

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

2
3 DESERT AIRE WELLNESS, LLC

4 Appellant,

5 vs.

6 GB SCIENCES NEVADA, LLC

7 Respondent.

Electronically Filed
May 27 2016 08:45 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

CASE NO.: 70462

DISTRICT COURT CASE NO.:
A-15-728448-C

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9 **MOTION FOR LEAVE TO FILE BRIEF IN EXCESS OF**
10 **PAGE/TYPE VOLUME LIMITATION**

11 Appellant Desert Aire Wellness, LLC, by and through its counsel,
12 Margaret A. McLetchie, hereby moves this Court, pursuant to Nevada Rule
13 of Appellate Procedure 32(a)(7)(D), to file an Emergency Motion for Stay
14 Pending Appeal File Under NRAP 27(e) that is nineteen pages long. This
15 Motion is supported by the attached declaration.
16

17 Dated this 26th day of May, 2016.

18
19 /s/ Margaret A. McLetchie

20 MARGARET A. MCLEATCHIE

21 Nevada Bar No. 10931

22 MCLEATCHIE SHELL LLC

23 701. E. Bridger Avenue, Suite 520

24 Las Vegas, NV 89101

25 Attorney for Desert Aire Wellness, LLC
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[illegible]

I, MARGARET A. MCLETCHE, declare, pursuant to Nev. Rev. Stat.

§ 53.330, as follows:

1. I, along with Patrick J. Sheehan and Richard H. Bryan of the law firm FENNEMORE CRAIG, P.C., am counsel for Appellant Desert Aire Wellness, LLC (“Desert Aire”) in this matter. I have personal knowledge of all matters contained herein and am competent to testify thereto.

2. Desert Aire is appealing from an order of a district court for the Eighth Judicial District Court granting Respondent's Motion for Summary Judgment.

3. The order from which Desert Aire is appealing requires the State of Nevada to revoke Desert Aire's medical marijuana registration certificate. This would lead to the closure of Desert Aire's dispensary business.

4. Given this exigency, Desert Aire submits the attached Emergency Motion for Stay Pending Appeal pursuant to NRAP 27(e). The attached motion is 19 pages long.

5. Pursuant to NRAP 27(d)(2), the page limit for motions is 10 pages, unless this Court directs or permits otherwise.

1 6. In preparing the attached Emergency Motion, I have endeavored to
2 present the facts and arguments as succinctly as possible.
3

4 7. I believe that any reduction to this brief would materially detract from
5 Desert Aire's presentations of the facts and circumstances which entitle it to a
6 stay of the district court's order.
7

8 7. I believe that any reduction to this brief would materially detract from
9 Desert Aire's presentation of the grounds entitling it to a stay. Given the
10 novelty and complexity of the issues presented by the instant appeal, which
11 required detailed analysis of Nevada's medical marijuana statutory scheme, I
12 required the additional nine pages to adequately present the grounds entitling
13 Desert Aire to a stay of the district court's order pending appeal
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15

16 8. I therefore respectfully request this Court grant Desert Aire permission
17 to file a brief in excess of the normal limitations.
18

19 8. This Motion is not made for the purposes of delay, or any other
20 improper purpose, but only to ensure that I provide competent and effective
21 representation to Desert Aire. *See* Nev. R. Prof. Conduct 1.1.
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25 ///

1 I certify under the penalty of perjury that the foregoing is true and
2 correct.
3

4 EXECUTED this 26th day of May, 2016.

5 /s/ Margaret A. McLetchie
6 MARGARET A. MCLEATCHIE
7 Nevada Bar No. 10931
8 MCLEATCHIE SHELL LLC
9 701. E. Bridger Avenue, Suite 520
10 Las Vegas, NV 89101
11 *Attorney Desert Aire Wellness, LLC*
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CERTIFICATE OF COMPLIANCE

Pursuant to Nev. R. App. P. 32(a)(9)(C):

I hereby certify that the attached proposed Emergency Motion for Stay Pending Appeal pursuant to NRAP 27(e) complies with the formatting requirements of Nev. R. App. P. 32(a)(4), the typeface requirements of Nev. R. App. P. 32(a)(5) and the type style requirements of Nev. R. App. P. 32(a)(6) because the Emergency Motion for Stay Pending Appeal pursuant to NRAP 27(e) has been prepared in a proportionally spaced typeface (14 point Times New Roman font).

I further certify that the attached proposed Reply Brief exceeds the page limitation of Nev. R. App. P. 27(d)(2) because it consists of 19 pages.

DATED this 26th day of May, 2016.

By: /s/Margaret A. McLetchie
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION FOR LEAVE TO FILE BRIEF IN EXCESS OF PAGE/TYPE VOLUME LIMITATION was filed electronically with the Nevada Supreme Court on the 26th day of May, 2016. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

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/s/ Pharan Burchfield
Employee of McLetchie Shell LLC