

# Medical cannabis advocates suing the state over Prop 2 override have a bigger goal: challenging the Legislature's disregard of the peoples' will

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By Taylor Stevens

The medical cannabis advocates suing the state after Monday's passage of a Proposition 2 replacement bill are seeking to overturn that law, yes — but they also want to contest what they see as government overreach in muting the voice of the people in an election.

In the lawsuit, filed Wednesday in 3rd District Court by former Salt Lake City Mayor Rocky Anderson, the heads of the Epilepsy Association of Utah (EAU) and Together for Responsible Use and Cannabis Education (TRUCE) accuse the Legislature of abridging the rights of voters in an effort to appease The Church of Jesus Christ of Latter-day Saints. And they argue that the Utah Medical Cannabis Act violates the state constitution's provision for ballot initiatives by sweeping aside the plan approved by a majority of voters.

"For three years, we advocated on the Hill," said Christine Stenquist, president of TRUCE. "For two years, we've been in a campaign for the proposition. And when I saw it undermined so quickly on the first business day, I started to wonder: Is the initiative process in Utah just a suggestion box? Are our votes really meaning anything in this political process? How long do we just have to let politics happen to us?"

The state constitution vests legislative power equally in the Legislature and "the people of the State of Utah."

Some of the architects of the Proposition 2 replacement law, however, say the lawsuit stands on shaky legal ground.

Connor Boyack, president of the Libertas Institute, was involved in the creation of both Prop 2 and the negotiated bill. He agreed that the optics of overturning a voter initiative on the first business day after it went into effect are "not ideal."

"But you know, political concern does not rise to the level of unconstitutionality," he said. "This lawsuit is seeking to overturn that legislative action on constitutional grounds and yet fails to point to anything in the constitution to back up the argument. So we think no judge is going to find this lawsuit at all persuasive."

The cannabis act passed early this week 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.

Legislators asserted during a special session they had “the prerogative to decide policy for the state, irrespective of law created through a citizens’ initiative,” the lawsuit says. But the plaintiffs argue that the new law actually violates voters’ constitutional right to legislate by ballot initiative.

The suit also argues that the church’s involvement in the legislation 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.”

A church spokesman did not respond to a request for comment on Thursday.

DJ Schanz of the Utah Patients Coalition, which gathered signatures to bring Prop 2 to a vote and became involved in the compromise legislation, didn’t comment directly on the lawsuit Thursday but seemed to subtly criticize the productiveness of the challenge.

“We are grateful to those who are working to get patient access to cannabis from every angle,” he said in a prepared statement. “The long-term success of patient-access policies is contingent upon broad community support. We find the most effective strategy to realize these common goals is to build consensus, not promote resentment.”

Boyack also contends that the lawsuit is more about members of the outraged groups “shaking your fist than actually having a solid legal case.”

But Stenquist says the dismissive reaction from those involved with the compromise bill is evidence of her larger concerns.

“The smugness from the opposition saying we don’t have any legal standing is exactly the problem,” she said. “Our voices are being muffled by the powers in this state. The Church of Jesus Christ of Latter-day Saints just has to whisper a concern and a want and their will is done. For the people, we have to spend millions of dollars to get an initiative process, years of raising awareness, creating a groundswell. And within moments, the legislative body can now call themselves into special session and execute anything they want.”

While Stenquist and Doug Rice, president of the Epilepsy Association of Utah, question the role of the church in the process, they want to stress that their movement is not anti-Mormon – it’s just “anti anti-democracy.”

And win or lose in court, they say they’ll continue fighting to raise awareness of what they call a “very flawed system.”

“It’s not just about medical cannabis,” Rice said. “This is about recognizing the voices of the citizens. We the citizens, we are the ones who gave the Legislature the power, and we should still control that power. It’s up to us. We’re the voters and they work for us – not the other way

around.”

The case has been assigned to 3rd District Judge Todd Shaugnessy.