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|---|---|---|
| MARYLAND HEMP COALITION, INC.<br>6144 Clevelandtown Road<br>Boonsboro, Maryland 21713 | * | IN THE |
| | * | CIRCUIT COURT |
| and | * | FOR |
| J. WYAND INC., d/b/a<br>SIMPLE PLEASURES<br>17605 Virginia Avenue<br>Hagerstown, Maryland 21740 | * | WASHINGTON COUNTY, |
| | * | MARYLAND |
| | * | Case No. _____ |
| and | * | |
| SOUTH MOUNTAIN<br>MICROFARM, LLC<br>6138 Clevelandtown Road<br>Boonsboro, Maryland 21713 | * | |
| | * | |
| and | * | |
| FOUR TO SIX, LLC, d/b/a<br>CHERRY BLOSSOM HEMP<br>10770 Columbia Pike<br>Suite 300<br>Silver Spring, Maryland 20901 | * | |
| | * | |
| and | * | |
| DEREK SPRUILL<br>10770 Columbia Pike<br>Suite 300<br>Silver Spring, Maryland 20901 | * | |
| and | * | |
| CANNON APOTHECARY, LLC, d/b/a<br>CANNON BALL DISPENSARY<br>226 Town Square Drive<br>Lusby, Maryland 20657 | * | |
| | * | |

and

*

CHRISTOPHER GUY CANNON
226 Town Square Drive *
Lusby, Maryland 20657

*

and

*

VICKY OREM
11616 Bonaventure Drive *
Upper Marlboro, Maryland 20774

*

and

*

A HEALING LEAF, LLC
7411 South Osborne Road *
Upper Marlboro, Maryland 20772

*

v.

*

GOVERNOR WES MOORE, in his
Official Capacity as *
Governor of Maryland
100 State Circle *
Annapolis, Maryland 21401

*

*Serve On:*
*Anthony Brown, Esquire* *
*Attorney General of Maryland*
*200 St. Paul Place* *
*Baltimore, Maryland 21202*

*

and

*

MARYLAND CANNABIS
ADMINISTRATION *
849 International Drive,
Fourth Floor *
Linthicum, Maryland 21090

*

*Serve On:*

*Anthony Brown, Esquire* *
*Attorney General of Maryland*
*200 St. Paul Place* *
*Baltimore, Maryland 21202*
*

and, in their official capacities: *

WILLIAM TILBURG, Executive Director *
Maryland Cannabis Administration
849 International Drive, Fourth Floor *
Linthicum, Maryland 21090
*

and
*

ANDREW GARRISON, Acting Chief
Office of Policy and Governmental *
Affairs
Maryland Cannabis Administration *
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and *

C. OBI ONYEWU, M.D., Chairman *
Maryland Cannabis Administration
849 International Drive, Fourth Floor *
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*

and
*

BRIAN P. LOPEZ,
c/o Maryland Cannabis Administration
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*

and
*

PHILIP COGAN, RPH
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and *

MARK MARTIN *
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*

and
*

TEREANCE MOORE, PMP, SHRM-CP
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*

and
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GINA SCARINZI
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and *

KONRAD DAWSON, M.D. *
c/o Maryland Cannabis Administration
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and
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MEGAN DINGUS, M.S.N.
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and *

ELIZABETH Q. HINES, M.D. *
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and
*
CHARLES P. LODICO, M.S., Ph.D.
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And *

SAUNDRA O. WASHINGTON *
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and *

SCOTT WELSH *
Maryland Cannabis Administration
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*
and
*
MARYLAND ALCOHOL, TOBACCO
AND CANNABIS COMMISSION *
1215 East Fort Avenue
Suite 300 *
Baltimore, Maryland 21230
*
and
*

JEFFREY KELLY *
In his official capacity as Executive
Director *
Maryland Alcohol, Tobacco and
Cannabis Commission *
1215 East Fort Avenue
Suite 300 *
Baltimore, Maryland 21230
*
and
*
ROBERT H. POOLE
c/o Maryland Alcohol, Tobacco and *
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and *

BARBARA WAHL *
c/o Maryland Alcohol, Tobacco and
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and
*
ELIZABETH BUCK
c/o Maryland Alcohol, Tobacco and *
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and *

ERIC MORRISSETTE *
c/o Maryland Alcohol, Tobacco and
Cannabis Commission *

1215 East Fort Avenue
Suite 300
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and *

ALAN I. SILVERSTEIN *
c/o Maryland Alcohol, Tobacco and
Cannabis Commission *
1215 East Fort Avenue
Suite 300 *
Baltimore, Maryland 21230
*

*Defendants*

* * * * * * * * * * * *

**COMPLAINT FOR DECLARATORY JUDGMENT, TEMPORARY RESTRAINING ORDER, AND PRELIMINARY INJUNCTION, AND DEMAND FOR JURY TRIAL ON ALL MATTERS TRIABLE BY JURY**

Now Come the Plaintiffs as captioned above, by and through undersigned counsel, Ira C. Cooke, Nevin L. Young, and the Cooke Group, LLC, and sue the Defendants, and state:

## Introductory Statement

The Maryland Declaration of Rights, Article 41, states "[t]hat monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered."

