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APRIL JAMES, EUNICE SWEARINGER, STEVE BRITTON
10 *AND ROUND VALLEY INDIAN TRIBES*

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 APRIL JAMES, EUNICE SWEARINGER,
15 STEVE BRITTON, and ROUND VALLEY
16 INDIAN TRIBES,

17 Plaintiffs,

18 v.

19 MATTHEW KENDALL, Sheriff of Mendocino
20 County; COUNTY OF MENDOCINO;
WILLIAM HONSAL, Sheriff of Humboldt
21 County; JUSTIN PRYOR, deputy of Humboldt
22 County Sheriff's Office; COUNTY OF
HUMBOLDT; SEAN DURYEE, Commissioner
23 of the California Highway Patrol;
CALIFORNIA HIGHWAY PATROL; and
24 DOES 1 through 50,

25 Defendants.

Case No. 1:25-cv-03736-RMI

**PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: August 19, 2025

Time: 11:00 a.m.

Crtrm: 1

Before: Honorable Robert M. Illman

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1 **NOTICE OF MOTION**

2 This motion is set for a hearing on August 19, 2025, at 11:00 a.m. in the United States
3 District Court for the Northern District of California, Eureka Division, located at 3140 Boeing
4 Avenue, McKinleyville, California 95519.

5 **RELIEF SOUGHT BY THE PLAINTIFFS**

6 Plaintiffs, Round Valley Indian Tribes (“Tribe”), Steve Britton, April James, and Eunice
7 Swearinger (“Indians”), move this Court for an order, pursuant to Rule 50 of the Federal Rules of
8 Civil Procedure, granting judgment to the Tribe and Indians as a matter of law on its First, Second
9 and Third Causes of Action and claims for relief. The claims asserted, respectively, are: (1) that
10 Public Law 280, codified at 18 U.S.C. § 1162, and 28 U.S.C. § 1360 (collectively “P.L. 280”), did
11 not grant the State of California’s (“State”), its political subdivisions, the County of Mendocino and
12 County of Humboldt (“Counties”), the Sheriffs and deputy sheriffs for each of the Counties
13 (“Sheriffs”) and law enforcement officers of the California Highway Patrol (“CHP”) the authority
14 or jurisdiction to enforce the State’s and Counties’ cannabis laws against the Tribe and the Indians
15 while engaging in cannabis activities within the Tribe’s Indian country; (2) that the enforcement of
16 the State’s cannabis laws against the Tribe and the Indians within the Tribe’s Indian country
17 constitutes a violation of 42 U.S.C. § 1983, and (3) that the enforcement of the State’s cannabis
18 laws against the Tribe and the Indians within the Tribe’s Indian country interferes with the Tribe’s
19 right to govern itself and its members within the Tribe’s Indian country¹ free of state regulation and
20 control in direct violation of the decisions of the United States Supreme Court and lower federal
21 courts.

22 **STATEMENT OF ISSUES TO BE DECIDED**

23 This motion presents the following legal questions for the Court’s resolution:
24
25
26

27 ¹ “Indian country” is defined in 18 U.S.C. § 1151 as all land within the boundaries of an Indian
28 reservation and all land owned by the United States in trust for an allottee. All of the land owned
by the plaintiff Indians in this case lies within the boundaries of their reservation, the Round Valley
Indian Reservation.

1 (1) Does P.L. 280 authorize the State, Counties, Sheriffs or CHP to enforce State and
2 County cannabis laws and regulations against the Tribe and its members for cannabis-related
3 activities conducted on the Reservation?

4 (2) Does the State’s and Counties’ enforcement of cannabis laws and regulations against
5 the Indians on the Reservation violate 42 U.S.C. § 1983?

6 (3) Does the State’s and Counties’ enforcement of cannabis laws against the Indians
7 within the Tribe’s Indian country unlawfully interfere with the Tribe’s inherent right to self-
8 governance—free from State regulation and control—in violation of federal common law?

9 **STATEMENT OF FACTS**

10 The Tribe and the Indians incorporate by reference the declarations of Steve Britton, April
11 James, Eunice Swearinger, and James Russ and supporting documents filed concurrently in support
12 of this motion and subject to judicial notice. While not repeating those facts in full, the Tribe and
13 the Indians set forth below the pertinent and undisputed facts that support their motion for partial
14 summary judgment, for the Court’s convenience.

