

1 Frederic R Fletcher
2 California SBN 238038
3 Washington SBN 49360
4 Fletcher Law Offices
5 417 2nd Street, Ste 204
6 Eureka, CA 95501
7 (707) 502-2642
8 fletcher@lawca.us
9 Attorneys for Plaintiff Emma Nation

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 **EMMA NATION,**

13 Plaintiff,

14 v.

15 **DONALD TRUMP**, in his official capacity
16 as President of the United States; **The**
17 **OFFICE OF THE PRESIDENT OF THE**
18 **UNITED STATES; The UNITED STATES**
19 **OF AMERICA; THE DEPARTMENT OF**
20 **JUSTICE; JEFFERSON BEAUREGARD**
21 **SESSIONS, III**, in his official capacity as
22 Attorney General; **THE FOOD AND DRUG**
23 **ADMINISTRATION; SCOTT**
24 **GOTTLIEB**, in his official capacity as
25 Commissioner of the FDA; **UNITED**
26 **STATES DEPARTMENT OF HOUSING**
27 **AND URBAN DEVELOPMENT; BEN**
28 **CARSON**, in his official capacity as
Secretary of HUD; **HUMBOLDT BAY**
HOUSING DEVELOPMENT
CORPORATION, acting as an agent for
UNITED STATES DEPARTMENT OF
HOUSING AND URBAN
DEVELOPMENT

Defendants

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF
Constitutional Rights and Public Trust
Action (28 U.S.C. § 1331)

1 _____

2

3 **INTRODUCTION**

4

5 1. We hold these truths to be self-evident, that all [humans] are created equal, that they are
6 endowed by their Creator with certain unalienable Rights, that among these are Life,
7 Liberty and the pursuit of Happiness. — That to secure these rights, Governments are
8 instituted among [people], deriving their just powers from the consent of the governed,
9 — That whenever any Form of Government becomes destructive of these ends, it is the
10 Right of the People to **alter** or to abolish it...

11 *The Declaration of Independence* (July 4, 1776) [Emphasis Added]

12 2. This Complaint seeks to alter the Federal Government’s contradictory position of
13 declaring cannabis having “no currently accepted medical use” while approving a prescription
14 derived from the cannabis plant as a medicine, for the first time, on June 25, 2018. This
15 Complaint demonstrates medical users of cannabis such as Ms. Nation are being denied basic
16 rights and equal protection guaranteed by the Constitution and this Complaint seeks redress for
17 said grievances, a right set forth in the First Amendment. Ms. Nation has been denied access to
18 federal subsidized housing because she treats a medical condition with cannabis in the form of
19 edibles. In the midst of a formally declared housing crisis in Humboldt County, Ms. Nation and
20 her teenage daughter are at risk of becoming homeless on July 10, 2018 through eviction filed by
21 Humboldt Bay Housing Development Corporation a recipient of HUD funding who stated in the
22 notice of vacate: “We operated under HUD programs and federal regulations which list
23 marijuana as an illegal drug, the (California) state-issued 215 is not recognized.”

24 3. Ms. Nation is a resident of Humboldt County, a region uniquely impacted by the Federal
25 government’s erratic policy towards cannabis. Federal policy has resulted in the value of
26 cannabis artificially inflating causing a “green rush” and invasion of profiteers to Humboldt and
27 surrounding counties, including Trinity, and Mendocino Counties (“Emerald Triangle”). Most of
28

1 the profiteers have no connection to the community and are not stewards to the local
2 environment. The animals, fish, plants, soils, waters and people are being poisoned by the
3 Federally fueled green rush in the Emerald Triangle. The damage which continues may be
4 irreversible. Ms. Nation alleges, on behalf of herself and her community, the United States has
5 abandoned its duties under the Public Trust Doctrine to protect the National Redwood Parks in
6 the Emerald Triangle being destroyed by a black market created by Federal cannabis policy.
7

