

>> PERFECT.

CHIEF JUSTICE, YOU ARE GOOD TO PROCEED.

>> THE COURT WILL NOW PROCEED TO THE FOURTH AND FINAL CASE ON TODAY'S DOCKET.

FLORIDA DEPARTMENT OF HEALTH VERSUS FLORIDA -- MAY IT PLEASE THE COURT.

I'M JOE JAGO WITH THE GOVERNOR'S OFFICE WITH THE HEALTH.

WITH ME IS DANIEL BELL FROM THE HOUSE OF REPRESENTATIVES.

I WISH TO RESERVE A MINUTE FOR REBUTTAL.

THE ORDER BELOW IS A SEPARATION OF POWER CONCERN.

THE STATUTE DOES NOT DIRECTLY CONFLICT WITH A PROPER TEXTUAL INTERPRETATION.

MEDICAL MARIJUANA AMENDMENT SECTION 29 A SET OF BEEN IMMUNITY.

29 B5 HAS TWO CONDITIONS FOR THAT IMMUNITY.

FIRST, AN ENTITY MUST BE WITHIN A LARGER SET OF PERFORMING ONE OR MORE OF THE LISTED ACTIVITIES AND SECOND, THE ENTITY MUST BE IN THE SUBSET OF REGISTERED BY THE DEPARTMENT.

SECTION 29 D CALLS ON THE DEPARTMENT OF HEALTH TO REGULATE REGISTRATION, 29 E INVITES THE LEGISLATURE TO FURTHER REGULATE UNDER ITS AUTHORITY.

NOTHING IN THE AMENDMENT PRESCRIBES A HORIZONTAL MARKET MODEL, NOR DOES THE AMENDMENT ELBOW OUT THE LEGISLATURE'S VERTICAL INTEGRATION BUT IT MAKES 3 MISTAKES IN TRUMPETING THE AMENDMENT ON IMMUNITY, REGISTRATION AND LEGISLATIVE REGULATION.

FIRST, MISREADS B5'S USE OF THE WORD BORON THE SCOPE OF IMMUNITY TO FALSELY ASSUME A MANDATED HORIZONTAL MARKET.

IT OVERLOOKS B5'S REGISTERED BY

THE DEPARTMENT REQUIREMENT ON WHICH BOTH THE DEPARTMENT OF HEALTH AND LEGISLATIVE REGULATION ACTUALLY OPERATE. THIRD, AVOIDS THE AMENDMENT'S FULL CONTEXT ON REGISTRATION ON WHICH THERE IS NOT JUST A MINISTERIAL DUTY BUT UNDER SECTION D MUST BE REGULATED INCLUDING LICENSURE ON SAYS DEEMED BY THE LEGISLATURE. IS THE AMENDMENT DOESN'T ADDRESS LICENSE CAPS THERE IS NO DIRECT CONFLICT FOR THE CERTIFIED QUESTION.

WE INTERPRET THE AMENDMENT AND OVERTURN THE INJUNCTION.

>> IT SEEMS PART OF THE ARGUMENT IN THE BRIEFS, SEEMS LIKE YOU WANT TO INTERPRET THE STATUTE THE WAY WOULD NORMALLY INTERPRET A STATUTE FOR THIS BASIS REVIEW GIVEN IT IS AN ECONOMIC REGULATION.

SINCE THE CONSTITUTION SAYS THAT THE REGULATIONS HAVE TO BE REASONABLE AND SOME KIND OF GOALS OF REGULATIONS, DOESN'T THAT CHANGE THE NATURE OF THE REVIEW IN THE SENSE THAT THE QUESTION FOR THE COURT, IN THE NORMAL CASE COULD A LEGISLATURE RATIONALLY -- IT SEEMS THE CONSTITUTION, GIVEN THE FACT THAT MIGHT BE PRESENTED IN AN ACTUAL TRIAL, IS THIS A REASONABLE APPROACH.

>> THE STATUTE HAS A RATIONAL BASIS.

WHETHER THE STATUTE CONFLICTS WITH THE QUESTION OF INTERPRETATION OF THE TEXT OF THE AMENDMENT.

>> WE COULDN'T REALLY KNOW, THE STANDARD OF REVIEW, IT CIRCUMSCRIBES THE DESCRIPTION OF THE LEGISLATURE THAT THEY WOULD HAVE HAD.

IT IS A MATTER OF LAW WITH VERTICAL INTEGRATION NECESSARILY

REASONABLE.

I AM NOT SAYING I AGREE -- YOU ARE RIGHT ABOUT THE WAY YOU INTERPRET THE DEFINITION OF IN DC.

THE AMENDMENT DOESN'T TELL YOU HOW IT NEEDS TO BE REGULATED WHETHER IT IS VERTICAL HORIZONTAL OR WHATEVER.

MY QUESTION TO YOU IS HOW COULD WE SAY AS A MATTER OF LAW THAT A PARTICULAR REGULATION OR STATUTE AND THE STATUTE CAN'T -- YOU CAN'T HAVE A STATUTE THAT IS UNREASONABLE BUT IN CONJUNCTION WITH A REASONABLE REGULATION REQUIREMENT IN THE TEXT SO HOW CAN WE SAY AS A MATTER OF LAW THAT THE STATUTE IS REASONABLE?

>> THE AMENDMENT DOES NOT DICTATE ANY MARKET MODEL, DOESN'T DICTATE A HORIZONTAL MODEL AND THE QUESTION FOR THE COURT IS A QUESTION OF THIS INJUNCTION, THE LIKELY SUCCESS FOR THE PURPOSE OF THIS INJUNCTION.

WE ARE NOT ASKING THE COURT TO GET INTO THE REASONABLENESS.

WE DON'T HAVE TO AT ALL.

THERE IS NO DIRECT CONFLICT BETWEEN THE AMENDMENT AND THE REQUIREMENT FOR CAPS.

