

Nos. 05-16466

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

OAKLAND CANNABIS BUYERS' COOPERATIVE and JEFFREY JONES,
Defendants-Appellants.

Appeal from Entry of Final Judgment by the United States District Court
for the Northern District of California
D.C. No. C 98-00088 CRB
entered on June 6, 2005, by Judge Charles R. Breyer

**APPELLANTS' NOTICE OF TRANSCRIPTS TO BE ORDERED
AND STATEMENT OF ISSUES
(Circuit Rule 10-3.1(a))**

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I. NOTICE OF TRANSCRIPTS TO BE ORDERED

Pursuant to Circuit Rule 10-3.1(a), NOTICE IS HEREBY GIVEN that OAKLAND CANNABIS BUYERS' COOPERATIVE and JEFFERY JONES, Defendants-Appellants in this appeal, intend to order the following transcripts:

<u>Hearing Date</u>	<u>Court Reporter</u>
• 1/30/98	Jo Ann Bryce
• 3/24/98	Katherine Pope Wyatt
• 8/31/98	Raynee H. Mercado
• 10/5/98	Rosita Flores
• 10/29/98	Katherine Pope Wyatt
• 7/14/00	Raynee H. Mercado
• 4/19/02	Katherine Pope Wyatt

II. STATEMENT OF ISSUES

Pursuant to Circuit Rule 10-3.1(a), the following are the issues that Defendants-Appellants intend to present on appeal:

1. Whether the district court erred when, under the purported authority of the federal Controlled Substances Act, it enjoined Appellants' wholly intrastate distribution of medical cannabis, when that distribution was undertaken pursuant to state and local laws designed to protect the public health and welfare of California citizens, and

(a) where the injunction improperly infringed upon the police powers of the State of California to protect the health and safety of its citizens; and

(b) where the injunction improperly infringed upon fundamental rights, by depriving seriously ill patients of an effective means to ameliorate their debilitating pain, blindness, starvation and possible death, and the government

failed to offer any legitimate justification for depriving these patients of this necessary medicine.

2. Whether the district court erred when it rejected the claim of Appellants, duly authorized officers of the City of Oakland, to statutory immunity when Appellants were lawfully engaged in enforcing laws related to controlled substances, as required by the statute granting such immunity.

3. Whether the district court erred when it granted the government's motions for summary judgment and permanent injunction when the government failed to meet its burden of proof and Appellants established legally valid defenses to both motions.

4. Whether the district court abused its discretion when it granted the government's motion for summary judgment and refused to permit Appellants to obtain discovery to be used in opposition to that motion.

Dated: August 8, 2005

MORRISON & FOERSTER LLP

By: 
Annette P. Carnegie

Attorneys for Defendants-Appellants
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**PROOF OF SERVICE BY OVERNIGHT DELIVERY
(FRCP 5)**

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited in a box or other facility regularly maintained by United Parcel Service or delivered to an authorized courier or driver authorized by United Parcel Service to receive documents on the same date that it is placed at Morrison & Foerster for collection.

I further declare that on the date hereof I served a copy of:

**APPELANTS' NOTICE OF TRANSCRIPTS TO BE ORDERED AND
STATEMENT OF ISSUES (Circuit Rule 10-3.1(a))**

on the following by placing a true copy thereof enclosed in a sealed envelope with delivery fees provided for, addressed as follows for collection by United Parcel Service at Morrison & Foerster LLP, 425 Market Street, San Francisco, California, 94105, in accordance with Morrison & Foerster's ordinary business practices:

SEE ATTACHED SERVICE LIST

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 8th day of August, 2005.

Lisa Sangalang
(typed)

Lisa Sangalang
(signature)

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