The Plaintiffs in this case are a coalition of farmers, retailers, and consumers who until July 1, 2023, had been the beneficiaries of the sale, distribution, and consumption of formerly legal hemp derived products such

as CBD oils and other hemp derived products. These legal products have been sold for many years in thousands of retail shops throughout Maryland and most of the nation.

As part of the implementation of Maryland's Recreational Cannabis Act, which went into effect on July 1, 2023, an unjust monopoly was bestowed on license holders with no familiarity with these products, and the right to sell these products was stripped from the Plaintiff retailers, which also deprives the Plaintiff farmers of a large part of their marketing and distribution network, and depriving Plaintiff consumers of the ability to buy these formerly legal products from the trusted retailers of their choice.

**The Parties, Jurisdiction and Venue**

1. The Plaintiff MARYLAND HEMP COALITION, INC., is a 501(c)(6) Maryland non-profit coalition formed for the benefit of farmers of hemp plants used in the manufacture of hemp related products, including products containing hemp and hemp derived cannabinoids. The MARYLAND HEMP COALITION, INC., is headquartered in Boonsboro, in Washington County, Maryland, and therefore venue and jurisdiction is appropriate in this Court.

2. The MARYLAND HEMP COALITION, INC., was formed as a member organization to forward the cause of farmers of hemp in the State of Maryland. The hemp grown by these farmers is used in many of the products

sold by the various retailer Plaintiffs in this case. The diminution of the business of those retailers will also diminish the business of the hemp farmers of Maryland, contrary to the mission of the MARYLAND HEMP COALITION, INC.

3. The Plaintiff J. WYAND, INC., D/B/A SIMPLE PLEASURES, is a West Virginia corporation with a Maryland registered trade name and a retail store doing business in Hagerstown, Maryland, as a seller of hemp derived products that until July 1, 2023, were sold lawfully in Maryland. The Plaintiff J. WYAND, INC., D/B/A SIMPLE PLEASURES, has spent several years selling these products and has developed a customer base of hundreds of repeat customers.

4. The Plaintiff SOUTH MOUNTAIN MICROFARM, LLC, is a Maryland agricultural business that grows hemp plants, processes hemp plants into finished products, and distributes those products to retailers throughout the State of Maryland. SOUTH MOUNTAIN MICROFARM, LLC also runs a retail business for direct sales to consumers. The business is located, headquartered, and operated in Boonsboro, Maryland, in Washington County, and therefore jurisdiction and venue are proper in this Court.

5. The Plaintiff FOUR TO SIX, LLC, D/B/A CHERRY BLOSSOM HEMP, is a retailer of hemp derived products and has lawfully sold those

products for more than 2 years. The Plaintiff FOUR TO SIX, LLC, D/B/A CHERRY BLOSSOM HEMP, operated a retail store doing business in hemp products. The new Maryland law in question in this case effectively put the Plaintiff FOUR TO SIX, LLC, D/B/A CHERRY BLOSSOM HEMP, out of business, after years of developing a business and a customer base.

6. The Plaintiff DEREK SPRUILL is an individual Maryland resident and the owner of FOUR TO SIX, LLC, D/B/A CHERRY BLOSSOM HEMP. The Plaintiff DEREK SPRUILL is further a consumer of hemp-based products and does not want to be forced to buy such products from stores that are subject to a state granted monopoly. He believes such monopolies are bad for business, stifle competition, and increase prices paid by the consumer. As a business owner, Plaintiff DEREK SPRUILL believes that he should be allowed to apply for and receive a license to sell such products, but under the present law, cannot do so at this time, and is unlikely to ever be successful in receiving a license, not due to objective criteria, but due to the arbitrary and capricious "lottery" nature of the new Maryland laws.

7. The Plaintiff CANNON APOTHECARY, LLC, D/B/A CANNON BALL DISPENSARY is a retail store located in Lusby, Maryland. The store is operated by individual Plaintiff CHRISTOPHER GUY CANNON. The retail store sells hemp products and is effectively put out of business by the new Maryland recreational cannabis laws.