15 1. Plaintiff, Round Valley Indian Tribes, is a federally recognized Indian Tribe in
16 Mendocino County organized under the provisions of the Act of June 18, 1934 (48 Stat. 984),
17 commonly known as the Indian Reorganization Act (“IRA”) and codified at 25 U.S.C. § 5101.
18 Declaration of James Russ in Support of Plaintiffs’ Motion for Partial Summary Judgment (“Russ
19 Declaration”), p. 1, ¶ 3.

20 2. Individual plaintiffs, April James, Steve Britton and Eunice Swearinger are enrolled
21 members of the Tribe. Ms. Swearinger and Ms. James are the beneficial owners of and reside on
22 trust allotments which are owned by the United States of America in trust for them. Mr. Britton
23 resides on a trust allotment owned by his granddaughter. These trust allotments (“Allotments”) are
24 located within the boundaries of the Reservation. Declaration of Steve Britton in Support of the
25 Plaintiffs’ Motion for Partial Summary Judgment (“Britton Declaration”), p. 2; ¶ 1; Declaration of
26 April James in Support of Plaintiffs’ Motion for Partial Summary Judgment (“James Declaration”),
27 p. 2; ¶ 1; Declaration of Eunice Swearinger in Support of the Plaintiffs’ Motion for Partial Summary
28 Judgment (“Swearinger Declaration”), p. 2; ¶ 1.

1 3. Defendant Matt Kendall is Sheriff of Mendocino County. Round Valley Indian
2 Tribes Request for Judicial Notice, p. 3; ¶ 5.

3 4. Defendant, Mendocino County is a political subdivision of the State of California.
4 *Id.* p. 3; ¶ 6.

5 5. Defendant William Honsal is Sheriff of Humboldt County. *Id.* p. 3; ¶ 7.

6 6. Defendant Humboldt County is a political subdivision of the State of California. *Id.*
7 *Id.* p. 3; ¶ 8.

8 7. Defendant Sean Duryee is Commissioner of the California Highway Patrol (“CHP”).
9 *Id.* p. 4; ¶ 9.

10 8. Defendant California Highway Patrol is a law enforcement agency of the State. *Id.*
11 p. 4; ¶ 10.

12 9. Defendant Justin Pryor is a deputy sheriff of the Humboldt County Sheriff’s Office.
13 *Id.* p. 4; ¶ 11.

14 10. The Tribe adopted a revised Constitution on August 3, 1994 (“Constitution”), which
15 was approved by the Secretary of the Interior (“Secretary”) pursuant to the authority delegated to
16 the Secretary under the IRA, as amended, and delegated to the Superintendent of the Central
17 California Agency, Bureau of Indian Affairs by 230 D.M. 2.4. Russ Declaration, p. 2; ¶ 4.

18 12. The Constitution establishes the Tribal Council (“Tribal Council”) as the Tribe’s
19 governing body with legislative powers to enact laws, regulations, and policies through ordinances,
20 resolutions and other legislative actions on behalf of the Tribe. Russ Declaration, p. 2; ¶ 5.

21 13. On August 8, 2006, the Tribal Council enacted and later amended the
22 Compassionate Use Ordinance (“Ordinance”), regulating medical cannabis cultivation and use by
23 tribal citizens on the Reservation. The Ordinance explicitly prohibits interpreting it to allow the
24 imposition of State civil regulatory laws on the Reservation. Pursuant to the Ordinance, the Tribe
25 licensed the Indians to cultivate, possess, and use cannabis on the Reservation for personal medical
26 use. The Ordinance strictly prohibits non-medical cannabis cultivation, possession and use. Russ
27 Declaration, p. 2; ¶ 6.

1 **ARGUMENT**

2 **I. Introduction**

3 For nearly two centuries--since the United States Supreme Court’s landmark decision in
4 *Worcester v. Georgia*, 31 U.S. 515 (1832) (“*Worcester*”)--the law has been firmly established that
5 absent an express grant of jurisdiction from Congress, states and their political subdivisions lack
6 authority to enforce their laws against reservation Indians engaged in activities on their reservations.
7 *Id.* That principle remains controlling federal law.

