
(517) 373-7540

  
Hon.  
District Court Judge Mag.



STATE OF MICHIGAN  
IN THE 66<sup>TH</sup> DISTRICT COURT

IN THE MATTER OF:

CASE NO.

HON.

ADMINISTRATIVE INSPECTION WARRANT  
HILL HIGH DAIRY, JOE GOLIMBIESKI  
and the property located at  
2366 SOUTH M-76  
STANDISH, ARENAC COUNTY, MICHIGAN

2014 DEC -3 AM 8:41

FILED  
66<sup>TH</sup> DISTRICT COURT

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AFFIDAVIT

I, Amber A. Parmelee, being first duly sworn, state:

1. I have been employed as a Dairy Industry Field Scientist for the Michigan Department of Agriculture and Rural Development (MDARD), Food and Dairy Division, since 2012. My present workstation is located in Laingsburg, Clinton County, Michigan.

2. As a Dairy Industry Field Scientist I enforce the Grade A Milk Law, 2001 PA 266, as amended, MCL 288.471 *et seq.* and the Milk Manufacturing Law, 2001 PA 267, as amended, MCL 288.561 *et seq.* which regulate all types of dairy processing and production in the State of Michigan. My job duties include conducting routine inspections of dairy operations and dairy plants; informing new dairy operations about Michigan requirements for dairy production and processing;

investigating complaints; responding to situations that may threaten public health; and directing compliance actions when a dairy facility is found in non-compliance.

3. I cover a five county area and am responsible for inspecting dairy operations and plants in Clare, Gladwin, Midland, Arenac, and Bay Counties. In addition, I inspect dairy plants in Ingham County.

4. I have a Bachelor of Arts Degree in Biology and Psychology from Hope College. I have a Master of Public Health Degree from Michigan State University.

5. The Grade A Milk law requires that all entities that produce grade A milk that will be offered for sale obtain a license under the Grade A Milk law.

6. The Grade A Milk Law adopts and incorporates by reference the 2007 edition of the Grade A Pasteurized Milk Ordinance, recommendations of the United States Department of Health and Human Services as set forth in the Public Health Service/Food and Drug Administration Publication No. 229. MCL 288.490.

7. The Grade A Pasteurized Milk Ordinance requires that dairy farms are inspected every six (6) months. Grade A Pasteurized Milk Ordinance, Section 5, p 17.

8. The Grade A Milk Law grants MDARD authority to inspect dairy farms:

The director, after proper identification, is authorized and has the power to enter all dairy farms, milk plants, single service manufacturing facilities, milk tank truck cleaning facilities, receiving stations, transfer stations, distribution facilities, vehicles used to transport milk and milk products, and single service manufacturers under its jurisdiction for the purpose of inspecting, sampling, and investigating conditions relating to the enforcement of this act. [MCL 288.492.]

9. As part of my job duties, I inspect dairy farms licensed under the Grade A Milk Law located in Clare, Gladwin, Midland, Arenac, and Bay Counties.

10. Hill High Dairy, located at 2366 M-76 in Standish, Arenac County, Michigan 48658 is a licensed Grade A Milk dairy farm that I am responsible for inspecting.

11. Hill High Dairy is due for its six (6) month inspection to determine its conformance with the requirements of the Grade A Milk Law.

12. During Hill High Dairy's June 3, 2014 inspection, MDARD documented evidence that Hill High Dairy was engaged in the processing and sale of dairy products without the proper licenses under the Grade A Milk Law, Milk Manufacturing Law, or the Michigan Food Law, 2000 PA 92, as amended, MCL 289.1101 *et seq.* and in violation of a previously issued cease and desist order. In July 2014, a number of milk products illegally produced by Hill High Dairy were seized as part of an investigation into an unlicensed, mobile, food establishment.

13. On September 26, 2014, MDARD received a document entitled "Legal Notice NO TRESPASSING" from Joseph Golimbieski, owner of Hill High Dairy. (Attached as Exhibit A.) The document states that "[MDARD is] hereby advised and put on legal notice that [its] unauthorized invasion of the Private property described herein shall cease and desist...."

14. Hill High Dairy, located on the property described in Mr. Golimbieski's document, is licensed under the Grade A Milk Law. MDARD is both required to conduct semiannual inspections of the facility and has the statutory authority to conduct the inspection under the Grade A Milk Law.

15. MDARD seeks access to Hill High Dairy to conduct its routine inspection and determine Hill High Dairy's conformance to applicable laws.

