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Senior Assistant Attorney General  
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*Attorneys for Respondent and Defendant*  
8 *Department of Cannabis Control and*  
*Nicole Elliott in her capacity as Director*

*Exempt from Filing Fees –*  
*Gov. Code § 6103*

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF ORANGE  
13 CENTRAL JUSTICE CENTER

14 **HNHPC, Inc.,**  
15  
16 Plaintiff and Petitioner,  
17  
18 **v.**  
19 **THE DEPARTMENT OF CANNABIS**  
**CONTROL, AN ADMINISTRATIVE**  
**DEPARTMENT OF THE STATE OF**  
**CALIFORNIA; NICOLE ELLIOTT, in her**  
**capacity as Director of the Department of**  
**Cannabis Control, and DOES 1-50,**  
**inclusive,**  
20  
21  
22 Defendants and Respondents.

Case No. 30-2021-01221014-CU-WM-CJC

**DECLARATION OF ETHAN TURNER**  
**IN SUPPORT OF MOTION TO QUASH**  
**NOTICE OF DEPOSITION AND**  
**REQUEST FOR DOCUMENTS**

**Reservation No. 73651438**

Hearing Date: February 14, 2022  
Time: 10:30 a.m.  
Dept: C26  
Judge: The Honorable Gregory H. Lewis  
Trial Date: TBD  
Action Filed: September 15, 2021

1 I, Ethan Turner declare as follows:

2 1. I am an attorney duly licensed to practice law before the Courts of the State of  
3 California. I am a Deputy Attorney General assigned to represent the defendant and respondent  
4 in the above entitled matter. I have personal knowledge of the information set forth herein below,  
5 all of which is true and correct of my own personal knowledge that the following evidence,  
6 declarations, exhibits, and writings are true and correct. If called as a witness in this proceeding I  
7 could truthfully testify to the following:

8 2. On September 21, 2021 I received an email from my supervisor informing me that a  
9 lawsuit had been filed in Orange County Superior Court by a company called HNHPC, Inc. A  
10 copy of the file stamped complaint was attached and a link<sup>1</sup> was imbedded in the email to an  
11 Instagram post by Elliott Lewis, the Chief Executive Officer and Chief Financial Officer of  
12 HNHPC, Inc. I clicked on the link and found a video of Mr. Lewis yelling and gesticulating in an  
13 expressive manner. The post included a caption which stated, “Can’t wait to get the leadership of  
14 the CA Cannabis program and CDTFA under oath and illuminate their incompetence.” At time  
15 stamp 0:29 of the video, Mr. Lewis yells “I can’t wait to depose Lori Ajax! Nicole Elliott!  
16 Nicholas Maduro! Y’all gonna go under oath for eight hours and be exposed for what you really  
17 are!” A true and correct copy of the Instagram post is attached as Exhibit A.

18 3. On Friday, November 5, 2021, at approximately 5:15 p.m., Plaintiff and Petitioner  
19 HNHPC, INC. (“HNHPC”), served via email a Notice of Deposition and Request for Production  
20 of Documents (“Notice”). Counsel for HNHPC, Inc., Jeff Augustini, did not contact me prior to  
21 the email service to discuss scheduling a deposition or requesting documents in this matter. The  
22 Notice identified 31 categories of testimony and demanded the production of 20 different  
23 categories of documents. A true and correct copy of the email and Notice are attached as Exhibit  
24 B.

25 \_\_\_\_\_  
26 <sup>1</sup> [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_www.instagram.com\\_tv\\_CUD-5Fwx1pNL-5F\\_-3Futm-5Fmedium-3Dshare-5Fsheet&d=DwIFAw&c=uASjV29gZuJt5\\_5J5CPRuQ&r=8uc5zdYblUtsvizpTGILPwFCH9QvMA-jQ4UnfSEQ6MQ&m=3Xj2WL8B\\_vKAvwcrXQnHZwJIDOJtUOfN0u09VrzDjt0&s=qgL-PcKvB3FmmNEyK1HoI2c91G7FXLQBgmpqDpQ9JKY&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_www.instagram.com_tv_CUD-5Fwx1pNL-5F_-3Futm-5Fmedium-3Dshare-5Fsheet&d=DwIFAw&c=uASjV29gZuJt5_5J5CPRuQ&r=8uc5zdYblUtsvizpTGILPwFCH9QvMA-jQ4UnfSEQ6MQ&m=3Xj2WL8B_vKAvwcrXQnHZwJIDOJtUOfN0u09VrzDjt0&s=qgL-PcKvB3FmmNEyK1HoI2c91G7FXLQBgmpqDpQ9JKY&e=)

1           4.     On Monday, November 8, 2021, I sent an email to Mr. Augustini to schedule a meet  
2 and confer regarding the Notice. A true and correct copy of the email is attached as Exhibit C.

3           5.     On Thursday, November 11, 2021, (Veterans Day) I received a call from Mr.  
4 Augustini. During the call we discussed the Notice. I informed him that the Notice was defective  
5 as it did not comply with the requirements of Code of Civil Procedure, section 2025.250. Mr.  
6 Augustini stated that he intended to take the deposition virtually. I informed him that the Notice  
7 did not state this, and if this was his intent, the Notice was still defective. I also asked that any  
8 deposition be taken after the hearing on the demurrer, which, at that time, was scheduled for  
9 November 29, 2021. We discussed the categories of testimony and documents, and I pointed out  
10 to Mr. Augustini that he was seeking a lot of information in a short amount of time, that the  
11 Department needed more time, and that it did not make sense to schedule a deposition and  
12 production of documents since a ruling on the demurrer might dispose of the case. I also asked  
13 Mr. Augustini whether he would agree to delay the deposition until after the hearing on the  
14 demurrer, which was set for November 29, 2021. Mr. Augustini indicated that he would not.

15           6.     On November 12, 2021, I electronically sent a meet and confer letter to Mr.  
16 Augustini. I invited Mr. Augustini to continue to meet and confer so that we could postpone the  
17 unilaterally scheduled deposition and request for production of documents to a mutually agreed  
18 upon date and time. A true and correct copy of the email and meet and confer letter are attached  
19 as Exhibit D.

20           7.     Mr. Augustini responded to the email and letter to continue to meet and confer by  
21 demanding that I provide a date within the next two weeks for a continued deposition, stating that  
22 the Respondents' position was "frivolous" and "blatant efforts to delay discovery," and  
23 expressing his disagreement with Respondents' positions regarding the defective, overly broad,  
24 and vague Notice. A true and correct copy of the email is attached as Exhibit E.

25           8.     At 10:37 a.m. on November 12, 2021, before I could respond to Mr. Augustini's  
26 request that I provide continued dates for a deposition, Mr. Augustini served an Amended Notice  
27 of Deposition and Request for Production of Documents (Amended notice) unilaterally changing  
28 the date of the deposition scheduled for November 22, 2021, to November 30, 2021, and

1 requiring attendance via Zoom teleconference; in all other respects the Amended Notice was the  
2 same as the Notice served on November 5, 2021. Again, the new date for the deposition was not  
3 discussed or mutually agreed to by the parties. A true and correct copy of the Amended Notice  
4 served on November 12, 2021, is attached as Exhibit F.

5 9. I sent an email to Mr. Augustini acknowledging receipt of the Amended Notice. I  
6 also impressed upon Mr. Augustini the unreasonableness of expecting the Department to ascertain  
7 all responsive documents within the broad categories described by November 30, 2021. I assured  
8 Mr. Augustini that the Department was working through the list and while some documents  
9 would be produced as soon as possible, it was unlikely that many items could be provided prior  
10 to, or on the proposed November 30, deadline. In addition, I informed Mr. Augustini that there  
11 might be more than one person who would need to be deposed, and the Department was  
12 determining whether the deponents are employees of the Department, or employees of other state  
13 agencies. I also proposed that we hold any deposition in late January or February 2022, just a  
14 short two months after the unilaterally selected date. A true and correct copy of the email is  
15 attached as Exhibit G.

16 10. In response, Mr. Augustini accused me of stalling and claiming that the Department  
17 did not intend to produce anyone to be deposed or documents. On this basis, he would not agree  
18 to change the deposition date. He also asked whether I would accept service of a Summons and  
19 First Amended Petition on behalf of Ms. Elliott. A true and correct copy of the email is attached  
20 as Exhibit H.

21 11. I attempted to assure Mr. Augustini that I had made no such claims and that the  
22 Department would produce witnesses and documents, but it was not possible to produce  
23 responsive documents for the categories described by November 30th. I also agreed to accept  
24 service on behalf of Ms. Elliott, who was named in the First Amended Petition. True and correct  
25 copies of the emails are attached as Exhibit I.

26 12. Mr. Augustini again responded with accusations of the Department “blatantly  
27 stonewalling” and having no intent to produce documents or a person most qualified to be  
28

1 deposited absent a motion to compel. I did not see the need to continue the exchange and did not  
2 respond to this final email. A true and correct copy of the email is attached as Exhibit J.

3 13. On November 22, 2021, I served Respondents' Objections to the Amended Notice of  
4 Deposition and Request for Production of Documents to Mr. Augustini. A true and correct copy  
5 of the email and attachment are attached as Exhibit K.

6 14. For the purposes of providing background information to the Court I have attached a  
7 true and correct copy of the California Information Technology Report 2016 which details the  
8 interagency cooperation that was involved in creating the "electronic database" that was required  
9 to be created under the Medical Marijuana Regulation and Safety Act. A true and correct copy of  
10 the California Information Technology Report is attached as Exhibit L to this Declaration. It is  
11 also available at the California Department of Technology website at the following web address:  
12 [https://cdt.ca.gov/wp-content/uploads/2019/01/2016-Annual-Report-Printable\\_Remediated.pdf](https://cdt.ca.gov/wp-content/uploads/2019/01/2016-Annual-Report-Printable_Remediated.pdf)

13 This declaration is executed under penalty of perjury under the laws of the State of  
14 California this 23rd day of November, 2021, at Rancho Cordova, California.

15  
16   
17 Ethan A. Turner

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# **EXHIBIT A**



**catalyst\_ceo** CATALYST Don't bend its knee for nobody !!

Lower the f\*\*cking taxes !!! Can't wait to get the leadership of the CA Cannabis program and CDFTA under oath and illuminate their incompetence, lack of transparency, and oppressive policies. This fight will take months and then years but showing the truth of CA cannabis is a hill CATALYST is game to charge !!!  
#WFTP

8w



**\_jmgbin666** Who's promoting your business in Calexico?? Nobody here knows your coming to the Imperial



11,686 views

SEPTEMBER 20



**ODI-SA2021-00496**

Case ID: 1410492276630191834

November 22, 2021

**California Department of Justice**

Investigator Information

Lori Friedmann

Digital Forensic Associate

(916) 210-5252

[lori.friedmann@doj.ca.gov](mailto:lori.friedmann@doj.ca.gov)



## Deliverable Summary

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### Web Capture Items

#### Examiner Account Summary

Web Snapshot  
Video


1


Total Items:

1


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 **catalyst\_ceo** CATALYST Don't bend its knee for nobody !!

Lower the f\*\*cking taxes !!! Can't wait to get the leadership of the CA Cannabis program and CDFTA under oath and illuminate their incompetence, lack of transparency, and oppressive policies. This fight will take months and then years but showing the truth of CA cannabis is a hill CATALYST is game to charge !!!  
#WFTP

 **velascomaterials Energy**

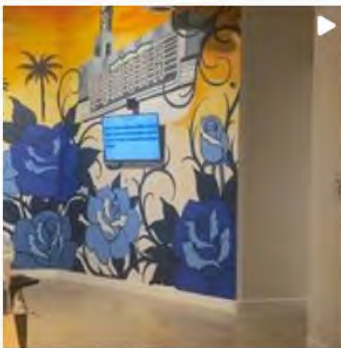
8w Reply

♡
🗨
📌
🔖

**11,688 views**  
SEPTEMBER 20

😊 Add a comment...

More posts from **catalyst\_ceo**





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Field Name	Value
URI	ws://Video/1
Source	WebSnapshot
Ingesting Scanner Version	6.0.0.2004
MD5 hash	D80DE3E416B4C49258D873D1752939A2
MD5 hash version	v6
Ingestion	11/19/2021 9:20:26 PM
Ingestion Build	6.0.0.2004 Patch 2507
Item Sub Schema	
Modified	
URL	<a href="https://www.instagram.com/tv/CUD_xw1pNL/">https://www.instagram.com/tv/CUD_xw1pNL/</a>
Identifier	
Notes	
Page Title	Elliot Lewis on Instagram: "Lower the f**cking taxes !!!Can't wait to get the leadership of the CA Cannabis program and CDFTA under oath and illuminate their..."
PageVersion	1
Site Icon	
Account Name	

# **EXHIBIT B**

**From:** [Jeff Augustini](#)  
**To:** [Ethan Turner](#); [Harinder Kapur](#); [Natalie Clark](#)  
**Subject:** RE: HNHPC, Inc. v. The Department of Cannabis Control; Case No. 30-2021-01221014-CU-WM-CJC  
**Date:** Friday, November 5, 2021 5:15:29 PM  
**Attachments:** [NOD\\_DCC.pdf](#)

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Please see the attached Notice of Deposition and Request for Documents. Per our agreement, I only will be serving this Notice electronically.

Jeff

Jeff Augustini | **Law Office of Jeff Augustini**  
9160 Irvine Center Drive, Suite 200 | Irvine, CA 92618  
Tel: 949.336.7847  
[www.augustinilaw.com](http://www.augustinilaw.com)

\*\*\*\*\*  
\*\*\*\*\*  
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\*\*\*\*\*  
\*

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**From:** Sondra Bushey <Sondra.Bushey@doj.ca.gov>  
**Sent:** Tuesday, November 2, 2021 4:31 PM  
**To:** Jeff Augustini <jeff@augustinilaw.com>  
**Cc:** Ethan Turner <Ethan.Turner@doj.ca.gov>; Natalie Clark <Natalie.Clark@doj.ca.gov>  
**Subject:** HNHPC, Inc. v. The Department of Cannabis Control; Case No. 30-2021-01221014-CU-WM-CJC

Good afternoon Mr. Augustini,

Attached please find the Declaration of Ethan Turner in Support of Demurrer and Proof of Service for the above referenced matter. This document was filed today, November 2, 2021.

Should you have any questions, please contact Deputy Attorney General Ethan Turner.

Best Regards,

*Sondra R. Bushey*  
Legal Secretary  
Department of Justice  
Division of Operations (OPS)  
1300 I Street, Sacramento, CA 95814

Work: (916) 210-6105



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7 Email: [jeff@augustinilaw.com](mailto:jeff@augustinilaw.com)

8 Attorneys for Petitioner/Plaintiff  
9 HNHPC, INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF ORANGE

12 HNHPC, INC.,  
13 Plaintiff,  
14 vs.  
15 THE DEPARTMENT OF CANNABIS  
16 CONTROL, AN ADMINISTRATIVE  
17 DEPARTMENT OF THE STATE OF  
18 CALIFORNIA; and DOES 1-50, inclusive,  
19 Defendants.

CASE NO. 30-2021-01221014-CU-WM-CJC

**NOTICE OF DEPOSITION OF PERSON(S)  
MOST QUALIFIED AT DEPARTMENT OF  
CANNABIS CONTROL AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**



1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that, pursuant to California Code of Civil Procedure Sections 2025.010 *et*  
3 *seq.*, Plaintiff and Cross-Defendant HNHPC, INC. (“HNHPC”), by and through its counsel, shall take  
4 the deposition of the Person(s) Most Qualified (“PMQ”) at Defendant and Respondent DEPARTMENT  
5 OF CANNABIS CONTROL (“DCC”) regarding the following Categories of Testimony:

- 6 1. All efforts undertaken to ensure the “California Cannabis Track and Trace” (“CCTT”)  
7 program in fact was designed to flag irregularities for the department to investigate;
- 8 2. All irregularities considered for flagging in the CCTT program, and the manner in which  
9 they were to be identified and flagged;
- 10 3. All irregularities the developer of the CCTT program were told to flag, and whether and  
11 how those irregularities in fact are tracked and flagged in the CCTT program;
- 12 4. All irregularities considered for tracking in the CCTT program but which in fact are not  
13 flagged in the CCTT program, and the reasons why the CCTT system ultimately was not  
14 designed to flag such irregularities (or why such irregularities were removed);
- 15 5. All irregularities that due to technical, logistical or other reasons could not be flagged in the  
16 CCTT system, and the reasons why they could not be tracked and flagged;
- 17 6. All irregularities the developer of the CCTT program was told not to flag, and the reasons  
18 why they were told not to flag them;
- 19 7. The number of irregularities that have been flagged for investigation in the CCTT program  
20 since it was implemented, and the specific irregularities that were flagged;
- 21 8. The number of irregularities flagged in the CCTT program that thereafter were investigated  
22 by the DCC or any of its predecessor agencies, and the specific irregularities that resulted in  
23 later investigations
- 24 9. The number of enforcement actions resulting from flagged irregularities identified in the  
25 CCTT program, and the specific irregularities that resulted in those enforcement actions;
- 26
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- 28

- 1 10. The number of distributors who have had their licenses revoked or suspended, or have been  
2 subject to discipline, due to irregularities flagged in the CCTT program, and the specific  
3 irregularities flagged in each connection with each such distributor;
- 4 11. The number of people who have been prosecuted for any criminal offense arising from  
5 irregularities flagged in the CCTT program, and the specific irregularities flagged in each  
6 connection with each such instance;
- 7 12. All current irregularities that are flagged for investigation by the CCTT program, and the  
8 date they began being flagged;
- 9 13. All communications between the DCC or its predecessor agencies and the developer of the  
10 CCTT program wherein the issue of flagging irregularities – including which irregularities  
11 to flag or not flag, the CCTT program’s ability to flag, or the manner in which such  
12 irregularities would be flagged, or augmentation or alterations to the CCTT program needed  
13 in order to flag irregularities – was discussed;
- 14 14. Any proposed amendments or extensions of the contract with the developer of the CCTT  
15 program for the purpose of creating or expanding the irregularities flagged by the program,  
16 and any discussions about the need to amend or extend any contract in order to  
17 accommodate such work;
- 18 15. The number of people since CCTT’s inception that have been assigned to review flagged  
19 irregularities, and the process/procedures used to determine if, when and how a flagged  
20 irregularity will be, or should be, further investigated;
- 21 16. Whether the CCTT program now is, or ever has been, designed to “flag” instances where  
22 the amount of cannabis possessed by a distributor is unusually large for the size of its  
23 licensed location, floor plan and/or office safe, and if so the number of distributors who  
24 have been investigated or pursued for that irregularity;
- 25 17. Whether the CCTT program is, or has been, designed to “flag” instances where a  
26 distributor in the system is shown to be holding large quantities of cannabis over an  
27  
28

1 extended period of time (e.g., over 3 months) without sale or transfer, and if so number of  
2 distributors investigated or pursued for that irregularity;

3 18. All irregularities that DCC or its predecessor agencies requested the CCTT program to flag,  
4 and the manner in which (1) it instructed those irregularities to be identified and flagged for  
5 further investigation, and (2) they in fact are flagged for further investigation;

6 19. All irregularities DCC or its predecessor agencies agreed the CCTT program should not  
7 flag, and the reason for the decision not to flag such irregularities;

8 20. For all irregularities the CCTT system currently flags for further investigation, the date on  
9 which the CCTT program became capable of flagging such irregularities, and the manner in  
10 which they are flagged;

11 21. Any discussions regarding any requested amendment or alteration to the contract with the  
12 developer of the CCTT program relating in any way to the program's ability to flag  
13 irregularities;

14 22. The person(s) responsible for reviewing flagged irregularities;

15 23. The persons(s) responsible for determining what irregularities will and will not be flagged in  
16 the CCTT system;

17 24. The amount of cultivated cannabis inputted into the CCTT system annually since inception,  
18 including for the period of time of 2021 through the date of the deposition;

19 25. The amount of cultivated cannabis shown in the CCTT system as being distributed to  
20 licensed dispensaries and utilized in the manufacturing process annually since inception,  
21 including for the period of time in 2021 through the date of the deposition;

22 26. If the amount of cultivated cannabis and the amount of cannabis sold or used in licensed  
23 dispensaries and manufacturing facilities is not the same, the reasons DCC ascribes to such  
24 discrepancies and what if anything it is doing to: (a) determine whether and to what extent  
25 the discrepancy is the result of illegal diversion of cannabis to out of state/illegal markets;  
26 and (2) eliminate or to substantially reduce any such illegal diversion of cannabis.

- 1 27. Estimates by the DCC or its predecessor agencies regarding the amount of cannabis  
2 cultivated in California that was illegally diverted out of state and/or to illegal in-state  
3 markets in 2019, 2020, and to date in 2021;
- 4 28. Estimates by the DCC or its predecessor agencies regarding the amount of cultivation taxes  
5 it was unable to collect on illegally diverted cannabis in 2019, 2020, and to date in 2021;
- 6 29. Estimates by the DCC or its predecessor agencies regarding the amount of excise taxes it  
7 was unable to collect on illegally diverted cannabis in 2019, 2020, and to date in 2021;
- 8 30. Estimates by the DCC or its predecessor agencies on the percentage of cannabis transactions  
9 that were illegal and/or evaded legally mandated cultivation and/or excise taxes in 2019,  
10 2020, and to date in 2021;
- 11 31. Actions, if any, taken by the DCC in response to this lawsuit to augment the CCTT program  
12 to flag irregularities or to expand the number or types of irregularities it flags, and any  
13 direction or instruction given on how to modify the CCTT program to flag more or different  
14 irregularities for investigation.

15 **PLEASE TAKE FURTHER NOTICE** that the deposition shall commence at **10:00 a.m. on**  
16 **November 22, 2021**, at the Law Office of Jeff Augustini, 9160 Irvine Center Drive, Suite 200, Irvine,  
17 CA 92618. The deposition will be taken before a certified court reporter, and shall continue from day to day,  
18 weekends and holidays excluded, until completed.

19 **PLEASE TAKE FURTHER NOTICE** that, pursuant to California Code of Civil Procedure  
20 Section 2025.220(a)(5), the deposition will be recorded stenographically by a certified court reporter,  
21 will be recorded by means of audiotape and/or videotape, and may also be recorded through the use of  
22 "real time" transcription methods ("Live Note").

23 **PLEASE TAKE FURTHER NOTICE** that DCC must produce the documents requested in  
24 **Exhibit A** hereto prior to or at the deposition:

25 DATED: November 5, 2020

LAW OFFICE OF JEFF AUGUSTINI

26 By: *Jeff Augustini*

27 JEFF AUGUSTINI

28 Attorneys for SOUTH CORD MANAGEMENT, LLC

## EXHIBIT A TO DEPOSITION NOTICE

### DEFINITIONS

1. As used herein the term “DOCUMENTS” includes all written, recorded or graphic materials of every kind within the scope of Section 2031.010 et seq. of the California Code of Civil Procedure and Section 250 of the California Evidence Code, including without limitation:
  - a. the originals, or any copies when originals are not available, and any nonidentical copies, whether different from the originals because of notes made on such copies of otherwise, or writings of every kind and description, either typewritten, inscribed by hand, printed, recorded, filmed, punched, transcribed, or taped, or other graphic matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts;
  - b. tape or electronic recordings or oral statements, conversations or events; and
  - c. All records, memoranda, reports, financial statements, handwritten and other notes, transcripts, papers, indices, letters, envelopes, telegrams, cables, telex messages, tabulations, studies, analyses, evaluations, projections, work papers, statements, summaries, opinions, journals, desk calendars, appointment books, diaries, lists, comparisons, questionnaires, surveys, charts, graphs, books, pamphlets, articles, magazines, newspapers, booklets, circulars, bulletins, notices, instructions, manuals, minutes or transcriptions or notations of minutes, telephone conversations, or other communications of any type, photographs, microfilms, phonographs, tape or other recordings, punch cards, discs, data cells, drums, printouts, and other data compilations from which information can be obtained, electronically-stored information, correspondence, teletype messages, electronic mail, internal memoranda, agreements, diary entries, minute books, financial records, accounting records, ledgers, journals, audits, canceled checks, check stubs, drafts and other written, printed or typed matter, diagrams, plans, pictures, pro formas, advertising materials, prospect lists, customer lists, records of sales and solicitations, computer programs and computer runs, travel, entertainment, or expense records or reports.
2. As used herein, the term “COMMUNICATION(S)” shall mean and refer to any meeting, conversation, letter, memorandum, e-mail or other exchange of information transmitted in

whatever form, whether oral or written, from one or more person(s) to one or more person(s), including, without limitation, drafts, facsimiles, and copies, as well as originals.

3. As used herein, the terms “YOU,” “YOUR” and “DCC” shall mean and refer to Respondent Department of Cannabis Control, as well as its representatives, agents, attorneys, accountants, and any other person or entity acting or purporting to act on its behalf, including any predecessor agencies for which it is the successor.

4. As used herein, the term “HNHPC” shall mean and refer to Petitioner HNHPC, Inc., as well as well as its representatives, agents, attorneys, accountants, and any other person or entity acting or purporting to act on its behalf.

5. As used herein, the term “CCTT” shall mean and refer to the Cannabis Control Track and Trace program referenced in YOUR Demurrer, and which is referenced in the Petition herein as the track and trace or METRC program.

6. As used herein, the term “FRANWELL” shall mean Franwell Inc., the developer of the CCTT program as alleged on Page 11 of YOUR Demurrer, as well as its representatives, agents, attorneys, accountants, and any other person or entity acting or purporting to act on its behalf.

7. As used herein, the phrase “refer to” shall mean to constitute, contain, relate to, refer to, reference, touch upon, discuss, mention, summarize, or analyze.

8. As used herein, the term “PERSON” shall mean and refer to any person, whether an individual or entity of any kind – including but not limited to corporations, limited liability companies, general or limited partnerships, government agencies, unincorporated associations, sole proprietorships, profession corporations or similar corporate entities.

## **DOCUMENT REQUESTS**

### **CATEGORY NO. 1:**

All DOCUMENTS showing the number of distributors that have had their licenses suspended or revoked by the DCC, or that in some way have been sued or disciplined, since the inception of the CCTT program, including all DOCUMENTS identifying the names of the distributors and the offenses giving rise to the revocation, suspension, lawsuit or discipline, and the manner in which the DCC became aware of those offenses (e.g., via flagged irregularities in the CCTT system or via public complaint).

### **CATEGORY NO. 2:**

All COMMUNICATIONS between YOU and FARNWELL that refer to the irregularities it was instructed to flag via the CCTT system, all irregularities that FARNWELL suggested be flagged via the CCTT system, any irregularities DCC decided not to flag in the CCTT system, and/or any irregularities that FARNWELL informed DCC it could not flag via the CCTT system.

### **CATEGORY NO. 3:**

All DOCUMENTS that support YOUR contention YOU implemented a CCTT system capable of flagging irregularities for investigation, including all DOCUMENTS showing every irregularity the CCTT program flags for investigation and when the CCTT program first became capable of flagging each such irregularity.

### **CATEGORY NO. 4:**

All COMMUNICATIONS between DCC and FARNWELL referring to its scope of work in creating a CCTT system capable of flagging irregularities, including all proposals or recommendations it made to DCC, all instructions or directions given to FARNWELL, all draft and final contractual agreements relating thereto (including any amendments), and any requests or proposals by FARNWELL to upgrade, augment, expand or alter the CCTT program to flag additional or different irregularities or to cease flagging certain irregularities and all COMMUNICATIONS relating thereto.

**CATEGORY NO. 5:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), how much cannabis (by weight) was listed in the CCTT program as being cultivated since the inception of the CCTT program.

**CATEGORY NO. 6:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), how much cannabis (by weight) was listed in the CCTT program as being sold to ultimate end users or customers since the inception of the CCTT program.

**CATEGORY NO. 7:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), the amount of cultivation tax collected on the cannabis listed in the CCTT program, and the amount of cannabis for which the State of California did not collect cultivation taxes and the reasons for any discrepancies.

**CATEGORY NO. 8:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), the amount of excise taxed collected on the cannabis listed in the CCTT program, and the amount of cannabis for which the State of California did not collect cultivation taxes and the reasons for any discrepancies.

**CATEGORY NO. 9:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), any assessment or estimate by DCC or any other state agency of the amount of cannabis (by weight) legally cultivated in California that later was illegally diverted out of state or to illegal markets within California.

**CATEGORY NO. 10:**

All DOCUMENTS showing what instructions YOU have given to FARNWELL on how to design the CCTT program to flag irregularities, including what irregularities YOU instructed it to flag and not flag and the reasons for such instructions.

**CATEGORY NO. 11:**

All DOCUMENTS showing what actions DCC (or other state agencies under DCC's purview or control) took to investigate flagged irregularities in the CCTT systems, including the number and qualifications of the personnel responsible for investigating such matters, the procedures, guidelines or



instructions on what irregularities to investigate and how, as well as the types of irregularities that are not to be investigated, and the financial resources devoted to investigating flagged irregularities (both in terms of staff and budget) annually since the inception of the CCTT program (partial year for 2021).

**CATEGORY NO. 12:**

All DOCUMENTS showing the total number of irregularities flagged by the CCTT program each year (or with respect to 2021 the year to date) since inception of the CCTT program, and the total number of investigations conducted by DCC on those flagged irregularities.

**CATEGORY NO. 13:**

All DOCUMENTS showing the total number of enforcement actions, including criminal and civil complaints, license revocations/suspensions, or other disciplinary actions, initiated each year (or with respect to 2021 year to date) since inception of the CCTT program, as a result of an investigation conducted into an irregularity flagged in the CCTT system.

**CATEGORY NO. 14:**

All DOCUMENTS showing the total number of enforcement actions, including criminal and civil complaints, license revocations/suspensions, or other disciplinary actions) initiated each year (or with respect to 2021 year to date) since inception of the CCTT program, as a result of a public complaints or tips provided to the DCC or any other state agency.

**CATEGORY NO. 15:**

All DOCUMENTS which analyze, evaluation, or estimate the amount of cultivation and/or excise taxes not paid annually on cannabis entered into the CCTT program (and for 2021, year to date estimates).

**CATEGORY NO. 16:**

All DOCUMENTS showing the number of licensed distributors that have been disciplined, had their licenses suspended or revoked, or have been the subject of civil or criminal complaints since January 1, 2018, and whether the investigations thereof arose from flagged irregularities in the CCTT program or whether they arose from tips/complaints or other public reporting.

**CATEGORY NO. 17:**

All DOCUMENTS showing any actions or proposals by DCC or FARNWELL to augment the CCTT to add new or different flagging capability since the initiation of this action, including all COMMUNICATIONS relating thereto.

**CATEGORY NO. 18:**

All DOCUMENTS that refer to the types of distributors described in the Petition as “burner distros,” and any and all policies, procedures, guidelines, and instructions the DCC or other state agencies have enacted to address the proliferation of burner distros in California.

**CATEGORY NO. 19:**

All DOCUMENTS showing the amount of money and personnel budgeted each year since CCTT inception (including year to date in 2021) to investigate flagged irregularities, as well as any monies contained in the 2022 budget request specifically for such purposes.

**CATEGORY NO. 20:**

All DOCUMENTS that refer to, analyze, estimate or otherwise assess the role of excessive taxation (including excessive excise and cultivation taxes) on the proliferation of illegal diversion of cannabis in California, including any assessment or discussion of how reducing such taxes might in turn reduce illegal diversion of cannabis across state lines and/or to illegal markets in California.

