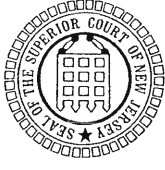

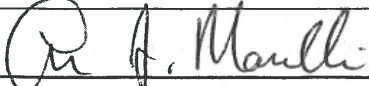


Appendix XII-B1

 <p align="center"><b>CIVIL CASE INFORMATION STATEMENT (CIS)</b></p> <p align="center">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</b></p>		FOR USE BY CLERK'S OFFICE ONLY			
		ATTORNEY / PRO SE NAME Lisa Morelli		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
		TELEPHONE NUMBER (609) 376-2708		CHG/CK NO.	
		COUNTY OF VENUE Mercer		AMOUNT:	
FIRM NAME (if applicable)		OVERPAYMENT:			
OFFICE ADDRESS Hughes Justice Complex 25 Market Street Trenton, NJ 08625		BATCH NUMBER:			
NAME OF PARTY (e.g., John Doe, Plaintiff) New Jersey Department of Environmental Protection, Plaintiff		DOCUMENT TYPE Mtn-Order to Proceed Summarily			
CAPTION New Jersey Department of Environmental Protection v. Leonardo A. Hernandez and Gustavo A. Hernandez, Jr.		JURY DEMAND <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
CASE TYPE NUMBER (See reverse side for listing) 801	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.			
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, LIST DOCKET NUMBERS				
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN				
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>					
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION					
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS				
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION					
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION				
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, FOR WHAT LANGUAGE?				
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .					
ATTORNEY SIGNATURE: 					

SUMMONS

Attorney(s) Lisa Morelli

Office Address Hughes Justice Complex, 25 Market Street

Town, State, Zip Code Trenton, NJ 08625-093

Telephone Number 609-376-2708

Attorney(s) for Plaintiff NJDEP

New Jersey Department of \_\_\_\_\_

Environmental Protection \_\_\_\_\_

Plaintiff(s)

vs.

Leonardo A. Hernandez, and

Gustavo A. Hernandez, Jr.

Defendant(s)

Superior Court of  
New Jersey

Mercer County

Chancery Division

Docket No: \_\_\_\_\_

CIVIL ACTION  
SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).

\_\_\_\_\_  
Clerk of the Superior Court

DATED: 12/06/2018

Name of Defendant to Be Served: Leonardo A. Hernandez and Gustavo A. Hernandez, Jr.

Address of Defendant to Be Served: 399 Campus Drive #310, Somerset NJ 08873 & 312 Eisler Lane, Hillsborough, 08844

Atlantic County Surrogate  
Atlantic County Civil Courthouse  
1201 Bacharach Blvd. Atlantic City, NJ 08401

Bergen County Surrogate  
Bergen County Justice Center  
10 Main Street, Room 211,  
P.O. Box 600, Hackensack, NJ 07601-7691

Burlington County Surrogate  
Burlington County Court Complex  
49 Rancocas Road, 1st floor  
PO Box 6000, Mt. Holly, NJ 08060-1827

Camden County Surrogate  
Camden County Surrogate Office  
415 Federal Street, Camden, NJ 08103-1122

Cape May County Surrogate  
4 Moore Rd., POB 207  
Cape May Court House, NJ 08210

Cumberland County Surrogate  
Cumberland County Courthouse  
60 West Broad Street, Suite A111  
Bridgeton, NJ 08302

Essex County Surrogate  
206 Hall of Records  
465 Dr. Martin Luther King, Jr. Blvd.,  
Newark, NJ 07102

Gloucester County Surrogate  
Surrogate Building  
17 North Broad Street, 1st flr.  
P.O. Box 177, Woodbury, NJ 08096-7177

Hudson County Surrogate  
Administration Bldg.  
595 Newark Ave., Room 107  
Jersey City, NJ 07306

Hunterdon County Surrogate  
Hunterdon County Justice Center  
65 Park Avenue  
P.O. Box 2900, Flemington, NJ 08822-2900

