

EXHIBIT M

EXHIBIT M



CLERK OF THE COURT

Electronically Filed
May 25 2016 03:53 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 NOAS

2 Richard Bryan, Nevada Bar No. 2029

3 Patrick Sheehan, Nevada Bar No. 3812

4 FENNEMORE CRAIG, P.C.

5 300 S. Fourth St., Suite 1400

6 Las Vegas, Nevada 89101

7 Margaret A. McLetchie, Nevada Bar No. 10931

8 Alina M. Shell, Nevada Bar No. 11711

9 MCLEATCHIE SHELL LLC

10 701 East Bridger Ave., Suite 520

11 Las Vegas, NV 89101

12 *Attorneys for Desert Aire Wellness, LLC*

13
14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

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

18 Plaintiff,

19 vs.

20 STATE OF NEVADA, DIVISION OF PUBLIC
21 AND BEHAVIORAL HEALTH OF THE
22 DEPARTMENT OF HEALTH AND HUMAN
23 SERVICES; CITY OF LAS VEGAS, a municipal
24 corporation and political subdivision of the State
25 of Nevada, DESERT AIRE WELLNESS, LLC, a
26 Nevada limited liability company, DOES 1-10,
27 and ROE ENTITIES 1-100, inclusive,

28 Defendants.

29 DESERT AIRE WELLNESS, LLC, a Nevada
30 limited liability company,

31 Counterclaimant,

32 vs.

33 GB SCIENCE NEVADA, LLC, a Nevada limited
34 liability company,

35 Counterdefendant.

Case No. : A-15-728448-C
Dept. No: I

NOTICE OF APPEAL

ATTORNEYS AT LAW
701 EAST BRIDGER AVE., SUITE 520
LAS VEGAS, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
WWW.NVLITIGATION.COM

1 NOTICE IS HEREBY GIVEN that Desert Aire Wellness, LLC,
2 Defendant/Counterclaimant ("Desert Aire") in the above entitled case, by and through its
3 counsel of record, Richard Bryan and Patrick Sheehan, of the law firm FENNEMORE
4 CRAIG, P.C., and Margaret A. McLetchie and Alina M. Shell, of the law firm MCLEATCHIE
5 SHELL, LLC, hereby appeals to the Nevada Supreme Court from the District Court's Order
6 Granting Plaintiff/Respondent's Motion for Summary Judgment entered by this Court on
7 April 28, 2016, attached hereto as Exhibit 1, the District Court's Order Denying Desert Aire
8 Wellness, LLC's Motion to Reconsider/Motion to Alter or Amend Judgment in connection
9 therewith, and all other orders made appealable thereby. This notice is given pursuant to
10 Nevada Rule of Appellate Procedure 4(a)(1).

11 DATED this 25th day of May, 2016

12
13 /s/ Margaret A. McLetchie

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLEATCHIE SHELL LLC

701 East Bridger Ave., Suite 520

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18
19 Richard Bryan, Nevada Bar No. 2029

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Telephone: (702) 692-8000

Facsimile: (702) 692-8099

Email: psheehan@fclaw.com

24 *Attorneys for Desert Aire Wellness, LLC*

CERTIFICATE OF SERVICE

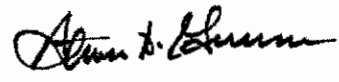
I hereby certify that I am an employee of MCLEATCHIE SHELL, LLC, and that on the 25th day of May, 2016, I served a true and correct copy of the foregoing NOTICE OF APPEAL by e-serving a copy on all registered and listed as Service Recipients in Wiznet, the Court's online, electronic filing website, pursuant to Administrative Order 14-2, entered by Chief Judge Jennifer Togliatti, on May 9, 2014.

/s/ Pharan Burchfield

Employee, McLetchie Shell, LLC

ATTORNEYS AT LAW
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EXHIBIT 1



CLERK OF THE COURT

1 **NOTC**
James E. Shapiro, Esq.
2 Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
3 Nevada Bar No. 5988
SMITH & SHAPIRO, PLLC
4 2520 St. Rose Parkway, Suite #220
Henderson, NV 89074
5 (702) 318-5033
Attorneys for Plaintiff

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

12 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
13 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
14 corporation and political subdivision of the State of
Nevada; DESERT AIRE WELLNESS, LLC, a
15 Nevada limited liability company; DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

16 Defendants.

17 DESERT AIRE WELLNESS, LLC, a Nevada
18 limited liability company,

19 Counterclaimant,

20 vs.

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

23 Counterdefendant.

Case No. A-15-728448-C
Dept. No. I

Date: March 15, 2016
Time: 9:00 a.m

24 **NOTICE OF ENTRY OF ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR**
25 **SUMMARY JUDGMENT; DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR**
26 **SUMMARY JUDGMENT**

27 PLEASE TAKE NOTICE that an **ORDER RE: GB SCIENCES NEVADA, LLC'S**
28 **MOTION FOR SUMMARY JUDGMENT; DESERT AIRE WELLNESS, LLC'S**

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Henderson, Nevada 89074
(702) 318-5033

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Henderson, Nevada 89074
(702) 318-5033

1 COUNTERMOTION FOR SUMMARY JUDGMENT was entered in the above-entitled matter on
2 the 28th day of April, 2016, a copy of which is attached hereto as Exhibit 1.

3
4 DATED this 28nd day of April, 2016.

5
6 SMITH & SHAPIRO, PLLC

7 /s/ James E. Shapiro
8 James E. Shapiro, Esq.
9 Nevada Bar No. 7907
10 Sheldon A. Herbert, Esq.
11 Nevada Bar No. 5988
12 2520 St. Rose Parkway, Suite #220
13 Henderson, NV 89074
14 *Attorneys for Plaintiff*

15 **CERTIFICATE OF SERVICE**

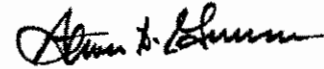
16 I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 28th day
17 of April, 2016, I served a true and correct copy of the forgoing NOTICE OF ENTRY OF ORDER
18 RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT; DESERT
19 AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT, by e-serving
20 a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line,
21 electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer
22 Togliatti, on May 9, 2014.

23
24
25 /s/ Ashley R. Houston
26 An employee of SMITH & SHAPIRO, PLLC
27
28

Exhibit “1”

Exhibit “1”

ORIGINAL



CLERK OF THE COURT

1 ORDER

JAMES E. SHAPIRO, ESQ.

2 Nevada Bar No. 7907

Sheldon A. Herbert, Esq.

3 Nevada Bar No. 5988

SMITH & SHAPIRO, PLLC

4 2520 St. Rose Parkway, Suite 220

Henderson, NV 89074

5 (702) 318-5033

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

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

9 Plaintiff,

Case No. A-15-728448-C

Dept. No. 1

10 vs.

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

16 Defendants.

Date: March 15, 2016

Time: 9:00 a.m.

17 DESERT AIRE WELLNESS, LLC, a Nevada
limited liability company,

18 Counterclaimant,

19 vs.

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

22 Counterdefendant.

23
24 ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT;
25 DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT

26 THIS MATTER having come before the Court on GB SCIENCES NEVADA, LLC's
27 ("Plaintiff") Motion for Summary Judgment (the "Motion") and on Defendant DESERT AIRE
28 WELLNESS, LLC ("Desert Aire") Countermotion for Summary Judgment ("Countermotion");

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Defects	<input type="checkbox"/> Judgment of Arbitration

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, NV 89074
O: (702) 318-5033 F: (702) 318-5034

1 Plaintiff, having appeared by and through its attorneys of record, SMITH & SHAPIRO, PLLC;
2 Defendant STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES (the
3 "State" or "Division"), having appeared by and through ADAM PAUL LAXALT, Attorney General
4 through his Chief Deputy Attorney General, LINDA C. ANDERSON; Defendant Desert Aire,
5 having appeared by and through its attorneys of record, MICHAEL H. SINGER, LTD., Defendant
6 CITY OF LAS VEGAS having failed to appear or file any briefs regarding the matter¹, the Court
7 having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, the
8 Court having stated its findings and conclusions on the record, the Court being fully advised in the
9 premises, and good cause appearing, NOW THEREFORE, THE COURT FINDS AND
10 CONCLUDES:

11 **UNDISPUTED FACTS**

12 **A. BACKGROUND.**

13 1. In 2013, Senate Bill 374 was passed which provided for the registration of medical
14 marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible
15 marijuana products or marijuana-infused products for sale to persons authorized to engage in the
16 medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

17 2. Under N.R.S. § 453A.320 et seq., the Division was tasked with processing and
18 ranking applications for Medical Marijuana Establishments ("MMEs") for each local jurisdiction in
19 Nevada.

20 3. There were five types of MME's, including Dispensaries, Cultivation Facilities, and
21 Production Facilities. The MME at issue in this lawsuit is a Dispensary.

22 4. The City of Las Vegas was allocated twelve Dispensary provisional certificates.

23 5. The Division, as well as the local jurisdiction, played a role in the ultimate licensing
24 of MMEs. Specifically, the local jurisdiction was tasked with considering issues such as site plans,
25 zoning and proximity to other business or facilities (the "Local Application Process") while the

26
27 ¹ Plaintiff previously notified the Court that Plaintiff was no longer seeking any claims against the City of Las Vegas as
28 the Plaintiff's claims had been rendered moot. Notwithstanding, the City of Las Vegas was included as an interested
party to give them an opportunity to heard on the Plaintiff's requested relief against the State of Nevada and Desert Aire
Wellness, LLC.

1 Division focused on public health, public safety, and marijuana as a medicine (the "Division
2 Application Process").

3 6. In accordance with its responsibilities, the City of Las Vegas enacted Ordinance No.
4 6321 and 6324 to establish zoning regulations, licensing regulations, and standards for MME
5 locations.

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

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

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

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

19 **B. DESERT AIRE'S APPLICATION.**

20 10. Plaintiff and Desert Aire were two of the 49 applicants for a Dispensary License in
21 the City of Las Vegas.

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

24 12. Prior to the October 28-29, 2014 Las Vegas City Council meeting, Desert Aire
25 withdrew their application for a special use permit and compliance permit.

26 13. On October 30, 2014, the City of Las Vegas sent a letter to the Division notifying the
27 Division that Desert Aire's application for a special use permit and compliance permit from the City
28 of Las Vegas had been withdrawn and identifying for the Division the twenty-eight (28) applicants

1 who had been granted a special use permit and compliance permit for purposes of NRS §
2 453A.322(3)(a)(5).

3 14. The City of Las Vegas letter was intended to comply, and did comply, with NRS
4 453A.322(3)(a)(5).

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

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

13 17. While Desert Aire subsequently obtained a special use permit, that did not occur until
14 after November 3, 2014. Desert Aire ultimately opened for business.

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

22 19. Pursuant the plain terms of the statute, the Division should not have registered Desert
23 Aire and issued a registration certificate as Desert Aire had not met all the requirements of the
24 statute.

25 20. The Nevada Department of Health and Human Services should have registered and
26 issued the registration certificate to the medical marijuana establishment to the top twelve ranked
27 applicants which met all the requirements of the statute.

28 \\\

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21. 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

22. 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).

23. 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).

24. 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.

25. 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).

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

27. The Division has acknowledged that a complaint for declaratory and injunctive relief is appropriate.

28. The issuance of the Provisional Certificate to Desert Aire was in error and contrary to NRS § 453A.322(3).

29. Desert Aire should have been disqualified due to their non-compliance with NRS § 453A.322(3)(a)(5).

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

\\

1 NOW THEREFORE:

2 31. IT IS HEREBY ORDERED Plaintiffs Motion for Summary Judgment is GRANTED
3 in part and DENIED in part.

4 32. IT IS FURTHER ORDERED that Plaintiff's Motion is GRANTED to the extent that
5 Desert Aire should not have been registered or issued a certification of registration as a medical
6 marijuana establishment because it had not met all the necessary requirements of 453A.322(3)(a).

7 33. IT IS FURTHER ORDERED that the Division shall rescind or withdraw the
8 dispensary registration previously issued to Desert Aire.

9 34. IT IS FURTHER ORDERED that Plaintiff's Motion for is DENIED to the extent
10 Plaintiff seeks the re-issue of Desert Aire's dispensary registration to Plaintiff.

11 35. IT IS FURTHER ORDERED Defendant Desert Aire's Counter-motion for Summary
12 Judgment is DENIED.

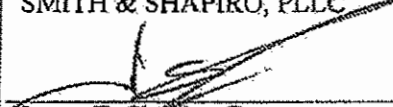
13 36. IT IS FURTHER ORDERED that there being no other unresolved claims or issues,
14 this matter is and shall be CLOSED and this Order shall be a FINAL, APPEALABLE ORDER.

15 IT IS SO ORDERED this 18 day of April, 2016.

16
17 
DISTRICT COURT JUDGE

18 Respectfully Submitted by:

19 SMITH & SHAPIRO, PLLC

20
21 
22 James E. Shapiro, Esq.
23 Nevada Bar No. 7907
24 2520 Saint Rose Parkway, Suite 220
25 Henderson, Nevada 89074
26 Attorneys for Plaintiff
27
28

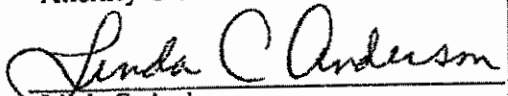
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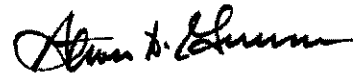
Approved:
MICHAEL H. SINGER, LTD.

Michael H. Singer, Esq.
Nevada Bar No. 1589
4475 South Pecos Rd.
Las Vegas, NV 89121
*Attorneys for DESERT AIRE
WELLNESS, LLC*

Approved:
ADAM PAUL LAXALT,
Attorney General


Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
Attorneys for the STATE OF NEVADA

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CLERK OF THE COURT

ASTA

Richard Bryan, Nevada Bar No. 2029
Patrick Sheehan, Nevada Bar No. 3812
FENNEMORE CRAIG, P.C.
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Las Vegas, Nevada 89101

Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
MCLETCHE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
Attorneys for Desert Aire Wellness, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

GB SCIENCES NEVADA, LLC, a Nevada limited
liability company

Plaintiff,

vs.

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, DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

Defendants.

DESERT AIRE WELLNESS, LLC, a Nevada limited
liability company,

Counterclaimant,

vs.

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

Counterdefendant.

Case No. : A-15-728448-C
Dept. No: I

CASE APPEAL STATEMENT

MCLETCHE SHELL LLC

ATTORNEYS AT LAW
701 EAST BRIDGER AVE., SUITE 520
LAS VEGAS, NV 89101
(702)738-5300 (T) / (702)425-8220 (F)
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ATTORNEYS AT LAW
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(702)738-5300 (T) / (702)425-8220 (F)
WWW.NVLITIGATION.COM

CASE APPEAL STATEMENT

1. **Name of appellant filing this case appeal statement:** Desert Aire Wellness, LLC.

2. **Judge issuing the decision, judgment, or order appealed from:** The Honorable
Kenneth C. Cory.

3. **Name and address of appellant's counsel:**

Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
MCLETCHIE SHELL LLC
701 Bridger Avenue, Suite 520
Las Vegas, NV 89101

Patrick Sheehan, Nevada Bar No. 3812
Richard Bryan, Nevada Bar No. 2029
FENNEMORE CRAIG, P.C.
300 S. Fourth St., Suite 1400
Las Vegas, Nevada 89101

4. **Name and address of respondents' counsel:**

James E. Shapiro, Nevada Bar No. 7907
Sheldon Herbert, Nevada Bar No. 5988
SMITH & SHAPIRO, PLLC
2250 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
Counsel for Respondent GB Sciences, LLC

Linda Anderson, Nevada Bar No. 4090
Chief Deputy Attorney General
555 E. Washington Ave., #3900
Las Vegas, Nevada 89101
Counsel for Respondent State of Nevada

5. **Attorneys not licensed to practice law in Nevada:** None

6. **Whether appellant was represented by appointed or retained counsel in the
district court:** Appellant was represented by retained counsel in the district court.

7. **Whether appellant is represented by appointed or retained counsel on appeal:**
Appellant is represented by retained counsel on appeal.

8. **Whether appellant was granted leave to proceed in forma pauperis:** Appellant is not proceeding in forma pauperis.

9. **Date the proceedings commenced in the district court:** Plaintiff/Respondent GB Sciences Nevada, LLC December 2, 2015.

10. **A brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:** Defendant/Appellant Desert Aire Wellness, LLC appeals from the District Court's Order Granting Plaintiff/Respondent's Motion for Summary Judgment entered on April 28, 2016 in this action, District Court's Order Denying Desert Aire Wellness, LLC's Motion to Reconsider/Motion to Alter or Amend Judgment, and all other orders or rulings made appealable thereby.

11. **Whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:** This case has not previously been the subject of an appeal or original writ proceeding in the Supreme Court.

12. **Whether the appeal involves child custody or visitation:** This appeal does not involve child custody or visitation.

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1 **13. In civil cases, whether the appeal involves the possibility of settlement:** This
2 case does not involve the possibility of settlement.

3
4 Dated this 25th day of May, 2016.

5
6
7 /s/ Margaret A. McLetchie

8 Margaret A. McLetchie, Nevada Bar No. 10931

9 Alina M. Shell, Nevada Bar No. 11711

10 MCLEATCHIE SHELL LLC

11 701 East Bridger Ave., Suite 520

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13 Telephone: (702) 728-5300

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16 Richard Bryan, Nevada Bar No. 2029

17 Patrick Sheehan, Nevada Bar No. 3812

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22 Facsimile: (702) 692-8099

23 Email: psheehan@fclaw.com

24
25 *Attorneys for Desert Aire Wellness, LLC*
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of MCLETCHIE SHELL, LLC, and that on the 25th day of May, 2016, I served a true and correct copy of the foregoing CASE APPEAL STATEMENT by e-serving a copy on all registered and listed as Service Recipients in Wiznet, the Court's online, electronic filing website, pursuant to Administrative Order 14-2, entered by Chief Judge Jennifer Togliatti, on May 9, 2014.