THE PROPER INTERPRETATION IS THE AMENDMENT SECTION 29 A PROVIDES IMMUNITY WHEN IT IS IN COMPLIANCE WITH THIS WITH THE DEPARTMENT OF HEALTH REGULATIONS AND THE DEFINITION HAS TWO PRONGS.

IT MUST ENGAGE IN ONE OF THE LISTED ACTIVITIES WHICH ESTABLISHES POTENTIAL IMMUNITY THAT MAY BE GAINED BUT THE SECOND PRONG IS WHETHER IT IS REGISTERED BY THE DEPARTMENT AND THAT IS FOR THE ACTUAL IMMUNITY AND THAT IS THE PLACE THAT BOTH THE DEPARTMENT'S REGULATIONS ON REGISTRATION AND THE LEGISLATION

HAS TAKEN ACTION.  
THE STATUTES AND DOES NOT  
REPLACE THE AMENDMENT OR.  
IF YOU LOOK AT THE CHART ON PAGE  
- THE STATUTE REQUIRING FOR  
VERTICAL INTEGRATION FOR  
REGISTRATION REGULATION.  
IT DOES NOTHING TO AFFECT THE  
BROAD SCOPE OF IMMUNITY THAT MAY  
BE AVAILABLE TO THESE  
ACTIVITIES.  
JUST BECAUSE THE LEGISLATURE --  
>> CAN ASK A QUESTION?  
GIVEN THE GENERAL PRINCIPLE OF  
JUDICIAL RESTRAINT THE WE DON'T  
ADDRESS THE CONSTITUTIONAL ISSUE  
IF THERE ARE OTHER BASES FOR  
DECIDING THE CASE THAT IS  
PRELIMINARILY DECIDED IN THE  
CASE BELOW.  
IF WE FIND THERE ARE OTHER  
REASONS THE PULMONARY INJUNCTION  
SHOULD NOT HAVE BEEN ENTERED  
LIKE FAILURE TO MEET IRREPARABLE  
HARM SHOULD WE ADDRESS THE  
CONSTITUTIONAL ISSUE?  
>> YOU SHOULD FOR TWO REASONS.  
ONE, THE DEPARTMENT OF HEALTH IS  
SEEKING IT SO WE ARE IN  
ALIGNMENT THAT WE ARE SEEKING A  
DECISION ON THE SUBSTANTIAL  
LIVELIHOOD OF SUCCESS ON THE  
MERITS.  
SECOND IF THIS COURT DOESN'T,  
THIS ISSUE IS GOING TO CONTINUE.  
IT WILL BE AN ISSUE WHEN IT GOES  
TO TRIAL.  
IT IS AN ISSUE IN FORESTALLING  
THE OVERALL PROCESS OF  
REGULATING, YOU HAVE SEEN THE  
LITIGATION FLOURISH, THIS COURT  
IMPROPERLY INTERPRET THE  
AMENDMENT TO PROVIDE THAT  
ABILITY TO AFFORD WITH CLARITY  
UNDER THE STATUTE.  
WHAT DOES REGISTRATION ACTUALLY  
MEAN?  
IT IS MORE THAN A MINISTERIAL  
DUTY UNDER THE AMENDMENT.  
THIS LITIGATION BEGAN BY

DRAFTING ITS OWN PREMATURE  
REGISTRATION LETTER, IT REQUIRES  
MUCH MORE THAN THAT.

SECTION 21 B REQUIRES IT MUST BE  
REGISTERED BY THE PART OF HEALTH  
AND READ IN CONTEXT WITH SECTION  
D AS WELL WHICH THAT THE  
REGULATIONS FOR PROCEDURES FOR  
REGISTRATION.

THE AMENDMENT'S FULL TERMS ON  
REGISTRATION IS MUCH MORE THAN  
MERE PAPERWORK.

SECTION 29 B5 DEMANDS THAT IT IS  
REGISTERED BY THE DEPARTMENT,  
NOT WITH THE DEPARTMENT, THIS  
ISN'T A PASSIVE RULE THE  
DEPARTMENT ACCEPTING A PIECE OF  
PAPER, IT IS AN ACTIVE ROLE OF  
THE DEPARTMENT APPLYING THE  
REGULATIONS ON REGISTRATION AND  
WE LOOK TO SECTION 29 D ONE C,  
WE SEE WHAT THESE PROCEDURES  
ARE, THE ISSUANCE, RENEWAL,  
SUSPENSION AND REVOCATION OF  
REGISTRATION IS MORE THAN MERE  
REGISTRATION.

IT IS MORE LICENSING LIKE.

WE ALSO SEE STANDARDS TO ENSURE  
SAFETY, SECURITY, THESE ARE THE  
THINGS YOU WOULD EXPECT OF THE  
LEGISLATURE TO ACT ON.

THE AMENDMENT INVITES THE  
LEGISLATURE IN SUBSECTION E  
TITLED LEGISLATION.

THIS IS TRUE BECAUSE IF THERE  
WASN'T A ROBUST REQUIREMENT FOR  
LEGISLATION THAT IS LIKE  
LICENSING THEN FLORIDA CAN  
MERELY SUBMITTED APPLICATION,  
GET REJECTED OR HAVE A  
REGISTRATION REVOKED AND THE  
NEXT STAGE IS REREGISTER BUT  
INSTEAD THIS COURT'S OWN BALLOT  
INITIATIVE RECOGNIZED DOH'S ROLE  
IS OVERSEEN AND LICENSING AND  
SAW THAT DOH'S ROLE WOULD NOT  
IMPACT THE LEGISLATIVE FUNCTION.  
THAT THE AMENDMENT DOES NOT  
PREEMPT A LEGISLATIVE REGULATORY  
SCHEME.

LET ME HIT THE THIRD ISSUE QUICKLY WHICH IS DOES THE AMENDMENT INVITE A RESPONSIVE LEGISLATURE.

