IN THE UNITED STATES DISTRCT COURT

FOR THE DISTRICT OF ALASKA

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Gordon Warren Epperly, Sui Juris Petitioner, vs., State of Alaska, Respondent, vs., The United States of America, [UNITED STATES], Respondent.	District Court Case No. 1:15-CV-00002-SLG **Opposition to State of Alaska's "*Motion to Dismiss*"** **And** **Petitioner's "*Motion for Summary Judgment*"** Petition For Redress Of Grievance

COMES NOW Gordon Warren Epperly, the Petitioner of a verified "*Petition for Redress of Grievance*" that is before the above named Court hereby opposes the State of Alaska's "*Motion to Dismiss Petitioner's Petition for Redress of Grievance*" and moves the Court for "*Summary Judgment on the Pleadings*." The "*Motion*" for "*Summary Judgment*" is submitted under the authority of Rule 56(a) of the Federal Rules of Civil Procedure.

The Petitioner has moved the Court to accept Petitioner's "*Corrected and Verified Amended Petition for Redress of Grievance*" on June 1st, 2015 with true and correct copies being delivered to the Attorneys of the Respondents.

A PDF copy of this this "*Document*" with active "*Internet Links*" may be viewed from the Internet at:

http://www.usa-the-republic.com/marijuana.html

MEMORANDUM OF LAW AND FACTS

Background

1. The Petitioner, Gordon Warren Epperly submitted a "*Petition for Redress of Grievance*" on April 15, 2015. As the original "*Petition*" was not verified and as it contained clerical errors which resulted in two separate "*Petitions*" being submitted to the Respondents with different numbering of paragraphs, the Petitioner moved the Court on June 1st, 2015 to accept a "*verified*" and corrected amended "*Petition for Redress of Grievance*."

2. On or about June 8th, 2015, the Respondent, State of Alaska submitted a "*Motion to Dismiss Petitioner's 'Petition for Redress of Grievance'*."

Arguments and Authorities

3. The fact that a declaratory judgment may be granted "*whether or not further relief is or could be prayed*" indicates that declaratory relief is alternative or cumulative and not exclusive or extraordinary. A declaratory judgment is appropriate when it will "*terminate the controversy*" giving rise to the proceeding. Inasmuch as it often involves only an issue of law on undisputed or relatively undisputed facts, it operates frequently as a summary proceeding, justifying docketing the case for early hearing as on a motion.

4. The "*controversy*" must necessarily be "*of a justiciable nature, thus excluding an advisory decree upon a hypothetical state of facts*." Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 325, 56 S.Ct. 466, 473, 80 L.Ed. 688, 699 (*1936*). The existence or nonexistence of any right, duty, power, liability, privilege, disability, or immunity or of any fact upon which such legal relations depend, or of a status, may be declared. The Petitioner must have a practical interest in the declaration sought and all parties having an interest therein or adversely affected must be made parties or be cited. A declaration may not be rendered if a special statutory proceeding has been provided for the adjudication of some special type of case, but general ordinary or extraordinary legal remedies, whether regulated by statute or not, are not deemed special statutory proceedings.

5. When declaratory relief will not be effective in settling the controversy, the Court may decline to grant it. But the fact that another remedy would be equally effective affords no ground for declining declaratory relief. The demand for relief shall state with precision the declaratory judgment desired, to which may be joined

a demand for coercive relief, cumulatively or in the alternative; but when coercive relief only is sought but is deemed ungrantable or inappropriate, the Court may sua sponte, if it serves a useful purpose, grant instead a declaration of rights. Hasselbring v. Koepke, 263 Mich. 466, 248 N.W. 869, 93 A.L.R. 1170 (*1933*). Written instruments, including ordinances and statutes, may be construed before or after breach at the petition of a properly interested party, process being served on the private parties or public officials interested. In other respects the Uniform Declaratory Judgment Act /[1] affords a guide to the scope and function of the Federal Act. Compare Aetna Life Insurance Co. v. Haworth, 300 U.S. 227, 57 S.Ct. 461 (*1937*); Nashville, Chattanooga & St. Louis Ry. v. Wallace, 288 U.S. 249 (*1933*); Gully, Tax Collector v. Interstate Natural Gas Co., 82 F.(2d) 145 (*C.C.A.5th, 1936*); Ohio Casualty Ins. Co. v. Plummer, 13 F.Supp. 169 (*S.D.Tex., 1935*); Borchard, Declaratory Judgments (*1934*), passim.