/s/ Pharan Burchfield
Employee, McLetchie Shell, LLC

MCLETCHIE SHELL
ATTORNEYS AT LAW
701 EAST BRIDGER AVE., SUITE 520
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CASE SUMMARY
CASE SUMMARY
CASE NO. A-15-728448-C

GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada Department of Behavioral Health and Human
Services, Defendant(s)

§
§
§
§
§

Location: **Department 1**
Judicial Officer: **Cory, Kenneth**
Filed on: **12/02/2015**
Cross-Reference Case Number: **A728448**

CASE INFORMATION

Statistical Closures

04/28/2016 Summary Judgment

Case Type: **Other Civil Matters**

Case Flags: **Appealed to Supreme Court**
Arbitration Exemption Granted

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-15-728448-C
Court Department 1
Date Assigned 12/02/2015
Judicial Officer Cory, Kenneth



PARTY INFORMATION

Plaintiff	GB Sciences Nevada LLC	<i>Lead Attorneys</i> Shapiro, James E. <i>Retained</i> 702-796-4000(W)
Defendant	City of Las Vegas	Jerbic, Bradford Robert <i>Retained</i> 702-229-6629(W)
	Desert Aire Wellness LLC	Sheehan, Patrick J. <i>Retained</i> 702-692-8011(W)
	Nevada Department of Behavioral Health and Human Services	Laxalt, Adam Paul <i>Retained</i> 702-486-3420(W)
Counter Claimant	Desert Aire Wellness LLC	Sheehan, Patrick J. <i>Retained</i> 702-692-8011(W)
Counter Defendant	GB Sciences Nevada LLC	Shapiro, James E. <i>Retained</i> 702-796-4000(W)

DATE

EVENTS & ORDERS OF THE COURT












INDEX

12/02/2015	 Complaint Filed By: Counter Defendant GB Sciences Nevada LLC <i>Complaint</i>
12/17/2015	 Affidavit of Service Filed By: Counter Defendant GB Sciences Nevada LLC <i>Affidavit of Service - City of Las Vegas</i>
12/17/2015	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Desert Aire Wellness LLC <i>Initial Appearance Fee Disclosure</i>









CASE SUMMARY
CASE SUMMARY
CASE NO. A-15-728448-C

12/17/2015	 Answer and Counterclaim Filed By: Counter Claimant Desert Aire Wellness LLC <i>Answer and Counterclaim</i>
12/24/2015	 Answer Filed By: Defendant Nevada Department of Behavioral Health and Human Services <i>Answer</i>
12/24/2015	 Motion to Intervene Party: Other Samantha Inc <i>Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
12/28/2015	 Certificate of Service Filed by: Other Samantha Inc <i>Certificate of Service</i>
12/29/2015	 Response Filed by: Defendant Nevada Department of Behavioral Health and Human Services <i>State Response to Samantha Remedies' Motion to Intervene and Motion to Stay</i>
01/08/2016	 Opposition to Motion Filed By: Counter Claimant Desert Aire Wellness LLC <i>DESERT AIRE WELLNESS LLC'S OPPOSITION TO SAMANTHA INC. d/b/a SAMANTHA'S REMEDIES MOTION TO INTERVENE AS PLAINTIFF PURSUANT TO NRCP 24 AND MOTION TO STAY PROCEEDINGS PENDING RESOLUTION OF SUPREME COURT PROCEEDINGS</i>
01/14/2016	 Opposition to Motion Filed By: Counter Defendant GB Sciences Nevada LLC <i>Plaintiff's Opposition to Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceeding Pending Resolution of Supreme Court Proceedings</i>
01/15/2016	 Supplemental Filed by: Counter Claimant Desert Aire Wellness LLC <i>Desert Aire Wellness LLC's Supplement to Opposition to Samantha Inc. d/b/a Samantha's Remedies Motion to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
01/19/2016	 Reply to Opposition Filed by: Other Samantha Inc <i>Brief in Support of Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings, and in Reply to Oppositions</i>
01/19/2016	 Answer to Complaint Filed by: Defendant Nevada Department of Behavioral Health and Human Services <i>City of Las Vegas' Answer to Complaint</i>
01/21/2016	 Motion for Summary Judgment Filed By: Counter Defendant GB Sciences Nevada LLC <i>Motion for Summary Judgment Against Desert Aire Wellness, LLC</i>
01/25/2016	

CASE SUMMARY
CASE SUMMARY
CASE NO. A-15-728448-C

	 Motion to Intervene (3:00 AM) (Judicial Officer: Cory, Kenneth) Events: 12/24/2015 Motion to Intervene <i>Samantha Inc. d/b/a Samantha's Remedies Motion to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
02/08/2016	 Countermotion For Summary Judgment Filed By: Counter Claimant Desert Aire Wellness LLC <i>Desert Aire Wellness LLC's Opposition to Plaintiff's Motion For Summary Judgment Against Desert Aire Wellness LLC and Countermotion For Summary Judgment Against GB Sciences Nevada LLC</i>
02/09/2016	 Affidavit of Service Filed By: Counter Defendant GB Sciences Nevada LLC <i>Affidavit of Service (State of Nevada - Office of the Attorney General)</i>
02/09/2016	 Affidavit of Service Filed By: Counter Defendant GB Sciences Nevada LLC <i>Affidavit of Service (State of Nevada, Division of Public and Behavior Health of the Department of Health and Human Services.</i>
02/09/2016	 Affidavit of Service Filed By: Counter Defendant GB Sciences Nevada LLC <i>Affidavit of Service (Desert Aire Wellness, LLC)</i>
02/09/2016	 Affidavit of Service Filed By: Counter Defendant GB Sciences Nevada LLC <i>Affidavit of Service (State of Nevada - Office of the Attorney General)</i>
02/18/2016	 Notice of Entry of Order Filed By: Counter Defendant GB Sciences Nevada LLC <i>Notice of Entry of Order Denying Samantha Inc. d/b/a Samantha's Remedies Motion to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceeding Pending Resolution of Supreme Court Proceedings</i>
02/18/2016	 Order Filed By: Counter Defendant GB Sciences Nevada LLC <i>Order Denying Samantha Inc. d/b/a Samantha's Remedies Motion to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
02/18/2016	 Reply to Opposition Filed by: Connter Defendant GB Sciences Nevada LLC <i>Reply to Desert Aire Wellness, LLC's Opposition to Plaintiff's Motion for Summary Judgment Against Desert Aire Wellness, LLC and Opposition to Countermotion for Summary Judgment Against GB Sciences Nevada, LLC</i>
02/19/2016	 Certificate of Service Filed by: Connter Defendant GB Sciences Nevada LLC <i>Certificate of Service</i>
02/22/2016	 Supplemental Filed by: Defendant Nevada Department of Behavioral Health and Human Services <i>Supplement to Desert Aire Wellness LLC's Opposition to Plaintiff's Motion For Summary Judgment Against Desert Aire Wellness LLC and Countermotion For Summary Judgment Against GB Sciences Nevada LLC</i>

CASE SUMMARY
CASE SUMMARY
CASE NO. A-15-728448-C



02/23/2016	Motion for Summary Judgment (9:00 AM) (Judicial Officer: Cory, Kenneth) Events: 01/21/2016 Motion for Summary Judgment <i>Plaintiff's Motion for Summary Judgment Against Desert Aire Wellness, LLC</i>
02/23/2016	Opposition and Countermotion (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>Desert Aire Wellness LLC's Opposition to Plaintiff's Motion For Summary Judgment Against Desert Aire Wellness LLC and Countermotion For Summary Judgment Against GB Sciences Nevada LLC</i>
02/23/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AGAINST DESERT AIRE WELLNESS, LLC...DESERT AIRE WELLNESS LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AGAINST DESERT AIRE WELLNESS LLC AND COUNTERMOTION FOR SUMMARY JUDGMENT AGAINST GB SCIENCES NEVADA LLC</i> <i>Parties Present: Attorney Singer, Michael H.</i> <i>Attorney Anderson, Linda Christine</i> <i>Attorney Shapiro, James E.</i>
02/26/2016	 Motion for Summary Judgment Filed By: Counter Defendant GB Sciences Nevada LLC <i>Motion for Summary Judgment</i>
03/03/2016	 Countermotion For Summary Judgment Filed By: Counter Claimant Desert Aire Wellness LLC <i>Desert Aire Wellness LLC's Opposition to Plaintiff/Counterdefendant's Motion For Summary Judgment and Countermotion For Summary Judgment</i>
03/03/2016	 Response Filed by: Defendant Nevada Department of Behavioral Health and Human Services <i>State Response To Motion For Summary Judgment</i>
03/08/2016	 Reply to Opposition Filed by: Counter Defendant GB Sciences Nevada LLC <i>Reply to Desert Aire Wellness LLC's Opposition to Plaintiff/Counter-Defendant's Motion for Summary Judgment and Opposition to Countermotion for Summary Judgment Against GB Sciences Nevada LLC</i>
03/08/2016	 Reply Filed by: Counter Defendant GB Sciences Nevada LLC <i>Reply to State Response to Motion for Summary Judgment</i>
03/15/2016	Motion for Summary Judgment (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>Plaintiff's Motion for Summary Judgment</i>
03/15/2016	Opposition and Countermotion (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>Desert Aire Wellness LLC's Opposition to Plaintiff/Counterdefendant's Motion For Summary Judgment and Countermotion For Summary Judgment</i>
03/15/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT...DESERT AIRE WELLNESS LLC'S OPPOSITION TO PLAINTIFF/COUNTERDEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT</i> <i>Parties Present: Attorney Singer, Michael H.</i> <i>Attorney Anderson, Linda Christine</i> <i>Attorney Shapiro, James E.</i>
03/17/2016	 Commissioners Decision on Request for Exemption - Granted Party: Counter Defendant GB Sciences Nevada LLC

CASE SUMMARY
CASE SUMMARY
CASE NO. A-15-728448-C

Commissioner's Decision on Request for Exemption

03/18/2016	 Arbitration File <i>Arbitration File</i>
03/22/2016	 Transcript of Proceedings <i>Transcript Re: Plaintiff's Motion for Summary Judgment Desert Aire Wellness LLC's Opposition to Plaintiff/Counter-Defendant's Motion for Summary Judgment and Countermotion for Summary Judgment 03-15-16</i>
04/07/2016	 Substitution of Attorney Filed by: Counter Claimant Desert Aire Wellness LLC <i>Substitution of Attorney</i>
04/14/2016	 Motion to Reconsider Filed By: Counter Claimant Desert Aire Wellness LLC <i>Motion for Reconsideration and Request that the Court Reverse and Grant Defendant Summary Judgment to Defendant or at a Minimum Grant a Stay Pending an Appeal</i>
04/26/2016	 Response Filed by: Defendant Nevada Department of Behavioral Health and Human Services <i>State Response To Motion For Reconsideration</i>
04/28/2016	 Order Filed By: Counter Defendant GB Sciences Nevada LLC <i>Order Re: GB Sciences Nevada, LLC's Motion for Summary Judgment; Desert Aire Wellness, LLC's Countermotion for Summary Judgment</i>
04/28/2016	 Notice of Entry of Order Filed By: Counter Defendant GB Sciences Nevada LLC <i>Notice of Entry of Order Re: GB Sciences Nevada, LLC's Motion for Summary Judgment; Desert Aire Wellness, LLC's Countermotion for Summary Judgment</i>
04/28/2016	Partial Summary Judgment (Judicial Officer: Cory, Kenneth) Debtors: Desert Aire Wellness LLC (Defendant) Creditors: GB Sciences Nevada LLC (Plaintiff) Judgment: 04/28/2016, Docketed: 05/05/2016
05/02/2016	 Opposition to Motion Filed By: Counter Defendant GB Sciences Nevada LLC <i>Opposition to Motion for Reconsideration and Request That the Court Reverse and Grant Defendant Summary Judgment to Defendant or at a Minimum a Stay Pending Appeal</i>
05/10/2016	 Reply Filed by: Counter Claimant Desert Aire Wellness LLC <i>Reply in Support of Motion to Alter or Amend Judgment, Countermotion for Summary Judgment or in the Alternative a Stay Pending an Appeal</i>
05/16/2016	 Motion For Reconsideration (3:00 AM) (Judicial Officer: Cory, Kenneth) <i>Defendant's Motion for Reconsideration and Request that the Court Reverse and Grant Defendant Summary Judgment to Defendant or at a Minimum Grant a Stay Pending an Appeal</i>
05/25/2016	 Notice of Appearance Party: Counter Claimant Desert Aire Wellness LLC <i>Notice of Appearance</i>

CASE SUMMARY
CASE SUMMARY
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05/25/2016	 Notice of Appeal Filed By: Counter Claimant Desert Aire Wellness LLC <i>Notice of Appeal</i>	
05/25/2016	 Case Appeal Statement Filed By: Counter Claimant Desert Aire Wellness LLC <i>Case Appeal Statement</i>	

DATE	FINANCIAL INFORMATION
	Counter Claimant Desert Aire Wellness LLC Total Charges 657.50 Total Payments and Credits 657.50 Balance Due as of 5/25/2016 0.00
	Other Samantha Inc Total Charges 7.00 Total Payments and Credits 7.00 Balance Due as of 5/25/2016 0.00
	Counter Defendant GB Sciences Nevada LLC Total Charges 670.00 Total Payments and Credits 670.00 Balance Due as of 5/25/2016 0.00

DISTRICT COURT CIVIL COVER SHEET A-15-728448-C

County, Nevada

Case No.

(Assigned by Clerk's Office)

I

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

GB SCIENCES NEVADA, LLC, a Nevada limited liability company

Defendant(s) (name/address/phone):

STATE OF NEVADA, DIVISION OF PUBLIC AND

BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES;

CITY OF LAS VEGAS; DESERT AIRE WELLNESS, LLC;

DOES 1-10, and ROE ENTITIES 1-100, inclusive.

Attorney (name/address/phone):

James E. Shapiro, Esq. and Sheldon A. Herbert, Esq.

Smith & Shapiro, PLLC

2520 St. Rose Parkway, Suite 220

Henderson, NV 89074

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Negligence	Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ	Other Civil Filing	
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters	

Business Court filings should be filed using the Business Court civil coversheet.

12/2/2015

Date

Signature of initiating party or representative

See other side for family-related case filings.

ORIGINAL

CLERK OF THE COURT

1 **ORDR**

2 JAMES E. SHAPIRO, ESQ.

3 Nevada Bar No. 7907

4 Sheldon A. Herbert, Esq.

5 Nevada Bar No. 5988

6 **SMITH & SHAPIRO, PLLC**

7 2520 St. Rose Parkway, Suite 220

8 Henderson, NV 89074

9 (702) 318-5033

10 *Attorneys for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

13 Plaintiff,

Case No. A-15-728448-C

Dept. No. 1

14 vs.

15 STATE OF NEVADA, DIVISION OF PUBLIC
16 AND BEHAVIORAL HEALTH OF THE
17 DEPARTMENT OF HEALTH AND HUMAN
18 SERVICES; CITY OF LAS VEGAS, a municipal
19 corporation and political subdivision of the State
20 of Nevada; DESERT AIRE WELLNESS, LLC, a
21 Nevada limited liability company; DOES 1-10,
22 and ROE ENTITIES 1-100, inclusive,

Date: March 15, 2016

Time: 9:00 a.m.

23 Defendants.

24 DESERT AIRE WELLNESS, LLC, a Nevada
25 limited liability company,

26 Counterclaimant,

27 vs.

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

Counterdefendant.

**ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT;
DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT**

THIS MATTER having come before the Court on GB SCIENCES NEVADA, LLC's
("Plaintiff") Motion for Summary Judgment (the "Motion") and on Defendant DESERT AIRE
WELLNESS, LLC ("Desert Aire") Countermotion for Summary Judgment ("Countermotion");

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Defect	<input type="checkbox"/> Judgment of Arbitration

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, NV 89074
O: (702) 318-5033 F: (702) 318-5034

1 Plaintiff, having appeared by and through its attorneys of record, SMITH & SHAPIRO, PLLC;
2 Defendant STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES (the
3 "State" or "Division"), having appeared by and through ADAM PAUL LAXALT, Attorney General
4 through his Chief Deputy Attorney General, LINDA C. ANDERSON; Defendant Desert Aire,
5 having appeared by and through its attorneys of record, MICHAEL H. SINGER, LTD., Defendant
6 CITY OF LAS VEGAS having failed to appear or file any briefs regarding the matter¹, the Court
7 having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, the
8 Court having stated its findings and conclusions on the record, the Court being fully advised in the
9 premises, and good cause appearing, NOW THEREFORE, THE COURT FINDS AND
10 CONCLUDES:

UNDISPUTED FACTS

A. BACKGROUND.

1. In 2013, Senate Bill 374 was passed which provided for the registration of medical
marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible
marijuana products or marijuana-infused products for sale to persons authorized to engage in the
medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

2. Under N.R.S. § 453A.320 et seq., the Division was tasked with processing and
ranking applications for Medical Marijuana Establishments ("MMEs") for each local jurisdiction in
Nevada.

3. There were five types of MME's, including Dispensaries, Cultivation Facilities, and
Production Facilities. The MME at issue in this lawsuit is a Dispensary.

4. The City of Las Vegas was allocated twelve Dispensary provisional certificates.

5. The Division, as well as the local jurisdiction, played a role in the ultimate licensing
of MMEs. Specifically, the local jurisdiction was tasked with considering issues such as site plans,
zoning and proximity to other business or facilities (the "Local Application Process") while the

¹ Plaintiff previously notified the Court that Plaintiff was no longer seeking any claims against the City of Las Vegas as the Plaintiff's claims had been rendered moot. Notwithstanding, the City of Las Vegas was included as an interested party to give them an opportunity to heard on the Plaintiff's requested relief against the State of Nevada and Desert Aire Wellness, LLC.

1 Division focused on public health, public safety, and marijuana as a medicine (the "Division
2 Application Process").

3 6. In accordance with its responsibilities, the City of Las Vegas enacted Ordinance No.
4 6321 and 6324 to establish zoning regulations, licensing regulations, and standards for MME
5 locations.

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

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

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

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

19 **B. DESERT AIRE'S APPLICATION.**

20 10. Plaintiff and Desert Aire were two of the 49 applicants for a Dispensary License in
21 the City of Las Vegas.

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

24 12. Prior to the October 28-29, 2014 Las Vegas City Council meeting, Desert Aire
25 withdrew their application for a special use permit and compliance permit.

26 13. On October 30, 2014, the City of Las Vegas sent a letter to the Division notifying the
27 Division that Desert Aire's application for a special use permit and compliance permit from the City
28 of Las Vegas had been withdrawn and identifying for the Division the twenty-eight (28) applicants

1 who had been granted a special use permit and compliance permit for purposes of NRS §
2 453A.322(3)(a)(5).

3 14. The City of Las Vegas letter was intended to comply, and did comply, with NRS
4 453A.322(3)(a)(5).

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

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

13 17. While Desert Aire subsequently obtained a special use permit, that did not occur until
14 after November 3, 2014. Desert Aire ultimately opened for business.

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

22 19. Pursuant the plain terms of the statute, the Division should not have registered Desert
23 Aire and issued a registration certificate as Desert Aire had not met all the requirements of the
24 statute.

25 20. The Nevada Department of Health and Human Services should have registered and
26 issued the registration certificate to the medical marijuana establishment to the top twelve ranked
27 applicants which met all the requirements of the statute.

28 \\\

21. 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

22. 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).

23. 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).

24. 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.

25. 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).

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

27. The Division has acknowledged that a complaint for declaratory and injunctive relief is appropriate.

28. The issuance of the Provisional Certificate to Desert Aire was in error and contrary to NRS § 453A.322(3).

29. Desert Aire should have been disqualified due to their non-compliance with NRS § 453A.322(3)(a)(5).

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

\\

1 NOW THEREFORE:

2 31. IT IS HEREBY ORDERED Plaintiffs Motion for Summary Judgment is GRANTED
3 in part and DENIED in part.

4 32. IT IS FURTHER ORDERED that Plaintiff's Motion is GRANTED to the extent that
5 Desert Aire should not have been registered or issued a certification of registration as a medical
6 marijuana establishment because it had not met all the necessary requirements of 453A.322(3)(a).

7 33. IT IS FURTHER ORDERED that the Division shall rescind or withdraw the
8 dispensary registration previously issued to Desert Aire.

9 34. IT IS FURTHER ORDERED that Plaintiff's Motion for is DENIED to the extent
10 Plaintiff seeks the re-issue of Desert Aire's dispensary registration to Plaintiff.

11 35. IT IS FURTHER ORDERED Defendant Desert Aire's Countermotion for Summary
12 Judgment is DENIED.

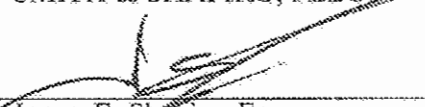
13 36. IT IS FURTHER ORDERED that there being no other unresolved claims or issues,
14 this matter is and shall be CLOSED and this Order shall be a FINAL, APPEALABLE ORDER.

15 IT IS SO ORDERED this 28 day of April, 2016.

16
17 
DISTRICT COURT JUDGE

18 Respectfully Submitted by:

19 SMITH & SHAPIRO, PLLC

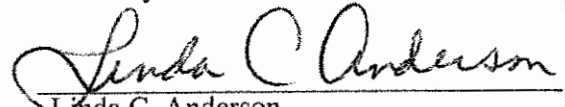
20
21 
James E. Shapiro, Esq.
22 Nevada Bar No. 7907
2520 Saint Rose Parkway, Suite 220
Henderson, Nevada 89074
23 Attorneys for Plaintiff
24
25
26
27
28

1 Approved:

2 MICHAEL H. SINGER, LTD.

Approved:

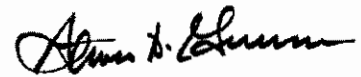
ADAM PAUL LAXALT,
Attorney General



3
4
5 Michael H. Singer, Esq.
6 Nevada Bar No. 1589
7 4475 South Pecos Rd.
8 Las Vegas, NV 89121
9 *Attorneys for DESERT AIRE*
10 *WELLNESS, LLC*

Linda C. Anderson
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555 E. Washington Ave., #3900
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Attorneys for the STATE OF NEVADA

SMITH & SHAPIRO, PLLC
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O: (702) 318-5033 F: (702) 318-5034



CLERK OF THE COURT

1 **NOTC**
James E. Shapiro, Esq.
2 Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
3 Nevada Bar No. 5988
SMITH & SHAPIRO, PLLC
4 2520 St. Rose Parkway, Suite #220
Henderson, NV 89074
5 (702) 318-5033
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

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

10 Plaintiff,

Case No. **A-15-728448-C**
Dept. No. I

11 vs.

12 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
13 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
14 corporation and political subdivision of the State of
Nevada; DESERT AIRE WELLNESS, LLC, a
15 Nevada limited liability company; DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

16 Defendants.

Date: March 15, 2016
Time: 9:00 a.m

17 DESERT AIRE WELLNESS, LLC, a Nevada
18 limited liability company,

19 Counterclaimant,

20 vs.

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

23 Counterdefendant.

24 **NOTICE OF ENTRY OF ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR**
25 **SUMMARY JUDGMENT; DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR**
26 **SUMMARY JUDGMENT**

27 PLEASE TAKE NOTICE that an **ORDER RE: GB SCIENCES NEVADA, LLC'S**
28 **MOTION FOR SUMMARY JUDGMENT; DESERT AIRE WELLNESS, LLC'S**

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

1 **COUNTERMOTION FOR SUMMARY JUDGMENT** was entered in the above-entitled matter on
2 the 28th day of April, 2016, a copy of which is attached hereto as Exhibit 1.

3
4 DATED this 28nd day of April, 2016.

5
6 **SMITH & SHAPIRO, PLLC**

7 /s/ James E. Shapiro
8 James E. Shapiro, Esq.
9 Nevada Bar No. 7907
10 Sheldon A. Herbert, Esq.
11 Nevada Bar No. 5988
12 2520 St. Rose Parkway, Suite #220
13 Henderson, NV 89074
14 *Attorneys for Plaintiff*

15 **CERTIFICATE OF SERVICE**

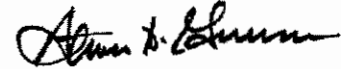
16 I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 28th day
17 of April, 2016, I served a true and correct copy of the forgoing **NOTICE OF ENTRY OF ORDER**
18 **RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT; DESERT**
19 **AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT**, by e-serving
20 a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line,
21 electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer
22 Togliatti, on May 9, 2014.

23
24
25 /s/ Ashley R. Houston
26 An employee of SMITH & SHAPIRO, PLLC
27
28

Exhibit “1”

Exhibit “1”

ORIGINAL



CLERK OF THE COURT

1 **ORDR**

JAMES E. SHAPIRO, ESQ.

2 Nevada Bar No. 7907

Sheldon A. Herbert, Esq.

3 Nevada Bar No. 5988

SMITH & SHAPIRO, PLLC

4 2520 St. Rose Parkway, Suite 220

Henderson, NV 89074

5 (702) 318-5033

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

6
7
8 GB SCIENCES NEVADA, LLC, a Nevada
limited liability company,

9
10 Plaintiff,

Case No. A-15-728448-C

Dept. No. 1

11 vs.

12 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
13 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
14 corporation and political subdivision of the State
of Nevada; DESERT AIRE WELLNESS, LLC, a
15 Nevada limited liability company; DOES 1-10,
and ROE ENTITIES 1-100, inclusive,

16 Defendants.

Date: March 15, 2016

Time: 9:00 a.m.

17 DESERT AIRE WELLNESS, LLC, a Nevada
limited liability company,

18 Counterclaimant,

19 vs.

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

21 Counterdefendant.
22

23
24 **ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT;**
25 **DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT**

26 THIS MATTER having come before the Court on GB SCIENCES NEVADA, LLC's
27 ("Plaintiff") Motion for Summary Judgment (the "Motion") and on Defendant DESERT AIRE
28 WELLNESS, LLC ("Desert Aire") Countermotion for Summary Judgment ("Countermotion");

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Def(s)	<input type="checkbox"/> Judgment of Arbitration

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Henderson, NV 89074
O:(702)318-5033 F:(702)318-5034

1 Plaintiff, having appeared by and through its attorneys of record, SMITH & SHAPIRO, PLLC;
2 Defendant STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES (the
3 "State" or "Division"), having appeared by and through ADAM PAUL LAXALT, Attorney General
4 through his Chief Deputy Attorney General, LINDA C. ANDERSON; Defendant Desert Aire,
5 having appeared by and through its attorneys of record, MICHAEL H. SINGER, LTD., Defendant
6 CITY OF LAS VEGAS having failed to appear or file any briefs regarding the matter¹, the Court
7 having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, the
8 Court having stated its findings and conclusions on the record, the Court being fully advised in the
9 premises, and good cause appearing, NOW THEREFORE, THE COURT FINDS AND
10 CONCLUDES:

11 **UNDISPUTED FACTS**

12 **A. BACKGROUND.**

13 1. In 2013, Senate Bill 374 was passed which provided for the registration of medical
14 marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible
15 marijuana products or marijuana-infused products for sale to persons authorized to engage in the
16 medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

17 2. Under N.R.S. § 453A.320 et seq., the Division was tasked with processing and
18 ranking applications for Medical Marijuana Establishments ("MMEs") for each local jurisdiction in
19 Nevada.

20 3. There were five types of MME's, including Dispensaries, Cultivation Facilities, and
21 Production Facilities. The MME at issue in this lawsuit is a Dispensary.

22 4. The City of Las Vegas was allocated twelve Dispensary provisional certificates.

23 5. The Division, as well as the local jurisdiction, played a role in the ultimate licensing
24 of MMEs. Specifically, the local jurisdiction was tasked with considering issues such as site plans,
25 zoning and proximity to other business or facilities (the "Local Application Process") while the

26 ¹ Plaintiff previously notified the Court that Plaintiff was no longer seeking any claims against the City of Las Vegas as
27 the Plaintiff's claims had been rendered moot. Notwithstanding, the City of Las Vegas was included as an interested
28 party to give them an opportunity to heard on the Plaintiff's requested relief against the State of Nevada and Desert Aire
Wellness, LLC.

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1 Division focused on public health, public safety, and marijuana as a medicine (the "Division
2 Application Process").

3 6. In accordance with its responsibilities, the City of Las Vegas enacted Ordinance No.
4 6321 and 6324 to establish zoning regulations, licensing regulations, and standards for MME
5 locations.

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

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

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

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

19 **B. DESERT AIRE'S APPLICATION.**

20 10. Plaintiff and Desert Aire were two of the 49 applicants for a Dispensary License in
21 the City of Las Vegas.

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

24 12. Prior to the October 28-29, 2014 Las Vegas City Council meeting, Desert Aire
25 withdrew their application for a special use permit and compliance permit.

26 13. On October 30, 2014, the City of Las Vegas sent a letter to the Division notifying the
27 Division that Desert Aire's application for a special use permit and compliance permit from the City
28 of Las Vegas had been withdrawn and identifying for the Division the twenty-eight (28) applicants

1 who had been granted a special use permit and compliance permit for purposes of NRS §
2 453A.322(3)(a)(5).

3 14. The City of Las Vegas letter was intended to comply, and did comply, with NRS
4 453A.322(3)(a)(5).

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

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

13 17. While Desert Aire subsequently obtained a special use permit, that did not occur until
14 after November 3, 2014. Desert Aire ultimately opened for business.

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

22 19. Pursuant the plain terms of the statute, the Division should not have registered Desert
23 Aire and issued a registration certificate as Desert Aire had not met all the requirements of the
24 statute.

25 20. The Nevada Department of Health and Human Services should have registered and
26 issued the registration certificate to the medical marijuana establishment to the top twelve ranked
27 applicants which met all the requirements of the statute.

28 \\\

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21. 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

22. 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).

23. 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).

24. 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.

25. 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).

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

27. The Division has acknowledged that a complaint for declaratory and injunctive relief is appropriate.

28. The issuance of the Provisional Certificate to Desert Aire was in error and contrary to NRS § 453A.322(3).

29. Desert Aire should have been disqualified due to their non-compliance with NRS § 453A.322(3)(a)(5).

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

\\

1 NOW THEREFORE:

2 31. IT IS HEREBY ORDERED Plaintiffs Motion for Summary Judgment is GRANTED
3 in part and DENIED in part.

4 32. IT IS FURTHER ORDERED that Plaintiff's Motion is GRANTED to the extent that
5 Desert Aire should not have been registered or issued a certification of registration as a medical
6 marijuana establishment because it had not met all the necessary requirements of 453A.322(3)(a).

7 33. IT IS FURTHER ORDERED that the Division shall rescind or withdraw the
8 dispensary registration previously issued to Desert Aire.

9 34. IT IS FURTHER ORDERED that Plaintiff's Motion for is DENIED to the extent
10 Plaintiff seeks the re-issue of Desert Aire's dispensary registration to Plaintiff.

11 35. IT IS FURTHER ORDERED Defendant Desert Aire's Countermotion for Summary
12 Judgment is DENIED.


13 36. IT IS FURTHER ORDERED that there being no other unresolved claims or issues,
14 this matter is and shall be CLOSED and this Order shall be a FINAL, APPEALABLE ORDER.

15 IT IS SO ORDERED this 16 day of April, 2016.

16
17 
DISTRICT COURT JUDGE

18 Respectfully Submitted by:

19 SMITH & SHAPIRO, PLLC

20
21 
James E. Shapiro, Esq.
Nevada Bar No. 7907
2520 Saint Rose Parkway, Suite 220
Henderson, Nevada 89074
23 Attorneys for Plaintiff

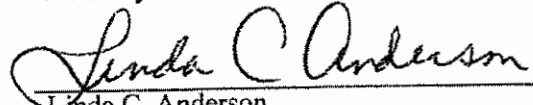
SMITH & SHAPIRO, PLLC
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1 Approved:

2 MICHAEL H. SINGER, LTD.

Approved:

ADAM PAUL LAXALT,
Attorney General



3
4
5 Michael H. Singer, Esq.
6 Nevada Bar No. 1589
7 4475 South Pecos Rd.
8 Las Vegas, NV 89121
9 *Attorneys for DESERT AIRE*
10 *WELLNESS, LLC*

Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
555 E. Washington Ave., #3900
Las Vegas, NV 89101
Attorneys for the STATE OF NEVADA

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

January 25, 2016

A-15-728448-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada Department of Behavioral Health and Human Services, Defendant(s)

January 25, 2016 3:00 AM Motion to Intervene

HEARD BY: Cory, Kenneth **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Michele Tucker

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Samantha Inc. d/b/a Samantha's Remedies Motion to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings DENIED. Mr. Shapiro to prepare the Order.

CLERK'S NOTE: The above minute order has been distributed to: James Shapiro, Esq., Michael Singer, Esq., Linda Anderson, Esq., and Kimberly Maxson-Rushton, Esq. via e-mail. /mlt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

February 23, 2016

A-15-728448-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada Department of Behavioral Health and Human Services, Defendant(s)

February 23, 2016 9:00 AM All Pending Motions

HEARD BY: Cory, Kenneth COURTROOM: RJC Courtroom 16A

COURT CLERK: Michele Tucker

RECORDER: Lisa Lizotte

REPORTER:

PARTIES

PRESENT: Anderson, Linda Christine Attorney
Shapiro, James E. Attorney
Singer, Michael H. Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AGAINST DESERT AIRE WELLNESS, LLC...DESERT AIRE WELLNESS LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AGAINST DESERT AIRE WELLNESS LLC AND COUNTERMOTION FOR SUMMARY JUDGMENT AGAINST GB SCIENCES NEVADA LLC

Mr. Shapiro gave factual back ground and argued Senate Bill 247, City Ordinance 6321 & 6324, and argued NRS 453A.322. Mr. Shapiro gave summary of hearing in which the City made their decisions on the application. Further arguments by Mr. Shapiro as to provisional letter. Ms. Anderson advised the motion was not made against the Division and a response has not been filed. Ms. Anderson further advised the Division based their decision on their ranking not on the letters and as they had not received letters from anyone. Statements by the Court regarding the statute requiring the letter. Ms. Anderson advised no one had submitted letters and the Division made the decision to go forward as they were trying to meet the needs of the community. The Court read the statute and made further statements regarding the requirement of the letter. Mr. Shapiro requested the matter be continued in order for them to file a motion for summary judgment against the State. Statements by the Court. Mr. Singer advised they have relied upon the City and the State and have appeared before

the City Council many times and they have not appeared to object. Mr. Singer argued they have done everything they were supposed to do and spent enormous amounts of money. Mr. Singer further argued Price/Carson City case. Ms. Anderson requested filing supplemental briefs. Colloquy. COURT ORDERED, Motions DENIED WITHOUT PREJUDICE and it would allow filing with a more encompassing motion. COURT FURTHER ORDERED, Plaintiff's motion due February 26, 2016, Defendants Opposition due March 4, 2016, Reply due March 8, 2016 and Matter SET for hearing.

3/15/16 9:00 AM MOTION FOR SUMMARY JUDGMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 15, 2016

A-15-728448-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada Department of Behavioral Health and Human Services, Defendant(s)

March 15, 2016 9:00 AM All Pending Motions

HEARD BY: Cory, Kenneth **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Michele Tucker

RECORDER: Lisa Lizotte

REPORTER:

PARTIES

PRESENT: Anderson, Linda Christine Attorney
Shapiro, James E. Attorney
Singer, Michael H. Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT...DESERT AIRE WELLNESS LLC'S
OPPOSITION TO PLAINTIFF/COUNTERDEFENDANT'S MOTION FOR SUMMARY JUDGMENT
AND COUNTERMOTION FOR SUMMARY JUDGMENT

Following arguments by counsel, COURT ORDERED, Desert Aire Wellness LLC's Opposition to Plaintiff/Counterdefendant's Motion for Summary Judgment and Countermotion for Summary Judgment DENIED. COURT FURTHER ORDERED, Plaintiff's Motion for Summary Judgment GRANTED as to the license was improperly granted and DENIED as to the remaining. Court STATED the State did not act in accordance with the law in the way they acted and must do so. The Court applauds the State's concerns about acting in accordance with the law, as they have been vested with that discretion by the legislative. The Court hopes the State moves quickly, so long as it is carefully and methodically as to the care, health, and welfare of the State, as this is a new area. Mr. Shapiro to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 16, 2016

A-15-728448-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada Department of Behavioral Health and Human Services, Defendant(s)

**May 16, 2016 3:00 AM Motion For
Reconsideration**

HEARD BY: Cory, Kenneth **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Michele Tucker

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERS, Defendant's Motion for Reconsideration and Request that the Court Reverse and Grant Defendant Summary Judgment to Defendant or at a Minimum Grant a Stay Pending an Appeal DENIED IN ITS ENTIRETY. Mr. Shapiro to prepare the Order.

CLERK'S NOTE: The above minute order has been distributed to: James Shapiro, Esq. (jshapiro@smithshapiro.com), Patrick Shehan, Esq. (psheehan@fclaw.com), and Linda Anderson, Esq. (landerson@ag.nv.gov). /mlt



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

RICHARD BRYAN
300 S. FOURTH ST., SUITE 1400
LAS VEGAS, NV 89101

DATE: May 25, 2016
CASE: A-15-728448-C

RE CASE: GB SCIENCES NEVADA, LLC vs. STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; CITY OF LAS VEGAS; DESERT AIRE WELLNESS, LLC

NOTICE OF APPEAL FILED: May 25, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☒ Order *re: Written Order regarding Motion for Reconsideration*
- ☒ Notice of Entry of Order *re: Written Order regarding Motion for Reconsideration*

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT; DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER RE: GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT; DESERT AIRE WELLNESS, LLC'S COUNTERMOTION FOR SUMMARY JUDGMENT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

GB SCIENCES NEVADA, LLC,

Plaintiff(s),

vs.

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

Defendant(s),

Case No: A-15-728448-C

Dept No: I

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 25 day of May 2016.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

EXHIBIT L

EXHIBIT L

ORIGINAL

CLERK OF THE COURT

1 **ORDR**
2 JAMES E. SHAPIRO, ESQ.
3 Nevada Bar No. 7907
4 Sheldon A. Herbert, Esq.
5 Nevada Bar No. 5988
6 **SMITH & SHAPIRO, PLLC**
7 2520 St. Rose Parkway, Suite 220
8 Henderson, NV 89074
9 (702) 318-5033
10 *Attorneys for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

8 GB SCIENCES NEVADA, LLC, a Nevada
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10 Plaintiff,

Case No. A-15-728448-C
Dept. No. I

11 vs.

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19 and ROE ENTITIES 1-100, inclusive,

20 Defendants.

Date: March 15, 2016
Time: 9:00 a.m.

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<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

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1 Plaintiff, having appeared by and through its attorneys of record, SMITH & SHAPIRO, PLLC;
2 Defendant STATE OF NEVADA, DEPARTMENT OF HEALTH AND HUMAN SERVICES (the
3 “State” or “Division”), having appeared by and through ADAM PAUL LAXALT, Attorney General
4 through his Chief Deputy Attorney General, LINDA C. ANDERSON; Defendant Desert Aire,
5 having appeared by and through its attorneys of record, MICHAEL H. SINGER, LTD., Defendant
6 CITY OF LAS VEGAS having failed to appear or file any briefs regarding the matter¹, the Court
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8 Court having stated its findings and conclusions on the record, the Court being fully advised in the
9 premises, and good cause appearing, NOW THEREFORE, THE COURT FINDS AND
10 CONCLUDES:

11 UNDISPUTED FACTS

12 A. BACKGROUND.

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15 marijuana products or marijuana-infused products for sale to persons authorized to engage in the
16 medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

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5 locations.

