

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

BRANT SMITH,

Plaintiff,

and

TWISTED GROWERS LLC,

Proposed Plaintiff-Intervenor,

v.

BRYAN T. CAFFERELLI, IN HIS OFFICIAL
CAPACITY AS COMMISSIONER OF THE
CONNECTICUT DEPARTMENT OF
CONSUMER PROTECTION,

Defendant.

Civil Action No.: 25-CV-1728 (VDO)

TWISTED GROWERS LLC’S MOTION TO INTERVENE AS PLAINTIFF

Proposed Plaintiff-Intervenor Twisted Growers LLC (“Twisted Growers”), by and through undersigned counsel, respectfully moves under Federal Rules of Civil Procedure 24(a)(2) and alternatively under 24(b)(1)(B) for leave to intervene as a plaintiff in this action.

Twisted Growers is a Lakeville, Massachusetts marijuana grower with a state-of-the-art facility. It has sought, and continues to seek, to enter Connecticut’s regulated cannabis market to undertake microcultivation, but it is disadvantaged by the challenged provisions of Connecticut’s Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”), Conn. Gen. Stat. § 21a-420 et seq. Those provisions condition access to preferred licensing pathways on income limits and on prior or current residence in specified Connecticut census tracts (applicants who satisfy both are “Social Equity Applicants”). Twisted Growers does not qualify as a Social Equity

Applicant and therefore has a direct economic interest in the statutory provisions challenged in this action.

The motion is timely, intervention will not prejudice the existing parties, and Twisted Growers' participation will permit adjudication of the challenged residency provisions based on the concrete economic interests of an out-of-state market participant. Twisted Growers accordingly satisfies the requirements for intervention as of right. Alternatively, its claims share the central legal and factual questions presented by the existing action, warranting permissive intervention.

In accordance with Rule 24(c), and in the interests of judicial economy. Twisted Growers submits its proposed Intervenor Complaint as Exhibit A to this motion.

The grounds for this motion are set forth more fully in the accompanying memorandum of law.

WHEREFORE, Twisted Growers respectfully requests that the Court:

1. Grant this motion under Rule 24(a)(2) or, alternatively, Rule 24(b)(1)(B);
2. Direct the Clerk to add Twisted Growers as a plaintiff;
3. Accept the proposed Intervenor Complaint attached as Exhibit A for filing; and
4. Grant such other relief as the Court deems appropriate.

Dated October 13, 2026

Respectfully submitted,

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CT20824*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Intervene as Plaintiff, the supporting memorandum of law, and the proposed Intervenor Complaint was served on all counsel of record..

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**PROPOSED INTERVENOR COMPLAINT OF PLAINTIFF-INTERVENOR
TWISTED GROWERS LLC**

Plaintiff-Intervenor Twisted Growers LLC, complaining of Defendant Bryan T. Cafferelli, in his official capacity as Commissioner of the Connecticut Department of Consumer Protection, alleges as follows:

PARTIES

1. Plaintiff-Intervenor Twisted Growers LLC (“Twisted Growers”) is a limited liability company organized under the laws of the Commonwealth of Massachusetts, with its business and mailing address at 415 Millennium Circle, Lakeville, Massachusetts 02347.

2. Twisted Growers cultivates cannabis in Massachusetts under Massachusetts Marijuana Cultivator License No. MC281714, originally issued on February 16, 2021.

3. Twisted Growers seeks to establish and operate a cannabis-cultivation business in Connecticut.

4. Twisted Growers cannot qualify as a Social Equity Applicant in Connecticut.

5. Defendant Bryan T. Cafferelli is the Commissioner of the Connecticut Department of Consumer Protection (the “Department”) and is sued solely in his official capacity.

6. The Department administers Connecticut’s adult-use cannabis licensing regime under the Responsible and Equitable Regulation of Adult-Use Cannabis Act, Conn. Gen. Stat. § 21a-420 et seq. (“RERACA”), including by accepting cannabis-license applications and issuing final cannabis-cultivation licenses.

