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12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF LOS ANGELES
14 PASADENA DIVISION
15 UNLIMITED JURISDICTION

16 AMERICANS FOR SAFE ACCESS, PHILIP)
17 LUJAN, and PATRICIA SCHWARTZ,)
18)
19 Plaintiffs,)
20 v.)
21 CITY OF PASADENA, a municipal corporation,)
22)
23 Defendant.)
24)
25)

Civil Action No.

**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF,
PRELIMINARY INJUNCTION,
AND PERMANENT INJUNCTION**

26 **I. INTRODUCTION**

27 1. This is an action for declaratory and injunctive relief arising out of an unlawful
28 ordinance passed by the City of Pasadena banning all medical marijuana collectives throughout the

1 city. Plaintiff Philip Lujan (“Lujan”) is a qualified medical marijuana patient who took steps towards
2 forming a medical marijuana collective in accordance with California Health and Safety Code
3 sections 11362.5 and 11362.775. Together with plaintiff Americans for Safe Access, plaintiff Lujan,
4 on behalf of himself and other qualified medical marijuana patients who are detrimentally affected by
5 the Pasadena City Ordinance, including plaintiff Patricia Schwartz, seek an order declaring Pasadena
6 Municipal Ordinance No. 05-0919 unlawful and enjoining its continued implementation. The City of
7 Pasadena’s rigid policy of banning all medical marijuana collectives deprives qualified medical
8 marijuana patients of the medicine promised them by the Compassionate Use Act (Cal. Health &
9 Safety Code § 11362.5(d)), thereby causing them wholly unnecessary suffering and pain. Pasadena
10 Municipal Ordinance No. 7018 conflicts with the Compassionate Use Act (Cal. Health & Safety
11 Code §§ 11362.5(d) & 11352.775) and is, therefore, void.

14 2. In the general election of November 4, 1996, fifty-seven percent of the California
15 electorate approved a ballot measure enacting Proposition 215 (“Proposition 215” or “the
16 Compassionate Use Act” or “the CUA”). In so doing, the California voters declared that their intent
17 in passing this new law was “[t]o ensure that seriously ill Californians have the right to obtain and
18 use marijuana for medical purposes where that medical use is deemed appropriate and has been
19 recommended by a physician who has determined that the person’s health would benefit from the use
20 of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,
21 migraine, or any other illness for which marijuana provides relief.” (Cal. Health & Safety Code §
22 11362.5(b)(1)(A)) Furthermore, the law sought “[t]o encourage the federal and state governments to
23 implement a plan to provide for the safe and affordable distribution of marijuana to all patients in
24 medical need of marijuana.” (Cal. Health & Safety Code § 11362.5(b)(1)(C)).

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1 3. To meet the voters’ challenge, on September 10, 2003, the California Legislature
2 passed SB 420, also known as the “Medical Marijuana Program Act.” (*People v. Urziceanu* (2005)
3 132 Cal.App.4th 747, 33 Cal.Rptr.2d 859, 881). This legislation provides that “Qualified patients,
4 persons with valid identification cards, and the designated primary caregivers of qualified patients
5 and persons with identification cards, who associate within the State of California in order
6 collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis
7 of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366,
8 11366.5, or 11570.” (Cal. Health & Safety Code § 11362.775). The courts have construed this
9 legislation, which authorizes medical marijuana collectives and cooperatives, as the State’s initial
10 response to the voters’ request for a safe and affordable distribution system for marijuana. (*See*
11 *People v. Urziceanu* (2005) 132 Cal.App.4th 747, 33 Cal.Rptr.2d 859, 881). Under these laws,
12 plaintiffs had a right to associate with other qualified patients and primary caregivers to furnish sick
13 and dying persons with the medicine they need.

14 4. Notwithstanding plaintiff Lujan’s right to open a collective to furnish marijuana to
15 qualified patients and their primary caregivers, the City of Pasadena enacted Pasadena Ordinance No.
16 7018 on September 12, 2005, which defines a “medical marijuana dispensary” as a “facility or
17 location which provides, makes available or distributes medical marijuana to a primary caregiver, a
18 qualified patient, or a person with an identification card issued in accordance with California Health
19 and Safety Code Sections 11362.5, et seq.” (Pasadena Municipal Ordinance No. 7018, Section 1).
20 The Ordinance, in turn, provides that “[t]his use is prohibited in the City of Pasadena.” (Pasadena
21 Municipal Ordinance No. 7018, Section 1). As a result of this policy, plaintiff Lujan has been
22 forbidden from opening and operating a medical marijuana collective, which causes medical
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1 10. Plaintiff PATRICIA SCHWARTZ is, and at all times mentioned herein was, a
2 qualified medical marijuana patient who uses marijuana to treat chronic pain associated with
3 fibromyalgia. Plaintiff Schwartz is, and at all times mentioned herein was, a resident of the County
4 of Los Angeles and the City of Pasadena and she pays taxes in Pasadena. She is also an ASA
5 member.
6