8 More recently, in *California v. Cabazon Band of Indians*, 480 U.S. 202 (1987) (“*Cabazon*”),
9 the Supreme Court reaffirmed that P.L. 280, the only federal statute that arguably grants California
10 limited jurisdiction in Indian country, does not authorize the enforcement of state civil regulatory
11 laws, such as cannabis regulations, against tribes or their members. P.L. 280 permits enforcement
12 of criminal prohibitory laws only—not civil regulatory schemes.

13 Despite this clear precedent, the Sheriffs and CHP obtained state court search warrants and
14 executed raids on Indian trust allotments within the Round Valley Indian Reservation
15 (“Reservation”). These actions were taken to enforce California’s cannabis laws—laws that the
16 State itself enacted to legalize and regulate cannabis activities, not prohibit them.

17 This motion demonstrates that:

18 (1) Under *Worcester* and *Cabazon*, the Mendocino County Superior Court lacked
19 jurisdiction to issue the search warrants, and the Sheriffs and CHP lacked authority to execute them
20 on the Indians’ Allotments;

21 (2) P.L. 280 does not authorize the enforcement of California’s cannabis laws on the
22 Reservation because they are civil regulatory in nature;

23 (3) The Sheriffs and CHP, acting under color of State law, violated the Indians’ federally
24 protected right to be free from State regulation in Indian country, in violation of 42 U.S.C. § 1983;
25 and

26 (4) The enforcement of State cannabis laws on the Reservation directly interfered with the
27 Tribe’s sovereign authority to govern its members and regulate cannabis under its own laws.

1 For these reasons, and as more fully set forth below, the Court must grant the Tribe’s and
2 Indians’ motion for partial summary judgment.

3 **II. California and its Counties Lack Authority to Enforce State Law Against Indians**
4 **on the Reservation Absent an Express Grant of Authority from Congress**

5 Courts have long recognized that Congress has “plenary and exclusive authority” over
6 Indian affairs. *Michigan v. Bay Mills Indian Cmty.* (2014) 572 U.S. 782, 788-90 [noting the breadth
7 of congressional power and corresponding judicial role of restraint].). This exclusive authority is
8 rooted in the Indian commerce clause (art. I, § 8, cl. 3) and the supremacy clause (art. VI, cl. 2) of
9 the United States Constitution, which gives Congress “the exclusive and absolute power to regulate
10 commerce with the Indian tribes, -- a power as broad and as free from restrictions as that to regulate
11 commerce with foreign nations.” *United States v. Forty-Three Gallons of Whiskey*, 93 U.S. 188,
12 194 (1876); *Worcester*, 31 U.S. at 551-57, 558-60; *Seminole Tribe v. Fla.* 517 U.S. 44, 62 (1996),
13 [“This is clear enough from the fact that the States ... have been divested of virtually all authority
14 over Indian commerce and Indian tribes.”].

15 Pursuant to this plenary authority, both Congress and the Supreme Court have adhered to
16 the general principle first articulated in *Worcester*: a state may not regulate the property or conduct
17 of Indians or tribes in Indian country. *See, e.g., McClanahan v. Arizona State Tax Comm’n*, 411
18 U.S. 164, 168 (1973) [“[T]he policy of leaving Indians free from state jurisdiction and control is
19 deeply rooted in the Nation’s history.”] (quoting *Rice v. Olson* 324 U.S. 786, 789 (1945));
20 (*Williams v. Lee*, 358 U.S. 217, 219 (1959) [“Over the years this Court has modified [*Worcester*]
21 in cases where essential tribal relations were not involved and where the rights of Indians would
22 not be jeopardized, but the basic policy of *Worcester* has remained.]; *United States v. Burns*, 529
23 F.2d 114, 117 (9th Cir. 1976) [“. . . state law is not to apply on Indian lands, unless expressly
24 authorized by federal statute.”].