8. The Plaintiff CHRISTOPHER GUY CANNON is a Maryland resident and is the individual owner of CANNON APOTHECARY, LLC, D/B/A CANNON BALL DISPENSARY. Plaintiff CHRISTOPHER CANNON is a disabled veteran of the United State military and suffers from Post Traumatic Stress Disorder which he finds is helped by the hemp products of the sort that he sells. Many of his customers have also observed a similar beneficial effect. As an individual, Plaintiff CHRISTOPHER GUY CANNON wants hemp derived products containing Delta 8 THC to continue to be generally widely available, rather than being required to buy these products at a state licensed store in a market restricted by unlawful monopoly power.

9. As a business owner, Plaintiff CHRISTOPHER GUY CANNON believes that he should be allowed to apply for and receive a license to sell such products, but under the present law, cannot do so at this time, and is unlikely to ever be successful in receiving a license, not due to objective criteria, but due to the arbitrary and capricious "lottery" nature of the new Maryland laws.

10. Plaintiff VICKY OREM is an attorney, a former Orphans' Court judge of Prince George's County, and a hemp farmer who in the past has farmed hemp, and has in the past unsuccessfully applied for, but did not receive, a license to grow medicinal cannabis under the old Maryland law, which was overturned by the new Maryland law. The Plaintiff VICKY

OREM still wishes to receive a license to grow medicinal cannabis or recreational cannabis, and believes that she should be allowed to apply for and receive a license to sell such products, but under the present law, cannot do so at this time, and is unlikely to ever be successful in receiving a license, not due to objective criteria, but due to the arbitrary and capricious "lottery" nature of the new Maryland laws. She will be unlikely to receive a license due to the "lottery" restrictions despite the provision in the law for a possible preference for minority and women owned businesses, for which she would qualify.

11. The Plaintiff A HEALING LEAF, LLC, is a farming business that has in the past grown hemp products and has unsuccessfully applied for a license to grow medicinal cannabis. The business will not be growing hemp products this year but only because of the present business climate prohibiting hemp product sellers from competing in free and fair competition in the market, which reduces the demand for the products previously grown and sold by the business. The Plaintiff A HEALING LEAF, LLC, desires to have a license to produce the products in question in this lawsuit but does not qualify to apply for the first round of licenses due to the lottery system and social equity set asides. Even at the second stage, and even though A HEALING LEAF, LLC may be eligible to apply, the odds of selection and the waiting time for licensure are unfair restraints on competition and there is

no guarantee that A HEALING LEAF, LLC, would be awarded a license.

12. The Defendants are the Governor of Maryland, as the executive ultimately responsible for executing the laws of the State of Maryland, the Maryland Cannabis Administration, the Executive Director of the Maryland Cannabis Administration, and its various members, all in their official capacities, as the persons and bodies charged with licensing and regulating the distribution of certain products at the core of this litigation, and the Maryland Alcohol, Tobacco and Cannabis Administration and its Executive Director and Board Members, in their official capacities.

13. One or more Plaintiffs in this action have business interests in Washington County, Maryland, and are residents of Washington County, Maryland. Those Plaintiffs include SOUTH MOUNTAIN MICROFARM, LLC, and J. WYAND, INC., D/B/A SIMPLE PLEASURES. This Court is the court of general jurisdiction for a declaratory judgment such as the one these Plaintiffs are seeking, pursuant to Maryland Courts and Judicial Proceedings, §§3-401 et seq., especially §§3-403, 3-406, and 3-409.

14. Until July 1, 2023, the State of Maryland had no laws regulating the sale or distribution of any THC products derived from hemp with less than 0.3% Delta 9 THC, which is still defined as industrial hemp rather than as marijuana by Maryland law. It is hemp, rather than cannabis with higher levels of Delta-9 THC (classified as a schedule I controlled substance), that is

grown by the Plaintiff farmers in this case.

15. Most of the hemp products legally sold by the Plaintiff retailers prior to July 1, 2023, were products mostly comprised of Delta 8 THC rather than Delta 9 THC.

16. Prior to July 1, 2023, the State of Maryland did however have a statewide licensing scheme for distributing medical cannabis, derived from cannabis plants with THC content greater than 0.3%, and had operated such a scheme since its implementation in 2014. That scheme was regulated by the Maryland Medical Cannabis Commission, which is now simply the Maryland Cannabis Administration.

17. During the 2023 legislative session, the General Assembly addressed the issue of legalizing recreational cannabis, only if said cannabis were to be purchased at a dispensary licensed by the State of Maryland. This effort resulted in the laws challenged in this litigation.

18. The new laws at issue in this case purport to license a select few businesses to sell products derived from sources in excess of 0.3% Delta 9 THC, in other words, products that would previously be unlawful to distribute under the existing laws of Maryland prohibiting the distribution or sale of cannabis. See Md. Code Ann. Crim. Law §5-602(b)(1).

