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CASE NO: A-22-851232-W
Department 32

10 EIGHTH JUDICIAL DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 CANNABIS EQUITY AND INCLUSION
13 COMMUNITY (CEIC), a domestic nonprofit
14 corporation; ANTOINE POOLE, an individual,
15
16 Petitioners/Plaintiffs,

17 vs.

18 STATE OF NEVADA ex rel. BOARD OF
19 PHARMACY, a public entity of the State of
Nevada,
Respondent/Defendant.

Case No.:

Department:

HEARING REQUESTED

**ARBITRATION EXEMPTION
CLAIMED:**

Equitable and Extraordinary Relief
Requested

20 **PETITION FOR WRIT OF MANDAMUS TO COMPEL THE NEVADA STATE BOARD**
21 **OF PHARMACY TO REMOVE CANNABIS AND OTHER CANNABIS DERIVATIVES**
22 **FROM NEVADA ADMINISTRATIVE CODE § 453.510 AS SCHEDULE I SUBSTANCES**
23 **AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

24 The Petitioners/Plaintiffs, Cannabis Equity and Inclusion Community (CEIC) and Antoine
25 Poole, by and through counsel Sadmira Ramic, Esq., Christopher M. Peterson, Esq., and Sophia
26 A. Romero, Esq., of the American Civil Liberties Union of Nevada, hereby bring this Petition for
27 Writ of Mandamus (NRS Chapter 34) and Complaint for declaratory (NRS Chapter 30) and

1 injunctive relief (NRS Chapter 33). Petitioners are seeking an order directing
2 Respondent/Defendant, the Nevada State Board of Pharmacy (“the Board” or “Respondent”), to
3 remove marijuana, cannabis, and cannabis derivatives from NAC 453.510 as Schedule I
4 substances, as well as reasonable costs in attorney’s fees pursuant to NRS 18.010.

5 INTRODUCTION

6 Over the last few decades there has been a shift in attitude towards marijuana in American
7 communities and strides have been made to decriminalize marijuana’s use medically and
8 recreationally in many states including Nevada. Unfortunately, the Nevada Board of Pharmacy has
9 failed to amend its schedule of controlled substances to keep pace with the changes in Nevada law;
10 the schedule is now in violation of our state’s constitution and statutes.

11
12 In 1998 Nevada voted on the *Nevada Medical Marijuana Act*, a referendum initiative
13 intended to amend the Nevada Constitution to legalize marijuana for medical use in Nevada.¹ It
14 passed in two consecutive elections, as is required for a constitutional amendment, with resounding
15 majorities.² Successful passage of the *Nevada Medical Marijuana Act* resulted in the addition of
16 Article 4, Section 38, of the Nevada Constitution, which enshrined cannabis’s medical value in
17 our constitution and required that the state legislature pass laws authorizing the distribution and
18 use of marijuana for medical purposes in Nevada.³

19
20 In 2016, Nevada voted on and passed the *Initiative to Regulate and Tax Marijuana*,
21 which enacted law permitting the legal possession of marijuana for recreational purposes.⁴ The
22 intent behind legalizing recreational use of marijuana was two-fold: 1) cease the diversion of law
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¹ Scott McKenna, *Medical Marijuana Laws in the Silver State*, 6 Nevada Lawyer, Aug. 10, 2002.

26 ² *Id.*

27 ³ N.V. Const. art. IV, § 38.

⁴ *Initiative to Regulate and Tax Marijuana*, Nevada Secretary of State, 1 (April 23, 2014),
<https://www.nvsos.gov/sos/home/showdocument?id=3294>.

1 enforcement resources needed to prevent violent and property crimes to persecuting marijuana
2 offenses; and 2) regulate marijuana in the same manner as alcohol.⁵

3 Despite the passage of the *Nevada Medical Marijuana Act* and the *Initiative to Regulate*
4 *and Tax Marijuana*, the State, specifically the Nevada State Board of Pharmacy, has failed to take
5 action to comport with the will of Nevada voters, the Nevada Constitution, and Nevada Revised
6 Statutes. Instead of removing marijuana, cannabis, and cannabis derivatives from NAC 453.510's
7 list of controlled substances, the Board has continued to regulate them as Schedule I substances, a
8 category reserved for substances that have no medical purpose and cannot be safely distributed
9 such as methamphetamine, heroin, and cocaine. This failure to amend Nevada's Schedule of
10 Controlled Substances is necessarily a constitutional and statutory violation that can only be
11 remedied by removing marijuana, cannabis, and cannabis derivatives from the list of Schedule I
12 substances.
13

