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SUPREME COURT  
STATE OF WASHINGTON  
May 09, 2014, 10:54 am  
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NO. 90204-6

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SUPREME COURT  
OF THE STATE OF WASHINGTON

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CANNABIS ACTION COALITION, ET AL.,  
Petitioner

v.

CITY OF KENT, ET AL.,  
Respondent

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**CITY OF KENT'S ANSWER TO PLAINTIFF-INTERVENER-  
APPELLANT WEST'S MOTION FOR LEAVE TO INTERVENE**

Arthur Fitzpatrick  
City of Kent Acting City Attorney

City of Kent  
220 Fourth Avenue South  
Kent, Washington 98032  
(253)856-5770

 ORIGINAL

Party Answering Motion

The city of Kent submits this brief in answer to the “Plaintiff-Intervener-Appellant West’s Motion for Leave to Intervene” filed by Arthur West on May 5, 2014.

Relief Requested

Mr. West abandoned his appeal before the Court of Appeals, and intervention at this late stage in the appellate process cannot be used to circumvent his abandonment. Therefore, the city of Kent asks this Court to deny Mr. West’s Motion to Intervene.

Grounds for Relief Requested

Statement of Facts

On October 5, 2012, the King County Superior Court granted the city of Kent’s Motion for Summary Judgment, and issued an injunction against Arthur West and four other plaintiffs (Cannabis Action Coalition, Steve Sarich, John Worthington and Deryck Tsang) who, appearing individually, had brought suit against the City. Mr. West, in a pro se capacity, filed a notice of appeal seeking direct review in the Supreme Court. (Exhibit A). Mr. Tsang, through his attorney, filed a notice of appeal seeking review in the Court of Appeals. (Exhibit B). Mr.

Worthington and Mr. Sarich, filed a joint notice of appeal seeking direct review in the Supreme Court in a pro se capacity. (Exhibit C). The Cannabis Action Coalition did not appeal.

On November 21, 2012, Mr. West filed “Appellant West’s Joinder in Tsang’s Statement of Grounds for Direct Review.” (Exhibit D). This is the last document Mr. West filed in this matter until he filed this motion to intervene with the Supreme Court. In the intervening months, Appellant Sarich retained his own attorney, and Appellant Worthington continued to participate in a pro se capacity. (Exhibits E, F and G).

After the Supreme Court denied direct review, Appellants Tsang, Worthington and Sarich each filed motions and briefs, and argued their position before the Court of Appeals. Mr. West, however, did not participate. He neither filed any motions or briefs on his own behalf, nor joined in any of the motions or briefs filed by the other Appellants.

On March 31, 2014, the Court of Appeals issued its decision upholding the decision of the King County Superior Court. In its decision, the Court of Appeals acknowledged Mr. West’s lack of participation by stating in footnote 8:

Although West filed a notice of appeal, he never filed an appellate brief; he has thus abandoned his appeal.

*Cannabis Action Coalition v. Kent*, \_\_ Wn. App. \_\_, 9 (No. 70396-0-I, consolidated with No. 69457-0-I, March 31, 2014)

After a year and a half of inaction, Mr. West now seeks permission of the Supreme Court to intervene in the case, and asks the Supreme Court to consider his Petition for Discretionary review.<sup>1</sup>

#### Argument

Mr. West asserts that he did not participate in the Court of Appeals because his interests were adequately protected by counsel retained by the other Appellants. He argues he should now be permitted to participate in the appeal to the Supreme Court because Mr. Worthington cannot adequately represent Mr. West's interests.

As a preliminary matter, Mr. West's pro se status should not affect the Court's decision on the issues before it. "[P]ro se litigants are bound by the same rules of procedure and substantive law as attorneys." *Holder v. City of Vancouver*, 136 Wn. App. 104, 106, 147 P.3d 641 (2006); citing *Westberg v. All-Purpose Structures, Inc.*, 86 Wn. App. 405, 411, 936 P.2d 1175 (1997) (citing *Patterson v. Superintendent of Pub.*

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<sup>1</sup> It is unclear whether Mr. West also seeks to intervene for the purposes of opposing the City's Motion to Lift Stay which was filed with the Court of Appeals on May 1, 2014. The City's Motion to Lift Stay is not currently before this Court, and therefore, until this Court retains jurisdiction over that motion, this Court is not in a position to enter a ruling regarding Mr. West's possible desire to oppose the City's motion.

*Instruction*, 76 Wn. App. 666, 671, 887 P.2d 411 (1994), *review denied*, 126 Wn.2d 1018 (1995)).

Upon review of the record, it is clear that Mr. West has abandoned his appeal, and at this late stage in the appellate process there is no basis for its resurrection. His stated reasons for not participating and the fact that Mr. West filed only a single a notice of appeal a year and a half ago is of no consequence to the Court's analysis.

#### Abandonment of Appeal

An appellant has an obligation to argue his case before the appellate courts. The failure of the appellant to submit a brief leaves nothing for the appellate court to decide in relation to that appellant.

While the notice of appeal confers jurisdiction, the purpose of a notice of appeal is to notify the adverse party that an appeal is intended. *State v. Olson*, 74 Wn. App. 126, 128, 872 P.2d 64 (1994). The mere fact that a person is named in a case or files a notice of appeal does not preserve that person's right to appeal when the person fails to prosecute the appeal. *O'Hare v. Wilson*, 3 Wash. Terr. 251, 251, 14 P. 595 (1887). As the Court of Appeals noted in this case, Mr. West failed to file briefing in this matter, and has thus abandoned his appeal. *Cannabis Action Coalition v. Kent*, \_\_ Wn. App. 9.

The Supreme Court does not consider issues that are abandoned by appellants:

We do “not consider issues apparently abandoned at trial and clearly abandoned” on appeal. *Seattle First-Nat'l Bank v. Shoreline Concrete Co.*, 91 Wn.2d 230, 243, 588 P.2d 1308 (1978). A party abandons an issue by failing to pursue it on appeal by (1) failing to brief the issue or (2) explicitly abandoning the issue at oral argument. *State v. Wood*, 89 Wn.2d 97, 99, 569 P.2d 1148 (1977); *Talps v. Arreola*, 83 Wn.2d 655, 657, 521 P.2d 206 (1974) (holding that it was evident the appellant had abandoned a claim on appeal because she failed to include argument or cites to authority on the issue in her opening brief or in her reply brief).

*Holder v. City of Vancouver*, 136 Wn. App. 104, 107, 147 P.3d 641 (2006).

In accordance with RAP 10.1(g), Mr. West had two options in this case: he could have joined in the brief of one of the other Appellants, or could have filed a separate brief.<sup>2</sup> First, Mr. West submitted nothing to the Court of Appeals. He did not file any briefs of his own. Second, Mr.

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<sup>2</sup> RAP 10.1(g) Briefs in Consolidated Cases and in Cases Involving Multiple Parties. In cases consolidated for the purpose of review and in a case with more than one party to a side, a party may (1) join with one or more other parties in a single brief, or (2) file a separate brief and adopt by reference any party of the brief of another.

West was aware of his need to join the briefs of the other Appellants, evidenced by the fact that he filed “Appellant West’s Joinder in Tsang’s Statement of Grounds for Direct Review.” After that, however, he failed to join any of the participating Appellants’ briefs. He filed a notice of appeal, and then failed to prosecute it. His appeal was abandoned.

Intervention Not Available

Despite the abandonment of his appeal, Mr. West seeks intervention. The Court has allowed intervention at the appellate level in circumstances in which the interests of the intervener became an issue at the appellate level. (See e.g. *Sutton v. Hirvonen*, 113 Wn.2d 1, 8, 775 P.2d 448 (1989), in which the Supreme Court allowed intervention when the rights of the intervener came into question due to the ruling of the Court of Appeals).

In this case, intervention is inappropriate. First, Mr. West was a plaintiff in this lawsuit who participated in the case at the trial court level. He filed briefs and argued his case at the summary judgment hearing. As a result, intervention in a case to which he is already a party is unnecessary even if it were permissible.