1 **CERTIFICATE OF SERVICE**

2 I, [Jeff Augustini](#), declare as follows:

3 I am employed in the County of Orange, State of California; I am over the age of eighteen years and am  
4 not a party to this action; my business address is 9160 Irvine Center Drive, Suite 200, Irvine, California 92618,  
in said County and State. On [November 5, 2020](#), I served the following document(s):

5 **NOTICE OF DEPOSITION OF PERSON(S) MOST QUALIFIED AT DEPARTMENT OF**  
6 **CANNABIS CONTROL AND REQUEST FOR PRODUCTION OF DOCUMENTS**

7 on the following parties:

8 Harinder Kapur ([Harinder.kapur@doj.ca.gov](mailto:Harinder.kapur@doj.ca.gov))  
9 Ethan Turner ([Ethan.turner@doj.ca.gov](mailto:Ethan.turner@doj.ca.gov))  
10 California Department of Justice  
11 Cannabis Control Section  
12 1300 I Street  
13 1620-18  
14 Sacramento, CA 95814

15 [cchan@raineslaw.com](mailto:cchan@raineslaw.com)

16 by the following means of service:

- 17  **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on the above-  
18 mentioned date. I am familiar with the firm's practice of collection and processing correspondence  
19 for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of  
20 business. I am aware that on motion of party served, service is presumed invalid if postal  
21 cancellation date or postage meter date is more than one day after date of deposit for mailing in  
22 affidavit.
- 23  **BY PERSONAL SERVICE:** I emailed a true copy of this document to a messenger with  
24 instructions to personally deliver it to each person[s] named at the address[es] shown before 5:00 p.m.  
25 on the above-mentioned date.
- 26  **BY OVERNIGHT SERVICE:** On the above-mentioned date, I placed a true copy of the above  
27 mentioned document(s), together with an unsigned copy of this declaration, in a sealed envelope or  
28 package designated by FedEx with delivery fees paid or provided for, addressed to the person(s) as  
indicated above and deposited same in a box or other facility regularly maintained by FedEx or  
delivered same to an authorized courier or driver authorized by FedEx to receive documents.
- BY ELECTRONIC SERVICE:** On the above-mentioned date, I caused each such document to be  
transmitted by electronically mailing a true and correct copy through the Law Office of Jeff  
Augustini's electronic mail system to the e-mail address(s) set forth above.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

Executed on [November 5, 2020](#), at Irvine, California.

*Jeff Augustini*

# **EXHIBIT C**

From: [Ethan Turner](#)  
To: ["Jeff Augustini"](#)  
Cc: [Harinder Kapur](#)  
Subject: Meet and Confer re Notice of Deposition  
Date: Monday, November 8, 2021 2:55:00 PM

---

Jeff,

Are you available to talk later this afternoon. After 4:00 p.m.?

Thanks

***Ethan Turner***

Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Civil Law  
Cannabis Control Section  
1300 I Street  
1620-18  
Sacramento, CA 95814  
Office: (916) 210-7898



# **EXHIBIT D**

From: [Ethan Turner](#)  
To: ["Jeff Augustini"](#)  
Cc: [Harinder Kapur](#)  
Bcc:  
Subject: Meet and Confer Letter to HNHPC, Inc.docx  
Date: Friday, November 12, 2021 8:29:00 AM  
Attachments: [Meet and Confer Letter to HNHPC, Inc.docx](#)

---

Jeff,

Thanks for taking the time to talk yesterday. I told you that I would serve you with objections to your client's deposition notice. That document is forthcoming.

In the meantime, please find attached a letter intended as an invitation to meet and confer regarding the promised motion for a protective order and order quashing the notice you served on us last Friday night.

Please review it. I hope you will consider rescinding your notice of deposition and instead work with me in dealing with this case. We both have a job to do, and there is no reason that we cannot handle in a manner that is civil and efficient.

Please let me know whether you wish to postpone your proposed deposition date to a time that is reasonable and mutually agreeable and if you wish to engage in further cooperation regarding a deadline for production of documents and, ultimately, resolution of this case.

Thanks,

***Ethan Turner***

Deputy Attorney General  
**California Department of Justice**  
**Office of the Attorney General**  
**Division of Civil Law**  
**Cannabis Control Section**  
1300 I Street  
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Sacramento, CA 95814  
Office: (916) 210-7898





**ROB BONTA**  
**Attorney General**

*State of California*  
**DEPARTMENT OF JUSTICE**



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Public: (916) 445-9555  
Telephone: (916) 210-7898  
Facsimile: (916) 327-2319  
E-Mail: [Ethan.Turner@doj.ca.gov](mailto:Ethan.Turner@doj.ca.gov)

VIA EMAIL

November 12, 2021

Jeff Augustini, Esq.  
Law Office of Jeff Augustini  
9160 Irvine Center Drive, Suite 200  
Irvine, CA 92618  
[jeff@augustinilaw.com](mailto:jeff@augustinilaw.com)

RE: HNHPC, Inc. v. The Department of Cannabis Control  
Superior Court of California, County of Orange, Case No. 30-2021-01221014-CU-WM-  
CJC

Dear Mr. Augustini,

In our conversation yesterday, I indicated that I would provide you with more specific grounds for the motion to quash and motion for a protective order that we will file if the November 22, Notice of Deposition is not withdrawn. Below are the general bases for these requested orders. I hope that you will be amendable to working together after reviewing these points. If not, we will serve you with objections specifically addressing each of the 51 categories of testimony and documents identified in your notice on Monday and file a motion shortly thereafter.

This is also an invitation to meet and confer and to discuss how we can proceed into discovery in a manner that is agreeable to both parties.

**1. The Notice of Deposition is Unreasonable and Calculated to Harass Defendant and Respondent.**

Petitioner and Plaintiff in this matter, HNHPC, Inc. ("HNHPC," hereafter), served a Notice of Deposition on a Friday evening, after the close of business, and set the deposition to take place, nine business days later, during the week of the Thanksgiving Holiday. The deposition date was noticed without any prior attempt or agreement to a date that is suitable for both parties. The deposition date of November 22, 2021 is not feasible for the Department of Cannabis Control and production of requested documents could not reasonably occur before, or on, the proposed deposition date. Additionally, the proposed time of the deposition is seven days before a scheduled demurrer hearing. You represented that an amended complaint will be filed in lieu of an opposition to the demurrer, however, unless different or additional causes of action are

found in these amended pleadings, it is probable that a demurrer will also be filed to the amended complaint. No good cause exists to expend the time and resources required for the proposed deposition prior to a ruling on a demurrer.

The respondent and defendant, Department of Cannabis Control (“Department”) is open to discussing a future deposition date as well as a deadline for delivery of responsive documents, however, the Department will be unable to produce anyone for the deposition on November 22, 2021 as demanded in the notice. Because of the unilaterally imposed, unreasonably expedited timeframe for deposition and the expansive and ambiguous categories of testimony, it is not possible to ascertain which employees, former employees, contractors, or other non-party individuals would be the persons most qualified. Additionally, given that only nine business days were afforded by the notice to produce all twenty categories of documents, Defendant cannot ascertain what documents are responsive and which of these are subject to public disclosure within the timeframe demanded. Good faith efforts will be made to produce responsive documents based upon a cursory review of the document categories listed in the notice, but it is not reasonable to expect that a comprehensive production of documents could occur by the deadline set.

It is no accident that this Notice of Deposition, which contains 51 categories of testimony and documents, was served after hours on a Friday and provided a deadline for responsive documents and set a deposition for just nine business days later for the week of the Thanksgiving Holiday. The notice is unreasonable and intended to harass the Department and, in light of the facts that an amended complaint is about to be filed and that no trial date has been set, the needs of the case do not warrant the burden and expense of this inexplicably rushed demand for production of documents and deponents.

## **2. HNHPC’s Notice is Defective.**

### **A. Place of Deposition is Beyond Permissible Geographic Limits.**

The location of the proposed deposition, The Law Office of Jeff Augustini at 9160 Irvine Center Drive, Irvine CA 92618 is approximately 440 miles from the principal business location of the Department of Cannabis Control which is located at 2920 Kilgore Road, Rancho Cordova, CA 95670. The proposed location is therefore too remote a location for the proposed deposition. (Code of Civ. Proc. § 2025.250). On, November 11, 2021 (Veterans Day), you indicated that you would be willing to hold the deposition via Zoom, but this is not indicated in the Notice of Deposition. Your verbal representation of an intent to hold the deposition via Zoom does not cure the defect in the Notice of Deposition.

### **B. Description of Matters Insufficient to Identify Deponent(s).**

The categories of testimony are sufficiently vague and uncertain as to render the department unable to identify who the persons most qualified are, whether such a person is an employee of the Department, of California Department of Agriculture, of California Department

of Tax and Fee Administration, a former state employee, or perhaps an employee or subcontractor of Farnwell, Inc. Without sufficient particularity in the subject matter of the proposed deposition, it is not possible for the Department to ascertain what individual(s) to send for a deposition, or even if such a person is an employee of the Department. This confusion could result in the need for multiple depositions sessions and significant waste of resources for both parties. Therefore, the “categories of testimony” are not sufficient to identify the deponent or the particular class to which the deponent belongs as required by Code of Civil Procedure section 2025.220, subdivision (a)(3). The issues pertaining to the nearly unlimited scope of the categories of testimony and the lack of particularity, is exacerbated by the unreasonably short deadline set for the deposition.

### **C. Categories of Documents to Be Produced Are Not Described With Reasonable Particularity.**

The categories of documents listed in the notice request information and documents that are in the control of “other agencies,” they largely do not indicate any period within which documents could have been created, and almost exclusively request information that is privileged on a variety of grounds set forth below. The specification of materials or categories of materials in HNHPC’s notice are overly broad and without reasonable limitation in scope and as such is not reasonably calculated to lead to the discovery of admissible evidence or of information relevant to the subject matter of this action. As such, the request is burdensome and oppressive. (*Greyhound Corp. v. Superior Court* (1961) 56 Cal.2d 355, 390-391; *Deaile v. General Telephone Co. of California* (1974) 40 Cal.App.3d 841, 850; *Columbia Broadcasting System, Inc. v. Superior Court* (1968) 263 Cal.App.2d 12, 19.) The categories of documents do not describe the documents or other evidence to be inspected with reasonable particularity, and therefore violates Code of Civil Procedure Section 2025.220(a)(4). (*Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App. 4th 216, 222.)

### **3. Categories of Testimony and Categories of Documents Pertain to Privileged and/or Confidential Information.**

Business and Professions Code section 26067, subdivision (b)(5), states:

Information received and contained in records kept by the department for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this division or a local ordinance.

In addition to being subject to this specific protection from public disclosure, information entered by licensees into the electronic database is privileged and confidential pursuant to Evidence Code section 1040 because it is “official information” within the meaning of that statute. This information is further protected from disclosure pursuant to Government Code

section 6254 which exempts from public disclosure, “[r]ecords of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes.” (Gov. Code, § 6254, subd. (f).)

Finally, because the categories of testimony and documents are so broad, vague, and ambiguous, it may be possible that other privileges apply, including, but not limited to the deliberative process privilege (*Times Mirror Co. v. Superior Court*, 53 Cal. 3d 1325, 1342 (1991); Gov Code, § 6255, subd. (a)); and other provisions of Government Code section 6254. Because of the nature of the information sought, it is likely that in camera review will be necessary prior to disclosure of certain documents. For the purpose of providing relevant evidence which demonstrates that the electronic database created in accordance with Business and Professions Code § 26067, does in fact “flag irregularities” it behooves the party to be cooperative and deliberate in proceeding into discovery. The hasty, bad faith Notice that was provided last Friday night, is not helpful to advancing your goals in this litigation and will lead to unnecessary conflict and expense for both parties.

#### **4. Categories of Testimony and Documents Are Irrelevant.**

The categories of testimony and categories of documents set forth in HNHPC’s notice of Deposition are not connected to the causes of action set forth in its petition and complaint and are not reasonably calculated to produce admissible evidence that could support any cause of action. HNHPC has filed a petition for writ of mandamus and complaint for injunctive relief to compel the Department of Cannabis Control to comply with its statutory duty to ensure that the electronic database created for the California Cannabis Track and Trace system “shall be designed to flag irregularities.” (Bus. & Prof. Code, § 26067, subd (b)(2).

All categories of testimony related to the amount of collected or uncollected cultivation or excise tax, the number of enforcement actions, the number of enforcement staff, the number of disciplinary actions that have occurred as a consequence of tips from informants or from “irregularities” flagged by the electronic database are irrelevant to the HNHPC’s writ petition and complaint. Further, since no cause of action will lie against the Department for its determinations about whether and when to undertake enforcement action, such lines of inquiry are irrelevant to any cause of action. This is because a writ of mandate will not lie to control an exercise of discretion (*People ex rel. Younger v. County of El Dorado* (1971) 5 Cal. 3d 480, 490-491; *Cal Correctional Supervisors Orv. v. Dept. of Corrections* (2002) 96 Cal. App. 4th 824, 827), and no cause of action will lie for injuries, real or perceived for decisions by an enforcement agency to undertake enforcement action. (Gov. Code, §§ 818.2 and 818.4).

HNHPC, Inc. has not and cannot show that the information sought is even relevant to this action or explain why these categories of testimony or documents could produce information

relevant to determining whether Department failed to comply with Business and Professions Code 26067, subdivision (b)(5).

**5. Good Cause Exists to Postpone Discovery Beyond November 22, 2021.**

The Department filed a demurrer on October 29, 2021 and a hearing is set for November 29, 2021. Pursuant to Code of Civil Procedure sections 1005, subdivision (b) and 12c, HNHPC's opposition pleadings are due today, November 12, 2021. You indicated yesterday that you intend to file an amended complaint rather than opposition pleadings, such pleadings are also due today. (Cal Code Civ. Proc., § 472, subd. (a).) Given the fluid and uncertain nature of the HNHPC's pleadings and the distinct likelihood that the Department will file a demurrer in response to the amended complaint, undertaking extensive discovery at this stage is unnecessarily burdensome and possibly without purpose.

The Department is open to further discussions with HNHPC and will respond to all discovery requests in the manner required by law. If the writ petition and compliant survive beyond the pleading stage, and further clarification and review of the discovery requests allow identification of persons most qualified and documents that are responsive to the categories of interest HNHPC, the Department will absolutely agree to identify individuals to appear at a deposition and will continue to produce documents relevant to demonstrating that it has complied with its statutory obligations under Business and Professions Code section 26067, subdivision (b)(2).

Sincerely,



ETHAN A. TURNER  
Deputy Attorney General

For ROB BONTA  
Attorney General

cc: Sara Gardner, Staff Counsel  
Department of Cannabis Control

# **EXHIBIT E**

From: [Jeff Augustini](#)  
To: [Ethan Turner](#)  
Cc: [Harinder Kapur](#)  
Subject: Re: Meet and Confer Letter to HNHPC, Inc.docx  
Date: Friday, November 12, 2021 9:05:24 AM  
Attachments: [Meet and Confer Letter to HNHPC, Inc.docx](#)

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**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Ethan:

I have reviewed your letter.

I will review the deposition notice when I get in the office. If it did not include a zoom reference, we will serve an amended notice today. Please provide me dates within the next two weeks for the deposition. If I don't get an acceptable proposed date from you by this afternoon, we will set the deposition on minimal notice.

As for the other objections, as we discussed yesterday, they are frivolous and constitute blatant efforts to delay discovery on the grounds that you hope at some point to dispose of the case on demurrer. As we discussed, there is no legal support for such a delaying tactic. And further, I note that since our conversation yesterday, you have dropped certain objections and raised new objections not discussed. I see that as a tacit admission, and I noted yesterday, that dcc is searching for some grounds, any grounds, upon which to try to justify its refusal to submit to required discovery.

As I noted yesterday, your objection that the information requested is somehow protected from disclosure in discovery pursuant to the B&P code is frivolous. The code expressly limits the disclosure restrictions to public records act requests, and does not purport to render the information nondiscoverable in civil litigation. And to the extent that underlying data could be considered confidential, please send me a proposed (and reasonable) protective order — we would be glad to execute and file a reasonable one.

As for the corollary claim that we are seeking investigative materials, that too is frivolous. None of the requests require DCC to produce information relating to ongoing investigations. You have made up that claim to try to find an excuse not to produce anything — since it cannot be reasonably claimed that everything we asked for falls under that purported category. So again, you are inventing requests that do not exist and then using them to try to deflect DCC's refusal to comply with discovery.

Your over breadth and “not reasonably described” objections constitute bad faith nuisance boilerplate objections designed to justify DCC's discovery abuse, an observation bolstered by the fact that you do not even attempt to explain how even a single request is subject to these objections.

Finally, your argument about discretion is itself irrelevant. First, we have alleged a mandatory duty and we are entitled to take discovery to prove that duty was not performed. Second, even to the extent DCC's “discretion” defense has any merit, we also are entitled to take discovery into how and why it exercised its discretion as it did (or did not), so that we can prove an abuse of discretion. Just saying “discretion” is not a defense, since we are entitled to also prove an abuse of discretion which requires discovery into the purported exercises of

discretion.

As you made clear yesterday, you think this case is merit less (you used more colorful language) and don't want to waste precious time and resources engaging in discovery — a point hammered home by the baseless and frankly sanctionable “boilerplate” objections raised in your letter.

Simply put, we don't have to accept DCC's frankly disingenuous claim that it designed METRC to flag irregularities (I note that yesterday you yourself argued the term irregularities was vague and you did not know what it meant), nor can DCC use purported “discretion” as some sort of get out of jail free card to evade discovery into its actions, decisions and conduct.

So we will reserve the deposition notice to eliminate any geographical restriction objection. The rest of your objections, including that there is good cause to indefinitely delay the deposition, are frivolous and sanctionable. If you seek a protective order, we will seek sanctions.

I too want to handle this matter cordially and efficiently. But generally, I assess such matters based on actions and not words. This is an unacceptable and thinly veiled stall tactic. If you pursue it, we will seek sanctions for misuse of the discovery process.

I look forward to receipt today of an acceptable date within the next two weeks for the deposition (btw I note that yesterday you admitted that you did not even know who the PMK would be or if DCC could even appoint one, which not only shows the lack of good faith by the DCC is addressing the deposition notice, but also fatally undermines the geographic objection you asserted — since it is unclear my office would be outside the geographic location of any designated witness).

While I am perfectly happy handling this matter professionally, what I will not do is let the DCC assert clearly baseless and invented objections to try to evade or substantially delay needed discovery. Indeed, your positions and the DCC's actions, if anything, show that we are spot on with our allegations, and DCC rightfully is panicking that a deposition and document request will confirm the merits of the petition allegations.

Jeff

Sent from my iPhone

On Nov 12, 2021, at 8:29 AM, Ethan Turner <Ethan.Turner@doj.ca.gov> wrote:

Jeff,

Thanks for taking the time to talk yesterday. I told you that I would serve you with objections to your client's deposition notice. That document is forthcoming.

In the meantime, please find attached a letter intended as an invitation to meet



and confer regarding the promised motion for a protective order and order quashing the notice you served on us last Friday night.

Please review it. I hope you will consider rescinding your notice of deposition and instead work with me in dealing with this case. We both have a job to do, and there is no reason that we cannot handle in a manner that is civil and efficient.

Please let me know whether you wish to postpone your proposed deposition date to a time that is reasonable and mutually agreeable and if you wish to engage in further cooperation regarding a deadline for production of documents and, ultimately, resolution of this case.

Thanks,

***Ethan Turner***

Deputy Attorney General  
**California Department of Justice**  
**Office of the Attorney General**  
**Division of Civil Law**  
**Cannabis Control Section**  
1300 I Street  
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Sacramento, CA 95814  
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# **EXHIBIT F**

From: [Jeff Augustini](#)  
To: [Ethan Turner](#)  
Cc: [Harinder Kapur](#); [Sondra Bushey](#)  
Subject: Amended Notice of Deposition  
Date: Friday, November 12, 2021 10:37:30 AM  
Attachments: [Amended NOD DCC.pdf](#)

---

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Ethan:

I just wanted to get this off my desk. I chose November 30, 2021 for the new deposition date. Note it is now to be conducted via ZOOM.

This is only being electronically served.

Jeff

Jeff Augustini | **Law Office of Jeff Augustini**  
9160 Irvine Center Drive, Suite 200 | Irvine, CA 92618  
Tel: 949.336.7847  
[www.augustinilaw.com](http://www.augustinilaw.com)

\*\*\*\*\*  
\*\*\*\*\*  
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\*\*\*\*\*  
\*

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8 Attorneys for Petitioner/Plaintiff  
9 HNHPC, INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF ORANGE

12 HNHPC, INC.,  
13  
14 Plaintiff,  
15  
16 vs.  
17 THE DEPARTMENT OF CANNABIS  
18 CONTROL, AN ADMINISTRATIVE  
19 DEPARTMENT OF THE STATE OF  
20 CALIFORNIA; and DOES 1-50, inclusive,  
21  
22 Defendants.

CASE NO. 30-2021-01221014-CU-WM-CJC

AMENDED NOTICE OF DEPOSITION OF  
PERSON(S) MOST QUALIFIED AT  
DEPARTMENT OF CANNABIS CONTROL  
AND REQUEST FOR PRODUCTION OF  
DOCUMENTS

Date: November 30, 2021  
Time: 10:00 a.m.  
Location: ZOOM teleconference

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2           **PLEASE TAKE NOTICE** that, pursuant to California Code of Civil Procedure Sections 2025.010 *et*  
3 *seq.*, Plaintiff and Cross-Defendant HNHPC, INC. (“HNHPC”), by and through its counsel, shall take  
4 the deposition of the Person(s) Most Qualified (“PMQ”) at Defendant and Respondent DEPARTMENT  
5 OF CANNABIS CONTROL (“DCC”) regarding the following Categories of Testimony:

- 6           1. All efforts undertaken to ensure the “California Cannabis Track and Trace” (“CCTT”)  
7           program in fact was designed to flag irregularities for the department to investigate;  
8           2. All irregularities considered for flagging in the CCTT program, and the manner in which  
9           they were to be identified and flagged;  
10          3. All irregularities the developer of the CCTT program were told to flag, and whether and  
11          how those irregularities in fact are tracked and flagged in the CCTT program;  
12          4. All irregularities considered for tracking in the CCTT program but which in fact are not  
13          flagged in the CCTT program, and the reasons why the CCTT system ultimately was not  
14          designed to flag such irregularities (or why such irregularities were removed);  
15          5. All irregularities that due to technical, logistical or other reasons could not be flagged in the  
16          CCTT system, and the reasons why they could not be tracked and flagged;  
17          6. All irregularities the developer of the CCTT program was told not to flag, and the reasons  
18          why they were told not to flag them;  
19          7. The number of irregularities that have been flagged for investigation in the CCTT program  
20          since it was implemented, and the specific irregularities that were flagged;  
21          8. The number of irregularities flagged in the CCTT program that thereafter were investigated  
22          by the DCC or any of its predecessor agencies, and the specific irregularities that resulted in  
23          later investigations  
24          9. The number of enforcement actions resulting from flagged irregularities identified in the  
25          CCTT program, and the specific irregularities that resulted in those enforcement actions;  
26  
27  
28

- 1 10. The number of distributors who have had their licenses revoked or suspended, or have been  
2 subject to discipline, due to irregularities flagged in the CCTT program, and the specific  
3 irregularities flagged in each connection with each such distributor;
- 4 11. The number of people who have been prosecuted for any criminal offense arising from  
5 irregularities flagged in the CCTT program, and the specific irregularities flagged in each  
6 connection with each such instance;
- 7 12. All current irregularities that are flagged for investigation by the CCTT program, and the  
8 date they began being flagged;
- 9 13. All communications between the DCC or its predecessor agencies and the developer of the  
10 CCTT program wherein the issue of flagging irregularities – including which irregularities  
11 to flag or not flag, the CCTT program’s ability to flag, or the manner in which such  
12 irregularities would be flagged, or augmentation or alterations to the CCTT program needed  
13 in order to flag irregularities – was discussed;
- 14 14. Any proposed amendments or extensions of the contract with the developer of the CCTT  
15 program for the purpose of creating or expanding the irregularities flagged by the program,  
16 and any discussions about the need to amend or extend any contract in order to  
17 accommodate such work;
- 18 15. The number of people since CCTT’s inception that have been assigned to review flagged  
19 irregularities, and the process/procedures used to determine if, when and how a flagged  
20 irregularity will be, or should be, further investigated;
- 21 16. Whether the CCTT program now is, or ever has been, designed to “flag” instances where  
22 the amount of cannabis possessed by a distributor is unusually large for the size of its  
23 licensed location, floor plan and/or office safe, and if so the number of distributors who  
24 have been investigated or pursued for that irregularity;
- 25 17. Whether the CCTT program is, or has been, designed to “flag” instances where a  
26 distributor in the system is shown to be holding large quantities of cannabis over an  
27  
28

1 extended period of time (e.g., over 3 months) without sale or transfer, and if so number of  
2 distributors investigated or pursued for that irregularity;

3 18. All irregularities that DCC or its predecessor agencies requested the CCTT program to flag,  
4 and the manner in which (1) it instructed those irregularities to be identified and flagged for  
5 further investigation, and (2) they in fact are flagged for further investigation;

6 19. All irregularities DCC or its predecessor agencies agreed the CCTT program should not  
7 flag, and the reason for the decision not to flag such irregularities;

8 20. For all irregularities the CCTT system currently flags for further investigation, the date on  
9 which the CCTT program became capable of flagging such irregularities, and the manner in  
10 which they are flagged;

11 21. Any discussions regarding any requested amendment or alteration to the contract with the  
12 developer of the CCTT program relating in any way to the program's ability to flag  
13 irregularities;

14 22. The person(s) responsible for reviewing flagged irregularities;

15 23. The persons(s) responsible for determining what irregularities will and will not be flagged in  
16 the CCTT system;

17 24. The amount of cultivated cannabis inputted into the CCTT system annually since inception,  
18 including for the period of time of 2021 through the date of the deposition;

19 25. The amount of cultivated cannabis shown in the CCTT system as being distributed to  
20 licensed dispensaries and utilized in the manufacturing process annually since inception,  
21 including for the period of time in 2021 through the date of the deposition;

22 26. If the amount of cultivated cannabis and the amount of cannabis sold or used in licensed  
23 dispensaries and manufacturing facilities is not the same, the reasons DCC ascribes to such  
24 discrepancies and what if anything it is doing to: (a) determine whether and to what extent  
25 the discrepancy is the result of illegal diversion of cannabis to out of state/illegal markets;  
26 and (2) eliminate or to substantially reduce any such illegal diversion of cannabis.

- 1 27. Estimates by the DCC or its predecessor agencies regarding the amount of cannabis  
2 cultivated in California that was illegally diverted out of state and/or to illegal in-state  
3 markets in 2019, 2020, and to date in 2021;
- 4 28. Estimates by the DCC or its predecessor agencies regarding the amount of cultivation taxes  
5 it was unable to collect on illegally diverted cannabis in 2019, 2020, and to date in 2021;
- 6 29. Estimates by the DCC or its predecessor agencies regarding the amount of excise taxes it  
7 was unable to collect on illegally diverted cannabis in 2019, 2020, and to date in 2021;
- 8 30. Estimates by the DCC or its predecessor agencies on the percentage of cannabis transactions  
9 that were illegal and/or evaded legally mandated cultivation and/or excise taxes in 2019,  
10 2020, and to date in 2021;
- 11 31. Actions, if any, taken by the DCC in response to this lawsuit to augment the CCTT program  
12 to flag irregularities or to expand the number or types of irregularities it flags, and any  
13 direction or instruction given on how to modify the CCTT program to flag more or different  
14 irregularities for investigation.

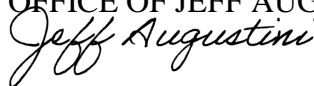
15 **PLEASE TAKE FURTHER NOTICE** that the deposition shall commence at **10:00 a.m. on**  
16 **November 30, 2021**, and shall be conducted via ZOOM teleconference. The deposition will be taken  
17 before a certified court reporter, and shall continue from day to day, weekends and holidays excluded, until  
18 completed.

19 **PLEASE TAKE FURTHER NOTICE** that, pursuant to California Code of Civil Procedure  
20 Section 2025.220(a)(5), the deposition will be recorded stenographically by a certified court reporter,  
21 will be recorded by means of audiotape and/or videotape, and may also be recorded through the use of  
22 "real time" transcription methods ("Live Note").

23 **PLEASE TAKE FURTHER NOTICE** that DCC must produce the documents requested in  
24 **Exhibit A** hereto prior to or at the deposition:

25 DATED: November 12, 2021

LAW OFFICE OF JEFF AUGUSTINI

By: 

JEFF AUGUSTINI

Attorneys for SOUTH CORD MANAGEMENT, LLC



## EXHIBIT A TO DEPOSITION NOTICE

### DEFINITIONS

1. As used herein the term “DOCUMENTS” includes all written, recorded or graphic materials of every kind within the scope of Section 2031.010 et seq. of the California Code of Civil Procedure and Section 250 of the California Evidence Code, including without limitation:
  - a. the originals, or any copies when originals are not available, and any nonidentical copies, whether different from the originals because of notes made on such copies of otherwise, or writings of every kind and description, either typewritten, inscribed by hand, printed, recorded, filmed, punched, transcribed, or taped, or other graphic matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts;
  - b. tape or electronic recordings or oral statements, conversations or events; and
  - c. All records, memoranda, reports, financial statements, handwritten and other notes, transcripts, papers, indices, letters, envelopes, telegrams, cables, telex messages, tabulations, studies, analyses, evaluations, projections, work papers, statements, summaries, opinions, journals, desk calendars, appointment books, diaries, lists, comparisons, questionnaires, surveys, charts, graphs, books, pamphlets, articles, magazines, newspapers, booklets, circulars, bulletins, notices, instructions, manuals, minutes or transcriptions or notations of minutes, telephone conversations, or other communications of any type, photographs, microfilms, phonographs, tape or other recordings, punch cards, discs, data cells, drums, printouts, and other data compilations from which information can be obtained, electronically-stored information, correspondence, teletype messages, electronic mail, internal memoranda, agreements, diary entries, minute books, financial records, accounting records, ledgers, journals, audits, canceled checks, check stubs, drafts and other written, printed or typed matter, diagrams, plans, pictures, pro formas, advertising materials, prospect lists, customer lists, records of sales and solicitations, computer programs and computer runs, travel, entertainment, or expense records or reports.
2. As used herein, the term “COMMUNICATION(S)” shall mean and refer to any meeting, conversation, letter, memorandum, e-mail or other exchange of information transmitted in

whatever form, whether oral or written, from one or more person(s) to one or more person(s), including, without limitation, drafts, facsimiles, and copies, as well as originals.

3. As used herein, the terms “YOU,” “YOUR” and “DCC” shall mean and refer to Respondent Department of Cannabis Control, as well as its representatives, agents, attorneys, accountants, and any other person or entity acting or purporting to act on its behalf, including any predecessor agencies for which it is the successor.

4. As used herein, the term “HNHPC” shall mean and refer to Petitioner HNHPC, Inc., as well as well as its representatives, agents, attorneys, accountants, and any other person or entity acting or purporting to act on its behalf.

5. As used herein, the term “CCTT” shall mean and refer to the Cannabis Control Track and Trace program referenced in YOUR Demurrer, and which is referenced in the Petition herein as the track and trace or METRC program.

6. As used herein, the term “FRANWELL” shall mean Franwell Inc., the developer of the CCTT program as alleged on Page 11 of YOUR Demurrer, as well as its representatives, agents, attorneys, accountants, and any other person or entity acting or purporting to act on its behalf.

7. As used herein, the phrase “refer to” shall mean to constitute, contain, relate to, refer to, reference, touch upon, discuss, mention, summarize, or analyze.

8. As used herein, the term “PERSON” shall mean and refer to any person, whether an individual or entity of any kind – including but not limited to corporations, limited liability companies, general or limited partnerships, government agencies, unincorporated associations, sole proprietorships, profession corporations or similar corporate entities.

## **DOCUMENT REQUESTS**

### **CATEGORY NO. 1:**

All DOCUMENTS showing the number of distributors that have had their licenses suspended or revoked by the DCC, or that in some way have been sued or disciplined, since the inception of the CCTT program, including all DOCUMENTS identifying the names of the distributors and the offenses giving rise to the revocation, suspension, lawsuit or discipline, and the manner in which the DCC became aware of those offenses (e.g., via flagged irregularities in the CCTT system or via public complaint).

### **CATEGORY NO. 2:**

All COMMUNICATIONS between YOU and FARNWELL that refer to the irregularities it was instructed to flag via the CCTT system, all irregularities that FARNWELL suggested be flagged via the CCTT system, any irregularities DCC decided not to flag in the CCTT system, and/or any irregularities that FARNWELL informed DCC it could not flag via the CCTT system.

### **CATEGORY NO. 3:**

All DOCUMENTS that support YOUR contention YOU implemented a CCTT system capable of flagging irregularities for investigation, including all DOCUMENTS showing every irregularity the CCTT program flags for investigation and when the CCTT program first became capable of flagging each such irregularity.

### **CATEGORY NO. 4:**

All COMMUNICATIONS between DCC and FARNWELL referring to its scope of work in creating a CCTT system capable of flagging irregularities, including all proposals or recommendations it made to DCC, all instructions or directions given to FARNWELL, all draft and final contractual agreements relating thereto (including any amendments), and any requests or proposals by FARNWELL to upgrade, augment, expand or alter the CCTT program to flag additional or different irregularities or to cease flagging certain irregularities and all COMMUNICATIONS relating thereto.

