



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-18-572115

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Image: 06611688

COMPLAINT

DAVID GOLDMAN ET AL VS. CALIFORNIA HIGHWAY PATROL

001C06611688

Instructions:

Please place this sheet on top of the document to be scanned.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): MATTHEW KUMIN (SBN 177561) 1939 Harrison Street, Suite 307 Oakland, CA 94612		FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> San Francisco County Superior Court <div style="font-size: 1.2em;">DEC 14 2018</div> CLERK OF THE COURT BY: <div style="text-align: right;">Deputy Clerk</div>	
TELEPHONE NO.: (415) 655-7494 FAX NO.: (415) 655-7494 ATTORNEY FOR (Name): David Goldman, Wild Rivers Transport LLC, Wasserman		CASE NUMBER: CGC-18-572115 JUDGE: DEPT:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: 400 McAllister Street CITY AND ZIP CODE: San Francisco, California 94102 BRANCH NAME: Civic Center Court			
CASE NAME: Goldman v. California Highway Patrol			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **3**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **12/14/2018**

Matthew Kumin

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

California Highway Patrol

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

David Goldman, Wild Rivers Transport LLC, and Amanda Wasserman,
on behalf of themselves and all others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Francisco Superior Court

Civic Center Court: 400 McAllister Street, San Francisco, California
94102

CASE NUMBER:
(Número del Caso):

CGC-18-572115

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Matthew Kumin, 1939 Harrison Street, Suite 307, Oakland, CA 94612, (415) 655-7494 (Phone/fax)

DATE:
(Fecha) DEC 14 2018

Clerk, by
(Secretario) Clerk of the Court

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NEYL WEBB



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

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Attorneys for Plaintiffs
David Goldman, Wild Rivers Transport LLC, and
Amanda Wasserman

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

David Goldman, Wild Rivers Transport LLC,
and Amanda Wasserman, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

California Highway Patrol,

Defendant.

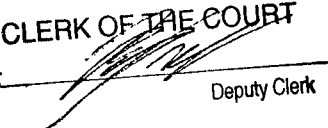
Civil Action No.

CGC-18-572115
CLASS ACTION COMPLAINT FOR
DAMAGES, DECLARATORY RELIEF,
PRELIMINARY INJUNCTION, AND
PERMANENT INJUNCTION

DEMAND FOR JURY TRIAL

FILED
San Francisco County Superior Court

DEC 14 2018

CLERK OF THE COURT
BY:  Deputy Clerk

I. INTRODUCTION

1. This is a class action arising from the California Highway Patrol's ("CHP") unconstitutional and unlawful actions and policies taken towards licensed medicinal cannabis business owners. Those actions and policies also negatively impact medicinal cannabis patients and California taxpayers (collectively, the 3 classes constitute the "Plaintiffs"). Despite new California law that allows licensed transporters to transport cannabis legally, CHP has disrupted the intent, purpose and letter of those new laws by harassing Licensed Cannabis Businesses by seizing legally transacted cash proceeds from these operators. Furthermore, Defendant CHP'S policies and practices include handing illegally seized funds over to the United States Department of Homeland Security, thereby forcing CA licensed operators into complex, costly and often losing federal forfeiture proceedings. These actions and the policy motivating them violate the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business & Professions Code § 26032), the Compassionate Use Act (Health & Safety Code § 11362.5), due process, and as to licensed operators, the right to be free from unreasonable searches and seizures. Furthermore, the actions of CHP wasted taxpayer funds by turning these funds over to DHS, out of reach of the California treasury. Through this action, Plaintiffs seek declaratory and injunctive relief to restrain Defendants from conducting similar such unlawful seizures and handing of the funds to the Department of Homeland Security in the future.

II. VENUE

2. The claims alleged herein arose, in some part, in San Francisco County, State of California. Therefore, venue properly lies in the Superior Court of the State of California in and for the County of San Francisco. (See Code of Civil Procedure §§ 393 & 395(a)).

IV. THE PARTIES

A. Plaintiffs

3. Plaintiff David Goldman, is, and at all times relevant herein, was a resident of San Francisco, California and a registered medicinal cannabis patient pursuant to the Medicinal and Adult-Use Cannabis Regulation.

1 4. Plaintiff Wild Rivers Transport LLC is, and, at all times relevant herein, was a licensed
2 cannabis business with its principal place of business in Humboldt County, California, which lawfully
3 conducted business from the premises located at 428 “C” Street, Suite J, Eureka, CA.