8 JURISDICTION AND VENUE

9
10 4. This action is brought pursuant to the United States Constitution. It is authorized
11 by Article III, Section 2, which extends the federal judicial power to all cases arising in equity
12 under the Constitution. “The identification and protection of fundamental rights is an enduring
13 part of the judicial duty to interpret the Constitution.” *Obergefell v. Hodges*, 576 U.S. ____, slip.
14 op. at 10 (2015). That grant of equitable jurisdiction requires Article III courts to apply the
15 underlying principles of the Constitution to new circumstances unforeseen by the framers, such
16 as the irreversible destruction of the national treasures of the Emerald Triangle. An actual
17 controversy has arisen and exists between Plaintiffs and Defendants because Defendants have
18 placed medical cannabis users such as Ms. Nation in an injurious situation, and Defendants
19 continue to infringe upon the constitutional rights of medical cannabis users like Ms. Nation.
20 Defendants have abrogated their duty of care to ensure the right to life, liberty, property, and
21 privacy, among other violations of law to those who treat medical conditions with cannabis. Ms.
22 Nation and other medical cannabis users have no adequate remedy at law to redress the harms
23 herein, which are of a continuing nature and which, if left unresolved, will be irreversible.
24

25
26 5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28
27 U.S.C. § 2201 (creation of a remedy), and 28 U.S.C. § 2202 (further relief) as this action arises
28

1 under the laws of the United States. Venue lies in this judicial district by virtue of 28 U.S.C. §
2 1391(e). Ms. Nation resides in this judicial district, some Defendants have offices in this judicial
3 district, and the events, acts, omissions, and harms giving rise to the claims herein arise in
4 substantial part in this judicial district.

5
6 **PARTIES**

7 6. Plaintiff Emma Nation (hereinafter, “Plaintiff” or “Ms. Nation”) is an individual and is
8 now, and at all times mentioned in this Complaint, was a resident of Humboldt County,
9 California, residing in Arcata, California in an apartment funded by HUD. Ms. Nation has an
10 injury in fact in that she is being evicted by Humboldt Bay Housing Development Corporation, a
11 recipient of funds from HUD and an agent of HUD, for possessing medical marijuana she
12 consumed in edible form to treat a disability. Ms. Nation’s eviction will result in her facing
13 nearly impossible odds to obtain alternative housing, with the eviction on her record. The sole
14 reason for Ms. Nation’s injury in fact is the Federal government refusing to recognize the
15 medical benefits of cannabis and categorizing all use of cannabis as criminal. This Court
16 invalidating the Federal government’s arbitrary and capricious criminalization of medical
17 cannabis use will result in Ms. Nation no longer being a criminal for treating her medical
18 condition thus redressing her grievance.
19
20

21 7. Defendant Donald Trump, the President of the United States, in his official capacity, is
22 vested with the executive power of the United States and must faithfully execute the office and
23 preserve, protect, and defend the Constitution. Through his office, the President appoints,
24 supervises and controls the heads of the DOJ, FDA, and HUD, and directs the Federal
25 Government’s policy, executive actions, and messaging regarding medical cannabis. President
26 Trump leads an administration which has engaged and continues to engage in arbitrary and
27
28

1 capricious actions and omission regarding medical cannabis, including but not limited to the
2 FDA scheduling cannabis as having “no currently accepted medical use,” while approving a
3 prescription derived from the actual cannabis plant as a medicine, for the first time, on June 25,
4 2018. Former member(s) of the administration have stated, President Trump mandates his
5 appointees pledge loyalty to him, and he controls and micro-manages the actions and omissions
6 of his appointees at all times alleged herein;
7

8 8. The United States of America is named as a defendant because this action challenges the
9 constitutionality of an Act of Congress. 28 U.S.C. §2403(A). Defendant the United States of
10 America (“United States”) is the sovereign trustee of national natural resources comprised of air,
11 water, sea, shores of the sea, and wildlife, including the Redwood National Parks in Humboldt
12 County, California. In its sovereign capacity the United States has caused the value of cannabis
13 to artificially inflate causing a migration of black market growers from around the world to
14 invade Humboldt and surrounding counties (“Emerald Triangle”) for short term gain, and with
15 no desire to improve the local environment or community. The United States’ acts and omissions
16 towards cannabis has caused environmental degradation to natural treasures of National concern
17 in the Emerald Triangle and has caused an extraordinary increase in crime and violence.
18
19

20 9. Defendant Jefferson Beauregard Sessions, III (“Sessions”) is, and since on or about
21 February 8, 2017 has been, the Attorney General of the United States, and is sued in his official
22 capacity. On or about May 1, 2017, Sessions sent correspondence to Congress requesting that
23 funding be provided that would allow the DOJ to resume criminal prosecutions of: (i) State-legal
24 medical marijuana patients, (ii) State-legal businesses that provide medical Cannabis to patients,
25 and (iii) physicians who recommend such treatment.
26
27
28

1 10. On July 19, 2017, Sessions announced his intention to resume civil forfeiture activity,
2 previously discontinued under the Obama Administration, as part of his continued war against
3 those whom Sessions claims are engaged in dangerous, illegal drug activity. On January 5,
4 2018, Sessions stated the following on Public Radio: "It remains clear that the Cole Memo has
5 been withdrawn," Sessions said. "And the impact of that is to essentially make clear that we are
6 not guaranteeing, and cannot guarantee, persons who use or distribute marijuana are protected
7 from federal prosecution. I don't think that's appropriate for me to, in effect, violate or neuter
8 federal marijuana law."

