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11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 HOLISTIC PATIENT WELLNESS GROUP,
14 LLC, an Arizona limited liability company,

15 Plaintiff,

16 vs.

17 ZONED PROPERTIES, INC., a Nevada
18 Corporation; TEMPE INDUSTRIAL
19 PROPERTIES, LLC, and Arizona limited
20 liability company; DUKE RODRIGUEZ, a
21 single man; MARC BRANNIGAN and JANE
22 DOE BRANNIGAN, husband and wife; JOHN
23 DOES and JANE DOES I-X; RED LIMITED
24 LIABILITY COMPANIES I-X; BLACK
25 CORPORATIONS I-X; and WHITE
26 PARTNERSHIPS I-X,

27 Defendants.

Case No.: CV2014-003047

AMENDED COMPLAINT
(Breach of Contract; Trespass to Chattel,
Request for Injunction)

(Jury Trial Demanded)

28 Plaintiff Holistic Patient Wellness Group, LLC (hereafter "HPWG") complains and alleges as follows:

1. Plaintiff is an Arizona limited liability company doing business in Maricopa County, Arizona.

2. Defendant Zoned Properties, Inc. (hereafter "Zoned") is a Nevada corporation, which applied for authority to do business in Arizona with the Arizona Corporation Commission on March 6, 2014. Zoned is the owner of record with the Maricopa County Recorder on the date of this amended pleading for the real property located at 410 S. Madison Street, Tempe,

1 Arizona.

2 3. Defendant Tempe Industrial Properties, LLC (“TIP”) is an Arizona limited
3 liability company doing business in Maricopa County Arizona which claims to be the owner of
4 Arizona real estate located at 410 S. Madison Street, Tempe, Arizona. TIP claims it became
5 Zoned’s successor in interest by virtue of a Special Warranty Deed and succeeded to Zoned’s
6 rights.

7 4. Upon information and belief, TIP is a member-managed Arizona limited liability
8 company. The sole member listed in the Articles of Organization filed by TIP with the Arizona
9 Corporation Commission is Zoned Properties, Inc.

10 5. Defendant Duke Rodriguez (hereafter “Rodriguez”) is a resident of Maricopa
11 County, Arizona.

12 6. Upon information and belief, Defendants Duke Rodriguez and Marc Brannigan
13 are officers or shareholders of Zoned Properties, Inc.

14 7. Defendant Marc Brannigan (hereafter “Brannigan”) is a resident of Maricopa
15 County, Arizona. Jane Doe Brannigan is a person whose name is unknown to plaintiff and
16 therefore designated by a fictitious name pursuant to Rule 10(f), Arizona Rules of Civil
17 Procedure.

18 8. John Does and Jane Does I-X, Red Limited Liability Companies I-X, Black
19 Corporations I-X and White Partnerships I-X are entities who may be subject to this suit and
20 whose names are unknown to plaintiff at this time and are therefore fictitious names pursuant to
21 Rule 10(f) of the Arizona Rules of Civil Procedure. When the true identities of these entities
22 become known, Plaintiff will move to amend this complaint.

23 9. Events complained of herein occurred in, or arose from, transactions and conduct
24 occurring in whole or in part in Maricopa County, Arizona.

25 10. This Court has subject matter and personal jurisdiction over Defendants.

26 11. Venue is proper pursuant to A.R.S. § 12-401.

27 **Claim One – Breach of Contract**
28 **(Zoned Properties, Inc.)**

12. Plaintiff incorporates each paragraph above into this claim.

13. On August 24, 2012, the James A. Rae Family Trust (hereafter “Rae Trust”) entered into a lease (hereafter “Lease”) with Healing Healthcare 3, Inc. (hereafter “HH3”). The

1 Lease gave HH3 possession of the premises at 410 South Madison Street, Tempe, Arizona, Suite
2 #1 (hereafter "Madison Property") in exchange for rent payments to the Rae Trust. A copy of
3 the Lease is attached to this Complaint as Exhibit A.

4 14. HH3 entered into the lease with the Rae Trust to grow legal medical marijuana
5 within a cultivation facility on the Madison Property.

6 15. On February 19, 2014, the Rae Trust, HH3 and Plaintiff executed an addendum,
7 which added Plaintiff as a tenant on the Lease. A copy of that addendum is attached to this
8 complaint as Exhibit B.

