

United States District Court  
NORTHERN DISTRICT OF CALIFORNIA

ADR

AMERICANS FOR SAFE ACCESS

E-filing

SUMMONS IN A CIVIL CASE

CASE NUMBER:

C07-01049

WHA

v.

DEPARTMENT OF HEALTH AND HUMAN  
SERVICES and FOOD AND DRUG  
ADMINISTRATION

TO: (Name and address of defendant)

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Federal Office Building  
50 United Nations Plaza  
San Francisco, CA 94102

FOOD AND DRUG ADMINISTRATION  
1301 Clay Street, Suite 1180-N  
Oakland, CA 94512-5217

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Joseph D. Elford (S.B. No. 189934)  
Americans for Safe Access  
1322 Webster St., Suite 402  
Oakland, CA 94612  
Tel: (415) 573-7842

an answer to the complaint which is herewith served upon you, within **60** days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Richard W. Wieking

CLERK

DATE FEB 3 1 2007

  
(BY) DEPUTY CLERK

E-filing

1 JOSEPH D. ELFORD (S.B. NO. 189934)  
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12 Fax: (650) 725 0253  
13 amorrison@law.stanford.edu  
14 (application to appear *pro hac vice* pending)

15 Counsel for Plaintiff  
16 AMERICANS FOR SAFE ACCESS

17 IN THE UNITED STATES DISTRICT COURT  
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA

19 AMERICANS FOR SAFE ACCESS, )  
20 )  
21 Plaintiff, )  
22 )  
23 v. )  
24 )  
25 DEPARTMENT OF HEALTH AND )  
26 HUMAN SERVICES and FOOD AND )  
27 DRUG ADMINISTRATION, )  
28 )  
29 Defendants. )

No. 007-01049

COMPLAINT FOR DECLARATORY  
RELIEF AND PERMANENT  
INJUNCTION

I. INTRODUCTION

1. Despite numerous peer-reviewed scientific studies establishing that marijuana is effective in treating AIDS wasting syndrome, muscle spasticity and chronic pain, the Department

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

ADR

WHA

1 of Health and Human Services (“HHS”) continues to tell the public that marijuana “has no  
2 currently accepted medical use in treatment in the United States.” This action is filed under the  
3 Data Quality Act, 44 U.S.C. § 3516, Statutory and Historical Notes, P.L. 106-554 (“Data Quality  
4 Act” or “DQA”), and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*, to  
5 correct this false and misleading statement, as the Data Quality Act requires.  
6

7         2. In 2001, Congress recognized a problem with the quality and integrity of  
8 information disseminated by federal agencies, which prompted it to enact legislation to ensure  
9 the “quality, objectivity, utility, and integrity of information” disseminated by federal agencies.  
10 44 U.S.C. § 3516, Statutory and Historical Notes, P.L. 106-554, Sec. 1(a)(3). Pursuant to this  
11 Act, HHS has an obligation to consider requests from the public to correct erroneous statements  
12 that it has disseminated. Here, more than two years ago, plaintiff Americans for Safe Access  
13 (“ASA”) made such a request of HHS with respect to particular claims that marijuana has no  
14 medical use. In support of its request, ASA supplied citations to numerous scientific studies  
15 confirming the medical efficacy of marijuana, including a report from the prestigious National  
16 Institute of Medicine (“IOM”) that was commissioned by the White House’s Office of National  
17 Drug Control Policy (“ONDCP”).  
18

19  
20         3. HHS responded by engaging in inexcusable delay and, ultimately, issuing a  
21 nonsubstantive rejection of ASA’s request. Left with no other administrative recourse, ASA  
22 filed the instant suit challenging HHS’ arbitrary and unlawful behavior, since the federal  
23 government’s false statements deter sick and dying persons from seeking to obtain medicine that  
24 could provide them needed, and often life-saving, relief. When it comes to medical marijuana,  
25 HHS has failed in its avowed mission of “protecting the health of all Americans and providing  
26 essential human services, especially for those who are least able to help themselves.”  
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1                                   **II.     JURISDICTION AND INTRADISTRICT ASSIGNMENT**

2           4.     Plaintiff ASA brings this action on behalf of itself and its members to redress the  
3 deprivation of rights secured to them under the APA, the Data Quality Act, and HHS' Guidelines  
4 implementing the DQA, 67 Fed.Reg. 61343 (Sept. 30, 2002).  
5

6           5.     This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and  
7 1361.