14 PARTIES

15 1. Petitioner/Plaintiff, CANNABIS EQUITY AND INCLUSION COMMUNITY
16 (CEIC) is, and was at all times relevant herein, a domestic nonprofit corporation organized and
17 existing under and by virtue of the laws of the State of Nevada. CEIC advocates for freedom,
18 equity, and opportunity in Nevada's cannabis market by supporting people from underrepresented
19 communities as they apply for licenses to participate in the legal cannabis market. CEIC has also
20 dedicated resources to mitigating Nevada's long history of prosecuting cannabis-related offenses
21 by assisting individuals with prior cannabis-related criminal convictions in applying for pardons
22 and sealing criminal records. CEIC continues to engage in community outreach to identify these
23 individuals and organize record sealing workshops.
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27 ⁵ *Id.*

1 1. Petitioner/Plaintiff, Antoine Poole, is, and was at all times relevant herein, a
2 resident of the State of Nevada, County of Clark, City of Las Vegas. Mr. Poole was adjudicated
3 guilty in the Eighth Judicial District Court of the State of Nevada of Possession of Controlled
4 Substance, a Category E Felony pursuant to NRS 453.336, for possession of marijuana. This
5 adjudication occurred on April 20, 2017, after cannabis was legalized both medically and
6 recreationally in Nevada.

7 2. Respondent/Defendant, NEVADA STATE BOARD OF PHARMACY, is a public
8 entity of the State of Nevada with the power to sue and be sued, pursuant to NRS 12.105 and NRS
9 41.031, which may be served process, pursuant to NRCP 4.2(d), by services upon the Attorney
10 General, or his designee, at the office of the Attorney General in Las Vegas, located at 555 East
11 Washington Avenue, Suite 3900, Las Vegas, Nevada 89101 and upon its administrative head,
12 Helen Park, at its Reno office, located at 985 Damonte Ranch Parkway, Suite 206, Reno, Nevada
13 89521 or its Las Vegas office, located at 1050 East Flamingo Road, Suite E-217, Las Vegas,
14 Nevada 89119.

17 **JURISDICTION & VENUE**

18 3. The transactions and occurrences that give rise to the Petitioners' claims against
19 Respondent, the Nevada State Board of Pharmacy, occurred in the City of Las Vegas, Clark
20 County, Nevada.

21 4. This Court has the authority to grant the writ relief requested herein pursuant to
22 NRS 34.160.

23 5. This Court has original subject matter jurisdiction over this request for declaratory
24 and injunctive relief under Article 6, Section 6, of The Constitution of the State of Nevada.⁶
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26
27 ⁶ See also NRS 30.030 (Uniform Declaratory Judgments Act).

1 6. Venue is proper in this Court pursuant to NRS 13.020 and 13.040 because the cause,
2 or some part thereof, arose in the City of Las Vegas, Clark County, Nevada. Additionally, the
3 Respondents operate and/or reside in Clark County.

4 **STANDING**

5 7. A petitioner has standing in a proceeding on an extraordinary writ when the
6 petitioner has a “beneficial interest” in obtaining writ relief. “[A] beneficial interest sufficient to
7 pursue a mandamus action” is a “substantial interest that falls within the zone of interests to be
8 protected by the legal duty asserted.”⁷ In other words, the writ of mandamus must be denied if the
9 petitioner will gain no direct benefit from its issuance and suffer no direct detriment if it is denied.⁸

10 8. CEIC has organizational standing in this matter because a) its organizational
11 mission was frustrated; and (2) it had to divert resources to combat the particular injurious behavior
12 in question.⁹ If the writ of mandamus is denied, CEIC will continue to suffer these detriments,
13 and if it is granted, it will gain a direct benefit.

14 9. CEIC has associational standing in this matter because a) its members would
15 otherwise have standing to sue in their own right; b) the interests it seeks to protect are germane
16 to the organization’s purpose; and c) neither the claim asserted nor the relief requested requires the
17 participation of individual members in the lawsuit.¹⁰

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22 ⁷ *Id.* at 460-61 (citing *Lindelli v. Town of San Anselmo*, 111 Cal.App.4th 1099, 4 Cal.Rptr.3d 453, 461 (2003)).

23 ⁸ *Id.* (citing *Waste Management v. County of Alameda*, 79 Cal.App.4th 1223, 94 Cal.Rptr.2d 740, 747 (2000)).

24 ⁹ “An organization may satisfy the Article III requirement of injury in fact if it can demonstrate: (1) frustration of its
25 organizational mission; and (2) diversion of its resources to combat the particular housing discrimination in
26 question.” *Smith v. Pac. Props. & Dev. Corp.*, 358 F.3d 1097, 1105 (9th Cir. 2004).

27 ¹⁰ “[W]e have recognized that an association has standing to bring suit on behalf of its members when: (a) its
members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to
the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of
individual members in the lawsuit.” *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343, 97
S.Ct. 2434, 53 L.Ed.2d 383 (1977). *Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d
1299, 1316 (11th Cir. 2021).

1 10. Antoine Poole, as a Nevada resident who has been convicted under the Nevada
2 Revised Statutes of a controlled substance-related offense after the legalization of cannabis in
3 Nevada and who continues to experience collateral consequences because of his conviction, has a
4 direct and substantial interest in obtaining writ relief in this matter.

