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3 Lake Oswego  
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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF OREGON

10	Eric A. Dover, MD,	)	Civil No.: 3:13-cv-01360-BR
11		)	
12	Plaintiff,	)	
13	v.	)	<u>Affidavit of Dr. Eric A. Dover in</u>
14		)	<u>Response to Motion to Dismiss or for</u>
15	Kathleen Haley, JD, et al,	)	<u>Summary Judgment Concerning</u>
16	Defendants,	)	<u>Counsel for Defendants' Declaration</u>

17  
18 I, Eric A. Dover, MD, being above the age of 18, submit this response to  
19 Motion to Dismiss or for Summary Judgment concerning Counsel for defendants'  
20 declaration, and do hereby say and declare as follows:

21  
22 1. I am a Citizen born in the United States, and I reside in the city of Lake  
23 Oswego, district of Oregon.

24 2. I am a graduate of a premier medical university, in California, and hold a  
25 degree of Doctor of Medicine (copy of diploma attached, sub-**Exhibit-A**).

26 3. I have been working as a doctor of medicine in the medical field for 25  
27 years in the United States accumulating significant experience in the medical  
28 profession that I practiced.

29 4. I give this response to Counsel for defendants, Marc Abrams' Declaration  
30 In Support Of Motion To Dismiss Or For Summary Judgment of August 26<sup>th</sup>, 2013,  
31 which he purports to document the Oregon Medical Board's (OMB) and Oregon  
32 Department of Justice's (DOJ) action which resulted in the revocation of my

1 physician license privileges and other privileges and constitutional rights described  
2 elsewhere.

3 5. I was deprived of my physician privileges and immunities secured by the  
4 Fourteenth Amendment to the Constitution of the United States, in the following  
5 particular ways and methods employed by defendants to obtain their purposeful  
6 desired deprivation result.

7 **6. The OMB document FINAL ORDER (FO) submitted to the court by**  
8 **Counsel Marc Abrams is rife with conjecture, innuendo, creative editing, half-**  
9 **truths and completely excludes key elements involved in the narrative.'**

10 **7. The OMB document submitted to the court by counsel Marc Abrams**  
11 **on page 2 under Findings of Fact (FO) 1 and 2 on page 2, twice it mentions that I**  
12 **"certified" patients for medical cannabis, whereas I did not and could not "certify"**  
13 **patients for the Oregon Medical Marijuana Program (OMMP).<sup>2</sup>**

14 8. The **FO p. 12** then goes on to falsely state that Patient A gave me 24 pages  
15 of medical records and paperwork. After 33 months of dealing with the OMB  
16 regarding this case, I actually had seen 13 pages of medical records, and I have seen  
17 none since. This is a serious contradiction as regards the 24 pages mentioned above  
18 by OMB and DOJ, but equally worse, are later statements made by Patient A, to the  
19 effect that OMB and the DOJ that he had 1 ½" thick medical records that somehow  
20 I "refused" to review. The grave contradiction is so obvious to a legally trained eye

21 9. Pursuant to **FO 16**, pages 4-5, **Daryl George, DO** is noted for having  
22 "certified" Patient A for the OMMP. I did not know what records Dr. George relied  
23 upon to make this determination. The records from Dr. George's office visit with  
24 Patient A on 1/27/2008 are sub-Exhibit-C. After receiving a portion of Patient A's  
25 medical records from OMB, I was astonished to learn he was drinking 6 plus beers  
26 per day. This is significant for a number of reasons. First, beer is one of the worst  
27 triggers for an acute gout attack. Second, Dr. George never addressed this concern.

28 1. Mr. Abrams seems not to have done his homework or he is purposely carrying on the same behaviors that the OMB and DOJ  
29 have demonstrated to me over the past 6 years. It is embarrassing how poorly done and noxious this document is.

30 2. This was the job of the State of Oregon. My function within the state's system was to determine whether a patient's medical  
31 problems met the criteria for the OMMP and if medical cannabis **might** be helpful for the patient's medical condition and nothing  
32 more. Sub-**Exhibit-B** is the OMMP form signed by the physician and sent to the OMMP. As it states on the form; "this does not  
constitute a prescription for marijuana" at the top and "This is not a prescription for the use of medical marijuana" at the bottom.  
My signature on the form confirmed two truths. First that the patient had been diagnosed with a debilitating medical condition and  
that cannabis used medically may mitigate the symptoms or effects of the patient's condition. Second, that I was a licensed  
physician in Oregon. I was never in a position to certify anyone for the program. The State of Oregon had a system in place to  
confirm and certify the patient for the OMMP.

1 Third, OMB and DOJ were incensed that I had signed another patient's OMMP form  
2 who had used cocaine and alcohol many years in the past, but who was not currently  
3 using any substance other than medical cannabis, yet they had no concern about  
4 Patient A having his OMMP form signed even though he was an alcohol addict.

5 (1) For example, Patient A wrote on the intake form that he had had  
6 "chronic gout" since 1987. That means he would have had "chronic gout" for 21  
7 years by the time I saw him at Voter Power's clinic. Yet with the severity of disease  
8 that Patient A claims he had suffered over all those years he had no external nor  
9 radiological changes that showed any signs of gout, let alone "severe chronic gout"  
10 as the OMB, their "expert witness" **Dr. James Calvert** and the DOJ attested to.  
11 Chronic untreated gout, especially if it is "severe", would have definite external and  
12 radiological findings as shown in sub-Exhibit-D.

13 (2) For example, in sub-Exhibit-C is a physical exam form that Dr. George  
14 filled out on Patient A. The exam form shows that Patient A had a blood pressure of  
15 170/113 that day. It also shows that Dr. George didn't do a complete physical as  
16 evidenced by the fact that he had crossed out certain components of the physical on  
17 the form. Dr. George crossed out the areas on the form where the results of joint and  
18 spinal exams would be. There is also nothing written in those areas so it would be  
19 assumed that he didn't examine those areas. Then Dr. George gives Patient A the  
20 diagnosis of "chronic polyarthralgia pain secondary to chronic gout". Nothing was  
21 mentioned about Patient A's markedly elevated blood pressure. Nothing was noted  
22 about his alcohol abuse. No follow-up or referrals were given. No evaluation of his  
23 medical problem was performed. There was no mention of the recent radiological  
24 findings from the x-rays I ordered. Patient A's OMMP form was signed and he was  
25 sent on his way.

26 10. I was accused by OMB, Dr. Calvert and the DOJ for what seemed to  
27 them not enough information in the physical exam form. They stated that the form  
28 Voter Power used and approved by the OMMP was no more than a checklist with  
29 circles around +'s and -'s and a few brief comments. **The Voter Power physical**  
30 **exam form I used was no different than Dr. George's or a form used by any**  
31 **other physician purportedly given OMB's approval. Moreover, the form is no**  
32 **different than forms used in ERs, Urgent Cares and physician offices. I am**

1 attaching sub-**Exhibit-E**, which is the Voter Power form that I was asked to use.  
2 Also, I am attaching sub-**Exhibit-F**, which is the form approved by the OMB for any  
3 other physician in Portland. **Please take notice of the similarity of all three**  
4 **physical exam forms.**

5 (1) For example, the OMMP officials or staff never expressed any concerns  
6 to me or the OMB or any other governmental authorities regarding my paperwork  
7 for the program. I never received any letter of concern from them.

8 (2) For example, sub-**Exhibit-G**, is a letter from Dr. George to OMB about  
9 Voter Power and myself concerning Patient A's complaint. In the letter, Dr. George  
10 seriously misrepresents what is occurring at the clinic.

