IN THE SUPREME COURT OF THE STATE OF NEVADA

NULEAF CLV DISPENSARY, LLC, a Nevada limited liability company,

Appellant,

vs.

THE STATE OF NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH; ACRES MEDICAL, LLC, a Nevada limited liability company; and GB SCIENCES NEVADA, LLC, a Nevada limited liability company,

Respondents.

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

Cross-Appellant,

vs.

THE STATE OF NEVADA DEPT. OF HEALTH AND HUMAN SERVICES, DIV. OF PUBLIC AND BEHAVIORAL HEALTH; NULEAF CLV DISPENSARY, LLC, a Nevada limited liability company; and ACRES MEDICAL, LLC, a Nevada limited liability company,

Cross-Respondents.

Supreme Court No. 69909

District Court Case No. A710597

RESPONDENT/CROSS-APPELLANT GB SCIENCES NEVADA, LLC'S REPLY BRIEF ON CROSS-APPEAL

RESPONDENT/CROSS-APPELLANT GB SCIENCES NEVADA, LLC'S REPLY BRIEF ON CROSS-APPEAL

On Appeal from Judgment Granted by the Eighth Judicial District Court of the State of Nevada, in and for Clark County
Case No. A710597

James E. Shapiro, Esq.
Nevada Bar No: 7907
Sheldon A. Herbert, Esq.
Nevada Bar No: 5988
SMITH & SHAPIRO, PLLC
2520 St. Rose Pkwy, Suite 220
Henderson, NV 89074
(702) 318-5033
Attorneys for Respondent/Cross-Appellant, GB SCIENCES NEVADA, LLC

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

1. GroBlox Sciences, Inc.
2. Smith & Shapiro, PLLC
3. Moran Brandon Bendavid Moran

Dated this 22nd day of February, 2017.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro, Esq.
James E. Shapiro, Esq.
Nevada Bar No: 7907
Sheldon A. Herbert, Esq.
Nevada Bar No: 5988
2520 St. Rose Pkwy, Suite 220
Henderson, NV 89074
Attorneys for Respondent/Cross-Appellant, GB SCIENCES NEVADA, LLC

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER LEGAL AUTHORITY

I.

LEGAL ARGUMENT

A. THE DISTRICT COURT VIOLATED GB SCIENCES' DUE PROCESS RIGHTS.

In its Opposition to GB Sciences' Opening Brief on Cross-Appeal, Acres tries to shore up its ill-gotten gains by arguing that the District Court did not violate GB Sciences' due process rights because the evidence ***established*** that GB Sciences was ranked #13. *See* Answering Brief at 14-15. Acres further claims that the Division admitted that Acres was the next highest ranked applicant, citing to III APP 534:8-11 in the record. Id. at 15. While not directly stating it, Acres appears to be arguing that when the District Court violated GB Sciences' due process rights, it was only committing "harmless error." However, where evidence is split and the case is close, the rule of harmless error is inoperative. *See* Freeman v. Davidson, 105 Nev. 13, 15, 768 P.2d 885, 887 (1989).

In this case, Acres' contentions are without merit. First, the evidence showed that GB Sciences was actually ranked #13. (App. Vol. II: APP329-30). Second, the hearing transcript does not state what Acres claims it does, rather in the portion of the hearing transcript cited by Acres, the Division actually argued that it had "no vested interest in any of these applicants . . . [b]ecause, in the end, we're going to issue a registration to what we need to." (App. Vol. III: APP534:13-17). Even if the Division had asserted the position that Acres was

next-in-line, as Acres claims it did, it would have been meaningless. It was the Division's original error in issuing the PRC to NuLeaf that led to this case in the first place.

Further, Acres argues that GB Sciences *alleged* no facts that would establish that GB Sciences' application received a higher score than Acres. *See* Answering Brief at 15. This is, likewise, not true. *See* Answer to Complaint in Intervention and Counterclaim (at Counterclaim ¶¶ 45, 46, 51-56, and 58-63). (Resp. App. Vol. I: RAPP70-88)

Moreover, Acres attacks the Nevada Supreme Court's prior ruling in Nicoladze v. First Nat. Bank of Nevada, 94 Nev. 377, 580 P.2d 1391 (1978) and attempts to differentiate that case from the present one, arguing that Nicoladze is inapposite because it involved ***the assessment of liability*** against a party that had never been named in litigation. *See* Answering Brief at 15.