8           6.     Venue is proper in this judicial district under 28 U.S.C. § 1391(e) and Local Rule  
9 3-5(b) because plaintiff ASA maintains its headquarters in Oakland, California, which is in this  
10 judicial district, and a substantial portion of the events giving rise to the complaint occurred in  
11 this judicial district.  
12

13                                   **III.    THE PARTIES**

14           7.     Plaintiff AMERICANS FOR SAFE ACCESS ("ASA") is a non-profit corporation  
15 headquartered in Oakland, California that has as its primary purpose working to expand and  
16 protect the rights of patients to use marijuana for medical purposes, including providing outreach  
17 and education to the public regarding the use of marijuana for medical purposes. ASA's  
18 members and constituents include seriously ill persons who would have benefited from the use of  
19 marijuana for medical purposes, but who were deterred from using marijuana to ease their  
20 suffering, in part, by HHS' statement that marijuana "has no currently accepted medical use in  
21 treatment in the United States." ASA has devoted significant resources to combat this false  
22 statement, including the expenditure of more than one hundred thousand dollars and hundreds of  
23 hours of staff time producing and disseminating educational materials explaining that scientific  
24 studies demonstrate that marijuana is effective in treating symptoms associated with cancer,  
25 HIV/AIDS, multiple sclerosis, arthritis, gastrointestinal disorders, and chronic pain. HHS'  
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1 failure to correct its false statement that marijuana does not have any currently accepted medical  
2 use in treatment in the United States adversely affects the membership and constituency of ASA  
3 and causes ASA to suffer injury to its ability to carry out its mission, as well as causing ASA to  
4 suffer economic loss in staff pay, funds expended to produce educational materials, and in the  
5 inability to undertake other efforts to improve the access of seriously ill persons to medical  
6 marijuana.  
7

8           8.       Despite HHS' dissemination of false and misleading information about the  
9 effectiveness of marijuana in relieving the pain of victims of certain diseases, four ASA  
10 members obtained the correct information and it dramatically improved their lives.  
11

12           a.       For instance, ASA's Executive Director, Steph Sherer, suffers from a  
13 condition known as torticollis, which causes her to experience inflammation, muscle spasms,  
14 pain throughout her body, and decreased mobility in her neck. Until November of 2001, Ms.  
15 Sherer did not believe that marijuana had medical use, due to statements that it did not on federal  
16 websites; however, after Ms. Sherer suffered kidney damage from the large amounts of  
17 conventional pain killers she was taking, her physician recommended that she try marijuana.  
18 Ms. Sherer heeded her physician's advice and has successfully used marijuana since November  
19 of 2001 to reduce her inflammation, muscle spasms, and pain. Ms. Sherer founded ASA to share  
20 medical information with others in April of 2002.  
21

22           b.       Victoria Lansford ("Lansford") is also an ASA constituent and member  
23 who resides in Blackfoot, Idaho. Ms. Lansford suffers from fibromyalgia, which causes her to  
24 suffer severe chronic pain and muscle spasms. Until 2002, Lansford used a regimen of pain  
25 medications, including a morphine patch and Oxycontin, because she did not believe marijuana  
26 had medical use, due in part to HHS' statements. In 2002, on the recommendation of her sister,  
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1 Lansford started using medical marijuana to treat her chronic pain and muscle spasms. This use  
2 of marijuana has significantly improved Ms. Lansford's health and she has been able to stop  
3 using the highly addictive Oxycontin.  
4