16. The specific activities to be conducted by MDARD at Hill High Dairy include: walking the property, milk house, and any other structures where the cows or milk products are produced or stored; inspecting equipment, milk tanks, structures and surroundings, cows, and animal shelters; taking samples; taking photographs and/or video; checking all veterinary medications for proper labeling and storage; taking the temperature of any milk that is present in the bulk tank(s); checking the water temperature for the hot water supply; inspecting the toilet room(s); inspecting the water supply location, water lines, and well head; reviewing records; and seizing any illegally processed milk products found during its inspection.

17. The activities described in paragraph 17 are the same activities that MDARD routinely engages in during dairy farm inspections and are authorized by the Grade A Milk Law and the Milk Manufacturing Law.

18. The seizure of illegally produced milk products is provided for in section 23 of the Grade A Milk Law:

The director may seize or hold for investigation any milk, milk product, or equipment that the director has reason to believe is adulterated, constitutes or may be contributing to an imminent health hazard, or violates this act. [MCL 288.493.]

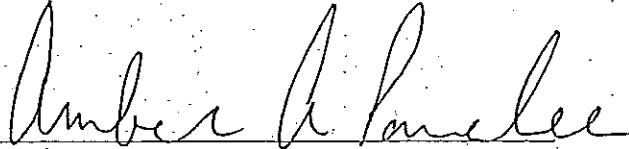
19. The seizure of illegally produced milk products is also provided for in section 91 of the Milk Manufacturing Law:

The director may seize or hold for investigation any milk, dairy product, or equipment which the director may have reason to believe constitutes or may be contributing to an imminent or substantial health hazard or is in violation of this act. [MCL 288.651.]

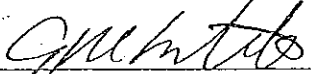
20. The above-described activities and tasks will be conducted by myself and other MDARD staff.

21. MDARD requests access to Hill High Dairy for a period of three (3) days from the date the Administrative Inspection Warrant is issued. Access will be limited to the hours of 8:00 am to 8:00 pm and MDARD shall provide a written inventory of all items seized or removed and provide a copy of that inventory to Hill High Dairy.

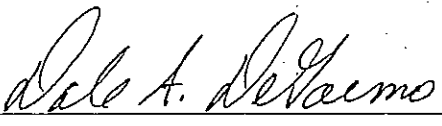
22. I therefore request, on behalf of MDARD, that this Court immediately issue the Administrative Inspection Warrant attached to this Affidavit and Application.

  
Amber A. Parmelee  
Dairy Industry Field Scientist

Subscribed and sworn to by Amber A. Parmelee  
before me the 2<sup>nd</sup> day of December, 2014.

  
Amy M. Mitosinka  
Notary Public, State of Michigan, County of Kent  
My Commission Expires: 11/01/2018  
Acting in the County of Ingham

This Affidavit of Amber A. Parmelee was taken before the undersigned District Court Judge for the 66<sup>th</sup> District Court, on this 3 day of December, 2014, such person being first duly sworn.

  
Hon.  
District Court Judge *Mag*

**Legal Notice**  
**NO TRESPASSING**

Date: Monday, September 23, 2014

From: **JOSEPH GOLIMBIESKI**  
2366 S. M-76  
STANDISH, MI

SENT VIA EMAIL: [MDA-Info@Michigan.gov](mailto:MDA-Info@Michigan.gov)

Property Location:

a. Prop #:005-0-028-300-010-00, Prop Addr: 2366 M-76, Legal Description: T19N R4E SEC 28. PART OF SW 1/4 LYING N OF N BR OF PINE RIVER & W OF NYC RR R/W, EXC N 60 RDS.( PA116 1983 - 2032, 410-75 4). BEING 58.35 ACRES.

b. Prop #:005-0-029-400-010-00  
Prop Addr: 2366 M-76; Legal Description: Prop Addr: EDDIE RD, Legal Description: T19N R4E SEC 29. E 1/2 OF SE 1/4 EXC THE NE 1/4 OF NE 1/4 OF SE 1/4. (PA116 1983 - 2032, 410-758). BEING 70.00 ACRES

c. Prop #: 005-0-022-300-015-05, 2366 S. M-76, Prop Addr: ELLISON/DEEP RIVER RD, Legal Description: T19N R4E SEC 22. S 1/2 OF SW 1/4 EXC THE N 240', ALSO EXC THE E 500', ALSO THE W 100' OF THE E 600' OF THE S 300'.( PA116 1983-2032, 410-756). BEING 52.37 ACRES.

