

Lawsuit claims medical marijuana law was weakened by unconstitutional “domination and interference” by Mormon church

 sltrib.com/news/politics/2018/12/06/lawsuit-claims-voter/

By Bethany Rodgers and Erin Alberty

Medical cannabis advocates outraged by Monday’s passage of a Proposition 2 replacement law are suing the state, accusing the Utah Legislature of abridging the rights of voters in an effort to appease The Church of Jesus Christ of Latter-day Saints.

The complaint, filed late Wednesday by attorney and former Salt Lake City mayor Rocky Anderson, seeks to overturn the Utah Medical Cannabis Act, the proposal pitched as a compromise between supporters and opponents of the ballot initiative.

The heads of the Epilepsy Association of Utah (EAU) and Together for Responsible Use and Cannabis Education (TRUCE), say the act violates the state constitution’s provision for ballot initiatives, by sweeping aside the cannabis plan approved by voters, as well as amounting to “the unconstitutional domination of the State, and interference with the State’s functions, by The Church of Jesus Christ of Latter-day Saints.”

The cannabis act took shape in meetings between officials, Prop 2 opponents – including the LDS Church and the Utah Medical Association – and the group that sponsored the ballot initiative.

“In ... direct contravention of the expressed will of the People, ... the Legislature, at the behest of the Church and as a result of the Church’s domination and interference, voted to dramatically undermine core purposes of Proposition 2 and the Initiative statute by radically amending, and essentially replacing, the Initiative statute with the passage of [the Utah Medical Cannabis Act], which deprives, reduces, and unreasonably burdens access to medical cannabis.”

The Utah Patients Coalition, which gathered signatures to bring Prop 2 to a vote, came to the bargaining table out of concern that lawmakers would begin to assault the ballot initiative the second it passed. The compromise would offer some protection to the state’s newborn cannabis program, the patients coalition reasoned.

The group’s decision to work with Prop 2 opponents alienated TRUCE and other medical cannabis advocates who viewed it as a capitulation that would be to the detriment of Utah patients.

As examples of burdens imposed by the act but not by the voter-passed initiative, the lawsuit points to the act’s reduction of distribution sites, a ban on homegrown cannabis, “arbitrary” limits on the number of patients doctors can prescribe cannabis to, and a requirement that

patients with auto-immune disorders plead their need for cannabis to a state board.

The lawsuit notes that Gov. Gary Herbert, who called the special session of the legislature “a mere two days after the effective date of the Initiative Statute,” is a member of the church.

“Members of the Church are directed by the Church to always trust and follow the words and directions of the President of the Church, who caused other leaders of the Church to instruct members of the Church to oppose Proposition 2,” the lawsuit states. ‘Leaders of the Church made clear that they would ‘call upon our Legislature and local leaders’ to ‘quickly find an appropriate resolution.’ In fact, leaders of the Church, even before passage of Proposition 2, announced the Church’s ‘hope’ for a ‘special session by the end of the year’ and that ‘[the Church] is working to find responsible legislation.’”

In a July email to TRUCE and EAU, church lobbyist Marty Stevens threatened a “long political and legislative fight” if Prop 2 architects did not compromise with the church, and promised “a ‘5-10 million dollar’ expenditure ‘fighting about this initiative, which ... [would] be raised from wealthy members of the Church,” the lawsuit alleges. The email indicated “a belief that Mr. Stephens and the Church wield the power to decide ‘how and when we involve elected officials, the medical association, and other community groups,’” the lawsuit states.

“There are things organizing behind the scenes that will make a compromise difficult in the not too distant future,” Stevens’ email threatened, according to the lawsuit.

Church officials went on to send an email to members, instructing them to vote against Prop 2. Two days before the election, the lawsuit notes, Stevens told a “large gathering” of congregations to “Follow the Prophet” and vote against Prop 2.

“Some have even criticized members of the church for following the words of the prophets by saying they’re like sheep, simply doing what they’re told,” Stevens was recorded saying. “To this, I plead guilty.”

The lawsuit notes that the members of the Legislature are “predominantly and, compared with Utah’s population, disproportionately members of the Church.

“As of December 12, 2016, at least 87.5 percent of the members of the Utah Legislature were members of the Church, compared to approximately 62.9 percent of Utah’s population,” the lawsuit states.

The church’s involvement violates the state constitution, which orders: “There shall be no union of Church and State, nor shall any church dominate the State or interfere with its functions,” the lawsuit states.

Herbert has said the LDS Church may weigh in on legislation, as may anyone else in Utah.

“I think certainly the LDS Church has influence because most of the people of Utah, the majority, happen to be members of that church,” he said in November. “Just by extension, there’s probably some influence.”

The lawsuit also claims the new medical cannabis law violates voters' constitutional right to legislate by ballot initiative.

“For many years, the Utah Legislature has demonstrated contempt for citizens’ initiatives,” the lawsuit states, accusing the legislature of placing “onerous limitations” on citizens who try to get initiatives placed on the ballot. Only two ballot initiatives passed in the 40 years from 1977 to 2017 – and the legislature overturned one of them, the lawsuit states.

During the special session, legislators claimed “the prerogative to decide policy for the state, irrespective of law created through a citizens’ initiative,” the lawsuit alleges. The suit points to remarks by Rep. Merrill Nelson, R-Grantsville who said: “We have the right to override what the people do by initiative.”

The state constitution “prohibits the Utah Legislature from materially undermining, by repeal or amendment, the core purposes of legislation passed through the initiative process,” the lawsuit argues.

Clarification: This has been changed from the original version to reflect the fact that the lawsuit was filed. The Tribune originally indicated it was awaiting filing because it had not been placed on the docket by the court.