5 **STANDARD OF REVIEW – MANDAMUS**

6 11. Writ relief is an extraordinary remedy, and therefore, it is within the court’s sound
7 discretion whether to grant such relief. ¹¹ “Extraordinary writ relief may be available where there
8 is no ‘plain, speedy and adequate remedy in the ordinary course of law.’”¹²
9

10 12. However, even when a legal remedy is available, the court can “still entertain a
11 petition for writ ‘relief where the circumstances reveal urgency and strong necessity.’”¹³

12 13. A writ of mandamus may be issued by the court “to compel the performance of an
13 act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel
14 the admission of a party to the use and enjoyment of a right or office to which the party is entitled
15 and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or
16 person,” when there is no plain, speedy, and adequate remedy in the ordinary course.¹⁴
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18 14. The court must examine each request for writ relief individually.¹⁵

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25 ¹¹ *Segovia v. Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017).

26 ¹² *Id.* (quoting NRS 34.170 and NRS 34.330).

27 ¹³ *Id.* (quoting *Barngrover v. Fourth Judicial Dist. Court*, 115 Nev. 104, 111, 979 P.2d 216, 220 (1999)).

¹⁴ “The writ may be issued by ... a district court or a judge of the district court, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person. When issued by a district court or a judge of the district court it shall be made returnable before the district court.” NRS 34.160; NRS 34.170.

¹⁵ *Jeep Corp. v. Second Judicial Dist. Court*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982).

1 21. The Board’s authority to categorize a substance as Schedule I is limited by NRS
2 453.166, which states:

3 The Board shall place a substance in schedule I if it
4 finds that the substance:

- 5 1. Has high potential for abuse; *and*
6 2. Has no accepted medical use in treatment in
7 the United States or lacks accepted safety for use in
8 treatment under medical supervision.

9 (emphasis added).

10 22. Several Nevada Revised Statutes reference the classifications designated by the
11 Board to criminalize activities related to controlled substances.²¹

12 23. In 1998, Nevada voted on and passed the *Nevada Medical Marijuana Act*, a ballot
13 initiative intended to amend the Nevada Constitution to legalize marijuana for medical use in
14 Nevada.²²

15 24. Successful passage of the *Nevada Medical Marijuana Act* resulted in the addition
16 of Article 4, Section 38, of the Nevada Constitution, which states:

17 _____
18 ²¹ For example, NRS 453.337 makes it unlawful to possess for sale any amount of a Schedule I substance. Penalties
19 for violating NRS 453.337 are based on whether the offender is a subsequent offender, with the first offense being a
20 Category D felony. Because marijuana is classified as a Schedule I substance, it is a Class D felony to possess *any*
21 amount of marijuana for sale. To put this into perspective, if an individual sells even a tenth of a gram of marijuana
22 without a license, they would be charged with a Class D felony for their first offense and even steeper penalties for
23 any subsequent sales. This is a dramatic departure from marijuana being treated like alcohol given that an individual
24 selling any amount of alcohol without a license is simply fined for selling alcohol without a license. *See* NRS
25 364.150.

26 As another example, NRS 453.336 criminalizes possession of a controlled substance not for purpose of sale. It
27 states, “[a] person who violates this section shall be punished for the first or second offense, if the controlled
28 substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.” Because
29 marijuana was not legalized for individuals under 21 years of age and it is classified as a Schedule I substance, NRS
30 453.336 is being used to charge juveniles and persons under 21 years old with felony offenses for possessing
31 concentrated cannabis. Such actions are a clear circumvention to the legislature’s recent passing of AB158 which
32 makes possession of one ounce or less of marijuana by a juvenile a citable offense. *See* Nev. Legis. AB 158 Reg.
33 Sess. 2021.

34 In another, when looking in the context of prohibitions against possession of firearms, NRS 202.360 “[prohibits any
35 person to] have in his or her possession or under his or her custody or control any firearm if the person is an
36 unlawful user of, or addicted to, any controlled substance.” Again, because marijuana is classified as a Schedule I
37 substance, an individual who is addicted to marijuana would be prohibited from possessing a firearm.

²² Scott McKenna, *Medical Marijuana Laws in the Silver State*, 6 Nevada Lawyer, Aug. 10, 2002.

1. The legislature shall provide by law for:

(a) The use by a patient, upon the advice of his physician, of a plant of the genus Cannabis for the treatment or alleviation of cancer, glaucoma, acquired immunodeficiency syndrome; severe, persistent nausea or cachexia resulting from these or other chronic or debilitating medical conditions; epilepsy and other disorders characterized by seizure; multiple sclerosis and other disorders characterized by muscular spasticity; or other conditions approved pursuant to law for such treatment.

