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12 DAVID WILLIAMS and DOES 1-10; )  
13 )  
14 Plaintiffs, ) Civil Action No.  
15 )  
16 v. ) **COMPLAINT FOR DAMAGES,**  
17 ) **DECLARATORY RELIEF,**  
18 BUTTE COUNTY, a municipal corporation; ) **PRELIMINARY INJUNCTION,**  
19 BUTTE COUNTY SHERIFF’S OFFICE, an entity ) **AND PERMANENT INJUNCTION**  
20 entity of unknown form; DEPUTY JACOB )  
21 HANCOCK, in his official and individual capacities; )  
22 and DISTRICT ATTORNEY MIKE RAMSEY, in ) **DEMAND FOR JURY TRIAL**  
23 his official and individual capacities, )  
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1 (“Hancock”), threatened Williams with arrest and prosecution if he did not to destroy most of the  
2 marijuana plants cultivated on Williams’ property. This action and the policy motivating it violate  
3 the Compassionate Use Act (Health & Safety Code § 11362.5), due process, and Williams’ right to  
4 be free from unreasonable searches and seizures. Through this action, plaintiffs seek declaratory and  
5 injunctive relief to restrain defendants from conducting similar such unlawful seizures in the future.  
6 Plaintiffs also seek reasonable compensation for the medical marijuana that was unlawfully ordered  
7 destroyed.  
8

## 9 **II. JURISDICTION**

10  
11 2. Jurisdiction is based on Article VI, Section 10 of the California Constitution; Civil  
12 Code sections 51.7 & 52.1; Code of Civil Procedure section 88; and Government Code section  
13 12960.

14  
15 3. On October 3, 2005, plaintiff Williams filed an administrative claim with the County  
16 of Butte, in compliance with California Government Code §§ 910 *et seq.* That claim was rejected by  
17 the County on or about November 18, 2005, through a letter sent on November 21, 2005. This  
18 action, therefore, is timely.

## 19 **III. VENUE**

20  
21 4. The claims alleged herein arose in Butte County, State of California. Therefore, venue  
22 properly lies in the Superior Court of the State of California in and for the County of Butte. (*See*  
23 Code of Civil Procedure §§ 392, 394 & 395(a)).

## 24 **IV. THE PARTIES**

### 25 **A. Plaintiffs**

26  
27 5. Plaintiff DAVID WILLIAMS (“Williams”) is, and, at all times relevant herein, was a  
28 resident of Butte County, who lawfully resided in the premises located at 11876 Highway 70, Space

1 #2, Oroville, California. Williams is, and at all times relevant herein, was a qualified medical  
2 marijuana patient who used marijuana upon the recommendation of his physician, in accordance with  
3 the Compassionate Use Act (Health & Safety Code § 11362.5) (“Compassionate Use Act”). He  
4 collectively cultivates marijuana with other qualified patients, pursuant to Health and Safety Code  
5 section 11362.775.  
6

7 6. Plaintiffs DOES 1 through 6, inclusive, are qualified medical marijuana patients who  
8 use marijuana upon the recommendation of their physicians, in accordance with the Compassionate  
9 Use Act. Plaintiffs DOES 1 through 6, inclusive, associated with Williams and each other to  
10 cultivate marijuana collectively on Williams’ residence, pursuant to Health and Safety Code section  
11 11362.775. They are the members of the private patient collective whose marijuana was destroyed  
12 on September 8, 2005. These plaintiffs sue with fictitious names at this time, due to privacy concerns  
13 and fear of reprisal from the police.  
14

15 7. Plaintiffs DOES 7 through 10, inclusive, are qualified medical marijuana patients who  
16 use marijuana upon the recommendation of their physicians, in accordance with the Compassionate  
17 Use Act. Plaintiffs DOES 7 through 10, inclusive, have associated with Williams to form a private  
18 patient collective to cultivate marijuana collectively on Williams’ residence, pursuant to Health and  
19 Safety Code section 11362.775, and they intend to do this into the future. These plaintiffs sue with  
20 fictitious names at this time, due to privacy concerns and fear of reprisal from the police.  
21  
22

23 **B. Defendants**

24 8. Defendant BUTTE COUNTY (“County”) is, and at all times mentioned herein was, a  
25 municipal corporation duly organized and existing under the laws of the State of California.  
26  
27  
28

1           9.       Defendant BUTTE COUNTY SHERIFF'S OFFICE ("Sheriff") is, and at all times  
2 mentioned herein was, a department within Butte County, which is owned and operated by the  
3 County.