11 11. I have been told by the OMB that I am responsible for what occurred at  
12 the Voter Power clinic between the staff and the patient even though I worked as an  
13 independent contractor and had no other involvement with their non-profit entity.  
14 Under OMB's **FO 14, 15, 17 and 18**, there is discussion about a mix up of Patient A  
15 and Patient B records. This did occur as a result of Patient A causing a lot of  
16 commotion with Voter Power staff, in particular with staff member Alissa Wall.<sup>3</sup>

17 12. For example, starting at **FO 18** on page 5, Dr. Calvert is brought into Mr.  
18 Marc Abrams discussion. He is given the status of being an "expert in  
19 gout/rheumatology, chronic pain treatment and chart review" by the OMB and DOJ.  
20 I have no actual knowledge or proof that he was an "expert" in any of these medical  
21 disciplines. He wasn't even as knowledgeable as a Family Physician should be in  
22 these disciplines, let alone an expert in gout/rheumatology. Counsel for defendants,  
23 Marc Abrams, the DOJ and the OMB know this fact. Actually, defendants' Counsel  
24 Marc Abrams has been purposefully excluding this knowledge from his document  
25 because it is very damning. **The Counsel is attempting to hide this knowledge**  
26 **from view of the Federal Court.**

27 13. I submit sub-**Exhibit-H**, which is the **Interim Stipulated Order**

28 3. Mr. Marc Abrams has taken a statement from the letter I wrote to the OMB on 2/24/2008 which states "He supposedly stated  
29 that I gave him back the wrong records. This would be impossible." The statement I made was true because I always gave the  
30 patients at Voter Power their chart with all forms filled out along with any medical records they had brought in at the end of the  
31 exam unless there was a problem of some sort. Patient A had problems continuing the OMMP process when I saw him because he  
32 lacked evidence of the medical condition he came in for. As noted earlier x-rays were ordered for Patient A, so his chart was  
brought out to Jeri Kulp who was the office manager of Voter Power. That was the last I ever saw of his chart besides the x-ray  
reports that were faxed and gone over with Patient A. What happened after that I am unable to say except that I was told by Voter  
Power staff that Patient A had raised quite a commotion and had left the clinic with all records of his visit.

1 pertaining to Dr. James F Calvert which in sum states that he could no longer accept  
2 any new chronic pain patients while under investigation. The last page of this 2011  
3 Order is x'ed out while 2012 is written just to the right of it. Below this is Dr.  
4 Calvert's signature. Just below his signature 2011 is typed and then a pen is used to  
5 write a 2 over the last 1 to change it to 2012. Kathleen Haley's signature is below  
6 this. There is no signature or initials taking responsibility for these two changes.  
7 Their actions appear to collude in their "doctoring" of a document.<sup>4</sup>

8 14. I submit sub-**Exhibit-I**, which is from the OMB's website and it  
9 documents the **Complaint and Notice of Proposed Disciplinary Action against**  
10 **Dr. Calvert dated April 5<sup>th</sup>, 2012**. No one can view this document on the OMB's  
11 website, although one could in the past. The exhibit contains significant information  
12 related to my case, such as dates of knowledge regarding OMB concerns about Dr.  
13 Calvert.

14 15. I submit now sub-**Exhibit-J**, which is OMB's **Stipulated Order** regarding  
15 Dr. Calvert. The Order was signed by Executive Director Kathleen Haley on July  
16 12, 2012. The OMB reviewed 5 patient charts, but only reported on 3 cases in this  
17 Order. The Order deals with gross mismanagement of three patients. **One of the**  
18 **three patients died and another almost died as a result of Dr. Calvert's care**.  
19 All of these three cases involved "suspected" rheumatology disorders and  
20 chronic pain treatment. According to OMB and empowered by its leadership, Dr.  
21 James F Calvert acted as an "expert" in these two medical disciplines in my  
22 physician revocation case.

23 16. I submit sub-**Exhibit-K**, which is the **Order Terminating Interim**  
24 **Stipulated Order** for Dr. Calvert. On July 12, 2012, the same day Executive  
25 Director Kathleen Haley signed Dr. Calvert's Stipulated Order, he was allowed to  
26 return to "**unrestricted [medical] practice**". In retrospect, a patient died under Dr.  
27 Calvert's care, and another one almost died, that actually implies Dr. Calvert is  
28 incompetent regarding the care of his patients, and within 7 months and without any  
29 remediation he is allowed to practice medicine without any restrictions whatsoever.

30 4. Yet something even stranger is afoot. My computer dated the page for when I copied this document and it reads Jan.16.2012  
31 12:55. The document was signed by Dr. Calvert on January 13<sup>th</sup> and on January 18<sup>th</sup> by Kathleen Haley; but was it 2011 or 2012?  
32 The former seems correct being that I could not copy the document prior to Ms. Haley signing it.

1 **medical problems, and then I question the OMB with respect to their**  
2 **competency regarding the investigation of my case, and soon I find out that**  
3 **OMB is going to prosecute a complaint against me with the purpose to revoke**  
4 **my physician license. This is the bottom line with my revocation.**

5 17. I further say here that it was obvious to me during the investigative phase  
6 of my trial revocation, that Dr. James F Calvert and the OMB had no concept of the  
7 evaluation and treatment of an inflamed joint or chronic pain. During my hearing it  
8 was glaringly obvious that Dr. Calvert was far from being an expert in either of these  
9 medical disciplines. It seems to me that he committed perjury during the hearing.

10 18. I further say here that Dr. James F Calvert testified under oath that Patient  
11 A had a long history of severe chronic gout leading to severe chronic pain. The  
12 patient only had six medical office visits over 20 years (sub-**Exhibit-L**). Only the  
13 doctor's office visit in 2001 revealed an inflamed right first metatarsal phalangeal  
14 joint. Under **FO 20** on page 6 it states, "Dr. Calvert reviewed Patient A's records  
15 and concluded that the x-rays requested by Licensee showed lucencies consistent  
16 with gout."<sup>5</sup>

17 19. I further say here, that Dr. James F Calvert, the OMB, Warren Foote and  
18 ALJ Rick Barber were presented with documents from institutions such as Boston  
19 College and writings from textbooks such as Cecil's and Harrison's, which are "The  
20 Bibles of Internal Medicine"— see sub-**Exhibit-N**. These writings, along with many  
21 others I have available, were written by world renowned experts in rheumatology  
22 and explain in detail the evaluation and treatment of an inflamed joint in general and  
23 gout and other causes specifically. The foregoing premier documents consistently  
24 agree in the exposition of gout disease and other ailments. During the revocation  
25 process of my physician license, Dr. Calvert stated that the foregoing world renown  
26 experts were all incorrect regarding their approach to care of gout and that he alone  
27 was correct. Patient A had the most minimal of evaluation and treatment for his  
28 malady and astonishingly, Dr. Calvert and the OMB showed intentional indifference  
29 to these facts.

30 5. Dr. Calvert is not a radiologist. I would not trust his reading compared to a trained radiologists, especially when the radiologist  
31 was specifically looking for gout. See sub-**Exhibit-L** regarding the radiology results from 2006 of Patient A's right foot and sub-  
**Exhibit-M** for the 2008 radiology results. See sub-**Exhibit-D** for pictures and radiographs of what chronic gout truly looks like.

