

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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Mar 29 2016 08:53 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

11 *Attorneys for Nuleaf CLV Dispensary LLC*

12 NULEAF CLV DISPENSARY, LLC., a
13 Nevada corporation,
14 Appellant,
15 vs.

Supreme Court Docket No. 69909

16 THE STATE OF NEVADA
17 DEPARTMENT OF HEALTH AND
18 HUMAN SERVICES, DIVISION OF
19 PUBLIC AND BEHAVIORAL
20 HEALTH; DESERT AIRE WELLNESS,
21 LLC, a Nevada Limited Liability
22 Company; ACRES MEDICAL, LLC, a
23 Nevada Limited Liability Company; and
24 GB SCIENCES, LLC, a Nevada Limited
25 Liability Company

**DOCKETING STATEMENT
CIVIL APPEALS**

26 Respondents.

27 **GENERAL INFORMATION**

28 **All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.**

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c).

1 The Supreme Court may impose sanctions on counsel or appellant if it appears
2 that the information provided is incomplete or inaccurate. *Id.* Failure to fill
3 out the statement completely or to file it in a timely manner constitutes
grounds for the imposition of sanctions, including a fine and/or dismissal of the
appeal.

4 A complete list of the documents that must be attached appears as Question 27
5 on this docketing statement. Failure to attach all required documents will
result in the delay of your appeal and may result in the imposition of sanctions.

6 This court has noted that when attorneys do not take seriously their
7 obligations under NRAP 14 to complete the docketing statement properly and
8 conscientiously, they waste the valuable judicial resources of this court,
making the imposition of sanctions appropriate. See KDI Sylvan Pools v.
9 Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab
dividers to separate any attached documents.

10 1. Judicial District: Eighth Department: XX
County: Clark Judge: Hon. Eric
Johnson

11 District Ct. Case No. A-14-710597-C

12 2. **Attorney(s) filing this docketing statement:**

13 Attorney: Todd L. Bice Telephone: 702-214-2100
14 Dustun H. Holmes

15 Firm: PISANELLI BICE PLLC

16 Address: 400 South 7th Street
Suite 300
17 Las Vegas, NV 89101

18 Client(s) Nuleaf CLV Dispensary, LLC

19 If this is a joint statement by multiple appellants, add the names and addresses
20 of other counsel and the names of their clients on an additional sheet
accompanied by a certification that they concur in the filing of this statement.

21 3. **Attorney(s) representing respondent(s):**

22 Attorney: Adam P. Laxalt Telephone: 702-486-3077
23 Linda C. Anderson

24 Firm: State of Nevada, Attorney General

25 Address: 555 E. Washington Avenue, #3900
26 Las Vegas, NV 89101

27 Client(s): State of Nevada, Division of Public and Behavioral Health of the
28 Department of Health and Human Services

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Attorney: James E. Shapiro Telephone: 702-318-5033
Sheldon A. Herbert

Firm: Smith & Shapiro, LLC
Address: 2520 St. Rose Parkway, Suite 220
Henderson, NV 89074

Client(s): GB Sciences Nevada, LLC

Attorney: Mark E. Ferrario Telephone: 702-792-3773
Landon I. Lerner

Firm: Greenberg Traurig, LLP
Address: 3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, NV 89169

Client(s): Acres Medical, LLC

4. **Nature of disposition below (check all that apply):**

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): |

5. **Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
☐ Venue
☐ Termination of parental rights

n/a

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

n/a

- 1 7. **Pending and prior proceedings in other courts.** List the case name, number
2 and court of all pending and prior proceedings in other courts which are
3 related to this appeal (e.g., bankruptcy, consolidated or bifurcated
proceedings) and their dates of disposition:

4 n/a

- 5 8. **Nature of the action.** Briefly describe the nature of the action and the result
below:

6 On December 5, 2014, Plaintiff in the underlying action in district court, GB
7 Sciences Nevada, LLC ("GB Sciences"), filed its First Amended Complaint
8 and in Addition, or in the Alternative, First Amended Petition for Judicial
9 Review and Writ of Mandamus, seeking the district court's intervention to re-
interpret NRS §453A and require the Defendant State of Nevada, Division of
10 Public and Behavioral Health of the Department of Health and Human
Services ("Division") to revoke the provisional licenses of Defendants Nuleaf
CLV Dispensary, LLC ("Nuleaf") and Desert Aire Wellness, LLC ("Desert
Aire").

11 In moving for the disqualification of the higher ranked Nuleaf, GB Sciences
12 sought to be awarded a provision license by the Division. GB Sciences was
13 the 13th ranked applicant in the City of Las Vegas. GB Sciences sought
14 declaratory and injunctive relief, along with a Petition for Writ of Mandamus
and Petition for Judicial Review, to determine that because Defendants
NuLeaf did not have pre-existing city approval on November 3, 2014, they
should not have been awarded provisional licenses by the Division.

15 Following an order in Case Number A-15-719637-W finding that Acres
16 Medical, LLC ("Acres Medical") should have been the 13th ranked applicant
on October 8, 2015, the district court granted Acres Medical's Motion to
17 Intervene on November 9, 2015. On December 14, 2015, the district court
entered an Order, granting in part GB Sciences' Motion for Summary
18 Judgment and denying Nuleaf's Countermotion for Summary Judgment. GB
Sciences' motion for summary judgment was granted, and the district court
19 declared that Nuleaf was not entitled to a provisional license because it did not
meet the qualifications under § 453A.322(3)(a), and the Division shall rescind
20 Nuleaf's provisional license. The district court ordered that, based on the
order in A-15-719637-W, the Division would award intervener Acres, rather
than GB Sciences, with the provisional license.

- 21 9. **Issues on appeal.** State concisely the principal issue(s) in this appeal (attach
22 separate sheets as necessary):

23 The district court erred in entering the Order on Plaintiff GB Sciences Nevada,
24 LLC's Motion for Summary Judgment and on Defendant Nuleaf CLV
Dispensary, LLC's Countermotion for Summary Judgment. At issue in this
25 case is the interpretation and application of NRS§ 453A. It was improper for
the district court to enter summary judgment, substituting its judgment for that
26 of the Division. The result of the district court's summary judgment order was
the Division revoking Appellant's license, and awarding the license to a recent
27 intervener in this action, Acres Medical, LLC, a company that was not initially
awarded a license by either the city or the state.

28 Additionally, there have been inconsistent interpretations of the statute at the

1 district court level, resulting in uncertainty regarding the future application of
2 NRS § 453A.

- 3 10. **Pending proceedings in this court raising the same or similar issues.** If
4 you are aware of any proceedings presently pending before this court which
5 raises the same or similar issues raised in this appeal, list the case name and
6 docket numbers and identify the same or similar issue raised:

7 n/a

- 8 11. **Constitutional Issues.** If this appeal challenges the constitutionality of a
9 statute, and the state, any state agency, or any officer or employee thereof is
10 not a party to this appeal, have you notified the clerk of this court and the
11 attorney general in accordance with NRAP 44 and NRS 30.130?

12 ☒ N/A

13 ☐ Yes

14 ☐ No

15 If not, explain:

- 16 12. **Other issues.** Does this appeal involve any of the following issues?

17 ☐ Reversal of well-settled Nevada precedent (identify the case(s))

18 ☐ An issue arising under the United States and/or Nevada Constitutions

19 ☒ A substantial issue of first impression

20 ☒ An issue of public policy

21 ☒ An issue where en banc consideration is necessary to maintain uniformity
22 of this court's decisions

23 ☐ A ballot question

24 If so, explain:

25 This appeal presents issues of substantial first impression and of important
26 public policy as it relates to the interpretation of NRS § 453A. The Court has
27 not had the opportunity to evaluate the licensing process under NRS § 453A, a
28 process that has resulted and will continue to result in multiple litigation. An
en banc hearing would result in direction to the district courts, as well as state,
county, and city governments, regarding the appropriate interpretation of the
statute.

- 29 13. **Assignment to the Court of Appeals or retention in the Supreme Court.**
30 Briefly set forth whether the matter is presumptively retained by the Supreme
31 Court or assigned to the Court of Appeals under NRAP 17, and cite the
32 subparagraph(s) of the Rule under which the matter falls. If appellant believes
33 that the Supreme Court should retain the case despite its presumptive
34 assignment to the Court of Appeals, identify the specific issue(s) or
35 circumstance(s) that warrant retaining the case, and include an explanation of
36 their importance or significance:

37 This case is presumptively retained by the Supreme Court under NRAP 17.
38 This matter qualifies under NRAP 17(a)(8) because it stems from conflicting
interpretations of NRS § 453A. Additionally, this matter raises, as its
principal issue, a question of first impression involving the Nevada common
law under NRAP 17(a)(13). The licensing of marijuana distributaries is a
matter of public importance under NRAP 17(a)(14). Finally, the matter is not
one that would be presumptively assigned to the Court of Appeals under

NRAP 17(b).

14. **Trial.** If this action proceeded to trial, how many days did the trial last? n/a
Was it a bench or jury trial?

n/a

15. **Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from:**
December 14, 2015.

17. **Date written notice of entry of judgment or order was served:**
December 15, 2015.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. **If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing

☐ NRCP 52(b) Date of filing

☐ NRCP 59 Date of filing

n/a

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. 578, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion

(c) Date written notice of entry of order resolving tolling motion was served

Was service by:

☐ Delivery

☐ Mail

n/a

19. **Date notice of appeal filed:**

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

On March 2, 2016, Defendant Nuleaf CLV Dispensary, LLC filed its notice of appeal.

20. **Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other:** NRAP 4.

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The Order at issue constitutes a final judgment as to the claims asserted by GB Sciences against Nuleaf CLV Dispensary, and became final and appealable as a result of the Order Granting Intervenor Acres Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaims against Acres Medical, LLC signed on February 29, 2016.

22. **List all parties involved in the action or consolidation actions in the district court:**

(a) Parties:

Plaintiff:

1) GB Sciences Nevada, LLC

Defendants:

- 1) State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services
- 2) Nuleaf CLV Dispensary, LLC
- 3) Desert Aire Wellness, LLC
- 4) City of Las Vegas

Plaintiff in Intervention:

1) Acres Medical, LLC

Defendants in Intervention:

- 1) State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services
- 2) Nuleaf CLV Dispensary, LLC
- 3) Desert Aire Wellness, LLC
- 4) City of Las Vegas

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

Defendant City of Las Vegas was Voluntarily Dismissed without Prejudice by Plaintiff GB Sciences on January 23, 2015.

Defendant Desert Aire Wellness, LLC was Voluntarily Dismissed without Prejudice by Plaintiff GB Sciences on April 1, 2015.

23. **Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Plaintiff's Claims:

- 1) Declaratory relief regarding provisional certificate
- 2) Injunctive relief enjoining the Division
- 3) Alternatively, Petition for Judicial Review
- 4) Alternatively, Petition for Writ of Mandamus

Plaintiff in Intervention's Claims:

- 1) Declaratory relief regarding provisional certificate
- 2) Injunctive relief enjoining the Division
- 3) Alternatively, Petition for Writ of Mandamus

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes
☒ No

25. **If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:
None, as a result of the Order Granting Intervenor Acres Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaims against Acres Medical, LLC signed on February 29, 2016.

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes
☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes
☒ No

26. **If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**


The Order at issue constitutes a final judgment under NRAP 3A(b)(1) as to the claims asserted by GB Sciences Nevada, LLC against Nuleaf CLV Dispensary, LLC.

1 27. **Attach file-stamped copies of the following documents:**

- 2
- 3 • The latest-filed complaint, counterclaims, cross-claims, and third-party
- 4 • Any tolling motion(s) and order(s) resolving tolling motion(s)
- 5 • Orders of NRCP 41(a) dismissals formally resolving each claim,
- 6 • counterclaims, cross-claims and/or third-party claims asserted in the action
- 7 • or consolidated action below, even if not at issue on appeal
- 8 • Any other order challenged on appeal
- 9 • Notices of entry for each attached order

10 DATED this 28th day of March, 2016.

11 PISANELLI BICE PLLC

12 By: 
13 Todd L. Bice, Esq., Bar No. 4534
14 Dustun H. Holmes, Esq., Bar No. 12776
15 400 South 7th Street, Suite 300
16 Las Vegas, Nevada 89101

17 *Attorneys for Appellant Nuleaf CLV Dispensary, LLC*

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VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Nuleaf CLV Dispensary, LLC
Name of appellant

Pisanelli Bice PLLC
Name of counsel of record

March 28, 2016
Date


Signature of counsel of record

Clark County, Nevada
State and county where signed

1 **CERTIFICATE OF SERVICE**

2 I certify that on the 28th day of March 2016, served a copy of this completed
3 docketing statement upon all counsel of record:

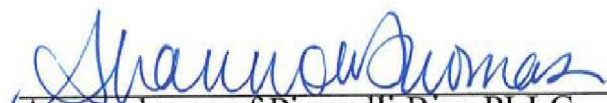
4 ☐ By personally serving it upon him/her; or

5 ☒ By mailing it by first class mail with sufficient postage prepaid to the
6 following address (es): (NOTE: If all names and addresses cannot fit below,
7 please list names below and attach a separate sheet with the addresses.)

8 Mark E. Ferrario, Esq.
9 GREENBERG TRAURIG, LLP
3773 Howard Hughes Pkwy., Suite 400 North
Las Vegas, NV 89169
10 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

11 James E. Shapiro, ESq.
12 SMITH & SHAPIRO, PLLC
2520 Saint Rose Pkwy., Suite 220
Henderson, NV 89074
13 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

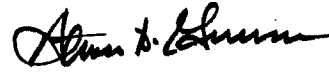
14 Adam Paul Laxalt, Attorney General
15 Linda C. Anderson, Esq., Chief Deputy Attorney General
STATE OF NEVADA, OFFICE OF THE ATTORNEY GENERAL
555 E. Washington Avenue, #3900
16 Las Vegas, NV 89101

17 
18 An employee of Pisanelli Bice PLLC

APPENDIX OF EXHIBITS
DOCKETING STATEMENT QUESTION 26

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>DATE FILED</u>
Exhibit 1	First Amended Complaint and in Addition or in the Alternative, First Amended Petition for Judicial Review and Writ of Mandamus	December 4, 2014
Exhibit 2	Notice of Voluntary Dismissal Without Prejudice of Defendant City of Las Vegas Only	January 23, 2015
Exhibit 3	Notice of Voluntary Dismissal without Prejudice of Desert Aire Wellness, LLC, Only	April 1, 2015
Exhibit 4	Complaint in Intervention for Declaratory and injunctive Relief and/or Petition for Writ of Mandamus or Prohibition	November 17, 2015
Exhibit 5	Notice of Entry of Order Granting Acres Medical LLC's Motion to Intervene on Order Shortening Time	November 25, 2015
Exhibit 6	Notice of Entry of Order on Plaintiff GB Sciences Nevada, LLC's Motion for Summary Judgment and on Defendant Nuleaf CLV Dispensary, LLC's Countermotion for Summary Judgement	December 15, 2015
Exhibit 7	Notice of Entry of Order Denying Plaintiff GB Sciences Nevada, LLC's Motion to Alter or Amended Judgment; or, in the Alternative, Motion for Partial Reconsideration	March 4, 2016
Exhibit 8	Notice of Entry of Order Granting Intervenor Acres Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Countermotion Against Acres Medical, LLC	March 4, 2016

EXHIBIT 1



CLERK OF THE COURT

1 **COMP**

2 **JEFFERY A. BENDAVID, ESQ.**

3 Nevada Bar No. 6220

4 **JOHN T. MORAN, III, ESQ.**

5 Nevada Bar No. 7453

6 **MORAN BRANDON BENDAVID MORAN**

7 630 South 4th Street

8 Las Vegas, Nevada 89101

9 (702) 384-8424

10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 GB SCIENCES NEVADA, LLC , a Nevada
14 limited liability company,

15 Plaintiff,

16 v.

