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WINNEMUCCA SHOSHONI, MBS; AMERICAN STATES UNIVERSITY; CANNABIS SCIENCE, INC.; FREE SPIRIT ORGANICS; and HRM FARMS

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA

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| WINNEMUCCA SHOSHONI, MBS; AMERICAN STATES UNIVERSITY; CANNABIS SCIENCE, INC.; FREE SPIRIT ORGANICS; and HRM FARMS;<br><br>Plaintiffs,<br><br>v.<br><br>SAN JOAQUIN COUNTY BOARD OF SUPERVISORS; SAN JOAQUIN COUNTY COUNSEL; ERIN HIROKO SAKATA; MIGUEL VILLAPUDUA; KATHERINE MILLER; TOM PATTI; BOB ELLIOTT; CHUCK WINN; SAN JOAQUIN COUNTY DISTRICT ATTORNEY; SAN JOAQUIN COUNTY SHERIFF; DRUG ENFORCEMENT ADMINISTRATION; DOES 1-50, INCLUSIVE,<br><br>Defendants | Case No. 2:17-CV-02271-KJM-EFB<br><br>FIRST AMENDED COMPLAINT FOR:<br><br>I. Violation of Supremacy Clause/Preemption [U.S. Const. art. VI, cl. 2]<br>II. Unconstitutional Vagueness [U.S. Const. am. 5, 14]<br>III. Unlawful Bill of Attainder/*Ex Post Facto* [U.S. Const. art. I, § 9, cl. 3]<br>IV. Violation of Fifth Amendment - Procedural Due Process<br>V. Violation of Fourth Amendment - Unlawful Seizure [42 U.S.C. §1983]<br><br>REQUEST FOR<br>- Temporary Restraining Order/Immediate Stay of Enforcement;<br>- Return of Property Seized;<br>- Preliminary Injunction;<br>- Permanent Injunction;<br>- Declaration re Ordinance Is Void;<br>- Declaration re Search Warrant Is Void;<br>- Declaration re Seizure Was Unlawful;<br>- Punitive Damages;<br><br>DEMAND FOR JURY TRIAL |

GENERAL ALLEGATIONS

1. This Court has subject matter over this action pursuant to Title 28 of the United States Code, sections 1331, 1343, and 1367 as well as pursuant to Title 42 of the United States Code, sections 1983 and 1988.

2. All the events described herein occurred in San Joaquin County, California. Pursuant to Title 28 of the United States Code section 1931, venue is therefore appropriate here in the Eastern District Federal Court of California.

3. Plaintiff Winnemucca Shoshoni, MBS ["Winnemucca" or "Tribe"] is a sovereign Native American tribe. At all times herein the Tribe was the owner and operator of Free Spirit Organics, LLC, the manager and operator of a 250 acre plot located at 11700 West Lower Jones Road in Stockton California on which 26.19 acres were allocated exclusively to the growing of industrial hemp ["hemp"; "subject grow"].

4. Plaintiff Free Spirit Organics, LCC ["FSO"] is a wholly tribal-owned limited liability company organized under the laws of the State of Nevada and is a real party in interest with standing pursuant to FRCP 17(b). Free Spirit Organics is and at all times herein relevant was, the manager and operator of the subject grow.

5. Plaintiff American States University ["ASU"] is a California institution of higher education as defined under sections 81000 et. seq. of the California Food & Agricultural Code. ASU is a real party in interest, headquartered in Orange County California, a partner of Winnemucca tribe and FSO, and has standing pursuant to FRCP 17(b). ASU's executive staff includes Raymond C. Dabney President, CEO, and Co-Founder as well as Allen A. Herman, M.D., Ch.B., Ph.D., Chief Medical Officer, both of whom have been published, *inter alia,* in the medical journal *Frontiers in Oncology.* American States University has revolutionized higher education by creating a new vertically integrated model of operations to provide jobs throughout the community, full scholarships, and further-subsidized education packages to members of the Native American community and any other economically challenged individuals with the desire to improve their job skills based on ASU's curricula.

. 6. Plaintiff HRM Farms, Inc. ["HRM"] is a California corporation with a principal place of business in Holt, California at the site of the subject grow, and is a partner of Winnemucca, FSO, and ASU; a real party in interest; and has standing pursuant to FRCP 17(b).

