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PAGE 58



30 POWERFUL
LITIGATORS

YOU SHOULD KNOW

ONE-ON-ONE WITH
LYNN HONDERD
MARY'S MEDICINALS PAGE 52

AT
EAZE

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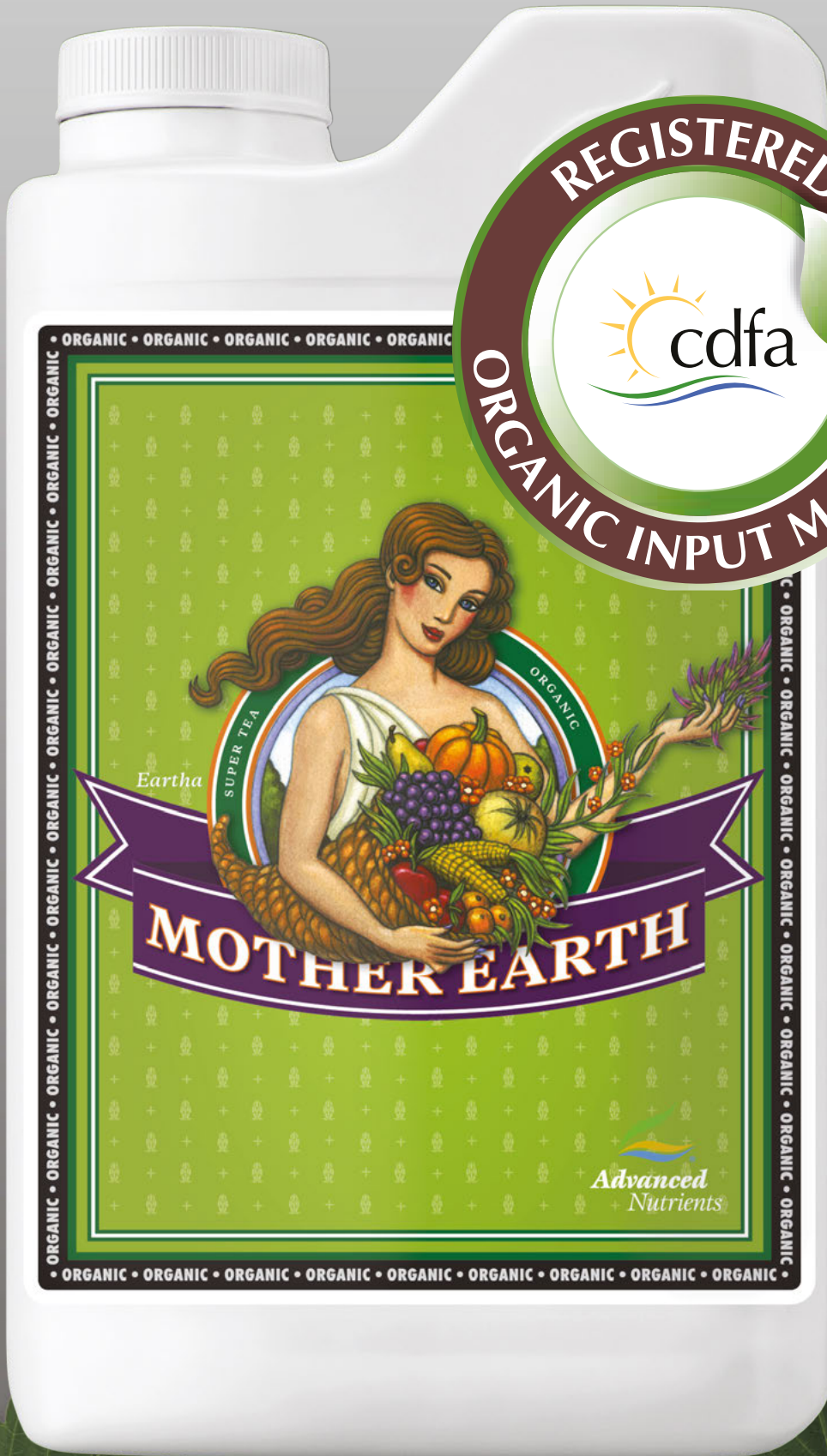
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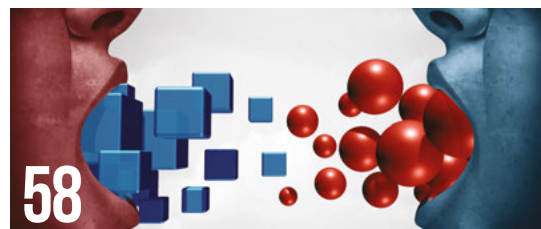
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ONE NATION, UNDER POT

IN 1913, California became the first state to outlaw “marihuana.” Ironically, eighty-three years later California became the first state in the union to legalize medical marijuana. Within four years, eight more states made their own brazen departures from federal law. Today, thirty-one states and the District of Columbia operate fairly broad legal cannabis programs, and sixteen more allow extremely limited use of cannabis-derived products to treat specific medical conditions. *Forty-seven of fifty states* have seen the health-and-wellness (not to mention revenue) potential of weed.

The vast majority of legal states succumbed to the will of voters, not the legislature acting on its own, indicating the American people are willing—perhaps even eager—to throw off the shackles of prohibition that in large part resulted from propaganda. History leaves little doubt federal law grew out of a desire to repress minority groups the majority feared were “rising above their station” and becoming increasingly inconvenient. For proof, one need only examine testimony presented during congressional hearings on the Marihuana Tax Act of 1937, which outlawed marijuana nationwide. Among the “evidence” presented: Widespread use of marihuana among people of color resulted in “hundreds of murders, rapes, petty crimes, [and] insanity.” In addition, children and young adults allegedly committed heinous crimes, including murdering their entire families with axes, while under the influence of “reefer madness.”

Today we see such outlandish claims for what they were: unmitigated racism and scaremongering. But we also learned a valuable lesson from the pushback against eighty-three years of cannabis prohibition: Voters united against wrong-minded politicians can overcome almost anything. That’s one of the beauties of the American republic, when it works as intended.

The power of the vote is especially important now, as Congress drags its feet on legalizing cannabis at the federal level, individuals pursue RICO charges against cannabis businesses (see “Legalization Begets Litigation” in this issue), crusading U.S. Attorneys target state-legal cannabis operations, and the White House, despite promises to support legalization efforts, reportedly has formed a working committee specifically tasked with creating new anti-weed propaganda. Once again, power and class warfare are the central issues.

Whatever else you do in November, please vote—not out of some misguided sense of loyalty to a political party, but with your head and heart. Only when Americans remember politicians are our servants, not our overlords, will we reclaim the power that is rightfully ours.

Kathee Brewer
 Kathee@cannmg.com

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INTRODUCING

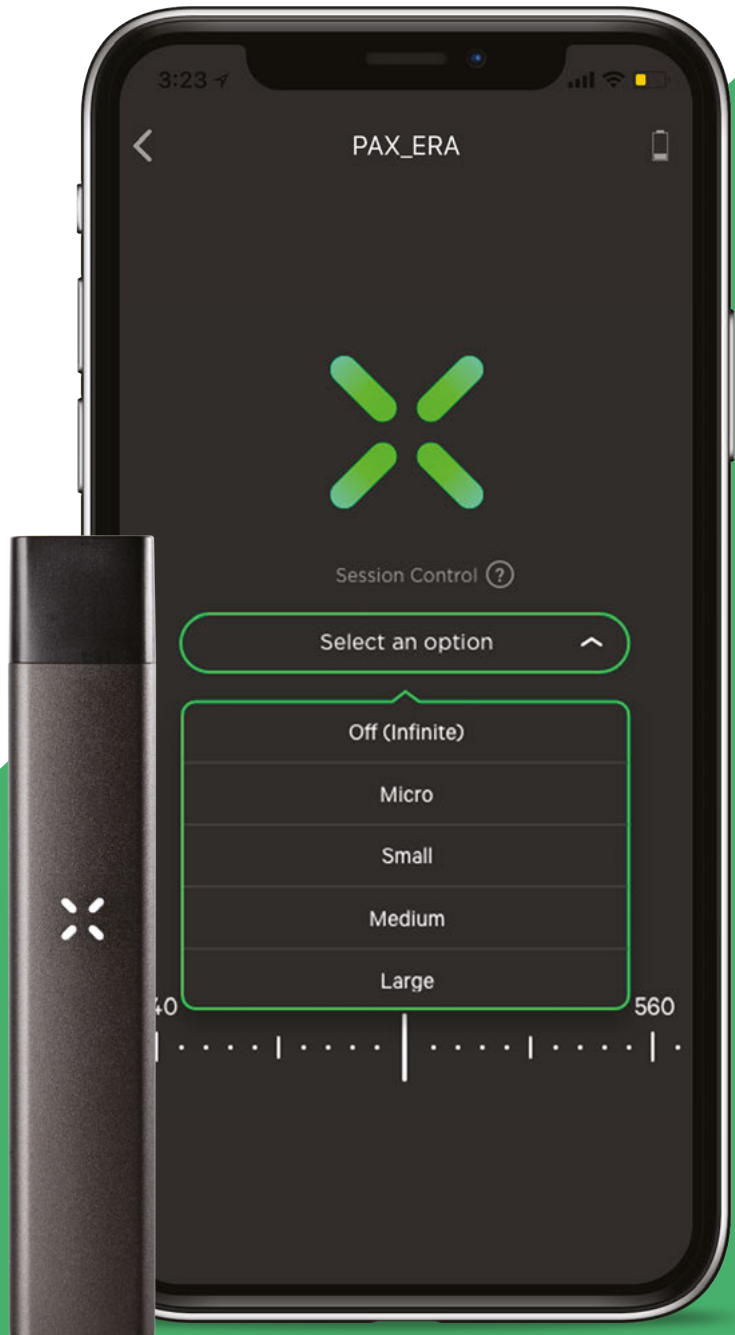
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Kushy Punch



A person is shown from the waist down, performing a yoga pose (Cobra or Bhujangasana) on a sandy beach. They are wearing dark green leggings. The background features a vast blue sky filled with white, fluffy clouds, and a dark, calm body of water in the distance. The overall mood is serene and emphasizes flexibility and health.

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COCA-COLA EYEING CBD-INFUSED DRINKS

ATLANTA — The world's largest beverage company reportedly is in "serious talks" with Canada's Aurora Cannabis to develop CBD-infused drinks. If the deal goes through, The Coca-Cola Company's new products may be marketed as alternative remedies for inflammation, pain, and muscle cramps, not as sugary soft drinks or energy boosters.

Aurora is not the first suitor to woo Coca-Cola, according to BNN Bloomberg: Coke and Canadian cannabis producer Aphria Inc. engaged in high-level discussions in July.

The foray into CBD, if it materializes, would add an edgy new dimension to 132-year-old Coca-Cola's portfolio, which could use a bottom-line bump. The company's 500-brand global empire experienced a 15.5-percent decline in annual revenues in 2017. Coke successfully branched in other unexpected directions when it launched an alcoholic beverage in Japan and acquired the United Kingdom's largest coffee retailer, Costa Ltd.

According to Interbrand, Coca-Cola is the fourth most valuable brand in the world, behind Apple Inc., Google Inc., and Microsoft Corp.



BIPARTISAN HOUSE GROUP WANTS MARIJUANA CONVICTIONS SEALED

WASHINGTON, D.C. — A bipartisan group in the House of Representatives has proposed a bill to seal records of non-violent cannabis convictions. The Clean Slate Act addresses primarily misdemeanor possession charges.

Representatives Lisa Blunt Rochester (D-DE), Rod Blum (R-IA), and twenty-two original cosponsors on both sides of the aisle say such a law is essential not only for social justice, but also for the economy. HR 6669 “would ensure that anyone who has paid their debt and

earned a second shot has the opportunity to create a better life and future for themselves,” Blunt Rochester said. “This bill will also help employers fill the over 6.7 million unfilled jobs in our country.”

Organizations outside the Beltway are on board, as well: Freedom Works, a conservative organization closely associated with the Koch brothers, and Center for American Progress, a moderate group, both support the bill.



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STUDY:



VETS MAY GET CONGRESSIONAL HELP

WASHINGTON, D.C. — A pending Senate bill would make it easier for veterans to access medical cannabis.

The Veterans Medical Marijuana Safe Harbor Act, introduced by Sen. Bill Nelson (D-FL) and Sen. Brian Schatz (D-HI), not only would allow vets to possess, use, and transport medical weed in legal states and permit VA doctors to recommend cannabis, but also allocates \$15 million in federal funding for VA research into cannabis's effect on pain.

Chronic pain and post-traumatic stress disorder are common among veterans, and mounting evidence indicates cannabis is an effective treatment for both. However, with VA physicians unable to write recommendations, veterans are left with few choices: leave the conditions untreated, accept prescriptions for potentially harmful traditional therapies, or pay civilian doctors for cannabis recommendations. The latter solution is problematic because those most in need of treatment may be unable to afford it.