However, Acres' excessively narrow reading and application of Nicoladze is misguided. Fundamental due process requires that a party be named in litigation before the outcome of that litigation can be allowed to affect ***any legal interest*** of the party, whether it is a liability or remedy (as in this case).

This is obvious from other decisions of the Nevada Supreme Court, such as the opinion in A.F. Constr. Co. v. Virgin River Casino Corp., 118 Nev. 699, 56 P.3d 887 (2002). In A.F. Construction, the Nevada Supreme Court ruled that a

deed of trust beneficiary was not a necessary party to a mechanics' lien enforcement action. Id., 56 P.3d at 891. The Court, nonetheless, concluded that the defendant lender, Virgin River, would not be deprived of due process if it was not included as a party in a mechanics' lien enforcement action, because it could always bring a subsequent action to challenge the priority and amount of the mechanics' liens. Id.[2]

This did not involve merely the potential "liability" of the lender. It did not involve the liability of the lender, at all. Rather, this involved the lender's ***legal remedy*** consisting of its right to priority of its competing lien against the property. Due process in A.F. Construction was not violated because the lender could still contest the priority of its lien in a subsequent action, regardless of the outcome of the mechanics' lien action (with respect to which, the mechanics' lien claimant had never made the lender a party). If a ruling in favor of the mechanics' lien claimants ***had*** bound the lender's ability to later argue priority in a subsequent action, then ***it would have violated due process***.

Unlike the lender in A.F. Construction, GB Sciences' due process rights were violated because it was ***not*** made a party to Acres' Lawsuit, and the District

---

[2] At the same time, the case does not impose an obligation on the lender to intervene in the mechanics' lien case simply because the lender may be aware of the case, nor does it cause the lender to lose its right to contest priority simply because the lender may have been aware of the mechanics' lien case and did not

Court below prevented GB Sciences from contesting priority to the revoked PRC at issue in a separate action, when it would not permit GB Sciences' counterclaim against Acres to proceed, or otherwise permit GB Sciences to contend with Acres regarding the priority of their respective rankings.

Acres also claims that GB Sciences had a sufficient opportunity to be heard but did not challenge intervention. Acres is really arguing that GB Sciences waived its right to contest the issue of priority to the revoked PRC simply because it consented to intervention. *See* Answering Brief at 16.

However, this is argument is ludicrous. Permitting another party to intervene is not the equivalent of consenting to or admitting to the relief sought by the intervening party, just as stipulating to allow another party to amend its complaint does not mean that the stipulating party agrees with the allegations stated in the amended complaint. Similarly, agreeing to set aside a default to allow the other party to appear in the case and file an answer, does ***not*** mean that the consenting party admits to the affirmative defenses set forth in the answer ultimately filed.

All that intervention means (and all that it should have meant in this case), is that a party, such as Acres, could intervene in the case (i.e. become another

---

intervene. Intervention is not mandated. The onus is on the mechanics' lien claimant to include the lender if it wants priority to be settled once and for all in the mechanics' lien claimant's case.

party contesting the right to receive the PRC at issue, along with NuLeaf and GB Sciences) when that party "***claims*** an interest." *See* NRCP 24(a)(emphasis added).

Claiming an interest is not ***establishing*** an interest. Simply filing pleadings containing various allegations is entirely different than submitting either: (1) undisputed admissible evidence by motion; or (2) admissible evidence by a preponderance of the evidence at trial. Neither happened when Acres intervened. Acres only obtained the ***right to claim*** an interest in the PRC at issue in this case by becoming a party to the case through filing a complaint in intervention; nothing more.

In fact, Acres always knew this when it filed its motion for intervention. Acres did not file a motion for summary judgment. Rather, in the motion for intervention, Acres invoked NRCP 24 (which provides the legal authority for intervention *but not for entry of judgment*), and Acres argued that there was no prejudice to the parties from intervention because "Acres and GB Sciences ***are seeking*** the exact same relief" (meaning there was an ***active*** dispute between them for the same revoked PRC - one that would have to be disposed of through future motions or trial). (App. Vol. III: APP437)

Acres further couched what was intended simply as a motion limited to *entering the case as a party*, with words such as "Acres' ***claim*** to the Provisional

License that is the subject of this action . . .", "Acres ***seeks*** the exact same thing sought by GB Sciences", Acres would "***pursue*** the same arguments already pursued by GB Sciences", and Acres "must be permitted ***to protect*** its rights and ***pursue*** a Provisional License through this action." (App. Vol. III: APP438-39)(emphasis added). These statements clearly denote an understanding by Acres that NRCP 24 was simply a vehicle to enter the case below, not to obtain the ultimate result.