Mercer County Surrogate  
Mercer County Courthouse  
175 So. Broad Street  
P.O. Box 8068, Trenton, NJ 08650-0068

Middlesex County Surrogate  
Administration Building  
75 Bayard Street,  
PO Box 790 New Brunswick, NJ 08903-0790

Monmouth County Surrogate  
Hall of Records  
1 East Main Street  
P.O. Box 1265, Freehold, NJ 07728-1265

Morris County Surrogate  
Administrative & Records Bldg, 5th Fl.  
Court Street  
P.O. Box 900 Morristown, NJ 07963-0900

Ocean County Surrogate

ATLANTIC COUNTY:  
LAWYER REFERRAL: (609) 345-3444  
LEGAL SERVICES: (609) 348-4200

BERGEN COUNTY:  
LAWYER REFERRAL (201) 488-0044  
LEGAL SERVICES (201) 487-2166

BURLINGTON COUNTY:  
LAWYER REFERRAL (609) 261-4862  
LEGAL SERVICES (800) 496-4570

CAMDEN COUNTY:  
LAWYER REFERRAL: (856) 964-4520  
LEGAL SERVICES: (856) 964-2010

CAPE MAY COUNTY:  
LAWYER REFERRAL: (609) 463-0313  
LEGAL SERVICES : (609) 465-3001

CUMBERLAND COUNTY:  
LAWYER REFERRAL: (856) 692-6207  
LEGAL SERVICES: (856) 451-0003

ESSEX COUNTY:  
LAWYER REFERRAL: (973) 622-6207  
LEGAL SERVICES: (973) 624-4500

GLOUCESTER COUNTY:  
LAWYER REFERRAL: (856) 848-4589  
LEGAL SERVICES: (856) 848-5360

HUDSON COUNTY:  
LAWYER REFERRAL: (201) 798-2727  
LEGAL SERVICES: (201) 792-6363

HUNTERDON COUNTY:  
LAWYER REFERRAL: (908) 263-6109  
LEGAL SERVICES: (908) 782-7979

MERCER COUNTY:  
LAWYER REFERRAL: (609) 585-6200  
LEGAL SERVICES: (609) 695-6249

MIDDLESEX COUNTY:  
LAWYER REFERRAL: (732) 828-0053  
LEGAL SERVICES: (732) 249-7600

MONMOUTH COUNTY:  
LAWYER REFERRAL: (732) 431-5544  
LEGAL SERVICES: (732) 866-0020

MORRIS COUNTY:  
LAWYER REFERRAL: (973) 267-5882  
LEGAL SERVICES: (973) 285-6911

OCEAN COUNTY:

GURBIR S. GREWAL  
Attorney General of New Jersey  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625-0093  
Attorney for Plaintiff, New Jersey  
Department of Environmental Protection

By: Lisa J. Morelli (039951998)  
Deputy Attorney General  
(609) 376-2708

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MERCER COUNTY

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

LEONARDO A. HERNANDEZ, as Real  
Party in Interest for 323  
NORTH OLDEN AVENUE LLC, and  
GUSTAVO A. HERNANDEZ, JR.,

Defendants.

Docket No.: C-

CIVIL ACTION

**COMPLAINT FOR ENFORCEMENT OF A  
FINAL AGENCY ORDER PURSUANT TO  
RULE 4:67-6**

Plaintiff, New Jersey Department of Environmental Protection  
("DEP" or "Department"), by way of Complaint against Defendants,  
says:

**NATURE OF THE ACTION**

1. This is a civil action brought pursuant to R. 4:67-6 to  
enforce a final agency order issued by the Commissioner of  
the Department of Environmental Protection to Defendant 323

North Olden Avenue LLC and Defendant Gustavo A. Hernandez, Jr., the purported owners of real property located at 323 N. Olden Avenue, City of Trenton, New Jersey ("the Property").