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

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

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

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

19 **B. DESERT AIRE'S APPLICATION.**

20 10. Plaintiff and Desert Aire were two of the 49 applicants for a Dispensary License in
21 the City of Las Vegas.

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

24 12. Prior to the October 28-29, 2014 Las Vegas City Council meeting, Desert Aire
25 withdrew their application for a special use permit and compliance permit.

26 13. On October 30, 2014, the City of Las Vegas sent a letter to the Division notifying the
27 Division that Desert Aire's application for a special use permit and compliance permit from the City
28 of Las Vegas had been withdrawn and identifying for the Division the twenty-eight (28) applicants

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1 who had been granted a special use permit and compliance permit for purposes of NRS §
2 453A.322(3)(a)(5).

3 14. The City of Las Vegas letter was intended to comply, and did comply, with NRS
4 453A.322(3)(a)(5).

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

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

13 17. While Desert Aire subsequently obtained a special use permit, that did not occur until
14 after November 3, 2014. Desert Aire ultimately opened for business.

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

22 19. Pursuant the plain terms of the statute, the Division should not have registered Desert
23 Aire and issued a registration certificate as Desert Aire had not met all the requirements of the
24 statute.

25 20. The Nevada Department of Health and Human Services should have registered and
26 issued the registration certificate to the medical marijuana establishment to the top twelve ranked
27 applicants which met all the requirements of the statute.

28 \\\

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21. 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

22. 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).

23. 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).

24. 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.

25. 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).

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

27. The Division has acknowledged that a complaint for declaratory and injunctive relief is appropriate.

28. The issuance of the Provisional Certificate to Desert Aire was in error and contrary to NRS § 453A.322(3).

29. Desert Aire should have been disqualified due to their non-compliance with NRS § 453A.322(3)(a)(5).

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

\\

1 NOW THEREFORE:

2 31. IT IS HEREBY ORDERED Plaintiffs Motion for Summary Judgment is GRANTED
3 in part and DENIED in part.

4 32. IT IS FURTHER ORDERED that Plaintiff's Motion is GRANTED to the extent that
5 Desert Aire should not have been registered or issued a certification of registration as a medical
6 marijuana establishment because it had not met all the necessary requirements of 453A.322(3)(a).

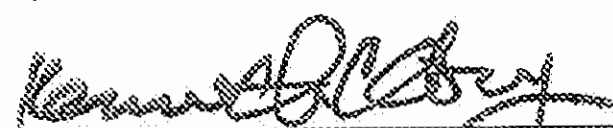
7 33. IT IS FURTHER ORDERED that the Division shall rescind or withdraw the
8 dispensary registration previously issued to Desert Aire.

9 34. IT IS FURTHER ORDERED that Plaintiff's Motion for is DENIED to the extent
10 Plaintiff seeks the re-issue of Desert Aire's dispensary registration to Plaintiff.

11 35. IT IS FURTHER ORDERED Defendant Desert Aire's Countermotion for Summary
12 Judgment is DENIED.


13 36. IT IS FURTHER ORDERED that there being no other unresolved claims or issues,
14 this matter is and shall be CLOSED and this Order shall be a FINAL, APPEALABLE ORDER.

15 IT IS SO ORDERED this 28 day of April, 2016.

16
17 
DISTRICT COURT JUDGE

18 Respectfully Submitted by:

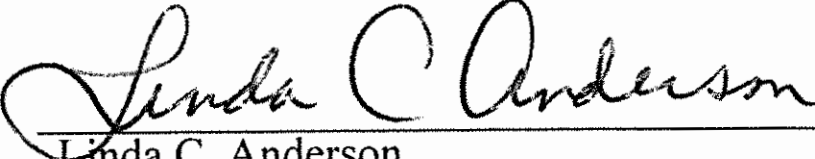
19 SMITH & SHAPIRO, PLLC

20
21 
22 James E. Shapiro, Esq.
23 Nevada Bar No. 7907
24 2520 Saint Rose Parkway, Suite 220
25 Henderson, Nevada 89074
26 Attorneys for Plaintiff
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28

1 Approved:
2 MICHAEL H. SINGER, LTD.

Approved:
ADAM PAUL LAXALT,
Attorney General

3
4
5 Michael H. Singer, Esq.
6 Nevada Bar No. 1589
7 4475 South Pecos Rd.
8 Las Vegas, NV 89121
9 *Attorneys for DESERT AIRE*
10 *WELLNESS, LLC*


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Attorneys for the STATE OF NEVADA

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EXHIBIT K

EXHIBIT K

DISTRICT COURT CIVIL COVER SHEET A-15-728448-C

County, Nevada

Case No.

(Assigned by Clerk's Office)

I

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

GB SCIENCES NEVADA, LLC, a Nevada limited liability company

Defendant(s) (name/address/phone):

STATE OF NEVADA, DIVISION OF PUBLIC AND

BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES;

CITY OF LAS VEGAS; DESERT AIRE WELLNESS, LLC;

DOES 1-10, and ROE ENTITIES 1-100, inclusive,

Attorney (name/address/phone):

James E. Shapiro, Esq. and Sheldon A. Herbert, Esq.

Smith & Shapiro, PLLC

2520 St. Rose Parkway, Suite 220

Henderson, NV 89074

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Torts	Probate	Construction Defect & Contract	Judicial Review/Appeal	
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant			Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters		

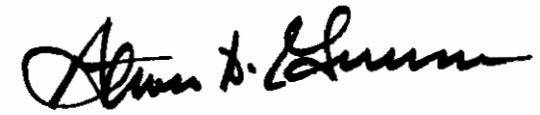
Business Court filings should be filed using the Business Court civil coversheet.

12/2/2015

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **ACOM**
James E. Shapiro, Esq.
2 Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
3 Nevada Bar No. 5988
SMITH & SHAPIRO, PLLC
4 2520 St. Rose Parkway, Suite 220
Henderson, NV 89074
5 (702) 318-5033
Attorneys for Plaintiff

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

Case No. A - 15 - 728448 - C
Dept. No. I

12 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
13 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
14 corporation and political subdivision of the State of
Nevada; DESERT AIRE WELLNESS, LLC, a
15 Nevada limited liability company; DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

16 Defendants.

17
18 **COMPLAINT**

19 COMES NOW Plaintiff GB SCIENCES NEVADA, LLC, a Nevada limited liability company,
20 by and through its attorneys of record, SMITH & SHAPIRO, PLLC, and for its Complaint, and, in
21 Addition, or in the Alternative, Petition for Judicial Review and Writ of Mandamus (the "Complaint"),
22 alleges and avers as follows:

23 **PARTIES**

24 1. Plaintiff, GB SCIENCES NEVADA, LLC ("GB Sciences") is a Nevada limited liability
25 company located in Clark County, Nevada.

26 2. Defendant, STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL
27 HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (the "Division") is an
28 agency of the State of Nevada.

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3. Upon information and belief, Defendant DESERT AIRE WELLNESS, LLC ("*Desert Aire*") is a Nevada limited liability company doing business in Clark County, Nevada.

4. Upon information and belief, Defendant CITY OF LAS VEGAS (the "City") is a municipal corporation and political subdivision of the State of Nevada.

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

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

GENERAL ALLEGATIONS

7. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medicinal marijuana.

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

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1 9. As part of NRS Chapter 453A, the Nevada Legislature tasked the Division with
2 protecting the people of Nevada's general welfare, health, and safety through the registration of medical
3 marijuana establishments and medical marijuana establishment agents.

4 10. The Division, as well as the local jurisdiction, played a role in the ultimate licensing of
5 MMEs.

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

10 12. This effort resulted in the passage and implementation as of April 1, 2014, of NAC
11 453A.010, et seq., which provided the necessary regulations for the application, review, approval, and
12 ultimate registration of a medical marijuana establishment in accordance with the requirements of NRS
13 Chapter 453A.

14 13. Specifically, the local jurisdiction was tasked with considering issues such as site plans,
15 zoning and proximity to other business or facilities while the Division focused on public health, public
16 safety, and marijuana as a medicine.

17 CITY OF LAS VEGAS' APPROVAL PROCESS

18 14. The City of Las Vegas was allotted twelve (12) MME registration certificates (the
19 "Registration Certificates") by the Division.

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

25 16. In accordance with such responsibilities, the City Council of the City of Las Vegas
26 enacted Ordinance No. 6321 to establish zoning regulations and standards for medical marijuana
27 establishments.

28 \\

1 17. The City Council of the City of Las Vegas also enacted Ordinance No. 6324 to establish
2 licensing regulations and standards for medical marijuana establishments.

3 18. In addition, the City of Las Vegas prepared and issued a separate application packet for
4 any person wishing to obtain the required special use permit and business licensing for the operation
5 of a medical marijuana establishment in the City of Las Vegas (the "Las Vegas Application").

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

8 20. Plaintiff and Defendant Desert Aire were two of the applicants.

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

11 22. The City of Las Vegas granted a special use permit to twenty-seven (27) applicants,
12 including Plaintiff.

13 23. The City of Las Vegas denied ten (10) applicants a Special Use Permit.

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

16 25. The City of Las Vegas thereafter informed the Division of those applicants granted a
17 special use permit and those applicants denied a special use permit by the City of Las Vegas.

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

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

22 27. While the Division was allowed to *accept* all applications submitted, under N.R.S. §
23 453A.322, the Division could only issue a Provisional Certificate if the applicant's application included
24 six (6) specific items and if the applicant otherwise met the requirements established by N.R.S. Chapter
25 453A.

26 28. NRS 453A.322(3)(a)(2) through (5) provided a list of items that every application for
27 a medical marijuana establishment must have submitted to the Division.

28 \\ \

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

6 30. The Division was required to rank from first to last the completed applications within
7 a particular jurisdiction based on the content of each application as it relates to the criteria for evaluation
8 determined by the Division and provided by NRS Chapter 453A.

9 31. Supposedly in accordance with these and many other statutory and regulatory
10 requirements, the Division issued an application packet on May 30, 2014.

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

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

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

21 34. However, the requirements of NRS 453A.322(3) and the Division's ability to issue a
22 medical marijuana registration certificate were subject expressly to the exceptions set forth in NRS
23 453A.326.

24 35. NRS 453A.326(3) required that any medical marijuana establishment registration
25 certificate issued by the Division be deemed provisional in any city, town, or county that issues business
26 licenses.

27 36. The City of Las Vegas is a Nevada city that enacted ordinances for the zoning and
28 business licensing of medical marijuana establishments.

1 37. As such, NRS 453A.326(3) required that the Division ensure compliance with NRS
2 453A.326(3)(5).

3 38. The Nevada Legislature enacted NRS 453A.322(3)(a)(5), which expressly required all
4 applicants for the operation of a medical marijuana establishment in he City of Las Vegas to submit
5 proof of the City of Las Vegas' zoning approval or a letter from the City of Las Vegas acknowledging
6 that the applicant's proposed medical marijuana establishment was in compliance with the City of Las
7 Vegas' restrictions and applicable building requirements.

8 **PLAINTIFF AND DEFENDANTS' APPLICATIONS**

9 39. On or before the Division's August 18, 2014 deadline, the Division received multiple
10 applications for the City of Las Vegas' twelve (12) allotted medical marijuana establishment registration
11 certificates for the operation of a medical marijuana dispensary in the City of Las Vegas.

12 40. Plaintiff and Desert Aire were among these applicants to the Division.

13 41. Prior to submitting an application to the Division, Plaintiff and Desert Aire each
14 submitted an application to the City of Las Vegas for a Special Use Permit and a Business License as
15 required by the City of Las Vegas' newly enacted ordinances.

16 42. However, Desert Aire subsequently withdrew its application before the City of Las
17 Vegas and never obtained the required the Special Use Permit or Business License from the City of Las
18 Vegas prior to November 3, 2014.

19 43. To the contrary, Plaintiff received a Special Use Permit for the operation of medical
20 marijuana dispensary from the City of Las Vegas and further, its application for Business License was
21 recommended for approval.

22 44. In addition, Plaintiff submitted as part of its application to the Division the City of Las
23 Vegas' certification that Plaintiff complied with the City of Las Vegas's ordinances and building
24 requirements concerning the operation of a medical marijuana establishment in the City of Las Vegas.

25 45. Upon information and belief, the City of Las Vegas informed the Division of those
26 applicants that it approved for a Special Use Permit, which included Plaintiff, and those applicants that
27 it denied a Special Use Permit or otherwise had withdrawn their applications, which included Desert
28 Aire.

1 46. Upon information and belief, the Division, upon receipt of the forty-nine (49)
2 applications for the operation of a medical marijuana dispensary in the City of Las Vegas, never made
3 the required initial determination that each application for the operation of a medical marijuana
4 dispensary was complete.

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

9 48. As a result, the Division improperly ranked the applications of Desert Aire against the
10 acceptable criteria.

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

14 50. At the same time, Plaintiff discovered that the Division ranked and issued provisional
15 registration certificate to Desert Aire (ranked #10).

16 51. Had the Division complied with the express requirements of NRS 453A.322(3), NAC
17 453A.310, NAC 453A.312, and NAC 453A.332, and the Division's previous public statements regarding
18 the correct application procedure, Desert Aire (ranked #10) should not have received a ranking let alone
19 a provisional registration certificate.

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

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

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27 \\\

28 \\\

FIRST CAUSE OF ACTION
(Declaratory Relief, Pursuant to N.R.S. § 30.010 *et seq.*)

54. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 54 of the Second Amended Complaint, and incorporates the same by this reference as if more fully set forth herein.

55. There exists a justiciable controversy between Plaintiff, on the one hand, and the Division, City, and Desert Aire, on the other hand regarding the issuance of provisional certificates for MME dispensaries under NRS Chapter 453A.

56. The interests of Plaintiff are adverse to the interests of the Division, City, and Desert Aire, if any.

57. Plaintiff has a legally protectable interest in the controversy.

58. The issue involved in the controversy is ripe for judicial determination with respect to the construction, interpretation, and implementation of NRS Chapter 453A, NAC 453A, and other Nevada laws and regulations as to the Plaintiff.

59. Plaintiff is entitled to a declaration, pursuant to N.R.S. § 30.010 *et seq.*, that Desert Aire failed to comply with the express provisions of N.R.S. § 453A.322(3)(a)(5), that the Division improperly issued a provisional certificate to Desert Aire, that the Plaintiff did comply with the express provisions of N.R.S. § 453A.322(3)(a)(5), that the Division improperly denied Plaintiff a provisional certificates as the next applicant in line, that the provisional certificate issued to Desert Aire should be revoked, that a provisional certificates should be issued to Plaintiff, that Desert Aire should not be issued an actual provisional certificate, and that the deadlines and requirements of the City for issuance of licenses for MME Dispensaries should be tolled for the benefit of the Plaintiff until after the Plaintiff's claims are determined in this case so that Plaintiff will not suffer detriment due to the fact that it should have been issued a provisional certificates on November 3, 2014.

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1 60. Plaintiff is likewise entitled to a declaration that all applicable deadlines and time periods
2 should be tolled and/or extended due to the Division's error described herein.

3 61. Plaintiff has been required to retain the services of an attorney to prosecute this matter,
4 and Plaintiff is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this
5 matter.

6 **SECOND CAUSE OF ACTION**
7 **(Injunctive Relief)**

8 62. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 61 of
9 the Second Amended Complaint, and incorporates the same by this reference as if more fully set forth
10 herein.

11 63. The Division's issuance of provisional certificate to Desert Aire has caused irreparable
12 harm to the Plaintiff because there are only 12 Provisional Certificates allocated to the City of Las
13 Vegas and Plaintiff was denied one of the 12 Provisional Certificates due to the improper issuance of
14 provisional certificate to Desert Aire.

15 64. The Division's refusal to revoke the provisional certificate issued to Desert Aire, or to
16 reissue a provisional certificates to the Plaintiff has caused Plaintiff to suffer irreparable harm and
17 Plaintiff continues to suffer irreparable harm.

18 65. Desert Aire failed to comply with the requirements of the City of Las Vegas or the
19 provisions of N.R.S. Chapter 453A for issuance of provisional certificates.

20 66. The Plaintiff complied with the requirements of the City of Las Vegas, and the
21 provisions of N.R.S. Chapter 453A, and should have been issued a provisional certificates as the next
22 eligible and qualified applicant in line.

23 67. The Plaintiff is likely to succeed on the merits of its case because the plain language of
24 the applicable provisions of N.R.S. Chapter 453A requires the Division to score applicants and issue
25 a provisional certificates in order of rank, Plaintiff satisfied all provisions of NRS Chapter 453A and
26 would have been ranked #10 for the 12 provisional certificates allocated to the City of Las Vegas, with
27 the elimination of Desert Aire which did not comply with the provisions of NRS Chapter 453A.

28 \\ \\

1 68. Plaintiff has no adequate remedy at law and compensatory relief is inadequate.

2 69. Plaintiff is entitled to a permanent mandatory injunction against the Division, enjoining
3 the Division:

4 (a) from issuing actual Registration Certificates to Desert Aire;

5 (b) to revoke the provisional certificates issued to Desert Aire;

6 (c) to identify Plaintiff as the next highest ranking applicant for one of the Provisional
7 Certificates allocated to the City of Las Vegas; and

8 (d) to issue a provisional certificates to Plaintiff.

9 70. Plaintiff is entitled to a permanent mandatory injunction against the City, requiring the
10 City to toll all deadlines which would have been required of the Plaintiff until after the Court rules on
11 Plaintiffs claims in this case, by virtue of the fact that Plaintiff should have received a Provisional
12 Certificate on November 3, 2014.

13 71. Plaintiff has been required to retain the services of an attorney to prosecute this matter,
14 and Plaintiff is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this
15 matter.

16 **In addition, or in the alternative to Plaintiff's allegations and Causes of Action asserted**
17 **above, Plaintiff also alleges the following and petitions this Court for Judicial Review in the**
18 **manner prescribed by *NRS 233B.010, et seq.***

19 **PETITION FOR JUDICIAL REVIEW**

20 72. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 71 of
21 the Second Amended Complaint, and incorporates the same by this reference as if more fully set forth
22 herein.

23 73. Petitioner, GB Sciences Nevada, LLC, a Nevada limited liability company (hereinafter
24 "**Petitioner**") is an applicant to the Division for the Division's issuance of a Registration Certificate for
25 the operation of a Medical Marijuana Establishment (an "**MME**") Dispensary in the City of Las Vegas,
26 Nevada.

27 74. Through the Division's application process and the Division's review, scoring, and
28 ranking of Petitioner's application for an MME Registration Certificate, the Division has determined

1 the legal rights, duties, or privileges of Petitioner as to the issuance of a Registration Certificate for the
2 operation of an MME Dispensary in the City of Las Vegas, Nevada.

3 75. Accordingly, Petitioner is a party of record to proceedings at the Division in a contested
4 matter.