7. Plaintiff Cannabis Science Inc. ["CSI"] is and at all times herein relevant a publicly traded corporation organized under the laws of the State of Nevada with a principal place of business in Orange County, California. CSI is comprised of a team of public health experts who have ongoing research with leading experts in cancer and public health research. Their initial research has been published in the peer-reviewed medical journal Frontiers in Oncology with further credits to Raymond C. Dabney, President and CEO of Cannabis Science Inc., and Dr. Allen A. Herman, Cannabis Science Inc., Chief Medical Officer. Other key management heads include the President of the Cannabis Science Scientific Advisory Board, retired United States Assistant Surgeon General Roscoe M. Moore, Jr., D.V.M., Ph.D., D.Sc. and the President of the Cannabis Science International Government Affairs Board, former United States House Representative Honorable Ronald V. Dellums (1971-1998). See attached Exhibit A. CSI has received U.S. Federal Government clearance, Commercial and Government Entity (CAGE) Code from the Defense Logistics Agency's CAGE Program Office at the U.S. Department of Defense, to receive U.S. Federal Government contracts. CSI works with leading experts in drug development and clinical research to develop, produce, and commercialize groundbreaking drugs using cannabinoids extracted and formulated from the hemp or cannabis plant as treatments for: Cancer, HIV/AIDS, Alzheimer's, arthritis, asthma, autism, nearly all of the autoimmune diseases, brain trauma, diabetes, various digestive disorders, glaucoma, epilepsy, Parkinson's disease, hypertension, influenza, pain management, Post-Traumatic Stress Disorder, Tourette's Syndrome, infections, and several other neurobehavioral disorders and degenerative neurological conditions. CSI is researching and developing its proprietary cannabinoid-based solutions to optimize treatments with an overall emphasis on accessibility to those most in need.

8. Defendants San Joaquin County Board of Supervisors, Miguel Villapudua, Katherine Miller, Tom Patti, Bob Elliott, and Chuck Winn [collectively "Board"] are and at all times herein relevant were public servants and trustees entrusted with the duty of representing the residents of San Joaquin County, and at all times herein were acting, or purporting to act, within their official capacities with respect to the events described below.

9. Defendant Erin Hiroko Sakata ["Sakata"] is and at all times herein relevant was a California licensed attorney and employee of County, working in the San Joaquin County Counsel's office [County Counsel"]. Plaintiffs are informed and believe and thereon allege that Sakata bought this matter to the Board and presented her alleged "evidence" at the September 26, 2017 board meeting in support of the passage of the offending ordinance. Plaintiffs are informed and believe and thereon allege that Sakata coordinated and conspired with County Sheriff and other County officials to intentionally orchestrate the events described below with the specific intent to interfere with (a) the ability of plaintiffs to extract the cannabidiol cannabinoid ["CBD"] from their hemp and (b) the ability of plaintiffs to complete its agricultural research to provide CBD to patients in need of care.

10. Defendant San Joaquin County District Attorney ["District Attorney"] is a group of public employees and attorneys charged with prosecuting crimes on behalf of San Joaquin County. Plaintiffs are informed and believe and thereon allege that members from the District Attorney's office conspired with County Counsel and the Sheriff to deliver false information to the Board, whether knowingly, recklessly, or otherwise, at the public meeting on September 26, 2017.

11. Defendant San Joaquin County Sheriff ["Sheriff"] is a group of public employees charged with enforcement of actions in the unincorporated parts of San Joaquin County. Plaintiffs are informed and believe and thereon allege that members of the Sheriff's office conspired with County Counsel and the District Attorney's office to deliver false information to the Board, whether knowingly, recklessly, or otherwise, at the public meeting on September 26, 2017.

12. Defendant Drug Enforcement Agency ["DEA"] is a federal government organization and branch of the United States Department of Justice. It is presently unknown in what capacity DEA acted/failed to act in connection with the events below. Nonetheless plaintiffs are certain that they actively participated in the theft of plaintiffs' hemp, and the corresponding interruption in patient care, as they were present and in uniform during the unlawful raid.

13. Defendants Does 1-50 are sued in both their personal and official capacities as employees and/or officials of County and/or the United States Department of Justice ["DOJ"]. Plaintiffs are informed and believe and thereon allege that all defendants and Does 1-50 are, and each of them is, responsible for the acts alleged herein as the agents and employees of County and/or DOJ. Plaintiffs are informed and believe and thereon allege that all defendants were, and each was, when doing the acts herein alleged, acting within the scope of their office, authority, agency and/or employment, under color of law, in representative capacity on behalf of County and/or DOJ, and are therefore individually and collectively responsible for the acts complained of herein. County and/or DOJ defendants acting separately and in unison, directly and through their agents and subordinates, infringed on the rights of each of plaintiffs are responsible for drafting, maintaining, and/or administering the policies, procedures and/or practices and/or were responsible for execution, enforcement, and application of the aforementioned policies, procedures and/or practices and were each co-participants in the actions and inactions with the other named defendants herein which constitute violations of Constitutional law, federal law, and/or California law - most notably the passage, approval, and enforcement of the offending ordinance.

14. This action is brought without prejudice to plaintiffs' rights to seek monetary compensatory damages in a subsequent action or Amendment to this Complaint once their right to sue has been perfected under the California Government Tort Claims Act. Plaintiffs herein specifically and explicitly reserve that right.

15. This action is, at present, brought for injunctive relief, punitive damages, and fees with respect to the 1983 claims, and for return of the unlawfully seized property, not directly for compensatory damages, and therefore the individual defendants are proper defendants, and none of the defendants are protected by the Eleventh Amendment. Furthermore, there is no immunity, qualified or otherwise, where there is bad faith. *Armstrong v. Wilson* (9th Cir.1997) 124 F.3d 1019, 1026; *Pulliam v. Allen* (1984) 466 U.S. 522, 523; *Vidmar v. Williams* (N.D. Cal. 2005) 367 F.Supp.2d 1265. Defendants are hereby put on notice that any arguments which unsuccessfully raise these issues - such as in a 12(b)(6) motion - which are decided based on the aforementioned cases and their precedent/progeny - will be commented on at trial as further evidence of bad faith in support of plaintiffs' punitive damages requests.

