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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**04/05/2021** at 08:28:00 PM  
Clerk of the Superior Court  
By Kristin Sorianosos, Deputy Clerk

6 Attorneys for Plaintiffs  
SAN DIEGO PATIENTS COOPERATIVE CORPORATION, INC., *and*  
7 BRADFORD HARCOURT

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO**

10  
11 SAN DIEGO PATIENTS COOPERATIVE )  
CORPORATION, INC., a California )  
12 cooperative corporation, and BRADFORD )  
HARCOURT, an individual, )

13 )  
14 ) Plaintiffs, )

15 ) v. )

16 RAZUKI INVESTMENTS, L.L.C., a )  
California limited liability company; )  
17 BALBOA AVE COOPERATIVE, a )  
California cooperative corporation; )  
18 AMERICAN LENDING AND )  
HOLDINGS, LLC, a California limited )  
19 liability company; SAN DIEGO UNITED )  
HOLDINGS GROUP, LLC, a California )  
20 limited liability company; CALIFORNIA )  
CANNABIS GROUP, a nonprofit mutual )  
21 benefit corporation; SALAM RAZUKI, an )  
individual; NINUS MALAN, an individual, )  
22 KEITH HENDERSON, an individual, AND )  
DOES 1-20, INCLUSIVE, )

23 )  
24 ) Defendants. )  
25 )

Case No. 37-2017-00020661-CU-CO-CTL

**PLAINTIFF SAN DIEGO PATIENTS  
COOPERATIVE CORPORATION, INC'S  
OPPOSITION INTERVENOR AMY  
SHERLOCK'S EX PARTE APPLICATION  
TO INTERVENE**

Date: April 6, 2021  
Time: 8:30 a.m.  
Dept.: C-67

Honorable Eddie C. Sturgeon, Dept. C-67

Complaint Filed: June 7, 2017  
Trial Date: All Proceedings Stayed

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1 Plaintiffs San Diego Patients Cooperative Corporation, Inc. and Brad Harcourt  
2 (collectively, “SDPCC” or “Plaintiffs”) submits this Opposition to the *ex parte* application of  
3 Amy Sherlock (“Ms. Sherlock”) to intervene in the above-captioned action:

4 **I. SUMMARY OF PLAINTIFF’S POSITION**

5 Plaintiffs have been in active, often arduous, litigation since 2017. Now, on an *ex parte*  
6 basis in 2021, Ms. Sherlock seeks to introduce new claims on behalf of her late husband who  
7 passed on December 3, 2015. These claims, to the extent that Ms. Sherlock would have standing  
8 to assert them or would avoid obvious statute of limitations issues, should not be entered into the  
9 instant matter.

10 Ms. Sherlock alleges that a fraud occurred, presumably, in late 2015. Based upon this she  
11 seeks interest in a Conditional Use Permit (“CUP”) without any evidence of any underlying  
12 fraud other than a February 2020 report commissioned by her attorney that concluded that  
13 documents that were signed and recorded many years ago were allegedly forged. (*See*,  
14 [Proposed] Complaint at Ex. A) Purportedly on her husband’s behalf, she seeks possession,  
15 control or ownership of multiple CUP’s. These claims, to the extent that they can be understood,  
16 involve an entirely different timeline, events and evidence than those involved in the instant  
17 matter.

18 CUP’s run with the real property attached to it. (*San Diego Muni. Code*, §  
19 126.0302(c)) The instant action is primarily a breach of contract, breach of lease and fraud  
20 action. Transfer of the Balboa Property and its CUP is not directly at issue in this matter. It is  
21 being handled within the matter *Razuki v. Malan*, San Diego Court Case No. 37-2018-00034229-  
22 CU-CO-CTL (“*Razuki v. Malan*”).

23 Ms. Sherlock has not demonstrated that she is seeking relief regarding interests that exist  
24 for her within this action. Further, based upon the status of this matter, the progression of this  
25 matter and the complexity of this matter, intervention would dramatically change and enlarge  
26 this action. Even further, Ms. Sherlock’s application has fatal procedural and substantive flaws.  
27 Therefore, this application should be denied.

28

1 **II. SHERLOCK PROVIDED INADEQUATE NOTICE REGARDING**  
2 **THE RELIEF SOUGHT**

3 California Rule of Court 3.1204(a) provides that a person giving notice of an *ex parte*  
4 application must directly state, with specificity, the nature of the relief to be requested, the date,  
5 time, and place for the presentation of the application and attempt to determine whether the  
6 opposing party will appear to oppose the application. Ms. Sherlock did not adhere to these  
7 guidelines. Attorney for Ms. Sherlock, passively filed her application without any notice or  
8 forewarning to Plaintiffs, and did not seek to determine whether Plaintiffs would appear to  
9 oppose the application.

