

1 ALICE P. MEAD (State Bar No. 98423)
CALIFORNIA MEDICAL ASSOCIATION
2 221 Main Street
P.O. Box 7690
3 San Francisco, California 94120-7690
Telephone: (415) 541-0900
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)
11)
Plaintiff,)
12 v.)
13 CANNABIS CULTIVATOR'S CLUB, et al.,)
14 Defendants.)
15 _____)
AND RELATED ACTIONS.)
16 _____)

No. C98-0085 CRB
C98-0086 CRB
C98-0087 CRB
C98-0088 CRB
C98-0245 CRB

**EX PARTE MOTION OF
CALIFORNIA MEDICAL
ASSOCIATION FOR LEAVE
TO FILE BRIEF AS *AMICUS*
CURIAE IN SUPPORT OF
PROTECTIVE ORDER AND
TO APPEAR AT OCTOBER 5,
1998 HEARING;
DECLARATION OF ALICE P.
MEAD**

Date: October 5, 1998
Time: 2:30 p.m.
Courtroom: 8
Hon. Charles R. Breyer

1 The California Medical Association ("CMA") is a non-profit, incorporated professional
2 association of more than 30,000 physicians practicing in the State of California. CMA's membership
3 includes California physicians engaged in the private practice of medicine, in all specialties. CMA's
4 primary purposes are "... to promote the science and art of medicine, the care and well-being of
5 patients, the protection of public health, and the betterment of the medical profession." CMA and its
6 members share the objective of promoting high quality, cost-effective health care for the people of
7 California.

8 CMA seeks leave to file the *amicus curiae* brief in support of entry of a protective order
9 submitted herewith and to appear at the October 5, 1998 hearing on this matter. CMA's interest in
10 the confidentiality issues raised in this litigation transcends the specific nature of the case. CMA
11 seeks to raise issues about confidentiality and the physician-patient relationship that can arise in a
12 variety of contexts and that are of great concern to its doctor members throughout the state. CMA
13 has long defended the right of a physician and patient to discuss freely all medical treatment options
14 that may be appropriate to the patient's care. Without a reasonable assurance of confidentiality,
15 patients and physicians cannot candidly exchange information, and as a result, proper medical care
16 cannot take place. If physicians and patients believe that physicians' identities coupled with patients'
17 diagnoses will be publicly revealed, information may be withheld, discussions may be truncated, and
18 even the completeness of medical records may be threatened.

19 CMA believes that the September 14, 1998 filing of the declaration of Dr. Michael Alcalay
20 has serious repercussions for third party physicians and patients. By revealing confidential
21 information -- and by mischaracterizing the role of physicians -- defendants have jeopardized the
22 doctor-patient relationship. CMA seeks a protective order from the Court rectifying this situation by
23 ensuring that confidential information remains confidential.

24 This motion is made on an *ex parte* basis because CMA only became aware of the
25 confidentiality issues at stake in this case after defendants filed for a protective order on September
26 30, 1998. Counsel for CMA then had to make a decision about what action to recommend CMA
27 take, and obtain approval for that action. Counsel for CMA then had to draft the papers, which were
28 not completed until October 5, 1998.

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Accordingly, CMA respectfully seeks leave to file the *amicus curiae* brief submitted herewith and to appear at the October 5, 1998 hearing.

DATE: October 5, 1998

Respectfully submitted,

California Medical Association
ALICE P. MEAD

By: *Alice P. Mead*
Alice P. Mead
Attorney for *Amicus Curiae*
California Medical Association

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DECLARATION OF ALICE P. MEAD

I, Alice P. Mead, do hereby declare:

1. I am a member in good standing of the State Bar of California and an attorney for the California Medical Association ("CMA").

2. On September 30, 1998, I was informed that defendants Oakland Cannabis Buyers' Cooperative and Jeffrey Jones had submitted confidential information obtained from patient members of the Cooperative into the record in this case without seeking entry of a protective order. I was also informed that defendants, as of September 30, 1998, were seeking entry of a protective order.

3. I sought approval to represent CMA's views on this issue and received that approval. Because of the short notice provided, I was unable to finish the papers until October 5, 1998.

4. On October 5, 1998, at approximately 9:15 a.m. I spoke with Andrew Steckler, counsel for defendants, and informed him that CMA would be seeking leave to file a brief *amicus curiae* and appear at the October 5, 1998 hearing.

5. On October 5, 1998, at approximately 9:20 a.m. I left a message for Mark Quinlivan, counsel for plaintiff, informing him that CMA would be seeking leave to file a brief *amicus curiae*.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed at San Francisco, California, this 5th day of October, 1998.



Alice P. Mead

1 PROOF OF SERVICE

2 I am employed by the California Medical Association, whose address is 221 Main Street,
3 San Francisco, California 94120-7690. I am over the age of eighteen years and not a party to the
within action. On October 5, 1998, I served a copy of:

4 **EX PARTE MOTION OF CALIFORNIA MEDICAL ASSOCIATION FOR LEAVE TO FILE**
5 **BRIEF AS *AMICUS CURIAE* IN SUPPORT OF PROTECTIVE ORDER AND TO APPEAR**
AT OCTOBER 5, 1998 HEARING; DECLARATION OF ALICE P. MEAD

6 **PROPOSED ORDER GRANTING *EX PARTE* MOTION OF CALIFORNIA MEDICAL**
7 **ASSOCIATION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF**
PROTECTIVE ORDER AND TO APPEAR AT OCTOBER 5, 1998 HEARING

8 **BRIEF OF *AMICUS CURIAE* CALIFORNIA MEDICAL ASSOCIATION IN SUPPORT OF**
9 **PROTECTIVE ORDER**

10 ***AMICUS CURIAE* CALIFORNIA MEDICAL ASSOCIATION'S REQUEST FOR JUDICIAL**
NOTICE

11 by placing the documents in a sealed envelope, with postage fully prepaid thereon, addressed to:

12 Mark T. Quinlivan
13 U.S. Department of Justice
901 E Street, N.W., Room 1048
14 Washington, D.C. 20530

Andrew A. Steckler
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

15 Thomas V. Loran III, Esq.
16 Pillsbury Madison & Sutro LLP
235 Montgomery Street
San Francisco, CA 94104

Gerald F. Uelmen
Santa Clara University
School of Law
Santa Clara, CA 95053

17 J. Tony Serra/Brendan R. Cummings
18 Serra, Lichter, Daar, Bustamante,
Michael & Wilson
19 Pier 5 North, The Embarcadero
San Francisco, CA 94111

Robert A. Raich
A Professional Law Corporation
1970 Broadway, Suite 1200
Oakland, CA 94612

20 Susan B. Jordan
21 515 South School Street
Ukiah, CA 95482

William G. Panzer
370 Grand Avenue, Suite 3
Oakland, CA 94610

22 David Nelson
23 106 North School Street
Ukiah, CA 95482

Helen Shapiro
Carl Shapiro
404 San Anselmo Avenue
San Anselmo, CA 94960

24 I also sent a copy of the above entitled documents by facsimile to:

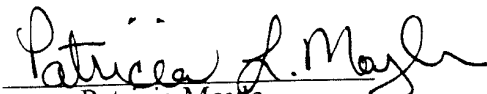
25 Mark T. Quinlivan
26 U.S. Department of Justice
901 E Street, N.W., Room 1048
27 Washington, D.C. 20530
28 202-616-8470

Andrew A. Steckler
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
415-268-7522

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on the 5th day of October, 1998, at San Francisco, California.


Patricia Moyte