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EXEMPT FROM FILING FEES  
GOV. CODE, § 6103

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF LOS ANGELES

13 NORTH VALLEY DISTRICT – CHATSWORTH COURTHOUSE  
14

15 **CALIFORNIA DEPARTMENT OF**  
16 **PUBLIC HEALTH AND BUREAU OF**  
17 **CANNABIS CONTROL ,**

18 Plaintiffs,

19 v.

20 **VERTICAL BLISS, INC.,**  
21 **KUSHY PUNCH, INC.,**  
22 **CONGLOMERATE MARKETING, LLC,**  
23 **MORE AGENCY, INC.,**  
24 **RUBEN KACHIAN AKA RUBEN CROSS,**  
**ARUTYUN BARSAMYAN,**  
**KEVIN HALLORAN,**  
**MIKE A. TOROYAN,**  
and DOES 1 through 30, inclusive,

25 Defendants.

Case No. 20CHCV00560

**PLAINTIFF'S NOTICE OF EX PARTE  
APPLICATION FOR CONTINUANCE  
OF TRIAL AND MEMORANDUM OF  
POINTS AND AUTHORITIES**

Dept: F49  
Judge: The Honorable Stephen P.  
Pfahler  
Date: February 14, 2022  
Time: 8:30 a.m

Trial Date: June 13, 2022  
Action Filed: September 23, 2020

**EX PARTE APPLICATION**

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

2 **PLEASE TAKE NOTICE** that on February 14, 2022 at 8:30 a.m., or as soon thereafter as  
3 the matter may be heard, in Department F49 of the Los Angeles County Superior Court,  
4 Chatsworth Courthouse, 9425 Penfield Ave., Chatsworth, CA 91311, the Department of Cannabis  
5 Control<sup>1</sup> will apply *ex parte* for an order from the Court continuing the trial date currently  
6 scheduled to begin on June 13, 2022. This application is based upon Rules of Court, rule 3.1332,  
7 the attached memorandum of points and authorities, the concurrently filed Declaration of Ethan  
8 Turner, upon the records on file in this action, and upon further evidence and arguments that may  
9 be presented at the time of hearing on this application.

10 Continuance of the trial date is necessary and good cause exists because additional time is  
11 needed to complete discovery, to allow all parties to fully develop and present their case, and to  
12 establish facts that are necessary for the trier of fact to make a determination about the respective  
13 liability of each Defendant and the amount of civil penalties that should be assessed pursuant to  
14 Business and Professions Code section 26038.

15 Seven of the eight Defendants have made no material responses to any discovery request  
16 propounded to date. Consequently, seven motions to compel have been filed in this matter. One  
17 of the seven motions has already been heard as to Defendant Ruben Kachian, who continues to  
18 ignore and violate the Court's order issued on January 10, 2022, which required service of  
19 verified responses by January 20, 2022. The motions to compel further responses from the other  
20 six uncooperative Defendants will not be heard until May 26, 2022, which is only eleven court  
21 days before the scheduled trial. The responses so far received from those six Defendants  
22 consisted solely of boilerplate objections despite multiple deadlines granted by Plaintiff at  
23 Defendants' express request. In sum, no appreciable progress has been made in the discovery

24 <sup>1</sup> This action was brought in the name of the California Department of Public Health and the  
25 Bureau of Cannabis Control, however, as of July 12, 2021 and pursuant to Business and  
26 Professions Code §§ 26010.7 and 26012, the Department of Cannabis Control is the legal  
27 successor of these agencies in all actions pending before any Court. On January 21, 2022,  
28 Plaintiff filed with the Court "Stipulation to Substitution of Parties and Proposed Order", wherein  
all parties stipulated and agreed that the proper Plaintiff in this action is the Department of  
Cannabis Control.

1 process over the life of this case, and the trial should not be permitted to commence until  
2 Defendants have complied with their obligations under the Discovery Act.