Second, Mr. West’s interests were squarely before the trial court when he filed suit against the City. His interests were not involuntarily

placed before the court as a result of the action of some other plaintiff, or some ruling of the Court.

Moreover, the effects of this case have been consistent throughout its litigation. The City passed an ordinance prohibiting medical marijuana collective gardens. Mr. West and others sued the City to have the ordinance declared unconstitutional. The City prevailed and the trial court issued an injunction prohibiting Mr. West and the others from violating the ordinance. Mr. West and the others appealed and the Court of Appeals determined that the ordinance was not unconstitutional. From the effective date of the ordinance, medical marijuana collective gardens have been prohibited in Kent. The Supreme Court's review of this matter will do nothing more than determine, like the trial court and Court of Appeals has determined, whether the City's ordinance is unconstitutional. Mr. West's interests in this lawsuit have been front and center from the day he filed suit against the City and the courts' rulings have had a consistent effect. His circumstances do not meet the standards set forth in *Sutton v. Hirvonen*, and thus, intervention is inappropriate.

Even if intervention was a possible remedy, the fact that Mr. West's motion for intervention comes so late in the process forecloses his ability to intervene. If this Court looks to the Civil Rules for guidance on

intervention of a party, the law disfavors intervention at such a late date.

As stated by Division I of the Court of Appeals,

Where a person seeks to intervene after judgment, the court should allow intervention only upon a strong showing after considering all circumstances, including prior notice, prejudice to the other parties, and reasons for and length of the delay. *Kreidler v. Eikenberry*, 111 Wn.2d 828, 832-33, 766 P.2d 438 (1989).

*Diversified Wood Recycling, Inc. v. Johnson*, 161 Wn. App. 891, 896, 251 P.3d 908 (2011).

In this case, Mr. West was on notice of this action. He was an original plaintiff who participated at the trial court level. He also received notice of each and every document filed in this action. He simply has no reasonable basis to now participate after abandoning his case while other parties continued to prosecute and defend it. Moreover, there will be prejudice to the other parties. Other parties will be forced to answer and reply to briefs and motions (such as the instant motion), and spend resources they otherwise would not need to expend.

Finally, the reason for Mr. West's delay does not support intervention. Mr. West explains that while competent attorneys appeared before the Court of Appeals, "no counsel appears to have been retained to

oppose the cancellation of the Order of Stay issued by the Commissioner of this Court.” (See Plaintiff-Intervener-Appellant West’s Motion for Leave to Intervene). He then asserts that Mr. Worthington cannot adequately represent his interests.

The record does not reflect that Mr. West has ever retained counsel to defend his interests in this case. He was an individual plaintiff in the case, appeared pro se throughout, and never joined the other Appellants represented by counsel in any of the briefing. In addition, he was well aware of the position of Mr. Worthington, who has also appeared pro se, from the beginning of this case.

#### Conclusion

Mr. West was a plaintiff in this case and had an obligation to prosecute the appeal or suffer the consequence of abandonment. Instead, he sat back and did nothing in hopes that others would prevail. He cannot now be permitted to reenter the case because he is disappointed with the result. For the reasons stated above, Mr. West’s Motion to Intervene should be denied.

DATED this 9<sup>th</sup> day of May, 2013.

Respectfully submitted,

By: 

Arthur Fitzpatrick  
WSBA No. 25068  
Attorney for Respondent  
City of Kent  
220 Fourth Avenue South  
Kent, Washington 98032  
(253)856-5770

**CERTIFICATE OF SERVICE**

I, Kim Komoto, certify under penalty of perjury of the laws of the State of Washington that on May 9<sup>th</sup>, 2014, I caused copies of the document to which this is attached, to be filed with the Supreme Court of the State of Washington via email at [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov) and to be served on the following individuals in the manner listed below:

Arthur West  
120 State Avenue NE #1497  
Olympia, WA 98502  
**[X] Via email: [awestaa@gmail.com](mailto:awestaa@gmail.com)**  
**[X] Regular U.S. Mail**

John Worthington  
4500 S.E. 2<sup>nd</sup> Place  
Renton, WA 98059  
**[X] Via email: [Worthingtonjw2u@hotmail.com](mailto:Worthingtonjw2u@hotmail.com)**  
**[X] Regular U.S. Mail**

Steve Sarich  
2723 1<sup>st</sup> Avenue South  
Seattle, WA 98134  
**[X] Via email: [Steve@cannacare.org](mailto:Steve@cannacare.org)**  
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936 N. 34<sup>th</sup> Street Suite 400  
Seattle, WA 98103-8869  
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Joseph L. Broadbent  
Attorney at Law  
P.O. Box 1511  
Sultan, WA 98294-1511  
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Aaron A. Pelley

Pelley Law PLLC  
119 1<sup>st</sup> Avenue S Suite 260  
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Deryck Tsang  
21628 43<sup>rd</sup> Place South  
Kent, WA 98032  
**[X] Regular U.S. Mail**

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ACLU of Washington Foundation  
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Seattle, WA 98164-2008  
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Mark Muzzey Cooke  
ACLU of Washington  
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Seattle, WA 98164-2008  
**[X] Via email: [mmcooke3@yahoo.com](mailto:mmcooke3@yahoo.com)**

Jared Van Kirk  
Garvey Schubert Barer  
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Seattle, WA 98101-2939  
**[X] Via email: [jvankirk@gsblaw.com](mailto:jvankirk@gsblaw.com)**

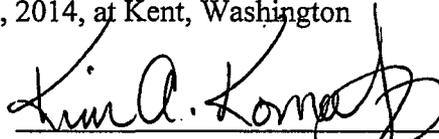
Kahtleen J. Haggard  
Porter Foster Rorick LLP  
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Seattle, WA 98101-4027  
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MR Timothy James Reynolds  
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Seattle, WA 98101-4027  
**[X] Via email: [tim@pfrwa.com](mailto:tim@pfrwa.com)**

Timothy J. Donaldson  
Walla Walla City Attorney  
15 N. 3<sup>rd</sup> Avenue  
Walla Walla, WA 99362-1859  
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J. Preston Fredrickson  
City of Walla Walla  
15 N. 3<sup>rd</sup> Avenue  
Walla Walla, WA 99362-1859  
**[X] Via email: [pfred@ci.walla-walla.wa.us](mailto:pfred@ci.walla-walla.wa.us)**

SIGNED this 9<sup>th</sup> day of May, 2014, at Kent, Washington



Kim A. Komoto, Legal Analyst

P:\CivilFiles\Open Files\1657-Cannabis Action Coalition, Et Al. V. City Of Kent, Et Al\Appeal COA\Supreme Court 90204-6\City's Answer To Motion To Intervene.Docx



1 Motion for Summary Judgment, the Order on SLAPP claims, as well as the Orders  
2 of October 22, 2012 denying the plaintiffs' and plaintiff West's motions for  
reconsideration.

3 The defendants were represented by the City Attorney for the City of Kent.

4 Plaintiffs acted on their own behalf.

5 West seeks an Order of the Court of Appeals vacating the all of the rulings  
6 of the King County Court in this case, including those denying and restraining his  
7 ability to associate for the purpose of establishing or operating a collective garden  
8 in the City of Kent either alone, or in combination with others, and the Orders on  
9 reconsideration including the Order denying him the right to a passive assertion of  
an anti-SLAPP defense outside of the new special Motion to Strike procedures and  
penalties. West also joins with the previous Notice of Appeal filed in this case, in  
his capacity as a member of the Cannabis Action Coalition.

10 **DECLARATION OF SERVICE**

11 I, Arthur West certify as following to be correct and true:

12 This Notice was served electronically on all plaintiffs and defendants at their  
13 Email address of record, and was additionally  mailed or  personally  
delivered to the City Attorney for the City of Kent on November 5, 2012

14 DATED at Seattle, Washington this 5<sup>th</sup> day of November, 2012.

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ARTHUR WEST

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SUPERIOR COURT OF WASHINGTON  
COUNTY OF KING

Cannabis Action Coalition,  
Steve Surich, Arthur West,  
John Worthington, Deryck Tsarney  
Petitioner,

v.