(b) Restriction of the medical use of the plant by a minor to require diagnosis and written authorization by a physician, parental consent, and parental control of the acquisition and use of the plant.

(c) Protection of the plant and property related to its use from forfeiture except upon conviction or plea of guilty or nolo contendere for possession or use not authorized by or pursuant to this section.

(d) A registry of patients, and their attendants, who are authorized to use the plant for a medical purpose, to which law enforcement officers may resort to verify a claim of authorization and which is otherwise confidential.

(e) Authorization of appropriate methods for supply of the plant to patients authorized to use it.²³

25. The Nevada Legislature followed this constitutional mandate by passing Assembly Bill 453.

26. In 2016, Nevada voted on and passed the *Initiative to Regulate and Tax Marijuana*, which legalized possession of marijuana for recreational purposes.²⁴

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²³ Nevada Const. art. IV, § 38.

²⁴ *Initiative to Regulate and Tax Marijuana*, Nevada Secretary of State, 1 (April 23, 2014), <https://www.nvsos.gov/sos/home/showdocument?id=3294>.

1 27. The initiative intended to “better focus state and local law enforcement resources
2 on crimes involving violence and personal property” rather than prosecuting marijuana offenses.²⁵

3 28. The *Initiative* explicitly stated that it intended for marijuana to be “regulated in a
4 manner similar to alcohol.”²⁶

5 29. Additionally, with its passage, the *Initiative to Regulate and Tax*
6 *Marijuana* authorized the Nevada Department of Taxation, rather than the Nevada Board of
7 Pharmacy, to regulate cannabis in the community.²⁷

8 30. In 2019, the Nevada state legislature transferred authority to regulate marijuana
9 from the Department of Taxation to a newly created Cannabis Compliance Board.²⁸

10 31. Despite the passage of the *Nevada Medical Marijuana Act* and the *Initiative to*
11 *Regulate and Tax Marijuana*, the Nevada State Board of Pharmacy continues to exert control over
12 regulating marijuana, cannabis, and cannabis derivatives and has continued to classify them as
13 Schedule I substances in direct contradiction of Article 4, Section 38, of the Nevada Constitution
14 and in violation of NRS 453.166.
15

16 CLAIMS FOR RELIEF

17 **I. WRIT OF MANDAMUS**

18 32. Here, there is no plain, speedy and adequate remedy in the ordinary course of law.
19 There is no other method to challenge the Board’s misclassification of marijuana, cannabis, and
20 cannabis derivatives as Schedule I substances.
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24 ²⁵ *Id.*

25 ²⁶ *Id.*

26 ²⁷ *Id.* See also NRS 453D.200.

27 ²⁸ Nev. Legis. AB 533 Reg. Sess. 2019 (“Sections 2–187 of this bill generally . . . transfer the authority to license and regulate persons and establishments involved in the marijuana industry in this State to the Cannabis Compliance Board created by section 54 of this bill.”). However, the Cannabis Compliance Board is directly appointed by the Governor and, like the Department of Taxation, not under the authority of the Board of Pharmacy. *Id.*

1 33. Regulations passed by the Board, including the scheduling of substances as
2 Schedule I, cannot violate the Nevada Constitution.

3 34. Additionally, the Nevada Legislature has conferred a duty upon the Board to follow
4 NRS 453.166 when classifying substances as Schedule I substances.

5 35. Under NRS 453.166, the Board may only designate a substance as a Schedule I
6 substance if it determines that the substance “has high potential for abuse *and* has no accepted
7 medical use in treatment in the United States or lacks accepted safety for use in treatment under
8 medical supervision.” (emphasis added).
9

10 36. The Board is mandated to review the schedule annually and maintain a list of
11 current schedules.²⁹

12 37. Given the mandate that the Board review the schedule annually, its failure to
13 remove marijuana, cannabis, and cannabis derivatives as Schedule I substances year after year is
14 an affirmation that they satisfy both requirements under NRS 453.166.
15

16 38. However, such a conclusion is erroneous given that in 1998, Nevada categorical
17 recognized marijuana as having medical use in treatment under Article 4, Section 38 of the Nevada
18 Constitution.³⁰

19 39. Because the Board’s misclassification of marijuana, cannabis, and cannabis
20 derivatives is in direct contradiction with Article 4, Section 38 of the Nevada Constitution, the
21 misclassification is unconstitutional and must be declared invalid.
22

23 40. In the alternative, if the Board agrees with the findings in Article 4, Section 38 of
24 the Nevada Constitution, the Board’s decision to classify marijuana, cannabis, and cannabis
25

26 ²⁹ NRS 453. 211 (1)(a): “The Board shall review the schedule annually and maintain a list of current schedules.”

27 ³⁰ Section 38 not only recognizes that marijuana has accepted medical use in treatment, but it also explicitly lists disorders marijuana must be available to treat.