3 In addition to the existing discovery issues, efforts to settle the case have been impeded by  
4 six of the Defendants' refusal to cooperate with their counsel, and by the shifting status of  
5 representation. The parties, as of January 27, 2022, have agreed to a mediator, and extending the  
6 amount of time before trial would make it more probable that the case can be settled.<sup>2</sup> Additional  
7 time for the completion of discovery would enable the mediator to be fully informed of the  
8 relevant facts to determine liability and the potential civil penalty award in the case, thereby  
9 aiding the parties in determining what a reasonable settlement should be, and how it should be  
10 apportioned between the defendants.

11 For these reasons, and as evidenced by the seven Defendants' disregard of their obligations  
12 under the Discovery Act, Plaintiff requests that the trial date be continued to April 1, 2023, which  
13 equates to a ten-month continuance, or as soon thereafter as the Court can accommodate.

14 Dated: February 9, 2022

ROB BONTA  
Attorney General of California  
HARINDER K. KAPUR  
Senior Assistant Attorney General



17  
18 ETHAN TURNER  
MICHAEL J. YUN  
19 Deputy Attorneys General  
*Attorneys for Plaintiff*

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22  
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28 <sup>2</sup> The parties have agreed upon The Honorable Gail Andler (Retired) to serve as the mediator in  
this matter.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 This matter involves eight defendants: four business entities and four natural persons, all of  
4 whom were involved in a licensed commercial cannabis manufacturing and distributing business  
5 producing edible cannabis and vaping products under the brand name “Kushy Punch.” As alleged  
6 in the complaint, these individuals and entities were also simultaneously operating an *unlicensed*  
7 facility for the purpose of evading applicable state and local taxes and licensing fees while  
8 doubling the production capacity of their enterprise, and circumventing regulatory safeguards that  
9 require testing of raw materials, finished consumer products, and enforcement of safety standards.  
10 In order to assess the civil penalties, and determine how those penalties should be apportioned  
11 among Defendants, the trier of fact must be able to determine the relative culpability of  
12 Defendants and consider the factors that are set forth in Business and Professions Code section  
13 26038 as they relate to each Defendant.

14 The refusal by seven of the eight Defendants to participate in the discovery process has so  
15 far rendered the Department of Cannabis Control (“Plaintiff”) unable to obtain relevant  
16 documentary evidence and facts necessary for presentation and/or resolution of this case.  
17 Plaintiff requires, and is entitled to, further information to establish the respective culpability of  
18 each Defendant and the extent to which each Defendant profited from their unlicensed  
19 commercial cannabis activity. Plaintiff is entitled to responses to the discovery requests it has  
20 propounded. If the case goes to trial prior to the completion of discovery, the trial would be a  
21 quagmire of contested issues that could have been resolved, narrowed down, and/or eliminated  
22 during discovery, and the parties will be unable to fully develop their cases for presentation. The  
23 Court should grant Plaintiff’s request for a continuance of the trial date in this matter because the  
24 California Rules of Court weigh heavily in favor of a continued trial date, and Plaintiff’s motion  
25 is timely, serves the interest of judicial economy, and is supported by good cause.

26 **LEGAL STANDARD**

27 “Courts possess the inherent power to continue matters before them.” (*Mai v. HKT Cal,*  
28 *inc.* (2021) 66 Cal.App.5th 504, 526.) A court may grant a continuance before or during trial on

