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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
)   
Plaintiff, )  
)   
v. )  
)   
OAKLAND CANNABIS BUYERS' )  
COOPERATIVE AND JEFFREY JONES, )  
)   
Defendants. )  
)   
\_\_\_\_\_ )  
AND RELATED ACTIONS. )

NO. 98-0088 CRB  
**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF THE  
STATE OF CALIFORNIA TO FILE  
AMICUS CURIAE BRIEF**  
**DATE: February 22, 2002**  
**TIME: 10:00 a.m.**  
**DEPT.: 8**  
**Hon. Charles R. Breyer**

1           The People of the State of California, respectfully request permission to file the  
2 amicus curiae brief lodged with this Court at the filing of this memorandum. In addition, the  
3 Attorney General respectfully requests permission to file additional amicus curiae briefs as  
4 appropriate. This motion is based upon the Attorney General's strong interest in protecting this  
5 important State statute from constitutional attack.

6           States are allowed to file amicus curiae briefs as of right with the federal appellate courts,  
7 because these proceedings often "have an impact upon various governmental matters." *See* 23  
8 James W. Moore et al., *Moore's Federal Practice* ¶537.07 (3d ed. 1997); *also see* Fed. R. App. P.  
9 29; Sup. Ct. R. 37.4. Moreover, under 28 U.S.C. 2403(b), the Attorney General of a State has  
10 the right to intervene in any action "wherein the constitutionality of any statute of that State  
11 affecting the public interest is drawn in question." The same considerations warrant granting the  
12 motion of the Attorney General to file amicus briefs in this action, as the federal government  
13 seeks to enjoin conduct specifically authorized by the Compassionate Use Act. (Cal. Health and  
14 Safety Code § 11362.5) By its action, the federal government calls into question the validity of  
15 a State statute enacted directly by vote of the People of California through Proposition 215, in  
16 1996.

17           As California's chief law enforcement officer, Attorney General Bill Lockyer's  
18 constitutional and common law authority includes the authority to defend the validity of  
19 California's statutes. *See*, for example, California Constitution, article V, section 13 (Attorney  
20 General is California's chief law officer) and *People v. New Penn Mines, Inc.*, 212 Cal.App.2d  
21 667, 671, 28 Cal.Rptr. 337 (1963) (under the common law, the Attorney General has broad  
22 powers, in the absence of legislative restriction, to bring any civil action which he deems  
23 necessary for the enforcement of state laws and for the protection of public rights and interests.)  
24 Moreover, the Legislature has expressed its intent that the Attorney General be notified of and  
25 have the right to participate in any action which could result in the invalidation of a state statute  
26 on constitutional grounds. *See* Cal. Code of Civ. Proc., § 664.5(e) (requiring the notification of  
27 the Attorney General when any state trial court enters a judgment declaring any state statute or  
28 regulation unconstitutional), and § 902.1 (giving the Attorney General the right to intervene and

1 participate in any appeal of that judgment). Such statutes “certainly manifest [] a decision by the  
2 State that its attorney general has a strong interest in defending the State’s statutes in court.”  
3 *Fordyce v. City of Seattle*, 55 F.3d 436, 441 (9<sup>th</sup> Cir. 1995) (referring to a similar Washington  
4 State statute).

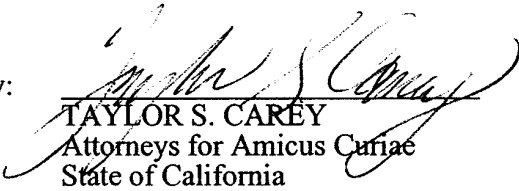
5 The Attorney General therefore respectfully requests permission to file the lodged amicus  
6 curiae brief, and to file additional amicus curiae briefs as appropriate.

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DATED: February 13, 2002

BILL LOCKYER  
Attorney General

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By:   
TAYLOR S. CAREY  
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State of California

**DECLARATION OF SERVICE**

Case Name: ***UNITED STATES OF AMERICA, Plaintiffs, v. OAKLAND CANNABIS BUYERS' COOPERATIVE AND JEFFREY JONES.***

**No.: 98-0088 CRB**

I declare:

I am employed in the County of Sacramento, California. I am 18 years of age or older and not a party to the within entitled cause; my business address is 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550.

On February 8, 2002, I served the attached

**MEMO OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION OF THE STATE OF CALIFORNIA TO FILE AN AMICUS BRIEF.**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California, addressed as follows:

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I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on February 13, 2002, at Sacramento, California.

13

Jana M. Plaskett  
DECLARANT