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Re: Litigation update Cannabis Freedom of Speech
To: 3MA membership

Dear friends of the cannabis industry in Mississippi:

I write to report on the current status of the First Amendment cannabis litigation now pending in the federal courts. Our firm filed as lead counsel a Complaint on November 13, 2023, in U.S. District for the Northern District of Mississippi (Oxford Division). We filed the Complaint on behalf of Clarence Cocroft and his dispensary Tru Source dispensary of Olive Branch. Joining us on the Complaint as attorneys for Clarence was the Institute for Justice. We named as defendants the agency heads in their official capacities. Attached is a copy of the Complaint.

The Complaint alleges that the Mississippi statute and regulations prohibiting cannabis advertising are unconstitutional. More specifically, we alleged that Mississippi's limitations on advertising violate the First Amendment's protections of freedom of speech and expression. We argued that since the sale and distribution of cannabis is legal under the laws of Mississippi that First Amendment protections should apply. But the District Court agreed with MDOH and dismissed the Complaint, holding that the sale of cannabis is a violation of federal law and is thus not deserving of First Amendment protections.

We appealed to the Fifth Circuit Court of Appeals in New Orleans where we appeared last Monday, October 7, to orally argue our appeal to reverse the District Court's ruling. My wife and law partner Pauline and I attended on behalf of Clarence and the Mississippi cannabis industry along with Ari Bargil of the Institute for Justice who argued the case before the three-judge panel.

It is difficult to condense months of litigation, hundreds of hours and pages of research and dense legal briefs into a single letter, but it is worth the effort to try: It is absurd for the state of Mississippi to legalize commercial conduct and in the next breath to declare that one may not speak of the conduct because the activity is illegal. At times the argument focused on the absurdity as the three justices grappled with the conflicting arguments.

The panel took the case under advisement at the conclusion of the argument. Several months usually elapse between oral argument and the court's publication of its ruling.

These issues are of utmost importance to the future growth of the industry. This legal conflict is doubly important to Pauline and me. First, the success of the litigation is of professional significance to our firm. And moreover, as owners along with our son Talmadge of a Tier II cultivation facility near Clarksdale (Green Solutions), we have a personal stake in the industry's progress.

We will keep you updated as the litigation progresses.

Sincerely,

Michael T. Lewis, Sr.

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