1 an affirmative showing of good cause. Each request for a continuance must be considered on its  
2 own merits and the Court must consider all relevant facts. (Cal Rules of Court, rule 3.1332,  
3 subds. (c) & (d).) The decision to continue a trial is within the sound discretion of the Court.  
4 (*Foster v. Civil Svc. Commo'n* (1983) 142 Cal.App.3d 444, 448.) The Court must balance the  
5 policy goal of judicial efficiency against the policy that cases should be resolved on the merits  
6 after providing all parties an opportunity to fully develop and present their case. (*Cadle Co. v.*  
7 *WorldWide Hospitality Furniture* (2006) 144 Cal.App.4th 504, 513–515; *In re Dolly A.* (1986)  
8 177 Cal.App.3d 195, 199; *Cohen v. Herbert* (1960) 186 Cal.App.2d 488, 494.) “When the two  
9 policies collide head-on, the strong public policy favoring disposition on the merits outweighs the  
10 competing policy favoring judicial efficiency. . . While it is true that a trial judge must have  
11 control of the courtroom and its calendar and must have discretion to deny a request for a  
12 continuance when there is no good cause for granting one, it is equally true that, absent a lack of  
13 diligence or other abusive circumstances which are not present in this case, a request for a  
14 continuance supported by a showing of good cause usually ought to be granted.” (*Hernandez v.*  
15 *Superior Court* (2004) 115 Cal.App.4th 1242, 1246-1247 (internal citations omitted).) Here,  
16 there is sufficient good cause for this Court to grant Plaintiff’s request for a continuance.

### 17 **STATEMENT OF RELEVANT FACTS**

18 The California Department of Public Health and the Bureau of Cannabis Control, the  
19 predecessor agencies of the Plaintiff, jointly filed a complaint for civil penalties pursuant to  
20 Business and Professions Code section 26038. Several of the Defendants evaded service for  
21 some time, but all Defendants were ultimately served on November 19, 2020, and only after  
22 David Carroll and Ivy Wang of Brown, George, Ross, O’Brien, Annaguey, & Ellis LLP came to  
23 represent the defendants and accepted service on their behalf. (See Declaration of Ethan Turner  
24 (“Turner Dec”) ¶ 3.) On March 1, 2021, a jointly filed answer consisting only of a general denial  
25 and a list of boiler plate objections was filed and served on the deadline set by the Court. (See  
26 Turner Dec ¶ 5.)

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28 ///



**I. DEFENDANTS HAVE STEADFASTLY REFUSED TO PARTICIPATE IN DISCOVERY**

On June 14, 2021, Plaintiff propounded Form Interrogatories, Set One and Requests for Admission, Set One on all Defendants. (Turner Dec ¶ 8.) In addition, Requests for Production were also served upon the business entity defendants, Vertical Bliss, Inc., Kushy Punch, Inc., Conglomerate Marketing, LLC, and More Agency, Inc. (Turner Dec ¶ 8.) For the purpose of establishing context for settlement, and to apprise Defendants of the evidence that the Plaintiff had gathered in support of the allegations set forth in the complaint, Plaintiff provided all investigation reports as well as evidence logs, photographs and business records seized during the execution of a search warrant at the Defendants' unlicensed commercial cannabis manufacturing facility. The first set of documents, consisting of more than 400 pages of investigation reports, business records, photographs and other materials, was provided on June 2, 2021. (Turner Dec ¶ 7.) A second set of documents was provided by the Plaintiffs to Defendants' counsel on June 28, 2021, and consisted of over 4,000 pages of materials including photographs, business, records, and other evidence that was referenced in investigation reports previously provided. (Turner Dec ¶ 9.) In short, Plaintiff made efforts to ensure that the Defendants were fully informed of the evidentiary basis for the allegations in the complaint early in the life of the case.

In contrast, only one of the Defendants in this matter, Kevin Halloran, has made any effort to participate in the discovery process, while the remaining seven Defendants have either entirely refused to participate or have provided only unverified responses consisting exclusively of meritless, boilerplate objections to all discovery requests. (Turner Dec ¶ 26.) One of the Defendants, Ruben Kachian, has never responded to discovery and has thus far refused to comply with this Court's order issued on January 10, 2022, compelling him to provide discovery responses to Plaintiff without objections within ten days. (Turner Dec ¶ 45.) Six of the other Defendants, Vertical Bliss, Inc., Kushy Punch, Inc., More Agency, Inc., Conglomerate Marketing, LLC, Arutyun Barsamyan, and Mike A. Toroyan have also been served with motions to compel further responses. (Turner Dec ¶ 54.) However, due to the Court's impacted calendar, these motions will not be heard together until May 26, 2022, and it is uncertain how long it will take Defendants to comply with any order issued by the Court after those motions are heard.

