

IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT, IN AND  
FOR LEON COUNTY, FLORIDA

PEOPLE UNITED FOR MEDICAL  
MARIJUANA, INC., DIANA DODSON,  
CATHERINE JORDAN AND ROBERTO  
PICKERING,

Plaintiffs,

v.

Case No. 2017-CA-1394

FLORIDA DEPARTMENT OF HEALTH,  
CELESTE PHILIP, M.D., in her official  
capacity as Secretary of Health for the State  
of Florida, OFFICE OF COMPASSIONATE USE,  
and CHRISTIAN BAX, in his official capacity as Director  
of the Office of Compassionate Use,  
Defendants.

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**ORDER GRANTING MOTION TO DISMISS IN PART AND  
DENYING MOTION TO DISMISS IN PART, AND ORDER  
CORRECTING CAPTION**

THIS CAUSE came before the Court on January 25, 2018 for hearing on the defense's motion to dismiss the pending amended complaint. Motions to dismiss must be decided solely by review of the four corners of the pending complaint, unsupplemented by factual information contained elsewhere in the record.

This case raises the question of whether the 2016 constitutional amendment relating to use of medical marijuana [Article X, Section 29] by Floridians with a debilitating medical condition includes the use of

smokeable medical marijuana, rather than marijuana used by other means.<sup>1</sup>

Attorneys Mills and Coe were present for the plaintiffs, plaintiff Jordan and her husband, and deputy solicitor general Nordby and assistant attorney general Brodeen were present for the defense. A court reporter was also present.

The Court having carefully reviewed the pending amended complaint, the motion to dismiss, the plaintiffs' response to the motion and the defense's reply to the response, having heard the arguments of counsel, being aware that the Court must confine its inquiry on a motion to dismiss to the four corners of the pending complaint, and being otherwise fully advised in the premises, it is hereby

**ORDERED AND ADJUDGED** as follows:

1. The motion to dismiss the claims of association plaintiff People United for Medical Marijuana [PUMM] is **granted, without prejudice to PUMM submitting a further amended pleading;** the pending amended complaint lacks sufficient allegations relative to the association's standing.<sup>2</sup>

2. The motion to dismiss the claims of the three individual plaintiffs, all of whom are identified as

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<sup>1</sup>The plaintiffs initially included the State of Florida, the Florida Board of Medicine and its director, and the Florida Board of Osteopathic Medicine and its director, but the plaintiffs voluntarily dismissed their claims against these defendants before responding to the defense motion to dismiss. To facilitate the case going forward, the Court has deleted the now-dismissed defendants from the caption, and has asked the Clerk to correct the caption.

<sup>2</sup>The Court notes that the plaintiff's response to the motion to dismiss contains other facts relative to PUMM's standing, facts which would most likely have resulted in a different ruling on the PUMM standing issue.

being Florida residents with debilitating medical conditions of the type addressed by Article X, Section 29, is **denied**. The pending complaint contains sufficient allegations to meet the standing and active case or controversy criteria for the Court to have jurisdiction over this declaratory judgment action.

3. Plaintiff PUMM may submit an amended pleading within **10 days** from the date of this order, if it wishes.

4. The defendants shall submit their answers and affirmative defenses to the individuals' claims within **14 days** from the date of this order and, upon receipt of any amended pleading from PUMM, shall submit its response to that pleading within **14 days** from the date of receipt.

DONE AND ORDERED this 26<sup>th</sup> day of January, 2018.



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**Karen Gievers**  
**CIRCUIT JUDGE**

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