

Nos. 02-16335, 02-16534, 02-16715

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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UNITED STATES OF AMERICA, Plaintiff-Appellee,

v.

OAKLAND CANNABIS BUYERS' COOPERATIVE and JEFFREY JONES,  
Defendants-Appellants.

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Appeal from Final Judgment by the United States District Court  
for the Northern District of California  
Case No. C 98-00088 CRB  
entered on July 29, 2002, by Judge Charles R. Breyer.

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**APPELLANTS' MOTION TO REDESIGNATE THE  
LEAD CASE IN THE CONSOLIDATED APPEALS**

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Pursuant to Federal Rule of Appellate Procedure 27 and Ninth Circuit Local Rule 27-1, Appellants Oakland Cannabis Buyers' Cooperative and Jeffrey Jones (collectively "Appellants") hereby move this Court for an order redesignating the lead case in the consolidated appeals numbered 02-16335, 02-15634, and 02-16715. Appellants request that this court enter an order designating Appellants' case (02-16534) as the lead case.

On appeal before this Court are three related cases<sup>1</sup> from the Northern District of California: (1) *United States v. Oakland Cannabis Buyers' Cooperative* (02-16534); (2) *United States v. Marin Alliance for Medical Marijuana* (02-16335); and (3) *United States v. Ukiah Cannabis Buyers' Club* (02-16715). Each of the appellants has noticed an appeal from the district court's final judgment, which consists of: (1) the district court's Memorandum and Order dated May 3, 2002 granting summary judgment in favor of plaintiff-appellee; and (2) the district court's Order dated June 10, 2002 issuing a permanent injunction. For the foregoing reasons, on November 25, 2002, appellants and appellees in all three actions moved this Court jointly for an order consolidating the cases. All three cases were consolidated and the briefing schedules coordinated by an order of this Court dated December 20, 2002.

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<sup>1</sup> On January 22, 1998, Judge Charles R. Breyer of the Northern District of California consolidated these three actions as related actions pursuant to Local

Per the arrangement of the parties and as reflected in the December 20, 2002 consolidation order of this Court, Appellants' briefs have served as the briefs for all three appeals. In fact, appellants in *United States v. Marin Alliance for Medical Marijuana* (02-16335) and *United States v. Ukiah Cannabis Buyers' Club* (02-16715) have simply filed one-page joinders of the briefs filed by Appellants. Despite the fact that Appellants are most actively involved in pursuing this appeal, the lead case currently listed on the docket sheet is *United States v. Marin Alliance for Medical Marijuana* (02-16335). This is presumably due to the fact that the Marin Alliance for Medical Marijuana filed its notice of appeal first.<sup>2</sup> The customary procedure in the Ninth Circuit, as understood by Appellants, is to list the lowest numbered case as the lead case, which, in the present case, is *United States v. Marin Alliance for Medical Marijuana* (02-16335). There is nothing in either the Federal Rules of Appellate Procedure or the Ninth Circuit Local Rules that mandates that the first-filed notice of appeal dictate the lead case for the purpose of the caption in consolidated appeals.

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Rule 3-12 of the United States District Court for the Northern District of California.

<sup>2</sup> The notice of appeal in *United States v. Marin Alliance for Medical Marijuana* (02-16335) was filed on July 9, 2002. The notices of appeal in *United States v. Oakland Cannabis Buyers' Cooperative* (02-16534) and *United States v. Ukiah Cannabis Buyers' Club* (02-16715) were filed on August 1, 2002 and September 4, 2002, respectively.

Counsel for all three appellants have agreed that these consolidated appeals should proceed with *United States v. Oakland Cannabis Buyers' Cooperative* (02-16534) as the lead case. In addition, the United States government is not opposed to this motion.

For the following reasons, Appellants respectfully request that this Court enter an order designating *United States v. Oakland Cannabis Buyers' Cooperative* (02-16534) as the lead case in the consolidated appeals.

Dated: April 9, 2003

MORRISON & FOERSTER<sub>LLP</sub>

By:   
Annette P. Carnegie

Attorneys for Appellants  
OAKLAND CANNABIS BUYERS'  
COOPERATIVE and JEFFREY  
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**Appellant's Motion to Redesignate the Lead Case in the Consolidated Appeals**

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\_\_\_\_\_  
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(typed)

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