CANNABIS USE ON THE RISE AMONG OLDER AMERICANS

ROCKVILLE, Md. — Older Americans increasingly are using medical cannabis, according to a recent study published in the journal *Drug and Alcohol Dependence*. Citing data from the National Survey on Drug Use and Health, researchers determined cannabis use among people age 50 and older grew more than 30 percent between 2013 and 2017, with the older-than-65 bracket showing the most dramatic growth. Nine percent of adults ages 50 to 64 reported using cannabis within the past year; 5 percent of those age 65 or older reported using cannabis within the past month.

One-quarter of marijuana users older than 65 reported they sought and received a physician's recommendation for cannabis medicine.



35%

of registered cannabis growers in Oregon in April 2018 were female.
(Source: Statista)

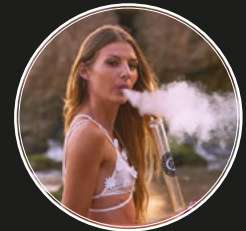
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states outlaw both THC and CBD: Idaho, South Dakota, Nebraska, and Kansas.
(Source: NORML)

20%

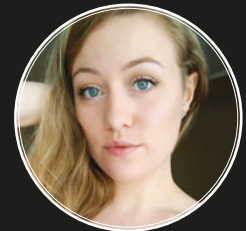
Increase in average monthly cannabis spending by California women in 2017 vs. 2016.
(Source: Eaze)

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@bong.bae_

44.6K



@weedlightmagic

3.5K

DEA CLASSIFIES EPIDIOLEX ON SCHEDULE V



WASHINGTON, D.C. — The Drug Enforcement Administration classified CBD-based epilepsy medication Epidiolex as a Schedule V drug under the federal Controlled Substances Act. Placing Epidiolex on the least-restrictive list paved the way for manufacturer GW Pharmaceuticals to begin selling the medicine in the United States this year.

The DEA specified the classification applies only to FDA-approved CBD medicines containing no more than 0.1 percent THC. All other substances “derived from cannabis” remain on Schedule I, which contains prohibited substances like heroine, LSD, opium, and other drugs with “no currently accepted

medical use.” Both hemp and marijuana are cannabis.

Attorneys immediately decried what they termed DEA overreach because the agency’s decision appears to sweep hemp-derived CBD onto Schedule I. “The agency’s seeming disregard for the law, court orders, and its own admissions as to the lawfulness of hemp[-derived CBD] continues to occur,” said Bob Hoban, managing partner at Hoban Law Group.

In June, Epidiolex became the first cannabis-based medication to receive Food and Drug Administration approval. The drug, approved to treat two severe forms of epilepsy, will be available by prescription at a projected price of \$32,500 a year.

CANADIAN COMPANY APPROVED TO SHIP MEDICATION TO U.S.

NANAIMO, British Columbia — The United States Food and Drug Administration and Drug Enforcement Administration have given Canadian licensed cultivator and manufacturer Tilray Inc. the green light to ship an investigational cannabis medication to researchers at the University of California, San Diego.

The medication, which combines THC and CBD in capsule form, will be used in a study examining the drug’s potential to treat essential tremor, a neurological disorder characterized

by uncontrollable shaking. Tilray is funding the research, along with the Essential Tremor Association.

A clinical trial of sixteen adults is expected to begin in 2019 and last about a year.



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WORKERS' COMP COMES TO CANNABIS

SACRAMENTO, Calif. — Atlas General Insurance stepped into a major void in August when the company began offering workers' compensation insurance to cannabis businesses. More than 1,700 agents in California and 4,000 agents in other states began writing policies in September.

The program is one of the first of its kind, accommodating risks involved in all aspects of the industry from growers and extractors to analytical labs, manufacturers, packaging, warehousing, distribution, transportation, and dispensaries.

ATLAS.US.COM



CREATING 'THE VICTORIA'S SECRET OF CANNABIS'

TORONTO — Peter Horvath, formerly the chief operating officer for lingerie designer and retailer Victoria's Secret, led his new company, Green Growth Brands, to a capital raise of nearly C\$85 million. The funding, a private placement, blew up the initial target of C\$55 million.

According to Horvath, who serves as GGB's chief executive officer, the funds will be used to make a "bold play" in the U.S. cannabis marketplace: creating the Victoria's Secret of cannabis. GGB plans to build "a North American retail network that delivers superior products and an extraordinary retail experience" much like that developed by America's largest lingerie retailer.

Horvath said GGB's investment offering was particularly attractive to

"highly sophisticated strategic investors" because GGB has global aspirations and the resources to pursue them. "While our competitors are mainly focusing only on the U.S. market, our backers were particularly interested in our ability to operate on a global level," he said.

The company plans to consolidate market power in both the medical and recreational spaces by acquiring other companies across the cannabis spectrum. Earlier this year, GGB and Xanthic Biopharma Inc. agreed to combine via amalgamation. GGB loaned Xanthic US\$30.3 million of the debenture financing gained during funding.

GREENGROWTHBRANDS.COM



TREEZ CLOSES \$11.5 MILLION SERIES A

OAKLAND, Calif., and CONSHOHOCKEN, Pa. — Point-of-sale software developer Treez closed an oversubscribed Series A round of \$11.5 million, led by equity firm Intrinsic Capital Partners with a \$10 million buy. The round brought total outside investment in the company to \$15 million, which will be used to expand the company's team, explore and invest in partnerships, and develop more retail management solutions.

Launched in 2016 by Shareef El-Sissi and John Yang, the company married El-Sissi's cannabis experience with Yang's technology background. Yang, who serves as chief executive officer, predicted the next two years will bring a "green rush" to cannabis ventures that don't touch the plant.

The rush appears already to have begun. Flowhub (\$3.8 million), BioTrakTHC (\$5 million), MJ Freeway (\$11 million), and Green Bits (\$17 million) attracted major investment within the past two years.

TREEZ.IO



NUGGETS



1 The Arcview Group hosted the first Asian forum to address opportunities and risks for cannabis investors November 1 in Hong Kong. ARCVIEWGROUP.COM



2 FSD PHARMA INC. and JJAMACANN Inc. formed a joint venture, FSD Jamaica, to introduce Jamaican products to the Canadian market. FSDPHARMA.COM



3 GENERAL CANNABIS CORP opened an office in New York to serve existing East Coast clients and explore new opportunities. GENERALCANN.COM



CHARLOTTE'S WEB IPO GENERATES \$100 MILLION

BOULDER, Colo. — Charlotte's Web Holdings Inc.'s initial public offering on the Canadian Securities Exchange grossed the company slightly less than US\$100 million. The offering comprised more than 16 million common shares at C\$7 per share. Cannacord Genuity, which served as lead underwriter, exercised an overallotment option for an additional 2.1 million shares at the offering price.

CWH is an attractive buy for market players, based on the company's balance sheet and projections. The company reported \$40 million in revenue for 2017, up \$25.3 million—or 172 percent—over 2016's \$14.7 million. The company projects sales of \$22 million in the final quarter of 2018 alone.

Consistently ranked as the number-one seller of cannabidiol products by revenue, CWH owns a 14-percent market share. The company's tinctures, capsules, and topicals are sold in 2,700 brick-and-mortar retail locations and online.

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MARIJUANA IS LEGAL!

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BY RICARDO BACA

AS YOU'VE likely realized, marijuana is legal! (For most Americans, at least.) California is beginning to settle into its first set of regulations, and an adult-use Michigan is looking like a sure thing. So, now what? Now, I'd argue, it's time to rewrite the rules of engagement surrounding cannabis use. With legal weed comes infinitely more knowledge, and with that knowledge comes tremendous responsibility—and it's a responsibility we all share, a mutual respect we owe to one another as we enjoy infused meals together and Pepsi-challenge each other's vaporizers.

Before these regulated marketplaces gave us a retail infrastructure, multiple levels of consumer protection, and more substantive information about the cannabis we're consuming, we rarely knew exactly what we were ingesting. While a select few grew their own, tracking all the nutrients and pesticides used in the cultivation process, most of us "got it from a guy"—a scenario I relived recently while strolling Pusher Street, Christiania's world-famous hash market in the middle of Copenhagen, Denmark.

With the help of a Danish-speaking friend in September, I asked one of the nameless guys peddling hash and flower out of ready-to-run duffle bags about his product. The flower was grown indoors within Copenhagen city limits—illegally, just as he was breaking the law by selling the dried flower in the historic Free City. The hash was Moroccan, of course. (We were in Europe, *dub.*) When I asked if he had any edibles, he nodded no and pointed across the way to another guy with a nearly identical spread—though this one included a dark brown muffin in a Ziplock bag.

The other dealer knew even less about the weed muffin than his counterpart knew about the flower and hash, but he told me "I think you can eat the whole thing is O.K." I bought the muffin regardless (because of course I did). And as I unwrapped the infused treat at a nearby cafe, a steaming coffee and bubble waffle as my chosen accompaniment, I felt the familiar sensation so many of us have felt: ignorance bordering on cluelessness as to what I was about to consume.

I had no idea how much activated THC was in this sweet, or how those cannabinoids had been extracted. While we've all been there and lived to tell about it, we now know more about the cannabis we're consuming and we owe it to one another to share that information well in advance of any shared consumption.

Here are three of the new responsibilities we now share in this post-prohibition world. Let's call them The New Rules of Engagement for Modern Cannabis Use.

IDENTIFY PRODUCT POTENCY BEFORE SHARING

I see it happening regularly, from California to Washington, D.C.: Infused edibles shared with no word about their potency.

A poorly labeled infused candy from a known D.C. area business. A respected cannabis chef serving her house-made infused goods at a party in the Bay Area. An industry-leading marijuana company's high-level networking gathering passing infused and non-infused apps to attendees. I've taken part in these exchanges in the past six months, and I'm consistently dumbfounded when people share edibles with others without first communicating the product's potency.

C'mon, friends. This is the easy part. This is the bare minimum. This is the important place where you can easily guide someone through an enjoyable experience—and also help them avoid a god-awful scenario that might turn them away from marijuana forever.

Everyone has a different tolerance for edibles. I know a veteran consumer who goes through a gram of wax daily, and yet

a 5mg edible will put him on the floor. As most of us know, 10mg of activated THC is considered a single dose of edible cannabis by most state regulatory agencies.

Also worth noting: Identifying potency isn't specific to edibles. If you know someone hasn't gotten high in years or decades and you're offering them a hit off your joint or pipe, a friendly warning should be common courtesy. "Hey, you know this is a lot stronger than it used to be, right?" Even if they do know, it's the right thing to do.

KNOW YOUR PRODUCTS' INGREDIENTS

Knowledge is power, and marijuana consumers are more powerful today than they've ever been, though we still have a long way to go. It's legitimately important that informed consumers know and understand cannabinoids, terpenes, and the pros and cons surrounding the entourage effect. But since so many of today's best-selling cannabis products are man-made, it's also important for us to be aware of the many other ingredients, additives, and mixing agents in today's marijuana products.

Your vegan friends might ask, "Are these gummies made with gelatin or pectin?" Your California friends might ask, "Do you have any solventless extracts?" Your science-minded friends might ask, "What was the cannabis oil inside this vape cartridge mixed with?"

These are real conversations happening today among thoughtful cannabis consumers, and I promise you these conversations are becoming more common from Anchorage to Boston. Some consumers are curious about edibles made without sugars, and others are actively avoiding vape pen cartridges formulated with the ubiquitous mixing agent polyethylene glycol.


It's easy for you to be the informed connoisseur who easily can answer these questions because you read the package's ingredients, so you know this gummy is not vegan-friendly because it's made with gelatin; this shatter was made with butane, but you have some solventless rosin over here that your friend might love.

KNOW HOW YOUR PRODUCTS' ACTIVE INGREDIENTS WERE EXTRACTED

Speaking of solventless extracts—not to mention the rise of hyper-informed cannabis connoisseurs—do you know how the oil in your vape pen was extracted? Do you know whether your favorite edible is powered by cannabutter or some other extract? Do you know the difference between supercritical CO₂ extracts and BHO (butane hash oil)? And did you know, technically speaking, CO₂ is itself a solvent?

Most of my friends in Oakland, California, often lecture on the necessity of consuming only solventless extracts while many of my friends in Denver consume only concentrates made via solvents, and each of their arguments is convincing.

Can you hang in these conversations, backing up your argument with the pros and cons of each method of extraction? As I mentioned, these conversations are becoming more prevalent, so you'll at least want to know your way around the subject matter so as to not be left in the kief-like dust.

(Fun fact: Kief is, of course, solventless.) 



User Beware

LIKE EVERY OTHER SUBSTANCE PEOPLE PUT INTO OR ON THEIR BODIES, CANNABIS CAN AFFECT USERS IN VASTLY DIFFERENT

WAYS. While the herb delivers many recreational and medicinal benefits from relaxation to alleviation of the nausea that often accompanies chemotherapy, unwanted side effects may occur. They can include minor issues like the notorious "munchies" or disruptive responses like anxiety, paranoia, and cognitive impairment.

In the 1970s, black market pot seized by authorities commonly tested between 1 percent and 3 percent THC. Granted, weed was anything but pure in those days, containing not only flower (where THC is concentrated) but also stems, seeds, and leaves. Even with low THC levels, though, some users experienced unpleasant reactions. Today, depending on a variety of variables including cultivation environment, strain, curing method, and processing, THC may reach 20 percent or higher.

