



Cannabis Industry Lawyering: What's on the horizon

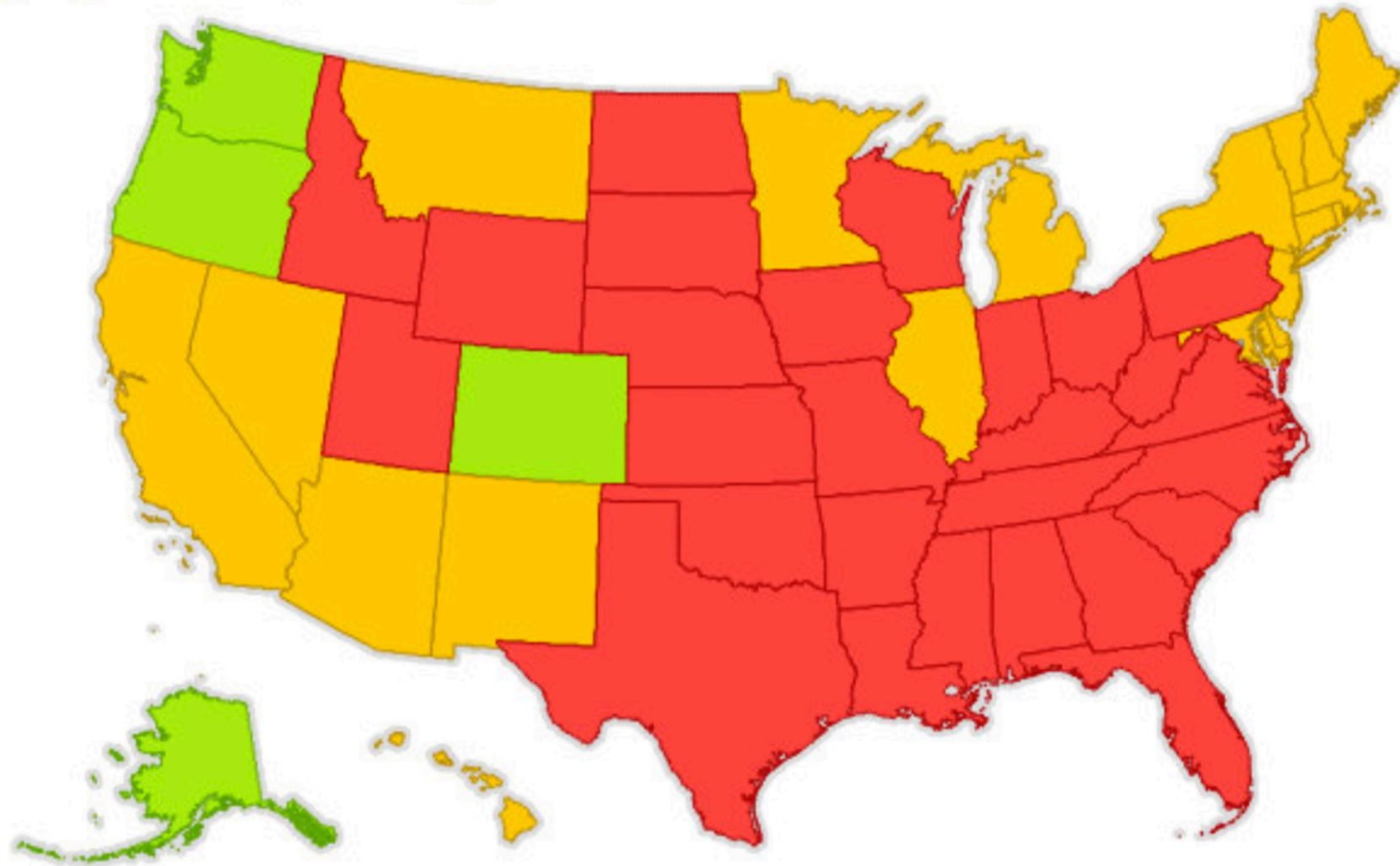
Shabnam Malek and Amanda R. Conley
Brand & Branch LLP

State of the States

- **25 states** plus the District of Columbia currently have a lawful and regulated medical marijuana industry (well...except one).
- **4 states** plus the District of Columbia have legalized adult use.
- Federal law prohibits possession, cultivation, transport, and sale of cannabis
- Industries function due to two Department of Justice memoranda and a bill defunding enforcement

Where is marijuana legal?