1 20. I further say here that during the revocation proceedings of my physician  
 2 license, Dr. Calvert was questioned by my counsel regarding a drug named Uloric.  
 3 **He was completely unaware of the existence of this medication.** He had never  
 4 heard of it. At the time it was the first new treatment for gout in 40 years and had  
 5 been on the market for 18 months (since March 2009) at the time of my license  
 6 revocation process. TV commercials already were promoting the foregoing  
 7 medication. I already had 2 hours of Continuing Medical Education (CME) about  
 8 this medication called Uloric and the evaluation and treatment of gout. Seasoned  
 9 physicians would have known about this medication before it came to the market  
 10 and would have been knowledgeable regarding this medication Uloric drug studies.  
 11 Aside from this, **Dr. Calvert wasn't even as knowledgeable as a Family**  
 12 **Physician should be.**<sup>6</sup>

13 21. I further say here, that Dr. Calvert expressed no concerns that Patient A  
 14 had a history of alcohol addiction, but this fact is not written on Dr. Daryl George's  
 15 intake form. Astonishingly, Dr. Calvert, OMB and DOJ all appeared indifferent that  
 16 no physician since 2001 who examined Patient A noted anything about alcohol use.  
 17 or that there is no documentation after 1993 in his PCP's medical records about  
 18 alcohol consumption.<sup>7</sup>

19 22. I further say here that neither Dr. Calvert, nor OMB, nor DOJ expressed  
 20 concerns about Patient A, having had 1½ inches of medical records, yet this  
 21 magnitude of medical records were never produced by Patient A during my  
 22 physician license revocation.<sup>8</sup>

23 6. Dr. Calvert wrote a 2 ½ page chapter on gout for Taylor's Family Medicine Textbook 5<sup>th</sup> Edition in 1997 and 6<sup>th</sup> Edition in 2002.  
 24 Dr. Calvert is a Family Physician like me, not a Rheumatologist. He does not specialize in the research or treatment of gout. What  
 25 he has written is a short, very superficial review of gout that he has culled from a hand full of medical sources that he footnotes.  
 26 can find no other writings on this subject that he has done prior or since. Sub-Exhibit-Q is Dr. Calvert's gout chapter from the  
 1997 5<sup>th</sup> Edition of the Family Practice Book by Robert Taylor. What Dr. James F Calvert wrote for the textbook is in complete  
 contradiction to the testimony he gave under oath at my hearing. Therefore, under oath, on the witness stand, he committed perjury  
 because he obviously should know full well that Patient A didn't have anywhere near a complete evaluation regarding his medical  
 concern.

27 7. On the second page of Dr. Calvert's chapter on gout there is Table 123.1, "Some Possible Causes of Hyperuricemia".  
 Hyperuricemia, elevated serum uric acid levels, can lead to gout. On this short list it states, "Alcohol, especially beer".

28 8. For example, a total of 5 additional patient charts from Voter Power's clinic, as requested by the OMB, were made available for  
 29 the OMB, DOJ and Dr. Calvert to review. For some reason Dr. Calvert reviewed only 4 of these. One of the five patients had  
 30 Stage 4 (end stage) colon cancer, two had Multiple Sclerosis (MS), one had AIDS with wasting and the last one had chronic back  
 31 pain from multiple failed back surgeries. Each of these patients had at least 1½" of well documented records. Dr. Calvert reviewed  
 32 one of the patient's charts with MS and stated that the patient didn't have it even though their records documented multiple MD's  
 including specialists, stating that they did have MS. There was also radiological evidence to substantiate the MS. At the end of the  
 two day hearing, Asst. Attorney General Warren Foote had to admit that I had reviewed the chart correctly and that Dr. Calvert had  
 wrongly reviewed it. The patient did have MS as I had tried to tell the OMB and DOJ for over 2 years. After my testimony at the  
 hearing regarding this issue, they must have reviewed the chart and recognized that they had made a mistake they couldn't hide or  
 conjecture their way out of.

1 23. I further say here that the patient who died at the hands of Dr. Calvert in  
2 consequence of his poor medical care had been given the diagnosis of Rheumatoid  
3 Arthritis by Dr. Calvert himself, who persisted in his mistaken belief even after a  
4 specialist rheumatologist doctor, who was consulted on the case stated otherwise.

5 24. I further say and controvert that under **FO 24** on page 7, Mr. Marc Abrams  
6 repeats what ALJ Barber wrote in his Proposed Order after the revocation of my  
7 physician license, that "Licensee insisted at hearing that the doctor's name was St.  
8 Clair". Actually, the physician's name was LeClair, and I have never insisted  
9 otherwise, and the transcript tapes will contradict Mr. Marc Abrams' assertions.<sup>9</sup>

10 25. I further say and controvert that under **FO 25** on page 7, Mr. Marc Abrams  
11 discusses the issue of the Center for Personalized Education for Physicians (CPEP)  
12 in Colorado. I have attached here a portion of my letter written to OMB which  
13 directly explains my reasons for not going to the CPEP program. I would  
14 continue to stand by those same reasons (sub-Exhibit-P).<sup>10</sup> OMB request was an  
15 abuse of their power, and would have unduly burdened my practice and inflict  
16 significant financial hardship on me, namely it would have deprived me of approx.  
17 \$25,000.00.

18 26. I further say here that sub-Exhibit-Q is the **Complaint and Notice of**  
19 **Proposed Disciplinary Action** issued by OMB, pursuant to ORS Chapter 667 and  
20 SB 267, which are the basis unconstitutionally set forth by Legislature to deprive  
21 this and other physicians of the right of liberty interest accrued in this profession.<sup>11</sup>

22 27. I further say here that sub-Exhibit-S is a letter issued by OMB dated  
23 11/6/2009 which is an **Order for Evaluation** ordering me to go to CPEP. Sub-  
24 Exhibit-P is my letter sent to OMB on 12/3/2009 addressing this. I received

25 9. My insistence as to the accuracy of the name LeClair was considered "disruptive" by OMB and ALJ defendant Rick Barber. Mr.  
26 Marc Abrams doesn't seem concerned with taking conjecture from one individual and propagating it further. It's nonsensical that  
27 this would have even been an issue for ALJ Rick Barber. The only justification I see as to why he would include this in his  
28 Proposed Order is that he was purposefully trying to cast me in a negative light. This is the same reason Mr. Marc Abrams includes  
29 this conjecture himself. To be sure, Marc Abrams didn't take the time to listen to the tape of the hearing, because it's a lot easier to  
30 just lift conjecture from someone without questioning it. **In fact, Mr. Mark Abrams seems to have taken the easy and lazy way**  
31 **out, because his entire Declaration In Support of Motion to Dismiss is nothing more than plagiarism of conjecture from**  
32 **previous documents.**

10. On page 8, at the end of my letter, Mr. Abrams inserts, "The Board sent documents to Licensee during the 90 day period in  
which he could have complied with the request for an evaluation at CPEP, but Licensee did not comply with the order after  
receiving the documents".

11. As noted it is dated 10/30/2009 and it deceitfully compels me to request a "hearing" within 21 days (later on to be transformed  
into a full blown trial), Sub-Exhibit-R is the letter of my incompetent counsel he sent to the OMB dated 11/16/2009 requesting a  
hearing within the time frame given to me by the OMB, without explaining to me the drastic consequences following.



1 11 pages of medical records for Patient A on 12/24/2009 from defendant Warren  
2 Foote. According to OMB Patient A had 1½ inches of medical records that they  
3 alleged I had refused to review. **It was my understanding that medical**  
4 **documents along with other information pertinent to the matter were still being**  
5 **withheld from me at that time.** However, I had eventually received 2 additional  
6 pages of medical records on the day prior to the hearing (which appeared to me to be  
7 escalating to a full blown trial for revocation). I didn't know, until the first day of  
8 the hearing, that there were only 13 pages of medical documents total and that there  
9 never was any 1½ " of medical records. Secondly, I was already tied to a trial  
10 whether I went to CPEP or not as is shown by the Exhibits. Thirdly, by the time I  
11 received 13 pages of medical records on 12/24/2009 the time frame for me to  
12 comply with the order to go to CPEP had elapsed contrary to what Mr. Marc Abrams  
13 writes. ALJ Rick Barber stated in his Proposed Order without genuine basis that I  
14 should be sent to CPEP. I was never given another chance to attend CPEP by OMB.  
15 I was indignant as to why I would be sent to CPEP based on the records which  
16 Patient A had and the ignorance and incompetence of the OMB, Dr. Calvert and the  
17 DOJ?