7 **B. Defendant**

8 11. Defendant CITY OF PASADENA is, and at all times mentioned herein was, a
9 municipal corporation within the State of California.
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11 **IV. FACTS APPLICABLE TO ALL CAUSES OF ACTION**

12 12. On November 4, 1996, California voters passed Proposition 215, which is codified as
13 “the Compassionate Use Act” at California Health & Safety Code § 11362.5, to “ensure that seriously
14 ill Californians have the right to obtain and use marijuana for medical purposes. . . .” (*See Cal.*
15 *Health & Safety Code § 11362.5(b)(1)*).
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17 13. Seven years later, on September 10, 2003, the California Legislature enacted Senate
18 Bill 420, Stats. 2003 c.875 (“SB 420”), to provide that “Qualified patients, persons with valid
19 identification cards, and the designated primary caregivers of qualified patients and persons with
20 identification cards, who associate within the State of California in order collectively or cooperatively
21 to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to
22 state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.”
23 (*Cal. Health & Safety Code § 11362.775*) Under these laws, plaintiff Zielger had a right to associate
24 with other qualified patients and primary caregivers to furnish sick and dying persons with the
25 medicine they need. (*See People v. Urziceanu* (2005) 132 Cal.App.4th 747, 33 Cal.Rptr.2d 859,
26 881).
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1 14. Precisely as the voters of California and their Legislature intended, plaintiff Lujan
2 took steps to form a medical marijuana collective. He attended two City Council meetings where the
3 ban on medical marijuana dispensaries was discussed and he spoke to the mayor about opening a
4 dispensary in Pasadena after the second meeting. Although plaintiff Lujan intended, and still intends,
5 to open a medical marijuana collective dispensary if permitted to do so, he was deterred from doing
6 so based these conversations and the passage of Pasadena Ordinance No. 7018.
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8 15. In particular, despite the legality of medical marijuana collectives under California
9 law, the City Counsel of the City of Pasadena enacted Ordinance No. 7018 on September 12, 2005.
10 This Ordinance defines a “medical marijuana dispensary” as a “facility or location which provides,
11 makes available or distributes medical marijuana to a primary caregiver, a qualified patient, or a
12 person with an identification card issued in accordance with California Health and Safety Code
13 Sections 11362.5, et seq.” (Pasadena Municipal Ordinance No. 7018, Section 1). The Ordinance, in
14 turn, provides that “[t]his use is prohibited in the City of Pasadena.” (Pasadena Municipal Ordinance
15 No. 7018, Section 1).
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18 16. Enacted on September 12, 2005, Ordinance No. 7018 becomes effective on October
19 12, 2005, if not enjoined immediately. The Ordinance creates a present, as well as a future danger to
20 the rights of seriously ill California citizens represented by plaintiffs.
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22 17. As a direct and proximate result of the enactment of Ordinance No. 7018, plaintiffs
23 have suffered, and will continue to suffer, the loss of their right to open and operate medical
24 marijuana collectives to furnish marijuana to qualified patients and primary caregivers. This, in turn,
25 deprives the seriously ill qualified patients represented by ASA, including plaintiff Schwartz, of the
26 medicine promised them by the voters of California through the passage of Proposition 215. (*See*
27 *also* Cal. Health & Safety Code § 11352.775).
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1 4. Such other and further relief as may be just and proper.
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5 DATED: October 5, 2005

JOSEPH D. ELFORD

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8 DATED: October 6, 2005

BRUCE M. MARGOLIN

Counsel for Plaintiffs

1 **VERIFICATION**

2 I am the attorney for plaintiffs in this action. I declare under penalty of perjury under the laws
3 of the State of California that the foregoing is true and correct based upon my investigation and
4 interviews with plaintiffs. The individual named plaintiffs are unable to verify the Complaint
5 because they are absent from Alameda County, which is where I maintain my office for Americans
6 for Safe Access.
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8 Executed this ___ day of October in Oakland, California.

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12 JOSEPH D. ELFORD
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial of this action.

DATED: October 5, 2005

JOSEPH D. ELFORD

DATED: October 6, 2005

BRUE MARGOLIN

Counsel for Plaintiffs