

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

CARL OLSEN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil File No. 4:08-cv-00370 (RWP/RAW)
	)	
MICHAEL MUKASEY, Attorney General of	)	
the United States, MICHELE LEONHART,	)	
Acting Administrator, United States Drug	)	
Enforcement Administration, and	)	
CONDOLEEZZA RICE, United States	)	
Secretary of State.	)	
	)	
Defendants.	)	

---

**DEFENDANTS' RESPONSE TO PLAINTIFF'S  
STATEMENT OF MATERIAL FACTS**

Defendants hereby respond to Plaintiff's Statement of Material Facts ("Plaintiff's Statement") in accordance with Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56(b)(2).

Plaintiff's Statement contains several conclusions of law and characterizations of various documents submitted in other cases and legal authorities, not allegations of fact. Defendants aver that, to the extent that the parties disagree as to certain facts asserted by Plaintiff, those facts are not material. Defendants have filed a Motion to Dismiss (see Docket # 6), that is pending before this Court and which, for all the reasons discussed therein, should be granted. Nevertheless, responding specifically to the numbered paragraphs of Plaintiff's Statement and using the same paragraph numbering, Defendants respond to the following specific assertions in Plaintiff's Statement:

1. Immaterial. No citation is provided for the second sentence. Since this sentence does not include an citation to the record as required by L.R. 56.1(a), it is facially deficient, and no response is required to negate it.

2. Immaterial. Additionally, this is a legal conclusion, and not a statement of fact. Defendants refer the Court to their briefing for all relevant legal analysis. Additionally, this paragraph does not include an citation to the record as required by L.R. 56.1(a), it is facially deficient, and no response is required to negate it.

3. Immaterial. Additionally, the citation to a case from 2002 does not support Plaintiff's statement that "Defendants have been growing marijuana and supplying that marijuana continuously to a handful of medical patients since 1978," and Plaintiff cites to no evidence of record to support this statement. Since this statement does not include an citation to the record as required by L.R. 56.1(a), it is facially deficient, and no response is required to negate it. This statement appears to be referencing the Compassionate Care program, which was a research program began in 1978 to settle a civil lawsuit and provided marijuana to a limited number of participants with glaucoma and other severe illnesses. *See Kuromiya v. United States*, 78 F. Supp. 2d 367, 368 (E.D. Pa. 1999). The federal government, however, terminated the program in 1992 because it was increasingly skeptical about the safety and effectiveness of marijuana as a medical treatment. *Id.* at 369-70. The government merely decided to continue to provide marijuana to the remaining participants because those individuals had relied on the government-supplied marijuana for many years and the government did not want to abruptly end their supply. *Id.* at 372.

4. Immaterial. Additionally, this is a legal conclusion, and not a statement of fact.

Defendants refer the Court to their briefing for all relevant legal analysis.

5. This paragraph is a legal conclusion and not a statement of fact, as it involves Plaintiff's characterization interpretation of 21 U.S.C. §§ 811 and 812. Defendants refer the Court to that statutory provision and aver that the statute speaks for itself.

6. This paragraph is a legal conclusion and not a statement of fact. Additionally, this paragraph does not include an citation to the record as required by L.R. 56.1(a), it is facially deficient, and no response is required to negate it.

Dated: December 17, 2008

Respectfully submitted,

GREGORY G. KATSAS  
Assistant Attorney General

MATTHEW WHITAKER  
United States Attorney

ARTHUR R. GOLDBERG  
Assistant Director  
Federal Programs Branch

/s/ Tamara Ulrich  
TAMARA ULRICH (NY Bar)  
Trial Attorney  
U.S. Department of Justice, Civil Division  
Federal Programs Branch  
20 Massachusetts Ave., N.W.  
P.O. Box 883  
Washington, D.C. 20044  
(202) 305-1432 ph  
(202) 616-8470 fx

Attorneys for Defendants