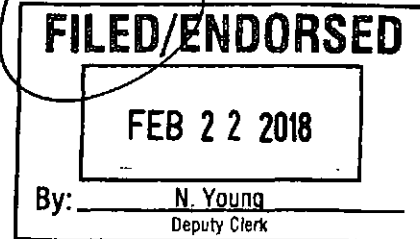


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*Exempt from filing fee under
 Government Code section 6103*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF SACRAMENTO**

**CALIFORNIA GROWERS
 ASSOCIATION,**

Plaintiff,

v.

**CALIFORNIA DEPARTMENT OF FOOD
 AND AGRICULTURE, and DOES 1-10,**

Defendant.

Case No. 34-2018-00225874-CU-MC-GDS

**ANSWER OF DEFENDANT
 CALIFORNIA DEPARTMENT OF
 FOOD AND AGRICULTURE TO
 VERIFIED COMPLAINT FOR
 DECLARATORY AND INJUNCTIVE
 RELIEF; AFFIRMATIVE DEFENSES**

Trial Date: Not Set
 Action Filed: January 23, 2018

Defendant CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
 answers plaintiff's "Verified Complaint for Declaratory and Injunctive Relief" (Complaint) as
 follows:

The Introduction at lines 1 to 3 of the Complaint are plaintiff's contentions and legal
 conclusions that require no response.

- 1 1. Regarding paragraph 1, CDFA admits that California voters passed Proposition 64. The
2 remainder of the allegations are legal conclusions and require no response. To the extent a
3 response is deemed required, the allegations are denied. The last sentence reflects plaintiff's
4 characterization of CDFA's actions; CDFA denies plaintiff's legal characterization that CDFA
5 has promulgated regulations that "eviscerates" any mandate of Proposition 64.
- 6 2. Regarding paragraph 2, CDFA lacks sufficient knowledge or information of plaintiff's
7 legal status or purported purpose. To the extent the allegations are legal conclusions, they require
8 no response. To the extent a response is deemed required, the allegations are denied.
- 9 3. Regarding paragraph 3, CDFA admits the allegations.
- 10 4. Regarding paragraph 4, the allegations are legal conclusions and require no response. To
11 the extent a response is deemed required, the allegations are denied.
- 12 5. Regarding paragraph 5, CDFA admits that the California legislature passed Senate Bill 94,
13 creating Division 10 of the California Business and Professions Code, otherwise known as the
14 Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The rest of the
15 allegations are legal conclusions and require no response. To the extent a response is deemed
16 required, the allegations are denied.
- 17 6. Regarding paragraph 6, CDFA admits that it is charged with authority to promulgate
18 regulations pursuant to the MAUCRSA. Plaintiff's citation to the statutory basis for such
19 authority is inaccurate.
- 20 7. Regarding paragraph 7, the allegations are legal conclusions and require no response. To
21 the extent a response is deemed required, the allegations are denied.
- 22 8. Regarding paragraph 8, CDFA admits that the Control, Regulation and Tax Adult Use of
23 Marijuana Act ("AUMA") was enacted via a voter initiative. CDFA does not respond to
24 plaintiff's quotation from AUMA section 2, Findings and Declarations, because the document is
25 the best evidence of its content. The rest of the allegations are legal conclusions and require no
26 response. To the extent a response is deemed required, the allegations are denied.
- 27 9. Regarding paragraph 9, the allegations are legal conclusions and require no response. To
28 the extent a response is deemed required, the allegations are denied. CDFA does not respond to

1 plaintiff's quotation from the Senate Floor Analysis of MAUCRSA because the document is the
2 best evidence of its content.

3 10. Regarding paragraph 10, the allegations are legal conclusions and require no response.
4 To the extent a response is deemed required, the allegations are denied.

5 11. Regarding paragraph 11, CDFA admits the allegations that it promulgated emergency
6 regulations (Regulations), which are the subject of this action.

7 12. Regarding paragraph 12, the allegations are legal conclusions and require no response. To
8 the extent a response is deemed required, the allegations are denied.

9 13. Regarding paragraph 13, the allegations are legal conclusions and require no response. To
10 the extent a response is deemed required, the allegations are denied.

11 14. Regarding paragraph 14, the allegations are legal conclusions and require no response. To
12 the extent a response is deemed required, the allegations are denied.

13 15. Regarding paragraph 15, the allegations are legal conclusions and require no response. To
14 the extent a response is deemed required, the allegations are denied.

15 16. Regarding paragraph 16, the allegations are legal conclusions and require no response. To
16 the extent a response is deemed required, the allegations are denied.

17 17. Regarding paragraph 17, CDFA lacks sufficient knowledge or information to respond to
18 plaintiff's speculative assertions about future events. CDFA denies plaintiff's speculative
19 assertions that the Regulations will have a "devastating effect on small and medium cannabis
20 businesses, local economies throughout the state, and the environment."

21 18. Regarding paragraph 18, CDFA admits that it contracted with ERA Economics, LLC to
22 prepare an "Economic Impact Analysis of Medical Cannabis Cultivation Program Regulations"
23 (Economic Study). The remainder of the paragraph reflects plaintiff's selective quotes of
24 sentence fragments from the Economic Study to which no response is required because the
25 document is the best evidence of its content. To the extent a response is deemed required, any
26 remaining allegations are denied.

