

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**MANOHAR JAIN and,
JAY DURGA ENTERPRISES, INC.,**

Petitioners,

**Case Nos.: 16-0146
16-0770**

vs.

DEPARTMENT OF HEALTH,

Respondent.

RESPONDENT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE

Respondent, Department of Health ("DEPARTMENT"), pursuant to Florida Rule of Civil Procedure 1.100(b) and 1.200(a)(9), move this Court for an Order in Limine restricting hearing participants from mentioning certain matters, which are outside of the scope of this matter at any time during the hearing. The grounds in support of this motion are as follows:

1. Certain irrelevant matters have been introduced into this action by the PETITIONER'S Request for Judicial Notice filed on April 14, 2016 and by conduct of the PETITIONERS during discovery, and pre-trial conferences. These irrelevant matters will be prejudicial and confusing if mentioned at hearing.

2. Section 120.569(2)(g), Florida Statutes provides:

"Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath."

3. The matters set forth below are irrelevant and immaterial to this administrative matter:

a) Any code enforcement actions in Lake County, Florida;

- b) Any code enforcement actions in Orange County, Florida;
- c) The biomedical waste complaint originated by Orange County Code Enforcement at PETITIONER'S Orange County homestead residence and any documents or testimony related to or arising out of this complaint including but not limited to:
 - a. The complaint filed with the Florida Department of Health, Medical Quality Assurance (MQA) regarding biomedical waste in Orange County;
 - b. The complaint filed by the PETITIONERS with the Florida Department of Health's Inspector General against the undersigned counsel;
- d) Any Florida Department of Health, environmental health related cases in Orange County Florida;
- e) Two (2) dismissed Florida Bar complaints filed by PETITIONERS against the undersigned counsel;
- f) Any and all complaints filed by the PETITIONERS with the Florida Department of Health's Inspector General's Office including but not limited to:
 - a. A complaint filed by the PETITIONERS regarding Florida Department of Health, Lake County Environmental Health Administrator Stephanie Daugherty;
 - b. A complaint filed by the PETITIONERS regarding Florida Department of Health, Lake County Environmental Health Inspector Elias Christ.

4. DEPARTMENT, is a state agency created by section 20.43, Florida Statutes to *"promote and protect the health of all residents and visitors in the state through organized state and community efforts"*.

5. DEPARTMENT is in no way associated nor affiliated with any specific county enforcement or county code enforcement.

6. DEPARTMENT has no jurisdictional authority to regulate or enforce any action taken by a specific county or county code enforcement.

7. DEPARTMENT is not affiliated or associated with any other municipality.

8. DEPARTMENT has no jurisdictional authority to regulate or enforce any action taken by a specific municipality.

9. The case subject to this specific administrative action concerns DEPARTMENT'S issuance of two (2) Citations for Violation for the dumping of untreated human waste due to multiple sewage spills originating from the commercial property 20349 U.S. Hwy 27, Clermont, Florida 34715, known as the Palace Inn Motel owned and operated by the Petitioners.

10. Pursuant to Chapter 386, Florida Statutes, the DEPARTMENT has jurisdiction to regulate any and all sanitary nuisances, which includes untreated or improperly treated human waste.

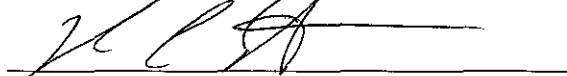
11. Any other facts or actions taken by the DEPARTMENT or any other agency regarding the PETITIONERS is immaterial and irrelevant should not be included or presented at hearing.

12. Pursuant to Florida Administrative Code Rule 28-106.204(2), the DEPARTMENT has conferred with PETITIONERS concerning this Motion in Limine to Exclude Evidence. PETITIONERS did not approve or object this Motion

WHEREFORE, the Respondent, Florida Department of Health request this court issue an order limiting evidence to the sanitary nuisance that is the subject of this administrative action and excluding the evidence detailed above and any other evidence concerning the same.

DATED this 21st day of April, 2016.

Respectfully submitted,

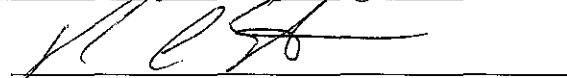


Rickey L. Strong
Senior Attorney
Florida Bar No. 076696
Central Florida Consortium
Florida Department of Health
Office of the General Counsel
Department of Health
6101 Lake Ellenor Drive
Orlando, Florida 32809

ATTORNEY FOR DEPARTMENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion in Limine to Exclude Evidence was furnished via U.S. Certified Mail 91 7108 2133 3937 4246 3572 to Manohar Jain and Jay Durga Enterprises, Inc., 4800 S. Apopka Vineland Road, Orlando, Florida 32819 and emailed to drjainproselitigant@outlook.com, jainemergicare@aol.com.



Rickey L. Strong, Esq.