**CATEGORY NO. 5:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), how much cannabis (by weight) was listed in the CCTT program as being cultivated since the inception of the CCTT program.

**CATEGORY NO. 6:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), how much cannabis (by weight) was listed in the CCTT program as being sold to ultimate end users or customers since the inception of the CCTT program.

**CATEGORY NO. 7:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), the amount of cultivation tax collected on the cannabis listed in the CCTT program, and the amount of cannabis for which the State of California did not collect cultivation taxes and the reasons for any discrepancies.

**CATEGORY NO. 8:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), the amount of excise taxed collected on the cannabis listed in the CCTT program, and the amount of cannabis for which the State of California did not collect cultivation taxes and the reasons for any discrepancies.

**CATEGORY NO. 9:**

All DOCUMENTS showing, by year (or partial year in the case of 2021), any assessment or estimate by DCC or any other state agency of the amount of cannabis (by weight) legally cultivated in California that later was illegally diverted out of state or to illegal markets within California.

**CATEGORY NO. 10:**

All DOCUMENTS showing what instructions YOU have given to FARNWELL on how to design the CCTT program to flag irregularities, including what irregularities YOU instructed it to flag and not flag and the reasons for such instructions.

**CATEGORY NO. 11:**

All DOCUMENTS showing what actions DCC (or other state agencies under DCC's purview or control) took to investigate flagged irregularities in the CCTT systems, including the number and qualifications of the personnel responsible for investigating such matters, the procedures, guidelines or

instructions on what irregularities to investigate and how, as well as the types of irregularities that are not to be investigated, and the financial resources devoted to investigating flagged irregularities (both in terms of staff and budget) annually since the inception of the CCTT program (partial year for 2021).

**CATEGORY NO. 12:**

All DOCUMENTS showing the total number of irregularities flagged by the CCTT program each year (or with respect to 2021 the year to date) since inception of the CCTT program, and the total number of investigations conducted by DCC on those flagged irregularities.

**CATEGORY NO. 13:**

All DOCUMENTS showing the total number of enforcement actions, including criminal and civil complaints, license revocations/suspensions, or other disciplinary actions, initiated each year (or with respect to 2021 year to date) since inception of the CCTT program, as a result of an investigation conducted into an irregularity flagged in the CCTT system.

**CATEGORY NO. 14:**

All DOCUMENTS showing the total number of enforcement actions, including criminal and civil complaints, license revocations/suspensions, or other disciplinary actions) initiated each year (or with respect to 2021 year to date) since inception of the CCTT program, as a result of a public complaints or tips provided to the DCC or any other state agency.

**CATEGORY NO. 15:**

All DOCUMENTS which analyze, evaluation, or estimate the amount of cultivation and/or excise taxes not paid annually on cannabis entered into the CCTT program (and for 2021, year to date estimates).

**CATEGORY NO. 16:**

All DOCUMENTS showing the number of licensed distributors that have been disciplined, had their licenses suspended or revoked, or have been the subject of civil or criminal complaints since January 1, 2018, and whether the investigations thereof arose from flagged irregularities in the CCTT program or whether they arose from tips/complaints or other public reporting.

**CATEGORY NO. 17:**

All DOCUMENTS showing any actions or proposals by DCC or FARNWELL to augment the CCTT to add new or different flagging capability since the initiation of this action, including all COMMUNICATIONS relating thereto.

**CATEGORY NO. 18:**

All DOCUMENTS that refer to the types of distributors described in the Petition as “burner distros,” and any and all policies, procedures, guidelines, and instructions the DCC or other state agencies have enacted to address the proliferation of burner distros in California.

**CATEGORY NO. 19:**

All DOCUMENTS showing the amount of money and personnel budgeted each year since CCTT inception (including year to date in 2021) to investigate flagged irregularities, as well as any monies contained in the 2022 budget request specifically for such purposes.

**CATEGORY NO. 20:**

All DOCUMENTS that refer to, analyze, estimate or otherwise assess the role of excessive taxation (including excessive excise and cultivation taxes) on the proliferation of illegal diversion of cannabis in California, including any assessment or discussion of how reducing such taxes might in turn reduce illegal diversion of cannabis across state lines and/or to illegal markets in California.

1 **CERTIFICATE OF SERVICE**

2 I, [Jeff Augustini](#), declare as follows:

3 I am employed in the County of Orange, State of California; I am over the age of eighteen years and am  
4 not a party to this action; my business address is 9160 Irvine Center Drive, Suite 200, Irvine, California 92618,  
in said County and State. On [November 12, 2021](#), I served the following document(s):

5 **AMENDED NOTICE OF DEPOSITION OF PERSON(S) MOST QUALIFIED AT**  
6 **DEPARTMENT OF CANNABIS CONTROL AND REQUEST FOR PRODUCTION OF**  
7 **DOCUMENTS**

8 on the following parties:

9 Harinder Kapur ([Harinder.kapur@doj.ca.gov](mailto:Harinder.kapur@doj.ca.gov))  
10 Ethan Turner ([Ethan.turner@doj.ca.gov](mailto:Ethan.turner@doj.ca.gov))  
11 California Department of Justice  
12 Cannabis Control Section  
13 1300 I Street  
14 1620-18  
15 Sacramento, CA 95814

16 by the following means of service:

- 17  **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on the above-  
18 mentioned date. I am familiar with the firm's practice of collection and processing correspondence  
19 for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of  
20 business. I am aware that on motion of party served, service is presumed invalid if postal  
21 cancellation date or postage meter date is more than one day after date of deposit for mailing in  
22 affidavit.
- 23  **BY PERSONAL SERVICE:** I emailed a true copy of this document to a messenger with  
24 instructions to personally deliver it to each person[s] named at the address[es] shown before 5:00 p.m.  
25 on the above-mentioned date.
- 26  **BY OVERNIGHT SERVICE:** On the above-mentioned date, I placed a true copy of the above  
27 mentioned document(s), together with an unsigned copy of this declaration, in a sealed envelope or  
28 package designated by FedEx with delivery fees paid or provided for, addressed to the person(s) as  
indicated above and deposited same in a box or other facility regularly maintained by FedEx or  
delivered same to an authorized courier or driver authorized by FedEx to receive documents.
- BY ELECTRONIC SERVICE:** On the above-mentioned date, I caused each such document to be  
transmitted by electronically mailing a true and correct copy through the Law Office of Jeff  
Augustini's electronic mail system to the e-mail address(s) set forth above.
- (STATE)** I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

Executed on [November 12, 2021](#), at Irvine, California.

  
[Jeff Augustini](#)

# **EXHIBIT G**



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**From:** Ethan Turner  
**Sent:** Friday, November 12, 2021 2:50 PM  
**To:** 'Jeff Augustini' <jeff@augustinilaw.com>  
**Cc:** Harinder Kapur <Harinder.Kapur@Doj.Ca.Gov>  
**Subject:** Continued Meet and Confer regarding Notice of Deposition

Jeff,

I have received the amended notice and it has been forwarded to our client. As we have discussed, and as I indicated in the meet and confer letter sent to you this morning, it is not reasonable to expect that responsive documents within the broad categories that you describe could be produced by November 30th. This is not just because of the breadth of the subject matter, but because, even after documents are identified, the Department will need to determine which documents it has custody and control over, whether responsive documents might be in control of other agencies, and significant legal analysis will be required to navigate the extensive confidentiality issues involved in the material. When the Department has determined what documents are responsive to your 20 categories of documents, where we claim one or more of the privileges discussed in the letter, we can arrange for in camera review. Our client is working through the list and while some documents will be produced as soon as possible, there are likely not very many items that can be provided to you prior to, or on the proposed November 30, deadline.

Additionally, given the scope of the categories of testimony indicated, it is unclear how many deponents there will be and whether such deponents are employees of the Department, or employees of other state agencies ( i.e employees of CDFA, who handled the track and trace system before the Department came to exist in July of this year; or employees of the California Department of Technology who were involved in reviewing proposals and qualifications from contractors, and ultimately selecting Farnwell, Inc.; or employees of the CDTFA who are knowledgeable about taxation and the collection of cultivation and excise taxes; or whether deponents might also include employees at METRC, LLC (now a subsidiary of Farnwell). In cases where persons most qualified are not employees of the Department, we can provide you with their names, in cases where the persons most qualified are Department employees we will look into their availability and work with you to arrange for their depositions.

For these reasons and those set forth the letter I sent you this morning, the unilaterally

selected date of November 30th is unreasonable under the circumstances and will result in an undue burden, unnecessary expense, in and an incomplete production of deponents and documents. Both parties would conserve resources and be better served by a deposition date that would allow for production of the requested documents and deponents.

Further, today we also received your First Amended Petition, are in the process of reviewing, and will respond accordingly. The due date of our responsive pleadings is Monday December 13, 2021. There is no good cause to hold any depositions prior to the filing of our responsive pleadings. If, after reviewing your amended complaint, it appears a demurrer would be the appropriate response, then good cause would exist to delay depositions until after a ruling on the demurrer has been issued.

We spoke to our client this morning and the department continues to review the requests in your notice, and now your amended notice. The Department believes it could be feasible to set a deposition date in January. If it is determined that demurrer is the appropriate response to your first amended complaint, then a hearing would likely occur prior to January 17, 2022. It does not make sense to hold a deposition hearing or spend a lot of resources in discovery while we await a ruling on the demurrer, so I hope you can be agreeable to a date in late January or in February of 2022. This is only 2-3 months out, and will result in a more comprehensive and meaningful deposition or depositions.

If you insist on pursuing a November 30 deposition date, which could only result in partial production and would likely result in the need for subsequent depositions, we will have to proceed with our motion for a protective order and an order quashing your amended notice of deposition. However, even as we pursue that course we will continue to work on the Request for Production of Documents.

Thanks,

Ethan

***Ethan Turner***

**Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Civil Law  
Cannabis Control Section  
1300 I Street  
1620-18  
Sacramento, CA 95814  
Office: (916) 210-7898**



# **EXHIBIT H**

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**From:** Jeff Augustini <jeff@augustinilaw.com>  
**Sent:** Friday, November 12, 2021 3:20 PM  
**To:** Ethan Turner <Ethan.Turner@doj.ca.gov>  
**Cc:** Harinder Kapur <Harinder.Kapur@Doj.Ca.Gov>  
**Subject:** Re: Continued Meet and Confer regarding Notice of Deposition

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Ethan:

The stall continues.

You have no intention of designating any witnesses or producing any documents — since literally as of yesterday, you admitted the DCC had made zero effort to even look for responsive documents and further had made zero effort to even begin trying to determine who the PMK might be (which makes your location objection all that more baseless, since you have no idea who the PMK will be, how many might be designated, where they work or reside or how far away they might be from my office).

Your email is a rehash of the prior argument you made, which is you want to have a demurrer (potentially) be heard before you even begin to comply with discovery. To be clear, there is no requirement that the case be at issue before discovery can be conducted. No such restriction is in the code, and the only restriction is the petitioner must wait 20 days from initial service to conduct deposition discovery — which I did.

I see it the exact opposite as you. I see no reason to wait, since I think your demurrer arguments are thrown together (like DCC's discovery objections) and DCC is clearly trying to stall so it does not have to submit to discovery that would prove the department of cannabis control in fact is doing virtually nothing to actually control cannabis.

While I certainly would be amenable to continuing the deposition date a short bit in response to a sincere and good faith need for some additional time to respond, you already have made clear DCC will not produce any witnesses or even begin to potentially search for responsive materials until after it answers or has a hearing held on some potential future demurrer. So in turn, I am not amenable to continuing the deposition and thereby needlessly delaying the hearing on the motion to compel that you have made clear will be required to get DCC to comply until after a demurrer hearing can be set. And the new claim of a need to compile documents and find designees is not a

good faith argument based on your clear position yesterday that you would not comply before a demurrer is heard. That was just added to make it sound like DCC actually needs two months to comply, which is ludicrous.

Finally, will you accept service if a summons and petition on behalf of Ms. Elliot? It would seem a waste of time and money to have to track her down to serve her personally with the Petition. Please advise.

Jeff

We are not waiting.

Sent from my iPhone

On Nov 12, 2021, at 2:50 PM, Ethan Turner <[Ethan.Turner@doj.ca.gov](mailto:Ethan.Turner@doj.ca.gov)> wrote:

Jeff,

I have received the amended notice and it has been forwarded to our client. As we have discussed, and as I indicated in the meet and confer letter sent to you this morning, it is not reasonable to expect that responsive documents within the broad categories that you describe could be produced by November 30th. This is not just because of the breadth of the subject matter, but because, even after documents are identified, the Department will need to determine which documents it has custody and control over, whether responsive documents might be in control of other agencies, and significant legal analysis will be required to navigate the extensive confidentiality issues involved in the material. When the Department has determined what documents are responsive to your 20 categories of documents, where we claim one or more of the privileges discussed in the letter, we can arrange for in camera review. Our client is working through the list and while some documents will be produced as soon as possible, there are likely not very many items that can be provided to you prior to, or on the proposed November 30, deadline.

Additionally, given the scope of the categories of testimony indicated, it is unclear how many deponents there will be and whether such deponents are employees of the Department, or employees of other state agencies ( i.e employees of CDFA, who handled the track and trace system before the Department came to exist in July of this year; or employees of the California Department of Technology who were involved in reviewing proposals and qualifications from contractors, and ultimately selecting Farnwell, Inc.; or employees of the CDTFA who are

knowledgeable about taxation and the collection of cultivation and excise taxes; or whether deponents might also include employees at METRC, LLC (now a subsidiary of Farnwell). In cases where persons most qualified are not employees of the Department, we can provide you with their names, in cases where the persons most qualified are Department employees we will look into their availability and work with you to arrange for their depositions.

For these reasons and those set forth the letter I sent you this morning, the unilaterally selected date of November 30th is unreasonable under the circumstances and will result in an undue burden, unnecessary expense, in and an incomplete production of deponents and documents. Both parties would conserve resources and be better served by a deposition date that would allow for production of the requested documents and deponents.

Further, today we also received your First Amended Petition, are in the process of reviewing, and will respond accordingly. The due date of our responsive pleadings is Monday December 13, 2021. There is no good cause to hold any depositions prior to the filing of our responsive pleadings. If, after reviewing your amended complaint, it appears a demurrer would be the appropriate response, then good cause would exist to delay depositions until after a ruling on the demurrer has been issued.

We spoke to our client this morning and the department continues to review the requests in your notice, and now your amended notice. The Department believes it could be feasible to set a deposition date in January. If it is determined that demurrer is the appropriate response to your first amended complaint, then a hearing would likely occur prior to January 17, 2022. It does not make sense to hold a deposition hearing or spend a lot of resources in discovery while we await a ruling on the demurrer, so I hope you can be agreeable to a date in late January or in February of 2022. This is only 2-3 months out, and will result in a more comprehensive and meaningful deposition or depositions.

If you insist on pursuing a November 30 deposition date, which could only result in partial production and would likely result in the need for subsequent depositions, we will have to proceed with our motion for a protective order and an order quashing your amended notice of deposition. However, even as we pursue that course we will continue to work on the Request for Production of Documents.

Thanks,

Ethan

***Ethan Turner***

Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Civil Law  
Cannabis Control Section  
1300 I Street  
1620-18  
Sacramento, CA 95814  
Office: (916) 210-7898



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# **EXHIBIT I**

---

**From:** Ethan Turner

**Sent:** Friday, November 12, 2021 3:43 PM

**To:** 'Jeff Augustini' <[jeff@augustinilaw.com](mailto:jeff@augustinilaw.com)>

**Subject:** RE: Continued Meet and Confer regarding Notice of Deposition

Jeff,

Yes we are authorized to accept service for Nicole Elliott. You can consider the director served.

Thanks,

***Ethan Turner***

Deputy Attorney General

California Department of Justice

Office of the Attorney General

Division of Civil Law

Cannabis Control Section

1300 I Street

1620-18

Sacramento, CA 95814

Office: (916) 210-7898



---

**From:** Ethan Turner

**Sent:** Friday, November 12, 2021 3:36 PM

**To:** 'Jeff Augustini' <[jeff@augustinilaw.com](mailto:jeff@augustinilaw.com)>

**Subject:** RE: Continued Meet and Confer regarding Notice of Deposition

Jeff,

I made no representations about the efforts of the Department to identify deponents. I made no representations about the department's efforts to identify and produce documents. Your claim that I "admitted" that "zero effort has been made" is false.

I have made it clear that the Department will produce witnesses and no reasonable person could earnestly believe that responsive documents to the categories you described could be compiled and reviewed for production by November 30<sup>th</sup>.

Yes you are allowed to initiate discovery, but discovery need not be a waste of time, unreasonable, or unduly burdensome.

---

**From:** Jeff Augustini <[jeff@augustinilaw.com](mailto:jeff@augustinilaw.com)>  
**Sent:** Friday, November 12, 2021 3:20 PM  
**To:** Ethan Turner <[Ethan.Turner@doj.ca.gov](mailto:Ethan.Turner@doj.ca.gov)>  
**Cc:** Harinder Kapur <[Harinder.Kapur@Doj.Ca.Gov](mailto:Harinder.Kapur@Doj.Ca.Gov)>  
**Subject:** Re: Continued Meet and Confer regarding Notice of Deposition

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Ethan:

The stall continues.

You have no intention of designating any witnesses or producing any documents — since literally as of yesterday, you admitted the DCC had made zero effort to even look for responsive documents and further had made zero effort to even begin trying to determine who the PMK might be (which makes your location objection all that more baseless, since you have no idea who the PMK will be, how many might be designated, where they work or reside or how far away they might be from my office).

Your email is a rehash of the prior argument you made, which is you want to have a demurrer (potentially) be heard before you even begin to comply with discovery. To be clear, there is no requirement that the case be at issue before discovery can be conducted. No such restriction is in the code, and the only restriction is the petitioner must wait 20 days from initial service to conduct deposition discovery — which I did.

I see it the exact opposite as you. I see no reason to wait, since I think your demurrer arguments are thrown together (like DCC's discovery objections) and DCC is clearly trying to stall so it does not have to submit to discovery that would prove the department of cannabis control in fact is doing virtually nothing to actually control cannabis.

While I certainly would be amenable to continuing the deposition date a short bit in response to a sincere and good faith need for some additional time to respond, you already have made clear DCC will not produce any witnesses or even begin to potentially search for responsive materials until after it answers or has a hearing held on some potential future demurrer. So in turn, I am not amenable to continuing the deposition and thereby needlessly delaying the hearing on the motion to compel that you have made clear will be required to get DCC to comply until after a demurrer hearing can be set. And the new claim of a need to compile documents and find designees is not a good faith argument based on your clear position yesterday that you would not comply before a demurrer is heard. That was just added to make it sound like DCC actually needs two months to comply, which is ludicrous.

Finally, will you accept service if a summons and petition on behalf of Ms. Elliot? It would seem a waste of time and money to have to track her down to serve her personally with the Petition. Please advise.

Jeff

We are not waiting.

Sent from my iPhone

On Nov 12, 2021, at 2:50 PM, Ethan Turner <[Ethan.Turner@doj.ca.gov](mailto:Ethan.Turner@doj.ca.gov)> wrote:

Jeff,

I have received the amended notice and it has been forwarded to our client. As we have discussed, and as I indicated in the meet and confer letter sent to you this morning, it is not reasonable to expect that responsive documents within the broad categories that you describe could be produced by November 30th. This is not just because of the breadth of the subject matter, but because, even after documents are identified, the Department will need to determine which documents it has custody and control over, whether responsive documents might be in control of other agencies, and significant legal analysis will be required to navigate the extensive confidentiality issues involved in the material. When the Department has determined what documents are responsive to your 20 categories of documents, where we claim one or more of the privileges discussed

in the letter, we can arrange for in camera review. Our client is working through the list and while some documents will be produced as soon as possible, there are likely not very many items that can be provided to you prior to, or on the proposed November 30, deadline.

Additionally, given the scope of the categories of testimony indicated, it is unclear how many deponents there will be and whether such deponents are employees of the Department, or employees of other state agencies ( i.e employees of CDFR, who handled the track and trace system before the Department came to exist in July of this year; or employees of the California Department of Technology who were involved in reviewing proposals and qualifications from contractors, and ultimately selecting Farnwell, Inc.; or employees of the CDTFA who are knowledgeable about taxation and the collection of cultivation and excise taxes; or whether deponents might also include employees at METRC, LLC (now a subsidiary of Farnwell). In cases where persons most qualified are not employees of the Department, we can provide you with their names, in cases where the persons most qualified are Department employees we will look into their availability and work with you to arrange for their depositions.

For these reasons and those set forth the letter I sent you this morning, the unilaterally selected date of November 30th is unreasonable under the circumstances and will result in an undue burden, unnecessary expense, in and an incomplete production of deponents and documents. Both parties would conserve resources and be better served by a deposition date that would allow for production of the requested documents and deponents.

Further, today we also received your First Amended Petition, are in the process of reviewing, and will respond accordingly. The due date of our responsive pleadings is Monday December 13, 2021. There is no good cause to hold any depositions prior to the filing of our responsive pleadings. If, after reviewing your amended complaint, it appears a demurrer would be the appropriate response, then good cause would exist to delay depositions until after a ruling on the demurrer has been issued.

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Thanks,

Ethan

***Ethan Turner***

**Deputy Attorney General  
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# **EXHIBIT J**

---

**From:** Jeff Augustini <[jeff@augustinilaw.com](mailto:jeff@augustinilaw.com)>  
**Sent:** Friday, November 12, 2021 3:43 PM  
**To:** Ethan Turner <[Ethan.Turner@doj.ca.gov](mailto:Ethan.Turner@doj.ca.gov)>  
**Subject:** RE: Continued Meet and Confer regarding Notice of Deposition

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Which in your book means any effort to take discovery on the allegations contained in the Petition – which is a facially ludicrous, bad faith and sanctionable position.

The DCC does not unilaterally get to decide when (if ever) it will comply with duly served discovery, or whether it believes that discovery directly targeting the allegations of the Petition are such a waste of time, are unreasonable or are unduly burdensome such that it need not comply or can unilaterally decide that it need not comply for months.

Here is the thing Ethan. Please don't blow smoke. You absolutely made clear that DCC would not comply at all until after a demurrer has been heard (or, you added today, when DCC files an answer such that the action is at issue). There is zero support for that position. The remainder – that you need time to identify PMK witnesses and to compile, review and produce documents – is pure and unadulterated false record making.

Every defendant believes the plaintiff's case is meritless and responding to discovery on such a case is a waste of time, money and effort. If your argument were credited, the plaintiff would never get any discovery on its claims, and the defendant would never get any discovery on its allegedly "baseless" affirmative defenses. Of course, that is not the way discovery works. We are entitled to take a deposition and to seek documents to support our allegations, regardless of whether you think the claims have any merit. And maybe the Department should have thought about deploying resources to actually complying with its legal mandate; if it had done as it was supposed to, this action would not be going on right now. And since California has far greater resources than my client does, please stop wasting my clients' resources with blatant stonewalling tactics.

Jeff

Jeff Augustini | **Law Office of Jeff Augustini**  
9160 Irvine Center Drive, Suite 200 | Irvine, CA 92618  
Tel: 949.336.7847  
[www.augustinilaw.com](http://www.augustinilaw.com)

\*\*\*\*\*  
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\*\*\*\*\*

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California Department of Justice  
Office of the Attorney General  
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We spoke to our client this morning and the department continues to review the requests in your notice, and now your amended notice. The Department believes it could be feasible to set a deposition date in January. If it is determined that demurrer is the appropriate response to your first amended complaint, then a hearing would likely occur prior to January 17, 2022. It does not make sense to hold a deposition hearing or spend a lot of resources in discovery while we await a ruling on the demurrer, so I hope you can be agreeable to a date in late January or in February of 2022. This is only 2-3 months out, and will result in a more comprehensive and meaningful deposition or depositions.

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Thanks,

Ethan

***Ethan Turner***  
Deputy Attorney General  
California Department of Justice  
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# **EXHIBIT K**

1 ROB BONTA  
Attorney General of California  
2 HARINDER KAPUR  
Senior Assistant Attorney General  
3 ETHAN A. TURNER  
Deputy Attorney General  
4 State Bar No. 294891  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7898  
Fax: (916) 327-2319  
7 E-mail: Ethan.Turner@doj.ca.gov  
*Attorneys for Respondents and Defendants*  
8 *Department of Cannabis Control and*  
*Nicole Elliott, in her capacity as Director*

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ORANGE  
12 CENTRAL JUSTICE CENTER

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14 HNHPC, INC.,  
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Petitioner,  
v.  
THE DEPARTMENT OF CANNABIS  
CONTROL, AN ADMINISTRATIVE  
DEPARTMENT OF THE STATE OF  
CALIFORNIA; NICOLE ELLIOTT, in her  
capacity as Director of the Department of  
Cannabis Control, and Does 1-50, inclusive  
Respondents.

Case No. 30-2021-01221014-CU-WM-CJC

**OBJECTIONS TO NOTICE OF TAKING  
DEPOSITION OF PERSON(S) MOST  
QUALIFIED AT DEPARTMENT OF  
CANNABIS CONTROL AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

Dept: C26  
Judge: The Honorable Gregory H. Lewis  
Trial Date: TBD  
Action Filed: September 15, 2021

**TO HNHPC, INC and ITS ATTORNEY OF RECORD:**

Defendants and Respondents Department of Cannabis Control (“Department”) and Nicole Elliott, in her capacity as the Director (collectively “Respondents”), object to Plaintiff and Petitioner HNHPC, Inc.’s (“HNHPC”) Amended Notice of Taking Deposition of Person(s) Most Qualified and for Production of Documents (“Amended Notice”) set for November 30, 2021.

Respondents remain open to discussing a future deposition date as well as a deadline for

1 delivery of responsive documents, provided that the scope of the request for production can be  
2 clarified. In the meantime, Respondents are providing some responsive documents and will  
3 continue to provide additional documents as they are identified and reviewed. However, for the  
4 reasons set forth below, Respondents will be unable to produce anyone for the deposition on  
5 November 30, 2021 as demanded in the Amended Notice.

## 6 **OBJECTIONS TO THE AMENDED NOTICE**

### 7 **Category of Testimony No. 1.**

8 All efforts undertaken to ensure the “California Cannabis Track and Trace” (“CCTT”) program in  
9 fact was designed to flag irregularities for the department to investigate.

### 10 **Objections:**

11 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
12 **2025.220(a)(3).**

13 The efforts necessary to create and design the track and trace system’s electronic database  
14 pursuant to applicable statutes have been underway for several years and have involved multiple  
15 state agencies and private contractors. The term “[a]ll efforts” is overly broad in scope and would  
16 encompass many types of activities over an uncertain period of time. The general description of  
17 this category of testimony is not sufficiently particular to enable the Respondents to identify the  
18 individuals who would be most qualified to address it. Therefore, the description of information  
19 sought therefore fails to satisfy the requirements of Code of Civil Procedure section  
20 2025.220(a)(3).

21 **(2) Category of Testimony No. 1, as articulated, encompasses privileged information:**  
22 **Evidence Code sections 954 and 1040, Business and Professions Code section 26067,**  
23 **Government Code section 6254, Code of Civil Procedure section 2018.030.**

24 The description “[a]ll efforts to ensure that the [CCTT] program in fact was designed to  
25 flag irregularities” covers events that go back to 2015 when the California Department of Food  
26 and Agriculture (“CDFA”) was tasked by the Medical Marijuana Regulation and Safety Act<sup>1</sup> to

27 \_\_\_\_\_  
28 <sup>1</sup> Assembly Bill 243 (Chapter 688 of the Statutes of 2015), Assembly Bill 266 (Chapter 689 of the  
Statutes of 2015), and Senate Bill 643 (Chapter 719 of the Statutes of 2015)

1 develop a unique identifier system and track and trace program.” (See Former Bus. & Prof. Code,  
2 § 19335, repealed by stats. Sen. Bill No. 94 2017-2018 Reg. Sess. § 1.) Designing the CCTT  
3 system and making determinations about what types of transactions are “irregular” involved  
4 cooperation between CDFR, the Department of Consumer Affairs (“DCA”), the Bureau of  
5 Cannabis Control (“BCC”) (and its predecessor and successor agencies), the California  
6 Department of Public Health (“CDPH”) and the California Department of Technology (“CDT”),  
7 as well as Franwell Inc, and METRC, LLC.

8 The scope of the information contemplated by the description provided is so broad it is  
9 likely that many responsive areas of information would have to be analyzed for applicable  
10 privileges. Such areas of concern would include privileged and confidential official information,  
11 disclosure of which could result in revealing confidential official information and investigative  
12 techniques. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254,  
13 subd (f).) Responsive information could also include discussion of preliminary drafts,  
14 interagency, and intra-agency memorandum, legal documents, documents which reveal  
15 determinate process and pre-decisional communications (Gov. Code, § 6254, subd. (a); *Citizens*  
16 *for a Better Environment v. California Department of Food and Agriculture* (1985) 171  
17 Cal.App.3d 704, 714), as well as trade secrets of Franwell Inc. and METRC, LLC. Additionally,  
18 because determining what was required of the licensing agencies and the taxing authority  
19 involved statutory interpretation and other legal analysis, it is possible that some responsive  
20 information encompassed by this category could be privileged if it required a deponent to recount  
21 advice received from and conclusions presented by their counsel. (Code Civ. Proc., § 2018.030;  
22 Evid. Code, §954; *Fireman's Fund Ins. Co. v. Superior Court* (2011), 196 Cal. App. 4th 1263.)

23 For these reasons, once persons most qualified are identified from among the various staff  
24 members from the various agencies, further analysis of the information they possess would be  
25 required to ascertain whether one or more privileges apply.

26 **(3) Category of Testimony No. 1 is intended to be unduly burdensome and calculated to**  
27 **annoy, embarrass, and harass and does not serve the interests of the case.**

1 It is not feasible for the Respondents would be able to identify all appropriate deponents  
2 and ensure that they are prepared and available for depositions within the timeframe required by  
3 the Amended Notice. Because of the volume of the information encompassed by the descriptions  
4 in the category of testimony, it is possible that multiple deponents would need to be identified and  
5 the categories of information sought will have to be analyzed for potential privileges therefore,  
6 the burdens involved in responding to the notice within the time frame demanded is not feasible.  
7 The Amended Notice is calculated to cause burden, annoyance, and expense without serving the  
8 interest of the case; it is a misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd.  
9 (a), 2023.010, subd. (c), and 2025.420, subd. (b).)

10 **Category of Testimony No. 2**

11 All irregularities considered for flagging in the CCTT program, and the manner in which they  
12 were to be identified and flagged.

13 **Objections:**

14 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
15 **2025.220(a)(3).**

16 The potential scope of the category of testimony and the description of the category is not  
17 sufficiently particular to enable the Respondents to ascertain the individual(s) to send for  
18 deposition. The description “[a]ll irregularities that were considered for flagging” is unclear. If  
19 taken literally, the phrase would encompass not only all categories of information or  
20 combinations of information actually entered by licensees into the CCTT system. But also, ideas  
21 and concepts that the representative of the multiple agencies discussed and made decisions not to  
22 include in the CCTT system. Working on a framework for the data base has been the subject of  
23 interagency collaboration for several years. For these reasons, the general description of this  
24 category of testimony is not sufficient to identify the appropriate deponents as required by Code  
25 of Civil Procedure section 2025.220(a)(3).

26 **(2) The Category of Testimony is not calculated to produce admissible evidence under**  
27 **Evidence Code sections 350, 351, and 352.**

28 This category is overly broad and without reasonable limitation in scope and it is not



1 reasonably calculated to lead to the discovery of admissible evidence or of information relevant to  
2 the subject matter of this action. (Evid Code, §§ 350, 351 & 352).

3 **(3) The request seeks privileged information: Evidence Code sections 954 and 1040,**  
4 **Business and Professions Code section 26067, Government Code section 6254, Code**  
5 **of Civil Procedure section 2018.030.**

6 The category of testimony seeks information which is confidential and protected from  
7 disclosure because its expansive scope would touch upon privileged information, disclosure of  
8 which could result in revealing investigative techniques, official governmental records, or other  
9 confidential information. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov.  
10 Code, § 6254.) Additionally, because “consider[ing]” what “irregularities” to “flag,” requires  
11 statutory interpretation in determining what was required of licensing agencies and the taxing  
12 authority, the person(s) most qualified are either attorneys or consulted with attorneys and  
13 responsive information is subject to attorney client privilege and work product doctrines. (Code  
14 Civ. Proc., § 2018.030; Evid. Code §954.)

