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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ALTERNATIVE COMMUNITY HEALTH)
CARE COOPERATIVE, INC., a not-for-profit)
cooperative corporation doing business as)
CLOUD 9 COOPERATIVE; LIGHT THE WAY,)
a mutual benefit non-profit collective; MOTHER)
EARTH'S ALTERNATIVE HEALING)
COOPERATIVE, INC., a not for profit)
cooperative corporation; AMERICAN)
TREATMENT ADVANCEMENT)
COOPERATIVE, INC., a mutual benefit non-)
profit cooperative corporation; JOY)
GREENFIELD, an individual,)

Plaintiffs/Petitioners,)

vs.)

ERIC HOLDER, Attorney General of the United)
States; MICHELLE LEONHART, Administrator)
of the Drug Enforcement Administration;)
LAURA DUFFY, U.S. Attorney for the Southern)
District of California; and DOES 1 through 10,)
inclusive,)

Defendants/Respondents.)

Case No. 3:11-cv-02585-DMS-BGS

**DECLARATION OF RICK DOBLIN IN
SUPPORT OF PLAINTIFF'S PETITION
FOR TEMPORARY RESTRAINING
ORDER/ PRELIMINARY INJUNCTION**

1 I, RICK DOBLIN, hereby declare

- 2 1. I am an adult, over the age of 18 years, and am fully competent to make this
3 declaration. I have personal knowledge of the matters set forth in this declaration, except for
4 those stated on information and belief. As to those facts, I believe them to be true. If called
5 upon to testify, I could and would testify competently to the truth of each matter stated in this
6 declaration.
- 7 2. I obtained a psychology degree from New College of Florida in 1987 and earned a
8 doctorate in public policy from the Kennedy School of Government, Harvard University in
9 2001. My dissertation (Public Policy, Harvard's Kennedy School of Government) was on
10 "The Regulation of the Medical Use of Psychedelics and Marijuana," and my 1990 master's
11 thesis (Public Policy, Harvard's Kennedy School of Government) focused on the attitudes and
12 experiences of oncologists concerning the medical use of marijuana. I am also the executive
13 director and founder of the Multidisciplinary Association for Psychedelic Studies ("MAPS"),
14 a non-profit organization sponsoring medical cannabis research to develop the cannabis plant
15 into an FDA-approved prescription medicine, smoked or vaporized.
- 16 3. The federal government regulates studies on medical cannabis with lengthy and
17 expensive requirements not applied to any other controlled substance.
- 18 4. All clinical research utilizing controlled substances on human patients under an
19 Investigational New Drug ("IND") application must be approved by the Drug Enforcement
20 Administration ("DEA"), the US Food and Drug Administration ("FDA"), and an
21 Institutional Review Board ("IRB").
- 22 5. Since 1999, however, cannabis research protocols, unlike any other protocols, must
23 additionally receive scientific merit approval from the Public Health Service ("PHS"). No
24 other controlled substance research protocol requires PHS review. The policy underlying
25 PHS review purports to facilitate further research.
- 26 6. Before a researcher can seek DEA, FDA, and PHS approval of a new study, the
27 National Institute on Drug Abuse ("NIDA") must decide whether it has sufficient cannabis

1 available to provide, at cost, to the study. NIDA is the monopoly provider of cannabis, but no
2 other controlled substance, for medical research in the United States.

3 7. DEA permits only a single provider to produce cannabis for clinical research. Since
4 1968 the sole grantee of the contract has been the National Center for Natural Products
5 Research ("NCNPR") at the University of Mississippi which provides cannabis under contract
6 to NIDA.

7 8. The cannabis provided by NIDA is often of substandard quality and in some cases is
8 not representative of medical cannabis. Cannabis provided by NIDA can be a crude mixture
9 of leaf, stem, and seed components which are undesirable for medical studies.

10 9. NIDA on two occasions has denied applications from MAPS-sponsored researchers
11 seeking to purchase medical cannabis, even after researchers obtained FDA approval and the
12 consent of IRBs for their protocols. Between June 2003 and August 2009, when it gave up, a
13 DEA-licensed analytical laboratory working for the pharmaceutical industry was repeatedly
14 rejected by NIDA in its attempts to purchase 10 grams of cannabis for MAPS-sponsored
15 research with vaporized cannabis. Most recently, on September 16, 2011, NIDA rejected an
16 application to purchase cannabis for a MAPS-sponsored FDA-approved study seeking to treat
17 fifty veterans with chronic treatment-resistant post-traumatic stress disorder.

18 10. Intending to provide an adequate and reliable supply of research-grade cannabis
19 without having to undergo the obstructionist NIDA review process, University of
20 Massachusetts at Amherst professor of plant and soil sciences Lyle E. Craker, PhD, applied to
21 the DEA in 2001 to be a private cultivator of cannabis for medical research, under contract to
22 MAPS. Professor Craker's application was based on the Controlled Substances Act provision
23 that that DEA shall register manufacturers of Schedule I substances if it is in the public
24 interest and in accordance with international treaties.