5 c. Jacqueline Patterson is an ASA member and constituent who resides in  
6 Marin, California. Patterson has cerebral palsy, which among its other symptoms impairs  
7 Patterson's speech and causes her to suffer muscle spasticity and pain. Until June of 2001, Ms.  
8 Patterson did not believe that marijuana was medicine because of the federal government's  
9 statements that it was not, but her husband eventually convinced her to try it. Since beginning to  
10 use medical marijuana, Ms. Patterson has significantly improved her ability to speak and rarely  
11 suffers the serious muscle spasms she experienced in her right arm.  
12

13 d. Shane Kintvel is an ASA member and constituent who experiences  
14 chronic pain and muscle spasms as a result of a serious back injury. Until 2002, Mr. Kintvel  
15 used conventional prescription pain medications, including morphine, to treat his chronic pain.  
16 He was led to believe that marijuana would not be effective for this purpose from information he  
17 received from his doctors and his review of federal government websites. In approximately July  
18 of 2002, however, Mr. Kintvel began using marijuana in place of prescription medications.  
19 According to the progress measured by Dr. Michael McMillan, Mr. Kintvel's current treating  
20 physician, Kintvel is now completely mobile, has discontinued his use of morphine, and has lost  
21 more than fifty pounds that he had gained from taking large amounts of morphine and being  
22 unable to exercise.  
23  
24

25 9. Defendant DEPARTMENT OF HEALTH AND HUMAN SERVICES ("HHS")  
26 is an administrative agency of the federal government with its headquarters in Washington, D.C.  
27 HHS claims on its website that it is the "government's principal agency for protecting the health  
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1 of all Americans and providing essential human services, especially for those who are least able  
2 to help themselves.” See <http://www.hhs.gov/>. In April of 2000, in response to a request to  
3 reclassify marijuana, HHS stated its finding that marijuana “has no currently accepted medical  
4 use in treatment in the United States.” *Federal Register*, 66 Fed.Reg. 20038, 20039 (April 18,  
5 2001). HHS continues to disseminate this and related statements in its publications and on  
6 government websites. See [http://www.access.gpo.gov/su\\_docs/fedreg/a010418c.html](http://www.access.gpo.gov/su_docs/fedreg/a010418c.html);  
7 [http://www.deaiversion.usdoj.gov/fed\\_regs/notices/2001/fr0418/fr0418a.htm](http://www.deaiversion.usdoj.gov/fed_regs/notices/2001/fr0418/fr0418a.htm).

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9  
10 10. Defendant FOOD AND DRUG ADMINISTRATION (“FDA”) is a federal  
11 agency within the Department of Health and Human Services. FDA claims as its mission that it  
12 is “responsible for advancing the public health by helping to speed innovations that make  
13 medicines and foods more effective, safer, and more affordable; and helping the public get the  
14 accurate, science-based information they need to use medicines and foods to improve their  
15 health.” See <http://www.fda.gov/opacom/morechoices/mission.html>. The FDA was assigned the  
16 task of evaluating marijuana for medical use by HHS and, in 2001, concluded that marijuana did  
17 not have any medical use. HHS’ statements to this effect are predicated on the FDA’s findings.

#### 18 19 **IV. THE DATA QUALITY ACT AND HHS’ IMPLEMENTING GUIDELINES**

20 11. Passed in 2001 as an amendment to the Paperwork Reduction Act, 44 U.S.C §  
21 3502(1), the Data Quality Act (“DQA”) requires administrative agencies to develop guidelines to  
22 ensure the “quality, objectivity, utility, and integrity of information” they disseminate to the  
23 American public. In furtherance of this goal, the DQA requires all federal agencies to  
24 “[e]stablish administrative mechanisms allowing affected persons to seek and obtain correction  
25 of information maintained and disseminated by the agency that does not comply with the  
26 guidelines.” 44 U.S.C. § 3516, Statutory and Historical Notes.  
27  
28

