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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

AMERICANS FOR SAFE ACCESS , Plaintiff, v. ERIC HOLDER, Attorney General of the United States, and MELINDA HAAG, United States Attorney for the Northern District of California, Defendants.	No. **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** **JURY DEMAND**

I. INTRODUCTION

1. Adamant in its disagreement with the policy choice made by the State of California to decriminalize marijuana for medical use -- which is California's sovereign right under our federalist system of government -- the federal government ("government") has instituted a policy to dismantle the medical marijuana laws of the State of California and to coerce its municipalities to pass bans on medical marijuana dispensaries. To this end, the government has pursued an increasingly punitive strategy, which has involved criminal prosecutions of medical marijuana providers with draconian

penalties and letters threatening local officials if they implement State law. The latest phase of this unconstitutional strategy to sabotage California's medical marijuana laws involved a highly unusual press conference attended by all four United States Attorneys for California on October 7, 2011, stating that they will engage in a multi-pronged attack on the State's medical marijuana laws in which they will do the following: (1) send mass mailings to property owners threatening civil forfeiture and severe criminal punishment if they rent to medical marijuana dispensaries who comply with State law; and (2) raid and prosecute medical marijuana providers who act in compliance with State law. One of these U.S. Attorneys has even gone so far as to threaten newspapers that carry ads for these state-allowed dispensaries with criminal punishment for their First Amendment activity. While the government is entitled to enforce its criminal laws against marijuana in the states that have decriminalized it for medical use in an even-handed manner, the Tenth Amendment forbids it from selectively employing such coercive tactics to commandeer the law-making functions of the State. This case is brought to restore the constitutional balance embodied by the federalist principles of our Constitution and the Tenth Amendment.

2. Note should be taken at the outset what plaintiff Americans for Safe Access ("ASA") does *not* contend. ASA does not challenge the congressional authority to enact laws criminalizing the possession and/or control of marijuana, as this issue has been resolved in the government's favor by the United States Supreme Court. *See Gonzales v. Raich*, 545 U.S. 1 (2005). Nor does ASA challenge the federal government's general authority to enforce its drug laws in the State of California. It is, rather, the government's *tactics,* and the unlawful assault on state sovereignty they represent, that form the gravamen of ASA's claim. Under the Tenth Amendment, the government may not commandeer the law-making functions of the State or its subdivisions directly or indirectly through the selective enforcement of its drug laws. It is this misuse of the government's Commerce Clause

powers, designed to deprive the State of its sovereign ability to chart a separate course, that forms the basis of plaintiff's claim.

II. JURISDICTION AND INTRADISTRICT ASSIGNMENT

3. Plaintiff brings this action to redress the deprivation of rights secured to its constituency by the Tenth Amendment to the United States Constitution.

4. The claim for declaratory relief in this action arises under the Tenth Amendment to the United States Constitution and 28 U.S.C. § 2201.

5. The claim for injunctive relief arises under the Tenth Amendment to the United States Constitution and 5 U.S.C. § 702.

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1346(a)(2) because the United States is a defendant, and under 28 U.S.C. § 1331 because the case involves a federal question.

7. Venue in this Court is proper under 28 U.S.C. § 1391(e) and Local Rule 3-5(b) because plaintiff ASA maintains its headquarters in Oakland, California, which is in this judicial district, and a substantial part of the events giving rise to the complaint occurred in this judicial district.

III. THE PARTIES

A. Plaintiff

8. Plaintiff AMERICANS FOR SAFE ACCESS ("ASA") is a non-profit corporation headquartered in Oakland, California that has as its primary purpose working to protect the rights of patients to use marijuana for medical use, including assisting California localities to consider and adopt reasonable regulations under State law over the provision of medical marijuana to the seriously

ill. To this end, ASA has devoted significant resources educating local officials about medical marijuana in counties that have passed medical marijuana regulations in this judicial district.

9. ASA's membership includes approximately 20,000 medical marijuana patients in California who are adversely affected by the federal government's selective targeting of medical marijuana providers and its direct threats against California political subdivisions in an attempt to disrupt State law.

