

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEPARTMENT OF HEALTH AND
HUMAN SERVICES, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH,

Petitioners,

vs.

EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK
and THE HONORABLE DOUGLAS
SMITH, DISTRICT COURT JUDGE,

Respondents,

and

SAMANTHA INC. d/b/a
SAMANTA'S REMEDIES, a domestic
Corporation,

Real Party in Interest.

CASE NO.: 67423

Electronically Filed
Feb 24 2015 08:20 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

ERRATA

Exhibit 2 contained an unfiled copy of the Order which is now replaced with a file stamped copy.

DATED this 23rd day of February, 2015.

ADAM PAUL LAXALT
Attorney General

By:



Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar 4090
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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Office of the Attorney General and that on the 23rd day of February 2015, I deposited for mailing, a true and correct copy of the foregoing **ERRATA FOR PETITION FOR WRIT OF MANDAMUS** or in the alternative, **PROHIBITION** in the United States Mail, postage pre-paid thereon, addressed to the following:

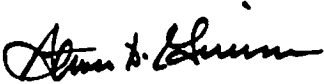
Kimberly Maxson-Rushton, Esq.
COOPER LEVENSON, P.A.
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An employee of the
Office of the Attorney General

EXHIBIT 2

1 ODM
2 KIMBERLY MAXSON-RUSHTON
3 Nevada Bar No. 005065
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CLERK OF THE COURT

7
8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 Samantha Inc., d/b/a Samantha's Remedies, a
Domestic Corporation.

CASE NO. A-14-710874-J
DEPT NO. VIII

11 Petitioner.

12 vs.

ORDER DENYING DEFENDANT'S
MOTION TO DISMISS

13 Department of Health and Human Services,
14 Nevada Division of Public and Behavioral
15 Health, Medical Marijuana Establishment
Program,

16 Respondent(s).

17 Respondent, STATE OF NEVADA and the DEPARTMENT OF HEALTH AND HUMAN
18 SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH'S (hereinafter "Division")
19 having filed a Motion To Dismiss Petitioner's Petition for Judicial Review pursuant to Nevada Rules
20 of Civil Procedure ("NRC") 12(B), and the matter having come before the Court for oral argument
21 on January 27, 2015, Kimberly Maxson-Rushton of the law firm Cooper Levenson P.A. appearing
22 on behalf of Petitioner SAMANTHA INC., d/b/a SAMANTHA'S REMEDIES, ("Samantha
23 Remedies") and Chief Deputy Attorney General, Linda Anderson appearing on behalf of
24 Respondent, the Court finds as follows:

25 THAT Petitioner filed a Petition for Judicial Review of an administrative decision denying
26 its application for a medical marijuana establishment registration certificate.

27 THAT Petitioner seeks review of the application review and ranking process, claiming the
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1 administrative denial, which allows no opportunity for a hearing, was arbitrary and capricious rather
2 than fair and impartial.

3 THAT Respondent's motion seeking dismissal of the petition is based on the claim that
4 administrative decisions like this one are not subject to judicial review because judicial review is
5 reserved for contested cases, cases in which legal rights, duties, or privileges are determined after an
6 opportunity for a hearing. Furthermore, Respondent asserts that registration certificates for medical
7 marijuana establishments involve revocable privileges, not legal rights, for which no opportunity for
8 hearing has been established, and therefore judicial review is not available.

10 THEREFORE having heard arguments from both parties, and after reviewing the record, the
11 Court finds that judicial review must be available for this administrative decision.

12 THEREFORE, the COURT ORDERS, Respondent's Motion to Dismiss is hereby DENIED.
13 The parties may proceed with the Petition for Judicial Review.

15 IT IS HEREBY ORDERED that Defendant's Motion to Dismiss is DENIED.

16 DATED this 11 day of February 2015.

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DISTRICT COURT JUDGE 

Submitted By:

21 COOPER LEVENSON, P.A.

22
23 
KIMBERLY MAXSON-RUSHTON

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