2. Defendants have failed to comply with a final Administrative Order to remove and properly dispose of solid waste deposited on the subject property purportedly purchased by Defendants in the City of Trenton. Certification of Lisa J. Morelli ("Morelli Cert.") **Exh. A.** This action seeks injunctive relief against Defendants and against Leonardo A. Hernandez (aka "Lenny Hernandez") to remove all solid waste deposited on the Property since Defendants' purchase of the same in February 2014, in compliance with the Department's Order and as authorized by N.J.S.A. 13:1E-9(d)(1). As described further below, Lenny Hernandez is the real party in interest to the non-existent legal entity known as 323 North Olden Avenue LLC.
3. Defendants also have failed to comply with a final Administrative Order to remove and properly dispose of hazardous waste material on the Property, and to properly label drums of used oil located on the Property. Morelli Cert. **Exh. B.** This Action seeks further injunctive relief against Defendants and against Leonardo A. Hernandez (as further described below) to remove hazardous waste material

- on the Property and to properly label drums containing used oil, in compliance with the Department's Order and as authorized by N.J.S.A. 13:1E-9(d)(1).
4. This action also seeks penalties assessed pursuant to the final Administrative Orders described above.
5. The Department also seeks reasonable costs of preparing and litigating this enforcement proceeding, including the State's attorney's fees, as allowed by N.J.S.A. 13:1E-9(d)(2).

#### PARTIES

6. Plaintiff, the New Jersey Department of Environmental Protection, is a State agency as defined in N.J.S.A. 52:14B-2(a), with offices at 401 East State Street, Trenton, New Jersey 08625. The Department administers programs to conserve the natural resources of the State, to promote environmental protection, and to prevent pollution of the environment of the State. N.J.S.A. 13:1D-9. Pursuant to the New Jersey Solid Waste Management Act (SWMA), the Department is authorized to develop and enforce rules and regulations governing the management, collection and disposal of solid waste. See N.J.S.A. 13:1E-2. The SWMA also authorizes the Department to develop and enforce rules and regulations governing the identification and

management of hazardous waste. See N.J.S.A. 13:1E-1, et seq.

7. Defendant 323 North Olden Avenue LLC is a purported LLC that is the nominal owner of certain real property located at 323 N. Olden Avenue, City of Trenton, New Jersey. In fact, however, the LLC was never registered with the State (or any other state) and does not exist as a legal entity. Morelli Cert., ¶ 10.
8. Defendant Gustavo A. Hernandez, Jr., was the listed owner of real property located in Hillsborough, New Jersey, that in turn was listed as the address of 323 N. Olden Avenue, LLC in a deed dated February 6, 2014. **Exh. E** Morelli Cert. That deed memorializes the transfer of ownership of the Property from Robert D. Spickler, Inc. to 323 N. Olden Avenue, LLC. The Hillsborough address also is listed in City of Trenton Tax Assessor records as the mailing address for 323 N. Olden Avenue LLC. Id., **Exh. F**.
9. On information and belief, Leonardo A. Hernandez, aka Lenny Hernandez, is the son of Gustavo A. Hernandez, Jr. Lenny Hernandez held himself out to DEP officials as the responsible party for the real property located at 323 N. Olden Avenue, Trenton, New Jersey. Zasoski Cert., ¶ 7.

