No. 26-1106 (Consolidated with Nos. 26-1130, 26-1136)

IN THE

United States Court of Appeals for the District of Columbia Circuit

SAM INC., et al.,
Petitioners,

v.

DEPARTMENT OF JUSTICE, et al.,
Respondents.

On Petition for Judicial Review of Attorney General Order No. 6754–2026

REPLY OF NDASA, MMJ INTERNATIONAL HOLDINGS, INC., MMJ BIOPHARMA CULTIVATION, INC., AND MMJ BIOPHARMA LABS, INC. IN SUPPORT OF A STAY PENDING REVIEW OF THE MARIJUANA RESCHEDULING ORDER

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July 16, 2026

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GLOSSARY

Act (or CSA)	Controlled Substances Act of 1970
APA	Administrative Procedure Act
DEA	Drug Enforcement Administration
HHS	Department of Health and Human Services
MRO	Medical Review Officer
MMJ	MMJ International Holdings, Inc., MMJ BioPharma Cultivation, Inc., & MMJ BioPharma Labs, Inc.
NDASA	National Drug and Alcohol Screening Association
Rescheduling Order	Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements, 91 Fed. Reg. 22714 (Apr. 28, 2026)

This Court should stay the Rescheduling Order pending appeal. The government's standing and zone-of-interests arguments are meritless diversions from its indefensible position on the merits. Movants will suffer irreparable harm, and the balance of equities plainly favors a stay.

ARGUMENT

I. Absent A Stay, Movants Will Sustain Irreparable, Article III Injuries.

The government's standing and irreparable-harm arguments are meritless.

1. NDASA members will suffer at least two forms of irreparable, Article III injury.

First, the Rescheduling Order imposes unrecoverable costs on Medical Review Officer (MRO) practices, which will force some to go out of business. McGuire Decl. ¶¶ 25-28. Because the Order renders marijuana legal for state "medical" use, MROs will need to perform time-intensive checks to determine whether positive THC tests are attributable to licit uses. *See id.* ¶¶ 21-25; Moore Decl. ¶ 10 (Ex. 1). That causes unrecoverable losses—irreparable harm—in two ways. *See In re NTE Conn., LLC*, 26 F.4th 980, 990-91 (D.C. Cir. 2022) (unrecoverable losses are irreparable harm). First, NDASA's MRO members will absorb some of the new costs themselves, incurring unrecoverable losses that cannot be dismissed as mere "voluntary billing decision[s]." Opp. 14. Second, whatever they do not absorb themselves will be passed on through higher prices, which will

cause some clients to drop marijuana testing. *See* Moore Decl. ¶¶ 13-14. It is not "speculative" that some clients will drop more expensive testing; it is the inevitable result of the "commonsense economic realit[y]"—often relied on by courts—that demand falls as prices rise. *See Diamond Alt. Energy, LLC v. EPA*, 606 U.S. 100, 116 (2025); Moore Decl. ¶ 16 ("nearly certain" that employers will cease marijuana testing).[1]

Second, the Rescheduling Order compels the many NDASA members that require employee drug testing either to (1) drop marijuana testing and live with the substantial risk of impaired-employee accidents and diminished productivity, or (2) pay substantially more to test for marijuana and risk Americans With Disabilities Act (ADA) or state-law liability for acting on positive tests.[2] *See* McGuire Decl. ¶ 11; Moore Decl. ¶¶ 15-16. Either way, these members—like Utility Safety &

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[1] Contrary to the government's speculative quibbles (Opp. 13), NDASA's declarant *did* speak with all three NDASA MRO members named in her declaration. *See* McGuire Supp. Decl. ¶ 5 (Ex. 4); *e.g.*, Moore Decl. ¶ 4.

[2] *See* 42 U.S.C. §§ 12112(a), 12112(d)(1) (ADA prohibition on discriminatory use of medical examinations); *id.* § 12114(d)(1) (testing for *illegal* drugs permitted); *id.* § 12114(a)-(b) (similar); *James v. City of Costa Mesa*, 700 F.3d 394, 397, 401 (9th Cir. 2012) (holding that state-legal "medical marijuana use [wa]s not protected by the ADA" because, at the time, marijuana was federally unlawful as a Schedule I drug); *see, e.g.*, Palliative Use of Marijuana Act (PUMA), Conn. Gen. Stat. §§ 21a-408p(b)(3), 21a-408(20) (prohibiting adverse employment action against state "medical" marijuana users); *Noffsinger v. SSC Niantic Operating Co., LLC*, 338 F. Supp. 3d 78, 81, 84 (D. Conn. 2018) (PUMA prohibits "a zero tolerance drug testing policy").

Design, Inc. (USDI), *see* Landis Decl. ¶ 19 (Ex. 2)—face irreparable injury in the form of substantially increased risk of liability and unrecoverable compliance costs in revising their testing policies. *See NRDC v. EPA*, 464 F.3d 1, 6 (D.C. Cir. 2006) ("[I]ncreases in risk can … be 'injuries in fact' sufficient to confer standing."); McGuire Decl. ¶ 14 ($700,000 in compliance costs for NDASA members); *NTE*, 26 F.4th at 990-91 (unrecoverable economic loss is irreparable harm); *Phang v. Blanche*, 2026 WL 1831251, at *15 (D.D.C. June 25, 2026) (same).

2. MMJ will also sustain irreparable, Article III injury to its competitive position in the market for federally lawful cannabis-based pharmaceuticals. "[I]ncreased competition represents a cognizable Article III injury." *Liquid Carbonic Indus. Corp. v. FERC*, 29 F.3d 697, 701 (D.C. Cir. 1994); *see also La. Energy & Power Auth. v. FERC*, 141 F.3d 364, 367 (D.C. Cir. 1998) (lifting regulatory restrictions on competitor is Article III injury). Until the Rescheduling Order, MMJ enjoyed a strong first-mover advantage because of its unbroken track record of federal compliance and significant progress toward an FDA-approved cannabis-based product. Boise Supp. Decl. ¶¶ 5-8 (Ex. 3). The Order destroys that competitive advantage—which reflects eight years of hard work and $10 million of investment—by making federally lawful the products of competitors who have long spurned federal law to capitalize on state medical marijuana programs. *See id.* ¶¶ 9-14. That plainly constitutes an irreparable, Article III injury. *See MD Pharm., Inc.*

v. DEA, 133 F.3d 8, 11 (D.C. Cir. 1998) (granting DEA registration to competing drugmaker is Article III injury); *cf. Teva Pharm. USA, Inc. v. Sebelius*, 595 F.3d 1303, 1311 (D.C. Cir. 2010) (drugmaker's "loss of the first-mover advantage" was "an injury that [c]ould not be remedied … later on").

