

CATHY DERBONNE

SUIT NO. 665, 201 DIV "E" SEC. 23

VS.

19TH JUDICIAL DISTRICT COURT

STATE POLICE COMMISSION

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

**DEFENDANT'S PEREMPTORY EXCEPTION OF NO CAUSE OF ACTION**

NOW INTO COURT, through undersigned counsel, comes Defendant, the Louisiana State Police Commission (hereinafter "Defendant" or "Commission"), and pursuant to Louisiana Code of Civil Procedure Art. 927(5) submits this Peremptory Exception Of No Cause Of Action with respect to the Supplemental, Amending, and Restated Petition filed on behalf of Plaintiff Cathy Derbonne as follows:

1.

Plaintiff Cathy Derbonne ("Plaintiff") is a former employee of the Commission who now asserts a cause of action against her previous employer, the Commission, under Louisiana's Whistleblower Statute, La. R.S. §23:967 (the "LWS"). In her Supplemental, Amending, and Restated Petition (hereinafter "Amended Petition"), Plaintiff alleges that she was constructively discharged by the Commission in reprisal for her engaging in activities protected under the LWS.

2.

Defendant excepts to Plaintiff's Amended Petition on the peremptory basis of no cause of action because Plaintiff fails to allege material facts that are necessary to establish the essential elements of a claim under the Louisiana Whistleblower Statute, La. R.S. §23:967. As set forth more fully in Defendant's Memorandum in Support, Plaintiff's claim under §23:967 should be dismissed because Plaintiff failed to plead sufficient facts to establish that her employer, the Commission, engaged in a workplace act or practice that resulted in an actual violation of state law.

3.

Defendant also excepts to Plaintiff's Amended Petition on the basis that Plaintiff has admitted that it was her responsibility as Executive Director of the Commission to ensure that the

Commission and its members "abided by their obligations under the law." Consequently, Plaintiff cannot now claim whistleblower protection for those alleged acts of non-compliance that fell within her responsibility to report and correct.

4.

In accordance with Rule 9.8 of the Uniform Rules for Louisiana District Courts, this case is not set for trial and no testimony will be offered at the hearing.

5.

In support of its exception, Defendant relies on the following exhibits:

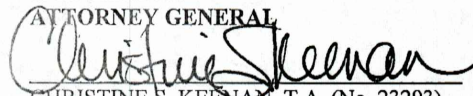
Exhibit 1	Supplemental, Amending, and Restated Petition
Exhibit 2	Excerpts from Louisiana State Police Commission Rules
Exhibit 3	Selected Transmittal Sheets

WHEREFORE, based on the foregoing, Defendant Louisiana State Police Commission respectfully requests that this Court sustain its exception and dismiss Plaintiff's Supplemental, Amending, and Restated Petition with prejudice, and grant such further relief, both general and specific that they may show themselves just entitled.

Respectfully submitted this 11th day of April, 2019,

Respectfully submitted:

JEFF LANDRY  
ATTORNEY GENERAL



CHRISTINE S. KEENAN, T.A. (No. 23293)

Special Assistant Attorney General

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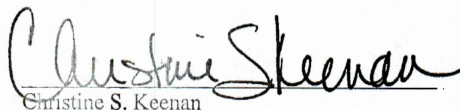
[jjl@kullmanlaw.com](mailto:jjl@kullmanlaw.com)

*Counsel for Louisiana State Police  
Commission*

CERTIFICATE OF SERVICE

This is to certify that on this 11th day of April 2019, the foregoing pleading was sent to all counsel of record via electronic mail and first class mail, postage prepaid, to the following:

Jill L. Craft, Esq.  
W. Brett Conrad, Esq.  
330 Government Street  
Baton Rouge, LA 70802

  
Christine S. Keenan

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**RULE TO SHOW CAUSE**

IT IS HEREBY ORDERED that Plaintiff Cathy Derbonne appear and show cause at 9:30 o'clock A.M. on the 29 day of JULY, 2019 as to why the Peremptory Exception of No Cause of Action as to Plaintiff's Supplemental, Amending and Restated Petition filed on behalf of Defendant Louisiana State Police Commission should not be granted.

Thus done and signed on this the 22 day of April, 2019.

*William A. Morvant*

JUDGE WILLIAM MORVANT  
19TH JUDICIAL DISTRICT COURT

**PLEASE SERVE:**

Cathy Derbonne  
Through her attorney of record,  
Jill L. Craft, Esq.  
W. Brett Conrad, Esq.  
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**Please notify:**

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