YOU HEARD IN THE ARGUMENT EARLIER THIS MORNING ON THE ADULT USE QUESTION THE COUNCIL MENTIONED THAT THIS MAY CIRCUMVENT A NONRESPONSIVE LEGISLATURE.

HERE WE HAVE A RESPONSIVE LEGISLATURE, THEY HAVE TAKEN ACTION UNDER THE AMENDMENT. LEGISLATURE IN DOING THAT HAS USED ITS PLENARY AUTHORITY WHICH IS WHAT YOU WOULD EXPECT WHEN TALKING ABOUT REGULATING SOMETHING THAT IS ILLEGAL UNDER FEDERAL LAW AND ILLEGAL UNDER STATE LAW FOR RECREATION USE. THIS IS SEEN IN THE AMENDMENT IN SECTION D WHICH CALLS ON REGULATIONS FOR THE AVAILABILITY AND SAFE USE OF MEDICAL MARIJUANA.

IT IS NOT JUST A LEGISLATURE ACTING UNDER SOME GUYS OF AN EXCEPTION BUT THIS IS THE CORE POWER OF THE LEGISLATURE THE COURT RECOGNIZED IN ITS BALLOT INITIATIVE TO MAKE POLICY OTHERWISE THE BALLOT INITIATIVE WOULD HAVE VIOLATED THE NONDELEGATION DOCTRINE MUCH LESS DOES IT STRIP THE LEGISLATURE OF ITS REGULATORY POWER.

YOUR HONORS, THERE ARE NO FURTHER QUESTIONS I RESERVE THE BALANCE OF MY TIME FOR REBUTTAL.

>> COUNSEL PLEASE PROCEED.

>> MISTER CHIEF JUSTICE, MAY IT PLEASE THE COURT, MY NAME IS DANIEL BELL AND I'M GENERAL COUNSEL TO THE FLORIDA HOUSE OF REPRESENTATIVES AND BY PLEASURE TO APPEAR TODAY ON BEHALF OF THE DEPARTMENT.

I AGREE WITH WHAT MISTER JANGO SAID TODAY AND HE HAS DONE AN EXCELLENT JOB WALKING US THROUGH

THE TEXT.

I WOULD LIKE TO START WITH THE FEW MINUTES I HAVE ADDRESSING YOUR CONCERN REGARDING THE SCOPE OF JUDICIAL REVIEW IN A CASE LIKE THIS AND WHETHER THE AMENDMENT MODIFIES TRADITIONAL RATIONAL BASIS REVIEW IS THAT A UNDERSTANDING OF YOUR QUESTION? I WOULD LIKE TO START BY SAYING IN THIS CASE AS PLEADED IN THE OPERATIVE COMPLAINED, IT WAS NOT ARGUE THAT THE VERTICAL INTEGRATION REQUIREMENT WAS UNREASONABLE SO THIS ISSUE HASN'T BEEN FULLY BRIEFED BUT I WOULD SAY IF ANYTHING THE TEXT OF THE AMENDMENT CALLS FOR TRADITIONAL RATIONAL BASIS IF NOT FOR PERHAPS EVEN CURTAILED REVIEW IN THIS AREA FOR SEVERAL REASONS.

FIRST, THERE IS REASONABLE REGULATION, A FAIR TEXTUAL CALL OUT TO TRADITIONAL ACTUAL BASIS REVIEW WHICH IS THE FAILURE STANDARD IN WHICH THE QUESTION IS WHETHER THE LEGISLATURE COULD HAVE REASONABLY CONCLUDED THAT THE LAW SERVES IN GOVERNMENT INTEREST AND IN THE NEXT SENTENCE OF THE TEXT WHAT WE SEE AS SEVERAL ENUMERATED TEXTUALLY EXPRESSED PERMISSIBLE GOVERNMENT INTERESTS INCLUDING SAFE USE AND AVAILABILITY OF THIS DRUG.

>> SORRY TO INTERRUPT BUT NORMALLY THE LEGISLATURE GETS TO CHOOSE ITS ENDS AND THE QUESTION WOULD BE IS THERE ANY RATIONAL -- CAN YOU ASCRIBE ANY KIND OF RATIONAL UNDERSTANDING TO WHY THEY WOULD HAVE PURSUED THEM A CERTAIN WAY AND HOW THEY CHOSE THEM?

THE TEXT TELLS THE DEPARTMENT WHAT THE ENDS OF THE REGULATION HAS TO BE IN YOU COULD READ IT AS ALMOST CLOSING AN OBLIGATION TO ENSURE THE AVAILABILITY OF

STUFF SO I DON'T KNOW RATIONAL BASIS REVIEW REALLY TRANSLATES. IN A NORMAL APA CASE YOU HAVE LEGISLATIVE COMMANDS, MUCH MORE SEARCHING REVIEW OF THE REGULATIONS TO SEE IF THEY ARE JUSTIFIED FACTUALLY.

IS THERE PROPER FIT BETWEEN THEM?

AND I STRUGGLE GIVEN THAT FOR BETTER OR WORSE I THINK THE COURT WAS OVERLY OPTIMISTIC OF HOW THIS WASN'T REALLY CHANGING SEPARATION OF POWER PRINCIPLES BUT GIVEN IT IS AUTHORIZING THE DEPARTMENTAL REGULATE TELLING IT WHAT THE GOALS OF THE REGULATION WOULD BE AND IMPOSING A REASONABLE ENVIRONMENT DOESN'T SOUND LIKE RATIONAL BASIS.

>> I'M HAPPY TO ADDRESS THAT. IT IS IMPORTANT TO RECOGNIZE THE TEXTUALLY STATED GOALS OF AVAILABILITY AND SAFE USE ARE INHERENTLY COMPETING AND I DON'T THINK WE COULD READ INTO A JUDICIALLY ENFORCEABLE REQUIREMENT THAT THE LEGISLATURE PROVIDE FOR AVAILABILITY THAT WAY AND THAT IS FOR SEVERAL REASONS, FIRST BECAUSE AVAILABILITY MUCH LIKE ADEQUACY IN THE TIME CONTEXT OF EDUCATION CASES, IS AN OBJECTIVE STANDARD AND IS PARTICULARLY SO WHEN THE TEXT DEMAND AVAILABILITY AND SAFE USE.

