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Appeal allows suit seeking CA marijuana track-and-trace data to proceed

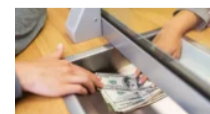
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By **Chris Roberts** (<https://mjbizdaily.com/author/croberts/>), Reporter

September 5, 2023

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A California marijuana company that brazenly accuses competitors of allowing legal product to be sold on the illicit market might yet succeed in prying loose track-and-trace data from the state that could prove it.

That's based on an [Aug. 2 ruling](#) by (<https://www.courts.ca.gov/opinions/documents/G061298.PDF>) California's 4th Appellate District Court that the state Department of Cannabis Control (DCC) did "not conclusively show" that it "created an electronic database that flags irregularities for further investigation."

The decision stems from a 2021 action in which Los Angeles-area based HNHPC, the parent firm of Catalyst Cannabis Co., [sued the DCC](https://mjbizdaily.com/millions-of-pounds-of-legal-marijuana-diverted-to-illicit-market-california-lawsuit-alleges/) (<https://mjbizdaily.com/millions-of-pounds-of-legal-marijuana-diverted-to-illicit-market-california-lawsuit-alleges/>).

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An Orange County trial judge dismissed the lawsuit, but HNHPC then appealed.

Central to the lawsuit are the DCC's oversight and whether it is "flagging" and subsequently investigating any irregularities found in its track-and-trace database that might indicate illicit-market diversion.

Catalyst CEO Elliot Lewis [has openly made such accusations](https://mjbizdaily.com/catalyst-cannabis-lawsuit-accuses-glass-house-brands-of-illicit-activity/) (<https://mjbizdaily.com/catalyst-cannabis-lawsuit-accuses-glass-house-brands-of-illicit-activity/>) against other prominent California companies, most notably

Massachusetts bank enters cannabis industry with new service unit (<https://mjbizdaily.com/berkshire-bank-enters-massachusetts-cannabis-industry/>)



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cultivation giant Glass House Group.

Glass House responded with a defamation lawsuit (<https://mjbizdaily.com/glass-house-brands-files-defamation-lawsuit-against-catalyst-cannabis/>) against Catalyst, Lewis and Lewis' co-founder, Damian Martin.

Like at least 17 other states and the District of Columbia, California contracts with Florida-based Metrc to build and manage its track-and-track system.

The lawsuit alleged that state regulators “turn a blind eye” (<https://mjbizdaily.com/california-marijuana-regulators-could-be-deposed-for-burner-distribution-lawsuit/>) as unscrupulous operators use so-called “ghost distros” to funnel “untold millions of pounds” to the illicit market.

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The case will now return to an Orange County trial court, where HNHPC plans to depose state regulators and attempt to obtain key information including track-and-trace data, Jeff Augustini, an attorney for the plaintiffs, told *MJBizDaily*.

According to Augustini, “The ultimate goal of the action is to compel the DCC to comply with its legally mandated duties, to compel it to implement a track and trace system that in fact flags irregular transactions for further investigation as mandated by the Legislature, and hopefully as a result of the action there will be a significant reduction in the diversion of cannabis to the (illicit) market because illegal operators finally will be under known and legitimate threat of detection and enforcement.”

Matthew Lee, the DCC's general counsel, said in an emailed statement to *MJBizDaily* that the agency “will have the opportunity to show that it has fulfilled its legal duties —and we look forward to making that showing.”

“And, no matter what happens in this litigation,” he added, “we will continue our ongoing work to combat the illegal cannabis market.”

Estimates vary, but the illicit market in California could be twice as large (<https://harrisbricken.com/cannalawblog/california-gives-up-on-the-illegal-cannabis-market/>) as the state's \$5.9 billion legal cannabis (<https://mjbizdaily.com/how-big-is-california-legal-marijuana-market/>) market.

Legal operators routinely blame their ongoing struggles on competition from the illicit market, where untaxed and unregulated marijuana is sold much more cheaply.

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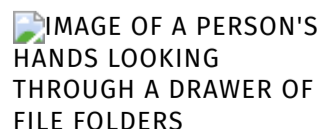
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IMAGE OF A PERSON'S HANDS LOOKING THROUGH A DRAWER OF FILE FOLDERS

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