

**ORIGINAL
FILED**

JUN 18 1998

**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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8 OAKLAND CANNABIS BUYERS'
COOPERATIVE and JEFFREY JONES
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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,)
14)
Plaintiff,)

15 v.)

16 CANNABIS CULTIVATOR'S CLUB;)
17 and DENNIS PERON,)
18 Defendants.)

19 AND RELATED ACTIONS.
20

Nos. C 98-00085 CRB
C 98-00086 CRB
C 98-00087 CRB
C 98-00088 CRB
C 98-00089 CRB
C 98-00245 CRB

ANSWER TO COMPLAINT
BY DEFENDANTS OAKLAND
CANNABIS BUYERS' COOPERATIVE
AND JEFFREY JONES

DEMAND FOR JURY TRIAL

21
22 Defendants OAKLAND CANNABIS BUYERS' COOPERATIVE and JEFFREY
23 JONES (hereinafter "Defendants") reply to plaintiff's Complaint for Declaratory Relief, and
24 Preliminary and Permanent Injunctive Relief as follows:

25 1. Defendants admit that plaintiff purports to bring a legal action under sections of
26 the Controlled Substances Act, 21 USC § 801, *et seq.*, but Defendants deny the remaining
27 allegations set forth in Paragraph 1.

28 2. Defendants deny the Court has jurisdiction under 28 USC § 1355(a). Defendants

Answer of Oakland Cannabis Buyers' Cooperative and Jeffrey Jones
Case Nos. C 98-00085 CRB, C 98-00086 CRB, C 98-00087
CRB, C 98-00088 CRB, C98-00089 CRB, C 98-00245 CRB

1 admit that plaintiff has pleaded claims under theories alleged in Paragraph 2, that this Court has
2 jurisdiction over the claims alleged, and that venue lies in this district. Notwithstanding the
3 foregoing, Defendants deny that plaintiff's claims for relief have any merit whatsoever.

4 3. Defendants admit the allegation set forth in Paragraph 3.

5 4. Defendants admit the allegations set forth in Paragraph 4.

6 5. Defendants admit the allegations set forth in Paragraph 5.

7 6. Defendants admit the allegations set forth in Paragraph 6.

8 7. Defendants admit the allegations set forth in Paragraph 7.

9 8. Defendants deny the allegations set forth in Paragraph 8 to the extent the quoted
10 language is taken out of context. Defendants specifically deny that the findings excerpted in
11 Paragraph 8 represent all of the Congressional findings in 21 USC § 801 that are pertinent to this
12 action.

13 9. Defendants admit the allegations set forth in Paragraph 9.

14 10. Defendants admit the allegations set forth in Paragraph 10.

15 11. Defendants admit the allegations set forth in Paragraph 11.

16 12. Defendants admit the allegations set forth in Paragraph 12.

17 13. Defendants admit the allegations set forth in Paragraph 13.

18 14. Defendants admit the allegations set forth in Paragraph 14.

19 15. Defendants admit the allegations set forth in Paragraph 15.

20 16. Defendants admit the allegations set forth in Paragraph 16.

21 17. Defendants admit the allegations set forth in Paragraph 17.

22 18. Defendants deny the allegations set forth in Paragraph 18.

23 19. Defendants deny the allegations set forth in Paragraph 19.

24 20. Defendants deny the allegations set forth in Paragraph 20.

25 21. Defendants deny the allegations set forth in Paragraph 21.

26 22. Defendants deny the allegations set forth in Paragraph 22.

27 23. In answer to Paragraph 23, Defendants incorporate by reference their responses to
28 Paragraphs 1 through 22.

1 access to medical treatment, as recognized by the United States Constitution.

2 NINTH AFFIRMATIVE DEFENSE

3 The statutes and regulations upon which plaintiff relies are, as applied herein, in violation
4 of the rights afforded criminal defendants, as recognized in the Fourth, Fifth, and Sixth
5 Amendments to the United States Constitution.