10 Notwithstanding these formalities, Ms. Sherlock seeks relief that is not appropriate for  
11 determination on an *ex parte* basis. As the Court is overwhelmingly aware, this matter, as well  
12 as other litigation resulting from the use and operation of the Balboa property and other  
13 properties, is extraordinary complicated. The Court is also aware that a number of parties may  
14 choose to take a position with regard to the relief sought by Ms. Sherlock in this action, in the  
15 action *Razuki v. Malan* and possibly others. The present action has been pending since June 7,  
16 2017 and is currently deemed stayed per the Court’s online docket. There is no emergent need  
17 for Ms. Sherlock to intervene in this matter on an *ex parte* basis.

18 Ms. Sherlock has waited many years before making her request to intervene. This  
19 application should be denied as she failed to satisfy the bare minimum requirements of CRC  
20 3.1204. Alternatively, pursuant to CRC 3.1202(c) as Ms. Sherlock has not made an affirmative  
21 showing of irreparable harm or immediate danger to have these issues addressed on an *ex parte*  
22 basis, her application also fails. In addition, and as discussed below, Ms. Sherlock’s application  
23 lacks satisfactory substantive merit for intervention. Therefore, her application must fail.

24 **III. MS. SHERLOCK IS NOT ENTITLED TO MANDATORY**  
25 **INTERVENTION**

26 Ms. Sherlock cites California Code of Civil Procedure § 387(d)(1) as authority for the  
27 proposition her asserted position that “intervention is mandatory when if [sic] the intervenor can  
28 claim an interest relating to the property or transaction that is the subject of the action.”  
(Motion, Memorandum of Points and Authorities (“Motion”) at pg. 4 lns. 3-5). Ms. Sherlock

1 defines her “protectable interest” in the instant action as “the CUPs for medical marijuana  
2 outlets located at 8863 Blaboa [sic] Avenue Suite E, San Diego California 92123” (Motion at pg  
3 5, lns. 3-5). However, Ms. Sherlock neither shows that 1) she, on behalf of her late husband,  
4 would have a protectable interest in “the CUPs”; nor 2) that “the CUPs” referenced are the  
5 subject of this action.

6 CUP’s run with the land. (*San Diego Muni. Code*, § 126.0302(c)) The Balboa property  
7 has been approved for sale in a separate, non-consolidated action, *Razuki v. Malan*. The  
8 immediate rights to the Balboa property, and the attached CUP, are not being determined within  
9 this action. Plaintiffs have no direct standing with regard to the sale of such assets. Therefore,  
10 the purported protectable interest of Ms. Sherlock is not being affected by this action. .

11 Further, Ms. Sherlock’s theory of entitlement to a stake in the sale of the Balboa  
12 property and/or CUP is unclear. Ms. Sherlock’s alleges that her late husband was defrauded  
13 before his passing in 2015. The crux of the Plaintiffs’ Complaint is that they had their access to  
14 the operation of the Medical Marijuana Consumer Cooperative (“MMCC”) at the Balboa  
15 property limited, if not eliminated, years ago. (*See*, Complaint). Since that time, the MMCC has  
16 been operated by a number of parties. It is unclear how Plaintiffs could gain access, themselves,  
17 to the operation of the MMCC from this lawsuit, let alone confer that access to Ms. Sherlock  
18 based upon her legal theories. Additionally, although not a party to that action, it is Plaintiff’s  
19 position that intervention would also be improper in *Razuki v. Malan* for many of the same  
20 reasons referenced in this opposition

21 **IV. MS. SHERLOCK IS NOT ENTITLED TO DISCRETINARY**  
22 **INTERVENTION**

23 A court has the discretion to permit intervention if 1) the nonparty has a direct and  
24 immediate interest in the litigation; 2) the intervention will not enlarge the issues of the case;  
25 and 3) the reasons for intervention outweigh any opposition by the existing parties. *Code Civ.*  
26 *Proc.*, § 387(d)(2)’ *Reliance Ins. Co. v. Sup.Ct. (Wells)* (2000) 84 Cal.App.4th 383, 386. Ms.  
27 Sherlock cannot satisfy any of these elements.