15 **(4) Category of Testimony No. 2 is unduly burdensome and calculated to harass and a**  
16 **protective order delaying the scheduled deposition is warranted.**

17 Because of the volume of the information encompassed by the descriptions in the category  
18 of testimony, it is possible that multiple deponents will need to be identified and the categories of  
19 information sought will have to be analyzed for potential privileges therefore, the burdens  
20 involved in responding clearly to the notice within the time frame demanded outweighs any  
21 benefits that are sought to be obtained by the Plaintiff and do not serve the interest of the case.  
22 (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420.)

23 **Category of Testimony No. 3**

24 All irregularities the developers of the CCTT program were told to flag, and whether and  
25 how those irregularities in fact are tracked and flagged in the CCTT program.

26 **Objections:**

27 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
28 **2025.220(a)(3);**

1 The phrase “All irregularities the developer of the CCTT program was told to flag” is  
2 uncertain in scope and would involve any number of persons over an uncertain time period. These  
3 terms, “irregularity” and “flagging” have been subject to ongoing interpretation since 2015 and  
4 have been the subject of interagency collaboration such that the number of individuals, the  
5 agency/agencies and/or private company such individuals work for is not readily or easily  
6 discernable from the language in the category of testimony. The category of testimony is so  
7 overbroad that it is not sufficient to identify the appropriate deponents as required by Code of  
8 Civil Procedure section 2025.220(a)(3).

9 **(2) The Category of Testimony is not calculated to produce admissible evidence under**  
10 **Evidence Code sections 350, 351, and 352;**

11 This category is overbroad, without reasonable limitation in scope, and it is not reasonably  
12 calculated to lead to the discovery of admissible evidence or of information relevant to the subject  
13 matter of this action. (Evid. Code, §§ 350, 351 & 352.)

14 **(3) The Amended Notice seeks privileged information: Evidence Code sections 954 and**  
15 **1040, Business and Professions Code section 26067, Government Code section 6254,**  
16 **Code of Civil Procedure section 2018.030.**

17 Additionally, the category of testimony seeks information which is confidential and  
18 protected from disclosure because its expansive scope would necessarily touch upon privileged  
19 information. Responding to “whether and how irregularities are in fact flagged” would require  
20 disclosure which could result in revealing investigative techniques, official governmental records,  
21 and other matters that are privileged for public policy reasons. (Evid. Code, §1040; Bus. & Prof.  
22 Code, § 26067, subd. (b)(5); Gov. Code, § 6254.) Additionally, as with all questions related to  
23 defining the terms “irregularity” and “flag”, the duties of licensing agencies under applicable law  
24 requires statutory interpretation and other legal analysis, therefore persons most qualified may  
25 have been the recipients of legal advice from staff counsel and the responsive information could  
26 be, at least in part, subject to attorney client privilege and work product doctrines. (Code Civ.  
27 Proc., § 2018.030; Evid. Code, §954.) So, in addition to identifying the person(s) to be deposed  
28 based upon the description of information, further analysis would be required to analyze

1 responsive information potential testimony for applicable privileges.

2 **(4) Category of Testimony No. 3 is unduly burdensome and calculated to cause**  
3 **annoyance and harassment within the meaning of Code of Civil Procedure sections**  
4 **2025.420, subdivision (b) and 2023.010 subdivision (c).**

5 Because it is unreasonable to expect that the identification of responsive information and  
6 appropriate deponents could be accomplished by November 30, 2021, the Amended Notice is  
7 unreasonable, burdensome, and could only be calculated to harass the Respondents. (Code Civ.  
8 Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420.)

9 **Category of Testimony No. 4**

10 All irregularities considered for tracking in the CCTT program but which in fact are not  
11 flagged in the CCTT program, and the reasons why the CCTT system ultimately was not  
12 designed to flag such irregularities (or why such irregularities were removed).

13 **Objections:**

14 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
15 **2025.220(a)(3).**

16 The criteria for defining “irregularities” and determining enforcement priorities relative to  
17 “flagging” such irregularities involves the exercise of discretion that has taken place over an  
18 uncertain period through a cooperative effort involving several state agencies and a private  
19 contractor. To identify “All irregularities considered” would require delving into the thoughts and  
20 conversations of an unknown number of individuals who have participated in that effort.  
21 Therefore, Category of Testimony No. 4 is not sufficiently particular to allow Respondents to  
22 identify the deponent or the particular class to which the deponent belongs as required by Code of  
23 Civil Procedure section 2025.220, subdivision (a)(3).

24 **(2) The Category of Testimony is not calculated to elicit admissible evidence under**  
25 **Evidence Code sections 350, 351, and 352.**

26 The category of testimony also seeks information that is not relevant to the causes of  
27 action, and would waste the time and resources of both parties and the Court. (Evid. Code, §§  
28 350, 351 & 352.)

1 **(3) The Category of Testimony seeks privileged information: Evidence Code sections**  
2 **954 and 1040, Business and Professions Code section 26067, Government Code**  
3 **section 6254, Code of Civil Procedure section 2018.030.**

4 The expansive description contained in Category of Testimony No. 4 would necessarily  
5 touch upon privileged information. Providing all potentially responsive information would  
6 disclose investigative techniques, official governmental records, and other matters that are  
7 privileged for public policy reasons. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd.  
8 (b)(5); Gov. Code, § 6254.) Additionally, as with all questions related to interpreting statutory  
9 language and identifying the responsibilities of licensing agencies requires legal analysis.  
10 Therefore, potentially responsive testimony would have to be reviewed to determine whether it is,  
11 at least in part subject to attorney client privilege and work product doctrines. (Code Civ. Proc., §  
12 2018.030; Evid. Code, §954).

13 **(4) The Category No. 4 and the entire Amended Notice is unduly burdensome and**  
14 **calculated to harass in a manner warranting a protective order pursuant Code of**  
15 **Civil Procedure sections 2025.420, subdivision (b) and 2023.010 subdivision (c)**

16 Given that the category of testimony is so over broad, the analysis that would be required, and the  
17 arbitrarily and unilaterally set deadline of November 30, 2021, it would be untenable for the  
18 Respondents to produce persons most qualified within the timeframe required by the Amended  
19 Notice of Deposition. In this context, Category of testimony No. 4 constitutes a request that is  
20 burdensome and oppressive. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), &  
21 2025.420.)

22 **Category of Testimony No. 5**

23 All irregularities considered for tracking in the CCTT program but which in fact are not  
24 flagged in the CCTT program, and the reasons why the CCTT system ultimately was not  
25 designed to flag such irregularities (or why such irregularities were removed).

26 **Objections:**

27 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
28 **2025.220(a)(3).**

1 The phrase “All irregularities considered for tracking” is uncertain in scope and time  
2 frame, and involved a number of persons over several years from multiple state agencies or  
3 private companies. The terms “irregularity” and “flagging” have been subject to ongoing  
4 interpretation since 2015 and have been the subject of interagency collaboration such that the  
5 number of individuals that could be the person(s) most qualified is not readily or easily  
6 discernable from the language in the category of testimony. The phrase “system ultimately was  
7 not designed to flag such irregularities” is not susceptible to sensible interpretation and makes  
8 legal and factual conclusions that are without support. The category of testimony is overbroad  
9 such that the general description of this category of testimony is not sufficient to identify the  
10 appropriate deponents as required by Code of Civil Procedure section 2025.220(a)(3).

11 **(2) The Category of Testimony is not calculated to elicit admissible evidence under**  
12 **Evidence Code sections 350, 351, and 352;**

13 Requesting a deponent to discuss what criteria for irregularities were considered but not  
14 used, is not reasonably calculated to produce information that pertains to either of HNHPC’s  
15 causes of action, therefore, “Category of Testimony No. 5” Seeks information that is not relevant  
16 to the causes of action, and would waste the time and resources of both parties and the Court.  
17 (Evid. Code, §§ 350, 351 & 352.)

18 **(2) The request seeks privileged information: Evidence Code sections 954 and 1040,**  
19 **Business and Professions Code section 26067, Government Code section 6254, Code**  
20 **of Civil Procedure section 2018.030.**

21 Due to its expansive scope, the category of testimony encompasses information which is  
22 confidential and protected from disclosure. Responding to “[a]ll irregularities considered for  
23 tracking in the CCTT program[,] but which in fact are not flagged in the CCTT program” could  
24 result in revealing investigative techniques, official governmental records, and other matters that  
25 are privileged for public policy reasons. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd.  
26 (b)(5); Gov. Code, § 6254.) Additionally, as with all questions related to defining the terms  
27 “irregularity” and “flag”, the duties of licensing agencies under applicable law requires statutory  
28 interpretation, therefore potentially responsive testimony could be, at least in part, subject to

1 attorney client privilege and work product doctrines. (Code Civ. Proc., § 2018.030; Evid. Code,  
2 §954.)

3 **(4) Category of Testimony No. 5 is unduly burdensome and calculated to harass within**  
4 **the meaning of Code of Civil 2023.010 subdivision (c), in a manner that warrants a**  
5 **protective order pursuant to Code of Civil Procedure section 2025.420, subdivision**  
6 **(b).**

7 The scope of the information sought in Category of Testimony No. 5 and the complexity  
8 of the issues involved in producing a deponent from the Department to address it makes the  
9 unilaterally set November 30, 2021 deposition deadline totally unreasonable, burdensome,  
10 oppressive and without any legitimate purpose. (Code Civ. Proc., §§ 2023.010, subd. (c),  
11 2019.030, subd. (a), & 2025.420.)

12 **Category of Testimony No. 6**

13 All irregularities the developer of the CCTT program was told not to flag, and the reasons  
14 why they were told not to flag them.

15 **Objections:**

16 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
17 **2025.220(a)(3);**

18 To the extent that there is any responsive information related to “[a]ll irregularities that  
19 the developer . . . was told not to flag” this would involve a relationship and interactions between  
20 multiple agencies and a private contractor over several years. So, based upon the description of  
21 information in Category of Testimony No. 6 it is not reasonably possible to determine the  
22 person(s) most qualified. Therefore, the description is not sufficient to identify the appropriate  
23 deponents as required by Code of Civil Procedure section 2025.220(a)(3).

24 **(2) The Category of testimony is not calculated to lead to admissible evidence under**  
25 **Evidence Code sections 350, 351, and 352;**

26 Category of Testimony No. 6 is not reasonably calculated to lead to the discovery of admissible  
27 evidence or of information relevant to the subject matter of this action because whether the CCTT  
28 developer was told not to flag activities which are not within certain criteria which the department

1 does not deem to be “irregaular” is immaterial to the causes of action set forth in HNHPC’s  
2 petition and complaint. (Evid Code, §§ 350, 351 & 352).

3 **(3) Category of Testimony No. 6 is unduly burdensome and calculated to harass within**  
4 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
5 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
6 **subdivision (b).**

7 Given the arbitrarily and unilaterally set deadline of November 30, 2021, no reasonable  
8 person could believe that this category of testimony, as articulated, would enable the Respondents  
9 to produce the person(s) most qualified within the timeframe required by the Amended Notice. As  
10 such, the request is burdensome and oppressive. (Code Civ. Proc., §§ 2023.010, subd. (c),  
11 2019.030, subd. (a), & 2025.420.)

12 **(2) The Request seeks Privileged Information: Evidence Code sections 954 and 1040,**  
13 **Business and Professions Code section 26067, Government Code section 6254, Code**  
14 **of Civil Procedure section 2018.030.**

15 To the extent that there could be responsive information, the category may encompass  
16 information that is subject to one or more privileges. This would be the case if disclosure could  
17 result in revealing investigative techniques, information about enforcement practices, confidential  
18 information that could lead to serious public safety concerns and other matters as well as official  
19 government records which were created by licensees with an expectation of privacy. (Evid. Code,  
20 §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254.) Additionally, because  
21 “consider[ing]” what “irregularities” to “flag,” requires legal analysis, the person or persons most  
22 qualified may have consulted with attorneys and some responsive information encompassed by  
23 this category and sought through a deposition could be subject to attorney client privilege and  
24 work product doctrines. (Code of Civ. Proc., § 2018.030; Evid. Code, § 954.)

25 **Category of Testimony No. 7**

26 The number of irregularities that have been flagged for investigation in the CCTT program since  
27 it was implemented, and the specific irregularities that were flagged.

28 **Objections:**

1 **(1) The Amended Notice is Defective Under Code of Civil Procedure section**  
2 **2025.220(a)(3).**

3 The number of irregularities flagged and the specific irregularities flagged involves a review of  
4 several years of information accumulated by any of three former licensing agencies. The category  
5 of testimony is overbroad such that the description of the information sought is not sufficient to  
6 identify the appropriate deponents as required by Code of Civil Procedure section 2025.220(a)(3).

7 **(2) The Request seeks privileged information: Evidence Code sections 954 and 1040,**  
8 **Business and Professions Code section 26067, Government Code section 6254, Code**  
9 **of Civil Procedure section 2018.030.**

10 The category of testimony, because of its potential breadth, seeks information that may be  
11 subject to one or more privileges. Providing the criteria for defining an irregularity could result in  
12 revealing investigative techniques, official governmental records, and other matters that are  
13 privileged for public policy reasons. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd.  
14 (b)(5); Gov. Code, § 6254.) Additionally, because defining the terms “irregularity” and “flag,”  
15 and determining the duties of licensing agencies under applicable law requires statutory  
16 interpretation, the persons most qualified likely consulted with attorneys and, therefore,  
17 responsive information may be, at least in part, subject to attorney client privilege and work  
18 product doctrines. (Code Civ. Proc., § 2018.030; Evid. Code, §954.) Identifying deponents and  
19 reviewing potential testimony would require review for any of these privileges.

20 **(3) Category of Testimony No. 7 is unduly burdensome and calculated to harass within**  
21 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
22 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
23 **subdivision (b).**

24 Even if the description of the information sought in Category of Testimony No. 7 were  
25 sufficiently definite to identify a person most qualified, further significant legal review and  
26 analysis by the Respondents and ultimately, the Court is likely necessary. Given the unreasonably  
27 short timeframe provided in the Amended Notice, the request is unreasonable, burdensome,  
28 oppressive, and calculated to harass the Respondents in this matter. (Code Civ. Proc., §§



2023.010, subd. (c), 2019.030, subd. (a), & 2025.420.)

**Category of Testimony No. 8**

The number of irregularities flagged in the CCTT program that thereafter were investigated by the DCC or any of its predecessor agencies, and the specific irregularities that resulted in later investigations.

**Objections:**

**(1) The Request seeks privileged information: Evidence Code sections 954 and 1040, Business and Professions Code section 26067, Government Code section 6254, Code of Civil Procedure section 2018.030.**

Government Code section 6254 exempts from public disclosure, “[r]ecords of complaints to, or investigations conducted by, or records of intelligence information or security procedures of . . . any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, *or licensing purposes.*” (Gov. Code, § 6254, subd. (f) emphasis added). Where there is a statutory bar to disclosure, Evidence Code section 1040, subdivision (b), requires a balancing of whether the public policy interests in confidentiality are outweighed by the interest of justice. To the extent that providing information sought in Category of Testimony No. 8 would disclose evidence in ongoing investigations, official information, or investigative techniques, the information requested would encompass matters that are subject to one or more privilege. (Evid. Code, §1040, subs. (a) & (b); Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254.)

Additionally, because determining what was required of licensing agencies relative to enforcement requires statutory interpretation, it is possible that some responsive testimony could involve information is subject to attorney client privilege and work product doctrines. (Code of Civ. Proc., § 2018.030; Evid. Code §954.)

**(2) The Amended Notice is defective under Code of Civil Procedure section 2025.220(a)(3).**

The category of testimony is over-broad such that the general description of this category of testimony is not sufficiently particular to enable the Respondents to ascertain what

1 individual(s) to send for deposition, or even if such persons are employees of the Department and  
2 therefore fails to satisfy the requirements of Code of Civil Procedure section 2025.220(a)(3).

3 **(3) Category of Testimony is not calculated to elicit admissible evidence under Evidence  
4 Code sections 350, 351, and 352.**

5 Information about the number of “irregularities” is not calculated to lead to the discovery  
6 of admissible evidence or of information relevant to the subject matter of this action.

7 **(4) Category of Testimony No. 8 is unduly burdensome and calculated to harass within  
8 the meaning of Code of Civil Procedure section 2023.010 subdivision (c) and  
9 warrants a protective order under Code of Civil Procedure section 2025.420,  
10 subdivision (b)**

11 Given the arbitrarily and unilaterally set deadline of November 30, 2021, it is  
12 unreasonable to expect that this category of testimony, as articulated, would enable the  
13 Respondents to produce persons most qualified within the timeframe required by the Amended  
14 Notice. The scope and manner of the Amended Notice constitutes an abuse of the discovery  
15 process, and the burdens involved clearly outweigh any benefits that could be obtained through  
16 this short timeline for setting the deposition. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030,  
17 subd. (a), & 2025.420.)

18 **Category of Testimony No. 9**

19 The number of enforcement actions resulting from flagged irregularities identified in the  
20 CCTT program, and the specific irregularities that resulted in those enforcement actions.

21 **Objections:**

22 **(1) Category of Testimony No. 9 is not calculated to elicit admissible evidence under  
23 Evidence Code sections 350, 351, and 352.**

24 The number of enforcement actions undertaken is irrelevant to any cause of action.

25 **(2) The Amended Notice is defective under Code of Civil Procedure section  
26 2025.220(a)(3).**

27 The description “[t]he number of enforcement actions resulting from flagged irregularities  
28 identified in the CCTT program” would encompass events that go back to 2018 when the CCTT

1 electronic database first became available to licensees for entry of data. Additionally, prior to July  
2 12, 2021, when cannabis licensing and regulation was consolidated under the Department,  
3 enforcement was undertaken by the CDFA, BCC, and CDPH. It is not currently known or  
4 discernable from the question who would be the person most qualified to testify about all  
5 enforcement action over the last several years. For this reason, the general description of  
6 information in this category of testimony is not sufficiently particular to enable the Respondents  
7 to ascertain what individual(s) to send for deposition, therefore fails to satisfy the requirements of  
8 Code of Civil Procedure section 2025.220(a)(3).

9 **(3) The Request seeks Privileged Information: Evidence Code sections 954 and 1040,**  
10 **Business and Professions Code section 26067, Government Code section 6254, Code**  
11 **of Civil Procedure section 2018.030.**

12 The category of testimony seeks information which is confidential and protected from  
13 disclosure. The items requested contain privileged and confidential official information, and  
14 could result in revealing investigative techniques and enforcement information. (Evid. Code,  
15 §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).) Additionally,  
16 because determining what was required of licensing agencies and the taxing authority requires  
17 statutory interpretation, it is possible that information encompassed by this category and sought  
18 through deposition could be subject to attorney client privilege and work product doctrines. (Code  
19 Civ. Proc., § 2018.030; Evid. Code §954; *Fireman's Fund Ins. Co. v. Superior Court* (2011), 196  
20 Cal. App. 4th 1263.) So, to the extent that deponents are staff members who would be required to  
21 recount advice they received or the conclusions presented to them by their attorneys, such  
22 information would be privileged and consideration will have to be given to this issue when  
23 determining who to produce for a deposition.

24 **(4) Category of testimony No. 9 is unduly burdensome and calculated to cause**  
25 **annoyance within the meaning of Code of Civil Procedure section 2023.010,**  
26 **subdivision (c), and warrants a protective order under Code of Civil Procedure**  
27 **section 2025.420, subdivision (b).**

28 It is not reasonable to expect that this category of testimony, as articulated, would enable

1 the Respondents to produce persons most qualified within the timeframe required by the  
2 Amended Notice of Deposition. The only intended purpose of the Notice could have been to  
3 misuse the discovery process to cause an undue burden and annoyance to the Respondents. (Code  
4 Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420.)

5 **Category of Testimony No. 10**

6 The number of distributors who have had their licenses revoked or suspended, or have  
7 been subject to discipline, due to irregularities flagged in the CCTT program, and the specific  
8 irregularities flagged in each connection with each such distributor.

9 **Objections:**

10 **(1) Category of Testimony is not calculated to elicit admissible evidence under Evidence**  
11 **Code sections 350, 351, and 352.**

12 The number of enforcement actions undertaken against distributor licensees is irrelevant  
13 to this cause of action and indeed to any cause of action.

14 **(2) Request seeks privileged information: Evidence Code section 1040, Business and**  
15 **Professions Code section 26067, and Government Code 6254.**

16 The category of testimony encompasses information which is confidential and protected  
17 from disclosure. The items requested contain privileged official confidential information,  
18 disclosure of which could result in the public disclosure of investigative techniques and  
19 enforcement information. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov.  
20 Code, § 6254, subd (f).)

21 **(3) Category of Testimony No. 10 is unduly burdensome and calculated to cause**  
22 **annoyance within the meaning of Code of Civil Procedure section 2023.010,**  
23 **subdivision (c), and warrants a protective order under Code of Civil Procedure**  
24 **section 2025.420, subdivision (b).**

25 Because this category of testimony is broad and accompanied by an unreasonable  
26 deadline, it is burdensome and oppressive. Neither the information requested nor the short  
27 deadline for producing a deponent serve the needs of the case. (Code Civ. Proc., §§ 2019.030,  
28 subd. (a), 2023.010, subd. (c), & 2025.420, subd. (b).)

1                    **Category of Testimony No. 11**

2                    The number of people who have been prosecuted for any criminal offense arising from  
3 irregularities flagged in the CCTT program, and the specific irregularities flagged in each  
4 connection with each such instance.

5                    **Objections:**

6                    **(1) Category of Testimony is not calculated to produce admissible evidence under**  
7                    **Evidence Code sections 350, 351, and 352; Requests information not in the possession**  
8                    **of the Respondents.**

9                    No licensing agency has the ability to cause criminal prosecution. Whether district  
10 attorneys around the state undertake prosecution for unlicensed or illegal activity is entirely  
11 within their discretion. The number of individuals who have been prosecuted for unlicensed or  
12 illegal cannabis activities has no bearing on the causes of action raised in HNHPC’s petition and  
13 complaint, therefore the question is not reasonably calculated to lead to admissible evidence.  
14 (Evid. Code, §§ 350, 351, 352.)

15                    **(2) The Amended Notice is Defective Under Code of Civil Procedure 2025.220(a)(3).**

16                    Prior to July 12, 2021, enforcement was undertaken by three separate licensing agencies,  
17 and multiple other state agencies. Even if any of these agencies made referrals to prosecutors  
18 around the state, it is not clear from the question who would be the person most qualified to  
19 testify about all enforcement action over the last several years of cannabis regulation.

20                    The general description of information in this category of testimony seeks information  
21 that is unrelated to any duty of the Respondents and is not sufficiently particular to enable the  
22 Respondents to ascertain what individual(s) to send for deposition, or even if such persons are  
23 employees of the Respondents and therefore fails to satisfy the requirements of Code of Civil  
24 Procedure section 2025.220(a)(3).

25                    **(3) Category of Testimony No. 11 is unduly burdensome and calculated to harass within**  
26                    **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
27                    **warrants a protective order under Code of Civil Procedure section 2025.420,**  
28                    **subdivision (b).**

1 Given the arbitrarily and unilaterally set deadline of November 30, 2021, it is not  
2 reasonable to expect that this category of testimony, as articulated, would enable the Respondents  
3 to produce persons most qualified within the timeframe required by the Amended Notice of  
4 Deposition. It is clearly the case that, under these circumstances, the burdens of involved  
5 responding to the Notice clearly outweigh whatever benefits are sought to be obtained through  
6 this short timeline for setting the deposition. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030,  
7 subd. (a), & 2025.420, subd. (b).)

8 **(4) The Request seeks Privileged Information: Evidence Code section 1040, Business and**  
9 **Professions Code section 26067, Government Code 6254.**

10 To the extent that the information requested involves investigative techniques or ongoing  
11 enforcement actions, the category contains privileged official confidential information, disclosure  
12 of which could reveal investigative techniques and enforcement information. (Evid. Code, §1040;  
13 Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).)

14 **Category of Testimony No. 12**

15 All current irregularities that are flagged for investigation by the CCTT program, and the  
16 date they began being flagged.

17 **Objections:**

18 **(1) Request seeks privileged Information: Evidence Code sections 954 and 1040,**  
19 **Business and Professions Code section 26067, Government Code 6254, and Code of**  
20 **Civil Procedure 2018.030.**

21 The category of testimony seeks information which is confidential and protected from  
22 disclosure. The description “[a]ll current irregularities that are flagged for investigation by the  
23 CCTT program, and the date they began being flagged” would involve describing the criteria by  
24 which irregularities are defined this may result in the public disclosure of investigative  
25 techniques. Also, particular instances of flagging, if they are cataloged in a manner that would  
26 allow a response to this inquiry, could involve the disclosure of confidential information entered  
27 into the CCTT system by licensees. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd.  
28 (b)(5); Gov. Code, § 6254, subd (f).) Data entries by licensees into the CCTT system constitute

1 “official information” under Evidence Code section 1040, subdivision (a), because it is provided  
2 to governmental employees in confidence. Licensees have significant interest in maintaining the  
3 confidentiality of information entered into the CCTT database because the information they enter  
4 could be used to prosecute them for federal crimes, provide intelligence for those who might plan  
5 robberies of licensees, and it could be used to create counterfeit products using UID numbers.

6 Determining how to characterize “irregularities” and what the obligations of the  
7 Respondents are under applicable law would involve legal analysis, and potentially responsive  
8 information that would be sought in testimony may be subject to attorney client privilege and  
9 work product doctrines. (Code of Civ. Proc., § 2018.030; Evid. Code §954; *Fireman's Fund Ins.*  
10 *Co. v. Superior Court* (2011), 196 Cal. App. 4th 1263.) If there is information responsive to this  
11 category of testimony and persons most qualified are identified, further analysis of the  
12 information they possess would be required to ascertain whether one or more privileges apply.

13 **(2) The Amended Notice is defective under Code of Civil Procedure 2025.220(a)(3).**

14 The category of testimony is over-broad such that it is not sufficiently particular to enable  
15 the Respondents to ascertain what individual(s) to send for deposition, or even if such persons are  
16 employees of the Department; it therefore fails to satisfy the requirements of Code of Civil  
17 Procedure section 2025.220(a)(3).

18 **(3) The category of testimony is not calculated to elicit admissible evidence under  
19 Evidence Code Sections 350, 351, and 352.**

20 The category of testimony is not relevant to determining whether the Respondents have  
21 failed to carry out any mandatory duty as alleged in HNHPC’s petition and complaint. (Evid.  
22 Code, §§ 350, 351, & 352.)

23 **(4) Category of Testimony No. 12 is calculated to cause annoyance and unnecessary  
24 expense and is a misuse of the discovery process within the meaning of Code of Civil  
25 Procedure sections 2019 and 2023.010, and warrants a protective order under Code  
26 of Civil Procedure section 2025.420.**

27 For the reasons given above in conjunction with the unreasonable November 30, 2021  
28 deposition date, the description of the category of testimony is unreasonable and oppressive.

1 Under the circumstances, the Amended Notice is unduly burdensome and the difficulty and  
2 expense in responding to the deposition within the few business days afforded by the Amended  
3 Notice outweighs any potential benefit. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd.  
4 (a), & 2025.420, subd. (b).)

5 **Category of Testimony No. 13**

6 All communications between the DCC or its predecessor agencies and the developer of  
7 the CCTT program wherein the issue of flagging irregularities – including which irregularities to  
8 flag or not flag, the CCTT program’s ability to flag, or the manner in which such irregularities  
9 would be flagged, or augmentation or alterations to the CCTT program needed in order to flag  
10 irregularities – was discussed.

11 **Objections:**

12 **(1) Request seeks privileged information: Evidence Code section 1040, Business and**  
13 **Professions Code section 26067, and Government Code 6254.**

14 The category of testimony seeks information which is confidential and protected from  
15 disclosure. The items requested contain privileged and confidential official information,  
16 disclosure of which could result in the public disclosure of investigative techniques. (Evid. Code,  
17 §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).)

18 The description “[a]ll communications between the DCC or its predecessor agencies and  
19 the developer of the CCTT program wherein the issue of flagging irregularities” would  
20 encompass events that go back several years, so identifying appropriate deponents will be  
21 difficult and once persons most qualified are identified, further analysis of the information they  
22 possess would be required to ascertain whether one or more privileges apply.

23 **(2) The Amended Notice is Defective Under Code of Civil Procedure 2025.220(a)(3).**

24 Category of Testimony No. 13, requesting the person most qualified is ambiguous, vague,  
25 and without reasonable limitation in scope: “all communications” over several years between  
26 numerous agencies and private contractors would call for a tremendous amount of information  
27 that would have to be analyzed for privileges discussed throughout these objections. The scope of  
28 the testimony sought is such that the general description of this category of testimony is not



1 sufficiently particular to enable the Respondents to ascertain what individual(s) to send for  
2 deposition, or even if such persons are employees of the Department and therefore fails to satisfy  
3 the requirements of Code of Civil Procedure section 2025.220(a)(3).

4 **(3) Category of Testimony No. 13 is calculated to cause annoyance and unnecessary**  
5 **expense within the meaning of Code of Civil Procedure section 2023.010, subdivision**  
6 **(c), and warrants a protective order under Code of Civil Procedure 2025.420,**  
7 **subdivision (b).**

8 Unilaterally setting a deposition date for November 30, 2021, is unreasonable.  
9 Respondents will be unable to produce persons most qualified within the timeframe required by  
10 the Amended Notice. For these reasons, the description of the category of testimony is  
11 unreasonable and oppressive. The undue expense and burden of responding to the Amended  
12 Notice within the timeframe required under the notice clearly outweighs any potential benefit to  
13 be gained in this short time frame and does not serve the interest of the case. (Code Civ. Proc., §§  
14 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

15 **Category of Testimony No. 14**

16 Any proposed amendments or extensions of the contract with the developer of the CCTT  
17 program for the purpose of creating or expanding the irregularities flagged by the program, and  
18 any discussions about the need to amend or extend any contract in order to accommodate such  
19 work.

20 **Objections:**

21 HNHPC has already been provided with the most recent contract with METRC, LLC. The  
22 original contract between CDFA and Franwell, Inc. has also been provided to HNHPC. To the  
23 extent that there was any amendment to the portion of the contract dealing with flagging  
24 irregularities, the differences between the two contracts are apparent on the face of the  
25 documents.

26 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
27 **2025.220(a)(3).**

28

1 The Description, “[a]ny discussion about the need to amend or extend any contract”  
2 contemplates conversations between unknown numbers of individuals over an uncertain period of  
3 time. The first contract between Franwell, Inc. and CDFA was entered into on June 30, 2017, so  
4 discussions of business needs to address the requirements of Business and Professions Code  
5 section 26067 likely began before that date. Therefore, the category of testimony is such that the  
6 general description of this category of testimony is not sufficiently particular to enable the  
7 Respondents to ascertain what individual(s) to send for deposition, or even if such persons are  
8 employees of the Department, and therefore fails to satisfy the requirements of Code of Civil  
9 Procedure section 2025.220(a)(3).

10 **(2) The Request seeks privileged information: Evidence Code sections 954 and 1040,**  
11 **Business and Professions Code section 26067, Government Code section 6254, and**  
12 **Code of Civil Procedure section 2018.030.**

13 To the extent that there may be a deponent or deponents who work for the Department  
14 who were privy to any proposed amendments of contracts, the category of testimony  
15 encompasses information that is, at least in part, confidential and protected from disclosure.  
16 Because determining what is required of licensing agencies and deciding how to describe the  
17 necessary components of the contemplated electronic database in contractual terms requires  
18 statutory interpretation and legal expertise, so, to the extent that deponents would be required to  
19 recount advice they received or the conclusions presented to them by their attorneys, such  
20 information would be privileged. (Code Civ. Proc., § 2018.030; Evid. Code §954).

21 Additionally, selecting a contractor, determining the needs of the contemplated electronic  
22 database and making determinations about what types of transactions are “irregular” involved  
23 cooperation between the CDFA, the DCA, the BCC (and its predecessor and successor agencies),  
24 the CDPH and the CDT, as well as Franwell Inc, and METRC, LLC. It is probable that  
25 potentially responsive information would involve discussion of preliminary drafts, notes,  
26 interagency, and intra-agency memorandum, legal documents, documents which reveal  
27 determinate process and pre-decisional communications. Even after deponents are identified, the  
28 potential subjects of their testimony would have to be assessed for potentially applicable

1 privileges. (Gov. Code § 6254, subd. (a); *Citizens for a Better Environment v. California*  
2 *Department of Food and Agriculture* (1985) 171 Cal.App.3d 704, 714.)