17 STATE OF NEVADA, DIVISION OF
18 PUBLIC AND BEHAVIORAL HEALTH
19 OF THE DEPARTMENT OF HEALTH
20 AND HUMAN SERVICES; CITY OF LAS
21 VEGAS, a municipal corporation and
22 political subdivision of the State of Nevada;
23 DESERT AIRE WELLNESS, LLC, a
24 Nevada limited liability company; NULEAF
25 CLV DISPENSARY, LLC, a Nevada limited
26 liability company; DOES 1 through 100; and
27 ROE ENTITIES 1 through 100,

28 Defendants.

CASE NO: A710597
DEPT. NO: XX

**EXEMPTION FROM
ARBITRATION REQUESTED:**

**(ACTION SEEKING
EQUITABLE RELIEF,
DECLARATORY JUDGMENT,
JUDICIAL REVIEW OF
ADMINISTRATIVE
PROCEEDING, AND
EXTRAORDINARY RELIEF)**

21 **FIRST AMENDED COMPLAINT AND IN ADDITION, OR IN THE**
22 **ALTERNATIVE, FIRST AMENDED PETITION FOR JUDICIAL REVIEW AND**
23 **WRIT OF MANDAMUS**

24 COMES NOW, Plaintiff, GB SCIENCES NEVADA, LLC, a Nevada limited
25 liability company, by and through its attorneys of record, JEFFERY A. BENDAVID, ESQ.,
26 and JOHN T. MORAN, III, ESQ., of MORAN BRANDON BENDAVID MORAN, and
27 hereby submits its First Amended Complaint, and in addition, or in the alternative, First
28 Amended Petition for Judicial Review and Writ of Mandamus against Defendants, STATE



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-8424

1 OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE
2 DEPARTMENT OF HEALTH AND HUMAN SERVICES; CITY OF LAS VEGAS, a
3 municipal corporation and political subdivision of the State of Nevada; DESERT AIRE
4 WELLNESS, LLC, a Nevada limited liability company; NULEAF CLV DISPENSARY,
5 LLC, a Nevada limited liability company; DOES 1 through 100; and ROE ENTITIES 1
6 through 100 (collectively, the "Defendants"), and alleges as follows:
7

8 **I. PARTIES**

9 1. Plaintiff, GB SCIENCES NEVADA, LLC (the "Plaintiff"), is a Nevada
10 limited liability company business in Clark County, Nevada.
11

12 2. Defendant, STATE OF NEVADA, DIVISION OF PUBLIC AND
13 BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES (the "Division") is an agency of the State of Nevada.
15

16 3. Defendant, CITY OF LAS VEGAS ("City of Las Vegas"), a municipal
17 corporation and political subdivision of the State of Nevada.
18

19 4. Upon Plaintiff's information and belief, Defendant, DESERT AIRE
20 WELLNESS, LLC ("Desert Aire"), is a Nevada limited liability company conducting
21 business in Clark County, Nevada.
22

23 5. Upon Plaintiff's information and belief, Defendant, NULEAF CLV
24 DISPENSARY, LLC ("Nuleaf"), is a Nevada limited liability company conducting
25 business in Clark County, Nevada.
26

27 6. The true names and capacities whether individual, corporate, associate or
28 otherwise of Defendants named herein as DOES 1 through 100, inclusive, and ROE
ENTITIES 1 through 100, inclusive, and each of them, are unknown to Plaintiff who



MORAN BRANDON
BEN DAVID MORAN
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1 therefore sues those Defendants by such fictitious names. Plaintiff is informed, believes,
2 and thereon alleges that each of the Defendants designated herein as a DOE or ROE
3 ENTITY are one or more of the applicants improperly or unlawfully issued a provisional
4 registration certificate for the operation of a medical marijuana establishment in the City of
5 Las Vegas by the Division. In addition, or in the alternative, Plaintiff is informed, believes,
6 and thereon alleges that each of the Defendants designated herein as a DOE or ROE
7 ENTITY are one or more of the parties to the Division's proceeding challenged by Plaintiff
8 as part of Plaintiff's Petition for Judicial Review asserted herein. The Division's
9 anonymous application, scoring, and ranking process for the issuance of registration
10 certificate for the operation of a medical marijuana establishment in the City of Las Vegas
11 prevents Plaintiff from knowing the identities of DOE 1 through 100 or ROE ENTITIES 1
12 through 100 at this time. Plaintiff prays for leave to amend this Complaint to insert the true
13 names or identities along with appropriate allegations when same become known.
14
15

16 7. Venue is proper in this Court pursuant to *NRS 13.020(3) and NRS*
17 *233B.130(2)(b)*, in that this is the county where the cause, or some part thereof, arose and
18 the aggrieved party resides.
19

20 II. GENERAL ALLEGATIONS

21 8. The allegations of paragraphs 1 through 7 of this Complaint are incorporated
22 by reference herein with the same force and effect as set forth in full below.
23

24 GENERAL STATUTORY AND REGULATORY FRAMEWORK

25 9. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part,
26 provided for the registration of medical marijuana establishments authorized to cultivate
27
28



MORAN BRANDON
AND DAVID MORAN
ATTORNEYS AT LAW

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1 and dispense marijuana and marijuana infused products to those persons authorized to use
2 medicinal marijuana.

3 10. The Nevada Legislature codified Senate Bill 374 in NRS Chapter 453A, *et*
4 *seq.*

5
6 11. As part of *NRS Chapter 453A*, the Nevada Legislature tasked the Division
7 with protecting the people of Nevada's general welfare, health, and safety through the
8 registration of medical marijuana establishments and medical marijuana establishment
9 agents.

10 12. In order to achieve this purpose, the Division, in conjunction with various
11 Nevada counties, municipalities, interested parties, and Nevada citizens worked extensively
12 to create a regulatory framework for implementing and enforcing *NRS Chapter 453A, et*
13 *seq.*, in a fair and balanced manner.

14
15 13. This effort resulted in the passage and implementation as of April 1, 2014,
16 of *NAC 453A.010, et seq.*, which provided the necessary regulations for the application,
17 review, approval, and ultimate registration of a medical marijuana establishment in
18 accordance with the requirements of *NRS Chapter 453A*.

19
20 **CITY OF LAS VEGAS' APPROVAL PROCESS**

21 14. In addition to the responsibilities of the Division, the City of Las Vegas, like
22 several other Nevada cities, towns, and counties, was tasked with the responsibility of
23 considering and approving "local" issues related to the registration of a Medical Marijuana
24 Establishment such as "site plans, project descriptions, zoning, and proximity to other
25 business or facilities," as well as business licensing.
26



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1 15. In accordance with such responsibilities, the City Council of the City of Las
2 Vegas enacted Ordinance No. 6321 to establish zoning regulations and standards for
3 medical marijuana establishments.

4 16. The City Council of the City of Las Vegas also enacted Ordinance No. 6324
5 to establish licensing regulations and standards for medical marijuana establishments.
6

7 17. In addition, the City of Las Vegas prepared and issued a separate application
8 packet for any person wishing to obtain the required special use permit and business
9 licensing for the operation of a medical marijuana establishment in the City of Las Vegas.
10

11 18. Accordingly, forty-three (43) applicants filed applications seeking the City
12 of Las Vegas' approval for zoning and licensing of a medical marijuana establishment to
13 dispense medical marijuana.

14 19. On October 28, 2014, the City Council of the City of Las Vegas held a
15 special meeting to consider each applicant for a special use permit for a proposed medical
16 marijuana dispensary.

17 20. The City of Las Vegas granted a special use permit to twenty-seven (27)
18 applicants, including Plaintiff.
19

20 21. The City of Las Vegas denied ten (10) applicants, including Nuleaf, a
21 Special Use Permit.

22 22. Six applicants, including Desert Aire withdrew their applications prior to the
23 City Council's October 28, 2014 special meeting.

24 23. Upon information and belief, the City of Las Vegas thereafter informed the
25 Division of those applicants granted a special use permit and those applicants denied a
26 special use permit by the City of Las Vegas.
27
28



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1 **THE DIVISION'S APPLICATION AND APPROVAL PROCESS**

2 24. *NRS Chapter 453A.322(2)* requires any person who wished to operate a
3 medical marijuana establishment in Nevada to submit to the Division an application on a
4 form prescribed by the Division.
5

6 25. In addition, *NRS 453A.322(3)(a)(2)* through (5) provided a list of items that
7 every application for a medical marijuana establishment must have submitted to the
8 Division as part of an application.

9 26. *NRS 453A.322(3)(a)(5)* expressly required that any application for a medical
10 marijuana establishment within a city, town, county that has enacted zoning restrictions,
11 must include proof of the applicable city, town, or county's prior licensure of the applicant
12 or a letter from that city, town, or county certifying that the applicant's proposed medical
13 marijuana establishment was in compliance with the city, town, or county's zoning
14 restrictions and satisfies all applicable building requirements.
15

16 27. To assist the Division in implementing the required statutory application
17 process, the Division adopted *NAC 453A.310(1)*, which obligated the Division upon
18 receiving more than one application for a medical marijuana establishment to determine
19 first that each application was complete and in compliance with NRS Chapter 453A and
20 NAC Chapter 453A.
21

22 28. Upon determining that each application was complete and in compliance,
23 *NAC 453A.310(1)* then obligated the Division to rank from first to last the completed
24 applications within a particular jurisdiction based on the content of each application as it
25 relates to the criteria for evaluation determined by the Division and provided by NRS
26 Chapter 453A.
27
28



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1 29. Supposedly in accordance with these and many other statutory and
2 regulatory requirements, the Division issued an application packet on May 30, 2014.

3 30. Thereafter, the Division set an August 18, 2014 deadline for submitting an
4 application to the Division for the registration of a medical marijuana establishment and
5 began accepting applications on August 5, 2014.
6

7 **THE DIVISION'S ISSUANCE OF PROVISIONAL CERTIFICATES**

8 31. *NRS 453A.322(3)* required the Division to register a medical marijuana
9 establishment applicant, issue a medical marijuana establishment registration certificate,
10 and issue a random 20-digit alphanumeric identification number not later than 90 days from
11 the Division's receipt of an application only if such an application for a medical marijuana
12 establishment contained the specific items required by *NRS 453A.322(3)(a)*, which among
13 other items, included the necessary prior zoning approvals from the applicable local
14 jurisdiction identified in *NRS 453A.322(3)(a)(5)*.
15

16 32. However, the requirements of *NRS 453A.322(3)* and the Division's ability to
17 issue a medical marijuana registration certificate were subject expressly to the exceptions
18 set forth in *NRS 453A.326*.
19

20 33. *NRS 453A.326(3)* required that any medical marijuana establishment
21 registration certificate issued by the Division be deemed "provisional" in any city, town, or
22 county that issues business licenses.

23 34. *NRS 453A.326(3)* further required that this "provisional" status shall remain
24 until such time as the recipient of this "provisional" medical marijuana registration
25 certificate is in compliance with the applicable city, town, or county's ordinances and rules
26



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1 and obtains a business license for the operation of a medical marijuana establishment from
2 the applicable city, town, or county.

3 35. The City of Las Vegas is a Nevada city that enacted ordinances for the
4 zoning and business licensing of medical marijuana establishments.
5

6 36. As such, *NRS 453A.326(3)* required that any medical marijuana
7 establishment registration certificate issued for the operation of a medical marijuana
8 establishment in the City of Las Vegas be deemed "provisional" until such applicant
9 complies with the City of Las Vegas' ordinances and rules and obtains a business license
10 from the City of Las Vegas.
11

12 37. The Nevada Legislature anticipated that a recipient of a required
13 "provisional" registration certificate from the Division might not comply with the City of
14 Las Vegas' ordinances or obtain the required licensing.

15 38. Accordingly, the Nevada Legislature enacted *NRS 453A.322(3)(a)(5)*, which
16 expressly required all applicants for the operation of a medical marijuana establishment in
17 the City of Las Vegas to submit with their application proof of the City of Las Vegas'
18 zoning approval or a letter from the City of Las Vegas acknowledging that the applicant's
19 proposed medical marijuana establishment was in compliance with the City of Las Vegas'
20 restrictions and applicable building requirements.
21

22 39. The Division also anticipated the likelihood that a recipient of a "provisional"
23 registration certificate for the operation of a medical marijuana establishment in the City of
24 Las Vegas could not comply with the City of Las Vegas' or any other Nevada city, town, or
25 county's ordinances or otherwise obtain the required zoning and business licensing for the
26 operation of a medical marijuana establishment.
27
28



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1 40. Accordingly, the Division adopted *NAC 453A.310*, which required the
2 Division to make an initial determination that each application filed with the Division was
3 complete, including proof of evidence that each applicant had obtained the required zoning
4 and licensing from the City of Las Vegas, before ranking any applications.

5
6 41. The Division also adopted *NAC 453A.332*, which obligated the Division to
7 deny any application for a medical marijuana establishment registration certificate if the
8 application was not in compliance with any provision of *NRS Chapter 453A*, which
9 indisputably includes the proof of the City of Las Vegas' approval for zoning and licensing
10 required by *NRS 453.322(3)(a)(5)*.

11
12 42. Further, the Division adopted *NAC 453A.312*, which required the Division to
13 issue "provisional" medical marijuana establishment registration certificates to the highest
14 ranked applicants until the Division issued the number of actual medical marijuana
15 establishment registration certificates designated by the Division, which in the case of the
16 City of Las Vegas was twelve (12) allotted actual registration certificates for medical
17 marijuana dispensaries.

18
19 43. Together, these regulations adopted by the Division contemplated and
20 provided a regulatory solution to the Division for any situation where a recipient of a
21 "provisional" registration certificate failed to obtain the necessary zoning and licensing
22 approvals from the City of Las Vegas, or any similar Nevada city, town, or county, as
23 required by Nevada law.

24
25 44. Pursuant to the regulatory framework, the Division was first to ensure that
26 each applicant had the necessary City of Las Vegas zoning and licensing approvals before
27
28



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1 accepting the application as complete and ranking the application against the Division's
2 criteria.

3 45. In the event that an applicant was issued a "provisional" registration
4 certificate but was denied the required City of Las Vegas zoning or licensing approvals, then
5 the Division was required to then issue additional "provisional" registration certificates to
6 the next ranked applicant until the twelve (12) actual registration certificates allotted the
7 City of Las Vegas were issued by the Division.
8

9 46. The Division's regulatory scheme plainly adopted and endorsed this "next
10 highest ranked applicant" process as a resolution for situations where an applicant or a
11 recipient of a "provisional" registration certificate were denied a special use permit or a
12 business license by the City of Las Vegas, and any other Nevada city, town, or county
13 requiring such approval.
14

15 47. After implementing these regulations on April 1, 2014, the Division's staff
16 identified this "next highest ranked applicant" process as the correct procedure for resolving
17 instances where an applicant or a recipient of a "provisional" registration certificate was
18 denied or unable to obtain the required zoning and licensing at the local level.
19

20 48. During a July 9, 2014 meeting of the Advisory Commission on the
21 Administration of Justice's Subcommittee on the Medical Use of Marijuana, Chad Westom,
22 Bureau Chief of the Division, was questioned about the Division's procedure if an applicant
23 to which the Division issued a "provisional" registration certificate was unsuccessful in
24 obtaining local approval.
25

26 49. In response to this question, Mr. Westom stated, "it was part of the process
27 for the applicants to provide evidence of local zoning and business license approval."
28



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1 50. Mr. Westom also stated that any jurisdiction where the Division issued
2 "provisional" registration certificates that jurisdiction would have the option of denying
3 these businesses at the local level; whereupon the Division would then deny those same
4 businesses and notify the local jurisdiction of the next ranked applicant.
5

6 51. When asked specifically what would happen if the Division approved
7 different applicants than those approved by the local jurisdiction, Mr. Westom stated that the
8 Division would deny any applicant denied by the local jurisdiction and then inform the local
9 jurisdiction who was the next ranked applicant.
10

11 **PLAINTIFF AND DEFENDANTS' APPLICATIONS**

12 52. On or before the Division's August 18, 2014 deadline, the Division received
13 approximately forty-nine (49) applications for the City of Las Vegas' twelve (12) allotted
14 medical marijuana establishment registration certificates for the operation of a medical
15 marijuana dispensary in the City of Las Vegas.
16

17 53. Plaintiff, Desert Aire, and Nuleaf were among these 49 applicants to the
18 Division.
19

20 54. Prior to submitting an application to the Division, Plaintiff, Desert Aire, and
21 Nuleaf, also each submitted an application to the City of Las Vegas for a Special Use Permit
22 and a Business License as required by the City of Las Vegas' newly enacted ordinances.
23

24 55. However, Desert Aire subsequently withdrew its application before the City
25 of Las Vegas and never obtained the required the Special Use Permit or Business License
26 from the City of Las Vegas.
27

28 56. After an October 29, 2014 special meeting, the City Council of the City of
Las Vegas denied Nuleaf's application for a Special Use Permit and Compliance Permit.



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1 57. To the contrary, Plaintiff received a Special Use Permit for the operation of a
2 medical marijuana dispensary from the City of Las Vegas and further, Plaintiff received a
3 Compliance Permit and its application for a Business License was recommended for
4 approval.
5

6 58. In addition, Plaintiff submitted as part of its application to the Division the
7 City of Las Vegas' certification that Plaintiff complied with the City of Las Vegas'
8 ordinances and building requirements concerning the operation of a medical marijuana
9 establishment in the City of Las Vegas.
10

11 59. Upon information and belief, the City of Las Vegas informed the Division of
12 those applicants that it approved for a Special Use Permit, which included Plaintiff, and
13 those applicants that it denied a Special Use Permit, which included Nuleaf, or otherwise
14 had withdrawn their applications, which included Desert Aire.

15 60. Accordingly, only Plaintiff met the requirements of *NRS 453A.322(3)(a)*.

16 61. Upon information and belief, the Division, upon receipt of the 49
17 applications for the operation of a medical marijuana dispensary in the City of Las Vegas,
18 never made the required initial determination that each application for the operation of a
19 medical marijuana dispensary was complete as required by *NAC 453A.310(1)*.
20

21 62. Also upon information and belief, the Division never determined whether
22 each applicant had submitted the required proof of licensure from the City of Las Vegas or
23 a letter from the City of Las Vegas certifying that each applicant's proposed medical
24 marijuana dispensary complied with the City of Las Vegas' restrictions and building
25 requirements as prescribed by *NRS 453A.322(3)(a)(5)*.
26



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1 63. As a result, the Division improperly accepted the applications of Desert Aire
2 and Nuleaf and ranked their applications against the acceptable criteria.

3 64. On or about November 3, 2014, Plaintiff received notification from the
4 Division that it was not issued a "provisional" registration certificate due to the fact that its
5 score was not high enough to rank within the top 12 spots allotted for the City of Las Vegas.
6

7 65. At the same time, Plaintiff discovered that the Division ranked and issued a
8 "provisional" registration certificate to Desert Aire (ranked #10) and Nuleaf (ranked #3)
9 even though each were denied and/or failed to obtain the required Special Use Permit and
10 Business License from the City of Las Vegas.
11

12 66. Had the Division complied with the express requirements of *NRS*
13 *453A.322(3)*, *NAC 453A.310*, *NAC 453A.312*, and *NAC 453A.332*, and the Division's
14 previous public statements regarding the correct application procedure, neither Desert Aire
15 (ranked #10) nor Nuleaf should have received a ranking let alone a "provisional" registration
16 certificate.
17

18 67. More importantly, Plaintiff's score (166.86) would have and should been
19 high enough to rank within the top 12 spots (#11) allotted for the City of Las Vegas and
20 therefore, Plaintiff should have received a "provisional" registration certificate from the
21 Division within the 90-day evaluation period.
22

23 68. Consequently, Plaintiff, in actuality being ranked #11, would have received a
24 "provisional" registration certificate from the Division in accordance with Nevada law and
25 as approved by the City of Las Vegas.
26



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1 **DIVISION'S REFUSAL TO IDENTIFY NEXT HIGHEST RANKED APPLICANT**

2 69. After the Division provided notice of those applicants who were issued a
3 "provisional" registration certificate for the operation of a medical marijuana establishment
4 in the City of Las Vegas, the City of Las Vegas, upon information and belief, inquired
5 and/or requested that the Division identify the next highest ranked applicant(s) since Desert
6 Aire (ranked #10) and Nuleaf (ranked #3) were denied and/or failed to obtain the required
7 Special Use Permit and Business License from the City of Las Vegas.
8

9 70. Despite the Division's adoption of *NAC 453A.312(1)* requiring the Division
10 to issue "provisional" registration certificates to the next highest ranked applicants until the
11 City of Las Vegas' allotment of actual registration certificates was filled and contrary to the
12 express statements made by the Division's representative, the Division, upon information
13 and belief, informed the City of Las Vegas and Plaintiff that it would not identify the next
14 highest ranked applicant.
15

16 71. Upon information and belief, the Division further informed the City of Las
17 Vegas that it would and could not issue any further "provisional" registration certificates
18 since the Division only was authorized by Nevada law to issue registration certificates
19 within a 90-day period that expired on November 3, 2014.
20

21 72. The Division's procedural reversal now results in the City of Las Vegas being
22 unable to fill two (2) of its twelve (12) allotted slots for medical marijuana dispensaries and
23 Plaintiff being unlawfully denied a "provisional" registration certificate that it should have
24 been issued had the Division complied with the provisions of NRS Chapter 453A and NAC
25 Chapter 453A.
26



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1 **THE CITY OF LAS VEGAS' SUBSEQUENT PROCESSING OF DESERT AIRE**
2 **AND NULEAF'S APPLICATIONS**

3 73. Previous to Desert Aire's unlawful receipt of a "provisional" registration
4 certificate from the Division, Desert Aire applied to the City of Las Vegas for a Special Use
5 Permit and Compliance Permit for the operation of a medical marijuana establishment in the
6 City of Las Vegas.

