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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**04/05/2021** at 09:04:00 AM  
Clerk of the Superior Court  
By Kristin Sorianosos, Deputy Clerk

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO**

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11 SALAM RAZUKI, an individual,  
12 Plaintiff(s),  
13 vs.  
14 NINUS MALAN, an individual; and DOES 1  
through 10, inclusive,  
15 Defendant(s),  
16 and,  
17 AMY SHERLOCK, an individual,  
18 Plaintiff-Intervenor,  
19

) Case No.:  
) **37-2018-00034229-CU-BC-CTL**

) **INTERVENOR'S NOTICE OF MOTION**  
) **AND MOTION TO INTERVENE WITH**  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES**

) DATE: April 6, 2021  
) TIME: 8:30 a.m.  
) DEPT: C-67  
) JUDGE: The Hon. Eddie C. Sturgeon

) Complaint filed: July 10, 2018  
)

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22 **TO THE PARTIES AND THEIR COUNSEL OF RECORD:**

23 **PLEASE TAKE NOTICE** that on April 6, 2021, at 8:30 a.m. in department C-67 of the above-  
24 entitled Court, located at the Hall of Justice, 330 W Broadway, San Diego, CA 92101, AMY  
25 SHERLOCK by and through her attorney Andrew Flores will and hereby does move this Court to  
26 permit her to intervene in the above-captioned action.  
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1 This Motion is based upon the Court’s file in this matter, the pleadings and records on file  
2 herein, this Notice of Motion, and upon the Memorandum of Points and Authorities and Declaration  
3 of Andrew Flores (hereinafter “Movant”), with attachments thereto, in support thereof, along with  
4 such other and further oral and documentary evidence as may be present at the hearing thereon.

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7 DATED: April 5, 2021

Respectfully submitted,  
LAW OFFICE OF ANDREW FLORES

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11 ANDREW FLORES, ESQ  
12 Attorney for Plaintiff in Intervention  
13 AMY SHERLOCK  
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2 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO**  
3 **INTERVENE**

4 Amy Sherlock (“Sherlock”) hereby files this Motion to Intervene pursuant to Cal. Civ.  
5 Code § 387 for the purpose of intervening in the above-referenced litigation (the  
6 “Harcourt/Razuki Litigation”). As set forth below, Sherlock has an interest in the property at  
7 issue in the Harcourt/Razuki Litigation – the conditional use permits that are being sold.  
8 Sherlock has alleged that her husband partnered with Mr Harcourt for the acquisition of the  
9 conditional use permits, her husband died on December 3, 2015, and the documents that  
10 purported to transfer Mr. Sherlock’s interest in the conditional use permits to Mr. Harcourt  
11 were forged. On these facts, and as set forth more fully below, Sherlock is entitled to intervene  
12 in the Harcourt/Razuki Litigation both as a matter of right and under the permissible standard  
13 for intervention.

14 **Factual Allegations**

15 The allegations pertinent to this Motion are straightforward. Mr. Sherlock partnered  
16 with Bradford Harcourt and acquired interests in two cannabis permits in 2015 – the Balboa  
17 CUP and the Ramona CUP (collectively, the “CUPs”). On December 3, 2015, Mr. Sherlock  
18 died. The transfer of Mr. Sherlock’s interest in the CUPs was accomplished via documents  
19 submitted to the Secretary of State weeks after his death and Mr. Sherlock’s signatures on the  
20 documents, on information and belief, were forged. This belief is based upon the report of a  
21 handwriting expert. As a result, Mr. Sherlock’s estate claims a direct ownership claim in the  
22 CUPs. Sherlock, Mr. Harcourt, and Mr. Razuki, amongst others, are currently involved in  
23 litigation related to the CUPs (the “Sherlock Litigation”).

24 The Harcourt/Razuki Litigation involves the same CUPs. Case No. 37-2017-  
25 00020661-CU-CO-CTL. This is in addition to the Razuki/Malan Litigation which also  
26 disputes the ownership of these CUPs. Case No. 37-2018-0034229-CU-BC-CTL.  
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1 Analysis

2 **Sherlock Is Entitled To Intervene As A Matter Of Right.**

3 Pursuant to Cal. Civ. Code § 387(d)(1), intervention is mandatory when if the  
4 intervenor can claim an interest relating to the property or transaction that is the subject of the  
5 action and the intervenor is so situated that the disposition of the action may impair or impede  
6 the intervenor’s ability to protect their interest, unless the intervenor’s interest is adequately  
7 represented by one of the parties. Cal Civ. Code § 387(d)(1)((B). “In other words, to establish  
8 a right to mandatory intervention, the nonparty must: (1) show a protectable interest in the  
9 subject of the action, (2) demonstrate that the disposition of the action may impair or impede  
10 its ability to protect that interest; and (3) demonstrate that its interests are not adequately  
11 represented by the existing parties.” *Carlsbad Police Officers Ass’n v. City of Carlsbad*,  
12 (2020) 49 Cal. App. 5th 135, 148, 262 Cal. Rptr. 3d 646, 656.