1           There is no direct and immediate interest of Ms. Sherlock to assert her claims. *US*  
2 *Ecology, Inc. v. State of Calif.* (2001) 92 Cal.App.4th 113, 140. In her [Proposed] Complaint,  
3 Ms. Sherlock seeks under a First Cause of Action quiet title, presumably to an interest in the  
4 CUP, associated with the Balboa Property. The CUP is a permit that runs with the land which is  
5 not itself real property. The sale of Balboa is not within the confines of this case. Ms. Sherlock  
6 also alleges causes of action entitled “Fraud”, “Constructive Fraud” and “Unjust Enrichment”.  
7 Her claims, presumably asserted on behalf of her late husband who passed in 2015, involve an  
8 entirely different set of facts and an entirely different timeline than the instant matter.

9           The introduction of issues originating prior to 2015 would substantially enlarge this  
10 action and create an entirely different trial than those related to the interactions between  
11 Plaintiffs and defendants based primarily upon interactions from 2017. There is virtually no  
12 intersection of facts demonstrated between alleged acts between Ms. Sherlock’s husband and  
13 those at issue in this matter. Furthermore, any potential claims by Ms. Sherlock against  
14 Plaintiffs or defendants, on their face, all violate applicable statutes of limitation. *Code Civ.*  
15 *Proc.*, §§ 338(d), 339(1); *Salazar v. Thomas* (2015) 236 Cal.App.4th 467, 477.

16           The Court has discretion to deny intervention if the interests of the original litigants  
17 outweigh the intervenor's concerns. Intervention should not be allowed when it would delay the  
18 principal suit, delay the trial of the action, or change the position of the original parties. *City of*  
19 *Malibu v. California Coastal Comm'n* (2005) 128 Cal.App.4th 897, 906,

20           This Court is well aware of the difficulties that have been faced managing litigation  
21 between these parties and other parties involved in *Razuki v. Malan* and various other matters.  
22 Ms. Sherlock has waited until 2021 to attempt to interject allegations that originate many years  
23 in the past. Within this matter, Plaintiffs have fought off attempts to have *Razuki v. Malan*  
24 consolidated with the instant action. The Court has tried for many months to arrange a sale of  
25 Balboa and other properties. The instant action has been pending since 2017 and was scheduled  
26 for trial in 2020 prior to the Court shutdown based upon the COVID-19 pandemic. According to  
27 Ms. Sherlock, the allegedly forged documents have been a matter of public record since  
28 “weeks” after Mr. Sherlock’s death in December 2015. (*See*, Motion at pg. 3 Ins. 18 -20).

1 Adding these claims to this action at this point would undeniably enlarge this matter at a stage  
2 that is unfair to the existing parties and this Court. Therefore, the Court should not use its  
3 discretion to enter these knowingly belated claims into this matter.

4 **V. CONCLUSION**

5 As Ms. Sherlock's application was improperly filed on an *ex parte* basis, her application  
6 should be denied.

7 Alternatively, as Ms. Sherlock's application lacks substantive merit with regard to the  
8 requirements for either compulsory or permissive joinder by the Court, her application should be  
9 denied.

10 Further, should the Court be inclined not to decline Ms. Sherlock's application, Plaintiffs  
11 respectfully request that the Court establish a briefing schedule for this issue to be fully briefed,  
12 subject to a noticed motion.

13  
14 DATED: \_\_April 5, 2021

MESSNER REEVES LLP



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Allan Claybon  
Mark Collier  
Attorneys for Plaintiffs

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**PROOF OF SERVICE**

I am employed in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within entitled action; my business address is 11620 Wilshire Blvd., Suite 500, Los Angeles, CA 90025.

On April 5, 2021, I caused to be served the foregoing documents described as: **PLAINTIFF SAN DIEGO PATIENTS COOPERATIVE CORPORATION, INC'S OPPOSITION INTERVENOR AMY SHERLOCK'S EX PARTE APPLICATION TO INTERVENE**

On the interested parties as follows:


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ELECTRONIC-SERVICE/E-MAIL: Pursuant to California Rules of Court, Rule 2.251(b)(1)(B), a court order or by consent/agreement of the parties to accept service by e-mail and/or electronic submission, I cause the above-referenced document(s) to be sent to the persons indicated above at the email address set forth above from either the Court's electronic filing service or by personal email.

BY OVERNIGHT DELIVERY [CCP §1013(a)] By placing  the original  a true copy thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of record or parties in propria persona. I caused such envelope to be deposited in the Federal Express box at 11620 Wilshire Blvd., Los Angeles, CA 90025, which is regularly maintained by Federal Express, with delivery fees pre-paid and provided for, addressed to the person on whom said document is to be served.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: April 5, 2021

  
Rachelle Arquette