7 74. The Planning Commission for the City of Las Vegas recommended denial (4-
8 1-2 vote) of Desert Aire's request for Special Use Permit and Compliance Permit, with 68
9 protests having been lodged against Desert Aire's requests.

11 75. Prior to the City Council's consideration of Desert Aire's request for Special
12 Use Permit and Compliance Permit on October 28-29, 2014, Desert asked for and was
13 granted the withdrawal of its applications before the City of Las Vegas.

14 76. Despite Desert Aire's withdrawal, the Division unlawfully issued Desert Aire
15 a "provisional" registration certificate for the operation of a medical marijuana
16 establishment when in truth, Desert Aire's application should have been deemed incomplete,
17 disqualified, and denied pursuant to NRS Chapter 453A and NAC Chapter 453A.

18 77. The City Council for the City of Las Vegas, nonetheless, convened on
19 December 3, 2014 to hear Desert Aire's requests for rescission and rehearing of Special Use
20 Permit and Compliance Permit (Agenda Items #72-75).

21 78. On December 3, 2014 the City Council for the City of Las Vegas convened
22 its regular meeting to hear its regular Agenda, which included Desert Aire's requests.

23 79. After discussion on the Agenda Items (#72-75) concerning Desert Aire's
24 requests, the City Council for the City of Las Vegas approved Desert Aire's requests and
25 scheduled a Hearing on December 17, 2014.



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1 80. Nuleaf also applied to the City of Las Vegas for a Special Use Permit and
2 Compliance Permit for the operation of a medical marijuana establishment in the City of Las
3 Vegas.

4 81. The City of Las Vegas' Planning Commission, on September 23, 2014,
5 recommended denial (4-0-2 vote) of Nuleaf's request for Special Use Permit.
6

7 82. Thereafter, the City Council for the City of Las Vegas, on October 28-29,
8 2014, denied (4-2-1 vote) Nuleaf's request for a Special Use Permit and Compliance Permit;
9 with 70 separate protests having been lodged against Nuleaf's requests.

10 83. Despite the City of Las Vegas' denial of Nuleaf's requests, the Division
11 unlawfully issued Nuleaf a "provisional" registration certificate for the operation of a
12 medical marijuana establishment in the City of Las Vegas, when in truth, Nuleaf's
13 application should have been deemed incomplete, disqualified, and denied pursuant to NRS
14 Chapter 453A and NAC Chapter 453A.
15

16 84. On December 3, 2014 the City Council for the City of Las Vegas convened
17 its regular meeting to hear its regular Agenda, which included a request from Nuleaf to
18 rescind and rehear its previous denial of its requests for a Special Use Permit and
19 Compliance Permit (Agenda Items #76-79).
20

21 85. After discussion by the City Council for the City of Las Vegas, the Agenda
22 items (#76-79) concerning Nuleaf's request for reconsideration were stricken by the City
23 Council.
24

25 86. However, upon information and belief, Nuleaf intends to seek a text
26 amendment to the City of Las Vegas' Municipal Code authorizing the "resubmittal" of
27 Nuleaf's applications and requests for Special Use Permit and Compliance Permit.
28



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1 87. Upon information and belief, Nuleaf, upon the City Council for the City of
2 Las Vegas' approval of this text amendment, intends to seek relocation of its proposed
3 medical marijuana establishment, in direct violation of NRS Chapter 453A and NAC
4 Chapter 453A, and despite the fact that Nuleaf's application to the Division was incomplete
5 and should have been disqualified and denied, *per se*, pursuant to NRS Chapter 453A and
6 NAC Chapter 453A.
7

8 **III. FIRST CLAIM FOR RELIEF**
9 **(Declaratory Judgment)**

10 88. The allegations of paragraphs 1 through 87 of this Complaint are
11 incorporated by reference herein with the same force and effect as set forth in full below.

12 89. The Division's refusal to issue Plaintiff a "provisional" registration
13 certificate affects Plaintiff's rights afforded it by NRS Chapter 453A, NAC Chapter 453A,
14 and other Nevada laws and regulations.
15

16 90. Further, the Division's unlawful acceptance and ranking of Desert Aire and
17 Nuleaf's applications for a medical marijuana establishment registration certificate for the
18 operation of a medical marijuana establishment in the City of Las Vegas and the Division's
19 subsequent, unlawful issuance to each of a "provisional" registration certificate also affects
20 the rights of Plaintiff afforded it by NRS Chapter 453A, NAC Chapter 453A, and other
21 Nevada laws and regulations.
22

23 91. The Division's actions and/or inactions also have created an actual
24 justiciable controversy ripe for judicial determination between Plaintiff, Desert Aire,
25 Nuleaf, and the Division with respect to the construction, interpretation, and
26 implementation of NRS Chapter 453A and NAC Chapter 453A as to Plaintiff.
27
28



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1 92. Accordingly, Plaintiff seeks a declaration from this Court that the Division
2 improperly accepted and ranked Desert Aire and Nuleaf's application for a medical
3 marijuana establishment registration certificate for the operation of a medical marijuana
4 establishment in the City of Las Vegas.

5
6 93. Plaintiff also seeks a declaration from this Court that the Division
7 improperly ranked and subsequently issued Desert Aire and Nuleaf a "provisional"
8 registration certificate for the operation of a medical marijuana establishment in the City of
9 Las Vegas as each failed to submit a complete application for a registration certificate for
10 the operation of a medical marijuana establishment as required by *NRS 453A.322*.

11
12 94. Plaintiff also seeks a declaration from this Court that Desert Aire and
13 Nuleaf's application for a medical marijuana establishment registration certificate for the
14 operation of a medical marijuana establishment in the City of Las Vegas must be denied by
15 the Division since each failed to submit proof to the Division of their licensure by the City
16 of Las Vegas or a letter from the City of Las Vegas certifying compliance with the City of
17 Las Vegas' restrictions regarding proposed medical marijuana establishments and had
18 satisfied all applicable building requirements of the City of Las Vegas as expressly required
19 by *NRS 453A.322(3)(a)(5)*.

20
21 95. Plaintiff also seeks a declaration from this Court that the Division cannot
22 issue Desert Aire and Nuleaf an actual registration certificate for the operation of a medical
23 marijuana establishment in the City of Las Vegas since each failed to obtain and/or were
24 denied a Special Use Permit and Business Licenses from the City of Las Vegas for the
25 operation a medical marijuana establishment.
26



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1 96. Plaintiff also seeks a declaration from this Court that the Division
2 improperly denied Plaintiff a “provisional” registration certificate for the operation of a
3 medical marijuana dispensary in the City of Las Vegas.

4 97. Plaintiff also seeks a declaration from this Court that the Division
5 improperly refused to identify Plaintiff as the next available applicant in accordance with
6 applicable Nevada law upon notification that Desert Aire and Nuleaf failed to obtain and/or
7 were denied a Special Use Permit and Business Licenses from the City of Las Vegas for the
8 operation a medical marijuana establishment.

9 98. Plaintiff also seeks a declaration from this Court that the Division must issue
10 Plaintiff a “provisional” registration certificate for the operation of a medical marijuana
11 establishment in the City of Las Vegas since Plaintiff’s score issued by the Division would
12 have ranked high enough (#11) to be within the top 12 had the Division properly applied
13 the provisions of NRS Chapter 453A and NAC Chapter 453A.

14 99. Plaintiff also seeks a declaration from this Court that the Division must issue
15 Plaintiff a “provisional” registration certificate for the operation of a medical marijuana
16 establishment in the City of Las Vegas since Plaintiff is the next highest ranked applicant
17 ranked by the Division and the City of Las Vegas’ allotment of twelve (12) actual
18 registration certificates have not been filled.

19 100. Plaintiff also seeks a declaration from this Court that the Division is not
20 prohibited by NRS Chapter 453A, NAC Chapter 453A, or any other applicable Nevada law
21 or regulation from issuing Plaintiff at any time, a “provisional” registration certificate for
22 the operation of a medical marijuana establishment in the City of Las Vegas since the City
23 of Las Vegas’ allotment of twelve (12) actual registration certificates have not been filled.



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1 101. Plaintiff also seeks a declaration from this Court that the City of Las Vegas
2 is prohibited from considering Desert Aire's application for a Special Use Permit after the
3 Division and the City of Las Vegas' period for submitting and considering applications has
4 closed.

5
6 102. Plaintiff also seeks a declaration from this Court that the City of Las Vegas
7 is prohibited from reconsidering the City of Las Vegas' previous denial of Nuleaf's
8 application for a Special Use Permit after the Division and the City of Las Vegas' period
9 for submitting and considering applications has closed.

10
11 103. Plaintiff also seeks a declaration from this Court that the Division is
12 prohibited from issuing Desert Aire and Nuleaf an actual registration certificate for the
13 operation of a medical marijuana establishment in the City of Las Vegas since both failed
14 to comply with the express requirements of *NRS 453A.322(3)(a)(5)* at the time they
15 submitted their applications to the Division and at any time during the Division's
16 application period that ended on November 3, 2014.

17
18 104. It has also become necessary for Plaintiff to retain the services of an
19 attorney to commence this action, and Plaintiff is therefore entitled to reasonable attorney's
20 fees and the costs of this suit.

21 **IV. SECOND CLAIM FOR RELIEF**
22 **(Injunctive Relief)**

23 105. The allegations of paragraphs 1 through 103 of this Complaint are
24 incorporated by reference herein with the same force and effect as set forth in full below.

25 106. The Division's unlawful acceptance and ranking of Desert Aire and Nuleaf's
26 incomplete and unqualified applications for a medical marijuana establishment registration
27 certificate has and continues to irreparably harm Plaintiff as Plaintiff, as a consequence of
28



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1 the Division's unlawful actions, has been denied the issuance of a "provisional" registration
2 certificate from the Division that Plaintiff is entitled to receive under the proper application
3 of the provisions of NRS Chapter 453A and NAC Chapter 453A.

4
5 107. The Division's unlawful issuance to Desert Aire and Nuleaf of a
6 "provisional" registration certificate for the operation of a medical marijuana establishment
7 in the City of Las Vegas has and continues to irreparably harm Plaintiff as Plaintiff, as a
8 consequence of the Division's unlawful actions, has been denied the issuance of a
9 "provisional" registration certificate from the Division that Plaintiff is entitled to receive
10 under the proper application of the provisions of NRS Chapter 453A and NAC Chapter
11 453A.

12
13 108. The Division's continued refusal to issue Plaintiff a "provisional"
14 registration certificate for the operation of a medical marijuana establishment in the City of
15 Las Vegas has and continues to irreparably harm Plaintiff as Plaintiff otherwise would have
16 received a "provisional" registration certificate for the operation of a medical marijuana
17 establishment in the City of Las Vegas had the Division complied with the actual
18 requirements of NRS Chapter 453A and NAC 453A.

19
20 109. The Division's continued refusal to comply with the requirements of NRS
21 Chapter 453A and NAC Chapter 453A in declaring Plaintiff as the next available qualified
22 applicant has and continues to harm Plaintiff as Plaintiff has not received a "provisional"
23 registration certificate for the operation of a medical marijuana establishment in the City of
24 Las Vegas that Plaintiff otherwise is entitled to receive pursuant to NRS Chapter 453A and
25 NAC Chapter 453A.



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1 110. The Division's continued refusal to issue any further "provisional"
2 registration certificates for the operation of a medical marijuana establishment in the City
3 of Las Vegas even though the City of Las Vegas' allotment of twelve (12) actual
4 registration certificates has not been filed has and continues to irreparably harm Plaintiff
5 since Plaintiff is the next available qualified applicant to receive a "provisional" registration
6 certificate from the Division under the proper application of the provisions of NRS Chapter
7 453A and NAC Chapter 453A.
8

9 111. Further, Plaintiff will likely succeed on the merits since the plain language
10 of the applicable provisions of NRS Chapter 453A and NAC Chapter 453A require the
11 Division to issue Plaintiff a "provisional" registration certificate for the operation of a
12 medical marijuana establishment in the City of Las Vegas either as a qualified applicant
13 whose score issued by the Division is within the top 12 required for applicants within the
14 City of Las Vegas, or Plaintiff is the next highest ranked applicant to receive a
15 "provisional" registration certificate since Desert Aire and Nuleaf have failed or otherwise
16 been denied the required Special Use Permit and Business License by the City of Las
17 Vegas.
18
19

20 112. Plaintiff has no adequate remedy at law and compensatory relief is
21 inadequate.
22

23 113. Accordingly, Plaintiff is entitled to injunctive relief enjoining the Division:

24 a. From issuing an actual registration certificates to Desert Aire and Nuleaf for
25 the operation of a medical marijuana establishment in the City of Las Vegas;
26
27
28



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1 b. To issue Plaintiff a "provisional" registration certificate for the operation of
2 a medical marijuana establishment in the City of Las Vegas as an applicant whose score
3 was within the top 12 positions allotted for the City of Las Vegas;

4 c. To identify Plaintiff as the next highest ranked applicant to receive a
5 "provisional" registration certificate for the operation of a medical marijuana establishment
6 in the City of Las Vegas;

7 d. To issue Plaintiff a "provisional" registration certificate for the operation of
8 a medical marijuana establishment in the City of Las Vegas as the next highest ranked
9 applicant eligible to receive a "provisional" registration certificate since Desert Aire and
10 Nuleaf have failed or otherwise been denied the required Special Use Permit and Business
11 License required by the City of Las Vegas; and
12

13 e. To continue to issue "provisional" registration certificates to the next
14 highest ranked applicants as required by *NAC 453A.312(1)* until the Division has issued the
15 number of actual registration certificates allotted the City of Las Vegas.
16

17 114. In addition, Plaintiff is entitled to Injunctive Relief enjoining the City of Las
18 Vegas from:
19

20 a. Considering Desert Aire's application for a Special Use Permit at any time,
21 including, but not limited to the City Council for the City of Las Vegas' meeting scheduled
22 for December 17, 2014; and
23

24 b. Reconsidering Nuleaf's application and/or Nuleaf's denial of its application
25 for a Special Use Permit at any time, including, but not limited to the City Council for the
26 City of Las Vegas' meeting scheduled for December 17, 2014; and
27



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1 c. Issuing Desert Aire or Nuleaf a Special Use Permit or a Business License for
2 the operation of a medical marijuana establishment in the City of Las Vegas.

3 115. It has also become necessary for Plaintiff to retain the services of an attorney
4 to commence this action, and Plaintiff is therefore entitled to reasonable attorney's fees and
5 the costs of this suit.
6

7 **In addition, or in the alternative to Plaintiff's allegations and Claims for Relief**
8 **asserted above, Plaintiff also alleges the following and petitions this Court for Judicial**
9 **Review in the manner prescribed by *NRS 233B.010, et seq.***

10 **PETITION FOR JUDICIAL REVIEW**

11
12 116. The allegations of paragraphs 1 through 115 of this Complaint are
13 incorporated by reference herein with the same force and effect as set forth in full below.

14 117. Petitioner, GB Sciences Nevada, LLC, a Nevada limited liability company
15 (hereinafter "Petitioner") is an applicant to the Division for the Division's issuance of a
16 registration certificate for the operation of a medical marijuana establishment in the City of
17 Las Vegas.
18

19 118. Through the Division's application process and the Division's review,
20 scoring, and ranking of Petitioner's application for a medical marijuana registration
21 certificate, the Division has determined the legal rights, duties, or privileges of Petitioner as
22 to the issuance of a registration certificate for the operation of a medical marijuana facility
23 in the City of Las Vegas.
24

25 119. Accordingly, Petitioner is a party of record to proceedings at the Division in
26 a contested matter.



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1 120. On or about November 3, 2014, the Division sent out a letter informing
2 Petitioner that the Division had not issued a "provisional" registration certificate to
3 Petitioner because Petitioner did not achieve a score high enough to rank it in the top 12
4 applicants within the City of Las Vegas.

5
6 121. On or about November 20, 2014, Petitioner sent correspondence to the
7 Division requesting a hearing regarding Petitioner's application to the Division for a
8 registration certification for the operation of a medical marijuana facility in the City of Las
9 Vegas.

10 122. On November 25, 2014, the Division sent out a letter informing Petitioner
11 that Petitioner's request for a hearing was denied since the Nevada Legislature allegedly
12 did not provide Petitioner hearing rights concerning its application for a registration
13 certificate.

14
15 123. As such, the Division's November 3, 2014 notification to Petitioner refusing
16 to issue Petitioner a "provisional" registration certificate for the operation of a medical
17 marijuana establishment in the City of Las Vegas is the Division's final decision on the
18 matter.

