

Office of the Lieutenant Governor
State of Louisiana

JAY DARDENNE
LIEUTENANT GOVERNOR



P. O. Box 44243
BATON ROUGE, LOUISIANA 70804-4243
(225) 342-7009

March 5, 2014

Mr. [REDACTED]
Sandler, Reiff, Young & Lamb
Registered Agent
MoveOn.org PAC
1025 Vermont Ave. NW, Suite 300
Washington, DC 20005

Sent via Certified Mail and Fax (202) 479-1115

Re: Cease and desist use of the "LOUISIANA Pick Your Passion" registered service mark

Dear Mr. [REDACTED]:

It was brought to my attention today that MoveOn.org has been using the service mark "LOUISIANA Pick Your Passion" in association with its billboard campaign to support Medicaid expansion in Louisiana.

Please be advised that "LOUISIANA Pick Your Passion" (Mark) is a registered service mark of the Office of the Lieutenant Governor of the State of Louisiana and has been in use since 2011. As you are aware, the registration and use of a service mark provides its owner certain proprietary rights, including the right to restrict the use of the mark or a confusingly similar mark by others.

Accordingly, MoveOn.org is directed to cease and desist its use of the Mark and any similar mark that is likely to cause consumer confusion.

The Lieutenant Governor of the State of Louisiana is statutorily responsible for the state's culture, recreation, and tourism programs. Upon taking office, the Lieutenant Governor conceived of, approved, and invested in the Mark to brand and promote Louisiana's tourism industry, arts and artists, cultural institutions and heritage, museums, parks, libraries, and historic sites to statewide, national and international audiences. The Office of the Lieutenant Governor has devoted significant resources in the Mark. The effectiveness of the Mark is evidenced by the success this office has achieved in fulfilling its statutory mandates and generating record-breaking visitation for Louisiana's tourism, cultural, and recreation stakeholders.

Because the Mark is closely affiliated with the Office of the Lieutenant Governor, there is a strong likelihood that a reasonable consumer will believe the Lieutenant Governor is the source, sponsor, or is in some way affiliated with the billboards. That is, consumers are likely to be confused into believing this office is involved in a dispute with the Governor over Medicaid expansion.

The Mark is inherently distinctive in its verbiage, colors, and inverted “i,” all of which MoveOn.org has misappropriated for its own purposes.¹ MoveOn.org’s use of these elements:

1. Has already caused confusion regarding the source of the message and is likely to continue to do so in the future,
2. Is an intentional infringement and/or dilution of the Mark by MoveOn.org, and
3. Is likely to tarnish the Mark and result in substantial harm, injury and damage to this office and the individuals and industries that benefit from the Mark.

Any argument that MoveOn.org’s use of the Mark should be treated as a parody or satire does not withstand scrutiny. According to its own media, MoveOn.org hopes to target Louisiana’s governor in its billboard campaign. By its obvious use of the “LOUISIANA Pick Your Passion” iconography and verbiage, it appears that MoveOn.org may have been under the mistaken impression that the Mark is owned by or otherwise affiliated with the Office of the Governor. When an infringer is not commenting on the owner or his mark, but rather is using the owner’s mark to lampoon a third party, and if there are alternative avenues for expression, a defense of parody is rejected.

There are other avenues by which MoveOn.org may express its opinion — avenues that do not dilute the value or infringe upon a Mark that is associated with the efforts of the Lieutenant Governor to support and promote Louisiana tourism, culture, and recreation resources, and the thousands of Louisiana citizens whose livelihoods depend on these efforts. That is, it is possible to make your point without making a mockery of an important industry in our state.

It is imperative that this office shall protect the Mark against any misrepresentation or dilution that may cause substantial harm to the many individuals and businesses statewide that this office is legally mandated and proud to promote.

We understand that it is possible that MoveOn.org unaware of this infringement. It is also possible that MoveOn.org is unaware of the distinctions between the responsibilities of the Office of the Governor and the Office of the Lieutenant Governor in Louisiana. We hope that this issue may be amicably resolved so we may avoid any further legal action.

¹ LOUISIANA PICK YOUR PASSION LOGO: “LOUISIANA” IS IN PURPLE UPPERCASE LETTERS, WITH EXCLAMATION POINTS REPLACING EACH LETTER “I”. “PICK YOUR PASSION” IS IN RED, IN A MODIFIED CURSIVE FONT, ANGLED UPWARDS FROM LEFT TO RIGHT, BENEATH THE WORD “LOUISIANA”.

Mr. [REDACTED]
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To that end, we respectfully request that an authorized representative respond by letter assuring us of the organization's immediate actions taken to cease and desist the use of the Mark "LOUISIANA Pick Your Passion" or any confusingly similar mark within 10 calendar days of your receipt of this letter. In the alternative, an authorized representative may sign and return the cease and desist agreement included with this correspondence.

Per our conversation this afternoon, you indicated that you are the proper person to receive this directive.

If you have any questions about this letter, please feel free to contact me.

Regards,

[REDACTED]

General Counsel

cc: Lieutenant Governor Jay Dardenne
Attorney General Buddy Caldwell

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Cease and Desist Agreement

I, personally, and on behalf of infringing entity, MoveOn.org, agree to immediately cease and desist from any and all further use of the registered service mark, "Louisiana Pick Your Passion." If I or the entity should breach this agreement, the owner of the service mark shall be entitled to all costs, including attorney's fees, related to any and all claims or actions brought to enforce this agreement and the owner of the service mark shall be free to pursue all rights it had as of the date of this letter. I certify that I have the authority to enter into this agreement on behalf of myself and the infringing entity.

Signature

Printed Name

Date

JAY DARDENNE
LIEUTENANT GOVERNOR
P.O. Box 44243
BATON ROUGE, LOUISIANA 70804-4243



CERTIFIED MAIL

Mr. [REDACTED]
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1025 Vermont Ave. NW, Suite 300
Washington, DC 20005

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U.S. Postal Service™		
CERTIFIED MAIL™ RECEIPT		
(Domestic Mail Only; No Insurance Coverage Provided)		
For delivery information visit our website at www.usps.com		
WASHINGTON DC 20005		
Postage	\$ 0.70	0964
Certified Fee	\$3.30	08
Return Receipt Fee (Endorsement Required)	\$2.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 6.70	03/06/2014
[Redacted Address]		
or PO Box No.		
City, State, ZIP+4		
PS Form 3800, August 2006 See Reverse for Instructions		