10. This disruption of State law by federal officials has, and will continue to detrimentally affect the health and property interests of ASA's constituency.

a. For instance, 48-year-old medical marijuana patient Mark Perillo, Sr. ("Perillo") is an ASA constituent and member who suffers from extreme chronic pain due to degenerative joint and disc disease. Perillo began using marijuana for medical purposes while he was undergoing chemotherapy to treat Hepatitis C. His continued use of marijuana to treat chronic pain has significantly improved his health and has helped Perillo to reduce his intake of highly addictive morphine tablets. Perillo is a member of the Northstone Organics medical marijuana cooperative. Due to a recent federal raid on Northstone Organics on October 13, 2011, described below, Perillo lost his proportionate share of the medical marijuana cultivated by the cooperative and he will be impeded from obtaining his medicine because no other delivery service provides medical marijuana at the same low cost.

b. Medical marijuana patient Carmel Mireles ("Mireles") is a 56-year-old breast cancer survivor and medical marijuana patient who uses marijuana to treat nausea, anxiety and pain associated with the mastectomy she received to treat her breast cancer. Ms. Mireles is also an ASA constituent and member. Due to the ban on medical marijuana dispensaries in Chico, California,

which was precipitated by direct threats to local officials by the federal government, Ms. Mireles has been impeded in her ability to obtain strains of medical marijuana that augment her health.

c. ASA's constituency includes: (1) sixty-five members in the City of Eureka; (2) fifty-four members in the City of Arcata; (3) eighty-three members in the City of Chico; (4) eight members in the City of El Centro; (5) and six-hundred eighty members in Sacramento. All of these political subdivisions have been coerced by the federal government to change their local laws regarding medical marijuana.

B. Defendants

11. Defendant ERIC HOLDER ("Holder") is sued in his official capacity as the Attorney General of the United States. Defendant Holder executes the federal policy of disrupting the implementation of California's medical marijuana laws, including the activities of ASA's members.

12. Defendant MELINDA HAAG ("Haag") is sued in her official capacity as the United States Attorney for the Northern District of California. Defendant Haag executes the federal policy of disrupting the implementation of California's medical marijuana laws, including the activities of ASA's members.

IV. FACTS APPLICABLE TO ALL CAUSES OF ACTION

13. On November 4, 1996, the California electorate enacted the Compassionate Use Act, Cal. Health & Safety Code § 11362.5 ("the CUA" or "the Act"), "[t]o ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief." Cal. Health & Safety Code § 11362.5(b)(1)(A). Although the Act did not expressly

provide for a distribution system for marijuana to the seriously ill, it sought "[t]o encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana." Cal. Health & Safety Code § 11362.5(b)(1)(C). To meet the voters' challenge, on September 10, 2003, the California Legislature passed S.B. 420, also known as the "Medical Marijuana Program Act" or "the MMPA," Cal. Health & Saf. Code § 11362.7 *et seq.*, which provides that "[q]ualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570." Cal. Health & Safety Code § 11362.775. In passing the MMPA, the Legislature declared at the outset its purpose to "[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects," Cal. Stats, 2003, C. 875 (S.B. 420), § 1, subd. (b)(3)) and to "[p]romote uniform and consistent application of the act among the counties within the state." Cal. Stats, 2003, C. 875, § 1, subd. (b)(2). The Legislature expressly "enact[ed] the act pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution." Cal. Stats, 2003, C. 875, § 1, subd. (e). Notably, California has elected to leave its state laws criminalizing non-medical marijuana possession and cultivation intact.

14. In accordance with the directive of California Health & Safety Code § 11362.5(b)(1)(C), the County of Mendocino ("County") has implemented a plan to provide for the safe and affordable distribution of marijuana to seriously ill patients in medical need. Under Mendocino County Ordinance No. 9.31.010 *et seq.*, medical marijuana collectives may register with the County to cultivate up to ninety-nine (99) plants on a secured parcel of land. To ensure

compliance with the County's Medical Marijuana Program, the Mendocino County Sheriff's Office issues zip-ties to the collective that it can affix to the plants it cultivates. This allows the County to distinguish between medical marijuana activity it does not wish to prosecute and non-medical marijuana activity, which it does.