The amount of THC and the ratio of THC to CBD determine users' experience: The higher the THC content, the more noticeable the psychoactive impact. Because CBD can moderate THC's effect on the nervous system, the higher the CBD content, the less noticeable the "high."

Delivery methods also make a difference in how users experience cannabis's effects. Smoking produces an almost immediate response in most people, while edibles' effects may not be perceived for an hour or more.

All those factors—plus additional considerations like residual pesticides and solvents, and legal risks in medical-only states—make it imperative consumers know the details about cannabis selections prior to use. One type of product may work better than others for any given consumer, and dosage tolerance definitely makes a difference. Yesteryear's horror stories about unwittingly ingesting "pot brownies" pale in comparison to the unintended potential consequences of sharing cannabis with others who don't have the facts to make an informed decision.



RICARDO BACA is a veteran journalist and thought leader in the legal cannabis space and founder of Grasslands: A Journalism-Minded Agency, which handles public relations, content marketing, social media, events, and thought leadership for brands and executives in legal cannabis, hemp, and other highly regulated industries.

BUDTENDERS DESERVE MORE THAN SWAG



Ken Epstein is a partner and brand strategist at WYD, a marketing accelerator for trailblazers in the cannabis industry. He specializes in advertising, branding, social media, and public relations.

MOST cannabis brands aren't taking budtenders seriously. At best, brands throw some swag at them in hopes a button, hat, or lanyard will produce a recommendation when the next customer walks through the door looking for help.

A piece of swag shouldn't replace what is more meaningful: education, experiences, and relationships.

When was the last time a senior leader from a cannabis brand spent time talking to budtenders—listening to the questions and concerns they hear from customers and patients every day or better educating budtenders about products? Building relationships with budtenders so they give customers the best possible experience is the most important thing a brand can do.

Dispensary managers also have a role to play in facilitating brand-budtender relationships. A dispensary that minimizes

or blocks communication between brands and budtenders is hurting itself in the long run. A workplace that creates experiences and educational opportunities and helps employees grow professional networks will see lower turnover and increase its ability to attract talent. And better educated budtenders are better able to sell product.

The great news is creating a richer experience for budtenders doesn't need to cost a lot of money. Here are a few suggestions for how dispensaries and brands can work together to create valuable budtender experiences.

LISTEN AND LEARN

Create opportunities for budtenders to give feedback, make product suggestions, and ask questions. Brand managers should take "listen and learn" opportunities seriously. Send a senior representative to hear directly from budtenders. People find it much easier to listen to what you have to say and give honest feedback when they feel they're being heard, too.

MAKE IT FUN

Make product education materials easy to digest and memorable. Incentivize participation and product knowledge with fun prizes. Food goes a long way toward winning attention. It is amazing how much better any meeting can be when it involves chips and guacamole or pizza. Meetings represent a great time to incorporate swag, but swag can't be the only thing you offer to engage budtenders.

CELEBRATE THE ROCK STARS


You know when you come across a budtender who just "gets it." They're the person who really understands how to quickly evaluate what a customer or patient needs and sends them out the door with just the right product. Recognize these intuitive budtenders with unique experiences that deepen their knowledge of the brands they sell, such as a paid visit to a producer or processor. If there's nothing nearby, sponsor online training course fees.

MEASURE RESULTS

As you ramp up budtender outreach, identify the metrics you'll track to gauge whether your efforts are paying off. Incorporate how you focus on budtenders as part of your sell-in pitch to new dispensaries. Look for sales increases either month-over-month or year-over-year. Do some secret shopping to see whether budtender recommendations are improving.

Dispensaries, as you work with brands to create more opportunities for employees, do you see more sales? Does turnover start to come down and stabilize? Do more budtenders apply for jobs?

Ultimately, budtenders are the front line of the cannabis industry, and the vast majority truly do care about their knowledge.

To your customers, budtenders are your brand. A happy, knowledgeable, and appreciated budtender is your best asset for creating satisfied and loyal customers. 

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GROWTH SPURT

BY EXPANDING TO COVER THE SPECTRUM FROM SEED TO SALE,
WHAT WAS ONCE ONLY A DISPENSARY GREW BY 300 PERCENT IN ONE YEAR.

CALIVA is much more than a typical dispensary. The San Jose, California, shop, ranked the number-one dispensary in the nation by *Business Insider*, embraces a progressive business model: vertical integration. From the beginning, Chief Executive Officer Dennis O'Malley and the management team foresaw not only a retail operation, but also cultivating raw materials and producing innovative products. The executives reasoned the system would allow them “to serve our customers in a much more reliable and cost-effective manner,” O'Malley said.

The dispensary, launched three years ago, is a clean, well-lit space dominated by wood and glass—Starbucks Reserve meets surf shop—with “wellness consultants” roaming the spacious floor. The gargantuan on-site cultivation facility occupies 100,000 square feet, containing thirteen grow rooms the size of football fields. The grow allows Caliva to keep a consistent supply of quality flower, like top sellers Alien OG and Blackjack, on hand. Although managing the facility is a daunting task, O'Malley said the arrangement allows the company to be in total control of its supply chain.

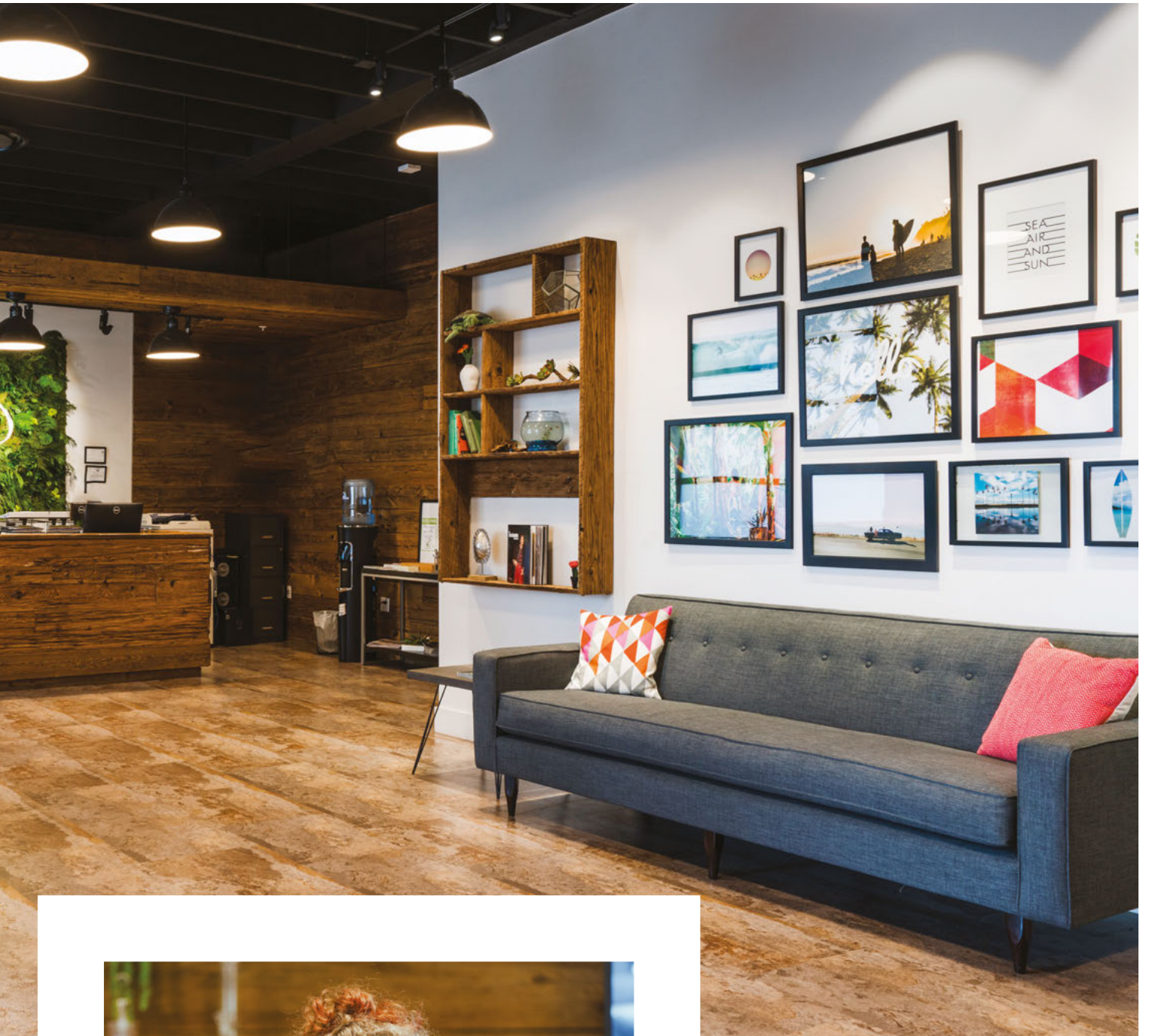
Having the grow close at hand also allows Caliva to experiment with new products like Toasties, which has become the company's signature product. O'Malley said the proprietary blend of low-dose cannabis in a straight-wall pre-roll with a hemp filter is a perennial favorite with customers. “We can't keep them in stock,” he said.

The company also has dedicated significant resources to refining and formulating oils. A team of formulation chemists uses multiple in-house extraction methods and a pharmaceutical-grade refinement system to tinker with viscosity, terpene profiles, and cannabinoid ratios in search of perfect products. According to O'Malley, the team is Caliva's competitive advantage. “Given that most of our sales are from raw materials produced on-site, we have some of the freshest flower, cleanest oil, and [best-]quality pre-rolls on the market available in-store,” he said.

Flower sales are supplemented by a robust vape section and top-shelf pre-rolls Headset ranked among the five best-selling in California. But the item Caliva can't keep on the shelves is Reef Leaf—a quarter ounce of pre-ground flower wrapped in cool, hip packaging and priced less than \$30. “The reception has been just nuts from both retail and wholesale customers,” said O'Malley. “Everyone is looking for that perfect combination of value and quality.”

Before joining Caliva, O'Malley built an enterprise software company that helped some of the world's largest brands create word-of-mouth buzz. The shift to cannabis was abrupt, he said, consisting of accompanying a Caliva sales representative on dispensary calls. At each stop, the sales rep wheeled in a suitcase containing \$10,000-worth of flower.






“Thank goodness we have progressed from that,” O’Malley said, chuckling.

Progressed they have. The company employs 300 people and plans to hire another fifty before end of the year. O’Malley noted he’d put Caliva’s leadership team up against any other company’s, including those outside the cannabis industry. “We have a diverse group of successful executives who lead by example, are passionate about the industry and mission, and are able to recruit more great talent,” he said. “They keep the bar high; they really set a great tone for the culture of our company.”

In fact, all aspects of Caliva’s business are flourishing, according to O’Malley. The retail shop serves an average of 600 customers on weekends; 50 percent of them are monthly regulars, and the rest are new. Both understand one thing, he said: Every time they buy Caliva products, they will have a consistent experience.

Since July 1, retail revenue has doubled, but O’Malley pointed out most of the company’s revenue comes from wholesaling its branded products. “Caliva products are in more than 100 dispensaries,” he said. That explains why Caliva’s overall revenue has increased a whopping 300 percent over 2017’s levels. Why the huge growth? O’Malley has noticed two trends: group buying and consumers spending three times longer with wellness consultants to learn about the more than thirty Caliva Collection products. He also gives credit to the company’s compliance and the lab teams’ preparedness for the new testing regulations that went into effect July 1. “Without that preparation, we might have lost out on some sales. We know it pays to make compliance a top priority,” he said.

The company is expanding into new partnerships. Recently, Caliva secured a deal to provide the oil for Grenco’s G-Pen. O’Malley said he was impressed with the feel, shape, and utility of the device. “Consumers are switching from the old-school 510-threaded cartridges and other proprietary form factors rapidly,” he said. “Grenco really ensures the filler partner is successful. Not all proprietary systems do that.”

Caliva doesn’t host events or vendor days. According to O’Malley, “They don’t drive more traffic to our store and at times confuse our customers.” Instead, the company has created a robust marketing strategy across a variety of channels. “Inbound marketing is huge for us,” he said. “We get dozens of dispensaries reaching out to our website weekly, and we receive thousands of new consumer sign-ups through Caliva.menu monthly. The basis of our marketing strategy is to show all the ways Caliva equals trust.”  —Rob Hill



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All photos courtesy of Caliva.

KNOW THY CUSTOMER

Use these five tips to build efficient, effective customer service.



AMONG the many things required to create a successful dispensary is knowing customers' wants, needs, and medical issues. Consumers are unique individuals; each has his or her own habits, preferences, and idiosyncrasies. Getting to know them can be challenging, but also rewarding. Here's how to go about creating a good working relationship.

OBSERVE

Visual observation provides clues. For example: How is the consumer dressed? Are they wearing a brace? Is there evidence of pain? "Always remember any physical abnormality you notice can and should be the start of your dialogue," said Mookie Walden, founder of BudtendersBible.com. "A person's demeanor is the first key in getting to know them and their needs."