10 11. Defendant United States Department of Justice ("DOJ") is, and since in or about 1870
11 has been, an executive department of the United States, "with the Attorney General as its head."

12 According to the mission statement contained on its website, the DOJ's purpose is:

13 [t]o enforce the law and defend the interests of the United States according to the law; to
14 ensure public safety against threats foreign and domestic; to provide federal leadership in
15 preventing and controlling crime; to seek just punishment for those guilty of unlawful
16 behavior; and to ensure fair and impartial administration of justice for all Americans.

17 12. To the extent that the DOJ treats medical cannabis as a dangerous and illegal
18 substance, Ms. Nation and everyone else who may need to use, medical cannabis are at risk of
19 investigation and prosecution by the DOJ.

20 13. Defendant Scott Gottlieb ("Gottlieb") is the commissioner of the FDA, and agent of
21 President Trump and is sued in his official capacity.

22 14. Defendant United States Food and Drug Administration (the "FDA") is the federal
23 agency scheduling cannabis as having "no currently accepted medical use" while approving a
24 prescription derived from the actual cannabis plant as a medicine, for the first time, on June 25,
25 2018.
26

27 15. Defendant Ben Carson is the Secretary of HUD and is sued in his official capacity.
28

1 16. Defendant U.S. Department of Housing and Urban Development (HUD) is an executive
2 branch agency of the United States Government. It is charged with administering a variety of
3 federally funded programs and funding sources. It also is responsible for ensuring that federal
4 programs and activities relating to housing and urban development affirmatively further fair
5 housing. HUD mandates any recipient of HUD funds must maintain a zero-tolerance policy and
6 evict or deny servicing any tenants who use medical cannabis.
7

8 17. Defendant, Humboldt Bay Housing Development Corporation, ("Housing Humboldt") is
9 at all times mentioned in this Complaint a California non-profit corporation doing business in
10 Humboldt County, California and is a landlord receiving funding from HUD and is mandated by
11 HUD to have a zero-tolerance policy against tenants possessing medical cannabis in any form
12 and is an agent and/or actor of HUD at all times alleged herein. Every facet of Housing
13 Humboldt's policies, acts, and omission are controlled by HUD.
14

15 **STATEMENT OF FACTS**

16 **I.**

17 **MS. NATION AND MILLIONS OF OTHER PEOPLE HAVE SUFFERED AN**
18 **INJURY IN FACT DUE TO THE FEDERAL GOVERNMENT'S ERRATIC**
19 **POLICY TOWARDS MEDICAL CANNABIS.**

20 18. This action is brought on behalf of Ms. Nation who is being evicted, along with her
21 teenage daughter, for Ms. Nation possessing (not smoking) medical cannabis inside her
22 apartment which received funding from HUD. HUD mandated Housing Humboldt to evict Ms.
23 Nation for possessing medical marijuana to be consumed in edible form.
24

25 19. Ms. Nation is harmed, and is continuously threatened with additional harm, by reason of
26 the provisions of the Controlled Substances Act ("CSA"). 21 U.S.C. §801, et. seq. The CSA has
27 wrongfully and unconstitutionally criminalized treating medical conditions with Cannabis
28

1 (comprised of Cannabis Sativa, Cannabis Indica, and Cannabis Ruder a/is). Thirty (30) States
2 and the District of Columbia recognize the right to treat medical conditions with cannabis, and
3 all but four (4) states allow patients to use cannabis oil without fear of State prosecution.
4

5 20. Although not styled as a class action, this lawsuit stands to benefit tens of millions of
6 Americans who require but are unable to safely obtain or without fear of retribution, Cannabis
7 for the treatment of their illnesses, diseases and medical conditions, the successful treatment of
8 which is dependent upon its curative properties. In addition, this lawsuit, if successful, would
9 aid in the restoration of communities like Humboldt County, hardest hit by the Federal
10 Government's prohibition of cannabis.
11