ANSWER AND OBJECTION TO STATE OF ALASKA'S 'MOTION TO DISMISS'

JURISDICTIONAL CONSIDERATIONS

6. Article III of the Constitution limits the jurisdiction of Federal Courts to "*cases*" and "*controversies*." See, e.g., Clapper v. Amnesty Int'l, ___ U.S. ___, 133 S. Ct. 1138, 1146 (2013). As the Supreme Court has observed, *"[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal court jurisdiction to actual cases*

[1]/ see June 25, 1948, ch. 646, 62 Stat. 964.

or controversies." Daimler Chrysler Corp. v. Cuno, 547 U.S. 332, 341 (*2006*) (*internal quotation marks omitted*). The party invoking federal jurisdiction has the burden of establishing constitutional standing. Clapper, 133 S. Ct. at 1146; see also Bond v. United States, ___ U.S. ___, 131 S. Ct. 2355, 2361 (*2011*) (*citing Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992)*). To establish Article III standing, a party must show an injury that is *"[(1)] concrete, particularized, and actual or **imminent**; [(2)] fairly traceable to the challenged action; and [(3)] redressable by a favorable ruling*." Clapper, 133 S. Ct. at 1147 (*internal quotation marks omitted*).

Standing

7. The standard of "*Standing*" is set forth within the law that establishes the remedy of "*Declaratory Judgments*," specifically, the "*Federal Declaratory Judgment Act*" of 28 USC 2201(a) which states:

> "In a case of actual controversy within its jurisdiction, . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such."

8. What constitutes a filing of an "*appropriate pleading*"? As the "*United States Code*" is merely prima facie evidence of the law, one must go to the law itself for the answer. On June 14, 1934, President Roosevelt signed the "*Act*" ("*Pub. 343*") /[2] giving the Federal Courts power to render such judgments. The "*Act*" reads:

[2]/ see June 25, 1948, ch. 646, 62 Stat. 964.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Judicial Code, approved March 3, 1911, is hereby Amended by adding after section 274C thereof a new section to be numbered 274D, as follows:

"Sec. 274D. (1) In cases of **actual controversy** the courts of the United States shall have power upon **petition**, declaration, complaint, or other appropriate pleadings to **declare rights and other legal relations of any interested party petitioning for such declaration**, whether or not further relief is or could be prayed, and such declaration shall have the force and effect of a final judgment or decree and be reviewable as such. [*Emphasis added*]

"(2) Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application shall be by **petition** to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party, whose rights have been adjudicated by the declaration, to show cause why further relief should not be granted forthwith. [*Emphasis added*]

"(3) When a declaration of right or the granting of further relief based thereon shall involve the determination of issues of fact triable by a jury, such issues may be submitted to a jury in the form of interrogatories, with proper instructions by the court, whether a general verdict be required or not."

9. Declaratory relief is appropriate where a litigant needs direction from a Court ***before*** taking future action. Such direction will afford the litigant relief from uncertainty or insecurity. See Amer. Household Products, Inc. v. Evans Manufacturing, Inc., 139 F.Supp.2d 1235, 1239 (*N.D. Al. 2001*).

"The object of the declaratory judgment is to permit determination of a controversy ***before*** obligations are repudiated or rights are violated. As many times pointed out by this court, its purpose is to permit one who is walking in the dark to ascertain where he is and where he

> is going, to turn on the light before he steps rather than after he has stepped in a hole." [*Emphasis added*].
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> Cox v. Athens Reg. Med. Cent.,
> 279 Ga. App. 586, 594,
> 631 S.E.2d 792, 799 (2006).

10. Commentators have recognized that a party must bring an "*action*" for declaratory judgment pursuant to the Federal Rules of Civil Procedure: "*Because an action for a declaratory judgment is an ordinary action, a party may not make a 'motion' for declaratory relief, but rather, the party must bring an 'action' for a declaratory judgment*." Int'l Bhd. Of Teamsters v. E. Conference of Teamsters, et.al., 160 F.R.D. 452, 456 (*S.D.N.Y. 1995*); Barmat, Inc. v. United States, 159 F.R.D. 578, 582 (N.D.GA 1994). (*"… Generally, declaratory judgments are sought by petition or complaint, rather than by motion, by parties to a controversy*.").

11. The Petitioner's "*Motion for Summary Judgment*" is appropriate for there is an actual controversy to address and the prayer granting "*Declaratory*" relief was made by a "*Petition*," not by "*Motions*." The Petitioner has identified "*Laws*" of the State of Alaska which are in direct conflict with the "*Laws*" of "*The United States of America*" which establishes a controversy that may bring harm upon the Petitioner in the form of "*substantial fines*" and/or "*incarceration*." It is the probable harm that may be brought upon the Petitioner, Gordon Warren Epperly by Respondent "*The United States of America*" if the "*Petitioner*" exercises the "*Privileges*" of the "*Statutes*" of the State of Alaska in the use of "*Marijuana*" that grants "*Standing*" of the "*Petitioner*" for "*Declaratory*" relief by the Court. The Petitioner, Gordon Warren Epperly, has made a request of the Court to determine his legal relationship with the laws of the State of Alaska and the laws of The United States of America within a "*Verified Petition*" for a "*Redress of Grievance*" that was submitted

to the Court on June 1, 2015 with true and correct copies of the "*Verified Petition*" being e-mailed and "*Certified Mailed*" to Assistant U.S. Attorney, Richard L. Pomeroy for the Respondent "*UNITED STATES*" and to Assistant Attorney General, Christopher D. Peloso for the Respondent "*STATE OF ALASKA*."