1 derivatives as Schedule I substances violates NRS 453.166 because it must find that marijuana,
2 cannabis, and cannabis derivatives have “no accepted medical use in treatment or lacks accepted
3 safety for use in treatment under medical supervision” before they are placed on the list of Schedule
4 I substances, and the findings under Article 4, Section 38 cannot meet that standard.

5 41. The clash between Nevada’s explicit recognition of marijuana as acceptable use in
6 medical treatment, which is enshrined in the Nevada Constitution, and the Board’s classification
7 of marijuana, cannabis, and cannabis derivatives as Schedule I substances due to them having no
8 accepted medical use in treatment presents an important question of first impression that arises
9 with some frequency, and thus favors consideration of the petition.

11 42. A substance is not considered a controlled substance unless the Board has been
12 delegated the authority to classify the substance by the Nevada legislature.³¹

13 43. The Board’s authority to classify marijuana, cannabis, and cannabis derivatives was
14 stripped with the passage of the *Initiative to Regulate and Tax Marijuana* in two distinct ways.

15 44. First, the *Initiative* promulgated that marijuana should be “regulated in a manner
16 similar to alcohol.”³² Under NRS 453.2186, the Board is prohibited from scheduling, and has no
17 authority, to regulate “distilled spirits, wine, [and] malt beverages.”

18 45. Because the *Initiative* expressly stated that marijuana should be treated the same as
19 alcohol, and the Legislature specifically prohibited the Board from scheduling alcohol, it should
20 follow that the Board is also prohibited from scheduling marijuana, cannabis, and cannabis
21 derivatives.
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26 ³¹ See *Miller v. Jacobson*, 104 Nev. 600, 763 P.2d 356, 358-359 (1988) (finding that State could not prosecute a
27 defendant for possessing a substance that was improperly scheduled by the Board as a controlled substance).

³² *Id.*

1 46. Second, the *Initiative* made clear that the Nevada Department of Taxation, rather
2 than the Nevada Board of Pharmacy, has the authority to regulate cannabis in the community.³³

3 47. The Legislature later confirmed this when it transferred authority to regulate
4 marijuana from the Department of Taxation to the Cannabis Compliance Board.³⁴

5 48. By its own admission on its website, the Board states, “The Board of Pharmacy has
6 no jurisdiction over the medical use of marijuana.”³⁵

7 49. Therefore, the Board exceeded its authority when it placed, or failed to remove,
8 marijuana, cannabis, and cannabis derivatives on its list as Schedule I substances and NAC
9 453.510 (4), (9), and (10) must be amended to reflect this change.
10

11 II. DECLARATORY JUDGMENT

12 50. Alternatively,³⁶ under the Nevada Uniform Declaratory Judgments Act, NRS
13 30.010 to 30.160, this Court has the power to declare the rights, status and other legal relations of
14 the parties whether or not further relief is or could be claimed, and a declaration may be either
15 affirmative or negative in form and effect, and such declarations have the force and effect of a final
16 judgment or decree.³⁷

17
18 51. More specifically, with respect to contracts, statutes, and other writings, NRS
19 30.040(1) provides:

20 Any person interested under a deed, written contract
21 or other writings constituting a contract, or whose
22 rights, status, or other legal relations are affected by
23 statute, municipal ordinance, contract or franchise,
may have determined any question of construction or
validity arising under the instrument, statute,

24 ³³ *Initiative to Regulate and Tax Marijuana*, Nevada Secretary of State, 1 (April 23, 2014),
25 <https://www.nvsos.gov/sos/home/showdocument?id=3294>. See also NRS 453D.200.

³⁴ Nev. Legis. AB 533 Reg. Sess. 2019.

26 ³⁵ “Frequently Asked Questions,” Nevada State Board of Pharmacy, The Official State of Nevada Website, accessed
February 23, 2022, https://bop.nv.gov/resources/FAQ/Practice_FAQ/.

³⁶ See NRCP 8(a)(3).

27 ³⁷ See NRS 30.030.

1 ordinance, contract or franchise and obtain a
2 declaration of rights, status or other legal relations
thereunder.

3 52. The provisions of the Act are to be liberally construed and administered, and are
4 intended to be remedial, in order to settle and to afford relief from uncertainty and insecurity with
5 respect to rights, status and other legal relations.³⁸

6 53. Such declarations have the force and effect of a final judgment or decree.³⁹

7 54. This matter satisfies the four elements that must be met for declaratory relief to be
8 granted, as described below.⁴⁰

9 55. The facts stated above herein reveal a justiciable controversy in which a claim of
10 right is asserted against one who has an interest in contesting it.

11 56. The controversy is between persons whose interests are adverse.

12 57. CEIC has a legally protectable interest in the controversy.

13 58. Antoine Poole has a legally protectable interest in the controversy.

14 59. The issue involved in the controversy is ripe for determination as individuals
15 continue to be prosecuted for violating Nevada statutes which rely on the scheduling of marijuana,
16 cannabis, and cannabis derivatives as Schedule I substances, and CEIC must continue to expend
17 resources remedying such actions.