19. In addition, it remains a serious crime in Maryland to distribute cannabis or cannabis derived products without a license granted by the

Maryland Cannabis Administration, that is, products that are derived from a plant that rises above the 0.3% Delta 9 THC threshold as defined in Md. Code Ann. Agriculture §14-101. In that event, the plant is no longer defined as industrial hemp and is considered cannabis. See Md. Code Ann. Crim. Law §5-101(r)(1)(2).

20. The laws of the State of Maryland as to what constitutes industrial hemp remain unchanged, with industrial hemp still being a plant with less than 0.3% Delta 9 THC under Maryland law. Therefore it is still lawful to grow industrial hemp in Maryland under the new recreational cannabis law.

21. However, the new laws also prohibit the sale or distribution of previously lawful hemp derived products other than certain tinctures, not just cannabis products that were formerly illegal under Maryland law, under the following circumstances:

Md. Code Ann. Alc. Bev. §36-1102 provides, in relevant part:

> (b) (1) A person may not sell or distribute a product intended for human consumption or inhalation that contains more than 0.5 milligrams of tetrahydrocannabinol per serving or 2.5 milligrams of tetrahydrocannabinol per package unless the person is licensed under § 36-401 of this title and the product complies with the:
>
> (i) manufacturing standards established under § 36-203 of this title;
> (ii) laboratory testing standards established under § 36-203 of this title; and

(iii) packaging and labeling standards established under § 36-203 of this title.

(2) A person may not sell or distribute a product described under paragraph (1) of this subsection to an individual under the age of 21 years.

(c) A person may not sell or distribute a cannabinoid product that is not derived from naturally occurring biologically active chemical constituents.

(d) (1) Notwithstanding subsection (b) of this section and subject to paragraph (2) of this subsection, it is not a violation of this section for a person to sell or distribute a hemp-derived tincture intended for human consumption that contains:
(i) a ratio of cannabidiol to tetrahydrocannabinol of at least 15 to 1; and
(ii) 2.5 milligrams or less of tetrahydrocannabinol per serving and 100 milligrams or less of tetrahydrocannabinol per package.
(2) To sell or distribute a hemp-derived tincture under this subsection, a person must provide, as required by the Administration, tincture samples for the purpose of testing to determine chemical potency and composition levels and to detect and quantify contaminants.

(e) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000. . . . .

22. Almost all of the products sold by the Plaintiff retailers, while being derived from hemp and not marijuana, and therefore previously lawful to distribute without a license, cannot meet the new standard for maximum milligrams of THC imposed by the new Md. Code Ann. Alc. Bev. §36-1102 under the new recreational cannabis licensing scheme. Therefore any sale of

said products would expose the Plaintiff retailers to the risk of a fine of $5000 under the new law, even though the products are hemp derived and not derived from cannabis, and were lawful under the law that existed up until July 1, 2023.

23. In order to continue to lawfully market or sell the products they have devoted their lives to lawfully selling, the Plaintiff retailers must now obtain a license under the Act, which is, for reasons set forth below, almost impossible to do.

24. The Plaintiff retailers, who have devoted their lives and fortunes to developing the market for lawful hemp products over many years, and who have long worked to promote hemp products that are helpful to health, and who have long established retail establishments for the sale of these products, are now being forced out of business by a new licensing requirement that is monopolistic, violative of equal protection of the laws, and a taking of property without due process, as set forth below:

**The Absurd New Licensing Monopoly**

25. The typical and facile response to most complaints that a product once sold without a license now requires a license to sell, is that the complainant should "get a license." If only it were that easy, or even possible.

26. First, the new licensing scheme provides, at Md. Code Ann. Alc. Bev. §36-401(d), in relevant part, that:

> (d) The Administration may not issue more than the following number of licenses per type, including licenses converted under subsection (b)(1)(ii) of this section:
> (1) for standard licenses:
> (i) 75 grower licenses;
> (ii) 100 processor licenses; and
> (iii) 300 dispensary licenses;
> (2) for micro licenses:
> (i) 100 grower licenses;
> (ii) 100 processor licenses; and
> (iii) 10 dispensary licenses;
> (3) for incubator space licenses, 10 licenses; and
> (4) for on-site consumption licenses, 50 licenses.
> (e)
> (1) This subsection applies to all licenses, including licenses converted under subsection (b)(1)(ii) of this section.

27. Therefore, in a monopolized licensing scheme thinly disguised as being focused upon "social equity", the number of new licenses to dispense previously illegal cannabis products or previously legal hemp products in Maryland is limited to 300 even after allowing for the conversion of existing medical dispensaries,[1] whereupon the remaining licenses are subject to a two round "lottery" system, and in order to even participate in the first round of lottery license issuance at all, one must meet certain factors purported to address "social equity concerns" as follows:

28. Md. Code Ann. Alc. Bev. §36-101(ff) states:

> "Social equity applicant" means an applicant for a cannabis

[1] Upon information and belief, there are already at least 100 medical cannabis dispensaries in Maryland, and the likelihood of any of them declining to convert to a recreational license is negligible.