1           12. In compliance with the DQA mandate, HHS promulgated Guidelines for seeking  
2 and obtaining corrections of information it disseminates. The HHS Guidelines are codified at 67  
3 Fed.Reg. 61343 (Sept. 30, 2002) and can also be found at  
4 <http://www.hhs.gov/infoquality/part1.html>. Similar Guidelines, which are also applicable to  
5 HHS, have been promulgated by the Office of Budget and Management (“OMB”) and are  
6 codified at 67 Fed.Reg. 8452 (Feb. 22, 2002).

8           13. The HHS Guidelines recognize that “[q]uality’ is an encompassing term  
9 comprising utility, objectivity, and integrity.” HHS Guideline D.2.a. The Guidelines define the  
10 term “utility” as referring to the “usefulness of the information to its intended users, including  
11 the public. . . .” HHS Guideline D.2.b. “Objectivity” requires that “disseminated information  
12 [be] presented in an accurate, clear, complete, and unbiased manner.” HHS Guideline D.2.c.  
13 The Guidelines further recognize that agencies responsible for dissemination of “vital health and  
14 medical information” have additional responsibilities to “ensur[e] the timely flow of vital  
15 information from agencies to medical providers, patients, health agencies, and the public.” HHS  
16 Guideline D.2.c.2.

17           14. To allow public participation in ensuring these goals, the HHS Guidelines provide  
18 for both an initial petition to correct erroneous information that HHS has disseminated and an  
19 administrative appeal (or “Information Quality Appeal”). With regard to an initial petition, the  
20 Guidelines state that “[t]he agency will respond to all requests for correction within 60 calendar  
21 days of receipt. If the request requires more than 60 calendar days to resolve, the agency will  
22 inform the complainant that more time is required and indicate the reason why and an estimated  
23 decision date.” HHS Guideline E. If the initial petition is denied by HHS, the HHS Guidelines  
24 provide for an administrative appeal, and the “agency will respond to all requests for appeals  
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1 within 60 calendar days of receipt. If the request requires more than 60 calendar days to resolve,  
2 the agency will inform the complainant that more time is required and indicate the reason why  
3 and an estimated decision date.” HHS Guideline E.  
4

## 5 V. FACTS

6 15. On October 4, 2004, ASA filed with HHS a “Request for Correction of  
7 Information Disseminated by HHS Regarding the Medical Use of Marijuana” (hereinafter  
8 “petition”). Copies of the petition, the initial agency response, ASA’s appeal, the final agency  
9 response to the appeal, and all agency interim responses can be accessed at  
10 <http://aspe.hhs.gov/infoquality/requests.shtml>, item 20.  
11

12 16. ASA’s petition alleges that HHS has disseminated to the public, and is continuing  
13 to disseminate to the public, the statement that marijuana “has no currently accepted medical use  
14 in treatment in the United States.” The petition alleges that this HHS statement, and the findings  
15 underlying it, are inaccurate, in violation of the DQA and the OMB and HHS DQA Guidelines.  
16 The ASA petition alleges with specificity why the HHS information dissemination is inaccurate,  
17 and requests specific corrections. In particular, the ASA petition alleges that numerous peer-  
18 reviewed studies, including the 1999 Institute of Medicine (“IOM”) study commissioned by the  
19 ONDCP establish that marijuana is accepted in the United States as effective in treating various  
20 illnesses.  
21

22  
23 17. On December 1, 2004, HHS sent ASA an interim response to its October 4, 2004,  
24 petition. The interim response stated that HHS had not yet completed its review of the ASA  
25 petition, due to other agency priorities and the need to coordinate agency review. HHS  
26 contended that it needed to consult with the Drug Enforcement Administration (“DEA”), which  
27  
28

1 was considering a petition to reschedule marijuana, to prepare a response, and that it hoped to  
2 provide a response within the next 60 days.