1     **II.   DISCOVERY CANNOT BE COMPLETED PRIOR TO THE CURRENT TRIAL DATE**

2             The work on this ex parte application was initiated shortly after discovering what  
3     reservation dates were available for the motions to compel further responses, which were filed on  
4     February 4, 2022 and February 7, 2022. The fact that the motions to compel will be heard so  
5     close to the trial date, and that Defendant Ruben Kachian has refused to comply with this Court's  
6     order compelling him to comply with discovery responses, makes clear that a continuance is  
7     necessary if any meaningful discovery is going to be completed prior to commencement of trial.

8     **III.   FURTHER DISCOVERY IS NECESSARY FOR MEDIATION AND THE TRIER OF FACTS'**  
9     **ASSESSMENT OF APPROPRIATE CIVIL PENALTIES.**

10            On July 18, 2021, the Court referred the Parties to mediation. (Turner Dec ¶10.) Until  
11     January 27, 2022, counsel for seven of the eight Defendants were unable to secure the  
12     cooperation of their clients to engage in mediation. A mediator has now been selected, but  
13     without obtaining Defendants' responses to the discovery that has been propounded, the mediator  
14     will not have the information necessary to fully and accurately assess the case for purposes of  
15     settlement. Therefore, Defendants' refusal to provide discovery responses also impedes the  
16     progress of mediation. Extending the trial date, and proceeding with discovery and any necessary  
17     discovery motions, may ultimately serve the purposes of judicial efficiency if it assists the parties  
18     in reaching a mediated settlement prior to the new trial date.

19   **ARGUMENT**

20     **I.    THE CONSIDERATIONS SET FORTH IN APPLICABLE RULES OF COURT FAVOR**  
21     **GRANTING A CONTINUANCE.**

22            In ruling on a motion for trial continuance, the Court must consider all relevant matters, and  
23     may consider those set forth in Rules of Court, rule 3.1332, subdivision (d). This ex parte  
24     application is made on the following grounds:

25            (1) a party's excusable inability to obtain essential testimony, documents, and other  
26     materials despite diligent efforts (Cal. Rules of Court, rule 3.1332(c)(6));

27            (2) the proximity of the trial date relative to the hearings set for motions to compel, (Cal.  
28     Rules of Court, rule 3.1332 (d)(1));

1 (3) the reasonable length of the continuance requested (Cal Rules of Court, rule  
2 3.1332(d)(3));

3 (4) the unavailability of alternative means to address the problem that gave rise to the  
4 application for a continuance (Cal. Rules of Court rule 3.1332(d)(4));

5 (5) no parties or witnesses will suffer prejudice as a result of the continuance (Cal. Rules of  
6 Court, rule 3.1332(d)(5));

7 (6) Counsel for one of the parties has stipulated to the continuance and counsel for the  
8 remaining defendants has indicated that the application for continuance of the trial will not be  
9 opposed (Cal. Rule of Court, rule 3.1332(d)(9)); and,

10 (7) the interests of justice are best served by a continuance (Cal. Rules of Court, rule  
11 3.1332(d)(10).)