Respondent, State of Alaska's "*Motion to Dismiss*"

Defects of Motion to Dismiss

12. Assistant Attorney General, Christopher D. Peloso presented a "*Motion to Dismiss*" on behalf of the Respondent, State of Alaska as if Mr. Peloso was addressing a "*Complaint*" before the Court. Mr. Peloso also addressed his "*Motion to Dismiss*" to a "*Legal Fiction*" GORDON WARREN EPPERLY, not to the Petitioner, Gordon Warren Epperly. As Mr. Peloso's "*Motion to Dismiss*" is defective on its face, the "*Motion to Dismiss*" of the State of Alaska should be quashed.

13. Assistant Attorney General, Christopher D. Peloso for the Respondent, State of Alaska, has never been granted authority to make a conversion of a "*Petition*" into a "*Complaint*" and the Assistant Attorney General, Christopher D. Peloso had no authority to convert the Petitioner, as a human being with flesh and blood, into a "*legal fiction.*" No such authority of conversion is recognized by the Petitioner, Gordon Warren Epperly.

14. As made known within the Petitioner's "*Petition for Redress of Grievance*," the Petitioner is identified with a "*Christian Name*," Gordon Warren Epperly, that has upper and lower case lettering without abbreviations. The Petitioner does not accept

any legal fiction name either as a "*Strawperson*" /[3] in commerce or otherwise for the legal fiction name of **GORDON WARREN EPPERLY** was created by the government for devious purposes upon the receipt of a "*Birth Certificates*."/[4] If this Federal Court will not recognize "*Christian Names*" of its Petitioners/Plaintiffs, then the above named U.S. District Court is not conducting itself as an Article III Judicial Court, but as an "*Article I Military Tribunal"* bringing forth "*Martial Law Rule*" upon the General Public who are under a perpetual state of involuntary servitude of a never ending "*National Emergency*."/[5] The Respondents, "*STATE OF ALASKA*" and the "*UNITED STATES*" may be "*Legal Fictions*" for they are being addressed as such with all upper case lettering by Alaska Assistant Attorney General, Christopher D. Peloso. Under the authority of Rule 9(a) of the Federal Rules of Civil Procedure, the Court should "*quash*" the State of Alaska's "*Motion to Dismiss*" for want of "*Capacity*" in making "*legal fictions*" to be parties to the above named proceeding.

15. There is another defect that may be found within the State of Alaska's "*Motion to Dismiss*" that warrants the "*Motion*" to be quashed. Assistant Attorney General, Christopher D. Peloso has failed to present an "*Affirmation*" or "*Declaration*" with the State of Alaska's "*Motion to Dismiss*" which declares under "*Penalties of Perjury*" that the statements made within

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[3]/ see "*Strawperson*" at website "http://tinyurl.com/p6krpvo".

[4]/ see paper "*What Is In A Name*" at website "http://tinyurl.com/ndk2uas".

[5]/ see "*Emergency Powers Statutes*" (*Senate Report 93-549*) at website "http://tinyurl.com/otyshcf".

> In this 1973 official report, the U.S. Senate admits that the Emergency Powers given to the President under the pretense of the National Emergency of 1933 have remained in force and that the normal function of the Federal government has been suspended.

the "*Motion to Dismiss*" are true and correct. Where a party moves to dismiss based upon failure to state a claim, and matters outside the pleadings are presented, the "*Motion*" is treated as a "*Motion for Summary Judgment*." /[6] As Assistant Attorney General, Christopher D. Peloso for the Respondent, State of Alaska has cited materials that are outside the Petitioner's "*Petition for Redress of Grievance*," his "*Motion to Dismiss*" for the State of Alaska must be accompanied with an "*Affidavit*" or "*Declaration*" to support the "*Motion*" stating that the materials cited have been made on personal knowledge setting out the facts that would be admissible in evidence and show that the "*Affiant*" or "*Declarant*" is competent to testify on the matters stated. /[7] There are statements of facts appearing within the State of Alaska's "*Motion to Dismiss*" that are not correct and they are bordering on falsification. The Respondent, State of Alaska's "*Motion to Dismiss*" should be "*quashed*" under the authority of Rule 56(c)(4) of the Federal Rules of Civil Procedure for want of supporting "*Affidavits" or "Declarations*."

Petitions and Complaints

16. As noted within the above "*Federal Declaratory Judgment Act*," "*Petitions*" are not "*Complaints*" and as declared by Article III, Section 2 of the Constitution for The United States of America, "*Controversies*" are not normally identified

[6]/ see Rule 12(b)(6) of the Federal Rules of Civil Procedure.

[7]/ see Rule 56(c)(4)of the Federal Rules of Civil Procedure.

as being "*Cases*." /[8] As there are no "*Cases*" or "*Complaints*" before the above named Court, there is no "*Civil Action*" for the Court to address.

17. Under the authority of 28 U.S.C. 2072, the U.S. Congress granted the U.S. Supreme Court authority to prescribe general rules for the U.S. District Courts providing that such rules will not abridge, enlarge or modify any substantive right. The right to "*Petition*" the government for a "*Redress of Grievance*" is a substantive right that was created by and existing within the U.S. Constitution. It is a substantive right that may not be converted into "*Complaints*" of a "*Civil Action*" by any "*Party*" to the action or by the Court:

A. At Rule 1 of the Federal Rules of Civil Procedure (*F.R.C.P.*) we see that the rules govern the procedure **not only for civil actions**, but for other proceedings within the United States District Courts which would include "*Petitions for Redress of Grievances*" /[9] and for "*Petitions for Declaratory Judgements*." /[10] [*Emphasis added*]

B. At Rule 2 of the F.R.C.P. we are informed that there is one form of action, that being a "*Civil Action*."

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[8]/ see "*Texas Review of Law & Politics*" entitled "*Cases, Controversies, And The Textualist Commitment To Giving Every Word Of The Constitution Meaning*" at website "http://tinyurl.com/mvadjfw".

[9]/ see U.S. Supreme Court case of "*BOROUGH OF DURYEA, PENNSYLVANIA, ET AL. v. GUARNIERI, No. 09–1476. Argued March 22, 2011—Decided June 20, 2011*".

[10]/ see June 25, 1948, ch. 646, 62 Stat. 964, at Section 274D(1): "*In cases of* ***actual controversy*** *the courts of the United States shall have* ***power*** *upon* ***petition . . . to declare rights and other legal relations of any interested party petitioning for such declaration, . . .***" [*Emphasis added*].

C. At Rule 3 of the F.R.C.P. we find that a "***Civil Action*"** is commenced by filing a "*Complaint*" with the Court which is a statement that "*Petitions*" **are not** "*Civil Actions*" for the Court to address. [*Emphasis added*].

Standards of Standing

18. "*Petitions for Redress of Grievance*" which may be redressed with "*Declaratory Judgements*" don't have the same standards of "*Standing*" as with "*Complaints*." The most notable difference is that unlike "*Complaints,*" there is no need for a showing that a "*Petitioner*" has suffered an "*injury in fact*" for the purpose of "*Declaratory Judgments*" is to prevent such injuries from occurring. /[11] All that needs to be shown is that there is an existence of probable harm, harm which may occur in the use of "*Marijuana*" under the "*Statutes*" of the "*State of Alaska*" which may subject the "*Petitioner*" to substantial fines and incarceration by the government of "*The United States of America*." It is an absurdity in law that criminal acts may be attached to the exercise of "*privileges*" of a "*Statute*" that have been established by law.

19. In regard to the causation aspect of standing, the Petitioner has shown that he has a physical injury of pain from damaged nerves in the spine, "*pain*" which may be addressed with the use of "*Marijuana*." /[12] If the Petitioner uses "*Marijuana*" under the present scheme of laws of the State of Alaska, the Petitioner may be subject

[11]/ see Cox v. Athens Reg. Med. Cent., 279 Ga. App. 586, 594; 631 S.E.2d 792, 799 (2006).

[12]/ see Paragraphs 12-13 of Petitioner's "*Amended Petition for Redress of Grievance*" as submitted to the Court on June 1, 2015.

to substantial fines and/or incarceration by the government of The United States of America. /[13] This fear of substantial fines and incarceration is not hypothetical for there is a long train of arrest and prosecutions by the United States Drug Enforcement Agency (*DEA*) and other "*Agencies*" of The United States of America that were brought upon those who had in hand State issued "*Medical Marijuana Cards*" and "*Licenses*." /[14] For the reason stated herein, causation of standing has been established for the Petitioner.

20. In regard to "*Redressability*" of "*Standing*," there is a long history of "*Court Opinions*" that have declared "*Federal Courts*" to have subject matter jurisdiction in the form of "*Judicial Review*" over the "*Statutes*" of "*The United States of America*." /[15] There can be no question raised as to the authority of the "*Judicial Officer*" of the above named Federal Court to declare a "*Statute*" of a "*State*" to be preempted if the "*Statute*" of the "*State*" is found to be in direct conflict with a "*Federal Statute*." What is at issue is the "*Federal Control Substance Law*" (*21 U. S. C. §801 et seq.*) as that law is applied to the "*Marijuana Statutes*" of the State of Alaska. The "*Power*" of the Court to issue forth "*Declaratory Judgments*" declaring the "*Rights*" of the Petitioner and the authority of a Judicial Officer to preempt a "*Statute*" of a "*State*" would identify the laws that apply to the Petitioner in his use of "*Marijuana*." The issuance of "*Declaratory Judgments*" addresses the redressability question of standing.

