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ELECTRONICALLY FILED  
Superior Court of California,  
County of San Diego

2/6/2025 11:06:17 AM

Clerk of the Superior Court  
By E. SDCourt, Deputy Clerk

8 Plaintiff in Propria Persona  
9 and Attorney for Plaintiffs  
10 Amy Sherlock, Minors T.S.  
11 and S.S.

12 SUPERIOR COURT OF CALIFORNIA  
13 COUNTY OF SAN DIEGO, CENTRAL DIVISION

14 AMY SHERLOCK, an individual and on behalf of  
15 her minor children, T.S. and S.S., ANDREW  
16 FLORES, an individual;

17 Plaintiffs,

18 v.

19 GINA M. AUSTIN, an individual; AUSTIN  
20 LEGALGROUP, a professional corporation,  
21 LARRY GERACI, an individual, REBECCA  
22 BERRY, an individual; JESSICA MCELFRISH,  
23 an individual; SALAM RAZUKI, an individual;  
24 NINUS MALAN, an individual; FINCH,  
25 THORTON, AND BAIRD, a limited liability  
26 partnership; ABHAY SCHWEITZER, an individual  
27 and dba TECHNE; JAMES (AKA JIM) BARTELL,  
28 an individual; NATALIE TRANG-MY NGUYEN,  
an individual; AARON MAGAGNA, an individual;  
BRADFORD HARCOURT, an individual;  
SHAWN MILLER, an individual; LOGAN  
STELLMACHER, an individual; EULENTHIAS  
DUANE ALEXANDER, an individual; STEPHEN  
LAKE, an individual, ALLIED SPECTRUM, INC.,  
a California corporation, PRODIGIOUS  
COLLECTIVES, LLC, a limited liability company,  
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2021-0050889-CU-AT-CTL

PLAINTIFFS' RESPONSE TO ORDER TO  
SHOW CAUSE WHY DEFENDANT  
BRADFORD HARCOURT SHOULD BE  
SERVED VIA PUBLICATION; AND FOR  
ORDER OF INVOLUNTARY DISMISSAL  
OF DEFENDANTS THE COURT DEEMS  
NECESSARY

Hearing Date:

Hearing Time:

Judge: Mangione

Courtroom: 75

Related Cases:

37-2014-00009664

37-2014-0020897

37-2015-00004430

37-2017-00010073

37-2022-00000023

1 **I. Introduction.**

2 At a status conference on January 24, 2025, the Court set a hearing on an order to show cause on  
3 (i) why it should allow defendant Bradford Harcourt to be served via publication pursuant to Plaintiffs’  
4 motion and (ii) Plaintiffs’ Request for Order to dismiss those defendants the Court deemed fit on an  
5 involuntary basis. Plaintiffs herein file their response.

6 **II. Material Factual and Procedural Summary**

7 **A. Overview of Plaintiffs allegations in their operative complaint.**

8 Plaintiffs in this action have brought forth suit against defendants alleging that they have  
9 conspired and succeeded in profiting from illegal commercial cannabis activity – drug trafficking – in  
10 the cannabis market in the County and City of San Diego with the goal of creating a monopoly (the  
11 “Antitrust Conspiracy”). (Affidavit of Andrew Flores (“Flores Aff.”) at ¶ 3.) Plaintiffs allege that  
12 defendants have effectuated the Antitrust Conspiracy through sham petitioning to government cannabis  
13 licensing agencies and the judiciary. (*Id.* at ¶ 4.) Defendants Lawrence Geraci and Salam Razuki had  
14 judgments entered against them pursuant to which they were fined and sanctioned for operating illegal  
15 dispensaries and, consequently, were prohibited from being licensed from lawful commercial cannabis  
16 activities under California’s cannabis licensing laws. (*Id.* at ¶ 5.)

17 Geraci and Razuki engaged the legal services of attorney Gina M. Austin of the Austin Legal  
18 Group (“ALG”) to aid them in applying for cannabis permit and licenses in the name of third  
19 parties/strawmen (the “Strawman Practice”). (*Id.* at ¶¶ 6-7.) Plaintiffs allege that during the course of  
20 effectuating the Antitrust Conspiracy defendants have engaged in criminal activities that include forging  
21 documents, sham petitioning to the judiciaries, witness intimidation and tampering. (*Id.* at ¶ 8.) However,  
22 to date, the origin of Plaintiffs’ allegations, that the object of defendants is to profit from the illegal sale  
23 of cannabis by parties who cannot lawfully profit from the sale of cannabis because they are barred by  
24 law, which is **why** they undertook the Strawman Practice, have been held to not state a cause of action.  
25 (*Id.* at ¶ 9.)

