



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

Document Scanning Lead Sheet

Feb-25-2019 11:53 am

Case Number: CGC-18-572115

Filing Date: Feb-25-2019 11:52

Filed by: SHIRLEY LE

Image: 06701033

ORDER

DAVID GOLDMAN ET AL VS. CALIFORNIA HIGHWAY PATROL

001C06701033

Instructions:

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XAVIER BECERRA
Attorney General of California
MIGUEL A. NERI
FIEL D. TIGNO
STACEY L. ROBERTS
Supervising Deputy Attorneys General
CHRIS A. BEATTY
Deputy Attorney General
JORGE AGUILAR II
Deputy Attorney General
State Bar No. 238111
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 879-0002
Fax: (510) 622-2270
E-mail: Jorge.Aguilar@doj.ca.gov
Attorneys for Defendant
California Highway Patrol

FILED
San Francisco County Superior Court

FEB 25 2019

CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

**DAVID GOLDMAN, WILD RIVERS TRANSPORT
LLC, AND JOSEPH LOPEZ, ON BEHALF OF
THEMSELVES AND ALL OTHERS SIMILARLY
SITUATED,**

Plaintiffs,

v.

CALIFORNIA HIGHWAY PATROL,

Defendant.

Case No. CGC-18-572115

**[PROPOSED] ORDER DENYING
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

Date: February 25, 2019
Time: 9:30 a.m.
Dept: 302

Action Filed: December 14, 2018

1 Plaintiffs' Motion for a Preliminary Injunction came on regularly for hearing in the above-
2 entitled court on February 25, 2015, at 9:30 a.m. The parties appeared through their counsel of
3 record.

4 The Court, having considered the written and oral arguments presented and being fully
5 advised in the matter, hereby ORDERS the following:

6 Plaintiffs David Goldman, Wild Rivers Transport LLC, and Joseph Lopez's motion for
7 preliminary injunction is denied. Plaintiffs have failed to show either a reasonable probability of
8 success on the merits or an imminent threat of irreparable harm. (San Francisco Newspaper
9 Printing Co. v. Superior Court (1985) 170 Cal.App.3d 438, 442 [holding that an injunction must
10 not issue unless it is reasonably probable that the moving party will prevail on the merits]; Tahoe
11 Keys Property Owners' Assn. v. State Water Resources Control Bd. (1994) 23 Cal.App.4th 1459,
12 1471 [holding that issuing a preliminary injunction against a public agency requires a "significant
13 showing of irreparable injury".]) The U.S. Department of Justice's Guide to Equitable Sharing for
14 State and Local Law Enforcement Agencies illustrates how states can cooperate with the federal
15 government in seizing cannabis assets, but does not establish that Defendant California Highway
16 Patrol (CHP) has a policy of targeting licensed cannabis businesses in California for purposes of
17 forfeiture. Furthermore, references in the David Goldman and Joseph Lopez Declarations to
18 media accounts of CHP seizures are vague, constitute inadmissible hearsay, and do not evince the
19 existence of a broader CHP policy. The Richard Peter Barry Declaration presents only a single
20 account of seizure by CHP and the circumstances of that incident as related by Barry are disputed
21 by CHP. Plaintiffs did not provide evidence that Wild Rivers Transport was, in fact, acting in
22 accordance with its license and that the seized funds were lawful proceeds of licensed cannabis
23 business. The reference to CHP's website in Plaintiffs' reply brief indicates only that CHP
24 engages in forfeiture of assets to federal agencies where the proceeds are derived from illegal
25 activities. This is not enough to establish the existence of a CHP policy of seizure and forfeiture
26 of legally obtained cannabis proceeds. For these reasons, there is insufficient evidence to
27 conclude that Plaintiffs have a reasonable probability of success on the merits in showing the
28 existence of a CHP policy that runs afoul of Health and Safety Code section 11471.2. Similarly,

1 Plaintiffs cannot demonstrate that they will be irreparably harmed by an alleged CHP policy
2 because two of the declarants (Goldman and Lopez) have had no encounter with CHP. Any harm
3 to them through decreased access to legal medical and recreational marijuana is too tenuous to be
4 considered imminent or irreparable. (See East Bay Mun. Utility Dist. v. Dept. of Forestry & Fire
5 Protection (1996) 43 Cal.App.4th 1113, 1126 [holding that plaintiffs must present actual evidence
6 of harm that is "immediately likely" to occur]; Tahoe Keys Property Owners' Assn., 23
7 Cal.App.4th at 1471 [holding that plaintiff must make a "significant showing of irreparable
8 injury"].) The Barry Declaration does not establish impending harm because it only addresses a
9 single incident, which is insufficient to establish the existence of a CHP policy of targeting the
10 legal cannabis industry for forfeiture to the federal government. Without a reasonable likelihood
11 of recurrence, there is insufficient risk of irreparable injury to issue a preliminary injunction. (See
12 East Bay Mun. Utility Dist., 43 Cal.App.4th at 1126 ["An injunction should not issue as a remedy
13 for past acts which are not likely to recur."].)

14 **IT IS SO ORDERED.**

15 Dated: Feb. 25, 2019

16 
17 JUDGE OF THE SUPERIOR COURT

ETHAN P. SCHULMAN

18
19
20
21
22
23
24
25
26
27
28