JURISDICTION AND VENUE

7. This action arises under the Commerce Clause of the United States Constitution, U.S. Const. art. I, § 8, cl. 3, and 42 U.S.C. § 1983. This Court has original jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States.

8. This Court also has jurisdiction under 28 U.S.C. § 1343(a)(3) to redress the deprivation, under color of state law, of rights secured by the Constitution.

9. This Court has authority to declare the rights and legal relations of the parties in a case of actual controversy within its jurisdiction. 28 U.S.C. § 2201.

10. This Court may grant further necessary or proper relief based on a declaratory judgment after reasonable notice and hearing. 28 U.S.C. § 2202.

11. Defendant is subject to this Court’s personal jurisdiction because he administers and enforces Connecticut’s cannabis-licensing regime in his official capacity as Commissioner of the Department.

12. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant performs his official duties in Connecticut and a substantial part of the events and omissions giving rise to Twisted Growers’ claim occurred, and continue to occur, in Connecticut.

FACTUAL ALLEGATIONS

13. Connecticut enacted RERACA in 2021 to establish a regulated adult-use cannabis market.

14. RERACA establishes a licensing system for cannabis establishments, including cultivators.

15. RERACA defines a Social Equity Applicant as an applicant meets both an income criterion and a residency criterion. Conn. Gen. Stat. § 21a-420(51).

16. The income criterion requires that a qualifying individual have had an average household income of less than three hundred percent of the state median household income over the three tax years immediately preceding the application. Id. § 21a-420(51)(A).

17. The residency criterion requires that a qualifying individual have resided in a disproportionately impacted area for not less than five of the ten years immediately preceding the application, or for not less than nine years before turning eighteen. Id. § 21a-420(51)(B).

18. RERACA defines disproportionately impacted areas as United States census tracts in Connecticut identified by the Social Equity Council. Id. § 21a-420(20). Every disproportionately impacted area is therefore located within Connecticut.

19. The Social Equity Council reviews ownership, residency, income, and other information to determine whether an applicant qualifies as a Social Equity Applicant. Conn. Gen. Stat. § 21a-420g(a).

20. RERACA provides cultivator-licensing pathways that include a lottery process reserving a portion of cultivator licenses for Social Equity Applicants and a process through which Social Equity Applicants may seek cultivator licenses without participating in a lottery. See Conn. Gen. Stat. § 21a-420o(a).

21. Under the non-lottery cultivator process, a Social Equity Applicant must establish its eligibility and provide evidence concerning, among other things, a cultivation-facility location, necessary local zoning approvals and building permits, a business plan, social equity and workforce development plans, written policies to prevent diversion, and facility blueprints and security measures. Conn. Gen. Stat. § 21a-420o(b)(1).

22. As of September 22, 2026, Connecticut had not held a lottery for microcultivator licenses under the relevant lottery provision, and general applicants that did not qualify for Social Equity Applicant status had not been able to obtain cultivator licenses through the licensing pathways at issue.

23. Twisted Growers, an established, operational marijuana cultivator¹, seeks to pursue microcultivation in Connecticut but is prevented by doing so by RERACA's Social Equity Applicant criteria.

24. Twisted Growers seeks an equal opportunity to compete for the Connecticut cultivator-license pathway it identifies, without an eligibility condition based on Social Equity Applicant.

25. The Social Equity Applicant residency criterion excludes Twisted Growers from the licensing pathway it seeks.

26. The Social Equity Applicant criteria injure Twisted Growers by denying it an equal opportunity to compete for access to Connecticut's regulated cannabis-cultivation market and by materially impeding its planned Connecticut business operations.

¹ <https://twistedgrowers.com/>

27. Twisted Growers' injury is concrete and particularized and is directly caused by the application of the challenged Social Equity Applicant criteria.

28. A declaration and injunction barring enforcement of the challenged Social Equity Applicant criteria would redress its injury by permitting it to seek the relevant cultivator-license opportunity.