26 In other words, the Courts, including this one, have directly and indirectly held that parties can  
27 sell cannabis in the name of third parties. (*Id.* at ¶ 10.) Plaintiffs’ position is that it is in excess of the  
28

1 Courts' jurisdiction to enforce, validate, condone or allow criminal activity. (*Id.* at ¶ 11.) Consequently,  
2 all such decisions, and judgments in related cases are void. (*Id.*)

3 More specifically, Plaintiffs allege that defendants pursuant to the Antitrust Conspiracy defrauded  
4 Plaintiff Amy Sherlock and her children, T.S. and S.S. (the "Sherlock Family") of two cannabis permits  
5 to operate cannabis dispensaries. (*Id.* at ¶ 12.) And defrauded Plaintiff Andrew Flores, as Darryl Cotton's  
6 successor in interest, of a cannabis CUP. (*Id.* at ¶ 13.)

7 **B. Plaintiffs Amy Sherlock and her children T.S. and S.S.**

8 In June 2017, Defendant Bradford Harcourt filed suit against, among others, defendants Salam  
9 Razuki and Ninus Malan. (Flores Aff. at Ex. A (*San Diego Patients Cooperative Corporation, Inc., et al.*  
10 *vs. Razuki Investments, L.L.C., et al.*, San Diego Superior Court, Case No. 37-2017-00020661 (the  
11 "Harcourt Complaint").) In the Harcourt Complaint, Harcourt judicially admits that Mr. Sherlock was  
12 the "responsible person" for a CUP issued at 8863 Balboa Avenue, Unit E, San Diego, California 92123  
13 (the "Balboa Property" and the "Balboa CUP"). (*Id.* at Ex. A (Harcourt Complaint) at ¶¶ 17-19.) Harcourt  
14 also judicially admits that upon Mr. Sherlock's death, "in or around December 2015, HARCOURT  
15 submitted documentation to the City of San Diego in order to remove Sherlock as the MMCC's  
16 responsible person, and HARCOURT then finalized the recording of the CUP with the City of San Diego  
17 under SDPCC. Moreover, HARCOURT identified himself as the MMCC's responsible person." (*Id.* at  
18 Ex. A (Harcourt Complaint) at ¶ 19.)

19 As this Court has already held in overruling defendant Stephen Lake's motion to dismiss Plaintiffs  
20 Conversaion cause of action:

21  
22 "Conversion is the wrongful exercise of dominion over the property of another. The  
23 elements of a conversion claim are: (1) the plaintiff's ownership or right to possession of  
24 the property; (2) the defendant's conversion by a wrongful act or disposition of property  
25 rights; and (3) damages." (Lee v. Hanley (2015) 61 Cal.4th 1225, 1240 (alterations and  
26 quotation marks omitted).) Plaintiffs allege that Defendant and Harcourt worked together  
27 to illegally obtain ownership of the Sherlock Property, which Plaintiffs were entitled to  
28 under probate law after Mr. Sherlock's death. Specifically, Plaintiffs allege that Defendant  
and Harcourt falsified documents dissolving LERE and transferring Mr. Sherlock's interest  
in the CUPs. ***These are personal property rights, subject to a claim of conversion.*** (See  
*Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal.App.4th 359,  
367–368 ("A CUP creates a property right which may not be revoked without constitutional

1 rights of due process."); *Holistic Supplements, L.L.C. v. Stark* (2021) 61 Cal.App.5th 530,  
2 542 ("Kersey's membership interest in the LLC was personal property belonging to her as  
3 an individual.") (citing Corp. Code, § 17701.02(r)).) Plaintiffs have sufficiently pled that  
4 Defendant wrongfully dispossessed them of their personal property rights.

5 Therefore, the demurrer on this cause of action is overruled.

6 (*Id.* at Ex. B (Judge James A. Mangione Order dated August 19, 2022) at p. 2 (emphasis added).)