12 21. Under Federal Law, it is not enough for the government, in arguing in favor of a statute's
13 constitutionality, merely to manufacture a supposedly "legitimate government interest" to
14 which a law is rationally related for the purpose of responding to a lawsuit; the government must
15 also actually believe its own argument. On June 25, 2018, the Federal Drug Administration
16 recognized the medicinal value of medical cannabis by approving a drug composed of cannabis
17 entitled Epidiolex. (FDA Press Release of June 25, 2018 attached as Exhibit "1")
18

19
20 What makes this move historic? For the first time, the agency approved a cannabis-based
21 medicine. The FDA has previously approved a synthetic cannabis medicine, but
22 Epidiolex is different; it is manufactured from plant matter, a chemical compound in the
23 cannabis plant called cannabidiol, or CBD.

24 Washington Post, *The FDA just opened the door to transforming marijuana policy*, John Hudak,
25 senior fellow at the Brookings Institution (June 27, 2018) (Attached as Exhibit "2")
26

27 21. The Federal Government no longer believes that there is no acceptable medical use for
28 Cannabis or that it cannot be used or tested safely under medical supervision. The Federal

1 Government has formally recognized that Cannabis does not meet two of the three Schedule I
2 requirements.

3
4 22. This Complaint does not challenge the acts of any independent agency, but instead
5 challenges the entire Federal Government’s prohibition on the use of cannabis to treat medical
6 conditions authorized by a medical doctor and sanctioned by State law. The Federal Government
7 led by President Donald Trump has employed an indefensibly vague, arbitrary, and capricious
8 policy towards cannabis while continuing to cause millions of Americans to remain criminals
9 and suffer injury in fact.
10

11 23. On or about May 1, 2017, the Trump administration through Attorney Jefferson Sessions
12 III (“Sessions”) sent a correspondence to Congress requesting that funding be provided that
13 would allow the DOJ to resume criminal prosecutions of state-legal medical marijuana patients.
14

15 24. On July 19, 2017, Sessions announced his intention to resume civil forfeiture activity, as
16 part of his continued war against those whom Sessions claims are engaged in dangerous, illegal
17 drug activity. On January 5, 2018, Sessions stated the following on Public Radio: “we are not
18 guaranteeing, and cannot guarantee, persons who use or distribute marijuana are protected from
19 federal prosecution.” As stated previously, on June 25, 2018, the FDA formally recognized the
20 cannabis plant has medical benefits.
21

22
23 **II.**

24 **THE PEOPLE HAVE RETAINED AN UNENUMERATED RIGHT TO USE MEDICAL**
25 **CANNABIS**

26 25. The Ninth Amendment provides: “The enumeration in the Constitution, of certain rights,
27 shall not be construed to deny or disparage others retained by the people.” With thirty (30)
28 States now protecting the rights of Patients to treat medical conditions with cannabis, and all but

1 four (4) allowing patients to use cannabis oil, the people have spoken. The right to treat medical
2 conditions is an unenumerated right retained by the people, which shall not be denied or
3 disparaged by the Federal Government. Agencies such as the FDA are not equipped to evaluate,
4 recognize, or vindicate an unenumerated right under the 9th Amendment, and the FDA provides
5 no administrative process by which an aggrieved party may challenge an action based on the 9th
6 Amendment, or breach of any Constitutional right. Only a Court has the capacity to formally
7 recognize and vindicate an unenumerated right under the 9th Amendment; and failure of the
8 Courts to do so would render the 9th Amendment a meaningless appendage to the Bill of Rights.
9 See, e.g. *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Roe v. Wade*, 410 U.S. 113 (1973);
10 *Lawrence v. Texas*, 539 U.S. 558; *Obergefell v. Hodges*, 576 U.S. ____ (2015).

