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**FILED**  
Clerk of the Superior Court

**JUN 21 2017**

17 JUN 20 PM 4:55

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN DIEGO

11 Case No. 37-2017-00022601-CU-MC-CTL

12 OutCo Laboratories, Inc., a  
13 California corporation; Austin  
14 Birch, an individual; Downwind  
15 27, Inc., a California corporation;  
16 Renny Bowden, an individual;  
17 Stephen Lake, an individual;  
18 High Sierra Equity, LLC, a  
19 California limited liability  
20 company; Olive Tree Patients  
21 Association, an unincorporated  
22 California non-profit association;  
23 Chris Murray, an individual; LLI  
24 Holdings, LLC, a California  
25 limited liability company; Bear  
26 Flag Group, Inc., a California  
27 corporation; Darren Machulsky,  
28 an individual; T&M Real Estate  
Holdings, LLC, a Pennsylvania  
limited liability company; San  
Diego Natural, Inc., a California  
corporation; Scott Corlett, an  
individual; Management  
Resource Partners, LLC, a  
California limited liability  
company; RRR Investments,

**WRIT OF MANDATE (CCP § 1085)  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF, AND  
CONSTITUTIONAL VIOLATIONS**

1 LLC, a California limited  
2 liability company; Anthony Cioe,  
3 an individual; Andrey Shymkov,  
4 an individual; Survivormedz, a  
California corporation,

5 Plaintiffs,

6 v.

7 COUNTY OF SAN DIEGO, a  
8 California municipality; and DOES 1-  
XXX, inclusive,

9 Defendants.

10  
11 Petitioners/Plaintiffs allege as follows:

12 1. This action is brought on behalf of those responsible business  
13 individuals and entities who want to operate within the law as to forming a medical  
14 marijuana collective facility Pursuant to the procedures set forth by the County of  
15 San Diego (County). Yet, these Petitioners are prohibited from doing so because of  
16 the arbitrary and capricious actions of the County.

17 2. These Petitioners have different degrees of vested rights, but all  
18 followed these detailed procedures dictated by the County. Each expended  
19 substantial funds to meticulously follow the County rules.

20 3. On March 22, 2017, the County issued a ban on medical marijuana  
21 collectives and arbitrarily granted vested rights to some. All were told during the  
22 process that a dispensary needed to be built first, despite that all wanted to build a  
23 cultivation facility as a dispensary in the area would not sustain the economic costs  
24 of building out. Only a cultivation was economically viable, but the Petitioners  
25 relied on the representations of the County that a dispensary was a first, necessary  
26 step in the process.

1           4.     Each Petitioner would not have expended funds to operate solely a  
2 dispensary, and only did so on the representations of the County.

3           5.     Despite the expenditure of substantial funds for compliance and paying  
4 an \$11,000 operator fee to the County's Sheriff's Department, they have been  
5 denied the right to establish cultivating marijuana for medicinal purposes.  
6 Petitioners are informed the \$11,000 operating fee is increasing to \$49,000.

7           6.     The punitive measures for lawful compliance stand in stark  
8 comparison to the County's explicit lack of enforcement to abate the illegal  
9 dispensary facilities operating around them. By its actions, the County rewards  
10 unlawfulness and penalizes lawful behavior.

11          7.     The March 22, 2017 Ordinance as set forth and as implemented  
12 against Petitioners amounts to an unconstitutional taking in violation of the 5th  
13 Amendment of the United States Constitution.

14           **MEDICAL MARIJUANA COLLECTIVE FACILITIES**

15           **8157 Wing Avenue, El Cajon (Outliers Collective)**

16          8.     DOWNWIND 27, INC. ("Downwind") is a nonprofit Mutual Benefit  
17 corporation doing business under the name OUTLIERS COLLECTIVE organized  
18 under the laws of the State of California with its principal offices located at 8157  
19 Wing Avenue, El Cajon, California 92020. Downwind is a marijuana collective that  
20 facilitates and organizes transactions between members who cultivate medicinal  
21 marijuana. Austin Birch is the Chief Executive Officer of Downwind.