19
20 124. As such, Petitioner has been aggrieved by the Division's "final" refusal to
21 issue Petitioner a "provisional" registration certificate for the operation of a medical
22 marijuana establishment in the City of Las Vegas in accordance with NRS Chapter 453A
23 and NAC Chapter 453A.

24
25 125. Pursuant to *NRS 233B.130*, Petitioner is entitled to Judicial Review of the
26 Division's "final decision" denying Petitioner's application and refusing to issue Petitioner
27 a "provisional" registration certificate for the operation of a medical marijuana
28



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1 establishment in the City of Las Vegas in accordance with NRS Chapter 453A and NAC
2 Chapter 453A.

3 126. Petitioner, therefore, petitions this Court for Judicial Review of the
4 proceeding at the Division, including, but not limited to, Petitioner's submission, review,
5 scoring, and ranking of its application for registration certificate for the operation of a
6 medical marijuana establishment in the City of Las Vegas.

7
8 127. Petitioner further demands that the entire record of the proceeding at the
9 Division be transmitted by the Division in the manner required by *NRS 233B.131*.

10 **PETITION FOR WRIT OF MANDAMUS**

11
12 128. The allegations of paragraphs 1 through 127 of this Complaint are
13 incorporated by reference herein with the same force and effect as set forth in full below.

14 129. The Division was required to solicit applications, review, score, rank, and
15 issue "provisional" registration certificates for the operation of a medical marijuana
16 establishment in the City of Las Vegas in compliance with NRS Chapter 453A, NAC 453A,
17 and other Nevada laws and regulations.

18
19 130. The Division failed to comply with the requirements of NRS Chapter 453A,
20 NAC 453A, and other Nevada laws and regulations when it unlawfully issued "provisional"
21 registration certificates for the operation of a medical marijuana establishment in the City
22 of Las Vegas to Desert Aire and Nuleaf.

23 131. The Division further failed to comply with the requirements of NRS Chapter
24 453A, NAC 453A, and other Nevada laws and regulations when it unlawfully denied
25 Petitioner a "provisional" registration certificate for the operation of a medical marijuana
26 establishment in the City of Las Vegas.



27
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1 132. Accordingly, the Division has failed to perform acts that Nevada law
2 compelled the Division to perform.

3 133. Petitioner has no plain, speedy, and adequate remedy in the ordinary course
4 of law to correct the Division's failure to perform as required by Nevada law or compel the
5 Division to perform, as it is required by Nevada law.
6

7 134. Petitioner, therefore, petitions this Court for a Writ of Mandamus as alleged
8 and in a formal Application for Writ of Mandamus to be filed separately, to compel the
9 Division to issue Petitioner the "provisional" registration certificate for the operation of a
10 medical marijuana establishment in the City of Las Vegas that Petitioner was entitled to
11 receive had the Division complied with the requirements of NRS Chapter 453A, NAC
12 453A, and other Nevada laws and regulations.
13

14 **WHEREFORE**, Plaintiff prays for the following:

15 1. For Declaratory Judgment(s) in the manner set forth in Plaintiff's First
16 Claim for Relief;

17 2. For injunctive relief, specifically a preliminary and permanent injunction
18 enjoining the Division:
19

20 a. From issuing an actual registration certificates to Desert Aire and
21 Nuleaf for the operation of a medical marijuana establishment in the City of Las Vegas;

22 b. To issue Plaintiff a "provisional" registration certificate for the
23 operation of a medical marijuana establishment in the City of Las Vegas as an applicant
24 whose score was within the top 12 positions allotted for the City of Las Vegas;
25



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1 c. To identify Plaintiff as the next highest ranked applicant to receive a
2 "provisional" registration certificate for the operation of a medical marijuana establishment
3 in the City of Las Vegas;

4 d. To issue Plaintiff a "provisional" registration certificate for the
5 operation of a medical marijuana establishment in the City of Las Vegas as the next highest
6 ranked applicant eligible to receive a "provisional" registration certificate since Desert Aire
7 and Nuleaf failed to obtain or otherwise were denied the required Special Use Permit and
8 Business License required by the City of Las Vegas; and
9

10 e. To continue to issue "provisional" registration certificates to the next
11 highest ranked applicants as required by *NAC 453A.312(1)* until the Division has issued the
12 number of actual registration certificates allotted the City of Las Vegas.
13

14 3. For injunctive relief, specifically a preliminary and permanent injunction
15 enjoining the City of Las Vegas from:

16 a. Considering Desert Aire's application for a Special Use Permit at any time,
17 including, but not limited to the City Council for the City of Las Vegas' meeting scheduled
18 for December 17, 2014;
19

20 b. Reconsidering Nuleaf's application and/or Nuleaf's denial of its application
21 for a Special Use Permit at any time, including, but not limited to the City Council for the
22 City of Las Vegas' meeting scheduled for December 17, 2014; and
23

24 c. Issuing Desert Aire or Nuleaf a Special Use Permit or a Business License for
25 the operation of a medical marijuana establishment in the City of Las Vegas.

26 4. For reasonable attorney's fees and costs of suit; and

27 5. For any other such relief as this Court deems just and proper.
28



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1 In addition, or in the alternative, Plaintiff also petitions this Court for Judicial Review
2 of the Division's "final decision" denying Petitioner's application and refusing to issue
3 Petitioner a "provisional" registration certificate for the operation of a medical marijuana
4 establishment in the City of Las Vegas in accordance with NRS Chapter 453A and NAC
5 Chapter 453A.
6

7 In addition, or in the alternative, Petitioner also petitions this Court to issue a Writ of
8 Mandamus compelling the Division to comply with the requirements of NRS Chapter
9 453A, NAC 453A, and other Nevada laws and regulations and issue Petitioner a
10 "provisional" registration certificate for the operation of a medical marijuana establishment
11 in the City of Las Vegas.
12

13 DATED this 5th day of December, 2014

14 **MORAN BRANDON BENDAVID MORAN**

15 /s/: Jeffery A. Bendavid, Esq.

16 **JEFFERY A. BENDAVID, ESQ.**

17 Nevada Bar No. 6220

18 **JOHN T. MORAN, III, ESQ.**

19 Nevada Bar No. 7453

20 630 South 4th Street

21 Las Vegas, Nevada 89101

22 (702) 384-8424

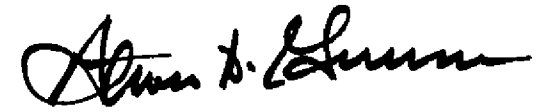
23 *Attorneys for Plaintiff*
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EXHIBIT 2



CLERK OF THE COURT

VDSM
JEFFERY A. BENDAVID, ESQ.
Nevada Bar No. 6220
JOHN T. MORAN, III, ESQ.
Nevada Bar No. 7453
MORAN BRANDON BENDAVID MORAN
630 South 4th Street
Las Vegas, Nevada 89101
(702) 384-8424
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

GB SCIENCES NEVADA, LLC , a Nevada
limited liability company,

Plaintiff,

v.

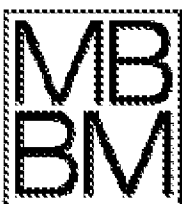
STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH
OF THE DEPARTMENT OF HEALTH
AND HUMAN SERVICES; CITY OF
LAS VEGAS, a municipal corporation and
political subdivision of the State of
Nevada; DESERT AIRE WELLNESS,
LLC, a Nevada limited liability
company; NULEAF CLV DISPENSARY,
LLC, a Nevada limited liability company;
DOES 1 through 100; and ROE
ENTITIES 1 through 100,

Defendants.

CASE NO: A-14-710597-C
DEPT. NO: XX

**NOTICE OF VOLUNTARY
DISMISSAL WITHOUT
PREJUDICE OF DEFENDANT
CITY OF LAS VEGAS ONLY**

Comes now Plaintiff, by and through its attorney of record, JEFFERY BENDAVID,
ESQ. of MORAN BRANDON BENDAVID MORAN, and pursuant to N.R.C.P. 41(a)(1)(i),
voluntarily dismisses, without prejudice, the above-captioned matter against Defendant, CITY
OF LAS VEGAS *only*, a municipal corporation and political subdivision of the State of Nevada.



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1 CITY OF LAS VEGAS has not yet entered an appearance or filed an Answer to Plaintiff's
2 Complaint.

3 DATED this 23rd day of January, 2015.
4

5 **MORAN BRANDON BENDAVID MORAN**

6
7 /s/: Jeffery A. Bendavid, Esq.

8 **JEFFERY A. BENDAVID, ESQ.**

9 Nevada Bar No. 6220

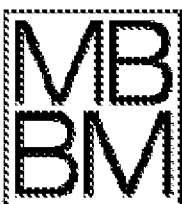
10 **JOHN T. MORAN, III, ESQ.**

11 Nevada Bar No. 7453

12 630 South 4th Street

13 Las Vegas, Nevada 89101

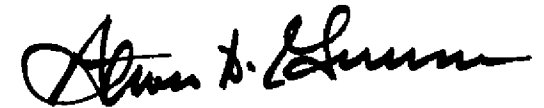
14 *Attorneys for Plaintiff*
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EXHIBIT 3



CLERK OF THE COURT

1 **VDSM**
2 **JEFFERY A. BENDAVID, ESQ.**
3 Nevada Bar No. 6220
4 **JOHN T. MORAN, III, ESQ.**
5 Nevada Bar No. 7453
6 **MORAN BRANDON BENDAVID MORAN**
7 630 South 4th Street
8 Las Vegas, Nevada 89101
9 (702) 384-8424
10 *Attorneys for Plaintiff*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 GB SCIENCES NEVADA, LLC , a Nevada
12 limited liability company,

13 Plaintiff,

14 v.

15 STATE OF NEVADA, DIVISION OF
16 PUBLIC AND BEHAVIORAL HEALTH
17 OF THE DEPARTMENT OF HEALTH
18 AND HUMAN SERVICES; CITY OF
19 LAS VEGAS, a municipal corporation and
20 political subdivision of the State of
21 Nevada; DESERT AIRE WELLNESS,
22 LLC, a Nevada limited liability
23 company; NULEAF CLV DISPENSARY,
24 LLC, a Nevada limited liability company;
25 DOES 1 through 100; and ROE
26 ENTITIES 1 through 100,

27 Defendants.

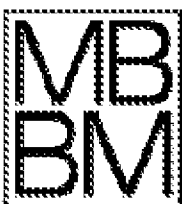
CASE NO: A-14-710597-C
DEPT. NO: XX

NOTICE OF VOLUNTARY
DISMISSAL WITHOUT
PREJUDICE OF DEFENDANT
DESERT AIRE WELLNESS, LLC,
ONLY

28 Comes now Plaintiff, by and through its attorney of record, JEFFERY BENDAVID,
ESQ. of MORAN BRANDON BENDAVID MORAN, and pursuant to N.R.C.P. 41(a)(1)(i),
voluntarily dismisses, without prejudice, the above-captioned matter against Defendant,

/ / /

/ / /



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DESERT AIRE WELLNESS, LLC, *only*, a Nevada limited liability company.

DATED this 1st day of April, 2015.

MORAN BRANDON BENDAVID MORAN

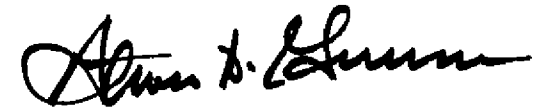
/s/: Jeffery A. Bendavid, Esq.
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JOHN T. MORAN, III, ESQ.
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Attorneys for Plaintiff



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EXHIBIT 4



CLERK OF THE COURT

COMP

MARK E. FERRARIO, ESQ. (NV Bar #1625)

MOOREA L. KATZ, ESQ. (NV Bar #12007)

GREENBERG TRAURIG, LLP

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Telephone: (702) 792-3773

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E-mail: ferrariom@gtlaw.com

katzmo@gtlaw.com

Counsel for Plaintiff in Intervention Acres Medical, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

GB SCIENCES NEVADA, LLC, a Nevada
limited liability company,

Plaintiff,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
subdivision of the State of Nevada; DESERT
AIRE WELLNESS, LLC, a Nevada limited
liability company; NULEAF CLV
DISPENSARY, LLC, a Nevada limited
liability company; DOES 1 through 100; and
ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
subdivision of the State of Nevada; NULEAF

Case No.: A710597

Dept. No.: XX

**COMPLAINT IN INTERVENTION FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND/OR PETITION FOR WRIT OF
MANDAMUS OR PROHIBITION**

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
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Telephone: (702) 792-3773
Facsimile: (702) 792-9002

CLV DISPENSARY, LLC, a Nevada limited liability company; GB SCIENCES NEVADA, LLC, a Nevada limited liability company,

Defendants in Intervention

COMES NOW, Plaintiff in Intervention, Acres Medical, LLC, by and through its counsel, the law firm GREENBERG TRAURIG, LLP, and hereby brings its Complaint in Intervention for Declaratory and Injunctive Relief and/or Petition for Writ of Mandamus or Prohibition (“Complaint in Intervention”), and alleges as follows:

THE PARTIES

1. Plaintiff in Intervention Acres Medical, LLC (“Acres Medical”) is a Nevada limited liability company, duly authorized to conduct business in the State of Nevada.

2. Defendant in Intervention Nevada Department of Health and Human Services, Division of Public and Behavioral Health (the “Division”) is an agency of the State of Nevada, and was the recipient of the applications submitted by Plaintiffs in Intervention.

3. Defendant in Intervention City of Las Vegas (“City”) is a municipal corporation and political subdivision of the State of Nevada.

4. Defendant in Intervention/Real Party in Interest Nuleaf CLV Dispensary, LLC (“Nuleaf”) is a Nevada limited liability company conducting business, or planning to conduct business, in Clark County, Nevada.

5. Defendant in Intervention/Real Party in Interest GB Sciences Nevada, LLC (“GB”) is a Nevada limited liability company, duly authorized to conduct business in the State of Nevada.

JURISDICTION

6. Venue is proper in this Court pursuant to NRS 13.020(3) and NRS 233B.130(2)(b), in that this is the county where the cause, or some part thereof, arose and the aggrieved party resides.

///

///

///

1 15. In addition, the City of Las Vegas prepared and issued a separate application packet
2 for any person wishing to obtain the required special use permit and business licensing for the
3 operation of a medical marijuana establishment in the City of Las Vegas.

4 16. Forty-three (43) applicants filed applications seeking the City of Las Vegas'
5 approval for zoning and licensing of a medical marijuana establishment to dispense medical
6 marijuana.

7 17. On October 28, 2014, the City Council of the City of Las Vegas held a special
8 meeting to consider each applicant for a special use permit for a proposed medical marijuana
9 dispensary.

10 18. The City of Las Vegas granted a special use permit to twenty-seven (27) applicants,
11 including Plaintiffs in Intervention.

12 19. The City of Las Vegas denied ten (10) applicants, including Nuleaf, a Special Use
13 Permit.

14 20. Upon information and belief, the City of Las Vegas thereafter informed the Division
15 of those applicants granted a special use permit and those applicants denied a special use permit by
16 the City of Las Vegas.

17 **THE DIVISION'S APPLICATION AND APPROVAL PROCESS**

18 21. NRS 453A.322(2) requires any person who wished to operate a medical marijuana
19 establishment in Nevada to submit to the Division an application on a form prescribed by the
20 Division.

21 22. In addition, NRS 453A.322(3)(a)(2) through (5) provided a list of items that every
22 application for a medical marihuana establishment must have submitted to the Division as part of an
23 application.

24 23. NRS 453A.322(3)(a)(5) expressly required that any application for a medical
25 marihuana establishment within a city, town, or county that has enacted zoning restrictions must
26 include proof of the applicable city, town, or county's prior licensure of the applicant or a letter
27 from that city, town, or county certifying that the applicant's proposed medical marijuana
28

1 establishment was in compliance with the city, town, or county's zoning restrictions and satisfies all
2 applicable building requirements.

3 24. To assist the Division in implementing the required statutory application process, the
4 Division adopted NAC 453A.310(1), which obligated the Division upon receiving more than one
5 application for a medical marijuana establishment to determine first that each application was
6 complete and in compliance with NRS Chapter 453A and NAC Chapter 453A.

7 25. Upon determining that each application was complete and in compliance, NAC
8 453A.310(1) then obligated the Division to rank from first to last the completed applications within
9 a particular jurisdiction based on the content of each application as it relates to the criteria for
10 evaluation determined by the Division and provided by NRS Chapter 453A.

11 26. Supposedly in accordance with these and many other statutory and regulatory
12 requirements, the Division issued an application packet on May 30, 2014.

13 27. Thereafter, the Division set an August 18, 2014 deadline for submitting an
14 application to the Division for the registration of a medical marijuana establishment and began
15 accepting applications on August 5, 2014.

16 **THE DIVISION'S ISSUANCE OF PROVISIONAL CERTIFICATES**

17 28. NRS 453A.322(3) required the Division to register a medical marijuana
18 establishment applicant, issue a medical marijuana establishment registration certificate, and issue a
19 random 20-digit alphanumeric identification number not later than 90 days from the Division's
20 receipt of an application only if such an application for a medical marihuana establishment
21 contained the specific items required by NRS 453A.322(3)(a), which among other items, included
22 the necessary prior zoning approvals from the applicable local jurisdiction identified in NRS
23 453A.322(3)(a)(5).

24 29. However, the requirements of NRS 453A.322(3) and the Division's ability to issue a
25 medical marijuana registration certificate were subject expressly to the exceptions set forth in NRS
26 453A.326.

27 ///

28 ///

1 30. NRS 453A.326(3) required that any medical marihuana establishment registration
2 certificate issued by the Division be deemed “provisional” in any city, town, or county that issues
3 business licenses.

4 31. NRS 453A.326(3) further required that this “provisional” status shall remain until
5 such time as the recipient of this “provisional” medical marihuana registration certificate is in
6 compliance with the applicable city, town, or county’s ordinances and rules and obtains a business
7 license for the operation of a medical marijuana establishment from the applicable city, town or
8 county.

9 32. The City of Las Vegas is a Nevada city that enacted ordinances for the zoning and
10 business licensing of medical marijuana establishments.