However, now Acres tries to justify its overreaching and further argues that GB Sciences had an opportunity to litigate its counterclaims. *See* Answering Brief at 16-17. This is also not true. The District Court dismissed the counterclaims without giving GB Sciences an opportunity to contest its claim to being #13 in rank and thus entitled to the PRC at issue. (App. Vol. III, APP520-23)[3] Therefore, the District Court committed reversible error when it denied GB Sciences its due process right to contest the issue of who was #13, next-in-line, and entitled to receive NuLeaf's revoked PRC.

---

[3] Appellant NuLeaf did not file a separate Answer to the Opening Brief on Cross-Appeal; however, in its Appellant's Reply, NuLeaf makes a reference to the Cross-Appeal in footnote no. 1 (NuLeaf's Reply at 12), which permits GB Sciences to briefly respond. NuLeaf argues that GB Sciences' cross appeal is illustrative of the fact that the District Court "improperly substituted its judgment" for that of the Division. Contrary to the arguments of NuLeaf; however, simply because the District Court made an error in awarding the revoked PRC to Acres, it does not mean that the District Court made an error in revoking the PRC from an unqualified applicant, such as NuLeaf, in the first place. Different legal principles are involved with each step. Rather, the District Court got it "part right" and "part wrong."

B. THE DISTRICT COURT ERRED IN TAKING JUDICIAL NOTICE OF THE ORDER IN THE ACRES LAWSUIT.

As set forth in the Opening Brief on Cross-Appeal, the District Court also misapplied the rules governing judicial notice. Nonetheless, Acres argues that the District Court acted properly because "evidence of Acres' status as the next highest ranked applicant was in the record before the Court." *See* Answering Brief at 17-18.

However, Acres interpretation of "judicial notice" would entirely upend the legal process because the District Court could "take judicial notice" of almost anything (and, thus, make it conclusive) if there was simply "a little evidence for it", regardless of whether there was an abundance of contrary evidence. Acres ignores the fact that there was evidence before the District Court that GB Sciences was, in fact, ranked #13, and, thus, next-in-line with the elimination of NuLeaf. (App. Vol. II: APP329-30) Moreover, as stated earlier, the part of the record cited by Acres ***does not*** contain any concession on the part of the Division that Acres was the "next highest ranked applicant." *See* App. Vol. III: APP534:8-11.

Further, Acres argues that the order from the Acres Lawsuit could have been considered by the District Court because it was authenticated (by Acres' attorney, no less) and properly in the evidentiary record. *See* Answering Brief at 18.

However, authentication was not the issue and Acres confuses the point of judicial notice. The point of judicial notice is that the District Court recognizes a matter of fact or a matter of law if the criteria in N.R.S. § 47.130 or N.R.S. § 47.140, respectively, are met. To receive such treatment, though, under N.R.S. § 47.130, a fact must (among other things) be "***not subject to reasonable dispute.***" *See* N.R.S. § 47.130 (emphasis added).

In this case, however, there was a reasonable dispute as to which MME applicant was #13. Thus, (although previously briefed by GB Sciences), without even getting into whether a finding in the Acres Lawsuit was a "fact" or "legal conclusion" (which it actually was), and without getting into whether Acres had a motion for summary judgment on file (which it did not), there would have, at least been a genuine issue of material fact as to which applicant was #13 so it was completely improper for the District Court to summarily declare Acres as #13 and next-in-line.

Additionally, Acres argues that the Order in the Acres Lawsuit could be inserted as a ruling in this case by judicial notice because a district court can take judicial notice of its records in other cases "where a valid reason to do so exists." Mack v. Estate of Mack, 125 Nev. 80, 92, 206 P.3d 98, 106 (2009). *See* Answering Brief at 18-19.