12 **A. Plaintiff Has Been Unable to Obtain Essential Testimony, Documents, and**  
13 **Other Materials Despite Diligent Efforts.**

14 Plaintiff propounded discovery requests more than eight months ago. (Turner Dec ¶ 8.)  
15 Plaintiff has made numerous attempts to obtain Defendants' responses to those discovery  
16 requests. (Turner Dec ¶ 18, 19, 23, 24.) Plaintiff has even granted multiple extensions of the  
17 deadline to provide the responses at Defendants' request. (Turner Dec ¶ 11, 13, 14, 17, 24.)  
18 However, seven out of eight Defendants in this matter have simply refused to meaningfully  
19 respond to discovery requests at all. (Turner Dec ¶ 26, 27.) Defendant Ruben Kachian has  
20 declined to participate in discovery altogether, even after having been ordered by this Court to  
21 provide discovery responses on January 10, 2022. (Turner Dec ¶ 45, 56.) Six other Defendants  
22 have requested extensions of the deadline and have only provided pages of general boilerplate  
23 objections, and counsel for those Defendants acknowledged that he did not "have any luck  
24 obtaining substantive discovery responses from [his] clients. (Turner Dec. 30 Ex 24.) Even after  
25 that, Plaintiff has made multiple diligent efforts to informally resolve the discovery issues without  
26 any reciprocating diligence from seven Defendants. (Turner Dec ¶ 32-44.)

27 Discovery in this case has been entirely one sided, with Plaintiff voluntarily providing  
28 numerous documents, consisting of over 4,000 pages to Defendants, but nothing has been

1 provided by any of the Defendants except Defendant Kevin Halloran, over the last eight months.  
2 (Turner Dec ¶ 7 and 9 for our production; *see generally* Turner Dec.) This was caused in part  
3 because Defendants' original counsel was unable to secure the cooperation of these Defendants  
4 and ultimately was unable to even serve them with substitution of attorney forms or to notify  
5 them of their motion to be relieved as counsel. (Turner Dec ¶ 19, 30.) After Defendants retained  
6 new counsel, Plaintiff negotiated deadlines for delivery of discovery responses, but no responses  
7 have ever been given. (Turner Dec ¶ 32-36, 56.)

8 Plaintiff has been unable to obtain essential documents and other materials from Defendants  
9 despite diligent efforts. (Cal. Rules of Court, rule 3.1332(c)(6).) Plaintiff even took additional  
10 action by filing a motion to compel against Defendant Ruben Kachian; however, despite the  
11 diligence of obtaining a court order compelling Defendant Ruben Kachian to provide responses,  
12 Defendant has defied that court order. (Turner Dec ¶ 39; Exhibit 31.) As to six other Defendants,  
13 Plaintiff was left with no alternative but to file motions to compel further responses and request  
14 for sanctions. Plaintiff has made diligent efforts to obtain essential documents and materials.  
15 (*Id.*)

16 **B. The Proximity of the Trial Date to Motions to Compel Hearings.**

17 Motions to compel further responses as to six of the eight Defendants are scheduled for a  
18 combined hearing on May 26, 2022, merely eleven court days before the current trial date.  
19 (Turner Dec ¶54; Exhibit 44.) The proximity of the trial date relative to the motions to compel  
20 further responses warrants continuation of the trial date. (Cal. Rules of Court, rule 3.1332 (d)(1).)

21 The purpose of discovery is "(1) to give greater assistance to the parties in ascertaining the  
22 truth and in checking and preventing perjury; (2) to provide an effective means of detecting and  
23 exposing false, fraudulent and sham claims and defenses; (3) to make available, in a simple,  
24 convenient and inexpensive way, facts which otherwise could not be proved except with great  
25 difficulty; (4) to educate the parties in advance of trial as to the real value of their claims and  
26 defenses, thereby encouraging settlements; (5) to expedite litigation; (6) to safeguard against  
27 surprise; (7) to prevent delay; (8) to simplify and narrow the issues; and, (9) to expedite and

28 ///

1 facilitate both preparation and trial.” (*Greyhound Corp. v. Superior Court* (1961) 56 Cal.2d 355,  
2 376.)