3 **(3) Category of Testimony No. 14 is calculated to cause undue burden, and annoyance**  
4 **and is a misuse of the discovery process within the meaning of Code of Civil**  
5 **Procedure sections 2019.030 and 2023.010, and warrants a protective order under**  
6 **Code of Civil Procedure section 2025.420.**

7 Given the deadline of November 30, 2021, it is not feasible nor reasonable to expect that  
8 this category of testimony, as articulated, would enable the Respondents to produce persons most  
9 qualified. The burdens resulting from the very short notice, are not outweighed by any benefit that  
10 might accrue to HNHPC, and it does not serve the interest of the case. (Code Civ. Proc., §§  
11 2019.030, subd. (a), 2023.010, subd. (c), & 2025.420, subd. (b).)

12 **Category of Testimony No. 15**

13 The number of people since CCTT's inception that have been assigned to review flagged  
14 irregularities, and the process/procedures used to determine if, when and how a flagged  
15 irregularity will be, or should be, further investigated.

16 **Objections:**

17 **(1) The Category of Testimony is not calculated to elicit admissible evidence under**  
18 **Evidence Code sections 350, 351, and 352.**

19 The number of individuals hired to review flagged irregularities is irrelevant to the causes  
20 of action raised in HNHPC's petition and complaint. The inquiry serves no purpose and is not  
21 reasonably calculated to lead to admissible evidence. (Evid. Code §§ 350, 351, & 352.)

22 **(2) Category of Testimony No. 15 is unduly burdensome and calculated to harass within**  
23 **the meaning of Code of Civil Procedure section 2023.010 subdivision (c), and**  
24 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
25 **subdivision (b).**

26 Asking the Respondents to produce a deponent to provide irrelevant information by  
27 November 30, 2021, is an unnecessary and costly waste of time, is burdensome and oppressive.  
28 (Code Civ. Proc., §§ 2019.030, subd. (a), 2023.010, subd. (c), & 2025.420, subd. (b).)

1                    **Category of Testimony No. 16**

2                    Whether the CCTT program now is, or ever has been, designed to “flag” instances where  
3 the amount of cannabis possessed by a distributor is unusually large for the size of its licensed  
4 location, floor plan and/or office safe, and if so the number of distributors who have been  
5 investigated or pursued for that irregularity.

6                    **Objections:**

7                    **(1)    Category of testimony is not calculated to elicit admissible evidence under Evidence**  
8                    **Code sections 350, 351, and 352.**

9                    What is meant by “unusually large” relative to a “location, floor plan and/or office safe” is  
10 not clear. Whether these factors are or have ever been included in any existing criteria for  
11 establishing whether a licensee’s entry of information into the electronic database is “irregular” is  
12 not relevant to resolution of this case. Additionally, whether any investigations have been  
13 undertaken based upon any criteria, is also immaterial to the case. This is because allocation of  
14 investigative and enforcement resources by the Department or its predecessor agencies, is  
15 unconnected to the allegations in the petition and complaint that a mandatory duty has not been  
16 performed relative to the design of the electronic database described in Business and Professions  
17 Code section 26067. The inquiry serves no purpose and is not reasonably calculated to lead to  
18 admissible evidence. (Evid. Code §§ 350, 351 & 352.)

19                    **(2)    The Amended Notice is defective under Code of Civil Procedure section**  
20                    **2025.220(a)(3).**

21                    Because the content of the question is unclear and the scope of the questions seeks  
22 information that could have been known by employees of CDFA, DCA, BCC, CDPH, CDT,  
23 some other state agency, Franwell, Inc. or METRC, LLC, the question does not allow for  
24 identification of persons most qualified. For this reason, Category of Testimony No. 16 is not  
25 sufficiently particular to enable the Respondents to ascertain what individual(s) to send for  
26 deposition, therefore it fails to satisfy the requirements of Code of Civil Procedure section  
27 2025.220(a)(3).

28                    **(3)    Category of Testimony No. 16 is unduly burdensome and calculated to harass within**

1           **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
2           **warrants a protective order under Code of Civil Procedure section 2025.420,**  
3           **subdivision (b).**

4           In light of the arbitrarily and unilaterally set deadline of November 30, 2021, no  
5 reasonable person could believe that this category of testimony, as articulated, would enable the  
6 Respondents to produce persons most qualified within the timeframe required by the Amended  
7 Notice. For these reasons, the description of the category of testimony is unduly burdensome and  
8 oppressive. Any interest served by responding to the Amended Notice within the time frame  
9 proposed is clearly outweighed by the difficulty and expense of identifying the information  
10 encompassed in the description and locating appropriate deponents. (Code Civ. Proc., §§,  
11 2019.030, subd. (a), 2023.010, subd. (c), & 2025.420, subd. (b).)

12           **Category of Testimony No. 17**

13           Whether the CCTT program is, or has been [sic], designed to “flag” instances where a  
14 distributor in the system is shown to be holding large quantities of cannabis over an extended  
15 period of time (e.g., over 3 months) without sale or transfer, and if so number of distributors  
16 investigated or pursued for that irregularity.

17           **Objections:**

18           **(1) The Amended Notice is Defective Under Code of Civil Procedure section**  
19 **2025.220(a)(3).**

20           What is meant by “large quantities” is not clear in the context of this question. Whether  
21 any particular person working for the Department or one of its predecessor agencies, CDT,  
22 Franwell, Inc., or METRC, LLC has considered or made a determination that a distributor  
23 holding “large quantities” of cannabis for “more than 3 months” is “irregular” or indicative of any  
24 unlawful activity is uncertain. The description for Category of Testimony No. 17 encompasses  
25 events that go back several years and making determinations about what types of transactions are  
26 “irregular” involved cooperation between the several state agencies and METRC, LLC.  
27 Therefore, persons most qualified will not be easily identified.

28           Because the content and scope of the Category is unclear and the seeks information that

1 may be known by numerous individuals, the question does not allow for ready identification of  
2 persons most qualified. For this reason, Category of Testimony No. 16 is not sufficiently  
3 particular to enable the Respondents to ascertain what individual(s) to send for deposition,  
4 therefore it fails to satisfy the requirements of Code of Civil Procedure section 2025.220(a)(3).

5 **(2) Category of Testimony No. 16 is not calculated to elicit admissible evidence under**  
6 **Evidence Code Sections 350, 351, and 352.**

7 Whether the above described criteria has ever been used as a standard for establishing  
8 whether entries of information by licensees is “irregular” is not relevant to resolution of this case.  
9 Likewise, whether any investigations have been undertaken based upon this uncertain criteria, is  
10 also immaterial because allocation of investigative and enforcement resources by the Department  
11 or its predecessor agencies, is unconnected to the allegations in the petition and complaint that  
12 some mandatory duty has not been performed relative to the design of the electronic database  
13 described in Business and Professions Code section 26067. The inquiry serves no purpose and is  
14 not reasonably calculated to lead to admissible evidence. (Evid. Code §§ 350, 351 & 352.)

15 **(3) Category of Testimony No. 17 is unduly burdensome and calculated to harass within**  
16 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
17 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
18 **subdivision (b).**

19 Because the information in the category is unclear, because it seeks irrelevant information,  
20 and because an arbitrary date of November 30, 2021 was set for deposition, the discovery request  
21 is burdensome and oppressive. The difficulty and expense of responding within the timeframe  
22 demanded in HNHPC’s amended notice overwhelmingly outweighs any benefit Category of  
23 Testimony No. 17 does not serve the needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a),  
24 2023.010, subd. (c), & 2025.420, subd. (b).)

25 **Category of Testimony No. 18**

26 All irregularities that DCC or its predecessor agencies requested the CCTT program to  
27 flag, and the manner in which (1) it instructed those irregularities to be identified and flagged for  
28 further investigation, and (2) they in fact are flagged for further investigation.

1           **Objections:**

2       **(1) The Amended Notice is defective under Code of Civil Procedure section**  
3       **2025.220(a)(3).**

4           It is not clear from the text of the category what is being asked. Read grammatically, the  
5       phrase “[a]ll irregularities that DCC or its predecessor agencies requested that the CCTT program  
6       to flag,” asks about what requests were made by the licensing agencies of the program. It is  
7       uncertain how the category could be addressed. Therefore, Category of Testimony No. 18 fails to  
8       satisfy the requirements of Code of Civil Procedure section 2025.220(a)(3).

9       **(2) The category of testimony seeks privileged information: Evidence Code sections 954**  
10       **and 1040, Business and Professions Code section 26067, Government Code section**  
11       **6254, and Code of Civil Procedure section 2018.030.**

12           Additionally, because determining what was required of licensing agencies, what is  
13       required of Franwell, Inc. and METRC, LLC under their contract, involves legal analysis; to the  
14       extent that deponents are attorneys or staff members who would be required to recount advice  
15       they received or the conclusions presented to them by their attorneys, such information would be  
16       privileged. (Code of Civ. Proc., § 2018.030; Evid. Code § 954; *Fireman's Fund Ins. Co. v.*  
17       *Superior Court* (2011), 196 Cal. App. 4th 1263.)

18       **(3) Category of Testimony No. 19 is unduly burdensome and calculated to harass within**  
19       **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
20       **warrants a protective order under Code of Civil procedure section 2025.420,**  
21       **subdivision (b).**

22           Given the scope and lack of clarity of this category of testimony, Respondents will be  
23       unable to produce persons most qualified by November 30, 2021. Any effort to respond to the  
24       unreasonable and unilaterally set deadline would result in unnecessary expense and difficulty  
25       which would not be outweighed by any potential benefit or serve the needs of the case. (Code  
26       Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

27           **Category of Testimony No. 19**

28           All irregularities DCC or its predecessor agencies agreed the CCTT program should not

1 flag, and the reason for the decision not to flag such irregularities.

2 **Objections:**

3 **(1) Notice is defective because it fails to satisfy Code of Civil Procedure section**  
4 **2025.220(a)(3).**

5 The description of information sought, is unclear. Read literally, it appears to seek  
6 information regarding an agreement within or between “the Department or its predecessors.” It is  
7 also unclear what an “irregularity” could be in the context of this description. Category of  
8 Testimony No. 19 is uncertain as to subject matter, without reasonable limitation in scope of  
9 timeframe, and is therefore not sufficiently particular to enable the Respondents to ascertain what  
10 individual(s) to send for deposition, or even if such persons are employees of the Department.  
11 Therefore, this category fails to satisfy the requirements of Code of Civil Procedure section  
12 2025.220(a)(3).

13 **(2) Category of Testimony No. 19 is not calculated to elicit admissible evidence under**  
14 **Evidence Code Sections 350, 351, and 352.**

15 Category of Testimony No. 19 seems to seek information about data and/or combinations  
16 of data that is entered into the track and trace database by licensees that is not “flagged.” This line  
17 of inquiry, without further clarification cannot be understood to lead to evidence that would  
18 support the allegation made in HNHPC’s writ petition and complaint for injunctive relief,  
19 therefore the discovery request seeks inadmissible facts. (Evid. Code §§ 350, 351& 352.)

20 **(3) The category of testimony seeks information that may be privileged: Evidence Code**  
21 **sections 954 and 1040, Business and Professions Code section 26067, Government**  
22 **Code section 6254, and Code of Civil Procedure section 2018.030.**

23 If the inquiry seeks criteria used for determining whether data entered by licensees is  
24 “irregular” and a framework for determining whether or not such an “irregularity” is indicative of  
25 unlawful activity, then this category of testimony encompasses information which is, or may be,  
26 confidential and protected from disclosure. The items requested contain privileged and  
27 confidential official information, disclosure of which could result in revealing investigative  
28 techniques, information about ongoing investigations, and other matters related to regulatory



1 enforcement for licensing purposes. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd.  
2 (b)(5); Gov. Code, § 6254, subd (f).) Additionally, because determining what was required of  
3 licensing agencies, what is required of Franwell, Inc. and METRC, LLC under their contract,  
4 involves legal analysis, it is likely that information that would be sought in testimony would be  
5 subject to attorney client privilege and work product doctrines. (Code of Civ. Proc., § 2018.030;  
6 Evid. Code § 954.)

7 **(4) Category of Testimony No. 19 is unduly burdensome and calculated to harass within**  
8 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
9 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
10 **subdivision (b).**

11 Regardless of what is being asked, the deadline of November 30, 2021 is unreasonable and would  
12 not enable the Respondents to produce persons most qualified within that timeframe. Therefore,  
13 the Amended Notice is unduly burdensome, unreasonable, and does not serve interests of the  
14 case. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

15 **Category of Testimony No. 20**

16 For all irregularities the CCTT system currently flags for further investigation, the date on  
17 which the CCTT program became capable of flagging such irregularities, and the manner in  
18 which they are flagged.

19 **Objections:**

20 **(1) The description of information in Category of Testimony No. 20 encompasses**  
21 **privileged information: Evidence Code section 1040, Business and Professions Code**  
22 **section 26067, and Government Code section 6254.**

23 The description of information is not clear, but seems to be requesting a list of criteria for  
24 determining whether data or combinations of data entered by licensees is categorized as  
25 “irregular” and whether such “irregularities” are deemed to be indicative of unlawful activity  
26 warranting investigation and should thus be “flagged.” For this reason, Category of Testimony  
27 No. 20 encompasses information which is confidential and protected from disclosure because  
28 responsive information is privileged official information, disclosure of which could result in

1 revealing investigative techniques, information about ongoing investigations, and other matters  
2 related to regulatory enforcement for licensing purposes. (Evid. Code, §1040; Bus. & Prof. Code,  
3 § 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).)

4 **(2) The Amended Notice is Defective Under Code of Civil Procedure section**  
5 **2025.220(a)(3).**

6 If Category of Testimony No. 20 is meant to inquire about instructions given by licensing  
7 agencies to the private contractors who developed the electronic database used in the CCTT  
8 program, then depending when criteria for defining irregularities could have been developed or  
9 updated, the information sought involves activities, communications, discussions, and  
10 correspondence that between individuals in one of several agencies over several years. The  
11 description of information sought is not sufficiently particular to enable the Respondents to  
12 ascertain what individual(s) to send for deposition. Category of testimony no. 20 therefore fails to  
13 satisfy the requirements of Code of Civil Procedure section 2025.220(a)(3).

14 **(3) Category of Testimony No. 2 is unduly burdensome and calculated to harass within**  
15 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
16 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
17 **subdivision (b).**

18 While it may be possible to meet and confer to ascertain what specific information is  
19 being sought, and agree upon a reasonable time frame for ensuring that all non-privileged  
20 information is provided, the current deposition date of November 30, 2021, makes a meaningful  
21 response impossible. For this reason, the request is burdensome, oppressive, and unreasonable  
22 and unwarranted by the needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a), 2023.010,  
23 subd. (c), & 2025.420, subd. (b).)

24 **Category of Testimony No. 21**

25 Any discussions regarding any requested amendment or alteration to the contract with the  
26 developer of the CCTT program relating in any way to the program's ability to flag irregularities.

27 **Objections:**

28 HNHPC has already been provided with the most recent, May 5, 2021 contract between

1 CDFA and METRC, LLC as well as the June 30, 2017 contract between CDFA and Franwell,  
2 Inc. any changes in the sections relevant to the electronic database's ability to flag irregularities  
3 under the contract can be found in the text of these documents.

4 **(1) The Amended Notice is Defective Under Code of Civil Procedure section**  
5 **2025.220(a)(3).**

6 The description is indefinite regarding the scope of subject matter and time frame. The  
7 description would encompass information about discussions that could have occurred at any time  
8 after Franwell Inc. was selected as the vendor for building the electronic database. Such  
9 discussions, correspondence, or inquiries could also involve an unknown number individuals  
10 from various agencies or from Franwell, Inc. or METRC, LLC.

11 **(2) Category of Testimony No. 21 encompasses privileged information: Evidence**  
12 **Code sections 954 and 1040, Business and Professions Code section 26067,**  
13 **Government Code section 6254, and Code of Civil Procedure section 2018.030.**

14 Designing the electronic database for the CCTT program and making determinations  
15 about how to describe the business needs of CDFA and other licensing agencies under the  
16 contract involved several agencies. Here, responsive documents would necessarily include  
17 discussion of preliminary drafts, notes, interagency, and intra-agency memorandum, legal  
18 documents, documents which reveal determinate process and pre-decisional communications.  
19 (Gov. Code § 6254, subd. (a); *Citizens for a Better Environment v. California Department of*  
20 *Food and Agriculture* (1985) 171 Cal.App.3d 704, 714.) Such information may be privileged.

21 If the category of testimony seeks information about current, former, or future capacities  
22 of the electronic database, and how data entered by licensees, then it seeks information that would  
23 include official information, information about investigative techniques and other information  
24 that may be confidential and protected from disclosure. (Evid. Code, §1040; Bus. & Prof. Code, §  
25 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).) Additionally, it is possible that information  
26 sought from potential deponents on this topic could be subject to attorney client privilege and  
27 work product doctrines. (Code Civ. Proc., § 2018.030; Evid. Code § 954.)

28 **(3) Category of Testimony No. 21 is unduly burdensome and calculated to harass within**

1           **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
2           **warrants a protective order under Code of Civil Procedure section 2025.420,**  
3           **subdivision (b).**

4           Reasonable efforts to meet and confer may enable proper deponents to be identified, the  
5 time frame provided in the HNHPC’s Amended Notice will not allow for that. Once persons most  
6 qualified are identified, further analysis of the information they possess would be required to  
7 ascertain whether one or more privileges apply. No reasonable person could conclude that these  
8 things could occur by November 30, 2021. For this reason, the request is burdensome,  
9 oppressive, and unwarranted by the needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a),  
10 2023.010, subd. (c), & 2025.420, subd. (b).)

11           **Category of Testimony No. 22**

12           The person(s) responsible for reviewing flagged irregularities.

13           **Objections:**

14           **(1) Category of Testimony No. 22 is not calculated to elicit admissible evidence under**  
15           **Evidence Code sections 350, 351, and 352.**

16           The category of testimony is not reasonably calculated to lead to the discovery of  
17 admissible evidence or of information relevant to the subject matter of this action. The petition  
18 and complaint filed by HNHPC alleges that there has been a failure to comply with a statutory  
19 mandate relative to the design of CCTT program’s electronic database. Whether staff members  
20 from the Department, from CDTFA, or from Franwell Inc. or METRC, LLC. are tasked with  
21 “reviewing irregularities” is irrelevant to resolution of the law suit.

22           **(2) The Deposition Notice is Defective Under Code of Civil Procedure 2025.220(a)(3).**

23           The description of information is uncertain as it is not clear what it means to be  
24 “responsible for reviewing irregularities” because it could refer to analytical work, investigative  
25 work, compliance inspections, or enforcement actions. It is unclear which employees or even  
26 which class of employees are being inquired about; therefore, the description is insufficiently  
27 particular to satisfy the requirements of Code of Civil Procedure section 2025.220(a)(3).

28           **(3) Category of Testimony No. 22 is calculated to cause unnecessary expense, undue**

1 **burden, and annoyance within the meaning of Code of Civil Procedure sections**  
2 **2023.010 subdivision (c) and warrants a protective order under 2025.420, subdivision**  
3 **(b).**

4 In the absence of responsible efforts to meet and confer, responding to this category of  
5 testimony by the deadline proposed is not just unduly burdensome, difficult, and expensive, but it  
6 is impossible. There is no possibility that the burden of attempting to comply with the notice  
7 could result in any benefit or serve the needs of the case. (Code Civ. Proc., §§ 2023.010, subd.  
8 (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

9 **Category of Testimony No. 23**

10 The persons(s) responsible for determining what irregularities will and will not be flagged  
11 in the CCTT system.

12 **Objections:**

13 **(1) Category of Testimony No. 23 is not calculated to produce admissible evidence under**  
14 **Evidence Code Sections 350, 351, and 352.**

15 The assumptions or premise of this category of testimony is uncertain. The description  
16 seems to assume there is a person or persons who make decisions about data entries that should  
17 not be “flagged” even if they are “irregular” pursuant to some definition or criteria. Whatever the  
18 case, this line of inquiry is not related to the allegations in HNHPC’s petition and complaint  
19 therefore it is irrelevant to the resolution to the lawsuit and will not lead to admissible evidence.  
20 (Evid. Code, § 350, 351, & 352.)

21 **(2) The Amended Notice is Defective Under Code of Civil Procedure section**  
22 **2025.220(a)(3).**

23 It is unclear from the question the “person(s) responsible” in this context, so it is uncertain  
24 who the HNHPC seeks to depose. Therefore, the general description of this category of testimony  
25 is not sufficiently particular to enable the Respondents to ascertain what individual(s) to send for  
26 deposition as required by Code of Civil Procedure section 2025.220(a)(3).

1 **(3) Category of Testimony No. 23 may be seeking privileged information: Evidence**  
2 **Code sections 954 and 1040, Business and Professions Code section 26067,**  
3 **Government Code section 6254 and Code of Civil Procedure section 2018.030.**

4 To the extent that HNHPC seeks to depose someone about determinations as to the types  
5 of transactions or data entries that are “irregular” such that they should be flagged for  
6 investigation, the information could also involve disclosure of investigative techniques,  
7 information about informants, information about ongoing investigations, or confidential official  
8 information that licensees have an interest in protecting. (Evid. Code, §1040; Bus. & Prof. Code,  
9 § 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).) The information sought might also involve  
10 legal analysis; to the extent that staff members would be required to recount advice they received  
11 or the conclusions presented to them by their attorneys, such information would be privileged.  
12 (Code Civ. Proc., § 2018.030; Evid. Code §954; *Fireman's Fund Ins. Co. v. Superior Court*  
13 (2011), 196 Cal. App. 4th 1263.)

14 **(4) Category of Testimony No. 23 is unduly burdensome and calculated to harass within**  
15 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c), and**  
16 **warrants a protective order under Code of Civil Procedure section 2025.420,**  
17 **subdivision (b).**

18 The arbitrary and unilaterally set deadline of November 30, 2021 for deposition makes  
19 efforts to produce a proper deponent both burdensome and futile. For these reasons, the  
20 description of the category of testimony is burdensome and oppressive and does not serve the  
21 needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a), 2023.010, subd. (c), & 2025.420,  
22 subd. (b).)

23 **Category of Testimony No. 24**

24 The amount of cultivated cannabis inputted into the CCTT system annually since  
25 inception, including for the period of time of 2021 through the date of the deposition.

26 **Objections:**

27 **(1) Category of Testimony No. 24 is not calculated to elicit admissible evidence under**  
28 **Evidence Code sections 350, 351, and 352.**

1 The category of testimony is not reasonably calculated to lead to the discovery of  
2 admissible evidence. The petition and complaint filed by HNHPC alleges that there has been a  
3 failure to comply with a statutory mandate relative to the design of CCTT program's electronic  
4 database. What the total amount of cultivated cannabis has been entered through the CCTT portal  
5 by licensees has no bearing on the case. (Evid Code §§ 350, 351, 352.)

6 **(2) The category is unduly burdensome and calculated to cause annoyance within the**  
7 **meaning of Code of Civil Procedure section 2023.010, subdivision (c), and warrants a**  
8 **protective order under Code of Civil Procedure section 2025.420, subdivision (b).**

9 Since there is no purpose for this category of testimony and an unreasonably short  
10 deadline was provided for producing a deponent to address it; the line of inquiry is burdensome  
11 and oppressive and does not serve the needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a),  
12 2023.010, subd. (c), & 2025.420, subd. (b).)

13 **Category of Testimony No. 25**

14 The amount of cultivated cannabis shown in the CCTT system as being distributed to  
15 licensed dispensaries and utilized in the manufacturing process annually since inception,  
16 including for the period of time in 2021 through the date of the deposition.

17 **Objections:**

18 **(1) Category of Testimony No. 25 is not calculated to elicit admissible evidence under**  
19 **Evidence Code Sections 350, 351, and 352.**

20 The category of testimony is not reasonably calculated to lead to the discovery of  
21 admissible evidence. What the total amount of cultivated cannabis that has been transferred to  
22 retailers and used by manufacturers is irrelevant to the resolution of this case. (Evid Code §§ 350,  
23 351 & 352.)

24 **(2) The category is unduly burdensome and calculated to cause annoyance within the**  
25 **meaning of Code of Civil Procedure section 2023.010, subdivision (c), and warrants a**  
26 **protective order under Code of Civil Procedure section 2025.420, subdivision (b).**

27 Since there is no purpose for this category of testimony and an unreasonably short  
28 deadline was provided for producing a deponent to address it; the line of inquiry is burdensome

1 and oppressive and does not serve the needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a),  
2 2023.010, subd. (c), & 2025.420, subd. (b).)

3 **Category of Testimony No. 26**

4 If the amount of cultivated cannabis and the amount of cannabis sold or used in licensed  
5 dispensaries and manufacturing facilities is not the same, the reasons DCC ascribes to such  
6 discrepancies and what if anything it is doing to: (a) determine whether and to what extent the  
7 discrepancy is the result of illegal diversion of cannabis to out of state/illegal markets; and (2)  
8 eliminate or to substantially reduce any such illegal diversion of cannabis.

9 **Objections:**

10 **(1) Category of Testimony No. 26 is not calculated to produce admissible evidence under**  
11 **Evidence Code Sections 350, 351, and 352.**

12 The category of testimony is uncertain is no reasonably calculated to lead to the discovery  
13 of admissible evidence or of information relevant to the subject matter of this action. The  
14 category seems to be inquiring about data entries by different types of licensees, whether such  
15 data entries. (Evid Code §§ 350, 351 & 352.)

16 **(2) The category is unduly burdensome and calculated to cause annoyance within the**  
17 **meaning of Code of Civil Procedure section 2023.010, subdivision (c), and warrants a**  
18 **protective order under Code of Civil Procedure section 2025.420, subdivision (b).**

19 Since there is no purpose for this category of testimony and an unreasonably short  
20 deadline was provided for producing a deponent to address it; the line of inquiry is burdensome  
21 and oppressive and does not serve the needs of the case. (Code Civ. Proc., §§ 2019.030, subd. (a),  
22 2023.010, subd. (c), & 2025.420, subd. (b).)

23 **Category of Testimony No. 27**

24 Estimates by the DCC or its predecessor agencies regarding the amount of cannabis  
25 cultivated in California that was illegally diverted out of state and/or to illegal in-state markets in  
26 2019, 2020, and to date in 2021.

27 **Objections:**

28 **(1) Category of Testimony No. 27 is not calculated to elicit admissible evidence under**



1           **Evidence Code sections 350, 351, and 352.**

2           The category of testimony is not reasonably calculated to lead to the discovery of any  
3 evidence relevant to the subject matter of this action. The petition and complaint filed by HNHPC  
4 alleges that there has been a failure to comply with a statutory mandate relative to the design of  
5 CCTT program’s electronic database. What the total amount of cultivated cannabis is illegally  
6 sold is irrelevant to the resolution of the case. (Evid Code §§ 350, 351, 352.)

7           **(2) Category of Testimony No. 27 is unduly burdensome and calculated to cause**  
8           **annoyance and unnecessary expense and is a misuse of the discovery process within**  
9           **the meaning of Code of Civil Procedure section 2019.030 and warrants a protective**  
10           **order pursuant Code of Civil Procedure section 2025.420.**

11           Because it seeks only irrelevant information, the request serves no purpose except to incur  
12 expense and cause annoyance and is a misuse of discovery. (Code Civ. Proc., §§ 2019.030, subd.  
13 (a), 2023.010, subd. (c), & 2025.420, subd. (b).)

14           **Category of Testimony No. 28**

15           Estimates by the DCC or its predecessor agencies regarding the amount of cultivation  
16 taxes it was unable to collect on illegally diverted cannabis in 2019, 2020, and to date in 2021.

17           **Objections:**

18           **(1) Category of Testimony No. 28 is not calculated to elicit admissible evidence under**  
19           **Evidence Code sections 350, 351, and 352.**

20           The question erroneously assumes that the Department collects cannabis taxes. Even if it  
21 did, the line inquiry would have no bearing on the resolution of the case and is not calculated to  
22 lead to admissible evidence. (Evid Code §§ 350, 35 &, 352.)

23           **(2) Category of Testimony No. 28 is unduly burdensome and calculated to harass within**  
24           **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

25           Category of Testimony No. 28 relates only to irrelevant facts and does not serve the needs  
26 of the case, and an unreasonable timeframe was established for holding the deposition, therefore  
27 it could only have been asked to incur expense and cause annoyance and is a misuse of discovery.  
28 (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

1                    **Category of Testimony No. 29**

2                    Estimates by the DCC or its predecessor agencies regarding the amount of excise taxes it  
3                    was unable to collect on illegally diverted cannabis in 2019, 2020, and to date in 2021.

4                    **Objections:**

5                    **(1)    Category of Testimony No. 29 is not calculated to elicit admissible evidence under**  
6                    **Evidence Code sections 350, 351, and 352.**

7                    This description of information erroneously assumes that the Department collects  
8                    cannabis excise taxes. The description of information sought is irrelevant to the case and not  
9                    calculated to lead to admissible evidence. (Evid Code §§ 350, 351 & 352.)

10                  **(2)    Category of Testimony No. 29 is unduly burdensome and calculated to harass within**  
11                  **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

12                  Category of Testimony No. 29 does not serve the interest of the case or any other purpose  
13                  except to incur expense and cause annoyance and is a misuse of discovery. (Code Civ. Proc., §§  
14                  2019.030, subd. (a) & 2023.010, subd. (c).)

15                  **Category of Testimony No. 30**

16                  Estimates by the DCC or its predecessor agencies on the percentage of cannabis  
17                  transactions that were illegal and/or evaded legally mandated cultivation and/or excise taxes in  
18                  2019, 2020, and to date in 2021.

19                  **Objections:**

20                  **(1)    Category of Testimony No. 30 is not calculated to elicit admissible evidence under**  
21                  **Evidence Code sections 350, 351, and 352.**

22                  The category of testimony is not reasonably calculated to lead to the discovery of  
23                  admissible evidence or of information relevant to the subject matter of this action. Illegal  
24                  commercial cannabis transactions are not entered by licensees into the electronic database. The  
25                  line of inquiry is not calculated to lead to admissible evidence. (Evid Code §§ 350, 351 & 352.)

26                  **(2)    Category of Testimony No. 30 is unduly burdensome and calculated to harass within**  
27                  **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

28                  Category of Testimony No. 30 seeks information for no legitimate purpose and asks that a

1 deponent be produced by November 30, 2021 to discuss it. Category of Testimony No. 30 could  
2 only be calculated to cause undue burden, annoyance, and incur costs for no purpose, it is  
3 therefore a misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010,  
4 subd. (c).)

5 **Category of Testimony No. 31**

6 Actions, if any, taken by the DCC in response to this lawsuit to augment the CCTT  
7 program to flag irregularities or to expand the number or types of irregularities it flags, and any  
8 direction or instruction given on how to modify the CCTT program to flag more or different  
9 irregularities for investigation.

10 **Objections:**

11 **(1) Category of Testimony No. 31 is not calculated to elicit admissible evidence under**  
12 **Evidence Code sections 350, 351, and 352.**

13 The category of testimony is not reasonably calculated to lead to the discovery of  
14 admissible evidence. The petition and complaint filed by HNHPC alleges that there has been a  
15 failure to comply with a statutory mandate relative to the design of CCTT program's electronic  
16 database. A line inquiry regarding ongoing efforts to change the criteria for defining  
17 "irregularities" and establishing different procedures for responding to the flagging of such  
18 irregularities is not calculated to lead to admissible evidence. (Evid Code §§ 350, 351 & 352.)

19 **(2) Category of Testimony No. 31 may encompass privileged information: Evidence**  
20 **Code sections 954 and 1040, Business and Professions Code section 26067,**  
21 **Government Code section 6254, Code of Civil Procedure section 2018.030.**

22 The description would encompass any actions taken since September 15, 2021 regarding  
23 categories of "irregularities" and whether definitions or criteria have been "augment[ed]" in some  
24 fashion such that the number of "irregularities" that are "flagged" has been "expand[ed]." To the  
25 extent that this category calls for testimony which could result in revealing licensee's  
26 confidential, official information, investigative techniques, information about enforcement  
27 actions, such information will have to be reviewed for potential privileges. (Evid. Code, §1040;  
28 Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254, subd (f).) Additionally, to the

1 extent that any potential deponent would be prompted to recount advice they received or the  
2 conclusions presented to them by their attorneys, such information would be privileged. (Code  
3 Civ. Proc., § 2018.030; Evid. Code, §954; *Fireman's Fund Ins. Co. v. Superior Court* (2011), 196  
4 Cal. App. 4th 1263.)

5 For these reasons, once persons most qualified are identified among the various staff  
6 members from the various agencies, further analysis of the information they possess would be  
7 required to ascertain whether one or more privileges apply.

8 **(3) Category of Testimony No. 31 is unduly burdensome and calculated to cause**  
9 **annoyance and unnecessary expense and is a misuse of the discovery process within**  
10 **the meaning of Code of Civil Procedure section 2019.030 and warrants a protective**  
11 **order pursuant section 2025.420.**

12 Any effort to respond to this category of testimony would result in unnecessary expense  
13 and difficulty which would not be outweighed by any potential benefit or serve the needs of the  
14 case. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

## 15 **OBJECTIONS TO REQUEST FOR PRODUCTION OF DOCUMENTS**

### 16 **CATEGORY NO. 1**

17 All DOCUMENTS showing the number of distributors that have had their licenses  
18 suspended or revoked by the DCC, or that in some way have been sued or disciplined, since the  
19 inception of the CCTT program, including all DOCUMENTS identifying the names of the  
20 distributors and the offenses giving rise to the revocation, suspension, lawsuit or discipline, and  
21 the manner in which the DCC became aware of those offenses (e.g., via flagged irregularities in  
22 the CCTT system or via public complaint).

### 23 **Objections:**

24 **(1) Category No. 1 Is not calculated to lead to admissible evidence under Evidence Code**  
25 **sections 350, 351, and 352.**

26 The production of all documents related to disciplinary actions against licensees is not  
27 relevant to the petition and complaint filed by HNHPC. The petition and complaint alleges that  
28 there has been a failure to comply with a statutory mandate regarding the design of CCTT

1 program's electronic database. Whether enforcement action has been undertaken against one or  
2 more distributors is not relevant to this case and the request for production is not calculated to  
3 lead to admissible evidence. (Evid Code §§ 350, 351 & 352.)

4 **(2) The request is unduly burdensome and calculated to harass.**

5 The production of documents within the timeframe provided by the Amended Notice  
6 would unduly burdensome, costly, serve no purpose, and is intended to cause annoyance. (Code  
7 Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

8 **CATEGORY NO. 2**

9 All COMMUNICATIONS between YOU and FARNWELL that refer to the irregularities it  
10 was instructed to flag via the CCTT system, all irregularities that FARNWELL suggested be flagged  
11 via the CCTT system, any irregularities DCC decided not to flag in the CCTT system, and/or any  
12 irregularities that FARNWELL informed DCC it could not flag via the CCTT system.

13 **Objections:**

14 **(1) In the context of the November 30, deadline, the request is burdensome, oppressive,  
15 and calculated to harass.**

16 There are likely non-privileged, responsive documents that fit within this broad category,  
17 however, the description of documents does not provide a time frame and may refer back to  
18 documents between CDFA and other licensing agencies, CDT, and Franwell, Inc. (subsequently  
19 METRC, LLC.) over the last five to six years. Additionally, as discussed below, once documents  
20 are identified, they must be reviewed for applicable privileges. Therefore, it is not feasible for  
21 respondents to produce responsive documents within the timeframe required by the Amended  
22 Notice. As such the request for documents is burdensome and oppressive. (Code Civ. Proc., §§  
23 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b).)

24 **(2) Category of Documents No. 2 encompasses privileged information: (Evidence Code  
25 sections 954 and 1040, Business and Professions Code section 26067, Government  
26 Code section 6254, Code of Civil Procedure section 2018.030).**

27 The development of the criteria for defining irregularities, and determinations about when  
28 irregularities could be indicative of illegal activity involved a currently unknown number of staff

1 members with various qualifications across multiple state agencies and a private contractor. It is  
2 probable that potentially responsive documents involve confidential investigative techniques as  
3 well as preliminary drafts, notes, interagency, and intra-agency memorandum, legal documents,  
4 documents which reveal determinate process and pre-decisional communications. (Evid. Code,  
5 §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254, subd (a) and (f); *Citizens*  
6 *for a Better Environment v. California Department of Food and Agriculture* (1985) 171  
7 Cal.App.3d 704, 714.) Also, to the extent that any potentially responsive documents contain legal  
8 analysis, they may be subject to attorney client privilege and work product doctrines. (Code Civ.  
9 Proc., § 2018.030; Evid. Code, § 954.) Because the scope of documents requested is so large, it is  
10 likely that some potentially responsive documents will implicate one or more of these privileges.

11 **CATEGORY NO. 3**

12 All DOCUMENTS that support YOUR contention YOU implemented a CCTT system  
13 capable of flagging irregularities for investigation, including all DOCUMENTS showing every  
14 irregularity the CCTT program flags for investigation and when the CCTT program first became  
15 capable of flagging each such irregularity.

16 **Objections:**

17 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
18 **2025.220(a)(4) because the description is inadequate to describe the documents or**  
19 **type of documents sought.**

20 The description would encompass correspondence and memorandum that would go back  
21 several years and cover documents created by numerous state agencies involving many topics.  
22 The scope of the category of documents is such that the general description is not sufficiently  
23 particular to enable the Department to ascertain the limits of the request, it therefore fails to  
24 satisfy the requirements of Code of Civil Procedure section 2025.220(a)(3).

25 **(2) Category No. 3 encompasses privileged information: Evidence Code sections 954 and**  
26 **1040, Business and Professions Code section 26067, Government Code section 6254,**  
27 **Code of Civil Procedure section 2018.030.**

28

1 Even after the request is clarified and as responsive documents are identified, they will  
2 have to be reviewed for applicable privileges. This is because responsive documents could  
3 involve confidential investigative techniques as well as preliminary drafts, notes, interagency, and  
4 intra-agency memorandum, legal documents, documents which reveal determinate process and  
5 pre-decisional communications. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd. (b)(5);  
6 Gov. Code, § 6254, subd (a) and (f); *Citizens for a Better Environment v. California Department*  
7 *of Food and Agriculture* (1985) 171 Cal.App.3d 704, 714.) Finally, to the extent that any  
8 potentially responsive documents contain legal analysis, they may be subject to attorney client  
9 privilege and work product doctrines. (Code Civ. Proc., § 2018.030; Evid. Code § 954.)

10 **(3) The request is burdensome and constitutes an abuse of the discovery process within**  
11 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c).**

12 The scope of documents sought is large, the burden in locating, reviewing and producing  
13 them is significant. Requesting that the documents be produced by November 30, 2021, is  
14 deliberately burdensome and oppressive, would result in unnecessary cost and does not serve the  
15 interests of the case. (Code Civ. Proc., §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420,  
16 subd. (b).)

17 **CATEGORY NO. 4**

18 All COMMUNICATIONS between DCC and FARNWELL referring to its scope of work  
19 in creating a CCTT system capable of flagging irregularities, including all proposals or  
20 recommendations it made to DCC, all instructions or directions given to FARNWELL, all draft  
21 and final contractual agreements relating thereto (including any amendments), and any requests or  
22 proposals by FARNWELL to upgrade, augment, expand or alter the CCTT program to flag  
23 additional or different irregularities or to cease flagging certain irregularities and all  
24 COMMUNICATIONS relating thereto.

25 **Objections:**

26 **(1) Category of Documents No. 4 encompasses privileged information: Evidence Code**  
27 **sections 954 and 1040, Business and Professions Code section 26067, Government**  
28 **Code section 6254, Code of Civil Procedure section 2018.030.**

1           There are certainly non-privileged, responsive documents that fall within this category of  
2 documents, however, the description of documents is broad in scope because it encompasses  
3 documents created by multiple agencies over several years. Because of the scope of the request, it  
4 is probable that potentially responsive documents could discuss confidential investigative  
5 techniques, will include preliminary drafts, notes, interagency, and intra-agency memorandum,  
6 legal documents, and documents which reveal determinate process and pre-decisional  
7 communications. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, §  
8 6254, subd (a) and (f); *Citizens for a Better Environment v. California Department of Food and*  
9 *Agriculture* (1985) 171 Cal.App.3d 704, 714.) Additionally, to the extent that any potentially  
10 responsive documents contain legal analysis, they may be subject to attorney client privilege and  
11 work product doctrines. (Code Civ. Proc., § 2018.030; Evid. Code, § 954.)

12       **(2) The request is burdensome and constitutes an abuse of the discovery process within**  
13       **the meaning of Code of Civil Procedure section 2023.010, subdivision (c).**

14           Because the scope of documents requested is so large, it is likely that some potentially  
15 responsive documents will implicate one or more privilege. Because the scope of production and  
16 the analysis of the documents will be time consuming and costly, the deadline for production  
17 provided in the Amended Notice is burdensome and oppressive. (Code Civ. Proc., §§ 2023.010,  
18 subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b))

19       **CATEGORY NO. 5**

20           All DOCUMENTS showing, by year (or partial year in the case of 2021), how much  
21 cannabis (by weight) was listed in the CCTT program as being cultivated since the inception of  
22 the CCTT program.

23       **Objections:**

24       **(1) Category No. 5 is not calculated to lead to admissible evidence under Evidence Code**  
25       **sections 350, 351, and 352.**

26           Requesting information that was entered by licensees into the electronic database is not  
27 relevant to resolution of the case and is not reasonably calculated to produce admissible evidence.  
28 (Evid Code, §§ 350, 351 & 352.)



1 **(2) The Discovery Request is unduly burdensome and calculated to harass within the**  
2 **meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

3 Category 5 seeks material that is irrelevant to the case and attempts to compel the  
4 respondents to locate and review these documents for production by November 30, 2021. This  
5 production demand could only be calculated to cause undue burden, annoyance, and incur costs  
6 for no purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc., §§ 2019.030,  
7 subd. (a) & 2023.010, subd. (c).)

8 **CATEGORY NO. 6**

9 All DOCUMENTS showing, by year (or partial year in the case of 2021), how much  
10 cannabis (by weight) was listed in the CCTT program as being sold to ultimate end users or  
11 customers since the inception of the CCTT program.

12 **Objections:**

13 **(1) The Amended Notice is defective under Code of Civil Procedure section**  
14 **2025.220(a)(4) because the description is inadequate to describe the documents or**  
15 **type of documents sought.**

16 This request is broad and vague – end users purchase manufactured cannabis as well as  
17 cannabis flower, pre-rolls, etc. it is uncertain whether the Petitioner is seeking information about  
18 the gross weight of all cannabis and cannabis products.

19 **(2) Category No. 6 is not calculated to lead to admissible evidence under Evidence Code**  
20 **sections 350, 351, and 352.**

21 Requesting information that was entered by licensees into the electronic database about  
22 the weight of products transferred in their transactions is not relevant to resolution of the case and  
23 is not reasonably calculated to produce admissible evidence. (Evid Code, §§ 350, 351 & 352.)

24 **(3) The Discovery Request is unduly burdensome and calculated to harass within the**  
25 **meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

26 Category 6 demands the production of only irrelevant materials and has demanded that it  
27 be produced by November 30, 2021 This request for production of documents could only be  
28 calculated to cause undue burden, annoyance, and incur costs for no purpose, it is therefore a

1 misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

2 **CATEGORY NO. 7**

3 All DOCUMENTS showing, by year (or partial year in the case of 2021), the amount of  
4 cultivation tax collected on the cannabis listed in the CCTT program, and the amount of cannabis  
5 for which the State of California did not collect cultivation taxes and the reasons for any  
6 discrepancies.

7 **Objections:**

8 **(1) Category No. 7 is not calculated to lead to admissible evidence under Evidence Code**  
9 **sections 350, 351, and 352.**

10 Requesting information about the amount of taxes collected by CDTFA is not relevant to  
11 resolution of the case and is not reasonably calculated to produce admissible evidence. Moreover,  
12 tax information is not entered into the CCTT program's electronic database and neither is  
13 cultivation tax administered by the Department. (Evid Code §§ 350, 351 & 352.)

14 **(2) The request for production is unduly burdensome and calculated to harass within**  
15 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

16 Category No. 7 demands the production exclusively non-existent or irrelevant material,  
17 and that it be produced by November 30, 2021. This request for production of documents could  
18 only be calculated to cause undue burden, annoyance, and incur costs for no purpose, it is  
19 therefore a misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010,  
20 subd. (c).)

21 **CATEGORY NO. 8**

22 All DOCUMENTS showing, by year (or partial year in the case of 2021), the amount of  
23 excise taxes collected on the cannabis listed in the CCTT program, and the amount of cannabis  
24 for which the State of California did not collect cultivation taxes and the reasons for any  
25 discrepancies.

26 **Objections:**

27 **(1) Category No. 8 is not calculated to lead to admissible evidence under Evidence Code**  
28 **sections 350, 351, and 352.**

1            Requesting information about the amount of taxes that should have been paid on illegal  
2 transactions that are not entered into the CCTT program’s electronic database is not reasonably  
3 calculated to produce admissible evidence. (Evid Code, §§ 350, 351& 352.)\_Moreover, the  
4 Department does not collect taxes and no tax information is entered into the CCTT program’s  
5 electronic database.

6        **(2)    The request for production is unduly burdensome and calculated to harass within  
7            the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

8            Category No. 8 demands the production of only inadmissible material, and that it be  
9 produced by November 30, 2021. This request for production of documents could only be  
10 calculated to cause undue burden, annoyance, and incur costs for no purpose, it is therefore a  
11 misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

12        **CATEGORY NO. 9**

13            All DOCUMENTS showing, by year (or partial year in the case of 2021), any assessment  
14 or estimate by DCC or any other state agency of the amount of cannabis (by weight) legally  
15 cultivated in California that later was illegally diverted out of state or to illegal markets within  
16 California.

17        **Objections:**

18        **(1)    Category No. 9 is not calculated to lead to admissible evidence under Evidence Code  
19            sections 350, 351, and 352.**

20            The petition and complaint filed by HNHPC alleges that there has been a failure to  
21 comply with a statutory mandate regarding the design of CCTT program’s electronic database.  
22 Requesting information about the amount of taxes collected by CDTFA is not relevant to  
23 resolution of the case and is not reasonably calculated to produce admissible evidence. (Evid  
24 Code, §§ 350, 351 & 352.)

25        **(2)    The request for production is unduly burdensome and calculated to harass within  
26            the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

27            Category No. 9 demands the production of irrelevant material, and that it be produced by  
28 November 30, 2021. This request for production of documents could only be calculated to cause

1 undue burden, annoyance, and incur costs for no purpose, it is therefore a misuse of the discovery  
2 process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

3 **CATEGORY NO. 10**

4 All DOCUMENTS showing what instructions YOU have given to FARNWELL on how  
5 to design the CCTT program to flag irregularities, including what irregularities YOU instructed it  
6 to flag and not flag and the reasons for such instructions.

7 **Objections:**

8 **(1) Category of Documents No. 10 encompasses privileged information: Evidence Code**  
9 **section 1040, Business and Professions Code section 26067, Government Code section**  
10 **6254.**

11 There are certainly non-privileged, responsive documents within this category of  
12 documents, however, the development of the criteria for defining irregularities involved staff  
13 members across multiple state agencies and a private contractor. It is also probable that  
14 potentially responsive documents could involve confidential investigative techniques as well as  
15 preliminary drafts, notes, interagency, and intra-agency memorandum, legal documents,  
16 documents which reveal determinate process and pre-decisional communications. (Evid. Code,  
17 §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov. Code, § 6254, subd (a) and (f); *Citizens*  
18 *for a Better Environment v. California Department of Food and Agriculture* (1985) 171  
19 Cal.App.3d 704, 714.) Because the scope of documents requested is so large, it is likely that some  
20 potentially responsive documents will implicate one or more of these privileges. Once documents  
21 from the various agencies are identified, further analysis of the information they possess would be  
22 required to determine which privileges, if any, apply.

23 **(2) The request is burdensome and constitutes an abuse of the discovery process within**  
24 **the meaning of Code of Civil Procedure section 2023.010, subdivision (c).**

25 Because the scope of documents requested is so large, it is likely that some potentially  
26 responsive documents will implicate one or more privilege. Because the scope of production and  
27 the analysis of the documents will be time consuming and costly, the deadline for production  
28

1 provided in the Amended Notice of Deposition is burdensome and oppressive. (Code Civ. Proc.,  
2 §§ 2023.010, subd. (c), 2019.030, subd. (a), & 2025.420, subd. (b))

3 **CATEGORY NO. 11**

4 All DOCUMENTS showing what actions DCC (or other state agencies under DCC's  
5 purview or control) took to investigate flagged irregularities in the CCTT systems, including the  
6 number and qualifications of the personnel responsible for investigating such matters, the  
7 procedures, guidelines or instructions on what irregularities to investigate and how, as well as the  
8 types of irregularities that are not to be investigated, and the financial resources devoted to  
9 investigating flagged irregularities (both in terms of staff and budget) annually since the inception  
10 of the CCTT program (partial year for 2021).

11 **Objections:**

12 **(1) Category No. 11 is not calculated to lead to admissible evidence under Evidence**  
13 **Code sections 350, 351, and 352.**

14 The petition and complaint filed by HNHPC alleges that there has been a failure to  
15 comply with a statutory mandate regarding the design of CCTT program's electronic database.  
16 Requesting information about the Department's allocation of resources, staffing, and  
17 qualifications of staff engaged in investigation and enforcement against unlicensed or other illegal  
18 activity is not relevant to the case and the line of inquiry is not calculated to lead to admissible  
19 evidence. (Evid Code, §§ 350, 351 & 352.)

20 **(2) The Amended Notice is defective under Code of Civil Procedure section**  
21 **2025.220(a)(4)**

22 The description of documents referencing numbers of staff, qualifications of staff,  
23 instructional materials, and guidelines is overly broad and not sufficiently clear to determine what  
24 documents the category would or would not include. For this reason, the request does not describe  
25 the documents or other evidence to be inspected with reasonable particularity, and therefore  
26 violates Code of Civil Procedure ssection 2025.220(a)(4). (*Calcor Space Facility, Inc. v. Supreme*  
27 *Court* (1997) 53 Cal.App. 4th 216, 222.)

28 **(3) The Category of Document encompasses privileged information: Evidence Code**

1           **sections 954 and 1040, Business and Professions Code section 26067, Government**  
2           **Code section 6254, Code of Civil Procedure section 2018.030.**

3           The category of documents is likely to include information which is confidential  
4 information as well as investigative techniques. (Evid. Code, §1040; Bus. & Prof. Code, § 26067,  
5 subd. (b)(5); Gov. Code, § 6254, subd (f).) Additionally, enforcement actions necessarily involve  
6 unknown number of staff members with various qualifications across multiple agencies. It is also  
7 probable that potentially responsive documents would include preliminary drafts, notes,  
8 interagency, and intra-agency memorandum, legal documents, documents which reveal  
9 determinate process and pre-decisional communications. (Gov. Code, § 6254, subd. (a); *Citizens*  
10 *for a Better Environment v. California Department of Food and Agriculture* (1985) 171  
11 Cal.App.3d 704, 714.) Finally, to the extent that any potentially responsive documents contain  
12 legal analysis, they may be subject to attorney client privilege and work product doctrines. (Code  
13 Civ. Proc., § 2018.030; Evid. Code, § 954.)

14       **(4)    The request for production is unduly burdensome and calculated to harass within**  
15       **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

16           This request for production of documents is calculated to cause undue burden, annoyance,  
17 and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc.,  
18 §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

19       **CATEGORY NO. 12**

20           All DOCUMENTS showing the total number of irregularities flagged by the CCTT  
21 program each year (or with respect to 2021 the year to date) since inception of the CCTT  
22 program, and the total number of investigations conducted by DCC on those flagged  
23 irregularities.

24       **Objections:**

25       **(1)    The Category of Documents encompasses privileged information: Evidence Code**  
26       **sections 954 and 1040, Business and Professions Code section 26067, Government**  
27       **Code section 6254, Code of Civil Procedure section 2018.030.**

28

1 To the extent that there are identifiable categories of irregularities and uniquely identified  
2 instances where data entered by a licensee was deemed irregular, and that documents exist which  
3 tabulate such categories and instances, Respondents will attempt to comply with this document  
4 request. However, because the scope of documents requested is so large, it is likely that some  
5 potentially responsive documents will implicate one or more privileges. Once documents from the  
6 various agencies are identified further analysis of the information they possess would be required  
7 to ascertain whether one or more privileges apply.

8 Given that identifying and flagging irregularities is an activity undertaken for regulatory  
9 enforcement purposes and that all information entered into the CCTT electronic database by  
10 licensees is Official Information within the meaning of Evidence Code section 1040, subdivision  
11 (a), the scope of the requested documents is likely to encompass confidential information as well  
12 as investigative techniques. (Evid. Code, §1040; Bus. & Prof. Code, § 26067, subd. (b)(5); Gov.  
13 Code, § 6254, subd (f).)

14 **(2) Category No. 12 is not calculated to lead to admissible evidence under Evidence**  
15 **Code sections 350, 351, and 352.**

16 Requesting information about the Department's allocation of resources to investigate any  
17 irregularities is not relevant to the case and the line of inquiry is not calculated to lead to  
18 admissible evidence. (Evid Code, §§ 350, 351 & 352.)

19 **(3) The request for production is unduly burdensome and calculated to harass within**  
20 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

21 Given the scope of the request and the timeframe allowed for responding, this request for  
22 production of documents is calculated to cause undue burden, annoyance, and incur costs for no  
23 purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd.  
24 (a) & 2023.010, subd. (c).)

25 **CATEGORY NO. 13**

26 All DOCUMENTS showing the total number of enforcement actions, including criminal  
27 and civil complaints, license revocations/suspensions, or other disciplinary actions, initiated each  
28 year (or with respect to 2021 year to date) since inception of the CCTT program, as a result of an

1 investigation conducted into an irregularity flagged in the CCTT system.

2 **Objections:**

3 **(1) Category No. 13 is not calculated to lead to admissible evidence under Evidence**  
4 **Code sections 350, 351, and 352.**

5 The Department does not undertake criminal enforcement. The production of any  
6 document related to disciplinary actions or civil actions against licensees is not relevant to the  
7 petition and complaint filed by HNHPC. The petition and complaint filed by HNHPC alleges that  
8 there has been a failure to comply with a statutory mandate regarding the design of CCTT  
9 program's electronic database. Whether enforcement action has been undertaken against one or  
10 more distributors is not relevant to this case and the request for production is not calculated to  
11 lead to admissible evidence. (Evid Code, §§ 350, 351 & 352.)

12 **(2) The request for production is unduly burdensome and calculated to harass within**  
13 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

14 This request for production of documents is calculated to cause undue burden, annoyance,  
15 and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc.,  
16 §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

17 **CATEGORY NO. 14**

18 All DOCUMENTS showing the total number of enforcement actions, including criminal  
19 and civil complaints, license revocations/suspensions, or other disciplinary actions initiated each  
20 year (or with respect to 2021 year to date) since inception of the CCTT program, as a result of a  
21 public complaints or tips provided to the DCC or any other state agency.

22 **Objections:**

23 **(1) Category No. 14 is not calculated to lead to admissible evidence under Evidence**  
24 **Code sections 350, 351, and 352.**

25 The Department does not undertake criminal enforcement. The production of any  
26 document related to disciplinary actions or civil actions against licensees is not relevant to the  
27 petition and complaint filed by HNHPC. Whether enforcement action has been undertaken  
28 against one or more distributors is not relevant to this case and the request for production is not



1 calculated to lead to admissible evidence. (Evid Code §§ 350, 351, 352.)

2 **(2) The request for production is unduly burdensome and calculated to harass within**  
3 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

4 This request for production of documents is calculated to cause undue burden, annoyance,  
5 and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc.,  
6 §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

7 **CATEGORY NO. 15**

8 All DOCUMENTS which analyze, evaluate, or estimate the amount of cultivation and/or  
9 excise taxes not paid annually on cannabis entered into the CCTT program (and for 2021, year to  
10 date estimates).

11 **Objections:**

12 **(1) Category No. 15 is not calculated to lead to admissible evidence under Evidence**  
13 **Code sections 350, 351, and 352.**

14 Requesting information about licensees who are delinquent in tax payment is not relevant  
15 to resolution of the case and is not reasonably calculated to produce admissible evidence. (Evid  
16 Code, §§ 350, 351 & 352.)

17 **(2) The request for production is unduly burdensome and calculated to harass within**  
18 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

19 This request for production of documents does not serve the interest of the case and is  
20 calculated to cause undue burden, annoyance, and incur costs for no purpose, it is therefore a  
21 misuse of the discovery process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

22 **CATEGORY NO. 16**

23 All DOCUMENTS showing the number of licensed distributors that have been  
24 discliplined [sic], had their licenses suspended or revoked, or have been the subject of civil or  
25 criminal complaints since January 1, 2018, and whether the investigations thereof arose from  
26 flagged irregularities in the CCTT program or whether they arose from tips/complaints or other  
27 public reporting.

28 **Objections:**

1 **(1) Category No. 16 is not calculated to lead to admissible evidence under Evidence**  
2 **Code sections 350, 351, and 352.**

3 The production of any document related to disciplinary or other enforcement actions  
4 against licensees is not relevant to the petition and complaint filed by HNHPC. Whether  
5 enforcement action has been undertaken against one or more distributors is not relevant to this  
6 case and the request for production is not calculated to lead to admissible evidence. (Evid Code,  
7 §§ 350, 351 & 352.)

8 **(2) The request for production is unduly burdensome and calculated to harass within**  
9 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

10 This request for production of documents serves no purpose and is intended to cause  
11 undue burden, annoyance, and incur costs for no purpose, it is therefore a misuse of the discovery  
12 process. (Code Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

13 **CATEGORY NO. 17**

14 All DOCUMENTS showing any actions or proposals by DCC or FARNWELL to  
15 augment the CCTT to add new or different flagging capability since the initiation of this action,  
16 including all COMMUNICATIONS relating thereto.

17 **Objections:**

18 **(1) Category No. 17 is not calculated to lead to admissible evidence under Evidence**  
19 **Code sections 350, 351, and 352.**

20 If there are any documents sent or received by the Respondents or METRC, LLC. related  
21 to flagging irregularities since this lawsuit has been filed, they are not relevant to the petition and  
22 complaint filed by HNHPC. The petition and complaint filed by HNHPC alleges that there has  
23 been a failure to comply with a statutory mandate regarding the design of CCTT program's  
24 electronic database. Whether or if there have been any documents produced by the Respondents  
25 or METRC, LLC. related to changes in the criteria for what an irregularity is or if they should be  
26 flagged in one manner or another is not relevant to this case and the request for production is not  
27 calculated to lead to admissible evidence. (Evid Code, §§ 350, 351 & 352.)

28 **(2) The description also requests documents which may be privileged and confidential:**

1           **Evidence Code section 1040; Business and Professions Code section 26067;**  
2           **Government Code sections 6250.**

3           If there are any responsive documents, they will have to be reviewed for privilege.  
4           Government Code section 6250, subdivision (b), exempts from disclosure “Records pertaining to  
5           pending litigation to which the public agency is a party, or to claims made pursuant to Division  
6           3.6 (commencing with Section 810), until the pending litigation or claim has been finally  
7           adjudicated or otherwise settled.” Evidence Code section 1040, subdivision (b)(2), requires a  
8           balancing test to determine whether such documents are privileged, so if there are documents  
9           which are identified they will have to be reviewed to ascertain whether a privilege would be  
10          asserted. (see also *Board of Trustees of California State University v. Superior Court* (2005) 132  
11          Cal.App.4th 889). If there are any documents related to efforts to “augment the CCTT to add new  
12          or different flagging capability since” September 15, 2021 (the date the action was filed) which  
13          are not subject to any evidentiary privilege identified in this document, such documents will be  
14          provided.

15          **(2)    The request for production is unduly burdensome and calculated to harass within**  
16          **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

17          This request for production of documents is calculated to cause undue burden, annoyance,  
18          and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc.,  
19          §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

20          **CATEGORY NO. 18**

21          All DOCUMENTS that refer to the types of distributors described in the Petition as  
22          “burner distros,” and any and all policies, procedures, guidelines, and instructions the DCC or  
23          other state agencies have enacted to address the proliferation of burner distros in California.

24          **Objections:**

25          **(1)    Category No. 18 is not calculated to lead to admissible evidence under Evidence**  
26          **Code sections 350, 351, and 352.**

27          If there are any documents that refer to “burner distros” that are in the control of the  
28          Respondents, such documents are not relevant to the petition and complaint filed by HNHPC. The

1 petition and complaint filed by HNHPC alleges that there has been a failure to comply with a  
2 statutory mandate regarding the design of CCTT program’s electronic database. Whether “the  
3 DCC or other state agencies have enacted [policies] to address the proliferation of burner distros  
4 in California” is not relevant to this case and the request for production is not calculated to lead to  
5 admissible evidence. (Evid Code, §§ 350, 351 & 352.)

6 **(2) The request for production is unduly burdensome and calculated to harass within**  
7 **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

8 This request for production of documents is calculated to cause undue burden, annoyance,  
9 and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code Civ. Proc.,  
10 §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

11 **CATEGORY NO. 19**

12 All DOCUMENTS showing the amount of money and personnel budgeted each year since CCTT  
13 inception (including year to date in 2021) to investigate flagged irregularities, as well as any  
14 monies contained in the 2022 budget request specifically for such purposes.

15 **Objections:**

16 Though Respondents do not waive the objection that this request calls for irrelevant  
17 matters, HNHPC has been served with a complete set of budget requests in accordance with this  
18 request.

19 **(1) Category No. 19 is not calculated to lead to admissible evidence under Evidence**  
20 **Code sections 350, 351, and 352.**

21 The production of any document related to budgets for investigation or enforcement  
22 actions against licensees is not relevant to the petition and complaint filed by HNHPC. The  
23 petition and complaint filed by HNHPC alleges that there has been a failure to comply with a  
24 statutory mandate regarding the design of CCTT program’s electronic database. The sums  
25 budgeted by the Respondents for investigation and enforcement activities is not relevant to this  
26 case and the request for production is not calculated to lead to admissible evidence. (Evid Code  
27 §§ 350, 351 & 352.)

28 **(2) The request for production is unduly burdensome and calculated to harass within**

1           **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

2           This request for production of irrelevant documents is calculated to cause undue burden,  
3 annoyance, and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code  
4 Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

5           **CATEGORY NO. 20**

6           All DOCUMENTS that refer to, analyze, estimate or otherwise assess the role of  
7 excessive taxation (including excessive excise and cultivation taxes) on the proliferation of illegal  
8 diversion of cannabis in California, including any assessment or discussion of how reducing such  
9 taxes might in turn reduce illegal diversion of cannabis across state lines and/or to illegal markets  
10 in California.

11           **Objections:**

12           **(1) Category No. 20 is not calculated to lead to admissible evidence under Evidence**  
13           **Code sections 350, 351, and 352.**

14           The petition and complaint filed by HNHPC alleges that there has been a failure to  
15 comply with a statutory mandate regarding the design of CCTT program's electronic database.  
16 Whether the Respondents or anyone at the Department has documents related to tax policy issues  
17 (a matter not subject to the control of the Respondents) is not relevant to this case and the request  
18 for production is not calculated to lead to admissible evidence. (Evid Code, §§ 350, 351 & 352.

19           **(2) The request for production is unduly burdensome and calculated to harass within**  
20           **the meaning of Code of Civil Procedure sections 2019.030 and 2023.010.**

21           This request for production of irrelevant documents is calculated to cause undue burden,  
22 annoyance, and incur costs for no purpose, it is therefore a misuse of the discovery process. (Code  
23 Civ. Proc., §§ 2019.030, subd. (a) & 2023.010, subd. (c).)

