

Nos. 03-15481

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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ANGEL McCLARY RAICH, ET AL.,  
Plaintiffs-Appellants

v.

ALBERTO GONZALES, as United States Attorney General, ET AL.,  
Defendants-Appellees.

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Remand from the United States Supreme Court  
Case No. 03-1454

and

Appeal from the United States District Court  
for the Northern District of California  
Case No. C 02-4872 MJJ.

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**PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME  
IN WHICH TO FILE OPENING BRIEF**

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ROBERT A. RAICH  
1970 Broadway, Suite 1200  
Oakland, California 94612  
Telephone: (510) 338-0700

RANDY E. BARNETT  
Boston University School of Law  
Boston, Massachusetts 02215  
Telephone: (617) 353-3099

DAVID M. MICHAEL  
The DeMartini Historical Landmark Bldg.  
294 Page Street  
San Francisco, California 94102  
Telephone: (415) 621-4500



**PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME  
IN WHICH TO FILE OPENING BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and Circuit Rule 31-2.2(b), and for the reasons set forth below, Plaintiffs respectfully move this Court of an order extending the time in which to file the opening brief, from September 26, 2005, to November 23, 2005, which constitutes **an extension of fifty-eight (58) calendar days**. (Declaration of Robert A. Raich in Support of Plaintiffs' Unopposed Motion for Extension of Time in which to File Opening Brief ["Raich Decl.,"] ¶ 2.) Pursuant to an order of this Court, entered September 6, 2005, the opening brief was originally due twenty days hence, i.e., on September 26, 2005. (Raich Decl. ¶ 2.)

Plaintiffs present this motion because, as detailed below, the time initially granted will not be sufficient to allow Plaintiffs' counsel to do justice to the issues of vast social importance at stake in this case, as illustrated by the participation of several noteworthy *amici curiae* and the fact that this case has already been to the United States Supreme Court. (Raich Decl. ¶ 3.)

Plaintiffs' counsel Professor Randy Barnett is presently visiting at Georgetown Law School and has an extraordinarily heavy teaching schedule this semester. (Raich Decl. ¶ 4.) Moreover, Professor Barnett must fulfill



commitments to draft two articles, both due in October, for symposia of the University of Minnesota Law Review and the Lewis & Clark Law Review. (Raich Decl. ¶ 4.) Professor Barnett will not be able to devote significant time to the brief until late October. (Raich Decl. ¶ 4.)

Plaintiffs' counsel David Michael has been out of the country on an extended trip to handle business ventures in Asia. (Raich Decl. ¶ 5.)

Plaintiffs' counsel Robert Raich has been and will be required to spend substantial time completing transactional documents and negotiations regarding numerous separate business deals that are already in the works for various other clients. (Raich Decl. ¶ 6.)

This motion is unopposed by the Defendants. (Raich Decl. ¶ 7.)

In accordance with Circuit Rule 31-2.2(b)(5), Plaintiffs represent that they have exercised diligence and will file the opening brief within the time requested. (Raich Decl. ¶ 8.)

For the foregoing reasons, Plaintiffs respectfully request that this Court enter



an order extending the due date for the opening brief to November 23, 2005.

Dated: September 19, 2005

Respectfully submitted,  
ROBERT A. RAICH  
DAVID M. MICHAEL  
RANDY E. BARNETT



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Robert A. Raich  
Attorneys for Plaintiffs



CERTIFICATE OF SERVICE

I am not a party to the within action and am over eighteen years of age. My business address is 1970 Broadway, Suite 1200, Oakland, California 94612. I hereby certify that on the date this certificate is signed, I served a copy of the attached

PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME  
IN WHICH TO FILE OPENING BRIEF

DECLARATION OF ROBERT A. RAICH IN SUPPORT  
OF PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME  
IN WHICH TO FILE OPENING BRIEF

by Federal Express, for next business day delivery, to the following counsel:

Alberto Gonzales, et al.

Mark T. Quinlivan  
Assistant U.S. Attorney  
1 Courthouse Way, Suite 9200  
Boston, Massachusetts 02210

and by inserting a true copy thereof in a sealed envelope, with postage fully prepaid, to be placed in the United States mail addressed to the following:

Angel McClary Raich, et al.