FACTUAL BACKGROUND

10. On information and belief, Lenny Hernandez purchased the real property located at 323 N. Olden Avenue, Trenton ("Property"), via deed dated February 6, 2014. The purchase was an all-cash transaction for \$50,000, which included an agreement by Hernandez, purportedly acting as 323 N. Olden Avenue LLC, to pay off an existing tax lien of the seller in the approximate amount of \$24, 563. The remaining purchase price was paid via 1) a wire transfer from LNH Holdings, LLC, for \$11,610.25, and 2) a cashier's check dated 2/18/2014 for \$15,000. LHN Holdings, LLC is registered to Ligia Hernandez, with an address in Plainfield, New Jersey. Morelli Cert. ¶ 11, **Exh. F**.
11. Since purchasing the property in February 2014, Lenny Hernandez has not paid any property taxes on the Property. Morelli Cert., **Exh. E**.
12. Since February 2014, large amounts of solid waste have been brought to the property and illegally dumped there. Aerial photos from Google Earth show the extent of solid waste dumped at the site since Lenny Hernandez purchased the property in February 2014. Morelli Cert. **Exh. C**.
13. Following complaints of dumping at the Property, DEP officials inspected the site on November 2, 2016. DEP officials observed that solid waste had been illegally



dumped at the property. Certification of Andrea Zasoski ("Zasoski Cert."), ¶ 2.

14. Based on this compliance inspection, DEP issued a Notice of Violation (NOV) to Gustavo A. Hernandez, Jr. on December 6, 2016. Morelli Cert. **Exh. G.** DEP issued the NOV to Gustavo Hernandez because he was the owner of property listed as the mailing address for the purported entity known as 323 N. Olden Avenue, LLC. As discussed in paragraph 6 above, this LLC was never registered with the State and does not exist as a legal entity.

15. The NOV informs respondent Hernandez that he is in violation of N.J.A.C. 7:26-2.8(f) by operating a solid waste facility without a Solid Waste Facility permit. Pursuant to New Jersey's Grace Period Law, the NOV informs respondent that he can avoid issuance of formal enforcement orders and penalties by taking the specified corrective action. Such action included immediate cessation of dumping of solid waste material at the Property and removing the solid waste located thereon to a properly licensed and registered solid waste facility.

16. On January 13, 2017 and March 16, 2017, DEP officials conducted additional inspections of the Property and observed that additional solid waste that had been illegally dumped on the site. Zasoski Cert. ¶3. DEP

officials also discovered several 55-gallon drums of waste with unknown contents in a building in the middle of the Property. Id. One drum was marked "hazardous waste," and was subsequently confirmed to contain flammable (hence hazardous) material. See Paragraph 17, below. Four additional drums contain non-hazardous petroleum-based oil products in non-D.O.T. shipping containers.

17. During DEP's March 2017 inspection an individual named Mario Parisi was present on the Property. Mr. Parisi told DEP officials that he was considering purchasing the property and was there to conduct due diligence of the property. Zasoski Cert., ¶ 4. Mr. Parisi retained Qualified Tank Services (aka Qualified Companies, Inc.) to evaluate the contents of the drums, and Qualified confirmed that one of the drums contained flammable, and hence hazardous, waste. Zasoski Cert., ¶ 5. Qualified Tank also confirmed that four additional drums found on the Property contain non-hazardous petroleum-based oil products in non-D.O.T. shipping containers. Id.

18. Following these various inspections and reports on the Property, and based on the large quantities of solid waste dumped at the site, the Department determined that Defendants violated N.J.A.C. 7:26-2.8(f), which prohibits any person from constructing or operating a solid waste

facility (SWF) without obtaining a SWF permit, unless exempted. A "solid waste facility" is defined to include any site that is utilized for the storage or disposal of solid waste. N.J.A.C. 7:26-1.4.

19. DEP accordingly on July 20, 2017 issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) to Defendants 323 N. Olden Avenue LLC and Gustavo A. Hernandez, Jr. Morelli Cert., **Exh. A.** The AONOCAPA contends that Defendants violated the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and/or the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., and the regulations promulgated thereunder, specifically N.J.A.C. 7:26-2.8(f). The AONOCAPA notes that the Property contains approximately 100 cubic yards of solid waste, located in an outdoor area with some of the waste partially pushed into a building that is not fully enclosed.

20. The July 20, 2017 AONOCAPA ordered Defendants to, among other things, remove all solid waste present inside and outside of buildings located at the Property in accordance with an approved schedule using a licensed/registered solid waste transporter to dispose of the solid waste at a solid waste or recycling facility, as

appropriate and as permitted in the operating approvals for that facility.

21. Pursuant to N.J.S.A. 13:1E-9(e) and/or N.J.A.C. 7:26-5.1, 5.4 and 5.5, the July 20, 2017 AONOCAPA also assessed civil administrative penalties against defendants in the amount of \$35,000.
22. The Department on July 10, 2017 issued another AONOCAPA to Gustavo A. Hernandez, Jr. and 323 N. Olden Avenue, LLC with respect to the drum of hazardous waste and drums of used oil product found on the Property. Morelli Cert. **Exh. B.** The AONOCAPA states that Defendants are in violation of hazardous waste regulations regarding the accumulation and management of hazardous waste, and regarding the labeling/marketing requirements for used oil. The AONOCAPA orders Defendants to label all drums containing hazardous waste, remove the waste to an approved destination facility using an A-901 licensed hazardous waste transporter, and properly label all containers holding used oil with the words "Used Oil."
23. Pursuant to N.J.S.A. 13:1E-9(a) and/or N.J.A.C. 7:1E-6.5, 6.6, 6.7 and 6.8, the July 10, 2017 AONOCAPA also assessed civil administrative penalties against defendants in the amount of \$35,000.

24. Following issuance of the two AONOCAPAs, DEP officials on September 15, 2017 met with Lenny Hernandez at DEP's offices in Trenton. Mr. Hernandez agreed to submit to DEP a corrective action plan and schedule for the removal of the solid waste at the Property, but never submitted a plan. Zasoski Cert., ¶ 7.
25. Defendants never responded to either AONOCAPA, and did not request an administrative hearing. The AONOCAPAs accordingly are now Final Orders with respect to Defendants.
26. Defendant Lenny Hernandez is responsible for the obligations and liabilities of 323 N. Olden Avenue LLC, as the latter does not exist as an actual legal entity.

COUNT ONE

ENFORCEMENT OF THE SOLID WASTE FINAL ORDER

(as against Gustavo A. Hernandez, Jr. and Leonardo

Hernandez)

27. Plaintiff repeats and re-alleges the allegations set forth in the previous paragraphs as if set forth herein in their entirety.
28. The July 20, 2017 AONOCAPA is a final agency order enforceable through a summary action in Superior Court.

29. The Department is authorized to institute a civil action in Superior Court for injunctive relief to enforce violations of its rules governing solid waste. N.J.S.A. 13:1E-9(d). Both the SWMA and the court rules authorize the Superior Court to adjudicate enforcement of a final agency order in a summary manner. Id., R. 4:67-6.
30. The July 20, 2017 AONOCAPA directed Defendants to remove all solid waste present inside and outside of buildings located at the Property in accordance with an approved schedule using a licensed/registered solid waste transporter to dispose of the solid waste at a solid waste or recycling facility, as appropriate and as permitted in the operating approvals for that facility.
31. The July 20, 2017 AONOCAPA also assessed civil administrative penalties against defendants in the amount of \$35,000.
32. While 323 N. Olden Avenue LLC is the nominal owner of the Property, that entity does not exist as a legal entity. Lenny Hernandez is the person who is legally responsible for the obligations and liabilities of the non-existent LLC and who, on information and belief, purchased the Property and held himself out as the person with ownership rights to the Property.

WHEREFORE, the Department seeks enforcement of the July 20, 2017 AONOCAPA against defendants Gustavo A. Hernandez, Jr. and Lenny Hernandez, including ordering defendants to:

- a. Within fifteen (15) calendar days, submit to the Department for approval a schedule detailing activities associated with the removal from the Property of solid waste deposited on the site since February 2014;
- b. Following DEP's approval of the schedule, provide written notification to the Department two weeks prior to starting solid waste removal activities at the Property, with such notification submitted to:

Department of Environmental Protection  
Division of Waste Enforcement, Pesticides & Release Prevention  
Bureau of Solid Waste Compliance & Enforcement  
P.O. Box 420, Mail Code 09-01  
Trenton, NJ 08625-0420  
Email:

- c. Remove all solid waste deposited at the site since February 2014 in accordance with the approved schedule using a registered/licensed solid waste transporter to dispose of the solid waste at a solid waste or recycling facility, only to the extent the materials contained in an individual load are waste types permitted for acceptance at that facility and commingled only to the

- extent permitted in the operating approvals for that facility;
- d. Submit to the address listed above in subparagraph (b) copies of all receipts/invoices confirming that all removed solid waste was either recycled or disposed of. The receipts shall be submitted to DEP no later than 30 days after the final shipment of solid waste from the Property;
- e. Pay the civil administrative penalties assessed in the amount of \$35,000;
- f. Pay plaintiff's costs of this enforcement action, including all costs of site investigation and reasonable litigation costs, pursuant to N.J.S.A. 13:1E-9(d)(2); and
- g. Granting such other relief as the Court deems just and proper.

COUNT TWO

ENFORCEMENT OF HAZARDOUS WASTE FINAL ORDER

(as against Gustavo A. Hernandez, Jr. and Leonardo Hernandez)

33. Plaintiff repeats and re-alleges the allegations set forth in the previous paragraphs as if set forth herein in their entirety.
34. The July 10, 2017 AONOCAPA is a final agency order enforceable through a summary action in Superior Court.



35. The Department is authorized to institute a civil action in Superior Court for injunctive relief to enforce violations of its rules governing solid waste. N.J.S.A. 13:1E-9(d). Both the SWMA and the court rules authorize the Superior Court to adjudicate enforcement of a final agency order in a summary manner. Id., R. 4:67-6.


36. The July 10, 2017 AONOCAPA directed Defendants Gustavo A. Hernandez, Jr. and 323 N. Olden Avenue LLC to label all drums containing hazardous waste, remove the waste to an approved destination facility using an A-901 licensed hazardous waste transporter, and properly label all containers holding used oil with the words "Used Oil."

37. While 323 N. Olden Avenue LLC is the nominal owner of the Property, that entity does not exist as a legal entity. Lenny Hernandez is legally responsible for the obligations and liabilities of the non-existent LLC, and is the person, who, on information and belief, purchased the Property and held himself out as the person with ownership rights to the Property.

**WHEREFORE**, the Department seeks enforcement of the July 10, 2017 AONOCAPA against Defendants Gustavo A. Hernandez, Jr., and Lenny Hernandez, including ordering Defendants to:

- a. Within thirty (30) calendar days, properly remove the drum identified as containing hazardous waste from the site and have it transported to an approved destination facility by an A-901 licensed hazardous waste transporter;
- b. Within thirty (30) calendar days, properly label the drums identified as holding petroleum oil product with the words "Used Oil";
- c. Pay the civil administrative penalties assessed in the amount of \$35,000;
- d. Pay plaintiff's costs of this enforcement action, including all costs of site investigation and reasonable litigation costs, pursuant to N.J.S.A. 13:1E-9(d)(2); and
- e. Granting such other relief as the Court deems just and proper.

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: 

Lisa Morelli  
Deputy Attorney General

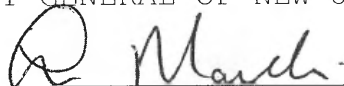
DATE: December 5, 2018

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that I am a Deputy Attorney General assigned to prosecute this matter and am counsel of record for the within matter. I am designated trial counsel pursuant to R. 4:5-1(c). I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

I am not aware of any pending litigation or action concerning the July 20, 2017 AONOCAPA or the July 10, 2017 AONOCAPA issued by the Department of Environmental Protection to Defendants in this matter. Apart from Leonardo A. Hernandez, I am not aware of any other parties who should be joined in this litigation.

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: 

Lisa Morelli  
Deputy Attorney General

DATE: December 5, 2018