25 This principle is not merely historical—it remains binding law. In the absence of an act of
26 Congress expressly granting California or its political subdivisions the authority to enforce
27 cannabis laws and regulations against Indians on the Reservation, such enforcement is unlawful.
28 *Williams*, 358 U.S. at 220-221 [“Congress has also acted consistently upon the assumption that the

1 States have no power to regulate the affairs of Indians on a reservation . . .”]; *McClanahan*, 411
2 U.S. at 170-171 (“State laws are not applicable to tribal Indians on an Indian Reservation except
3 where Congress has expressly provided that state laws shall apply.”).

4 Accordingly, because no federal statute grants California or its counties the authority to enforce
5 state cannabis laws against the Tribe or its members on the Reservation, such enforcement exceeds
6 the bounds of state jurisdiction and violates federal law.

7 **III. P.L. 280 Must Be Strictly Construed in Favor of the Tribe, with All Ambiguities**
8 **Resolved as the Tribe Interprets Them**

9 It is undisputable that the United States maintains a trust relationship with Indian tribes.
10 *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), *Seminole Nation v. United States*, 316 U.S. 286,
11 296-297 (1942), [“Under a humane and self-imposed policy which had found expression in many
12 acts of Congress and numerous decisions of this Court, [the United States] has charged itself with
13 moral obligations of the highest responsibility and trust.”].

14 Based on this trust responsibility, courts presume that congressional enactments affecting
15 Indian tribes are intended to be protective and benevolent. Thus, federal statutes that may abrogate
16 or infringe upon tribal sovereignty or self-government must be narrowly construed, and any
17 ambiguity must be resolved in favor of the Tribe. This principle is not discretionary—it is a binding
18 canon of statutory construction in federal Indian law.

19 As summarized in Cohen’s Handbook of Federal Indian Law:

20 The basic Indian law canons of construction require: first, that . . . statutes, and
21 executive order be liberally construed in favor of the Indians; second, that all
22 ambiguities are to be resolved in their favor; third, that treaties and agreements are
23 to be construed as the Indians would have understood them; and fourth, that the
24 tribal property rights and sovereignty are preserved unless Congress’s intent to the
25 contrary is clear and unambiguous.

26 COHEN’S HANDBOOK OF FEDERAL INDIAN LAW § 3.01[1] (Nell Jessup Newton & Kevin
27 K. Washburn, eds., 2024, pp. 153-54).

28 These canons apply with full force to P.L. 280—the statute at issue in this case. As the
Supreme Court has emphasized, “statutes are to be construed liberally in favor of the Indians, with
ambiguous provisions interpreted to their benefit.” *Montana v. Blackfeet Tribe*, 471 U.S. 759, 766

1 (1985) (citations omitted). Thus, any “doubtful expression [must be] resolved in favor of the
2 Indians,” preserving their tribal sovereignty and self-governance. *Id.*

3 Applying these canons of construction in *Cabazon*, the Supreme Court held that P.L. 280’s
4 grant of jurisdiction is limited and does not authorize California to enforce “civil regulatory” laws,
5 such as gambling regulations, against tribes or their members on their reservations. The Court made
6 clear that P.L. 280’s grant of jurisdiction is limited and does not extend to state laws that merely
7 regulate, rather than prohibit, conduct.

8 As discussed further below, California’s cannabis laws are civil regulatory in nature.
9 Accordingly, under *Cabazon* and the controlling canons of construction, P.L. 280 does not authorize
10 the State or its subdivisions to enforce those laws against the Tribe or its members on the
11 Reservation.

12 **IV. California’s Cannabis Laws Are Civil Regulatory and Cannot be Enforced Against** 13 **the Tribe or Its Members on the Reservation**

14 As shown above, states lack authority to enforce their laws against Indian tribes or their
15 members within Indian country absent express congressional authorization. *McClanahan*, 411 U.S.
16 at 170-71. This jurisdictional limitation extends to both state courts and law enforcement. *See,*
17 *Fisher v. District County Court*, 424 U.S. 382, 387-88 (1987); *Montana*, 471 U.S. 759; *County of*
18 *Oneida v. Oneida Indian Nation*, 470 U.S. 226 (1985).

