

JUN 23 2017

September Term, 2017
No. 98

Bessie M. Decker, Clerk
Court of Appeals
of Maryland

**IN THE
COURT OF APPEALS OF MARYLAND**

JANE AND JOHN DOE, *et al.*,

Appellants,

v.

ALTERNATIVE MEDICINE MARYLAND, LLC, *et al.*,

Appellees.

ON WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS

**BRIEF OF APPELLANT,
HOLISTIC INDUSTRIES, LLC**

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TABLE OF CONTENTS

STATEMENT OF THE CASE	1
STATEMENT OF QUESTIONS PRESENTED	2
STATEMENT OF FACTS	2
ARGUMENT	2
CONCLUSION	4
CERTIFICATE OF COMPLIANCE WITH RULE 8-112 and 8-303	5
CERTIFICATE OF SERVICE	6

STATEMENT OF THE CASE

Appellant Holistic Industries, LLC (“Holistic”), is a grower pre-awardee and a proposed intervenor who appeals from the circuit court’s erroneous denial of its motion to intervene without opportunity to be heard. Holistic joins in full and adopts and incorporates all arguments set forth in the brief of Appellants, Jane and John Doe, Curio Wellness, LLC, SunMed Growers, LLC, Maryland Wholesale Medical Cannabis Trade Association, and the Coalition for Patient Medicinal Access, LLC (“Appellants”).

On January 25, 2017, Holistic filed a motion to intervene. (Dkt. 38/0). A motion to intervene filed by Appellants, Jane and John Doe, *et al.* (“Intervenors”), was pending at the time of Holistic’s filing. On February 21, 2017, the circuit court heard Intervenors in argument on their motion to intervene, but did not hear argument from Holistic. Following the argument by Intervenors, the circuit court issued an oral ruling denying both Intervenors’ and Holistic’s motions to intervene. Separate written orders denying each motion to intervene followed the court’s oral ruling. Holistic noted a timely appeal on March 16, 2017. (Dkt. 48/0).

Following a hearing on May 25, 2017 on Appellee Alternative Medicine Maryland, LLC’s (“AMM”) motion for temporary restraining order (“TRO”), the circuit court entered a TRO temporarily enjoining all licensure by the Natalie M. LaPrade Maryland Medical Cannabis Commission (“Commission”). On May 31, 2017, Holistic renewed its motion to intervene, filed an emergency motion to dissolve or modify the TRO supported by affidavit, sought a continuance of the June 2, 2017 preliminary injunction hearing, and moved to stay the action pending appeal. Holistic’s motions followed similar motions filed by Appellants

the previous day. In addition to Appellants and Holistic, grower pre-awardee Temescal Wellness of Maryland, LLC (“Temescal”), and grower license holder ForwardGro, LLC (“ForwardGro”), also filed similar motions and supporting affidavits seeking to dissolve or modify the TRO. The circuit court denied Appellants motions on May 31, 2017 and Appellants noted an appeal that same day. Although they sought substantially the same relief as the Appellants’ filings, the circuit court did not rule on the motions filed by Holistic or Temescal.

On the day of the scheduled preliminary injunction in the circuit court, Appellants filed in the Court of Appeals an Emergency Bypass Petition for Writ of Certiorari and Motion to Stay Circuit Court Action. By Line filed with the Court of Appeals on June 5, 2017, Holistic joined in the relief requested therein. Temescal, ForwardGro, and the Commission similarly joined in or supported the request. On June 9, 2017, this Court granted the Emergency Bypass Petition for Writ of Certiorari.

QUESTIONS PRESENTED

Holistic adopts and incorporates the Questions Presented as set forth in Appellants’ Brief.

STATEMENT OF FACTS

Holistic adopts and incorporates the Statement of Facts in Appellants’ Brief as if fully set forth herein.

ARGUMENT

Holistic adopts and incorporates the arguments in Appellants’ Brief as if fully set forth herein.

Immediately after Holistic was awarded pre-approval for a grower's license on August 15, 2016, Holistic began taking steps to become operational within one year as required under the Commission's regulations. In connection therewith, Holistic has incurred significant expenses in addition to the payment of a Stage Two application fee to the Commission in the amount of \$4,000, and the annual licensing fee in the amount of \$125,000.

In reliance on its pre-approval for a grower's license, Holistic has expended significant resources associated with securing a technologically advanced, state-of-the-art hydroponic medical cannabis cultivation and manufacturing facility. Licensees, like Holistic, enter into contracts with suppliers and manufacturers of highly specialized equipment and are required to place large deposits in order to insure fabrication or fulfillment of the contracts for the various items of equipment. To date, Holistic has committed to the purchase and acquisition of fixtures and equipment for its manufacturing facility in excess of \$1,500,000.

Further, Holistic has entered into a commercial lease agreement for its cultivation facility in central Prince George's County at significant cost, expense and liability. The Holistic cultivation facility will be comprised of approximately 72,495 square feet of tenantable space for which Holistic has posted a security deposit and is currently liable to its landlord for an initial annual base rent in excess of \$1,000,000 plus the real property taxes and insurance. Under the lease, on or prior to August 15, 2017, Holistic is to complete its tenant improvements at a cost in excess of \$4,000,000 as well as obtain its medical cannabis grower license from the Commission. In order to finance the up-front

costs associated with securing a business location, installing tenant improvements, sourcing and purchasing specialized equipment and submitting the requisite applications and financial data, Holistic has incurred debt totaling almost \$9,000,000.00, exclusive of lease obligations, and is liable for payment of accrued interest to its debtholders.

At the time that Holistic obtains its Use and Occupancy permit from the Prince George's County Government, it is estimated that the new cultivation facility will bear a substantial real estate and personal property obligation payable to the State of Maryland and the Prince George's County Government, resulting in an anticipated \$100,000.00 per year in additional tax revenue at the time the Holistic facility becomes operational.

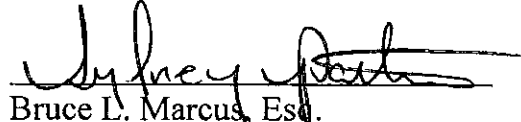
The granting of injunctive relief enjoining the Commission's licensing process will cause Holistic to sustain losses of approximately \$500,000.00 per month in addition to its significant initial capital multi-million dollar outlay to build its manufacturing facility in order to be ready for commencement of operations prior to August 15, 2017.

CONCLUSION

For the foregoing reasons, and all reasons set forth in Appellants' Brief, which Holistic adopts and incorporates herein, Holistic requests that this Court reverse the order denying intervention and order that all Appellants are granted the right to intervene as of December 30, 2016. Holistic further joins in full in the relief sought in Appellants' Brief.

Respectfully submitted,

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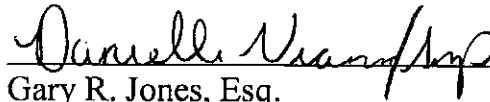
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**CERTIFICATION OF WORD COUNT AND
COMPLIANCE WITH RULE 8-112**

1. This brief contains 965 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of June, 2017, a copy of the foregoing was sent by email and first-class mail, postage prepaid, to:

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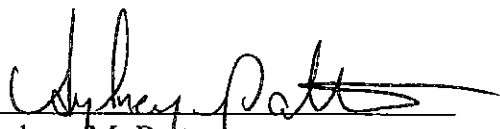
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