These harms cannot be dismissed on the theory that MMJ is "not a current market competitor" while it remains subject to the FDA approval process. Opp. 16. MMJ has jumped through countless hoops over eight years to seek DEA registration and FDA approval, while its competitors "have taken few steps"—indeed, *no steps*—toward seeking federal drug approval. *PSSI Glob. Servs., LLC v. FCC*, 983 F.3d 1, 11 (D.C. Cir. 2020); *see* Boise Decl. ¶¶ 11-21; Boise Supp. Decl. ¶¶ 4-5, 9-11. By welcoming MMJ's competitors as "new entrant[s] into [the] fixed market" for federally authorized drugs, the Rescheduling Order "increase[s] competition—and thus harm[s] competitors [like MMJ]—as a matter of 'economic logic.'" *Id.* (quoting *Sherley v. Sebelius*, 610 F.3d 69, 72 (D.C. Cir. 2010)); Boise Supp. Decl. ¶ 19 (explaining existential threat to MMJ's business).

II. Movants Are Within The Zone Of Interests Of The CSA.

The government's zone-of-interests arguments are meritless. "The [zone-of-interests] test … is not demanding." *PDK Lab'ys Inc. v. DEA*, 362 F.3d 786, 791 (D.C. Cir. 2004); *see also CSL Plasma Inc. v. CBP*, 33 F.4th 584, 593 (D.C. Cir. 2022) (test is "lenient"). Movants need not be "intended beneficiaries of the CSA."

Opp. 18; *see Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 567 U.S. 209, 225 (2012). Nor does it matter that movants have "pocketbook interests" at stake while the CSA has broader objectives aimed at the general welfare. Opp. 18. "Parties motivated by purely commercial interests routinely satisfy the zone of interests test." *Amgen, Inc. v. Smith*, 357 F.3d 103, 109 (D.C. Cir. 2004). What matters is whether a litigant's interests "can be expected to police the interests that the statute protects." *Id.* (quotations omitted). Suit is foreclosed "*only* when a plaintiff's 'interests are *so marginally related to or inconsistent with* the purposes implicit in the statute that it cannot reasonably be assumed that Congress intended to permit the suit.'" *Patchak*, 567 U.S. at 225 (quotations omitted) (emphases added). And "the benefit of any doubt goes to the [petitioner]." *Id.*

Under that standard, NDASA is plainly a proper litigant.

First, as the drug-screening industry's trade association, NDASA has an interest in the CSA's formal-rulemaking requirement for rescheduling decisions. *See* 21 U.S.C. § 811(a). That provision protects the ability of interested parties like NDASA to be heard. *See* H.R. Rep. No. 91-1444, at 23 (1970).

Second, by creating drug-testing devices, testing for drugs, and reviewing drug-test results, NDASA members translate CSA prohibitions into concrete practices that protect the public. McGuire Decl. ¶ 4. Drug testing creates a deterrent that is essential to the CSA's "main objective[ ] of combating drug abuse." *Gonzales*

v. Oregon, 546 U.S. 243, 250 (2006). Thus, NDASA members' interests in marketing drug-testing devices and services—and their clients' interests in safe, drug-free workplaces[3]—are certainly "consistent with the purposes of the statute." *Ethyl Corp. v. EPA*, 306 F.3d 1144, 1148 (D.C. Cir. 2002) ("manufacturer whose [products]" provide "potential means of compliance" is within statute's zone of interests).

Third, NDASA's members who test their employees have a strong interest in ensuring safety for both their employees and members of the public who may be affected by their work. That interest is self-evidently congruent with the purposes of the CSA. *See* H.R. Rep. No. 91-1444, at 29 (highlighting illegal drugs' "substantial detrimental effect on the public's health and general welfare"). Rescheduling marijuana harms that interest by necessitating costly revisions to drug-testing policies; by making marijuana testing itself more expensive, Moore Decl. ¶ 10; and by exposing NDASA members who act on positive marijuana test results to substantial risk of ADA and state-law liability. *See supra* Part I.

MMJ is also indisputably an appropriate litigant. A drug "manufacturer facing potential competition" from a new entrant "falls within the zone of interests of the [CSA]." *See MD Pharm.*, 133 F.3d at 12. This case is no different. MMJ has

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[3] Vendors need "not independently fulfill the 'zone' test … if their customers" do. *See Nat'l Cottonseed Prods. Ass'n v. Brock*, 825 F.2d 482, 490 (D.C. Cir. 1987).

spent nearly eight years and $10 million to comply with federal law in developing a cannabis therapeutic. Boise Decl. ¶ 21. The Rescheduling Order suddenly creates *federally licit* competition from state-legal cannabis drugmakers—which, to date, have made no effort to comply with federal drug laws. *Id.* ¶¶ 7-13. "The [CSA] is a quintessential entry-restricting statute," and "[w]hen a regulatory system 'by its very nature restricts entry,'" companies "operating in the regulated industry have an interest in enforcing the restrictions on potential market entrants." *MD Pharm.*, 133 F.3d at 12-13.

Twin Rivers Paper Co. LLC v. SEC, 934 F.3d 607 (D.C. Cir. 2019), is irrelevant. There, the interests of paper companies (selling more paper) had no alignment whatsoever with the interests behind federal securities laws. Here, by contrast, a company like MMJ policing market-entry restrictions on competing controlled-substance manufacturers, employers who drug test to promote safety, and companies that create the drug-testing ecosystem that translates the CSA's prohibitions into practical measures protecting the public all clearly have interests congruent with the interests protected by the statute. If biofuel producers (whose interest is selling biofuel) are in the zone of interests of the Clean Air Act, *see Energy Future Coal. v. EPA*, 793 F.3d 141, 144-45 (D.C. Cir. 2015) (Kavanaugh, J.), then Movants here are plainly within the zone of interests of the CSA.

III. Movants Are Likely To Succeed On The Merits.

A. The Rescheduling Order Conflicts With This Court's Decision In *NORML*.

NORML held that when more than one CSA schedule satisfies the Single Convention, section 811(d) does not grant the Attorney General discretion to choose among those treaty-compliant schedules. Instead, once the treaty-prescribed level of control is established, subsequent scheduling decisions must proceed through the formal-rulemaking procedures of § 811(a)-(b). *NORML v. DEA*, 559 F.2d 735, 747, 757 (D.C. Cir. 1977). Because the Attorney General promulgated the Rescheduling Order without the formal rulemaking required by § 811(a), it is unlawful.