22          9.     OutCo Laboratories, Inc., a California corporation, is the parent  
23 company that wholly owns Outliers Management, LLC. Outliers Management is  
24 the management company who operates the Outliers Collective, with Austin Birch  
25 as its managing member. Lincoln Fish is the Chief Executive Officer of OutCo  
26 Labs and the manager of the operations at Outliers Collective.

27          10.    Austin Birch holds the operators certificate issued by the County of  
28 San Diego Sheriff's Department. The 8157 Wing Avenue location was the

1 County's first licensed collective. The building was purchased by Austin Birch and  
2 Marc Lair and turned into a dispensary with a license from the Sheriff in and  
3 around June 2015 for dispensing, cultivating and manufacturing.

4 11. The building at that location consisted of a large warehouse type  
5 structure. Building permits were sought to modify the existing structure to  
6 accommodate cultivation and manufacturing in half the building because the other  
7 portion was then tenant-occupied with an unrelated business.

8 12. Outliers Collective received approvals for its buildout and started the  
9 process in late 2015. In anticipation of operating out of the tenant-occupied portion  
10 of the building once the tenant vacated the premises, Outliers designed the buildout  
11 in a way that would meet double its needs. For instance, an upgrade to power was  
12 included for the entire building as opposed to the half then under construction for  
13 cultivation was done. Further, the collective side was designed and constructed in a  
14 way to be unified with the tenant side, like the hallway that now goes to nowhere  
15 but was designed to connect all future grow rooms. Further, the hallway would  
16 have been unnecessary if it needed not connect a future room. The square-footage  
17 used for this future use came at an opportunity cost if not unified with the other half  
18 of the building in that the space could have been used for a larger grow room area,  
19 which would have yielded more production at a rate of \$150,000 per year.

20 13. Water recapture and irrigation was also designed with the future  
21 operations in mind. These features would be unnecessary and cost prohibitive if  
22 anticipated for use solely on the then-operational side, but made design and  
23 economic sense with a full build out, expenditures that would have been easily  
24 absorbed without lost profits. These additional expenditures (without regard to lost  
25 profit) were approximately \$150,000

26 14. After the initial moratorium was lifted, Outliers Collective started  
27 growing in around September 2015. The tenant has been out for many months (as  
28

1 was anticipated) and that side of the building – approximately 7,500 square feet –  
2 sits without a profitable operation on it.

3 **1210 Olive St., Ramona (Olive Tree Patients Association)**

4 15. Petitioner OLIVE TREE PATIENTS ASSOCIATION (“Olive Tree”)  
5 is an Unincorporated Nonprofit Association organized under the laws of the State  
6 of California with its principal place of business located at 1210 Olive St., Ramona,  
7 California 92065. Olive Tree intends to become a marijuana collective that  
8 facilitates and organizes transactions between members who cultivate medicinal  
9 marijuana. Renny Bowden, an individual and resident of the State of California, is  
10 the President of Olive Tree Patients Association.

11 16. HIGH SIERRA EQUITY, LLC, (“High Sierra”) is a limited liability  
12 company organized under the laws of the State of California. Stephen Lake, an  
13 individual and resident of the State of California, is the Sole Member and Manager  
14 of High Sierra. High Sierra is the managing entity of 1210 Olive St. and is  
15 responsible for “building the suite” which refers to High Sierra’s obligation to  
16 advance the costs to prepare the property for Olive Tree Patients Association to  
17 commence operations.

18 17. The building and property was purchased by Stephen Lake on 7  
19 January 2015 in conjunction with Renny Bowden who would manage daily  
20 operations, to convert the property into a Medical Marijuana Collective Facility.  
21 The property consisted of 1.87 acres and a 2,000sqft structure.

22 18. On 1 June 2015, Renny Bowden applied for a Medical Marijuana  
23 operator certificate with the Sheriff’s Departments and immediately began  
24 demolition and remodeling to comply with the various instructions issued by the  
25 Sheriff’s Department. Renny Bowden currently holds the operator’s certificate.

