Office of the Yavapai County Attorney
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ORIGINAL FILED THIS Jacqueline Harshman
DAY OF
SANDRA K MARKHAM
Clerk of Superior Court
By:
Deputy AUG 0 9 2012

Sheila Sullivan Polk
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Attorneys for the YAVAPAI COUNTY ATTORNEY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

Sheila Sullivan Polk, in her capacity as Yavapai County Attorney, Plaintiff, vs. Hawaiian Honey Swimwear LLC dba Hawaiian Honey; Giannico Family Trust; Alphonso Giannico and Cynthia Giannico, Trustees of Giannico Family Trust; Steven Ogden dba Pipe Dreamz Smoke Shop; Munday Living Trust; David Munday and Lorraine Lovel, Trustees of the Munday Living Trust; A & N Arizona Enterprises, Inc. dba Prescott Quick Stop; Willis Family Trust; William Willis and Joanne Willis, Trustees of the Willis Family Trust; Hardip Singh; Lewman LLC dba Mike's Mini Market; The Island Store LLC dba The Island Store; Wes Lance dba Wes Lance Trading Co.; Coffey Commercial Center LLC; Paula Farley dba X-Hale Smoke Shop;	Case No. P1300CV201280342 Division PTA MOTION FOR TEMPORARY RESTRAINING ORDER WITHOUT NOTICE

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Quesnell Property Management Grand Prairie LLC; Nabulsy, LLC dba Mario's PV Quick Stop; Fernando Gonzalez; Eyup Ozaltin dba Mike's Connection, LLC; B-Desh Enterprises, LLC dba Texaco; Texaco Refining and Marketing, Inc.; Daniel Wildes dba Hobby Glass; Charlene Karecki and Donald Karecki; Jeffrey Russell dba Smoke N Thingz; Maneely Family Irrevocable Trust; Jason Maneely and Cynthia Maneely, Trustees of the Maneely Family Irrevocable Trust; John and Jane Does I – X, and Doe Corporations I – X,

Defendants.

Plaintiff, by and through undersigned counsel, hereby moves this Court, pursuant to the provisions of Rule 65(d), Ariz.R.Civ.P., and A.R.S. §13-2917, to issue forthwith a Temporary Restraining Order, without notice to Defendants, restraining and enjoining the Defendants, and any and all other persons in concert or participation with them, from acquiring, possessing, selling or transferring any and all synthetic cannabinoids and cathinones (referred to as "dangerous synthetic drugs" and known by street names such as, but not limited to: "Go Fast," "K2," "Spice," "Sprinklezz," "Incense," "Potpourri," "Herbal Sachets," "Glass Cleaner," "Felt Cleaner," "Go Fast Carpet Cleaner," "Exuberance Powder," "Tickle Talc," and "Bath Salts"), and any substance that meets the definition of an Analogue drug pursuant to 21 U.S.C. §§ 802(32)(A) and 813.

This motion is supported by the Verified Complaint filed in this action and the accompanying Memorandum of Points and Authorities, which are incorporated herein by this reference.

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MEMORANDUM OF POINTS AND AUTHORITIES

Rule 65(d), Arizona Rules of Civil Procedure, provides:

> A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice or the reasons supporting the claim that notice should not be required.

For the reasons below, Plaintiff asserts that notice should not be required:

1. Plaintiff is highly concerned about the safety of the citizens of Yavapai County, including the users of the dangerous synthetic drugs, due to the overwhelm evidence of the devastating and sometimes life-threatenting effects of the dangerous synthetic drugs.
2. As described in the Affidavits in support of Plaintiff's Verified Complaint, the sale of these dangerous synthetic drugs is causing immediate and irreparable harm to the citizens and residents of Yavapai County, who will suffer immediate and irreparable injury, loss, and damage unless Defendants are immediately enjoined and restrained by this Court pending a hearing and resolution of Plaintiff's Application for Preliminary Injunction.
3. Notice to Defendants should not be provided because it will allow Defendants the opportunity to continue to sell these dangerous synthetic drugs, causing irreparable injury as described in the Affidavits in support of Plaintiff's Verified Complaint, during the pendency of hearings on this matter.
4. These dangerous synthetic drugs should not be sold even one more day by Defendants.
5. Any delay in issuing the Temporary Restraining Order would also give Defendants the opportunity to transfer their inventory to other businesses not covered by the Complaint, also causing injury.

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6. On May 1, 2012, Plaintiff, working in partnership with law enforcement agencies throughout Yavapai County, provided Defendant Business Owners with "Community Protection Agreements" to put Defendants on notice of the harm and devastation caused by dangerous synthetic drugs, and asked Defendant Business Owners to voluntarily cease the sale of such drugs. Defendants refused to voluntarily cease selling these harmful and dangerous synthetic drugs. A copy of the Community Protection Agreement is attached to this Motion.

For these reasons, Plaintiff Yavapai County requests that this Court issue forthwith, without notice, a Temporary Restraining Order, restraining and enjoining Defendants, and any and all other persons in concert or participation with them, from acquiring, possessing, selling or transferring any and all synthetic cannabinoids and cathinones (referred to as "dangerous synthetic drugs" and known by street names such as, but not limited to: "Go Fast," "K2," "Spice," "Sprinklezz," "Incense," "Potpourri," "Herbal Sachets," "Glass Cleaner," "Felt Cleaner," "Go Fast Carpet Cleaner," "Exuberance Powder," "Tickle Talc," and "Bath Salts"), and any substance that meets the definition of an Analogue drug pursuant to 21 U.S.C. §§ 802(32)(A) and 813.

RESPECTFULLY SUBMITTED this 9th day of August.

By:
SHEILA SULLIVAN POLK
YAVAPAI COUNTY ATTORNEY

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STATE OF ARIZONA)
) ss.
County of Yavapai)

Sheila Sullivan Polk, being duly sworn, upon oath deposes and says: That she is the Yavapai County Attorney; that she has read the foregoing Motion For Temporary Restraining Order Without Notice, and certifies that all the facts stated therein are true to the best of her knowledge, information, and belief.

DATED: Aug. 9th, 2012.

Sheila Sullivan Polk
Yavapai County attorney

SUBSCRIBED AND SWORN to before me this 9th day of August, 2012.

OFFICIAL SEAL
PENNY A. CRAMER
Notary Public - State of Arizona
YAVAPAI COUNTY
My Comm. Expires Oct. 26, 2013

Notary Public

My Commission Expires:
10-26-2013