The government asserts that marijuana can be placed in any of "several" CSA schedules, including Schedule III, and "satisfy the … Single Convention." Opp. 9. Because the government acknowledges its "latitude to schedule" marijuana "consistent with treaty obligations," 559 F.2d at 747, *NORML* precludes its use of § 811(d) to bypass the procedures that Congress prescribed. Instead, as the government *itself* recently explained, it must "comply with the rulemaking procedures outlined in [§ 811](a)-(b)." *NORML*, 559 F.2d at 757; *see* 91 Fed. Reg. 22777, 22777 (Apr. 28, 2026) ("The CSA *requires* that such actions [to transfer marijuana to Schedule III] be made through formal rulemaking on the record after opportunity for a hearing." (emphasis added)).

The government misreads *NORML* as holding that once HHS happens to recommend the same Schedule the Attorney General independently identifies as treaty-compliant, § 811(a)'s rulemaking procedures simply disappear. But *NORML* says no such thing. *NORML* required DEA *both* to obtain HHS's recommendation under § 811(b) *and* to "comply with the [formal] rulemaking procedures" specified in § 811(a). 559 F.2d at 757.

B. The Unlawful Amendments To DEA Rules Made Without Notice And Comment Were Neither Harmless Nor Severable.

As explained in the motion, the Rescheduling Order also issued new rules concerning import-export permit requirements and establishing a sham-transaction regime through which DEA nominally monopolizes the state-regulated "medical" marijuana market. Mot. 17-19. None of those legislative rules was issued with notice and comment, and the government offers no credible excuse for that egregious violation of the APA.

The government cannot claim harmless error. Opp. 23. A case where the government has "evad[ed] altogether the notice and comment requirements" is "the 'most egregious' breach[ ] of notice-and-comment obligations," *NRDC v. Wheeler*, 955 F.3d 68, 85 (D.C. Cir. 2020), and prejudice requires showing only that Movants had "something useful to say" that would permit them to "mount a credible challenge if given the opportunity to comment," *Window Covering Mfrs. Ass'n v. Consumer Prod. Safety Comm'n*, 82 F.4th 1273, 1284 (D.C. Cir. 2023) (quotations omitted);

see also Sugar Cane Growers Co-op. of Fla. v. Veneman, 289 F.3d 89, 96 (D.C. Cir. 2002) ("[A]n utter failure to comply with notice and comment cannot be considered harmless if there is any uncertainty at all as to the effect of that failure."). To put it mildly, NDASA had "something useful to say" about the government's combined rescheduling and rule changes: NDASA submitted over 300 pages of comments, prehearing statements, and exhibits in the rulemaking announced in 2024. All were excluded from consideration here. *See* McGuire Supp. Decl. ¶ 6; *see also* Boise Decl. ¶ 20 (describing MMJ's intended input).

Nor does severability salvage the Rescheduling Order. Opp. 23. The government concedes that the new import-export and sham-transaction rules are "required" to implement "article[s] 23 and 28" of the Single Convention. *Id.* at 22-23. Without those rules, moving marijuana to Schedule III would violate U.S. treaty obligations. The Order thus cannot "function sensibly" without the additional rules, so they cannot be severed. *MD/DC/DE Broads. Ass'n v. FCC*, 236 F.3d 13, 22 (D.C. Cir. 2001); *accord Dep't of Educ. v. Louisiana*, 603 U.S. 866, 867 (2024).

Section 811(d) provides no authority for the new rules. Opp. 23. It authorizes only an order "controlling" a "drug under" a "schedule"—not promulgating *additional* legislative rules along with the rescheduling decision. The government's theory turns the statute on its head. Section 811(d) permits expedited scheduling decisions by the Attorney General simply to place a substance in the appropriate

Schedule as needed to avoid treaty violations. It does not grant authority to make a scheduling decision that, standing alone, would violate a treaty and then exempt from the APA *additional* rules needed to make that scheduling order treaty-compliant.

IV. The Government Cannot Manufacture An Equitable Interest From An Unlawful Order.

The public interest plainly supports a stay. "There is generally no public interest in the perpetuation of unlawful agency action." *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016).

The government never argues that a stay here would exceed this Court's power under the APA, 5 U.S.C. § 705, so *Trump v. CASA, Inc.* 606 U.S. 831 (2025) is inapposite. The universal injunctions there caused "irreparable harm" because they "likely exceed[ed] the authority conferred by the Judiciary Act," 606 U.S. at 860, not because they "enjoin[ed] regulatory action," Opp. 25. *See* 606 U.S. at 847 & n.10 (APA presents "distinct question[s]").

Nor does the government dispute that marijuana abuse has dangerous, lifelong consequences—especially for adolescents and pregnant women. Mot. 21-22; *see* Opp. 26. By cutting taxes on cannabis companies, *see* 91 Fed. Reg. 22714, 22719 (Apr. 28, 2026), the Rescheduling Order will stimulate the industry and increase marijuana abuse. That is reason enough to preserve the status quo of the last 50 years.

CONCLUSION

The Court should stay the Rescheduling Order pending review.

July 16, 2026

Respectfully submitted.

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) and D.C. Circuit Rule 32(e)(1) because, excluding the parts of the document exempted by Rule 32(f), this document contains 2,598 words.

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July 16, 2026

/s/ *Patrick F. Philbin*
Patrick F. Philbin

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, I caused the foregoing document to be electronically filed with the Clerk and served on the parties using the Clerk's electronic filing system.

July 16, 2026

/s/ *Patrick F. Philbin*
Patrick F. Philbin

EXHIBIT 1

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SAM, INC., et al., *Petitioners*, v. U.S. DEPARTMENT OF JUSTICE, et al., *Respondents*.	**Case No. 26-1106** Consolidated with Nos. 26-1130 and 26-1136

DECLARATION OF ANGELA MOORE

I, Angela Moore, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Chief Executive Officer of Cynergy Wellness Inc., a position I have held since 2020. I have personal knowledge of the operations of Cynergy Wellness, and the impact that the sudden transfer of "medical" marijuana in state-licensed programs from Schedule I to Schedule III of the Controlled Substances Act will have on our practice. The facts in this declaration come from my own personal observations and knowledge, and I could competently testify to them if necessary.

