

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION**

JOSEPH REDNER, an individual,

Plaintiff,

vs.

**CASE NO.:
DIVISION:**

**FLORIDA DEPARTMENT OF HEALTH,
OFFICE OF COMPASSIONATE USE,**

Defendant.

**PLAINTIFF JOSEPH REDNER'S VERIFIED COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF**

The Plaintiff, Joseph Redner ("Plaintiff"), an individual, hereby filed this action for declaratory and injunctive relief against Defendant, Florida Department of Health, Office of Compassionate Use ("Defendant"), and alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff is a resident of Hillsborough County, Florida
2. Defendant is an agency of the State of Florida.
3. Venue is proper in Hillsborough County, Florida because Plaintiff is a resident of Hillsborough County, Florida.

COUNT 1 – DECLARATORY JUDGMENT

4. This is a cause of action for Declaratory Judgment.
5. On November 8, 2016, Florida voters approved Amendment 2 to become incorporated into the Florida Constitution. Amendment 2 became effective on January 3, 2017, as

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Article X, Section 29 of the Florida Constitution. Amendment 2 expanded the class of patients eligible to possess and use medical marijuana under Florida law.

6. Section 29 specifically and clearly enumerates a Qualified Patient's rights to use of medicinal marijuana.
7. In Section 29(b) "Marijuana" is defined in part as **"all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin."** (See also Fla. Stat. 893.02(3)).
8. A patient's "Medical Use" is also defined within Section 29 as the **acquisition, possession, use, delivery, transfer, or administration** of marijuana.
9. Plaintiff does not dispute that Article X, Section 29 grants Defendant the authority to regulate the amount of marijuana a patient can legally possess, albeit subject to reasonable regulations. (Fla. Const. Art. 10, § 29 (a)(1)).
10. However, Article X, Section 29 is void of any prohibition against qualified patients growing cannabis plants for personal use.
11. Plaintiff is a medical marijuana patient in the state of Florida and is currently on the registry with an active Physician's Certification and active Identification Card. A copy of the identification card is attached hereto as **Exhibit "A"**.
12. Plaintiff is a stage IV cancer patient and thus is on the registry due to a qualifying condition under Article X, Section 29 of the Florida Constitution.
13. Plaintiff's treatment consists of utilizing the cannabis by creating his own oil and butter and by juicing the cannabis plant.

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14. Plaintiff is an immunocompromised patient and therefore, maintains control over all of the substances put into his body.
15. As a Qualified Patient pursuant to Article X, Section 29 of the Florida Constitution, Plaintiff is permitted to possess any part of the cannabis plant, growing or not growing, including seeds.
16. As a Qualified Patient, Plaintiff has the right to possess medical marijuana and in accordance with that right, now wishes to acquire cannabis seeds or growing plants to grow his own medical marijuana plant(s) for his personal use.
17. The Defendant expressly prohibits patients, such as Plaintiff, from growing their own plant(s). (See Defendant's Answer to Frequently Asked Questions Number 6 wherein Defendant states that a patient cannot grow marijuana plants for personal use).
18. Thus, there is a justiciable controversy under Chapter 86 of the Florida Statutes as to whether Plaintiff can grow his own cannabis plant(s).
19. By prohibiting Plaintiff from growing his own cannabis plant(s), the Defendant is denying Plaintiff adequate access to the plant for medical use in the manner most effective for Plaintiff and in a form specifically protected under Article X, Section 29 of the Florida Constitution.
20. A violation of Defendant's regulations could result in Plaintiff being convicted of a felony, which would jeopardize his business license and his liberty.
21. Due to this prohibition, Plaintiff is unable to obtain a Certification from a doctor sanctioned by the Department of Health to grow his own plant(s).
22. Plaintiff requires a Declaratory Judgment finding that pursuant to Article X, Section 29 of the Florida Constitution, Plaintiff is permitted to grow his own plant(s).

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23. In the absence of the Declaratory Judgment, Plaintiff will suffer irreparable harm.

24. There is a bona fide, actual, present and practical need for Declaratory Judgment.

25. Other than a request for Declaratory Judgment, Plaintiff has no other adequate remedy at law.

WHEREFORE, Plaintiff demands Declaratory Judgment establishing his right as a Qualified Patient to grow his own marijuana plant(s) for personal use, costs of this action, and for such other and further relief as the Court deems appropriate.

COUNT 2 – INJUNCTIVE RELIEF

26. This is an action for damages in excess of \$5,000.00

27. Plaintiff realleges paragraphs 1-3, 5-17, and 19-21 herein above.

28. Defendant expressly prohibits qualifying patients, such as Plaintiff, from growing their own plant(s). (See Defendant's publication of Frequently Asked Questions Number 6: "Can I grow my own marijuana? Answer: No. Florida law only allows the licensed dispensing organizations to grow, process and dispense marijuana. The department will refer any business or individual suspected of violating state law to local law enforcement for investigation. It is important to remember that marijuana is illegal under federal law.") A copy of the webpage is attached hereto as **Exhibit "B"**.

29. Article X, Section 29 of the Florida Constitution adopts the definition of marijuana from Florida Statue 893.02(3) which defines marijuana as, "all parts of any plant of the Genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin." (Fla. Stat. 893.02(3)).

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30. Thus, Plaintiff has the right to grow his own cannabis plant(s) pursuant to Article X, Section 29 of the Florida Constitution.

31. Defendant's prohibition against a Qualifying Patient growing his own cannabis plant(s) violates Plaintiff's rights pursuant to the Florida Constitution.

32. Plaintiff seeks an injunction against Defendant to prohibit Defendant from barring Plaintiff's right to grow his own cannabis plant(s) for personal use.

33. If Plaintiff is not granted injunctive relief, he will suffer irreparable damage.

WHEREFORE, the Plaintiff, Joseph Redner, respectfully requests that final judgment, including Declaratory and Injunctive Relief be entered in his favor and against Defendant through entry of appropriate orders and judgments as follows:

1. Finding that Defendant's prohibition against patients growing cannabis plants for personal use will result in confusion and irreparable harm to Plaintiff and would likely thrust Plaintiff into serious legal jeopardy and unnecessary litigation.
2. Finding that there is no adequate remedy of law available to Plaintiff to otherwise address this issue until the hearing is held and the underlying dispute is resolved.
3. Finding that Article X, Section 29 of the Florida Constitution is clear on its face, unambiguous and therefore enforceable.

/s/ Amanda Derby

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