3 Plaintiff has an obligation to ensure Defendants fulfill these purposes of discovery. When  
4 Defendants repeatedly and willfully fail to comply with their discovery obligations, Plaintiff has a  
5 duty and a right to address these issues in front of the Court and to make sure that Defendants  
6 abide by them, so that those responses “give greater assistance to [Plaintiff] in ascertaining the  
7 truth”, “provide an effective means of detecting and exposing false, fraudulent and sham claims  
8 and defenses”, “make available, in a simple, convenient and inexpensive way, facts” of the case,  
9 “educate the parties in advance of trial as to the real value of their claims and defenses [so as to  
10 encourage] settlements”, and “simplify and narrow the issues”. (*Id.*) Despite multiple extensions  
11 of the deadline granted at their request, Defendants’ prolonged and repeated failures to fulfill their  
12 discovery obligations have necessitated Plaintiff’s motions to compel further responses, currently  
13 scheduled for May 26, 2022. (Turner Dec ¶ 54.)

14 Furthermore, given that the Court’s order issued on January 10, 2022, compelling  
15 Defendant Ruben Kachian to provide discovery responses has been ignored and violated by him  
16 and his counsel for twenty days beyond the Court ordered deadline of January 20, 2022, and that  
17 Defendant Kachian was the senior officer of the four business entity Defendants in this case,  
18 additional motions may be necessary to enforce Defendants’ compliance with Court orders should  
19 any additional orders be issued. Plaintiff has fulfilled its discovery obligations. Seven  
20 Defendants have not.

21 In light of the proximity of the trial date relative to the hearings set for six motions to  
22 compel further responses, and in light of the Defendants’ failures to comply with discovery  
23 deadlines including those set at their request and mandated by the Court, the Court should grant  
24 Plaintiff’s requested extension of the trial date. (Cal. Rules of Court, rule 3.1332 (d)(1).)

### 25 **C. The Length of Time Requested for the Continuance.**

26 A continuance of ten months is reasonable and appropriate under the circumstances. Given  
27 that the pending motions to compel further responses will not be heard until eleven court days  
28 before the currently scheduled trial date, and Defendants’ confirmed track record of disregarding

1 statutory deadlines and this Court's order, Plaintiff's requested date for a continued trial is  
2 reasonable. The amount of time requested will not only allow the Court to rule on the merits of  
3 the motions to compel further responses scheduled for May 26, 2022, but it will also permit  
4 Plaintiff to seek enforcement of any court order should any Defendant fail or refuse to comply  
5 with the Court's order. Additional time requested would also allow a meaningful opportunity for  
6 mediation based on more complete discovery that would be provided to all parties as a result of  
7 those discovery motions.

8 Barring a radical change in Defendants' behavior, Plaintiff reasonably anticipates that  
9 obtaining necessary discovery, which Plaintiff is legally entitled to obtain, will be time  
10 consuming, labor intensive, and will require further motions to compel and further requests for  
11 sanctions. Therefore, a ten-month extension of the trial date is not unreasonable under these  
12 circumstances. (Cal Rules of Court, rule 3.1332(d)(3).)

13 **D. There is No Other Means to Address the Problems that Have Given Rise to**  
14 **the Requested Continuance.**

15 Informally securing Defendants' cooperation in the discovery process has proven to be  
16 futile. Defendants have repeatedly failed to meet deadlines to produce responsive discovery  
17 despite being granted multiple requested extensions. (Turner Dec ¶ 11, 13, 14, 17, 24.) They  
18 have consistently failed to meet deadlines promised by their attorney. (Turner Dec ¶ 18, 25, 45,  
19 48, 57.) And one Defendant remains in violation of the Court's order to turn over responses.  
20 (Turner Dec ¶ 45.) Formal discovery motions have become necessary, and follow up motions to  
21 enforce compliance with subsequent court orders may also be necessary. There is no other means  
22 to address the discovery issues, brought on by Defendants, that have given rise to Plaintiff's  
23 requested continuance of the trial date. A continuance is necessary to ensure a fair trial or  
24 settlement in this case.