29. This complaint is filed in the same proceeding in which Plaintiff Brant Smith challenges the Social Equity Applicant provisions of RERACA and seeks declaratory and injunctive relief under the dormant Commerce Clause.

30. On September 22, 2026, the Court dismissed Mr. Smith's original complaint without prejudice, concluding that it did not adequately plead an injury traceable to discrimination against interstate commerce and did not allege an injury within the dormant Commerce Clause's protected zone of interests.

31. In the same decision, the Court concluded that the dormant Commerce Clause applies to state regulation of cannabis markets notwithstanding federal restrictions on marijuana.

32. Mr. Smith's amended complaint alleges that he has resided in Connecticut for more than thirty-one years and that his income exceeds RERACA's threshold for Social Equity Applicants.

33. Twisted Growers' claim is distinct from Mr. Smith's claim because Twisted Growers is an out-of-state cannabis business whose injury arises from the Social Equity Applicant requirements.

COUNT I: VIOLATION OF THE DORMANT COMMERCE CLAUSE (42 U.S.C. § 1983)

34. Twisted Growers incorporates by reference each of the preceding paragraphs as though fully set forth herein.

35. The Commerce Clause prohibits a state from discriminating against interstate commerce through economic protectionism that favors in-state economic interests over similarly situated out-of-state economic interests.

36. RERACA's Social Equity Applicant criteria conditions access to preferential and non-lottery cultivator-license opportunities on the entity's past or current residence in a disproportionately impacted area located exclusively in Connecticut.

37. The residency criterion facially favors persons with a specified Connecticut residential history and disfavors out-of-state persons, including Twisted Growers.

38. The residency criterion prevents Twisted Growers from competing for the cultivator-license opportunity it seeks because it lacks the required Connecticut residential history.

39. The residency criterion burdens Twisted Growers because of its out-of-state status and protects economic opportunities in Connecticut's cannabis-cultivation market for applicants with the required Connecticut residential connection.

40. RERACA's Social Equity Applicant criteria also conditions access to preferential and non-lottery cultivator-license opportunities on a qualifying entity's income.

41. The income requirements burden Twisted Growers because of it cannot meet that income criteria and that requirement protects economic opportunities in Connecticut's cannabis-cultivation market for applicants with the required income requirements.

42. Defendant administers and enforces the challenged licensing regime through the Department, including by accepting applications and issuing final cannabis-cultivation licenses.

43. By enforcing the challenged RERACA Social Equity Applicant criteria against Twisted Growers, Defendant acts under color of Connecticut law and deprives Twisted Growers of rights secured by the Commerce Clause, which is actionable under 42 U.S.C. § 1983.

44. An actual and justiciable controversy exists between Twisted Growers and Defendant concerning the constitutionality and enforceability of the Social Equity Applicant criteria as applied to Twisted Growers.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Intervenor Twisted Growers LLC respectfully requests that the Court enter judgment in its favor and grant the following relief:

- A. Declare that the Social Equity Applicant residency criterion, which requires residence in a disproportionately impacted area located exclusively in Connecticut, violates the dormant Commerce Clause as applied to Twisted Growers;
- B. Declare that the Social Equity Applicant income requirements violate the dormant Commerce Clause as applied to Twisted Growers;
- C. Permanently enjoin Defendant, his agents, officers, employees, successors, and all persons acting in active concert or participation with them from enforcing the challenged Social Equity Applicant criteria against Twisted Growers;
- D. Require Defendant to permit Twisted Growers to seek a microcultivation without disqualification, while permitting Connecticut to apply all other lawful and nondiscriminatory licensing requirements;
- D. Award Twisted Growers its costs and reasonable attorney's fees under 42 U.S.C. § 1988; and
- E. Grant such further necessary or proper relief as may be appropriate based on the Court's declaratory judgment under 28 U.S.C. § 2202, and such other relief as the Court deems just and proper.

Dated October 13, 2026

Respectfully submitted,



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