LISTEN

When a patient's ailments are internal or psychological, a simple visual scan may be insufficient. Use active listening skills to get to the bottom of the issue. Focus on whether the patient mentions a specific cause of pain or discomfort

or proposes a certain way they want to feel. Always make eye contact and ask follow-up questions like "What issues are you medicating for?" or "Do you have a preferred way of medicating?"

"Always ask them to tell you whether they have a low, moderate, or high tolerance for cannabis," Walden said.

Active listening and asking pertinent questions will help narrow product recommendations.

KNOW PRODUCTS AND LAWS

Extensive knowledge is key to interacting with customers. Start by learning local cannabis laws. Most consumers are underinformed about legal issues. In addition, test all the products available in the dispensary and meet with brand representatives to develop a better understanding of their products. Consumers are more likely to trust a product suggestion if they believe staff members are intimately familiar with the company and have confidence in its products' effects.

"It's important not only to test the products that are popular, but also to test the newer, lesser-known products," said Walden.

She also suggested researching one new product or topic each day so you have


something to discuss with customers the following day.

UNDERSTAND WHY CUSTOMERS BUY WHAT THEY BUY

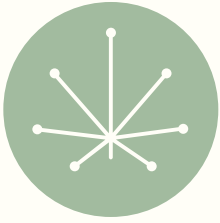
Building customer profiles provides insight into how they shop. Do they favor particular brands? Are they price-conscious? Do they make choices based on needs, or emotions?

"I have cue cards for each of my customers and put them up on the office wall," said Joe Hagan, a budtender at Compassionate Care of Studio City in Los Angeles. "By continually updating and studying them, knowing my customers is now almost second nature."

SEPARATE WANTS FROM NEEDS

A need is something that solves a real or imagined problem. A want is something that would be nice to have. Often, what a customer wants overshadows what they need. This becomes clear when they're asked why they want what they want. "When you give them what they need and it works, in the long run this enables you to build a lasting and trusting relationship with them," Hagan said. 

—Rob Hill



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EAZE DOES IT

WHAT STARTED AS A DELIVERY SERVICE HAS BRANCHED OUT INTO EDUCATION, DATA ANALYSIS, AND TREND-WATCHING.

THANKS to Amazon, today's consumers expect to have goods delivered to their door, but the brick-and-mortar shop remains king in the cannabis industry. Eaze set out to shift the paradigm by creating an Amazon-like experience for cannabis consumers.

Like many others, Eaze's founders were profoundly affected by the story of Charlotte Figi, a six-year-old living with Dravet syndrome, a severe form of epilepsy. Cannabis treatment significantly improved the quality of Figi's life by dramatically reducing the frequency of her seizures. "Our team immediately realized legal access to medical cannabis could hugely benefit from an on-demand, professional technology solution," said Sheena Shiravi, director of consumer communications for Eaze.

At the time, dispensaries were scattered all over Eaze's home turf, San Francisco, yet access remained challenging for some patients, in part because of the stigma associated with cannabis. Patients worried being "outed" as a medical cannabis user might harm their personal and professional reputations. Eaze's founders took aim at the consumer population with a laser focus, setting out to ensure everyone could receive medical cannabis easily, quickly, and professionally in less than an hour.

The delivery model struck a chord, and now Eaze works with a large network of retail and brand partners who maintain a strong commitment to compliance and building a sustainable cannabis industry. Partners





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include G Pen, PAX, KIVA, THC Design, and Caliva, as-well as most licensed dispensaries from San Francisco to San Diego.

Because “the Eaze platform serves as a marketplace for adult consumers to be connected to their local retailers to get high-quality products delivered safely and legally,” Shiravi said, not just any brand or dispensary is allowed to list on the platform. Standards are strict. “We look for brands that put their customers first,” she said. “We need to ensure their brands are tested and safe. We help them understand the ever-growing needs of an evolving consumer base, find their audience, and make sure they’re putting the customer experience above all else.”

The Eaze team doesn’t consider the company “just a delivery service.” To them, Eaze is a technology platform local retailers use to run their own delivery operations. Eaze does not employ the drivers; the dispensaries do. Eaze does not take a cut of transactions; instead, the company collects a software licensing fee from partner retailers. According to Shiravi, Eaze is actually a consumer-facing ecommerce facilitator built to help educate consumers and streamline the experience of accessing legal cannabis.

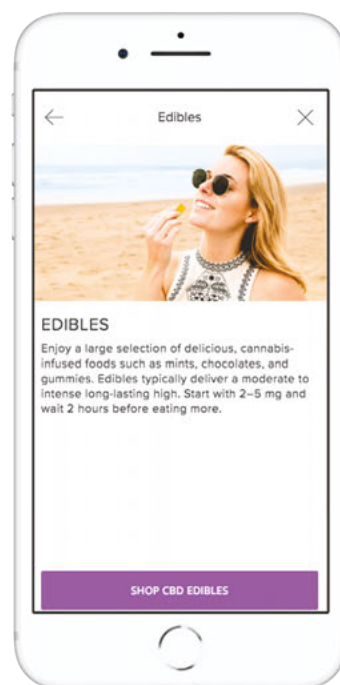
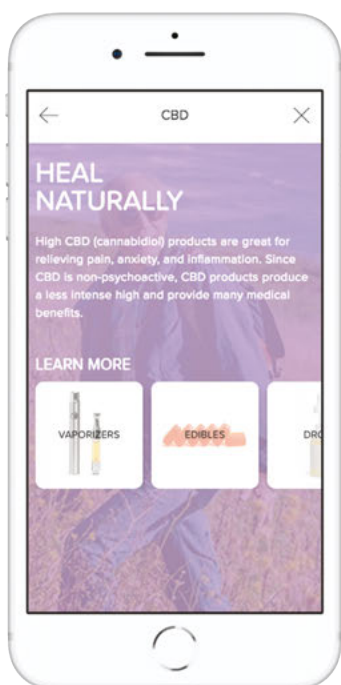
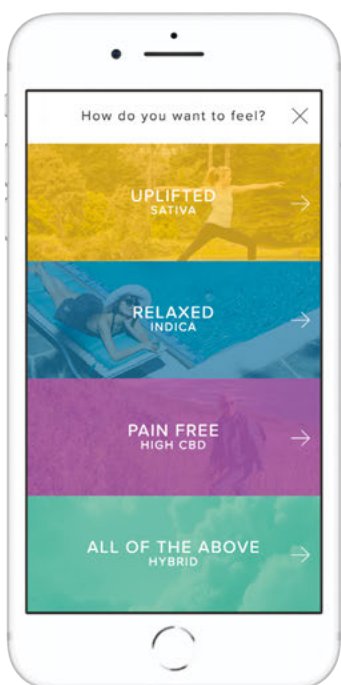
The company’s technology also produces invaluable data, industry trends, and an educational corporate blog. Among trends uncovered recently: While flower still dominates in number of deliveries, vaporizer deliveries have soared. “We’re seeing a lot of innovation in the vaporizer space, with more and more form factors being developed,” Shiravi noted.

But there’s even more to Eaze. “On the back end, our technology helps with things like inventory and driver management,” Shiravi said. “Our compliance team also works closely with our partners to help navigate the ever-evolving regulatory landscape to ensure every part of the experience is compliant.”

In the new age of cannabis, the modern consumer spans a wide variety of backgrounds, professions, and lifestyles. To stay up on sales trends, Eaze surveyed 10,000 cannabis consumers for its “Modern Marijuana Consumer” report published earlier this year. Survey results indicated the fastest growing segments among daily cannabis users are women and Baby Boomers. “More and more we’re finding our core customer is really adults who are wellness-minded and looking to incorporate cannabis into their toolkit,” said Shiravi.

Like every other sector in cannabis, Eaze expects increasing competition moving forward. Shiravi said the company isn’t too concerned. Eaze has found its niche and will remain focused on ensuring every part of the consumer experience is fully legal. “We’re committed to education in order to help the ‘canna-curious’ learn more and legally purchase cannabis in a safe, discreet, and convenient way,” she said.

Shiravi also has complete confidence in the Eaze team. “Frankly, I’ve never met a group of more passionate individuals than Eaze employees,” she said. “It’s absolutely incredible to see the steam this movement has picked up and absolutely humbling to know we’re standing on the shoulders of giants.” *—Rob Hill*



Eaze.com



KNOW BEFORE YOU GROW

Consider these three issues when seeking cultivation space.

BY ANYA GORDON

Growers have a lot to worry about when looking for a new facility, most notably codes that inevitably will change during mid-construction. But, that's a different article for a different day. For now, let's talk about what you need to be prepared for and how to successfully leverage your knowledge to make your move into a new facility fruitful.

KNOW YOUR LIMITS AND GOALS

One avenue to success falls under timing and space utilization. Find where you can make the best use of all your space, from horizontal to vertical. Vertical grows definitely are on the rise and, in Oregon at least, a space can be determined based on size and square footage of the canopy, not just square footage of the footprint. This means you easily can utilize vertical space. That said, it is important to consider even a simple change of venue can require a learning curve, and the systems of vertical growing will be no different.

It also is important, during your facility planning, to ensure you have a solid handle on the function and flow of your space. You should determine what your storage needs are, your comfortable work pathways, and the form and function of your systems. All of these will be critical in your design and build.

DO 'SUSTAINABILITY' THE RIGHT WAY

Sustainability is one of the biggest buzzwords in any industry right now, and while this is a great step forward it also is important to ensure we are not using "sustainability" only as a marketing device. Being truly sustainable depends on a variety of factors up to and including what you value as sustainable. If energy efficiency is your priority, there are those who consider sunlight to be the only truly sustainable option. If you take a broader view incorporating environmental impact and ecological systems, then indoor growing could be more sustainable than traditional agricultural expectations. Sustainability also could be considered in how you utilize your workforce, how you engage your systems, and how efficiently you maintain and utilize your time.

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CULTIVATION IS EVERYTHING





Understanding and aligning your systems with your values is a crucial part of applying sustainability as an industry practice and standard. Part of engaging your systems is looking at how they integrate with each other. Are your systems well integrated? Are you utilizing every available part of the energy sources you engage? For example, if you're trying to disperse large amounts of heat, is there a way to capture that heat and reuse it in the wintertime when you actually need it? Can you then use the heat from that to do other tasks, like heat your offices? All of these are systems related.

You also need to integrate temperature and humidity in a sustainable way, meaning they need to play well with each other. Do you have an HVAC system that considers both temperature and humidity in an integrated way? Are you factoring in your water usage?

As more growers—your competitors—become increasingly aware of how to use fewer resources, your ability to maintain a competitive place in the market will depend on the efficiency and sustainability of your practices. The reality of a highly competitive landscape is that buzzwords will not be enough. Go beyond that. It's important for your bottom line.

ASK THE HARD QUESTIONS UP FRONT

I have a mantra for new clients when they ask what they'll need: "Water. Power. Water. Power. Water. Power." This might seem elementary, but when

choosing a building or facility you need to ensure there's enough available power and water, whether that's a rural property or in the middle of town. While these questions need to be answered for all types of properties, how they are framed will vary.


For example, you may need to determine whether a rural property has water rights or a commercial well with the capacity to pump the necessary amount of water at the correct pressure. Ensuring water is clean and safe is imperative for urban properties. If these things are not readily available, what will it take to acquire them? More importantly, what will acquisition cost? Many of us think having power simply means flipping on the lights. Usually, this is not the case. Power grids in rural communities are woefully unprepared for the cannabis industry. What will it take in both time and cost to get the power you need, and how does that impact your business planning?

Early on in legalization, the largest, most catastrophic mistake growers made was believing agricultural properties cost less, so they bought ag properties. It turned out upgrades cost them three times as much as obtaining a similar space in town. Get past the aesthetics of the property.

Don't assume the industrial site you found will be any easier, either. What will it take to make a great industrial site meet the safety standards consumers expect? What other industrial businesses are nearby, and what is the environmental impact of their waste products? While the building may seem ideal, what pollution-mitigation costs might you have to consider?

BE AWARE BUT VIGILANT

Obviously, there are many variables, numerous questions, and more than a few different answers. No facility will be a precise fit "out of the box." It's not easy to set up a grow facility, but it's not impossible either. Ask yourself the hard questions and find a reputable partner or contractor who knows the industry, its challenges, and solutions.

And keep your eye on the end game: a system that produces the maximum yield, high quality, and consistent crops your market demands. 



ANYA GORDON is chief executive officer for GroTec Builders, a general contracting and development firm based in Portland, Oregon.
GroTecBuilders.com

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L O W D O W N

A look at 30 cannabis attorneys
you need to know.

BROADLY defined, litigation is the process of resolving a dispute between opposing parties through the court system. In business, any relationship—with vendors, suppliers, employees, customers, or competitors—is subject to misunderstanding and miscommunication that can result in litigation. In the burgeoning legal cannabis industry, the opportunity for such occurrences is greatly pronounced.

Matters most often turning up in litigation involve issues such as ownership or partnership disputes, commercial contracts, employment disputes, trademarks and patents, real estate and landlord disputes, finance, governmental and administrative disputes, product liability, taxes, insurance, and even appellate advocacy, though more rarely than the aforementioned. For each such concern, there are litigating attorneys who specialize in the intricacies.



