

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William R. Restis 246823 The Restis Law Firm, P.C. 550 West C Street, Suite 1760 San Diego, CA 92101 TELEPHONE NO.: 619 270 8383 FAX NO. (Optional): E-MAIL ADDRESS (Optional): william@restislaw.com ATTORNEY FOR (Name): Karl Beck	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 03/01/2018 at 03:05:00 PM Clerk of the Superior Court By E- Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice	
PLAINTIFF/PETITIONER: Karl Beck DEFENDANT/RESPONDENT: Point Loma Patients Consumer Coop. Corp. et al	
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)	CASE NUMBER: 37-2017-00037524-CU-BT-CT
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: March 16, 2018 Time: 1:30 pm Dept.: C-73 Div.: Room: Address of court (if different from the address above): <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name):	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** (answer one):
 - a. This statement is submitted by party (name): Plaintiff Karl Beck
 - b. This statement is submitted **jointly** by parties (names):

2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date): 10/6/2017
 - b. The cross-complaint, if any, was filed on (date):

3. **Service** (to be answered by plaintiffs and cross-complainants only)
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):
 Defendants operated a for profit medical marijuana cooperative in violation of California's medical marijuana laws and Corporations Code. Court has sustained class causes of action for B&P 17200 (UCL), Civ. Code 1770 (CLRA), conversion, and request to appoint independent accountant per Corp. Code 12603-07.

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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*
 Plaintiff prays for class wide relief as follows: appointment of independant accountant to audit Defendants' books and records, pro rata restitution/damages to class members of concealed profits as "patronage distributions," award of litigation costs and attorneys fees per, inter alia, CLRA and Corp. Code 12607.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. The trial has been set for *(date)*:
- b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
 Trial date should not be set until after ruling on class certification and notice and opt-out to class
- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. days *(specify number)*: 7
- b. hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. E-mail address:
- f. Fax number:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

- (1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
- (2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

- (1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
- (2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

Class Action

PLAINTIFF/PETITIONER: Karl Beck DEFENDANT/RESPONDENT: Point Loma Patients Consumer Coop. Corp. et al	CASE NUMBER: 37-2017-00037524-CU-BT-CT
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

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11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case: Bobo v. PLPCC et al
 - (2) Name of court: San Diego Superior Court
 - (3) Case number: 37-2017-00037348-CU-NP-CTL
 - (4) Status: Amended complaint filed, pleadings not yet set
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):
See Attachment

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Class Certification Discovery	Motions to compel filed by	May 30, 2018
- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):
See Attachment

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17. **Economic litigation**

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. **Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

Schedule Plaintiff's Motion for Class Certification.
The parties jointly propose that Plaintiff's motion for class certification should be filed by June 30, 2018.

19. **Meet and confer**

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):
See Attachment


20. Total number of pages attached (if any): 4

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:


William R. Restis, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

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7 william@restislaw.com

8 *Attorneys for Plaintiff*

9 [Additional Counsel Listed On Signature Page]

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 **KARL BECK**, individually and on behalf of all
13 other similarly situated California residents,

14 Plaintiff,

15 v.

16 **POINT LOMA PATIENTS CONSUMER**
17 **COOPERATIVE CORPORATION**, A
18 California Corporation, **ADAM KNOPF**, an
19 Individual, **JUSTUS H. HENKES IV**, an
20 Individual, **419 CONSULTING INC.**, a California
21 Corporation, **GOLDEN STATE GREENS LLC**,
22 a California LLC, **FAR WEST MANAGEMENT,**
23 **LLC**, a California LLC, **FAR WEST**
24 **OPERATING, LLC**, a California LLC, **FAR**
25 **WEST STAFFING, LLC**, a California LLC, and
26 **DOES 1-50**,

27 Defendants.

Case No: 37-2017-00037524-CU-BT-CTL

CLASS ACTION

**PLAINTIFF'S ATTACHMENT TO CASE
MANAGEMENT STATEMENT**

Date: March 16, 2018

Time: 1:30 p.m.