16. This pleading joins with the 2014 Farm Bill and the California Industrial Hemp Farming Act in defining the distinction between hemp and marijuana as turning on the percent of the tetrahydrocannabinol cannabinoid ["THC"] present in the plant. A plant within the genus "Cannabis" and species "Sativa L." possessing 0.3% or lower concentration of THC is defined as industrial hemp ["hemp"]. A plant within the genus "Cannabis" and species "Sativa L." possessing greater than 0.3% concentration of THC is defined as marijuana. This definition assures that "hemp" refers to a non-psychoactive plant from which it is impossible to suffer deleterious effects. At no time herein was marijuana involved. The term "cannabis" strictly speaking, refers to both hemp and marijuana because they are both "Cannabis Sativa L." Usage of the term "cannabis" is accordingly nonspecific and which fails to distinguish between hemp and marijuana.

17. Many times throughout the events below several people working on both sides of this case took random samples from the subject grow of 26.19 acres. Plaintiffs are informed and believe and thereon allege that, without exception, every single tested sample has confirmed that there was no marijuana in the subject grow and that at all times every single plant tested was revealed to be hemp. That result is expected because the entire subject crop was at all times purely hemp.

INTRODUCTORY ALLEGATIONS

18. Paragraphs 18-26, inasmuch as they refers to defendants' knowledge, intent, or state of mind, are alleged on information and belief.

19. In October of 1492, Christopher Columbus mistakenly found North America on his way to Asia. Since the day he arrived, 98% of the real property belonging to the Native Americans was stolen from them.

20. In October of 1863, the United States Government entered into The Treaty of Ruby Valley with the Sosoni tribe of Nevada, ancestors of plaintiff Winnemucca, ending hostilities - yet conveying no land. Since then, using the Treaty as an excuse, the United States has exercised complete dominion over the subject 25 million acres, shutting out all protests by Sosoni descendants. The entirety of the 25 million acres belonging to the Native Americans has been stolen from them.

21. In October of 2017, on the 10th of this very month, apparently in celebration of Columbus Day and immediately after it, the San Joaquin County Sheriff ["Sheriff"] and the DEA jointly and cooperatively entered onto Winnemucca tribal fee land, onto the subject grow. Once there, they removed the lush green hemp plants, the valuable and painstakingly developed topsoil, and the surrounding signage. What was once a thriving agricultural parcel is now barren, dry, and essentially dead. The entirety of the Native American grow was stolen from them.

22. On that day and the days preceding it, County acted with a degree of moral repugnance this country hasn't seen for over a century and a half, in manner about which every non-native American should feel ashamed and embarrassed.

23. County Counsel specifically intended to target the Winnemucca tribe. Sakata, and/or one of her colleagues, interpreted the California Industrial Hemp Farming Act in such a manner to reach the purposeful conclusion that the Winnemucca were in violation. Plaintiffs are informed and believe and thereon allege that she knowingly and intentionally drafted the offending ordinance, a new "emergency" law criminalizing plaintiffs' existing grow

(specifically tailored to allow for its seizure), lied at a public meeting to justify both the passage of the offending ordinance and the urgent need such that plaintiffs would never be prepared for the seizure. Once approved, Sakata used Sheriff to punish the Winnemucca, effectively acting as all three branches of government.

24. Even Christoper Columbus, whose actions directly led to the deaths of 98% of the Native American race, gave the Native Americans a chance to speak before betraying them. County Counsel didn't even do that - likely because ten seconds of time to speak would have been sufficient to demonstrate that County counsel's representations to the board were fiction. The County's actions resembled the fliegendes Sonder-Standgericht drumhead trials Hitler authorized in 1945, where the factfinder, judge, jury, and executioner were all the same party.

25. As if this weren't enough, plaintiffs specifically asked for an opportunity to be heard after learning about the offending ordinance just before noon on Thursday, October 5, 2017. Within the hour, they were invited to come and share their side of the story at the next public meeting on November 7, 2017. In the meantime two business days later, on October 10, 2017, before the sun had arisen, in violation of the terms of the warrant, the Sheriff and DEA agents were at the grow, "eradicating" the "dangerous" grow they had just criminalized two weeks prior. The most creative among us would be hard pressed to imagine a better set of facts to demonstrate bad faith then telling a party it will be given due process, and purposefully acting before any process was afforded.

26. This is the United States of America rather than Hitler-controlled Germany, and the year is 2017 and not 1863. Accordingly, plaintiffs have brought the instant action to hold defendants accountable for their despicable actions/inactions, to recover what is rightfully theirs, and to salvage what they can in order to get thousands of patients back to receiving the cannabidiol cannabinoid ["CBD"] which had finally gave thousands of them hope of one day living asymptomatically.