25 Ensuring a meaningful attempt at mediation without the requested discovery responses  
26 from Defendants will prove to be fruitless. Continuing the trial date in order to provide additional  
27 time for Plaintiff to pursue discovery motions necessary to enforce Defendants' compliance with  
28 their obligations under the Discovery Act is the only means by which all parties can obtain the

evidence necessary to allow either the mediator or the trier of fact to make an informed decision regarding the amount and apportionment of civil penalties among Defendants. Alternative means to address the discovery problems that gave rise to this request for a continuance are unavailable. (Cal. Rules of Court, rule 3.1332(d)(4).)

**E. There is No Prejudice to any Party or Witness.**

All parties have been notified of this application and, though the seven Defendants have declined to stipulate to the extension, they have not indicated they would oppose this request. (Turner Dec ¶ 56.) No parties will suffer prejudice as a result of this continuance. (Cal. Rules of Court, rule 3.1332(d)(5).)

**F. Partial Stipulation to Continuance.**

Counsel for Defendant Kevin Halloran, Ian Stewart, has stipulated to an extension of the trial date (See concurrently filed Stipulation to Continue Trial Date). Margarita Salazar, Counsel for the following seven Defendants—Vertical Bliss, Inc., Kushy Punch, Inc., Conglomerate Marketing LLC, More Agency, Inc., Ruben Kachian, Arutyun Barsamyan, and Mike A. Toroyan—initially asked to receive the stipulation in the event that her clients consented to her signing it, but subsequently indicated that she would only sign the stipulation if the pending motions to compel were withdrawn. (See Turner Dec. ¶ 53.) In order to preserve its interest in receiving the requested discovery, Plaintiff did not agree to this conditional offer. (*Id.*)

**G. The Interests of Justice Are Served by a Continuance.**

While there is little doubt regarding central factual issues in the case, i.e. the existence and duration of the unlicensed activity at the premises operated by Defendants, the assessment of civil penalties by the trier of fact in accordance with the framework set forth in the Business and Professions Code Section 26038 remains. Completion of the discovery process is crucial to ensure that Defendants who are most culpable for the unlicensed commercial cannabis activity, and who profited most from it, are held to account. Additionally, the principle that cases should be resolved on the merits—by providing all parties discovery and thereby allowing all to fully develop and present their case—is served by granting the requested continuance.

///

1     **II. PLAINTIFF’S CONTINUANCE REQUEST IS TIMELY.**

2             A party seeking a continuance of the date set for trial, whether contested or uncontested or  
3 stipulated to by the parties, must make the motion or application as soon as reasonably practical  
4 once the necessity for the continuance is discovered. (Cal. Rules of Ct., Rule 3.1332(b).) In this  
5 instance, counsel for the Plaintiff contacted Ms. Salazar, counsel for seven of the eight  
6 Defendants, immediately upon being served with the substitutions of attorney, and immediately  
7 requested that supplemental discovery responses for six Defendants be provided. (Turner Dec ¶  
8 31-49.) Ultimately, Ms. Salazar promised that the responses would be provided by January 21,  
9 2022. Ms. Salazar was also required to provide responses for Defendant Kachian by January 20,  
10 2022, pursuant to this Court’s order issued on January 10, 2022. (Turner Dec ¶ 39, Exhibit 31.)  
11 When those dates arrived, Ms. Salazar indicated that she would provide the responses on the  
12 following Monday, January 24, 2022. That date also passed, and no responses were received.  
13 (Turner Dec ¶ 39.) When it became clear that there were no supplemental responses forthcoming  
14 and that Defendant Kachian was paying no heed to this Court’s order, Plaintiff reserved hearing  
15 dates for its motions to compel further responses against the other six Defendants represented by  
16 Ms. Salazar. (Turner Dec ¶ 54, Exhibit 44.) Upon doing so, it was discovered that the  
17 availability of hearing dates in Department F49 were such that the motion to compel further  
18 responses would not be heard until shortly before the trial date. (*Id.*) This ex parte application  
19 was prepared as soon as the motions to compel further responses were completed, served and  
20 filed. This ex parte application has been set for the first available date following its completion.