26 19. The building at that location consisted of a large warehouse type  
27 structure. Building permits were sought to modify the existing structure to  
28 accommodate cultivation and manufacturing. High Sierra, on behalf of Olive Tree

1 Patients Association, applied for a building permit and began modifying the  
2 building, making improvements to the property, and capital improvements to public  
3 property. Specifically, High Sierra paid to widen the road, add sidewalks, and  
4 streetlights.

5 20. High Sierra received contradictory instructions from the Sheriff's  
6 Department and Fire Department forcing it to expend hundreds of thousands of  
7 additional dollars to make and remove capital improvements. In total, High Sierra  
8 has expended \$1,891,307.43 to convert the building, property, and to comply with  
9 County ordinances.

10 21. High Sierra and Olive Tree Patients Association, despite extensive  
11 improvements and expenditure of funds, are unable to profitably operate the  
12 structure.

13 **736 Montecito Way, Ramona (ShowGrow)**

14 22. BEAR FLAG GROUP, Inc. is a nonprofit Mutual Benefit corporation  
15 doing business under the name SHOWGROW RAMONA organized under the laws  
16 of the State of California which is located at 736 Montecito Way Ramona,  
17 California 92065. ShowGrow is a marijuana collective that facilitates and organizes  
18 transactions between members who cultivate medicinal marijuana. David Barckett,  
19 an individual and resident of the State of California, is the Chief Executive Officer  
20 of ShowGrow.

21 23. LLI Holdings LLC, ("LLI Holdings") a California Limited Liability  
22 Corporation, is the parent company that wholly owns Bear Flag Group Inc. Chris  
23 Murry, an individual and resident of the State of California, is the Managing  
24 Member of LLI Holdings. LLI Holdings is the management company who operates  
25 ShowGrow. David Barckett is the manager of the operations at ShowGrow

26 24. Chris Murray holds the operators certificate issued by the County of  
27 San Diego Sheriff's Department. The 736 Montecito Way location is the County's  
28 second licensed collective. The building was purchased by LLI Holding and turned

1 into a dispensary with a license from the Sheriff in and around January 2016 for the  
2 dispensing, cultivating, and manufacturing of medical marijuana.

3 25. The property at that location consisted of an acre of land with a  
4 2,000sqft building which was converted into the ShowGrow collective. Building  
5 permits were sought to build an additional 13,000sqft structure to accommodate  
6 cultivation and manufacturing.

7 26. Bear Flag Group received approvals for its buildout and started the  
8 process in late 2015. In anticipation of operating a collective, cultivation and  
9 manufacturing facility LLI Holdings purchased the property for \$1,050,000. LLI  
10 Holding, after initiating the application process, immediately began capital  
11 improvements to comply with County ordinances. LLI Holdings expended  
12 \$481,324 in tenant improvements to meet the various requirements imposed by the  
13 Sheriff's Department to secure an Medical Marijuana Operating Permit. The  
14 improvements were extensive, including but not limited to, centerline  
15 improvements in excess of \$60,000 and a \$54,000 upgrade to the watermain.

16 **8530 Nelson Way, Valley Center (San Diego Natural)**

17 27. Petitioner SAN DIEGO NATURAL, INC. ("San Diego Natural") is a  
18 nonprofit Mutual Benefit Corporation organized under the laws of the State of  
19 California located at 8530 Nelson Way, Valley Center (Escondido), California  
20 92026. San Diego Natural, Inc. San Diego Natural is a medical marijuana  
21 collective. Darren Machulsky, an individual, is a resident of the State of California  
22 and the Chief Executive Officer of San Diego Natural.

23 28. T&M REAL ESTATE HOLDINGS, LLC, ("T&M Real Estate  
24 Holdings") is a limited liability company organized under the laws of the State of  
25 Pennsylvania and duly authorized to conduct business in the State of California  
26 with its principal place of business located at 130 Rt. 31 N Ste. B, Pennington, New  
27 Jersey 08534. Michelle Cantaffa, an individual, is the Managing Member of T&M  
28 Real Estate Holdings.