City of Kent, a Local Municipal Corporation,  
Kent City Council, Kent Mayor  
State of Washington  
Respondent.

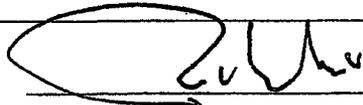
No. 12-2-19726-1 KNT

ORDER ON CIVIL MOTION

The above-entitled Court, having heard a motion Defendant's Amended  
Motion to Strike Plaintiffs' Counterclaims Pursuant  
to RCW 4.24.525 (Anti SLAPP)

IT IS HEREBY ORDERED that having  
Plaintiff Worthington and all other Plaintiffs ~~have~~ agreed <sup>in open of</sup>  
to voluntarily dismiss, with prejudice, all claims  
related to RCW 4.24.525, all claims relating  
to RCW 4.24.525 are hereby dismissed with  
prejudice.  
No cost of litigation, attorney's fees, or statutory  
penalty shall be awarded

DATED 10/5/2012

  
JAY V. WHITE

  
Attorney for Petitioner, WSBA# \_\_\_\_\_

  
Attorney for Respondent, WSBA# 25068

WORKING PAPERS  
JUDGE JAY V. WHITE  
9/14/2012

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IN THE SUPERIOR COURT OF THE STATE  
OF WASHINGTON FOR KING COUNTY

CANNABIS ACTION COALITION  
STEVE SARICH, ARTHUR WEST,  
JOHN WORTHINGTON, DERYCK  
TSANG;

Plaintiffs'

Vs.

CITY OF KENT, a local Municipal  
Corporation, Kent City Council,  
Mayor of Kent, State of Washington

Defendants'

No. 12-2-19726-1 KNT

~~PROPOSED ORDER GRANTING~~  
CANNABIS ACTION COALITION  
ET AL'S MOTION FOR SUMMARY  
JUDGMENT

DENYING JW

Clerk's Action Required\*

THE COURT, having considered the plaintiff's Motion for Summary Judgment, and the following arguments in support and opposition to plaintiffs' Motion for Summary Judgment;

1. Plaintiff's Motion for Summary Judgment; and.

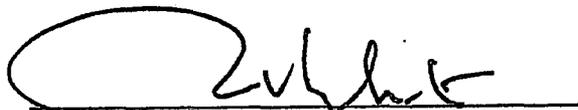
2. The Declarations of Deryck Tsang and the Exhibits attached thereto; and

3. The Defendant's <sup>Opposition [Response] to Declaration of</sup> response Kim Komoto (8/29/12) and, <sup>CV</sup>

4. The Plaintiff's reply, <sup>Supplemental Declaration of</sup> Deryck Tsang (8/17/12); <sup>and</sup> Declarations of John Worthington (9/6/12); <sup>CV</sup>

5. <sup>Oral testimony</sup> Supplemental Declaration of John Worthington (10/3/12) and, <sup>JW</sup>

6. ORIGINAL and

  
HONORABLE JAY WHITE

Presented by:

/s Arthur Fitzpatrick

ARTHUR FITZPATRICK, WSBA No. 25068  
Attorney for City of Kent  
220 Fourth Avenue South  
Kent, WA 98032  
[pfitzpatrick@kentwa.gov](mailto:pfitzpatrick@kentwa.gov)  
(253)856-5770

\* The Court considered:

Defendant City's Motion, Declaration of  
Kim Metcalf, Marianne Ely, Kimberlee  
McArthur, Kim Komoto

Plaintiffs [All Plaintiffs] Reply [Response]  
to Motion for CR 4 Sanctions  
Declaration of John Worthington (9/4/12)

Defendant City's Rebuttal [Reply], Declaration  
of Kim Komoto (9/6/12)

Supplemental Declaration of Kim Komoto (9/6/12)

All pleadings listed with the Court's order  
today denying plaintiffs' motion for summary  
judgment.

All pleadings listed with the Court's order  
today granting Defendant's Motion to Strike

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3. Plaintiff Arthur West is dismissed for lack of standing.

4. Plaintiff John Worthington is dismissed for lack of standing.

*Even if CR plaintiffs do have standing, then the following rulings are dispositive as to CR plaintiffs:*

5. All challenges to city of Kent Ordinances 3999 and 4027 are dismissed as they are moot.

6. The Court is without jurisdiction to hear a challenge to Ordinance 4036 pursuant to the Land Use and Planning Act, and therefore, the challenge pursuant to the Land Use and Planning Act is dismissed.

7. The Kent City Council is not an entity subject to suit, and is therefore dismissed as a party to this suit.

8. The Kent Mayor was without authority to pass Ordinance 4036, and therefore, no relief with regards to the Kent Mayor can be granted. Therefore, the Kent Mayor is dismissed as a party to this suit.

9. The writ of mandamus is dismissed as the passage of Ordinance 4036 was a discretionary act of the Kent City Council.

10. The writ of prohibition is dismissed as the Kent City Council had already exercised its discretion when Plaintiffs' Amended Complaint was filed.

11. Plaintiff's action under the Uniform Declaratory Judgments Act is dismissed. The Kent City Council had authority to pass Ordinance 4036, Ordinance 4036 is not preempted by state law, and Ordinance 4036 does not violate any constitutional rights of Plaintiffs.

*12. Dismiss Plaintiff's Motion for CR II sanctions as denied.*  
Dated this 5 day of ~~September~~ *October*, 2012. *DN*

Honorable Jay White  
HEARING DATE: September 14, 2012 @ 1:30 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

~~PROPOSED~~ Clerk's Action Required\*

THIS MATTER came before the Court on the City of Kent's Motion for an Order granting Summary Judgment, and the Court having considered the pleadings filed in this action and the arguments of both parties, *\* See page 3 for list. JW*

NOW, THEREFORE, IT IS ORDERED

The Defendants' Motion for Summary Judgment is granted, and all of Plaintiffs claims are dismissed as follows:

1. Plaintiff Cannabis Action Coalition is dismissed for lack of standing.
2. Plaintiff Steve Sarich is dismissed for lack of standing.

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

1 4. Supplemental Declaration of John Worthy to  
2 (8/29/12)

3 IT IS HEREBY ORDERED:

4 That the following shall be stricken in their entirety from Plaintiffs' Motion for Summary  
5 Judgment and Plaintiffs' Declaration in Support of Motion for Summary Judgment, which were filed  
6 with the Court on July 12, 2012:

7 A. All references to Carol Morris, and the document she prepared entitled "Medical Marijuana  
8 Uses Local Regulation," which was updated on March 19, 2012, shall be stricken from  
9 Plaintiffs' Motion and Declaration, including but not limited to:

- 10 1. "... AWC counsel Carol Morris ..." – Motion, Page 1, Line 17
- 11 2. "... even the memoranda of the Association of Washington Cities and Kent City  
12 Attorney ..." – Motion, Page 2, Lines 11 – 12
- 13 3. "As even the attorney advising the Association of Washington Cities in regard to  
14 specialized municipal ordinance matters who also counsels Kent ..." – Motion, Page  
15 3, Lines 4 – 6
- 16 4. "As AWC Counsel Carol Morris ..." – Motion, Page 3, Line 7
- 17 5. "In defiance of counsel's legal advice ..." Motion, Page 3, Line 15
- 18 6. "As even the Cities own counsel recognizes, ..." – Motion, Page 6, Line 6 – 7
- 19 7. The document entitled "Medical Marijuana Uses Local Regulation," which was  
20 prepared by Carol Morris and updated on March 19, 2012, and which is incorporated  
21 into the Declaration at page 2, Line 8-10.