4 5. Plaintiff Wild Rivers Transport LLC is, and at all times relevant herein, was a licensed
5 cannabis business, in accordance with the Eureka Municipal Code and the Medicinal and Adult-Use
6 Cannabis Regulation and Safety Act (“MAUCRSA”). Plaintiff WRT legally transports medicinal
7 cannabis as a Medicinal Distributor Transport Only licensee (License Number M13-18-0000007-
8 TEMP), licensed by the California’s Bureau of Cannabis Control, under the Department of Consumer
9 Affairs, pursuant to MAUCRSA, and by the City of Eureka (Permit Number MCL-17-0027), pursuant to
10 the Eureka Municipal Code.

11 6. Plaintiff Amanda Wasserman, is, and at all times relevant herein, was a resident of California
12 and a California taxpayer.

13 **B. Defendants**

14 7. Defendant California Highway Patrol (“CHP”) is, and at all times mentioned herein was, a
15 department within and existing under the laws of the State of California.

16 **IV. FACTS APPLICABLE TO ALL CAUSES OF ACTION**

17 8. On November 4, 1996, voters approved Proposition 215, which is codified as “the
18 Compassionate Use Act” at California Health & Safety Code § 11362.5, to “ensure that seriously ill
19 Californians have the right to obtain and use marijuana for medicinal purposes. . . .” (See Cal. Health &
20 Safety Code § 11362.5(b)(1)).

21 9. On November 8, 2016, the California electorate approved Proposition 64, as the “Control,
22 Regulate and Tax Adult of Cannabis Act” (“AUMA”), which “Legalizes cannabis and hemp under state
23 law. Designates state agencies to license and regulate cannabis industry.”

24 10. On June 27, 2017, the California Legislature enacted Senate Bill 94, Stats. 2017 c.27 (“SB
25 94”), to “provide for a single regulatory structure for both medicinal and adult-use cannabis and provide
26 for temporary licenses to those applicants that can show compliance with local requirements.” That law
27 combined AUMA with the Legislature’s 2015 medicinal cannabis regulatory scheme, MMRSA

1 (renamed MCRSA)(“Medicinal cannabis Regulatory and Safety Act”) into a single law known
2 colloquially as MAUCRSA.

3 11. Precisely as the voters of California and their Legislature intended, Plaintiff Licensed
4 Cannabis Businesses, including their class representative, Wild Rivers Transport LLC (“WRT”), applied
5 for and received valid local permits from their jurisdictions then state licenses from California’s Bureau
6 of Cannabis Control (“BCC”). Plaintiffs WRT complied with all applicable laws at all times. Despite
7 that compliance with cannabis licensing laws, CHP officers seized over \$257,000 in legally transacted
8 cannabis proceeds from the WRT class representative and turned those funds over to the United States
9 Department of Homeland Security (DHS). Plaintiffs, on information and belief, allege that CHP has
10 also seized legally transacted cannabis proceeds from others who were acting in compliance with
11 California laws relating to cannabis and turned those funds over to DHS.

12 12. Despite following the new cannabis laws, Plaintiffs are at the mercy of the CHP and CHP’S
13 specific policies to disregard state cannabis laws and licenses, seize funds from Licensed Cannabis
14 Businesses, then turn those funds over to the federal government, all in an effort to cripple California’s
15 new cannabis legalization laws which took effect January 1, 2018.

16 13. Defendant’s policies, practices, conduct, and acts alleged herein have resulted and will
17 continue to result in irreparable injury to Plaintiffs, including but not limited to violations of their
18 constitutional, statutory and common law rights. Plaintiffs have no plain, adequate or complete
19 remedy at law to address the wrongs described herein. Unless enjoined, CHP will cripple the emerging
20 cannabis regulatory and safety laws enacted by the Legislature and voters. Furthermore:

- 21 a. Plaintiff licensed cannabis businesses intend in the future to exercise their rights under
22 MAUCRSA and the Compassionate Use Act including operating their businesses without
23 fear of unlawful governmental interference and transporting legal medicinal cannabis and
24 cash proceeds from legal cannabis sales, Defendant’s conduct described herein has
25 created fear, anxiety and uncertainty among Plaintiff licensed cannabis businesses with
26 respect to their exercise now and in the future of these statutory and other constitutional
27 rights, and with respect to their physical security and safety. Plaintiffs, therefore, seeks

1 injunctive relief from this Court, to ensure that Plaintiffs and persons similarly situated
2 will not suffer violations of their rights from Defendant's illegal and unconstitutional
3 policies, customs and practices, as described herein.

4 b. Plaintiff medicinal cannabis patients seek to obtain medicinal cannabis products without
5 interruption. Defendant's unlawful policies unlawfully interferes with the stream of
6 commerce and threatens the State's cannabis supply chain.

7 c. Plaintiff California taxpayers have been injured because tax revenue is being wasted due
8 to Defendant's seizure and handover of the proceeds to DHS. The State Treasury will not
9 see those funds which instead, will fill federal coffers.