13 *I. Protectable Interest*

14 The threshold question in determining whether a nonparty has an unconditional right  
15 to intervene is whether the person seeking intervention has an interest relating to the *property*  
16 *or transaction* which is the subject of the action.” *Siena Court Homeowners’ Ass’n v. Green*  
17 *Valley Corp.* (2008) 164 Cal.App.4<sup>th</sup> 1416, 1423 (italics in original). The interest must be  
18 protectable. *Id.* (citing *Donaldson v. U.S.*, 400 U.S. 517 (1971); *see also Republic of the*  
19 *Philippines v. Abaya*, 312 F.R.D. 119 (S.D.N.Y. 2015) (interest must be “direct, substantial,  
20 and legally protectable”). “A colorable claim of ownership is certain a sufficient interest to  
21 justify” intervention. *In re Parr* 17 B.R. 801, 804-05 (Bankr. E.D.N.Y. 1982) (citing *Atlantis*  
22 *Dev. Corp. v. U.S.*, 379 F.2d 818 (5<sup>th</sup> Cir. 1967); *American Jerex Co. v. Universal Aluminum*  
23 *Extrusions, Inc.*, 340 F.Supp. 524, 531 (E.D.N.Y. 1972); *In re Oceana Int’l, Inc.* 49 F.R.D.  
24 329, 332 (S.D.N.Y. 1969)); *American Nt. Bank & Trust Co. of Chicago v. Bailey*, 750 F.2d  
25 577 (7<sup>th</sup> Cir. 1984) (describing intervenor as “intervenor of right” because “it claim[ed] an  
26 interest relating to the property or transaction which is the subject of the action”) certiorari  
27 denied 105 S.Ct. 2324, 471 U.S. 1100, 85 L.E.2d 842; *Hardy-Latham v. Wellons*, 415 F.2d  
28

1 674, 676 (4<sup>th</sup> Cir. 1968). Sherlock has a protectable interest in the property that is the subject  
2 of this action – the CUPs.

3 The properties and transactions at issue in the Harcourt/Razuki Litigation include the  
4 CUPs for medical marijuana outlets located at 8863 Blalboa Avenue Suite E, San Diego  
5 California 92123 (“Balboa CUP”). Mr. Sherlock partnered with Bradford Harcourt and  
6 acquired interests in two cannabis permits in or about late 2014 or early 2015 – the Balboa  
7 CUP and the Ramona CUP. The transfer of Mr. Sherlock’s interest in the CUPs was  
8 purportedly accomplished via documents submitted to the Secretary of State weeks after Mr.  
9 Sherlock’s death and Mr. Sherlock’s signatures on the documents was forged, based upon the  
10 report of a handwriting expert and Sherlock’s own knowledge of her husband’s signature. As  
11 a result, Sherlock claims a direct ownership claim in the CUPs.

12 2. *Impair or Impede Ability to Protect Interest*

13 The pertinent standard is whether the disposition of this action “will as a practical  
14 matter impair or impede the intervenor’s ability to protect its interest. *Hodge v. Kirkpatrick*  
15 *Dev., Inc.* (2005) 130 Cal.App.4<sup>th</sup> 540, 554. Here, there can be no dispute that, as a practical  
16 matter, the sale of the CUPs will impede Sherlock’s ability to protect her interest. Sherlock  
17 would have no say in the terms of the sale and, once the sale is concluded, it is very likely  
18 that the proceeds will be distributed to person(s) who do not – or at least may not – have a  
19 legitimate interest in the CUPs. And if those sale proceeds are distributed, the ability of  
20 Sherlock to protect its interest in the CUPs or the proceeds from the sale of the same will be  
21 impaired and impeded.