2. I make this Declaration in Support of the joint motion by the National Drug and Alcohol Screening Association (NDASA), MMJ International Holdings, Inc., MMJ Biopharma Cultivation, Inc., and MMJ Biopharma Labs, Inc. for a stay pending review of the Attorney General's Order entitled "Schedules of Controlled

Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements" that was published by Respondents in the Federal Register at 91 Fed. Reg. 22714 (Apr. 28, 2026) (Rescheduling Order).

3. Cynergy Wellness Inc. is a member of NDASA.

4. Since the Rescheduling Order was announced, I have been in communication with the Executive Director of NDASA, Jo McGuire, to inform her about the consequences that the Rescheduling Order will have on the Medical Review Officer industry and on our practice.

5. The drug-testing process involves several distinct participants, each performing a separate function. Specimen collectors obtain biological samples, typically urine, which are then analyzed by a drug-testing laboratory. The laboratory forwards the test results to a Medical Review Officer (MRO)—a licensed physician responsible for evaluating the findings, determining whether there is a legitimate medical explanation for the results, and issuing the verified outcome to the requesting entity, such as an employer.

6. Cynergy Wellness generates revenue in part by providing MRO services to private-sector employers that conduct workplace drug testing. Its client base includes both employers subject to mandatory drug testing under federal regulations—such as those operating in the trucking, aviation, and railroad

industries—and employers that voluntarily implement drug-testing programs to enhance workplace safety, reduce liability, and discourage illegal drug use.

7. Cynergy Wellness derives approximately 48% of its drug-testing revenue from employers who are not subject to federal regulations.

8. MRO services are primarily conducted in connection with positive, non-negative, or otherwise reportable test results that must be reviewed, verified, and interpreted before a final determination is communicated to the employer.

9. If marijuana is reclassified as a Schedule III controlled substance, Medical Review Officers will have to determine whether a positive Delta-9 THC result is attributable to authorized medical marijuana use under state law.

10. Unlike traditional prescription medications, state medical marijuana programs generally do not provide standardized prescription records or readily verifiable dispensing information. As a result, confirming a patient's authorization will require additional investigation, increasing the time and cost of reviewing positive THC results. The average cost of reviewing positive THC results will increase by 60%.

11. In states that allow for recreational use of marijuana, and/or growing marijuana plants for personal use, an MRO has no method to accurately determine whether the source of the marijuana is legal.

12. Because marijuana is the most widely used illegal drug, THC-positive results generate a substantial portion of the litigation risk for employer clients who conduct drug testing as a condition of employment and use Cynergy Wellness for their MRO services.

13. The increased cost of reviewing positive THC results will either cut into Cynergy revenue directly (by adding to cost of services rendered) or indirectly (by reducing our client base as we pass the cost through to the client in the form of higher prices).

14. Based on my familiarity with Cynergy past business practices and our profit margins, we will have to pass on the cost through to our clients.

15. The Rescheduling Order also increases litigation risk for Cynergy's clients. By transferring marijuana to Schedule III of the Controlled Substances Act, marijuana use is no longer excluded from protection under the Americans with Disabilities Act and other employment laws. As a result, employers are more likely to face claims arising from adverse employment actions based on positive marijuana test results.

16. Based on my familiarity with the industry and our particular clients, I predict that it is nearly certain that the increased cost to verify a valid medical marijuana referral, the inability of the MRO to accurately determine a legal marijuana source, and the costs to defend employment drug-test results for

marijuana, will result in employers removing marijuana from their drug testing panels over the next several months.

17. Increased litigation against Cynergy's clients will also impose additional unrecoverable costs on Cynergy. When a client is sued after taking adverse employment action based on Cynergy's review of an employee's drug-test results, Cynergy must retain outside counsel to represent its interests during discovery and at trial. Because the Rescheduling Order is expected to increase litigation involving employees who test positive for marijuana, it will correspondingly increase these unrecoverable legal expenses for Cynergy.

I declare under penalty of perjury that the foregoing is true and correct.

Angela Moore

Dated: July 15, 2026

Angela Moore
CEO, Cynergy Wellness, Inc.

CERTIFICATE *of* SIGNATURE

REF. NUMBER
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DOCUMENT COMPLETED BY ALL PARTIES ON
15 JUL 2026 21:52:33
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SIGNER	TIMESTAMP	SIGNATURE
ANGELA MOORE EMAIL AMOORE@CYNERGYMRO.COM	SENT 15 JUL 2026 21:44:56 VIEWED 15 JUL 2026 21:52:23 SIGNED 15 JUL 2026 21:52:33	 IP ADDRESS 166.199.99.96 LOCATION LOS ANGELES, UNITED STATES

RECIPIENT VERIFICATION

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EXHIBIT 2

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SAM, INC., et al., *Petitioners*, v. U.S. DEPARTMENT OF JUSTICE, et al., *Respondents*.	**Case No. 26-1106** Consolidated with Nos. 26-1130 and 26-1136

DECLARATION OF TAYLOR LANDIS

I, Taylor Landis, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the President of Utility Safety & Design, Inc. (USDI), a position I have held since 2026. Prior to serving as President, I held various roles at USDI for fourteen years. USDI is a natural gas engineering and utility services company.

2. I have personal knowledge of USDI's operations and the substantial impact that the transfer of state-licensed medical marijuana from Schedule I to Schedule III under the Controlled Substances Act would have on the company. The statements set forth in this Declaration are based on my firsthand knowledge, personal observations, and experience.

3. I make this Declaration in Support of the joint motion by the National Drug and Alcohol Screening Association (NDASA), MMJ International Holdings,

Inc., MMJ Biopharma Cultivation, Inc., and MMJ Biopharma Labs, Inc. for a stay pending review of the Attorney General's Order entitled "Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements" that was published by Respondents in the Federal Register at 91 Fed. Reg. 22714 (Apr. 28, 2026) (Rescheduling Order).

4. USDI is a member of NDASA.

5. USDI has a full-time Designated Employer Representative (DER) in charge of the drug-testing program. She reviews drug-test results and is responsible for pulling employees off duty if they test positive for prohibited substances. She is also the person at USDI responsible for ensuring the company's drug-test policy is accurate.

6. Since the Rescheduling Order was announced, the DER of USDI has been in regular communication with the Executive Director of NDASA, Jo McGuire, to discuss the consequences that rescheduling will have on our company.