FACTUAL ALLEGATIONS

27. Plaintiffs leased a wholly tribal owned 250 acre parcel of land in San Joaquin County. On a 26.19 acre portion of that land, plaintiffs planned to sow hemp. The cultivation of industrial hemp is legal in California, as it is in many other states, as it in on a federal level. The DEA has announced that hemp falls under the purview of the U.S. Department of Agriculture. Plaintiffs moved forward with their plans and applied for any and all paperwork necessary to be permitted to conduct such a grow.

28. On March 21, 2016 the Nevada Department of Agriculture approved FSO as an industrial hemp cultivar. A Declaration of Certification of Industrial Hemp Production pursuant to that approval was issued to FSO on June 20, 2016.

29 On July 31, 2017, despite technically being exempt from registration, in an effort to be both transparent to and cooperative with San Joaquin County, plaintiffs registered HRM as a grower of hemp with the San Joaquin County Agricultural Commission.

30. Prior to planting the seed, concerned about maximizing yields, about ensuring the plants thrived without pesticides, herbicides, or fungicides[1] and about the many other challenges involved, Winnemucca, itself an expert in grows (the tribe are descendants of the Shoshoni - a name which comes from "sosoni" and means "high growing grass"), contacted S.G. Farms, a private industry-leading grow consultant and recognized hemp growmaster, headquartered in Marin County, California.

31. S.G. Farms has - over the last five years - created cutting edge methods of water conservation (ironically implanting a technique Leonardo da Vinci developed but which has been forgotten over time), innovative grow techniques to enable even polluted land to be used to grow clean, organic, and healthy crops, and other techniques, the totality of which has earned S.G. Farms the reputation of doing more for agricultural development than "ten universities put together." S.G. Farms was featured on the front page of O'Shaughnessy's Journal of Clinical

[1] Both marijuana and hemp are accumulator crops, and it would be dangerous to use chemicals when cultivating them because the concentrated derivatives would be quite toxic if consumed.

Practice in the winter 2015/2016 edition in connection with the development and breeding of a new hemp strain with very impressive concentrations of a relatively unheard of cannabinoid known as tetrahydrocannabivarin, or THCV, the health benefits of which could potentially put CBD to shame. S.G. Farms gives guided and well-narrated tours of its facility to almost any interested party, although it focuses on educating law enforcement and legislative personnel to help them better understand what it is they are dealing with. S.G. Farms, in recognition of its purposes and goals, is the only agricultural research center in Marin given special permission from County to develop new strains.

32. Chief Bills of Winnemucca tribe ["Chief"] contacted S.G. Farms in connection with the subject grow, ultimately resulting in a cooperative consulting agreement. One of the terms was confidentiality to protect S.G. Farms' proprietary techniques until they were legally protected as intellectual property, or until S.G. Farms developed better ones. Given the present facts, S.G. Farms elected to come forward on the matter, and can demonstrate that the particular crop seized was its unique strain.

33. Setting aside the numerous constitutional violations detailed below, County Counsel's allegation that plaintiffs are not within the definition of Food & Agricultural Code section 81000(c)(2), even if true, would fail to justify County's actions, because plaintiffs are authorized to grow hemp pursuant to S.G. Farms' qualifications under section 81000(c)(1). This fact would never have been discovered by County Counsel because, plaintiffs are informed and believe and thereon allege, it was never genuinely sought in the first place. Had County Counsel afforded plaintiffs a true opportunity to be heard, or had this case been brought before an independent judiciary on the legality issue, the above facts would have been disclosed - and County Counsel would not have been able to punish plaintiffs. Plaintiffs are informed and believe this is why there was no process afforded - because County Counsel or someone influencing Sakata had malicious intent to seize the subject grow at any cost, without notice, either to intentionally punish plaintiffs or to convert it to their own financial profit, but in any

case in reckless disregard for plaintiffs' rights and the rights of the thousands of patients affected who will have no relief from their respective conditions.

34. In June of 2017, plaintiffs began cultivation of hemp on the subject grow. This was known - and on July 31, 2017 it was approved - by the County Agricultural Commission, identifying HRM as a grower of hemp on that parcel on a maps as "IHEMP." S.G. Farms went onto the parcel regularly - measuring, sampling, testing moisture, adjusting drainage, etc., then would record its findings. Chief Bills, as operator of the location, was responsible to the rest of plaintiffs for overseeing the grow.

35. On July 18, 2017, after overhearing concerns their parcel may contain an illegal grow, plaintiffs retained Steep Hill Testing Labs, an industry leader, located in Oakland California, to test another hemp sample. Analysis on that sample found THC at 0.21%, comfortably below the 0.3% limit.

36. To minimize the potential for criminal activity, at S.G. Farms suggestion, plaintiffs erected large, clear signage to any whom would come near the parcel making it clear that there was no marijuana growing there - unmistakably identifying it as industrial hemp.