11 33. As such, NRS 453A.326(3) required that any medical marihuana establishment
12 registration certificate issued for the operation of a medical marihuana establishment in the City of
13 Las Vegas be deemed “provisional” until such applicant complies with the City of Las Vegas’
14 ordinances and rules and obtains a business license from the City of Las Vegas.

15 34. The Nevada Legislature anticipated that a recipient of a required “provisional”
16 registration certificate from the Division might not comply with the City of Las Vegas’ ordinances
17 or obtain the required licensing.

18 35. Accordingly, the Nevada Legislature enacted NRS 453A.322(3)(a)(5), which
19 expressly required all applicants for the operation of a medical marijuana establishment in the City
20 of Las Vegas to submit with their application proof of the City of Las Vegas’ zoning approval or a
21 letter from the City of Las Vegas acknowledging that the applicant’s proposed medical marihuana
22 establishment was in compliance with the City of Las Vegas’ restrictions and applicable building
23 requirements.

24 36. The Division also anticipated the likelihood that a recipient of a “provisional”
25 registration certificate for the operation of a medical marihuana establishment in the City of Las
26 Vegas’ or any other Nevada city, town, or county’s ordinances or otherwise obtain the required
27 zoning and business licensing for the operation of a medical marijuana establishment.

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1 37. Accordingly, the Division adopted NAC 453A.310, which required the Division to
2 make an initial determination that each application filed with the Division was complete, including
3 proof of evidence that each applicant had obtained the required zoning and licensing from the City
4 of Las Vegas, before ranking any applications.

5 38. The Division also adopted NAC 453A.332, which obligated the Division to deny any
6 application for a medical marijuana establishment remigration certificate if the application was not
7 in compliance with any provision of NRS Chapter 453A, which indisputably includes the proof of
8 the City of Las Vegas’ approval for zoning and licensing required by NRS 453.322(3)(a)(5).

9 39. Further, the Division adopted NAC 453A.312, which required the Division to issue
10 “provisional” medical marijuana establishment registration certificates to the highest ranked
11 applicants until the Division issued the number of actual medical marijuana establishment
12 registration certificates designated by the Division, which in the case of the City of Las Vegas was
13 twelve (12) allotted actual registration certificates for medical marijuana dispensaries.

14 40. Together, these regulations adopted by the Division contemplated and provided a
15 regulatory solution of the Division for any situation where a recipient of a “provisional” registration
16 certificate failed to obtain the necessary zoning and licensing approvals from the City of Las Vegas,
17 or any similar Nevada city, town, or county, as required by Nevada law.

18 41. Pursuant to the regulatory framework, the Division was first to ensure that each
19 applicant had the necessary City of Las Vegas zoning and licensing approvals before accepting the
20 application as complete and ranking the application against the Division’s criteria.

21 42. In the event that an applicant was issued a “provisional” registration certificate but
22 was denied the required City of Las Vegas zoning or licensing approvals, then the Division was
23 required to then issue additional “provisional” registration certificates to the next ranked applicant
24 until the twelve (12) actual registration certificates allotted the City of Las Vegas were issued by the
25 Division.

26 43. The Division’s regulatory scheme plainly adopted and endorsed this “next highest
27 ranked applicant” process as a resolution for situations where an applicant or a recipient of a
28

1 “provisional” registration certificate was denied a special use permit or a business license by the
2 City of Las Vegas, and any other Nevada city, town, or county requiring such approval.

3 44. After implementing these regulations on April 1, 2014, the Division’s staff identified
4 this “next highest ranked applicant” process as the correct procedure for resolving instances where
5 an applicant or a recipient of a “provisional” registration certificate was denied or unable to obtain
6 the required zoning and licensing at the local level.

7 45. During a July 9, 2014 meeting of the Advisory Commission on the Administration of
8 Justice’s Subcommittee on the Medical Use of Marijuana, Chad Westom, Bureau Chief of the
9 Division, was questioned about the Division’s procedure if an applicant to which the Division
10 issued a “provisional” registration certificate was unsuccessful in obtaining local approval.

11 46. In response to this question, Mr. Westom stated, “it was part of the process for the
12 applicants to provide evidence of local zoning and business license approval.”

13 47. Mr. Westom also stated that any jurisdiction where the Division issued “provisional”
14 registration certificates that jurisdiction would have the option of denying these businesses at the
15 local level; whereupon the Division would then deny those same businesses and notify the local
16 jurisdiction of the next ranked applicant.

17 48. When asked specifically what would happen if the Division approved different
18 applicants than those approved by the local jurisdiction, Mr. Westom stated that the Division would
19 deny any applicant denied by the local jurisdiction and then inform the local jurisdiction who was
20 the next ranked applicant.

21 **DEFENDANT NULEAF’S APPLICATION**

22 49. On or before the Division’s August 18, 2014 deadline, the Division received
23 approximately forty-nine (49) applications for the City of Las Vegas’ twelve (12) allotted medical
24 marihuana establishment registration certificates for the operation of a medical marihuana
25 dispensary in the City of Las Vegas.

26 50. Plaintiff in Intervention, Nuleaf, and GB Sciences were among these 49 applicants to
27 the Division.

28 ///

1 51. Prior to submitting an application to the Division, Plaintiff in Intervention, Nuleaf
2 and GB Sciences, also each submitted an application to the City of Las Vegas for a Special Use
3 Permit and a Business License as required by the City of Las Vegas' newly enacted ordinances.

4 52. After an October 29, 2014 special meeting, the City Council of the City of Las Vegas
5 denied Nuleaf's application for a Special Use Permit and Compliance Permit.

6 53. To the contrary, Plaintiff in Intervention received a Special Use Permit for the
7 operation of a medical marijuana dispensary from the City of Las Vegas and further, Plaintiff in
8 Intervention received a Compliance Permit.

9 54. In addition, Plaintiff in Intervention submitted as part of its application to the
10 Division the City of Las Vegas' certification that Plaintiff in Intervention complied with the City of
11 Las Vegas' ordinances and building requirements concerning the operation of a medical marijuana
12 establishment in the City of Las Vegas.

13 55. The City of Las Vegas informed the Division of those applicants that it approved for
14 a Special Use Permit, which included Plaintiff in Intervention, and those applicants that it denied a
15 Special Use Permit, which included Nuleaf.

16 56. Accordingly, Plaintiff in Intervention met the requirements of NRS 453A.322(3)(a),
17 but Nuleaf did not meet those requirements.

18 57. Upon information and belief, the Division, upon receipt of the 49 application for the
19 operation of a medical marihuana dispensary in the City of Las Vegas, never made the required
20 initial determination that each application for the operation of a medical marijuana dispensary was
21 complete as required by NAC 453A.310(1).

22 58. Also upon information and belief, the Division never determined whether each
23 applicant had submitted the required proof of licensure from the City of Las Vegas or a letter from
24 the City of Las Vegas certifying that each applicant's proposed medical marijuana dispensary
25 complied with the City of Las Vegas' restrictions and building requirements as prescribed by NRS
26 453A.322(3)(a)(5).

27 59. As a result, the Division improperly accepted the application of Nuleaf and ranked
28 its applications against the acceptable criteria.

PLAINTIFF IN INTERVENTION'S APPLICATION AND DISTRICT COURT
ORDER IN CASE

60. On or about August 14, 2014, Plaintiff in Intervention along with Acres Cultivation, LLC, submitted to the Division multiple applications to operate Medical Marijuana Establishments ("MME"), including Plaintiff in Intervention's Application D011 to operate a medical marijuana dispensary in the City of Las Vegas (the "Application").

61. The Division was required to rank applications based upon certain criteria. Organizational Structure was one of the criteria considered by the Division.

62. Plaintiff in Intervention submitted the same information on every application for Organizational Structure. On or about January 9, 2015, Plaintiff in Intervention, along with Acres Cultivation, LLC received scores on their applications. Plaintiff in Intervention received a score of 0 for Organizational Structure on the Application despite receiving a score of 41.3 on its other concurrently submitted applications containing the exact same information for the Organizational Structure criteria.

63. The Division was obligated to score and rank accurately all MME applications submitted to the Division.

64. One of the categories considered by the Division in scoring applications was Organizational Structure.

65. Plaintiff in Intervention submitted the same information on all of its applications, including the Application, for the Organizational Structure category.

66. Despite having information indicating that the Application should have received a score of 41.3 in the Organizational Structure category, the Division gave the Application a score of 0 in the Organizational Structure category.

67. The Division gave Plaintiff in Intervention's other applications with the exact same information in the Organizational Structure category a score of 41.3 for the Organizational Structure category.

68. The Division's failure to review all of the information in its possession that would have resulted in the Division giving the Application a score of 41.3 in the Organizational Structure category was an arbitrary and capricious exercise of the Division's official duties.

69. Had the Division performed properly its official duties in scoring the Application, it would have included an additional 41.3 points for the Organizational Structure category.

70. Had the Division performed properly its official duties in scoring the Application, the Application would have received a score of 167.3.

71. Had the Division performed properly its official duties in scoring the Applications, the Application would have been ranked number 11.

72. Plaintiff in Intervention was forced to retain counsel and file a lawsuit, case number A-15-719637-W, and petition the Court for mandamus to compel the Division to correct the error.

73. On October 8, 2015, District Court Judge Cadish granted Plaintiff in Intervention's Petition for Mandamus in Case No. A-15-719637-W. See **Exhibit A**, attached hereto. Judge Cadish's Order Granting Petition for Mandamus directs the Division to rescore Plaintiff in Intervention's Application and assign it a score of 167.3. The Order also requires the Division to officially re-rank Plaintiff in Intervention's Application based on this new score.

74. The Division ranked and issued a "provisional" registration certificate to Desert Aire Wellness, LLC ("Desert Aire") (ranked #10) and Nuleaf (ranked #3) even though each were denied and/or failed to obtain the required Special Use Permit and Business License from the City of Las Vegas.

75. Had the Division complied with the express requirements of NRS 453A.322(3), NAC 453A.310, NAC 453A.312, and NAC 453A.332, and the Division's previous public statements regarding the correct application procedure, neither Desert Aire (ranked #10) nor Nuleaf should have received a ranking let alone a "provisional" registration certificate.

76. More importantly, Plaintiff in Intervention's score (167.3) would have and should have been high enough to rank within the top 12 spots (#11) allotted for the City of Las Vegas and therefore, Plaintiff in Intervention should have received a "provisional" registration certificate from the Division within the 90-day evaluation period.

77. Consequently, Plaintiff in Intervention, in actuality being ranked #11, would have received a "provisional" registration certificate from the Division in accordance with Nevada law and as approved by the City of Las Vegas.

78. Plaintiff in Intervention is the 13th ranked applicant for a Provisional License to operate a medical marijuana dispensary in the City of Las Vegas and therefore next in line. Plaintiff in Intervention was ranked improperly by the Division due to an error in scoring Plaintiff in Intervention's Application D011 to operate a medical marijuana dispensary in the City of Las Vegas. That error was corrected when Plaintiff in Intervention obtained an order of mandamus directing the Division to rescore and re-rank the Application. As such, Plaintiff in Intervention should receive the first Provisional License should one become available.

DIVISION'S REFUSAL TO IDENTIFY NEXT HIGHEST RANKED APPLICANT

79. After the Division provided notice of those applicants who were issued a "provisional" registration certificate for the operation of a medical marijuana establishment in the City of Las Vegas, the City of Las Vegas, upon information and belief, inquired and/or requested that the Division identify the next highest ranked applicant(s) since Desert Aire (ranked #10) and Nuleaf (ranked #3) were denied and/or failed to obtain the require Special Use Permit and Business License from the City of Las Vegas.

80. Despite the Division's adoption of NAC 453A.312(1) requiring the Division to issue "provisional" registration certificates to the next highest ranked applicants until the City of Las Vegas' allotment of actual registration certificates was filled and contrary to the express statements made by the Division's representative, the Division, upon information and belief, informed the City of Las Vegas that it would not identify the next highest ranked applicant.

81. Upon information and belief, the Division further informed the City of Las Vegas that it would and could not issue any further "provisional" registration certificates since the Division only was authorized by Nevada law to issue registration certificate within a 90-day period that expired on November 3, 2014.

THE CITY OF LAS VEGAS' SUBSEQUENT PROCESSING OF NULEAF'S APPLICATION

82. Nuleaf applied to the City of Las Vegas for a Special Use Permit and Compliance Permit for the operation of a medical marijuana establishment in the City of Las Vegas.

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1 83. The City of Las Vegas' Planning Commission, on September 23, 2014 recommended
2 denial (4-0-2 vote) of Nuleaf's request for Special Use Permit.

3 84. Thereafter, the City Council for the City of Las Vegas, on October 28-29, 2014,
4 denied (4-2-1 vote) Nuleaf's request for a Special Use Permit and Compliance Permit; with 70
5 separate protests having been lodged against Nuleaf's requests.

6 85. Despite the City of Las Vegas' denial of Nuleaf's requests, the Division unlawfully
7 issued Nuleaf a "provisional" registration certificate for the operation of a medical marijuana
8 establishment in the City of Las Vegas, when in truth, Nuleaf's application should have been
9 deemed incomplete, disqualified, and denied pursuant to NRS Chapter 453A and NAC Chapter
10 453A.

11 86. On December 3, 2014 the City Council for the City of Las Vegas convened its
12 regular meeting to hear its regular Agenda, which included a request from Nuleaf to rescind and
13 rehear its previous denial of its requests for a Special Use Permit and Compliance Permit (Agenda
14 Items #76-79).

15 87. After discussion by the City Council for the City of Las Vegas, the Agenda items
16 (#76-79) concerning Nuleaf's request for reconsideration were stricken by the City Council.

17 88. However, upon information and belief, Nuleaf intends to seek a text amendment to
18 the City of Las Vegas' Municipal Code authorizing the "resubmittal" of Nuleaf's applications and
19 requests for Special Use Permit and Compliance Permit.

20 89. Upon information and belief, Nuleaf, upon the City Council for the City of Las
21 Vegas' approval of this text amendment, intends to seek relocation of its proposed medical
22 marijuana establishment, in direct violation of NRS Chapter 453A and NAC Chapter 453A, and
23 despite the fact that Nuleaf's application to the Division was incomplete and should have been
24 disqualified and denied, per se, pursuant to NRS Chapter 453A and NAC Chapter 453A.

25 **FIRST CAUSE OF ACTION**
26 **(Declaratory Relief)**

27 90. Plaintiff in Intervention re-alleges and incorporates by reference the allegations
28 contained in paragraphs 1-89.

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1 91. The Division’s unlawful acceptance and ranking of Nuleaf’s application for a
2 medical marijuana establishment registration certificate for the operation of a medical marijuana
3 establishment in the City of Las Vegas and the Division’s subsequent, unlawful issuance of a
4 “provisional” registration certificate also affects the rights of Plaintiff in Intervention afforded it by
5 NRS Chapter 453A, NAC Chapter 453A, and other Nevada laws and regulations.

6 92. The Division's actions and/or inactions also have created an actual justiciable
7 controversy ripe for judicial determination between Plaintiff in Intervention, Nuleaf, the Division,
8 and the City of Las Vegas with respect to the construction, interpretation, and implementation of
9 NRS Chapter 453A and NAC Chapter 453A as to Plaintiff in Intervention.

10 93. Accordingly, Plaintiff in Intervention seeks a declaration from this Court that the
11 Division improperly accepted and ranked Nuleaf’s application for a medical marijuana
12 establishment registration certificate for the operation of a medical marijuana establishment in the
13 City of Las Vegas.

14 94. Plaintiff in Intervention also seeks a declaration from this Court that the Division
15 improperly ranked and subsequently issued Nuleaf a “provisional” registration certificate for the
16 operation of a medical marijuana establishment in the City of Las Vegas as Nuleaf failed to submit
17 a complete application for a registration certificate for the operation of a medical marijuana
18 establishment as required by NRS 453A.322.

19 95. Plaintiff in Intervention also seeks a declaration from this Court that Nuleaf’s
20 application for a medical marijuana establishment registration certificate for the operation of a
21 medical marijuana establishment in the City of Las Vegas must be denied by the Division since
22 Nuleaf failed to submit proof to the Division of its licensure by the City of Las Vegas or a letter
23 from the City of Las Vegas certifying compliance with the City of Las Vegas’ restrictions regarding
24 proposed medical marijuana establishments and had satisfied all applicable building requirements of
25 the City of Las Vegas as expressly required by NRS 453A.322(3)(a)(5).

26 96. Plaintiff in Intervention also seeks a declaration from this Court that the Division
27 cannot issue Nuleaf an actual registration certificate for the operation of a medical marijuana
28

1 establishment in the City of Las Vegas since Nuleaf was denied a Special Use Permit and Business
2 License from the City of Las Vegas for the operation a medical marijuana establishment.

3 97. Plaintiff in Intervention also seeks a declaration from this Court that the Division
4 improperly denied Plaintiff in Intervention a “provisional” registration certificate for the operation
5 of a medical marijuana dispensary in the City of Las Vegas.

6 98. Plaintiff in Intervention also seeks a declaration from this Court that the Division
7 improperly refused to identify Plaintiff in Intervention as the next available applicant in accordance
8 with applicable Nevada law upon notification that Desert Aire and Nuleaf failed to obtain and/or
9 were denied a Special Use Permit and Business Licenses from the City of Las Vegas for the
10 operation a medical marijuana establishment.

11 99. Plaintiff in Intervention also seeks a declaration from this Court that the Division
12 must issue Plaintiff in Intervention a “provisional” registration certificate for the operation of a
13 medical marijuana establishment in the City of Las Vegas since Plaintiff in Intervention’s score
14 issued by the Division would have ranked high enough (#11) to be within the top 12 had the
15 Division properly applied the provisions of NRS Chapter 453A and NAC Chapter 453A.

16 100. Plaintiff in Intervention also seeks a declaration from this Court that the Division
17 must issue Plaintiff in Intervention a “provisional” registration certificate for the operation of a
18 medical marijuana establishment in the City of Las Vegas since Plaintiff in Intervention is the next
19 highest ranked applicant ranked by the Division and the City of Las Vegas’ allotment of twelve (12)
20 actual registration certificates have not been filled.