13 26. Proposition 215 allowed patients access to medical cannabis in California and was
14 approved by 55.6% of the voters in 1996. A Gallup Poll published October 25, 2017, found 64%
15 of Americans believed possession and use of marijuana should be a legal right even to non-
16 patients. Every state in the Union except Kansas, Nebraska, South Dakota, and Idaho allow
17 patients to use cannabis oil without fear of State prosecution. Nearly every State who allows
18 patients to use medical cannabis have so through the vote of the people. This Complaint does not
19 postulate simply because polls indicate majority approval for an end to the Federal cannabis laws
20 this equates to a right reserved by the people under the 9th Amendment, as doing so would
21 convert the 9th Amendment into a mechanism to conduct national referendums. It is the
22 overwhelming public support, in spite of negative consequences associated with cannabis use
23 due to Federal laws, which is indicative of this right being reserved by the people. The suffering
24 and discrimination cannabis patients endure as they continue to medicate with cannabis is also
25 indicative of a right being reserved by the people.
26
27
28

1 27. The overwhelming public and State support of medical marijuana combined with Federal
2 Prohibition has resulted in arbitrary and capricious enforcement of the law resulting in a denial
3 of equal protection, due process, the right to be secure in person and property, and the right of
4 free expression and association, rights guaranteed by the 1st, 4th, 5th, 9th, and 14th amendments to
5 the Constitution, and relief should be provided to Ms. Nation and those similarly situated.
6

7 28. Medical cannabis users are stigmatized and denied 2nd Amendment rights because using
8 cannabis continues to be a crime. *Wilson v. Lynch*, 835 F.3d 1083 (9th Cir. 2016).
9

10 **III.**

11 **HUMBOLDT COUNTY UNIQUELY IMPACTED BY FEDERAL CANNABIS LAWS.**

12
13 29. Federal cannabis laws have created a cash-glut in Humboldt County which increases
14 burglaries, and property crimes. Between 2005 and 2014, Humboldt County had the highest
15 annual arrest rate of all 58 counties and the fourth highest rate of arrest-related deaths, according
16 the Department of Justice. Federal laws against cannabis have artificially increased the value of
17 cannabis causing a green rush in Humboldt County and massive environmental damage to the
18 area dominated by coastal redwood, and an area which is home to numerous Federal and State
19 parks. One study found that “more than 80% of deceased Pacific fishers recovered in northern
20 California and the southern Sierra Nevada were exposed” to poisons and pesticides used in
21 marijuana cultivation.” (See, Exhibit “3”) The massive black market is fueled by cannabis
22 consumers and many are patients forced to rely upon untested, potentially dangerous black-
23 market cannabis due to Federal cannabis laws.
24
25

26
27 30. According to an Environmental Impact Study (Sept 2016) undertaken by the Humboldt
28 County government:

1 Humboldt County is said to be the heart of the Emerald Triangle (Humboldt, Mendocino
2 and Trinity Counties), considered by many to be the epicenter of domestic marijuana
3 cultivation in the United States, if not the world. Current estimates are that there are
4 8,000 – 10,000 or more outdoor or mixed light cultivation operations, and an unknown
5 number of indoor cultivation facilities. The pervasive presence of marijuana cultivation
6 throughout large portions of rural Humboldt County grew gradually over a period of 50
7 years beginning in the late 1960s, but accelerated at an increasing rate over the past 20
8 years -- with the last few years at a pace often referred to locally as the “green rush.” For
9 most of this history, growing marijuana was an illicit, clandestine, contraband activity,
10 and is still prohibited by federal criminal law. As a consequence, it developed in remote
11 rural locations, disbursed in relatively small areas of cultivation on large tracts of land.

12 In large part because it has been an illegal contraband commodity, marijuana is a very
13 high value crop. That value underwrites cultivation practices that are costly and
14 inefficient. Outdoor planting areas have to be cleared and graded. Cultivators import
15 specialized soil for planting cannabis in beds or pots. The imported soil is often discarded
16 on site and replaced annually with new soil. Low and seasonal flows from local springs
17 or creeks requires construction of ponds or tanks for water storage, often supplemented
18 by water delivered by truck. These locations are often far off the electrical grid. Power
19 for supplemental lighting to increase the yield of crops and to power pumps, fans and
20 other equipment is often supplied by diesel or propane powered generators. The result is
21 noise and increased fire hazards in sensitive forest habitat area, as well as air quality and
22 carbon emissions that would not exist or could be more easily mitigated if cultivation and
23 processing occurred in areas on the grid.