1           29. On 6 May 2016, T&M Real Estate Holdings purchased the property  
2 which consisted of 2.5 acres, a warehouse-type structure, and supporting buildings.  
3 T&M Real Estate Holdings purchased the large lot and warehouse to facilitate the  
4 cultivation and manufacture of medical marijuana. North County Natural, Inc., a  
5 California nonprofit Mutual Benefit Corporation, was the original operator of the  
6 medical marijuana collective facility. North County Natural was dissolved in late  
7 2016 and replaced by San Diego Natural.

8           30. Darren Machulsky, on behalf of San Diego Natural, applied for a  
9 building permit and medical marijuana operator's certificate in early 2015. T&M  
10 Real Estate Holdings obtained an operator's certificate for a medical marijuana  
11 dispensary in late 2015. passed planning and services departments then got  
12 certificate. Shortly after applying for the certificate, T&M Real Estate Holdings  
13 immediately began capital improvements to prepare the property for medical  
14 marijuana cultivation and manufacture. T&M Machulsky expended \$600,000 in  
15 improvements, widen roads, fire hydrants, fit out of the dispensary (previously a  
16 residence).

17           **15939 Olde Hwy. 80 and 15945 Olde Hwy. 80, Lakeside (Survivormedz)**

18           31. Petitioner SURVIVORMEDZ is a California domestic nonprofit  
19 cooperative corporation organized under the laws of the State of California with its  
20 principal offices located in Encinitas. Dino Berardino is the Secretary and Chief  
21 Financial Officer, and Tony Cioe is the Chief Executive Officer.

22           32. Dino Berardino first became acquainted with the concept of using  
23 marijuana for medicinal purposes as a result of his personal experiences. In 2000,  
24 he was diagnosed with adenoid cystic carcinoma of the parotid gland (the saliva  
25 gland) – a condition that required 27 different surgeries. The condition so affected  
26 his digestive system that he was largely unable to eat, and his treating specialists  
27 recommended that he be fed through a tube.  
28



1           33. At this juncture, he learned about the medicinal effects of marijuana  
2 and sought treatment as a last resort, despite that at the time it conflicted with his  
3 personal and religious beliefs. At wits end, he sought the treatment. The impact was  
4 immediate and profound; he was able to eat without discomfort and without the  
5 need for a feeding tube. Convinced of its unique health benefits, he sought to  
6 become an investor and changed his professional focus towards medical marijuana  
7 business.

8           **15945 Olde Highway 80, El Cajon (Lakeside area)**

9           34. Dino Berardino was provided a map by the County of San Diego  
10 listing specific properties within the County for which a medical marijuana facility  
11 could be located if a permit procedure was followed. Mr. Berardino and Mr. Cioe of  
12 SurvivorMedz contacted the property owner and negotiated its purchase. Before  
13 doing so, Mr. Berardino submitted to the County of San Diego Planning and  
14 Development Services, Medical Marijuana Collective Facility Zoning a County-  
15 provided form that described the applicant's intention to operate a Medical  
16 Marijuana Collective Facility within the unincorporated county, documentation  
17 regarding the Planning and Development services, Zoning Staff's review, for facility  
18 compliance with separation requirements pursuant to Zoning Ordinance 6935 Mr.  
19 Berardino received a Planning and Development Services Stamp in December  
20 2015.

21           35. With the County's "Stamp to Pursue," Mr. Berardino and his associate,  
22 Anthony Cioe, entered into a purchase and sale agreement of that real property on  
23 January 29, 2015 in the amount of \$450,000 for the purpose of developing a  
24 medical marijuana cultivation at that site. A nonrefundable deposit of \$75,0000 was  
25 given, and during the year that the moratorium was imposed by the County of San  
26 Diego, an additional \$10,000 total was paid to the seller during the escrow period.

27           36. Dino Berardino expended time and money to correct the lot lines for  
28 the property at the request of the County. An architect was retained and plans were

1 drafted and submitted to the County. A plan check evaluation fee was paid and  
2 “Centerline” fee was paid to the County in the amount of \$2,015 in April 2015.

3 37. In May 2015, Mr. Berardino was notified that his well needed to be  
4 backfilled, so contractors were retained.