I AM NOT SURE WHAT JUDICIALLY MANAGEABLE STANDARD THE COURTS COULD DEPLOY TO DETERMINE WHETHER EITHER OF THOSE GOALS ARE MET PARTICULARLY WHETHER THEY HAVE BOTH BEEN MET IN ANY PARTICULAR BALANCE.

IT IS A FAIR READING TO SAY THE JUDICIAL REVIEW IN THIS AREA CALLS FOR THE COURT TO LOOK AT WHETHER THE LEGISLATURE COULD HAVE REASONABLY CONCLUDED THAT THE LAW IS GOING TO FURTHER

THOSE INTERESTS AND THAT IS WHAT THIS LAW DOES.

THE VERTICAL INTEGRATION REQUIREMENT GOES TO SAFE USE BY CREATING THE TYPE OF TIGHTLY REGULATED MARKET CALLED FOR IN THE DEPARTMENT OF JUSTICE GUIDANCE THAT WAS IN EFFECT AT THE TIME WHEN THE AMENDMENT WAS DRAFTED, SPECIFICALLY THE CALL AMENDMENT -- GO AHEAD.

>> IF THERE ARE MORE PROCEEDINGS ON THE MERITS, THERE SHOULDN'T BE ANY FACT FINDING ANYMORE.

>> ALL I CAN SAY FOR NOW IS I DON'T THINK THERE'S ANY BASIS FOR THE COURTS TO LOOK INTO -- I THINK IT IS FAIR.

THE LEGISLATURE DETERMINATION AS TO WHETHER LAWS PROMOTE AVAILABILITY AND SAFE USE, YET TO BE DETERMINED FOR WHETHER THEY COULD HAVE REASONABLY DETERMINED IF THEY FURTHER THE INTERESTED EVIDENCE CANNOT BE TO THE CONTRARY BECAUSE IT IS A QUESTION OF LAW AND I SEE THAT MY TIME HAS RUN OUT, THANK YOU.

>> WE THANK YOU, COUNSEL, YOU MAY PROCEED.

>> MAY IT PLEASE THE COURT.

I'M KATHY GETTINGS HERE ON BEHALF OF FLORIDA GROW.

I DISAGREE WITH MY CLIENT STATED LIKE THE WE DID NOT PROVE THE CAPS WERE UNREASONABLE.

THERE WAS A TWO DAY EVIDENTIARY HEARING IN WHICH BOTH SIDES HAD A CHANCE TO PRESENT EVIDENCE OF I WILL GET IN TO WHY THE CAPS ARE IN FACT REASONABLE SO I DON'T THINK YOU NEED TO GET INTO THE QUESTION OF WHAT STANDARDS SHOULD BE APPLIED BECAUSE IT FAILS THE RATIONAL BASIS TEST BUT THIS IS NOT ABOUT PUBLIC POLICY.

THIS COURT HAS UNANIMOUSLY AND REPEATEDLY SAID LEGISLATURE CAN'T COME IN AND CHANGE THE

PLAIN LANGUAGE OF THE  
CONSTITUTION BUT LEGISLATURE IS  
ASKING YOU TO ALLOW IT TO CHANGE  
THE WORDS.

IF YOU ACCEPT THAT ARGUMENT THAT  
MEANS LEGISLATURE WOULD SAY  
UNDER ITS REGULATORY AUTHORITY  
THAT SOMEONE WOULD HAVE TO HAVE  
ALL THE DEBILITATING CONDITIONS.  
IT MAKES NO SENSE AND YOU LOOK  
AT THE PLANE LANGUAGE IT USES  
THE TERM OR.

IF THERE IS ANY DOUBT ON THAT  
CONFIRMATION YOU LOOK AT THE  
INCIDENT DOCUMENT, YOU SAY  
DISPLAYED ON ITS FACE BUT THE  
INTENT DOCUMENT THAT WAS ISSUED  
BEFORE THE AMENDMENT WAS  
RELEASED, WAS VOTED UPON  
EXPRESSLY STATES THAT THIS WAS  
TO SET UP A VERTICAL SYSTEM,  
THAT THE LEGISLATURE HAS COME IN  
AND THE DEPARTMENT WAS  
PROCEEDING TO HAVE A HORIZONTAL  
SYSTEM.

IT WAS PROCEEDING IN FOLLOWING  
AMENDMENT DICTATOR THE  
LEGISLATURE CAME IN AND SAID WE  
CONTROL YOU, WE CAN TO YOUR  
FUNDING AND IF YOU DO NOT DO  
WHAT WE SAY THEN WE WILL  
WITHHOLD YOUR FUNDING.

THE CONSTITUTION, EASY TO  
DETERMINE FROM THE PLANE TEXT  
AND I ASK THIS COURT TO LOOK AT  
GARCIA, THE LEGISLATURE TRIED TO  
DO SOMETHING SIMILAR REGARDING  
THE HOMESTEAD EXEMPTION AND IF  
YOU ACCEPT THEIR ARGUMENT I  
WOULD ALSO SAY THAT THE NEW  
AMENDMENT GOVERNING FIRST  
RESPONDERS, THIS BENEFITS OR  
DEATH BENEFITS FOR FIRST  
RESPONDERS MAKE A MILITARY  
MEMBER DOESN'T JUST NEED TO HAVE  
RESIDED IN THE STATE OR BEEN ON  
A POST IT WOULD CHANGE IT TO  
AND.