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[13]/ see Paragraph 15 on Page 9 of Petitioner's "*Amended Petition for Redress of Grievance*" wherein appears the phrase: "*As the "Federal Controlled Substance Law" declares that anyone that has any amount of "Marijuana" in their possession has committed a criminal act …*" (see 28 USC 844(a)).

[14]/ see listing of Marijuana arrest at website: " http://tinyurl.com/akm4f4g".

[15]/ e.g. Marbury v. Madison, 5 U.S. 137 (1803).

Failure to State a Claim

21. The Respondent, State of Alaska proclaims that there are no proceedings before the Court which the Court may address thus the Petitioner has failed to "*State a Claim which may be addressed by the Court*." The issue before the Court is the existence of a "*Controversy*" between the State of Alaska and The United States of America which may bring harm to the Petitioner, which said "*Controversy*" and potential "*harm*" the Respondent, State of Alaska, does not deny to exist. The requirements for a "*Declaratory Judgment*" to be issued from the Court to address a potential harm of the Petitioner has been addressed leaving the above named Court with a claim which it may address. As the remedy of issuance of a "*Declaratory Judgment*" is brought before the Court as a "*Controversy*" via a "*Petition*," there is no "*Case*" founded upon a "*Complaint*" before the Court that requires the Petitioner to make a showing that an "*actual harm*" exist to establish standing before the Court . For want of a "*Complaint*," there is no civil action of a lawsuit that has been brought against any of the above named Respondents and no relief of damages has been sought.

Conversion, Fraud, False Statements

22. Throughout Assistant Attorney General, Christopher D. Peloso's "*Motion to Dismiss*" we find conversion of terms, fraud, and false statements to support Mr. Peloso's "*Motion*." From the beginning, Mr. Peloso used conversion to change the status of the Petitioner from that of a "*human being*" with substantive rights into

a "*legal fiction*" of having privileges. /[16] Mr. Peloso invokes "*fraud*" when he inserted the false statement: "*Epperly request a declaratory judgment stating that all* ***federal laws*** *regarding the criminalization of marijuana be invalidated, thereby making the recreational use of marijuana legal under federal law*." /[17] Mr. Peloso has used conversion to change the Petitioner's "*Petition for Redress of Grievance*" into a "*Complaint*," /[18] and we see that Mr. Peloso uses conversion to convert Gordon Warren Epperly's status of "*Petitioner*" of a "*Petition*" into a "*Plaintiff*" of a "*Complaint*" of a civil action. /[19] Mr. Peloso continues his deception of conversion when he converts the term "*moot*" into "*nullification of laws*" /[20] and converts the State of Alaska's medical marijuana "*registry identification cards*" into "*Prescriptions*" and then declares that Alaska Statutes 17.37.010-080 allows qualifying Alaska residents to obtain [*non-existent*] medical prescriptions

[16]/ see "*Heading*" of "*Motion to Dismiss*" Page 1 wherein Mr. Peloso changed the Christian Name of "*Gordon Warren Epperly*" into a legal fiction name of "*GORDON WARREN EPPERLY*." Mr. Peloso also converted the names of the Respondents from being "*sovereign governments*" by changing their upper and lower case lettering names into all upper case lettering names of legal fictions known as "*Corporations*."

[17]/ no such "*Declaration*" appears within Epperly's "*Petition for Redress of Grievance*." The only "*Declaration*" seeking invalidation of laws is with the State of Alaska and only after the Judicial Officer of the above entitled Court makes a finding that the laws of the State of Alaska are in conflict with the laws of The United States of America. The "*Declaratory*" relief sought by the Petitioner did not begin with the words "*If the Court finds* .." for such words are superfluous as there is an implied understanding that no Judicial Officer will issue forth a "*Declaratory Judgment*" without a finding of facts and law to support the "*Judgment*."

[18]/ see Paragraph 1 of Pages 2 & 3 and other instances throughout "*Motion to Dismiss*."

[19]/ see Paragraphs 2 & 3 of Page 5; Paragraph 3 of Page 6 and other instances throughout "*Motion to Dismiss*."

