

H

STATE OF LOUISIANA  
VERSUS  
JERL T. KERSHENSTINE

24<sup>TH</sup> JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON  
STATE OF LOUISIANA  
NO. 12-21

FILE FOR RECORD  
2012 JAN 24 AM 9:07  
DEPUTY CLERK  
PARISH OF JEFFERSON, LA

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FILED: \_\_\_\_\_

DEPUTY CLERK

**MOTION TO QUASH SUBPEONA OF VICTIM**

NOW INTO COURT comes Paul D. Connick, Jr., District Attorney in and for the Parish of Jefferson, State of Louisiana, through the undersigned Assistant District Attorney, who informs the Court that:

I.

On January 23, 2012, counsel for the defendant and/or Costal Shoring LLC served the State of Louisiana with a Request To Issue Witness Subpeonas. This motion requested the issuing of subpoenas to several witnesses for January 27, 2012, including "Attorney Connie Sue Montgomery."

II.

Connie Sue Montgomery is one of the alleged victim of violation of La. R.S. 14:202.1, home improvement fraud, perpetrated by Jerl T. Kershenstine. Upon information and belief, the defendant and his counsel are aware that Ms. Montgomery is the alleged victim in the current criminal proceedings. Ms. Montgomery is also an attorney and member of the Louisiana State Bar.

III.

La. R.S. 46:1844(C)(3) provides in pertinent part, "[b]efore any victim may be subpoenaed to testify on behalf of a defendant at any pretrial hearing, the defendant shall show good cause at a contradictory hearing with the district attorney why the subpoena should be issued. Willful disregard of the rights of victims and witnesses as enumerated in this Paragraph may be punishable as contempt of court." See also State v. Harris, 2008-2117 (La. 12/19/08), 998 So. 2d 55.

IV.

Furthermore, La. C.E. art 507(A) provides that "Neither a subpoena nor a court order shall be

IMAGED JAN 24 2012

IMAGED JAN 26 2012

issued to a lawyer or his representative to appear or testify in any criminal investigation or proceeding where the purpose of the subpoena or order is to ask the lawyer or his representative to reveal information about a client or former client obtained in the course of representing the client unless the court after a contradictory hearing has determined that the information sought is not protected from disclosure by any applicable privilege or work product rule ...”

V.

In the instant proceeding a contradictory hearing as required under either La. R.S. 46:1844(C)(3) and/or La. C.E. art 507(A) was neither requested nor held.

WHEREFORE, the District Attorney's Office for the Parish of Jefferson prays the requested subpoena to Connie Sue Montgomery be denied or if already issued be quashed.

Respectfully submitted,



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MICHAEL G. MORALES (27707)  
ASSISTANT DISTRICT ATTORNEY  
PARISH OF JEFFERSON  
GRETNA, LOUISIANA 70053  
(504) 368-1020

**Certificate of Service**

I certify that a copy of the forgoing motion was served on opposing counsel by email and U.S. Mail.



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MICHAEL G. MORALES

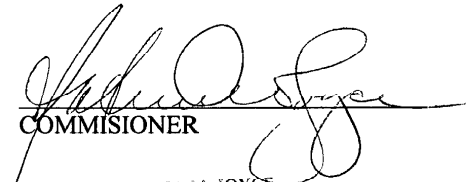
IMAGED JAN 24 2012

IMAGED JAN 26 2012

**ORDER**

CONSIDERING THE FORGOING, it is hereby ordered that the subpoena commanding the presence of Connie Sue Montgomery to appear before the Commissioner Court of the Twenty-fourth Judicial District Court for the Parish of Jefferson on January 27, 2012 at 10:00 A.M. is **QUASHED**.  
Gretna, Louisiana.

This the 24 day of January, 2012.

  
COMMISSIONER  
PATRICIA M. JOYCE  
CRIMINAL DOMESTIC COMMISSIONER

IMAGED JAN 24 2012

IMAGED JAN 26 2012

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VERSUS  
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This the \_\_\_\_\_ day of January, 2012.

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COMMISSIONER