Prof. Randy E. Barnett  
Boston University School of Law  
765 Commonwealth Avenue  
Boston, Massachusetts 02215

David M. Michael  
The DeMartini Historical Landmark Building  
294 Page Street  
San Francisco, California 94102



*Amicus Curiae State of California*

Hon. Bill Lockyer  
Taylor S. Carey  
Office of the Attorney General  
1300 I Street, Suite 1720  
Sacramento, California 95814

*Amicus Curiae County of Alameda*

Richard E. Winnie  
Alameda County Counsel  
1221 Oak Street, Suite 450  
Oakland, California 94612

*Amicus Curiae County of Butte*

Hon. Michael L. Ramsey  
District Attorney  
25 County Center Drive  
Oroville, California 95965

*Amicus Curiae City of Oakland*

Hon. John A. Russo  
Barbara J. Parker  
City Attorney's Office  
One Frank Ogawa Plaza, 6th Floor  
Oakland, California 94612



Amici Curiae California Medical Association and California Nurses Association

Alice P. Mead  
California Medical Association  
221 Main Street, Fifth Floor  
P.O. Box 7690  
San Francisco, California 94120

Julie M. Carpenter  
Jenner & Block  
601 Thirteenth Street, N.W.  
Washington, D.C. 20005

Amici Curiae Marijuana Policy Project, Rick Doblin, Ph.D., and Ethan Russo, M.D.


Frederick L. Goss  
Law Offices of Frederick L. Goss  
1 Kaiser Plaza, Suite 1750  
Oakland, California 94612

Rick Doblin, Ph.D.  
3 Francis Street  
Belmont, Massachusetts 02478

Steph Vogel  
Marijuana Policy Project  
P.O. Box 77492  
Washington, D.C. 20013

Ethan Russo, M.D.  
Missoula Medical Plaza, Suite 303  
900 North Orange Street  
Missoula, Montana 59823

Dated: September 19, 2005

  
\_\_\_\_\_  
Robert A. Raich



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UNITED STATES COURT OF APPEALS  
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ANGEL McCLARY RAICH, ET AL.,  
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**DECLARATION OF ROBERT A. RAICH IN SUPPORT OF  
PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME  
IN WHICH TO FILE OPENING BRIEF**

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ROBERT A. RAICH  
1970 Broadway, Suite 1200  
Oakland, California 94612  
Telephone: (510) 338-0700

RANDY E. BARNETT  
Boston University School of Law  
Boston, Massachusetts 02215  
Telephone: (617) 353-3099

DAVID M. MICHAEL  
The DeMartini Historical Landmark Bldg.  
294 Page Street  
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Telephone: (415) 621-4500



I, Robert A. Raich, declare:

1. I am an attorney duly admitted to practice in the State of California and before the United States Court of Appeals for the Ninth Circuit. I am one of the counsel of record for the Plaintiffs in this action. If called to testify, I would state the following based on my own personal knowledge:

2. Plaintiffs respectfully move this Court of an order extending the time in which to file the opening brief from September 26, 2005, to November 23, 2005, which would constitute an extension of fifty-eight (58) calendar days. Pursuant to an order of this Court entered on September 6, 2005, the opening brief was originally due twenty days from the date of that order, i.e., on September 26, 2005.

3. Plaintiffs present this motion because the time the Court initially granted will not be sufficient to allow Plaintiffs' counsel to do justice to the issues of vast social importance at stake in this case. The significance of the issues raised in the case is confirmed by the fact that the case has already been to the United States Supreme Court. *See Gonzalez v. Raich*, 125 S.Ct. 2195 (2005). The issues to be raised by Plaintiffs in their forthcoming brief were expressly left open by the Supreme Court for decision by this Court. *Id.* at 2215. The importance of this case is also confirmed by the participation of several noteworthy *amici curiae* in this Court and of many additional *amici curiae* in the Supreme Court.



4. My co-counsel, Professor Randy Barnett, has informed me that he is presently a visiting professor at Georgetown Law School and that he has an extraordinarily heavy teaching schedule this semester. Moreover, Professor Barnett has informed me that he must fulfill commitments to draft two articles, both due in October, for symposia of the University of Minnesota Law Review and the Lewis & Clark Law Review. Professor Barnett informs me that he will not be able to devote significant time to the Plaintiffs' opening brief until late October.

5. My co-counsel, David Michael, informs me has been out of the country on an extended trip to handle business ventures in Asia.

6. I have been, and for the next few weeks will be, required to spend substantial time completing transactional documents and negotiations regarding numerous separate business deals that are already in the works for various other clients.

7. I have discussed this Motion for Extension of Time with Mark Quinlivan, counsel for the Defendants, and he has informed me that his clients would not oppose the motion.

8. In accordance with Circuit Rule 31-2.2(b)(5), Plaintiffs represent that they have exercised diligence and will file their opening brief within the time requested.



I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed this 19th day of September, 2005 at Oakland, California.

A handwritten signature in black ink, appearing to read "Raich", written over a horizontal line.

Robert A. Raich  
Attorneys for Appellees