37. On August 29, 2017, Sakata sent plaintiffs a letter referencing an August 17, 2017 investigation of a "cannabis grow" within the unincorporated area of County, claiming it was prohibited pursuant to County law. The letter further stated that "signage alone is not sufficient to establish an institution's ability to cultivate industrial hemp for agricultural or academic research in San Joaquin County." The letter demanded evidence supporting plaintiffs' claim of being an established research cultivar by September 11, 2017. Because the County can't quite understand that the word "cannabis" - which may be colloquially used interchangeably with "marijuana" - doesn't actually mean "marijuana", this letter was on its face confusing.

38. On September 11, 2017, plaintiffs responded to the letter addressing the County's position at length, disputing both the factual and legal basis for the County's letter. See Exhibit B, attached hereto. No one vested Sakata with the power to preside over any qualification

determination hearings. In fact, under the newly enacted California law, this was properly the domain of the newly established Industrial Hemp Advisory Board. Plaintiffs nonetheless, in their responsive letter, diligently addressed each request County Counsel made.

39. On September 12, 2017, San Joaquin County responded to plaintiffs' letter, declaring the September 11, 2017 letter non-responsive and insufficient to demonstrate an "Established Agricultural Research Institution for the purposes of agricultural or academic research."

40. On September 15, 2017, plaintiffs again replied offering specific information to support and substantiate, attaching a plethora of documentation as exhibits, including but not limited to: California Bureau for Private Postsecondary Education showing American States University as offering a number of "currently approved [educational] programs."

41. Apparently this third letter was not adequate because on September 26, 2017, the San Joaquin County Board of Supervisors passed and adopted the offending ordinance.

42. The video record of the meeting of September 26, 2017 speaks for itself- and the number of falsehoods disclosed at that meeting was substantial. To identify a few:

- The subject grow was described as 500 or 600 acres, considerably more than the actual 26.19 acres actually grown, causing it to fall under a commercial category;

- The suggestion that hemp is indistinguishable from marijuana was also made, when there is a measurable distinction, notably the THC content;

- The notable omission of the fact that hundreds if not thousands of patients have come to depend on CBD for their health as the only medication that gives them relief, and there's a shortage of CBD as a result of the DEA ban on imports;

-The implication that laboratories are difficult to find when plaintiffs have handed defendants binders with test results from local labs all over the bay area;

-The statement that the plant must be taken to a lab to test despite that there are countless products on the market, including on Amazon.com, which enable anyone to test using a portable handheld device;

-The suggestion that there is criminal activity associated with hemp growing without any shred of evidence;

- The "wise use of resources" argument is provably fallacious - the resources which were expended by the County on the subject grow would have likely saved a boy who was just recently shot nearby had defendants targeted the illegal marijuana grow up the road from the subject grow rather than plaintiffs' legal grow;

-The implication that small marijuana grows are hard to find when a simple and inexpensive drone can easily be used to map them out - and plaintiffs hereby make an offer to do this for defendants as it is apparently too difficult for them to figure out;

-Many more blatant misrepresentations which can be identified with a modestly competent google search, too numerous to list, as will be shown at trial.

43. On September 28, 2017, Sakata sent yet another letter to plaintiffs, this time attaching the offending ordinance, stating it was immediately effective, the subject grow was a public nuisance, and demanding abatement as "[e]ach day that [the] illicit grow remains constitutes a separate offense." (See Exhibit C, attached hereto).

44. On October 3, 2017, plaintiffs again had their crops analyzed, this time by Konocti Analytics R&D Program, another party, for purposes of verifying the Steep Hill findings. This test resulted in a finding of THC at 0.24%, again clearly designating it as hemp.

45. On October 5, 2017, Roger Agajanian, Administrative Dean of plaintiff ASU, telephoned the Board respectfully requesting a hearing. He was told to email Mimi Duzenski, Clerk of the Board. He did so and requested a hearing to be heard on October 24, 2017. He was denied, and instead told that plaintiffs would be put on the agenda for the next Board meeting on November 7, 2017. Duzenski wrote this from an email address with an "sj.gov" domain, and above her signature identifying her as Clerk of the Board. October 5, 2017, the date the email was sent, was a Thursday, one working day before Columbus Day weekend, a holiday observed by County. On October 6, 2017, Agajanian confirmed this in writing and discussed every portion of the offending ordinance. See attached Exhibit D.

46. The Sheriff, brandishing an embarrassingly inadequate search warrant with many of the aforementioned false facts sworn out by Agent Michael Eastin, the signature of a-not-easily-identified Magistrate with no typed name underneath, entered on the subject grow the next Tuesday, one day after Columbus day. See Attached Exhibit E. The warrant further does not identify what agency employs Eastin. The warrant does not indicate Eastin's expertise, experience, familiarity with the subject matter of the warrant, or the basis on which he believed the property authorized to be searched for including "Marijuana/Hemp" was illegal. Throughout the warrant, the terms "marijuana" and "hemp" are only used in conjunction with each other, never individually, despite that they are measurably unique products with a wildly different legal implication. The warrant does not indicate that Eastin had visited the subject grow on at least two prior occasions, including speaking with plaintiff Winnemucca's Chief, William Bills. The warrant further makes no mention of the research or development aspects which had been duly offered to defendants. The warrant prohibits night entry, yet at the time the Sheriff entered onto the subject grow, it was so dark that lights had to be erected. The warrant does not indicate that any property may be seized. The warrant was never correctly returned and there was no specific inventory performed of the evidence seized. There are many other deficiencies, too numerous to list herein, which will be shown at trial.