5 76. On or about November 3, 2014, the Division sent out a letter informing Petitioner that
6 the Division had not issued a provisional Registration Certificate (a "Provisional Certificate") to
7 Petitioner because Petitioner did not achieve a score high enough to rank it in the top 12 applicants
8 within the City of Las Vegas, Nevada.

9 77. On or about November 20, 2014, Petitioner sent correspondence to the Division
10 requesting a hearing regarding Petitioner's application to the Division for a Registration Certificate for
11 the operation of an MME Dispensary in the City of Las Vegas, Nevada.

12 78. On November 25, 2014, the Division sent out a letter informing Petitioner that
13 Petitioner's request for a hearing was denied since the Nevada Legislature allegedly did not provide
14 Petitioner hearing rights concerning its application for a Registration Certificate.

15 79. As such, the Division's November 3, 2014 notification to Petitioner refusing to issue
16 Petitioner a Provisional Certificate for the operation of an MME Dispensary in the City of Las Vegas,
17 Nevada is the Division's final decision on the matter.

18 80. As such, Petitioner has been aggrieved by the Division's "final" refusal to issue
19 Petitioner a Provisional Certificate for the operation of an MME Dispensary in the City of Las Vegas,
20 Nevada in accordance with NRS Chapter 453A and NAC 453A.

21 81. Pursuant to *NRS 233B.130*, Petitioner is entitled to Judicial Review of the Division's
22 "final decision" denying Petitioner's application and refusing to issue Petitioner a Provisional
23 Certificate for the operation of an MME Dispensary in the City of Las Vegas, Nevada in accordance
24 with NRS Chapter 453A and NAC 453A.

25 82. Petitioner, therefore, petitions this Court for Judicial Review of the proceeding at the
26 Division, including, but not limited to, Petitioner's submission, review, scoring, and ranking of its
27 application for registration certificate for the operation of an MME Dispensary in the City of Las Vegas,
28 Nevada.

1 83. Petitioner further demands that the entire record of the proceeding at the Division be
2 transmitted by the Division in the manner required by *NRS 233B.131*.

3 **PETITION FOR WRIT OF MANDAMUS**

4 84. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 83 of
5 the Second Amended Complaint, and incorporates the same by this reference as if more fully set forth
6 herein.

7 85. The Division was required to solicit applications, review, score, rank, and issue
8 Provisional Certificates for the operation of an MME in the City of Las Vegas, Nevada in compliance
9 with NRS Chapter 453A, NAC 453A, and other Nevada laws and regulations.

10 86. The Division failed to comply with the requirements of NRS Chapter 453A, NAC 453A,
11 and other Nevada laws and regulations of an MME in the City of Las Vegas to Desert Aire.

12 87. The Division further failed to comply with the requirements of NRS Chapter 453A, NAC
13 453A, and other Nevada laws and regulations when it unlawfully denied Petitioner a Provisional
14 Certificate for the operation of an MME in the City of Las Vegas, Nevada.

15 88. Accordingly, the Division has failed to perform acts that Nevada law compelled the
16 Division to perform.

17 89. Petitioner has no plain, speedy, and adequate remedy in the ordinary course of law to
18 correct the Division's failure to perform as required by Nevada law or compel the Division to perform,
19 as it is required by Nevada law.

20 90. Petitioner, therefore, petitions this Court for a Writ of Mandamus as alleged and in a
21 formal Application for Writ of Mandamus to be filed separately, to compel the Division to issue
22 Petitioner the Provisional Certificate for the operation of an MME Dispensary in the City of Las Vegas,
23 Nevada that Petitioner was entitled to receive had the Division complied with the requirements of NRS
24 Chapter 453A, NAC 453A, and other Nevada laws and regulations.

25 91. Petitioner also petitions this Court for a Writ of Mandamus as alleged and in a formal
26 Application for Writ of Mandamus to be filed separately, to compel the City to toll all time periods
27 related to the issuance of licenses for the operation of an MME Dispensary in the City of Las Vegas due
28 to the Division's failure to issue a Provisional Certificate to Plaintiff on November 3, 2014.

WHEREFORE, Plaintiff prays for relief as follows:

1. For declaratory relief in the manner set forth in Plaintiff's First Cause of Action;

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

(a) from issuing actual Registration Certificates to Desert Aire;

(b) to revoke the Provisional Certificates issued to Desert Aire;

(c) to identify Plaintiff as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and

(d) to issue a Provisional Certificate to Plaintiff.

3. For injunctive relief, specifically a preliminary and permanent mandatory injunction, requiring the City to toll all deadlines which would have been required of the Plaintiff until after the Court rules on Plaintiff's claims in this case, by virtue of the fact that Plaintiff should have received a Provisional Certificate on November 3, 2014.

4. For reasonable attorneys' fees and costs of suit; and

5. For such other and further relief as the Court deems appropriate in the premises.

6. In addition, or in the alternative, Plaintiff also petitions this Court for Judicial Review of the Division's "final decision" denying Petitioner's application and refusing to issue Petitioner a Provisional Certificate for the operation of an MME Dispensary in the City of Las Vegas, Nevada in accordance with NRS Chapter 453A and NAC Chapter 453A.

7. 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 Certificate for the operation of an MME Dispensary in the City of Las Vegas, Nevada, and compelling the City to toll all time periods related to the issuance of licenses for the operation of an MME Dispensary in the City of Las Vegas due to the Division's failure to issue a Provisional Certificate to Plaintiff on November 3, 2014.

\\

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SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

1 DATED this 2nd day of December, 2015.

2 **SMITH & SHAPIRO, PLLC**

3 /s/ James E. Shapiro
4 James E. Shapiro, Esq.
5 Nevada Bar No. 7907
6 Sheldon A. Herbert, Esq.
7 Nevada Bar No. 5988
8 2520 St. Rose Parkway, Suite 220
9 Henderson, NV 89074
10 *Attorneys for Plaintiff*
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1 **IAFD**
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4 2520 St. Rose Parkway, Suite 220
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5 (702) 318-5033
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

6
7
8 GB SCIENCES NEVADA, LLC, a Nevada limited
liability company,

9 Plaintiff,

10 vs.

11 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
12 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
13 corporation and political subdivision of the State of
Nevada; DESERT AIRE WELLNESS, LLC, a
14 Nevada limited liability company; DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

15 Defendants.
16

Case No.
Dept. No.

17 **INITIAL APPEARANCE FEE DISCLOSURE**

18 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties
19 appearing in the above-entitled action as indicated below:

20 GB SCIENCES NEVADA, LLC,
a Nevada limited liability company \$ 270.00

21 TOTAL \$ 270.00

22 DATED this 2nd day of December, 2015.

23 **SMITH & SHAPIRO, PLLC**

24
25 /s/ James E. Shapiro
James E. Shapiro, Esq.
26 Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
27 Nevada Bar No. 5988
2520 St. Rose Parkway, Suite 220
28 Henderson, NV 89074
Attorneys for Plaintiff

EXHIBIT J

EXHIBIT J

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,
LLC, a Nevada limited liability company,

Respondent.

GB SCIENCES, LLC, a Nevada limited liability
company,

Cross-Appellant,

vs.

THE STATE OF NEVADA DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
DIVISION 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.

Electronically Filed
Apr 20 2016 08:30 a.m.
Supreme Court No. ~~69909~~ 2016-12313
Tracie K. Lindeman
District Court No. ~~AT10997~~ Clerk of Supreme Court

**DOCKETING STATEMENT
CIVIL CROSS-APPEAL**

GENERAL INFORMATION

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, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to attach documents as requested in this statement, completely fill out the statement, or to fail to file it in a timely manner, will constitute grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See *Moran v. Bonneville Square Assocs.*, 117 Nev 525, 25 P.3d 898 (2001); *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District: Eighth Department: XX County: Clark
Judge: The Honorable Eric Johnson District Court Docket No.: A-14-710597-C

2. **Attorney filing this docket statement:**

Attorney: James E. Shapiro, Esq. Telephone: (702) 318-5033
Firm: Smith & Shapiro, PLLC
Address: 2520 St. Rose Pkwy., Suite 220, Henderson, NV 89074
Clients: Cross-Appellant, GB Sciences, LLC, a Nevada limited liability company

If this is a joint statement completed on behalf of multiple cross-appellants, add the names and addresses 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.

3. **Attorney(s) representing cross-respondent(s):**

Attorney: Todd L. Bice, Esq., Dustun H. Holmes, Esq. Telephone: (702) 214-2100
Firm: PISANELLI BICE, PLLC
Address: 400 South 7th Street, Suite 300, Las Vegas, NV 89101
Clients: Cross-Respondent, Nuleaf CLV Dispensary, LLC, a Nevada limited liability company

Attorney: Adam P. Laxalt, Linda C. Anderson, Esq. Telephone: (702) 486-3077
Firm: STATE OF NEVADA, ATTORNEY GENERAL
Address: 555 E. Washington Avenue, #3900, Las Vegas, NV 89101
Clients: Cross-Respondent, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services

Attorney: Mark E. Ferrario, Esq., Landon I. Lerner, Esq. Telephone: (702) 792-3773
Firm: GREENBERG TRAURIG, LLP
Address: 3773 Howard Hughes Parkway, Suite 400 North, Las Vegas, NV 89169
Clients: Cross-Respondent, Acres Medical, LLC, a Nevada limited liability company

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

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Grant/Denial of injunction |
| <input type="checkbox"/> Judgment after jury verdict | <input checked="" type="checkbox"/> Grant/Denial of declaratory relief |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Review of agency determination |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Divorce decree: |
| <input type="checkbox"/> Dismissal | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Lack of jurisdiction | <input checked="" type="checkbox"/> Other disposition (specify) <u>Motion to Alter or</u> |
| <input type="checkbox"/> Failure to state a claim | <u>Amend Judgment, Pursuant to NRCP 59</u> |
| <input type="checkbox"/> Failure to prosecute | <u></u> |
| <input type="checkbox"/> Other (specify) <u></u> | <u></u> |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <u></u> |

5. **Does this cross-appeal raise issues concerning any of the following:**

- | | |
|--|--|
| <input type="checkbox"/> Child custody | <input type="checkbox"/> Termination of parental rights |
| <input type="checkbox"/> Venue | <input type="checkbox"/> Grant/denial of injunction or TRO |
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Juvenile matters |

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 cross-appeal:

Name: Nuleaf CLV Dispensary, LLC v. The State of Nevada Department of Health and Human Services et al.
Docket number: 69909

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

None.

8. **Nature of the action.** Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

Nature of the action: The action involves the issuance of provisional registration certificates ("**Provisional Certificates**") by the State of Nevada to applicants for medical marijuana establishment ("**MME**") dispensaries in the City of Las Vegas, pursuant to the provisions of N.R.S. Chapter 453A. Notwithstanding the fact that Cross-Respondent Nuleaf CLV Dispensary, LLC ("**Nuleaf**") did not satisfy the requirement identified in N.R.S. § 453A.322(3)(a)(5), Cross-Respondent the State of Nevada issued a Provisional Certificate to Nuleaf. The District Court revoked Nuleaf's Provisional Certificate but awarded it to intervening party, Cross-Respondent Acres Medical, LLC ("**Acres**"). Nuleaf appealed the decision. Cross-Appellant agrees that Nuleaf's Certificate should have been revoked, but contends that it should have been awarded to Cross-Appellant.

Causes of action: (1) Declaratory Judgment, (2) Injunctive Relief, (3) Petition for Judicial Review, and (4) Petition for Writ of Mandamus.

Result below: On November 13, 2015, the District Court entered a Minute Order in relation to competing motions for summary judgment, in which the Court revoked Nuleaf's Provisional Certificate and directed that it be issued to Acres. On December 14, 2015, the material terms of the Minute Order were memorialized in a written Order. On January 26, 2016, the District Court entered a Minute Order in relation to Cross-Appellant's motion to alter or amend the December 14, 2015 Order, and Respondent Acres' Motion to Dismiss Cross-Appellant's counterclaims against Acres. On March 3, 2016, the District Court entered an Order denying Cross-Appellant's Motion to Alter or Amend Judgment; or, in the Alternative, Motion for Partial Reconsideration and granting Respondent Acres' Motion to Dismiss Cross-Appellant's Counterclaims against Respondent Acres.

9. **Issues on cross-appeal.** State concisely the principal issue(s) in this cross-appeal:

Whether the District Court erred in applying res judicata effect to an Order entered in a separate matter to which Cross-Appellant was not a party, defeating the claims of the Cross-Appellant to the Provisional Certificate at issue.

Whether the District Court erred in awarding the Provisional Certificate to Acres as a result of a summary judgment hearing which took place before Acres' had filed a Complaint in Intervention making claim to the Provisional Certificate.

Whether the District Court erred in awarding the Provisional Certificate to Acres, when Acres did not have a motion for summary judgment on file at the time, either to support such a result or containing a prayer for such relief.

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

N/A

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

N/A

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

- ☐ Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☐ A substantial issue of first-impression
- ☐ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question

If so, explain: _____

13. 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

14. Judicial disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation on this cross-appeal? If so, which Justice? No

TIMELINESS OF NOTICE OF APPEAL

15. **Date of entry of written judgment or order cross-appealed from** November 13, 2015, December 14, 2015, January 26, 2016, March 3, 2016, and March 3, 2016. **Attach a copy. If more than one judgment or order is cross-appealed from, attach copies of each judgment or order from which a cross-appeal is taken.**

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review: N/A.

16. **Date written notice of entry of judgment or order served** December 15, 2015, March 4, 2016, and March 4, 2016. **Attach a copy, including proof of service, for each order or judgment cross-appealed from.**

(a) Was service by delivery Yes (e-service) or by mail _____ (specify).

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

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

NRCP 50(b) _____ Date served _____ By delivery _____ Or by mail _____ Date of filing _____.
NRCP 52(b) _____ Date served _____ By delivery _____ Or by mail _____ Date of filing _____.
NRCP 59(e) X Date served 12/23/15 By delivery _____ Or by mail 12/23/15 Date of filing 12/23/15.

* e-served on all parties registered and listed as Service Recipients in Wiznet.

Attach copies of all post-trial tolling motions

NOTE: Motions made pursuant to NRCP 60 or motion for rehearing or reconsideration do not toll the time for filing a notice of cross-appeal.

(b) Date of entry of written order resolving tolling motion March 3, 2016. Attach a copy.

(c) Date written notice of entry of order resolving motion served March 4, 2016. Attach a copy, including proof of service.

(i) Was service by delivery _____ or by mail X (e-served) (specify).

18. **Date notice of cross-appeal was filed** March 30, 2016.

(a) If more than one party has appealed from the judgment or order, list date each notice of appeal was filed and identify by name the party filing the notice of appeal: On March 2, 2015, Respondent Nuleaf CLV Dispensary, LLC filed the initial Notice of Appeal in this matter, with respect to the December 14, 2015 Order

19. **Specify statute or rule governing the time limit for filing the notice of cross-appeal, e.g., NRAP 4(a), NRS 155.190, or other:** NRAP 4(a)(1), NRAP 4(a)(2), NRAP 4(a)(4)(C).

SUBSTANTIVE APPEALABILITY

20. **Specify the statute or other authority granting this court jurisdiction to review the judgment or order cross-appealed from:**

NRAP 3A(b)(1) X NRS 155.190 _____ (specify subsection) _____
NRAP 3A(b)(2) _____ NRS 38.205 _____ (specify subsection) _____
NRAP 3A(b)(3) X NRS 703.376 _____ (specify subsection) _____
Other (specify) _____

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

NRAP 3A(b)(1) provides the basis for this appeal because it is an appeal from a final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered. NRAP 3A(b)(3) provides the basis for this appeal because the Court denied Cross-Appellant a mandatory injunction against the State of Nevada to issue the Provisional Certificate at issue to Cross-Appellant.

21. **List all parties involved in the action in the district court:**

Cross-Appellant: GB Sciences, LLC, a Nevada limited liability company
Cross-Respondent: State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services
Cross-Respondent: Nuleaf CLV Dispensary, LLC, a Nevada limited liability company
Cross-Respondent: Acres Medical, LLC, a Nevada limited liability company
Defendant City of Las Vegas

Defendant Desert Aire Wellness, LLC, a Nevada limited liability company

(a) If all parties in the district court are not parties to this cross-appeal, explain in detail why those parties are not involved in this cross-appeal, e.g., formally dismissed, not served, or other: Defendant City of Las Vegas was voluntarily dismissed as a party on January 23, 2015. Defendant Desert Aire Wellness, LLC was voluntarily dismissed as a party on April 1, 2015.

22. **Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the trial court's disposition of each claim, and how each claim was resolved (i.e., order, judgment, stipulation), and the date of disposition of each claim. Attach a copy of each disposition.**

Cross-Appellant's claims against Respondent State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services:

- (i) Declaratory Judgment. State improperly issued Provisional Certificate.
 - (ii) Injunction. Issue Certificate to Cross-Appellant.
 - (iii) Petition for Judicial Review: Review Decision to Issue Certificate.
 - (iv) Petition for Writ of Mandamus: Compel issuance of Provisional Certificate to Cross-Appellant.
- December 14, 2015 Judgment: claims (i) and (iii) granted, but (ii) and (iv) denied.

Cross-Appellant's claims against Respondent Nuleaf CLV Dispensary:

- (i) Declaratory Judgment. State improperly issued Provisional Certificate.
 - (ii) Injunction. Issue Certificate to Cross-Appellant.
- December 14, 2015 Judgment: claim (i) granted, but (ii) denied.

Cross-Appellant's claims against Defendant City of Las Vegas:

- (i) Declaratory Judgment. State improperly issued Provisional Certificate.
 - (ii) Injunction. Not Consider SUP Applications.
- January 23, 2015 voluntary dismissal.

Cross-Appellant's claims against Defendant Desert Aire Wellness:

- (i) Declaratory Judgment. State improperly issued Provisional Certificate.
 - (ii) Injunction. Issue Certificate to Cross-Appellant.
- April 1, 2015 voluntary dismissal.

Cross-Respondent State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services' counterclaims against Cross-Appellant: None.

Cross-Respondent Nuleaf CLV Dispensary's counterclaims against Cross-Appellant: None.

Defendant City of Las Vegas' counterclaims against Cross-Appellant: None.

Defendant Desert Aire Wellness's counterclaims against Cross-Appellant: None.

Cross-Respondent Acres Medical's claims in intervention against Cross-Appellant, Cross-Respondent Nuleaf CLV Dispensary, Cross-Respondent City of Las Vegas, and Cross-Respondent State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services:

- (i) Declaratory Judgment. State improperly issued Provisional Certificate.
 - (ii) Injunction. Issue Certificate to Cross-Respondent Acres Medical.
 - (iii) Petition for Writ of Mandamus: Compel issuance of Provisional Certificate to Cross-Respondent Acres Medical.
- December 14, 2015 Judgment: claim (i), (ii), and (iii) granted.

Cross-Appellant's counterclaims in intervention against Respondent Acres Medical, LLC:

- (i) Declaratory Judgment. State improperly issued Provisional Certificate.
- (ii) Injunction. Issue Certificate to Cross-Appellant.
- (iii) Petition for Writ of Mandamus: Compel issuance of Provisional Certificate to Cross-Appellant.