24 (Exhibit 4)

25 31. According to the Final Environmental Impact (January 2018) drafted by the Humboldt
26 County Government:

- 27 ➤ Cannabis cultivation operations within public and private lands have led to illegal water
28 diversions; this has contributed to dewatering of some streams during a period of drought
which likely has adversely effected [sic] aquatic habitat.
- Illegal operations have resulted in removal of sensitive vegetation, likely including rare
and endangered plants. Further, vegetation removal as well as improper grading has
exposed hillsides to erosion. In turn, this erosion has likely silted streams, further
effecting [sic] aquatic habitat. Several water bodies in the County are already designated
as “impaired” for sediment under Section 303d of the Clean Water Act (see DEIR Table
3.8-3) that are being further impacted by cannabis cultivation. Cannabis cultivation has
also resulted in discharged pesticides, fertilizers, fuels, trash, and human waste around the
sites, that then discharges into surface waters.
- It is well documented that illegal cannabis operations have used illegal pesticides and
rodenticides. These poisons have killed animals such as Pacific fishers, who are in turn

1 consumed and poison animals up the food chain (including species protected under the
2 state and federal endangered species acts as well as other regulations).

- 3 ➤ In addition to these environmental impacts, unpermitted cannabis cultivation activities
4 have resulted in soil contamination from improper handling of pesticides, fertilizers, and
5 other materials. These sites are also potential sources of fire hazards from improper
6 electrical wiring. Some illegal grow sites also host unsanitary encampments during the
7 harvesting/ “bud trimming” seasons, with inadequate waste elimination systems.

8 (See Exhibit “5”)

9 32. While Humboldt County has begun a process to permit cannabis farms, only 2-10% of
10 the cannabis grows appear to be on a path to obtaining a permit. The Federal laws against
11 cannabis has caused the vast majority of cannabis growers to fear attempting compliance with
12 State law because compliance creates evidence of the activity in the form of public record
13 subject to the Public Records Act of California.

14 33. Ms. Nation and thousands of other Humboldt County residents are nature enthusiasts
15 drawn to the Redwoods and rich bio-diversity of the area of the Lost Coast and Emerald Hills.
16 The destruction of the natural resources caused by the Federal government’s contradictory
17 approach to cannabis has injured the community of Ms. Nation and her neighbors. As every
18 community is composed of individuals, the injury is to Ms. Nation and her neighbors as
19 individuals as well as stewards of the community.

20
21 **IV.**

22 **MS. NATION EVICTED FROM FEDERALLY SUBSIDIZED HOUSING FOR**
23 **TREATING DISABILITY.**

24 34. On August 10, 2011, Ms. Nation, a low-income person with a medical disability, began
25 renting an apartment from Housing Humboldt for \$643 a month without any complaints from
26 Housing Humboldt until March 10, 2016 when a maintenance man discovered a small bag of
27 medical cannabis in a bedroom of Ms. Nation’s apartment. The maintenance man made the
28

1 discovery after entering Nation's bedroom without permission, after having informed Nation on
2 the previous day that he had finished all work in her bedroom, leading her to believe that he
3 would not re-enter the bedroom.
4

5 35. Housing Humboldt was aware Ms. Nation had a disability of major depression and
6 generalized anxiety disorder at the time she applied for the apartment because Ms. Nation
7 provided Housing Humboldt a medical record from her doctor verifying the disability and
8 recommending approval of a support animal. Ms. Nation had a doctor's recommendation to treat
9 her disability with medical cannabis under Proposition 215 at the time Housing Humboldt
10 discovered the medical cannabis. Ms. Nation treated with medical cannabis in her apartment
11 through edibles.
12

13
14 36. After serving Ms. Nation with a Sixty-Day Notice Terminating Tenancy in late March,
15 2016, which was based solely upon the maintenance worker's report of having seen marijuana in
16 the apartment, Housing Humboldt filed an eviction on September 18, 2016, proceeding in the
17 Humboldt County Superior Court against Ms. Nation for possessing medical cannabis which she
18 baked into edibles to treat her disability. (Sixty-Day Notice and Eviction Complaint Attached as
19 Exhibit "6")
20

21 37. Housing Humboldt refused to provide Plaintiff a grievance hearing and filed its eviction
22 action on September 18, 2016. Plaintiff believed she was entitled to a grievance hearing for any
23 disputes concerning the lease at the time she signed the Lease Agreement, except for non-
24 payment of rent.
25

26 38. During the eviction action, Housing Humboldt repeatedly stated that it risked losing its
27 funding from HUD unless Housing Humboldt evicted Ms. Nation. During the eviction litigation
28

1 Housing Humboldt obtained a Court order stating that Ms. Nation was deemed to have admitted
2 possessing marijuana in her apartment, and this order became public record, despite Ms. Nation
3 objecting to the deemed admission on the grounds of privacy and her right against self-
4 incrimination under the 5th Amendment.
5