18 28. I further say here that under **FO 26** on page 8, Mr. Marc Abrams takes  
19 conjecture from ALJ defendant Rick Barber's writings and treats them as fact, this  
20 time regarding witness Alissa Wall's testimony . It appears that ALJ defendant Rick  
21 Barber made this conjecture without reviewing the tapes or transcripts of the trial  
22 proceedings regarding my license revocation which masqueraded as a "hearing".  
23 ALJ defendant Rick Barber acquired this presumption verbally during the trial  
24 process while or just after Ms. Walls gave testimony. It appears to me that Mr. Marc  
25 Abrams hasn't reviewed the hearing tapes either.<sup>12</sup> The OMB and DOJ, to date, have  
26 refused to release the tapes or transcripts of the "hearing" to me. Sub-**Exhibit-T** is  
27 my request for the "hearing" tapes. Sub-**Exhibit-U** is the OMB's denial to access  
28 this and other information related to my case.<sup>13</sup>

29 29. I further say here that under **FO 27 and 28** Mr. Marc Abrams raises the  
30 medications called allopurinol and colchicine issue.<sup>14</sup> Pharmaceutical information

31 12. It is tremendously cavalier of Mr. Marc Abrams to take conjecture from someone else and treat it as fact without taking the  
time to fact check statements.

32 13. It will be interesting to listen to the tapes closely so that we can hear what Ms. Walls actually had to say during the "hearing"

14. This will be discussed further later in this Affidavit.

1 regarding Patient A was requested by my counsel during the trial for revocation of  
2 my physician license, which was denied by DOJ Counsel Warren Foote. We were at  
3 a loss and total disadvantage at the “hearing” due to lack of material information  
4 which prevented us to challenge DOJ defendant Warren Foote’s evidence he brought  
5 “magically” and surprisingly to the ALJ “hearing” involving my physician license  
6 revocation instigated by defendants OMB and DOJ employees.<sup>15</sup>

7 30. I further say here that sub-Exhibit-W is the **Oregon Administrative**  
8 **Rules regarding Medical Cannabis**. Under OAR 333-008-0010 is “Definitions”  
9 and the first one is “Attending physician”. Under 1(d), on page 2, an “Attending  
10 physician” is defined as follows:

11 “a physician who has established a physician-patient relationship  
12 with the patient, is licensed under ORS chapter 677, and who,  
13 with respect to a patient diagnosed with a debilitating medical  
14 condition, has reviewed a patient’s medical records at the patient’s  
15 request, has conducted a thorough physical examination of the  
16 patient, has provided or planned follow-up care, and has  
17 documented these activities in the patient’s medical record.”

18 [(see, Conant v. Walters, 309 F.3d 629, cert. denied Oct. 14,  
19 2003 (9<sup>th</sup> Cir. 2002)]. I had been fulfilling this function and  
20 the Ninth Circuit Court requirements for years and the OMMP  
21 authorities were very happy with my professional performance.<sup>16</sup>

22 31. I hereby further say that, certain John and Jane Does in the States and

23 15. There are inconsistencies though. The two medications supposedly came from a Walgreens pharmacy in Medford OR. in  
24 December of 2007, yet at the time of my “hearing” Walgreens in Medford faxed information to me stating that Patient A had a  
25 profile, but had never received medications from them—see sub-Exhibit-V. Walgreens searches all its pharmacies in the US when it  
26 conducts a computer search. There is also no documentation that Patient A had any adverse reaction to the medicine he was  
27 prescribed. In addition, why would OMB and DOJ withhold this material information, especially when it has been specifically  
28 requested by my legal counsel?

29 16. The OMB, Dr. Calvert, the DOJ and now Mark Abrams have sneered at my signing of patient documents for the OMMP, yet I  
30 did what was required by law. It certainly was satisfactory for the OMMP. Why the OMB and DOJ feel that they can make up new  
31 or altered requirements/laws for the OMMP as they go along is concerning and makes it very difficult for physicians to maneuver  
32 through the OMB’s process’s because they have “no solid foundation” they can depend upon. If the OMB was concerned about the  
forms being used for the OMMP or the Oregon medical cannabis laws then they should have stepped in early in the OMMP process  
and made clear what was expected. Instead they categorize physicians like me with a malignant phrase “grossly negligent” which is  
completely absurd. Just for filling out forms in a manner that they are unhappy with I am being bullied, stigmatized for life by their  
horrible phrase and end up with my license being revoked. This is a travesty of justice. They sound like I harmed or killed  
individuals, whereas in fact I never hurt anyone. I certainly was thorough enough to refuse to sign Patient A’s OMMP form. The  
OMB should have never revoked my license on the foregoing basis. All they had to do was speak candidly with me as to what  
exactly they wanted done to satisfy them and then have it codified and standardized for all physicians. It is obvious that the OMB  
and DOJ play “fast and loose” with laws and have significant problems with their investigations, disciplinary scheme and equal  
application to all physicians.

1 Federal Governments have endeavored to and confederated in an effort to punish me  
2 for recommending medicinal cannabis to certain patients with attenuated and severe  
3 medical conditions all in violation of the Ninth Circuit's ruling which prohibits any  
4 member of government to punish me (and other doctors) in violation of the Ninth  
5 Circuit Court ruling in Conant v. Walters, 309 F.3d 629, cert. denied Oct. 14,  
6 2003 (9<sup>th</sup> Cir. 2002) (see concurrent opinion by Chief Judge Kozinski).

7 32. I hereby further say that defendants conspired to punish me for  
8 recommending medicinal cannabis to certain patients with attenuated and severe  
9 medical conditions, disguised as a "hearing" marshaled under duress of loss of my  
10 physician license, and compelling my counsel, all in violation of the Ninth Circuit's  
11 ruling which prohibits any member of government to punish me (and other doctors)  
12 (Conant v. Walters, 309 F.3d 629, cert. denied Oct. 14, 2003 (9<sup>th</sup> Cir. 2002) (see  
13 **concurrent opinion by Chief Judge Kozinski**).

14 33. I hereby further say that defendants' actions to punish me contrary to  
15 Ninth Circuit Court's ruling is tantamount to a Bill of Attainder severely prohibited  
16 by the U.S. Constitution.

17 34. I hereby further say that ORS Chapter 677 reads like an infamous Bill of  
18 Attainder during the British monarchy in the 17<sup>th</sup> Century having a demoniac grip on  
19 the American colonies before the Founding Fathers put an end to them in 1776.

20 35. I hereby say that, under 14(c), page 6 of the Oregon medical cannabis  
21 laws, it discusses what a patient needs for a complete application. One item is the  
22 "attending physician's declaration [signed OMMP form]". The definition of  
23 "**declaration**" pursuant to Encarta Dictionary is a "formal statement or official  
24 proclamation". By signing the OMMP form for a patient, it states that the patient  
25 has a debilitating medical condition which qualifies patient for the program and that  
26 medical cannabis may be of benefit. The OMB, Dr. Calvert, Warren Foote, Rick  
27 Barber, and now Mr. Marc Abrams are trying to misrepresent to the courts that  
28 physicians "**certify**" patients for the OMMP program, whereas in fact this is not the  
29 case.<sup>17</sup>

30 17. That's what I was told throughout the process and it's littered throughout their documents regarding my case. The definition of  
31 "**certify**" pursuant to Encarta Dictionary is to "confirm truth or accuracy of something; prove quality of somebody or something;  
32 issue somebody or something a certificate". **This is what the State of Oregon OMMP does.** As it states under OAR 333-008-  
0020(5) "The Department will verify information on all initial registration applications or written documentation. (5)(a) states,  
"The Department will contact each patient and caregiver by telephone or mail to (footnote 17 cont'd on bottom of page 12)..."