47. The offending ordinance purports to prohibit all growing of hemp for any purposes within the unincorporated areas of County, in direct conflict with existing law, in excess of the Board's delegated powers, in violation of United States Constitution, and in violation of plaintiffs' constitutionally protected rights, and is therefore void pursuant to the Supremacy Clause.

48. The offending ordinance denies plaintiffs the ability to continue to cultivate industrial hemp plants in violation of the Agricultural Act of 2014 ["Farm Bill"] signed into law by former President Barack Obama which specifically permits such cultivars, codified at 7 U.S.C. 5940(a) and the corresponding California Industrial Hemp Farming Act signed into law by Governor Jerry Brown in 2013. Obstacle preemption arises when a challenged ordinance

stands as an obstacle to the accomplishment and execution of the full purposes and objectives of a higher law. *Crosby v. National Foreign Trade Council* (2000) 530 U.S. 363. The offending ordinance is therefore in violation of and preempted by both of these laws as the objectives of the higher laws - to promote hemp cultivation - is being directly prohibited.

49. The offending ordinance uses the terms "marijuana", "cannabis", "Cannabis Sativa L." and "hemp" in such a confusing matter, technically incorrect from a strict constructionist perspective, such that an ordinary person, or even an attorney "of ordinary intelligence" would have trouble saying for sure what is being permitted and what is not. Therefore the ordinance as written is unconstitutionally vague. *Connally v. General Construction Co.* (1926) 269 U.S. 385, 391.

50. The United States Constitution likewise prohibits "[L]egislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are bills of attainder prohibited by the Constitution." *United States v. Lovett* (1946) 328 U.S. 303, 315-6; *accord*, *Estate of Castiglioni* (1995) 40 Cal.App.4th 367, 377, fn. 17; *California State Employees Assn. v. Flournoy* (1973) 32 Cal.App.3d 219, 225. The subject ordinance was specifically tailored to the subject grow, targeting plaintiffs with deliberate intention. For this reason it is unconstitutional.

51. In addition to being preempted, vague, and constituting a bill of attainder, the offending ordinance constitutes an *ex post facto* law: "[t]he Ex Post Facto Clause forbids the Congress to enact any law "which imposes a punishment for an act which was not punishable at the time it was committed…" *Weaver v. Graham* (1981) 450 U.S. 24, 28. This is precisely what happened in the present case.

52. County proceeded on an emergency basis to ensure that plaintiffs were surprised, could not be heard or have time to remediate. Moreover, County was specifically told of the majority of the illegalities contained in the ordinance by Agajanian and nonetheless failed to address them at the public meeting or at all. Finally, in what can only be viewed as sheer bad

faith, the County informed plaintiffs that they could come to the meeting on November 7, 2017 to voice their concerns whilst simultaneously planning to preemptively enter onto their land with a fraudulently obtained search warrant, exceed its stated scope, and unlawfully seize their hemp crops without affording them one second of time at a board meeting to be heard.

53. Given the degree of egregious conduct, one can only speculate what defendants' true motivations were. Whatever they are, their actions are clearly and inexcusably unlawful, and plaintiffs have been severely damaged as a result.

FIRST CAUSE OF ACTION

Violation of Supremacy Clause/Preemption Doctrine

[U.S. Const. art. VI, cl. 2]

(by all plaintiffs against all defendants)

54. Plaintiffs hereby incorporate the entirety of the above and below allegations as if fully set forth hereunder.

55. The Supremacy Clause and Preemption Doctrines are guaranteed by Clause 2 of Article VI of the United States Constitution. Where there is a direct conflict of laws, such as legalization of industrial hemp, and clear legislations permitting it on the federal and/or state level, a lower state authority is prohibited from enacting any conflicting laws.

56. Defendants, and each of them, acted under color of a law when they seized plaintiffs property on October 10, 2017. The offending ordinance is in direct conflict with California law inasmuch as it vest the power to determine compliance in San Joaquin County, rather than the Industrial Hemp Advisory Board. Moreover, this law is in direct conflict with federal law which states that hemp is permitted if a grower is operating within the boundaries of the state law, and obtained approval from the U.S. Department of Agriculture as was the case here.

57. The importance of the Supremacy clause and Preemption doctrines in this specific context cannot be overstated: Defendants relied on approvals from the U.S. Department of Agriculture and from the State of Nevada Department of Agriculture and from

the San Joaquin County Agricultural Commission itself who plaintiffs made sure knew everything about the subject grow, and they all knew they could request testing at any time. Plaintiffs were open and transparent at every step. In reliance on these approvals, they invested countless sums into the growing of the hemp seized, including hiring S.G. Farms; creating and erecting customized signage to ensure that no criminal activity developed; testing of the soil before planting the seeds to ensure that there were no pesticides, herbicides, fungicides, or other chemical contaminants which would taint the grow and which would harm patients; developing a customized water conservation technique *specific to this very grow*, to test it for research purposes as well as to minimize water waste; and many others. A private party should be allowed to rely on representations by its government, particularly when it goes out of its way to comply with every law and be an open book to every entity of government involved.

