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E-FILED
6/8/2020 1:05 PM
Superior Court of California
County of Fresno
By: S. Garcia, Deputy

*Exempt from filing fees
pursuant to Gov. Code §6103*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF FRESNO

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17 **COUNTY OF SANTA CRUZ, ET AL.,**
18 Plaintiffs,
19 v.
20 **BUREAU OF CANNABIS CONTROL;**
21 **LORI AJAX, in her official capacity as**
22 **Chief of the Bureau of Cannabis Control;**
23 **and DOES 1 through 10, inclusive,**
24 Defendants.

Case No. 19CECG01224

**DEFENDANTS' REQUEST FOR
JUDICIAL NOTICE**

Dept: 403
Judge: Honorable Rosemary T. McGuire
Trial Date: July 16, 2020
Action Filed: April 4, 2019

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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that defendants Bureau of Cannabis Control and Lori Ajax,
3 Chief of the Bureau of Cannabis Control (Defendants), respectfully request the Court take judicial
4 notice of the following documents pursuant to Evidence Code section 450 et seq., and the
5 authorities discussed below:

- 6
- 7 1. A true and correct copy of minutes from the November 16, 2017 meeting of the Cannabis
8 Advisory Committee, which is attached hereto as **EXHIBIT A.**
- 9 2. A true and correct copy of the meeting minutes from the March 15, 2018 meeting of the
10 Cannabis Advisory Committee, which is attached hereto as **EXHIBIT B.**
- 11 3. A true and correct copy of the meeting minutes from the July 19, 2018 meeting of the
12 Cannabis Advisory Committee, which is attached hereto as **EXHIBIT C.**
- 13 4. A true and correct copy of the meeting minutes from the August 20, 2018 meeting of the
14 Cannabis Advisory Committee, which is attached hereto as **EXHIBIT D.**
- 15 5. A true and correct copy of the meeting minutes from the June 28, 2019 meeting of the
16 Cannabis Advisory Committee, which is attached hereto as **EXHIBIT E.**
- 17 6. A true and correct copy of Arcadia Municipal Code Section 9101.02.040, subdivision (E),
18 which is attached hereto as **EXHIBIT F.**
- 19 7. A true and correct copy of Chapter 6.12 of the Dixon Municipal Code, pertaining to the
20 Cannabis Business Pilot Program, which is attached hereto as **EXHIBIT G.**
- 21 8. A true and correct copy of Dixon Ordinance No. 20-003, which is attached hereto as
22 **EXHIBIT H.**
- 23 9. A true and correct copy of San Pablo Ordinance No. 2020-002, which is attached hereto as
24 **EXHIBIT I.**

25

26 Exhibits A-E may be subject to judicial notice pursuant to Evidence Code section 452,
27 subdivision (c), which authorizes the Court to take judicial notice of “[o]fficial acts of the
28 legislative, executive, and judicial departments of the United States and any state in the United

1 States.” (Evid Code, § 452, subd. (c).) “Official acts include records, reports and orders of
2 administrative agencies.” (*Rodas v. Spiegel* (2001) 87 Cal.App.4th 13, 518.) The Court is
3 authorized to take judicial notice of committee meeting minutes of a public organization. (*Duarte*
4 *v. State Teachers' Retirement System* (2014) 232 Cal.App.4th 370.)

5 Defendants request judicial notice of the Cannabis Advisory Committee meeting minutes,
6 attached hereto as Exhibits A, B, C, D, and E because the discussion of submitted comments
7 demonstrate the need for clarity about what the regulations require in order to enable cannabis
8 consumers and licensees to participate in a functional statewide market. During these meetings,
9 commenters also expressed their concerns about the lack of access to legal cannabis that would be
10 caused if large numbers of local jurisdictions ban cannabis retail activities within their borders
11 and that such widespread lack of access would drive consumers to the illicit market. The fact that
12 the Bureau of Cannabis Control and the Cannabis Advisory Committee found that there was a
13 need for clarification for delivery licensees and consumers and that the regulation served the
14 public policy goal of eliminating the illicit market are relevant to Defendants’ argument that the
15 regulation in question is reasonably necessary to effectuate the intent of voters.

16 Exhibits F-I may be subject to judicial notice pursuant to Evidence Code section 452,
17 subdivision (b), which allows this court to take judicial notice of “regulations and legislative
18 enactments issued by or under the authority of the United States *or any public entity in the United*
19 *States* [emphasis added].” (Evid. Code, § 452, subd. (b).) The court is authorized to take judicial
20 notice of local ordinances and the official resolutions, reports, and other official acts of a city or
21 county. (*Weisner v. Santa Cruz County Civil Service Commission* (2016) 248 Cal.App.4th 340,
22 fn. 1.) City and county ordinances constitute official records within the meaning of Evidence
23 Code section 452, and may properly be subject to the Court's notice. The court may also take
24 judicial notice, under Evidence Code section 452, subdivision (h), of “[f]acts. . . that are not
25 reasonably subject to dispute and are capable of immediate and accurate determination by resort
26 to sources of reasonably indisputable accuracy.” (Evid. Code, § 452, subd. (h).) Judicial notice
27 under section 452, subdivision (h), is intended to cover facts which are not reasonably subject to
28 dispute and are easily verified. (*Gould v. Md. Sound Indus.* (1995) 31 Cal. App. 4th 1137, 1145.)

1 Defendants request that the Court take notice of the ordinances attached as Exhibit F in
2 order to provide the court with additional code sections pertaining to commercial cannabis
3 activity in the city of Arcadia. Defendants request judicial notice of the ordinances attached
4 hereto as Exhibits G, H, and I, in order to demonstrate that the ordinances subject to Plaintiffs'
5 Request for Judicial Notice are not current. Additionally, the fact that these ordinances were
6 amended during the pendency of this litigation demonstrates that local ordinances governing
7 commercial cannabis activities are subject to frequent change. If retail licensees were required to
8 comply with a diverse set of fluctuating local regulations, then interjurisdictional commerce
9 would be unduly burdened or rendered impossible. Therefore, the fact that these local ordinances
10 have changed multiple times in the last few years is relevant to Defendants' argument that
11 California Code of Regulations, title 16, section 5416, subdivision (d), is valid because it was
12 reasonably necessary to effectuate the voters' intent to create a comprehensive statewide
13 regulatory program for the adult-use commercial cannabis industry.

14
15 Dated: June 8, 2020

Respectfully Submitted,

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/s/ Ethan A. Turner

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