4           10.       Defendant BUTTE COUNTY SHERIFF'S DEPUTY JACOB HANCOCK  
5 ("Hancock") is, and at all times mentioned herein was, an employee of the Sheriff, acting under the  
6 color of law within the scope of his employment, who participated in the execution of the police  
7 misconduct complained of herein.  
8

9           11.       Defendant DISTRICT ATTORNEY MIKE RAMSEY ("Ramsey") is, and at all times  
10 mentioned herein was, an employee of the County, acting under the color of law within the scope of  
11 his employment, who participated in the execution of the police misconduct complained of herein.  
12

13           12.       Each of the defendants caused and is responsible for the below-described unlawful  
14 conduct and resulting injuries by, among other things, personally participating in the unlawful  
15 conduct or acting jointly or conspiring with others who did so; by authorizing, acquiescing in or  
16 setting in motion policies, plans or actions that led to the unlawful conduct; by failing to take action  
17 to prevent the unlawful conduct; by failing and refusing with deliberate indifference to plaintiff's  
18 rights to initiate and maintain adequate training and supervision; and by ratifying the unlawful  
19 conduct that occurred by agents and officers under their direction and control, including failing to  
20 take remedial or disciplinary action.  
21

22           13.       In doing the acts alleged herein, defendants and each of them were on duty as police  
23 officers, in uniform, armed, with badges, and, thus, were acting within the scope and course of their  
24 employment with the City of Emeryville and the EPD. (*See Mary M. v. City of Los Angeles* (1991)  
25 54 Cal.3d 202, 213-21, 285 Cal.Rptr. 99; *White v. County of Orange* (1985) 166 Cal.App.3d 566,  
26 571-72, 212 Cal.Rptr. 493).  
27  
28

1           14.     In doing the acts alleged herein, defendants and each of them had a duty to protect the  
2 health and safety of the plaintiffs, and they failed to exercise due care in the enforcement of that duty.

3           15.     In doing the acts alleged herein, defendants and each of them acted as the agent,  
4 servant, employee, partner, joint-venturer, co-conspirator and/or in concert with each of said other  
5 defendants; and in engaging in the conduct hereinafter alleged, were acting with the permission,  
6 knowledge, consent and ratification of their co-defendants, and each of them.

8                           **IV.     FACTS APPLICABLE TO ALL CAUSES OF ACTION**

9           16.     On November 4, 1996, the California electorate approved Proposition 215, which is  
10 codified as “the Compassionate Use Act” at California Health & Safety Code § 11362.5, to “ensure  
11 that seriously ill Californians have the right to obtain and use marijuana for medical purposes. . . .”  
12 (See Cal. Health & Safety Code § 11362.5(b)(1)).

13           17.     Seven years later, on September 10, 2003, the California Legislature enacted Senate  
14 Bill 420, Stats. 2003 c.875 (“SB 420”), to provide that “Qualified patients, persons with valid  
15 identification cards, and the designated primary caregivers of qualified patients and persons with  
16 identification cards, and the designated primary caregivers of qualified patients and persons with  
17 identification cards, who associate within the State of California in order collectively or cooperatively  
18 to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to  
19 state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.”  
20 (Cal. Health & Safety Code § 11362.775) Under these laws, plaintiffs had a right to associate with  
21 each other to furnish themselves the medicine they need. (See *People v. Urziceanu* (2005) 132  
22 Cal.App.4th 747, 33 Cal.Rptr.2d 859, 881).