58. As a proximate result of these act and/or omissions, plaintiffs have been damaged in an amount to be proven at trial, presently estimated to be in excess of $77M.

59. Plaintiffs are informed and believe and thereon allege that defendants' conduct, and each of theirs', was malicious, oppressive and/or in reckless disregard of their rights, entitling them to recover punitive damages.

Wherefore plaintiffs pray for relief as set forth fully below.

SECOND CAUSE OF ACTION

Violation of Vagueness Doctrine

[U.S. Const. am. 5, 14]

(by all plaintiffs against all defendants)

60. Plaintiffs hereby incorporate the entirety of the above and below allegations as if fully set forth hereunder.

61. A law cannot be so complex that a person of ordinary intelligence not be able to make sense of it.

62. The offending ordinance states "…due to the fact that industrial hemp and cannabis are derivatives of the same plant, Cannabis sativa L., the appearance of industrial

hemp and cannabis are indistinguishable" which appears to make no sense, as it appears to be classifying plants based on capitalization.

63. Subsequent to this, the ordinance says "Due to the fact that industrial hemp and cannabis are indistinguishable…" which is even more confusing because industrial hemp is cannabis.

64. In as much as "cannabis" is used to mean "marijuana", which might be the case for the majority of the ordinance, this disregards that the term "cannabis" encompasses hemp as well.

65. When all of this is taken together, as it is in the offending ordinance, it results in a person "of ordinary intelligence" not being able to understand what is permitted and what it not, and is therefore unconstitutionally vague. *Connally v. General Construction Co.* (1926) 269 U.S. 385, 391.

66. As a proximate result of these act and/or omissions, plaintiffs have been damages in an amount to be proven at trial, presently estimated to be in excess of $77M.

67. Plaintiffs are informed and believe and thereon allege that defendants' conduct, and each of theirs', was malicious, oppressive and/or in reckless disregard of plaintiffs' rights, jusitfying an award of punitive damages.

Wherefore plaintiffs pray for relief as set forth fully below.

THIRD CAUSE OF ACTION

Unlawful Bill of Attainder/*Ex Post Facto* Law

[U.S. Const. art. I, § 9, cl. 3]

(by all plaintiffs against all defendants)

68. Plaintiffs hereby incorporate the entirety of the above and below allegations as if fully set forth hereunder.

69. The United States Constitution forbids legislative bills of attainder: in federal law under Article I, Section 9, and in state law under Article I, Section 10. The fact that the

Founding Fathers banned them even under state law reflects the importance that the framers attached to this issue.

70. Within the United States Constitution, the clauses forbidding attainder laws serve two purposes. First, they reinforce the separation of powers, by forbidding the legislature to perform judicial or executive functions—since the outcome of any such acts of legislature would of necessity take the form of a bill of attainder. Second, they embody the concept of due process, partially reinforced by the Fifth Amendment to the Constitution. The text of the Constitution, Article I, Section 9, Clause 3 is "No Bill of Attainder or *ex post facto* Law shall be passed." This issue is so vital to the operations of government that the constitution of every single state also expressly forbids bills of attainder.

71. At least 20% of the meeting during which the offending ordinance was passed was devoted to targeting the subject grow specifically, from identifying the grow, to deciding issues of amendment of the ordinance of it based on notice of its existence "leaking" to the plaintiffs, to tailoring the raid specifically to surprise them. This is all evident from the video of the meeting available on the web.

72. Because plaintiffs are easily ascertainable members of a group and because the law inflicts punishment on only them without a judicial trial, it is an unlawful bill of attainder,

73. Because the County made something already happening criminal, and denied plaintiffs a realistic ability to abate the grow as well as an opportunity to be heard, the offending ordinance is an *ex post facto* law as well.

74. As a proximate result of these act and/or omissions, plaintiffs have been damages in an amount to be proven at trial, presently estimated to be in excess of $77M.

75. Plaintiffs are informed and believe and thereon allege that defendants' conduct, and each of theirs', was malicious, oppressive and/or in reckless disregard of plaintiffs' rights, jusitfying an award of punitive damages.

Wherefore plaintiffs pray for relief as set forth fully below.

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FOURTH CAUSE OF ACTION

Violation of Fifth Amendment - Procedural Due Process

[42 U.S.C. §1983]

(by all plaintiffs against all defendants)

76. Plaintiffs hereby incorporate the entirety of the above and below allegations as if fully set forth hereunder.

77. The Fifth Amendment guarantees that "No person shall…be deprived of life, liberty, or property, without due process of law," and is applied to all states by the Fourteenth Amendment. Defendants and each of them have effectively stolen $77M from plaintiffs without affording them due process and accordingly, their actions were both unlawful and unconstitutional.