>> IT SEEMS THE DEFINITION GOES  
-- IT CAN RELATE TO THE IMMUNITY

AND WHERE WE LOOK IN THE TEXT OF THE AMENDMENT, CONSTRAINTS ON REGULATION, IN SUBSECTION D, NOTHING IN THERE SAYS HOW MANY NEED TO BE REGISTERED/AND WHAT THE CRITERIA SHOULD BE.

>> THE QUESTION GOES TO THE RATIONAL RELATIONSHIP OF THE CAPS AND I'M HAPPY TO GET INTO THAT BUT I WOULD TELL YOU IF YOU DEFINITION, THE FIRST WORD TO, QUOTE, REQUIRE MARIJUANA.

THAT WOULD MAKE NO SENSE IF YOU TAKE OUT THE OR AND REQUIRES THEM TO DO EVERYTHING THAT NO ENTITY WHATEVER WIRE AND SO THAT READS IN WITH OR BUT AS TO THE CAPS, THE THING YOU NEED TO UNDERSTAND ABOUT THE CAPS IS THE REASON THAT THE COURT FOUND IT WAS TO A CLOSED CLASS AND THEY WERE GIVING THESE LICENSES A WAY TO SETTLE LAWSUITS THEY NEVER EVEN ARE YOU WAIT IT WHO IS MOST QUALIFIED BUT THEY ARE NOT RATIONALLY RELATED BECAUSE AS THE DEPARTMENT'S DIRECTOR TESTIFIED IN THE DEPOSITIONS WE SUBMITTED AT THE EVIDENTIARY HEARING, THERE IS NO RELATIONSHIP TO THE CAPS, BECAUSE THE LEGISLATION DOES NOT CONTROL OR DICTATE THE AMOUNT OF MARIJUANA THAT ANY OF THESE ENTITIES CAN PROCESS OR GROW.

THE DIRECTORS SAID THEY HAVE NO CONTROL OVER THAT AND THAT THEY COULD HAVE A FACILITY THE SIZE OF A POSTAGE STAMP OR THE SIZE OF A TARGET. THEY ALSO JUST LIFTED THE AMOUNT OF DISPENSARIES, BUT WE HAVE RECORD EVIDENCE, WE SUBMITTED 20 AFFIDAVITS AND YOU CAN LOOK AT THE TRIANGLE BRIEF THAT SHOWS THAT EVEN THOUGH THERE ARE THESE DISPENSARIES OUT THERE, PATIENTS OR QUICKLY ALL CANNOT GET THE PRODUCTS THEY NEED AND WHEN THEY CAN, THEY ARE AT OUTRAGEOUS

PRICES.

ONE OF THE REASONS THE LICENSES PROCEDURE IS NOT APPROPRIATE OR RATIONALLY RELATED TO ANY QUALIFICATIONS IS WHEN AN ENTITY GETS THE LICENSE IT CAN IMMEDIATELY TURN AROUND AND SELL IT.

TODAY THERE ARE 22 LICENSED MEDICAL MARIJUANA TREATMENT CENTERS.

OF THOSE, 12 GOT THEIR LICENSES OPEN MARKET AND WERE SELLING FOR AS MUCH AS \$50 MILLION SO WHAT YOU GOT HIS PEOPLE HAVE THESE LICENSES, HAVING TO MAKE MONEY BACK AND SO WHAT THEY ARE DOING IS CHARGING ASTRONOMICAL AMOUNTS, FLORIDA IS FOUR TIMES MORE, MEDICAL MARIJUANA, THAN OTHER STATES AND THE DEPARTMENT HAS NEVER REGISTERED ONE SINGLE ENTITY AND THERE SEEMS TO BE A LOT OF CONFUSION ABOUT THE DIFFERENCE BETWEEN REGISTRATION AND LICENSURE.

REGISTRATION, THE BEST EXAMPLE I CAN GIVE YOU IS WHEN YOU WANT TO BECOME A LAWYER YOU HAVE TO SUBMIT AN APPLICATION TO THE BOARD OF BAR EXAMINERS, THE BOARD OF BAR EXAMINERS WEBSITE TALKS ABOUT REGISTER.

THEN YOU HAVE TO FILL OUT ALL OF THAT INFORMATION, YOU HAVE TO SHOW THAT YOU ARE OF GOOD MORAL CHARACTER, YOU HAVE TO BE INSPECTED AND YOU HAVE TO TAKE THE BAR EXAM AND AFTER YOU HAVE DONE ALL OF THOSE REQUIREMENTS, THAT IS PHASE I OF REGISTRATION. AFTER YOU'VE DONE ALL THOSE REQUIREMENTS YOU ARE GIVEN A CERTIFICATE OR LICENSE TO BE ABLE TO PRACTICE LAW, THE SAME THING WORKS HERE.

IN ORDER TO GET A LICENSE YOU REGISTER THE DEPARTMENT IS NOT ACCEPTING ANY APPLICATIONS, IT NEVER ACCEPTED ONE SINGLE

APPLICATION FROM ANYONE THAT WAS NOT EITHER TO SETTLE A LAWSUIT OR DISPENSING ORGANIZATION AND THERE IS A LAUNDRY LIST OF THINGS THAT AN ENTITY WOULD HAVE TO ESTABLISH BEFORE THEY COULD EVER TOUCH ANY MEDICAL MARIJUANA AT ALL AND GET CERTIFIED AND ALL FLORIDA IS ASKING FOR IS AN OPPORTUNITY TO BE CONSIDERED TO SHOW THAT IT HAS ALL THE QUALIFICATIONS, A NURSERY LICENSE, A PHYSICIAN ON STAFF, A FACILITY READY TO GO, A HEMP CULTIVATION LICENSE BUT CAN'T BE CONSIDERED BECAUSE OF THE LEGISLATIVE DICTATES.

REMEMBER THAT IF YOU LOOK AT THE STATUTE, THE LEGISLATURE, THE STATUTE IS 27 PAGES LONG.