^ MICHAEL CINDRICH

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ALMA MATER: UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

HARD FACTS: Cindrlich serves as executive director of NORML's San Diego County chapter and is a lifetime member of the national NORML legal committee. He is a San Diego regional speaker for Law Enforcement Action Partnership (LEAP), an organization of current and former law enforcement personnel in support of drug policy reform, and in 2009 was nominated to San Diego's Medical Marijuana Task Force.
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GMLawCannabis.com

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HARD FACTS: Clark has been recognized by Rolling Stone as one of eighteen "Women Shaping the Culture of Tomorrow" and by *Cannabis Business Times* as one of the top seventy-five women in cannabis. She founded and served as chair of the Los Angeles Cannabis Task Force, serves on the board of California NORML and the policy committee of the California Growers Association, and is a member of the National Cannabis Industry Association and the California Cannabis Industry Association.
GreenFrontier.com

MICHAEL CHERNIS CHERNIS LAW GROUP PC, CALIFORNIA

Practice areas: criminal defense, regulatory law, corporate law, civil litigation
Alma mater: Fordham University Law School
HARD FACTS: Demonstrating his clients' compliance with the "collective defense" created by SB420, Chernis has obtained dismissals, reductions of charges, agreements not to file charges, and returns of confiscated goods in a variety of cases. Among the most noteworthy: dismissal of Los Angeles District Attorney charges against a Berkeley manufacturer and return of its cannabis oil cartridges in 2016 and the non-filing and return of goods in a 2014 CO₂ manufacturing lab raid and seizure in Riverside County.
ChernisLaw.com



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Practice areas: administrative law, compliance, intellectual property, criminal defense
Alma mater: Stanford Law School
HARD FACTS: Figueroa's *Cannabis Codes of California*, published in a Legalization edition and a MAUCRSA edition, was the first book-length compilation of California's cannabis laws. He is a member of NORML's Distinguished Counsel's Circle, a lifetime member of the NORML legal committee, and serves on the board of directors for the National Cannabis Bar Association, of which he is a lifetime founding member.
OmarFigueroa.com

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BRUCE > MARGOLIN

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ALMA MATER: SOUTHWESTERN LAW SCHOOL

HARD FACTS: Bruce Margolin has been director of Los Angeles NORML since 1973. He was an advisor for Proposition 215 (Californians for Compassionate Use) and served as legal counsel for The California Hemp Initiative. As a candidate for California governor in 2003 and U.S. Congress in 2012, he helped establish the credibility of marijuana legalization policies. Margolin received a certificate of appreciation from the American Civil Liberties Union and has received honors for his work on behalf of the Constitutional Rights Foundation. 1800420Laws.com



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Alma mater: Northwestern University School of Law

HARD FACTS: Named among the top lawyers for marijuana law by *5280* magazine in 2016, 2017, and 2018, Garfield has represented the full spectrum of cannabis businesses. He was a voice for change to the rules of professional conduct in the Colorado Supreme Court, stressing the importance of allowing attorneys ethically to represent the cannabis industry. In 2016, he served on the working group for Colorado Marijuana Enforcement Division. McAllisterGarfield.com

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Alma mater: Quinnipiac University School of Law

HARD FACTS: Gillette chairs the Cannabis Law Group Western Region at Greenspoon Marder LLP. She is a board member and former executive director for Colorado NORML, a founding member of Women Grow, and on the board of directors for the National Cannabis Bar Association. In 2015 she successfully represented the plaintiff in *Allgreens LLC v. Commissioner*, resulting in the IRS abating \$30,000 in penalties against Denver marijuana dispensary Allgreens for not having paid its estimated taxes electronically.

GMLawCannabis.com





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HARD FACTS: Ginder co-founded and manages the nonprofit corporation Organization for Safe Cannabis Regulation, which advocates on behalf of cannabis-related businesses in Florida. He is a frequent speaker at industry conferences such as the Annual Cannabis Law, Accounting, and Business Conference & Expo; the annual Sup-X: The Startup Expo; and the Cannabis Private Investment Summit.

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HILLER PC, NEW YORK

Practice areas: impact litigation, land-use/zoning and preservation, insurance litigation, business and corporate litigation

Alma mater: American University Washington College of Law

HARD FACTS: Named Super Lawyer for the New York Metropolitan Area by *Super Lawyers* magazine nine years running, Hiller oversees the firm's cannabis practice. He was named America's Advocate of the Year by Canna-Gather in 2018. In 2017, Hiller was lead counsel in *Washington v. Sessions*, in which a federal court acknowledged cannabis constitutes a safe and effective medicine for the treatment of disease. **HillerPC.com**



SETH GOLDBERG

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Practice areas: commercial and complex litigation

Alma mater: Temple University Beasley School of Law

HARD FACTS: Twice recognized as a Pennsylvania Rising Star in Business Litigation by *Philadelphia* magazine—June 2011 and December 2008—Goldberg is chair of Duane Morris's multidisciplinary cannabis practice and a contributor to the firm's cannabis industry blog. He represented the defendants in *Woodstock Ventures LC, et al. v. Woodstock Roots*, concerning claims of trademark infringement pertaining to the use of "Woodstock."

DuaneMorris.com

ROBERT HOBAN

HOBAN LAW GROUP, COLORADO

Practice areas: industrial hemp, corporate law, FDA compliance, commercial litigation

Alma mater: University of Wyoming College of Law

HARD FACTS: Hoban serves on the Colorado Department of Agriculture Hemp Regulation Advisory Committee and the New Frontier Data advisory board and is a founding board member for the National Cannabis Chamber of Commerce. He has tried many seminal cases, including a lawsuit against the DEA in the U.S. Ninth Circuit Court of appeals resulting in a federal order conveying the Farm Bill preempts the Controlled Substances Act. From 2015 to 2017, Hoban was an adjunct professor and lecturer in the Law and Society program at the University of Denver.

Hoban.law



JASON HORST

HORST LEGAL COUNSEL, CALIFORNIA

Practice areas: insurance, real estate, partnership, commercial litigation

Alma mater: University of San Francisco School of Law

HARD FACTS: Horst serves as vice-chair of the finance & insurance committee for the National Cannabis Industry Association, chairs an insurance working group for the National Cannabis Bar Association, and is a member of the insurance subcommittee of the California Cannabis Industry Association. In 2015 and 2016, he was selected as a business litigation Rising Star in Northern California *Super Lawyers* magazine.

HorstCounsel.com



ORION INSKIP

GLEAM LAW PLLC, WASHINGTON

Practice areas: government compliance, litigation, intellectual property

Alma mater: Seattle University School of Law

HARD FACTS: Inskip has successfully negotiated dozens of cases on behalf of cannabis business owners facing violations from the Washington State Liquor and Cannabis Board. He recently prevailed against the City of Seattle on a case wherein the city claimed his client operated a cannabis business without a cannabis business license. Inskip was the sole presenting attorney at the 2018 World CBD Expo in San Jose, California.

GleamLaw.com

ROD KIGHT [^]

KIGHT ON CANNABIS, NORTH CAROLINA

PRACTICE AREAS: GENERAL LITIGATION

ALMA MATER: UNIVERSITY OF SOUTH CAROLINA SCHOOL OF LAW

HARD FACTS: Kight authored *Cannabis Business Law: What You Need to Know*, published by Aspatore (a Thomson-West subsidiary) in 2015. He maintains an active cannabis law blog, Kight on Cannabis, which often is cited by other publications and is a contributor to the Cannabis Law Journal and Cannabis Law Report. North Carolina *Super Lawyers* magazine called him “The State’s Biggest Cannabis Advocate.” CannaBusiness.law



RAZA LAWRENCE

MARGOLIN & LAWRENCE, CALIFORNIA

Practice areas: criminal defense, business litigation

Alma mater: Harvard Law School

HARD FACTS: Lawrence has been named a *Super Lawyers* magazine Southern California Rising Star for six consecutive years, from 2013 to 2018. His cannabis litigation has been called cutting-edge, and he is known for his depth of knowledge and track record of positive results for his clients. His practice primarily focuses on trademark litigation, high profile criminal cases, and novel disputes.

MargolinLawrence.com

ALLISON MARGOLIN

MARGOLIN & LAWRENCE, CALIFORNIA

Practice areas: criminal defense, branding, trademark, civil litigation

Alma mater: Harvard Law School

HARD FACTS: Nicknamed “L.A.’s Dopest Attorney,” Allison Margolin is a lifelong advocate for drug legalization. She is a member of NORML and involved in other industry-related organizations, including Americans for Safe Access and Advocates for Healing America. Margolin regularly is featured in publications such as *Forbes*, *The Los Angeles Times*, and *The New Yorker*. In one of her more notable cases, she caused a trial to be dismissed by exposing the anti-marijuana prejudices of the presiding judge.

MargolinLawrence.com



SEAN MCALLISTER

MCALLISTER GARFIELD PC,
COLORADO

Practice areas: general litigation, regulatory enforcement

Alma mater: University of Colorado Law

HARD FACTS: McAllister successfully defended the nation's first products liability case against an infused product manufacturer and won a suit against the Colorado Marijuana Enforcement Division regarding due process violations in the implementation of rules. He twice has been named Cannabis Business Awards MVP, and *5280* magazine named him to Denver's Top Lawyers list three years running.

McAllisterGarfield.com

NICOLE HOWELL NEUBERT

CLARK NEUBERT LLP, CALIFORNIA

Practice areas: business law, licensing and regulatory compliance, business litigation

Alma mater: University of California Hastings College of the Law

HARD FACTS: Neubert is actively involved in legislative and regulatory efforts, recently serving as a member of California State Treasurer John Chiang's Cannabis Banking Working Group. She serves as chief policy advisor for the California Growers Association and on the board of California NORML. Neubert has been named one of the top seventy-five "most important women in cannabis" by *Cannabis Business Executive*, a Rising Star by *Super Lawyers* annually since 2012, and an "attorney to watch" by Chambers and Partners USA.

GreenFrontier.com



AARON A. PELLEY

CULTIVA LAW PLLC, WASHINGTON

Practice areas: business law, litigation

Alma mater: Willamette University College of Law

HARD FACTS: As an advocate for the cannabis industry, Pelley has been credited with helping build the foundation for legal protections in medical cannabis law. He has spoken at legal education seminars and cannabis conferences throughout the United States and repeatedly has been named a Rising Star by *Super Lawyers* magazine and a Top 100 Trial Lawyer by the National Trial Lawyers Association.

CultivaLaw.com

ROBERT RAICH

ROBERT A. RAICH PC, CALIFORNIA

Practice areas: appellate advocacy, business law, political law, lobbying

Alma mater: University of Texas School of Law

HARD FACTS: Raich was the attorney in both U.S. Supreme Court cases considering medical cannabis issues: *Gonzales v. Raich* and *United States v. Oakland Cannabis Buyers' Cooperative*. He has served as chairman of the caregiver issues subcommittee of the California Attorney General's Medical Marijuana Task Force, is a professor of cannabusiness at Oaksterdam University, has taught classes about cannabis to cadets at police academies, and presented continuing education classes to colleagues. Raich is a founding board member of the National Cannabis Bar Association and was awarded the Americans for Safe Access Defenders of Justice Award.

RobertRaich.com



MEITAL MANZURI

MANZURI LAW, CALIFORNIA

PRACTICE AREAS: BUSINESS LAW, CRIMINAL DEFENSE,
CORPORATE TRANSACTIONS, COMPLIANCE AND LICENSING
ALMA MATER: UNIVERSITY OF CALIFORNIA HASTINGS
COLLEGE OF THE LAW

HARD FACTS: Author of comprehensive guide to California cannabis laws *Legal Weed*, Manzuri's work as general counsel for trade association Cultivators Alliance was instrumental in the passing of Proposition M in Los Angeles. She also worked on the defense team for the federal case *U.S.A. v. Ed Rosenthal* in 2005, and in 2008 she wrote a winning federal brief to allow, for the first time, a medical defense to be presented in federal court in *U.S.A. v. Steele Smith*. ManzuriLaw.com



JOE ROGOWAY

ROGOWAY LAW GROUP, CALIFORNIA

Practice areas: contract dispute, asset recovery, intellectual property, trade secret litigation
Alma mater: University of San Francisco School of Law
HARD FACTS: Named a Rising Star by *Super Lawyers* magazine four consecutive years—2015 through 2018—Rogoway’s successful appeal in *Parent on Behalf of Student v. Rincon Valley Union Elementary School District* allowed a five-year-old Dravet patient access to medical cannabis while at school. He is a longstanding member of the California Cannabis Industry Association, the National Cannabis Industry Association, and the NORML legal committee.
RogowayLaw.com

ANDREW SACKS

SACKS WESTON DIAMOND LLC, PENNSYLVANIA

Practice areas: medical marijuana law, personal injury litigation
Alma mater: Dickinson School of Law
HARD FACTS: Sacks is a successful lobbyist and continuing legal education (CLE) speaker about all aspects of Pennsylvania medical marijuana and hemp law. He has served as co-chair of both the Pennsylvania and Philadelphia Bars’ medical marijuana and hemp law committees, which earned a 2018 Committee of the Year award. He represents MJ Freeway, winner of Pennsylvania’s multimillion-dollar seed-to-sale contract, and is preparing a suit against U.S. Attorney General Jeff Sessions for ongoing violation of medical marijuana users’ Second Amendment rights.
SacksLaw.com