18 60. Thus, CEIC seeks an order declaring its rights with respect to removal of marijuana,
19 cannabis, and cannabis derivatives as schedule I substances.

20 61. For the sake of brevity, Petitioners hereby incorporate paragraphs 33 - 49, above,
21 as if fully set forth herein.

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26 ³⁸ See NRS 30.140.

³⁹ NRS 30.030.

27 ⁴⁰ *Kress v. Corey*, 65 Nev. 1, 25-26, 189 P.2d 352, 364 (1948).

1 62. As such, Petitioners are requesting that this Court resolve the discrepancies between
2 Article 4, Section 38, of the Nevada Constitution, NRS 453.166, and NAC 453.510 by declaring
3 that: 1) the classification of marijuana, cannabis, and cannabis derivatives as Schedule I substances
4 violates Article 4, Section 38, of the Nevada Constitution or in the alternative the classification of
5 marijuana, cannabis, and cannabis derivatives as Schedule I substances violates NRS 453.166; 2)
6 the Nevada State Board of Pharmacy acted outside of its authority when it classified, or failed to
7 remove, marijuana, cannabis, and cannabis derivatives; and 3) the Nevada State Board of
8 Pharmacy must remove marijuana, cannabis, and cannabis derivatives as Schedule I substances
9 under NAC 453.510 (4), (9), and (10).
10

11 **III. INJUNCTIVE RELIEF**

12 63. Injunctive relief is a historical equitable remedy that has been codified in Nevada
13 law at NRS 33.010.

14 64. CEIC does not have an adequate remedy at law.

15 65. Antoine Poole does not have an adequate remedy at law.

16 66. NRS 33.010 states that an injunction may be granted:
17

18 1. When it shall appear by the complaint that the
19 plaintiff is entitled to the relief demanded, and such
20 relief or any part thereof consists in restraining the
21 commission or continuance of the act complained of,
22 either for a limited period or perpetually.

23 2. When it shall appear by the complaint or
24 affidavit that the commission or continuance of some
25 act, during the litigation, would produce great or
26 irreparable injury to the plaintiff.

27 3. When it shall appear, during the litigation, that
the defendant is doing or threatens, or is about to do,
or is procuring or suffering to be done, some act in
violation of the plaintiff's rights respecting the subject

1 of the action, and tending to render the judgment
2 ineffectual.

3 64. As discussed above, CEIC and Mr. Poole are entitled to relief regarding the
4 misclassification of marijuana, cannabis, and cannabis derivatives as Schedule I substances.

5 65. Failing to require the Nevada Board of Pharmacy to remove marijuana, cannabis,
6 and cannabis derivatives as Schedule I substances under NAC 453.510 (4), (9), and (10) will cause
7 irreparable injury to Petitioners because CEIC must continue to expend its resources on preventing
8 and/or remedying such efforts, and Mr. Poole continues to suffer the consequences of a cannabis-
9 related conviction.

10
11 66. Petitioners request injunctive relief, preventing the Board from classifying
12 marijuana, cannabis, and cannabis derivatives as Schedule I substances.

13 **REQUEST FOR RELIEF**

14 WHEREFORE, Petitioners, CEIC and Antoine Poole, ask for the following relief:

15 A. A Writ of Mandamus ordering that 1) the classification of marijuana, cannabis, and
16 cannabis derivatives as Schedule I substances violates Article 4, Section 38, of the Nevada
17 Constitution or, in the alternative, the classification of marijuana, cannabis, and cannabis
18 derivatives as Schedule I substances violates NRS 453.166; 2) the Nevada Board of
19 Pharmacy acted outside of its authority when it classified, or failed to remove, marijuana,
20 cannabis and cannabis derivatives; and 3) mandating that the Nevada Board of Pharmacy
21 remove language designating marijuana, cannabis, and cannabis derivatives as Schedule I
22 substances under NAC 453.510 including: 1) "Marijuana" under Section 4; 2) Section 9
23 in its entirety which states "[u]nless specifically listed in another schedule,
24 Tetrahydrocannabinols natural or synthetic equivalents of substances contained in the
25 plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives,
26
27

1 and their isomers with similar chemical structure and pharmacological activity such as the
2 following: Delta 9 cis or trans tetrahydrocannabinol, and their optical isomers, also known
3 as Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 8 cis or trans
4 tetrahydrocannabinol, and their optical isomers, also known as Delta 6 cis or trans
5 tetrahydrocannabinol, and their optical isomers; Delta 3, 4 cis or trans
6 tetrahydrocannabinol, and its optical isomers; Tetrahydrocannabinols contained in the
7 genus Cannabis or in the resinous extractives of the genus Cannabis; Synthetic equivalents
8 of tetrahydrocannabinol substances or synthetic substances, derivatives and their isomers
9 with a similar chemical structure; and since nomenclature of these substances is not
10 internationally standardized, compounds of these structures, regardless of numerical
11 designation of atomic positions covered)”; and 3) Section 10 in its entirety which states
12 “[u]nless specifically listed in another schedule, any material, compound, mixture or
13 preparation which contains any quantity of CBD (natural or synthetic equivalents of the
14 substances contained in the plant or in the resinous extractives of Cannabis sp. or synthetic
15 substances, derivatives and their isomers with similar chemical structure and
16 pharmacological activity)”.
17