19 The only statute that arguably grants California any jurisdiction to enforce its laws against
20 the Tribe and Indians on the Reservation is P.L. 280. That statute, however, confers only limited
21 authority: it allows state courts to adjudicate private civil disputes that arise in Indian country and
22 permits enforcement of state criminal prohibitory laws—nothing more. 28 U.S.C. § 1360; *Bryan v.*
23 *Itasca County*, 426 U.S. 373, 389 (1976).

24 Critically, the Supreme Court has drawn a bright-line distinction between
25 criminal/prohibitory laws, which may be enforced under P.L. 280, and civil/regulatory laws, which
26 may not. *Cabazon*, 480 U.S. at 208 . If a state law prohibits conduct as a matter of public policy, it
27 is criminal/prohibitory. If the law permits the conduct but regulates it, it is civil/regulatory and
28 unenforceable in Indian country. *Id.* at 209; *see also Barona Grp. of Capitan Grande Band of*

1 *Mission Indians v. Duffy*, 694 F.2d 1185 (9th Cir. 1982); *Seminole Tribe v. Butterworth*, 658 F.2d
2 310 (5th Cir. 1981). The *Cabazon* Court described this regulatory framework as follows:

3 Accordingly, when a State seeks to enforce a law within an Indian reservation under
4 the authority of Pub. L. 280, it must determine whether the law is criminal in nature,
5 and thus fully applicable to the reservation under § 2, or civil in nature, and
6 applicable only as it may be relevant to private civil litigation in state court.

7 * * * *

8 In *Barona*, . . . the Court of Appeals, applying what it thought to be the
9 civil/criminal dichotomy drawn in *Bryan v. Itasca County*, . . . drew a distinction
10 between state “criminal/prohibitory” laws and state “civil/regulatory” laws: if the
11 intent of a state law is generally to prohibit certain conduct, it falls within Pub. L.
12 280’s grant of criminal jurisdiction, but if the state law generally permits the
13 conduct at issue, subject to regulation, it must be classified as civil/regulatory and
14 Pub. L. 280 does not authorize its enforcement on an Indian reservation. The short
15 hand test is whether the conduct at issue violates the State’s public policy.

16 *Id.* at 208; *see also*, *Mashantucket Pequot Tribe v. McGurgan*, 626 F. Supp. 245 (Conn. 1986);
17 *Oneida Tribe of Indians of Wisconsin v. Wisconsin*, 518 F. Supp. 712 (W.D. Wis. 1981).

18 California’s cannabis laws fall squarely on the regulatory side of this divide. Through
19 Proposition 64--the Adult Use of Marijuana Act (“AUMA”)--California legalized and established
20 a comprehensive framework for the cultivation, processing, distribution, and sale of cannabis. *See*
21 Cal. Health & Safety Code § 11362.1 et seq.; Cal. Bus. & Prof. Code § 26000 et seq. The AUMA
22 legalizes personal use and cultivation of cannabis for adults 21 and over; establishes a licensing
23 system for commercial cannabis operations; imposes taxes and environmental regulations;
24 authorizes local governments to regulate or prohibit commercial activity; and seeks to reduce the
25 illicit market and protect public health and safety. Cal. Health & Safety Code § 11362.1-.4.

26 Similarly, Proposition 21, the Compassionate Use Act of 1996 (“CUA”), legalized medical
27 cannabis and exempts qualified patients and caregivers from criminal penalties for possession and
28 cultivation. *See* Cal. Health & Safety Code § 11362.5.

These laws do not prohibit cannabis activity as a matter of public policy. Rather, they permit
and regulate it extensively. The state’s interest lies in controlling the manner of cannabis use—not
banning it outright. This is the hallmark of a civil regulatory scheme under *Cabazon*.

Key aspects of California’s cannabis framework include:

- Personal cultivation of up to six plants per adult;

- 1 • Commercial licensing based on cultivation type environmental protection, and zoning;
- 2 • Medical exemptions for patients and caregivers;
- 3 • Physician protections for recommending cannabis use;
- 4 • Local control through regulations and enforcement.

5 In summary, California has embraced cannabis legalization and regulation—not
6 prohibition. The cultivation, processing, possession, and sale of cannabis are legal in California,
7 but with a robust regulatory framework. Because P.L. 280 does not authorize enforcement of civil
8 regulatory laws in Indian country, California’s cannabis laws cannot be enforced against the Tribe
9 or its members on the Reservation.