27 19. Regarding paragraph 19, the allegations are legal conclusions and require no response. To
28 the extent a response is deemed required, the allegations are denied. The paragraph also reflects

1 plaintiff's selective quotes of sentence fragments from the Economic Study to which no response
2 is required because the document is the best evidence of its content. To the extent a response is
3 deemed required, any remaining allegations are denied.

4 20. Regarding paragraph 20, CDFA lacks sufficient knowledge or belief of plaintiff's
5 speculative assertions about future events. To the extent a response is deemed required, any
6 remaining allegations are denied. To the extent plaintiff is inferring that CDFA is approving
7 "large" cultivation operations, CDFA denies such inference.

8 21. Regarding paragraph 21, the allegations reflect plaintiff's selective quote of a sentence
9 fragment from either the Regulations or the Economic Study to which no response is required
10 because the document is the best evidence of its content. CDFA lacks sufficient knowledge or
11 information regarding plaintiff's speculative assertions about future events. To the extent a
12 response is deemed required, any remaining allegations are denied.

13 22. Regarding paragraph 22, the allegations reflect plaintiff's selective quote of a sentence
14 fragment from the Regulations or the Economic Study to which no response is required because
15 the document is the best evidence of its content. CDFA lacks sufficient knowledge or
16 information regarding plaintiff's speculative assertions about future events. To the extent a
17 response is deemed required, any remaining allegations are denied.

18 23. Regarding paragraph 23, CDFA admits that this Court has jurisdiction over this action.

19 24. Regarding paragraph 24, CDFA admits that venue for this action properly lies in
20 Sacramento County Superior Court.

21 25. Regarding paragraph 25, the allegations are legal conclusions and require no response.
22 CDFA lacks sufficient knowledge or information regarding the status of plaintiff's members
23 regarding the Regulations. To the extent a response is deemed required, the allegations are
24 denied.

25 26. Regarding paragraph 26, the allegations are legal conclusions and require no response. To
26 the extent a response is deemed required, the allegations are denied. CDFA admits that plaintiff
27 filed comment letters to CDFA and to the Office of Administrative Law.

1 27. Regarding paragraph 27, CDFA incorporates by reference its responses set forth in
2 paragraphs 1 through 26.

3 28. Regarding paragraph 28, the allegations are legal conclusions and require no response. To
4 the extent a response is deemed required, the allegations are denied.

5 29. Regarding paragraph 29, the allegations are legal conclusions and require no response. To
6 the extent a response is deemed required, the allegations are denied. CDFA admits that its
7 regulations are presently being implemented.

8 The remaining allegations contained in the Complaint are the plaintiff's prayer for relief to
9 which no response is required.

10 AFFIRMATIVE DEFENSES

11 1. The Complaint fails to state facts sufficient to constitute a cause of action against CDFA
12 because CDFA has acted in good faith to comply with all applicable law.

13 2. The Complaint should be dismissed for failure to exhaust administrative remedies.

14 3. The Complaint should be dismissed as not ripe for adjudication because the regulations at
15 issue in this action are emergency regulations that will expire, and will be replaced by final
16 regulations, on which CDFA is currently working.

17 4. The Complaint should be dismissed because plaintiff seeks an advisory opinion.

18 5. Because much of the Complaint is alleged in conclusory terms, all affirmative defenses
19 that may be applicable cannot be fully anticipated. Accordingly, CDFA reserves the right to
20 assert additional affirmative defenses if applicable.

21
22 WHEREFORE, CDFA prays for relief as follows:

23 1. Deny plaintiff's claim for declaratory relief;

24 2. Deny plaintiff's claims for injunctive relief;

25 3. Deny plaintiff's request for costs, fees, and other relief;

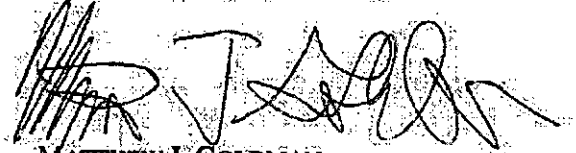
26 4. Award CDFA all costs of suit;

27 5. Enter judgment in favor of CDFA; and
28

1 6. Order such other and further relief in favor of CDFA as the Court deems proper.
2

3 Dated: February 22, 2018
4

XAVIER BECERRA
Attorney General of California
TRACY L. WINSOR
Supervising Deputy Attorney General

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8 MATTHEW J. GOLDMAN
9 Deputy Attorney General
10 Attorneys for Defendant
California Department of Food and
Agriculture

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **California Growers Assn v. Food & Ag**
No.: **34-2018-00225874-CU-MC-GDS**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On February 22, 2018, I served the attached **ANSWER OF DEFENDANT CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE TO VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF; AFFIRMATIVE DEFENSES** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Patrick M. Soluri
Osha R. Meserve
Soluri Meserve, A Law Corporation
510 8th Street
Sacramento, CA 95814
Attorneys for Plaintiff California Growers Association

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 22, 2018, at Sacramento, California.

Michelle Fowler
Declarant


Signature

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GDSSC COURTHOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY