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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AGRO DYNAMICS, LLC, a Wyoming
Limited Liability Company,

Plaintiff,

v.

DRUG ENFORCEMENT
ADMINISTRATION; SAN DIEGO
COUNTY; SPECIAL AGENTS PAUL
GELLES. ERIC BALL, KIERAN GARCIA,
MARSHA DAWE, ROSS VAN
NOSTRAND, AND JEREMY FEUZ;
FRANK HASKELL, ANDREW AGUILAR,
JASON STEIN, TIMOTHY SMITH,
MICHAEL ASTORGA, CHRISTOPHER
MORRIS, SGT. STEVE BODINE, DET.
JUSTIN MOORE, DET. DWAYNE
PRICKETT, DET. CHRISTOPHER PEREZ,
AND DET. RICARDO ANDRADE; and
DOES 1 to 50, inclusive

Defendants.

Case No. **'20CV2082 JAH KSC**

NOTICE OF REMOVAL OF A
CIVIL ACTION

[28 U.S.C. §§ 1441(c)(1) and
1442(a)(1)]

(Removed from Superior Court of
California, County of San Diego,
North County Division, Case No. 37-
2020-00034326-CU-CR-NC)

1 TO: ALL PARTIES AND THE CLERK OF COURT

2
3 PLEASE TAKE NOTICE that the United States of America, through its attorneys,
4 Robert S. Brewer, Jr., United States Attorney, and Janet A. Cabral, Assistant U.S. Attorney,
5 respectfully removes to this Court the above-captioned civil action from the Superior Court
6 of California, County of San Diego. The grounds for this removal include the following:

7 1. On or about September 22, 2020, Plaintiff initiated this action as Case No. 37-
8 2020-00034326-CU-CR-NC in the Superior Court of California, County of San Diego.
9 Plaintiff names as Defendants the Drug Enforcement Administration (“DEA”), as well as
10 as DEA Special Agents Paul Gelles, Eric Ball, Kieran Garcia, Marsha Dawe, Ross Van
11 Nostrand, and Jeremy Feuz, and DEA Task Force Officers (“TFOs”) Frank Haskell,
12 Andrew Aguilar, Jason Stein, Timothy Smith, Michael Astorga, and Christopher Morris.
13 The complaint alleges claims under 42 U.S.C. § 1983 against all Defendants for
14 unreasonable search and seizure in violation of the Fourth Amendment, and for taking of
15 property without compensation in violation of the Fifth Amendment. The complaint further
16 alleges violation of the California Constitution and the California Tort Claims Act. All of
17 Plaintiff’s causes of action arise out of the execution of a search warrant at property
18 allegedly leased and occupied by Plaintiff in Fallbrook, California, on September 12, 2019.
19 A copy of the complaint is attached as Exhibit A, pursuant to 28 U.S.C. § 1446(a).

20 2. The DEA is an Agency of the United States.

21 3. Plaintiff alleges that DEA Special Agents Paul Gelles, Eric Ball, Kieran
22 Garcia, Marsha Dawe, Ross Van Nostrand, and Jeremy Feuz, along with DEA TFOs Frank
23 Haskell, Andrew Aguilar, Jason Stein, Timothy Smith, Michael Astorga, and Christopher
24 Morris, were acting in their capacity as agents and/or officers of the DEA at all times
25 relevant to the causes of action set forth in the Complaint.

26 4. This action may be removed to this Court under 28 U.S.C. § 1441(c)(1)
27 because it contains claims arising under the Constitution and laws of the United States.
28 This action may also be removed to this Court under 28 U.S.C. § 1442(a)(1) because it

1 contains claims against the DEA, an agency of the United States, as well as officers and
2 agents of the United States and its agencies.

3 5. It also is anticipated that the United States may raise several defenses to the
4 complaint, including but not limited to the United States' sovereign immunity and qualified
5 immunity.

6 6. Because this is an action against an agency of the United States and officers
7 of the United States, joinder of all Defendants in the notice of removal is not required.

8 7. As of this time, neither the summons nor complaint in the above-captioned
9 civil action has been served on the United States Attorney for the Southern District of
10 California or the Attorney General of the United States.

11 WHEREFORE this case, now pending in the Superior Court of California, County
12 of San Diego, is properly removed to this Court.

13
14 DATED: October 22, 2020

Respectfully submitted,

15 ROBERT S. BREWER, JR.
16 United States Attorney

17 /s/ Janet A. Cabral
18 Janet Cabral
19 Assistant United States Attorney
20 Attorney for United States
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Agro Dynamics, LLC, a Wyoming Limited Liability Company

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

S. Edward Wicker, 11440 W. Bernardo Court, Suite 300, San Diego, CA
92127, 760-735-6100, edward@ewickerlaw.com

DEFENDANTSDrug Enforcement Administration ("DEA"), San Diego County, DEA
Special Agents and Task Force Officers, San Diego Sheriffs, et al.,

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

'20CV2082 JAH KSC

Attorneys (If Known)

Janet A. Cabral, Assistant U.S. Attorney, Office of the U.S. Attorney,
880 Front Street, San Diego, CA 92101, 619-546-8715.
janet.cabral@usdoj.gov

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1441(c)(1), 1442(a)(1)

Brief description of cause:

Removal of claim arising under federal law, against the United States, its agencies, and officers/agents

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

3,450,671.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

10/22/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Janet A. Cabral

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT A

S. Edward Wicker
11440 W. Bernardo Court, Suite 300
San Diego, CA 92127
Work: (760) 735-6100
Email: edward@ewickerlaw.com

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
09/22/2020 at 02:17:29 PM
Clerk of the Superior Court
By Gregory Hornick, Deputy Clerk

S. EDWARD WICKER, Attorney for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
NORTH COUNTY DIVISION

AGRO DYNAMICS, LLC a Wyoming Limited)
Liability Company,)
Plaintiff,)
vs.)
DRUG ENFORCEMENT ADMINISTRATION,)
SAN DIEGO COUNTY, and SPECIAL AGENTS)
PAUL GELLES, ERIC BALL, KIERAN)
GRACIA, MARSHA DAWE, ROSS VAN)
NOSTRAND, AND JEREMY FEUZ; FRANK)
HASKELL, ANDREW AGUILAR, JASON)
STEIN, TIMOTHY SMITH, MICHAEL)
ASTORGA, CHRISTOPHER MORRIS, SGT.)
STEVE BODINE, DET. JUSTIN MOORE, DET.)
DWAYNE PRICKETT, DET. CHRISTOPHER)
PEREZ, AND DET. RICARDO ANDRADE; and)
DOES 1 to 50 inclusive,)

Case No.: 37-2020-00034328-CU-CR-NC

**COMPLAINT FOR VIOLATIONS OF 42
U.S.C. § 1983; VIOLATION OF
CALIFORNIA CONSTITUTION;
CONVERSION; DAMAGES**

Assigned to Judge:

Defendants.

INTRODUCTION OF THE CASE

On or about December 20, 2018, the Federal Farm bill authorized the legal cultivation of hemp. On August 22, 2019, Plaintiffs herein obtained a Registration Issuance from the County of San Diego for the legal cultivation of hemp on their premises. Relying on this permit, Plaintiffs expended considerable time and money and planted approximately 3000 hemp plants that, according to a laboratory test, had less than .3% THC. On September 10, 2019 a law enforcement officer, Defendant Paul Gelles, conducted aerial reconnaissance in support of marijuana eradication

1 operations in the area. Based on the officer's observations of what appeared to be growing
2 marijuana and the failure of law enforcement to make any investigation of San Diego County
3 records which would have revealed the hemp Registration Issuance, a search warrant was issued on
4 September 11, 2019. The next day, September 12, 2019, law enforcement officers executed the
5 search warrant. Upon their arrival on the premises, a tenant in possession advised the officers that
6 there was a legal Registration Issuance from the County of San Diego for the hemp growing on the
7 premises. Law enforcement disregarded this information and continued to seize and destroy all
8 plants that appeared to be marijuana.

9 10 THE PARTIES

11 1. Plaintiff Agro Dynamics, LLC is limited liability company organized under the laws
12 of the State of Wyoming and registered with the California Secretary of State to conduct business
13 in California.

14 2. Defendant Drug Enforcement Administration is now and, at all times herein alleged,
15 is, a public entity organized and existing under the laws of the United States of America.

16 3. Defendant San Diego County is now, and, at all times herein alleged, is, a public
17 entity organized and existing under the laws of the State of California.

18 4. Defendant Special Agent Paul Gelles is now, and, at all times herein alleged, was a
19 Special Agent of the Drug Enforcement Administration. On information and belief, Special Agent
20 Gelles is a citizen of the State of California and a resident of the County of San Diego.

21 5. Defendant Special Agent Eric Ball is now, and, at all times herein alleged, was a
22 Special Agent of the Drug Enforcement Administration. On information and belief, Special Agent
23 Ball is a citizen of the State of California and a resident of the County of San Diego.

24 6. Defendant Special Agent Kieran Garcia is now, and, at all times herein alleged, was
25 a Special Agent of the Drug Enforcement Administration. On information and belief, Special
26 Agent Garcia is a citizen of the State of California and a resident of the County of San Diego.

1 7. Defendant Special Agent Marsha Dawe is now, and, at all times herein alleged, was
2 a Special Agent of the Drug Enforcement Administration. On information and belief, Special
3 Agent Dawe is a citizen of the State of California and a resident of the County of San Diego.

4 8. Defendant Special Agent Ross Van Nostrand is now, and, at all times herein alleged,
5 was a Special Agent of the Drug Enforcement Administration. On information and belief, Special
6 Agent Van Nostrand is a citizen of the State of California and a resident of the County of San
7 Diego.

8 9. Defendant Special Agent Jeremy Feuz is now, and, at all times herein alleged, was a
9 Special Agent of the Drug Enforcement Administration. On information and belief, Special Agent
10 Feuz is a citizen of the State of California and a resident of the County of San Diego.

11 10. Defendant Frank Haskell is now, and, at all times herein alleged, was a Task Force
12 Officer of the Drug Enforcement Administration. On information and belief, Frank Haskell is a
13 citizen of the State of California and a resident of the County of San Diego.

14 11. Defendant Andrew Aguilar is now, and, at all times herein alleged, was a Task Force
15 Officer of the Drug Enforcement Administration. On information and belief, Andrew Aguilar is a
16 citizen of the State of California and a resident of the County of San Diego.

17 12. Defendant Jason Stein is now, and, at all times herein alleged, was a Task Force
18 Officer of the Drug Enforcement Administration. On information and belief, Jason Stein is a
19 citizen of the State of California and a resident of the County of San Diego.

20 13. Defendant Timothy Smith is now, and, at all times herein alleged, was a Task Force
21 Officer of the Drug Enforcement Administration. On information and belief, Mr. Smith is a
22 citizen of the State of California and a resident of the County of San Diego.

23 14. Defendant Michael Astorga is now, and, at all times herein alleged, was a Task Force
24 Officer of the Drug Enforcement Administration. On information and belief, Mr. Astorga is a
25 citizen of the State of California and a resident of the County of San Diego.

26 15. Defendant Christopher Morris is now, and, at all times herein alleged, was a Task
27 Force Officer of the Drug Enforcement Administration. On information and belief, Mr. Morris is
28 a citizen of the State of California and a resident of the County of San Diego.

1 16. Defendant Steve Bodine is now, and, at all times herein alleged, was a sergeant of
2 the San Diego Sheriff's Department. On information and belief, Mr. Bodine is a citizen of the
3 State of California and a resident of the County of San Diego.

4 17. Defendant Justin Moore is now, and, at all times herein alleged, was a detective of
5 the San Diego Sheriff's Department. On information and belief, Mr. Moore is a citizen of the
6 State of California and a resident of the County of San Diego.

7 18. Defendant Dwayne Prickett is now, and, at all times herein alleged, was a detective
8 of the San Diego Sheriff's Department. On information and belief, Mr. Prickett is a citizen of the
9 State of California and a resident of the County of San Diego.

10 19. Defendant Christopher Perez is now, and, at all times herein alleged, was a detective
11 of the San Diego Sheriff's Department. On information and belief, Mr. Perez is a citizen of the
12 State of California and a resident of the County of San Diego.

13 20. Defendant Ricardo Andrade is now, and, at all times herein alleged, was a detective
14 of the San Diego Sheriff's Department. On information and belief, Mr. Andrade is a citizen of the
15 State of California and a resident of the County of San Diego.

16 21. DOES 1 through 50 are unknown to Plaintiff. Plaintiff will amend the Complaint to
17 identify them when their identities are ascertained. Plaintiff is informed and believes that each of
18 DOES 1 through 50 was the principal, parent, subsidiary, affiliate, agent, servant, employee,
19 employer, director, officer, co-conspirator, shareholder, director, partner, joint-venturer, and/or co-
20 venturer of his/her/its co-defendants and, in doing the things herein alleged, was acting within the
21 course and scope of his/her/its employment and/or within his/her/its authority, and/or in concert
22 with and/or with the permission, ratification, or consent of his/her/its co-defendants, or otherwise
23 as a tortfeasor. Plaintiff is informed and believes that each of DOES 1 through 50 is responsible in
24 some manner for the occurrences and omissions herein alleged, and that Plaintiffs damages as
25 herein alleged were proximately caused by their conduct.

26 22. Plaintiff is informed and believes and thereon allege that each of the defendants
27 designated herein as DOE took part in and participated with Defendants in all matters referred to
28 herein and was in some manner responsible for the injuries and losses suffered by Plaintiff.

23. Plaintiff is informed and believes and thereon allege that at all times herein mentioned each of the Defendants was the agent, servant and/or employee or occupied other relationships with each of the other named Defendants and at all times herein mentioned acted within the course and scope of said agency and/or employment and/or other relationship and each other Defendant has ratified, consented to, and approved the acts of his agents, employees, and representatives, and that each actively participated in, aided and abetted, or assisted one another in the commission of the wrongdoing alleged in this Complaint.

VENUE

24. The claims alleged herein arose, in San Diego County, State of California. Therefore, venue properly lies in the Superior Court of the State of California in and for the County of San Diego. (See California Code of Civil Procedure §§ 393 and 395(a)).

25. Plaintiff timely filed an administrative claim with the Drug Enforcement Administration and the individually named defendants, within six months of the actions giving rise to this suit. The administrative claim was submitted on January 30, 2020. The claim was rejected, and this suit is properly filed within six months of that rejection.

26. Plaintiff timely filed an administrative claim with San Diego County and the individually named defendants pursuant to California Government Code § 910, within six months of the actions giving rise to this suit. The administrative claim was submitted on January 30, 2020. The claim was rejected on April 2, 2020. This suit is properly filed within six months of that rejection. See Cal. Gov't Code § 945.6.

FACTUAL ALLEGATIONS

27. On January 1, 2017, the California Industrial Hemp Farming Act became effective, which permits the cultivation of hemp. (See Cal. Food & Agr. Code §81006)

28. On December 20, 2018, the Agriculture Improvement Farming Act ("Farm Bill") was signed into law by the United States Government, which legalized the regulated production of hemp. (See 7 U.S.C. 1639o-1639s)

29. Industrial hemp or Hemp is defined as "an agricultural product, whether growing or not, that is limited to types of the plant Cannabis sativa L. and any part of that plant, including

1 seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant,
2 cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol
3 concentration of no more than 0.3 percent on a dry weight basis”. (See Cal. Food & Agr. Code
4 §81000(a)(6)).

5 30. Hemp, as defined in the Agriculture Improvement Farming Act, “means the plant
6 Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives,
7 extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a
8 delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis”.
9 (See 7 U.S.C. §1639o).

10 31. Cannabis is defined as “all parts of the plant Cannabis sativa Linnaeus, Cannabis
11 indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude
12 or purified, extracted from any part of the plant; and every compound, manufacture, salt,
13 derivative, mixture, or preparation of the plant, its seeds, or resin.” Further, under this definition
14 “cannabis” does not mean “industrial hemp”. (See Cal. Bus. & Prof. Code §26001(f)).

15 32. Additionally, the Control Substance Act defines marijuana as “all parts of the
16 Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of
17 such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such
18 plant, its seeds or resin. Further, the Act provides that the term “marihuana” does not include
19 hemp as defined in 7 U.S.C. §1639o. (See 21 U.S.C. § 802(16)).

20 33. Under both California law and federal law, industrial hemp and “Marijuana” are two
21 separate, legally distinct choses.

22 34. On August 1, 2019, Plaintiff signed a lease agreement for 7250 Rainbow Heights
23 Rd., Fallbrook, CA 92028. Tenants (herein “Tenant”) occupied the land and cultivated hemp
24 according to the legal permit to do so.

25 35. On August 22, 2019, Plaintiff received a Registration Issuance from Defendant,
26 County of San Diego, for outdoor hemp cultivation and storage at 7250 Rainbow Heights Rd.,
27 Fallbrook, CA 92028. Plaintiff’s registration number is 37-190057G.

28

1 36. From approximately August of 2019 through September 12th, 2019, Plaintiff
2 cultivated hemp plants at 7250 Rainbow Heights Rd., Fallbrook, CA 92028. At all relevant times,
3 these plants had a laboratory analysis finding of less than 0.01 percent a delta-9
4 tetrahydrocannabinol concentration. Therefore, all these plants cultivated by Plaintiff was legally
5 “Industrial Hemp” and *not* “Marijuana”.

6 37. At all relevant times the industrial hemp cultivated at 7250 Rainbow Heights Rd.,
7 Fallbrook, CA 92028 was the sole property of AGRO DYNAMICS, LLC, and no other third party
8 had any claim of right to the industrial hemp. At all relevant times, only AGRO DYNAMICS,
9 LLC had the right to possession of the industrial hemp.

10 38. On September 12, 2019, Plaintiff AGRO DYNAMICS, LLC had approximately
11 three thousand (3,000) industrial hemp plants cultivating at 7250 Rainbow Heights Rd., Fallbrook,
12 CA 92028.

13 39. On September 12, 2019, Defendants, and/or other law enforcement officers acting
14 under color of law, executed Search Warrant Number 61976 (herein “Warrant”) for the property
15 located at 7250 Rainbow Heights Rd., Fallbrook, CA 92028 (herein “Property”).

16 40. The Affidavit for this Search Warrant was based on a statement by Defendant,
17 Special Agent Paul Gelles, dated September 11, 2019.

18 41. The Warrant is facially invalid and does not comply with the requirements of
19 California law.

20 42. The Warrant authorized, in relevant part, the seizure of the following:

- 21 a. Bulk marijuana;
- 22 b. Processed marijuana;
- 23 c. Marijuana trimmings;
- 24 d. Marijuana cigarettes;
- 25 e. Marijuana plants, seeds and derivatives of marijuana;
- 26 f. Items used in the use, cultivation, sale and transfer of marijuana.

27 43. The Warrant did not authorize the seizure of industrial hemp.

28

1 44. The Warrant did not state any efforts taken by the affiant or any law enforcement
2 personnel to contact the County of San Diego to determine if there was a valid registration for a
3 hemp cultivation on the premises.

4 45. Defendants, and/or other persons or agencies acting at their direction seized AGRO
5 DYNAMICS, LLC's industrial hemp that was being cultivated at 7250 Rainbow Heights Rd.,
6 Fallbrook, CA 92028.

7 46. While Defendants were executing the Warrant on the Property, Defendants, and/or
8 other persons or agencies acting at their direction were advised by the tenant that the plants in
9 question were a legal cultivation duly registered by the County of San Diego. The tenant further
10 offered to show law enforcement officers acting on behalf of Defendants proof of registration
11 issued by the County of San Diego. The Defendants and/or other persons or agencies acting at
12 their direction explicitly rejected these warnings and proceeded to seize Plaintiff's property.
13 Therefore, under the terms of the Warrant, the Defendants did not have the lawful authority to
14 seize the industrial hemp.

15 47. On information and belief, the Defendants have destroyed Plaintiff's industrial
16 hemp.

17 48. At all relevant times, all Defendants have been acting under color of law.

18 49. Plaintiff's industrial hemp has a value of not less than \$3,450,671, or an amount to
19 be proven at trial.

20 **FIRST CAUSE OF ACTION**
21 **42 U.S.C. § 1983—Fourth Amendment**
22 **Unreasonable Search and Seizure/Destruction**
 (All Defendants)

23 50. Plaintiff fully incorporates the preceding paragraphs by reference herein.

24 51. 42. U.S.C. §1983 states, "Every person, who under color of any statute, ordinance,
25 regulation, custom or usage of any state or territory or the District of Columbia subjects or causes
26 to be subjected any citizen of the United States or other person within the jurisdiction thereof to
27 the deprivation of any rights, privileges or immunities secured by the constitution and law shall be
28

1 liable to the party injured in an action in law, suit in equity, or other appropriate proceeding for
2 redress”

3 52. All individual Defendants to this claim, at all relevant times, were acting under the
4 color of State law in their capacity as officers and/or agents of the Drug Enforcement
5 Administration, County of San Diego Sheriff’s Department, and/or unknown law enforcement,
6 and their acts or omissions were conducted in the scope of their employment.

7 53. The Fourth Amendment of the United States Constitution protects the citizens from
8 unreasonable searches and seizures and requires a warrant to search a person or seize anything be
9 supported by probable cause. The seizure of Plaintiff’s industrial hemp by the Defendants when
10 executing the Warrant was not supported by probable cause and was therefore obtained in
11 violation of Plaintiff’s rights protected by the Fourth Amendment to the United States
12 Constitution.

13 54. The Fourth Amendment to the United States Constitution protects the citizens from
14 unreasonable searches and seizures and requires anything to be seized to be particularly described
15 in a search warrant.

16 55. On information and belief, Defendants willfully, and maliciously violated Plaintiff’s
17 right to be free from unreasonable searches and seizures under the Fourth Amendment by, among
18 other things: (1) failing to ascertain the legal status of the industrial hemp cultivation at 7250
19 Rainbow Heights Rd., Fallbrook, CA 92028; (2) not heeding to the tenant’s advisement that the
20 industrial hemp plants were a legal cultivation lawfully registered by the County of San Diego; (3)
21 recklessly disregarding the tenant’s offer to show Defendants proof of registration issued by the
22 County of San Diego; (4) seizing Plaintiff’s lawfully registered industrial hemp plants; (5) failing
23 to provide adequate training for officers to distinguish marijuana from legal hemp.

24 56. The Warrant authorized the seizure of marijuana, not industrial hemp. Defendants
25 knowingly, intentionally, and/or negligently took Plaintiff’s industrial hemp, in violation of
26 Plaintiff’s rights protected by the Fourth Amendment to the United States Constitution.

27 57. Given the gross insufficiency of the search warrant and the gross deviations from its
28 scope, the seizure is an unlawful violation of the Fourth Amendment.

58. As a proximate result of these acts and/or omission, Plaintiff have suffered damages in an amount to be proven at trial, presently estimated to be no less than \$3,450,671.

SECOND CAUSE OF ACTION
42 U.S.C. § 1983—Fifth Amendment
Taking of Private Property Without Just Compensation
(All Defendants)

59. Plaintiff incorporates the preceding paragraphs by reference herein.

60. 42 U.S.C. §1983 states, “Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action in law, suit in equity, or other appropriate proceeding for redress”

61. All individual Defendants to this claim, at all relevant times, were acting under the color of State law in their capacity as officers and/or agents of the Drug Enforcement Administration, County of San Diego Sheriff’s Department, and/or unknown law enforcement, and their acts or omissions were conducted in the scope of their employment.

62. The Fifth Amendment of the United States Constitution prohibits the taking of private property for public use without just compensation.

63. Plaintiff had a protectable property interest in its industrial hemp crops which the Defendants intentionally destroyed, through the unlawful seizing and destruction Plaintiff’s lawfully registered industrial hemp plants.

64. Defendants’ conduct, seizing the Plaintiff’s industrial hemp plants, constituted a taking of Plaintiff’s property under the Fifth Amendment to the United States Constitution.

65. The Defendants never provided any compensation to Plaintiff for the taking of Plaintiff’s property.

66. Defendants did not take Plaintiff’s industrial hemp for public use.

67. On information and belief, the Drug Enforcement Administration, the County of San Diego Sheriff’s Office, the County of San Diego, and other unknown law enforcement personnel

1 and/or agencies willfully and maliciously (1) intentionally authorized or directed the individual
 2 Defendants and/or law enforcement officers acting at their direction, to undertake the actions that
 3 violated Plaintiff's rights; (2) ratified the actions the individual Defendants and/or law
 4 enforcement officers acting at their direction, took to violate Plaintiff's rights; and (3) failed to
 5 adequately train the individual Defendants and/or law enforcement officers acting at their
 6 direction to distinguish between industrial hemp and cannabis.

7 **THIRD CAUSE OF ACTION**

8 **Violation of Cal. Const. Art. I, § 13—Unreasonable Search and Seizure (All Defendants)**

9 68. Plaintiff incorporates the preceding paragraphs by reference herein.

10 69. As a duly registered California Limited Liability Company, Plaintiff has a right to be
 11 secure in its property against unreasonable searches and seizures, recognized under the California
 12 Constitution, Art. I, § 13.

13 70. Plaintiff's hemp business is, and, at all times relevant herein, licensed by the County
 14 of San Diego to cultivate and store industrial hemp at 7250 Rainbow Heights Rd., Fallbrook, CA
 15 92028.

16 71. By unlawfully seizing Plaintiff's industrial hemp plants, Defendants violated
 17 Plaintiff's rights under Art. I, § 13 to be secure in its person and property against unreasonable
 18 searches and seizures.

19 72. The County of San Diego is liable for the wrongful acts of the individual Defendants
 20 and/or law enforcement officers acting at their direction under § 815.2(a) of the California
 21 Government Code, which provides that a public entity is liable for the injuries caused by its
 22 employees within the scope of the employment if the employee's act would subject him or her to
 23 liability.

24 **FOURTH CAUSE OF ACTION**

25 **Violation of Cal. Const. Art. I § 19**

26 **Taking of Private Property without Just Compensation (All Defendants)**

27 73. Plaintiff incorporates the preceding paragraphs by reference herein.
 28

83. Defendants willfully, maliciously, and substantially interfered with Plaintiff's property by taking possession of Plaintiff's personal property and destroying Plaintiff's hemp plants.

8 85. Plaintiff did not consent to Defendants' actions.

10 || 87. Plaintiff was harmed by Defendants' actions.

12 88. Defendants' conduct has caused Plaintiff, Agro Dynamics LLC, substantial damages.
13 While the specific amount will be proven at trial, Plaintiff's damages are currently believed to no
14 less than \$3,450,671.

20 90. First, the plants would have yielded thousands of grams of CBD.

23 92. *Third*, the plants would have yielded thousands of hemp-derived terpenes.

26 || 94. *Fifth*, the plants would have yielded thousands of pounds of hemp fibers.

1 96. In addition, and wholly apart from the lost revenue streams from Plaintiff's
2 commercialization of its hemp, Defendants' misconduct also directly caused damages to
3 Plaintiff's business contracts and business expectations.

4 **PRAYER FOR RELIEF**

5 97. Wherefore Agro Dynamics, LLC requests relief as follows, and according to proof, against
6 each Defendant:

- 7 A. Compensatory damages in an amount according to proof;
8 B. Punitive damages against each Defendant in an amount according to proof;
9 C. Attorneys' fees, under 42 U.S.C. § 1998, and any other applicable provision of
10 law;
11 D. Statutory damages under 42 U.S.C. §1983;
12 E. Such other relief as may be warranted or as is just and proper.

13 **JURY TRIAL DEMANDED**

14 Plaintiff hereby demand a trial by jury for all issues so triable.

15
16 DATED: September 18, 2020

17 S. Edward Wicker
18 S. Edward Wicker
19 Attorney for Plaintiff
20
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EXHIBIT 1 TO COMPLAINT

Agro Dynamics, LLC v Drug Enforcement
Administration, et al

San Diego County
Claim and Denial

S. EDWARD WICKER

11440 W. Bernardo Court, Suite 300
San Diego, CA 92127

ATTORNEY AT LAW

edward@ewickerlaw.com
(760) 735-6100

January 30, 2020

Office of County Counsel
Claims and Investigation Division
1600 Pacific Highway, Room 355
San Diego, CA 92101

Re: Unlawful Search and Seizure of A Legal Hemp Cultivation – Claim

To the County of San Diego:

Pursuant to Government Code §§ 900 *et seq.*, enclosed, please find a claim against the County of San Diego and several unnamed San Diego County Sheriff officers and other as yet unnamed County agencies and/or personnel submitted on behalf of Agro Dynamics, LLC. The claim provides all information required by Government Code § 910 and need not be submitted on the city's form. *Blair v. Superior Court* 218 Cal. App. 3d 221, 224-26 (1990). Counsel has signed the application and the claim, as authorized by Government Code § 910.2.

Sincerely,



S. Edward Wicker
Attorney at Law

CLAIM

(Government Code § 910)

To: COUNTY OF SAN DIEGO

1. Claimant's name and post office address:

Agro Dynamics, LLC
16830 Ventura Blvd., Suite #360
Encino, CA 91436

2. Post Office address to which notice shall be sent:

S. Edward Wicker
Attorney at Law
11440 W. Bernardo Court, Suite 300
San Diego, CA 92127
Phone: (760) 735-6100

3. Date, place, and other circumstances giving rise to the claim:

On Thursday, September 12, 2019, at or about 8:52 am, at the property located at 7250 Rainbow Heights Road, Fallbrook, County of San Diego, State of California, 92028, Parcel number 109-020-57-00, County of San Diego Sheriffs and other persons or agencies acting at their direction, illegally seized and destroyed approximately 3,000 hemp plants. These valuable plants were a legal hemp cultivation registered by the County of San Diego on August 22, 2019 under Registration # 37-190057G. The illegal seizure and destruction of this hemp cultivation by the County of San Diego law enforcement personnel and/or agents acting on their behalf caused extensive financial damages, business losses, and damages to business' expectations of claimants in excess of Three Million (\$3,000,000.00) Dollars.

The hemp cultivation in question was laboratory tested on August 19, 2019 and was within legal limits of the Hemp Farming Act of 2018 with less than 0.3% THC. Specifically, a Victory Analysis laboratory test for this hemp cultivation showed results of less than 0.01 THC which is clearly within legal limits.

The County of San Diego Sheriffs and/or other persons or agencies acting at their direction purportedly acted under the Search Warrant Number 61976 issued by Judge Joseph P. Brannigan of the San Diego Superior Court dated September 11, 2019. The Affidavit for this Search Warrant was based on a statement by Special Drug Enforcement Agent, Paul Gelles, dated September 11, 2019. This Affidavit recites expertise and

experience of the agent with regard to illegal drugs. But the Affidavit is silent with regard to any expertise or training of the agent in regard to a legal hemp cultivation. The Affidavit is also silent with regard to any efforts by the affiant or any law enforcement personnel to contact the County of San Diego to determine if there was a valid registration for a hemp cultivation on the premises. Since the issuance of Registration by the County of San Diego for this hemp cultivation was made on August 22, 2019, and the search and seizure was made on September 12, 2019, the County of San Diego Sheriffs and/or other persons or agencies acting at their direction acted negligently by failing to ascertain the legal status of the hemp cultivation on the premises. These actions by law enforcement violated 42 U.S.C. Section 1983 and constituted an unreasonable search, seizure and destruction of property. The County was also negligent by failing to provide proper education and training for the law enforcement personnel involved concerning the legal status of hemp cultivation in California.

When law enforcement found the legal hemp cultivation, a resident on the property, Mr. Darren Jackman, advised them that the hemp plants were a legal cultivation duly registered by the County of San Diego. The resident further offered to show law enforcement the proof of registration issued by the County of San Diego. But law enforcement acted in a reckless disregard of the claimant's rights and proceeded to completely destroy the entire hemp cultivation of approximately 3,000 plants. As a result of these actions, the claimant has sustained economic damages.

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim:

- Loss of property in the form of approximately 3,000 legal and registered hemp plants;
- Damages to business contracts;
- Damages to business expectations.

5. Name or names of public employees causing the injury, damage, or loss:

The names of the County of San Diego Sheriff's personnel and/or other persons or agencies acting at their direction are yet to be known.

Other public employees responsible are yet to be known.

Other agencies involved are yet to be known.

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6. Amount claimed:

No amount stated, pursuant to Government Code § 910 (f). This case would not be a limited civil case.

Dated January 30, 2020

Submitted on behalf of Agro Dynamics, LLC

A handwritten signature in cursive script, appearing to read "S. Edward Wicker", is written above a horizontal line.

S. Edward Wicker
Attorney for Claimant
(See Govt. Code §910.2)

Supporting Documentation

Attachment 1 – Statement of Information of Agro Dynamics, LLC filed with the Secretary of State of the State of California;

Attachment 2 - County of San Diego proof of registration for industrial hemp cultivation – Registration #: 37-190057G for Agro Dynamics, site location: 7250 Rainbow Heights Rd., Fallbrook, CA 92028;

Attachment 3 - Laboratory Analysis made by Victory Analysis, Sample: 0076.0235, Strain: Cherry Blossom #2, Dated: August 19, 2019;

Attachment 4 - Search Warrant No.: 61976 from the Superior Court of the State of California, County of San Diego dated September 11, 2019;

Attachment 5 – Affidavit for Search Warrant n.: 61976 from the Superior Court of the State of California, County of San Diego dated September 11, 2019.

Basis for computation of damages and losses

Attachment 6 - U.S. Wholesale Hemp Price Benchmarks from October 2019;

Attachment 7 - Agro Dynamics, LLC “Hemp Farm Sales Projections.”



County of San Diego

OFFICE OF COUNTY COUNSEL

CLAIMS AND INVESTIGATION DIVISION

1600 PACIFIC HIGHWAY, ROOM 355, SAN DIEGO, CALIFORNIA 92101-2469

April 2, 2020

Agro Dynamics LLC
c/o S. Edward Wicker Esq.
11440 W. Bernardo Court, Suite 300
San Diego, CA 92127

Re: Client/Claimant: Agro Dynamics LLC
County File Number: 200030
Date of Incident: September 12, 2019

SUBJECT: NOTICE OF REJECTION OF CLAIM

The subject claim has been received by the Claims Division for investigation and a determination of liability, if any.

The liability of a governmental entity and its employees to a person who claims damages is strictly limited by the laws within the State of California. Your claim has been reviewed within the terms and restrictions of those laws. We regret that investigation has obliged us to conclude that the claim must be rejected. Therefore, the claim is hereby rejected this date.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on those causes of action recognized under the Government Claims Act. See Government Code Section 945.6.

Sincerely,

Office of County Counsel
Claims and Investigation Division
(619) 531-4899

EXHIBIT 2 TO COMPLAINT

Agro Dynamics, LLC v Drug Enforcement
Administration, et al

Drug Enforcement Administration
Claim and Denial

S. EDWARD WICKER

11440 W. Bernardo Court, Suite 300
San Diego, CA 92127

ATTORNEY AT LAW

edward@ewickerlaw.com
(760) 735-6100

January 30, 2020

Drug Enforcement Agency
San Diego Office
4560 Viewridge Avenue
San Diego, CA 92123-1672

Re: Unlawful Search and Seizure of A Legal Hemp Cultivation – Federal Tort Claim

Dear Drug Enforcement Agency:

Enclosed, please find a Federal Tort Claim and attachments. This claim is made in compliance with Standard Form 95 and is against the Federal Drug Enforcement Agency and other Federal Law Enforcement Agencies yet unnamed and/or personnel to be determined. This claim is submitted on behalf of Agro Dynamics, LLC.

Sincerely,



S. Edward Wicker
Attorney For Agro Dynamics, LLC

Received by AMBrowner 01/31/2020

FEDERAL TORT CLAIM

(Standard Form 95, Claim for Damage, Injury, or Death)

To: DEA – Drug Enforcement Agency

1. Claimant's name and post office address:

Agro Dynamics, LLC
16830 Ventura Blvd., Suite #360
Encino, CA 91436

2. Legal Representative and Post Office address to which notice shall be sent:

S. Edward Wicker
Attorney at Law
11440 W. Bernardo Court, Suite 300
San Diego, CA 92127
Phone: (760) 735-6100

3. Date, place, and other circumstances giving rise to the claim:

On Thursday, September 12, 2019, at or about 8:52 am, at the property located at 7250 Rainbow Heights Road, Fallbrook, County of San Diego, State of California, 92028, Parcel number 109-020-57-00, Federal Drug Enforcement Agency (DEA) agents and other persons or agencies acting at their direction, illegally seized and destroyed approximately 3,000 hemp plants. These valuable plants were a legal hemp cultivation registered by the County of San Diego on August 22, 2019 under Registration # 37-190057G. The illegal seizure and destruction of this hemp cultivation by DEA law enforcement personnel and/or agents acting on their behalf caused substantial financial damages, business losses, and damages to business' expectations of claimants in the total amount of Three Million Four Hundred Fifty Thousand Six Hundred Seventy-one (\$3,450,671.00) Dollars.

The hemp cultivation in question was laboratory tested on August 19, 2019 and was within legal limits of the Hemp Farming Act of 2018 with less than 0.3% THC. Specifically, a Victory Analysis laboratory test for this hemp cultivation showed results of less than 0.01 THC which is clearly within legal limits.

The DEA agents and/or other persons or agencies acting at their direction purportedly acted under the Search Warrant Number 61976 issued by Judge Joseph P. Brannigan of the San Diego Superior Court dated September 11, 2019. The Affidavit for this Search Warrant was based on a statement by Special Drug Enforcement Agent, Paul

Gelles, dated September 11, 2019. This Affidavit recites expertise and experience of the agent with regard to illegal drugs. But the Affidavit is silent with regard to any expertise or training of the agent in regard to a legal hemp cultivation. The Affidavit is also silent with regard to any efforts by the affiant or any law enforcement personnel to contact the County of San Diego to determine if there was a valid registration for a hemp cultivation on the premises. Since the issuance of Registration by the County of San Diego for this hemp cultivation was made on August 22, 2019, and the search and seizure was made on September 12, 2019, the DEA and/or other persons or agencies acting at their direction acted negligently by failing to ascertain the legal status of the hemp cultivation on the premises. These actions by law enforcement violated 42 U.S.C. Section 1983 and constituted an unreasonable search, seizure and destruction of property. The DEA was also negligent by failing to provide proper education and training for the law enforcement personnel involved concerning the legal status of hemp cultivation in the United States.

When law enforcement found the legal hemp cultivation, a resident on the property, Mr. Darren Jackman, advised them that the hemp plants were a legal cultivation duly registered by the County of San Diego. The resident further offered to show law enforcement the proof of registration issued by the County of San Diego. But law enforcement acted in a reckless disregard of the claimant's rights and proceeded to completely destroy the entire hemp cultivation of 2,924 plants. As a result of these actions, the claimant has sustained economic damages.

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim:

- Loss of property in the form of 2,924 legal and registered hemp plants;
- Damages to business contracts;
- Damages to business expectations.

5. Name or names of public employees causing the injury, damage, or loss:

The names of the DEA Agents are: Paul Gelles and Andrew Aguilar; and other personnel and/or other persons or agencies acting at their direction yet to be known. Other public employees responsible are yet to be known. Other agencies involved are yet to be known.

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//

6. Amount claimed:

Three million four hundred fifty thousand six hundred seventy-one (\$3,450,671.00) Dollars.

Dated January 30, 2020

Submitted on behalf of Agro Dynamics, LLC

A handwritten signature in cursive script, appearing to read "S. Wicker", is written over a horizontal line.

S. Edward Wicker
Attorney for Claimant

Supporting Documentation

Attachment 1 – Statement of Information of Agro Dynamics, LLC filed with the Secretary of State of the State of California;

Attachment 2 - County of San Diego proof of registration for industrial hemp cultivation – Registration #: 37-190057G for Agro Dynamics, site location: 7250 Rainbow Heights Rd., Fallbrook, CA 92028;

Attachment 3 - Laboratory Analysis made by Victory Analysis, Sample: 0076.0235, Strain: Cherry Blossom #2, Dated: August 19, 2019;

Attachment 4 - Search Warrant No.: 61976 from the Superior Court of the State of California, County of San Diego dated September 11, 2019;

Attachment 5 – Affidavit for Search Warrant n.: 61976 from the Superior Court of the State of California, County of San Diego dated September 11, 2019.

Basis for computation of damages and losses

Attachment 6 - U.S. Wholesale Hemp Price Benchmarks from October 2019;

Attachment 7 - Agro Dynamics, LLC “Hemp Farm Sales Projections.”



U.S. Department of Justice
Drug Enforcement Administration
Office of Chief Counsel (CCL/WMS)
Civil Litigation Section
8701 Morrisette Drive
Springfield, Virginia 22152

May 15, 2020

VIA EMAIL – edward@ewickerlaw.com

S. Edward Wicker, Esq.
11440 W. Bernardo Court, Suite 300
San Diego, CA 92127

Re: Agro Dynamics, LLC

Dear Mr. Wicker:

The U.S. Department of Justice, Drug Enforcement Administration (DEA) has reviewed the administrative tort claim, dated January 30, 2020, that you submitted on behalf of Agro Dynamics, LLC.

This claim is hereby denied. If you are dissatisfied with the denial of this claim, suit may be filed in the appropriate United States District Court no later than six months after receiving the certified copy of this letter. This is not to imply, however, that such a suit would be successful. *See* 28 CFR § 14.9.

A hard copy of this letter will be delivered via certified mail when we are able to return to the office.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Tiersky".

Marcia N. Tiersky
Associate Chief Counsel
Civil Litigation Section

EXHIBIT 3 TO COMPLAINT

Agro Dynamics, LLC v Drug Enforcement
Administration, et al

San Diego County
Hemp Registration Issuance



County of San Diego

HA DANG
AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS AND MEASURES

DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES
9325 HAZARD WAY, STE. 100, SAN DIEGO, CA 92123-1217
(858) 694-2739
FAX (858) 467-9697
<http://www.sdcawm.org>

MÉGAN MOORE
ASST. AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS AND MEASURES

August 22, 2019

AGRO DYNAMICS, LLC
Registration #: 37-190057G
PO BOX 2889
SANTA ROSA, CA 95405

Subject: Registration Issuance

Enclosed is your proof of registration for industrial hemp cultivation as a grower.
The following cultivation sites and approved seed cultivars are registered:

Site #1: 7250 Rainbow Heights Rd., Fallbrook, CA 92028

APN: 109-020-57-00

GPS Coordinates: 33.419691, -117.119361

Site Purpose: Outdoor Cultivation & Storage

Size: 1.71 Acres

Approved Seed Cultivars:

1. Cherry Blossom produced by Gem Botanicals of Nevada, USA and tested by Victory Analytics on 07/07/2019

Keep this letter along with the proof of registration to document the registered cultivation sites.

In accordance to Sections 81003(c)-(d) and 81004(c)-(d) of the California Food and Agricultural Code, registrants must submit a request, prior to planting, for any changes to the cultivation site (s) and/or approved seed cultivar(s) to us. We will notify you when the changes to the application have been approved.

In accordance with Section 81006 of the California Food and Agricultural Code, registrants are required to obtain a laboratory test report indicating the THC content prior to harvest. Sampling must occur no more than 30 days before harvest. Please contact us no less than 30 days before you intend to harvest for further guidance.

If you have any questions, please contact us at (858) 614-7786 or
AgStandards.AWM@sdcounty.ca.gov.

Dinna E. Morris
Deputy Agricultural Commissioner



County of San Diego

HA DANG
AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS AND MEASURES

DEPARTMENT OF AGRICULTURE, WEIGHTS AND MEASURES
9325 HAZARD WAY, STE. 100, SAN DIEGO, CA 92123-1217
(858) 694-2739
FAX (858) 467-9697
<http://www.sdcawm.org>

MÉGAN MOORE
ASST. AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS AND MEASURES

AGRO DYNAMICS, LLC
Registration #: 37-190057G
PO BOX 2889
SANTA ROSA, CA 95405

Thank you for registering to cultivate industrial hemp as a grower. Your registration for industrial hemp cultivation is valid from 08/22/2019 through 08/21/2020.

If you have any questions regarding your registration, please contact the Agricultural Standards Division at (858) 614-7786 or AgStandards.AWM@sdcounty.ca.gov.

County of San Diego
Agricultural Commissioner's Office

PROOF OF REGISTRATION FOR INDUSTRIAL HEMP CULTIVATION

AGRO DYNAMICS, LLC
PO BOX 2889
SANTA ROSA, CA 95405



REGISTRATION #:
37-190057G

REGISTRATION EXPIRES:
08/21/2020

Approving Officer's Signature

Bonnie Wheeler

Title

Supervising Agricultural Standards Inspector

Date

8/22/2019

EXHIBIT 4 TO COMPLAINT

Agro Dynamics, LLC v Drug Enforcement
Administration, et al

Hemp Laboratory Analysis



Victory Analytics

Laboratory Analysis

 Powered by Confident Cannabis
1 of 1

Gem Botanicals

 932 Vegas Valley Dr.
Las Vegas, NM 87107
Client Sample ID: Cherry Blossom #2
Cherry Blossom #2

Plant, Flower - Cured

Sample: 0076.0235

Strain: Cherry Blossom #2

Sample Received: 08/19/2019; Report Created: 08/19/2019



Cannabinoids

<LOQ

Maximum THC*

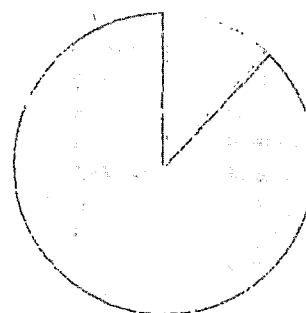
4.39%

Maximum CBD**

Analyte	Mass %	Mass mg/g
THCa	<0.01	<0.1
Δ^9 -THC	<0.01	<0.1
Δ^8 -THC	<0.01	<0.1
CBDa	4.33	43.3
CBD	0.59	5.9
CBDV	<0.01	<0.1
CBN	<0.01	<0.1
CBG	<0.01	<0.1
CBC	NR	NR
Total	4.92	49.2

Fraction of Measured Cannabinoids

CBD (light blue) CBDa (dark blue)



Unit Weight: 2g Total THC = THCa * 0.877 + d9-THC

Total CBD = CBDa * 0.877 + CBD

LOQ = Limit of Quantitation; NR = Not Reported because Not Tested; Tested in accordance with Scepter SOP #11. v2.1 utilizing HPLC



Victory Analytics

 2778 Agua Fria
Santa Fe, NM
(505) 216-9484
<http://www.scepterlabs.com>
Lic#

Kathleen O'Dea

 Kathleen O'Dea
Director

 Confident Cannabis
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(866) 506-5866
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This product has been tested by Victory Analytics using validated testing methodologies. Values reported relate only to the sample tested. Victory Analytics makes no claims as to the efficacy, safety or other risks associated with any detected or non-detected levels of any compounds reported herein. This Certificate shall not be reproduced except in full, without the written approval of Victory Analytics.

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10 Attorneys for the United States
11

12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 AGRO DYNAMICS, LLC, a Wyoming
15 Limited Liability Company,

16 Plaintiff,

17 v.

18 DRUG ENFORCEMENT
19 ADMINISTRATION; SAN DIEGO
20 COUNTY; SPECIAL AGENTS PAUL
21 GELLES. ERIC BALL, KIERAN GRACIA,
22 MARSHA DAWE, ROSS VAN NOSTRAND,
23 AND JEREMY FEUZ; FRANK HASKELL,
24 ANDREW AGUILAR, JASON STEIN,
25 TIMOTHY SMITH, MICHAEL ASTORGA,
26 CHRISTOPHER MORRIS, SGT. STEVE
27 BODINE, DET. JUSTIN MOORE, DET.
28 DWAYNE PRICKETT, DET.
CHRISTOPHER PEREZ, AND DET.
RICARDO ANDRADE; and DOES 1 to 50,
inclusive

Defendants.

Case No. '20CV2082 JAH KSC

CERTIFICATE OF SERVICE

1 IT IS HEREBY CERTIFIED that:

2 I, Janet A. Cabral, am a citizen of the United States over the age of eighteen years
3 and a resident of San Diego County, California; my business address is 880 Front Street,
4 Room 6293, San Diego, California;

5 I am not a party to the above-entitled action.

6 On October 22, 2020, I caused to be served upon counsel for Plaintiff in the above-
7 entitled action a copy of the United States' Notice of Removal by United States mail as
8 follows:

9 S. Edward Wicker
10 11440 W. Bernardo Court, Suite 300
11 San Diego, CA 92127

12
13 DATED: October 22, 2020

Respectfully submitted,

14
15 ROBERT S. BREWER, JR.
16 United States Attorney

17 /s/ Janet A. Cabral
18 Janet Cabral
19 Assistant United States Attorney
20 Attorney for United States
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22
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