WE ARE ONLY ATTACKING A VERY SMALL PORTION OF THE STATUTE AND THERE IS A SEVERANCE VISION IN THE STATUTE AND YOU WILL NOTICE THAT THE SEVERANCE PROVISION IS ONLY IN SECTION 8, SUBSECTION 8 WHICH GOVERNS MMT SEEs.

THE LEGISLATURE WAS AWARE WHEN IT GAVE TO THESE CLOSE CLASSES IT WAS NOT -- THEY WERE GOING TO BE QUESTIONS ABOUT THIS AND MIGHT BE HELD UNCONSTITUTIONAL.

THE STATE IS ASKING YOU TO READ WORDS ABOUT THE CONSTITUTION AND I WOULD CALL TO THE COURT'S ATTENTION WHEN JUDGE LAWSON MENTIONED THE INJUNCTION, IF YOU LOOK AT THE CITY OF JACKSONVILLE VERSUS OUTDOOR ADVERTISING IT STATES WHEN THERE IS A FOOL EVIDENTIARY AIR REHEARING THE COURT CAN GO TO THE MERITS AND THAT IS WHAT THE TRIAL COURT DID HERE AND FOUND THAT THESE WERE UNCONSTITUTIONAL CLOSE CLASSES AS STATED IN OUR BRIEF AND THERE IS NO RATIONAL RELATIONSHIP BETWEEN THE STATUTE AND THE AMENDMENT AND THE STATUTES THAT HAVE BEEN AND ACTED.

DOES THE COURT HAVE ANY OTHER QUESTIONS?

>> ONE OF THE POINTS IN THE BRIEFING WAS IF THE RULEMAKING PROCESS HADN'T BEEN ENJOINED THAT YOU WOULD BE ABLE TO HAVE NO GUARANTEE OF SUCCESS, DOESN'T THAT DEFEAT THE IRREPARABLE HARM ARGUMENT?

>> WE'VE NEVER BEEN ABLE TO APPLY AND THE AMENDMENT ITSELF RECOGNIZES THE DEPARTMENT WAS SUPPOSED TO ISSUE REGULATIONS BY OCTOBER OF 2017 AND IT HAS NEVER IMPLEMENTED ANY REGULATIONS TO REGISTER MMT SEEs SO THE AMENDMENT EXPRESSLY ALLOWS ANY FLORIDA CITIZEN TO COME IN AND ATTACK OR COMPEL THE DEPARTMENT TO DO ITS DUTIES.

THE DEPARTMENT HAS NEVER DONE WHAT IT WAS TO DO, NEVER REGISTERED, NEVER CONSIDERED, ALL WE ARE ASKING IS TO HAVE A FAIR CHANCE TO PARTICIPATE IN THE PROCESS.

>> WASN'T THE EFFECT OF THE INJUNCTION TO HALT ABLE MAKING PROCESS THAT WOULD HAVE RESULTED WITH NO GUARANTEE OF THE OUTCOME THAT RESULTED IN YOU COMPETING WITH A LICENSE?

>> IT WAS TO STOP THE DEPARTMENT FROM ISSUING LICENSES TO SETTLE THESE CASES WAS THE ISSUE LICENSES ONLY TO SETTLE CASES.

>> THE STATUTE AND THE RULES WOULD HAVE BEEN LIMITED IN NUMBER BUT A NUMBER OF SLOTS THAT YOU COULD HAVE COMPETED FOR.

>> THE DEPARTMENT IS NOT ACCEPTING APPLICATIONS, IT HAS NEVER ACCEPTED ANY APPLICATIONS. IT CONTINUES TO GIVE THOSE LICENSES TO PEOPLE TO SETTLE LAWSUITS.

THERE ARE NO LICENSES THAT ARE AVAILABLE.

WE'VE NEVER BEEN GIVEN AN

OPPORTUNITY TO SHOW OUR CLIENT IS QUALIFIED UNDER THE STATUTE.  
>> THE QUESTION WAS IF THE REGULATIONS THAT WERE UNDER CONSIDERATION HAD BEEN ADOPTED THEN YOUR CLIENT WOULD HAVE BEEN ABLE TO APPLY FOR ONE OF THE AVAILABLE LICENSES.

>> THEY WOULD NOT HAVE BEEN ABLE TO APPLY BECAUSE THEY CAPPED THE LICENSES AND IS PROHIBITED THE DEPARTMENT FROM ALLOWING ANYONE TO APPLY SO AS TO THE IRREPARABLE HARM, YOU ARE GETTING TO TWO ELEMENTS IN THE INJUNCTION, ONE IS THE STATUS QUO IN ONE IS THE IRREPARABLE HARM.

AS THE STATUS QUO YOU GO TO THE LAST UNCONTESTED PLACE FOR THE PARTY, THAT IS WHAT THE CONSTITUTION REQUIRED, WE BROUGHT THIS CASE TO COMPEL THE DEPARTMENT WHAT IT IS REQUIRED TO DO UNDER THE CONSTITUTION AND THAT WAS THE LAST PEACEABLE NONCONTESTED POSITION.

AS TO IRREPARABLE HARM, IRREPARABLE HARM IS CONSIDERED IN TITLE VII CASES AND NONCOMPETE CASES AND I KNOW THAT IN THE GAINESVILLE WOMEN THIS COURT USED FUNDAMENTAL RIGHT BUT THE CASES THAT WERE CITED IN THAT CASE DID NOT INVOLVE FUNDAMENTAL RIGHTS AND REMEMBER THIS IS WHAT ELSE IT DOES, ANY CITIZEN CAN COMPEL COMPLIANCE MEAN IF IT DOES NOT ALLOW SOMEONE TO GET INJUNCTIVE RELIEF.

THERE IS NO OTHER WAY.  
WE ARE THREE YEARS LATER THE APARTMENT HAS NEVER DONE WHAT IT WAS SUPPOSED TO DO.  
THE DEPARTMENT REGULATIONS ARE NOT CONSISTENT WITH THE AMENDMENT.  
IT HAS NOT DONE WHAT THE AMENDMENT SAYS.