6 39. Ms. Nation is scheduled to be forcefully removed, along with her daughter, from her
7 apartment on July 10, 2018 by the Humboldt County Sheriff Department. Ms. Nation has been
8 searching diligently for alternate housing but cannot find alternative shelter due to her tenant
9 record being ruined by the eviction and due to the lack of availability of any affordable housing
10 for low-income persons. In February 2018, the Humboldt County supervisors declared a housing
11 crisis. These events have caused Ms. Nation to be diagnosed with PTSD.
12

13 40. The Federal laws against medical marijuana have led employees of actors such as
14 Housing Humboldt to believe they have a duty to search for medical cannabis as federal agents
15 and seize the apartment of the user. As a result, Ms. Nation and other medical cannabis users
16 who reside in HUD funded housing can never feel secure in the persons or property and are at
17 constant risk of having their right to government assisted housing seized.
18
19

20 41. Ms. Nation and other medical cannabis users are deprived of their First Amendment right
21 of free expression and association. Medical cannabis users are chilled from being politically
22 vocal regarding cannabis rights, or associating with groups involving cannabis rights, out of fear
23 the wrong people may learn of their association to cannabis and inform Federal agents, which
24 may include their landlord.
25
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27
28

CLAIMS FOR RELIEF

First Claim for Relief:
Violation of the 9th Amendment

(Deprivation of Unenumerated Right Reserved by the People)

42. Plaintiff hereby re-alleges and incorporates by reference each of the allegations set forth above.

43. The Ninth Amendment provides: “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

44. The right to treat medical conditions with cannabis, and the right to privacy in doing such, are un-enumerated rights retained by the people, which are being denied and disparaged by the Federal Government composed of the persons and agencies added as parties herein.

45. As a result of the Federal Government’s denial and disparagement of the right to medicate with cannabis Ms. Nation and millions of others suffer and continue to suffer injury in fact, and irreparable harm as set forth in this petition for redress of grievances.

46. The affirmative aggregate acts and omissions of Defendants have infringed and continue to infringe on the fundamental constitutional rights of Ms. Nation, and those similarly situated.

WHEREFORE, Plaintiff prays for relief as more fully set forth below.

Second Claim for Relief

Fifth Amendment
(Violation of the Due Process and Equal Protection)

47. Plaintiffs hereby re-alleges and incorporates by reference each of the allegations set forth above.

48. The Constitution recognizes and preserves the fundamental right of citizens to be free from government actions that harm life, liberty, and property. These inherent and inalienable rights reflect the basic societal contract of the Constitution to protect citizens and

1 posterity from government infringement upon basic freedoms and basic (or natural) rights.

2 49. Medical cannabis users such as Ms. Nation have been deprived of basic necessities such
3 as federally subsidized housing as a result of having a medical condition which requires
4 treatment which includes the use of compounds deriving from the cannabis plant.

5 50. The United States and agents are depriving medical cannabis users of their fundamental
6 rights to be free from the injurious government acts, which infringe on their fundamental rights
7 to life, liberty, and property, by causing medical cannabis users to incur injury in fact, and
8 irreparable harm as set forth above in this Complaint.

9 51. The affirmative aggregate acts of Defendants and omissions described in this Complaint,
10 are causing deprivation of the rights to life, liberty, and property for Ms. Nation and those
11 similarly situated. The affirmative aggregate acts of Defendants cannot and do not operate to
12 secure a more compelling state interest than the fundamental rights to life, liberty, and
13 property.

14 52. Ms. Nation and those similarly situated are in need of extraordinary protection from the
15 Federal prohibition of medical cannabis pursuant to the principles of Equal Protection. As
16 evidenced by their affirmative aggregate acts, Defendants are deliberately discriminating against
17 medical patients who need to treat with cannabis and are denying said patients equal access to
18 benefits provided by the Federal Government, including but limited to subsidized housing.

19 WHEREFORE, Plaintiff prays for relief as more fully set forth below.

20
21
22
23
24 **Third Claim for Relief**
25 **Fourth Amendment**
26 **(Unlawful Search & Seizure)**

27 53. Plaintiff hereby re-alleges and incorporates by reference each of the allegations set
28 forth above.