9 16. Plaintiff is licensed by the State of Arizona to grow medical marijuana. Plaintiff
10 is the owner of all the marijuana plants growing on the Madison Property.

11 17. Upon information and belief, the real property at 410 South Madison Street,
12 Tempe, Arizona was conveyed by the Rae Trust to Defendant Zoned Properties, Inc. on March 7,
13 2014.

14 18. On the date of this Complaint, the owner of record with the Maricopa County
15 Recorder for the Madison Property is Zoned.

16 19. Zoned acquired the Rae Trust's interest in the Lease by assignment when they
17 purchased the Madison Property.

18 20. Upon information and belief, on March 7, 2014, Defendant Duke Rodriguez and
19 Defendant Marc Brannigan, acting as agents of Zoned, appeared and entered the Madison
20 Property without prior notice to Plaintiff or HH3 ("March 7 Entry"), the co-lessees of the
21 Madison Property. Defendants acted on behalf of themselves and Zoned.

22 21. The March 7 Entry onto the Madison Property (without prior notice given by
23 Zoned to the co-lessees in accordance with the Lease) was a breach of Section 32 of The Lease.
24 Section 32 of the Lease provides that the landlord may only enter without notice to the tenant in
25 the case of an emergency. There was no emergency.

26 22. The purpose of the Zoned entry into the building on the Madison Property was to
27 gain control of the marijuana crop within the Madison Property.

28 23. Again, on March 9, 2013, Rodriguez, acting as an agent of Zoned, entered the
Madison Property without providing any form of prior notice, constituting a breach of the Lease.
Later that same day, Brannigan, acting as an agent of Zoned, entered and gained access to the
Madison Property without providing prior notice, again constituting a breach of the Lease.

1 24. The multiple Zoned entries onto and within the Madison Property for the purpose
2 described in paragraph 20 of this Verified Complaint were breaches of section 32 of the Lease.
3 Section 32 of the Lease only allows the landlord to enter, after notice, for the following purposes:
4 “showing... the property to prospective purchasers, lenders, or tenants, and making such
5 alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or
6 desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through
7 the Premises...”

8 25. As a direct and proximate result of Zoned’s various breaches of the Lease,
9 Plaintiff has sustained damages.

10 26. Zoned’s breach of the Lease has damaged the Plaintiff, in an amount to be proven
11 at trial, but not less than \$7,500.00.

12 27. This is an action concerning a contract. Pursuant to A.R.S. § 12-341.01, Plaintiff
13 is entitled to reasonable attorneys’ fees and taxable costs, including post judgment costs,
14 attorneys’ fees and interest.

15 WHEREFORE, Plaintiff requests judgment against Defendants Zoned Properties, Inc., as
16 follows:

- 17 a. For Plaintiff’s compensatory damages, plus pre and post judgment interest at the
18 maximum legal rate and all costs and expenses incurred herein;
- 19 b. For reasonable pre-judgment and post-judgment interest at the maximum rate allowed
20 by law;
- 21 c. For Plaintiffs reasonable costs and attorneys’ fees incurred herein; and
- 22 d. For such other and further relief as the Court deems just in the circumstances.

23 **Claim Two – Trespass to Chattel**
24 **(Zoned, Rodriguez and Brannigan)**

25 28. Plaintiff incorporates each paragraph above into this claim.

26 29. On March 7, 2014, Rodriguez and Brannigan entered onto and within the
27 Madison Property with the objective of gaining control of the marijuana crop growing inside of
28 the cultivation facility, and further, to tamper with, disable and redirect the video feed of the
video surveillance system in place at the Madison Property.

 30. Rodriguez’ and Brannigan’s entry onto and within the Madison Property was
without permission or consent of the leaseholders of the Madison Property in violation of the

1 terms of the Lease.

2 31. When Defendants Rodriguez and Brannigan entered the Madison Property, on
3 March 7, 2014, they, or their agents and designees, disabled the video security system in the
4 possession and control of Plaintiff. Defendants illegally tampered with and hacked the system and
5 redirected the video feed to their own use. Defendants acted on behalf of themselves and Zoned.