78. Defendants, and each of them, went out of their way to ensure that no process was available to plaintiffs:

- They acted on alleged emergency basis, when there was no emergency, using that as a reason to fail to notify anyone opposed to the offending ordinance before it was passed, including all of plaintiffs, whilst concurrently taking great care to inform those in favor of it to purposefully fabricate an apparent "good record" of public participation;
- They informed plaintiffs of passage of the ordinance and demanded removal of crops and acted on that demand within far too short a window to reasonably permit compliance;
- They appeared to agree to afford plaintiffs due process, and then betrayed that agreement by entering onto the subject grow and steal it beforehand;
- Other acts, which shall be proven at trial, all according to proof.

79. Defendants, and each of them, in so acting and failing to act, have proximately caused damage to the thousands of patients plaintiffs service who will suffer personal injury as a direct result of their actions and omission.

80. Plaintiffs are informed and believe and thereon allege that defendants' conduct, and each of theirs', was malicious, oppressive and/or in reckless disregard of plaintiffs' rights.

Wherefore plaintiffs pray for relief as set forth fully below.

FIFTH CAUSE OF ACTION

Violation of Fourth Amendment - Unlawful Seizure

[42 U.S.C. §1983]

81. Plaintiffs hereby incorporate the entirety of the above and below allegations as if fully set forth hereunder.

82. The Fourth Amendment, applied to the States by virtue of the Fourteenth Amendment, protects the People of the United States from unreasonable search and seizure.

83. The search warrant at issue contained inaccurate facts sworn out by Agent Michael Eastin, and the signature of a-not-easily-identified Magistrate was taken, with no typed name underneath. The warrant further does not identify what agency employs Eastin. The warrant does not indicate Eastin's expertise, experience, familiarity with the subject matter of the warrant, or the basis on which he believed the property authorized to be searched for including "Marijuana/Hemp" was illegal. Throughout the warrant, the terms "marijuana" and "hemp" are only used in conjunction with each other, never individually, despite that they are measurably unique products with a wildly different legal implications. The warrant does not indicate that Eastin had visited the subject grow on at least two prior occasions, including speaking with plaintiff Winnemucca's Chief Bills. The warrant further makes no mention of the research or development aspects, evidence of which had been duly handed to defendants. The warrant prohibits night entry, yet at the time the Sheriff entered onto the subject grow, it was so dark that lights had to be erected. The warrant does not indicate that any property may be seized. The warrant was never correctly returned and the exact amounts of what were taken have not been verified. There are many other deficiencies, too numerous to list herein, but which will be shown at trial in this matter.

84. Given the gross insufficiency of the search warrant and the gross deviations from its scope, the seizure is an unlawful violation of the Fourth Amendment.

85. As a proximate result of these act and/or omissions, plaintiffs have been damages in an amount to be proven at trial, presently estimated to be in excess of $77M.

86. Plaintiffs are informed and believe and thereon allege that defendants' conduct, and each of theirs', was malicious, oppressive and/or in reckless disregard of plaintiffs' rights, jusitfying an award of punitive damages.

Wherefore plaintiffs pray for relief as set forth fully below.

IRREPARABLE HARM

Plaintiffs hereby incorporate by reference their Application for a temporary restraining order to be filed immediately after this Complaint in which they detail the reasons they believe they have a strong likelihood of success on the merits as well as will suffer irreparable harm if the requested relief is denied.

PRAYER

WHEREFORE, plaintiffs request judgment be entered in their favor as follows:

- Defendants be ordered to immediately return the hemp taken as well as any all other items seized or, if no longer available, the reasonable value thereof;

- Defendants and each of them be enjoined from acting pursuant to the offending ordinance or any other similar ordinance they may choose to create;

- Defendants and each of them be enjoined from interfering with plaintiffs' growing of hemp, except as may be explicitly authorized by the legislature or the newly forming Industrial Hemp Advisory Board;

- Defendants and each of them be enjoined from entering onto plaintiffs' land except for the purposes of taking samples of the crops thereon grown, and then only by appointment and prior consent, not to be unreasonably withheld;

- An order declaring the each and all of the actions taken against plaintiffs by defendants was unlawful and unconstitutional;

- An order declaring the offending ordinance unconstitutional and therefore void;

- An order declaring the search warrant issued unconstitutional and therefore void;

- An order declaring that any and all criminal actions pursuant to the offending ordinance be dismissed with prejudice;

- Return of the property wrongfully seized or, if no longer available, the fair market value;

- Punitive damages against the individually named defendants;

- Attorney fees and costs pursuant to 42 U.S.C. §1988;

- Any and all other allowable damages according to proof;

- Other further relief as this Honorable Court may deem just and appropriate.

Respectfully submitted,
LAW OFFICES OF JOSEPH SALAMA

October 27, 2017

__/s/ Joseph Salama_____
JOSEPH SALAMA
Attorneys for Plaintiffs
WINNEMUCCA SHOSHONI, MBS; AMERICAN STATES UNIVERSITY; CANNABIS SCIENCE, INC.; FREE SPIRIT ORGANICS; and HRM FARMS