To: **Jamie Clover Adams, DIRECTOR**  
Michigan Department of Agriculture & Rural Development  
**Actors, Agents, Employees and Departments**  
P.O. Box 30017  
Lansing, Michigan,48909

Send Email to MDARD: [MDA-Info@Michigan.gov](mailto:MDA-Info@Michigan.gov)

Dear Sirs and Madams:

Take Notice:

Every unauthorized invasion of private property is a trespass that can give rise to a civil action. In addition, MCLA 750.552 provides a criminal penalty for any individual who, after being forbidden from entry, willfully enters on the property of another without lawful authority or upon being told to leave the property of another without lawful authority or upon being told to leave the property of another refuses to leave without proper authority.

1. **Legal authority** is conferred upon an individual by statute, and it authorizes an individual to enter the property of another. Legal authority is conferred only to the extent the applicable law dictates.
2. **Express consent** allows an individual to enter another person's private property when the property owner or occupant gives the express permission. Express consent is limited by the fact that it may be revoked at any time, and the individual operation upon such consent must leave the property when it is revoked.
3. **Implied consent** allows for consent to be implied from custom, usage or conduct. For example, a doorbell on the front of a residence is an invitation to enter another's property for the purpose of calling the occupant to come to the door and speak to you. However, consent cannot be implied when the property owner or occupant has outwardly evidenced an intent that consent is not given, such as a "do not trespass" or "keep out" sign. Implied consent is limited to accomplishing the purpose for which consent was given.

You are hereby advised and put on legal notice that your unauthorized invasion of the Private property described herein shall cease and desist as of this date above. You are hereby given further notice that any further such entry or invasion of Private Property shall be brought to the authorities of proper jurisdiction for criminal and or civil action.

Sincerely

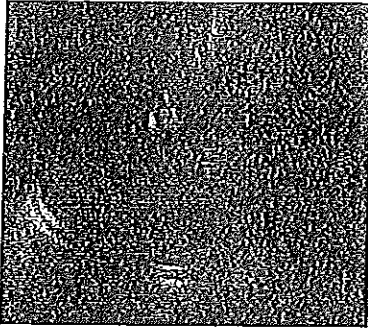
/s/ Joseph Golimbieski

2366 S. M-76  
STANDISH, MI



[http://www.fbi.gov/about-us/investigate/civilrights/color\\_of\\_law/color-of-law](http://www.fbi.gov/about-us/investigate/civilrights/color_of_law/color-of-law)

## Color of Law Abuses



U.S. law enforcement officers and other officials like judges, prosecutors, and security guards have been given tremendous power by local, state, and federal government agencies—authority they must have to enforce the law and ensure justice in our country. These powers include the authority to detain and arrest suspects, to search and seize property, to bring criminal charges, to make rulings in court, and to use deadly force in certain situations.

Preventing abuse of this authority, however, is equally necessary to the health of our nation's democracy. That's why it's a federal crime for anyone acting under "color of law" willfully to deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. "Color of law" simply means that the person is using authority given to him or her by a local, state, or federal government agency.

The FBI is the lead federal agency for investigating color of law abuses, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority. Off-duty conduct may be covered if the perpetrator asserted his or her official status in some way.

During 2009, the FBI investigated 385 color of law cases. Most of these crimes fall into five broad areas:

- Excessive force;
- Sexual assaults;
- False arrest and fabrication of evidence;
- Deprivation of property; and
- Failure to keep from harm.

**Excessive force:** In making arrests, maintaining order, and defending life, law enforcement officers are allowed to use whatever force is "reasonably" necessary. The breadth and scope of the use of force is vast—from just the physical presence of the officer...to the use of deadly force. Violations of federal law occur when it can be shown that the force used was willfully "unreasonable" or "excessive."

**Sexual assaults** by officials acting under color of law can happen in jails, during traffic stops, or in other settings where officials might use their position of authority to coerce an individual into sexual compliance. The compliance is generally gained because of a threat of an official action against the person if he or she doesn't comply.

**False arrest and fabrication of evidence:** The Fourth Amendment of the U.S. Constitution guarantees the right against unreasonable searches or seizures. A law enforcement official using authority provided under the color of law is allowed to stop individuals and, under certain circumstances, to search them and retain their property. It is in the abuse of that discretionary power—such as an unlawful detention or illegal confiscation of property—that a violation of a person's civil rights may occur.