21             As such, Plaintiff has sought the continuance as soon as reasonably practicable after  
22 determining that a request for a continuance would be necessary if discovery in this case is to be  
23 completed prior to the date set for trial. Additionally, Plaintiff has exercised “due diligence [...]”  
24 to procure [evidence expected to be obtained,]” and is seeking “to postpone [the] trial on the  
25 ground of the absence of evidence.” (Cal. Code. Civ. Proc., § 595.4.)

26     **III. CONTINUANCE WILL SERVE THE POLICY OF JUDICIAL ECONOMY.**

27             Completion of discovery and gathering of documents and information are necessary to  
28 determine the extent to which Defendants have profited by their unlicensed activity, and their



1    respective culpability. It will also narrow the issues for trial. The additional information obtained  
2    through discovery will enable the mediator to meaningfully educate the parties about plausible  
3    outcomes of the litigation, which creates an opportunity to resolve this case without trial. Even if  
4    mediation is unsuccessful, narrowing of the issues will reduce the complexity of the trial and  
5    thereby preserve time and resources.

6    **IV.    GOOD CAUSE EXISTS TO GRANT THE REQUESTED CONTINUANCE.**

7            As set forth above, Plaintiff has undertaken every effort to provide Defendants with the  
8    evidence in its possession that supports the allegations in its complaint. (Turner Dec ¶ 7 and 9.)  
9    Plaintiff has granted extensions on discovery deadlines on several occasions to accommodate the  
10   lawyers that have represented Defendants over the course of this case. (Turner Dec ¶ 11, 13, 14,  
11   17, and 24.) By contrast, Defendants have misused and abused the discovery process. (Cal. Code  
12   Civ. Proc., § 2023.010.) They have repeatedly agreed to deadlines for production of discovery,  
13   and have consistently failed to meet those deadlines, even in defiance of an order by this Court.  
14   (Turner Dec ¶ 18, 25, 45, 48, 57.)

15           Defendants in this case have steadfastly refused to cooperate at all in discovery and have  
16   undermined the purpose of discovery established by the California Supreme Court. Indeed, they  
17   have forced Plaintiff's hand, requiring Plaintiff to seek assistance from the Court. A continuance  
18   of the trial date is necessary in this matter to allow for discovery to be completed and to achieve  
19   the policy goals of ascertaining the truth, exposing false defenses, safeguarding judicial economy,  
20   encouraging settlement, and expediting litigation.

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1 **CONCLUSION**

2 For the reasons set forth above, the Department of Cannabis Control respectfully requests  
3 that the Court grant a continuance of the trial date to April 1, 2023, which equates to a ten-month  
4 continuance, or as soon thereafter as the matter may be heard.

5 Dated: February 9, 2022

6 ROB BONTA  
7 Attorney General of California  
8 HARINDER K. KAPUR  
9 Senior Assistant Attorney General

10 

11 ETHAN TURNER  
12 MICHAEL J. YUN  
13 Deputy Attorneys General  
14 *Attorneys for Plaintiff*

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**DECLARATION OF SERVICE BY ELECTRONIC MAIL**

**Case Name:** California Department of Public Health, et al. v. Vertical Bliss, Inc., et al.

**Case No.:** 20CHCV00560

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.

On February 9, 2022, I served the attached **PLAINTIFF'S NOTICE OF EX PARTE APPLICATION FOR CONTINUANCE OF TRIAL AND MEMORANDUM OF POINTS AND AUTHORITIES** by transmitting a true copy via electronic mail addressed as follows:

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*Kushy Punch, Inc., Conglomerate Marketing, LLC.,*

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*Attorney for Defendant Kevin Halloran*

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on February 9, 2022, at Sacramento, California.

N. Clark

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Declarant



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Signature