7. USDI's employees who perform work on gas lines are subject to federal regulations, 49 C.F.R. part 199, issued by the Pipeline and Hazardous Materials Safety Administration, a component of the Department of Transportation. USDI employees that transport hazardous odorants are subject to federal regulations, 49 C.F.R. part 382, issued by the Federal Motor Carrier Safety Administration.

8. USDI employees are subject to mandatory drug testing under 49 C.F.R. part 40, including for marijuana insofar as it is a Schedule I substance.

9. USDI conducts drug testing to promote workplace safety. Our employees routinely perform work on and around active natural gas distribution systems, including gas mains, service lines, meters, regulators, and other infrastructure. This work frequently involves excavation, pressurized gas lines, heavy equipment, confined spaces, and other inherently hazardous conditions. Even a momentary lapse in judgment or impairment can create a substantial risk of serious injury, death, explosions, property damage, or interruption of essential utility service.

10. USDI also has employees who operate commercial trucks and are responsible for transporting hazardous odorant chemicals to make the gas detectable. Even a momentary lapse in judgment or impairment can create a substantial risk of serious injury to the public and our employees.

11. For these reasons, federal law requires that USDI employees performing safety-sensitive work must report to work free from the effects of drugs and alcohol, and we rely on our drug testing program as a critical component of our overall safety and risk management program.

12. Through my work at USDI, I am familiar with the policies that the company must implement before it can administer workplace drug tests. Our drug-

test policy gives employees advance notice of the substances that will be tested for, the testing procedures that will be used, and the consequences of a positive test.

13. Our drug test policy addresses five principal subjects: (1) the circumstances under which testing will occur; (2) the substances included in the testing panel; (3) the testing methodology; (4) the conduct prohibited by the policy, including testing positive, reporting to work while impaired, or causing a workplace accident while under the influence; and (5) the disciplinary or employment consequences for violations of the policy.

14. USDI must revise its drug-test policy whenever material changes to the drug-testing program are implemented.

15. The Rescheduling Order transfers marijuana subject to a state-issued license for a medical purpose to Schedule III, leaving marijuana obtained outside of such programs in Schedule I.

16. Since marijuana now has an unusual dual-classification in Schedules I and III, depending on the circumstances of its purchase or consumption, USDI now must accommodate off-duty "medical" marijuana use just like any other Schedule III drug (like Tylenol with codeine).

17. Additionally, marijuana products that are in Schedule III no longer fall within the exclusion for illegal drug use in the Americans With Disabilities Act codified at 42 U.S.C. § 12114. USDI will now need to address requests for

reasonable accommodation and potentially other state anti-discrimination laws related to medical use of marijuana.

18. Because of many impacts that the Rescheduling Order has on employment-related consequences for a positive marijuana test result, USDI's drug-test policy needs to be revised. Since marijuana in some contexts is now "medicine" and lawful under federal law, a positive test result cannot automatically trigger the same employment consequences as when marijuana was exclusively in Schedule I.

19. USDI is in ongoing discussions with our Designated Employer Representative to revise our drug-test policy. We will also need to hire legal counsel to assess the employment and anti-discrimination risks with carrying out drug testing for our employees in safety-sensitive positions now that marijuana is (in state medical marijuana programs) a Schedule III medical product. We estimate our compliance costs will exceed $48,000.

I declare under penalty of perjury that the foregoing is true and correct.

Taylor Landis

Taylor Landis
President

Dated: July 16, 2026

EXHIBIT 3

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

NEW DIRECTIONS ADDICTION RECOVERY SERVICES, et al.,

Petitioners,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, et al.,

Respondents.

Case No. 26-1136

Consolidated with Nos. 26-1106 and 26-1130

SUPPLEMENTAL DECLARATION OF DUANE BOISE

I, Duane Boise, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am over eighteen years of age and am competent to testify as to the matters stated herein. I make this declaration based on my personal knowledge.

2. I am the Chief Executive Officer of MMJ International Holdings, Inc. (MMJIH) and its subsidiaries, MMJ BioPharma Cultivation, Inc. (MMJBC) and MMJ BioPharma Labs, Inc. (MMJBL) (collectively, MMJ). In my role, I have personal knowledge of the organizational structure, operations, mission, programs, finances, regulatory history, and the impact of the Marijuana Rescheduling Order on the activities of MMJIH, MMJBC, and MMJBL.

3. I submit this supplemental declaration in support of Petitioners' Motion for Stay Pending Review of the Marijuana Rescheduling Order, 91 Fed. Reg. 22714 (Apr. 28, 2026), which transferred certain categories of marijuana from Schedule I to Schedule III of the Controlled Substances Act.

4. MMJ has developed a standardized botanical cannabinoid drug product in a soft-gelatin capsule format containing defined amounts of cannabidiol (CBD) and tetrahydrocannabinol (THC). During research and development, MMJ evaluated seven prototype formulations and selected a formulation consisting of 5 mg CBD and 2.5 mg THC per soft-gel capsule. MMJ has completed manufacture of 50,000 capsules of that formulation with Catalent Pharma Solutions in May 2022, and has sought approval of that product through the federal Food & Drug Administration (FDA) botanical drug development pathway, including Investigational New Drug (IND) programs for Huntington's disease and multiple sclerosis. The product remains subject to federal FDA approval before it may be marketed as an approved medicine. MMJ's purpose in proceeding through that pathway is to demonstrate safety, efficacy, manufacturing quality, and labeling consistency for its pharmaceutical cannabinoid therapy consistent with federal law.

5. MMJ has structured its operations to comply with federal law governing both controlled-substance handling and pharmaceutical drug development. MMJBL obtained a DEA Schedule I analytical laboratory registration after DEA inspection and approval of its physical security systems, recordkeeping controls, and diversion-prevention safeguards; MMJBC applied for DEA bulk-manufacturer registration to cultivate and produce marijuana as its active pharmaceutical ingredient (API) for FDA-authorized clinical trials; and MMJ has used federally supervised import and supply-chain procedures to support its FDA botanical drug development program. These controls are designed so that, once MMJ's product is approved, it can be prescribed by physicians, dispensed through lawful pharmaceutical channels, and used by legitimate patients as medicine according to FDA-approved directions.