15. Until recently, there were approximately sixty municipal ordinances regulating medical marijuana collectives throughout the State of California.

16. The federal government, on the other hand, denies that marijuana has any medical use and arrests persons who cultivate and use marijuana for both medical and non-medical use. Traditionally, federal authorities have relied on state and local law enforcement to enforce marijuana laws. They have vigorously opposed state efforts to enact legislation that permits medical marijuana use, even if the state retains and enforces criminal prohibitions on non-medical use.

17. To accomplish its objectives, the federal government has embarked on a sustained effort to persuade state and local officials to arrest and prosecute medical marijuana patients, and where persuasion failed, to coerce states and localities into enacting legislation to criminalize all marijuana use.

18. As part of its deliberate plan to coerce California and other states to continue to prosecute medical marijuana use, the government threatens the use of, and uses the federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.* ("CSA"), against the states and their political subdivisions, as well as against other entities and individuals working collaboratively with state and local governments.

19. This federal policy of coercion began at the inception of California's medical marijuana laws in 1996. With the passage of California's Proposition 215, an interagency working

group chaired by the Office of National Drug Control Policy ("ONDCP") met at least four times in November and December of 1996 to develop a strategic response to undermine California's new law.

20. The written summary of the interagency working group meeting from December 6, 1996, stated that one of its goals includes the repeal of Proposition 215. The federal group also concluded that the federal government did not have the resources to enforce federal law against all medical marijuana patients in federal court.

21. Recognizing that the primary mechanism employed by California to distinguish medical marijuana activity, which the State did not wish to punish, from non-medical marijuana activity, which would remain illegal, was a physician's recommendation to use marijuana, the ONDCP issued a statement threatening criminal prosecution and revocation of the federal prescription license and eligibility to receive Medicare and Medicaid reimbursements of any physician who recommended the medical use of marijuana to a patient. This targeting of physicians by the federal government had the intended effect of causing California physicians to cease providing any advice or recommendations concerning marijuana, effectively disabling the State's ability to distinguish medical from illegal marijuana use under State law.

22. This federal policy of using threats against physicians was enjoined by this Court, as affirmed in *Conant v. Walters*, 309 F.3d 629 (9th Cir. 2002), because that policy violated physicians' rights under the First Amendment. A concurring judge observed that the policy also violated the Tenth Amendment because it "deliberately undermines the state by incapacitating the mechanism the state has chosen for separating what is legal from what is illegal under state law." *Id.* at 639 (Kozinski, J., concurring).

23. Despite the permanent injunction issued in *Conant*, the federal government has continued to pursue a policy of targeting health care professionals with the intent to make state

medical marijuana laws inoperable. For instance, on May 24, 2007, the U.S. Department of Justice obtained a federal grand jury subpoena that it served on the State of Oregon's Department of Health Services, the State of Oregon's Medical Marijuana Program, and a medical clinic in Portland, Oregon. The subpoena sought very intimate medical information about medical marijuana patients in Oregon and Washington State. The Eastern District of Washington subsequently quashed the subpoena, finding that the federal effort to invade the confidentiality of patient records would seriously impede the proper functioning of Oregon's medical marijuana laws. *See In re Grand Jury Subpoena for THCF Medical Clinic Records*, 504 F.Supp.2d 1085, 1089 (E.D. Wash. 2007).

24. In another example of the federal government's strategy to dismantle the functioning of a state's medical marijuana laws, the federal government shut down the nonprofit medical marijuana provider Oakland Cannabis Buyers' Cooperative ("OCBC"), which was licensed by the City of Oakland, as well as five other medical marijuana collectives. *See United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483 (2001). The government obtained a civil injunction against these dispensaries only after depriving them a medical necessity defense. Numerous other medical marijuana providers were left undeterred.