>> ON THE POINT ON THE AMENDMENT LANGUAGE SPECIFICALLY UNDER SUBSECTION 5, YOU ARE COMPARING THE LANGUAGE IN THE CONSTITUTIONAL AMENDMENT TO THE AND LANGUAGE IN THE STATUTE, RIGHT?

IS IN YOUR POSITION THAT BY THE USE OF THE LANGUAGE OR IN THE CONSTITUTIONAL AMENDMENT IT IS CONSTITUTIONALLY REQUIRED THAT EACH TYPE OF INTERNET SEE DOING SEPARATE THINGS HAS TO BE SEPARATELY REGISTERED AND LICENSED?

>> KNOW.

YOU COULD DO ALL OF THE THINGS THAT ARE IN THAT LAUNDRY LIST AND IMPORTANTLY WHAT THE INJUNCTIONS HERE HAVE DONE THEY DON'T SET THE LICENSES THAT WERE ALREADY THERE.

SO AN ENTITY – AGAIN YOU LOOK AT THE PLAIN LANGUAGE AND THE INTENSE ANALYSIS THAT WAS PUBLISHED AND IT SPECIFICALLY STATES THAT IT WAS IN THERE. THE LEGISLATURE HAD TO FIND A DISPENSING ORGANIZATION USING THE TERM AND WAS THE AMENDMENT USES OR IN THE LEGISLATURE GOES BACK, PUTS IT BACK TO AND.

>> COULD THE LEGISLATURE HAVE TAKEN 2 OR 3 OF THESE TYPE OF ACTIVITIES AND REQUIRED THE ENTITY, 2 OR 3 OF THEM, LICENSED THAT PARTICULAR ENTITY AS A REQUIREMENT AND OTHERS SEPARATELY?

>> THE AMENDMENT IS VERY CLEAR, THE AMENDMENT SAYS MMT CEASES THEY CAN DO ANY OF THOSE THINGS AND IT WAS SPECIFICALLY DESIGNED TO OVERRULE THE DEFINITION THE LEGISLATURE HAD BEEN USING FOR DISPENSING ORGANIZATIONS.

>> IT SEEMS IT IS YOUR POSITION THAT THEY HAVE TO BE SEPARATELY – – THE AMENDMENT WAS SPECIFICALLY DESIGNED TO ALLOW

THEM TO DO THOSE THINGS.

IT MAKES SENSE.

YOU DON'T GO TO THE TYLENOL  
STORE TO BUY TYLENOL.

YOU DON'T GO TO THE ADVIL STORE  
TO BUY ADVIL.

IN A FREE MARKET AS JUDGE MAKER  
SAID, HE KNOWS OF NO INDUSTRY  
THAT USES VERTICAL INTEGRATION  
RATHER THAN HORIZONTAL AND THERE  
ARE 31 STATES THAT ALLOW  
HORIZONTAL AND A LOWER  
HORIZONTAL MODEL AND READ FOLLOW  
A VERTICAL.

THE TRIANGLE BRIEF SHOWS A  
HORIZONTAL INTEGRATION SYSTEM  
ALLOWS FOR MORE CONVECTION SO  
THAT YOU FILL THE AVAILABILITY.  
AND REMEMBER, ALL OF THE  
STRINGENT REGULATIONS IN PLACE  
STAY THERE.

THE LEGISLATURE HAS VOLUMES OF  
SAFETY REGULATIONS TO PREVENT  
THE HORRORS THEY ARE TALKING  
ABOUT.

>> LET ME FOLLOW UP ON JUSTICE  
PAULSON'S QUESTION.

YOU TOLD HIM THAT THE  
DEPARTMENT/LEGISLATURE CANNOT  
USE AS A BASIS FOR DENYING AN  
APPLICATION FOR A LICENSE OR  
REGISTRATION THE FACT THAT AN  
ENTITY DOESN'T DO MULTIPLE  
THINGS THAT ARE LISTED IN THE  
DEFINITION SO WHAT ARE THE  
PERMISSIBLE GROUNDS FOR  
REGULATION?

>> THE PERMISSIBLE GROUNDS OF  
REGULATION ARE TO ALLOW SOMEONE  
TO REGISTER AND COME IN AND SHOW  
THAT THEY CAN DO THESE THINGS,  
ONE OF THESE THINGS ARE ALL OF  
THEM AND THE TRIAL JUDGE MADE A  
SPECIFIC FACTUAL FINDING THAT  
THE DEPARTMENT ALREADY HAD A  
PROCESS IN PLACE AND AFTER --  
THE UNCONSTITUTIONAL PROVISIONS  
FROM THE STATUTE THERE A SAFETY  
REGULATIONS IN PLACE BUT THEY  
NEED TO FOLLOW THEM.

>> ARE YOU SAYING IT IS AN ENTITLEMENT?

I DON'T KNOW WHAT YOUR CRITERIA WOULD BE FOR HOW CAN I EVALUATE THE VALIDITY OF THE REGULATION. ONE THING YOU SAID IS I CAN'T SAY YOU NEED TO DO MULTIPLE THINGS LISTED IN THE DEFINITION BUT WHAT AM I ALLOWED TO TELL THEM?

>> YOU HAVE TO MEET ALL OF THE VOLUMINOUS REQUIREMENTS. YOU HAVE TO SHOW THAT YOU -- REMEMBER YOU HAVE TO PROVE ALL THESE INITIAL THINGS, PAY THE LICENSING FEE, \$5 MILLION BOND AND FACILITIES WILL DO MORE THAN ONE OF THOSE THINGS.

>> YOU ARE TELLING ME WHAT REGULATIONS SAY.

I'M TRYING TO UNDERSTAND CONSTITUTIONALLY WHAT IS THE STANDARD AGAINST WHICH WE ARE SUPPOSED TO JUDGE THE CONSTITUTIONALITY OF WHAT THE REGULATIONS MIGHT BE.