While that might be the legal standard in the State of Nevada, no such valid reason to do so existed in the case below. Acres goes on to try and explain how Mack and Occhiuto v. Occhiuto, 97 Nev. 143, 625 P.2d 568 (1981), support Acres' claim to the contrary. However, what Acres fails to inform the Nevada Supreme Court is that, in each of the cited cases, justice would not be offended because the prior case ***involved the exact same party*** against which judicial notice was being asserted in the later case. *See* 125 Nev. 80, 206 P.3d at 106 (prior murder trial involving the party against whom judicial notice was sought) and 97 Nev. at 144-45, 625 P.2d at 569 (prior divorce action involving both parties). In contrast, GB Sciences was ***not*** a party to the Acres Lawsuit. Thus, taking judicial notice of the record in the Acres Lawsuit and using it against GB Sciences in the case below was completely improper.

C. THE DISTRICT COURT VIOLATED THE PRINCIPLES OF *RES JUDICATA.*

In its Answering Brief, Acres summarily dismisses GB Sciences' arguments without any analysis, simply claiming that neither the District Court nor Acres relied on issue or claim preclusion. *See* Answering Brief at 21.

However, Acres misses the point that the District Court incorrectly applied issue preclusion and claim preclusion *implicitly* when it prevented GB Sciences from contesting the right to prove that it was #13 solely because of the entry of the Order in the Acres Lawsuit. (Resp. App. Vol. 1: RAPP89-98 (RAPP94)) The

Order in the Acres Lawsuit should not have been applied against GB Science's claim to be #13, because at least one of the elements of *res judicata* was clearly not present: GB Sciences was not a party to the Acres Lawsuit. *See* University of Nevada v. Tarkanian, 110 Nev. 581, 598, 879 P.2d 1180, 1191 (1994). Therefore, it was reversible error for the District Court to have applied res judicata against GB Sciences.

D. ACRES WAS IMPROPERLY GRANTED SUMMARY JUDGMENT *SUA SPONTE*

For the reasons set forth in the Opening Brief on Cross-Appeal, the District Court also committed reversible error by *sua sponte* granting summary judgment to Acres, even though it had not even filed a motion requesting that relief.

The fact that Acres completely ignores this issue in its Answering Brief speaks volumes and serves as confirmation that there is no way to defend this clear error by the District Court.

E. DISMISSAL OF THE COUNTERCLAIM WAS IMPROPER.

In this case, the District Court compounded its error by dismissing GB Sciences' counterclaim to Acres' complaint in intervention. In its Answering Brief, Acres argues that the District Court's actions were proper because GB Sciences did not state a claim. Acres argues that GB Sciences admitted that Acres had an MME score of 167.8. *See* Answering Brief at 21.

However, Acres' citation to the record refers to an allegation in GB Science's amended counterclaim which recites the finding of the district court in the Acres Lawsuit; it does not consist of any admission by GB Sciences that the district court in the Acres Lawsuit got it right. Rather, Paragraphs 45 and 46 of the amended counterclaim allege the true respective scores of Acres and GB Sciences (with GB Sciences having a higher score). (Resp. App. Vol. I: RAPP201) Thus, GB Sciences did not admit what Acres claims that it did.

Acres also argues that GB Sciences' counterclaim to Acres' complaint in intervention was properly dismissed because it failed to make out any viable claims ***against Acres*** in relation to the PRC at issue because declaratory relief and injunctive relief simply involve the Division and the City. *See* Answering Brief at 22-25. Ironically, however, Acres alleged against GB Sciences virtually the same causes of action as GB Sciences in its Complaint in Intervention: (1) declaratory relief; (2) injunctive relief; and (3) petition for writ of mandamus. (App. Vol. III: APP458-79) Acres even went so far as to name GB Sciences as a "Defendant in Intervention," even though Acres now complains that these same causes of action cannot establish a viable controversy between Acres and GB Sciences over entitlement to the PRC (App. Vol. III: APP459)

Rather, Acres argues that such claims are insufficient to make out any right to a priority claim to the PRC at issue. Following Acres' logic, then, all of Acres'

own claims to the PRC at issue must fail because it too made the same allegations and asserted the same causes of action in its complaint in intervention. (*compare* App. Vol. III: APP458-79 with Resp. App. Vol. I: RAPP189-207)

GB Sciences, however, alleged more than Acres did in its amended counterclaim to the complaint in intervention. GB Sciences also alleged a cause of action against Acres for equitable estoppel. (Resp. App. Vol. I: RAPP189-207) Nonetheless, Acres still complains that GB Sciences did not sufficiently allege a claim for equitable estoppel. *See* Answering Brief at 25-28.