6. MMJ competes against a burgeoning group of businesses that supply cannabis-based products for therapeutic use under state medical-marijuana programs. MMJ's critical competitive advantage to date has been its rigorous compliance with federal law: MMJ has filed FDA IND applications, obtained orphan-drug designation, pursued registration with the DEA, constructed DEA-inspected laboratory systems, engaged in rigorous formulation development, undertaken stability studies and analytical testing, and implemented other controls required for pharmaceutical development. To reach states' medical marijuana markets faster and to secure substantial market share, MMJ's competitors have skipped these important steps.

7. Because MMJ has consistently followed federal law—unlike its corner-cutting competitors—MMJ can deduct business expenses in filing its taxes. This constitutes a substantial advantage over MMJ's competitors, who—until the Rescheduling Order—have not been permitted to deduct business expenses, and were instead taxed on gross profits under Section 280E of the Internal Revenue Code, because their businesses "consist[ed] of trafficking in controlled substances (within the meaning of schedule I … of the Controlled Substances Act) which is prohibited by Federal law." 26 U.S.C. § 280E.

8. The Rescheduling Order directly harms MMJ's competitive advantage by granting legal Schedule III status to state-licensed products without requiring the companies producing them to satisfy the same federal pharmaceutical-development requirements that MMJ has meticulously observed. It also harms MMJ's competitive advantage by granting MMJ's competitors relief from Section 280E's deduction disallowance for trafficking in a Schedule I controlled substance. *See* 91 Fed. Reg. at 22720.

9. MMJ's direct competitors include:

a. **Trulieve Cannabis Corp.** (Trulieve), a multistate cannabis operator that markets cannabinoid products for therapeutic use, including its Momenta brand in a soft-capsule (gelcap) format directly analogous to MMJ's soft-gelatin capsule. Trulieve advertises that its "Momenta Ratio Capsules offer a balanced 1:1 CBN:THC formulation in a simple, familiar capsule format,"[1] sold in 30-count, 300 mg bottles and promoted as "precisely dosed" and offering "consistent, controlled relief."[2] Trulieve is the largest single beneficiary of the tremendous market momentum already generated by the Rescheduling Order: On June 5, 2026, it announced an uplisting to the New York Stock Exchange, and on June 10, 2026, it became the first U.S.-operating cannabis company to trade on a major U.S. exchange, under the ticker symbol "TRLV." Trulieve holds an estimated 12% national market share and an approximately 50% share of the lucrative Florida market. Trulieve's products are dispensed for therapeutic use without IND application and FDA approval; without clinical-trial data; without chemistry, manufacturing, and control (CMC) review; and without demonstrating controlled formulation and stability.

b. **Cresco Labs Inc.** (Cresco), a multistate operator whose Remedi brand is expressly positioned as a pharmaceutical-style medical product. Cresco states that "Remedi products are specifically tailored to meet the needs of medical patients, and they come in precise doses and form factors similar to other health and wellness products," and that "Remedi was originally created for patients with existing

[1] Trulieve, Momenta Capsules Ratio 30ct 300mg product page, trulieve.com/product/momenta-capsules-ratio-30ct-60731 (last visited July 2026).

[2] Trulieve, THC Capsules category page, trulieve.com/category/oral/capsules (last visited July 2026).

medical conditions in medical cannabis states."[3] Remedi's capsule line includes formulations comparable to MMJ's, such as Relief 1:1 Capsules (2.5 mg CBD + 2.5 mg THC per capsule) and Rest 1:5 Capsules (1 mg CBD + 5 mg THC per capsule).[4] Cresco's Chief Commercial Officer, Greg Butler, has publicly marketed these "category-specific … capsules" to medical patients.[5] Remedi capsule products are dispensed for therapeutic use without IND application and FDA approval; without clinical-trial data; without chemistry, manufacturing, and control (CMC) review; and without demonstrating controlled formulation and stability.

c. **Verano Holdings Corp.** (Verano), through its Avexia brand, markets microdosing THC/CBD tablets for "pain relief" and other therapeutic uses. These products include 1:1 tablets (2.5 mg THC + 2.5 mg CBD) and 4:1 tablets (10 mg CBD + 2.5 mg THC),[6] distributed through Verano and affiliated dispensaries. Avexia tablets are dispensed for therapeutic use without IND application and FDA approval; without clinical-trial data; without chemistry, manufacturing, and control (CMC) review; and without demonstrating controlled formulation and stability.

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[3] Cresco Labs / Remedi brand materials, crescolabs.com/brands; Leafly, Remedi by Cresco Labs.

[4] Leafly, Remedi Relief 1:1 Capsules (last visited July 2026), leafly.com/brands/remedi-by-cresco-labs/products/remedi-by-cresco-labs-remedi-relief-11-capsules; Remedi Rest 1:5 Capsules (last visited July 2026), leafly.com/brands/remedi-by-cresco-labs/products/remedi-by-cresco-labs-remedi-rest-15-capsules.

[5] Cresco Labs, "Cresco Labs Launches Remedi Cannabis Brand Into New York" (Oct. 14, 2020), investors.crescolabs.com/news/news-details/2020/Cresco-Labs-Launches-Remedi-Cannabis-Brand-Into-New-York/default.aspx.

[6] Verano/Avexia product listings (last visited July 2026), leafly.com/brands/avexia/catalog; Columbia Care, VE 1:1 Avexia Microdose Tablets (last visited July 2026), col-care.com/product/ve-1-1-avexia-microdose-tablets/; Columbia Care, VE 4:1 Avexia Microdose Tablets (last visited July 2026), col-care.com/product/ve-4-1-avexia-microdose-tablets/.

d. **Green Thumb Industries Inc.** (Green Thumb or GTI), a Chicago-based multistate operator, manufactures and sells cannabinoid products for medical and adult use in precisely dosed oral formats. These products include tinctures marketed for therapeutic use under GTI's health-and-wellness brand, Doctor Solomon's.[7] In May 2026, Green Thumb announced that it had filed applications with the DEA to register certain state-licensed medical cannabis operations under the expedited registration pathway created by the Rescheduling Order.[8] None of Green Thumb's cannabinoid products has undergone FDA IND review, clinical trials, CMC characterization, or the stability and controlled-formulation requirements MMJ has satisfied, yet its state-licensed products now receive Schedule III treatment and its operations are positioned for expedited federal registration—the same registration that MMJ has diligently sought since December 2018.

e. **TerrAscend Corp.** (TerrAscend) manufactures and distributes cannabis products for oral administration, including medical-cannabis capsules sold under its Ilera brand.[9] TerrAscend's cannabis capsules are dispensed for therapeutic use without IND application and FDA approval; without clinical-trial data; without chemistry,

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[7] *Our Ingredients*, Green Thumb Industries (last visited July 2026), doctorsolomons.com/products.