22 B. With the exception of a portion of the end of the first paragraph of page 2 of the Declaration  
23 which ends with the words, "a complete preemptive ban," page 2 of the Declaration is stricken,  
24

25 ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE

1 along with all documents referenced therein. The result shall be that only the following text  
2 (directly quoted from the Declaration) shall remain in the Declaration:

3  
4 I, Deryck Tsang, certify the following to be true and correct, based upon my personal  
knowledge of circumstances upon which I am competent to testify.

5 I am a resident in the City of Kent. On or about June 5 of 2012, the City of Kent  
6 enacted Ordinance No. 4036, a true and correct copy of this ordinance is attached.

7 Prior to the enactment of this ordinance, the plaintiffs and myself had commented or  
otherwise participated in the City's hearing procedures.

8 This Ordinance adversely impacts the myself and the other plaintiffs because it  
9 completely bans collective gardens in the City of Kent, and we all intended to  
10 associate in this lawful manner within the City limits of Kent, but have been  
discouraged by the actions of the City in adopting rolling moratoria and, more  
recently, a complete ban."

11  
12 Signed this 5 day <sup>of October</sup> ~~of September~~, 2012.

13  
14   
15 HONORABLE JAY WHITE

16 Presented by:

17  
18 /s Arthur Fitzpatrick  
19 ARTHUR FITZPATRICK, WSBA No. 25068  
20 Attorney for City of Kent  
21 220 Fourth Avenue South  
22 Kent, WA 98032  
pfitzpatrick@kentwa.gov  
(253)856-5770

Honorable Jay White  
HEARING DATE: September 4, 2012 @ 9:00 a.m.  
Without Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE PORTIONS OF  
PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT AND DECLARATION IN  
SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT

THIS MATTER came before the Court on the city of Kent's Motion for an Order to Strike Portions of Plaintiffs' Motion for Summary Judgment (hereinafter referred to as "Motion") and Plaintiffs' Declaration in Support of Motion for Summary Judgment (hereinafter referred to as "Declaration"), which were filed with the Court on July 12, 2012.

The Court considered:

1. Defendants' Motion to Strike
2. Declaration of Carol Morris in Support of Defendants' Motion to Strike

3. Plaintiffs' Reply (Response), Declaration of Arthur Vest,

ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE

1 issuance of a permanent injunction that prohibits Plaintiffs from violating Ordinance 4036 is  
2 appropriate.

3 For the reasons set forth in the above, It is Ordered:

4 1. Defendants' motion is granted.

5 2. Plaintiffs, its officers, agents, servants, and employees, and all other persons in  
6 active concert and participation with Plaintiffs who receive actual notice of this order, are enjoined  
7 from future non-compliance with Ordinance 4036, and are specifically required to abide by its  
8 terms.

9 3. This order shall be effective immediately.

10 *The court considered all pleadings <sup>listed</sup>*  
11 *its orders entered today granting the City's*  
12 *Motion for summary judgment and denying the*  
13 *plaintiff's motion for summary judgment. D*

14 DATED this 5 <sup>October</sup> day of ~~September~~, 2012.

15   
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17  
18 HONORABLE JAY WHITE

19 Presented by:

20  
21 /s/ Arthur Fitzpatrick  
22 ARTHUR FITZPATRICK, WSBA No. 25068  
23 Attorney for City of Kent  
24 220 Fourth Avenue South  
25 Kent, WA 98032  
pfitzpatrick@kentwa.gov  
(253)856-5770

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

TOM BRUBAKER  
Kent City Attorney  
220 - 4<sup>th</sup> Avenue South  
Kent, Washington 98032  
P: (253) 856-5770  
F: (253) 856-6770

Honorable Jay White  
HEARING DATE: September 14, 2012 @ 1:30 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

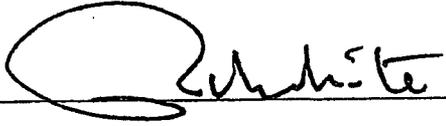
ORDER GRANTING DEFENDANTS' *S* *W*  
MOTION FOR PERMANENT  
INJUNCTION *W*

**Clerk's Action Required\***

THIS MATTER came before the Court on the city of Kent's Motion for an Order granting a permanent injunction against Plaintiffs. Notice of the motion was served upon Plaintiff, Deryck Tsang on August 17<sup>th</sup>, 2012. The Court heard oral argument of counsel for the city of Kent, and the Plaintiffs and the Court considered the pleadings filed in this action.

Based on the argument of counsel and the evidence presented, the Court finds that city of Kent Ordinance 4036 is lawful and enforceable. The Court further finds that based upon Plaintiffs *in open court and otherwise* *W* own admissions that they intend not to comply with Ordinance 4036, and based upon the fact that Plaintiff Deryck Tsang has openly and admittedly failed to comply with Ordinance 4036, the

1  
2 All pleadings listed in the court's order today granting  
3 Defendant City's Motion for Summary Judgment. JW  
4 Being fully apprised of the foregoing, it is hereby ORDERED, that plaintiff's Motion  
5 for Summary Judgment is ~~GRANTED~~ DENIED.

6 Dated 10/5/12 Signed 

7 THE HONORABLE JAY V. WHITE

8 PRESENTED BY: CANNABIS ACTION COALITION

9 \_\_\_\_\_  
10 John Worthington  
11 4500 SE 2<sup>ND</sup> PL.  
12 Renton WA. 98059

13 \_\_\_\_\_  
14 Arthur West  
15 120 State Ave N.E.  
16 Olympia WA. 98501

17 \_\_\_\_\_  
18 Steve Sarich  
19 2735 1<sup>ST</sup> AVE S.  
Seattle WA. 98134

20 \_\_\_\_\_  
21 Deryck Tsang  
22 21628 43<sup>RD</sup> Place S.  
23 Kent WA. 98032

24 OPPOSING COUNSEL:

25 \_\_\_\_\_  
26 ATTORNEY, CITY OF KENT  
27 220 4<sup>TH</sup> AVENUE SOUTH  
28 KENT, WA. 98032

FILED

12 OCT 31 AM 10:50

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 12-2-19726-1 KNT

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION,  
et al.,

Plaintiffs,

v.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1KNT

NOTICE OF APPEAL

Plaintiff Deryck Tsang seeks review by the Washington State Court of Appeals, Division I, of the following Orders entered by King County Superior Court Judge Jay V. White:

1. October 5, 2012, Order Granting Defendant's Motion for Permanent Injunction.

2. October 5, 2012, Order Granting Defendant's Motion for Summary Judgment.

3. October 22, 2012, Order Denying Motion to Reconsider.

Copies of the orders are attached.

These orders constitute the final orders in this matter.

NOTICE OF APPEAL - 1

GENDLER & MANN, LLP  
1424 Fourth Avenue, Suite 715  
Seattle, WA 98101  
Phone: (206) 621-8888  
Fax: (206) 621-0512

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Dated this 31<sup>st</sup> day of October, 2012.

Respectfully submitted,

s/David S. Mann

WSBA No. 21068

Gendler & Mann, LLP

1424 Fourth Avenue, Suite 715

Seattle, WA 98101

Telephone: (206) 621-8868

Fax: (206) 621-0512

E-mail: mann@gendlermann.com

(Attorneys for Plaintiff Deryck Tsang)

Counsel for Defendant:

Tom Brubaker

Kent City Attorney

220 - 4<sup>th</sup> Avenue South

Kent, WA 98032

Other Parties (Pro-Se):

Cannabis Action Coalition

120 State Ave. N.E., #1497

Olympia, WA 98501

Steve Sarich

2735 1<sup>st</sup> Ave. S.

Seattle, WA 98134

Arthur West

120 State Ave. N.E.

Olympia, WA 98509

John Worthington

4500 S.E. 2<sup>nd</sup> Place

Renton, WA 98059

VTsang\Pleadings\20121031 Notice of Appeal

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Honorable Jay White  
HEARING DATE: September 14, 2012 @ 1:30 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,  
  
Plaintiffs,  
  
vs.  
  