25. After these attempts to incapacitate California's medical marijuana laws proved unsuccessful, the government selectively targeted medical marijuana patients and providers for federal prosecution with draconian penalties. In 2002, the Administrator of the DEA, Asa Hutchinson, publicly confirmed that such raids and prosecutions were part of a federal commitment to sabotage and render unenforceable California's medical marijuana laws. He subsequently repeated that it was federal policy to disrupt implementation of California's medical marijuana laws in a September 30, 2002, letter to California Attorney General Bill Lockyer ("Lockyer"). Lockyer concluded, based on communications with federal officials, that federal enforcement actions against

cultivators and providers of medical marijuana were intended to be punitive and intimidating gestures, not aimed at enforcement of legitimate federal interests, but at interfering with implementation of California law.

26. Thus, in *United State v. Bryan Epis*, the federal government sought and obtained a ten-year statutory minimum sentence against Bryan Epis for his nonviolent, nonprofit provision of medical marijuana to the seriously ill.

27. Seeking another such ten-year statutory minimum sentence, federal officials arrested and prosecuted Edward Rosenthal, who had been deputized by the City of Oakland to cultivate medical marijuana for OCBC. *See United States v. Rosenthal*, 454 F.3d 943, 947 (9th Cir. 2006). After this Court sentenced Rosenthal to one-day imprisonment with credit for time served, it found on retrial that Rosenthal had been vindictively prosecuted, and on that basis dismissed tax evasion and money laundering charges against him. *See* Order Granting Motion to Dismiss for Vindictive Prosecution, filed March 14, 2007, No. 02-0053 (N.D. Cal. 2007).

28. The government also raided and prosecuted medical marijuana provider Charles Lynch for operating a medical marijuana dispensary licensed by the City of Morro Bay, California in compliance with State law, seeking a lengthy statutory minimum sentence. *See United States v. Charles Lynch*, No. 07-689 (C.D. Cal. 2007). After the City Attorney for the City of Morro Bay testified on Lynch's behalf at his sentencing hearing, the court sentenced Lynch to one year and one day sentence of imprisonment only because it found that a one-year statutory minimum applied. *See United States v. Lynch*, 2010 Westlaw 184820 (C.D. Cal. April 29, 2010) (Slip. Opn.). California's medical marijuana laws continued.

29. Still not satisfied with the continued operation of California law, the federal government began targeting California's political subdivisions directly.

30. In 2007, Tom O'Brien, Chief of the Criminal Division for the U.S. Attorney's Office in Los Angeles, addressed a meeting of the Public Safety Committee of the Coachella Valley Association of Governments and threatened that local officials would face federal prosecution for enacting an ordinance licensing medical marijuana providers. O'Brien also threatened seizure of municipal property involved in the provision of medical marijuana.

31. On July 1, 2011, the U.S. Attorney's Office for the Eastern District of California sent a letter to the Mayor of Chico, California stating that the city's regulation of medical marijuana dispensaries would violate federal law. In particular, the letter states: "The Department [of Justice] is concerned about the proposed ordinance in the City of Chico, as it would authorize conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances." "I hope this letter assists you in making informed decisions regarding a proposed ordinance which would permit the establishment of significant marijuana cultivation facilities in the City of Chico." Despite this threat, the Chico City Council voted to adopt an ordinance regulating medical marijuana dispensaries.

32. Dissatisfied with this outcome, the U.S. Attorney for the Eastern District of California, Benjamin Wagner, met with the Chico City Attorney, City Manager and Police Chief to warn them that council members and staff could face federal prosecution for passing and implementing an ordinance regulating medical marijuana dispensaries.

33. On or about August 2, 2011, the Chico City Council voted to rescind its medical marijuana dispensary ordinance.

34. On August 15, 2011, the Eureka City Council received a letter from the U.S. Attorney for the Northern District of California threatening that its regulation of medical marijuana dispensaries violates federal law. As with the letter to Chico, the letter warns that "[t]he Department

is concerned about the City of Eureka's creation of a licensing scheme that permits large-scale industrial marijuana cultivation, processing, and distribution, as it authorizes conduct contrary to federal law and threatens the federal government's efforts to regulate, the possession, manufacturing, and trafficking of controlled substances." The letter adds: "If the City of Eureka were to proceed, this office would consider injunctive actions, civil fines, criminal prosecution, and the forfeiture of any property used to facilitate a violation of the CSA." "I hope this letter assists the City of Eureka in making informed decisions regarding this matter."