1 54. The Fourth Amendment provides: “The right of the people to be secure in their persons,
2 houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and
3 no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and
4 particularly describing the place to be searched, and the persons or things to be seized.”

5
6 55. HUD’s no-tolerance policy against the use of medical marijuana in any form has caused
7 employees of Landlords who receive HUD funding to engage in unlawful search and seizures
8 without a warrant or probable cause and to seize the housing of any medical cannabis user.

9 56. As a result, Ms. Nation and other medical cannabis users who must rely upon Federally
10 subsidized housing cannot feel secure in their persons or property.

11
12 WHEREFORE, Plaintiff prays for relief as more fully set forth below.

13 **Fourth Claim for Relief**
14 **First Amendment**
(Deprivation of Right of Free Expression and Association)

15 57. Plaintiff hereby re-alleges and incorporates by reference each of the allegations set
16 forth above.

17
18 58. Ms. Nation and other medical cannabis users are chilled from exercising their right to
19 express a belief cannabis is medicine and to associate with groups or people who also believe or
20 advocate cannabis is medicine. The belief cannabis is medicine is protected political speech, and
21 the admission of consumption of cannabis within the confines of one’s own residence is a
22 protected personal expression currently criminalized by the Federal government.

23
24 60. Ms. Nation and other medical cannabis users face retribution by the Federal government
25 in the form of denial of benefits, equal protection and due process for expressing the view
26 cannabis is medicine.

27
28 WHEREFORE, Plaintiff prays for relief as more fully set forth below.

Fifth Claim for Relief
Violation of the Public Trust Doctrine

1
2
3 61. Plaintiff hereby re-alleges and incorporates by reference each of the allegations set
4 forth above.

5 62. Ms. Nation and those similarly situated in the Emerald Triangle are beneficiaries under
6 the public trust doctrine, rights that are secured by the Ninth Amendment and embodied in the
7 reserved powers doctrines of the Tenth Amendment and the Vesting, Nobility, and Posterity
8 Clauses of the Constitution.

9
10 63. The affirmative aggregate acts of Defendants and omissions described in this Complaint
11 and Exhibit Nos 4 and 5 have resulted in the environmental degradation of National Parks
12 situated in the Emerald Triangle, denying residents such as Ms. Nation, as well as all citizens of
13 the United States, the right to have National Parks preserved, pristine and free of dangerous
14 pesticides and chemicals.

15
16 WHEREFORE, Plaintiff prays for relief as more fully set forth below.

PRAYER FOR RELIEF

17
18 “[W]hen the rights of persons are violated, ‘the Constitution requires redress by
19 the courts,’ notwithstanding the more general value of democratic
20 decision making.” *Obergefell v. Hodges*, 576 U.S. ____, slip. op. at 24 (2015)
(internal citations omitted).

21 WHEREFORE, for the reasons stated, Ms. Nation demands for herself and those
22 similarly situated:

- 23
24 1. Declare that Defendants have violated and are violating Plaintiffs’ fundamental
25 constitutional rights to life, liberty, and property by depriving and disparaging the right to
26 use medical cannabis, and by depriving users of medical cannabis to equal protection;
27
28 2. Enjoin Defendants from further violations of the Constitution underlying each claim for

1 Relief, and enjoin HUD from instructing recipients of Federal funding not to deny access
2 to subsidized housing to medical cannabis users, or to tenants who have been evicted for
3 medical cannabis use or possession;

- 4
- 5 3. Declare Defendants' public trust violations and enjoin Defendants from violating the
6 public trust doctrine underlying each claim for relief;
- 7 4. Judgment, over and against Defendants, declaring the CSA as it pertains to use of
8 Cannabis to treat medical conditions, unconstitutional on the grounds identified in this
9 Complaint, together with: (i) a permanent injunction (and temporary relief if so required),
10 restraining Defendants from enforcing the CSA as it pertains to Cannabis, and restraining
11 Defendants from evicting Ms. Nation; (ii) reasonable legal fees and costs pursuant to the
12 *Equal Access to Justice Act*, 28 U.S.C. §2412, insofar as the Federal Government cannot
13 maintain its position on the existing record that continued enforcement of the CSA as it
14 pertains to Cannabis is "substantially justified;" and (iii) any and all other and further
15 relief this Court deems just and proper.
16

17
18 DATED: July 2, 2018

FLETCHER LAW OFFICES

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20 By: /s/Frederic Fletcher
Fred Fletcher attorney for Plaintiff Emma Nation
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