[20]/ see Page 2, Paragraph 3 of "*Motion to Dismiss*" with Page 10, Paragraph 16 of Petitioner's Amended (*Verified*) "*Petition for Redress of Grievance*" as submitted to the Court on June 1, 2015. The word "*moot*" signifies that with the legalization of recreational marijuana, a "*Medical Marijuana Registry Identification Card*" as issued from the State of Alaska is no longer needed to obtain "*Marijuana*." The legalization of "*Recreational Marijuana*" does not "*nullify*" the existing "*Medical Marijuana Laws*" of the State of Alaska.

for "*Marijuana*." /[21] The fact that Mr. Peloso has used deception of "*fraud*" and "*conversion*" throughout the State of Alaska's "*Motion to Dismiss*" and as the "*Motion to Dismiss*" is not supported with an "*Affirmation*" stating the truthfulness of the "*Motion*" is grounds for the Court to "*quash*" the "*Motion*." /[22]

Admissions

23. Assistant Attorney General, Christopher D. Peloso for the Respondent, State of Alaska makes admissions on pages 4 & 5 of his "*Motion to Dismiss*" that a conflict of laws exist with the State of Alaska and with The United States of America in that the "*Federal Control Substance Law*" (*CSA*) /[23] of The United States of America has classified "*Marijuana*" as a "*Schedule I*" drug that has the potential for abuse, safety, and no acceptable medical purposes /[24] while the laws of the State of Alaska does not admit to the same. /[25] Mr. Peloso also admits on Page 5, Paragraph 1 of his "*Motion to Dismiss*" that: "*The terms of CSA leaves no doubt that the medical*

[21]/ see Page 9, Paragraph 1 of "*Motion to Dismiss*." Alaska Assistant Attorney General, Christopher D. Peloso just demonstrated the confusion that exist with the "*Physicians*" of the State of Alaska. Although there are no provisions within the Alaska Medical Marijuana Statutes of Title 17, Chapter 37 addressing the issuance of "*Prescriptions*," there is a misconception that "*Medical Marijuana Registry Identification Cards*" are the equivalent to "*Prescriptions*" There is no authority to be found that allows a Medical Doctor to issue "*Prescriptions*" for "*Schedule I*" classified marijuana drugs under the "*Federal Control Substance Act*." No Doctor is going to jeopardize his "*Federal License*" to prescribe "*Controlled Substance Drugs*" and that is the reason why "*Medical Doctors*" will not recommend the issuance of "*Medical Marijuana Registry Identification Cards*."

[22]/ see Rule 60(b)(3) of the Federal Rules of Civil Procedure (F.R.C.P.). See also Rule 56(c)(4) of F.R.C.P..

[23]/ see *21 USC 801 et seq.,* and *21 C.F.R. 1308* listing "*Marijuana*" as a "*Schedule I*" drug.

[24]/ see 21 USC 812(b)(1).

[25]/ see Alaska Statutes, Title 17, Chapter 37.

necessity defense is unavailable to manufactures and distributors charged with violating federal law." - is also a statement that admits to a conflict of laws that exist with the State of Alaska and with The United States of America.

Federalism

24. Beginning on Page 18, Paragraph 1, Assistant Attorney General, Christopher D. Peloso for the Respondent, State of Alaska argues the doctrine of "*Federalism*" to justify the asserted authority of the State of Alaska to legalize and regulate the intercourse of "*Marijuana*" moving within the "*Intrastate Commerce*" of the "*State*." But on the day Chief Justice Marshall announced from the bench of the U.S. Supreme Court that upon a showing of a "*need and necessity*," the U.S. Congress has authority to regulate the intercourse of "*Intrastate Commerce*" of a State under the "*Interstate Commerce Clause*" of Article I, Section 8, Clause 3 of the U.S. Constitution, /[26] the doctrine of "*Federalism*" died as being applied to "*Marijuana*" and other controlled substance drugs of the "*Federal Control Substance Act*." The ruling of Chief Justice Marshall has been upheld for over one-hundred years with numerous "*U.S. Supreme Court*" decisions with Gonzales v. Raich, - (03-1454) - 545 U.S. 1 /[27] being one of the most recent rulings.

[26]/ see Gibbons v. Ogden, 22 U.S. 1 (1824). Full text of Gibbons v. Ogden may be read on the Internet at: "http://tinyurl.com/pvemplk".

[27]/ see Page 16, paragraph 27 of Petitioner's verified "*Petition for Redress of Grievance*" which was received by the above named Federal Court on June 1, 2015 wherein the Court of Gonzales v. Raich ruled that "*Marijuana*" is within the U.S. Congress' authority to regulate within the "*Intrastate Commerce*" of a State.