5 **15939 Olde Highway 80, El Cajon (Lakeside area)**

6 38. In June 2015, Mr Berardino noticed the adjacent property located at  
7 15939 Olde Highway 80, El Cajon (Lakeside) was bank-owned and for sale.  
8 Because the County set up a system wherein a second permit within the separation  
9 requirements would necessarily take the nearby property out of the available  
10 properties and result in a denial of the application, Mr. Berardino and Mr. Cioe  
11 were interested in pursuing it to combine with their adjacent parcel for purposes of  
12 cultivating medical marijuana.

13 39. Mr. Berardino submitted to the County of San Diego Planning and  
14 Development Services, Medical Marijuana Collective Facility Zoning a County-  
15 provided form that described the applicant’s intention to operate a Medical  
16 Marijuana Collective Facility within the unincorporated county, documentation  
17 regarding the Planning and Development services, Zoning Staff’s review, for  
18 facility compliance with separation requirements pursuant to Zoning Ordinance  
19 6935 Mr. Berardino received a Planning and Development Services Stamp on June  
20 17, 2015.

21 40. With the County’s “Stamp to Pursue,” Mr. Berardino’s associates,  
22 Anthony Cioe entered into a purchase and sale agreement of that real property on  
23 June 18, 2015 in the amount of \$350,000 for the purpose of developing a medical  
24 marijuana cultivation at that site. The property was purchased outright.

25 41. A plan check evaluation fee was paid and “Centerline” fee was paid to  
26 the County in the amount of \$2,050 in June 24, 2015.

27 **2471 Montecito Rd., Ramona (Medical Care Alliance)**

28

1           42. The desire to develop a collective at this facility was motivated by an  
2 extraordinary story. Adam Corlett, while starting college, experienced for the first  
3 time a series of seizures. Those seizures would occur for more than one year as the  
4 anti-seizure medication was unable to adequately prevent them from occurring  
5 almost daily. Adam suffered up to six seizures per day, disabling him from any  
6 independence in his life. After hearing about the medicinal effects of certain strands  
7 of cannabis to assist with seizures, he took a dosage. He was seizure free for the  
8 first time upon doing so. In the more than two years since, he has been seizure free  
9 every day because of the cannabis treatments. This life changing event caused him  
10 and his father, an MIT-trained entrepreneur, to develop a medical marijuana  
11 collective – not a collective for recreational use.

12           43. MEDICAL CARE ALLIANCE is a nonprofit Mutual Benefit  
13 corporation organized under the laws of the State of California with its principal  
14 offices located at 2471 Montecito Road, Ramona, California 92065. Medical Care  
15 Alliance is a collective formed to facilitate and organize transactions between  
16 members who cultivate marijuana for medical purposes pursuant to Proposition  
17 215, The Compassionate Use Act, and Health and Safety Code sections 11362.5 et.  
18 seq.

19           44. Scott Corlett, an individual, is a resident of the State of California and  
20 the Chief Executive Officer of Medical Care Alliance. Medical Care Alliance was  
21 in the process of developing property 2471 Montecito Road, Ramona, California  
22 92056, into a marijuana collective facility before the application for the facility was  
23 denied by the County of San Diego as a result of the 22 March 2017 ban.

24           45. RRR Investments, LLC (“RRR Investments”) is a limited liability  
25 company organized under the laws of the State of California with its principal  
26 offices located at 3539 Via Loma Vista, Escondido, California 92029. Harry  
27 Rumis, an individual, is a resident of the State of California and President of RRR  
28

1 Investments. RRR Investments owns the property located at 2471 Montecito Road,  
2 Ramona, California 92056.

3 46. MANAGEMENT RESOURCE PARTNERS, LLC (“Management  
4 Resource”) is a limited liability company organized under the laws of the State of  
5 California with its principal offices located at 9974 Scripps Ranch Blvd. #182, San  
6 Diego, California 92131. Management Resource is the management company that  
7 operates San Diego Natural. Scott Corlett, an individual, is a resident of the State of  
8 California and the Chief Executive Officer of Management Resource. Management  
9 Resource leased 2471 Montecito Road from RRR Investments.