Acres argues that GB Sciences only recited the elements of equitable estoppel in its counterclaim in a conclusory fashion with no specific facts supporting those elements. *See* Answering Brief at 26. However, contrary to Acres' arguments, paragraphs 79-80 of the amended answer to the counterclaim allege a series of specific facts:

(1) Acres knew of the case below;

(2) Acres knew GB Sciences (at least alleged) that it was #13;

(3) Acres knew GB Sciences was trying to obtain NuLeaf's PRC;

(4) Acres intended to intervene in the case below;

(5) Acres waited to intervene to avoid costs of litigation to itself;

(6) Acres waited to intervene until GB Sciences had incurred the costs of litigating the issue (and thus developing the case below against NuLeaf); and

(7) GB Sciences did not know that Acres would try to intervene in this case or try to divert GB Science's right to NuLeaf's PRC to Acres.

(Resp. App. Vol. II: RAPP189-207 at RAPP205) Acres' argument that it had no idea that GB Sciences claimed to be #13 when GB Sciences initiated the case below is not true. GB Sciences' Amended Complaint revealed its score (166.86) as far back as December 5, 2014, yet Acres waited on the sidelines to intervene until GB Sciences had incurred substantial legal expense in developing the case below. *See* App. Vol. 1: APP001-29 at APP013 (¶ 67).

Acres also argues that it could not intervene in the case below until the district court in the Acres Lawsuit had ruled with finality that Acres was #13, because it would not have had standing to intervene in this case until its score was "fixed." *See* Answering Brief at 27. This is nonsense. If Acres simply claimed to have a higher score and that it was #13 in rank, it would have been enough to file an action or intervene in the case below. Acres would not have had to go so far as obtaining a court ruling that it was #13, just to make the claim. A complaint would rarely ever be filed if an allegation could not be made until a court had already made a determination on the issue. That would be putting the cart before the horse. Rather, Acres could have intervened if it had so much as simply alleged that the Division's scoring and ranking was wrong. However, Acres did not do so until much later in the case below.

Acres' further reliance upon law from the Seventh Circuit Court of Appeals in McNamara v. City of Chicago, 138 F.3d 1219 (7th Cir. 1998) is unfounded. In McNamara, the court determined that six white fire fighters, who were denied promotion to captain in favor of minority applicants with lower test scores, lacked standing to challenge the city's race-favored promotion criteria. Id. at 1221. However, in McNamara, the plaintiffs: (1) were not complaining that the test-scores, themselves, were incorrect; and (2) would not have scored high enough to be eligible even if the affirmative action policies were not enforced. Id.

In contrast, in our case, Acres ***was*** attacking the very scoring of its application, and Acres was alleging that if the Division had not committed errors in scoring Acres' application, then Acres ***would*** have been eligible for a PRC. Therefore, Acres would have had standing to intervene in the case below, right from the outset, but it failed to do so until much later and only after GB Sciences had faced the heat of the battle alone.

Acres further argues that GB Sciences could have intervened in the Acres Lawsuit, and, therefore, GB Sciences cannot obtain equity because by failing to so intervene, it has "unclean hands." *See* Answering Brief at 27-28. It is interesting that Acres argues that it can be excused for not intervening in the case below, but that GB Sciences has "unclean hands" because it never intervened in Acres' case. Acres wants it both ways.

However, Acres overlooks the fact that GB Sciences initiated its case on December 5, 2014, while Acres filed the Acres Lawsuit ***six months later*** on June 9, 2015. (App Vol. I: APP001-29 and Resp. App. Vol. II: APP222-32) GB Sciences sought relief against NuLeaf and Desert Aire to have their PRC's revoked and reissued to GB Sciences, while Acres only sought a rescoring of its application via declaratory relief, writ of certiorari, and writ of mandamus. Id. Thus, there would have been no threat posed by the Acres Lawsuit to GB Science's entitlement to the PRC of NuLeaf or Desert Aire, that would have justified the legal expense of intervening in the Acres Lawsuit.

