

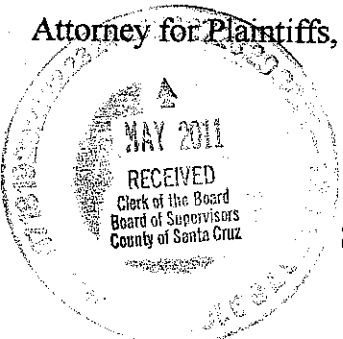
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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CRUZ**

10	ETHNOBOTANICA; RYAN BOOKER;)	CASE NO. CV 170437
11	JOHN TILLEY; and DOES 1-15,)	
12)	COMPLAINT FOR DAMAGES
13)	FOR VIOLATION OF
14	Plaintiffs,)	CIVIL RIGHTS
15)	[USC Title 42 § 1983, 1988]
16)	
17	COUNTY OF SANTA CRUZ; DEPUTY)	
18	HOWE; SGT. YANEZ;)	
19	and DOES 1 - 15,)	REQUEST FOR JURY TRIAL
20	Defendants.)	

21 Plaintiffs ETHNOBOTANICA, RYAN BOOKER, and JOHN TILLEY allege as
22 follows:

PARTIES

24 1. Plaintiff ETHNOBOTANICA is a non-profit cooperative association of
25 medical marijuana patients located in Santa Cruz County. Plaintiffs RYAN BOOKER
26 and JOHN TILLEY are and were at all relevant times members of
27 ETHNOBOTANICA.

28 2. Defendant COUNTY OF SANTA CRUZ ("COUNTY") is a political

COMPLAINT FOR DAMAGES - VIOLATION OF CIVIL RIGHTS

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1 subdivision of the State of California.

2 3. Defendants DEPUTY HOWE ("HOWE"), and SGT. YANEZ
3 ("YANEZ"), hereinafter collectively referred to as the "Sheriffs" are employed by the
4 Sheriff's Department of Santa Cruz COUNTY and were, at all relevant times, acting
5 within the course and scope of their employment and/or were acting in their individual
6 capacities; and were, at all relevant times, acting under color of state law. Each of the
7 foregoing and DOES 1 through 15 are sued herein in their individual and in their
8 official capacities; in performing the unlawful acts hereafter mentioned, these
9 Defendants were acting under color of state law and were conspiring with each other to
10 violate plaintiffs' rights under Title 42 §1983. Each Defendant is, and was at all
11 relevant times, the agent, employee or representative of each other Defendant; and had
12 the legal duty to oversee the conduct of every other Defendant named.

13 4. The names and capacities of Defendants DOES 1 through 15 are
14 unknown to the Plaintiffs. Each of these fictitiously named parties has acted as agent
15 of or in concert with the named Defendants in the matters referred to herein, and is
16 responsible in some manner for the damages suffered by Plaintiffs. Plaintiffs will
17 amend this complaint to add the names and capacities of such Defendants when
18 ascertained.

19 FACTUAL ALLEGATIONS

20 5. On or about March 3, 2009, HOWE unlawfully obtained a search warrant to
21 enter the property maintained by plaintiffs at 119 B Lee Street in Watsonville,
22 California. HOWE intentionally and maliciously mislead the judge who issued the
23 search warrant through omission of relevant exculpatory information and the proffering
24 of lies and half truths in the probable cause statement in support of the warrant
25 application. Said search warrant would never have been issued absent the lies.

26 6. On March 3, 2009, defendants unlawfully entered plaintiffs' property
27 without probable cause and pursuant to the unlawfully issued search warrant and
28 proceeded to unlawfully seize plaintiffs' lawfully grown medical marijuana as well as
their equipment and records. All of the members of ETHNOBOTANICA, including

1 the individual plaintiffs herein, possessed valid and current doctor's recommendations
2 for possession and cultivation of medical marijuana. Defendants confiscated and
3 destroyed plaintiffs' property despite the defendants' knowledge that the marijuana
4 was grown for legitimate medical use and the number of plants was well within the
5 legal guidelines set out by the COUNTY.

6 7. During the unlawful search and seizure of plaintiffs' lawfully grown
7 medical marijuana and other property and equipment, defendants unlawfully
8 handcuffed and arrested plaintiff TILLEY without probable cause. TILLEY was later
9 released at the scene.

10 8. Thereafter, the COUNTY District Attorney brought charges against
11 BOOKER and TILLEY for unlawful cultivation of marijuana and for possession of
12 marijuana for sale based solely on defendants' lies as to the nature of plaintiffs'
13 activities.

14 9. Said charges were dismissed by Santa Cruz Superior Court Judge Attack
15 pursuant to a motion to suppress. Said dismissal was based on the fact that there was
16 no probable cause to issue the search warrant and that the entire entry onto the property
17 and the search was therefore unlawful.

18 10. Because of the unlawful actions of defendants, plaintiffs were deprived of
19 their medicine and were forced to purchase expensive and inferior quality medical
20 marijuana from others. At times, Plaintiffs were unable to purchase medicine to
21 replace that which was unlawfully seized by defendants and as a consequence suffered
22 severe physical pain and emotional distress. Defendants also unlawfully seized and/or
23 destroyed property and equipment belonging to ETHNOBOTANICA.
24 ETHNOBOTANICA was forced to replace the property and equipment at great
25 expense and is still in debt as a direct and proximate result of the unlawful actions of
26 defendants.

27 11. The unlawful actions of the individual defendants were intentional and
28 malicious or accomplished with reckless disregard for the health and safety of the
plaintiffs and as such, plaintiffs are entitled to punitive damages against the individual

1 defendants.

2 12. The defendants were at all relevant times, and are presently, bound by
3 the California state Constitution, Article 3, Section 3.5 (c) to uphold and enforce
4 California and COUNTY law as it relates to medical marijuana.

5 13. Plaintiffs are informed and believe and thereon allege that defendant
6 sheriffs had a pattern and practice of lying and/or withholding exculpatory information
7 in probable cause statements misleading the judge in order to obtain search warrants
8 and unlawfully confiscating and destroying medical marijuana plants. Plaintiffs are
9 additionally informed and believe and allege thereon that the COUNTY was aware of
10 and not only failed to properly train, discipline or terminate the sheriffs, but instead
11 condoned, or at least recklessly disregarded, their ongoing unlawful actions.. The
12 above-described abuses and violations of plaintiffs' civil rights would not have
13 occurred but for the COUNTY's pattern and practice of failing to hire competent
14 personnel, failing to properly train their personnel and their failing to discipline errant
15 deputies.

16 **FIRST CAUSE OF ACTION**
17 **VIOLATION OF CIVIL RIGHTS - FOURTH AMENDMENT**
18 **(All Defendants and All Plaintiffs)**

19 14. Plaintiffs refer to and incorporate herein the allegations in paragraphs 1
20 through 13 above.

21 15. Defendants in performing the unlawful actions as described herein before
22 under FACTUAL ALLEGATIONS, violated plaintiffs' rights under the Fourth
23 Amendment of the United States Constitution to be free from unlawful search, seizure,
24 arrest and prosecution.

25 16. As a direct and proximate result of defendants' unlawful actions, plaintiffs
26 suffered damages including, but not limited to, the value of the replacement of the
27 seized, destroyed and damaged property, pain and suffering and physical and
28 emotional distress.

17. COUNTY failed to train and supervise the defendant sheriffs as to how