22 3. *Interests Are Not Adequately Protected*

23 Previously, Mr. Harcourt’s interest in the CUPs has aligned with Sherlock in this  
24 litigation because Mr. Harcourt was challenging Mr. Razuki’s interest in the CUPs.  
25 Therefore, there has been no need to intervene. Now, however, the CUPs are being sold. If a  
26 sale occurs prior to the court determining Sherlock’s interest in the CUPs, then the sale  
27 proceeds could be distributed to Mr. Razuki and Mr. Harcourt thereby depriving Sherlock of  
28 any meaningful opportunity to recover the property – or monetary equivalent – that was taken  
from Sherlock.

1                                   **Sherlock Can Intervene Under The Permissive Standard.**

2           The purpose of permissive intervention is to “promote fairness by involving all parties  
3 potentially affected by a judgment. *Simpson Redwood Co. v. Cal.* (1<sup>st</sup> Dist. 1987) 196  
4 Cal.App.3d 1192, 1199. The court may permit a nonparty to intervene if the person has an  
5 interest in the matter in litigation, or in the success of either of the parties, or an interest against  
6 both. Cal. Civ. Code § 387(d)(2). The trial court has “discretion to permit a nonparty to  
7 intervene where the following factors are met: (1) the proper procedures have been followed;  
8 (2) the nonparty has a direct and immediate interest in the action; (3) the intervention will not  
9 enlarge the issues in the litigation; and (4) the reasons for the intervention outweigh any  
10 opposition by the parties presently in the action. *Reliance Ins. Co. v. Superior Court* (2000)  
11 84 Cal.App.4<sup>th</sup> 383 at p. 386.

12           As to the first factor, Sherlock has followed the proper procedures. Namely, Sherlock  
13 has petitioned the Court to intervene through this Motion, which includes a copy of the  
14 proposed complaint in intervention. Cal. Civ. Code § 387(c).

15           As to the second factor, Sherlock has a direct and immediate interest in the action. A  
16 direct and immediate interest means the intervenor will either gain or lose by the direct legal  
17 operation and effect of the judgment. *Continental Vinyl Products Corp. v. Mead Corp.* (1972)  
18 27 Cal.App.3d 543, 549-50. A person has a direct interest justifying intervention “where the  
19 judgment in the action of itself adds to or detracts from his legal rights without reference to  
20 rights and duties not involved in the litigation.” *Id.* at 549. An interest is consequential “when  
21 the action in which intervention is sought does not directly affect it although the results of the  
22 action may indirectly benefit or harm its owner.” *Id.* at 550.

23           As noted earlier, Sherlock will gain or lose by the direct legal operation of and effect  
24 of the sale of the CUPs. Sherlock has a valid claim to and interest in the CUPs and the proceeds  
25 derived from the sale of the same. A ruling, order, or judgment that allows the sale of the  
26 CUPs and distribution of sale proceeds would detract from Sherlock’s rights in the CUPs.

27           As to the third factor, Sherlock’s intervention will not enlarge the issues in this  
28 litigation. The CUPs are being sold and Sherlock’s involvement is not to prohibit the sale.

1 Rather, Sherlock is intervening so that Sherlock can provide input as to the terms of the sale,  
2 which is ultimately subject to the approval of the court, and ensure that the sale proceeds are  
3 not distributed to persons whose interest in the CUPs are being challenged. In other words,  
4 Sherlock's allows the court an opportunity to hear from all persons that have, or may have,  
5 an interest in the property being sold and ensure the proceeds are ultimately distributed to  
6 those persons that have an interest in the CUPs as determined by the Court.

7 As to the fourth factor, it is hard to imagine what opposition the parties in present  
8 action could have to Sherlock's intervention. Sherlock is not attempting to prohibit the sale,  
9 enlarge the issues before the court, or otherwise complicate the proceedings before the parties.  
10 The court is already involved in litigation between the parties to determine the rights in the  
11 property being sold. As a result, any potential reason opposing intervention would be based  
12 upon Sherlock's concern – proceeds from the sale will go to parties that do not have the  
13 interest in the CUPs that they claim.

14 **Conclusions**

15 For the reasons set forth above, Sherlock requests that the Court grant its Motion so  
16 that Sherlock's interest in the CUPs will be adequately protected.

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18 DATED: April 5, 2021

Respectfully submitted,  
LAW OFFICE OF ANDREW FLORES

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ANDREW FLORES, ESQ  
Attorney for Plaintiff in Intervention  
AMY SHERLOCK  
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