21 101. Plaintiff in Intervention also seeks a declaration from this Court that the Division is
22 not prohibited by NRS Chapter 453A, NAC Chapter 453A, or any other applicable Nevada law or
23 regulation from issuing Plaintiff in Intervention at any time, a “provisional” registration certificate
24 for the operation of a medical marijuana establishment in the City of Las Vegas since the City
25 of Las Vegas’ allotment of twelve (12) actual registration certificates have not been filled.

26 102. Plaintiff in Intervention also seeks a declaration from this Court that the City of Las
27 Vegas is prohibited from reconsidering the City of Las Vegas’ previous denial of Nuleaf’s
28

1 application for a Special Use Permit after the Division and the City of Las Vegas' period for
2 submitting and considering applications has closed.

3 103. Plaintiff in Intervention also seeks a declaration from this Court that the Division is
4 prohibited from issuing Nuleaf an actual registration certificate for the operation of a medical
5 marijuana establishment in the City of Las Vegas since Nuleaf failed to comply with the express
6 requirements of NRS 453A.322(3)(a)(5) at the time it submitted its applications to the Division and
7 at any time during the Division's application period that ended on November 3, 2014.

8 104. It has also become necessary for Plaintiff in Intervention to retain the services of an
9 attorney to commence this action, and Plaintiff in Intervention is therefore entitled to reasonable
10 attorney's fees and the costs of this suit.

11 **SECOND CAUSE OF ACTION**
12 **(Injunctive Relief Against the Division and the City of Las Vegas)**

13 105. Plaintiff in Intervention re-alleges and incorporates by reference the allegations
14 contained in paragraphs 1-104.

15 106. The Division's unlawful acceptance and ranking of Nuleaf's incomplete and
16 unqualified application for a medical marijuana establishment registration certificate has and
17 continues to irreparably harm Plaintiff in Intervention and Plaintiff in Intervention, as a
18 consequence of the Division's unlawful actions, has been denied the issuance of a "provisional"
19 registration certificate from the Division that Plaintiff in Intervention is entitled to receive under the
20 proper application of the provisions of NRS Chapter 453A and NAC Chapter 453A.

21 107. The Division's unlawful issuance to Nuleaf of a "provisional" registration certificate
22 for the operation of a medical marijuana establishment in the City of Las Vegas has and continues
23 to irreparably harm Plaintiff in Intervention as Plaintiff in Intervention, as a consequence of the
24 Division's unlawful actions, has been denied the issuance of a "provisional" registration certificate
25 from the Division that Plaintiff in Intervention is entitled to receive under the proper application of
26 the provisions of NRS Chapter 453A and NAC Chapter 453A.

27 108. The Division's continued refusal to issue Plaintiff in Intervention a "provisional"
28 registration certificate for the operation of a medical marijuana establishment in the City of Las
Vegas has and continues to irreparably harm Plaintiff in Intervention as Plaintiff in Intervention

1 otherwise would have received a “provisional” registration certificate for the operation of a medical
2 marijuana establishment in the City of Las Vegas had the Division complied with the actual
3 requirements of NRS Chapter 453A and NAC 453A.

4 109. The Division’s continued refusal to comply with the requirements of NRS Chapter
5 453A and NAC Chapter 453A in declaring Plaintiff in Intervention as the next available qualified
6 applicant has and continues to harm Plaintiff in Intervention as Plaintiff in Intervention has not
7 received a “provisional” registration certificate for the operation of a medical marijuana
8 establishment in the City of Las Vegas that Plaintiff in Intervention otherwise is entitled to receive
9 pursuant to NRS Chapter 453A and NAC Chapter 453A.

10 110. The Division’s continued refusal to issue any further “provisional” registration
11 certificates for the operation of a medical marijuana establishment in the City of Las Vegas even
12 though the City of Las Vegas’ allotment of twelve (12) actual registration certificates has not been
13 filed has and continues to irreparably harm Plaintiff in Intervention since Plaintiff in Intervention is
14 the next available qualified applicant to receive a “provisional” registration certificate from the
15 Division under the proper application of the provisions of NRS Chapter 453A and NAC Chapter
16 453A.

17 111. The plain language of the applicable provisions of NRS Chapter 453A and NAC
18 Chapter 453A requires the Division to issue Plaintiff in Intervention a “provisional” registration
19 certificate for the operation of a medical marijuana establishment in the City of Las Vegas either as
20 a qualified applicant whose score issued by the Division is within the top 12 required for applicants
21 within the City of Las Vegas, or Plaintiff in Intervention is the next highest ranked applicant to
22 receive a “provisional” registration certificate since Nuleaf was denied the required Special Use
23 Permit and Business License by the City of Las Vegas.

24 112. Plaintiff in Intervention has no adequate remedy at law and compensatory relief is
25 inadequate.

26 113. Accordingly, Plaintiff in Intervention is entitled to injunctive relief enjoining the
27 Division:

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- a. From issuing an actual registration certificates to Nuleaf for the operation of a medical marijuana establishment in the City of Las Vegas;
- b. To issue Plaintiff in Intervention a “provisional” registration certificate for the operation of a medical marijuana establishment in the City of Las Vegas as an applicant whose score was within the top 12 positions allotted for the City of Las Vegas;
- c. To identify Plaintiff in Intervention as the next highest ranked applicant to receive a “provisional” registration certificate for the operation of a medical marijuana establishment in the City of Las Vegas;
- d. To issue Plaintiff in Intervention a “provisional” registration certificate for the operation of a medical marijuana establishment in the City of Las Vegas as the next highest ranked applicant eligible to receive a “provisional” registration certificate since Nuleaf failed to obtain the required Special Use Permit and Business License required by the City of Las Vegas; and
- e. To continue to issue “provisional” registration certificates to the next highest ranked applicants as required by NAC 453A.312(1) until the Division has issued the number of actual registration certificates allotted the City of Las Vegas.

114. In addition, Plaintiff in Intervention is entitled to Injunctive Relief enjoining the City of Las Vegas from:

- a. Reconsidering Nuleaf s application and/or Nuleaf s denial of its application for a Special Use Permit at any time; and
- b. Issuing Nuleaf a Special Use Permit or a Business License for the operation of a medical marijuana establishment in the City of Las Vegas.

115. It has also become necessary for Plaintiff in Intervention to retain the services of an attorney to commence this action, and Plaintiff in Intervention is therefore entitled to reasonable attorney's fees and the costs of this suit.

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1 **In addition, or in the alternative to Plaintiff in Intervention's allegations and Claims for**
2 **Relief asserted above, Plaintiff in Intervention also alleges the following and petitions this Court**
3 **for a writ of mandamus.**

4 **PETITION FOR WRIT OF MANDAMUS**

5 116. The allegations of paragraphs 1 through 115 of this Complaint are incorporated by
6 reference herein with the same force and effect as set forth in full below.

7 117. Petitioner, Acres Medical, LLC, a Nevada limited liability company (hereinafter
8 "Petitioner") is an applicant to the Division for the Division's issuance of a registration certificate for
9 the operation of a medical marijuana establishment in the City of Las Vegas.

10 118. The Division was required to solicit applications, review, score, rank, and issue
11 "provisional" registration certificates for the operation of a medical marijuana establishment in the
12 City of Las Vegas in compliance with NRS Chapter 453A, NAC 453A, and other Nevada laws and
13 regulations.

14 119. The Division failed to comply with the requirements of NRS Chapter 453A, NAC
15 453A, and other Nevada laws and regulations when it unlawfully issued a "provisional" registration
16 certificate for the operation of a medical marijuana establishment in the City of Las Vegas to Nuleaf.

17 120. The Division further failed to comply with the requirements of NRS Chapter 453A,
18 NAC 453A, and other Nevada laws and regulations when it unlawfully denied Petitioner a
19 "provisional" registration certificate for the operation of a medical marijuana establishment in the City
20 of Las Vegas.

21 121. Accordingly, the Division has failed to perform acts that Nevada law compelled the
22 Division to perform.

23 122. Petitioner has no plain, speedy, and adequate remedy in the ordinary course of law to
24 correct the Division's failure to perform as required by Nevada law or compel the Division to perform,
25 as it is required by Nevada law.

26 123. Petitioner, therefore, petitions this Court for a Writ of Mandamus as alleged and in a
27 formal Application for Writ of Mandamus to be filed separately, to compel the Division to issue
28 Petitioner the "provisional" registration certificate for the operation of a medical marijuana

1 establishment in the City of Las Vegas that Petitioner was entitled to receive had the Division
2 complied with the requirements of NRS Chapter 453A, NAC 453A, and other Nevada laws and
3 regulations.

4 WHEREFORE, Plaintiff in Intervention prays for the following:

5 1. For Declaratory Judgment(s) in the manner set forth in Plaintiff in Intervention's First
6 Claim for Relief;

7 2. For injunctive relief, specifically a preliminary and permanent injunction enjoining the
8 Division:

9 a. From issuing an actual registration certificate to Nuleaf for the operation of a
10 medical marijuana establishment in the City of Las Vegas;

11 b. To issue Plaintiff in Intervention a "provisional" registration certificate for the
12 operation of a medical marijuana establishment in the City of Las Vegas as an applicant
13 whose score was within the top 12 positions allotted for the City of Las Vegas;

14 c. To identify Plaintiff in Intervention as the next highest ranked applicant to
15 receive a "provisional" registration certificate for the operation of a medical marijuana
16 establishment in the City of Las Vegas;

17 d. To issue Plaintiff in Intervention a "provisional" registration certificate for the
18 operation of a medical marijuana establishment in the City of Las Vegas as the next highest
19 ranked applicant eligible to receive a "provisional" registration certificate since
20 Nuleaf was denied the required Special Use Permit and Business License required by the City
21 of Las Vegas; and

22 e. To continue to issue "provisional" registration certificates to the next
23 highest ranked applicants as required by NAC 453A.312(1) until the Division has issued the
24 number of actual registration certificates allotted the City of Las Vegas.

25 3. For injunctive relief, specifically a preliminary and permanent injunction enjoining the
26 City of Las Vegas from:

27 a. Reconsidering Nuleaf's application and/or Nuleaf's denial of its application
28 for a Special Use Permit at any time; and

b. Issuing Nuleaf a Special Use Permit or a Business License for the operation of a medical marijuana establishment in the City of Las Vegas.

4. For reasonable attorney's fees and costs of suit; and

5. For any other such relief as this Court deems just and proper.

In addition, or in the alternative, Petitioner also petitions this Court to issue a Writ of Mandamus compelling the Division to comply with the requirements of NRS Chapter 453A, NAC 453A, and other Nevada laws and regulations and issue Petitioner a "provisional" registration certificate for the operation of a medical marijuana establishment in the City of Las Vegas.

DATED this 17th day of November, 2015.

GREENBERG TRAURIG, LLP

By: /s/ Moorea L. Katz

MARK E. FERRARIO (NV Bar No. 1625)

MOOREA L. KATZ (NV Bar No. 12007)

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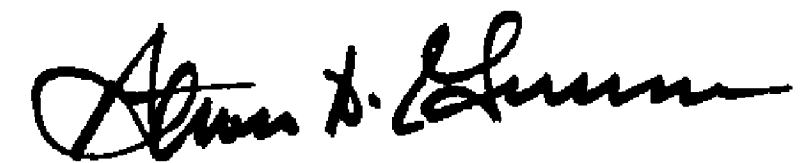
CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 17th day of November, 2015, I caused a true and correct copy of the foregoing **COMPLAINT IN INTERVENTION FOR DECLARATORY AND INJUNCTIVE RELIEF AND/OR PETITION FOR WRIT OF MANDAMUS OR PROHIBITION** to be filed and served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Joyce Heilich

An employee of GREENBERG TRAURIG, LLP

EXHIBIT A



CLERK OF THE COURT

ORDG

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DISTRICT COURT

CLARK COUNTY, NEVADA

ACRES MEDICAL, LLC, a Nevada limited
liability company; and ACRES
CULTIVATION, LLC, a Nevada limited
liability company,

Plaintiffs/Petitioners,

— vs. —

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

Defendant/ Respondent,

And

NLVG, LLC; NULEAF CLV CULTIVATION,
LLC; THE MEDMEN OF NEVADA 2, LLC;
CANNABIS RENAISSANCE GROUP, LLC;
M M DEVELOPMENT, LLC; NYE
NATURAL MEDICINAL SOLUTIONS, LLC;
GREEN LIFE PRODUCTIONS, LLC; GWGA,
LLC; NEVADA NATURAL MEDICINES,
LLC; WELLNESS ORCHARDS OF
NEVADA, LLC; NCMM, LLC; ACC
INDUSTRIES, INC.; SAMANTHA'S
REMEDIES; NEVADA CARES, LLC; THC
NEVADA, LLC; RED ROCK WELLNESS,
LLC; QUALCAN OF LAS VEGAS, LLC;
PHYSIS ONE, LLC; BUFFALO CENTER
MEDICAL ADVOCATES, L.L.C.; PRIMO
DISPENSARY; DOE ENTITIES 1-5; ROE
ENTITIES 1-4, POE ENTITIES 1-16.

Defendants/
Real Parties In Interest.

Case No.: A-15-719637-W
Dept. No.: VI

**ORDER GRANTING PLAINTIFFS'
PETITION FOR MANDAMUS**

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input type="checkbox"/> Non-Jury Judgment Reached	<input type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input checked="" type="checkbox"/> Other -

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

On September 29, 2015, at 8:30 a.m., Plaintiffs' Petition for Mandamus ("Petition") came on before the Honorable Judge Elissa F. Cadish in Department 6 of the above-captioned Court. Mark Ferrario, Esq. and Landon Lerner, Esq. appeared for Plaintiffs, and Linda Anderson, Esq. appeared for the Nevada Department Of Health And Human Services, Division Of Public And Behavioral Health (the "Division"). After reviewing the pleadings and papers on file in this Action, hearing argument at the time of the hearing, and good cause appearing therefore, the Court made the following findings:

1. Plaintiffs submitted to the Division multiple applications to operate Medical Marijuana Establishments ("MME"), including Application D011 to operate a medical marijuana dispensary in the City of Las Vegas (the "Application");

2. The Division was obligated to score and rank accurately all MME applications submitted to the Division;

3. One of the categories considered by the Division in scoring applications was Organizational Structure;

4. Plaintiffs submitted the same information on all of its applications, including the Application, for the Organizational Structure category;

5. Despite having information indicating that the Application should have received a score of 41.3 in the Organizational Structure category, the Division gave the Application a score of 0 in the Organizational Structure category;

6. The Division gave Plaintiffs' other applications with the exact same information in the Organizational Structure category a score of 41.3 for the Organizational Structure category;

7. The Division's failure to review all of the information in its possession that would have resulted in the Division giving the Application a score of 41.3 in the Organizational Structure category was an arbitrary and capricious exercise of the Division's official duties;

8. Had the Division performed properly its official duties in scoring the Application, it would have included an additional 41.3 points for the Organizational Structure category;

9. Had the Division performed properly its official duties in scoring the Application, the Application would have received a score of 167.3;

///

10. Had the Division performed properly its official duties in scoring the Application, the Application would have been ranked number 13;

11. Additional dispensary registrations from the State of Nevada and licenses from the City of Las Vegas may become available to Plaintiffs to operate a medical marijuana dispensary in the City of Las Vegas such that a failure to grant mandamus would result in prejudice and a substantial likelihood of significant harm to Plaintiffs;

12. Plaintiffs withdrew their Petition regarding their cultivation applications.

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiffs' Petition is **GRANTED**.

IT IS FURTHER ORDERED that:

1. The Division will rescore the Application and include 41.3 points for the Organizational Structure category;
2. The Division will rescore the Application and assign it a score of 167.3;
3. The Division will re-rank officially the Application at number 13; and
4. Plaintiffs' alternative relief is now moot and mandamus is the final judgment in this action.


IT IS SO ORDERED.

DATED this 8 day of October, 2015.


DISTRICT COURT JUDGE

Respectfully submitted by:


GREENBERG TRAURIG, LLP

By: 
MARK E. FERRARIO (NV Bar #1625)
LONDON LERNER (NV Bar #13368)
3773 Howard Hughes Parkway, Suite 400N
Las Vegas, NV 89169
Counsel for Plaintiffs

[signatures continued on following page]

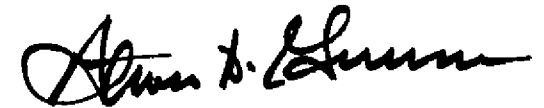
1 Approved as to form:

2 OFFICE OF THE ATTORNEY GENERAL
3 ADAM PAUL LAXALT

4 By: 
5 LINDA C. ANDERSON (NV Bar #4090)
6 Chief Deputy Attorney General
7 555 E. Washington Avenue, #3900
8 Las Vegas, NV 89101
9 *Counsel for the Division*

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EXHIBIT 5



CLERK OF THE COURT

NEOJ

MARK E. FERRARIO, ESQ. (NV Bar #1625)

MOOREA L. KATZ, ESQ. (NV Bar #12007)

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E-mail: ferrariom@gtlaw.com

katzmo@gtlaw.com

Counsel for Plaintiff in Intervention Acres Medical, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

GB SCIENCES NEVADA, LLC, a Nevada
limited liability company,

Plaintiff,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
subdivision of the State of Nevada; DESERT
AIRE WELLNESS, LLC, a Nevada limited
liability company; NULEAF CLV
DISPENSARY, LLC, a Nevada limited
liability company; DOES 1 through 100; and
ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
subdivision of the State of Nevada; NULEAF

Case No.: A710597

Dept. No.: XX

**NOTICE OF ENTRY OF ORDER
GRANTING ACRES MEDICAL, LLC'S
MOTION TO INTERVENE ON
ORDER SHORTENING TIME**

GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

CLV DISPENSARY, LLC, a Nevada limited liability company; GB SCIENCES NEVADA, LLC, a Nevada limited liability company,

Defendants in Intervention.

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order Granting Acres Medical, LLC's Motion to Intervene on Order Shortening Time was entered in the above-captioned matter on the 24th day of November, 2015.

A copy of said Order is attached hereto.

DATED this 25th day of November, 2015.