1 36. I hereby say that, the OMB and DOJ have characterized me with phrases  
2 such as "engaged in one or more acts of unprofessional or dishonorable conduct"  
3 and "engaged in gross or repeated negligence in the practice of medicine".<sup>18</sup>

4 37. I further say here that on page 10 and 11 Declaration of Mr. Marc Abrams  
5 **(FO)** goes into **Procedural Matters**. First discussed is **Allegations of Bias or**  
6 **Prejudice**. He argues that my case had nothing to do with the OMB's bias towards  
7 medical cannabis, yet they have used their position of power, and the lack of  
8 oversight granted by the State of Oregon, to come after numerous physicians  
9 involved with caring for patients in the OMMP and physicians who are in the  
10 OMMP. Dr. Phillip Leveque, Dr. Bogart, Dr. Ogle, Dr. Bost, physicians at the  
11 THCF clinic and the list continues. Sub-Exhibit-X is an article from the  
12 Oregonian newspaper. As the article illustrates, the large majority of OMMP  
13 patients have to go outside of their usual physician(s) to have their OMMP physician  
14 form signed. Of the physicians that are involved in this process, basically all have  
15 been investigated by the OMB."

16 38. I further say that Mr. Marc Abrams mentions the tolerance of the OMB for  
17 James F. Calvert, MD and Daryl George, DO "certifying" (again, inappropriate use  
18 of the word in the context of the Oregon medical cannabis laws) patients for the

19 ... (footnote 17 cont'd from bottom of page 11) confirm that the information provided is accurate." (5)(b) states "The Department  
20 shall verify with the OMB that the attending physician is licensed to practice in the state and is in good standing. The Department  
21 will also contact each attending physician to confirm that the information provided is accurate and valid, and that the physician is an  
22 attending physician". OAR 333-008-0030(1) states "The Department shall verify the information contained in an application  
23 submitted pursuant to this section and shall approve or deny an application within 30 days of receiving the fully completed  
24 application". OAR subsection (2) states, "Once the Department has verified the information in a completed application, the  
25 Department shall issue a serially numbered registry card". OAR subsection (4) states, "In accordance with provisions of these  
26 rules, the Department has the authority to deny a registration application and to preclude a person from obtaining or using  
27 a registry identification card for a period of up to six months." OAR subsection (7) states, "Denial of a registry identification  
28 card shall be considered a final Department action, subject to judicial review." In fact, once a patient is in the OMMP program  
29 they don't even need the signature of a physician on the OMMP form: they don't even need the OMMP form. OAR 333-008-0040,  
30 under "Annual Renewal" (2)(A)(a), states that for a patient to renew they need "Written documentation to reconfirm the person's  
31 debilitating medical condition". They don't need an OMMP form, just a chart note from any type of provider. Therefore, I do not  
32 certify patients for the OMMP and I am tired of the OMB and DOJ insisting that I do. Their use of words perverts the true meaning  
of the law. As it plainly states in the Oregon statute, it is ultimately the OMMP that certifies patients. They determine who is  
accepted into the OMMP or not. They have the power to pull a patient out of the program even if a physician disagrees. This is just  
one reason why I have told the OMB and DOJ that they don't understand, or refuse to acknowledge, the medical cannabis laws.  
18. These words and phrases connote extreme circumstances and conjure up ideas of sexual inappropriateness, rape, physical or  
verbal violence, intentional or unintentional murder, cover up, financial swindling, repeated malpractice, Medicare fraud, substance  
abuse, etc. In other words, nasty stuff. I didn't realize that asking a patient to seek further evaluation or provide further information  
fit into that category. I argue that none of the issues the OMB have brought forth, right or wrong about me, merit inclusion within  
the confines of those two phrases as most individuals would interpret them. These phrases are basically undefined in Oregon  
Statute and that enables the OMB and ODOJ to use them quite broadly and inappropriately. These phrases are much more fitting of  
the OMB, ODOJ, ALJ Rick Barber and Dr. James F Calvert.

19. Once again, Mr. Marc Abrams has not done his homework. I guess he feels he can write whatever he wants with impunity.  
The OMB says my case has nothing to do with medical cannabis, but I still question the validity of that statement.

1 OMMP. Mr. Marc Abrams using either ignorantly or intentionally the word  
2 “certify” with reference to physicians who diagnose under OMMP guidelines that  
3 allow under State law, the State OMMP authorities, to consider issuing a card that  
4 permits the use of cannabis medically. Many unsuspecting physicians have been  
5 arbitrarily investigated by the OMB on the foregoing basis with drastic legal  
6 consequences following. The OMB record of revocation proceedings is rife with  
7 such examples of arbitrary investigations and revocations of physicians.<sup>20</sup>

8 39. I further say here that on page 11 of **Allegations of Bias or Prejudice**  
9 **(FO)** that Dr. Calvert and Dr. George should have been familiar with the OMMP. I  
10 have no idea regarding Dr. Daryl George and his knowledge of it. I have never met  
11 nor spoken with him. It’s clear from the Investigative Committee interrogation that  
12 members of the OMB and Dr. James F Calvert were quite unaware how the OMMP  
13 or the laws governing it worked.

14 40. I further say here that on page 11 of **Allegations of Bias or Prejudice**  
15 **(FO)** that Mr. Marc Abrams appears to conclude that “Dr. George...may have  
16 encouraged Patient A to file the complaint with the Board”. Dr. George in fact had  
17 found a patient, **as the OMB had instructed him to do**, to file a complaint.<sup>21</sup>  
18 This appears in the records of the OMB, which I have seen.

19 41. I further say here that Mr. Marc Abrams discusses the **Motion for**  
20 **Protective Order (FO)** on page 11. This matter concerns my website  
21 [drdooversoregonmedicalboard.com](http://drdooversoregonmedicalboard.com) (it is now [drdooversomb.weebly.com](http://drdooversomb.weebly.com)) which  
22 contained redacted records related to my case, that was not violating HIPPA law.  
23 My counsel was upset that ALJ defendant Rick Barber had signed this Motion  
24 without sending it to my counsel first.<sup>22</sup>

25 20. How can I assume that these investigations didn’t involve medical cannabis concerns at some level on the part of the OMB?  
26 Dr. Calvert has already been discussed previously in this affidavit – see paragraphs 15-28 of this affidavit. Dr. Daryl George now  
27 deserves a closer look. He has already been investigated by the OMB because of sexual inappropriateness with at least two women.  
28 It’s unknown to me whether medical cannabis issues were also involved. I am aware that the OMB was informed about Dr. Daryl  
29 George’s cocaine abuse and addiction and refused to investigate it. Sub-**Exhibit-Y** is a letter from Ms. Alissa Wall to the OMB.  
30 The OMB’s response to her was that they couldn’t do anything about it, the complaint was too late. Ms. Alissa Wall gave Detective  
31 Jay Drum, who was working on her complaint, the names and phone numbers of three other individuals who could attest to the facts  
32 in her letter. Mr. Drum called at least one of these individuals, Ms. Candi Comfort. Her subsequent letter to the OMB is sub-  
**Exhibit-Z**. Patients told me on numerous occasions about Dr. George and how he would come into the exam room with white  
powder around his nose.

30 21. It is conjecture that my case did not involve prejudice by the OMB, because the circumstantial evidence would say otherwise.

31 22. During my trial revocation process, ALJ defendant Rick Barber apologized to my counsel for inappropriately signing the  
32 Motion that he had not put through the normal legal process. At the bottom of page 11, footnote 9, Mr. Marc Abrams writes  
“Licensee argued at hearing that the order of pleading documents makes it appear that the ALJ had his objections to the Protective  
Order (dated August 30) at the time he signed the Protective Order. Licensee correctly notes that his objections to the form of the  
order were received after ALJ defendant Barber had signed the order.”