CITY OF KENT, et al.,  
  
Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS' <sup>S</sup> <sup>W</sup>  
MOTION FOR PERMANENT <sub>W</sub>  
INJUNCTION

**Clerk's Action Required\***

THIS MATTER came before the Court on the city of Kent's Motion for an Order granting a permanent injunction against Plaintiffs. Notice of the motion was served upon Plaintiff, Deryck Tsang on August 17<sup>th</sup>, 2012. The Court heard oral argument of counsel for the city of Kent, and the Plaintiffs and the Court considered the pleadings filed in this action.

Based on the argument of counsel and the evidence presented, the Court finds that city of Kent Ordinance 4036 is lawful and enforceable. The Court further finds that based upon Plaintiffs <sup>in open court and otherwise</sup> <sub>W</sub> own admissions that they intend not to comply with Ordinance 4036, and based upon the fact that Plaintiff Deryck Tsang has openly and admittedly failed to comply with Ordinance 4036, the

1 issuance of a permanent injunction that prohibits Plaintiffs from violating Ordinance 4036 is  
2 appropriate.

3 For the reasons set forth in the above, It is Ordered:

4 1. Defendants' motion is granted.

5 2. Plaintiffs, its officers, agents, servants, and employees, and all other persons in  
6 active concert and participation with Plaintiffs who receive actual notice of this order, are enjoined  
7 from future non-compliance with Ordinance 4036, and are specifically required to abide by its  
8 terms.

9 3. This order shall be effective immediately.

10 The Court considered all pleadings <sup>listed</sup>  
11 its orders entered today granting the City's  
12 Motion for summary judgment and denying the  
13 Plaintiff's Motion for summary judgment. D

14 DATED this 5 October  
15 day of September, 2012.

16 

17 HONORABLE JAY WHITE

18 Presented by:

19 /s Arthur Fitzpatrick  
20 ARTHUR FITZPATRICK, WSBA No. 25068  
21 Attorney for City of Kent  
22 220 Fourth Avenue South  
23 Kent, WA 98032  
24 pfitzpatrick@kentwa.gov  
25 (253)856-5770

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

TOM BRUBAKER  
Kent City Attorney  
220 - 4<sup>th</sup> Avenue South  
Kent, Washington 98032  
P: (253) 856-5770  
F: (253) 856-5770

Honorable Jay White  
HEARING DATE: September 14, 2012 @ 1:30 p.m.  
With Oral Argument

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

~~PROPOSED~~ Clerk's Action Required\*

THIS MATTER came before the Court on the City of Kent's Motion for an Order granting Summary Judgment, and the Court having considered the pleadings filed in this action and the arguments of both parties, *\* See page 3 for list. JW*

NOW, THEREFORE, IT IS ORDERED

The Defendants' Motion for Summary Judgment is granted, and all of Plaintiffs claims are dismissed as follows:

1. Plaintiff Cannabis Action Coalition is dismissed for lack of standing.
2. Plaintiff Steve Sarich is dismissed for lack of standing.

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

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3. Plaintiff Arthur West is dismissed for lack of standing.

4. Plaintiff John Worthington is dismissed for lack of standing.

*Even if CR plaintiffs do have standing, then the following rulings*

5. All challenges to city of Kent Ordinances 3999 and 4027 are dismissed as they are moot.

*are dispositive as to CR plaintiffs.*

6. The Court is without jurisdiction to hear a challenge to Ordinance 4036 pursuant to the Land Use and Planning Act, and therefore, the challenge pursuant to the Land Use and Planning Act is dismissed.

7. The Kent City Council is not an entity subject to suit, and is therefore dismissed as a party to this suit.

8. The Kent Mayor was without authority to pass Ordinance 4036, and therefore, no relief with regards to the Kent Mayor can be granted. Therefore, the Kent Mayor is dismissed as a party to this suit.

9. The writ of mandamus is dismissed as the passage of Ordinance 4036 was a discretionary act of the Kent City Council.

10. The writ of prohibition is dismissed as the Kent City Council had already exercised its discretion when Plaintiffs' Amended Complaint was filed.

11. Plaintiff's action under the Uniform Declaratory Judgments Act is dismissed. The Kent City Council had authority to pass Ordinance 4036, Ordinance 4036 is not preempted by state law, and Ordinance 4036 does not violate any constitutional rights of Plaintiffs.

*12. Dismissed Plaintiff's Motion for CR II sanctions as denied.*  
DATED this 5 day of ~~September~~ *October*, 2012. *OW*

  
HONORABLE JAY WHITE

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Presented by:

/s Arthur Fitzpatrick  
ARTHUR FITZPATRICK, WSBA No. 25068  
Attorney for City of Kent  
220 Fourth Avenue South  
Kent, WA 98032.  
pfitzpatrick@kentwa.gov  
(253)856-5770

\* The Court considered:  
Defendant City's Motion, Declaration of  
Kim Metcalf, Marianne Ely, Kimberlee  
McArthur, Kim Komoto  
Plaintiff's [All Plaintiffs] Reply [Response]  
to Motion for CRU Sanctions  
Declaration of John Worthington (9/4/12)  
Defendant City's Rebuttal [Reply], Declaration  
of Kim Komoto (9/6/12)  
Supplemental Declaration of Kim Komoto (9/6/12)  
All pleadings listed with Court's order  
today denying plaintiffs' motion for summary  
judgment.  
All pleadings listed with Court's order  
today granting Defendant's Motion to Strike

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IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

CANNABIS ACTION  
COALITION; Et al,  
  
Plaintiffs,  
  
vs.  
  
CITY OF KENT, a local  
Government agency; Et al,  
  
Defendants,

NO. 12-2-19736-1 KNT

~~PROPOSED~~ ORDER FOR  
**DENYING**  
MOTION TO RECONSIDER

THE COURT, having considered the plaintiffs motion to reconsider, and  
the out of state case law attached, in support of plaintiff's motion to reconsider,  
and *and having determined that no response is required by CrR 59(b)*  
and being fully apprised, it is hereby ORDERED, that plaintiffs motion to  
reconsider is ~~GRANTED~~ **DENIED**.

Dated 10/22/12 

The Honorable Jay V. White

~~ORDER GRANTING~~ **DENYING**  
MOTION TO RECONSIDER

2012 NOV -5 PM 3: 01

RECEIVED

KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

NOV 05 2012

KENT LAW DEPT.

IN THE SUPERIOR COURT OF THE STATE  
OF WASHINGTON FOR KING COUNTY

CANNABIS ACTION COALITION,  
STEVE SARICH, JOHN  
WORTHINGTON, DERYK  
TSANG, AND ARTHUR WEST,  
Plaintiffs

No. 12-2-19726-1 KNT

Vs.

PLAINTIFF SARICH  
AND WORTHINGTON'S  
NOTICE OF APPEAL

CITY OF KENT, KENT CITY  
COUNCIL AND MAYOR,  
Defendants

Come now plaintiffs Worthington and Sarich, and respectfully provide notice of his intent to appeal, to the Washington State Supreme Court, the final Orders and Judgment entered of October 5, 2012 by the Honorable Judge White of the King County Superior Court.

Plaintiffs appeal the Order granting defendants' Motion for Summary Judgment, and entering an injunction against the plaintiffs, Order denying

1 PLAINTIFFS'  
NOTICE OF  
APPEAL



COPY

2735 First Avenue South  
Seattle Washington, 98134

1 plaintiff's Motion for Summary Judgment, as well as the Orders of October 22,  
2012 denying the plaintiffs' motions for reconsideration.

2 The defendants were represented by the City Attorney for the City of Kent.

3 Plaintiffs acted on their own behalf.

4 Plaintiffs seek an Order of the Court of Appeals vacating the all of the  
5 rulings of the King County Court including those denying and restraining their  
6 ability to associate for the purpose of establishing or operating a collective garden  
7 in the City of Kent either alone, or in combination with others, and the Orders on  
reconsideration. Plaintiffs join in the appeal filed on behalf of the Cannabis Action  
Coalition in their capacities as members of the Coalition.