■ Not yet
 ■ Recreational, Medicinal
 ■ Medicinal



Federal guidance

- Cole memo
<https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>
- Ogden memo
<https://www.justice.gov/opa/blog/memorandum-selected-united-state-attorneys-investigations-and-prosecutions-states>
- Rohrabacher-Farr Amendment to FY 2016 Commerce, Justice and Science (CJS) Appropriations bill
<https://rohrbacher.house.gov/media-center/press-releases/rohrbacher-hails-passage-of-medical-marijuana-amendment>



State of the States: November Election

Full legalization:

California, Arizona, Massachusetts, Maine, and Nevada

Polls showing a win in all 5

Medical:

Arkansas, Florida, Montana, North Dakota,

It's gonna be HUGE...

“The size of the market for legal marijuana in the United States is projected to grow to **\$7.1 billion in 2016**, according to a report by New Frontier and ArcView Market Research. That represents **26% growth** over the previous year, driven largely by adult recreational sales of marijuana, the researchers found.”

Forbes.com

What exactly are we talking about?



Cartridge Filled With
CO2 Extracted Concentrated
Cannabis Oil



#brandandbranch

What business lawyers do for the cannabis industry

- Entity formation
- Compliance with state and local laws & regulations
- Intellectual property development and enforcement
- Mergers & acquisitions, Sale or transfer of businesses
- Debt, loans, investment
- Real estate transactions
- Labeling and packaging compliance; advertising
- Litigation and disputes
- Contract negotiating and drafting
- And more!