LAUREN RUDICK

HILLER PC, NEW YORK

Practice areas: land-use and zoning, commercial litigation
Alma mater: New York Law School
HARD FACTS: As part of a continuing effort to prove the Controlled Substances Act unconstitutional in *Washington v. Sessions*, Rudick and team next will appear in the Second Circuit Court of Appeals. Named New York Metro Rising Star by *Super Lawyers* magazine (2015, 2016), Rudick provides *pro bono* legal services to Compassionate Care New York, Drug Policy Alliance, and Cannabis Cultural Association Inc. She also serves on the board of directors and as treasurer for the National Cannabis Bar Association.
HillerPC.com



IAN A. STEWART

WILSON ELSER, CALIFORNIA

Practice areas: product liability, commercial litigation, intellectual property, regulatory compliance
Alma mater: St. Louis University School of Law
HARD FACTS: As co-founder and chair of the Wilson Elser cannabis law practice, Stewart led the firm’s team on U.S. due diligence for the MedMen initial public offering on behalf of Canadian broker-dealers. He currently serves as chair for the National Cannabis Industry Association’s finance and insurance committee, vice-chair for the California Cannabis Industry Association’s insurance committee, and is a member of the National Cannabis Bar Association.
WilsonElser.com/Cannabis



ERIC SHEVIN

SHEVIN LAW GROUP, CALIFORNIA
PRACTICE AREAS: BUSINESS LAW, CRIMINAL DEFENSE, APPELLATE ADVOCACY
ALMA MATER: UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

HARD FACTS: Shevin is listed as one of America’s Top 100 Criminal Defense Attorneys and repeatedly has been named a Southern California Super Lawyer by *Super Lawyers* magazine. He also was listed among the nation’s Top 100 Trial Lawyers from 2013 through 2017. Shevin is a lifetime member of the NORML legal committee, has taught courses in cannabis law and policy to judges and lawyers throughout the country, and frequently is consulted by media outlets for his industry expertise.
ShevinLaw.com



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HEIDI URNESS

CULTIVA LAW PLLC, WASHINGTON
PRACTICE AREAS: ADMINISTRATIVE VIOLATION DEFENSE,
CORPORATE AND PARTNERSHIP DISPUTES
ALMA MATER: UNIVERSITY OF SAN FRANCISCO SCHOOL OF LAW

HARD FACTS: Urness is a member of the Washington State Bar Association’s Cannabis Law Section and has been appointed to the board of governors for its editorial advisory committee. She also is manager of Cultiva’s law blog, where she recently published an in-depth analysis of the Hemp Farming Act of 2018 and *Hemp Industries Association, et al. v. U.S. Drug Enforcement Administration*.

CultivaLaw.com



HENRY G. WYKOWSKI
WYKOWSKI LAW, CALIFORNIA

Practice areas: business law, business litigation, tax law, criminal defense

Alma mater: Tulane University School of Law

HARD FACTS: As counsel in *Californians Helping to Alleviate Medical Problems (CHAMP) v. Commissioner*, Wykowski established important precedents recognizing the right to deduct cost of cannabis sold and limiting the punitive applicability of Internal Revenue Code Section 280E. He is a founding member of, and general counsel to, the National Cannabis Industry Association while also serving as general counsel to both the national association and California Cannabis Industry Association.
WykowskiLaw.com



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—*Rennard Strickland and Frank T. Read, The Lawyer Myth: a Defense of the American Legal Profession*



KATY M. YOUNG
AD ASTRA LAW GROUP LLP,
CALIFORNIA

Practice areas: partnership disputes, breach of contract, investor issues

Alma mater: University of San Francisco School of Law

HARD FACTS: After having served on the board of directors for the National Cannabis Bar Association, Young is now the elected president of the organization. Northern California *Super Lawyers* magazine has named her a Rising Star in business litigation annually since 2014, and she is on *Benchmark Litigation's* Top 40 Under 40 hotlist. Young also sits on the executive committee and board of directors for the Cannabis Affinity Group.
AstraLegal.com



NCBA

national cannabis bar association
NAVIGATING LEGAL FRONTIERS
canbar.org





AN UNEXPECTED SUCCESS

Mary's Medicinals' founder left her high-powered corporate banking career to create a cannabis powerhouse.

BY ROB HILL

SHORTLY after launching Mary's Medicinals, Chief Executive Officer Lynn Honderd responded to a knock on the door to the company's manufacturing facility in Denver. A nine-year-old girl stood just outside, holding her mother's hand. "Hi, I'm Leah," the child said, "and I want to meet the people who make me feel better and thank them."

Leah had suffered secondarily generalized tonic-clonic seizures for years and was ingesting eight pharmaceuticals daily to control her debilitating condition...until she began a high-CBD treatment regimen using Mary's Remedy Oil. Today, Leah is completely off pharmaceuticals and living the life of a happy, healthy teenager.

Honderd swears she had nothing like this in mind. "Growing up I was not a user and, quite honestly, was not an advocate for legalization," she admitted. "You could have called me Nancy Reagan's poster child for 'Just Say No.'" After earning bachelor's degrees in finance

and international business, Honderd spent fifteen years in senior positions at Bank of America and UBS PaineWebber, working on marketing strategy and initial public offering execution across diverse sectors. Then, when voters approved recreational use in Colorado in November 2012, she examined the market and realized "there were no adults in the room."

"There were no accurately dosed and clean products on the market for those seeking alternatives to smoking cannabis, and the psychedelic culture associated with the industry masked the ability for those seeking true relief to find it," Honderd said.

Mary's Medicinals launched in 2013 with the first-ever transdermal cannabis patch. After five years on store shelves, and with California's new packaging regulations taking effect in July, Honderd felt it was time to freshen up the brand's look. The facelift wasn't a big departure from Mary's traditionally elegant, clean design, though. "It's still simply black and white, and we hope everyone loves our new look as much we do," Honderd said.



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CATCH US UP ON MARY'S MARKET STATUS.

We're now active in eleven states, and we're one of few infused product manufacturers with this footprint. We've doubled in size over the past year in terms of full-time employees, going from thirty to sixty-plus. We continue to hold on to more than 80 percent of the topicals market share in Colorado. We've averaged 60-percent year-on-year growth over the past three years, and we now have three, soon to be five, brands under the Mary's umbrella. Two of these brands are hemp-derived CBD brands that are available nationwide, in Canada, and soon in Europe.

ON WHAT STATES ARE YOU BULLISH?

The potential in both Florida and Michigan is huge. Right now, Mary's is in Arizona, California, Colorado, Florida, Illinois, Maryland, Michigan, Nevada, Oregon, Washington, and Vermont. Our home base of Colorado has always been a hugely successful market for us, but California is really taking off.

WHAT IS YOUR BEST SELLER?

Our transdermal patches remain the top seller, but the transdermal gel pen has become a favorite, too. It's a great accompaniment to the patch. Our Muscle Freeze has always been a customer favorite, as well. Its immediate soothing and cooling effect turns consumers on to Mary's. This product and the patch are usually the first two people try.

FROM DAY ONE, MARY'S HAS BEEN COMMITTED TO ACCURATE TESTING. THAT'S IMPRESSIVE.

All of Mary's products are internally tested prior to distribution to ensure accurate dosing. The cannabis material used for all of Mary's products is organically sourced and third-party tested prior to use to ensure a pesticide-free product. Mary's is committed to finding and using the safest ingredients in all its products.

WHO IS MARY'S MEDICINALS' CORE CONSUMER?

Our patients range from [age] two to ninety-two, from ultra-marathon runners to grandparents to professionals. At Mary's, we are proud to be challenging and changing the industry's stigma and furthering conversation. We love that we are shifting the face of cannabis, moving from "alternative medicine" to "an alternative to medicine."

WHAT IS THE COMPANY'S CULTURE?

Work hard and play hard. Everyone is willing to jump in and help others get the job done, but we also like to have fun. We recently took a Monday off and went ziplining. We're always moving toward the goal of an atmosphere of excellence. We're not ripping off other products on the market; we're creating novel innovations and conducting [research and development] to prove the legitimacy [of our own products].



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COMPETITION HAS REALLY HEATED UP IN THE PAST YEAR. HOW DO YOU SIZE IT UP?

Brands are entering the market at an exponential pace, because they see an opportunity to make money. While their product might be affordable, they're not taking the necessary steps to ensure it's safe for consumers, like really looking into where their raw materials and other ingredients are coming from. Testing for potency, microbials, pesticides, etc., at the raw material state and at final product is imperative. Transparency is something we pride ourselves on.

WHAT HAS BEEN THE KEY TO MARY'S GROWTH AND VITALITY?

Remaining a source of truth for consumers. We want to educate them about the plant and its benefits first, then help them decide which delivery method and cannabinoid mix is good for them. If Mary's is a fit, then it's a win-win.

Something else you'll hear us talk about is daily proactive cannabinoid therapy. We want to take cannabis from a reactive choice to a proactive choice. It's a few drops of a tincture in the morning, a topical or patch midday, and a capsule at night. This is something that sets us apart.

WHAT GETS YOU UP IN THE MORNING?

Cannabis is the only industry I've found where capitalism and altruism coexist. Also, that we're paving the way for the future of medicine—innovating completely new technologies and isolating parts of the plants that haven't been introduced to the market before. It's awe-inspiring to work with such a dedicated and intelligent team.

WHAT LITTLE-KNOWN FACT ABOUT MARY'S MEDICINALS WOULD SURPRISE PEOPLE?

When we started Mary's, we worked in what I lovingly refer to as the corner of crack-house and shithole, but it's where we started. The second product we launched was our patented transdermal gel pen. When we launched the gel pen, we were still in bootstrapping mode with very shallow pockets. We decided we would make 1,000 units and if they sold within the week, we would invest in the automation to make more. So how did we do it? We did it with a KitchenAid blender and a pastry bag. This is how it all began. 🍪



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Legalization Begets Litigation

AS THE CANNABIS INDUSTRY GROWS,
LEGAL CLAIMS FOLLOW SUIT.

BY CHRISTOPHER JONES

HISTORICALLY, THE CANNABIS INDUSTRY has been an unpredictable and dubious place to conduct business. When deals were negotiated in the black and gray markets, they most often were loose-knit “contracts” sealed with a handshake. In the new legal market, business practices are more regulated and formalized, but that doesn’t mean disputes and brouhaha are any less common.

If ever there were an industry that could use some good lawyering, cannabis is it. The weed biz represents the opportunity of a lifetime for brave souls who step into the fray. For business owners, it’s imperative to retain a lawyer, or two, who understand complex cannabis laws and compliance issues in the city, county, and state where they operate. For those who go it alone, *caveat venditor*.

Law firms across the country have taken a keen interest in the emerging billion-dollar business sector, and with more than half of U.S. states now permitting some form of legal cannabis operations, lawyers are gearing up for a new wave of civil and criminal litigation that is sure to provide some compelling characters and case law in the years to come.





CANNABIS 101: CONTRACT DISPUTES

Over the past fifty years, drug war lawsuits primarily were criminal cases against growers and distributors. Headlines hyping busts of thousands of pounds, complete with photos of weed bonfires and neatly bundled stacks of cash were on full display. Going forward, lawsuits will be less showboating and more mundane, garden variety cases: contract disputes, wage and working conditions claims, product liability suits, and landlord-tenant quarrels, to name a few.

Sean McAllister is a seasoned cannabis attorney whose firm, McAllister Garfield P.C., has expanded its presence from Denver and now maintains offices in Los Angeles, the Bay Area, and Miami. After representing clients in Colorado during the United States' first recreational cannabis experiment, McAllister predicts California and other West Coast operators will experience some growing pains, with a wide array of civil suits along the way.

"With the constantly changing regulations, I see a majority of companies not achieving the level of success they expect," he said. "That leads to frustration

and lawsuits between business partners, and that's the dominant litigation I see in the cannabis business."

A typical example, he explained, occurs when one member of a limited liability company or corporation butts heads with other owners or directors who are all on the same page. If the disagreement becomes bad enough that the individual sues the company—which generally has a significant advantage because of its resources—odds the plaintiff will win usually are slim to none. "Even if a partner has a right to be bought out, maybe the other side doesn't like the valuation of the business that is made, so they tell the partner to go pound sand," McAllister said. "If you're fighting about \$50,000 to \$100,000, it's rarely worth your time. The partner left in the cold who wants justice usually ends up very frustrated."

EMPLOYMENT DISPUTES AND PRODUCT LIABILITY

After so many years operating in the gray and black markets, adjusting to the norms of a regulated workplace is very difficult for many cannabis businesses and their employees. Say goodbye to cash

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payouts, sparking up doobies in the breakroom, and first Friday forklift battles in the company parking lot. Say hello to time cards, taxes, and worker safety and health standards.

One of the ripest areas for litigation in the cannabis industry is employment disputes, where employees file complaints against a company over issues such as wage-and-hour law violations, wrongful termination, sexual harassment, and discrimination.