Fabricating evidence against or falsely arresting an individual also violates the color of law statute, taking away the person's rights of due process and unreasonable seizure. In the case of deprivation of property, the color of law statute would be violated by unlawfully obtaining or maintaining a person's property, which oversteps or misapplies the official's authority.

The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. During an arrest or detention, these rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

**Failure to keep from harm:** The public counts on its law enforcement officials to protect local communities. If it's shown that an official willfully failed to keep an individual from harm, that official could be in violation of the color of law statute.

### Filing a Complaint

To file a color of law complaint, contact your local FBI office by telephone, in writing, or in person. The following information should be provided:

- All identifying information for the victim(s);
- As much identifying information as possible for the subject(s), including position, rank, and agency employed;
- Date and time of incident;
- Location of incident;
- Names, addresses, and telephone numbers of any witness(es);
- A complete chronology of events; and
- Any report numbers and charges with respect to the incident.

You may also contact the United States Attorney's Office in your district or send a written complaint to:

Assistant Attorney General  
Civil Rights Division  
Criminal Section  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530

FBI investigations vary in length. Once our investigation is complete, we forward the findings to the U.S. Attorney's Office within the local jurisdiction and to the U.S. Department of Justice in Washington, D.C., which decide whether or not to proceed toward prosecution and handle any prosecutions that follow.

Civil Applications

Title 42, U.S.C., Section 14141 makes it unlawful for state or local law enforcement agencies to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or U.S. laws. This law, commonly referred to as the Police Misconduct Statute, gives the Department of Justice authority to seek civil remedies in cases where law enforcement agencies have policies or practices that foster a pattern of misconduct by employees. This action is directed against an agency, not against individual officers. The types of issues which may initiate a pattern and practice investigation include:

- Lack of supervision/monitoring of officers' actions;
- Lack of justification or reporting by officers on incidents involving the use of force;
- Lack of, or improper training of, officers; and
- Citizen complaint processes that treat complainants as adversaries.

Under Title 42, U.S.C., Section 1997, the Department of Justice has the ability to initiate civil actions against mental hospitals, retardation facilities, jails, prisons, nursing homes, and juvenile detention facilities when there are allegations of systemic derivations of the constitutional rights of institutionalized persons.

#### Report Civil Rights Violations

- [File a Report with Your Local FBI Office](#)
- [File a Report over Our Internet Tip Line](#)
- [Visit Our Victim Assistance Site](#)

#### Resources

- [Deprivation of Rights Under Color of Law Statute](#)
- [Principles for Promoting Police Integrity \(pdf\)](#)
- [Addressing Police Misconduct Brochure](#)
- [Law Enforcement Misconduct FAQs](#)

EX F

STATE OF MICHIGAN  
IN THE 66<sup>TH</sup> DISTRICT COURT

IN THE MATTER OF:

CASE NO.

HON.

ADMINISTRATIVE INSPECTION WARRANT  
HILL HIGH DAIRY, JOE GOLIMBIESKI  
and the property located at  
2366 SOUTH M-76  
STANDISH, ARENAC COUNTY, MICHIGAN

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ADMINISTRATIVE INSPECTION WARRANT

TO: Any employee or authorized representative of the Michigan  
Department of Agriculture and Rural Development (MDARD).

MDARD has established sufficient cause for issuance of this Administrative  
Inspection Warrant to investigate and inspect conditions relating to Hill High  
Dairy's compliance with the requirements of the Grade A Milk Law, 2001 PA 266,  
as amended, MCL 288.471 *et seq.*, and other applicable laws related to the  
production and sale of milk, by the Affidavit and Application for Administrative  
Inspection Warrant made by MDARD Dairy Industry Field Scientist, Amber A.  
Parmelee, and attached hereto.

IT IS HEREBY ORDERED that Hill High Dairy, Joe Golimbieski, the owners  
of the property located at 2366 South M-76, Standish, Arenac County, Michigan,  
and any of their agents or employees, permit MDARD, through any of its employees  
or authorized representatives acting at the direction of MDARD, to enter and, as  
needed, reenter the premises for the purpose of conducting the activities described

in the Affidavit and Application for Administrative Inspection Warrant. Those activities are necessary to determine compliance with the Grade A Milk Law and other applicable laws related to the production and sale of dairy products and include: walking the property, milk house, and any other structures where the cows or milk products are produced or stored; inspecting equipment, milk tanks, structures and surroundings, cows, and animal shelters; taking samples; taking photographs and/or video; checking all veterinary medications for proper labeling and storage; taking the temperature of any milk that is present in the bulk tank(s); checking the water temperature for the hot water supply; inspecting the toilet room(s); inspecting the water supply location, water lines, and well head; reviewing records; and seizing any illegally processed milk products found during its inspection.