24  
25           **PLAINTIFF IS HEREBY NOTIFIED THAT, BASED ON THE FOREGOING, NO**  
26           **WITNESS WILL APPEAR FOR THE DEPOSITION AS NOTICED. AS THIS**  
27           **NOTIFICATION HAS BEEN GIVEN, SHOULD COUNSEL FOR PLAINTIFF GO**  
28           **FORWARD WITH HAVING A COURT REPORTER AND/OR VIDEOGRAPHER**

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**APPEAR FOR THIS DEPOSITION AS NOTICED, RESPONDENTS WILL NOT BE RESPONSIBLE FOR ANY PART OF THE FEE CHARGED BY SUCH PERSONS.**

Dated: November 22, 2021

Respectfully submitted,  
ROB BONTA  
Attorney General of California  
HARINDER K. KAPUR  
Senior Assistant Attorney General



ETHAN A. TURNER  
Deputy Attorney General  
*Attorneys for Respondents  
Department of Cannabis Control and  
Nicole Elliott in her Official Capacity as  
Director of the Department of Cannabis  
Control*

# **EXHIBIT L**



California  
DEPARTMENT OF TECHNOLOGY

# California Information Technology Annual Report 2016

Edmund G. Brown Jr,  
Governor

Amy Tong,  
Director, California Department of Technology  
State of California Chief Information Officer





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**John Boule**, Director for the Office of Systems Integration, California Health and Human Services Agency  
**Dan Bout**, Assistant Director of Response, California Governor's Office of Emergency Services  
**Jim Butler**, Deputy Director, Department of General Services  
**Scott Christman**, Acting Agency Chief Information Officer, California Health and Human Services Agency  
**Cathy Cleek**, Chief Information Officer, Franchise Tax Board  
**Jim Culbeaux**, Chief Information Officer, Department of Industrial Relations  
**Stuart Drown**, Deputy Secretary for Innovation and Accountability, California Government Operations Agency  
**Kenneth Foster**, California Military Department  
**Tim Garza**, Agency Chief Information Officer, Natural Resources Agency  
**Mark Ghilarducci**, Director, California Governor's Office of Emergency Services  
**Lynda Gledhill**, Deputy Secretary for Communications, California Government Operations Agency  
**Erica Gonzales**, Chief, IT Consulting Unit, Department of Finance  
**Sergio Gutierrez**, Agency Chief Information Officer, California Environmental Protection Agency  
**Scott Howland**, Chief Information Officer, California Highway Patrol  
**Marcie Kahbody**, Deputy Secretary and Agency Chief Information Officer, California Transportation Agency  
**Chris Lopez**, Chief Enterprise Architect, California State Lottery  
**Khaim Morton**, Deputy Secretary for Legislation, Government Operations Agency  
**Subbarao Mupparaju**, Chief Information Officer and Deputy Director, Financial Information System for California  
**Kem Musgrove**, Director, Operations and Infrastructure Services, Franchise Tax Board  
**Russ Nichols**, IT Director and Agency Chief Information Officer, California Department of Corrections and Rehabilitation  
**George Okamoto**, Agency Chief Information Officer, Labor & Workforce Development Agency  
**Eli Owen**, Deputy Commander, California Governor's Office of Emergency Services  
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**Bryan Rau**, Director, Tax Systems Modernization Bureau, Franchise Tax Board  
**Deborah Reyman**, California Public Employees' Retirement System  
**Chris Riesen**, Deputy Director and Chief Information Officer, California State Lottery  
**Jan Ross**, Deputy Treasurer and Chief Information Officer, State Treasurer's Office  
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**Lisa Senitte**, Agency Chief Information Officer, California Department of Veterans Affairs  
**Carla Simmons**, Chief Information Officer, California Governor's Office of Emergency Services  
**Paul Smith**, Deputy Director, California Department of Corrections and Rehabilitation  
**Michael Wilkening**, Undersecretary, California Health and Human Services Agency  
**Gretchen Williams**, Deputy Agency Information Officer, California Health and Human Services Agency  
**Brian Wong**, IT Manager and Project Director, Department of Motor Vehicles

We would also like to thank California Department of Technology staff for their contributions to the development of this report.



## LETTER FROM THE STATE CIO AND DEPUTY STATE CIO



2016 has been a productive and innovative year for Information Technology (IT) in the State of California. Our IT community has greatly improved our capabilities – our people, our methodologies and our technology – to better serve all Californians. The California Department of Technology (CDT) and our partner agencies have taken great strides in securing our most important information assets, capitalizing on the latest technologies and approaches to IT, ensuring the success of projects and enhancing the core services we provide.

CDT, as the central and lead organization for the state's IT capabilities, led a process to identify the following strategic focus areas which will help enable CDT, and the state's IT community as a whole, to mature our IT service offerings while expanding capabilities by pursuing new approaches:



- **Organizational Sustainability-** Improving service delivery, fostering innovation, and providing customer-centric quality assurance.
- **Statewide IT Project Delivery-** Improving the planning, quality, value, and the likelihood of success for IT projects by working closely with state entities.
- **Statewide Information Security-** Protecting California's information assets by providing statewide leadership and collaborating with partner agencies in information security.

To implement these strategic focus areas we have established a common "North Star Goal" and a set of aspirational values to become "One CDT" with an integrated service strategy and commitment to delivery, innovation and quality assurance.

As we work with our state and local partners, the state legislature, and our industry partners, we continue to discover new ways to address the most critical needs in the business of government and provide our workforce and the people of California with user-centered digital services. We are pleased to highlight some of the technology accomplishments that the State of California has made in 2016. We expect 2017 will provide additional growth opportunities and challenges, however, we strongly believe that we can continue, together, to lead IT efforts that best serve the people of our state.

Handwritten signature of Amy Tong in black ink.

Amy Tong  
Director, California Department of Technology  
State of California Chief Information Officer

Handwritten signature of Chris Cruz in black ink.

Chris Cruz  
Chief Deputy Director, California Department of Technology  
State of California Deputy Chief Information Officer

# ABBREVIATIONS AND ACRONYMS

<b>BIS</b>	<i>Business Information Solution</i>	<b>DMS</b>	<i>Debt Management System</i>
<b>BOE</b>	<i>Board of Equalization</i>	<b>DOF</b>	<i>Department of Finance</i>
<b>Cal OES</b>	<i>California Office of Emergency Services</i>	<b>DPH</b>	<i>Department of Public Health</i>
<b>CalCloud</b>	<i>California Department of Technology provided cloud services such as software, infrastructure and platform</i>	<b>DTSC</b>	<i>California Department of Toxic Substances Control</i>
<b>Cal-CSIC</b>	<i>California Cybersecurity Integration Center</i>	<b>EDR</b>	<i>Enterprise Data to Revenue Project</i>
<b>Cal-CSIRS</b>	<i>California Compliance and Security Incident Reporting System</i>	<b>FedRAMP</b>	<i>Federal Risk and Authorization Management Program</i>
<b>CalEPA</b>	<i>California Environmental Protection Agency</i>	<b>FTB</b>	<i>Franchise Tax Board</i>
<b>CalHR</b>	<i>California Department of Human Resources</i>	<b>Github</b>	<i>Online public repository and internet hosting service</i>
<b>CalPERS</b>	<i>California Public Employees' Retirement System</i>	<b>HIPAA</b>	<i>Health Insurance Portability and Accountability Act</i>
<b>CalSAFER</b>	<i>California Safer Consumer Products Information Management System</i>	<b>laaS</b>	<i>Infrastructure as a Service</i>
<b>CBIG</b>	<i>California Business Incentives Gateway</i>	<b>IRS</b>	<i>Internal Revenue Service</i>
<b>CCISDA</b>	<i>California County Information Services Directors Association</i>	<b>ISO (27001)</b>	<i>Specification for an information security management system (ISMS)</i>
<b>CDCR</b>	<i>California Department of Corrections and Rehabilitation</i>	<b>ITLA</b>	<i>Information Technology Leadership Academy</i>
<b>CDFA</b>	<i>California Department of Food and Agriculture</i>	<b>MC</b>	<i>Medical Cannabis</i>
<b>CDFW</b>	<i>California Department of Fish and Wildlife</i>	<b>MCRSA</b>	<i>Medical Cannabis Regulation and Safety Act</i>
<b>CDPR</b>	<i>California Department of Pesticide Regulation</i>	<b>MISAC</b>	<i>Municipal Information Systems Association of California</i>
<b>CDT</b>	<i>California Department of Technology</i>	<b>NIST</b>	<i>National Institute of Standards and Technology</i>
<b>CENIC</b>	<i>Corporation for Education Networking in California</i>	<b>OSI</b>	<i>Office of Systems Integration</i>
<b>CHHS</b>	<i>California Health and Human Services Agency</i>	<b>PaaS</b>	<i>Platform as a Service</i>
<b>CHP</b>	<i>California Highway Patrol</i>	<b>PII</b>	<i>Personally Identifiable Information</i>
<b>CMD</b>	<i>California Military Department</i>	<b>SSAP</b>	<i>Streamline and Strengthen Accreditation Process Project</i>
<b>CNRA</b>	<i>California Natural Resources Agency</i>	<b>STO</b>	<i>State Treasurer's Office</i>
<b>CTC</b>	<i>Commission on Teacher Credentialing</i>	<b>SWRCB</b>	<i>State Water Resources Control Board</i>
<b>CWS-NS</b>	<i>Child Welfare Services New System</i>	<b>WCAG</b>	<i>Web Content Accessibility Guidelines</i>
<b>DCA</b>	<i>Department of Consumer Affairs</i>		
<b>DGS</b>	<i>Department of General Services</i>		



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# INTRODUCTION

California's Information Technology (IT) community provides critical resources to state organizations that in turn support the people of California. Maintaining, securing and improving these technologic resources requires constant and coordinated diligence from many stakeholders. This Annual Report highlights the 2016 technology accomplishments of the State of California's IT community in four primary imperatives:

- 1. Ensuring Security of Sensitive Information Assets** – In collaboration with its partners, the State of California has established a Cybersecurity Defense Vision. This partnership has improved the state's security posture and enabled the continuous enhancement of security intelligence to reduce the likelihood and severity of cyber incidents that could damage California's economy or critical infrastructure. CDT has also taken the necessary steps to enhance its Information Security Program to focus on prevention and education. Historically, information security was measured by compliance to hundreds of security controls that were difficult to manage and almost impossible to report. The Information Security Program has developed a new framework with a simplified set of objectives that state entities can work toward. The framework will be used to track, assess, manage and report on all aspects of the enterprise security architecture.
- 2. Fostering Innovation and Partnerships** – The State of California is a thought leader in the country and a model for other government entities in providing innovative tools for its partners. IT capabilities and options continue to advance, and expectations of state government and consumers of IT services grow in response. Workers and consumers expect modern, reliable, secure, innovative and regulatory compliant solutions. State IT continues to bring government closer to its people through the availability of the best solutions, and access to non-confidential government data that enables informed, data-enabled decisions. Access to new and growing open data portals are starting new conversations about growth and progress. Additionally, the state continues to migrate to a unified cloud infrastructure that provides flexibility, scalability and government-level security to state entities, allowing them to evolve and expand their business practices when and how they need it.
- 3. Enabling Successful IT Project Establishment and Delivery** – California, like every state, is reliant on IT projects to implement new and modern technology to support its business needs. The State of California currently manages more than \$3.5 billion in active IT projects to bring contemporary, stable, working solutions to its business partners. As technology evolves, so does the state's approach to IT project establishment and delivery. California is augmenting proven and mature approaches with new collaborative methods to plan and implement projects. The overarching goal, as always, is to ensure that California achieves its business objectives and provides the best value for the people of California. In all cases, projects are planned and overseen to ensure that each uses industry best practices and effectively manages risk.
- 4. Providing Sustainable and Efficient Business Enablement Services** – California's IT services are critical to the business of government – from health care services to fighting fires to protecting the environment. Providing mission-critical systems requires a highly capable workforce and innovative technology; state IT is focused on maintaining scalable and flexible IT capabilities, and enhancing the expertise and relevance of IT professionals through education, knowledge-sharing and creating communities of interest.

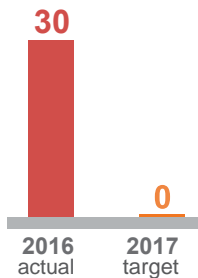
California's IT community has proven that it can execute on its mission, and is prepared to discover new ways to address the state's most critical needs in the business of government. Technology will continue to evolve and the State of California, along with its partners, will continue to enable its workforce and residents to provide effective services and make the wisest, most informed decisions.

# Creating Business Value through Technology

CDT, in collaboration with state executive and legislative stakeholders, has redefined how the state will measure its IT effectiveness against its strategic goals and objectives. In the four primary domains on which state IT currently is focused, the metrics depict the IT organizations' performance against their goals: Ensuring Security of Sensitive Information Assets, Fostering Innovation and Partnerships, Enabling Successful IT Project Establishment and Delivery, and Providing Sustainable and Efficient Business Enablement Services. These IT Performance Metrics are a collaboration among CDT and the reporting IT organizations within state government. The 2016 measures are shown as reported by agencies and departments or the entities responsible for their management. 2017 measures are defined targets for the state.

## SECURITY

**Number of electronic incidents resulting in the unauthorized disclosure of personal information**



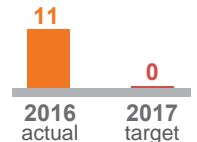
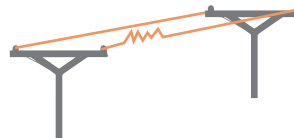
The number of breaches during the calendar year that involved Personally Identifiable Information (PII) contained in lost or stolen unencrypted electronic devices and storage media. This number does not include paper and verbal releases of information.

**Blocked Attempts to breach and/or access data center systems hosted at CDT without authorization**



The success rate of the state in preventing unauthorized access to critical and sensitive data in the state data center.

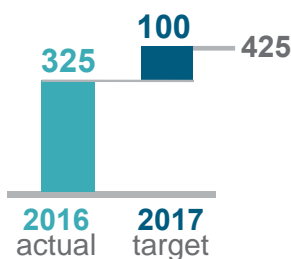
**Outages or disruptions of mission critical or public facing systems**



The number of reported security incidents that resulted in the unavailability of information systems for more than two hours.

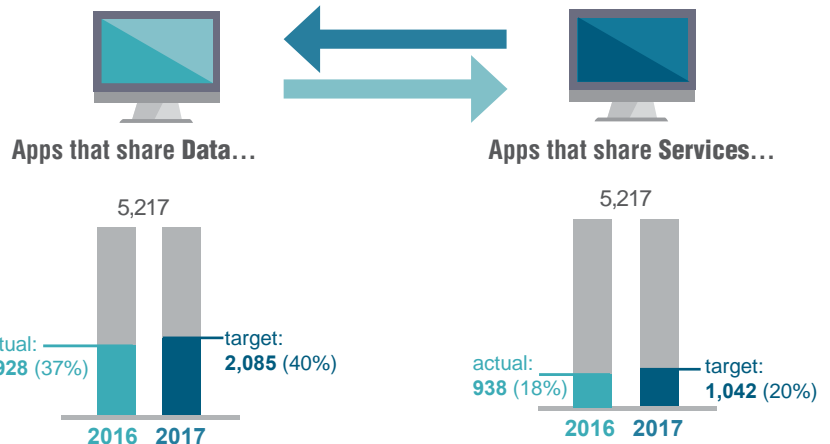
## INNOVATION

**High Value Data Sets Available to the Public**



The number of data sets available to the public. High value data sets increase state entity's accountability and responsiveness, increase public knowledge, improve operations, further the core mission, create economic opportunity, and/or respond to needs and demands identified by the public

**Shared Data and Services**



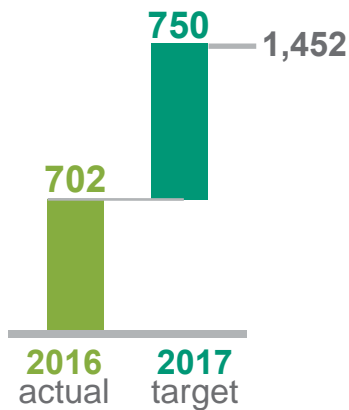
The number of business applications that provide information to other business applications is rising.

The number of applications that have published technical services available for use by other applications.

# Creating Business Value through Technology

## PROJECT DELIVERY

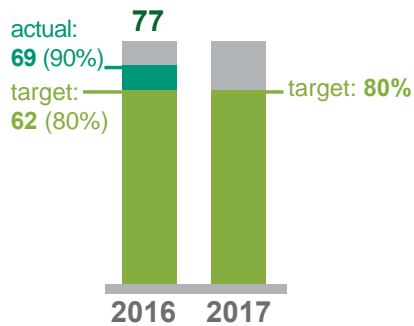
Number of people completing project management & procurement training



The number of professional state project stakeholders who have taken an active role in improving their project management and procurement skills.

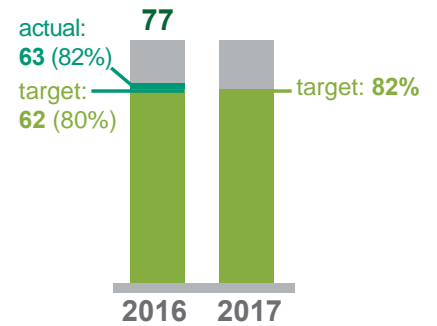
Projects Completed Within Schedule.

(no more than 10% variance)



The key business outcomes identified at the inception of a project and evaluated soon after the project is completed.

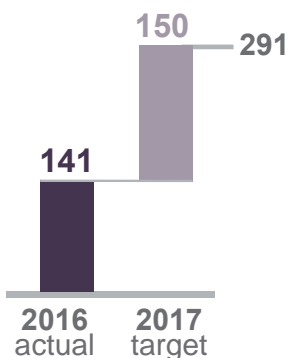
Projects Completed that met  $\geq 90\%$  of Business Objectives.



The timeliness with which projects are completed against the latest approved schedule.

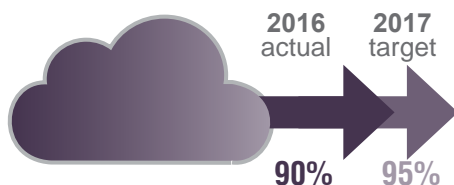
## EFFICIENCY & SUSTAINABILITY

Number of people completing IT leadership training



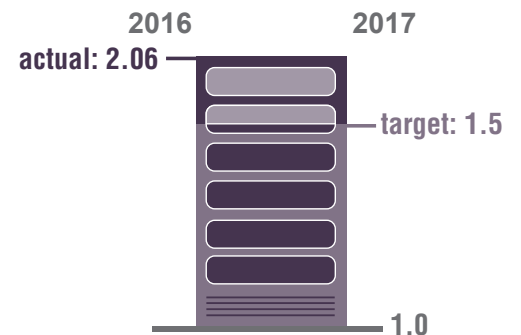
The number of state IT professionals completing IT leadership training.

Percentage of Virtualized & Cloud Computing Infrastructure



The number of servers that are prepared to perform in a state cloud environment.

Power Utilization Effectiveness for data centers +1,000 sq. ft.



Within all 27 state data centers that are greater than 1,000 square feet, the amount of energy used directly by computers as compared to all other energy uses (1.0 is the goal, though theoretically unachievable).





## ENSURING SECURITY OF SENSITIVE INFORMATION ASSETS

The number of cyber attacks has increased significantly across the world in both the private and public sectors in recent years. Given the size of California's economy, as the sixth largest economy of the world, the state is a prime target for similar information security breaches. In 2016, the State of California strengthened California's preparedness and response to cyber-attacks. Through the support and collaborative efforts among the CDT, California Office of Emergency Services (Cal OES), California Highway Patrol (CHP), and California Military Department (CMD), the state led and engaged in complementary initiatives that will fortify its security posture and position itself to enhance security analytics solutions. As cybersecurity threats become more sophisticated, the state will continuously strengthen its security policies and standards to provide clear direction and guidance to state entities for the protection of confidentiality, integrity, and availability of California's information and assets. The synergy of this partnership will bolster the security posture of the state by improving proactive threat intelligence, incident response, and the identification of vulnerabilities with California's mission critical systems.

### Threat Monitoring and Incident Response

Cybersecurity attacks are constantly evolving and becoming more sophisticated, requiring the state to be nimble and one step ahead of attackers. In August 2015, Governor Edmund G. Brown Jr. signed [Executive Order B-34-15](#), which directed Cal OES to establish the California Cybersecurity Integration Center (Cal-CSIC). Cal-CSIC's primary mission is to improve inter-agency, cross-sector coordination to reduce the likelihood and severity of cyber incidents that could damage California's economy, critical infrastructure, or public and private sector computer networks. Cal-CSIC is an organizing hub of state government's cybersecurity activities and coordination. Its establishment puts California at the forefront of cyber threat intelligence and incident response.

Four primary outcomes are envisioned for Cal-CSIC:

- 1. Actionable Intelligence:** The use of timely, accurate, and relevant intelligence to enhance decision-making and security of the state networks.
- 2. Network Resiliency:** The ability to disseminate security controls and alerting rules directly to partner networks and increase their resilience.
- 3. Incident Monitoring and Response:** Visibility into incidents affecting the state, and the ability to provide support to critical incidents as they arise.
- 4. Security Solutions Engineering:** The ability to support partners by integrating Cal-CSIC security solutions into their infrastructures.

Over the next few years, Cal-CSIC will continue to evolve and grow, adding additional partners – from Executive Branch organizations to universities, utilities, and hospitals – until it reaches full integration across the state. These partnerships will enhance the availability of incident data and provide the state with a real-time awareness of risks, which will allow the state to predict threats and proactively defend its networks against attacks.

## Prevention and Education

Information security policy plays a critical role in the State of California and is vitally important to state government operations and service delivery. The security and privacy risk landscape is constantly changing, and the state must build resilience to adapt to these threats. CDT is the primary state government authority responsible for establishing policies for confidentiality, integrity, and availability of state systems and applications. To remain at the forefront, CDT adopted a Program Management Framework that shifts the state from a compliance-based practice to one that protects the highest value assets through a management and risk-based approach. This provides a simplified set of 30 objectives mapped to 12 domains that security practitioners can utilize as focus areas for building a security program. The Framework also allows state entities to assess, manage and mature their security posture against target business objectives, ensuring that confidential and sensitive data are properly safeguarded.

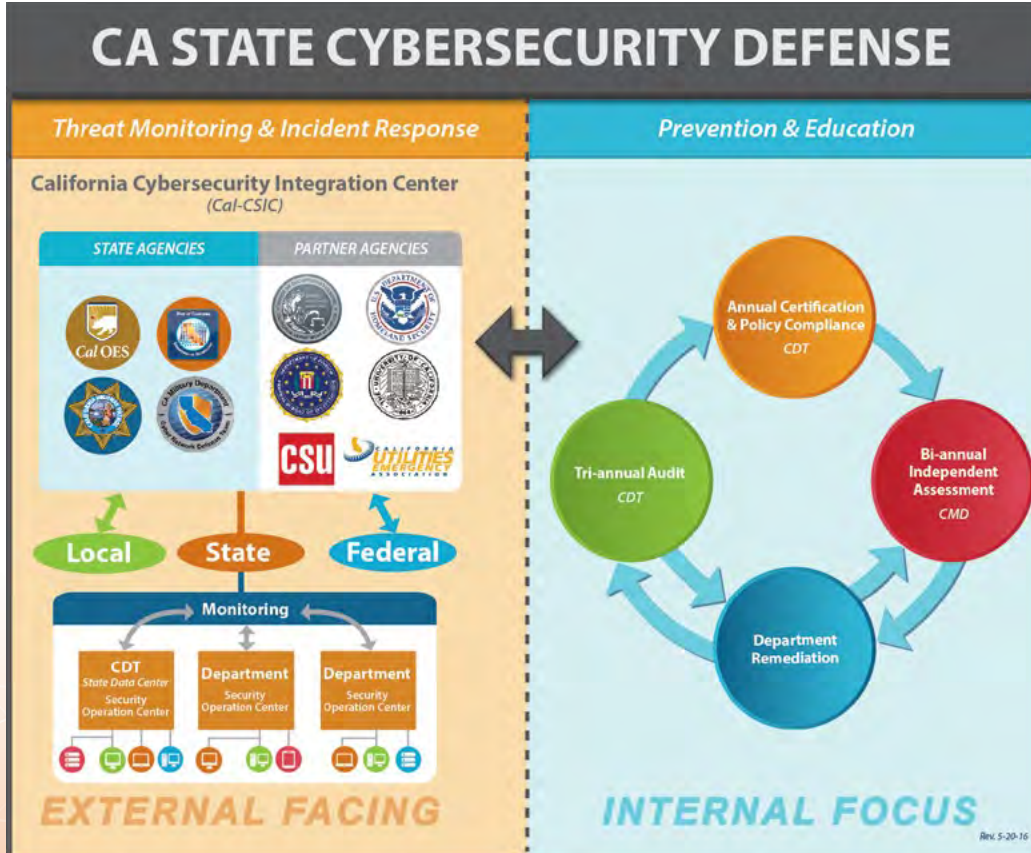
Assembly Bill 670 (Irwin, 2015) requires CDT to coordinate 35 vulnerability assessments each calendar year. State entities will undergo these independent security assessments every two years based upon CDT's assessment criteria. The primary provider for this service is the California Military Department. The resultant data is presented to the assessed state entity and CDT to allow them to implement and track remediation efforts.

In addition, CDT initiated an Information Security Audit Program to measure the effectiveness of its statewide policy and guidelines. The driver for the audit program is the need to assure that state entities are implementing appropriate administrative, operational and technical information security safeguards. CDT piloted this program in six state entities in 2016.

## Did You Know?

*A unique feature of CalCloud Infrastructure as a Service (IaaS) is its security model. CalCloud IaaS is the only state government cloud that can meet multiple rigorous international and government regulations (e.g., adhering to the FEDRAMP Framework, NIST 800-53, ISO 27001, IRS 1075, HIPAA.)*

*Additionally, CDT has established a Security Operations Center to enhance its ability to effectively analyze, identify, and respond to the growing complexity and volume of cybersecurity threats.*



*The state has taken a unified approach to its cybersecurity strategy. Close coordination and trust among partners is paramount to strengthening the State's security posture.*

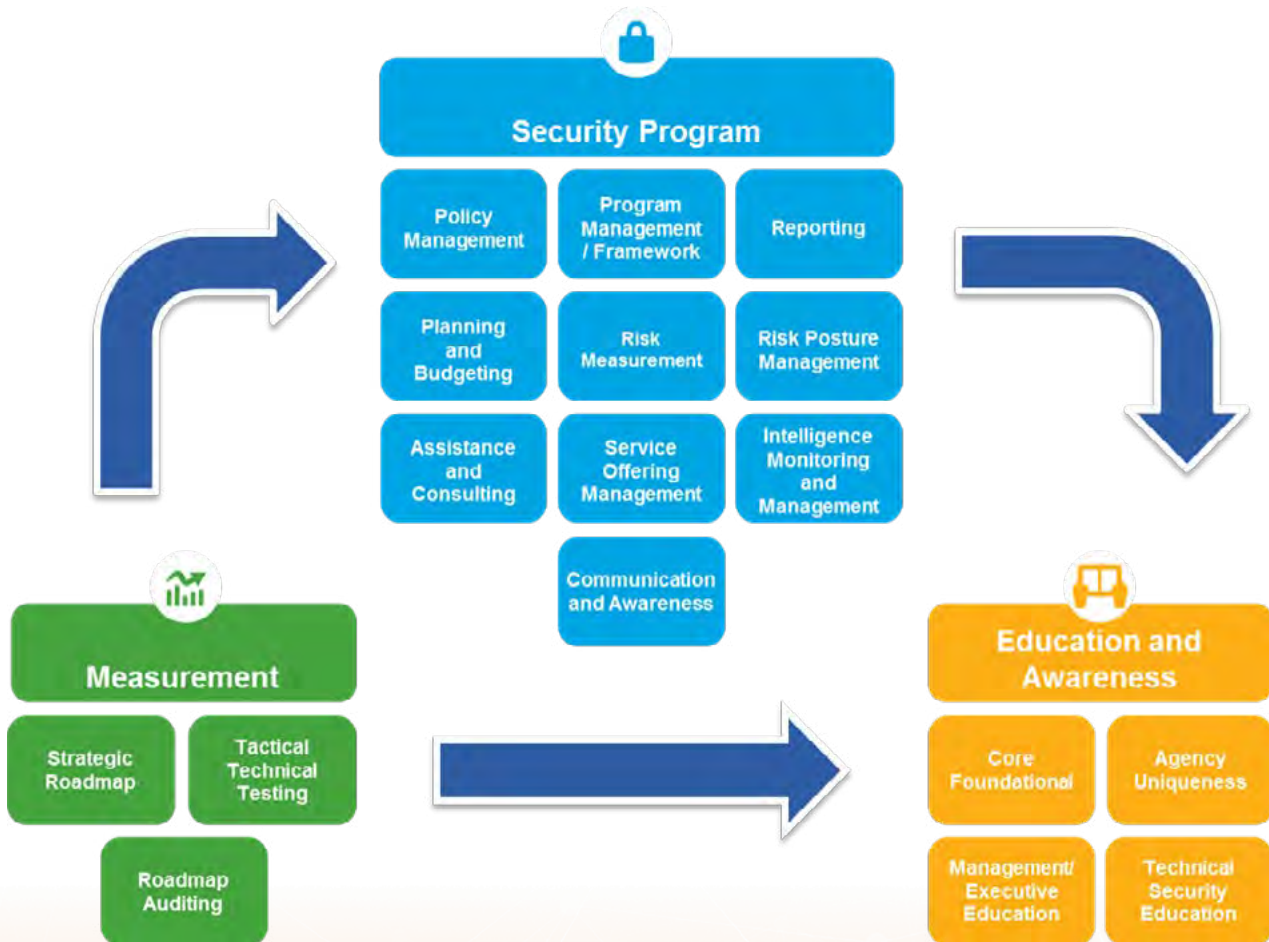
# Information Security Policy Program

The Information Security Policy Program will empower state entities to mature their security posture pro-actively to address any deficiencies and prevent security incidents before they occur:

**Security Policy Program** expands existing program services, improves communications between security stakeholders and provides assistance and consultation when requested to address security deficiencies. In May 2016, CDT replaced manual and redundant incident reporting processes with the California Compliance and Security Incident Reporting System (Cal-CSIRS), an automated security compliance and reporting system.

**Measurement** aligns the assessment and auditing processes to provide a transparent and comprehensive understanding of security postures and to identify opportunities for improvement. Assembly Bill 2623 (Gordon, 2016) requires state entities to report their actual and projected information security costs annually. The Program Management Framework coupled with the availability of information security costs will provide greater visibility into the investments the state makes to improve its security posture.

**Education and Awareness** expands training and education to advance the skills and knowledge of the state’s security professionals and strengthen the overall integrity of the state.



*The Information Security Program provides a comprehensive set of business capabilities in support of state entities.*

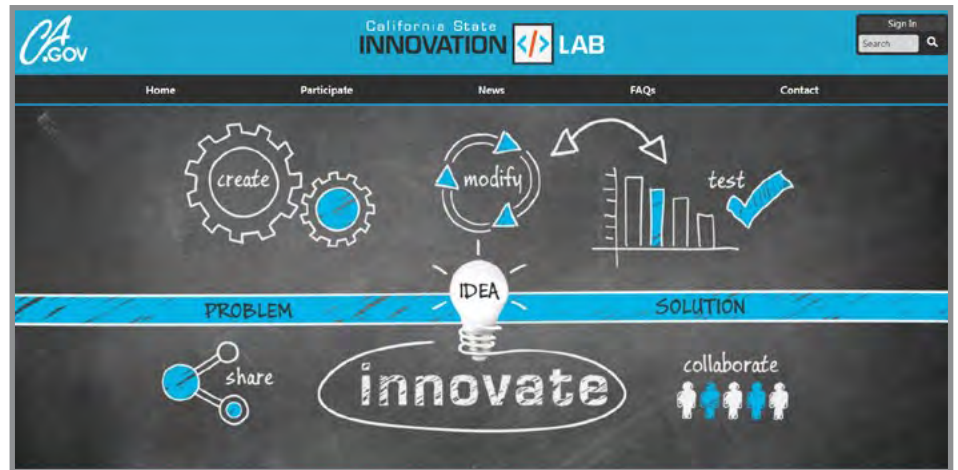


# FOSTERING INNOVATION AND PARTNERSHIPS

Today's leading organizations continue to be successful by preparing for what the world may look like tomorrow. State government is no exception, and California can no longer afford to be reactive. The state is evolving to be a thought leader and model for other government entities. A key enabler of being at the forefront is the ability to innovate, whether in the realm of new information-supported business programs and processes or the field of tangible technology solutions.

## Digital Innovation

Driving the state forward as a thought leader and technology innovator, CDT, in collaboration with the Government Operations Agency, launched the Office of Digital Innovation to foster a culture of innovation and encourage engagement between government and the people it serves. Based on the principle of transparency, the office provides a foundation to develop and deploy cost-effective and efficient products that best meet the needs of California residents.