10 14. An actual controversy exists between Plaintiffs and Defendant in that Plaintiffs contend that
11 the policies, practices and conduct of Defendant alleged herein are unlawful and unconstitutional,
12 whereas Plaintiffs are informed and believe that Defendants contend that said policies, practices and
13 conduct are lawful and constitutional. Plaintiffs seek a declaration of rights with respect to this
14 controversy.

15 **V. CLASS ACTION ALLEGATIONS**

16 15. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class
17 action pursuant to section 382 of the California Code of Civil Procedure. The class which Plaintiffs seek
18 to represent may be composed of and defined as follows:

19 a. "Licensed Cannabis Business Sub-Class Members":

20 All current California cannabis business license holders, who received licenses from the
21 California Bureau of Cannabis Control, the California Department of Public Health's Manufactured
22 Cannabis Safety Branch, or the California Department of Food and Agriculture.

23 b. "Medicinal Cannabis Patient Sub-Class Members":

24 All persons in California who possess or possessed a valid medicinal cannabis identification card
25 and who were otherwise complying with the law, but nevertheless have been subject to uncertainty
26 regarding their ability to access and possess medicinal cannabis due to the unlawful actions of the CHP
27 outlined herein.

1 d. "California Taxpayer Sub-Class Members":

2 All current and former California taxpayers.

3 16. Plaintiffs reserve the right to amend the complaint to add causes of action on behalf of a
4 different proposed class, and to move for the creation of appropriate subclasses. Plaintiffs also reserve
5 the right to amend the proposed class as discovery is obtained regarding the identity and location of
6 proposed class members.

7 17. This action may properly be maintained as a class action pursuant to the provisions of
8 California Code of Civil Procedure § 382 because there is a well-defined community of interest in the
9 litigation and the proposed class is easily ascertainable:

10 (a) Numerosity: The Plaintiff class members are so numerous that the individual joinder of
11 all members is impracticable under the circumstance of this case.

12 (b) Common Questions Predominate: Common questions of law and fact exist as to all
13 members of the proposed classes and predominate over any questions which affect only individual
14 members of the classes. These common questions of law and fact include, but are not limited to:

15 i. Whether Defendant's policy of seizing funds derived from licensed cannabis
16 activities and turning those funds over to the United States Department of Homeland
17 Security violates State law;

18 ii. Whether Defendant is violating state law by denying medicinal cannabis patients
19 access to medicinal cannabis by restricting legal cannabis businesses' ability to
20 legally transport medicinal cannabis and related items in accordance with state law;

21 iii. Whether Defendant is violating state law by arresting and charging individuals with
22 valid cannabis business licenses with possession and transportation of cannabis and
23 funds related to the legal cannabis business when such possession and acts are not
24 crimes;

25 iv. Whether Defendant is wasting taxpayer money by seizing funds derived from
26 licensed cannabis activities and turning those funds over to the United States
27 Department of Homeland Security;

v. Whether Defendant is wasting taxpayer money by harassing, arresting and charging licensed medicinal cannabis business owners who are operating in compliance with California law adopted by the California voters; and,

vi. Whether Plaintiffs and members of the proposed sub-classes are entitled to injunctive relief.

(c) Typicality: Plaintiffs' claims are typical of the claims of the members of the Plaintiff Sub-Classes. This is because Plaintiff WRT, is, and at all times relevant herein was, subject to seizure of their property by CHP, which has a policy of transferring the seized property to DHS in violation of California law, therefore wasting Plaintiff Amanda Wasserman's California taxpayer money and restricting Plaintiff David Goldman's access to medicinal cannabis . Therefore, Plaintiffs sustained and continue to sustain damage arising out of Defendant's common course of conduct as alleged in the complaint. The injuries and damages of each member of the Plaintiff Sub-Classes were caused directly by Defendant's wrongful conduct in violation of the law as alleged herein.

(d) Adequacy: Plaintiffs will fairly and adequately protect the interests of the proposed class. Plaintiffs reside in California and have valid medicinal cannabis business licenses, validly issued medicinal cannabis cards and pay state taxes. Plaintiffs have no interests adverse to the absent class members. Plaintiffs have retained counsel experienced in both complex litigation, class actions and the defense of drug offenses.

(e) Superiority: A class action is superior to other available means for the fair and efficient adjudication of this controversy since individual joinder of all members of the class is impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single form simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender.

18. Plaintiffs are unaware of any difficulties that would preclude the maintenance of the case as a class action.

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FIRST CAUSE OF ACTION – DUE PROCESS
Violation of California Constitution, Article I, § 7(a)
(DECLARATORY AND INJUNCTIVE RELIEF ONLY)

19. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 18 of this complaint as though fully set forth herein.

