

ILLINOIS POLLUTION CONTROL BOARD  
July 20, 2023

PAUL CHRISTIAN PRATAPAS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 23-73  
 ) (Citizens Enforcement - Water)  
 CADILLAC OF NAPERVILLE, and )  
 JOSEPH NICOLAS CONSTRUCTION, )  
 )  
 Respondents. )

ORDER OF THE BOARD (by B. F. Currie):

On November 22, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen’s complaint against Cadillac of Naperville (Cadillac) and Joseph Nicolas Construction (Nicolas Construction). The complaint concerns construction activity at Cadillac of Naperville’s showroom at 1507 West Ogden Avenue in Naperville, DuPage County.

On January 23, 2023, Nicolas Construction filed a motion to dismiss the complaint on the grounds of frivolousness.

**SERVICE OF COMPLAINT**

Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), any person may bring an action before the Board to enforce Illinois’ environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2022); 35 Ill. Adm. Code 103. Under the Board’s rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be “by U.S. Mail with a recipient’s signature recorded, a third-party commercial carrier with a recipient’s signature recorded, or personal service.” *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the “proceeding is subject to dismissal, and the filing party is subject to sanctions.” 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board’s website that is directed at citizen complaints. The Board’s form includes a sample affidavit of service that lists appropriate methods of service. Illinois law requires that a private corporation be served by, “(1) leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State; or (2) in any other manner now or hereafter permitted by law.” 735 ILCS 5/2-204 (2022). Mr. Pratapas indicated that he personally served the complaint on respondent Cadillac on December 10, 2022, at 1507 E. Ogden Avenue in Naperville. Mr. Pratapas filed an affidavit on December 12, 2022, reporting that the complaint was personally

served on Cadillac by serving an individual named Jung Park. There is no indication that the person “served” was a registered agent, officer or other agent of Cadillac.

**FAILURE TO FILE AMENDED COMPLAINT**

On June 1, 2023, The Board directed Mr. Pratapas to file an amended complaint no later than July 3, 2023, or face dismissal of the complaint for failure to plead the violations with specificity. *See* 35 Ill. Adm. Code 101.202(b). Mr. Pratapas has failed to cure the deficiencies in the complaint as to both respondents. Because Mr. Pratapas failed to timely file an amended complaint, and failed to demonstrate that he has served Cadillac’s registered agent, the Board dismisses this case as to both respondents and closes the docket.

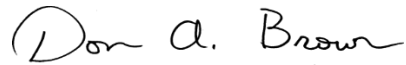
IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board’s procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Paul Christian Pratapas 1779 Kirby Parkway, Ste. 1, #92 Memphis, Tennessee, 38138 <a href="mailto:paulpratapas@gmail.com">paulpratapas@gmail.com</a>	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Ryan T. Johnson 180 N. LaSalle St., Suite 3300 Chicago, Illinois 60601 <a href="mailto:rjohnson@robbinsdimonte.com">rjohnson@robbinsdimonte.com</a>	

<p>Cadillac of Naperville 1507 W. Ogden Ave. Naperville, Illinois 60540</p>	
---	--

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 20, 2023, by a vote of 3-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board