

1 FRANK W. HUNGER  
Assistant Attorney General  
2 ROBERT S. MUELLER, III (Cal. BN 59775)  
United States Attorney  
3 DAVID J. ANDERSON  
ARTHUR R. GOLDBERG  
4 MARK T. QUINLIVAN (D.C. BN 442782)  
U.S. Department of Justice  
5 Civil Division; Room 1048  
901 E Street, N.W.  
6 Washington, D.C. 20530  
Telephone: (202) 514-3346

7 Attorneys for Plaintiff  
8

9 UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO HEADQUARTERS

11 UNITED STATES OF AMERICA, )  
12 Plaintiff, )  
13 v. )  
14 CANNABIS CULTIVATOR'S CLUB; )  
15 and DENNIS PERON, )  
16 Defendants. )  
17 AND RELATED ACTIONS )  
18

Nos. C 98-0085 CRB  
C 98-0086 CRB  
C 98-0087 CRB  
C 98-0088 CRB  
C 98-0245 CRB

PLAINTIFF'S EX PARTE APPLICATION  
FOR LEAVE TO FILE A PROTECTIVE  
ORDER LOG OUT OF TIME IN  
CASE NO. C 98-0088 CRB

Date: None set  
Time: None set  
Courtroom of the Hon. Charles R. Breyer



1 consequently was placed in the voluminous case file in these related actions without having been  
2 first examined by counsel for the government. Id.

3 4. On November 25, 1998, one day before the Thanksgiving holiday, counsel for the  
4 government was reviewing the case file in these related actions, and came upon the Notice of  
5 Protective Order. Id. ¶ 5. Upon reading and examining the attached Protective Order, counsel for  
6 the government immediately contacted all persons within the Department of Justice, including the  
7 Drug Enforcement Administration ("DEA"), to whom the Alcalay Declaration may have been  
8 circulated, and requested that any and all copies of the Alcalay Declaration be returned to counsel.  
9 Id. Counsel for the government further conducted a search of his own office, as well as the  
10 official case file in these related actions, and retrieved two copies of the Alcalay Declaration. Id.

11 5. In response to the search request of November 25, 1998 for any and all copies of the  
12 Alcalay Declaration, counsel for the government was provided with four copies of the Alcalay  
13 Declaration from different components of the Department of Justice, including one copy that was  
14 provided by the Office of Chief Counsel of the Drug Enforcement Administration. Id. ¶ 6.<sup>1</sup>

15 6. Upon receiving these copies, and upon receiving assurances from other components of  
16 the Department of Justice that no other copies of the Alcalay Declaration remained, counsel for  
17 the government provided counsel for the defendant, Morrison & Foerster LLP, with the six copies  
18 of the Alcalay Declaration in the possession of the government by overnight delivery. Id. ¶ 7.

19 7. The United States now seeks leave to file a Protective Order Log, as required by  
20 Defendant's Protective Order, out of time. Id. ¶ 8. The [Proposed] Protective Order Log  
21 accompanies this ex parte application. Id.

22 8. On December 7, 1998, counsel for the government contacted counsel for the  
23 defendants, Annette Carnegie, Esq., informed her of the foregoing events, as well as the  
24

---

25 <sup>1</sup> Counsel for the government was informed in writing by the Office of the Chief Counsel of  
26 the DEA that the copy of the Alcalay Declaration that was provided to the Office of Chief  
27 Counsel was not further circulated within the DEA. Id.

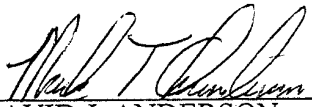
1 government's intention to file an ex parte application to file a Protective Order Log, as required by  
2 the Protective Order, out of time. Id. ¶ 8. Ms. Carnegie informed counsel for the government that  
3 defendants did not object to the filing of this application. Id.

4 WHEREFORE, the United States respectfully seeks leave to file the accompanying  
5 [Proposed] Protective Order Log out of time.

6  
7 Respectfully submitted,

8 FRANK W. HUNGER  
Assistant Attorney General

9 MICHAEL J. YAMAGUCHI  
United States Attorney

10  
11  
12   
13 DAVID J. ANDERSON  
ARTHUR R. GOLDBERG  
MARK T. QUINLIVAN  
14 U.S. Department of Justice  
Civil Division, Room 1048  
15 901 E St., N.W.  
Washington, D.C. 20530  
16 Tel: (202) 514-3346

17 Attorneys for Plaintiff  
UNITED STATES OF AMERICA

18 Dated: December 8, 1998

1 CERTIFICATE OF SERVICE

2 I, Mark T. Quinlivan, hereby certify that on this 9th day of December, 1998, I caused to be  
3 served a copy of the foregoing Plaintiff's Ex Parte Application to File a Protective Order Log Out  
4 of Time in Case No. C 98-0088 CRB, and the accompanying [Proposed] Order, [Proposed]  
5 Protective Order Log, and Declaration of Mark T. Quinlivan, upon the following counsel for  
6 defendants Oakland Cannabis Buyers' Cooperative and Jeffrey Jones, by overnight delivery:

7  
8 James J. Brosnahan  
9 Annette P. Carnegie  
10 Morrison & Foerster LLP  
11 425 Market Street  
12 San Francisco, CA 94105

13 Robert A. Raich  
14 1970 Broadway, Suite 1200  
15 Oakland, CA 94612

16 Gerald F. Uelman  
17 Santa Clara University  
18 School of Law  
19 Santa Clara, CA 95053

20  
21  
22  
23  
24  
25  
26  
27  
28   
MARK T. QUINLIVAN