> license or cannabis registration that:
> (1) has at least 65% ownership and control held by one or more individuals who:
> (i) have lived in a disproportionately impacted area for at least 5 of the 10 years immediately preceding the submission of the application;
> (ii) attended a public school in a disproportionately impacted area for at least 5 years; or
> (iii) for at least 2 years, attended a 4-year institution of higher education in the State where at least 40% of the individuals who attend the institution of higher education are eligible for a Pell Grant; or
> (2) meets any other criteria established by the Administration.

29. Meanwhile, a "disproportionately impacted area" is defined as in the same section, at Md. Code Ann. Alc. Bev. §36-101(r) as "a geographic area identified by the office of social equity that has had above 150% of the state's 10-year average for cannabis possession charges."

30. The social equity factors and geographical factors to be considered have no rational relationship to any public safety or health concerns, and the Plaintiffs submit they were designed to placate political criticism about the legalization of cannabis and poorer persons being shut out of the market, but hypocritically designed to restrict the market, keeping prices high and therefore maximizing the State's tax revenue from product sales. In other words, a classic prohibited monopoly, with the State as a willing profiteer in the system.

31. There is no provision in the Maryland Declaration of Rights, nor

in any of the case law interpreting it, for an exception to state granted monopolies based upon social equity concerns or a desire to redress past harms or grievances. When the voters of Maryland voted to approve a referendum allowing the sale of recreational cannabis in the State of Maryland, they were not asked to grant a monopoly over such a product and did not do so. Instead, they charged the General Assembly as follows at Article XX, Section (B): "The General Assembly shall, by law, provide for the use, distribution, possession, regulation, and taxation of cannabis within the state." This charge did not expand upon, overrule, or grant any exception to the already existing provisions of the Maryland Constitution or Declaration of Rights.

32. In the alternative, there certainly must be measures to redress past harms that do not depend upon anti-competitive monopolies forbidden by the Declaration of Rights, or upon the widespread disenfranchisement of the many in favor of a few lucky winners of a government run lottery for licenses.

33. Even if social equity concerns were a valid reason to establish a state sponsored monopoly, there is no reasonable relation between the factors in the Act defining a "social equity applicant" and the redress of any past grievances. Nor is there any reason to believe that these monopolistic treatments would benefit more than a tiny fraction of the persons adversely

affected, given the maximum number of licenses permitted under the Act, which is presently three hundred total, with a first round set aside for social equity applicants only.

34. Even if the General Assembly had a good faith belief that there were social equity concerns to be addressed through this Act, privileging the lucky few with licenses to sell cannabis awarded by lottery, would do nothing to help the many thousands who were presumably injured in the past. In fact, it worsens the injury by shutting them out from competing in the market, while doing nothing to assure that those applying for licenses as social equity applicants are in need of any such assistance.

35. The General Assembly has approached this matter as though it were awarding a government contract. It is not. It is providing for the issuance of licenses to operate a private although regulated business. Therefore the Administration has no right to arbitrarily restrict the number of licenses, or award these licenses by lottery.

36. Even if a lottery distribution were defensible, the factors as applied by the State in this case are not: under the present scheme as implemented by the Act, the adult child of a Governor or Senator who attended a college where 40% of the students receive Pell Grants could enter into the cannabis lottery as a social equity applicant, whereas an impoverished person who served time in jail for possession of cannabis and

has suffered financial hardship as a result of their criminal record, and happens to live just over the border in a disfavored zip code, would be shut out. Also shut out would be those who have lived for only four years in a favored area rather than six. Those who moved from the affected area four years ago but lived there for six years prior, would have a priority over those who moved to the area four years ago and still reside there. In addition, there is no evidence that an area having more cannabis charges than the statewide average indicates that an applicant from the area is more likely to be in need of any sort of social equity advantage.

37. Instead of serving up anything serious or thoughtful, the General Assembly, in defining its own weird brand of social equity, seems to have set out to deliberately insult and ignore those most in need of redress, and instead implemented an arbitrary and capricious rubric full of prejudiced assumptions and random chance. It is not designed to be fair-- it is designed to be unfair and to limit the number of applicants for highly coveted licenses worth millions of dollars so long as the monopoly remains intact. The state treats this licensing scheme as though it were the award of franchises with the state as franchisor. That is not the case and the monopoly over private licenses is therefore not sustainable.