1 42. I further say here that, Mr. Marc Abrams continues to pile up conjecture  
2 upon conjecture from ALJ defendant Rick Barber misrepresenting that I put  
3 information on Craigslist.com about my revocation case.<sup>23</sup>

4 43. I further say here that, on page 11 (FO) of defendants' OMB Counsel  
5 Marc Abrams' **Motion to Strike 3.1.b of the Complaint**, that he misrepresented my  
6 counsel's argument during the "hearing" without reviewing the actual trial tapes.  
7 **What I do know is that there is no certainty what occurred with regard to the**  
8 **Patient A and B's records.**<sup>24</sup>

9 44. I further say here that on page 12 of Marc Abrams' Declaration (FO) is a  
10 discussion about **Hearsay Evidence**. OMB, DOJ and ALJ defendant Rick Barber  
11 play "fast and loose" with hearsay evidence when it suits their purposes and effects  
12 Hearsay is not allowed in any U.S. courtroom or any other State Medical Boards  
13 hearings across the country to be played "fast and loose". During my OMB  
14 revocation trial, hearsay was used liberally, including hearsay from Patient A's wife  
15 and Patient B, and entered into the evidence.<sup>25</sup>

16 45. I further say here that on page 12 of Marc Abrams' Declaration (FO)  
17 under Patient A's wife Mr. Marc Abrams states that Patient A testified for his wife.  
18 He further states that "Patient A's wife did not testify, but was present and willing to

19 23. This is supposedly based upon a blog containing the pronoun "I" and some information related to my case and that I had written  
20 OMB that I would make their actions "very public" - see footnote 8 at the bottom of page 11. I had not seen, nor was I or my  
21 counsel aware of this supposed blog until my revocation process was in full progress. If I did see a copy of it at my trial revocation  
22 it was for just a short period of time. My counsel and I were never able to analyze and then counter this supposed blog. This  
23 deceiving behavior caused surprise and was used by DOJ defendant Warren Foote frequently during the two day revocation trial  
24 and allowed by ALJ defendant Rick Barber. Yes, I did my best to make OMB's actions and conduct "very public". I put up my  
25 website. I sent letters and binders of information to two Governors, AG John Kroger and numerous newspapers within Oregon state  
twice. I appeared as a guest on two separate shows on Portland Public Access cable TV (one interview is uploaded to YouTube). I  
spoke to targeted groups of individuals who would be interested in learning about the shenanigans occurring at the OMB and DOJ.  
I had the First Amendment right to exercise my freedom of speech without a fear of retaliation by defendants OMB and DOJ  
employees. How Craigslist.com would fit into an agenda of that magnitude is a mystery to me. I didn't realize that Craigslist.com  
filled a function of that nature. Anyone could have written the foregoing since the case was available at my website. I really  
wished to see this purported document.

26 24. We don't know whether Voter Power staff mixed up two patient's charts or if Patient A took one or two charts. I don't know if  
27 Patient A didn't take another patient's chart and put his name on the forms. Not to say that instances involving a mix up of records  
28 should occur, but it seems odd that so much concern is placed on an overall trivial matter, especially since it may very well be  
29 Patient A who was responsible for this incident. Why hasn't any of Patient A's Voter Power paperwork been seen since the  
incident? If Patient B supposedly had Patient A's records then Voter Power should have gotten them back along with the two  
Urgent Care records Patient A brought in that day that never reappeared. If Patient A had those records, then what happened to  
them? Again, Mr. Abrams plays "fast and loose" with ALJ Barber's conjecture.

30 25. It seems odd that these individuals couldn't have at the least been interviewed over the phone. With using hearsay in this  
31 manner it gave my counsel no opportunity to question these witnesses or confirm the hearsay statements made by the OMB and  
32 DOJ. Witness Alissa Walls was interviewed over the phone and DOJ defendant Warren Foote was given every opportunity to  
question her as did ALJ defendant Rick Barber. The hearsay DOJ defendants Warren Foote and OMB introduced at my revocation  
trial was taken as fact by ALJ defendant Rick Barber and used arbitrarily against me. My counsel and I were deprived of the right to  
enter hearsay into the evidence. My revocation trial seemed as reprehensible as North Korean dictatorship justice or Star Chamber  
justice that our Founding Fathers detested.

1 testify". "Licensee decided not to cross examine her." I don't recall his wife being  
2 at the revocation trial. If she had been, my counsel would have certainly wanted her  
3 to testify and would have cross examined her.<sup>26</sup>

4 46. I further say here that on page 12, the OMB's **Final Order (FO)**, in re Mr.  
5 Marc Abrams' Declaration under defendant **Investigator Drum's conversation**  
6 **with Patient B**, Mr. Marc Abrams again discusses the hearsay issue. As noted it  
7 involves hearsay from a conversation defendant detective Jay Drum allegedly had  
8 with Patient B. **Detective Jay Drum presented this hearsay in verbal form only**  
9 **at the revocation trial. There was not even a notarized written statement by**  
10 **Patient B**, who is the individual with the records allegedly "mixed up" with Patient  
11 A's. DOJ defendant Warren Foote again brought up the fact that hearsay was  
12 admissible at the revocation trial and ALJ defendant Rick Barber was accepting it  
13 even though it was "fast and loose".<sup>27</sup>

14 47. I further say here that on page 12 of Marc Abrams' Declaration (FO)  
15 under **Peer Review Qualifications**, Mr. Marc Abrams continues to perpetuate the  
16 deception that Dr. James F Calvert should still be considered an "expert".<sup>28</sup>

17 48. I further say here that I continuously tried before and during the "hearing"  
18 to make the OMB, DOJ and ALJ Rick Barber aware of this, but it was of no use  
19 being that it fell on deaf ears.

20 49. I further say here that Dr. James F Calvert was disciplined by the OMB for  
21 severe deficiencies in rheumatology knowledge and chronic pain treatment which  
22 **resulted in at least one patient death and one near patient death that is**  
23 **documented (see, sub-Exhibit-J) in the Stipulated Order.**<sup>29</sup>

24 26. I would not be surprised if Mr. Marc Abrams ignored the contents of my revocation trial tapes. I would need to listen to the  
25 tapes to confirm what truly occurred during the revocation trial because I can't trust the work Mr. Marc Abrams and his legal crew  
26 have done. The quality of their work, their utter lack of honesty and their seeming desire not to find truth are abysmal at best.

27 27. I cannot understand why Patient B would not be capable of testifying over the phone. No reason was given. It gave my  
28 counsel no opportunity to question Patient B. There was no genuine way of confirming the validity and admissibility of the  
29 hearsay. **ALJ defendant Rick Barber's acceptance in evidence of an unverifiable conversation and its contents as valid for**  
30 **admissible evidence purposes is unacceptable and soils the judicial system in Oregon.** ALJ defendant Rick Barber, DOJ  
31 defendant Warren Foote, defendant OMB and now Mr. Marc Abrams have concocted, perpetrated and perpetuated a story based on  
32 unverified circumstantial evidence and deemed it as a fact, contrary to the rules of evidence.

28 28. Mr. Marc Abrams is either ignorant of Dr. James F Calvert's history or he has tremendous gall trying to deceive the Federal  
29 Court in regards to it. As discussed previously in paragraphs 15 - 28 of this Affidavit, and as evidenced by multiple **Exhibits** listed  
30 therein. Dr. James F Calvert was nothing of "an expert" in any of the medical disciplines he was utilized for in my case.

