

**IN THE IOWA DISTRICT COURT  
IN AND FOR  
POLK COUNTY, IOWA**

|                                  |   |                    |
|----------------------------------|---|--------------------|
| George McMahon, Bryan Scott, and | ) |                    |
| Barbara Douglass, Petitioners    | ) |                    |
|                                  | ) |                    |
| and                              | ) | Docket No. CV 7415 |
|                                  | ) |                    |
| Carl Olsen, Intervenor           | ) |                    |
|                                  | ) |                    |
| <i>vs.</i>                       | ) | MOTION TO ENLARGE  |
|                                  | ) | THE RECORD WITH    |
| The Iowa Board of Pharmacy,      | ) | EXHIBIT FILED WITH |
| Respondent                       | ) | AGENCY             |

Carl Olsen (“Olsen” hereafter), the Petitioner below before the Iowa Board of Pharmacy (“Board” hereafter) and the Intervenor in this case, respectfully moves this Court for permission to enlarge the record.

The grounds for this motion are as follows:

1. Olsen is preparing his Reply Brief to the Respondent’s Brief that was served on Olsen by mail on March 10, 2009.
  
2. In preparing his Reply Brief, Olsen notes that the Respondent claims “Olsen created an extremely limited administrative record,” which is not correct. Olsen filed both a 71-page exhibit and a memorandum of law with his petition. See Respondent’s Brief, page 2.

3. Respondent further claims “Olsen’s sole evidence in support of his petition was information regarding other states which have adopted laws permitting marijuana use,” which is not correct. Olsen filed a 71-page exhibit and a memorandum of law that were attached to his petition. See Respondent’s Brief, page 3.

4. Respondent further claims:

Missing from the record are both testimony and exhibits addressing the full range of statutory criteria the Board is to use in evaluating whether revision to the controlled substance schedules are appropriate. Olsen did not address criteria for rescheduling found at Iowa Code §124.201 (2007).

The Respondent is not correct. Olsen did list those criteria in his memorandum of law and did attach an exhibit to his petition addressing those criteria. See Respondent’s Brief, page 3.

5. Because the attached exhibit, Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge (Drug Enforcement Administration), In the Matter of Marijuana Rescheduling Petition, Docket No. 86-22, Sept. 6, 1988, submitted to the Board with the petition that was filed with the Board is missing from the record and the Respondent is claiming this

exhibit never existed or was never submitted to the Board, it should be made part of the record now for completeness.

6. Olsen apologizes to this Court and to the parties and accepts responsibility for any oversight on his part. Olsen is not an attorney and did not expect counsel for the Respondent to deny that this exhibit and the memorandum of law were actually filed with the Board. See *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (a pro se complaint is held to less stringent standards than formal pleadings drafted by lawyers).

7. Olsen has contacted the other parties to this case by email asking for their consent to this motion.

For the foregoing reasons, Olsen now moves this Court to include the Exhibit he filed with the Board in the record on review, because the Respondent is actually using the Stipulated Record as a strategic maneuver to gain advantage over Olsen.

Dated: March 13, 2009.

Respectfully submitted:

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## CERTIFICATE OF SERVICE

I certify that on or before March 13<sup>th</sup>, 2009, I served the other parties to this action with notice of this motion by mailing true copies to all parties of record or their attorneys as the case may be at the addresses shown below:

For Respondent, Iowa Board of Pharmacy

Scott Galenbeck, Esq.  
Assistant Iowa Attorney General  
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Des Moines, IA 50319

For Petitioners, George McMahon,  
Bryan Scott, and Barbara Douglass

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Carl Olsen, Pro Se