38. However, the primary complaint in this case is not the irrational set of factors applying to the social equity lottery. This is only a symptom of

a larger disease, which is the requirement of a lottery at all. Free and fair competition, with objective criteria to be evaluated during the license application process, would allow all Marylanders to have a chance to compete in this new line of business, without worrying about who might qualify for the first round lottery or the second round lottery, or what will happen when there are no more licenses to be had, and licenses are traded for millions of dollars to large corporations so that the small business owner no longer exists in this industry. These are the very reasons the Maryland Declaration of Rights declared government granted monopolies odious.

39. Rent-seeking through government collusion to produce an artificial shortage is one of the oldest rackets around and is the reason for Article 41 of the Maryland Declaration of Rights. The restrictive new law, instead of liberalizing the cannabis laws and making the business more accessible to all, almost guarantees that it will become a pit of corruption and graft, and the servant of highly monied interests.

40. Caught in the middle of the scramble for the many millions to be made from the Maryland recreational cannabis industry, are the Plaintiff retailers, farmers, and consumers. The Plaintiff retailers did not set out in their businesses to be sellers of cannabis products previously prohibited by Maryland law, nor did the Plaintiff industrial hemp farmers set out to be the growers of high-THC cannabis for the recreational cannabis industry. They

only wanted to produce and sell safe and healthful hemp derived products that have been used for that purpose for hundreds if not thousands of years. The big money interests that stampeded the last session of the General Assembly did not even leave the Plaintiffs with this small thing, but instead swept the table clean, because they knew it was only by securing a monopoly over all such products that they could make the many millions they anticipated.

41. At present, the Plaintiff farmers and Plaintiff retailers are being deprived of income, with many of them being put out of business by this new statutory scheme, and there is no way, even if they were to start the application process now, and hope they were among the lucky few to be selected, that they can endure being out of business for that length of time. In fact none of the Plaintiffs in this action are in the class of persons who are eligible to apply for a first round license at all.

42. Most small businesses measure survival during times of no revenue in terms of weeks, not years. The Plaintiff retailers in this case are no exception and if they do not receive relief from the court, they will be put out of business, ironically, after working for years to change public attitudes toward hemp and hemp-derived products, which allowed recreational cannabis to betray them and shut them out with a newly minted monopoly.

43. At present, the Plaintiff consumers are being deprived of the

opportunity to buy hemp products from a store that does not also sell recreational cannabis. Certainly, some consumers who use hemp products do not approve of recreational cannabis and would prefer to buy elsewhere, but the State of Maryland will now force them to buy hemp products in a store where the primary focus of the business is on "getting high." Consumers should not be put to such a choice needlessly.

44. The Plaintiff retailers are willing to be licensed as recreational cannabis dispensaries if only for the purposes of continuing to sell their hemp products lawfully, but the new Act makes no provision for them to receive any licenses on an expedited or priority basis, nor does it give them any grace period within which to even attempt to get a license. Instead, it shuts them down without recourse other than through the courts.

45. But for the lottery system, social equity and other restrictions and studies imposed by the new recreational cannabis regime, licensing could likely be accomplished quickly and efficiently, and it would not be required that applicants wait for months or years for a license. In the time spent waiting, most applicants situated as the Plaintiffs are situated would go out of business, and these Plaintiffs likely will go out of business if the Court does not provide some relief.

46. Even if the Plaintiff retailers would not be put out of business by the wait to obtain a license, the odds of the Plaintiff retailers eventually

receiving licenses are slim, given the lottery nature of the license process and the restrictions upon who can apply. Given the present scheme, it seems likely that many applicants are straw applicants and are genuinely playing a lottery, in that they hope to be awarded a license for the purpose of later transferring the license at a large profit. This will of course drive up the number of applicants as straw applicants are pitted against *bona fide* applicants.

47. In fact, out of state companies are already canvassing for social equity applicants with whom to partner. One retailer of hemp products who received a solicitation from an out of state company and called that company to ask for more information, was bluntly told that the company would handle his license application, but if he got a license, he would then be bought out for a previously agreed flat fee. To put it bluntly, when businesses anticipate a windfall of epic proportions through the artifice of an unlawful government granted monopoly, it is extremely naïve to expect that everyone will play fair.

48. The result is a law that is blatantly monopolistic, violates equal protection of the laws under the Maryland Declaration of Rights, constitutes a taking of the Plaintiff retailers' and farmers' property prohibited by the Maryland Constitution, and improperly infringes upon the rights of Maryland consumers to purchase products from a business that is not

unlawfully monopolized.

49. Defendants possess no evidence that the monopoly promotes or protects public health, safety, or welfare.

50. The monopoly in this case is irrational.

51. The monopoly in this case needlessly uses unfair factors to award extremely valuable licenses to a select group of applicants.

52. The monopoly in this case bars qualified Marylanders from engaging in a lawful business enterprise.

53. The monopoly in this case favors certain persons to the exclusion of others, in derogation of the Maryland Declaration of Rights.