GREENBERG TRAURIG, LLP

/s/ Moorea L. Katz

Mark E. Ferrario, Esq., Nevada Bar No. 1625
Moorea L. Katz, Esq., Nevada Bar No. 12007

3773 Howard Hughes Parkway

Suite 400 North

Las Vegas, Nevada 89169

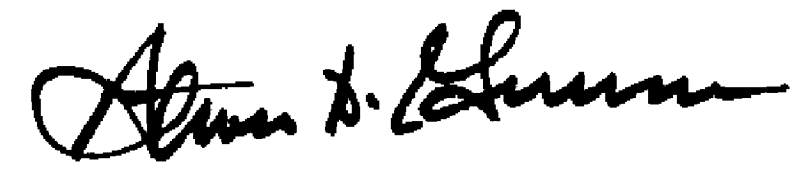
Counsel for Plaintiff in Intervention Acres Medical, LLC

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 25th day of November, 2015, I caused a true and correct copy of the foregoing *Notice of Entry of Oder Granting Acres Medical, LLC's Motion to Intervene on Order Shortening Time* to be filed and served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Joyce Heilich

An employee of GREENBERG TRAURIG, LLP



CLERK OF THE COURT

OGM

MARK E. FERRARIO, ESQ. (NV Bar #1625)
MOOREA L. KATZ, ESQ. (NV Bar #12007)
GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
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E-mail: ferrariom@gtlaw.com
katzmo@gtlaw.com
Counsel for Plaintiff in Intervention Acres Medical, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

GB SCIENCES NEVADA, LLC, a Nevada
limited liability company,

Plaintiff,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
subdivision of the State of Nevada; DESERT
AIRE WELLNESS, LLC, a Nevada limited
liability company; NULEAF CLV
DISPENSARY, LLC, a Nevada limited
liability company; DOES 1 through 100; and
ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political

Case No.: A710597

Dept. No.: XX

**ORDER GRANTING ACRES MEDICAL,
LLC'S MOTION TO INTERVENE ON
ORDER SHORTENING TIME**

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3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
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subdivision of the State of Nevada; NULEAF
CLV DISPENSARY, LLC, a Nevada limited
liability company; GB SCIENCES NEVADA,
LLC, a Nevada limited liability company.

Defendants in Intervention

THIS MATTER having come before the Court on Intervenor Acres Medical, LLC's Motion to Intervene on Order Shortening Time; Intervenor Acres Medical, LLC, having appeared by and through its attorneys of record, GREENBERG TRAURIG, LLP; Defendant NuLeaf, having appeared by and through its attorneys of record, PISANELLI BICE, PLLC; GB Sciences Nevada, LLC having appeared by and through its attorneys of record, SMITH & SHAPIRO, PLLC; Defendant State of Nevada, Department of Health and Human Services, having appeared by and through ADAM PAUL LAXALT, Attorney General through his Chief Deputy Attorney General, LINDA C. ANDERSON; the Court having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, and good cause appearing HEREBY GRANTS Acres Medical, LLC's Motion to Intervene.

IT IS SO ORDERED this 18 day of November, 2015.

DISTRICT COURT JUDGE

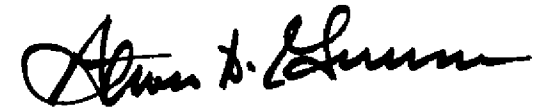
ERIC JOHNSON

Respectfully Submitted by:

GREENBERG TRAURIG, LLP

MARK E. FERRARIO (NV Bar No. 1625)
MOOREA L. KATZ (NV Bar No. 12007)
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Counsel for Plaintiff in Intervention Acres Medical, LLC

EXHIBIT 6



CLERK OF THE COURT

1 **NEOJ**

2 MARK E. FERRARIO, ESQ. (NV Bar #1625)

3 MOOREA L. KATZ, ESQ. (NV Bar #12007)

4 GREENBERG TRAUIG, LLP

5 3773 Howard Hughes Parkway, Suite 400 North

6 Las Vegas, Nevada 89169

7 Telephone: (702) 792-3773

8 Facsimile: (702) 792-9002

9 E-mail: ferrariom@gtlaw.com

10 katzmo@gtlaw.com

11 *Counsel for Plaintiff in Intervention*

12 *Acres Medical, LLC*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 GB SCIENCES NEVADA, LLC, a Nevada
16 limited liability company,

17 Plaintiff,

18 v.

19 STATE OF NEVADA, DIVISION OF
20 PUBLIC AND BEHAVIORAL HEALTH OF
21 THE DEPARTMENT OF HEALTH AND
22 HUMAN SERVICES; CITY OF LAS VEGAS,
23 a municipal corporation and political
24 subdivision of the State of Nevada; DESERT
25 AIRE WELLNESS, LLC, a Nevada limited
26 liability company; NULEAF CLV
27 DISPENSARY, LLC, a Nevada limited
28 liability company; DOES 1 through 100; and
ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,

Case No.: A710597

Dept. No.: XX

**NOTICE OF ENTRY OF ORDER ON
PLAINTIFF GB SCIENCES NEVADA,
LLC'S MOTION FOR SUMMARY
JUDGMENT AND ON DEFENDANT
NULEAF CLV DISPENSARY, LLC'S
COUNTERMOTION FOR SUMMARY
JUDGMENT**

GREENBERG TRAUIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

1 a municipal corporation and political
2 subdivision of the State of Nevada; NULEAF
3 CLV DISPENSARY, LLC, a Nevada limited
liability company; GB SCIENCES NEVADA,
LLC, a Nevada limited liability company,

4 Defendants in Intervention

6 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that an **ORDER ON**
7 **PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT**
8 **AND ON DEFENDANT NULEAF CLV DISPENSARY, LLC'S COUNTERMOTION FOR**
9 **SUMMARY JUDGMENT** was entered in the above-captioned matter on the 14th day of
10 December, 2015.

11 DATED this 15th day of December, 2015.

12 GREENBERG TRAURIG, LLP

13 By: /s/ Moorea L. Katz

14 MARK E. FERRARIO (NV Bar No. 1625)

15 MOOREA L. KATZ (NV Bar No. 12007)

16 3773 Howard Hughes Parkway, Suite 400 North

17 Las Vegas, Nevada 89169

18 *Counsel for Plaintiff in Intervention*

19 *Acres Medical, LLC*

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 15th day of December, 2015, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER ON PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT AND ON DEFENDANT NULEAF CLV DISPENSARY, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT** to be filed and served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Joyce Heilich

An employee of GREENBERG TRAURIG, LLP

1 ORDR

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 GB SCIENCES NEVADA, LLC, a Nevada
5 limited liability company,

6 Plaintiff,

7 vs.

8 STATE OF NEVADA, DIVISION OF PUBLIC
9 AND BEHAVIORAL HEALTH OF THE
10 DEPARTMENT OF HEALTH AND HUMAN
11 SERVICES; CITY OF LAS VEGAS, a
12 municipal corporation and political subdivision
13 of the State of Nevada; DESERT AIRE
14 WELLNESS, LLC, a Nevada limited liability
15 company; NULEAF CLV DISPENSARY,
16 LLC, a Nevada limited liability company;
17 DOES 1 through 100; and ROE ENTITIES 1
18 through 100,

19 Defendants.

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ACRES MEDICAL, LLC,

21 Plaintiff in Intervention,

22 vs.

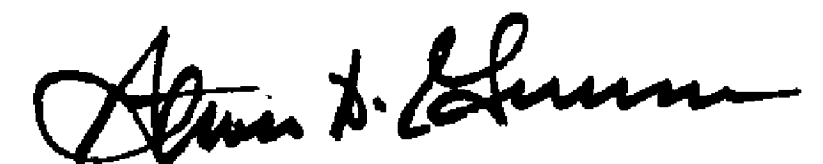
23 STATE OF NEVADA, DIVISION OF PUBLIC
24 AND BEHAVIORAL HEALTH OF THE
25 DEPARTMENT OF HEALTH AND HUMAN
26 SERVICES; CITY OF LAS VEGAS, a
27 municipal corporation and political subdivision
28 of the State of Nevada; NULEAF CLV
29 DISPENSARY, LLC, a Nevada limited liability
30 company; GB SCIENCES NEVADA, LLC, a
31 Nevada limited liability company,

32 Defendants in Intervention.

Case No. A-14-710597-C

Dept. No. XX

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1 5. The Division, as well as the local jurisdiction, played a role in the ultimate licensing
2 of MMEs. Specifically, the local jurisdiction was tasked with considering issues such as site plans,
3 zoning and proximity to other business or facilities (the "Local Application Process") while the
4 Division focused on public health, public safety, and marijuana as a medicine (the "Division
5 Application Process").

6 6. In accordance with its responsibilities, the City of Las Vegas enacted Ordinance No.
7 6321 and 6324 to establish zoning regulations, licensing regulations, and standards for MME
8 locations.

9 7. The Division issued its application packet (the "Division Application").

10 8. While the Division was allowed to accept all applications submitted, under N.R.S. §
11 453A.322, the Division could only issue a medical marijuana establishment registration certificate (a
12 "Provisional Certificate") if the applicant's application included six (6) specific items and if the
13 applicant otherwise met the requirements established by N.R.S. Chapter 453A.

14 9. One of the six (6) items required by law before the Division could issue a Provisional
15 Certificate is found in N.R.S. § 453A.322(3)(a)(5), which states:

16 (5) If the city, town or county in which the proposed medical marijuana establishment
17 will be located has enacted zoning restrictions, proof of licensure with the applicable
18 local governmental authority or a letter from the applicable local governmental
19 authority certifying that the proposed medical marijuana establishment is in
20 compliance with those restrictions and satisfies all applicable building requirements.
21 (NRS § 453A.322(3)(a)(5)).

22 10. Plaintiff, Acres, and Nuleaf were three of the 49 applicants for a Dispensary License
23 in the City of Las Vegas.

24 11. On October 28-29, 2014, the Las Vegas City Council held a special meeting to
consider each applicant for a special use permit and compliance permit for an MME Dispensary.

1 12. The City of Las Vegas denied special use permits and compliance permits to ten (10)
2 applicants, including Nuleaf.

3 13. On October 30, 2014, the City of Las Vegas sent a letter to the Division notifying the
4 Division that Nuleaf's application for a special use permit and compliance permit from the City of
5 Las Vegas had been denied as not in compliance with land use restrictions and city code and
6 ineligible for a business license.

7 14. The City of Las Vegas letter was intended to comply, and did comply, with NRS
8 453A.322(3)(a)(5).

9 15. Specifically, pursuant to Las Vegas Municipal Code Section 6.95.080, the letter was
10 to give notice to the Division, as intended in subsection 3(a)(5), as to those medical marijuana
11 applicants which the City of Las Vegas had found to be or not to be in conformance with land use
12 and zoning restrictions, and eligible for consideration for a business license. This letter described the
13 applicable building requirements and zoning restrictions as outlined in the statute.

14 16. Notwithstanding, on or about November 3, 2014, the Division registered Nuleaf as a
15 medical marijuana establishment and issued a provisional registration certificate for an MME
16 Dispensary (the "Provisional License").

17 17. At the time the Department registered Nuleaf and issued a Provisional License,
18 Nuleaf did not meet the requirements of N.R.S. § 453A.322, which specifically permitted the
19 Division to register a medical marijuana establishment and issue a registration certificate if the
20 business seeking to register had completed all of the requirements of subsection 3(a), including
21 providing a letter from the applicable local authority certifying that the proposed medical marijuana
22 establishment is in "compliance with [zoning] restrictions and satisfies all applicable building
23 requirements."

1 18. The Nevada Department of Health and Human Services should have registered and
2 issued the registration certificate to the medical marijuana establishment to the top twelve ranked
3 applicants which met all the requirements of the statute.

4 19. Pursuant to the plain terms of the statute, the Division should not have registered
5 Nuleaf and issued it a registration certificate as Nuleaf had not met all the requirements of the
6 statute. The Court's reading of the statute is consistent with the apparent goal of the statute and the
7 legislature to quickly move the opening and operation of dispensaries in the state. This goal can best
8 be achieved through the Division registering certificates for the most qualified applicants who have
9 obtained preliminary approval that they are in "compliance with [zoning] restrictions and satisfies all
10 applicable building requirements" of the municipality. In view of the time limitations the statute sets
11 for when the Division may register certificates, the legislature clearly sought to avoid the situation
12 where the Division approved an applicant but the applicant then failed to obtain zoning or business
13 licensing from the municipality, resulting in a delay in the opening of the desired number of
14 dispensaries.

15 20. On November 9, 2015, the Court heard oral argument on intervenor Acres Medical,
16 LLC's ("Acres") Motion to Intervene as a Matter of Right Pursuant to NRCP 24 on Order
17 Shortening Time ("Motion to Intervene"). Acres' Motion to Intervene argued that Acres, not
18 Plaintiff GB Sciences, was next in line to receive a provisional registration certificate, should one
19 become available. Acres argued that pursuant to District Court order dated October 8, 2015, in *Acres*
20 *Medical, LLC v. Department of Health and Human Services, Division of Public and Behavioral*
21 *Health, et al.*, Case Number A-15-719637-W, Acres should have been the thirteenth ranked
22 applicant on November 3, 2014. The premise for Acres' intervention was that Acres was entitled to
23 the relief sought by GB Sciences in this action and Acres was adopting the arguments asserted by
24 GB Sciences. The Court granted Acres' Motion to Intervene at the November 9, 2015 hearing.

21. The Court may take judicial notice, whether requested or not, of facts capable of verification from a reliable source. See NRS 47.150(1). The Court takes judicial notice that pursuant to District Court order dated October 8, 2015, in *Acres Medical, LLC v. Department of Health and Human Services, Division of Public and Behavioral Health, et al.*, Case Number A-15-719637-W, Acres should have been the thirteenth ranked applicant on November 3, 2014. Accordingly, Acres, not Plaintiff GB Sciences, is the next applicant in line to receive a registration certificate should one become available.

22. If any of the forgoing findings of fact are properly conclusions of law, they shall be treated as if appropriately identified and designated.

CONCLUSIONS OF LAW

23. Summary judgment is appropriate where the pleadings, depositions, answers to interrogatories, admissions and affidavits on file, show that there exists no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law. Bird v. Casa Royale W., 97 Nev. 67, 624 P.2d 17 (1981).

24. The Nevada Supreme Court has noted that “Rule 56 should not be regarded as a ‘disfavored procedural shortcut’” but instead as an integral part of the rules of procedure as a whole, which are designed “to secure the just, speedy and inexpensive determination of every action.” *Wood v. Safeway, Inc.*, 121 Nev. 724, 730, 121 P.3d 1026, 1030 (2005).

25. NRS § 30.040 gives this Court the ability to make certain declarations regarding the rights, status or other legal relations of parties to a lawsuit.

26. Further, this Court has the authority to issue mandatory injunctions “to restore the status quo, to undo wrongful conditions.” Leonard v. Stoebling, 102 Nev. 543, 728 P.2d 1358 (1986); Memory Gardens of Las Vegas, Inc. v. Pet Ponderosa Memorial Gardens, Inc., 492 P.2d 123, 88 Nev. 1 (Nev., 1972).

1 27. One of the stated purposes of mandatory injunctions is "compelling the undoing of
2 acts that had been illegally done." City of Reno v. Matley, 378 P.2d 256, 79 Nev. 49 (Nev., 1963).

3 28. The Division has acknowledged that a complaint for declaratory and injunctive relief
4 is appropriate.

5 29. The issuance of the Provisional Certificate to Nuleaf was in error and contrary to
6 NRS § 453A.322(3).

7 30. Nuleaf should have been disqualified due to their non-compliance with NRS §
8 453A.322(3)(a)(5).

9 31. The Plaintiff and Acres have an inadequate remedy at law.

10 32. To require the Plaintiff or Acres to simply apply again as part of a new application
11 period is to deny the Plaintiff and Acres all of their remedies, not only because it delays their ability
12 to proceed forward with the initial applicants, but also because there is no guarantee that the Plaintiff
13 or Acres would even qualify for a Provisional License the second time around when comparing the
14 Plaintiff or Acres to the second, new set of applicants.

15 33. It would be inequitable and inappropriate to deprive the City of Las Vegas of one of
16 the twelve Provisional Certificates allocated to it due to an error by the Division.

17 34. At the hearing on the motions on November 9, 2015, counsel for the Division raised
18 the fact the City of Las Vegas sent its letter on October 30, 2014, four days before and only one
19 business day before the Division's planned issuance of registration certificates on November 3,
20 2014. The Division was not aware of the letter and those entities in conformance with City of Las
21 Vegas land use, zoning and building requirements at the time it issued registration certificates.
22 However, counsel stated the Division in issuing certificates looked at submitted applications without
23 considering the local approval requirement of the statute or whether any of the applicants in
24 municipalities throughout the state had received a letter of approval from the municipality where

1 they were located. Consequently, the Court finds the timing of the letter and whether the Division
2 should have been aware of it presents no excuse for the Division failing to comply with the
3 provisions of the statute. The Division was not looking for, inquiring, following up or even
4 considering whether applicants had complied with the statutory requirement of an approval letter
5 from the municipality where the applicant's business would be located.

6 35. The Court further finds no evidence presented suggests the City of Las Vegas sought
7 to use the zoning or land use process as a subterfuge for the City to determine the most qualified
8 applicants in place of the Division. The City made a determination as to applicants' compliance
9 with its zoning restrictions and satisfaction of applicable building requirements as it was specifically
10 expected to do pursuant to the statute before the registering of certificates.

11 36. If any of the forgoing conclusions of law are properly findings of fact, they shall be
12 treated as if appropriately identified and designated.

13 **NOW THEREFORE:**

14 37. **IT IS HEREBY ORDERED** Plaintiff's Motion for Summary Judgment is
15 **GRANTED** in part and **DENIED** in part.

16 38. **IT IS FURTHER ORDERED** that Plaintiff's Motion is **GRANTED** to the extent
17 Plaintiff is entitled to a declaration that Nuleaf should not have been registered or issued a
18 certification of registration as a medical marijuana establishment because it had not met all the
19 necessary requirements of 453A.322(3)(a).

20 39. **IT IS FURTHER ORDERED** that the Division shall rescind or withdraw the
21 registration of Nuleaf as a medical marijuana establishment.