8 Executed this 5th day of November, 2012

9  
10 

11 **STEVE SARICH**

12   
13 **JOHN WORTHINGTON**

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CERTIFICATE OF SERVICE

I certify that on the date and time indicated below, I caused to be served via U.S. Mail, a copy of the documents and pleadings listed below upon the attorney of record for the defendants herein listed and indicated below.

1. PLAINTIFFS NOTICE OF APPEAL

TOM BRUBAKER  
ATTORNEY, CITY OF KENT  
220 4<sup>TH</sup> AVE SOUTH  
KENT WA.98032

I declare under penalty of perjury under the laws of the United States that the foregoing is True and correct.

Executed on this 5TH day of November, 2012

BY *John Worthington*

John Worthington  
4500 SE 2<sup>ND</sup> PL.  
Renton WA.98059

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SUPERIOR COURT OF WASHINGTON  
COUNTY OF KING

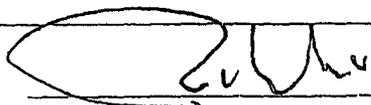
Cannabis Action Coalition,  
Steve Strick, Arthur West,  
John Worthington, Deryck T. <sup>Tracy</sup>  
Petitioner,  
v.  
City of Kent, a Local Municipal Corporation,  
Kent City Council, Kent Mayor Respondent,  
State of Washington

No. 12-2-19726-1 KNT  
ORDER ON CIVIL MOTION

The above-entitled Court, having heard a motion Defendant's Amended  
Motion to Strike Plaintiffs' Counterclaims Pursuant  
to RCW 4.24.525 (Anti SLAPP)

IT IS HEREBY ORDERED that having  
Plaintiff Worthington and all other Plaintiffs ~~have~~ agreed  
to voluntarily dismiss, with prejudice, all claims  
related to RCW 4.24.525, all claims relating  
to RCW 4.24.525 are hereby dismissed with  
prejudice.  
No cost of litigation, attorney's fees, or statutory  
penalty shall be awarded

DATED 10/5/2017

  
JAY V. WHITE

  
Attorney for Petitioner, WSBA# \_\_\_\_\_

  
Attorney for Respondent, WSBA# 25009

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IN THE SUPERIOR COURT OF THE STATE  
OF WASHINGTON FOR KING COUNTY

CANNABIS ACTION COALITION  
STEVE SARICH, ARTHUR WEST,  
JOHN WORTHINGTON, DERYCK  
TSANG;

Plaintiffs'

Vs.

CITY OF KENT, a local Municipal  
Corporation, Kent City Council,  
Mayor of Kent, State of Washington

Defendants'

No. 12-2-19726-1 KNT

~~PROPOSED ORDER GRANTING~~  
CANNABIS ACTION COALITION  
ET AL'S MOTION FOR SUMMARY  
JUDGMENT

DENYING JW

Clerk's Action Required\*

THE COURT, having considered the plaintiff's Motion for Summary Judgment, and the following arguments in support and opposition to plaintiffs' Motion for Summary Judgment;

1. Plaintiff's Motion for Summary Judgment; and
2. The Declarations of Deryck Tsang and the Exhibits attached thereto; and
3. The Defendant's response Opposition [Response] and Declaration of Kim Komoto (8/29/12); and, JW
4. The Plaintiff's reply, Supplemental Declaration of Deryck Tsang (8/17/12); Declaration of John Worthington (9/18/12); JW
5. All oral testimony; and,
6. Supplemental Declaration of John Worthington (10/3/12); and JW
7. ORIGINAL; and

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3. Plaintiff Arthur West is dismissed for lack of standing.

4. Plaintiff John Worthington is dismissed for lack of standing.

*Even if CR plaintiffs do have standing, the following rulings*

5. All challenges to city of Kent Ordinances 3999 and 4027 are dismissed as they are moot.

*are dispositive as to CR plaintiffs:*

6. The Court is without jurisdiction to hear a challenge to Ordinance 4036 pursuant to the Land Use and Planning Act, and therefore, the challenge pursuant to the Land Use and Planning Act is dismissed.

7. The Kent City Council is not an entity subject to suit, and is therefore dismissed as a party to this suit.

8. The Kent Mayor was without authority to pass Ordinance 4036, and therefore, no relief with regards to the Kent Mayor can be granted. Therefore, the Kent Mayor is dismissed as a party to this suit.

9. The writ of mandamus is dismissed as the passage of Ordinance 4036 was a discretionary act of the Kent City Council.

10. The writ of prohibition is dismissed as the Kent City Council had already exercised its discretion when Plaintiffs' Amended Complaint was filed.

11. Plaintiff's action under the Uniform Declaratory Judgments Act is dismissed. The Kent City Council had authority to pass Ordinance 4036, Ordinance 4036 is not preempted by state law, and Ordinance 4036 does not violate any constitutional rights of Plaintiffs.

12. ~~Defendants~~ Plaintiffs' Motion for CR II sanctions is denied. *in*  
DATED this 5 day of ~~September~~ *October*, 2012. *W*

  
HONORABLE JAY WHITE

Presented by:

Is Arthur Fitzpatrick

ARTHUR FITZPATRICK, WSBA No. 25068

Attorney for City of Kent

220 Fourth Avenue South

Kent, WA 98032

pfitzpatrick@kentwa.gov

(253)856-5770

\* The Court considered:

Defendant City's Motion, Declaration of  
Kim Metcalf, Marianne Ely, Kimberlee  
McArthur, Kim Komoto

Plaintiff's [All Plaintiffs] Reply [Response]  
to Motion for CR 4 Summary  
Declaration of John Worthington (9/4/12)

Defendant City's Rebuttal [Reply], Declaration  
of Kim Komoto (9/6/12)

Supplemental Declaration of Kim Komoto (9/6/12)

All pleadings listed with Court's order  
today denying plaintiffs' motion for summary  
judgment.

All pleadings listed with Court's order  
today granting Defendant's Motion to Strike

Honorable Jay White  
HEARING DATE: September 14, 2012 @ 1:30 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

~~PROPOSED~~ Clerk's Action Required\*

THIS MATTER came before the Court on the City of Kent's Motion for an Order granting Summary Judgment, and the Court having considered the pleadings filed in this action and the arguments of both parties, *\* See page 3 for list. JW*

NOW, THEREFORE, IT IS ORDERED

The Defendants' Motion for Summary Judgment is granted, and all of Plaintiffs claims are dismissed as follows:

1. Plaintiff Cannabis Action Coalition is dismissed for lack of standing.
2. Plaintiff Steve Sarich is dismissed for lack of standing.

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

TOM BRUBAKER  
Kent City Attorney  
220 - 4<sup>th</sup> Avenue South  
Kent, Washington 98032  
P: (253) 856-5770  
F: (253) 856-6770

1 4. Supplemental Declaration of John Uorthy to  
2 IT IS HEREBY ORDERED: (8/29/12)

3 That the following shall be stricken in their entirety from Plaintiffs' Motion for Summary  
4 Judgment and Plaintiffs' Declaration in Support of Motion for Summary Judgment, which were filed  
5 with the Court on July 12, 2012:

6 A. All references to Carol Morris, and the document she prepared entitled "Medical Marijuana  
7 Uses Local Regulation," which was updated on March 19, 2012, shall be stricken from  
8 Plaintiffs' Motion and Declaration, including but not limited to:

- 9
- 10 1. "... AWC counsel Carol Morris ..." – Motion, Page 1, Line 17
  - 11 2. "... even the memoranda of the Association of Washington Cities and Kent City  
12 Attorney ..." – Motion, Page 2, Lines 11 – 12
  - 13 3. "As even the attorney advising the Association of Washington Cities in regard to  
14 specialized municipal ordinance matters who also counsels Kent ..." – Motion, Page  
15 3, Lines 4 – 6
  - 16 4. "As AWC Counsel Carol Morris ..." – Motion, Page 3, Line 7
  - 17 5. "In defiance of counsel's legal advice ..." Motion, Page 3, Line 15
  - 18 6. "As even the Cities own counsel recognizes, ..." – Motion, Page 6, Line 6 – 7
  - 19 7. The document entitled "Medical Marijuana Uses Local Regulation," which was  
20 prepared by Carol Morris and updated on March 19, 2012, and which is incorporated  
21 into the Declaration at page 2, Line 8-10.