6 TENTH AFFIRMATIVE DEFENSE

7 Defendants' actions are not unlawful distribution, but rather constitute joint possession or
8 joint use.

9 ELEVENTH AFFIRMATIVE DEFENSE

10 Defendants' actions are lawful as activities of ultimate users.

11 TWELFTH AFFIRMATIVE DEFENSE

12 Defendants' actions about which plaintiff complains are the result of entrapment.

13 THIRTEENTH AFFIRMATIVE DEFENSE

14 Defendants' actions cause no irreparable injury.

15 FOURTEENTH AFFIRMATIVE DEFENSE

16 The balancing of hardships tips in favor of Defendants' actions.

17 FIFTEENTH AFFIRMATIVE DEFENSE

18 Defendants' actions are lawful, as consistent with the public interest.

19 SIXTEENTH AFFIRMATIVE DEFENSE

20 Defendants' actions lawfully constitute the exercise of a fundamental right protected by
21 the Ninth Amendment to the United States Constitution.

22 SEVENTEENTH AFFIRMATIVE DEFENSE

23 Defendants' actions lawfully constitute an exercise of power retained by the State of
24 California, and by the people of the State of California, under the Tenth Amendment to the
25 United States Constitution.

26 EIGHTEENTH AFFIRMATIVE DEFENSE

27 Any alleged act or omission giving rise to this action was committed or omitted without
28 the knowledge of the Defendants.

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NINETEENTH AFFIRMATIVE DEFENSE

Any alleged act or omission giving rise to this action was committed or omitted without the consent of the Defendants.

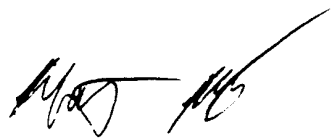
WHEREFORE, Defendants pray for judgment as follows:

1. That plaintiff take nothing by reason of its Complaint;
2. That the Complaint be dismissed with prejudice;
3. That no declaration issue finding Defendants in violation of the Controlled Substances Act;
4. That no permanent injunction issue;
5. That the Court award Defendants their costs incurred herein; and
6. That the Court order such other and further relief as it may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Defendants demand a trial by jury of all issues properly tried to a jury.

Dated: June 18, 1998



ROBERT A. RAICH
Attorney for Defendants
OAKLAND CANNABIS BUYERS'
COOPERATIVE and JEFFREY JONES

1 PROOF OF SERVICE BY MAIL

2 I am employed in the City of Oakland, County of Alameda, am over the age of eighteen
3 years, and am not a party to the within action. My business address is 1970 Broadway, Suite
4 1200, Oakland, California 94612. On the date this proof is signed, I mailed the attached:

5 ANSWER TO COMPLAINT BY DEFENDANTS OAKLAND CANNABIS
6 BUYERS' COOPERATIVE AND JEFFREY JONES

7 by placing a true copy thereof in a sealed envelope, with postage fully prepaid, in the United
8 States mail addressed to the following counsel:

9 United States of America

10 Mark T. Quinlivan
11 U.S. Department of Justice
12 901 E Street, N.W., Room 1048
13 Washington, D.C. 20530

14 Cannabis Cultivator's Club, et al.

15 J. Tony Serra
16 Brendan R. Cummings
17 Pier 5 North
18 San Francisco, California 94111

19 Marin Alliance for Medical Marijuana, et al.

20 William G. Panzer
21 370 Grand Avenue, Suite 3
22 Oakland, California 94610

23 Ukiah Cannabis Buyer's Club, et al.

24 Susan B. Jordan
25 515 South School Street
26 Ukiah, California 95482

27 David Nelson
28 106 North School Street
Ukiah, California 95482

29 Flower Therapy Medical Marijuana Club, et al.

30 Helen Shapiro
31 Carl Shapiro
32 404 San Anselmo Avenue
33 San Anselmo, California 94960

34 Santa Cruz Cannabis Buyers Club

35 Kate Wells
36 2600 Fresno Street
37 Santa Cruz, California 95062

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 18, 1998



Robert A. Raich