3  
4 18. By letter dated December 20, 2004, ASA protested that HHS, by consulting with  
5 DEA, was inexcusably expanding its review to include considerations outside the scope of  
6 ASA's petition and that such expansion would unduly delay an administrative response to the  
7 requested correction of information.

8  
9 19. Nevertheless, HHS provided a series of interim responses over the next several  
10 months stating that it needed additional time to coordinate agency review. On April 20, 2005,  
11 HHS denied ASA's petition without presenting any evidence that its statements about the lack of  
12 medical efficacy of marijuana are justified. HHS made no mention of its DQA Guideline  
13 D.2.c.2, which requires it to ensure the "timely flow of vital information from agencies to  
14 medical providers, patients, health agencies, and the public."

15  
16 20. On May 19, 2005, ASA filed an appeal of the HHS rejection of its October 4,  
17 2004, petition, pursuant to the HHS Guidelines. *See* HHS Guideline E.

18  
19 21. ASA's May 19, 2005, appeal protested that: (a) HHS was evading its data quality  
20 responsibilities and delaying a response in contravention of its Guidelines, especially by  
21 referring the issues raised by the ASA Petition to a proceeding outside HHS; (b) the issues raised  
22 by ASA's request for correction under the Data Quality Act are different and more limited than  
23 those raised in the DEA rescheduling proceeding, so merging the proceedings would not allow  
24 the consideration of data quality issues "on a timely basis," as required by the HHS Guidelines,  
25 and (c) HHS had ignored its Guidelines stating that data quality complaints must be acted upon  
26 in a timely fashion where there is a reasonable likelihood that persons were suffering actual harm  
27 from the inaccurate information being disseminated by the agency. ASA alleged that "seriously  
28

1 ill persons represented by ASA are suffering from being misled about the medical benefits of  
2 marijuana [by HHS].”

3  
4 22. Again, commencing on July 28, 2005, HHS sent ASA a series of interim  
5 responses to its appeal over a period of more than eleven months, stating that the agency required  
6 additional time to coordinate agency review to prepare a response and that its “goal is to have a  
7 response to your appeal within 60 days of the date of this letter.” Then, on July 12, 2006, HHS  
8 sent ASA a response effectively denying the appeal without addressing the scientific evidence.  
9 HHS merely noted that it anticipated providing a response by September 2006 to a marijuana  
10 rescheduling petition that has been pending before the DEA since October 9, 2002. HHS has not  
11 provided such response to the rescheduling petition as of the filing of this Complaint and its  
12 pattern of delay and evasion demonstrate that it cannot be expected to provide a substantive  
13 public response to the rescheduling petition within any reasonable time.  
14

15  
16 23. As a direct and proximate result of defendants’ actions, ASA has suffered, and  
17 will continue to suffer, the loss of staff time, economic resources, and impairment of its mission.  
18 In particular, to combat HHS’ dissemination of scientifically flawed statements that marijuana  
19 does not have any accepted medical use, ASA has spent more than one hundred thousand dollars  
20 and expended hundreds of hours of staff time producing and disseminating educational materials  
21 explaining that marijuana has medical use in the treatment of cancer, HIV/AIDS, multiple  
22 sclerosis, arthritis, gastrointestinal disorders, and chronic pain. This, in turn, causes ASA  
23 economic loss in staff pay and funds expended to produce educational materials, and it impedes  
24 ASA’s mission of undertaking other efforts to improve the access of qualified patients to medical  
25 marijuana.  
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1 24. Furthermore, as a direct and proximate result of defendants’ actions, ASA and its  
2 members and constituents -- which include seriously ill persons who would have benefited, or  
3 might benefit from the use of marijuana for medical purposes, but whose use of marijuana for  
4 health reasons has been impeded by HHS’ flawed statement that marijuana does not have  
5 medical use -- have been irreparably harmed.