31 29. These are the same medical disciplines Dr. James F Calvert was supposedly "an expert" in for my case. Mr. Marc Abrams  
32 correctly quoted *Spray v. Board of Medical Examiners*, 50 Or APP 311 (1981), but he conveniently omits Dr. James F Calvert's  
history that clearly documents I didn't get an expert witness testifying at my hearing. I was never contacted by the OMB or DOJ  
regarding concerns about Dr. James F Calvert as a physician or the effect his non-expert testimony had on my case. I was not aware  
of Dr. Calvert's "predicament" with medical malpractice and the OMB until July of 2012.

1 50. I further say here that on page 14 of Declaration under **Credibility (FO)**,  
2 Mr. Marc Abrams speaks about Dr. James F. Calvert's testimony and the  
3 presumption of truthfulness when a patient testifies under oath.<sup>30</sup>

4 51. I further say here that on page 14 of Marc Abrams' Declaration under  
5 **Alisa Wall (FO)**, Mr. Marc Abrams again resurrects ALJ defendant Rick Barber's  
6 conjecture, but this time it is in regards to Ms. Alissa Wall's testimony.<sup>31</sup>

7 52. I further say here that on page 15 under **Licensee**, Mr. Marc Abrams goes  
8 to further extremes regarding conjecture. Mr. Marc Abrams is making inferences  
9 about how much time I spent with patients.<sup>32</sup>

10 53. I further say here that on page 15 (**FO**), Mr. Marc Abrams quotes from a  
11 letter I wrote 10/1/2008 –see Para. 6 and sub-Exhibit-F which states "*He had 2 or 3*  
12 *documented cases of acute gouty attacks that he went to an Urgent Care for*  
13 *treatment from what I recall from the records he brought in*".<sup>33</sup>

14 30. He quotes ORS 44.370. "*A witness is presumed to speak the truth. This presumption, however, may be overcome by the*  
15 *manner in which the witness testified, by the character of the testimony of the witness, or by evidence affecting the character or*  
16 *motives of the witness, or by contradictory evidence.*" In my case, Dr. Calvert's presumption of speaking the truth should be legally  
17 invalidated based upon this quote from ORS 44.370. As previously noted in Paragraphs 15 – 28 of this Affidavit, Dr. James F  
18 Calvert testified that world renowned rheumatology experts were incorrect in their expertise. Also, Dr. James F Calvert, while  
19 giving testimony under oath at my hearing, severely contradicted his own previous writings regarding an inflamed joint and gout.  
20 I allege that Dr. James F Calvert conspired with the OMB and AAG Warren Foote in regards to his maligned testimony. Dr. James  
21 F Calvert was found incompetent in his medical care and knowledge, and certainly would be considered "grossly negligent", with  
22 regards to the death and near death of two patients and the incompetent care of other patients in his practice.

23 31. He states. "Licensee presented Ms. Wall's testimony in what was clearly an effort to discredit Patient A's testimony", "Ms.  
24 Wall's testimony is internally inconsistent" and "While it is unclear whether Ms. Wall was fabricating her testimony". These  
25 statements are pure conjecture and quite a stretch considering she was the primary person at Voter Power that dealt with Patient A  
26 and witnessed his behaviors and actions. Again, I ask, did Mr. Abrams listen to the tape of the hearing? Also, why the lack of  
27 consistency from Mr. Abrams? Did he not quote ORS 44.370 that "*A witness is presumed to speak the truth*"? Mr. Abrams doesn't  
28 seem to be aware, or maybe he just ignores, his lack of consistency regarding laws he quotes. Like ALJ Rick Barber, he attempted  
29 to marginalize this witness and disregard her testimony for no apparent reason. Maybe they were upset about her reporting Dr.  
30 Daryl George's cocaine abuse and sexual inappropriateness (see Paragraph 38) that they basically ignored. It may have something  
31 to do with the fact that Dr. George was instrumental in getting Patient A to make a complaint to the OMB regarding me – see Para.

32 40. This entire situation reeks of an extremely concerning low level of professionalism for OMB, DOJ Warren Foote, ALJ Rick  
Barber and Mr. Marc Abrams.

33 32. With Patient A, despite his memory of the situation, I spent much more than 30 minutes with him because of his argumentative  
behavior and his unrelenting persistence to have me sign his OMMP form. In reality it doesn't really matter how much time I spent  
with him – there was no prerequisite for that. It took no more than a couple of minutes to review the couple of Urgent Care records  
that he brought in. There was nothing detailed about these records and remember, they were never seen again. It took minutes for  
me to do a limited exam of Patient A's joints for any abnormalities and his skin for tophi. It would take minutes to review the  
radiologist's readings of the x-rays I ordered for Patient A. To state that I would not review a patient's records or examine them is  
untrue and absurd! In the 25 years I practiced medicine I had never done this. In the past I would examine records and patients for  
no cost. I am deeply offended that these defamatory statements have been made. I am dismayed that OMB, DOJ's Warren Foote  
ALJ Rick Barber and Mr. Marc Abrams would raise such a petty issue and then use conjecture to bolster their position.

34 33. Then Mr. Marc Abrams states. "This letter impeaches his later testimony that there was insufficient evidence for gout, and at  
the very least calls his memory into question", "The evidence establishes that Licensee talked with Patient A about his gout  
condition, as shown by A's visit to the x-ray clinic.", and lastly "However, there is nothing in the record to show that an actual  
physical exam took place." Where do I start with this mess of conjecture, half-truths, omitted details and outright lies? **First, Mr.**  
**Marc Abrams takes one sentence out of context from an entire paragraph – see sub-Exhibit-F.** He fails to mention what else  
I wrote regarding their being no documentation of an evaluation, referral, treatment, follow up, etc. **Secondly, as I have already**  
**documented, these Urgent Care records were never seen again.** Where are they Mr. Abrams? After almost 6 years they should  
have been easily retrievable by now. They came from a local Urgent Care. (footnote 33 cont'd on bottom of page 17)...



1 54. I further hereby say that on page 14-15 (FO), Mr. Marc Abrams states that  
 2 my counsel, Alissa Wall and I “*went to great lengths to impeach Patient A.*  
 3 *However Patient A testified directly and consistently*”. So when Patient A lied about  
 4 his alcohol consumption and alcoholism under oath, this is observed by Mr. Marc  
 5 Abrams as direct and consistent? And when Patient A committed perjury under  
 6 oath about having 1 ½” of medical records and in reality only had 7 pages, that also  
 7 is considered direct and consistent?<sup>34</sup>

8 55. I further say here that on page 16 (FO) of Marc Abrams’ Declaration  
 9 under *Violations of the Standard of Care*, Mr. Marc Abrams again discusses the  
 10 charting of the patients at Voter Power. He writes that Dr. Calvert’s testimony was  
 11 primarily relied upon to access the standard of care issues.