22 40. **IT IS FURTHER ORDERED** that Plaintiff's Motion is **DENIED** to the extent
23 Plaintiff seeks the re-issue of Nuleaf's registration to Plaintiff.

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41. **IT IS FURTHER ORDERED** that the Division register intervenor Acres and issue Acres a registration certificate.

42. **IT IS FURTHER ORDERED** Defendant Nuleaf's Countermotion for Summary Judgment is **DENIED**.

DATED this 11 th day of December, 2015.



ERIC JOHNSON
DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Order to be served as indicated below:

JAMES E. SHAPIRO, ESQ.
jshapiro@smithshaprio.com
Attorney for Plaintiff, Counter Claimant, Intervenor Defendant

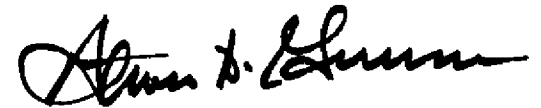
TODD L. BICE, ESQ.
tlb@pisanellibice.com
Attorney for Defendant, Intervenor Defendant

MARK E. FERRARIO, ESQ.
lvlitdock@gtlaw.com
Attorney for Counter Defendant, Intervenor Plaintiff

/s/Kelly Muranaka

Kelly Muranaka
Judicial Executive Assistant

EXHIBIT 7



CLERK OF THE COURT

1 **NEOJ**

2 MARK E. FERRARIO, ESQ. (NV Bar #1625)

3 MOOREA L. KATZ, ESQ. (NV Bar #12007)

4 GREENBERG TRAUIG, LLP

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9 E-mail: ferrariom@gtlaw.com

10 katzmo@gtlaw.com

11 *Counsel for Plaintiff in Intervention*

12 *Acres Medical, LLC*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 GB SCIENCES NEVADA, LLC, a Nevada
16 limited liability company,

17 Plaintiff,

18 v.

19 STATE OF NEVADA, DIVISION OF
20 PUBLIC AND BEHAVIORAL HEALTH OF
21 THE DEPARTMENT OF HEALTH AND
22 HUMAN SERVICES; CITY OF LAS VEGAS,
23 a municipal corporation and political
24 subdivision of the State of Nevada; DESERT
25 AIRE WELLNESS, LLC, a Nevada limited
26 liability company; NULEAF CLV
27 DISPENSARY, LLC, a Nevada limited
28 liability company; DOES 1 through 100; and
ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,

Case No.: A710597

Dept. No.: XX

**NOTICE OF ENTRY OF ORDER DENYING
PLAINTIFF GB SCIENCES NEVADA,
LLC'S MOTION TO ALTER OR AMEND
JUDGMENT; OR, IN THE ALTERNATIVE
MOTION FOR PARTIAL
RECONSIDERATION**

GREENBERG TRAUIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
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Telephone: (702) 792-3773
Facsimile: (702) 792-9002

1 a municipal corporation and political
2 subdivision of the State of Nevada; NULEAF
3 CLV DISPENSARY, LLC, a Nevada limited
liability company; GB SCIENCES NEVADA,
LLC, a Nevada limited liability company,

4 Defendants in Intervention

6 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that an **ORDER**
7 **DENYING PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION TO ALTER OR**
8 **AMEND JUDGMENT; OR, IN THE ALTERNATIVE MOTION FOR PARTIAL**
9 **RECONSIDERATION** was entered in the above-captioned matter on the 3rd day of March, 2016.

10 DATED this 4th day of March, 2016.

11 GREENBERG TRAURIG, LLP

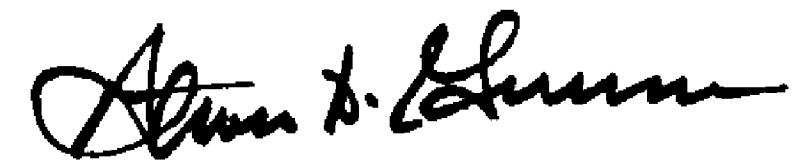
12
13
14 By: /s/ Moorea L. Katz
15 MARK E. FERRARIO (NV Bar No. 1625)
16 MOOREA L. KATZ (NV Bar No. 12007)
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18 Las Vegas, Nevada 89169
19 *Counsel for Plaintiff in Intervention*
20 *Acres Medical, LLC*
21
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 4th day of March, 2016, I caused a true and correct copy of the foregoing to be filed and served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Joyce Heilich

An employee of GREENBERG TRAURIG, LLP



CLERK OF THE COURT

1 **ORDR**

2 MARK E. FERRARIO, ESQ. (NV Bar #1625)

3 MOOREA L. KATZ, ESQ. (NV Bar #12007)

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9 E-mail: ferrariom@gtlaw.com

10 katzmo@gtlaw.com

11 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 GB SCIENCES NEVADA, LLC, a Nevada
15 limited liability company,

16 Plaintiff,

17 v.

18 STATE OF NEVADA, DIVISION OF
19 PUBLIC AND BEHAVIORAL HEALTH OF
20 THE DEPARTMENT OF HEALTH AND
21 HUMAN SERVICES; CITY OF LAS VEGAS,
22 a municipal corporation and political
23 subdivision of the State of Nevada; DESERT
24 AIRE WELLNESS, LLC, a Nevada limited
25 liability company; NULEAF CLV
26 DISPENSARY, LLC, a Nevada limited
27 liability company; DOES 1 through 100; and
28 ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
subdivision of the State of Nevada; NULEAF

Case No.: A-14-710597-C

Dept. No.: XX

**ORDER DENYING PLAINTIFF GB
SCIENCES NEVADA, LLC'S MOTION TO
ALTER OR AMEND JUDGMENT; OR, IN
THE ALTERNATIVE MOTION FOR
PARTIAL RECONSIDERATION**

GREENBERG TRAUIG, LLP
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CLV DISPENSARY, LLC, a Nevada limited liability company; GB SCIENCES NEVADA, LLC, a Nevada limited liability company,


Defendants in Intervention.

THIS MATTER, having come before the Court on January 26, 2016, on GB SCIENCES NEVADA, LLC'S ("Plaintiff") Motion to Alter or Amend Judgment; or, in the Alternative Motion for Partial Reconsideration ("Motion"), Plaintiff, having appeared by and through its attorneys of record, SMITH & SHAPIRO, PLLC; Defendant STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES (the "State" or "Division"), having appeared by and through ADAM PAUL LAXALT, Attorney General through his Chief Deputy Attorney General, LINDA C. ANDERSON; Defendant NuLeaf CLV Dispensary LLC, having appeared by and through its attorneys of record, PISANELLI BICE, PLLC; Intervenor ACRES MEDICAL, LLC ("Acres"), having appeared by and through its attorneys of record, GREENBERG TRAURIG, LLP; the Court having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, the Court having stated its findings and conclusions on the record, and good cause appearing, **NOW THEREFORE, THE COURT FINDS AND CONCLUDES:**

GB Sciences has not demonstrated that the Court's December 14, 2015 Order ("December Order") was clearly erroneous and therefore has not met the standard for reconsideration. *See Masonry and Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 941 P.2d 486, 113 Nev. 737 (1997). Nor has GB Sciences demonstrated that the Court's December Order should be amended based on accident or error pursuant to Nevada Rule of Civil Procedure 59(a).

NOW THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion to Alter or Amend Judgment; or, in the Alternative Motion for Partial Reconsideration is **DENIED**.

IT IS SO ORDERED this 29 day of February, 2016.


DISTRICT COURT JUDGE
ERIC JOHNSON

1 Respectfully Submitted by:

2 **GREENBERG TRAURIG, LLP**

3 _____
4 Mark E. Ferrario, Esq.

5 Nevada Bar No. 1625

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7 Suite 400 North

8 Las Vegas, Nevada 89169

9 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

10 Approved/Disapproved as to Form and Content:

11 **SMITH & SHAPIRO, PLLC**

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13 James E. Shapiro, Esq.

14 Nevada Bar No. 7907

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16 Henderson, Nevada 89074

17 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

18 Approved/Disapproved as to Form and Content:

19 **PISANELLI BICE, PLLC**

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21 Todd L. Bice, Esq.

22 Nevada Bar No. 4534

23 400 South 7th Street, Suite 300

24 Las Vegas, NV 89101

25 *Attorneys for Nuleaf CLV Dispensary LLC*

26 Approved/Disapproved as to Form and Content:

27 **ADAM PAUL LAXALT**

28 Attorney General

29 Linda C. Anderson, Esq.

30 Chief Deputy Attorney General

31 Nevada Bar No. 4090

32 555 E. Washington Ave., #3900

33 Las Vegas, NV 89101

1 Respectfully Submitted by:

2 **GREENBERG TRAURIG, LLP**

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9 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

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16 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

17 Approved/Disapproved as to Form and Content:

18 **PISANELLI BICE, PLLC**

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23 *Attorneys for Nuleaf CLV Dispensary LLC*

24 Approved/Disapproved as to Form and Content:

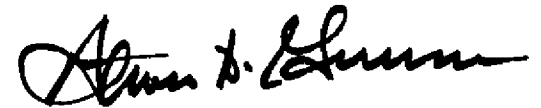
25 **ADAM PAUL LAXALT**

26 Attorney General

27 

28 Linda C. Anderson, Esq.
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101

EXHIBIT 8



CLERK OF THE COURT

1 **NEOJ**

2 MARK E. FERRARIO, ESQ. (NV Bar #1625)

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4 GREENBERG TRAUIG, LLP

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9 E-mail: ferrariom@gtlaw.com

10 katzmo@gtlaw.com

11 *Counsel for Plaintiff in Intervention*

12 *Acres Medical, LLC*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 GB SCIENCES NEVADA, LLC, a Nevada
16 limited liability company,

17 Plaintiff,

18 v.

19 STATE OF NEVADA, DIVISION OF
20 PUBLIC AND BEHAVIORAL HEALTH OF
21 THE DEPARTMENT OF HEALTH AND
22 HUMAN SERVICES; CITY OF LAS VEGAS,
23 a municipal corporation and political
24 subdivision of the State of Nevada; DESERT
25 AIRE WELLNESS, LLC, a Nevada limited
26 liability company; NULEAF CLV
27 DISPENSARY, LLC, a Nevada limited
28 liability company; DOES 1 through 100; and
ROE ENTITIES 1 through 100,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

v.

STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,

Case No.: A710597

Dept. No.: XX

**NOTICE OF ENTRY OF ORDER
GRANTING INTERVENOR ACRES
MEDICAL, LLC'S MOTION TO DISMISS
GB SCIENCES NEVADA, LLC'S
COUNTERCLAIMS AGAINST ACRES
MEDICAL, LLC**

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1 a municipal corporation and political
2 subdivision of the State of Nevada; NULEAF
3 CLV DISPENSARY, LLC, a Nevada limited
liability company; GB SCIENCES NEVADA,
LLC, a Nevada limited liability company,

4 Defendants in Intervention

5
6 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that an **ORDER**
7 **GRANTING INTERVENOR ACRES MEDICAL, LLC'S MOTION TO DISMISS GB**
8 **SCIENCES NEVADA, LLC'S COUNTERCLAIMS AGAINST ACRES MEDICAL, LLC ON**
9 **PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT**
10 **AND ON DEFENDANT NULEAF CLV DISPENSARY, LLC'S COUNTERMOTION FOR**
11 **SUMMARY JUDGMENT** was entered in the above-captioned matter on the 3rd day of March,
12 2016.

13 DATED this 4th day of March, 2016.

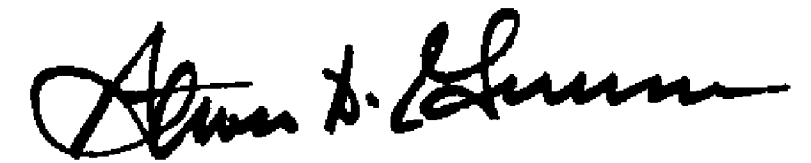
14 GREENBERG TRAURIG, LLP

15
16
17 By: /s/ Moorea L. Katz
18 MARK E. FERRARIO (NV Bar No. 1625)
19 MOOREA L. KATZ (NV Bar No. 12007)
20 3773 Howard Hughes Parkway, Suite 400 North
21 Las Vegas, Nevada 89169
22 *Counsel for Plaintiff in Intervention*
23 *Acres Medical, LLC*
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28

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 4th day of March, 2016, I caused a true and correct copy of the foregoing to be filed and served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Joyce Heilich
An employee of GREENBERG TRAURIG, LLP



CLERK OF THE COURT

1 **ORDR**

MARK E. FERRARIO, ESQ. (NV Bar #1625)

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6 katzmo@gtlaw.com

Counsel for Plaintiff in Intervention Acres Medical, LLC

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 GB SCIENCES NEVADA, LLC, a Nevada
limited liability company,

11 Plaintiff,

12 v.

13 STATE OF NEVADA, DIVISION OF
14 PUBLIC AND BEHAVIORAL HEALTH OF
15 THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CITY OF LAS VEGAS,
16 a municipal corporation and political
subdivision of the State of Nevada; DESERT
17 AIRE WELLNESS, LLC, a Nevada limited
liability company; NULEAF CLV
18 DISPENSARY, LLC, a Nevada limited
liability company; DOES 1 through 100; and
19 ROE ENTITIES 1 through 100,

20 Defendants.

21 ACRES MEDICAL, LLC,

22 Plaintiff in Intervention,

23 v.

24
25 STATE OF NEVADA, DIVISION OF
26 PUBLIC AND BEHAVIORAL HEALTH OF
THE DEPARTMENT OF HEALTH AND
27 HUMAN SERVICES; CITY OF LAS VEGAS,
a municipal corporation and political
28 subdivision of the State of Nevada; NULEAF

Case No.: A-14-710597-C

Dept. No.: XX

**ORDER GRANTING INTERVENOR ACRES
MEDICAL, LLC'S MOTION TO DISMISS
GB SCIENCES NEVADA, LLC'S
COUNTERCLAIMS AGAINST ACRES
MEDICAL, LLC**

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1 CLV DISPENSARY, LLC, a Nevada limited
2 liability company; GB SCIENCES NEVADA,
3 LLC, a Nevada limited liability company,

4 Defendants in Intervention.

5 THIS MATTER, having come before the Court on January 26, 2016, on ACRES
6 MEDICAL, LLC'S ("Acres" or "Intervenor") Motion to Dismiss GB Sciences Nevada, LLC's
7 Counterclaim Against Acres Medical, LLC ("Motion"), Plaintiff, having appeared by and through
8 its attorneys of record, SMITH & SHAPIRO, PLLC; Defendant STATE OF NEVADA,
9 DEPARTMENT OF HEALTH AND HUMAN SERVICES (the "State" or "Division"), having
10 appeared by and through ADAM PAUL LAXALT, Attorney General through his Chief Deputy
11 Attorney General, LINDA C. ANDERSON; Defendant NuLeaf CLV Dispensary LLC, having
12 appeared by and through its attorneys of record, PISANELLI BICE, PLLC; Intervenor Acres,
13 having appeared by and through its attorneys of record, GREENBERG TRAURIG, LLP, the Court
14 having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, the
15 Court having stated its conclusions on the record, the Court being fully advised in the premises, and
16 good cause appearing, **NOW THEREFORE, THE COURT FINDS AND CONCLUDES:**

17 GB Sciences Nevada, LLC's ("GB Sciences") counterclaims for declaratory relief and
18 equitable estoppel against Acres are subject to dismissal. GB Sciences cannot seek a provisional
19 Medical Marijuana Establishment ("MME") certificate from the Division via a claim for declaratory
20 relief or equitable estoppel against Acres. If GB Sciences wishes to challenge the score or rank its
21 MME application received from the Division, counterclaims against Acres is not the proper method
22 to do so. Acres is simply a fellow MME applicant in the City of Las Vegas with no legal or
23 contractual relationship with GB Sciences.

24
25 Additionally, GB Sciences has failed to allege any facts sufficient to state a claim for
26 equitable estoppel against Acres. GB Sciences bases its claim for equitable estoppel on its
27 allegations that (1) Acres delayed to intervene in this action; and (2) Acres did not name GB
28 Sciences as a party in separate writ proceedings against the Division seeking a correction of Acres'

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1 application score. However, the Court already reached the issue of the timeliness of Acres'
2 intervention and has already concluded that Acres' intervention was timely. The Court also notes
3 that GB Sciences never opposed Acres' intervention in these proceedings. Furthermore, counsel for
4 GB Sciences admits that he attended the hearing on Acres writ petition but made no effort to
5 participate or intervene in that action.
6

7 **IT IS HEREBY ORDERED** that Intervenor Acres's Motion to Dismiss GB Sciences
8 Nevada, LLC's Counterclaims Against Acres Medical, LLC is **GRANTED** and that GB Sciences'
9 Counterclaims against Acres are **DISMISSED WITH PREJUDICE**.


10 **IT IS SO ORDERED** this 29 day of February, 2016.

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DISTRICT COURT JUDGE
ERIC JOHNSON

Respectfully Submitted by:

GREENBERG TRAURIG, LLP


Mark E. Ferrario, Esq.

Nevada Bar No. 1625

3773 Howard Hughes Parkway


Suite 400 North

Las Vegas, Nevada 89169

Counsel for Plaintiff in Intervention Acres Medical, LLC

Approved/Disapproved as to Form and Content:

SMITH & SHAPIRO, PLLC


James E. Shapiro, Esq.

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Henderson, Nevada 89074

Attorneys for Plaintiff GB Sciences Nevada, LLC

///

1 Approved/Disapproved as to Form and Content:

2 **PISANELLI BICE, PLLC**

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5 Nevada Bar No. 4534
6 400 South 7th Street, Suite 300
7 Las Vegas, NV 89101
8 *Attorneys for Nuleaf CLV Dispensary LLC*

9 Approved/Disapproved as to Form and Content:

10 **ADAM PAUL LAXALT**
11 Attorney General

12 _____
13 Linda C. Anderson, Esq.
14 Chief Deputy Attorney General
15 Nevada Bar No. 4090
16 555 E. Washington Ave., #3900
17 Las Vegas, NV 89101