18
19 B. All equitable declaratory relief and/or statutory declaratory relief that arises from
20 or is implied by the facts, whether or not specifically requested, including but not limited
21 to a declaration that: 1) the Petitioners/Plaintiffs are entitled to writ/injunctive relief; 2) the
22 classification of marijuana, cannabis, and cannabis derivatives as Schedule I substances
23 violates Article 4, Section 38, of the Nevada Constitution or, in the alternative, the
24 classification of marijuana, cannabis, and cannabis derivatives as Schedule I substances
25 violates NRS 453.166; 3) the Nevada Board of Pharmacy acted outside of its authority
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1 when it classified marijuana, cannabis, and cannabis derivatives; and 4) the Nevada Board
2 of Pharmacy must remove marijuana, cannabis, and cannabis derivatives as Schedule I
3 substances under NAC 453.510 (4), (9), and (10);

4 C. All equitable injunctive relief that arises from or is implied by the facts, whether or
5 not specifically requested, including an injunction preventing the Nevada State Board of
6 Pharmacy from classifying marijuana, cannabis, and cannabis derivatives as Schedule I
7 substances;

8
9 D. Award Petitioners their reasonable attorney's fees and costs incurred in this action
10 as provided by NRS 18.010; and

11 E. Such other and further relief as the court deems just and equitable.

12 Dated this 15th day of April, 2022.

This document does **not** contain the
Social Security number of any
person.
Pursuant to NRS 53.045, I declare
under penalty of perjury that the
foregoing is true and correct.

**AMERICAN CIVIL LIBERTIES
UNION OF NEVADA**



SADMIRA RAMIC, ESQ.

Nevada Bar No. 15984

CHRISTOPHER M. PETERSON,
ESQ.

Nevada Bar No. 13932

SOPHIA A. ROMERO, ESQ.

Nevada Bar No.: 12446

601 South Rancho Drive, Suite B-11
Las Vegas, NV 89106

Telephone: (702) 366-1226

Facsimile: (702) 366-1331

Email: ramic@aclunv.org

Attorneys for Petitioners/Plaintiffs

EXHIBIT 1

1 **DECL**
 2 SADMIRA RAMIC, ESQ.
 Nevada Bar No.: 15984
 3 CHRISTOPHER M. PETERSON, ESQ.
 Nevada Bar No.: 13932
 4 SOPHIA A. ROMERO, ESQ.
 Nevada Bar No.: 12446
 5 **AMERICAN CIVIL LIBERTIES**
 6 **UNION OF NEVADA**
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 Las Vegas, NV 89106
 7 Telephone: (702) 366-1226
 Facsimile: (702) 830-9205
 8 Email: ramic@aclunv.org
 9 *Attorneys for Petitioners/Plaintiffs*

10 **EIGHTH JUDICIAL DISTRICT COURT**
 11 **CLARK COUNTY, NEVADA**

12 CANNABIS EQUITY AND INCLUSION
 13 COMMUNITY (CEIC), a domestic nonprofit
 corporation; ANTOINE POOLE, an individual,
 14
 15 **Petitioners/Plaintiffs,**

Case No.:
 Department:

16 vs.

17 STATE OF NEVADA ex rel. BOARD OF
 PHARMACY, a public entity of the State of
 18 Nevada,

19 **Respondent/Defendant.**

20 **DECLARATION OF A'ESHA GOINS IN SUPPORT OF PETITION FOR WRIT OF**
 21 **MANDAMUS TO COMPEL THE NEVADA STATE BOARD OF PHARMACY TO**
 22 **REMOVE CANNABIS AND OTHER CANNABIS DERIVATIVES FROM NEVADA**
 23 **ADMINISTRATIVE CODE § 453.510 AS SCHEDULE I SUBSTANCES AND**
 24 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

24 I, A'Esha Goins, under penalty of perjury declare:

- 25 1. I am over the age of 18 and I am competent to testify.
- 26 2. I have personal knowledge of the facts set forth in this declaration.