IT IS FURTHER ORDERED that a copy of this Warrant shall be left at the premises at or before the time of the initial entry pursuant to this Warrant.

IT IS FURTHER ORDERED that Hill High Dairy, Joe Golimbieski, their employees or agents, or any other persons, shall not interfere with the execution of this Warrant by MDARD or in the carrying out of those activities authorized by this Warrant.

IT IS FURTHER ORDERED that the duration of this entry authorization shall be three (3) days from the date this Warrant is issued.

IT IS FURTHER ORDERED that the entry and activities authorized by this warrant shall be carried out between the hours of 8:00 am and 8:00 pm.


IT IS FURTHER ORDERED that MDARD shall prepare a written inventory of all items seized or removed and provide a copy of that inventory to Hill High Dairy and Joe Golimbieski.

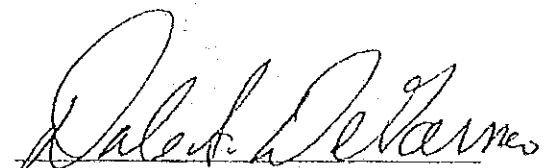
IT IS FURTHER ORDERED that MDARD shall make a return of this Administrative Inspection Warrant to this Court within ten (10) days following the expiration of this Warrant.

Dated this 15 day of June, 2015.

This Administrative Inspection Warrant is Hereby Authorized.

Bill Schuette  
Michigan Attorney General

  
Danielle Allison-Yokem (P70950)  
Assistant Attorney General  
Environment, Natural Resources,  
and Agriculture Division  
PO Box 30755  
Lansing, Michigan 48909  
(517) 373-7540

  
Hon.  
District Court Judge

STATE OF MICHIGAN  
IN THE 66<sup>TH</sup> DISTRICT COURT

IN THE MATTER OF:

CASE NO.

HON.

ADMINISTRATIVE INSPECTION WARRANT  
HILL HIGH DAIRY, JOE GOLIMBIESKI  
and the property located at  
2366 SOUTH M-76  
STANDISH, ARENAC COUNTY, MICHIGAN

---

AFFIDAVIT

I, Amber A. Parmelee, being first duly sworn, state:

1. I have been employed as a Dairy Industry Field Scientist for the Michigan Department of Agriculture and Rural Development (MDARD), Food and Dairy Division, since 2012. My present workstation is located in Laingsburg, Clinton County, Michigan.

2. As a Dairy Industry Field Scientist I enforce the Grade A Milk Law, 2001 PA 266, as amended, MCL 288.471 *et seq.* and the Milk Manufacturing Law, 2001 PA 267, as amended, MCL 288.561 *et seq.* which regulate all types of dairy processing and production in the State of Michigan. My job duties include conducting routine inspections of dairy operations and dairy plants; informing new dairy operations about Michigan requirements for dairy production and processing;

investigating complaints; responding to situations that may threaten public health; and directing compliance actions when a dairy facility is found in non-compliance.

3. I cover a five county area and am responsible for inspecting dairy operations and plants in Arenac, Clinton, Eaton and Calhoun Counties. In addition, I inspect dairy plants in Ingham County and Mecosta County.

4. I have a Bachelor of Arts Degree in Biology and Psychology from Hope College. I have a Master of Public Health Degree from Michigan State University.

5. The Grade A Milk law requires that all entities that produce grade A milk that will be offered for sale obtain a license under the Grade A Milk law.

6. The Grade A Milk Law adopts and incorporates by reference the 2007 edition of the Grade A Pasteurized Milk Ordinance, recommendations of the United States Department of Health and Human Services as set forth in the Public Health Service/Food and Drug Administration Publication No. 229. MCL 288.490.

7. The Grade A Pasteurized Milk Ordinance requires that dairy farms are inspected every six (6) months. Grade A Pasteurized Milk Ordinance, Section 5, p 17.