7 25. If not enjoined by this Court, defendants will continue to disseminate  
8 scientifically flawed statements that marijuana “has no currently accepted medical use in  
9 treatment in the United States,” in derogation of the rights of ASA, its constituents, and other  
10 similarly situated persons, and it will refuse to correct this false and misleading information.

## 12 VII. CAUSE OF ACTION

13 26. HHS’ denial of the petition and appeal of ASA under the DQA constitutes final  
14 agency action that is arbitrary, capricious, an abuse of discretion, not in accordance with law, and  
15 in excess of statutory authority and limitations within the meaning of the APA (5 U.S.C.  
16 § 706(2)(A) & (C)).

## 18 VIII. RELIEF SOUGHT

19 WHEREFORE, ASA, on behalf of itself, its constituents, and others similarly situated,  
20 seeks the following relief:

21 1. A declaration that the HHS’ denial of ASA’s petition and administrative appeal is  
22 arbitrary and capricious, an abuse of discretion, and not in accordance with law under the APA;

23 2. A permanent injunction:

24 a. enjoining defendants from continuing to disseminate statements that  
25 marijuana “has no currently accepted medical use in treatment in the  
26 United States;” and  
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b. requiring HHS to make appropriate corrections to all statements that it has disseminated that marijuana “has no currently accepted medical use in treatment in the United States;”

- 3. Costs and attorneys fees incurred in this action; and
- 4. Such other and further relief as may be just and proper.

DATED: February 21, 2007

Respectfully Submitted,




\_\_\_\_\_  
JOSEPH D. ELFORD  
Attorney for Plaintiff  
AMERICANS FOR SAFE ACCESS

1 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

2 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the  
3 named parties, there is no such interest to report.  
4

5  
6 DATED: February 21, 2007

Respectfully Submitted,

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9 \_\_\_\_\_  
10 JOSEPH D. ELFORD  
11 Attorney for Plaintiff  
12 AMERICANS FOR SAFE ACCESS  
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U.S. DISTRICT COURT  
OAKLAND, CALIFORNIA

SERVED ON Katie Glyn  
USAO, OAKLAND  
MANNER OF SERVICE:

PERSONAL  CERT MAIL

OTHER:

DATE 2/21/07 TIME 2:51 PM

E-filing

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4 Oakland, CA 94612  
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8 Counsel for Plaintiff  
9 AMERICANS FOR SAFE ACCESS

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NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADR  
WHA

12 AMERICANS FOR SAFE ACCESS, )  
13 )  
14 Plaintiff, )  
15 v. )  
16 DEPARTMENT OF HEALTH AND )  
17 HUMAN SERVICES and FOOD AND )  
18 DRUG ADMINISTRATION, )  
19 Defendants. )

No. **07-01049**  
**APPLICATION OF ALAN B.  
MORRISON TO APPEAR  
PRO HAC VICE**

No Hearing Scheduled

20 Pursuant to Local Rule 11-3, Plaintiff Americans for Safe Access ("ASA") moves this  
21 Court for an order permitting Alan B. Morrison to appear *pro hac vice* as co-counsel representing  
22 ASA in the above-captioned matter.

23 As grounds for this motion, Alan B. Morrison, hereby declares as follows:

- 24 1. I am a Senior Lecturer at Stanford Law School, Stanford California. I specialize in the  
25 area of administrative law and have expertise regarding the matters to be litigated in this  
26 case.  
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2. I am licensed to practice law in the District of Columbia, and have been admitted to practice in the United State Supreme Court, all of the United States Courts of Appeals, and the United States District Court for the District of Columbia and for the Eastern District of Michigan. I am active member in good standing and currently eligible to practice law in each of these courts. I was admitted to practice in the State of New York in 1967, but resigned from that bar in good standing when I moved to California in 2004. As a result, I am no longer a member of the bars of the United States District Courts for the Southern and Eastern Districts of New York.