23           18.     Precisely as the voters of California and their Legislature intended, plaintiffs Williams  
24 and DOES 1 through 6 formed a private patient collective in the Spring of 2005 to cultivate  
25 marijuana for their personal medical use on Williams’ property in Oroville, California.  
26  
27  
28

1           19.     On September 8, 2005, Deputy Jacob Hancock came to Williams' home without a  
2 warrant. Despite being presented with copies of medical marijuana recommendations for Williams  
3 and the six other qualified medical marijuana patients who were part of the private collective,  
4 Hancock ordered Williams to destroy all but twelve of the forty-one medical marijuana plants  
5 growing on his property, under the threat of arrest and prosecution. Fearful of the consequences,  
6 Williams did as he was told.  
7

8           20.     On information and belief, this action was undertaken pursuant to an underground  
9 policy promulgated by defendant District Attorney Ramsey, which forbids private patient collectives,  
10 unless all members reside on the property where the marijuana is grown ("underground policy").  
11

12           21.     This Spring, Williams and four other qualified patients have associated together to  
13 cultivate marijuana collectively, pursuant to Health and Safety Code section 11362.775. Based on  
14 prior experience and their understanding of the underground Butte County policy, they are fearful of  
15 what the Sheriff will do.  
16

17           22.     At no time during the events described above did plaintiffs commit any criminal  
18 offense under the laws of the State of California.  
19

20           23.     The defendant police officers were aware of the legality of plaintiffs' conduct under  
21 California law and they did not have any probable cause or legal justification to seize or order the  
22 destruction of the marijuana plants at Williams' residence.  
23

24           24.     As a direct and proximate result of the conduct of defendants described herein, the  
25 named individual plaintiffs have been denied their constitutional, statutory and legal rights as stated  
26 below, and have suffered, continued to suffer, and will in the future suffer general and special  
27 damages, including but not limited to, mental and emotional distress, physical injuries and bodily  
28

1 harm, pain, fear, humiliation, embarrassment, discomfort, and anxiety, and medical and related  
2 expenses.

3           25. Defendants' acts were willful wanton, malicious and oppressive and done with  
4 conscious disregard and deliberate indifference to plaintiffs' rights.  
5

6           26. Defendants' policies, practices, conduct, and acts alleged herein have resulted and will  
7 continue to result in irreparable injury to plaintiff, including but not limited to violations of their  
8 constitutional, statutory and common law rights. Plaintiffs have no plain, adequate or complete  
9 remedy at law to address the wrongs described herein. Plaintiffs intend in the future to exercise their  
10 rights under the Compassionate Use Act to cultivate and possess marijuana for medical use on the  
11 recommendation of a physician, in accordance with California law. Defendants' conduct described  
12 herein has created fear, anxiety and uncertainty among plaintiff with respect to their exercise now and  
13 in the future of these statutory and other constitutional rights, and with respect to their physical  
14 security and safety. Plaintiffs, therefore, seeks injunctive relief from this Court, to ensure that  
15 plaintiffs and persons similarly situated will not suffer violations of their rights from defendants'  
16 illegal and unconstitutional policies, customs and practices, as described herein.  
17

18           27. An actual controversy exists between plaintiffs and defendants in that plaintiffs  
19 contend that the policies, practices and conduct of defendants alleged herein are unlawful and  
20 unconstitutional, whereas plaintiffs is informed and believe that defendants contend that said policies,  
21 practices and conduct are lawful and constitutional. Plaintiffs seeks a declaration of rights with  
22 respect to this controversy.  
23

24           28. Plaintiff Williams has exhausted all administrative remedies for himself and on behalf  
25 of the other plaintiffs.  
26  
27  
28

1 **V. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION--UNREASONABLE SEARCH AND SEIZURE**

3 **Violation of California Constitution, Article I, § 13**

4 **(AGAINST ALL DEFENDANTS)**

5  
6 29. Plaintiffs reallege and incorporate by reference paragraphs 1 through 28 of this  
7 complaint as though fully set forth herein.

8 30. Plaintiff Blair legally at 11876 Highway 70, Space #2, Oroville, California, at all  
9 relevant times.

10  
11 31. On or about September 8, 2005, Defendant Deputy Hancock entered Williams'  
12 property without a warrant residence and ordered the destruction of lawfully possessed medical  
13 marijuana plants.

14 32. Prior to this, Williams explained to Deputy Hancock that the marijuana was being  
15 cultivated by a private patient collective and he showed Hancock copies of seven written physician's  
16 recommendations, to no avail.

17  
18 33. Deputy Hancock was aware of, but disregarded, the status of plaintiffs as a qualified  
19 medical marijuana patient cultivating marijuana collectively, pursuant to Health and Safety Code  
20 section 11362.775.

