

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LEONARD FRENCH,

Plaintiff,

v.

CV 08-171

BOARD OF COUNTY COMMISSIONERS
FOR THE COUNTY OF EDDY,
DAVID EDMONDSON, Commander of the
Pecos Valley Drug Task Force, and
JOHN DOES # 1-4, Eddy County Sheriffs' Deputies,

Defendants.

DEFENDANTS' NOTICE OF REMOVAL

Defendants Board of County Commissioners for the County of Eddy and David Edmondson, respectfully file their Notice of Removal in the above entitled action, and as grounds therefore state:

1. This action was originally commenced on January 17, 2008, pursuant to a Complaint filed by the Plaintiff entitled "Complaint for Tort Damages and Declaratory and Injunctive Relief" (hereafter the "Plaintiff's Complaint") in the Fifth Judicial District Court for the State of New Mexico, County of Eddy as Cause Number CV 08-055 (the "State Court Action"), and is now pending therein.
2. The Plaintiff's Complaint essentially alleges that he was in the possession of marijuana used for medical purposes pursuant to a license issued by the New Mexico Department of Health and that the Defendants' seizure of the marijuana violated the Plaintiff's rights under the New Mexico Constitution, statutory and common law.
3. On its face, the Plaintiff's Complaint does not appear to specify any particular

relief sought by the Plaintiff under Federal Law.

4. However, Defendant Board of County Commissioners for the County of Eddy's law enforcement officers who were involved in the actual seizure of the marijuana and Defendant Edmondson are, and were at the time of the seizure at issue, deputized to act as agents of the United States Drug Enforcement Administration (the "DEA"). *See* Affidavit of David Edmondson ("Edmondson Affd.") at ¶¶ 1-6 (copy attached as Exhibit "A").

5. The seizure of the Plaintiff's marijuana by the Defendants was done at the direction of and under the guidance and control of the DEA, and specifically pursuant to the Controlled Substances Act (CSA) (Title II of the Comprehensive Drug Abuse Prevention and Control Act) (21 U.S.C.S. §§ 801 *et seq.*), which generally criminalizes the manufacture, distribution, or possession of marijuana. Edmondson Affd. at ¶ 7.

6. Thus, Plaintiff's Complaint has challenged the Defendants' and seeks relief based on Defendants' actions taken while Defendants were acting under an officer and/or agency of the United States, under the color of such office in the enforcement of a criminal law of the United States.

7. As such, this Court has jurisdiction over this matter and this action may, therefore, be removed to this Court pursuant to 28 U.S.C. §§ 1442(a)(1).

8. Moreover, this Court has supplemental jurisdiction over Plaintiff's state law claims.

9. By letter dated January 22, 2008, counsel for the Plaintiff mailed to counsel for the Board of County Commissioners for the County of Eddy a copy of the Plaintiff's Complaint and summons for the Board of County Commissioners for the County of Eddy and David

Edmonson, which counsel agreed to accept. No further proceedings have been taken by the Defendants in the State Court Action following the receipt by counsel of the Plaintiff's Complaint, and this Notice is filed with this Court within thirty (30) days after receipt of the Plaintiff's Complaint on Defendants' counsel. Further, all named Defendants are represented by the undersigned counsel and all consent to and concur in this removal.

10. A true and correct copy of Plaintiff's Complaint is attached hereto as Exhibit "B". Pursuant to 28 U.S.C. § 1446 and D.N.M.LR-Civ. 81.1(a), the Defendants attach as Exhibit "C", legible copies of all other pleadings, process, orders, records and proceedings from the State Court action.

WHEREFORE, the Defendants respectfully file this Notice of Removal to remove the above entitled action from the Fifth Judicial District Court for the State of New Mexico, County of Eddy to this Court.

Respectfully Submitted:

SLEASE & MARTINEZ, P.A.

By: Electronically filed February 14, 2008

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I hereby certify that a copy of the foregoing pleading was mailed and/or served by the Court's CM/ECF system to the following counsel of record on February 14, 2008:

George Bach
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P.O. Box 566
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Philip Davis,
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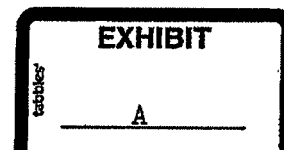
Defendants.

AFFIDAVIT OF DAVID EDMONDSON

STATE OF NEW MEXICO)
)SS.
COUNTY OF EDDY)

DAVID EDMONDSON, being first duly sworn, deposes and states:

1. My name is David Edmondson and I am one of the named Defendants in the above-referenced matter.
2. I am a certified law enforcement officer within the State of New Mexico currently employed by the County of Eddy but assigned and working at the Pecos Valley Drug Task Force.
3. I currently am, and was on August 28, 2007, the Commander of the law enforcement officers assigned to the Pecos Valley Drug Task Force.
4. Law enforcement officers assigned to the Pecos Valley Drug Task Force, including those employed by the Board of County Commissioners for the County of Eddy



are normally deputized to act as agents of the United States Drug Enforcement Administration (the "DEA").

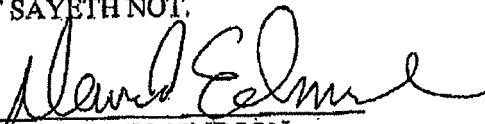
5. On August 28, 2007, agents assigned to the Pecos Valley Drug Task Force seized marijuana from Plaintiff Leonard French. (Mr. French has apparently erroneously indicated that the seizure was on September 4, 2007. All records pertaining to the seizure confirm that it took place on August 28, 2007).

6. Pursuant to the incident reports filed by the agents, the seizure of the Plaintiff's marijuana plants was performed by two Pecos Valley Drug Task Force agents who, at the time of the seizure, were deputized by the DEA.

7. The seizure was done at the direction of and under the guidance and control of the DEA, and specifically pursuant to the Controlled Substances Act (CSA) (Title II of the Comprehensive Drug Abuse Prevention and Control Act) (21 U.S.C.S. §§ 801 *et seq.*).


8. The marijuana and all items seized from the Plaintiff on August 28, 2007 were turned over to the DEA.

FURTHER AFFIANT SAYETH NOT.

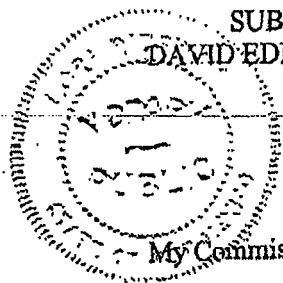


DAVID EDMONDSON

SUBSCRIBED AND SWORN TO before me this 14th day of February, 2008, by
DAVID EDMONDSON.



NOTARY PUBLIC



My Commission Expires:

1/24/11