

Case No. 0516547

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MARIN ALLIANCE FOR MEDICAL MARIJUANA:
LYNETTE SHAW, D.C.
Defendants-Appellants.

Appeal from Entry of Final Judgment by the United States District Court
for the Northern District of California
D.C. No. CV - 98-00086-CRB
entered on June 6, 2005, by Judge Charles R. Breyer

APPELLANT'S NOTICE OF TRANSCRIPTS TO BE ORDERED
AND STATEMENT OF ISSUES
(Circuit Rule 10-3.1(a))

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I. NOTICE OF TRANSCRIPTS TO BE ORDERED

Pursuant to Circuit Rule 10-3.1(a), NOTICE IS HEREBY GIVEN that MARIN ALLIANCE FOR MEDICAL MARIJUANA and LYNETTE SHAW, D.C., Defendants-Appellants in this appeal, intend to order the following transcripts:

<u>Hearing Date</u>	<u>Court Reporter</u>
1/30/98	Jo Ann Bryce
3/24/98	Katherine Pope Wyatt
8/31/98	Raynee H. Mercado
10/5/98	Rosita Flores
10/29/98	Katherine Pope Wyatt
7/14/00	Raynee H. Mercado
4/19/02	Katherine Pope Wyatt

II. STATEMENT OF ISSUES

Pursuant to Circuit Rule 10-3.1(a), the following are the issues that Defendant-Appellants intend to present on appeal:

1. Whether the District Court erred in determining that there is a rational basis for classifying marijuana among the most dangerous drugs,

with no accepted medical use.

a. Whether the District Court abrogated its judicial responsibility by stating that the DEA, not the court, shall determine whether or not there is a rational basis for the classification of marijuana.

2. Whether the District court erred when, under the purported authority of the Federal Controlled Substances Act, it enjoined Appellant's wholly intrastate distribution of medical cannabis, when that distribution was undertaken pursuant to state and local laws designed to protect the public health and welfare of California citizens, and

a. where the injunction improperly infringed upon the police powers of the State of California to protect the health and safety of its citizens, and

b. where the injunction improperly infringed upon fundamental rights, by depriving seriously ill patients of an effective means to ameliorate their debilitating pain, blindness, starvation and possible death, and the government failed to offer any legitimate justification for depriving these patients of this necessary medicine.

3. Whether the District Court erred when it rejected the claim of Appellants, duly authorized authors of the City of Fairfield, to statutory

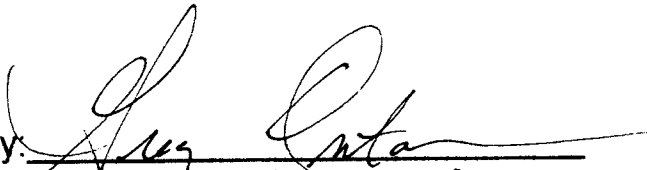
immunity when Appellants were lawfully engaged in enforcing laws related to controlled substances, as required by the statute granting such immunity.

4. Whether the District Court abused its discretion when it granted the Government's motions for summary judgment and permanent injunction when the government failed to meet its burden of proof and Appellants established legally valid defenses in both motions.

5. Whether the District Court abused its discretion when it granted the Government's motion for Summary Judgment and refused to permit Appellants to obtain discovery to be used in opposition to that motion.

Dated: August 18, 2005

LAW OFFICES OF GREG ANTON

By: 
GREG ANTON, Attorney for
Defendants-Appellants MARIN
ALLIANCE FOR MEDICAL
MARIJUANA and LYNNE SHAW, DC

AFFIDAVIT OF SERVICE

I, KIMBERLY MERCIER, solemnly affirm as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed at 50 Santa Rosa Avenue, Santa Rosa, California.

On **August 19, 2005**, I served the attached:

**APPELLANT'S NOTICE OF TRANSCRIPTS TO BE ORDERED
AND STATEMENT OF ISSUES**

on the interested parties in said action, by placing a true copy thereof in a sealed envelope addressed as follows:

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Counsel for Defendants UKIAH CANNABIS BUYER'S CLUB, CHERRIE LOVETT,
MARVYN LEHRMAN, and MILDRED LEHRMAN.

 X **BY MAIL:** I caused true and correct copies of the above documents, to be placed and sealed in an envelope addressed to the addressee at the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal service that same day.

 BY FACSIMILE: I caused true and correct copies of the above documents to be faxed to the above-cited party at the above-cited facsimile number.

I affirm under penalty of perjury that the foregoing is true and correct. Executed this 19th day of August, 2005, at Santa Rosa, California.


KIMBERLY MERCIER