

**FILED**

MAY 14 2004

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ANGEL McCLARY RAICH, DIANE  
MONSON, JOHN DOE  
NUMBER ONE, and JOHN DOE  
NUMBER TWO,

Case No. C 02 4872 MJJ

Plaintiffs,

**PRELIMINARY INJUNCTION  
ORDER**

v.

JOHN ASHCROFT, as United States  
Attorney General, and KAREN  
TANDY, as Administrator of the  
Drug Enforcement Administration,

Defendants.

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The Court having considered all the pleadings filed in this matter, the argument made by counsel, and for good cause having been shown, Plaintiffs' Motion for Preliminary Injunction is GRANTED.

In *Raich v. Ashcroft*, 352 Fed. 3d 1222 (9th Cir. 2003), the United States Court of Appeals for the Ninth Circuit held that the Plaintiffs have demonstrated a strong likelihood that "as applied to them, the [Controlled Substances Act] is an unconstitutional exercise of Congress' Commerce Clause authority." *Id.* at 1227. Accordingly,

IT IS HEREBY ORDERED THAT, during the pendency of this action Defendants, and their agents and officers, and any person acting in consort with them, are hereby enjoined from

1 arresting or prosecuting Plaintiffs Angel McClary Raich and Diane Monson, seizing their  
2 medical cannabis, forfeiting their property, or seeking civil or administrative sanctions against  
3 them with respect to the intrastate, noncommercial cultivation, possession, use, and obtaining  
4 without charge of cannabis for personal medical purposes on the advice of a physician and in  
5 accordance with state law, and which is not used for distribution, sale, or exchange; and

6 IT IS FURTHER ORDERED THAT, the terms of this injunction do not extend to  
7 Plaintiffs John Doe Number One and John Doe Number Two unless and until such time as this  
8 Court modifies the Preliminary Injunction to provide protection to Plaintiffs John Doe Number  
9 One or John Doe Number Two, or both, in the manner set forth below; and

10 IT IS FURTHER ORDERED THAT, during the pendency of this action, Plaintiffs John  
11 Doe Number One or John Doe Number Two, or both, may apply to this Court on an emergency  
12 basis, pursuant to Civil Local Rule 7-10(a), to modify the Preliminary Injunction to include  
13 injunctive relief that would prohibit Defendants, and their agents and officers, and any person  
14 acting in consort with them, from arresting or prosecuting Plaintiffs John Doe Number One or  
15 John Doe Number Two, or both, seizing their medical cannabis, forfeiting their property, or  
16 seeking civil or administrative sanctions against them with respect to their intrastate,  
17 noncommercial cultivation, possession, and providing without charge of cannabis for personal  
18 medical purposes on the advice of a physician and in accordance with state law, *provided that*,  
19 this Court will entertain such a request to modify the Preliminary Injunction only if (1) Plaintiff  
20 John Doe Number One or Plaintiff John Doe Number Two, or both, reveals their identity to the  
21 Court and to defendants as a John Doe Plaintiff in this action in such request, *and* (2) the Court  
22 confirms that such person is a John Doe Plaintiff in this action, on the basis of the information  
23 provided to the Court under seal pursuant to Exhibit A hereto; and

24 IT IS FURTHER ORDERED, that, following entry of this Order, Plaintiffs shall file with  
25 the Court a completed Declaration in the form attached hereto as Exhibit A, identifying the true  
26 names of the John Doe Plaintiffs and the addresses of the medical cannabis gardens they cultivate  
27 for Plaintiff Angel McClary Raich. Such Declaration shall be filed under seal, and shall be kept  
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1 in the Judge's chambers, not in the clerk's file for this case; and


2 IT IS FURTHER ORDERED THAT the requirement for posting security for payment of  
3 any costs or damages incurred by Defendants as a result of the preliminary injunction is hereby  
4 waived.

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6 IT IS SO ORDERED.

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8 Dated: May 14, 2004

  
MARTIN J. JENKINS  
UNITED STATES DISTRICT JUDGE

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