December 14, 2015 Judgment: claim (i) granted, but claim (ii) and (iii) denied.

Cross-Respondent State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Services' counterclaims against Cross-Respondent Acres Medical: None.

Cross-Respondent Nuleaf CLV Dispensary's counterclaims against Cross-Respondent Acres Medical: None.

Defendant City of Las Vegas' counterclaims against Cross-Respondent Acres Medical: None.

23. **Attach copies of the last-filed version of all complaints, counterclaims, and/or cross-claims filed in the district court.**

See Exhibits "12", "13", and "14".

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 below:**

Yes X No

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

(a) Specify the claims remaining pending below: N/A.

(b) Specify the parties remaining below: N/A.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b): N/A.

Yes No X **If "Yes," attach a copy of the certification or order, including any notice of entry and proof of service.**

(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 X

26. **If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)): N/A.**

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.

GB Sciences, LLC, a Nevada limited liability company

Name of cross-appellant

State and county where signed

James E. Shapiro, Esq.

Name of counsel fo record

April 19, 2016

Date

/s/ James E. Shapiro, Esq.

Signature of counsel of record

Clark County, Nevada

INDEX OF EXHIBITS

November 13, 2015 Minute Order in relation to Motions for Summary Judgment	Exhibit “1”
December 14, 2015 Order Regarding Motions for Summary Judgment	Exhibit “2”
January 26, 2016 Minute Order in relation to Cross-Appellant’s Motion to Alter or Amend the December 14, 2015 Order, and Respondent Acres’ Motion to Dismiss Cross-Appellant’s Counterclaims Against Acres.	Exhibit “3”
March 3, 2016 Order denying Cross-Appellant’s Motion to Alter or Amend Judgment; or, in the Alternative, Motion for Partial Reconsideration.	Exhibit “4”
March 3, 2016 Order granting Respondent Acres’ Motion to Dismiss Cross-Appellant’s Counterclaims	Exhibit “5”
December 15, 2015 Notice of Entry of Order Regarding Motions for Summary Judgment	Exhibit “6”
March 4, 2016 Notice of Entry of Order denying Cross-Appellant’s Motion to Alter or Amend Judgment; or, in the Alternative, Motion for Partial Reconsideration	Exhibit “7”
March 4, 2016 Notice of Entry of Order granting Respondent Acres’ Motion to Dismiss Cross-Appellant’s Counterclaims	Exhibit “8”
December 23, 2015 Motion to Alter or Amend Judgment, or, in the Alternative Motion for Partial Reconsideration	Exhibit “9”
January 23, 2015 Voluntary Dismissal	Exhibit “10”
April 1, 2015 Voluntary Dismissal	Exhibit “11”
December 5, 2014 First Amended Complaint	Exhibit “12”
November 17, 2015 Complaint in Intervention	Exhibit “13”
December 3, 2015 Answer to Complaint in Intervention and Counterclaims	Exhibit “14”

CERTIFICATE OF SERVICE

I certify that on the ____ day of April, 2016, I served a copy of this completed docketing statement 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):

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

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ATTORNEY GENERAL
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STATE OF NEVADA

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Landon I. Lerner, Esq.
GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North,
Las Vegas, NV 89169
Attorneys for Cross-Respondent,
ACRES MEDICAL, LLC

Dated this ____ day of April, 2016.

/s/ Jill M. Berghammer

Signature

EXHIBIT 1

EXHIBIT 1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 13, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

November 13, 2015 7:30 AM Minute Order

HEARD BY: Johnson, Eric **COURTROOM:** Chambers

COURT CLERK: Keri Cromer

JOURNAL ENTRIES

- The Court makes the following findings of fact and conclusions of law:

1. On October 30, 2014, the City of Las Vegas sent a letter to the Division of Public and Behavioral Health of Nevada Department of Health and Human Services (the Division) informing the Division that Defendant Nuleaf s application for a medical marijuana special use and compliance permit had been denied as not in compliance with land use restrictions and city code and ineligible for a business license.
2. The City of Las Vegas letter was intended to comply, and did comply, with NRS 453A.322(3)(a)(5). Specifically, pursuant to Las Vegas Municipal Code Section 6.95.080, the letter was to give notice to the Division, as intended in subsection 3(a)(5), as to those medical marijuana applicants which the City of Las Vegas had found to be or not to be in conformance with land use and zoning restrictions, and eligible for consideration for a business license. This letter described the applicable building requirements and zoning restrictions as outlined in the statute.
3. On or about November 3, 2014, the Division registered Nuleaf as a medical marijuana establishment and issued a registration certificate.
4. At the time the Department registered Nuleaf and issued a registration certificate, Nuleaf did not meet the requirements of NRS 453A.322, which specifically permitted the Division to register a medical marijuana establishment and issue a registration certificate if the business seeking to register had completed all of the requirements of subsection 3(a), including providing a letter from the applicable local authority certifying that the proposed medical marijuana establishment is in compliance with [zoning] restrictions and satisfies all applicable building requirements. Pursuant

the plain terms of the statute, the Division should not have registered Nuleaf and issued a registration certificate as Nuleaf had not met all the requirements of the statute.

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

IT IS HEREBY ORDERED Plaintiff s Motion for Summary Judgment is GRANTED in part and DENIED in part. It is GRANTED to the extent Plaintiff is entitled to a declaration that Nuleaf should not have been registered or issued a certification of registration as a medical marijuana establishment because it had not met all the necessary requirements of 453A.322(3)(a). It is hereby ORDERED the Division shall rescind or withdraw the registration of Nuleaf as a medical marijuana establish. Plaintiff s Motion for Summary Judgment is DENIED to the extent Plaintiff seeks the re-issue of Nuleaf s registration to Plaintiff.

IT IS FURTHER ORDERED the Division register intervenor Acres Medical, which, 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, should have been the thirteenth ranked applicant on November 3, 2014, approved by the City of Las Vegas as in compliance with land use restrictions and city code and eligible for a business license, and meeting all other requirements of NRS 453A.322(3)(a).

IT IS FURTHER ORDERED Defendant Nuleaf s Countermotion for Summary Judgment is DENIED in its entirety.

IT IS FURTHER ORDERED intervenor Acres Medical provide the court with a proposed findings of fact, conclusions of law and order in Word format for the Court pursuant to EDCR 7.21 to provide a more fulsome decision.

EXHIBIT 2

EXHIBIT 2

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.

20 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,

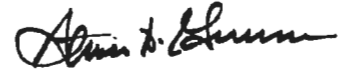
32 Defendants in Intervention.

Case No. A-14-710597-C

Dept. No. XX

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CLERK OF THE COURT

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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."
24

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.

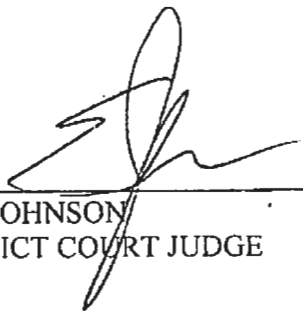
22 40. **IT IS FURTHER ORDERED** that Plaintiff's Motion is **DENIED** to the extent
23 Plaintiff seeks the re-issue of Nuleaf's registration to Plaintiff.
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41. **IT IS FURTHER ORDERED** that the Division register intervenor Acres and issue Acres a 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

CERTIFICATE OF SERVICE

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

JAMES E. SHAPIRO, ESQ.

jshapiro@smithshapiro.com

Attorney for Plaintiff, Counter Claimant, Intervenor Defendant

TODD L. BICE, ESQ.

tlb@pisanellibice.com

Attorney for Defendant, Intervenor Defendant

MARK E. FERRARIO, ESQ.

lvitdock@gtlaw.com

Attorney for Counter Defendant, Intervenor Plaintiff

/s/Kelly Muranaka

Kelly Muranaka

Judicial Executive Assistant

EXHIBIT 3

EXHIBIT 3

REGISTER OF ACTIONS

CASE No. A-14-710597-C

GB Sciences Nevada LLC, Plaintiff(s) vs. Nevada State
Department of Health and Human Services, Defendant(s)§
§
§
§
§
§
§Case Type: Other Civil Matters
Date Filed: 12/02/2014
Location: Department 20
Cross-Reference Case Number: A710597
Supreme Court No.: 69909

PARTY INFORMATION

Lead AttorneysDefendant Nevada State Department of Health and
Human ServicesLinda Christine Anderson
Retained
702-486-3420(W)

Defendant Nuleaf CLV Dispensary LLC

Todd L Bice
Retained
702-214-2100(W)Intervenor GB Sciences Nevada LLC
DefendantJames E. Shapiro
Retained
702-796-4000(W)Intervenor Nevada State Department of Health and
Defendant Human ServicesLinda Christine Anderson
Retained
702-486-3420(W)Intervenor North Las Vegas, City of
DefendantIntervenor Nuleaf CLV Dispensary LLC
DefendantTodd L Bice
Retained
702-214-2100(W)Intervenor Acres Medical LLC
PlaintiffMark E. Ferrario, ESQ
Retained
702-792-3773(W)

Plaintiff GB Sciences Nevada LLC

James E. Shapiro
Retained
702-796-4000(W)

EVENTS & ORDERS OF THE COURT

01/26/2016 All Pending Motions (3:00 PM) (Judicial Officer Johnson, Eric)

Minutes

01/26/2016 3:00 PM

- PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT OR IN THE ALTERNATIVE, MOTION FOR PARTIAL RECONSIDERATION...PLAINTIFF IN INTERVENTION ACRES MEDICAL, LLC'S MOTION TO DISMISS GB SCIENCES NEVADA, LLC'S COUNTERCLAIM AGAINST ACRES MEDICAL, LLC Mr. Shapiro advised the issues for trial were with Nuleaf, which have been resolved and would request the trial date be vacated as he is not prepared to go to trial against Acres and that it can be reset after the hearing today. Upon Court's inquiry, Mr. Smith had no objection. COURT ORDERED, calendar call and trial date VACATED. Arguments by Mr. Shapiro and Mr. Ferrario in support of their respective positions. Statements by Mr. Smith and Ms. Anderson. Following lengthy arguments, COURT ORDERED Plaintiff's Motion for Partial Reconsideration is DENIED and Plaintiff in Intervention Acres Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical is GRANTED. CASE CLOSED. Mr. Ferrario to prepare the Order.

Parties Present[Return to Register of Actions](#)

EXHIBIT 4

EXHIBIT 4



CLERK OF THE COURT

1 **ORDER**

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

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8 Facsimile: (702) 792-9002

9 E-mail: ferrario@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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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.

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**

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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
15 2520 Saint Rose Parkway, Suite 220
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.
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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

Linda C. Anderson, Esq.
Chief Deputy Attorney General
Nevada Bar No. 4090
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Las Vegas, NV 89101

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1 Respectfully Submitted by:

2 **GREENBERG TRAUBIG, LLP**

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4 Mark E. Ferraro, Esq.
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9 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

10 Approved/Disapproved as to Form and Content:

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16 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

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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 5

EXHIBIT 5


CLERK OF THE COURT

1 **ORDER**
2 MARK E. FERRARIO, ESQ. (NV Bar #1625)
3 MOOREA L. KATZ, ESQ. (NV Bar #12007)
4 GREENBERG TRAUIG, LLP
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10 katzmo@gtlaw.com
11 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

12
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,
a municipal corporation and political
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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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 ACRES MEDICAL, LLC'S ("Acres" or "Intervenor") Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical, LLC ("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, 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 conclusions on the record, the Court being fully advised in the premises, and good cause appearing, **NOW THEREFORE, THE COURT FINDS AND CONCLUDES:**

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


Additionally, GB Sciences has failed to allege any facts sufficient to state a claim for equitable estoppel against Acres. GB Sciences bases its claim for equitable estoppel on its allegations that (1) Acres delayed to intervene in this action; and (2) Acres did not name GB 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.

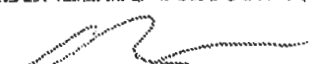
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7 **IT IS HEREBY ORDERED** that Intervenor Acres's Motion to Dismiss GB Sciences
8 Nevada, LLC's Counterclaims Against Acres Medical, LLC is **GRANTED** and that GB Sciences'
9 Counterclaims against Acres are **DISMISSED WITH PREJUDICE**.

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

11
12
13
14 
DISTRICT COURT JUDGE
ERIC JOHNSON


15 Respectfully Submitted by:

16 **GREENBERG TRAURIG, LLP**

17 
18 Mark E. Ferrario, Esq.
19 Nevada Bar No. 1625
20 3773 Howard Hughes Parkway
21 Suite 400 North
22 Las Vegas, Nevada 89169
23 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

24 Approved/Disapproved as to Form and Content:

25 **SMITH & SHAPIRO, PLLC**

26 
27 James E. Shapiro, Esq.
28 Nevada Bar No. 7907
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Henderson, Nevada 89074
Attorneys for Plaintiff GB Sciences Nevada, LLC

///

1 Approved/Disapproved as to Form and Content:

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

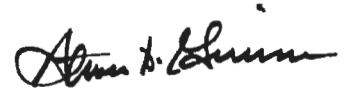
9 Approved/Disapproved as to Form and Content:

10 **ADAM PAUL LAXALT**
11 Attorney General

12 *Linda C. Anderson*
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

EXHIBIT 6

EXHIBIT 6



CLERK OF THE COURT

1 **NEOJ**
2 MARK E. FERRARIO, ESQ. (NV Bar #1625)
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9 E-mail: ferrariom@gtlaw.com
10 katzmo@gtlaw.com
11 *Counsel for Plaintiff in Intervention*
12 *Acres Medical, LLC*

8 **DISTRICT COURT**
9
10 **CLARK COUNTY, NEVADA**

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

12 Plaintiff,

13 v.

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

21 Defendants.

22 ACRES MEDICAL, LLC,

23 Plaintiff in Intervention,

24 v.

25
26 STATE OF NEVADA, DIVISION OF
27 PUBLIC AND BEHAVIORAL HEALTH OF
28 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**

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

6
7 Defendants in Intervention
8

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

15 DATED this 15th day of December, 2015.

16 GREENBERG TRAURIG, LLP

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*
24
25
26
27
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 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.

20 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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CLERK OF THE COURT

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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.
(NRS § 453A.322(3)(a)(5)).

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

23 11. On October 28-29, 2014, the Las Vegas City Council held a special meeting to
24 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."
24

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.

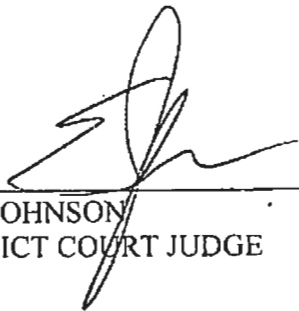
22 40. **IT IS FURTHER ORDERED** that Plaintiff's Motion is **DENIED** to the extent
23 Plaintiff seeks the re-issue of Nuleaf's registration to Plaintiff.
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41. **IT IS FURTHER ORDERED** that the Division register intervenor Acres and issue Acres a 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

EXHIBIT 7

EXHIBIT 7



CLERK OF THE COURT

1 **NEOJ**
2 MARK E. FERRARIO, ESQ. (NV Bar #1625)
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4 GREENBERG TRAURIG, LLP
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10 katzmo@gtlaw.com
11 *Counsel for Plaintiff in Intervention*
12 *Acres Medical, LLC*

8 **DISTRICT COURT**
9
10 **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 OF
17 THE DEPARTMENT OF HEALTH AND
18 HUMAN SERVICES; CITY OF LAS VEGAS,
19 a municipal corporation and political
20 subdivision of the State of Nevada; DESERT
21 AIRE WELLNESS, LLC, a Nevada limited
22 liability company; NULEAF CLV
23 DISPENSARY, LLC, a Nevada limited
24 liability company; DOES 1 through 100; and
25 ROE ENTITIES 1 through 100,

26 Defendants.

27

ACRES MEDICAL, LLC,

28 Plaintiff in Intervention,

29 v.

30 STATE OF NEVADA, DIVISION OF
31 PUBLIC AND BEHAVIORAL HEALTH OF
32 THE DEPARTMENT OF HEALTH AND
33 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**

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

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

DATED this 4th day of March, 2016.

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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Las Vegas, Nevada 89169

Counsel for Plaintiff in Intervention

Acres Medical, LLC

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Facsimile: (702) 792-9002

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 **ORDER**

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

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

4 GREENBERG TRAURIG, LLP

5 3773 Howard Hughes Parkway, Suite 400 North

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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 TRAURIG, LLP
3773 Howard Hughes Parkway
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CLV DISPENSARY, LLC, a Nevada limited liability company; GB SCIENCES NEVADA, LLC, a Nevada limited liability company,

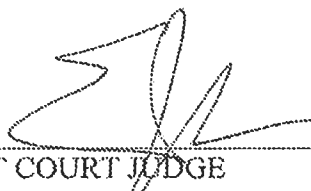
Defendants in Intervention.

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
6 3773 Howard Hughes Parkway
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:

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14 Nevada Bar No. 7907
15 2520 Saint Rose Parkway, Suite 220
16 Henderson, Nevada 89074
17 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

18 Approved/Disapproved as to Form and Content:

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21 Todd L. Bice, Esq.
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23 400 South 7th Street, Suite 300
24 Las Vegas, NV 89101
25 *Attorneys for Nuleaf CLV Dispensary LLC*

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27 **ADAM PAUL LAXALT**
28 Attorney General

25 Linda C. Anderson, Esq.
26 Chief Deputy Attorney General
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Respectfully Submitted by:

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Attorney General

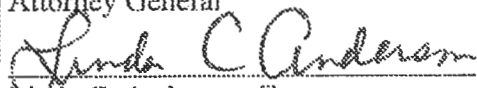

Linda C. Anderson, Esq.
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EXHIBIT 8

EXHIBIT 8



CLERK OF THE COURT

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9 E-mail: ferrariom@gtlaw.com
10 katzmo@gtlaw.com
11 *Counsel for Plaintiff in Intervention*
12 *Acres Medical, LLC*

8 **DISTRICT COURT**
9
10 **CLARK COUNTY, NEVADA**

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

12 Plaintiff,

13 v.

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

21 Defendants.

22

ACRES MEDICAL, LLC,

23 Plaintiff in Intervention,

24 v.

25 STATE OF NEVADA, DIVISION OF
26 PUBLIC AND BEHAVIORAL HEALTH OF
27 THE DEPARTMENT OF HEALTH AND
28 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
4 liability company; GB SCIENCES NEVADA,
5 LLC, a Nevada limited liability company,

6
7 Defendants in Intervention
8
9

10
11 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an ORDER
12 GRANTING INTERVENOR ACRES MEDICAL, LLC'S MOTION TO DISMISS GB
13 SCIENCES NEVADA, LLC'S COUNTERCLAIMS AGAINST ACRES MEDICAL, LLC ON
14 PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT
15 AND ON DEFENDANT NULEAF CLV DISPENSARY, LLC'S COUNTERMOTION FOR
16 SUMMARY JUDGMENT was entered in the above-captioned matter on the 3rd day of March,
17 2016.

