

DAVID G. EVANS, ESQ.
Attorney ID # 019631974
203 Main St. # 250
Flemington, NJ 08822
seniorcounsel@civel.org
Attorney for Plaintiffs
908-963-0254

MARY A. BOTTEON AND RICHARD
W. SMITH, ESQ. AND JOHN
QUATTROCCHI AND ROBERT
CARUSO AND ALFONSO CIRULLI
AND MELISSA C. TASSE AND
CANNABIS INDUSTRY VICTIMS
EDUCATING LITIGATORS, LLC
(CIVEL) AND JOHN AND JANE DOES
1-15 AND XYZ CORPORATIONS 1-15,
JOINTLY

Plaintiffs

VS.

PHILIP D. MURPHY, GOVERNOR OF
THE STATE OF NEW JERSEY AND
GURBIR S. GREWAL, THE
ATTORNEY GENERAL IN THE STATE
OF NEW JERSEY AND SENATOR
STEPHEN SWEENEY AND SENATOR
NICHOLAS SCUTARI (ALL ARE
NAMED AS DEFENDANTS IN THEIR
OFFICIAL CAPACITIES AND JOHN
AND JANE DOES 1-15 AND XYZ
CORPORATIONS 1-15, JOINTLY

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MERCER COUNTY

Docket No.: MER-L-002293-20

Civil Action

**VERIFIED COMPLAINT IN LIEU OF
PREROGATIVE WRITS**

PRELIMINARY STATEMENT

1. This is a Complaint in Lieu of Prerogative Writs initiated pursuant to R. 4:69-1, et. seq. brought by Plaintiffs on behalf of an important public, rather than private, interest to declare null and void the 2020 State Public Question # 1 that attempts to legalize “cannabis” and to seek other relief for violation of their substantive rights. Philip D. Murphy the Governor of the State of New Jersey is named as a Defendant. As Chief Executive Officer of New Jersey, the Governor is responsible for the protection of the fundamental and lawful rights of New Jersey voters. Oath of Governor, N.J.S.A. 52:15-2. Also named as a defendant is Gurbir S. Grewal the Attorney General of the State of New Jersey. The Attorney General is the Chief State Election Official for New Jersey. As such, he has responsibility for general supervision and administration of New Jersey election laws. Also named as Defendants are New Jersey Senate President Stephen Sweeney and New Jersey Senator Nicholas Scutari who upon information and belief drafted the misleading State Public Question # 1 that attempts to legalize “cannabis.”

2. The Complaint relies on N.J.S.A. 19:3-6 (form of public question), N.J.S.A. 2A:16.50 et seq. (Declaratory Judgments) and the New Jersey State Constitution and the New Jersey Civil Rights Act, N.J.S.A.10:6-2c and plaintiffs ask the court to take the following actions:

- a. Awarding judgment for the Plaintiffs in their favor and against the Defendants on each cause of action asserted in the Verified Complaint.
- b. Adjudging and declaring the 2020 State Public Question # 1 as being in violation of N.J.S.A. 19:3-6 and other New Jersey and federal laws and is thus null and void.
- c. Declaring that in the future that the Defendants comply with N.J.S.A. 19:3-6 and other

New Jersey laws to provide voters with materially relevant and substantive information as to the consequences of their vote.

d. Enjoining said Defendants from implementing 2020 State Public Question # 1 through executive action or legislation. This Court may grant injunctive relief in accordance with R. 4:521, et seq.

e. To grant reasonable attorney's fees and costs to Plaintiffs pursuant to N.J.S.A. 10:6-2.

f. Granting such other relief as the interests of justice may require.

The Public Perception of Marijuana Is Not Aligned with the Science

3. Unlike heroin and other opioids, whose risks are widely disseminated by the media and known by the public, the hazards of today's marijuana are both insidious and minimized.