8. The Grade A Milk Law grants MDARD authority to inspect dairy farms:



The director, after proper identification, is authorized and has the power to enter all dairy farms, milk plants, single service manufacturing facilities, milk tank truck cleaning facilities, receiving stations, transfer stations, distribution facilities, vehicles used to transport milk and milk products, and single service manufacturers under its jurisdiction for the purpose of inspecting, sampling, and investigating conditions relating to the enforcement of this act. [MCL 288.492.]

9. As part of my job duties, I inspect dairy farms licensed under the Grade A Milk Law located in Clare, Gladwin, Midland, Arenac, and Bay Counties.

10. Hill High Dairy, located at 2366 M-76 in Standish, Arenac County, Michigan 48658 is a licensed Grade A Milk dairy farm that I am responsible for inspecting.

11. Hill High Dairy is due for its six (6) month inspection to determine its conformance with the requirements of the Grade A Milk Law.

12. During Hill High Dairy's June 3, 2014 inspection, MDARD documented evidence that Hill High Dairy was engaged in the processing and sale of dairy products without the proper licenses under the Grade A Milk Law, Milk Manufacturing Law, or the Michigan Food Law, 2000 PA 92, as amended, MCL 289.1101 *et seq.* and in violation of a previously issued cease and desist order. In July 2014, a number of milk products illegally produced by Hill High Dairy were seized as part of an investigation into an unlicensed, mobile, food establishment.

13. On September 26, 2014, MDARD received a document entitled "Legal Notice NO TRESPASSING" from Joseph Golimbieski, owner of Hill High Dairy. (Attached as Exhibit A.) The document states that "[MDARD is] hereby advised and put on legal notice that [its] unauthorized invasion of the Private property described herein shall cease and desist...."

14. Hill High Dairy, located on the property described in Mr. Golimbieski's document, is licensed under the Grade A Milk Law. MDARD is both required to conduct semiannual inspections of the facility and has the statutory authority to conduct the inspection under the Grade A Milk Law.

15. MDARD seeks access to Hill High Dairy to conduct its routine inspection and determine Hill High Dairy's conformance to applicable laws.

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17. The activities described in paragraph 17 are the same activities that MDARD routinely engages in during dairy farm inspections and are authorized by the Grade A Milk Law and the Milk Manufacturing Law.

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The director may seize or hold for investigation any milk, milk product, or equipment that the director has reason to believe is adulterated, constitutes or may be contributing to an imminent health hazard, or violates this act. [MCL 288.493.]

19. The seizure of illegally produced milk products is also provided for in section 91 of the Milk Manufacturing Law:

The director may seize or hold for investigation any milk, dairy product, or equipment which the director may have reason to believe constitutes or may be contributing to an imminent or substantial health hazard or is in violation of this act. [MCL 288.651.]

20. The above-described activities and tasks will be conducted by myself and other MDARD staff.

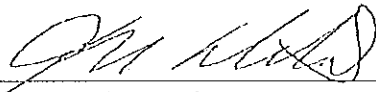
21. MDARD requests access to Hill High Dairy for a period of three (3) days from the date the Administrative Inspection Warrant is issued. Access will be limited to the hours of 8:00 am to 8:00 pm and MDARD shall provide a written inventory of all items seized or removed and provide a copy of that inventory to Hill High Dairy.

22. This Court previously granted MDARD's request for an Administrative Inspection Warrant to conduct Hill High Dairy's most recent routine inspection on December 3, 2014. (Attached as Exhibit B.)

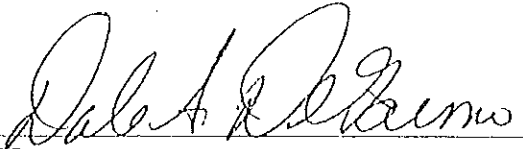
23. I therefore request, on behalf of MDARD, that this Court immediately issue the Administrative Inspection Warrant attached to this Affidavit and Application.

  
Amber A. Parmelee  
Dairy Industry Field Scientist

Subscribed and sworn to by Amber A. Parmelee  
before me the 12<sup>th</sup> day of June, 2015.

  
Amy M. Mitosinka  
Notary Public, State of Michigan, County of Kent  
My Commission Expires: 11/01/2018  
Acting in the County of Ingham

This Affidavit of Amber A. Parmelee was taken before the undersigned District Court Judge for the 66<sup>th</sup> District Court, on this 15 day of June, 2015, such person being first duly sworn.

  
Hon.  
District Court Judge