18 DATED this 4th day of March, 2016.

19 GREENBERG TRAURIG, LLP

20 By: /s/ Moorea L. Katz

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

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

23 3773 Howard Hughes Parkway, Suite 400 North
24 Las Vegas, Nevada 89169

25 Counsel for Plaintiff in Intervention
26 Acres Medical, LLC
27
28

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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 **ORDER**
2 MARK E. FERRARIO, ESQ. (NV Bar #1625)
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9 E-mail: ferrario@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 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.

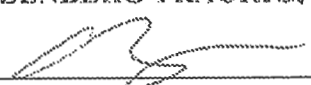
6
7 **IT IS HEREBY ORDERED** that Intervenor Acres's Motion to Dismiss GB Sciences
8 Nevada, LLC's Counterclaims Against Acres Medical, LLC is **GRANTED** and that GB Sciences'
9 Counterclaims against Acres are **DISMISSED WITH PREJUDICE**.

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

11
12
13
14 
DISTRICT COURT JUDGE
ERIC JOHNSON


15 Respectfully Submitted by:

16 **GREENBERG TRAURIG, LLP**

17 
18 Mark E. Ferrario, Esq.
19 Nevada Bar No. 1625
20 3773 Howard Hughes Parkway
21 Suite 400 North
22 Las Vegas, Nevada 89169
23 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

24 Approved/Disapproved as to Form and Content:

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26 
27 James E. Shapiro, Esq.
28 Nevada Bar No. 7907
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Henderson, Nevada 89074
Attorneys for Plaintiff GB Sciences Nevada, LLC

///

1 Approved/Disapproved as to Form and Content:

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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 *Linda C. Anderson*

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

EXHIBIT 9

EXHIBIT 9


CLERK OF THE COURT

MOT
James E. Shapiro, Esq.
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Sheldon A. Herbert, Esq.
Nevada Bar No. 5988
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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 CLV DISPENSARY, LLC, a Nevada limited liability company; DOES 1-10, and ROE ENTITIES 1-100, inclusive,

Defendants.

Case No. A-14-710597-C
Dept. No. XX

PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT; OR, IN THE ALTERNATIVE MOTION FOR PARTIAL RECONSIDERATION

COMES NOW Plaintiff GB SCIENCES NEVADA, LLC, a Nevada limited liability company ("GB Sciences"), by and through its attorneys of record, SMITH & SHAPIRO, PLLC, and files its Motion to Alter or Amend Judgment; or, in the Alternative, Motion for Partial Reconsideration of the Court's Order entered on December 14, 2015 (the "Motion").

\\

\\

\\

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Henderson, Nevada 89074
(702) 318-5033

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

1 This Motion is made and based upon the pleadings and papers on file herein, the attached
2 Exhibits, and the following points and authorities submitted in support hereof.

3 DATED this 23rd day of December, 2015.

4 SMITH & SHAPIRO, PLLC

5 /s/ James E. Shapiro, Esq.
6 James E. Shapiro, Esq.
7 Nevada Bar No. 7907
8 Sheldon A. Herbert, Esq.
9 Nevada Bar No. 5988
2520 St. Rose Parkway, Suite 220
Henderson, NV 89074
Attorneys for Plaintiff

10
11 **NOTICE OF MOTION**

12 TO: ALL PARTIES OF INTEREST:

13 PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing
14 PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT; OR, IN THE ALTERNATIVE
15 MOTION FOR PARTIAL RECONSIDERATION before Department No. XX of the EIGHTH
16 JUDICIAL DISTRICT COURT on the 3 day of Feb ., 2016, at 8 : 3 0 a m. or as soon
17 thereafter as counsel can be heard.

18 DATED this 23rd day of December, 2015.

19 SMITH & SHAPIRO, PLLC

20
21 /s/ James E. Shapiro, Esq.
22 James E. Shapiro, Esq.
23 Nevada Bar No. 7907
24 Sheldon A. Herbert, Esq.
25 Nevada Bar No. 5988
26 2520 St. Rose Parkway, Suite 220
27 Henderson, NV 89074
28 Attorneys for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I.

PREFATORY STATEMENT

Over the past couple of months, numerous motions have been filed. While the Court has been very efficient in handling the different motions, in the recent blur of events, the Court issued a premature ruling in violation of GB Sciences' due process rights.

Specifically, on December 14, 2015, this Court entered an Order (the "MSJ Order") wherein the Court took "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." See page 6:1-7 of the Order entered by the Court on December 14, 2015, a true and correct copy of which is attached hereto as Exhibit "1" and incorporated herein by this reference. Based upon this judicial notice/finding, the Court ordered the Department of Health and Human Services, Division of Public and Behavioral Health, et al. (the "Division") to issue the now available registration certificate to Acres Medical, LLC ("Acres"). See Exhibit "1", page 9:1-2.

While at first blush there is nothing wrong with the Court taking judicial notice of the November 3, 2014 Order (the "Acres Order") 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 (the "Acres Lawsuit"), the ultimate ruling of the Court was based upon the false assumption that the Acres Order is binding upon GB Sciences and/or that GB Sciences has no valid claims against Acres that would alter the respective priority between Acres and GB Sciences. Further, the Court's ruling deprives GB Sciences of its right to be heard and to present evidence and arguments in its behalf.

Under the same equitable powers by which this Court revoked NuLeafCLV Dispensary, LLC's ("NuLeaf") registration certificate and ordered the Division to issue it to Acres, this Court has the power, indeed the duty, to consider GB Sciences argument that as between Acres and GB Sciences, the registration certificate should be issued to GB Sciences. However, by issuing the MSJ Order without giving GB Sciences any opportunity to be heard on its counterclaims against Acres, the Court has deprived GB Sciences of its due process rights.

1 Unless and until this Court provides GB Sciences with a full and fair opportunity to flush out
2 its counterclaims against Acres and to make such arguments as GB Sciences feels are appropriate under
3 the circumstances, that portion of the MSJ Order that addresses the relative positions of GB Sciences
4 and Acres should be stricken and removed.

5 **II.**

6 **STATEMENT OF FACTS**

7 **A. FACTUAL BACKGROUND.**

8 This Court is very familiar with the factual background of this case, which background is set
9 forth in detail in the Court's December 14, 2015 MSJ Order. For this reason, and because the basis of
10 the present motion is procedural instead of factual, the factual background will not be restated here.

11 **B. PROCEDURAL BACKGROUND.**

12 **1. GB Sciences' Motion for Summary Judgment.**

13 On September 18, 2015, GB Sciences filed its Motion for Summary Judgment (the
14 "MSJ"). At the time the MSJ was filed, Acres was not a party to this lawsuit. In fact, the Acres Order
15 upon which this Court relied had not yet been entered.

16 On October 5, 2015, NuLeaf filed its Opposition to the MSJ and Countermotion for Summary
17 Judgment. Again, when NuLeaf filed its Opposition and Countermotion, Acres was not a party to this
18 lawsuit and the Acres Order had not yet been entered.

19 On October 14, 2015, GB Sciences filed its Reply to NuLeaf's Opposition and Opposition to
20 NuLeaf's Countermotion. By this point, the Acres Order had been entered (only six days prior), but
21 Acres was still not a party to this lawsuit, nor had they filed their Motion to Intervene.

22 **2. Acres Motion to Intervene.**

23 On October 19, 2015, after GB Sciences Motion had been fully briefed¹, Acres filed its
24 Motion to Intervene. Thus, none of the parties addressed in their briefs how Acres' recent involvement
25 affected the pending motions.

26
27 ¹ The only brief which had not been filed by the time that Acres filed its Motion to Intervene was NuLeaf's Reply
28 in Support of its Countermotion for Summary Judgment, which was filed on November 3, 2015. However, NuLeaf raises
no arguments relating to Acres in that brief (outside of mentioning Acres in a footnote), nor would it have been
appropriate for NuLeaf to do so due to the limitations of what can be included in reply briefs.

1 3. The November 9, 2015 Hearing.

2 On November 9, 2015 a hearing was held both on GB Sciences Motion for Summary
3 Judgment and on Acres Motion to Intervene. At that hearing, Acres Motion to Intervene was granted.
4 However, the Court took GB Sciences' MSJ under advisement for further consideration. Importantly,
5 none of the parties made any arguments to the Court relating to Acres involvement. In fact, upon
6 inquiry, counsel for GB Sciences noted to the Court that there would be future pleadings and arguments
7 to determine the relative positions of GB Sciences and Acres. Outside of this comment, no arguments
8 were raised by any parties relative to Acres, primarily because the issue was not properly in front of the
9 Court (as it had not been briefed), as well as because none of the parties were prepared to make any such
10 arguments at that time (as Acres' Motion to Intervene had been granted just moments before).

11 4. Acres Complaint in Intervention.

12 On November 17, 2015, Acres filed its Complaint in Intervention ("Acres Complaint").
13 a true and correct copy which is attached hereto as Exhibit "2" and incorporated herein by this reference.
14 In Acres Complaint, it asserted *for the first time* claims against GB Sciences and sought an Order from
15 this Court that it was in a senior position *vis-a-vis* GB Sciences.

16 Specifically, Acres asserted the following (among other things) in the Acres Complaint:

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

19 * * *

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

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

28 100. Plaintiff in Intervention also seeks a declaration from this Court that the
Division must issue Plaintiff in Intervention a "provisional" registration certificate for
the operation of a medical marijuana establishment in the City of Las Vegas since
Plaintiff in Intervention is the next highest ranked applicant ranked by the Division and

1 the City of Las Vegas' allotment of twelve (12) actual registration certificates have not
2 been filled.

3 See pages 2:20-22 and 15:11-20 of Exhibit "2".

4 **5. GB Sciences' Counterclaim.**

5 On December 3, 2015, GB Sciences filed its Answer to Acres Complaint and
6 Counterclaim ("GB Sciences' Counterclaim"), a true and correct copy which is attached hereto as
7 Exhibit "3" and incorporated herein by this reference. In GB Sciences Counterclaim, it sought a
8 declaration that the Acres Order was not binding upon GB Sciences and that due to equitable and other
9 doctrines, GB Sciences should be awarded the now available registration certificate. See Exhibit "3".

10 Specifically, GB Sciences asserted the following:

11 51. On or about June 9, 2015, Counterdefendant Acres filed an action against
12 the Division with the Eighth Judicial District Court, being Case No. A-15-719637-W,
13 to have its MME application with the Division re-scored based upon a purported math
14 error (the "Acres Case").

15 52. Counterdefendant did not include Counterclaimant as a party to the Acres
16 Case.

17 53. On or about October 8, 2015, the Court in the Acres Case granted
18 Counterdefendant's Petition for Writ of Mandamus, compelling the Division to re-score
19 Counterdefendant's application for a Provisional Certificate by adding 41.3 to the score,
20 thus raising the score to 167.3 and making Counterdefendant's application rank number
21 13 for the 12 Registration Certificates allotted to the City of Las Vegas (the "Order").

22 54. On or about November 9, 2015, the Court granted Counterdefendant's
23 motion to intervene in this case.

24 55. On or about November 13, 2015, the Court entered a minute order in this
25 case revoking Nuleaf's Provisional Certificate, but granting it to Counterdefendant,
26 applying the re-coring set forth in the Order and moving Counterdefendant to #12 in
27 rank with the removal of Nuleaf, even though Counterclaimant was never a party to the
28 Acres Case or able to litigate the re-scoring.

56. On or about November 17, 2015, Acres Medical filed its Complaint in
Intervention, seeking to impose the effect of the Order upon Counterclaimant and jump
ahead of Counterclaimant in line for the 12 Registration Certificates allotted to the City
of Las Vegas.

FIRST CAUSE OF ACTION

(Declaratory Relief, Pursuant to N.R.S. § 30.010 et seq.)

57. Counterclaimant repeats and realleges the allegations contained in
Paragraphs 1 through 56 of the Counterclaim in Intervention, and incorporates the same
by this reference as if more fully set forth herein.

1 58. Under Nevada law, the Order does not bind Counterclaimant and has no
2 *res judicata* effect upon Counterclaimant's right to seek the revoked Provisional
3 Certificate originally issued to Nuleaf.

4 59. Under Nevada law, the Court in the Acres Case had no jurisdiction to
5 determine the relative position of Acres vis-a-vis Counterclaimant as Counterclaimant
6 was not a party to the Acres Case.

7 60. The re-scoring of Acres Medical's MME application by the court in the
8 Acres Case was void as against Counterclaimant because Acres Medical failed to
9 include Counterclaimant as a party in the case, which was a necessary and indispensable
10 party.

11 61. Counterclaimant was denied its due process right to contest the scoring
12 of MME applications by the Division and to contest entitlement to Nuleaf's revoked
13 Provisional Certificate.

14 62. The re-scoring of Acres Medical's MME application with the Division
15 was void, against public policy, and inequitable.

16 63. Under the doctrines laches, waiver and/or estoppel, as well as general
17 equitable principles, and notwithstanding the Order, Acres Medical should not have
18 priority over Counterclaimant.

19 64. There exists a justiciable controversy between Counterclaimant, on the
20 one hand, and Acres Medical on the other hand regarding the scoring of applications and
21 the issuance of provisional certificates for MME dispensaries under NRS Chapter 453A.

22 65. The interests of Counterclaimant are adverse to the interests of Acres
23 Medical.

24 66. Counterclaimant has a legally protectable interest in the controversy.

25 67. The issue involved in the controversy is ripe for judicial determination
26 with respect to the construction, interpretation, and implementation of NRS Chapter
27 453A, NAC 453A, and other Nevada laws and regulations as to the Counterclaimant.

28 68. Counterclaimant is entitled to a declaration, pursuant to N.R.S. § 30.010
 et seq., that while the Order from the Acres Case may have required to Division to
 rerank Acres Medical's application, the Acres Court Order lacks any prejudicial or
 precedential value when it comes to the relative positions of Acres Medical and
 Counterclaimant; that the Order has no force or effect upon Counterclaimant; that under
 the doctrines laches, waiver and/or estoppel, as well as general equitable principles,
 Counterclaimant should have priority over Acres Medical when it comes to any
 available provisional certificates; that the Provisional Certificate issued to Nuleaf and
 subsequently revoked by the Court should be issued to Counterclaimant (not Acres
 Medical); that Acres Medical is behind and below Counterclaimant in rank; that Acres
 Medical should not be issued an actual provisional certificate until this dispute is
 resolved; and that the deadlines and requirements for issuance of licenses for MME
 Dispensaries should be tolled for the benefit of the Counterclaimant until after the
 Counterclaimant's claims are determined in this case so that Counterclaimant will not
 suffer detriment due to the fact that it should have been issued a provisional certificate
 on November 3, 2014.

69. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

See pages 13:20-15:27 of Exhibit "3".

As the foregoing makes clear, there are numerous issues that still need to be fully discovered, briefed and argued regarding the relative positions of Acres and GB Sciences.

6. This Court's December 14, 2015 Order.

Notwithstanding the fact that: (i) Acres was not a party to this lawsuit until after GB Sciences MSJ was fully briefed, (ii) no arguments were raised regarding Acres involvement at the hearing on GB Sciences' Motion for Summary Judgment; (iii) GB Sciences had filed counterclaims against Acres just eleven (11) days prior to the MSJ Order being entered, which claims if granted, would result in the now available registration certificate being issued to GB Sciences instead of Acres, and (iv) the Court had not heard nor considered any of GB Sciences counterclaims or arguments relating to the relative priority between GB Sciences and Acres as it related to the now available registration certificate, on December 14, 2015, this Court entered the MSJ Order wherein it found that "Acres should have been the thirteenth ranked applicant" and wherein it ordered "that Plaintiff's Motion is DENIED to the extent Plaintiff seeks the re-issue of Nuleaf's registration to Plaintiff" and wherein it further ordered "that the Division register intervenor Acres and issue Acres a registration certificate." See pages 6:1-7, 8:22-23, and 9:1-2 of Exhibit "1".

For the reasons set forth below, GB Sciences is asking this Court to reconsider its findings and rulings relating to Acres, to amend the MSJ Order to remove all such findings and rulings, and to allow GB Sciences to proceed forward with its claims against Acres in the ordinary course.

III.

MEMORANDUM OF POINTS AND AUTHORITIES

A. LEGAL STANDARDS.

1. Legal Standard on a Motion to Amend a Judgment.

According to Nevada Rule of Civil Procedure 59(a), a Judgment may be amended if there are grounds materially affecting the substantial rights of an aggrieved party through irregularity in the proceedings of the court, based upon accident or surprise which ordinary prudence could not have

1 guarded against, or if an error in law occurred. Under NRCP 59(e), such a motion must be brought “no
2 later than 10 days after service of written notice of entry of the judgment.”

3 **2. Legal Standard on a Motion for Reconsideration.**

4 Eighth Judicial District Court Rule 2.24 provides that a party may seek reconsideration
5 of an order by filing “a motion for such relief within 10 days after service of written notice of the order
6 or judgment.” EDCR 2.24(b). Further, according to EDCR 2.24(c), “[i]f a motion for rehearing is
7 granted, the court may make a final disposition of the cause without reargument or may reset it for
8 reargument or resubmission or may make such other orders as are deemed appropriate under the
9 circumstances of the particular case.”

10 The Nevada Supreme Court has held that a district court may reconsider a previously decided
11 issue if substantially different evidence is subsequently introduced *or the decision is clearly erroneous.*
12 Masonry and Tile Contractors Ass’n of Southern Nevada v. Jolley, Urga & Wirth, Ltd., 941 P.2d 486,
13 113 Nev. 737 (Nev. 1997)(emphasis added).

14 **3. The Present Motion Was Timely Filed.**

15 Under both NRCP 59 and EDCR 2.24, any such motion must be filed within 10 days
16 after service of written notice of the order or judgment. According to NRCP 6(a), “[w]hen the period
17 of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and nonjudicial
18 days shall be excluded in the computation.” Further, according to EDCR 1.14(c), when a motion or
19 notice is filed electronically, “three (3) days must be added to the prescribed period.”

20 In this case, the Court entered the Order on December 14, 2015, with written notice of entry
21 being served electronically on December 15, 2015. Thus, after applying NRCP 6(a) and EDCR 1.14(c),
22 the deadline to file a motion under NRCP 59 and EDCR 2.24 is January 4, 2015. Because the present
23 Motion was filed well before January 4, 2015, it has been timely filed.

24 For the reasons set forth below, this Court should reconsider its prior findings and rulings as it
25 relates to Acres and should alter or amend the MSJ Order to remove the portions of the Order whereby
26 the Court denied NuLeaf’s revoked registration certificate to GB Sciences and granted the same to
27 Acres. Further, the Court should reserve any decision on this matter until such time as the claims and
28 counterclaims between GB Sciences and Acres have been fully flushed out and heard by the Court.

1 **B. THE MSJ ORDER VIOLATES THE PLAINTIFF'S DUE PROCESS RIGHTS.**

2 Section 8, Subsection 5, of Article I of the Nevada State Constitution provides:

3 5. No person shall be deprived of life, liberty, or property, without due process of
4 law.