25 11. DEA initially claimed to have lost the application, and subsequently delayed in
26 responding Professor Craker's request for three and a half years.
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12. Professor Craker sued DEA for its three-and-a-half-year delay and the Court of Appeals in the District of Columbia ordered DEA to respond. DEA then issued an Order to Show Cause rejecting Professor Craker's application. DEA based its rejection on several points, claiming that an international treaty called the Single Convention on Narcotics of 1961 ("Single Convention") requires research cannabis to come only from a government-funded source, that approval would not be in the public interest because cannabis is the most heavily abused of all Schedule I substances, and that smoked cannabis is not an acceptable form of delivery for any potential cannabis medication.

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13. In August 2005 a DEA administrative hearing took place to review DEA's Order to Show Cause. After a lengthy presentation of evidence, evaluation of testimony, and review of applicable regulations, DEA Administrative Law Judge Mary Ellen Bittner issued a final decision in February 2007. Judge Bittner recommended that it would be in the public interest that Professor Craker be granted permission to grow and produce research-grade cannabis for federally-regulated research.

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14. Judge Bittner reasoned in her decision that registering Professor Craker would not violate the Single Convention, that the cannabis grown by Professor Craker was not likely to be diverted, and that the existing supply of cannabis is not adequate as some DEA- and FDA-approved researchers are prevented from obtaining the cannabis needed for research. Judge Bittner further stated that the NIDA contract does not provide adequate competition.

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15. Should Professor Craker be licensed by DEA, NIDA would have no role to play in reviewing FDA-, DEA-, and IRB-approved research protocols conducted using cannabis produced by Professor Craker, similar to all other scheduled drugs produced by DEA-licensed manufacturers.

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16. DEA Deputy Administrator Michele Leonhart, after delaying for almost two years after Judge Bittner's February 2007 recommendation, in January 2009, six days before President Obama was inaugurated, rejected Judge Bittner's recommendations and ruled to deny Professor Craker's request. The ruling was based in part on evidence not submitted or

1 heard at the administrative hearing. A motion for reconsideration was filed by Professor
2 Craker on the basis of this defect.

3 17. Despite rejecting Professor Craker's application to cultivate research-grade cannabis,
4 DEA granted NCNPR an additional license to grow cannabis for natural extraction of THC,
5 the primary active ingredient in the cannabis plant, for sale to Mallinckrodt, a division of
6 pharmaceutical company Coviden, for generic Marinol (the oral THC pill). NCNPR's
7 separate permit makes it the only legal grower of cannabis for commercial purposes.

8 18. NCNPR's contract as the sole producer of research cannabis, in conjunction with its
9 license to cultivate cannabis commercially for an inferior product that would compete
10 unsuccessfully with the cannabis plant, creates a conflict of interest. Dr. Mahmoud ElSohly,
11 principal investigator of the NCNPR cannabis program, was the only person to file an
12 objection to the licensing of Professor Craker. This monopoly on the provision of cannabis
13 allows NIDA to control the supply and Dr. ElSohly to control the price of cannabis, for
14 research as well as for potential prescription use.

15 19. DEA states that the federal government is open to cannabis research and claims that
16 the supply of research-grade cannabis is limited by the Single Convention. In May 1999
17 Health and Human Services issued guidance statement regarding the sale of its cannabis to
18 privately-funded researchers, stating "the purpose of clinical trials of smoked marijuana
19 would not be to develop marijuana as a licensed drug, but such trials could be a first step
20 towards the development of rapid-onset, nonsmoked cannabinoid delivery systems."

21 20. In late October 2011, Drug Czar R. Gil Kerlikowske stated the White House "ardently
22 support[s] ongoing research into determining what components of the marijuana plant can be
23 used as medicine." Once again the federal government is willing to provide the cannabis
24 plant only to researchers willing to study components of cannabis rather than the plant itself,
25 smoked or vaporized.

26 21. On August 15, 2011, DEA rejected Judge Bittner's recommendation to approve
27 Professor Craker's application to cultivate cannabis and opted instead to protect the NIDA

1 monopoly. In doing so, DEA rejected a statutory exemption for researchers in the Single
2 Convention, disregarded a judicial determination that the exemption was valid and applied to
3 Professor Craker, and ignored the fact that the National Cannabis Agency in the United
4 Kingdom (also a signatory to the Single Convention) licenses a privately-funded production
5 facility to produce, possess, and research cannabis and its components.

6 22. It is hypocritical that the federal government claims to be open to medical cannabis
7 research while simultaneously obstructing privately-funded FDA-approved research designed
8 to develop the marijuana plant into an FDA-approved prescription medication. The federal
9 government has fundamentally obstructed access to research cannabis for researchers seeking
10 to develop the plant itself into a prescription medicine and has subjected privately-funded
11 studies of cannabis to redundant and biased review not required of any other controlled or
12 uncontrolled substance. No sponsor of research can invest the many millions of dollars
13 required to develop cannabis as an FDA-approved medicine without an independent source
14 supplying the cannabis they seek to test and market for prescription use.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed: November 7, 2011

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