Visit the California Innovation Lab at: <http://innovate.ca.gov/>

The first major initiative this office undertook was the establishment of the California State Innovation Lab, which serves as a virtual “tech habitat” for California government to build, test and deploy open source technologies within the state’s data center. The goal of the Lab is to create innovative, deployable technologies that address needs identified by state entity partners. Understanding that innovation involves some trial and error, the Lab provides a safe environment where participants have the freedom to use unique or unconventional methods or solutions; initial failures are accepted as part of the process and participants can quickly move on to try a new approach. California is the first state to launch an innovation lab and expects other states to quickly follow its lead.

To ensure these investments are used to maximum benefit, CDT will issue a new policy in 2017 to ensure software code developed using state funds will be made broadly available for reuse to other state entities free of charge as open source.

## Realizing the Value of Transparency and Open Data

State government captures massive amounts of data across a multitude of programs – a natural result of providing services to more than 38 million Californians. Recognizing that data is an asset, the state is committed to maximizing the value that this data can provide and its potential to improve the lives of Californians. Making information accessible to the public provides faster and more efficient information sharing with residents and state partners.



Visit California's Open Data Portal at: <http://data.ca.gov/>

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## High-Value Data Sets Are Available to the Public

### Did You Know?

*CDT issued policy (Technology Letter 16-09)<sup>2</sup> to formally establish the state's commitment to an effective and collaborative partnership with California Indian Tribes. This commitment ensures policies, rules, regulations, programs, projects, plans, and activities appropriately consider the needs of tribal communities. The state is committed to strong and sustainable government-to-government relationships, and encourages proactive and ongoing communication with Tribal representatives regarding issues pertaining to or impacting Tribes.*

The state has taken a strategic and methodical approach to exploring open data and has launched several open data portals that house high value data sets. Under the leadership of the Government Operations Agency, CDT has established a statewide open data portal – [data.ca.gov](http://data.ca.gov) – to ultimately link all high value open data sets from various state portals and make them available to the public. As this open data platform evolves, CDT will focus on enhancements to [data.ca.gov](http://data.ca.gov) to move beyond simply providing access to open data on the website to encourage use of the data to drive progress in the state.

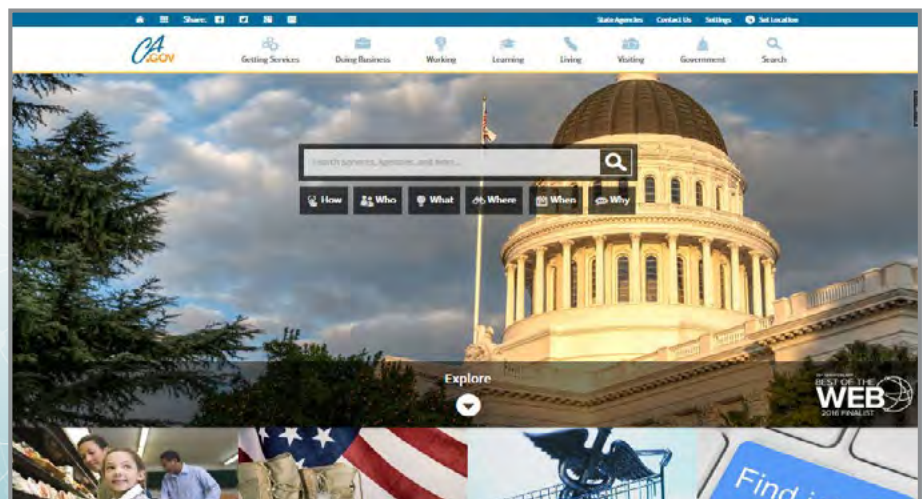
### Health and Human Services Data

The team behind the [data.ca.gov](http://data.ca.gov) site built on expertise developed by the California Health and Human Services Agency (CHHS), which created a health-centered portal in 2014 and has steadily added data sets produced by all CHHS departments. The breadth of data captured by departments and offices within the CHHS lends itself to promoting innovation and collaboration with external stakeholders as well as CHHS departments and other state entities.

As part of this process, CHHS also developed the CHHS Data Playbook<sup>1</sup> to document and further promote an organizational culture focused on data-driven decision making. The Playbook is a mechanism to disseminate best practices, a strong governance structure and lessons learned across the Agency, consisting of resources and toolkits to help staff navigate data projects and discuss data-related topics with common terminology. The Playbook is shared on GitHub, an online public repository, so other organizations can leverage and adapt it for their needs.

### CA.gov Revitalization

Under the leadership of the Government Operations Agency, in partnership with CDT, **CA.gov** was redesigned to better service Californians and provide an updated look for the state's primary online entry point. The design team used Web tools to identify specific information that users were looking for and designed the site to promote those items, including the state's top 50 online services. This consistent foundation provides focused and efficient access to useful information, enabling users to quickly reach their desired destination. Additional enhancements will be made to the portal over the next year to meet the growing needs of Californians, including greater integration across state entity portals, targeting information to users' physical locations, and expanding analytic capabilities to gather actionable feedback on the site's effectiveness.



## Business Incentives Portal

The State Treasurer's Office developed the California Business Incentives Gateway (CBIG) which allows businesses to search for available economic incentives in a single place using basic demographics such as business consumer, incentive type, and category. In addition to the 14 boards, commissions and authorities chaired by the State Treasurer, the site hosts incentives from many California state, and local governments. Results can be viewed, filtered and sorted as needed to make best use of economic incentives. CBIG was implemented in December 2016, with more local government incentives being added over the next 6 months.

## Updated Accessibility Standards

CDT partnered with the California Department of Rehabilitation to update the IT Accessibility Resource Guide and align these standards with the World Wide Web Consortium's Web Content Accessibility Guidelines (WCAG) 2.0. State law directs all state entities to comply with Section 508 of the federal Rehabilitation Act of 1973. State entities are responsible for ensuring that their public websites comply with accessibility requirements and their internal IT systems are accessible by state employees with disabilities.

## Rapid Solution Development

The California Natural Resources Agency uses a common solution platform to rapidly develop and deploy many of the new applications needed for the Agency. These recently have included enterprise applications such as Ground Water Well Permitting and Coastal Commission Permitting. The tool, combined with rapid prototyping and development methodology, has allowed the Agency's IT department to be highly responsive to business units without excessive cost or risk.

## Connecting with Local Governments

The State of California actively collaborates with the California County Information Services Directors Association (CCISDA) and the Municipal Information Systems Association of California (MISAC) on shared services with local entities. In 2016, a new partnership was established between CDT and the Corporation for Education Networking in California (CENIC). CENIC is a non-profit organization comprised of 10,000 education and research member institutions.

CENIC operates the California Research and Education Network (CaREN), a high-capacity network designed to meet the unique requirements of more than 20 million users. In order to establish this partnership, CDT signed a long-term fiber sharing agreement with the City of Sacramento that enables the state to use Sacramento's fiber assets and allows all CENIC members to leverage the State of California's technology service offerings. This groundbreaking agreement allows both organizations to utilize existing infrastructure, reducing expenses for third party providers.

**“Thanks to Sacramento's willingness to collaborate on solutions across government entities, this agreement will play a significant role in improving the delivery, efficiency and security of government services in the State of California.”**

- Chris Cruz, Deputy State CIO



The City and County of San Francisco has partnered with CDT to leverage Tenant Managed Services (TMS) to supply Disaster Recovery functionality for their financial and accounting management systems. This collaboration between state and local government highlights the increasing number and types of opportunities that technology advancements can bring.

## Did You Know?

*The state has begun transitioning enterprise email and other productivity applications to a single statewide cloud-based email system, which will improve interdepartmental collaboration on cross organizational projects and initiatives. 40,000 mailboxes have been migrated as of November 2016. An additional 140,000 will be migrated by December 2017. When the transition is complete, the state will be using a common set of state of the art office productivity tools.*





# ENABLING SUCCESSFUL IT PROJECT ESTABLISHMENT AND DELIVERY

California, like every state, is reliant on IT projects to implement new and modern technology to support its business needs. State entities currently manage more than \$3.5 billion in active IT projects<sup>3</sup> to bring contemporary, stable working solutions to support government services. As technology evolves, so must the state's approach to IT project establishment and delivery.

The state continues to augment existing approaches that are proven and mature with new, collaborative and innovative methods to plan and implement projects and ensure that the state achieves its business objectives while providing the best value for its residents. In doing so, CDT engages state entities at various points throughout a project's lifecycle to provide support, guidance and oversight early in a structured and supportive manner to reduce risk, and increase the likelihood of timely success.

To maintain and improve upon these successes, CDT is collaborating with state entities on IT projects to provide the right resources when they are needed, and offer additional specialized resources should the project team need them. Additionally, CDT has led efforts to improve existing processes and developed new standards and methodologies which fall into four primary efforts:

- Enhancements to the Project Approval Lifecycle
- Consistent, Streamlined and Useful Project Management Standards
- Providing Resources to Support Projects
- Effective Project Oversight and Risk Management

## Enhancements to the Project Approval Lifecycle

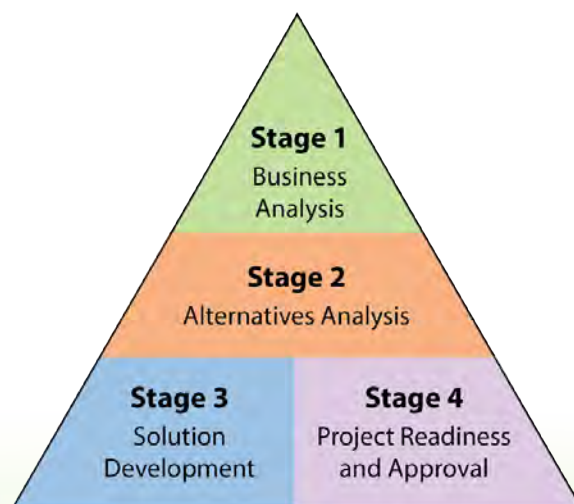
CDT, in collaboration with state entities across California, replaced the decades old Feasibility Study Report (FSR) approval process with the Project Approval Lifecycle (PAL). The new PAL process will result in more realistic estimates of project costs and schedules, bring forward technology that is better aligned with users' needs, and help reduce risk of project failures. Additionally, this process will transform CDT's traditional oversight role by promoting shared responsibility for project success between state entities and oversight managers through collaborative partnerships. The new process includes:

**Stage 1 Business Analysis:** Identifies the business problems or opportunities and the objectives to address them.

**Stage 2 Alternatives Analysis:** Provides a basis for how the proposal's business objectives will be achieved, an evaluation of multiple alternative solutions, which determines which alternative will yield the highest probability of meeting the business objectives, and the acquisition strategy for procuring services.

**Stage 3 Solution Development:** Defines detailed solution requirements and prepares the solicitation deliverable to acquire a solution that best meets the project's business objectives and yields the highest probability of success.

**Stage 4 Project Readiness and Approval:** Identifies how the intended awardee will contribute towards the successful achievement of the project's business objectives and ensures the state entity's readiness to execute the project and establish realistic schedule and cost baselines.



*The four stages of the PAL process help projects navigate the necessary gates for successful planning.*

Each stage concludes with a "gate" where project managers and oversight staff validate proper planning has occurred and reach a go/no-go decision point. These gates provide the state and project team the opportunity to stop the project, or to revise the project approach before continuing further.

## Consistent, Streamlined and Useful Project Management Standards

The California Project Management Framework (CA-PMF) was developed to improve the processes, tools, templates and leverage the collective knowledge of past projects to plan and guide current projects through their lifecycle. The CA-PMF provides state project management practitioners with guidance and access to user-centric and scalable tools and templates. The CA-PMF and associated training is available via an intuitive website. The application of industry best practices, lessons learned, and standardized processes by state project management practitioners is resulting in significant risk reduction for projects. This increases the probability of meeting projects' business objectives, reduces the time it takes to meet those objectives, and provides a significant positive cost impact.



Visit the California Project Management Framework at: [capmf.cio.ca.gov](http://capmf.cio.ca.gov)

## Providing Resources to Support Projects

CDT also helps to ensure that changes in quantity and experience of project staff available to state entities does not lead to variations in project outcomes. Each project should have access to the right resources it needs to successfully achieve its business objectives, on schedule and within budget. Recent additions to CDT's services catalog include services that state entities may leverage to supplement project managers, subject matter experts for technical, organizational and process domains, and consultants, as needed to ensure project success.

## Effective Project Oversight and Risk Management

CDT views its statutory project oversight responsibility as a critical enabler of project success. However, CDT and its customers have identified numerous opportunities to improve how and when that oversight occurs. Project Oversight is a critical component of project delivery and improves planning, quality, value, and the likelihood of success of technology projects. CDT staff partners with each department to provide "guardrail" services and enhance risk management by leveraging statewide experience to coach and guide departments through the many challenges state projects often face.



The Commission on Teacher Credentials (CTC) has leveraged CDT project managers to help successfully deliver their Streamline and Strengthen Accreditation Process (SSAP) project. This project is designed to strengthen and inform the Commission's decision making process and greatly reduce documentation required for the accreditation process. CDT resources have been a critical success factor for all aspects of the project.

## Did You Know?

*CDT has developed guidance and tools to support statewide technology projects.*

*"Understanding Agile" is the first release of a three-par series on Agile. It features agile principles, values, and recommendations based on best practices. This resource and others are available at:*

*[www.projectresources.cio.ca.gov/Agile/index.html](http://www.projectresources.cio.ca.gov/Agile/index.html)*

*Project management videos are available to everyone on a variety of topics*

*[www.cio.ca.gov/opd/project\\_academy](http://www.cio.ca.gov/opd/project_academy)*





## Business Focused Architecture

When identifying business problems and crafting process and technical solutions to address them, state entities often look only within their own organizations. This has produced redundant processes and technologies that do not best meet the needs of the state as a whole. State entities have recently renewed their focus on collaboration to establish consistent and integrated processes, share information, and share or reuse existing state technology. As a result, the state is seeing better outcomes for residents and wiser technology investments. Today, 37 percent of applications within the state provide data to other applications, though only 18 percent share technical services with other applications. Although these numbers demonstrate progress in effective collaboration and coordination, they must continue to improve to provide services and information to the state's residents, businesses, and workforce when it is most needed to make the wisest decisions. In 2017, the state expects 40 percent of applications to provide data to other applications and 20 percent to share technical services with other applications.

## Coordinated Planning Across Government

With the passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015, the state found itself in need of new programs, business processes, and technology to implement the legislation. This Act involves many state entities, including:

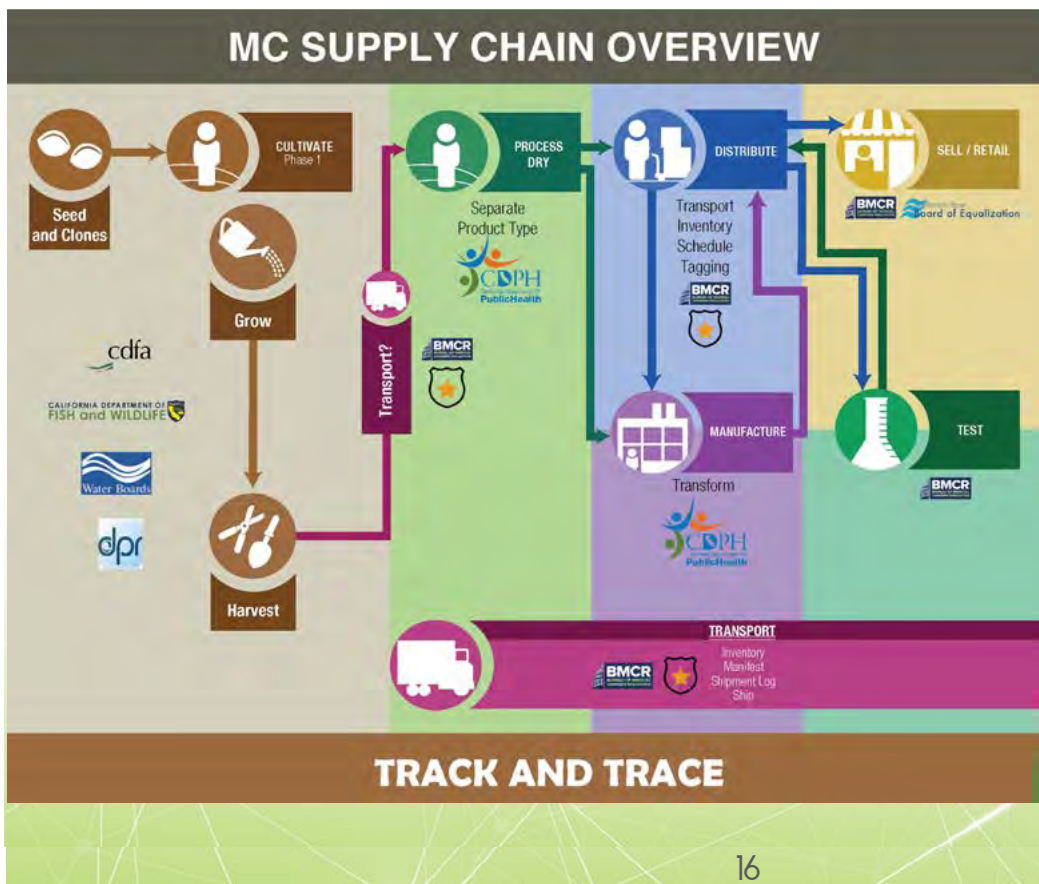
**Department of Consumer Affairs**, through the new Bureau of Medical Cannabis Regulation, acts as the lead agency and is responsible for licensing Transporters, Dispensaries, Distributors, and Testing laboratories.

**Department of Food and Agriculture** is responsible for Cultivation and the lead for the Track and Trace system with the assistance of the Bureau of Medical Cannabis Regulation.

**Department of Public Health** is responsible for licensing manufacturers.

**Other state entities** involved in this effort include Department of Finance, Board of Equalization, Franchise Tax Board, California Highway Patrol, Department of Fish and Wildlife, State Water Resources Control Board, and Department of Pesticide Regulation.

These new roles required each organization to create business processes and update technology systems to support new responsibilities. To assist with the necessary coordination and to ensure statewide alignment of



processes and technology, the state entities involved and CDT created a cross-functional and cross-agency team. The team met in a dedicated shared work space that allowed participants to craft a statewide architecture for the medical cannabis business, information and technology. This architecture represents the blueprints for how the state will coordinate the activities, movement and information sharing of information across all the involved state entities. The participants have found this to be incredibly useful as it ensured alignment of their approaches and optimized state assets, including industry knowledge, technology and innovative approaches.

## Innovative Approach to Project Delivery and Procurement

The state has made great strides in reducing risk in project delivery and ensuring successful business functionality. Some projects have relied on mature, existing approaches, while others look to innovative approaches to achieve success. Through partnerships that span state and federal government entities and vendor communities, a couple of projects have focused on the delivery of solutions with smaller scopes, shorter schedules and closer alignment of payment to benefits. These changes in the way the state procures technology solutions are yielding new interest from small companies that want to work with the state, but historically faced difficulty meeting the large number of requirements and taking on the associated risk. Smaller vendors with smaller solutions or teams of highly qualified individuals now can participate and propose solutions that would not have been eligible for consideration before.

The results have been rewarding – the number of responses to competitive procurements has grown by 20 percent, which gives the state a better range of approaches to evaluate for solving its most important business needs. From Agile development based on defined user stories, to contracting and only paying for small, fully-tested optimizations of business functionality, California can expect more value from IT projects – higher alignment with specific business needs and lower project risk.

### Benefits-based Contracting Approach: Enterprise Data to Revenue

The State's Franchise Tax Board Enterprise Data to Revenue (EDR) project has leveraged a variety of project methodologies to modernize the legacy systems that support its most critical revenue-generating functions. The EDR project has made operations more efficient, improved customer service, increased self-service functions for taxpayers and bolstered transparency. It also has generated more revenue, an estimated \$4.7 billion in additional revenue over the project period and \$1 billion a year going forward. The project's IT vendor contract was structured as a shared risk and reward contract, which enabled the project to be entirely funded by the benefits it created. In other words, no outlay of cash was required by the state to fund the project.

The success of the project has been attributed to many factors. Most notably, the alignment of the vendors' benefits to the state's needs, enabling both entities to work closely toward shared goals, and effective state-vendor collaboration and knowledge transfer. Rigorous planning at the beginning of the project, as well as at the start of each new project phase to confirm goals, objectives roles and responsibilities, also contributed to its success. The project kicked off on July 1, 2011 and was completed on December 31, 2016.



CDT, in partnership with the Department of General Services, established a Vendor Advisory Council which brings together a cross-section of over 30 vendors to weigh in on IT procurement, the state's services portfolio, emerging initiatives, as well as other relevant topics. This council represents a variety of businesses of all sizes and industries – from system integrators to telecom companies. The council formally kicked off its first meeting on September 1, 2016.

## EDR Project Components

1

**New Return Processing System.** Automated processes with real-time validation, data capture and fraud detection for personal income tax and business entity returns.

2

**Improved Analytics.** Centralized warehouse making data accessible to legacy systems, users and enterprise data modeling mart.

3

**New Self-Service Options for Taxpayers and Representatives using the MyFTB website.** Secure access to online tax information and services, such as viewing returns, payments, withholding, chat, send message and much more.

4

**Business Improvements.** Correspondence imaged and routed electronically allowing for efficient case assignment and processing of work.

5

**Improved Legacy Systems.** Improved notices for taxpayers and enhanced enforcement tools for collection staff.

The EDR Project has **generated over \$2.8 billion** over a 4 year period.

*The five major components of Franchise Tax Board's Enterprise Data to Revenue Project*

## Did You Know?

*In 2016, a partnership between the California Health and Human Services Agency, Office of Systems Integration (OSI), Department of General Services (DGS) and CDT created the Agile Development Prequalified Vendor Pool which increases state entities access to competent, user-centered Agile development resources while reducing solicitation time and cost. To prequalify for the pool, vendors were required to demonstrate their team's capabilities and processes through the delivery of a working digital service prototype. In early 2017, CDT, in partnership with OSI, will issue a solicitation to refresh the Agile Development Prequalified vendor pool.*

### **Incremental Legacy Modernization: Debt Management System**

The State Treasurer's Office Debt Management System (DMS) is the official book of record for the state's debt and is integral to the Treasurer's (STO) debt management program. The existing system is used to track the state's outstanding debt, calculate debt service payments, validate the authority to issue debt, and monitor certain trustee functions.

The DMS II project awarded a contract in May 2016 to modernize the legacy system and enable adaptation of evolving business needs, increase system functionality, and enhance supportability and flexibility. Instead of the common "rip and replace" approach or large single-vendor project, STO is contracting for smaller discrete efforts called "Optimization Initiatives," each of which will deliver working and tested system enhancements.

Each initiative adds immediate value to the existing system, limiting overall project risk. This strategy is in line with project best practices highlighted in the State of California Recommendations to Improve Large Information Technology Procurements: *A Roadmap for Success in California - Taskforce on Reengineering IT Procurement for Success, August 2013*. As of 2016, STO is in the process of completing its first Optimization Initiatives. The project is scheduled to be completed by December 2018.

### **Agile and Modular Procurement: Child Welfare Services New System**

The Child Welfare Services New System (CWS-NS)<sup>4</sup> project was initiated to improve the state and local counties ability to serve at-risk children. The new system will support evolving child welfare programs, business processes and legislatively-mandated improvements focused on protecting the safety of children and families. The project is leveraging a modern approach for product design, development, and continuous improvement including:

**Modular Procurement** – Developing the project as a collection of smaller projects rather than a single monolithic, one-time solution which reduces the reliance on a single vendor and ensures utilization of open technology standards.

**Agile Development Methodology** – Uses rapid software prototyping and development, user-centered design, and continuous improvement concepts to develop minimum viable products.

**Open Source Technology** – Developing non-proprietary code that can be modified or extended by the state, and can be freely shared with other organizations to quickly provide working functionality.



# PROVIDING SUSTAINABLE AND EFFICIENT BUSINESS ENABLEMENT SERVICES

California's IT services are critical to the business of government – from health care to fighting fires to protecting our environment. Enabling these mission-critical services requires a highly capable workforce and the use of innovative technology without exposing the state to excessive risk. The State of California is focused on maintaining and enhancing the expertise and relevance of our IT professionals through education, knowledge sharing and communities of interest. Additionally, scalable and flexible IT capabilities in the form of services allows California's leaders to spend more time focusing on business needs rather than on technical needs. The increase in operational continuity, agility and interoperability, coupled with a lower level of risk for state entities has enabled California to keep pace with the ever-changing demands of doing business.

## Developing the Next Generation IT Workforce

The size and complexity of California requires knowledgeable IT professionals to support a 21st century government and beyond. The California Department of Human Resources (CalHR) reports that approximately 40% of the state's workforce will be eligible to retire in the next five years; in the coming year alone, they estimate 5-10% will retire, many in senior executive positions. The challenge puts a priority on recruiting, retaining, and building the capabilities of the state's greatest resource – its employees. CDT and its IT education partners throughout the state are championing the development of education and leadership programs to augment the wide variety of courses offered via classroom and eLearning environments to meet the dynamic needs of government IT professionals.

The successful Information Technology Leadership Academy (ITLA) is addressing the expected loss of IT leadership by grooming the next generation of senior executives. ITLA is critical to sustaining and maturing the state's IT workforce, while planning for leadership's successors. Students complete 15 courses including executive interview and presentation skills, legislative budget process for leaders, political skills and leadership branding and are exposed to some of the most respected executives in the state. Since ITLA's inception, 575 IT professionals have graduated; of those approximately 30 graduates have gone on to become Chief Information Officers of state departments, with many others promoting to other senior ranks within the state workforce.

In 2016, CDT hosted 1,435 state IT staff at its Training and Education Center for a variety of training sessions. This year, 13 new course offerings were added to CDT's training curriculum from virtualized infrastructure management to mainframe operations. CDT also offered a number of complimentary informational and educational seminars as part of its Project Academy Series, a sequence of seminars to help prepare the state IT workforce to deliver successful projects.

## ITLA won 2016 Best of California Award for the Most Innovative IT Workforce Initiative



The California Public Employees' Retirement System (CalPERS) has launched an initiative that provides a professional skills repository and networking site named illuminet (from "illuminate" and "network"). The voluntary repository enables project leaders to find skillsets that they need from across the organization, and participants are able to request a mentor that closely matches their own skills and interests. The tool is currently rolled out across CalPERS' IT branch and is targeted for expansion to the rest of the organization.

# CalCloud has on-boarded



customer organizations.



**Mission** - Offering cost-effective cloud solutions that provide state entities, local governments, and educational institutions with convenient, on-demand access to a shared pool of configurable resources.



### Customer Benefits

- Lower Cost Model
- Rapid Availability
- Secure Hosting
- Multiple Service Offerings
- Technology Recovery
- No Capital Expenditures
- Improved Flexibility

## Sustainable Approach to Technology Delivery

In an increasingly digital era, state government and consumers of IT services expect greater agility and increasing returns on their technology investments. They want modern, reliable, secure, cost-effective and innovative solutions for the people and organizations they serve. Cloud technologies continue to be a primary focus due to their:

- Rapid provisioning of technologies to match changing program needs
- Minimization of upfront capital costs
- Better control of financial risks
- Reduced security concerns or other limitations

CalCloud has enabled rapid acquisition of products by leveraging pre-existing contracts and moving the responsibility of uptime, upgrades and security to vendors. Through CalCloud, CDT is establishing a channel between IT service providers and business partners to provide opportunities to meet program needs in more ways than currently possible.

CalCloud<sup>5</sup> currently offers access to cloud-based software solutions hosted by private service providers in five areas – Project and Portfolio Management, IT Service Management, Customer Relationship Management, Email, and Office Productivity – and is expanding to other lines of business such as offsite backups, disaster recovery, and digital / e-signatures.

CDT is also expanding existing “as-a-service” offerings including Infrastructure as a Service (IaaS), Platform as a Service (PaaS) and Software as a Service (SaaS). This places greater emphasis on delivering the highest quality business value to customers while keeping the underlying technologies transparent, ubiquitous and interchangeable. This model provides scalability, allowing customers to leverage services when needed, and affords the opportunity to consolidate services that allow for a proportionate saving in costs gained by increased productivity. CDT and the Department of General Services partnered to further this approach by developing policy that requires all state entities to use commercially available SaaS services provided through CDT for office productivity tools, ensuring that the state maximizes the benefits of these services.



The benefits of selecting Cloud Computing to deliver information technology services

## Transition to CalCloud

The California Department of Corrections and Rehabilitation (CDCR) implemented its Business Information Solution (BIS), an enterprise-wide system that streamlines the Department's administrative processes including financial reporting, supply chain, and human resources management. CDCR subsequently decided to migrate BIS to CalCloud, the state's primary Cloud platform.

To facilitate this transition, CDCR and CDT leadership invested state staff resources to execute this migration and establish a capable team of experienced individuals that can be used for all future migrations to CalCloud. This project employed a first-of-its kind recruitment and training methodology for state staff to accomplish a large system migration, yielding an organic and sustainable capability within the state.

***“Rather than seek out vendors to get these different skillsets, we built out the capability to do it ourselves.”***

– Paul Smith (CDCR)

## Protecting the Public from Environmental Hazards

The California Department of Toxic Substances Control commenced development of an online portal where authorized users can access information about chemicals in consumer products. The project, centered on the Safer Consumer Products Information Management System (CalSAFER), complies with California's 2013 Safer Consumer Products regulation which requires manufacturers to seek safer alternatives for harmful chemical ingredients. The portal provides a searchable database of chemicals to help consumers and businesses identify what is in the products they buy for their families and customers. Now in 2016, the project is more than 90% complete.

Additionally this year, California Environmental Protection Agency (CalEPA) released a new Environmental Complaint System, a platform for the public to report environmental concerns. The application uses geolocation technology and provides users the ability to upload pictures, videos, and documents. Depending on the nature of the concern, complaints can be investigated by one of CalEPA's boards or departments or routed to one of the 400+ state or local agencies responsible for investigation. The tool provides CalEPA with greater ability to address and track environmental concerns reported into the system and to identify trends and clusters of concern.

## ENDNOTES

- 1 California Health & Human Services Agency, Data Playbook, website, <https://github.com/chhsdata/dataplaybook>
- 2 California Department of Technology, Technology Letters, Technology Letter 16-09, website, [http://www.cio.ca.gov/Government/IT\\_Policy/TL.html](http://www.cio.ca.gov/Government/IT_Policy/TL.html)
- 3 California Department of Technology, IT Project Oversight and Consulting Division, IT Project Tracking, website, [http://www.cio.ca.gov/Government/IT\\_Policy/IT\\_Projects/](http://www.cio.ca.gov/Government/IT_Policy/IT_Projects/)
- 4 Child Welfare Services/Case Management System, website, <https://www.hwcws.cahwnet.gov/default.asp>
- 5 California Department of Technology, Office of Technology Services, CalCloud, website, <http://www.servicecatalog.dts.ca.gov/services/cloud/calcloud/calcloudoverview.html>
- 6 State of California Sustainable Buildings, website, <http://www.greenbuildings.ca.gov/>



To support the governor's energy conservation goals, the state has reduced its power utilization efficiency in large data centers to 2.06 (compared to an ideal value of 1.0) with plans to increase that efficiency to 1.5 in 2017.

## Did You Know?

You can track state departments' progress towards Governor Brown's [Executive Order B-18-12](#) to shrink the environmental impact of the state's buildings and save taxpayer dollars at [\*\*greenbuildings.ca.gov\*\*](http://greenbuildings.ca.gov)<sup>6</sup>. The site reports on efforts to reduce 20% of grid energy use by 2018 and reduce 20% of water usage by 2020.

Additionally a partnership between CalEPA and the Governor's Office created the California Climate Investments online tool, which informs the public on how funds from California's climate and energy programs are being spent.





California  
**DEPARTMENT OF TECHNOLOGY**

1325 J Street, Suite 1600 • Sacramento, CA 95814  
Phone: (916) 319-9223

**DECLARATION OF SERVICE BY ELECTRONIC MAIL**

**Case Name:**        **HNHPC, Inc. v. The Department of Cannabis Control**

**Case No.:**        **30-2021-01221014-CU-WM-CJC**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

On November 23, 2021, I served the attached:

**DECLARATION OF ETHAN TURNER IN SUPPORT OF MOTION TO QUASH  
NOTICE OF DEPOSITION AND REQUEST FOR DOCUMENTS**

by transmitting a true copy via electronic mail addressed as follows:

Jeff Augustini, Esq.  
Law Office of Jeff Augustini  
**jeff@augustinilaw.com**  
*Counsel for Plaintiff/Petitioner*

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on November 23, 2021, at Sacramento, California.

N. Clark



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Declarant

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Signature