25. The U.S. Congress has declared within 21 USC 801(5) & (6) that a "*need and necessity*" exist authorizing the U.S. Congress to take jurisdiction over the "*Intrastate Commerce*" intercourse of "*Marijuana*" within the boundaries of the States. As this "*Commerce Power*" of the U.S. Congress is plenary and without limit with the exceptions of expressed limitations of the U.S. Constitution, the States are without authority to legalize and regulate "*Marijuana*" without an express authority of a "*Congressional Statute*." Within the U.S. Supreme Court case of United States vs. Oakland Cannabis Buyers' Cooperative, et al., /[28] Justice Stevens gave notice that no provision of the "*Federal Control Substance Act*" (*as that "Act" applies to "Marijuana" within the boundaries of a State*) has ever been questioned before the U.S. Supreme Court. Do you think Justice Stevens was sending a message to the States? The Attorney General for the State of Alaska has never questioned the Constitutionality of 21 USC 805 and thus the Office of the Alaska Attorney General has accepted this "*Congressional Statute*" on behalf of the State of Alaska as being a "*Statute*" that was made pursuant to the U.S. Constitution. The State of Alaska has accepted the assertion of the U.S. Congress of having the exclusive "*Power*" of authority to regulate the "*Intrastate*" intercourse of "*Marijuana*" within its borders.

26. Assistant Attorney General, Christopher D. Peloso for the Respondent, State of Alaska has chosen to cite "*Testimony*" of U.S. Attorney General, Eric Holder that took place before the *U.S. Congress* as the authority for the State of Alaska to legalize and regulate "*Marijuana*." We see that Mr. Holder tried to justify his "*Policies*" of "*Federalism*" in delegating authority for the States to legalize and

[28]/ see Page 15, Paragraph 26 of Petitioner's verified "*Petition for Redress of Grievance*" which was received the above named Federal Court on June 1, 2015 wherein the U.S. Supreme Court case of "United States vs. Oakland Cannabis Buyers' Cooperative, et al., 532 U.S. 483" is listed.

regulate "*Marijuana*."/[29] As "*Federalism*" died on the day that Chief Justice Marshall of the U.S. Supreme Court announced the authority of the U.S. Congress to regulate "*Intrastate Commerce*" of the States and as the U.S. Congress has chosen to exercise that authority in regulating "*Marijuana*" as a controlled substance drug, Mr. Holder must have had acted under a "*Congressional Statute*" that granted him such authority. To the best of knowledge, no such "*Statute*" existed then and no such "*Statute*" exist today. U.S. Attorney General, Eric Holder proclaimed that a necessity and need existed for the issuance of his "*Memos*" in that the U.S. Justice Department had limited resources to enforce the "*Federal Control Substance Law*" as that law applied to "*Marijuana*." That statement is not true. The U.S. Congress had funded the Office of the President of the United States with "*Billions of Dollars*." There is an appearance that President Barack Obama and his staff have funneled large amounts of those funds to the enemies of our Nation, that being the "*Muslim Caliphate*" of the Middle East. /[30] In regard to the limitation of man power and trained personnel in law, Eric Holder has unlimited resources at hand and within his authority to make a request of the U.S. Congress to activate of the "*militia*" [*National Guard*] of the States to execute the laws of the Union under the authority of Article I, Section 8, Clause 15 of the U.S. Constitution.

27. On Page 5, Footnote 12 of "*Motion to Dismiss*," Assistant Attorney General, Christopher D. Peloso attempts to influence the Court with the citing of the "*Cromnibus*" Spending Bill of December 2014 [*Public Law No: 113-235*] wherein Mr. Peloso makes reference to "*Section 538*" which the full text reads:

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[29]/ see Footnote 60 on Page 17 of Mr. Peloso's "*Motion to Dismiss*."

[30]/ see "*Documentary Video*" on the Internet at: "http://tinyurl.com/q3u7lhm**".**

"Sec. 538. None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, District of Columbia, Delaware, Florida, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and Wisconsin, to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana." /[31]

28. Everyone who has knowledge of law knows that *Section 538* does not exist for being in conflict with the "*Federal Control Substance Act*" and for being in conflict with the duties of the *U.S. Congress* to provide the *U.S. President* with the means to perform his constitutional duties of faithfully executing the "*Laws*" of our "*Nation*." There are no provisions within the above Section 538 that makes amendments to the "*Federal Control Substance Law*" (*21 U.S.C. 801 et seq.*) that would allow the implementation of that section of the law.

29. A true view of the "*Members*" of the "*U.S. Congress*" on "*Marijuana*" and the "*Federal Control Substance Law*" may be found further within the spending bill of *Public Law No: 113-235*:

"Sec. 809.(a) None of the Federal funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution

[31]/ see Footnote 12, on Page 5 of the "*Motion to Dismiss*." - The 219-189 decision came on a bipartisan appropriations amendment spearheaded by California Republican Rep. Dana Rohrabacher and California Democrat Sam Farr. As these two members of the U.S. Congress conspired to deceived the "*Members*" of the "*U.S. Congress*" by burying their provision the "*Bill*" deep within the "*Spending Bill*" (*having full knowledge that the members of "Congress" don't take the time to read the full text of proposed spending Bills before voting*) has cost them of their membership with the U.S. Congress.

of any schedule I substance under the Controlled Substances Act (*21 U.S.C. 801 et seq.*) or any tetrahydrocannabinols derivative.