10 Accordingly, any attempt by the State, Counties, Sheriffs or their officers to enforce these
11 laws against the Tribe or its members exceeds their jurisdiction and violates federal law.

12 **V. The Sheriffs’ and CHP’s Enforcement of State Cannabis Laws Against Indians on**
13 **The Reservation Violated Their Federally Protected Right to be Free from State**
Regulation and States a Claim Under 42 U.S.C. § 1983

14 The actions of the Sheriffs and CHP in searching the Indians Reservation properties, seizing
15 and destroying their cannabis plants cultivated under the Tribe’s law, and destroying personal
16 property constitute a violation of the Indians’ federally protected right to be free from state
17 regulation within Indian country. These unlawful actions give rise to a valid claim under 42 U.S.C.
18 § 1983.

19 42 U.S.C. § 1983 provides, in relevant part:

20 Every person who, under color of any statute, ordinance, regulation, custom, or
21 usage, of any State or Territory or the District of Columbia, subjects, or cause to be
22 subjected, any citizen of the United States or other person within the jurisdiction
thereof to the deprivation of any rights, privileges, or immunities secured by the
Constitution and laws, shall be liable to the party injured in an action at law, suit in
equity, or other proper proceeding for redress . . .

23 As the Supreme Court explained in *Mitchum v. Foster*, 407 U.S. 225 (1972), § 1983 was enacted
24 to “interpose the federal courts between the States and the people” and to protect individuals from
25 unconstitutional action by state actors. 407 U.S. at 242 (quoting *Ex parte Virginia*, 100 U.S. 339,
26 346 (1880)); *see also Richardson v. McKnight*, 521 U.S. 399, 403 (1997) (quoting *Wyatt v. Cole*,
27 504 U.S. 158, 161 (1992)).

1 Here, the Sheriffs and CHP acted under color of state law—specifically, California’s civil
2 regulatory cannabis laws, when they searched the Indians’ homes and Reservation properties and
3 seized and destroyed the Indians’ cannabis cultivated under Tribal law. In doing so, they violated a
4 core federal right: the right of Indians to be free from state regulation and control within their own
5 Indian country. *See Worcester*, 31 U.S. at 515.

6 This right is rooted in the Indian Commerce Clause, which expressly grants Congress, not
7 the states, exclusive authority to regulate commerce with Indian tribes. U.S. Const. art. I., § 8 cl. 3.
8 (“The Congress [not the states] shall have power . . . to regulate commerce . . . , with the Indian
9 tribes . . .”). As the Supreme has long held, “Indian tribes possess an inherent sovereignty except
10 where it has been specifically taken away from them by treaty or act of Congress.” *Ortiz-Barraza*
11 *v. United States*, 512 F.2d 1176, 1178 (9th Cir. 1975); *Rice v. Olson*, 324 U.S. 786, 789 (1945)
12 (“policy of leaving Indians free from state jurisdiction and control is deeply rooted in the Nation’s
13 history.”)

14 The Ninth Circuit’s decision in *Chemehuevi Indian Tribe v. McMahon*, 934 F.3d 1076 (9th
15 Cir. 2019) is directly on point. There, the court held that tribal members could bring a § 1983 claim
16 against county sheriffs who enforced California’s civil regulatory vehicle code on the reservation.
17 The court rejected the argument that § 1983 was unavailable for such claims, emphasizing that
18 tribal members may use § 1983 to vindicate individual rights secured by the Constitution and federal
19 law. *Id.* at 1082.

20 Like the plaintiffs in *McMahon*, the Indians here allege a “traditional” § 1983 claim: state
21 officers, acting under color of law, entered tribal land, detained individuals, and seized property in
22 violation of a federally protected right. The Indians have shown that California’s cannabis laws are
23 civil regulatory—not criminal prohibitory—and thus unenforceable in Indian country under Article
24 I, § 8, cl. 3 of the United States Constitution, P.L. 280 and *Cabazon*. They have also demonstrated
25 that the right to be free from such enforcement is grounded in the Constitution, federal statutes, and
26 longstanding federal common law.