Judge: Hon. Joel R. Wohlfeil

Ctrm: C-73

1 **15. Other Motions**

2 **a. Status of Pending Motions**

- 3 • Plaintiff's Motion to Compel Production of Class Member List:
4 ○ Filed: February 15, 2018
5 ○ Hearing: March 23, 2018

6 **b. Anticipated Pretrial Motions**

- 7 • Plaintiff's Motion for Judgment on the Pleadings to Defendants' Joint Answer
8 ○ On February 22, 2018, Plaintiff notified Defendants that their Joint Answer
9 (RoA # 47) was defective as many of the affirmative defenses are not "new
10 matter," are conclusory without factual support, and are not available for the
11 causes of action pled. Plaintiff requested Defendants file an amended answer
12 to correct these deficiencies to avoid motion practice. However, if
13 Defendants do not file an amended answer, Plaintiff will move for judgment
14 on the pleadings to narrow the issues in dispute.
- 15 • Summary Adjudication on Plaintiff's Inspection Rights and Entitlement to
16 Patronage Distributions Under the California Law
17 ○ In denying Plaintiff's Motion to inspect Defendants' records and appoint an
18 independent accountant, the Court found that "this Motion is procedurally
19 improper, and is denied on this basis. This denial is without prejudice of
20 Plaintiff's ability to adjudicate this important issue via any available future
21 proceeding (e.g., Motion for summary adjudication or trial). RoA # 46.

1 • Plaintiff's Motion for Class Certification¹

- 2 ○ Because the “predominance” inquiry on class certification requires a review
3 of the parties’ claims and defenses, the pleadings must be set. Thus, Plaintiff
4 will need a ruling on his motion for judgment on the pleadings to
5 Defendants’ Joint Answer (if necessary) prior to moving for class
6 certification.

7 • Summary Judgment / Adjudication

8 **16a. Anticipated Discovery**

9 • **Plaintiff's Outstanding Inspection Requests:**

- 10 ○ Identification of Class Members: (see pending motions)
- 11 ○ Corporate Documents: Corporate articles and bylaws, meeting minutes, and
12 contracts reflecting relations among defendants.
- 13 ○ Financial records from all Defendants: Financial statements (bank,
14 investment, property), tax returns and related documents, property owned,
15 corporate ledgers, loans, salaries, deferred compensation, retirement
16 contributions, gifts, costs, etc. *i.e.*, documentation for forensic accountant to
17 audit Defendants’ finances.²
- 18 ○ Mirror Images of Certain Databases: patron transaction databases from POS
19 system, bookkeeping software databases
- 20

21 ¹ During meet and confer, Plaintiff requested that Defendants stipulate to class certification to
22 narrow the issues in dispute and obviate the need for a significant portion of discovery. Defendants’
23 declined.

24 ² **Plaintiff attempted to resolve issues concerning Defendants’ finances in the most efficient**
25 **way possible: review by an independent accountant appointed by the Court. This statutorily**
26 **approved procedure would have obviated the need for formal discovery and attendant**
27 **motion practice on the issue of unlawful profits. Defendants’ steadfastly frustrated Plaintiff’s**
28 **litigation plan, and cannot now claim (as they have) that discovery into their finances is**
inappropriate or “burdensome.”

- Communications among Defendants and third parties related to finances or procuring medical marijuana
- Agreements among Defendants and contractors
- **Plaintiff's Outstanding Interrogatories**
 - Identification of ESI sources: Computers, phones, software used, databases and cloud repositories
 - Identification of employees and independent contractors
 - Identification of safe deposit boxes and safes
 - Number of putative class members
 - Form Interrogatories: basic personal and corporate information and factual basis for affirmative defenses
- **Anticipated Future Discovery**
 - Depositions: Because no documents have been produced to date, Plaintiff has been unable to notice depositions, which will include the Individual Defendants and key employees (yet to be identified).
 - Third party subpoenas: possible former employees of Defendants and entities hosting Defendants' documents such as Dropbox.
 - Requests for admissions: regarding key elements of Plaintiff's claims such as Plaintiff and the Class' entitlement to inspection rights and patronage distributions.

21 **16.c. Discovery Issues Including ESI**

22 Defendants have filed blanket boilerplate objections to each of Plaintiff's inspection
23 demands and special interrogatories. Plaintiff anticipates multiple motions to compel.

24 In addition, Defendants have frustrated Plaintiff's ability to identify sources of ESI. For
25 example, Plaintiff asked defendants to identify their computers by brand, model, and serial
26 number. With no other identification, defendant PLPCC responded that it has "[a]pproximately

1 twenty HP desktops, two HP pavilion laptops.” Plaintiff intends to move to compel identification
2 of these sources to ensure the sanctity of relevant evidence.

3 Due to the nature of the litigation, *i.e.*, Defendants’ all cash business, allegations of
4 potential criminal conduct, and Defendant Henkes’ as the book keeper / accountant for
5 Defendants’ medical marijuana business, Plaintiff is concerned about an appropriate audit trail for
6 Defendants books and records. Thus, Plaintiff has requested that all financial documentation be
7 produced in native format so meta data on files can be inspected for veracity.

8 **19.b. Party Stipulations**

- 9 • The parties will amend their stipulated protective order to include clawback
10 provision