" Sec. 809.(b) None of the funds contained in this Act may be used to enact any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (*21 U.S.C. 801 et seq.*) or any tetrahydrocannabinols derivative for recreational purposes."

Conclusion

30. For reasons stated herein and as the "*Motion to Dismiss*" does not meet the standards and requirements of Rule 56 of the Federal Rules of Federal Procedure, Assistant Attorney General, Christopher D. Peloso's "*Motion to Dismiss*" should to be "*quashed*" and "*dismissed*."

MOTION FOR SUMMARY JUDGMENT ON THE PLEADINGS

Rule 56(a) of the Federal Rules of Civil Procedure

Oral Argument Not Requested

1. The Petitioner, Gordon Warren Epperly has identified each claim or defense - or the part of each claim or defense within the above "*Answer and Objection to 'Motion to Dismiss*'" and within the Petitioner's verified "*Petition for Redress of Grievance*" which was presented to the above named Court on June 1, 2015 (*with true and correct copies being delivered to the Attorneys of the Respondents*) - on which summary judgment is sought. There is no genuine dispute as to any material

fact and the Petitioner is entitled to judgment as a matter of law. The "*Motion for Summary Judgment on the Pleadings*" should be granted.

2. Enclosed as "*Exhibit 'A'*" is a copy of "*Amicus Curiae Brief Of Former DEA Administrators*" in support of Petitioner's "*Opposition to State of Alaska's 'Motion to Dismiss'*" and in support of Petitioner's "*Motion for Summary Judgment on the Pleadings*." This "*Amicus Curiae Brief Of Former DEA Administrators*" was filed with the U.S. Supreme Court on Februarys 19. 2015 in support of the States of Oklahoma and Nebraska in their "*Complaint*" against the State of Colorado [*U.S. Supreme Court Docket No. 22O144 ORG*] and it may be downloaded from the "*SCOTUSblog*" on the Internet at: "http://tinyurl.com/n7yx45e**".**

3. On May 14, 2015, the United States Solicitor General was invited to file a "*Legal Brief*" expressing the views of the United States in the U.S. Supreme Court case of "*States of Oklahoma and Nebraska vs. State of Colorado*" [*Docket No. 22O144 ORG*]. The Petitioner, Gordon Warren Epperly, hereby gives notice that he reserves the right to include that "*Brief of the Solicitor General*" into the "*Record*" of the above named Court in support of Petitioner's "*Motion for Summary Judgment on the Pleadings*" as "*Exhibit 'B'*" when that "*Brief*" becomes available.

ASSERVATION

COMES NOW THE PETITIONER, Gordon Warren Epperly, does hereby state under pains of penalty of perjury that he is the author of the above "*Answer and Objection*

to Respondent State of Alaska's 'Motion to Dismiss'" and "*Motion for Summary Judgment on the Pleadings*." The statements made herein are true and correct to the best of his knowledge.

Dated this Fifteenth day of the month of June in the year of our Lord, Jesus the Christ, Two-Thousand and Fifteen.

Seal

Gordon Warren Epperly – Petitioner / Affiant

CERTIFICATE OF MAILING

COMES NOW Petitioner, Gordon Warren Epperly, hereby certifies under penalties of perjury that true and correct copies of Petitioner's "*Answer and Objection to Respondent State of Alaska's 'Motion to Dismiss'*" and "*Motion for Summary Judgment on the Pleadings*" have been certified mailed to:

Certified Mail No. 7013 1090 0000 6865 3289

Richard L. Pomeroy
Assistant U.S. Attorney
222 West 7th Ave., #9, Rm. 253
Anchorage, Alaska 99513-7567

Certified Mail No. 7013 1090 0000 6865 3272

Christopher D. Peloso
Assistant Attorney General
Department of Law
P.O. Box 110300
Juneau, Alaska 99811-0300

by depositing said Petitioner's "*Answer and Objection to Respondent State of Alaska's 'Motion to Dismiss'*" and "*Motion for Summary Judgment on the Pleadings*" with the U.S. Postal Service, Mendenhall Station, at Juneau, Alaska.

Dated this Fifteenth day of the month of June of the year of our Lord Jesus Christ, Two-Thousand and Fifteen .

Gordon Warren Epperly

Gordon Warren Epperly - Affiant

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Attorney for Defendant State of Alaska

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

GORDON WARREN EPPERLY, Petitioner, v. STATE OF ALASKA, UNITED STATES OF AMERICA Respondents.	Case No. 1:15-cv-00002-SLG **[PROPOSED] ORDER GRANTING MOTION TO DISMISS**

Having reviewed the motion to dismiss filed on behalf of the State of Alaska, and any responses thereto, IT IS SO ORDERED: The motion is GRANTED. This matter is dismissed with prejudice.

Dated this _____ day of _____, Anchorage, Alaska

_____
Sharon L. Gleason
United States District Court Judge

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