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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. _____

Hemp Industries Association;
Centuria Natural Foods, Inc.; and
RMH Holdings, LLC

Petitioners

v.

Drug Enforcement Administration;
Charles Rosenberg, as Acting
Administrator, Drug Enforcement
Administration

Respondents

17-70162

PETITION FOR REVIEW

Pursuant to 21 U.S.C. §877 (section 507 of the Controlled Substances Act (“CSA”)); 5 U.S.C. § 702 (the Administrative Procedures Act (“APA”)); and Rule 15 of the Federal Rules of Appellate Procedure, Hemp Industries Association (“HIA”), RMH Holdings, LLC (“RMH”), and Centuria Natural Foods, Inc. (“Centuria”) (collectively, “Petitioners”) hereby petition the Court for review of the “Final Rule—Establishment of a New Drug Code for Marihuana Extract,” issued by the Drug Enforcement Administration on December 14, 2016, 81 Fed. Reg. 90,194-

96 (Dec. 14, 2016) (the “Final Rule”). A copy of the Final Rule is attached hereto as Exhibit 1. A copy of Proposed Rule—Establishment of a New Drug Code for Marihuana Extract, 76 Fed. Reg. 39,039-41 (July 5, 2011), published more than **five (5) years** before the Final Rule, is also attached hereto as Exhibit 2.

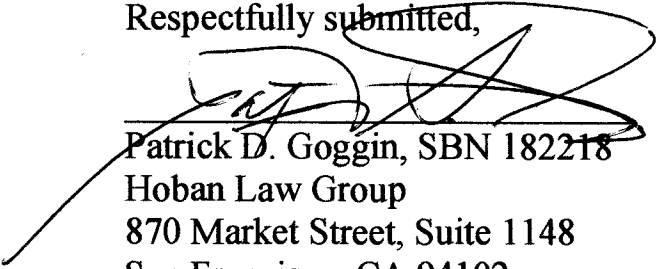
The principal place of business of Petitioner HIA is in the State of California, within this Circuit. The principal place of business of Petitioner Centuria is in the State of Nevada, within this Circuit. The principal place of business of Petitioner RMH is in the State of Colorado, not within this Circuit; but pursuant to Fed.R.App.P. 15(a)(1), RMH’s interests make joinder to this petition practicable.

Petitioners seek judicial review of the Final Rule pursuant to 21 U.S.C. § 877 on the basis that the Final Rule creates a new drug code without the DEA having followed the procedures or made the findings required by the CSA in order to add new substances to the schedules of the CSA, 21 U.S.C. §811(a). Additionally, the Final Rule creates this new drug code, indicative of being a controlled substance, for substances which are in fact not controlled pursuant to the CSA. Specifically, the Final Rule dictates that the mere presence of “cannabinoids,” which are not controlled substances, is the determinative factor of whether a compound is a “marihuana extract.” Further, the Final Rule overbroadly defines “marihuana extract,” without reflecting that certain portions and varieties of the genus *Cannabis sativa L.* are Congressionally exempted from the CSA and/or are exempted from

being treated as controlled substances altogether pursuant to the relevant laws, as enacted by Congress. *See e.g.* 21 U.S.C. § 802(16); 7 U.S.C. § 5940(b)(2) (part of the Agricultural Act of 2014 (the “Farm Bill”). Moreover, the Final Rule may also run afoul of other federal law including, but not limited to, the Data Quality Act, Regulatory Flexibility Act, and Congressional Review Act.

In addition to 21 U.S.C. § 877, Petitioners seek judicial review of the Final Rule pursuant to 5 U.S.C. §§ 702, 706 on the grounds that the Final Rule is (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, *e.g.* the CSA, the Farm Bill, and the DEA’s regulations; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations; and, (4) without observance of procedure required by law.

Respectfully submitted,



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Dated: January 13, 2017

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CORPORATE DISCLOSURE STATEMENT PURSUANT TO RULE 26.1, FEDERAL RULES OF APPELLATE PROCEDURE

Non-governmental corporate Petitioners include the Hemp Industries Association; Centuria Natural Foods, Inc.; and RMH Holdings, LLC. Hemp Industries Association is a trade association. RMH Holdings, LLC and Centuria Natural Foods, Inc. are privately held corporations and none of them has any parent companies, subsidiaries, or affiliates that have issued shares to the public.

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