21  
22 34. In doing the aforementioned acts, defendants, and each of them, violated Williams'  
23 right to be free from unreasonable searches and seizures under article I, section 13 of the California  
24 Constitution.

25 35. As a direct and proximate result of this unreasonable search and seizure, plaintiffs  
26 suffered extreme emotional distress, mental anguish, physical pain and suffering, and loss of  
27 property.  
28







1 physical pain and suffering, loss of property and labor, and incurred attorney fees, as is more fully set  
2 forth below.

3 **FIFTH CAUSE OF ACTION--CONVERSION**

4 (AGAINST ALL DEFENDANTS)

5  
6 52. Plaintiffs reallege and incorporate by reference paragraphs 1 through 51 of this  
7 complaint as though fully set forth herein.

8 53. Plaintiffs collectively owned and legally possessed the medical marijuana plants  
9 growing on Williams' property on September 8, 2005.

10  
11 54. On or about September 8, 2005, Defendant Deputy Hancock Sergeant Collier and  
12 entered Plaintiff's property without a warrant, ordered the uprooting of approximately twenty-nine  
13 marijuana plants, and converted the same to his own use and/or the use of the Butte County Sheriff's  
14 Office.

15  
16 55. Defendant Hancock did this pursuant to an underground policy promulgated by  
17 defendant Ramsey.

18 56. Plaintiff Williams did not consent to the removal of this property.

19 57. Defendants' actions were without right or justification and constituted the conversion  
20 of plaintiff's property under the common law of California.

21  
22 58. Defendants acted maliciously and in bad faith in that they knew or should have known  
23 that their actions were wrongful.

24 59. As a direct and proximate result of defendants' conversion, plaintiffs have sustained a  
25 loss of the use of their personal property, extreme emotional distress, mental anguish, physical pain  
26 and suffering, and lost labor.  
27  
28

1 **VI. STATEMENT OF DAMAGES**

2 60. As a direct and proximate result of the wrongful acts and/or omissions of the  
3 Defendants, as set forth above, plaintiff have sustained the following injuries and damages:  
4

- 5 a. Physical pain and mental anguish, past and present;
- 6 b. Severe emotional distress, humiliation, fear, and embarrassment;
- 7 c. Loss of property and labor, and costs of replacing property and labor;
- 8 d. Time and effort to secure the return of property unlawfully taken;
- 9 e. Past and future medical expenses; and
- 10 f. Attorney’s fees.

11 61. The actions of Defendants were malicious or oppressive, and amounted to gross  
12 negligence and a reckless disregard for the Plaintiff, and justify the imposition of exemplary damages  
13 upon these Defendants in order to encourage and ensure that these Defendants, as well as other police  
14 officers, will not repeat the same, or substantially similar conduct.  
15

16 WHEREFORE, the Plaintiff prays for damages as follows:

- 17 a. That this Court declare the rights of all parties;
- 18 b. Compensatory damages, including, but not limited to general and special damages,  
19 according to proof at trial;  
20
- 21 c. Exemplary and punitive damages;
- 22 d. Treble damages for each violation of the Bane Civil Rights Act, as provided by Civil  
23 Code §§ 52(a) & 52.1;  
24
- 25 e. Reasonable attorney’s fees;
- 26 f. Costs of suit incurred herein;
- 27
- 28

1 g. That this Court issue an order requiring Defendants to show cause why they should  
2 not be enjoined, as hereinafter set forth;

3 h. That this Court issue a preliminary injunction, and a permanent injunction, enjoining  
4 Defendants and their agents, servants, and employees, and all persons acting under and in concert  
5 with, or for them, from continuing to violate the constitutional rights of qualified medical marijuana  
6 patients to be free from unreasonable searches and seizures; and  
7

8 i. All other compensatory, equitable and declaratory relief as this Court  
9 deems just.  
10

11 Respectfully submitted, this \_\_\_ day of May, 2006.

12  
13  
14 \_\_\_\_\_  
15 JOSEPH D. ELFORD  
16 Attorney for Plaintiffs  
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial of this action.

DATED: May 17, 2006

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JOSEPH D. ELFORD  
Attorney for Plaintiffs

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