6 32. As a licensed grower of medical marijuana, Plaintiff is required by A.R.S. § 36-
7 2806 and A.C.C § R9-17-318.G, to provide constant video surveillance of the growing area.
8 Defendants changed the video feed without the permission of the Plaintiff.

9 33. Defendants actions subjected Plaintiff to revocation of their license to grow medical
10 marijuana.

11 34. Defendants actions damaged Plaintiff, requiring them to incur expense to repair the
12 video system and restore it to a state consistent with the requirements of A.C.C § R9-17-318.G.

13 35. Plaintiff was deprived of the use and possession of the video security system for a
14 substantial time.

15 36. As a direct and proximate result of Defendant's intentional actions, Plaintiff was
16 financially abused and their chattel was unlawfully withheld, concealed, mismanaged, and
17 misappropriated by defendants.

18 37. Defendants engaged in conduct, acts, and omissions to serve their own interests
19 and pursued a course of conduct having reason to know of, yet consciously disregarding a
20 substantial risk that such conduct might significantly injure the rights of Plaintiff. The willful
21 and intentional acts, as set forth in this complaint are of such an aggravated or outrageous nature
22 to indicate motive by an evil mind, coupled with an evil hand.

23 38. Therefore, a punitive damages award against defendant in an amount to be proven
24 at trial is fully justified and warranted and would have the effect of deterring others from
25 committing similar acts and omissions.

26 WHEREFORE, Plaintiffs pray for judgment against Defendants Zoned, Rodriguez and
27 Brannigan as follows:

28 (a) For the reasonable value of compensatory damages, the cost to recover the chattel
and any additional property and economic damages, incurred to date, and to be incurred
in the future, consistent with the proof of this action;

(b) For punitive damages to be consistent with proof in this action;

1 (c) For such other relief as the Court deems just.

2 **Claim Three – Injunctive Relief**
3 **(Zoned, Rodriguez, Brannigan, TIP)**

4 39. Plaintiff incorporates each paragraph above into this claim.

5 40. Pursuant to A.R.S. § 12-1801, the Court has the authority to grant injunctive relief.

6 41. Upon information and belief, Defendants are not licensed non-profit medical marijuana dispensaries or licensed non-profit medical marijuana dispensary agents.

7 42. Defendants entry into the Madison Property, without notice puts Plaintiff's license to grow medical marijuana at risk.

8 43. Defendants entry into the Madison Property without an authorized agent of Plaintiff, who is in fact an authorized medical marijuana dispensary agent by the State of Arizona, puts the Plaintiff's license to grow medical marijuana at risk.

9 44. Defendants entry into the property in violation of Section 32 of the Lease can result in the revocation of the Plaintiff's medical marijuana license.

10 45. Plaintiffs license to grow medical marijuana can be revoked by the State of Arizona for the illegal entry into the grow facility by defendants. A.C.C. § R9-17-322.

11 46. If Plaintiff's license to grow medical marijuana is revoked, the State may use that fact as the basis for denying any future application or license to grow medical marijuana under A.C.C. § R9-17-322.

12 47. Plaintiff has suffered irreparable injury or there is a substantial likelihood that they will continue to suffer substantial irreparable injury as a result of Defendants' illegal entry into the Madison Property unless they are prevented from making such illegal entries.

13 48. Plaintiff has no adequate remedy at law to protect their license from possible revocation by the State and possible bar to ever obtaining another such license, if the illegal actions of defendants are not restrained.

14 49. The loss of their license or their ability to obtain another license would constitute an irreparable injury, with incalculable damages for Plaintiff.

15 50. Plaintiff is entitled to a temporary restraining order and permanent injunction against defendants.

16 WHEREFORE, Plaintiff prays that the court enter a temporary restraining order and

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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Kathy Sanchez, being first duly sworn, say that:

- 1. I am the Managing Member of Plaintiff Limited Liability Company in the above entitled matter and as such am authorized to make this verification;
- 2. I have read the foregoing Amended Complaint and know the contents thereof;
- 3. The same is true of my own knowledge, except as to those matters alleged upon information and belief and as to those matters, I believe them to be true.

Kathy Sanchez

SUBSCRIBED AND SWORN to before me this 24th day of March, 2014 by Kathy Sanchez.

Notary Public

My Commission Expires