“Employment disputes will be a huge exposure for businesses that have been operating in the gray market,” said Katy Young, a San-Francisco-based attorney who specializes in business disputes and real estate claims. “Nobody would have sued for that before, but there have been rampant violations of wage-and-hour laws in the cannabis industry.”

As regulatory agencies keep an eagle eye on cannabis businesses in newly legal states, mandatory inspections, workplace safety, and financial reporting procedures could mean the difference between success and failure in the early stages of a company’s operations.

“I work with a wide spectrum of cannabis businesses in Oregon, and I advise them to be extra careful in all aspects because they are under more scrutiny than other businesses as far as complying with local, state,

in July 2016 and consistently repurchased the Candy Apple and Sour Diesel varieties for several months before he began experiencing symptoms including fatigue, headaches, and nausea. According to court documents, Steep Hill Labs tested the products and found “detectable amounts of pesticides including Bifenazate, Etoxazole, Myclobutanil, and Trifloxystrobin.”

Not only can product liability claims cost companies by way of expensive lawsuits and damages, but courts and regulatory agencies can demand product recalls, remediation procedures, more stringent testing procedures, and other actions that can impact a company’s procedures and bottom line.

McAllister, too, has seen a plethora of disputes and business-to-business litigation around pesticides and contamination. “People have done a bad job of papering up contracts between suppliers and producers and retailers, so when they get a bad batch, there isn’t an obvious remedy in the contracts,” he explained. “We’ve seen a lot of this in Colorado, where a bad batch of product can end up costing hundreds of thousands in lost sales.”

To wit: In August, the California Bureau of Cannabis Control reported of the nearly 11,000 samples tested



EMPLOYMENT DISPUTES WILL BE A HUGE EXPOSURE FOR BUSINESSES THAT HAVE BEEN OPERATING IN THE GRAY MARKET.

—attorney Katy Young, San Francisco

and federal tax laws,” said Anthony Johnson, a cannabis consultant and attorney in Oregon. “You need to have resources available to hire lawyers, accountants, and other really good people who understand how to follow the rules.”

Alongside employment suits, another area ripe for litigation is product liability, wherein a company is sued for defective, faulty, or misused products that cause injuries, property damage, or business interruptions.

In a recent high-profile case, a Los Angeles man filed a proposed class action suit against vape cartridge manufacturer Brass Knuckles, testing lab SC Laboratories, and celebrity owner/endorser Xzibit, claiming the manufacturer’s THC oil concentrates seriously strained his health. The plaintiff, Ignacio Lee, alleged he used Brass Knuckles vaping cartridges

during the first two months of mandatory testing in the state, almost 2,000 failed due to inaccurate label claims and unacceptable levels of pesticides, solvents, and bacteria.

TRADEMARKS AND INTELLECTUAL PROPERTY

Because intellectual property protection is a federal issue, it’s difficult for cannabis companies to qualify for trademark protection. Nevertheless, many lawyers believe IP and patent disputes will be a hot topic as the industry expands.

“There is an entire industry of IP lawyers who have figured out how to get some level of protection,” Young said. As companies begin establishing their brands in new regions of a state, or into other states, they often encounter other brands with similar names. “Just like

we've seen in the craft beer industry, there are a lot of names that sound really similar in cannabis, which will lead to disputes," she said.

McAllister noted many of the trademark disputes he has reviewed in Colorado have resulted in peace agreements under which companies agree to split regions where they use the name or make some similar arrangement. In the realm of patent infringement, however, there is likely to be more activity as companies start testing the waters against competitors with similar products and technologies.

In one of the first cases of its kind in the industry—and the first patent lawsuit about a product that is illegal at the federal level—United Cannabis Corporation (UCANN) this past summer accused Pure Hemp Collective Inc. of patent infringement. In the complaint, filed in federal court in Colorado, UCANN alleged Pure Hemp's tinctures, gel capsules, and vape pens violate one or more of UCANN's patents for "cannabis extracts and methods of preparing and using same." According to documents filed in the case, testing revealed a Pure Hemp product

contained "[a] liquid cannabinoid formulation wherein at least 95 percent of the total cannabinoids is cannabidiol (CBD)."

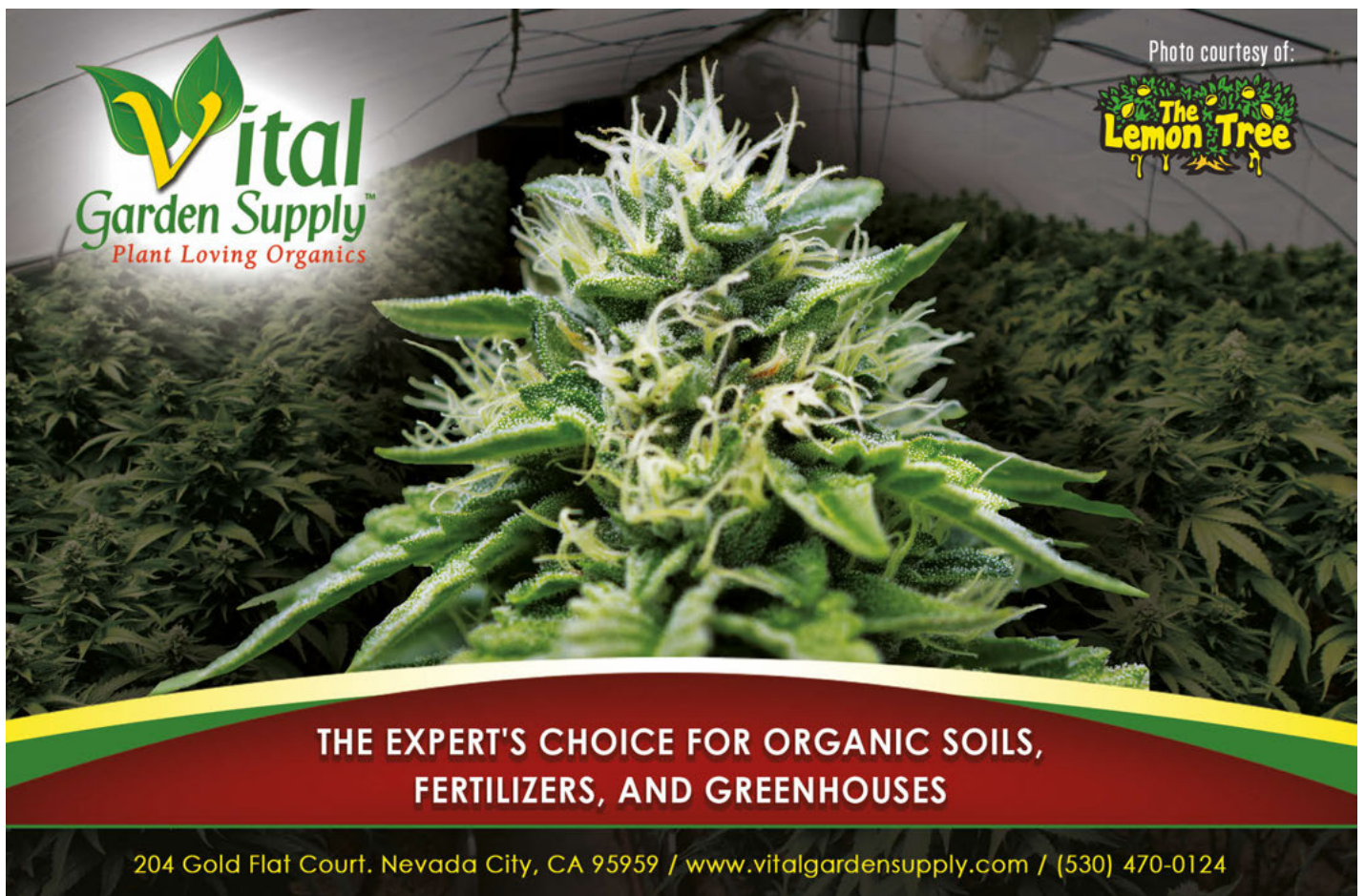
Given cannabis is federally illegal, the court may decline to hear the case. If the case proceeds, the judge could invalidate the patent as overly broad...or he could determine the patent is enforceable. The latter decision would give UCANN case law for future legal action against companies that manufacture cannabis extracts meeting the same description.

The ultimate disposition of the lawsuit will provide guidance about the viability of cannabis-related patents.

DON'T FORGET ABOUT THE FEDS

While attorneys agree most of the cannabis industry lawsuits going forward will resemble lawsuits in traditional business sectors, there will be cases with enough sizzle to satisfy the law-and-order crowd too. In the cannabis world, sizzle is spelled R-I-C-O.

In Oregon, Colorado, and Massachusetts, several Racketeer Influenced and Corrupt Organizations Act



The advertisement features a central photograph of a cannabis plant in a greenhouse, with its buds covered in trichomes. In the top left corner is the logo for Vital Garden Supply, which includes a stylized green leaf and the text "Vital Garden Supply Plant Loving Organics". In the top right corner, it says "Photo courtesy of: The Lemon Tree" with a small tree logo. At the bottom, a dark red banner contains the text "THE EXPERT'S CHOICE FOR ORGANIC SOILS, FERTILIZERS, AND GREENHOUSES". Below the banner, the contact information "204 Gold Flat Court. Nevada City, CA 95959 / www.vitalgardensupply.com / (530) 470-0124" is displayed in yellow text.

204 Gold Flat Court. Nevada City, CA 95959 / www.vitalgardensupply.com / (530) 470-0124

cases currently in play could have a dramatic impact as the cannabis industry unfolds on the national and international stage.

RICO, which was crafted to make prosecuting drug cartels and organized crime rings easier, allows concurrent criminal and civil prosecution of groups of loosely related entities as a “criminal enterprise.” Thus far, RICO cases aimed at the cannabis industry have focused on “adjacent property nuisance” issues—like, for example, the one filed in July by Sandy, Oregon, resident Laura Underwood. Underwood sued her neighbor, Oregon Candy Farm, on the grounds OCC’s extraction operation damaged her property’s value. The lawsuit names as criminal conspirators all 200 cannabis businesses with which OCC has had any dealings, ever. The rationale behind the RICO charge is cannabis’s federal status.

The strategy began in Michigan and Colorado in 2017 and has become increasingly popular among anti-legalization activists nationwide. So far, the tactic hasn’t been very successful. The Colorado and Michigan cases are ongoing, but one Oregon suit settled out of court last year. A second was dismissed by U.S. District Judge Michael McShane on the grounds the injuries plaintiffs alleged—reduced property values, unpleasant noises, and foul odors—were not appropriate for RICO arguments. However, McShane also ruled the plaintiffs may refile.

AVOIDING LITIGATION

It’s no secret compliance and success go hand in hand in the cannabis industry. In order to survive, companies must maintain good communications with city and state regulatory agencies and have in-house auditing and standard operating procedures that ensure all rules are followed to a T.

Henry Wykowski, a San-Francisco-based attorney and a founder of the National Cannabis Industry Association, believes companies in newly legal states should be laser-focused on compliance and regulations. “We monitor compliance trends so we can get out in front of them before these issues become problems,” he said. “You have to be nimble and have a good sense of where things are going, because an ounce of prevention is worth a pound of cure.”

The National Cannabis Bar Association met in Washington, D.C., this summer, where lawyers from across the U.S. met to trade notes and discuss the

state of the industry. There, Katy Young offered advice about avoiding litigation:

- ▶ Have an attorney draft entity documents, vendor contracts, and purchase orders. A little money on the front end can save a lot of money on the back end.
- ▶ Know and understand the rights and obligations created by each document.
- ▶ If a dispute might end up in litigation, get advice from a litigation attorney before the dispute “blows up.”
- ▶ Be reasonable when negotiating. Often, this means consulting a litigation attorney prior to taking a position.
- ▶ Insert mandatory mediation provisions in all documents.

Above and beyond these practices, Young said cannabis companies must take the extra step of buying insurance to protect themselves from claims that are better resolved outside the confines of a courtroom.

“Some of the best case law has been about insurance coverage, and the precedents should carry over,” she explained. “There will be bad-faith litigation in the cannabis industry, just like in any [other] industry, so people are wising up and buying insurance policies to cover their business.”

With so many different types of potential legal disputes, business operators also would be wise to choose their representation carefully and identify lawyers who have the expertise and experience to handle the complexities of the situation. With all the Johnny-come-latelies entering the cannabis realm, choosing the right attorney is an undertaking in and of itself.

“I’m concerned that there are so many lawyers holding themselves out there who say they have expertise in this area but don’t,” said Wykowski. “One thing we do a lot of is cleaning up messes that prior lawyers have created because they didn’t know what they were doing.”



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TAXES ON TAXES

Are California's state taxes even more unfair than I.R.C. 280E?

BY RIK D. JEFFERY, ESQ.; HENRY WYKOWSKI, ESQ.; AND KATHERINE ALLEN, ESQ.

For many years, the cannabis industry has been burdened by one of the most unfair federal tax rules in modern times. Internal Revenue Code 280E disallows cannabis businesses claiming expenses like rent, employee salaries, and office supplies, so ordinary and necessary business deductions are treated as taxable income.