GB Sciences was never obligated to intervene in the Acres Lawsuit and had no reason to do so, and Acres never bothered to bring in GB Sciences as a party defendant, even though Acres was on notice of the case below for six months (as well as GB Sciences' application score). Acres was also on notice that complete relief *vis-a-vis* Acres' and GB Sciences' competing claims to the PRC at issue could only be obtained if Acres made GB Sciences a party to its lawsuit. *See* A.F. Construction, *supra.* In any event, where GB Sciences made out a claim for equitable estoppel and there were, at least, genuine issues of material fact regarding the circumstances supporting the claim, the District Court should not have summarily dismissed the counterclaim.

Finally, Acres argues that because GB Sciences did not obtain leave of court to file the amended counterclaim, the dismissal of the counterclaim can be affirmed. Once again, a "harmless error" argument. *See* Answering Brief at 28. However, Acres completely ignores the plain language of NRCP 15. Nevada Rule of Civil Procedure 15(a) states: "[a] party may amend that party's pleading once as a matter of course any time before a responsive pleading is served . . . " NRCP 15(a)(in pertinent part). In this case, GB Sciences amended its counterclaim only once and before Acres filed any answer to the counterclaim. Acres, in fact, never filed any answer to the counterclaim. Thus, GB Sciences complied with NRCP 15(a) in amending the counterclaim and the District Court committed reversible error in dismissing it.

For the reasons set forth above, the dismissal was in error.

II.

CONCLUSION

For the foregoing reasons, the Nevada Supreme Court should reverse the District Court's award of NuLeaf's revoked MME Provisional Registration Certificate to Acres and remand the matter for further proceedings to determine which applicant, between GB Sciences and Acres, should be properly awarded the revoked provisional registration certificate.

Dated this 22nd day of February, 2017.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro, Esq.
James E. Shapiro, Esq.
Nevada Bar No: 7907
Sheldon A. Herbert, Esq.
Nevada Bar No: 5988
2520 St. Rose Pkwy, Suite 220
Henderson, NV 89074
Attorneys for Respondent/Cross-Appellant, GB SCIENCES NEVADA, LLC

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of N.R.A.P. 32(a)(4), the typeface requirements of N.R.A.P. 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[X] This brief has been prepared in a proportionally spaced typeface using Wordperfect in 14 point font Times New Roman type style; or

[ ] This brief has been prepared in a monospaced typeface using [*state name and version of word-processing program*] with [*state number of characters per inch and name of type style*].

2. I further certify that this brief complies with the page- or type-volume limitations of N.R.A.P. 32(a)(7) because, excluding the parts of the brief exempted by N.R.A.P. 32(a)(7)(C), it is either:

[X] Proportionately spaced, has a typeface of 14 points or more, and contains 4,707 words; or

[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

[ ] Does not exceed 15 pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all

applicable Nevada Rules of Appellate Procedure, in particular N.R.A.P. 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 22nd day of February, 2017.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro, Esq.
James E. Shapiro, Esq.
Nevada Bar No: 7907
Sheldon A. Herbert, Esq.
Nevada Bar No: 5988
2520 St. Rose Pkwy, Suite 220
Henderson, NV 89074
Attorneys for Respondent/Cross-Appellant, GB SCIENCES NEVADA, LLC

CERTIFICATE OF SERVICE

I certify that on the 22nd day of February, 2017, I served a copy of this **RESPONDENT/CROSS-APPELLANT GB SCIENCES NEVADA, LLC'S REPLY BRIEF ON CROSS-APPEAL** upon all counsel of record:

□ By personally serving it upon him/her; or

■ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Linda C. Anderson, Esq.
Chief Deputy Attorney General
555 E. Washington Ave., #3900
Las Vegas, NV 89101
Attorneys for Respondent/Cross-Respondent, STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Todd L. Bice, Esq.
PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101
Attorneys for Appellant/Cross-Respondent, NULEAF CLV DISPENSARY, LLC

Mark E. Ferrario, Esq.
GREENBERG TRAURIG, LLP
3773 Howard Hughes Pkwy., #400N
Las Vegas, NV 89169
Attorneys for Respondent/Cross-Respondent, ACRES MEDICAL, LLC

/s/ Jill M. Berghammer
Jill M. Berghammer, an employee
of SMITH & SHAPIRO, PLLC