

SUMMARY OF CONTENTS

ACKNOWLEDGMENTS	V
INTRODUCTION	VII
TABLE OF CASES	XXVII
Chapter 1. A Brief History of Marijuana Law in the United States.....	1
A. Early Drug Laws	1
B. The Criminalization of Marijuana	9
C. The Enactment of the Controlled Substances Act and Its Aftermath	20
D. The March Toward Legalization	23
Chapter 2. Defining and Classifying Marijuana	29
A. Background on Marijuana	29
B. Defining “Marijuana” and Related Statutory Terms	34
C. Classifying Marijuana for Purposes of the CSA.....	40
Chapter 3. Status Under Federal Law	55
A. Provisions of the Controlled Substances Act	56
B. Authority and Scope of Controlled Substances Act.....	59
C. Scheduling Marijuana.....	65
Chapter 4. Overview of State and Local Law	93
A. Decriminalization States	94
B. Medical Marijuana States.....	106
C. Recreational (Adult Use) States	115
D. Local Laws Regulating Marijuana	121
Chapter 5. State Regulatory Schemes	129
A. Medical Marijuana Comes to California: A Brief History	129
B. Amending the Compassionate Use Act	133
C. From Proposition 19 to Proposition 64	145
D. Proposition 64	148
E. Proposition 64’s Regulatory Scheme	164
Chapter 6. International Law	185
A. Single Convention and the CSA	186
B. Scheduling Cannabis Under the Single Convention.....	193
C. Non Compliance	196
Chapter 7. Preemption and State Legalization	205
A. Conflict Preemption	205
B. Return of Confiscated Marijuana	226

Chapter 8. Constitutional Issues	237
A. Commerce Clause	237
B. Free Speech.....	251
C. Free Exercise of Religion	269
D. Right to Bear Arms	273
Chapter 9. Affirmative Defenses, Exemptions, and Immunity	283
A. Necessity Defense	283
B. Exemptions for Indian Country.....	297
C. Immunity	303
Chapter 10. Rescheduling Marijuana	315
A. The Rescheduling Petition	315
B. Court Review of DEA Discretion	325
C. Rescheduled Marijuana Substances	331
Chapter 11. Criminal Issues Pertaining to Illegal Marijuana Possession and Distribution	339
A. Marijuana Possession	339
B. Marijuana Distribution	357
Chapter 12. Marijuana and Law of Search and Seizure	367
A. Search and Seizure.....	367
Chapter 13. Criminal Penalties for Illegal Marijuana Possession and Distribution.....	425
A. Penalties and Sentencing	426
B. Cruel and Unusual Punishment	428
C. Tax Penalties	436
Chapter 14. Civil Penalties for Illegal Marijuana Possession and Distribution.....	451
A. Collateral Consequences	451
B. Asset Forfeiture	474
Chapter 15. Issues Confronting Marijuana-Related Businesses	493
A. Employment Issues	493
B. Banking Issues	500
C. Bankruptcy Issues.....	511
D. Tax Issues	518
E. Insurance Issues.....	523
Chapter 16. Professional Responsibility Issues for Lawyers	529
A. Representing Marijuana-Related Businesses	530
B. Lawyers Investing in Marijuana-Related Businesses	537
C. Lawyers' Personal Use of Marijuana in Legalization States	544

Chapter 17. Hemp	551
A. Cultivating Hemp	551
B. Allowing Hemp Use.....	560
C. Implementing Rules for Importing Hemp	568
Chapter 18. Health Effects of Marijuana: The Medical Evidence ...	573
A. Medical Evidence in Court.....	574
B. Scientific Report on the Medical Evidence	592
Chapter 19. Comparing Marijuana to Other Psychoactive	
Substances: Policy Issues	599
A. Marijuana vs. Illegal Recreational Drugs.....	600
B. Marijuana vs. Psychoactive Prescription Drugs	612
C. Marijuana vs. Alcohol and Tobacco.....	618
Chapter 20. Social Issues Pertaining to Marijuana Law	623
A. Family Law Issues	623
B. Preventing Impaired Driving	628
C. Racial Disparity.....	634
D. Addiction and Abuse	637
E. Adolescent Use	651
Chapter 21. Marijuana in Society	655
A. Marijuana and Politics.....	655
B. Protesting a Collateral Consequence	668
C. Marijuana Public Policy	679
Appendix. Marijuana Law by Jurisdiction	687
INDEX.....	693