10 47. RRR Investments entered into a lease with Management Resource on  
11 30 September 2016 for the property commonly known as 2471 Montecito Road,  
12 Ramona, CA. The property leased includes a 12,400 square foot building on a 2.51  
13 acre lot. Section 1.7 defined the “agreed use” as “marijuana cultivation purposes,  
14 and for no other purposes.” The lease obligated Management Resource, and Scott  
15 Corlett as guarantor, \$10,000 per month rent and a \$37,140 security deposit.

16 48. RRR Investments, in order to develop the property and obtain permits  
17 as a licensed dispensary, retained a licensed architect to draw plans to convert the  
18 existing warehouse structure on the property to a Marijuana collective. Since  
19 entering the lease, Management Resource expended over \$1,000,000 to obtain  
20 detailed site maps, input irrigation equipment, implement security safety measures,  
21 and other capital improvements to the public property.

22 ///

23 **618 Pine St., Ramona (Survivormedz)**

24 49. Andrey Shymkov, an individual and resident of the State of California,  
25 purchased the property which consisted of several acres, a warehouse type  
26 structure, and supporting structures. Andrey Shymkov purchased the large lot and  
27 warehouse to facilitate the cultivation and manufacture of medical marijuana.

28

1           50. Upon acquiring the property, Andrey Shymkov immediately began  
2 construction to develop the property, build it up for cultivation, improve county  
3 property, and comply with Sheriff instructions to obtain the operator's certificate.  
4 Andrey Shymkov expended substantial monies to develop the property and improve  
5 county property in an attempt to comply with County and Sheriff instructions.

6           51. Despite Andrey Shymkov's good faith attempts to comply with the  
7 County instructions and ordinances, he is unable to operate a medical marijuana  
8 cultivation facility.

9           **Respondent County of San Diego**

10           52. Respondent COUNTY OF SAN DIEGO, ("County" or "San Diego")  
11 is a public agency required to comply with applicable provisions of the laws of the  
12 State of California.

13           53. Venue is proper within this Court because the acts occurred in San  
14 Diego County, California, where the actions complained of occurred and will occur  
15 again. Additionally, the primary business location for the County is within the  
16 County of San Diego.

17           54. Petitioners are not currently aware of the true names and capacities of  
18 Respondent sued herein as DOES 1 through 100, and Petitioners refer to those  
19 persons by fictitious designation. Petitioners are informed and believes that each  
20 DOE Respondent is the agent and servant of the County. Petitioners will request  
21 leave of the court to amend this complaint to include the true names and capacities  
22 of DOE Respondent once ascertained. Petitioners are informed and believe and  
23 hereinafter allege that at all times, each DOE Respondent was the agent and  
24 employee of the County, and in acting in the manner hereinafter alleged, was acting  
25 in the scope of said agency and employment and with the permission and consent of  
26 the County.

27           **THE ORDINANCE AND COUNTY ACTIONS**

1           55. This is an action for declaratory, injunctive, and mandamus relief  
2 relating to the Ordinance No 10474: Amending Sections 21.2501 and 21.2503(a) of  
3 the San Diego County Regulatory Ordinances relating to the issuance of medical  
4 marijuana collective facilities operating certificates. The action improperly restricts  
5 Petitioners' vested rights and wrongfully denies vested rights as to certain  
6 Petitioners.

7           56. In 1996, California voters passed Proposition 215, which legalized the  
8 cultivation and use of marijuana for medicinal purposes, the Legislature  
9 implemented Proposition 215 with the California Compassionate Use Act of 1996,  
10 and the California Medical Marijuana Program of 2003. On 8 November 2016,  
11 California voters passed Proposition 64 "Marijuana Legalization." Proposition 64  
12 legalized the production and consumption of marijuana for personal use as of 9  
13 November 2016. It also created a mechanism to permit the sale and taxation of  
14 marijuana on 1 January 2018.

15           57. The County's action to regulate the cultivation and consumption of  
16 marijuana occurred in 2009. On 5 August 2009, the County passed, approved, and  
17 adopted Ordinance No. 10000 which was the first in a series of prohibitions against  
18 the establishment, commencement, or enlargement of marijuana facilities in the  
19 unincorporated areas of the County of San Diego. The County extended the  
20 moratorium on 16 September 2009, when it passed, approved, and adopted  
21 Ordinance No. 10005.