22 B. With the exception of a portion of the end of the first paragraph of page 2 of the Declaration  
23 which ends with the words, "a complete preemptive ban," page 2 of the Declaration is stricken,  
24

1 along with all documents referenced therein. The result shall be that only the following text  
2 (directly quoted from the Declaration) shall remain in the Declaration:

3  
4 I, Deryck Tsang, certify the following to be true and correct, based upon my personal  
knowledge of circumstances upon which I am competent to testify.

5 I am a resident in the City of Kent. On or about June 5 of 2012, the City of Kent  
6 enacted Ordinance No. 4036, a true and correct copy of this ordinance is attached.

7 Prior to the enactment of this ordinance, the plaintiffs and myself had commented or  
8 otherwise participated in the City's hearing procedures.

9 This Ordinance adversely impacts the myself and the other plaintiffs because it  
10 completely bans collective gardens in the City of Kent, and we all intended to  
associate in this lawful manner within the City limits of Kent, but have been  
discouraged by the actions of the City in adopting rolling moratoria and, more  
recently, a complete ban."

11  
12 Signed this 5 day <sup>of October</sup> ~~of September~~, 2012.

13  
14   
15 HONORABLE JAY WHITE

16 Presented by:

17  
18 /s Arthur Fitzpatrick  
19 ARTHUR FITZPATRICK, WSBA No. 25068  
20 Attorney for City of Kent  
21 220 Fourth Avenue South  
22 Kent, WA 98032  
pfitzpatrick@kentwa.gov  
(253)856-5770

23  
24  
25 ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE

TOM BRUBAKER  
Kent City Attorney  
220 - 4<sup>th</sup> Avenue South  
Kent, Washington 98032  
P: (253) 856-5770  
F: (253) 856-6770

Honorable Jay White  
HEARING DATE: September 4, 2012 @ 9:00 a.m.  
Without Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE PORTIONS OF  
PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT AND DECLARATION IN  
SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT

THIS MATTER came before the Court on the city of Kent's Motion for an Order to Strike Portions of Plaintiffs' Motion for Summary Judgment (hereinafter referred to as "Motion") and Plaintiffs' Declaration in Support of Motion for Summary Judgment (hereinafter referred to as "Declaration"), which were filed with the Court on July 12, 2012.

The Court considered:

1. Defendants' Motion to Strike
2. Declaration of Carol Morris in Support of Defendants' Motion to Strike
3. Plaintiffs' Reply (Response), Declaration of Arthur Vest

ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE

1 issuance of a permanent injunction that prohibits Plaintiffs from violating Ordinance 4036 is  
2 appropriate.

3 For the reasons set forth in the above, It is Ordered:

- 4 1. Defendants' motion is granted.
- 5 2. Plaintiffs, its officers, agents, servants, and employees, and all other persons in  
6 active concert and participation with Plaintiffs who receive actual notice of this order, are enjoined  
7 from future non-compliance with Ordinance 4036, and are specifically required to abide by its  
8 terms.
- 9 3. This order shall be effective immediately.

10 The court considered all pleadings <sup>listed</sup>  
11 its order entered today granting the City's  
12 Motion for summary judgment and denying the  
13 Plaintiff's motion for summary judgment. <sup>Pl</sup>

14 DATED this 5 day of ~~September~~ <sup>October</sup>, 2012.

15  
16  
17   
18 HONORABLE JAY WHITE

19 Presented by:

20  
21 /s Arthur Fitzpatrick  
22 ARTHUR FITZPATRICK, WSBA No. 25068  
23 Attorney for City of Kent  
24 220 Fourth Avenue South  
25 Kent, WA 98032  
pfitzpatrick@kentwa.gov  
(253)856-5770

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

2

TOM BRUBAKER  
Kent City Attorney  
220 - 4<sup>th</sup> Avenue South  
Kent, Washington 98032  
P: (253) 856-5770  
F: (253) 856-6770

Honorable Jay White  
HEARING DATE: September 14, 2012 @ 1:30 p.m.  
With Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, et al.,

Plaintiffs,

vs.

CITY OF KENT, et al.,

Defendants.

NO. 12-2-19726-1 KNT

ORDER GRANTING DEFENDANTS'  
MOTION FOR PERMANENT  
INJUNCTION

*JS*  
*JS*

Clerk's Action Required\*

THIS MATTER came before the Court on the city of Kent's Motion for an Order granting a permanent injunction against Plaintiffs. Notice of the motion was served upon Plaintiff, Deryck Tsang on August 17<sup>th</sup>, 2012. The Court heard oral argument of counsel for the city of Kent, and the Plaintiffs and the Court considered the pleadings filed in this action.

Based on the argument of counsel and the evidence presented, the Court finds that city of Kent Ordinance 4036 is lawful and enforceable. The Court further finds that based upon Plaintiffs own admissions *in open court and otherwise* that they intend not to comply with Ordinance 4036, and based upon the fact that Plaintiff Deryck Tsang has openly and admittedly failed to comply with Ordinance 4036, the

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT

TOM BRUBAKER  
Kent City Attorney  
220 - 4<sup>th</sup> Avenue South  
Kent, Washington 98032  
P: (253) 856-5770  
F: (253) 856-6770

1  
2 All pleadings listed in the court's order today granting  
3 Defendant City's Motion for Summary Judgment. JW

4 Being fully apprised of the foregoing, it is hereby ORDERED, that plaintiff's Motion  
for Summary Judgment is ~~GRANTED~~ DENIED.

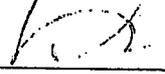
5 Dated 10/5/12 Signed 

6 THE HONORABLE JAY V. WHITE

7 PRESENTED BY: CANNABIS ACTION COALITION

8  
9 \_\_\_\_\_  
John Worthington  
4500 SE 2<sup>ND</sup> PL.  
Renton WA. 98059

10  
11 \_\_\_\_\_  
Arthur West  
120 State Ave N.E.  
Olympia WA. 98501

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14 \_\_\_\_\_  
Steve Sarich  
2735 1<sup>ST</sup> AVE S.  
Seattle WA. 98134

15  
16 \_\_\_\_\_  
Deryck Tsang  
21628 43<sup>RD</sup> Place S.  
Kent WA. 98032

17 OPPOSING COUNSEL:

18  
19 \_\_\_\_\_  
ATTORNEY, CITY OF KENT  
220 4<sup>TH</sup> AVENUE SOUTH  
KENT, WA. 98032

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IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

CANNABIS ACTION  
COALITION; Et al,  
Plaintiffs,

NO. 12-2-19736-1 KNT

vs.

~~{PROPOSED}~~ ORDER FOR  
**DENYING**  
MOTION TO RECONSIDER

CITY OF KENT, a local  
Government agency; Et al,  
Defendants,

THE COURT, having considered the plaintiffs motion to reconsider, and  
the out of state case law attached, in support of plaintiff's motion to reconsider,  
and *and having determined that no response is required by CrR 59(b)* and being fully apprised, it is hereby ORDERED, that plaintiffs motion to  
reconsider is ~~GRANTED~~ **DENIED**.

Dated

*10/22/12*



The Honorable Jay V. White

~~ORDER DENYING~~  
MOTION TO RECONSIDER

**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

---

<b>CANNABIS ACTION</b>	)	
<b>COALITION, et al,</b>	)	
<b>Appellants</b>	)	<b>No. 88079-4</b>
	)	
<b>vs.</b>	)	<b>APPELLANT WEST'S</b>
	)	<b>JOINDER IN TSANG'S</b>
<b>CITY OF KENT, et al,</b>	)	<b>STATEMENT OF GROUNDS</b>
<b>Respondents</b>	)	<b>FOR DIRECT REVIEW</b>
	)	

---

Appellant West respectfully joins in the Statement of Grounds for direct review filed by counsel for appellant Tsang.