27 The Sheriffs and CHP, by enforcing State cannabis laws on the Reservation, acted outside
28 their lawful authority and under color of state law to deprive the Indians of a federally protected

1 right. This is precisely the type of constitutional violation § 1983 was designed to remedy. Under
2 *McMahon* and controlling precedent, the Indians have stated a valid § 1983 claim for damages
3 arising from the unlawful searches, seizures, and destruction of property.

4 **VI. The State’s Enforcement of Cannabis Laws on the Reservation Interferes with the
5 Tribe’s Right to Self-Government in Violation of Federal Law**

6 The Tribe is a federally recognized Indian tribe which has organized a Tribal government
7 under a written constitution, which was approved by the Secretary of the Interior, pursuant to the
8 provisions of the Indian Reorganization Act, 25 U.S.C. § 5101, et. seq. Its governing body, the
9 Tribal Council, exercises sovereign authority over internal matters, including the regulation of
10 cannabis for medical use by Tribal members. Declaration of James Russ in Support of Plaintiffs’
11 Motion for Partial Summary Judgment (“Russ Declaration”), p. 2; ¶ 3.

12 Pursuant to this authority, the Tribal Council enacted a Compassionate Use Ordinance that
13 licenses and regulates the cultivation, possession, and use of cannabis for medical purposes on the
14 Reservation. Russ Declaration, p. 2; ¶ 6. Pursuant to this ordinance, Tribal members Steve Britton,
15 April James, and Eunice Swearinger were lawfully licensed to cultivate cannabis on their individual
16 allotments on the Reservation. Russ Declaration, p. 2; ¶ 6.

17 Despite this valid exercise of tribal sovereignty, in July 2024, the Sheriffs and CHP executed
18 state search warrants on the Indians’ allotments, searched the Indians’ homes, seized the Indians’
19 cannabis plants cultivated under Tribal law, and destroyed their personal property. Britton
20 Declaration, p. 2; ¶¶ 3-7; James Declaration, 9p. 2-3; ¶¶ 3-9; Swearinger Declaration, pp. 2-6; ¶¶
21 3-9, and the Round Valley Indian Tribe’s Request for Judicial Notice, pp. 1-4; ¶¶ 1-11. These
22 actions directly conflict with the Tribe’s regulatory framework and constitute a clear intrusion into
23 the Tribe’s internal governance. *See Id.*

24 It is a fundamental principle of federal Indian law that tribes retain the inherent right to self-
25 government, including the sovereignty and “the power of regulating their internal and social
26 relations.” *New Mexico v. Mescalero Apache Tribe*, 462 U.C. 324, 332 (1983) (citing *United States*
27 *v. Kagama*, 118 U.S. 375, 381-82 (1886)). Tribes have the “power to make their own substantive
28 law in internal matters and to enforce that law in their own forums.” *Santa Clara Pueblo v.*

1 *Martinez*, 436 U.S. 49, 55 (1978); *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 18 (1987); *Merrion*
2 *v. Jicarilla Apache Tribe*, 455 U.S. 130, 148 n.14 (1982); *United States v. Wheeler*, 435 U.S. 313,
3 322 (1978); *Ex parte Crow Dog*, 109 U.S. 556, 572 (1883). This includes the power to regulate the
4 cultivation and use of cannabis by Tribal members on Tribal lands.

5 The Supreme Court has long held that state interference with tribal self-governance is
6 impermissible. In *Williams*, 358 U.S. at 220, the Court emphasized that the key question is “whether
7 the state action infringed on the right of reservation Indians to make their own laws and be ruled by
8 them.” Here, the answer is unequivocally yes.

