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9 FREE SPIRIT ORGANICS; AMERICAN STATES
10 UNIVERSITY; CANNABIS SCIENCE, INC.; HRM
11 FARMS

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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA

FREE SPIRIT ORGANICS NAC;
AMERICAN STATES UNIVERSITY;
CANNABIS SCIENCE, INC. AND
HRM FARMS,

Plaintiffs,

v.

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 SHERIFF; DOES 1-
10, INCLUSIVE,

Defendants.

Case No. 2:17-CV-02271-KJM-EFB

THIRD AMENDED COMPLAINT FOR:

- I. Violation Of Supremacy Clause/Preemption [U.S. Const. Art. VI, cl. 2]
- II. Unconstitutional Vagueness [U.S. Const. Am. 5, 4]
- III. Unlawful Bill of Attainder/Ex Post Facto [U.S. Const. Art. I, § 9, cl. 3]
- IV. Violation of Fourteenth Amendment - Substantive / Procedural Due Process
- V. Violation of Fourth Amendment - Unlawful Seizure [42 U.S.C. §1983]
- VI. Declaratory Judgment
- VII. Deprivation of Rights [42 U.S.C §1983]
- VIII. Violations of the Brown Act
- IX. Violation of the 14th Amendment Equal Protection

REQUEST FOR

- Return of Property Seized;
- Preliminary Injunction;
- Permanent Injunction;
- Declaration re Ordinance Is Void;
- Declaration re Search Warrant Is Void;
- Declaration re Seizure Was Unlawful;
- Punitive Damages

DEMAND FOR JURY TRIAL

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“To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made... Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die ...”

Chief Justice Earl Warren - *Sweezy v. New Hampshire* (1957) 354 U.S. 234, 250

RULE 8A SHORT PLAIN STATEMENT OF CLAIM

1. California’s Food and Agriculture Code [“FAC”] expressly excludes Hemp research institutions from regulation in numerous places. See e.g. FAC § 81002 (a); FAC §81003 (a); FAC §81004 (a); FAC §81005 (a); FAC §81006 (a) (1), (b), (d),(f).
2. Plaintiffs Cannabis Science Inc. and Free Spirit Organics NAC are partners in the business of growing and cultivating industrial hemp for research purposes. Each fits the definition of research organizations given in the Farm and Agriculture Code, Plaintiff American States University [“ASU”] is an institution of higher learning and a research partner with the other plaintiffs. Individually and collectively, Plaintiffs and their hemp cultivation activities are expressly exempted from regulation.
3. Defendants County Board of Supervisors conducted a secret meeting at which Plaintiffs’ hemp growing operation was explicitly discussed and targeted. The result of the meeting was the enactment of Ordinance 4497, which purports to criminalize hemp in San Joaquin County. In addition to impermissibly regulating research institutions, the Board of Supervisors impermissibly redefined “Hemp”, and impermissibly redefined “Established Agricultural Research Organization”, after impermissibly finding the existing definitions within in California’s Hemp Act to be “vague”.
4. It will be shown that Ordinance 4497 (The “offending ordinance” or the “challenged ordinance”) is unconstitutionally violative of the supremacy / preemption doctrines found in both the United States and California constitutions, as it is in conflict with supreme law



1 found in California’s Food and Agriculture Code, including the Hemp Act (2017), United States
2 Executive Order 12919 (1994), and 7 U.S.C. § 5940 (Section 7606 of the Agricultural Act of
3 2014.

4 5. It will be shown that the offending ordinance is void for vagueness on multiple
5 counts; and that it constitutes both a bill of attainder and ex post facto legislation, as it
6 retroactively criminalized plaintiffs’ growing operation, and targeted them for punishment
7 specifically (or at minimum, impermissibly prevented a defined category of persons – hemp
8 growers - from practicing their professions).

9 6. Acting under the purported authority of the challenged ordinance, and in
10 possession of a defective warrant, law enforcement officers seized the entire crop of hemp,
11 estimated value of \$77 M.

12 7. Thus, Plaintiffs will prove violations of their First Amendment right to conduct
13 scientific research in the public interest, their Fourth Amendment right to be free of unreasonable
14 search and seizure, their Fourteenth Amendment rights to Equal Protection and Due Process, and
15 their statutory rights under the Brown Act.

16 JURISDICTION

17 8. This Court has subject matter jurisdiction over this action pursuant to Title 28 of
18 the United States Code, §§§1331, 1343, and 1367 as well as pursuant to Title 42 and Title 18 of
19 the United States Code, §§§ 1942, 1983 and 1988 and subject matter of Plaintiff’s state claim
20 arising out of California’s common law pursuant to 28 U.S.C 1331, et. seq. for supplemental
21 jurisdiction under the Declaratory Judgment Act.

22 VENUE

23 9. All the events described herein occurred in San Joaquin County, California.
24 Pursuant to Title 28 of the United States Code §1931, Venue is therefore appropriate here in the
25 Eastern District Federal Court of California.