54. The monopoly in this case is an artificially restricted economic benefit unfairly awarded to some via the exclusion of others.

55. Economic favoritism to the benefit of two hundred persons selected via a combination of lottery and social factors serves no legitimate government purpose.

56. The monopoly in this case harms the public not only by excluding them from the opportunity to participate as growers, processors, and sellers, but by unreasonably restricting where and from whom consumers may buy certain hemp products.

57. But for the laws as challenged here, Plaintiffs would currently be continuing to run their businesses and would not be suffering the

economic losses they are presently suffering.

58. The Plaintiffs are willing, ready and able to apply for licenses if those licenses are granted via reasonable and objective criteria. However, under the present scheme, none of the Plaintiffs would receive licenses in the first round because they would never be submitted into the lottery, and most of the Plaintiffs would not qualify to be submitted in the second round either. Given the limited number of 200 licenses after conversion of medical cannabis licenses, there are unlikely to be any licenses left after the two lottery rounds, and the process is likely to take years.

59. It would therefore be futile for Plaintiffs to apply while the present law continues to be enforced in its present form.

60. Every day this law remains in effect, Plaintiffs suffer irreparable harm.

## COUNT I
## DECLARATORY JUDGMENT-
## MONOPOLY IN VIOLATION OF MARYLAND
## DECLARATION OF RIGHTS ARTICLE 41

61. The Plaintiffs incorporates Paragraphs 1 through 60, above, as though set forth fully herein.

62. The Act at Md. Code Ann. Alc. Bev. §36-1102, as understood by the definitions in Md. Code Ann. Alc. Bev. §36-101, is in violation of the Maryland Declaration of Rights, Article 41, in that it establishes an

unjustifiable and unfair monopoly upon competition in the business of hemp product distribution, through a system that awards only a pre-set maximum number of licenses, that reserves licenses for certain categories of applicants, and that subjects all applicants to a lottery system, when in the alternative, a license should be available to all who meet objectively determinable criteria.

63. The present monopoly is harmful to the Plaintiffs and to consumers in general, in that it damages their business interests, reduces the market for the Plaintiff farmers, effectively puts the Plaintiff retailers out of business, and forces consumers to shop at businesses subjected to a monopoly rather than at the business of their choice.

64. The Plaintiff retailers have a right to either be awarded licenses with all due haste based upon objective criteria, or to continue to sell their Federally lawful product until the State of Maryland devises and can properly institute a non-monopolistic licensing law. To do otherwise, given the unlawful nature of the Act, would constitute a taking in violation of the Maryland Declaration of Rights.

WHEREFORE, the Plaintiffs pray:

A. That this Court enter a Temporary Restraining Order, until such time as a hearing may be held on a Preliminary Injunction, holding the licensing requirements of the Act null and void as they apply to previously

lawful hemp products, and returning the matter to *status quo ante* until the unfair monopoly and other restrictions created by the Act can be addressed by the General Assembly; and,

B. That this Court enter a Preliminary Injunction that this matter shall return to *status quo ante* pending the outcome of this litigation, insofar as it concerns the licensing restrictions and the monopoly preventing the Plaintiff retailers from either continuing to sell their product or obtaining a license to do so; and

C. That this Court enter a final Declaratory Judgment that the monopolistic licensing scheme in the Act is in violation of the Maryland Declaration of Rights, Article 41, and that the matter shall return to status quo ante until the objectionable requirements of the Act have been remedied to such an extent that either a license is readily and timely available to sell the products in question, based upon reasonable objective criteria, or no license is required to sell the products in question.

D. That the Court declare whatever other relief is demanded by the equities of the case.

## COUNT II
## DECLARATORY JUDGMENT-
## VIOLATION OF RIGHTS OF EQUAL PROTECTION
## UNDER ARTICLE 24 OF THE MARYLAND DECLARATION OF RIGHTS

65. The Plaintiff incorporates Paragraphs 1 through 64, above, as

though set forth fully herein.

66. The Act at Md. Code Ann. Alc. Bev. §36-1102, as understood by the definitions in Md. Code Ann. Alc. Bev. §36-101, is in violation of the Maryland Declaration of Rights, Article 24, in that it deprives the people of Maryland, including the Plaintiffs, or the equal protection of the laws insofar as they are not allowed to equally and freely compete in the business of hemp product distribution, due to a system that awards only a pre-set maximum number of licenses, that reserves licenses for certain categories of applicants based upon unjustified and irrational discriminatory factors, including limiting the initial round of licensure to those with ties to certain geographic areas, and finally, by subjecting all applicants to a lottery system, whereas in a free society, a license should be available to all who meet objectively determinable criteria, without regard to such quotas and preferences. This redistribution of opportunities by government fiat is a prima facie violation of Article 24 of the Maryland Declaration of Rights, which holds that "no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land." This Article has long been interpreted as also impliedly guaranteeing the equal protection of the laws to all residents of Maryland.