The scope of I.R.C. 280E is so expansive it also causes income taxes cannabis businesses pay to state and local governments to be included in federal taxable income. For many in the cannabis industry, this is one of the most unfair consequences of I.R.C. 280E. The federal government is taxing cannabis business for the privilege of paying taxes.

Now, so is the State of California.

While the promise of windfall local and state tax revenues like those seen in Colorado has helped the California cannabis industry market and achieve adult-use legalization, this narrative also has forced the cannabis industry to submit itself to a state tax regime that is

perhaps more unfair than the federal situation, even taking I.R.C. 280E into account. California not only levies tax on a tax, but also iterates that iteration. The state levies a tax, builds that tax into the price of the goods, taxes the new (higher) price, and repeats the process twice more for good measure.

Setting aside the annual fees to maintain a commercial cannabis business license, which can be more than \$100,000 per year, California's new adult-use cannabis economy incorporates four additional levels of taxation. First, a cultivation tax is imposed on every ounce of cannabis a farm produces. Second, a 15-percent excise tax is imposed on the marked-up wholesale price of all cannabis retailers purchase from distributors. Third, local, city, and county governments often impose a tax on gross receipts of cannabis businesses. Finally, the state imposes the same sales-and-use tax it imposes on every other retail business.

The first tax levied on cannabis is the cultivation tax, which growers must pay up front: \$9.25 per ounce of flower and \$2.75 per ounce of everything else. The tax is passed on to the consumer, because it's built into the wholesale price of cannabis and cannabis goods.

The second level of tax is a 15-percent excise tax on all cannabis goods. Retailers collect this tax from consumers. The retailers then remit the tax to distributors, who finally pay it to the state. The excise tax, as it is calculated when it is paid to a distributor, is 15 percent of the average market price of the goods sold. The California Department of Tax and Fee Administration (CDTFA) defines average market price as the total wholesale cost of goods, including transportation and other miscellaneous fees charged by the distributor, plus a markup rate that is determined by CDTFA every six months. Right now, the markup rate is 60 percent. Because the grow tax is built into the wholesale price distributors charge retailers, the excise tax marks up the grow tax by 60 percent and then imposes a 15-percent tax on that amount.

The third layer of taxes comes from local governments, which often charge cannabis businesses a tax calculated as a percentage



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of their gross receipts. Retailers and other cannabis businesses are responsible for filing their own returns and either charging customers a separate fee or building the taxes into their product markups. For instance, the City of Oakland imposes a tax of 10 percent on cannabis businesses' gross receipts. According to the CDTFA, local taxes should be imposed on both retail price and the excise taxes collected. This means local governments are taxing consumers on their gross payments, which include the excise and cultivation taxes already built into the wholesale price.

Finally, on top of the excise tax, CDTFA also requires cannabis retailers to pay the same sales-and-use tax people pay on any other goods, which usually is around 8 percent. This sales tax is imposed on the grand total of each retail sale, including local tax and excise tax. This means the state is making consumers pay taxes on local tax *and* on excise tax and grow tax.

At a minimum, when a consumer buys a few grams of flower they pay sales tax on the local tax, the excise tax, and the grow tax, all of which were built into the wholesale price. Likewise, consumers pay local taxes on both the excise tax and the built-in grow tax. Finally, they also pay excise tax on the grow tax distributors and growers build into the wholesale price of their goods.

Not even the IRS's 280E causes a tax (like California's grow tax) to be taxed three different times. Unlike states, the federal government is limited by the Sixteenth Amendment to the United States Constitution, which authorizes only an income tax. Therefore, the federal government can tax only the amount of money a business receives in excess of the price it paid for the goods it sold. Because businesses realize no excess revenue over the price they paid for the goods they sell when they collect a state tax at the time of a sale, even under I.R.C. 280E the taxes collected are non-taxable. State taxes are treated as a reduction in the amount realized from the sale of the goods.

However, in our federalist system, states are considered their own sovereign entities, and therefore the full restrictions of the federal constitution, including the



CALIFORNIA LEVIES A TAX, BUILDS THAT TAX INTO THE PRICE OF THE GOODS, TAXES THE NEW (HIGHER) PRICE, AND REPEATS THE PROCESS TWICE MORE FOR GOOD MEASURE

Sixteenth Amendment, do not apply. Therefore, California has the power to create a tax system where local tax is taxed an additional time, the excise tax is taxed twice more, and the grow tax is taxed three times.

When California voters legalized adult-use cannabis, they expected the new, regulated cannabis industry would pay its fair share of taxes. That's an expectation the industry is happy to meet. Instead, California officials have multiplied one of the unfair aspects of the federal tax scheme rather than showing the nation how to tax fairly and wisely. California's new adult-use economy may not be able to sustain the burden. ^{mg}

RIKD. JEFFERY holds a J.D. from the University of California, Irvine, School of Law and employs more than nine years of regulatory experience in the liquor industry on behalf of cannabis clients. Henry Wykowski, a former federal prosecutor and current general counsel to the National Cannabis Bar Association, the National Cannabis Industry Association, and the California Cannabis Industry Association, is a principle at Wykowski Law, a nationally recognized firm specializing in litigation and transactional and tax matters for the cannabis industry. Katherine Allen, who holds a J.D. from the U.C. Irvine School of Law and an L.L.M. in taxation from New York University, uses her experience in private equity and accounting to aide in Wykowski Law's tax planning and corporate practice.
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Team photos from the Hall of Flowers event in Santa Rosa, California. Images by Mike Rosati. For the complete gallery, visit mgretailer.com



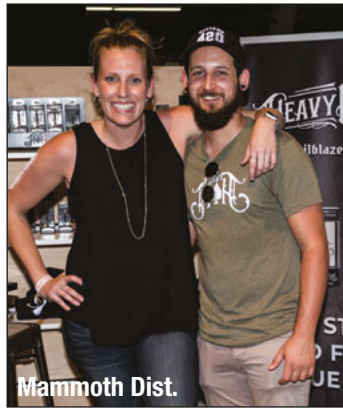
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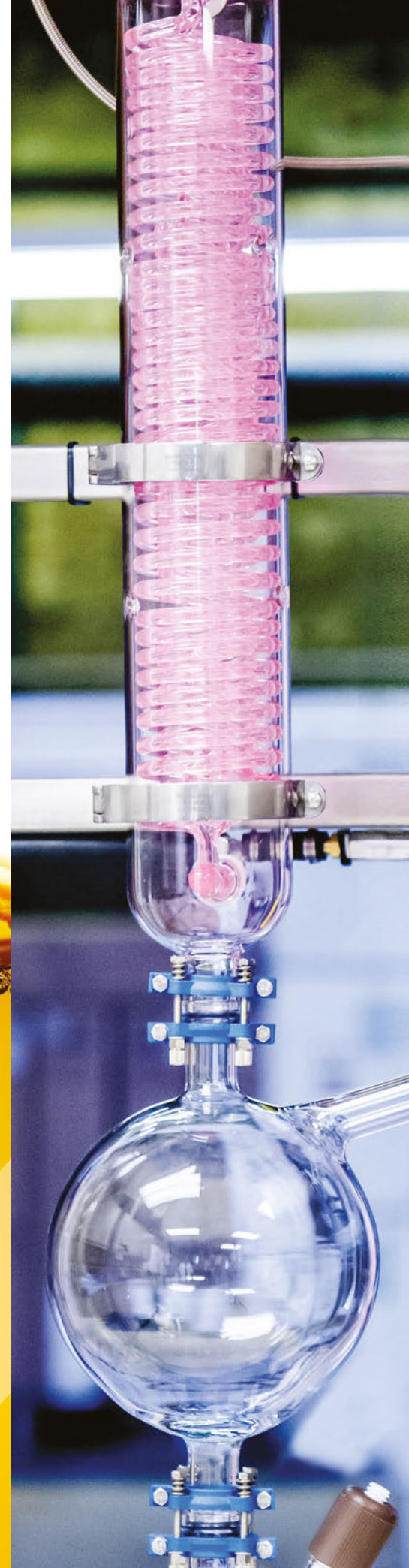


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CHELSIE KERN

VP of marketing and advertising for Blackbird, recommends...



Flower

I love anything grown by **Cannabiotix** (*cbiotix.NickLupien.com*). Their genetics are always spectacular, and the quality of everything that comes out of their facilities is superb. I also love them because they're kind of like the Willy Wonka of weed. They're very private about their operations, which comes off as a "nobody ever comes in, and nobody goes out" vibe, but everyone knows you want those products on your shelves.

Vape

I am super-obsessed with **dosist** (*dosist.com*) products, specifically their bliss pen. I have a tendency to go from zero to paranoid real quick, but their easy, precise dosing makes it so I don't overindulge.

CBD

Select CBD's (*SelectOil.com*) line of products is my favorite, because they care about quality control. Despite not being required to test their line before taking them to market, they do, and that's an expensive endeavor. It illustrates they truly believe in the caliber of their goods and care about what their customers are consuming.

Topical

Cosmic View's Viva La V! (*ACosmicView.co*) has become a crucial part of my self-care routine. Most people in the cannabis space are health-and-wellness focused, but I don't often hear about wellness products

specifically for vaginal health. This organic salve is chockfull of probiotics and can even be used as a lubricant. Double bonus: **Cosmic View** was founded by a mom-daughter duo, and I am all about supporting women-owned businesses.

Dispensary

I love **The Apothecarium** (*Apothecarium.com*) in San Francisco's Castro District. The space is open and inviting, complete with marble floors that feel luxurious without being too decadent. They even have a gallery space with a healthy rotation of artists. I also really like **Silver State Relief** (*SilverStateRelief.com*) in Sparks, Nevada. Their team has done a remarkable job of creating a pleasant customer experience, and every touch point with their staff is lovely.

Strain

I am pretty sensitive to cannabis, but **Gorilla Glue #4** is a concentrate strain that truly helps with chronic pain from injuries and neurological disorders. It has been a go-to for many patients.

Accessories

Summerland Ceramics (*WelcomeToSummer.land*) creates beautiful, contemporary smoking accessories that feel very modern. For me, a huge component to overcoming the deeply seeded stigma associated with cannabis is through thoughtful design. Using appealing accessories when smoking

elevates the whole experience into a ceremony centered on consciousness. If you're looking for a boutique to shop curated cannabis-culture goods, I recommend **Mister Green** (*Green-Mister.com*). They have a showroom in [Los Angeles] which I haven't had a chance to visit yet, but their online shop offers the same selection you can find in-store—everything from apparel to rolling trays to zines.

Edibles

Cannavative Indica Gummiez (*CannavativeGroup.com*) are my go-to nightcap on evenings when I am having a hard time letting go of my to-do lists for the day. Each gummy [is infused with] 10mg [of indica] and offers the perfect chill for a restful night's sleep—which is especially beneficial when I'm feeling a bit manic. **Kikoko's** Sympa-Tea (*Kikoko.com*) is another one of my go-to holistic unwinding rituals after a challenging day and also provides me speedy relief from menstrual cramps. The ginger and turmeric make for a palatable taste with the perfect amount of herbal spice.

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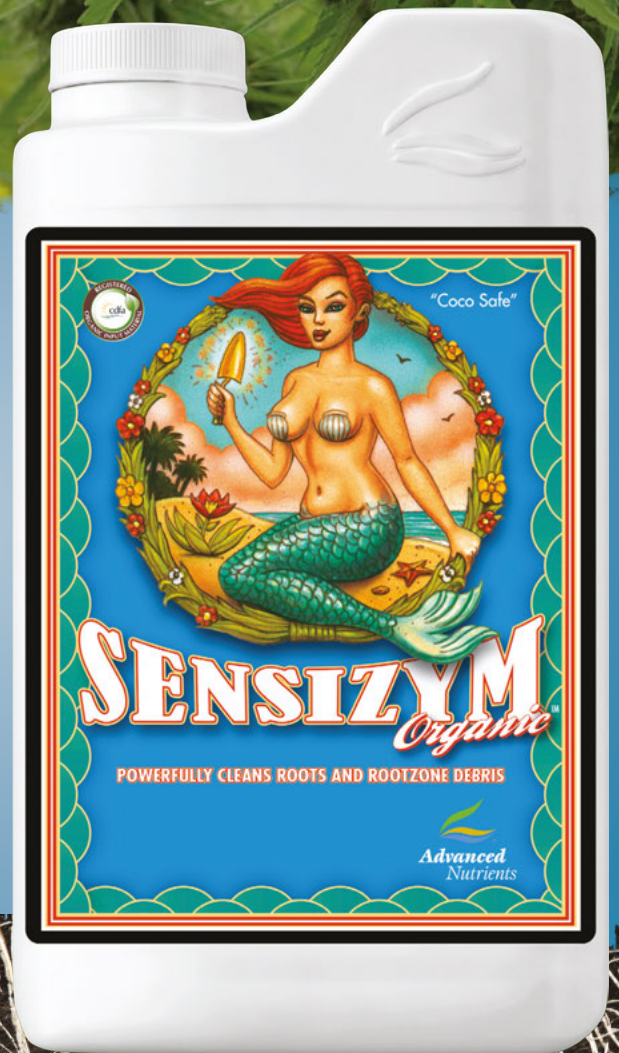


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