20. Through the passage of the Compassionate Use Act, the California voters declared as their purpose “[t]o ensure that seriously ill Californians have the right to obtain and use cannabis for medicinal purposes where that medicinal 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 cannabis. . . .” (Cal. Health & Safety Code § 11362.5(b)(1)(A)) Furthermore, they sought out to ensure a safe and effective distribution system, as enacted by the State. (See Cal. Health & Safety Code § 11362.5(b)(1)(C)).

21. To advance the will of the California voters, the Legislature enacted SB 420, which established cooperatives and collectives as the recognized forms of medicinal cannabis cultivation. See Cal. Health & Safety Code § 11362.775. In particular, Health and Safety Code Section 11362.775 provides that “Qualified 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 cannabis for medicinal 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.”

22. On November 8, 2016, the California electorate approved Proposition 64, as the “Control, Regulate and Tax Adult of Cannabis Act” (“AUMA”), which “Legalizes cannabis and hemp under state law. Designates state agencies to license and regulate cannabis industry.”

23. On June 27, 2017, the California Legislature enacted Senate Bill 94, Stats. 2017 c.27 (“SB 94”), to “provide for a single regulatory structure for both medicinal and adult-use cannabis and provide for temporary licenses to those applicants that can show compliance with local requirements.” That new combined law is named MAUCRSA.

24. In passing these laws, the voters of California and the California Legislature have defined

1 medicinal businesses and patients as legal under state law and this is a matter of pressing statewide
2 concern. In conflict with these laws, Defendants have a policy of seizing funds derived from licensed
3 cannabis activities and turning those funds over to the United States Department of Homeland Security.
4 Because this policy conflicts with AUMA and MAUCRSA, which licenses and allows commercial
5 cannabis activity, the general law of California must prevail over any CHP policy.

6 25. Defendant's above-described conduct violated Plaintiffs' right not to be deprived of
7 property or liberty without due process of law under article I, section 7(a) of the California
8 Constitution.

9 **SECOND CAUSE OF ACTION--UNREASONABLE SEARCH AND SEIZURE**

Violation of California Constitution, Article I, § 13

10 26. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 25 of this
11 complaint as though fully set forth herein.

12 27. Plaintiff Licensed Cannabis Businesses are, and, at all times relevant herein, licensed by the
13 state of California to deliver, transport, manufacture, test, cultivate and retail medicinal cannabis
14 products.

15 28. In doing the aforementioned acts and following the aforementioned policies, Defendant
16 violated Plaintiffs right to be free from unreasonable searches and seizures under article I, section 13 of
17 the California Constitution.

18 **THIRD CAUSE OF ACTION--BANE CIVIL RIGHTS ACT**

19 Violation of California Civil Code § 52.1

20 29. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 29 of this
21 complaint as though fully set forth herein.

22 30. Under article I, section 19 of the California Constitution, Plaintiffs have the
23 right to just compensation for property taken or damaged for public use without a legitimate public
24 health or safety interest.

25 31. Under Article I, Section 7(a) of the California Constitution, Plaintiffs have the right not
26 to be deprived of property or liberty without due process of law.

27 32. Under article I, section 13 of the California Constitution, Plaintiffs have the right to be free

1 from unreasonable searches and seizures.

2 33. Under Health & Safety Code § 11362.5(b)(1), “seriously ill Californians have the right to
3 obtain and use cannabis for medicinal purposes. . . .”

4 34. Defendant’s above-described conduct constituted interference with, and attempted
5 interference, by threats, intimidation and coercion, with Plaintiffs peaceable exercise and
6 enjoyment of these rights secured by the Constitution and laws of the State of California, in violation
7 of California Civil Code § 52.1.

8 **VI. STATEMENT OF DAMAGES**

9 35. The actions of Defendant CHP were malicious or oppressive, and amounted to gross
10 negligence and a reckless disregard for the Plaintiffs, and justify the imposition of exemplary damages
11 upon this Defendant in order to encourage and ensure that Defendant abides by state law.

12 WHEREFORE, Plaintiffs pray for relief as follows:

13 a. That this Court declare the rights of all parties;

14 e. Reasonable attorney’s fees;


15 f. Costs of suit incurred herein;

16 g. That this Court issue an order requiring Defendant to show cause why it should not be
17 enjoined from engaging in unlawful conduct, and that this Court issue a preliminary injunction, and a
18 permanent injunction, enjoining Defendant and its agents, servants, and employees, and all persons
19 acting under and in concert with, or for them, from turning over any assets seized from lawfully
20 operating California cannabis businesses to any federal agency.

21 h. All other equitable and declaratory relief as this Court deems just.

22 December 14, 2018.

23 THE LAW OFFICES OF MATTHEW KUMIN

24 
25 MATTHEW KUMIN
26 Attorney for Plaintiffs
27