26 PARTIES

27 10. Plaintiff Free Spirit Organics, NAC, [“FSO”] is a tribal-owned Native American
28 company organized under the laws of the State of Nevada with *tribal sovereignty status*, a

1 real party in interest with standing pursuant to FRCP 17(b), and is and at all relevant times leased
2 managed and operated 250 acre plot located at 11700 West Lower Jones Road in Stockton,
3 California on which 26.19 acres were allocated exclusively to the growing of only
4 industrial hemp. FSO fits the definition of a research organization is defined as [FAC
5 81000(c)(1)] “A public or private institution or organization that maintains land or facilities for
6 agricultural research, including colleges, universities, agricultural research centers, and
7 conservation research centers” and is expressly exempted from regulation. As a partner to the
8 research operation, FSO is an owner of, and has a financial interest in the subject grow.

9 11. Plaintiff American States University [“ASU”] is a California institution of higher
10 education as defined under sections 81000 et. seq. of the California Food & Agricultural Code.
11 ASU is a real party in interest, headquartered in Orange County, California, a partner of FSO, and
12 has standing as an unincorporated association pursuant to FRCP 17(b). ASU’s executive staff
13 includes Raymond C. Dabney President, CEO, and Co-Founder as well as Allen A. Herman,
14 M.D., Ch.B., Ph.D., Chief Medical Officer, both of whom have been published, *inter alia*, in the
15 medical journal *Frontiers in Oncology*. At all times material “ASU” has revolutionized higher
16 education by creating a new vertically integrated model of operations to provide jobs throughout
17 the community, full scholarships, and further-subsidized education packages to members of the
18 Native American community and any other economically packages to members of the Native
19 American community and any other economically challenged individuals with the desire to
20 improve their job skills based on ASU’s curricula. As a partner to the research operation, ASU is
21 an owner of, and has a financial interest in the subject grow.

22 12. Plaintiff Cannabis Science Inc. [“CSI”] is and at all times material a publicly
23 traded corporation organized under the laws of the State of Nevada with a principal place of
24 business in Orange County, California and CSI is comprised of public health experts who have
25 ongoing research with leading experts in cancer and public health research. CSI fits the definition
26 of a research organization is defined as [FAC 81000(c)(1)] “A public or private institution or
27 organization that maintains land or facilities for agricultural research, including colleges,
28 universities, agricultural research centers, and conservation research centers”and is expressly

1 exempted from regulation. CSI's initial research has been published in the peer-reviewed medical
2 journal *Frontiers in Oncology* with further credits to Raymond C. Dabney, President and CEO of
3 Cannabis Science Inc., and Dr. Allen A. Herman, Cannabis Science Inc., Chief Medical Officer.
4 Other key management heads include the President of the Cannabis Science Scientific Advisory
5 Board, retired United States Assistant Surgeon General Roscoe M. Moore, Jr., D.V.M., Ph.D.,
6 D.Sc. and the President of the Cannabis Science International Government Affairs Board, former
7 United States House Representative Honorable Ronald V. Dellums (1971-1998). See attached
8 Exhibit A. At all times material CSI has received U.S. Federal Government clearance,
9 Commercial and Government Entity (CAGE) Code from the Defense Logistics Agency's CAGE
10 Program Office at the U.S. Department of Defense, to receive U.S. Federal Government
11 contracts. CSI works with leading experts in drug development and clinical research to develop,
12 produce, and commercialize groundbreaking drugs using cannabinoids extracted and formulated
13 from the hemp or cannabis plant as treatments for: Cancer, HIV/AIDS, Alzheimer's, arthritis,
14 asthma, autism, nearly all of the autoimmune diseases, brain trauma, diabetes, various digestive
15 disorders, glaucoma, epilepsy, Parkinson's disease, hypertension, influenza, pain management,
16 Post-Traumatic Stress Disorder, Tourette's Syndrome, infections, and several other
17 neurobehavioral disorders and degenerative neurological conditions. CSI is researching and
18 developing its proprietary cannabinoid-based solutions to optimize treatments with an overall
19 emphasis on accessibility to those most in need of the medical benefits from hemp-derived
20 medicines (collectively "patients"). As a partner to the research operation, CSI is an owner of,
21 and has a financial interest in the subject grow.

22 13. Plaintiff HRM Farms, Inc. ("HRM") is a California corporation with a principal
23 place of business in Holt, California at the site of the subject grow, and is a partner of FSO, and
24 ASU; a real property in interest; HRM Farms is in the agricultural business they are the growers
25 of varies crops. HRM Farms conducts agricultural research for the best ways to grow varies
26 crops. HRM Farms and has standing pursuant to FRCP 17 (b). As a partner to the research
27 operation, HRM is an owner of, and has a financial interest in the subject grow.

28 14. Defendants "San Joaquin County Board of Supervisors" including named

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