What We Do: **IP Protection & Enforcement in the Cannabis Industry**

Distinctive Cannabis Brands



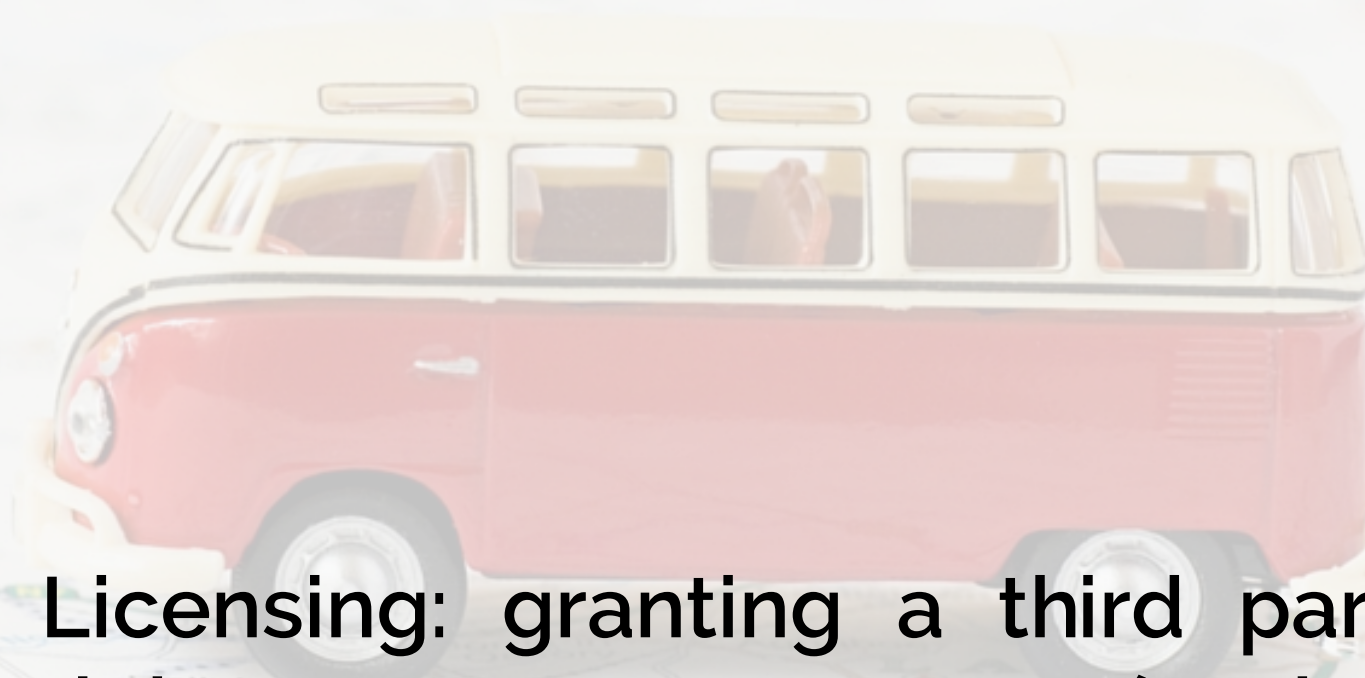
Cannabis Brands in Crowded Fields



And the federal registration goes to...

- LEAFLY: software
- WEEDMAPS: online forums
- BHANG: products infused with “FDA approved ingredients”; apparel
- VAPEXHALE: electric aromatherapy vaporizers
- CANNABRAND: marketing services
- MARLEY NATURAL: chocolate, smoking accessories, cosmetics

Going from one state to another



Licensing: granting a third party the right to use your property (trademarks, inventions, trade secrets or other materials)

GOT
ETHICS?

Ethical considerations when representing cannabis businesses

- **California** –in June 2015, BASF issued ethics opinion allowing representation of dispensary owners
- **Arizona** – supreme court recently upheld rule **prohibiting** assisting clients in conduct that the lawyer knows is criminal
- **Colorado** – lawyers permitted to represent cannabis businesses
- **Ohio** – rules recently amended to allow lawyers to assist clients involved in Ohio's legal medical cannabis industry
- **Oregon** – attorneys permitted to advise clients in cannabis industry
- **Michigan** – pending rule change to allow lawyers to advise and assist clients who engage in activity authorized by the Michigan Medical Marihuana Act or any future marijuana legislation.



RESOURCES

Unique Resource Needs?

- Access to local laws and regulations
- Insight into legislative process
- Relevant trademark clearance databases
- State-specific agreement templates/guidance

Where to find information

- Continuing Education of the Bar <http://mjlawhub.ceb.com>
- CannaRegs <https://cannaregs.com/>
- StateNet & Lexis
- Americans For Safe Access (state by state site analysis and brief bank for leading federal and state cases)
- ArcView Market Research <http://www.arcviewmarketresearch.com>
- National Organization for the Reform of Marijuana Laws (NORML) <http://norml.org/laws> and CaNORML (<http://www.canorml.org>)
- Drug Policy Alliance <http://www.drugpolicy.org/reforming-marijuana-laws>
- National Conference of State Legislatures <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

Where do the California laws live?

- **Prop. 215** (1996) Health & Safety Code 11362.5
- **SB420** (2004) H&SC 11362.7-.83
- **Medical Marijuana Regulation and Safety Act** (2015) affecting B&P Code, Government Code, H&S, Labor Code, Fish & Game, Water, and Revenue & Taxation
- **Corporations Code** (re Mutual Benefit Corps and Consumer Coops)

Blogs and news sites

- National Cannabis Industry Association <http://thecannabisindustry.org/blog/>
- National Cannabis Bar Association <http://www.canbar.org>
- Leafly <https://www.leafly.com>
- Cannabis Business Blog (by Garvey Schubert Barer) <http://www.cannabisbusinessblog.com>
- The Weed Blog <https://www.theweedblog.com>
- Marijuana Business Daily <http://mjbizdaily.com/ohio-supreme-court-delivers-blow-to-states-mmj-lawyers/>
- Canna Law Blog <http://www.cannalawblog.com>

NCBA

national cannabis bar association

www.canbar.org

Questions?



Email: trademarks@brandandbranch.com



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