67. The present regime in violation of the equal protection of the laws under the Maryland Declaration of Rights is harmful to the Plaintiffs and to consumers in general, in that it damages their business interests, reduces the market for the Plaintiff farmers, effectively puts the Plaintiff retailers out of business, and forces consumers to shop at businesses subjected to a monopoly rather than at the business of their choice, resulting in higher prices and limited consumer choice.

68. The Plaintiff retailers have a right to either be awarded licenses with all due haste based upon objective criteria, or to continue to sell their hemp derived products until the State of Maryland devises and can properly institute a non-monopolistic licensing system that does not force them to remain out of business in the interim. To do otherwise, given the unlawful nature of the Act, would constitute a taking in violation of the Maryland Declaration of Rights.

WHEREFORE, the Plaintiffs pray:

A. That this Court enter a Temporary Restraining Order, until such time as a hearing may be held on a Preliminary Injunction, holding the licensing requirements of the Act null and void as they apply to previously lawful hemp products, and returning the matter to *status quo ante* until the unfair monopoly and other restrictions created by the Act can be addressed by the General Assembly; and,

B. That this Court enter a Preliminary Injunction that this matter shall return to *status quo ante* pending the outcome of this litigation, insofar as it concerns the licensing restrictions and the monopoly preventing the Plaintiff retailers from either continuing to sell their product or obtaining a license to do so; and

C. That this Court enter a final Declaratory Judgment that the monopolistic licensing scheme in the Act is in violation of the Maryland Declaration of Rights, Article 41, and that the matter shall return to status quo ante until the objectionable requirements of the Act have been remedied to such an extent that either a license is readily and timely available to sell the products in question, based upon reasonable objective criteria, or no license is required to sell the products in question.

D. That the Court declare whatever other relief is demanded by the equities of the case.

## COUNT III
## DECLARATORY JUDGMENT AND PRAYER FOR JURY DETERMINATION OF DAMAGES FOR A TAKING IN VIOLATION OF THE MARYLAND CONSTITUTION, ARTICLE III, SECTION 40 AND THE MARYLAND DECLARATION OF RIGHTS, ARTICLE 24

69. The Plaintiff incorporates Paragraphs 1 through 68, above, as though set forth fully herein.

70. The Act at Md. Code Ann. Alc. Bev. §36-1102, as understood by

the definitions in Md. Code Ann. Alc. Bev. §36-101, is in violation of the Maryland Constitution, Article III, Section 40, which provides that "[t]he General Assembly shall enact no Law authorizing private property to be taken for public use without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation," and also constitutes a taking under Article 24 of the Maryland Declaration of Rights, which holds that "no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land."

71. The Act as implemented is an unlawful and unreasonable regulatory infringement upon the business rights of the Plaintiff farmers and Plaintiff retailers, and constitutes a regulatory seizure of the valid business and property interests of the Plaintiffs, through a system that awards only a pre-set maximum number of licenses, that reserves licenses for certain categories of applicants including limiting the initial round of licensure to those with ties to certain geographic areas, and that subjects all applicants to a lottery system, when in the alternative, a license should be available to all who meet objectively determinable criteria, without regard to such limiting criteria.

72. The present regime in violation of the equal protection of the laws and in violation of the prohibition upon monopolies is an unlawful regulatory taking, is harmful to the Plaintiffs and to consumers in general, in that it reduces the market for the Plaintiff farmers, effectively puts the Plaintiff retailers out of business, and forces consumers to shop at businesses subjected to a monopoly rather than at the business of their choice.

73. The Plaintiff retailers have a right to either receive or be rejected for a license, based upon objective criteria, with all due haste, or to continue to sell their product until the State of Maryland devises and can properly institute a non-monopolistic and lawful licensing regime. To do otherwise, given the unlawful nature of the Act, would constitute a taking in violation of the Maryland Declaration of Rights, and the Plaintiffs therefore demand that a taking of their property be found and an amount of just compensation be set via trial by jury.

WHEREFORE, the Plaintiffs pray:

A. That this Court enter a final Judgment of liability finding that a regulatory taking has occurred as to both the Plaintiff farmers and the Plaintiff retailers, and set a jury trial for damages due to the seizure of such property interests from the affected Plaintiffs.

B. That a jury evaluate a claim for a verdict and judgment in excess

of $75,000 on behalf of each and every affected Plaintiff who has suffered a seizure of property.

C. That the Court award whatever other relief is demanded by the equities of the case.

Respectfully Submitted,

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