22           58. On 30 June 2010, the County passed, approved, and adopted  
23 Ordinance No. 10060 which provided the regulations concerning the establishment  
24 and operation of marijuana facilities, specifically, collectives. Collectives are  
25 marijuana operations that allow people to cultivate marijuana for personal,  
26 medicinal use. Marijuana collectives permit members to use their facilities to grow  
27 marijuana and share the costs of cultivation. Ordinance No. 10060 required  
28 marijuana collective applications to obtain an Operating Certificate.

1           59. The County delegated authority to the Sheriff's Department to develop  
2 rules for collectives to obtain Operating Certificates.

3           60. The Sheriff's Department required applicants to comply with a variety  
4 of building safety improvements, including but not limited to, alarms, close circuit  
5 television, and door, window and other visibility requirements.

6           61. The County also revised zoning ordinances to address marijuana  
7 collectives. Specifically, on 30 June 2010, the County passed, approved, and  
8 adopted Ordinance No. 10061 which imposed a series of restrictions, limiting  
9 collectives to industrial zoned parcels, 1,000 feet from other facilities, and 1,000  
10 feet from "sensitive land uses" including, but not limited to, churches, schools,  
11 parks, playgrounds, residential zoned areas, and youth centers. The effect of  
12 Ordinance No. 10061 was to substantially limit the areas in which marijuana  
13 collective facilities could operate to a mere 147 parcels throughout all of  
14 unincorporated San Diego County.

15           62. On 25 January 2011, the County passed, approved, and adopted  
16 Ordinance No. 10118, which revised the zoning restrictions in Ordinance No.  
17 10061 to apply in unincorporated and adjacent cities.

18           63. On 16 March 2016, the County passed, approved, and adopted  
19 Ordinance No. 10419, which enacted a new 45-day moratorium on the  
20 commencement, development, and enlargement of marijuana collectives. On 27  
21 April 2016, the County passed, approved, and adopted Ordinance No. 10426 which  
22 extended the moratorium until 16 March 2017.

23 ///

24 ///

25           64. On 22 March 2017, the County passed, approved, and adopted  
26 Ordinance No. 10474 which revised the regulations concerning the approval of  
27 existing marijuana collective facilities.

28

1           65. The County developed a protocol that included instructions as to how  
2 to obtain a permit for operating a medical marijuana collective within the County of  
3 San Diego. The instructions included Frequently Asked Questions (FAQs), a list of  
4 sites specific addresses that would be approved for operating a collective.

5           66. The County instructions advised who can open a Medical Marijuana  
6 Collective Facility, separation requirements relating to distances from other medical  
7 marijuana collective facilities, schools, parks, etc., and even included a list of sites  
8 on file with the DPLU Zoning Counter with a hyperlink to the list of properties.

9           67. The Petitioners all followed the instructions of the County and sought  
10 to obtain a property interest by purchase or lease for the operation of a collective.  
11 Because the County list took rural property otherwise undervalued and declared that  
12 property as one on which a collective could operate, those properties on the list  
13 were worth more than the neighboring properties in the area, otherwise physically  
14 like for like. If one of the properties on the list was obtained and a permit  
15 application requested, that property then affected others nearby because it would  
16 take it off the list in violation of separation requirements. In other words, those who  
17 obtained property then limited to ability of others to obtain nearby property.

18           68. This County process created a race for the properties. Each Petitioner  
19 obtained a lease or bought one or more eligible parcels.

20           69. Petitioners have each taken substantial steps to comply with the  
21 onerous regulations passed, approved, and adopted by the County. The Petitioners  
22 expended substantial funds to identify lots that comply with zoning rules, to  
23 remodel existing facilities to comply with building code regulations, and to obtain  
24 all required certificates and permits.

25           70. The County of San Diego imposed unjustifiable delays on Petitioners  
26 as they went through the permitting process. Some who the County considered  
27 “vested” were put in front of those who began the process later and the County  
28 considered not vested.