3. I have not previously sought *pro hac vice* status in any other matter in California.

4. I agree to abide by the Standards of Professional Conduct set forth in Civil Local Rule 11-4, and to become familiar with the Local Rules and Alternative Dispute Resolution Programs of this Court

5. The undersigned California counsel making this motion is a member in good standing with the bar of this Court and the State Bar of California, and maintains his office in Oakland, California. The undersigned California counsel is associated as co-counsel with Mr. Morrison in representing ASA in this matter.

6. The interests of ASA would be best served and no prejudice would result to the Defendant by this Court permitting Mr. Morrison to appear *pro hac vice* in this matter.


Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21<sup>st</sup> day of February, 2007, in Stanford California.

  
ALAN B. MORRISON

1           WHEREFORE, plaintiff ASA requests that this Court enter an order permitting Alan B.  
2 Morrison to appear as co-counsel *pro hac vice*.

3  
4  
5 DATED: February 21, 2007

Respectfully Submitted,

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7   
8 \_\_\_\_\_  
9 JOSEPH D. ELFORD  
10 Attorney for Plaintiff  
11 AMERICANS FOR SAFE ACCESS  
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1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of California, not a party to this action, and over the age of eighteen  
3 years. My business address is 1322 Webster St., Suite 402, Oakland, CA 94612. On February  
4 21, I served the within document(s):

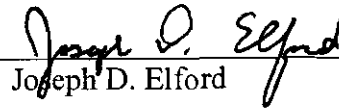
5 **APPLICATION OF ALAN B. MORRISON TO APPEAR *PRO HAC VICE***

6 Via hand delivery to:

7 United States Attorney's Office  
8 Northern District of California  
9 Civil Division  
10 Oakland Branch Office  
11 1301 Clay Street, Suite 340S  
12 Oakland, CA 94612

13 I declare under penalty of perjury under the laws of the State of California that the above is true  
14 and correct.

15 Executed on this 21~~st~~ day of February, 2007, in Oakland, California.

16   
17 \_\_\_\_\_  
18 Joseph D. Elford  
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RECEIVED

FEB 21 2007

IN THE UNITED STATES DISTRICT COURT

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

ADR  
WHA

E-filing No. C07-01049

AMERICANS FOR SAFE ACCESS,

Plaintiff,

v.

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES and FOOD AND  
DRUG ADMINISTRATION,

Defendants.

[PROPOSED] ORDER

Good cause appearing, IT IS HEREBY ORDERED, that Alan B. Morrison's Application  
to Appear *Pro Hac Vice* is GRANTED.

DATED:

United States District Court Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL  
FILED  
FEB 21 2007  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

AMERICANS FOR SAFE ACCESS,

E-filing

No. C 07-01049 WHA

Plaintiff (s),

v.

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES,

Defendant(s).

**ORDER SETTING INITIAL CASE  
MANAGEMENT CONFERENCE  
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable William H. Alsup. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, the handbook entitled "Dispute Resolution Procedures in the Northern District of California" and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the handbook entitled "Dispute Resolution Procedures in the Northern District of California."

**CASE SCHEDULE -ADR MULTI-OPTION PROGRAM**

Date	Event	Governing Rule
2/21/2007	Complaint filed	
5/10/2007	Last day to: <ul style="list-style-type: none"> <li>meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li> <li>file Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference</li> </ul>	<u>FRCivP 26(f) &amp; ADR L.R. 3-5</u> <u>Civil L.R. 16-8</u>
5/17/2007	Last day to complete initial disclosures or state objection in Rule 26(f) Report, file Case Management Statement and file/serve Rule 26(f) Report	<u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u>
5/31/2007	CASE MANAGEMENT CONFERENCE (CMC) in Ctrm 9, 19th Fl,SF at 11:00 AM	<u>Civil L.R. 16-10</u>