Marijuana is capable of wreaking havoc on the health, safety, economic strength and cognitive function of New Jersey's citizens. Yet, for no other drug is the gap so large between current scientific evidence of adverse consequences and the public perception. The gap has been driven by many factors, including major financial investments by the marijuana industry in promoting misinformation about marijuana safety. The gap between science and medical facts compared to the public perception of harms related to marijuana also has been fueled by celebrities who openly promote marijuana use, as well as by a marijuana industry that advertises aggressively and avails itself of social media sites and sympathetic media outlets. Politicians have been disappointing in their lack of leadership on this issue, for many have absorbed the misinformation without the counterbalancing scientific and medical facts from the bio-medical and addiction treatment community. The public as a result is uninformed and dangerously

complacent.

4. The illegal “legalization” of marijuana in other states such as California and Colorado has created "Big Marijuana" that includes lobbyists and profiteers who put their financial gain over public health and safety, including jeopardizing the lives of our children. Today’s marijuana products can be very high in THC potency (tetrahydrocannabinol), reaching even 99.% pure THC concentration of the that psychoactive, intoxicating, mind-altering component of the drug.¹ These products cause a host of societal problems including addiction, mental illness, birth defects, suicide, violence, DUIs and a litany of general health detriments. (Exhibit 1). This litigation will document and produce evidence of these many harms. We intend to remind, and if necessary to compel, our government officials to do their duty to safeguard and ensure our rights and those of our children in "pursuing and obtaining safety and happiness." NJ Constitution Art. I Rights and Privileges. Because NJ government officials have not put our health and safety, nor that of our children first, we seek to guide them by this litigation.

The State Public Question

5. On November 3, 2020, the State of New Jersey presented a vote on State Public Question # 1 to legalize and commercialize "cannabis." The process began on December 16, 2019, when the New Jersey Legislature, with 24 Senators out of 40 voting affirmatively, passed Resolution SCR 183 placing the State Public Question #1 on the ballot for 2020. Senate President Stephen Sweeney and Senator Nicholas Scutari, who are ardent public advocates for the commercialization of marijuana, introduced the resolution for the State Public Question # 1

¹ <https://herb.co/2017/03/29/thc-a-crystalline>

after several years worth of failed attempts to pass a “legalization” bill legislatively, not having had enough legislators votes to do so.

6. It certainly does not appear Senator Scutari considered the health and safety of New Jersey’s children when he advocated for marijuana commercialization thusly:

It will be an economic engine for New Jersey when it gets going. The greater impact on society is going to be the job opportunities, people getting employed and paying their employment tax, people not getting arrested. It'll be a whole new industry just like we have liquor stores, and we have breweries and we have beverage warehousing. ²

7. This action of placing the legalization question on the ballot further emboldened the marijuana industry to use their vast financial resources to disseminate inaccurate and deceptive messaging to the public. Governor Murphy, Senator Sweeney and Senator Scutari followed suit in disseminating negligent and deficient public messaging as did other members of the legislature. Governor Murphy had pledged to legalize marijuana within the first 100 days of taking office. In his zeal to establish a commercial marijuana industry in New Jersey by manipulation of a State Public Question , he blatantly disregarded New Jersey and federal law as well as public health and safety. When it comes to "weed," Governor Murphy self- proclaimed his aspiration to make New Jersey "the California of the East Coast." See, “He's no Christie: Phil Murphy on weed, taxes, Trump. And making N.J. the next California.” ³

Attorney General Gurbir S. Grewal could have - and should have - intervened and opposed State Public Question #1 on many grounds, but he utterly failed to do so, thereby completely failing to

² [https://ballotpedia.org/New_Jersey_Public_Question_1,_Marijuana_Legalization_Amendment_\(2020\)](https://ballotpedia.org/New_Jersey_Public_Question_1,_Marijuana_Legalization_Amendment_(2020))

³ https://www.nj.com/politics/2018/01/phil_murphy_entrance_interview.html

ensure legal, health, and safety protections for us and our children. Discretion to determine whether an interpretive statement should be added to the ballot of a proposed constitutional amendment, as well as the content of the statement itself, is vested in the Attorney General. Redd v. Bowman, 223 N.J. 87 (NJ 2015); Gormley v. Lan, 88 N.J. 26 (NJ 1981). Attorney General Grewal's failure resulted in ongoing deprivation of residents' to receive explanation of the true purpose of the matter being voted on in State Public Question # 1.