[8] Green Thumb Industries Inc., *Green Thumb Industries Files Applications for DEA Registration Following Historic Rescheduling of Medical Cannabis* (May 4, 2026), globenewswire.com/news-release/2026/05/04/3286559/0/en/green-thumb-industries-files-applications-for-dea-registration-following-historic-rescheduling-of-medical-cannabis.html

[9] *Press Release*, TerrAscend (March 30, 2020), ir.terrascend.com/news-events/press-releases/detail/169/terrascends-award-winning-apothecarium-to-debut-its-first-two-pennsylvania-dispensaries.

manufacturing, and control (CMC) review; and without demonstrating controlled formulation and stability.[10]

10. Each of these competitors markets a precisely dosed, orally administered cannabinoid product for therapeutic use in the same format that MMJ has developed. Yet none of them has followed the federal pharmaceutical-development pathway that MMJ has pursued: DEA registration, FDA IND application, CMC review, clinical trials, and stability studies. The Rescheduling Order confers Schedule III legitimacy to these competitors' state-licensed products without requiring compliance with this well-established federal pathway.

11. The state-licensed marijuana products covered by the Rescheduling Order include products that have never undergone FDA review, have never been tested in clinical trials to prove efficacy, and lack standardized dosing, validated manufacturing controls, or regulatory-grade characterization. The Order thus opens the floodgates to MMJ's competition: Their products may now be marketed or dispensed for therapeutic use without having followed the same requirements—DEA registration, FDA IND application, CMC review, clinical trials, and stability / controlled-formulation analysis—that MMJ has scrupulously followed. In effect, the Order rewards MMJ's competitors who built their position through federally unsanctioned state medical-marijuana regimes rather than by proceeding through the established federal pharmaceutical pathway. In this way, the Order substantially erodes the critical market distinction that MMJ carefully built for itself through strict federal compliance.

[10] The Department of Justice recently filed suit against TerrAscend to recover an erroneous $8.3 million tax refund due to illegal business-expense deductions under Section 280E because the "deductions were taken for trafficking a controlled substance." *See* Compl. ¶¶ 10, 18, *United States v. TerrAscend USA, Inc. & Subsidiaries*, No. 226-cv-05640 (D.N.J. May 20, 2026).

12. Prior to the Rescheduling Order, many of MMJ's direct competitors candidly acknowledged in filings with the Securities & Exchange Commission that their medical marijuana businesses were subject to substantial legal risk due to marijuana's Schedule I status and their unabashed violation of federal law. These competitors also acknowledged that their illicit trafficking in a Schedule I controlled substance subjected them to a heightened tax burden and a substantial risk-premium to obtain financial services, among other things.

13. For example, Verano's 2025 Annual Report lists as the company's very first risk factor, "the current illegality of cannabis under federal law, the U.S. federal regulatory landscape and enforcement related to medical … use cannabis." Verano Holdings Corp., Annual Report, at 1, 30 (Form 10-K) (Mar. 12, 2026). Verano also highlighted potential liability under federal "money laundering laws and the Racketeer Influenced and Corrupt Organizations Act" (RICO), "the impact of Section 280E" of the tax code, the "limited intellectual property protection available for cannabis products," their "lack of access to federal bankruptcy protections" as a vendor of contraband under the CSA, and "the difficulties cannabis businesses face accessing and maintaining banking or financial services due to federal regulations," among other things. *Id.* at 1–2, 30–33, 53–54, 56, 58–59, 67. Trulieve's 2025 Annual Report identified the same Schedule I related risks. *See* Trulieve Cannabis Corp., Annual Report, at 18–19, 22–23, 25, 29 (Form 10-K) (Feb. 27, 2025). Similarly, Cresco's 2025 annual SEC filing (as a foreign private issuer) likewise identified risks flowing from its trafficking in a Schedule I substance. *See* Cresco Labs Inc., Annual Information Form, at 82–88, ex. 99.4 to Form 40-F (Mar. 14, 2025). Cresco also warned that cannabis businesses like it had "limited, if any, access to credit card processing services" and therefore were "largely cash-based," which "complicates the implementation of financial controls and increases security issues." *Id.* at 27, 36.

14. The Rescheduling Order relieves MMJ's competitors like Verano, Trulieve, and Cresco of these serious risks attendant to their marketing of non-FDA-approved cannabis-therapeutics through state medical marijuana programs. The Order absolves these competitors of falsely marketing their products as having proven medical benefits despite lacking any clinical-trials proof of efficacy.

15. MMJ's product is not presently available for patient use because MMJ has carefully pursued FDA IND pathways for its investigational cannabinoid products, and FDA clinical holds have prevented MMJ from initiating clinical use.

a. MMJ submitted IND 137754 for the treatment of multiple sclerosis on June 8, 2018. FDA notified MMJ on July 3, 2018 that the proposed study was on clinical hold and issued written hold comments on July 31, 2018. MMJ provided responses in September 2018 and submitted a further clinical-hold response dated September 18, 2023, received by FDA on September 20, 2023. MMJ later transmitted a response to clinical hold through FDA's electronic submission gateway on June 5, 2024. As of this date, FDA has not lifted the IND 137754 hold.

b. MMJ also pursued IND 140712 for Huntington's disease. FDA confirmed receipt of MMJ's August 23, 2024 submission containing protocol and CMC information and issued a Full Clinical Hold letter dated February 7, 2025. In April 2025, MMJ communicated with FDA regarding responses to the hold and stated that a complete response would follow after it obtained a new cannabis cultivar and subsequent THC and CBD extracts. FDA has not lifted the IND 140712 hold.

c. MMJ also has not yet received its Bulk Manufacturing Registration from the DEA, despite full compliance with DEA requirements, and after seven years of waiting.

> MMJ's adherence to the federal process—its principal competitive advantage—has required more than eight years and more than $10 million in scientific, regulatory, financial, and manufacturing investment. By granting Schedule III treatment to state-licensed marijuana products that have not completed the same process, the Rescheduling Order substantially diminishes the compliance-based market distinction that MMJ spent those resources to build.

