1. The AMMA, by popular vote, classifies marijuana as medicine. By contrast, federal law, based on research and scientific testing, provides that marijuana is a Schedule I drug and thus unsuitable for medical use. 21 U.S.C. § 812.
2. The AMMA's authorization of marijuana use as medicine circumvents and subverts the FDCA's purpose to protect the public from unsafe drugs including the requirement of pre-market approval by the FDA of all medicines for their intended purpose. *See* 21 U.S.C. §§ 355, 393(b). The federal goal is plainly only possible if states cannot independently avoid it.
3. The AMMA's limited inspection and security requirements, and confidentiality requirements, are completely at odds with the CSA's requirement for inventory control and registration of all handlers of controlled substances, including marijuana. *Compare* 21 U.S.C. § 823 *and* 21 C.F.R. § 1304.11(a) *with* A.R.S. §§ 36-2806, 36-2810.
4. The AMMA's process for obtaining written certification from a physician for marijuana, including a homeopathic or naturopathic physician, stands in stark contrast to the established federal system for obtaining any controlled substance only with a prescription. *Compare* 21 U.S.C. § 829 *with* A.R.S. § 36-2801(18).

5. The AMMA's labeling of marijuana as medicine and approval of its medical use through the ballot box are inconsistent with the federal scheme's mechanism to reschedule drugs only through specific processes and after extensive scientific study. *See* 21 U.S.C. §§ 355, 811–12. The federal system is incompatible with a state's arbitrary decision to declare a substance "medicine," particularly when that substance has been rejected as medicine under federal law.

Ultimately, the AMMA and federal law and policy approach marijuana from two fundamentally different and incompatible directions. The federal system is based on using research and science to ensure public health. Federal agencies and the scientists with whom they are associated have exhaustively performed countless years of research on marijuana. Based upon that research, the consistent federal policy is that marijuana is unduly dangerous and has insufficient medical value to warrant its introduction into the healthcare system.

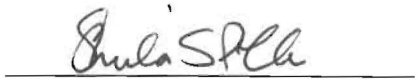
By contrast, the AMMA represents the State of Arizona's unilateral declaration that, contrary to federal law, policy and research, marijuana is medically useful and acceptably safe. The AMMA is not how safe medicine delivery in the United States is designed to work. The AMMA is preempted by the federal statutory scheme that regulates the safety and effectiveness of drugs nationwide. In the context of the AMMA and the delivery of medicine, preemption

means that states cannot disregard the federal authority that sets nationwide standards. To hold otherwise is to authorize a national quilt of different legal regimes in each state, undermining this nation's deep-rooted interest in ensuring the safety of our drug supplies.

III. CONCLUSION

As described herein, the AMMA is inconsistent with federal policy regulating the manufacture, distribution, prescription and use of drugs within the United States. It is therefore preempted. Accordingly, the Yavapai County Attorney respectfully requests that this Court grant review of this case so that the constitutionality of the AMMA can be definitively resolved.

Respectfully submitted this 2nd day of April, 2013.



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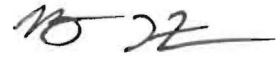

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