**DECLARATION OF SERVICE**

I certify that this document was served electronically on counsel for the City of Kent and the appellants in this case at their addresses of record.

A copy was also mailed to counsel for appellant Tsang.

Done November 21, 2012 in Olympia Washington.

s/Arthur West  
ARTHUR WEST

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CANNABIS ACTION COALITION, )  
STEVE SARICH, JOHN WORTHINGTON,) )  
DERYK TSANG, and ARTHUR WEST, )

No. 88079-4

Appellants, )

v. )

NOTICE OF APPEARANCE

CITY OF KENT, KENT CITY COUNCIL )  
AND MAYOR, )

Respondents. )

TO: Clerk of Court; and

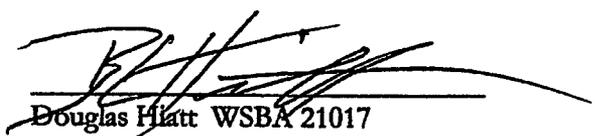
TO: City Attorney for Kent Washington

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that Douglas Hiatt, hereby appears for the defendant in the above-entitled cause by the undersigned attorney and request that all further papers and pleadings herein, except original process, be served

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upon the undersigned attorney at the address below stated.

DATED this 20<sup>th</sup>, day of March 2013.



Douglas Hiatt WSBA 21017  
Attorney for the Steve Sarich  
119 1<sup>st</sup> Ave South, Suite 260  
Seattle, Washington 98104  
P: 206.412-8807 F: 206.299-3405

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IN THE DIVISION / COURT OF APPEALS OF THE STATE OF WASHINGTON IN  
AND FOR THE COUNTY OF KING

CANNABIS ACTION COALITION, )  
STEVE SARICH, JOHN WORTHINGTON, )  
ARTHUR WEST, )

Court of Appeals No. 70396-0-I  
KCSP No. 12-2-19726-1 KNT

And )  
DERYK TSANG, )  
Appellants, )

v. )

NOTICE OF APPEARANCE OF  
DOUGLAS HIATT AND JOSEPH  
BROADBENT

CITY OF KENT, KENT CITY COUNCIL )  
AND MAYOR, )  
Respondents. )

- TO: Clerk of Court; and
- TO: City Attorney for Kent Washington; and
- TO: Cannabis Action Coalition; and
- TO: Arthur West; and
- TO: John Worthington; and

NOTICE OF APPEARANCE - 1-2

DOUGLAS HIATT  
119 1ST AVE So.  
SUITE 260  
MAYNARD BUILDING  
SEATTLE, WASHINGTON 98104  
(206) 412 8807 • FAX: (206) 299 3405

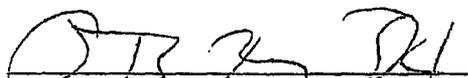
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TO: David Scott Mann,

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that Douglas Hiatt, and Joseph Broadbent hereby appears for the defendant in the above-entitled cause by the undersigned attorney and request that all further papers and pleadings herein, except original process, be served upon the undersigned attorney at the address below stated.

DATED this 18<sup>th</sup> day of July, 2013.

  
Douglas Hiatt, WSBA 21017  
Attorney for the Steve Sarich  
119 1<sup>st</sup> Ave South, Suite 260  
Seattle, Washington 98104  
P: 206.412-8807 F: 206.299-3405

  
Joseph Broadbent, WSBA 25339  
Attorney for the Steve Sarich  
119 1<sup>st</sup> Ave South, Suite 260  
Seattle, Washington 98104  
P: 206.412-8807 F: 206.299-3405



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David Scott Mann  
Gendler & Mann  
1424 4<sup>th</sup> Avenue, Suite 715  
Seattle, Washington 98101  
(Attorney for Deryk Tsang)

By U.S. Mail- First Class, Postage Pre-Paid  
 By Electronic Mail at mann@genlermann.com

DATED this 18<sup>th</sup> day of July, 2013, at Seattle, Washington.

  
\_\_\_\_\_  
Cynthia Grill  
Declarant

DOUGLAS HIATT  
119 1ST AVE So.  
SUITE 260  
MAYNARD BUILDING  
SEATTLE, WASHINGTON 98104  
(206) 412 8807 • FAX: (206) 299 3405

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DIVISION ONE KENT LAW DEPT.

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**IN THE DIVISION I COURT OF APPEALS OF THE STATE OF  
WASHINGTON IN AND FOR THE COUNTY OF KING**

JOHN WORTHINGTON, CANNABIS  
ACTION COALITION, ET AL,

Appellants,

v.

CITY OF KENT ET AL

Respondent,

COA No. 69457-0-1

KCSC No.12-2-19726-1

APPELLANT WORTHINGTON'S  
NOTICE OF APPEARANCE

**TO: CITY OF KENT; and**

**TO: DAVID SCOTT MANN; and**

**TO: ARTHUR WEST; and**

**TO: DOUGLAS HIATT**

The undersigned enters a pro se appearance in this action, and demands notice of all further proceedings. The Clerk of the Court and the opposing party will be informed of any change in address. Appellant Worthington respectfully requests any papers or pleadings be sent to the address stated below:

 COPY

1 Dated this 14<sup>th</sup> day of June, 2013.

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BY John Worthington

John Worthington  
4500 SE 2<sup>ND</sup> PL.  
Renton WA.98059

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**DECLARATION OF SERVICE**

I declare that on the date and time indicated below, I caused to be served via email and U.S. Mail, a copy of the documents and pleadings listed below upon the attorneys of record for the Respondent, and Appellants, as well as the other parties herein listed and indicated below.

1. APPELLANT WORTHINGTON'S NOTICE OF APPEARANCE

Tom Brubaker  
ATTORNEY, CITY OF KENT  
220 4<sup>TH</sup> AVE SOUTH  
KENT WA.98032

David S. Mann,  
Gendler&Mann, LLP  
1424 Fourth Ave, Suite 715  
Seattle WA, 98101

Arthur West  
120 State Ave. N.E.  
Olympia, WA 98501  
(Pro Se Plaintiff)

Douglas Hiatt  
119 1<sup>ST</sup> AVE So. Suite 260  
MAYNARD BUILDING  
SEATTLE, WA. 98104

I declare under penalty of perjury under the laws of the United States that the foregoing is True and correct.

Executed on this 14<sup>TH</sup> day of June, 2013.

BY John Worthington

John Worthington  
4500 SE 2<sup>ND</sup> PL.  
Renton WA.98059

## OFFICE RECEPTIONIST, CLERK

---

**To:** Komoto, Kim  
**Cc:** Fitzpatrick, Pat  
**Subject:** RE: Cannabis Action Coalition, et al., v. City of Kent, et al - Case No. 90204-6

Received 5-9-14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

-----Original Message-----

**From:** Komoto, Kim [mailto:KKomoto@kentwa.gov]  
**Sent:** Friday, May 09, 2014 10:50 AM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** Fitzpatrick, Pat  
**Subject:** Cannabis Action Coalition, et al., v. City of Kent, et al - Case No. 90204-6

To the Clerk of the Court:

Please file the attached Respondent City of Kent's Answer to Plaintiff-Intervener-Appellant West's Motion for Leave to Intervene.

Thanks,

Kim Komoto, Legal Analyst  
Assistant to Arthur "Pat" Fitzpatrick, Acting City Attorney Assistant to David A. Galazin, Assistant City Attorney Public Safety Committee Secretary Law Department  
220 Fourth Avenue South, Kent, WA 98032  
Direct Line 253-856-5788 | Fax 253-856-6770 kkomoto@KentWA.gov

CITY OF KENT, WASHINGTON  
KentWA.gov Facebook Twitter YouTube  
PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS E-MAIL