35. On August 23, 2011, the U.S. Attorney for the Northern District of California, Melinda Haag, met with Arcata's City Attorney Nancy Diamond and Arcata Police Chief Thomas Chapman and warned them that the City's actions violate federal law and that the government may take action against local officials, including injunctive relief to prohibit further City implementation of medical marijuana regulations, as well as criminal sanctions. This prompted the Arcata City Counsel to suspend the issuance of medical marijuana permits to the four medical marijuana collectives currently in the application process on October 5, 2011.

36. On October 7, 2011, all four U.S. Attorneys for the State of California held a highly unusual joint press conference wherein they announced that they will engage in a multi-pronged attack on the State's medical marijuana laws involving the following: (1) mass mailings to property owners threatening civil forfeiture and severe criminal punishment if they rent to medical marijuana dispensaries who comply with State law; and (2) raids and criminal prosecutions of medical marijuana dispensaries who comply with State law.

37. Pursuant to the Mendocino County Medical Marijuana Ordinance, qualified medical marijuana patients in California formed the Northstone Organics cooperative and received zip-ties for ninety-nine (99) marijuana plants jointly owned by its members. The zip-tie program allows the

County to distinguish medical marijuana providers, like Northstone Organics, from the non-medical cultivators the County wishes to arrest and prosecute. Northstone Organics supplies marijuana to its members through a delivery service at very low cost.

38. During the early morning hours of October 13, 2011, at approximately 6:00 a.m., a DEA task force raided the Northstone Organics collective with their guns drawn. The DEA handcuffed the founder of Northstone Organics and his wife and stayed on the premises for approximately eight hours. During the raid, the DEA cut down and removed the ninety-nine (99) plants that Northstone members were collectively cultivating for their medical marijuana use, in compliance with California law and the Mendocino County Medical Marijuana Ordinance.

39. Because of this raid and seizure, ASA member Mark Perillo, Sr. lost his proportionate share of the marijuana seized, which impedes his ability to obtain the medicine he needs to relieve symptoms associated with chronic pain.

40. The DEA raid on Northstone Organics resulted from a broader federal policy by defendants to target medical marijuana providers who, like Northstone Organics, operate in compliance with a municipal ordinance regulating medical marijuana. These municipalities employ mechanisms like zip-ties to distinguish noncriminal medical activity in the locality. Federal targeting of medical marijuana providers who act in compliance with local law disrupts the municipalities' ability to implement its medical marijuana laws.

41. Mendocino County Supervisor Josh McCowen stated in a letter: "It is outrageous that [Northstone Organics] has been raided by the Federal Drug Enforcement Administration. [The founder of Northstone Organics] was the first medical marijuana advocate in Mendocino County to call for regulation of the cultivation and dispensing of medical marijuana to prevent black market diversion."

42. Since the October 7, 2011, press conference announcing various threats against medical marijuana providers in California, the City of El Centro has announced plans to reconsider its ordinance regulating medical marijuana providers that was passed earlier this year and the City of Sacramento has suspended its process for issuing permits to medical marijuana collectives.

43. On October 21, 2011, California's Attorney General, Kamala Harris, issued the following statement renouncing the federal government's targeting of medical marijuana patients and their providers: "While there are definite ambiguities in state law that must be resolved either by the state legislature or the courts, an overly broad federal enforcement campaign will make it more difficult for legitimate patients to access physician-recommended medicine in California. I urge the federal authorities in the state to adhere to the United States Department of Justice's stated policy [allowing the State to implement its medical marijuana laws without federal interference] and focus their enforcement efforts on significant traffickers of illegal drugs."

44. This sentiment was echoed by a co-author of California's Medical Marijuana Program Act, Cal. Health & Saf. Code § 11362.7 *et seq.*, Mark Leno, at a press conference on October 19, 2011. State Senator Leno "urge[d] the federal government to stand down in it massive attack on medical marijuana dispensaries, which will have devastating impacts for the State of California."

45. The federal government's actions, which are designed to interfere with the mechanisms created by the State and its subdivisions to distinguish noncriminal medical marijuana from illegal non-medical marijuana, exceed the legitimate exercise of the its Commerce Clause powers and runs afoul of the Tenth Amendment by commandeering the law-making functions of the State of California and its municipalities.