16. Even if MMJ attempted to abandon its strict adherence to the FDA pathway and instead pursue opportunities created by the Rescheduling Order for state medical-marijuana programs, MMJ would not be able to recover the substantial sunk investment it has already made in federal compliance. MMJ's investment has included IND submissions, FDA regulatory engagement, securing orphan-drug status, DEA registration activity, Catalent formulation development and stability studies, Avanti analytical testing, regulatory consulting, retaining FDA counsel, reimbursement strategy work, and preparations for a capital raise. Nor could MMJ immediately scale into state medical-marijuana markets on equal terms with state-licensed operators whose products have already gained market access and provider and patient acceptance under the Order's Schedule III treatment. Accordingly, the Order irreparably harms MMJ's competitive standing by eliminating the federal-compliance advantage on which MMJ relied, while leaving MMJ unable to recoup or repurpose the years of investment required by the lawful federal pharmaceutical pathway.

17. MMJ chose to comply with the CSA by pursuing the federal registration process established by Congress and implemented through DEA's 2020 Final Rule governing marijuana cultivation for research and product development. That regulatory pathway required DEA registration before manufacturing marijuana for research or pharmaceutical development, and it

was specifically designed for applicants seeking to produce marijuana for FDA-regulated investigational drugs. DEA publicly indicated that applications submitted after the effective date of the 2020 Final Rule generally would not be considered until the then-pending applications had been acted upon, subject to limited statutory exceptions, *see* 85 Fed. Reg. 82333, 82336 (Dec. 18, 2020), and it was widely understood by industry participants that only a limited number of bulk manufacturer registrations—approximately five to fifteen—would initially be issued under that process. Abandoning MMJ's pending federal application in favor of a new Schedule III application is not a realistic or legally prudent option and would place at risk more than seven years of regulatory effort and substantial financial investment. As such, MMJ is neither legally nor practically able to abandon that federal pathway and seek registration through the Attorney General's new Schedule III framework, which is directed to state-licensed operators rather than applicants already awaiting action under DEA's existing registration process.

18. I first became concerned about rescheduling's impact on my business when the President issued his Executive Order directing the rescheduling of marijuana in December 2025. I was concerned that this Executive Order would allow businesses that had not proceeded through the proper federal regulatory process to achieve dominant market share in the market for federally authorized cannabinoid therapeutics, while our product was still proceeding through the approval process.

19. The Rescheduling Order threatens MMJ's very existence because competitors' capture of the newly federally legal cannabis therapeutics market imminently imperils MMJ's ability to raise capital to continue its pursuit of FDA approval. As a direct result of the regulatory uncertainty created by the Executive Order and the subsequent efforts to reschedule marijuana, in February 2026, a long-time investor who had previously invested approximately $1 million in

MMJ advised me that he would not invest further because of the uncertainty created by these federal actions—which culminated in the April Rescheduling Order—and the resulting competitive harm to MMJ. MMJ's planned capital-markets engagement with Seaport Global Securities has likewise been materially impaired: Prospective institutional investors have questioned why federally reimbursed market access and Schedule III economic benefits are being extended to state-licensed operators while MMJ's federally compliant pharmaceutical program remains blocked from the market due to yearslong delays in agency action. These developments have impaired MMJ's ability to raise the capital necessary to see its drug through the rigorous approval process, and they have caused MMJ concrete financial harm.

20. Because the Rescheduling Order bypassed the formal rulemaking requirement of 21 U.S.C. § 811(a) to place state medical marijuana in Schedule III, and because it failed to provide notice and opportunity to comment upon its additional amendments to existing regulations, MMJ has been denied the chance to weigh in on these important matters that profoundly affect its business. Had MMJ been afforded the opportunity, MMJ would have provided evidence that reproducible chemistry, standardized dosing, CMC manufacturing controls, stability data, and FDA clinical review are essential prerequisites to any finding of "currently accepted medical use." MMJ would also have explained how extending Schedule III treatment to state-licensed products lacking these critical controls both undermines patient safety and destroys the competitive distinction that federally-compliant drug developers like MMJ have built.

I declare under penalty of perjury that the foregoing is true and correct.

Duane Boise

Dated: July 16, 2026

Duane Boise
Chief Executive Officer
MMJ International Holdings, Inc.

EXHIBIT 4

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SAM, INC., et al., *Petitioners*, v. U.S. DEPARTMENT OF JUSTICE, et al., *Respondents*.	**Case No. 26-1106** Consolidated with Nos. 26-1130 and 26-1136

DECLARATION OF M. JO MCGUIRE

I, M. Jo McGuire, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Executive Director of the National Drug and Alcohol Screening Association, a position I have held since 2019. I have personal knowledge of NDASA's mission, operations, membership, and the impact that the sudden transfer of "medical" marijuana in state-licensed programs from Schedule I to Schedule III of the Controlled Substances Act will have on NDASA and its members. The facts in this declaration come from my own personal observations and knowledge and I could competently testify to them if necessary.

2. I make this Declaration in Support of the joint motion of NDASA, MMJ International Holdings, Inc., MMJ Biopharma Cultivation, Inc., and MMJ Biopharma Labs, Inc. for a stay pending review of the Attorney General's Order

entitled "Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements" that was published by Respondents in the Federal Register at 91 Fed. Reg. 22714 (Apr. 28, 2026) ("Rescheduling Order").

3. I submitted a declaration in support of the joint motion for a stay pending review on June 9, 2026.

4. In that Declaration, at ¶ 5, I averred that I am "I am routinely informed of the impact that drug rescheduling will have on medial review officer practices by our medical review officer credentialing associations, who are NDASA members." *Id.* at ¶ 27, I named three Medical Review Officer practices—i3screen, Cynergy Wellness Inc., and HireRight—that will be directly harmed by the Rescheduling Order.

5. Before filing my declaration, I spoke with representatives of i3screen, Cynergy Wellness Inc., and HireRight. My declaration was based on information that I received from those (and other) Medical Review Officer practices who are NDASA members. The Chief Executive Officer of Cynergy Wellness Inc. has also filed a declaration in support of the joint motion for a stay.

6. Had the government sought and considered comments on the combined rescheduling and amendments to DEA Rules required by the Single Convention on

Narcotics, NDASA would have had many things to say. NDASA submitted 29 pages on comments on the 2024 marijuana rescheduling Notice of Proposed Rulemaking and was a designated participant at the hearing (Hr'g Dkt. 24-44) that was later cancelled, 91 Fed. Reg. 27788 (Apr. 28, 2026). In connection with the prior hearing, NDASA submitted a 17-page prehearing statement and 266 pages of exhibits. None of this material was considered in the Rescheduling Order.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 14, 2026

M. Jo McGuire