12 56. I further say here that on page 19 (FO) under **Proposed Sanctions**, Mr.  
 13 Marc Abrams states, ”The ALJ noted that no evidence was presented to show

14 ... (footnote 33 cont’d from bottom of page 16) Why are they included as “evidence” in Mr. Marc Abrams document when they fail  
 15 to exist? Why does Mr. Marc Abrams exclude from his document concerns I have expressed to the OMB and DOJ on multiple  
 16 occasions, including at both my interrogation and hearing, regarding these records being fraudulent, especially since they have  
 17 disappeared from existence? **Thirdly, I wrote that statement a full 10 months after the incident without the benefit of records**  
 18 **that had been requested from the OMB since 2/2008, but ignored.** As it also states in my letter from 10/1/2008, Patient A  
 19 presented me with no records documenting previous x-rays, a thorough evaluation, referral to a specialist, treatment other than a  
 20 non-steroidal anti-inflammatory medication or even follow up. As I have already extensively documented, it took two years to get 5  
 21 pages of medical records I had never seen, one page of which was an x-ray of Patient A’s right foot. My counsel received 2 pages  
 22 of blood work results the afternoon prior to the first day of my hearing. Again, this was the first time I had ever seen these labs.  
 23 **Fourthly, yes I did speak with Patient A about his concern of having gout, but I never stated that he had or was suffering**  
 24 **from gout.** Without myself or someone else doing a complete evaluation and giving appropriate treatment, and with the patient  
 25 lacking evidence to support this, it would have been incredibly ostentatious of me to have made the diagnosis of gout. With Patient  
 26 A having no physical findings of acute or chronic gout on exam and nothing of note found on his x-rays I ordered, how could I say  
 27 he had had any problems with gout. I’m sure individuals on the OMB, in the DOJ, Mr. Rick Barber or Mr. Marc Abrams would not  
 28 want to be diagnosed with a disease without full evaluation and then appropriate treatment. **Fifthly, even if Patient A had**  
 29 **previously had a couple of episodes of gout, it did not automatically entitle him to a physician’s signature on his OMP**  
 30 **form.** I also never stated to Patient A that I would never sign his OMP form. I only asked him to get further evaluation and  
 31 treatment for his medical concerns. I didn’t realize it was a medical offense to require further medical investigation of a non-urgent  
 32 medical problem before throwing a medical treatment at a patient. I certainly never entertained the idea that it would ultimately  
 result in revocation of my license. I thought I was just giving prudent and responsible medical care. There certainly was nothing  
 occurring medically with Patient A that necessitated him needing medical cannabis immediately, as opposed to someone  
 undergoing chemotherapy. Why didn’t Patient A go to his own physician to have him sign his OMP? Why isn’t this physician  
 being investigated by the OMB for not signing Patient A’s OMP form? **Sixthly, a physical exam was performed as discussed**  
**previously, but it’s impossible to document being that all of Patient A’s records were removed from the Voter Power clinic**  
**and never returned.** Patient A states that his records were given to Patient B and that Patient B received his. If that’s what truly  
 occurred, then Patient B would have had Patient A’s documents and would have either returned them to Voter Power or to Patient  
A. Voter Power never received them so Patient A must have been given them. If Patient A was given his own records, then what  
 happened to them? Unfortunately, it is difficult to say, because when all you have to go by is hearsay introduced by Warren Foote  
 and tolerated and accepted by ALJ Rick Barber on behalf of the OMB regarding Patient A’s wife’s and Patient B’s testimony as to  
 what happened with the two charts there is no way to figure out what has occurred.

34. These inconsistencies alone give rise to all of Patient A’s testimony being questionable. This level of work is unacceptable  
 from a Senior AAG for the State of Oregon. Mr. Marc Abram’s document lacks integrity and is a pathetic example of the work  
 coming from the DOJ. Speaking of impeachment, I would say Mr. Marc Abrams entire document impeaches him, the OMB and  
 the DOJ as to what a horrible job they have done regarding my case and their illicit behavior. Unfortunately, as I have found over  
 the past 6 years speaking with other physicians, that mine is not an isolated case.

1 whether any problems arose from his [Eric Dover, MD] practice in Portland.”<sup>35</sup>

2 57. I further say here that DOJ’s Warren Foote encouraged Patient A to  
3 perjure himself on the witness stand regarding his medical records and beer  
4 consumption. DOJ’s Warren Foote thus, has encouraged Patient A to commit  
5 perjury regarding allopurinol and colchicine prescriptions and concerning Patient  
6 A’s wife’s hearsay testimony. DOJ’s Warren Foote encouraged the use of hearsay  
7 during my “hearing” which was used to revoke my license. DOJ’s Warren Foote  
8 withheld medical and other related records, as did the OMB, that would have greatly  
9 benefited my counsel and I concerning the case. DOJ’s Warren Foote blocked  
10 Discovery (see sub-**Exhibit-CC**) my counsel’s **Request for Discovery**. Sub-  
11 **Exhibit-DD** is DOJ’s Warren Foote’s letter of response denying Discovery. DOJ’s  
12 Warren Foote knowingly presented Dr. James F Calvert as an “expert” even though  
13 it was clearly shown before and during the hearing that he wasn’t. DOJ’s Warren  
14 Foote encouraged Dr. James F Calvert to perjure himself during the hearing. DOJ’s  
15 Warren Foote conspired in private, eye to eye, with ALJ Rick Barber directly after  
16 my hearing finished the second day. My counsel and I witnessed defendant DOJ’s  
17 Warren Foote and ALJ defendant Rick Barber brazenly walk into a private room to  
18 confer *ex parte* from view of my counsel and I.

19 58. I further say here that ALJ defendant Rick Barber brazenly allowed  
20 perjured testimony in evidence, in his courtroom, as noted. This included Patient A  
21 perjuring himself regarding his records and beer consumption. ALJ defendant Rick  
22 Barber thus allowed Patient A to perjure himself regarding allopurinol and  
23 colchicine prescriptions and hearsay regarding Patient A’s wife’s testimony. ALJ  
24 defendant Rick Barber allowed hearsay during the “hearing” which should not have  
25 been tolerated or given any weight. ALJ defendant Rick Barber allowed OMB’s  
26 “star witness” defendant Dr. James F Calvert to give perjured testimony and to  
27 masquerade himself as a “medical witness” expert. ALJ defendant Rick Barber

28 35. Ten charts were requested and supposedly reviewed by the OMB. Sub-**Exhibit-AA** is the letter requesting a list of all patients  
29 seen in April 2009. Sub-**Exhibit-BB** is the letter requesting specific patient charts. I received no further correspondence from the  
30 OMB regarding these patient charts. Therefore, I would assume that there were no concerns with these charts ( or they didn’t find  
31 what they were “fishing” for) otherwise the OMB would have certainly included these as exhibits in their case against me. **“The**  
32 **OMB’s case against me” bears repeating, because it was never a matter of getting to the bottom of the situation, it was a full**  
**on attack.** As one of my lawyers Wynn Caulkins stated upon receiving a letter from the OMB after my interrogation by the  
Investigative Committee, “They are coming after you hard and I don’t understand why.” He could not understand why they would  
pursue me with such ferocity based upon such a minor and insignificant situation that showed no wrongdoing on my part.

1 showed no concern about exculpatory evidence being withheld and even aided in the  
2 suppression of such evidence in my case by OMB and DOJ's Warren Foote. ALJ  
3 defendant Rick Barber showed no concerns regarding DOJ's Warren Foote  
4 impeding a Discovery process and introducing "surprise" evidence during the so-  
5 called "hearing" process. ALJ Rick Barber included none of these "inconsistencies"  
6 in his Proposed Order, including the fact that DOJ's Warren Foote admitted at the  
7 end of the hearing that Dr. James F. Calvert had reviewed at least one patient record  
8 incorrectly. Dr. James F. Calvert had insisted that a patient did not have Multiple  
9 Sclerosis even though they clearly did. These crucial inconsistencies were brazenly  
10 excluded from ALJ Rick Barber's **Proposed Order**, he did spend an excessive  
11 amount of time discussing Alissa Wall's and my character in a malicious way.

12  
13 Dated this 2nd day of October, 2013.

14 Eric A. Dover *MD*  
15  
16 ERIC A. DOVER, MD  
17 (Affiant/Declarant)

18  
19 Notarization:

20  
21 STATE OF OREGON )  
22 ) ss:  
23 County of Clackamas )

24  
25 SUBSCRIBED and affirmed/sworn to before me: Eric A. Dover *MD*

26  
27 a Notary Public in and for the State of Oregon, in the County of Multnomah, on  
28 this 2nd day of October, 2013.

29 Notary Public Signature: Elaine C Udny

30 My Commission Expires on: May 1, 2015