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3. I make this declaration in support of the Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief.
4. I am the Founder and Executive Director of Cannabis Equity and Inclusion Community (CEIC).
5. CEIC provides support to individuals from underrepresented communities as they apply for licenses to participate in the legal cannabis market.
6. CEIC is a membership organization with approximately seventy members across the state.
7. At least one member of CEIC has been convicted under the Nevada Revised Statutes of a cannabis-related offense after the legalization of medical marijuana in Nevada.
8. CEIC has held record sealing workshops bi-annually to assist individuals with prior cannabis-related criminal convictions in applying for pardons and sealing criminal records.
9. CEIC continues to conduct community outreach to identify individuals in need of assistance to deal with consequences resulting from cannabis-related criminal convictions.

I declare under penalty of perjury that the foregoing is true and correct.

Dated April 14, 2022

DocuSigned by:
A' Esha Allums Goins
03FB694885DF4B8...

A'Esha Allums-Goins

EXHIBIT 2

1 **DECL**
 2 SADMIRA RAMIC, ESQ.
 Nevada Bar No.: 15984
 3 CHRISTOPHER M. PETERSON, ESQ.
 Nevada Bar No.: 13932
 4 SOPHIA A. ROMERO, ESQ.
 Nevada Bar No.: 12446
 5 **AMERICAN CIVIL LIBERTIES**
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 Las Vegas, NV 89106
 7 Telephone: (702) 366-1226
 Facsimile: (702) 830-9205
 8 Email: ramic@aclunv.org
 9 *Attorneys for Petitioners/Plaintiffs*

10 **EIGHTH JUDICIAL DISTRICT COURT**
 11 **CLARK COUNTY, NEVADA**

12 CANNABIS EQUITY AND INCLUSION
 13 COMMUNITY (CEIC), a domestic nonprofit
 corporation; ANTOINE POOLE, an individual,
 14
 15 **Petitioners/Plaintiffs,**

Case No.:

Department:

16 vs.

17 STATE OF NEVADA ex rel. BOARD OF
 PHARMACY, a public entity of the State of
 18 Nevada,

19 **Respondent/Defendant.**

20 **DECLARATION OF ANTOINE POOLE IN SUPPORT OF PETITION FOR WRIT OF**
 21 **MANDAMUS TO COMPEL THE NEVADA STATE BOARD OF PHARMACY TO**
 22 **REMOVE CANNABIS AND OTHER CANNABIS DERIVATIVES FROM NEVADA**
ADMINISTRATIVE CODE § 453.510 AS SCHEDULE I SUBSTANCES AND
 23 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

24 I, Antoine Poole, under penalty of perjury declare:

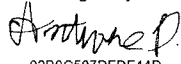
- 25 1. I am over the age of 18 and I am competent to testify.
 26 2. I have personal knowledge of the facts set forth in this declaration.

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- 3. I make this declaration in support of the Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief.
- 4. I am, and was at all times relevant hereto, a resident of the State of Nevada, County of Clark, City of Las Vegas.
- 5. I was adjudicated guilty in the Eighth Judicial District Court of the State of Nevada of Possession of Controlled Substance, a Category E Felony pursuant to NRS 453.336, for possession of marijuana on April 20, 2017.
- 6. As a result of this conviction, I have suffered collateral consequences including hardship in obtaining employment.

I declare under penalty of perjury that the foregoing is true and correct.

Dated April 14, 2022

DocuSigned by:

02B0C507DFDF44D...

Antoine Poole

1 **IAFD**

2 SADMIRA RAMIC, ESQ.

3 Nevada Bar No.: 15984

4 CHRISTOPHER M. PETERSON, ESQ.

5 Nevada Bar No.: 13932

6 SOPHIA A. ROMERO, ESQ.

7 Nevada Bar No.: 12446

8 **AMERICAN CIVIL LIBERTIES**

9 **UNION OF NEVADA**

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14 Email: ramic@aclunv.org

15 *Attorneys for Petitioners/Plaintiffs*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 CANNABIS EQUITY AND INCLUSION
19 COMMUNITY (CEIC), a domestic nonprofit
20 corporation; ANTOINE POOLE, an individual,

21 *Petitioners/Plaintiffs,*

22 vs.

23 STATE OF NEVADA ex rel. BOARD OF
24 PHARMACY, a public entity of the State of
25 Nevada,

26 *Respondent/Defendant.*

Case No.:

Dept. No.:

**INITIAL APPEARANCE FEE
DISCLOSURE
(NRS CHAPTER 19)**

27 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for
28 parties appearing in the above-entitled action as indicated below:

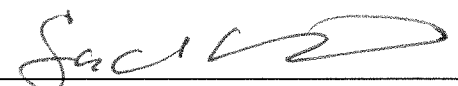
29 Cannabis Equity and Inclusion Community (CEIC) \$270.00

30 Antoine Poole \$30.00

31 TOTAL REMITTED: \$300.00

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DATED this 15th Day of April _____, 20 22



SADMIRA RAMIC, ESQ
Nevada Bar No. 15984
SOPHIA A. ROMERO, ESQ
Nevada Bar No. 12446
CHRISTOPHER M. PETERSON, ESQ.
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