7 **C. The Strawman Practice is criminally illegal.**

8 Defendant Austin filed an anti-SLAPP motion to Plaintiffs' operative complaint, which this Court  
9 granted, holding Austin's petitioning pursuant to the Strawman Practice is not criminally illegal. (*See*  
10 *Flores Aff. at Ex. C* (Court of Appeal, Fourth Appellate District, Case No. D081109 (the "*Austin COA*  
11 *Decision*") at 2.) The Court of Appeal affirmed this Court's decision. (*Id.*)

12 Materially, the Court of Appeal, in affirming the decision, correctly stated that the "thrust of the  
13 complaint, as it relates to Austin, is that she and the other defendants engaged in anticompetitive conduct  
14 by submitting CUP applications to regulators that failed to disclose the real owners of the marijuana  
15 dispensary operations, in violation of the law." (*Austin COA Decision* at 4.) Plaintiffs allege that the  
16 reason why Austin undertook the Strawman Practice for her clients is because they are barred by law  
17 from owning a CUP pursuant as then in effect California Business & Professions Code ("BPC") § 19323  
18 (which was repealed and replaced with identical criteria for the denial of state cannabis license by BPC  
19 § 26057). (*See Austin COA Decision* at 18.) On this point, the Court of Appeal stated that:

20 subdivision (a) of Business and Professions Code section 26057 states that the department  
21 "**shall** deny an application if either the **applicant**, or the premises for which a state license  
22 is applied, do not qualify for licensure under this division." Subdivision (b), in turn, states  
23 that "[t]he department **may** deny the **application** for licensure or renewal of a state license  
24 if any of the following conditions apply," and lists ten conditions that can form a basis for  
25 the denial. Relevant here, subdivision (b)(7) allows for denial of a license if "[t]he  
26 applicant, or any of its officers, directors, or owners, has been sanctioned by the  
27 department, the Bureau of Cannabis Control, the Department of Food and Agriculture, or  
28 the State Department of Public Health or a city, county, or city and county for unauthorized  
commercial cannabis activities, has had a license suspended or revoked under this division  
in the three years immediately preceding the date the application is filed with the  
department."

The plaintiffs argue that subdivision (a) of Business and Professions Code section 26057  
mandates the denial of a license if one of the conditions set forth in subdivision (b) of the  
statute exists. However, the plain language of the statutes does not support this

1 interpretation. Rather, *the provision the conditions are found in, subdivision (b), states*  
2 *clearly that the existence of one of the listed conditions “may” support denial of an*  
3 *application for licensure. Thus, denial is permissive, not mandatory.* Further, even if the  
4 statute required the state agency to deny licensure, the plaintiffs have not explained how  
5 this would make Austin’s conduct (i.e. assisting with a CUP application that was never  
6 granted) illegal as a matter of law.

7 (*Austin COA Decision* at 18-19.)

8 Plaintiffs’ position is that the Court of Appeal erred. The “*shall*” of subdivision (a) applies to  
9 APPLICANTS and the “*may*” of subdivision (b) applies to APPLICATIONS. Applicants who have been  
10 sanctioned for engaging unlicensed commercial cannabis activity are barred by BPC §§ 19323/26057  
11 from licensure – the California Legislature did not intend and did not pass language that allows criminals  
12 to secretly own and profit from the sale of cannabis just because they have the money to effectuate their  
13 criminal goals through the services of attorneys.

14 Non-compliance with California state cannabis laws can indeed result in federal prosecution  
15 under the CSA, as federal law supersedes state law in this context. As succinctly stated in one federal  
16 court opinion:

17 there is no exception for medical marijuana distribution or possession under the federal  
18 Controlled Substances Act, 21 U.S.C. §§ 801-971. *See Gonzales v. Raich*, 545 U.S. 1, 14-  
19 15, 125 S. Ct. 2195, 162 L. Ed. 2d 1 (2005). But under Section 542 of the Consolidated  
20 and Further Continuing Appropriations Act of 2016, Pub. L. 114-113, 129 Stat. 2242  
21 (2016) (“2016 Appropriations Act”), the Department of Justice may not expend funds to  
22 prosecute a private, non-government, medical marijuana entity or enterprise that operates  
23 in compliance with California’s medical marijuana law. *United States v. McIntosh*, No. 15-  
24 10117, 2016 U.S. App. LEXIS 15029, 2016 WL 4363168, at \*9 (9th Cir. Aug. 16, 2016)  
25 (“[A]t a minimum, § 542 prohibits DOJ from spending funds from relevant appropriations  
26 acts for the prosecution of individuals who engaged in conduct permitted by the State  
27 Medical Marijuana Laws and who fully complied with such laws.”); *see also United States*  
28 *of America v. Marin Alliance for Med. Marijuana*, 139 F. Supp. 3d 1039 (N.D. Cal. 2015),  
appeal dismissed (Apr. 12, 2016) (holding that Department of Justice was precluded from  
enforcing permanent injunction prohibiting medical marijuana dispensary from  
distributing marijuana to extent dispensary complied with California law). “Individuals  
[\*16] who do not strictly comply with all state-law conditions regarding the use,  
distribution, possession, and cultivation of medical marijuana have engaged in conduct that  
is unauthorized, and prosecuting such individuals does not violate § 542.” *McIntosh*, 2016  
U.S. App. LEXIS 15029, 2016 WL at \*10.