9 The enforcement of California’s civil/regulatory cannabis laws on the Reservation not only
10 violates the Tribe’s sovereign authority, but also causes irreparable harm. Courts have consistently
11 recognized that unlawful state encroachments on tribal jurisdiction constitute irreparable injury. *See*
12 *EEOC v. Karuk Tribe Hous. Auth.*, 260 F.3d 1071, 1077 (9th Cir. 2001) [“Assuming that the Tribe
13 is correct in its analysis with respect to jurisdiction, **the prejudice of subjecting the Tribe to a**
14 **subpoena for which the agency does not have jurisdiction results in irreparable injury vis-a-**
15 **vis the Tribe’s sovereignty.”] (emphasis added); *Prairie Band of Potawatomi Indians v. Pierce*,**
16 253 F.3d 1234, 1250 (10th Cir. 2001) (state interference with tribal sovereignty constitutes
17 irreparable harm); *Comanche Nation v. United States*, 393 F. Supp. 2d 1196, 1205–06 (W.D. Okla.
18 2005) (tribes are irreparably harmed by unlawful deprivations of their jurisdictional authority);
19 *Choctaw Nation of Oklahoma v. State of Oklahoma*, 724 F. Supp. 2d 1182, 1187 (W.D. Okla. 2010)
20 (same).

21 The Tenth Circuit’s decision in *Ute Indian Tribe v. Utah*, 790 F.3d 1000 (10th Cir. 2015),
22 is particularly instructive. There, the court held that repeated enforcement of state laws against tribal
23 members on the reservation—despite clear precedent to the contrary—constituted a serious and
24 ongoing infringement on tribal sovereignty. The court condemned the state’s actions as a “renewed
25 campaign to undo tribal boundaries” and found that such interference created “the prospect of
26 significant interference with [tribal] self-government.” *Id.* at 1013.

27 The same is true here. The Tribe has been forced to divert scarce resources away from
28 essential services—such as elder care and educational support—to defend its members from

1 unlawful state enforcement. This financial and institutional burden further undermines the Tribe's
2 ability to govern effectively.

3 Each time the State enforces its civil/regulatory cannabis laws on the Reservation, it
4 unlawfully displaces the Tribe's authority to govern its members under its own laws. This is a direct
5 violation of federal common law, which recognizes that tribal governments—not states—have the
6 exclusive authority to regulate internal matters within Indian country. *See Williams*, 358 U.S. at
7 220.

8 Accordingly, the State's enforcement actions constitute an impermissible intrusion into the
9 Tribe's sovereign domain and provide an independent basis for granting partial summary judgment
10 in favor of the Tribe and Indians.

11 CONCLUSION

12 No federal statute, including P.L. 280, grants California its counties, or its officers the
13 authority to enforce its cannabis laws against the members of the Tribe on the Reservation.

14 The enforcement actions taken by the Sheriffs and CHP—executing state court search
15 warrants, seizing cannabis cultivated under Tribal licenses, and destroying property—constitute a
16 direct and unlawful interference with the Tribe's sovereign authority to regulate medical cannabis
17 under its Constitution and duly enacted Cannabis Ordinance.

18 For these reasons, and the reason stated above, the Court should grant the Tribe's and
19 Indians' motion for partial summary judgment and declare that:

20 (1) P.L. 280 does not authorize the State, the Sheriffs or the CHP to enforce the State's
21 cannabis laws against the Tribe and the Indians on the Reservation;

22 (2) Absent such congressional authorization, the State, Counties, Sheriffs and CHP lack
23 jurisdiction to enforce the State's cannabis laws against the Tribe and Indians on the Reservation;

24 (3) The past enforcement of the State's cannabis laws by the Counties, Sheriffs and CHP
25 unlawfully infringed upon the Tribe inherent right to self-government and its authority to regulate
26 cannabis on the Reservation under Tribal law; and

27 (4) The Indians, Steve Britton, April James and Eunice Swearinger have alleged a valid
28 cause of action against the Counties, Sheriffs and CHP under 42 U.S.C. § 1983 for violating their

1 federally protected right to free from state regulation while engaging in cannabis activities on their
2 Reservation under Tribal law.

3 DATED: July 11, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I am employed in the County of Mendocino, State of California. I am over the age of 18 years and not a party to the within action; my business address is that of Rapport & Marston, 405 West Perkins Street, Ukiah, California 95482.

I hereby certify that I electronically filed the foregoing:

PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT

with the Clerk of the United States District Court for the Northern District of California by using the CM/ECF system on July 11, 2025, which generated and transmitted a notice of electronic filing to CM/ECF registrants.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; executed on July 11, 2025, at Ukiah, California.

/s/ Ericka Duncan

ERICKA DUNCAN, Declarant