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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 COUNTY OF SANTA CRUZ, CALIFORNIA;
17 CITY OF SANTA CRUZ, CALIFORNIA;
VALERIE CORRAL; ELADIO V. ACOSTA;
18 JAMES DANIEL BAEHR; MICHAEL
CHESLOSKY; JENNIFER LEE HENTZ;
19 DOROTHY GIBBS; HAROLD F. MARGOLIN;
and WOMEN'S ALLIANCE FOR MEDICAL
20 MARIJUANA

21 Plaintiffs,

22 v.

23 JOHN ASHCROFT, Attorney General of the
United States; KAREN P. TANDY,
Administrator of the Drug Enforcement
24 Administration; JOHN P. WALTERS, Director of
the Office of National Drug Control Policy; and
25 30 UNKNOWN DRUG ENFORCEMENT
ADMINISTRATIONS AGENTS,
26

27 Defendants.

Case No.: 03-CV-1802 JF

**PLAINTIFFS' NOTICE OF
MOTION AND MOTION FOR
RECONSIDERATION OF
AUGUST 28, 2003 ORDER**

Date: March 31, 2004
Time: 9:00 a.m.
Place: Courtroom 3
Judge: Hon. Jeremy Fogel

1 TO OFFICIAL-CAPACITY DEFENDANTS JOHN ASHCROFT, KAREN P. TANDY, AND
2 JOHN P. WALTERS AND THEIR COUNSEL OF RECORD:

3 Please take notice that on March 31, 2004 at 9:00 am, or as soon thereafter as the
4 matter may be heard, Plaintiffs County of Santa Cruz, California, City of Santa Cruz, California,
5 Valerie Corral, Eladio V. Acosta, James Daniel Baehr, Michael Cheslosky, Jennifer Lee Hentz,
6 Dorothy Gibbs, Harold F. Margolin, and Wo/Men’s Alliance for Medical Marijuana
7 (“Plaintiffs”) will and hereby do request this Court to (a) reconsider its August 28, 2003 Order
8 Denying Plaintiff’s Motion For Preliminary Injunction and Granting Defendants’ Motion to
9 Dismiss With Leave to Amend; (b) enter an order denying Defendants’ Motion To Dismiss and
10 granting Plaintiffs’ Motion For Preliminary Injunction; and (c) issue a preliminary injunction
11 consistent with Plaintiffs’ proposed order submitted concurrently herewith. Plaintiffs bring this
12 Motion under Federal Rule of Civil Procedure 60(b)(5), because the Ninth Circuit’s December
13 16, 2003 decision in *Raich, et al. v. Ashcroft, et al.*, 352 F.3d 1222 (9th Cir. 2003), created new
14 law directly applicable to this case and binding on this Court.

15 This Motion is based on this Notice of Motion and Motion, the Memorandum of
16 Points and Authorities in Support of this Motion, the Declaration of Valerie Corral in Support of
17 this Motion, and the Declaration of Neha Nissen in Support of this Motion filed concurrently
18 herewith, all papers and records on file in this action, and such oral and documentary evidence as
19 may be presented at the hearing on this Motion.

20 DATED: February 23, 2004

BINGHAM McCUTCHEN LLP

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22 By: _____ /S/
23 Neha Shah Nissen
24 Attorneys for WAMM Plaintiffs
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