(*United States v. \$205,673.00 in U.S. Currency* (C.D.Cal. Oct. 11, 2016, No. CV 11-07857-BRO (PJW))  
2016 U.S. Dist. LEXIS 200461, at \*15-16.)

1 This Court and the Court of Appeals lack the jurisdiction – the power – to allow parties, even if  
2 aided by attorneys, to profit from the sale of cannabis in violation of State and Federal laws. The language  
3 and the cases cited above, including by the United States Supreme Court, make that clear.

#### 4 ARGUMENT

#### 5 **The Court should order service on defendant Harcourt via publication.**

6 In California, the court may allow service by publication if it is demonstrated that the party to be  
7 served cannot, with reasonable diligence, be served in another manner specified in the Code of Civil  
8 Procedure § 415.50, which mandates that an affidavit must be presented to the court showing that the  
9 party cannot be served by other means and that a cause of action exists against the party or that the party  
10 is a necessary or proper party to the action. (CCP § 415.50.) Reasonable due diligence includes good  
11 faith efforts to locate the defendant including through the use of relatives, friends, and acquaintances, as  
12 well as searches of relevant directories, public records, and internet resources. (*David B. v. Superior*  
13 *Court*, 21 Cal. App. 4th 1010.)

14 First, a cause of action exists against Harcourt. Harcourt judicially admits that he had the Balboa  
15 CUP transferred to his name in his lawsuit with, *inter alia*, Razuki and Malan. (Flores Aff. at Ex. A at ¶¶  
16 17-19.) As this Court has held, the subject CUPs are personal property, including the Balboa CUP.  
17 (Flores Aff. at Ex. B (Judge Mangione Order at p. 2.) Upon the death of Mr. Sherlock, the subject CUPs  
18 became the personal property of the Sherlock Family. (*Id.* at p. 2.)

19 The CUPs are the Sherlock’s Family personal property. They must be returned. This Court held  
20 in overruling the demurer on the Conversion cause of action. And if a cause of a conversation is stated  
21 on the grounds that Harcourt forged the documents in furtherance of the Antitrust Conspiracy to acquire  
22 the CUP, then Plaintiffs other causes of actions brought for violations of the Cartwright Act, the UCL,  
23 Civil Conspiracy and seeking declaratory relief also state a claim as they are premised on defendants  
24 being part of the conspiracy that defrauded the Sherlock Family in furtherance of the Antitrust  
25 Conspiracy.

26 Second, as detailed in the motion for service by publication, Plaintiffs have attempted to locate  
27 Harcourt through various means at all available locations known to Plaintiffs where Harcourt may be  
28


1 located. Additionally, Plaintiffs have attempted to serve Harcourt through this counsel however counsel  
2 would not accept service. Plaintiffs *need* Harcourt to explain how he transferred the Balboa CUP to his  
3 name without any written documentation from Mr. Sherlock to his control.

4 Plaintiffs' position is that Harcourt will not be able to provide any documentation effectuating the  
5 transfer of the CUP from Mr. Sherlock to his control. Nor can Harcourt provide any evidence for having  
6 paid compensation to Mr. Sherlock for whatever alleged grounds Harcourt will put forth to legitimize the  
7 transfer.

8 The Court should order the service of defendant Harcourt via publication.

9  
10 DATED: February 6, 2025,

Respectfully Submitted,

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12  
13 By:  \_\_\_\_\_  
14 Andrew Flores  
15 Attorney pro se and for Plaintiffs'  
16 Amy Sherlock, T.S., S.S.  
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