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Carl Jensen
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410 Central Ave. #303
Great Falls, MT 59401
406-899-6696

Attorney for Plaintiff

MONTANA DISTRICT COURT CASCADE COUNTY

Algy Thain, David Sears and Kraig Jackson

Plaintiffs,

vs.

City of Great Falls

Defendant.

Cause No. _____

COMPLAINT FOR INJUNCTION

COMES NOW, Algy Thain, David Sears and Kraig Jackson, the plaintiffs, for their complaint against the above named defendant, hereby states and alleges as follows:

THE PARTIES

1. Plaintiffs are residents of the City of Great Falls, Cascade County Montana.
2. Defendant, The City of Great Falls, is a municipality within Cascade County.

Jurisdiction and Venue

3. Subject matter jurisdiction over this cause is conferred upon and vested in this Court under Montana Code Annotated 3-5-302.

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4. Personal Jurisdiction over the Defendant is vested in this Court under Montana Rule of Civil Procedure 4B.

5. All relevant conduct between the plaintiff and the defendant occurred in the State of Montana and in Cascade County in general, venue is proper in this Court.

FACTUAL ALLEGATIONS

6. In 2004, the voters of Montana passed the Medical Marijuana Act which is codified in title 50, chapter 46 of the Montana Code.

7. The plaintiffs all suffer from debilitating medical conditions and they use medical marijuana to treat the symptoms.

8. Each Plaintiff possess a medical marijuana card from the State of Montana.

9. Craig Jackson suffers from joint degeneration that inhibits his mobility. Al Thain and David Sears suffer from HIV.

10. On June 1, 2010 the city commission passed a ban on any land use for the purposes of medical marijuana.

11. The ordinance will prohibit the plaintiffs from growing their own medical marijuana.

12. The ordinance will cause a substantial hardship on the plaintiffs making it difficult to obtain their medication.

REQUEST FOR RELIEF

13. The forgoing allegations of paragraphs 1 through 12 are hereby incorporated by reference.

14. As alleged above, the actions of the city will cause an imminent and irreparable harm to the plaintiffs.

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- 15. The plaintiffs all use medical marijuana to treat the symptoms of their illnesses. Without the use of the marijuana the plaintiffs will suffer ill effects from their illnesses. There is not adequate remedy at law for the damage that it will cause the plaintiffs
- 16. The purpose of these changes in the city code was to effectuate a complete ban on the cultivation of medical marijuana within the City of Great Falls as well as prohibit the sale of medical marijuana. The intent and purpose of these changes in the city ordinances is in direct conflict with State law that allows the use of marijuana in certain limited situations.
- 17. The ordinance passed by the City, if enforced would prohibit patients from being able to cultivate marijuana for their personal use and for caregivers to produce marijuana for their patients. The City through this ordinance is exercising, or attempting to exercise, power that they do not have.
- 18. The Montana Supreme Court has held that when a qualifying patient uses medical marijuana in accordance with the Medical Marijuana Act, he is receiving lawful medical treatment. In this context, medical marijuana is most properly viewed as a prescription drug. State v. Nelson, 2008 MT 359, P29. The city of Great Falls is attempting to interfere with the ability of qualifying patients to receive their legal medication.
- 19. The City of Great Falls attempting to use the federal law as a justification for denying patients access to their medication. The enforcement of these ordinances will do irreparable harm to the

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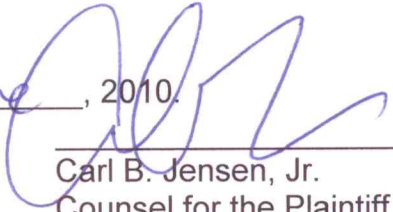
plaintiffs, and prevent them from getting access to the medication they are using to treat their symptoms.

20. The plaintiffs seek an injunction to prevent the city from enforcing the ordinances as passed on June 1, 2010 restricting the cultivation or marijuana within the City limits.

WHEREFORE, Plaintiff prays that judgment be granted against Defendant as follows:

- 21. For judgment in Plaintiff's favor and against Defendant;
- 22. For an injunction prohibiting the City from enforcing its ordinances in such a manner as to ban the use cultivation of medical marijuana within the City of Great Falls by caregivers or patients
- 23. For an award of plaintiff's reasonable attorney fees and allowable court costs; and
- 24. For such other and further relief as the Court deems just and equitable.

dated this 22 day of June, 2010.



Carl B. Jensen, Jr.
Counsel for the Plaintiff

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Verification

State of Montana)

:ss.

County of Cascade)

Kraig Jackson, being first duly sworn upon his oath, deposes and says:

That he has read the foregoing complaint with Jury Demand, knows the contents thereof, and that the matters and things stated are to true to the best of his knowledge, information, and belief.

Kraig E Jackson
Kraig Jackson

Signed and sworn to before me on this 21 day of June.

Robyn K. Olson
Signature
Robyn K. OLSON
Print name

NOTARY PUBLIC FOR
THE STATE OF MONTANA
Residing in Great Falls, Montana
My commission expires: April 17, 2012