>> THEY FAIL THE RATIONAL BASIS TEST.

IF YOU THINK THAT IS WHAT APPLIES, WHAT OUR POSITION WOULD BE YOU DON'T NEED TO GO THERE BECAUSE YOU LOOK AT THE PLAIN LANGUAGE OF THE AMENDMENT AND THIS AMENDMENT CHANGED THE DEFINITION OF MEDICAL MARIJUANA TREATMENT CENTER FOR THE STATUTE WAS USING FOR DISPENSING ORGANIZATION SO THERE WAS A CLEAR INTENT TO MAKE THIS CHANGE, TO ALLOW ANYONE, LEGISLATURE CANNOT COME IN AND CHANGE THE PLAINTEXT OF THE CONSTITUTION AND TO THE EXTENT THERE IS ANY DOUBT THAT OR MEANS OR, LOOK AT THE ADVISORY OPINION IN WHICH THESE ARE MINISTERIAL THINGS THEY ARE DOING, THEY ARE NOT GOING -- THE DEPARTMENT WOULD NOT MAKE PUBLIC POLICY DECISIONS AND LOOK AT THE

ANALYSIS OF INTENT DOCUMENT.  
IT EXPRESSLY STATES MEDICAL  
MARIJUANA TREATMENT CENTER CAN  
BE -- CAN DO ONE OF THE THINGS  
OR ALL OF THE THINGS, DOESN'T  
HAVE TO DO ALL OF IT.  
I SEE THAT MY TIME IS UP.  
I WOULD JUST ASK THAT WE BE  
GIVEN A FAIR CHANCE TO REGISTER  
SO THAT WE CAN BE EVALUATED.  
THEY ARE SELLING FOR  
\$50 MILLION, THERE IS SOMETHING  
WRONG WITH A SYSTEM THAT KEEPS  
COMPETITION OUT, PRODUCT SCARCE  
AND PRICES OUTRAGEOUSLY HIGH.  
THAT IS HARMING FLORIDA'S  
CRITICALLY ILL AND TERMINALLY A  
PATIENTS FROM GETTING MEDICAL  
MARIJUANA AT REASONABLE PRICES  
AND IT IS CONTRARY TO FAIR  
MARKET PRINCIPLES.

>> THANK YOU.

NOW WE WILL GO TO REBUTTAL.

>> I SPENT THE BULK OF MY TIME  
WALKING THROUGH THE DISTINCTION  
BETWEEN THE AMENDMENTS IN REGARD  
TO IMMUNITY AND REGISTRATION,  
TWO PRONGS, THE LEGISLATURE IS  
NOT CHANGING WORDS IN THE FIRST  
PRONG, THE LEGISLATURE IS ACTING  
UNDER THE SECOND.

THE FULL TEXT OF THE AMENDMENT  
INCLUDING REGISTRATION  
REQUIREMENTS IN SUBSECTION D.  
WITH REGARD TO THE COMPLAINT  
THAT WAS FILED, A FACIAL  
CHALLENGE TO THE STATUTE, IT IS  
NOT A REASONABLENESS TEST.  
IT IS A FACTOR UNDER SUBSECTION  
D OF THE AMENDMENT AND HAVING  
AVAILABLE AND SAFE USE  
REGULATIONS.

WHETHER THERE IS A RATIONAL  
BASIS FOR THE STATUTE THE COURT  
SHOULD SEND IT BACK TO THE TRIAL  
COURT, THE HOUSE HAS INTERVENED  
AND CAN PROPERLY CONSIDER THAT  
QUESTION.

IN REGARD TO JUSTICE LAWSON'S  
QUESTION WE ARE HERE WITH A

DATED RECORD, 22 MMT SEEs AND  
OVER 240 FACILITIES, THERE IS NO  
PROCESS IS AVAILABLE WITH  
SEVERAL LICENSES NOW.

WITH INADEQUATE REMEDY UNDER THE  
LAW.

THERE ARE NO FINDINGS IN THE  
COURT'S ORDER.

THEY WOULD ALTER THE STATUS QUO,  
LOOKING A JUDGE WHETHERALL'S  
DOESN'T THAT THERE'S A CAREFULLY  
CRAFTED REGULATORY SCHEME  
INCLUDING STATUTORY SCHEME THAT  
IS LEFT IN PLACE UNTIL THE  
CONCLUSION OF THIS LITIGATION.

FOR CONSIDERING ALL THE  
ARGUMENTS TODAY, WHETHER IT BE  
ON THE INTERPRETATION, LACK OF  
CONFLICT OR IN REGARD TO THE  
INJUNCTION.

THANK YOU.

>> WE THANK YOU FOR YOUR  
ARGUMENTS TODAY.

THIS IS OUR LAST CASE ON THE  
DOCKET BUT BEFORE WE CONCLUDE I  
WOULD LIKE TO EXPRESS THE  
COURT'S GRATITUDE TO ALL COUNSEL  
FOR WORKING WITH THE COURT TO  
MAKE TODAY'S VIDEO SESSION  
SUCCESSFUL.

WE DID SOME PRELIMINARY WORK SO  
EVERYONE WOULD UNDERSTAND THE  
TECHNOLOGY AND TRY TO MINIMIZE  
THE CHANCE THAT THE TECHNOLOGY  
WOULD FAIL US BUT I APPRECIATE  
THE WORK COUNSEL DID TO THAT FOR  
TODAY'S SESSION.

I WOULD ALSO LIKE TO THANK OUR  
CLERK, JOHN THOMASINOH, THE  
OFFICE OF THE STATE COURT  
ADMINISTRATOR, THEY SPENT A LOT  
OF TIME GETTING THIS TOGETHER  
FROM A TECHNICAL PERSPECTIVE,  
THE REPORT IS DEEPLY GRATEFUL  
FOR THEM AS WELL.

THANKS TO ALL, THIS SESSION IS