46. By selectively targeting medical marijuana collectives, their landlords, and the municipalities who regulate them, the federal government has commandeered California's legislative

function, thereby interfering with the State's municipalities' mechanism for distinguishing noncriminal (medical) from illegal (non-medical) marijuana.

47. By pursuing an intentional and concerted policy of threatening and utilizing arrests, forfeitures, criminal prosecutions, First Amendment violations, and other punitive means, selectively targeted to: (1) coerce California and its subdivisions to enact laws and regulations recriminalizing medical marijuana use under state law and (2) render states' medical marijuana laws impossible to implement, the federal government has conscripted state and local officials to assist in the enforcement of federal laws against marijuana use for all purposes, in violation of the anti-commandeering principle of the Tenth Amendment.

48. The federal government's policy well-exceeds the mere displacement of state law with neutral enforcement of contrary federal law; instead, it deliberately undermines the ability of California and its subdivisions to determine how to allocate their scarce law enforcement resources by effectively forcing the State and its subdivisions to keep medical marijuana illegal, which also prevents localities from passing laws that augment the health of their citizens. In particular, the government has interfered with and attempted to disable California's medical marijuana laws in an effort to force it to adopt and enforce federal prohibitions on medical marijuana use by threatening local officials who regulate medical marijuana, and by selectively arresting, prosecuting, and seeking forfeiture of property from cultivators and providers of medical marijuana because these entities and individuals who operate in compliance with State and local law. Federal officials have not enforced federal laws against similarly situated individuals or entities engaged in non-medical marijuana activities. This federal practice and policy exceeds legitimate forms of federal persuasion and effectively commandeers California's sovereign law-making function. Defendants' actions against plaintiffs fall within this unconstitutional federal strategy.

49. Defendants' policies, practices, conduct, and acts alleged herein have resulted and will continue to result in irreparable injury to plaintiffs and its members, including but not limited to violations of their constitutional and property rights. Plaintiff has no plain, adequate or complete remedy at law to address the wrongs described herein. Defendants will continue to conduct their unconstitutional behavior unless enjoined by this Court.

50. An actual controversy exists between plaintiff and defendants in that plaintiff contends that the policies, practices and conduct of defendants alleged herein are unlawful and unconstitutional, whereas plaintiff is informed and believes that defendants contend that said policies, practices and conduct are lawful and constitutional. Plaintiff seeks a declaration of rights with respect to this controversy.

V. CAUSE OF ACTION

FIRST CAUSE OF ACTION

51. Plaintiff realleges and incorporates by reference paragraphs 1 through 50 of this complaint as though fully set forth herein.

52. The Tenth Amendment to the United States Constitution provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

53. The Tenth Amendment provides an affirmative, external limitation on federal government's exercise of its delineated powers. *See Reno v. Condon*, 528 U.S. 141, 149 (2000); *Fry v. United States*, 421 U.S. 542, 547 n.7 (1975); *ACORN v. Edwards*, 81 F.3d 1387, 1393 (5th Cir. 1996).

54. The actions of defendants, as alleged herein, violate the rights of plaintiff and its members under the Tenth Amendment to the United States Constitution.

VII. RELIEF SOUGHT

WHEREFORE, plaintiff seeks the following relief:

1. A declaration that defendant has violated the rights of ASA and its members under the Tenth Amendment to the United States Constitution by seeking to coerce and commandeer the police power and legislative and executive functions of the State of California and its political subdivisions in regard to the implementation of the State's medical marijuana laws;

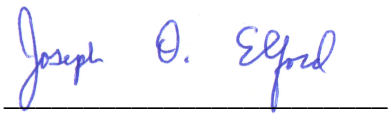
2. A preliminary and permanent injunction requiring defendant to cease the unconstitutional behavior of the Department of Justice and requiring it to return the marijuana seized from Northstone Organics;

3. Costs and attorneys fees incurred in this action; and

4. Such other and further relief as may be just and proper.

DATED: October 27, 2011

Respectfully Submitted,



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