JURISDICTION AND VENUE.

8. Jurisdiction is conferred upon this Court pursuant to R. 4:69-1, by its inherent jurisdiction to consider matters brought before this Court by way of an Action in Lieu of Prerogative Writs and, pursuant to R. 4:69-3, which permits the filing of a Verified Complaint, by the Plaintiffs, by order to show cause, to secure injunctive relief pursuant to R. 4:52-1. Venue is proper in Mercer County pursuant to R. 4:3-1 and R. 4:3-2, since that is the location of the Defendants and their actions emanate therefrom. In addition, the New Jersey Legislature is located in Mercer County. This Court has jurisdiction to render declaratory judgments pursuant to the Declaratory Judgment Act, N.J.S.A. 2A:16.50 et seq., which statute grants a court the power to declare rights, status and other legal relations, whether or not further relief is or could be claimed.

PARTIES

Plaintiffs

9. The following Plaintiffs are taxpayers and registered voters who derive benefits from the New Jersey Constitution and the New Jersey Statutes and from the US Constitution and the federal statutes.

Plaintiff Mary A. Botteon resides at 709 Madison Avenue, Highland Park, Middlesex County, NJ 08904.

Plaintiff Richard W. Smith, Esq., resides at 56 Federal City Road, Ewing Township, Mercer County, NJ 08638.

Plaintiff John Quattrocchi, 44 resides at Afterglow Way, Verona, Essex County NJ 07044.

Plaintiff Robert Caruso resides at 154 W Beach Way, Lavallette, Ocean County, NJ 08735.

Plaintiff Alfonso Cirulli, resides at 50 Windward Drive, Barnegat, Ocean County, N.J. 08005.

Plaintiff Melissa C. Tasse resides at 135 Bellevue Ave, Summit, Union County, NJ 07901

Plaintiffs John and Jane Does 1-15 (fictitious), are individuals who are parties to the actions complained of herein, but whose precise identity and/or involvement are presently unknown to Plaintiffs will be identified with particularity when their identities become known through the course of this litigation. Plaintiffs XYZ, Corps 1-15 (fictitious), are corporations whose precise identity and/or involvement are presently unknown to Plaintiffs and will be identified with particularity when the identities become known through the course of this litigation.

Organizational Plaintiff

10. Cannabis Industry Victims Educating Litigators (CIVEL) located at 203 Main St. # 149, Flemington, Hunterdon County, NJ 08822. CIVEL is a New Jersey Corporation that

educates litigators and others on how to hold the marijuana industry legally accountable to their many victims.

Defendants

11. Defendants are Governor Philip D. Murphy whose office is at 225 W. State St., Trenton, NJ 08625 and Attorney General Gurbir S. Grewal at Hughes Justice Complex, 25 W. Market St., Trenton, NJ 08265 and Senate President Stephen Sweeney whose office is at 935 Kings Highway, Suite 400. West Deptford, NJ 08086 and Senator Nicholas Scutari whose office is at 1514 E. Saint Georges Ave. 2nd Floor, Linden, NJ 07036. All are named in their official capacities. Defendants John and Jane Does 1-15 (fictitious), are individuals who are parties to the actions complained of herein, but whose precise identity and/or involvement are presently unknown to Plaintiffs and will be identified with particularity when their identities become known through the course of this litigation. This may include other members of the New Jersey Legislature or state government. Defendants XYZ, Corps 1-15 (fictitious), are corporations whose precise identity and/or involvement are presently unknown to Plaintiffs and will be identified with particularity when the identities become known through the course of this litigation. This may include corporations that are part of the marijuana industry.

STANDING

12. As citizens of New Jersey and registered voters the Plaintiffs have standing under N.J.S.A. 19:3-6 and the New Jersey State Constitution and the New Jersey Civil Rights Act, N.J.S.A.10:6-2c. Although there will be substantial likelihood that the plaintiff will experience some harm, the plaintiff's "interest may be accorded proportionately less significance where it