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COMMONWEALTH OF MASSACHUSETTS

5/21/2025

MIDDLESEX, SS

SUPERIOR COURT  
C.A. No. 2481CV693

|                                   |   |
|-----------------------------------|---|
| _____<br>Theory Wellness, Inc.,   | ) |
| Community Growth Partners Great   | ) |
| Barrington Operations, LLC        | ) |
| d/b/a Rebelle and Highminded, LLC | ) |
| d/b/a Farnsworth Fine Cannabis,   | ) |
| Plaintiffs                        | ) |
|                                   | ) |
| v.                                | ) |
|                                   | ) |
| Massachusetts Cannabis Control    | ) |
| Commission,                       | ) |
| [Proposed] Plaintiff-Intervenor   | ) |
|                                   | ) |
| v.                                | ) |
|                                   | ) |
| The Town of Great Barrington      | ) |
| Defendant                         | ) |
| _____                             | ) |

**MOTION TO INTERVENE BY THE**  
**MASSACHUSETTS CANNABIS CONTROL COMMISSION**

The Massachusetts Cannabis Control Commission (“Commission” or “CCC”) hereby moves to intervene in the above-captioned action, either as of right under Mass. R. Civ. P. 24(a), or permissively under Mass. R. Civ. P. 24(b).

1. On or about March 24, 2024, the Plaintiffs in this action Theory Wellness, Inc. (“Theory Wellness”), Community Growth Partners Great Barrington Operations, LLC d/b/a Rebelle (“Rebelle”) and Highminded, LLC d/b/a Farnsworth Fine Cannabis (“Highminded”) filed suit in this action against the Town of Great Barrington (“Great Barrington”), seeking the recoupment of Community Impact Fees (“CIFs”), legal fees, “and additional costs,

payments and disbursements.” Complaint at the Introductory Paragraph at p. 1. Court Docket no. 1.

2. Great Barrington filed its answer and counterclaims on or about April 26, 2024. Court Docket no. 5.

3. On or about May 17, 2024, Theory Wellness, Rebelle and Highminded served their motion for judgment in their favor and for the dismissal of Great Barrington’s counterclaims on Great Barrington, filing a notice of same with this Court on this date. Court Docket nos. 5 and 6.

4. On or about August 15, 2024, the Rule 9A package was filed with this Court, which included Great Barrington’s Opposition to the motion for judgment and dismissal of counterclaims (“Opposition Memorandum”). Court Docket nos. 7.1 and 7.2.

5. In its Opposition Memorandum, Great Barrington in relevant part stated that the regulations of the Commission cannot be applied retroactively to Host Community Agreements (“HCAs”) entered into prior to November 9, 2022. Opposition Memorandum at pp. 8-18. Docket no. 7.2. It was at this point that it became apparent, for the first time, that Great Barrington directly challenges the Commission’s regulations promulgated in compliance with G.L. c. 94G, § 3(d).

6. Great Barrington has emphasized the *dicta* in a decision by Judge Karp in Essex Superior Court on or about June 10, 2024, to support its argument, a position advanced by Great Barrington which directly contradicts the practice of the Commission, the statute and regulations promulgated by the Commission.

7. Great Barrington has directly challenged the statutory authority of the Commission without the Commission present, and a judicial resolution on this matter may impair or impede the Commission's powers.
8. Mass. R. Civ. P. 24(a)(2) provides that a party shall be permitted to intervene as a matter of right when an interest in the matter is claimed and disposition of the matter in their absence would impair or impede their ability to protect that interest.
9. Mass. R. Civ. P. 24(b)(2) allows for permissive intervention where the parties' claims or defenses rely "upon any statute ... administered by a ... state government ... agency or upon any regulation ... made pursuant to the statute, the ... agency upon timely application may be permitted to intervene in the action." Here, Great Barrington has relied, for its defense, upon an interpretation of the Commission's authority to review and approve HCAs under the Legislature's 2022 amendments to G.L. c. 94G, and the Commission's regulations implementing those amendments. The Commission disagrees with that interpretation and, thus, it should be permitted to intervene to defend its interpretation of the statute and regulations that it is charged with administering.
10. Great Barrington has directly challenged the authority of the Cannabis Control Commission to review HCAs and its ability to enforce Chapter 180 against Great Barrington.
11. The Commission would be impaired in its ability to protect its authority if this matter were disposed of in its absence.
12. The Commission further submits in support of this Motion its *Memorandum in Support of Plaintiff Intervenor's Motion to Intervene*.

13. The Commission also submits a proposed *Complaint of Intervenor Massachusetts Cannabis Control Commission* should intervention be permitted. Mass. R. Civ. P. 24(c).

WHEREFORE, the Commission respectfully requests that this Court grant this motion and allow the Commission to intervene, either as of right under Mass. R. Civ. P. 24(a), or permissively under Mass. R. Civ. P. 24(b); and enter the attached pleading of the Commission on the Court's docket.

Respectfully submitted,

CANNABIS CONTROL COMMISSION,

By its attorney,

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

By: Kajal K. Chattopadhyay

/s/ Kajal K. Chattopadhyay  
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Dated: April 30, 2025

### **CERTIFICATE OF COMPLIANCE WITH SUPERIOR COURT RULE 9C**

I hereby certify that on [DATE AND TIME], I conferred via telephone with counsel for plaintiff, David Rich, and defendant, David Doneski, and asked them to assent to this motion, in compliance with Superior Court Rule 9C. After a good faith discussion, counsel for the other parties to the case [assented to/did not assent to] this motion.

/s/ Kajal K. Chattopadhyay  
Kajal K. Chattopadhyay

### **CERTIFICATE OF SERVICE**

I hereby certify that I sent a copy of the foregoing by email on this date to counsel of record in this matter.

/s/ Kajal K. Chattopadhyay  
Kajal K. Chattopadhyay

DATED: April 30, 2025