5 Nev. Art. I, § 8. The Nevada Supreme Court has made it clear that the Nevada Constitution imposes
6 a "mandate of due process of law that no person be deprived of personal or property rights by a
7 judgment *without notice and an opportunity to be heard*." Paradise Palms Community Ass'n v.
8 Paradise Homes, 89 Nev. 27, 30, 505 P.2d 596, 598 (Nev., 1973) (emphasis added); See also
9 Anastassatos v. Anastassatos, 112 Nev. 317, 319, 913 P.2d 652, 653 (Nev., 1996) (notice and an
10 opportunity to be heard are the twin hallmarks of due process.).

11 The case of Nicoladze v. First Nat. Bank of Nevada, 94 Nev. 377, 580 P.2d 1391 (Nev., 1978)
12 is instructive. In Nicoladze, First National Bank of Nevada ("FNBN") obtained a judgment against
13 Lawler Cattle Company. Id., at 377. After the Judgment had been obtained, FNBN filed a motion to
14 add George G. Nicoladze as a party on the theory that he was the alter ego of the Lawler Cattle
15 Company. Id. "Without conducting a hearing on the matter or making any findings, the district court
16 granted the motion." Id. at 377-378. In reversing the district court's ruling, the Nevada Supreme Court
17 held that "*Fundamental due process requires that a person against whom a claim is asserted in a*
18 *judicial proceeding have an opportunity to be heard and present his defenses.*" Id. at 378 (emphasis
19 added).

20 In this case, GB Sciences filed their Motion for Summary Judgment as well as their Replies to
21 the Division and NuLeaf's Oppositions, all before Acres even filed their Motion to Intervene. Nothing
22 in GB Sciences Motion for Summary Judgment, in the Division's Opposition², in NuLeaf's Opposition
23 and Countermotion¹, and in GB Sciences' Reply briefs addressed Acres and/or Acres claim that they
24 should be put ahead of GB Sciences. In fact, prior to December 14, 2015, when this Court entered the
25 MSJ Order, there was simply no notice to any party that the Court would be deciding the issue of
26 priority between Acres and GB Sciences.

27
28 ² The Division did mention Acres in a footnote in their Opposition, but that is the only reference and none of their arguments were directed towards or addressed Acres.

1 It wasn't until the day of the hearing on GB Sciences' MSJ (November 9, 2015) that Acres'
2 Motion to Intervene was granted. By that time, GB Sciences MSJ and NuLeaf's Countermotion had
3 been fully briefed and none of the parties were prepared to argue anything relating to Acres. This is
4 emphasized by the fact that Acres did not file their Complaint in Intervention until November 17, 2015,
5 more than a week after the hearing on GB Sciences MSJ had concluded.

6 To compound the problem, when the Court entered its December 14, 2015 MSJ Order, it
7 essentially granted summary judgment in favor of Acres and against GB Sciences on all of Acres claims
8 against GB Sciences (filed less than one month prior) and all of GB Sciences counterclaims against
9 Acres (filed just 11 days prior), all without any advance notice to any of the parties, without holding a
10 hearing on the matter, and without providing GB Sciences with an opportunity to be heard.

11 This is the very scenario which the Nevada Supreme Court rejected in Nicoladze, 94 Nev. 377.
12 Under the due process rights guaranteed by the Nevada Constitution, GB Sciences is guaranteed the
13 opportunity to be heard in its defense against the claims asserted by Acres and in favor of its claims
14 asserted against Acres. The Court's December 14, 2015 MSJ Order deprives GB Sciences of this right.

15 Because GB Sciences has not had any opportunity to be heard in its defense of Acres' claims
16 against it and in favor of its counterclaims against Acres, the December 14, 2015 MSJ Order is
17 unquestionably erroneous and should be amended to correct this clear violation. Therefore, GB
18 Sciences is asking the Court to alter or amend the MSJ Order to remove Paragraphs 21, 37, 40, and 41
19 which award Nuleaf's Provisional Certificate to Acres Medical. Doing so will then allow GB Sciences
20 its due process right to litigate with Acres over the issues surrounding the scoring of the MME
21 applications by the Division, and ultimately which entities should legitimately be among the "top-12"
22 applicants for the City of Las Vegas and entitled to the Provisional Certificates.

23 Alternatively, the Court should reconsider its decision to award the Provisional Certificate to
24 Acres Medical because the decision was clearly erroneous in light of the fact that GB Sciences' due
25 process rights were violated in the process. The Court should enter a new order on Plaintiff's Motion
26 for Summary Judgment which contains no remedies for Acres Medical which was not even a party to
27 the motion before the Court at the time, and which leaves open the issue of entitlement to Nuleaf's
28 revoked Provisional Certificate.

C. ACRES MEDICAL SHOULD NOT BE PERMITTED TO JUMP AHEAD OF THE PLAINTIFF WITHOUT ANY CONSIDERATION OF GB SCIENCES' CLAIMS AND ARGUMENTS.

1. The Order Improperly Precludes Non-Parties to the Acres Lawsuit From Litigating Issues Raised in the Acres Lawsuit.

By ordering the Division to re-issue Nuleaf's revoked Provisional Certificate to Acres Medical, the Court effectively permitted Acres Medical to jump ahead of GB Sciences in line for one of the 12 Provisional Certificates allotted to the City of Las Vegas. The Division had originally scored GB Science's application higher than Acres Medical (i.e. Plaintiff: 166.86 and Acres Medical: 126).

While the court in the Acres Lawsuit ordered a re-scoring to give Acres Medical a higher position, the Plaintiff was not a party to the Acres Lawsuit and therefore, the Acres Order has no *res judicata* and/or issue preclusion effect on GB Sciences. See University of Nevada v. Tarkanian, 110 Nev. 581, 598, 879 P.2d 1180, 1191 (1994). Consequently, the Acres Order should not preclude GB Sciences from raising any of its arguments as to why Acres should not be placed ahead of GB Sciences, notwithstanding the Acres Order.

Before a party can be bound by an order regarding any issue, the following elements must be met:

(1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; and (3) *the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation.*

Tarkanian, 110 Nev. at 598 (emphasis added). By Acres' own doing, GB Sciences was not a party in the Acres Lawsuit, nor in privity with any party to that case. Thus, the Acres Order has no binding effect on GB Sciences.

The problem is that by this Court including in the MSJ Order the portion of the Acres Order that compels the Division to re-issue Nuleaf's revoked Provisional Certificate to Acres Medical, the Court effectively applied preclusive effect of a ruling from the Acres Lawsuit against GB Sciences in violation of Nevada law.

\\

\\

1 Because GB Sciences was not a party or in privity with a party in the Acres Lawsuit, GB
2 Sciences should be permitted to litigate the issue of whether the Division properly scored Acres'
3 application and/or whether or not Acres should be placed ahead of GB Sciences. However, the MSJ
4 Order precludes GB Sciences from doing so in violation of its rights.

5 2. **It Is Inequitable to Allow Acres to Benefit from GB Sciences Efforts and at the**
6 **Same Time Prohibit GB Sciences from Prosecuting its Claims Against Acres.**

7 If the MSJ Order is allowed to stand, the very equitable principles by which this Court
8 entered the MSJ Order will have been violated.

9 The Nevada Supreme Court has repeatedly reaffirmed the equitable maxim that "equity regards
10 as done what in good conscience ought to be done." Woods v. Bromley, 69 Nev. 96, 241 P.2d 1103,
11 1108 (Nev., 1952); Stoltz v. Grimm, 100 Nev. 529, 533, 689 P.2d 927, 930 (Nev., 1984); First Federal
12 Sav. and Loan Ass'n of Nevada v. Racquet Club Condominiums, 106 Nev. 758, 752, 801 P.2d 1360,
13 1363 (Nev., 1990).

14 In this case, GB Sciences petitioned this Court to exercise its equitable powers and put the
15 parties in the position they should have been in on November 3, 2014. However, in exercising its
16 equitable powers, this Court should have allowed GB Sciences to raise its claims and defenses relative
17 to Acres' claim of priority. By issuing the MSJ Order as written, the Court will have effectively
18 prohibited GB Sciences from defending against Acres' claims (which had not yet been asserted at the
19 time of the hearing), from prosecuting its own claims against Acres (which likewise had not yet been
20 asserted at the time of the hearing), and from raising important arguments which the Court should
21 consider prior to making a determination of whether Acres has priority over GB Sciences for the
22 coveted 13th position.

23 For example, the same equitable principles under which this Court stripped NuLeaf of its
24 registration certificate will rightfully intervene to estop a party from asserting certain rights. Equitable
25 estoppel operates to prevent a party from asserting legal rights that, in equity and good conscience, they
26 should not be allowed to assert because of their conduct. Breliant v. Preferred Equities Corp., 112 Nev.
27 663, 673, 918 P.2d 314, 321 (1996)(quoting United Brotherhood v. Dahnke, 102 Nev. 20, 22, 714 P.2d
28 177, 178-79 (1986)). In this case, even though this matter was pending and was public information,

1 Acres chose to sit on the sidelines, rather than intervene until the revocation of Nuleaf's Provisional
2 Certificate was imminent. At the same time, Acres chose to pursue its own action without including
3 GB Sciences. Under these facts, there is a strong equitable argument that Acres should not be allowed
4 to step ahead of GB Sciences. However, unless the MSJ Order is amended, GB Sciences will be
5 precluded from making this argument.

6 For the forgoing reasons, the Court should alter or amend the offending provision of the MSJ
7 Order by removing them from the MSJ Order. Alternatively, the Court should reconsider the MSJ
8 Order and enter a new order which does not violate GB Sciences' rights.

9 IV.

10 CONCLUSION

11 Based upon the foregoing points and authorities, the Plaintiff respectfully requests that the Court
12 alter or amend the Judgment to remove Paragraphs 21, 37, 40, and 41 which grant Nuleaf's revoked
13 Provisional Certificate to Acres. In the alternative, the Plaintiff respectfully requests that the Court
14 reconsider the portion of the Order which grants Nuleaf's revoked Provisional Certificate to Acres.

15 DATED this 23rd day of December, 2015.

16 SMITH & SHAPIRO, PLLC

17 /s/ James E. Shapiro, Esq.
18 James E. Shapiro, Esq.
19 Nevada Bar No. 7907
20 Sheldon A. Herbert, Esq.
21 Nevada Bar No. 5988
22 2520 St. Rose Parkway, Suite 220
23 Henderson, NV 89074
24 *Attorneys for Plaintiff*
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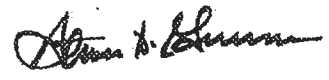
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 23rd day of December, 2015, I served a true and correct copy of the forgoing **PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT; OR, IN THE ALTERNATIVE MOTION FOR PARTIAL RECONSIDERATION**, by e-serving a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer Togliatti, on May 9, 2014.

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

EXHIBIT 1

EXHIBIT 1



CLERK OF THE COURT

1 **NEOJ**
2 **MARK E. FERRARIO, ESQ. (NV Bar #1625)**
3 **MOOREA L. KATZ, ESQ. (NV Bar #12007)**
4 **GREENBERG TRAURIG, LLP**
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11 ***Counsel for Plaintiff in Intervention***
12 ***Acres Medical, LLC***

DISTRICT COURT

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

28 **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**

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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 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*
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1 **CERTIFICATE OF SERVICE**

2 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
3 December, 2015, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF**
4 **ORDER ON PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY**
5 **JUDGMENT AND ON DEFENDANT NULEAF CLV DISPENSARY, LLC'S**
6 **COUNTERMOTION FOR SUMMARY JUDGMENT** to be filed and served via the Court's
7 Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date
8 and place of deposit in the mail.

9
10 */s/ Joyce Heilich*
11 An employee of GREENBERG TRAURIG, LLP

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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.

20 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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CLERK OF THE COURT

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ORDER

THIS MATTER having come before the Court on GB SCIENCES NEVADA, LLC's ("Plaintiff") Motion for Summary Judgment (the "Motion") and on Defendant NULEAF CLV DISPENSARY, LLC ("NuLeaf") Countermotion for Summary Judgment ("Countermotion"); 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, 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, and good cause appearing, THE COURT FINDS AND CONCLUDES:

FINDINGS OF FACTS

1. In 2013, Senate Bill 374 was passed which provided for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

2. Under N.R.S. § 453A.320 et seq., the Division was tasked with processing and ranking applications for Medical Marijuana Establishments ("MMEs") for each local jurisdiction in Nevada.

3. There were five types of MME's, including Dispensaries, Cultivation Facilities, and Production Facilities. The MME at issue in this lawsuit is a Dispensary.

4. The City of Las Vegas was allocated twelve Dispensary provisional certificates.

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.
(NRS § 453A.322(3)(a)(5)).

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

23 11. On October 28-29, 2014, the Las Vegas City Council held a special meeting to
24 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."
24

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.

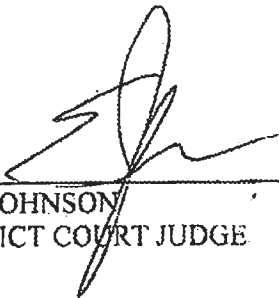
22 40. **IT IS FURTHER ORDERED** that Plaintiff's Motion is **DENIED** to the extent
23 Plaintiff seeks the re-issue of Nuleaf's registration to Plaintiff.
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41. **IT IS FURTHER ORDERED** that the Division register intervenor Acres and issue Acres a 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

CERTIFICATE OF SERVICE

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

JAMES E. SHAPIRO, ESQ.

jshapiro@smithshapiro.com

Attorney for Plaintiff, Counter Claimant, Intervenor Defendant

TODD L. BICE, ESQ.

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Attorney for Defendant, Intervenor Defendant

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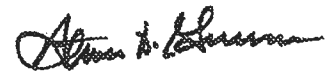
/s/Kelly Muranaka

Kelly Muranaka

Judicial Executive Assistant

EXHIBIT 2

EXHIBIT 2



CLERK OF THE COURT

COMP
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Counsel for Plaintiff in Intervention Acres Medical, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Case No.: A710597
Dept. No.: XX

Plaintiff,

v.

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

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

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

9 **THE PARTIES**

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

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

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

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

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

22 **JURISDICTION**

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

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GENERAL STATUTORY AND REGULATORY FRAMEWORK

7. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medical marijuana.

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

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

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

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

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

13. In accordance with such responsibilities, the City Council of the City of Las Vegas enacted Ordinance no. 6321 to establish zoning regulations and standards for medical marijuana establishments.

14. The City Council of the City of Las Vegas also enacted Ordinance no. 6324 to establish licensing regulations and standards for medical marijuana establishments.

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
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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 marijuana 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.

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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
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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.

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **THE CITY OF LAS VEGAS' SUBSEQUENT PROCESSING OF NULEAF'S**
25 **APPLICATION**

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

28 ///

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.

///

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:

28 ///

- 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 Nulcaif.

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)

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 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 TRAUIG, LLP

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Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

EXHIBIT A


CLERK OF THE COURT

ORDG

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LONDON LERNER (NV Bar #13368)
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*Counsel for Plaintiffs/Petitioners
Acres Medical, LLC and Acres Cultivation, LLC*

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 -

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

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

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

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

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

16 5. Despite having information indicating that the Application should have received a
17 score of 41.3 in the Organizational Structure category, the Division gave the Application a score of
18 0 in the Organizational Structure category;

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

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

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

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

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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.

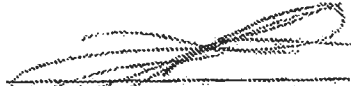
IT IS SO ORDERED.

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: Linda C Anderson

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 3

EXHIBIT 3



CLERK OF THE COURT

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Sheldon A. Herbert, Esq.
Nevada Bar No. 5988
SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, NV 89074
(702) 318-5033
Attorneys for GB SCIENCES NEVADA, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
DEPARTMENT OF HEALTH AND HUMAN
SERVICES; NULEAF CLV DISPENSARY, LLC,
a Nevada limited liability company; DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

Defendants.

ACRES MEDICAL, LLC,

Plaintiff in Intervention,

vs.

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

Defendants in Intervention.

Case No. A-14-710597-C
Dept. No. XX

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

26 \\\

27 \\\

28 \\\

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

3 Counterclaimant in Intervention,

4 vs.

5 ACRES MEDICAL, LLC, a Nevada limited
6 liability company, and STATE OF NEVADA,
7 DIVISION OF PUBLIC AND BEHAVIORAL
8 HEALTH OF THE DEPARTMENT OF HEALTH
9 AND HUMAN SERVICES,

10 Counterdefendants in Intervention.

Date: N/A
Time: N/A

11 ANSWER TO COMPLAINT IN INTERVENTION AND
12 COUNTERCLAIM

13 COMES NOW Plaintiff/Defendant in Intervention/Counterclaimant in Intervention, GB
14 SCIENCES NEVADA, LLC, a Nevada limited liability company ("GB Sciences"), by and through its
15 attorneys of record, SMITH & SHAPIRO, PLLC, and for its Answer to Complaint in Intervention (the
16 "Complaint"), admits, denies, defends, and affirmatively states as follows:

17 THE PARTIES

18 1. Answering Paragraphs No. 1, 2, 3, and 4 of the Parties Section of the Complaint, GB
19 Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the
20 allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

21 2. Answering Paragraph No. 5 of the Parties Section of the Complaint, GB Sciences admits
22 the allegations contained therein.

23 JURISDICTION

24 3. Answering Paragraph No. 6 of the Jurisdiction Section of the Complaint, said paragraph
25 contains a legal conclusion and requires no response thereto; otherwise, GB Sciences admits the
26 allegations contained therein.

27 GENERAL STATUTORY AND REGULATORY FRAMEWORK

28 4. Answering Paragraphs No. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, and 20 of the
General Statutory and Regulatory Framework Section of the Complaint, GB Sciences admits the
allegations contained therein.

1 5. Answering Paragraph No. 18 of the General Statutory and Regulatory Framework
2 Section of the Complaint, GB Sciences admits that the City of Las Vegas granted a special use permit
3 to twenty-seven (27) applicants, but is without information sufficient to form a reasonable belief as to
4 the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the
5 same in their entirety.

6 THE DIVISION'S APPLICATION AND APPROVAL PROCESS

7 6. Answering Paragraphs No. 21, 22, 23, 26, and 27 of the Division's Application and
8 Approval Process Section of the Complaint, said paragraph contains a legal conclusion and requires
9 no response thereto; otherwise, GB Sciences admits the allegations contained therein.

10 7. Answering Paragraphs No. 24 and 25 of the Division's Application and Approval
11 Process Section of the Complaint, said paragraph contains a legal conclusion and requires no response
12 thereto; otherwise, GB Sciences is without information sufficient to form a reasonable belief as to the
13 truth or falsity of the allegations contained in said paragraphs but admits the allegations contained
14 therein upon information and belief.

15 THE DIVISION'S ISSUANCE OF PROVISIONAL CERTIFICATES

16 8. Answering Paragraphs No. 28, 29, 30, 32, and 35 of the Division's Issuance of
17 Provisional Certificates Section of the Complaint, said paragraph contains a legal conclusion and
18 requires no response thereto; otherwise, GB Sciences admits the allegations contained therein.

19 9. Answering Paragraphs No. 31, 33, 34, 40, 41, 42, and 43 of the Division's Issuance of
20 Provisional Certificates Section of the Complaint, said paragraph contains a legal conclusion and
21 requires no response thereto; otherwise, GB Sciences is without information sufficient to form a
22 reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore,
23 denies the same in their entirety.

24 10. Answering Paragraphs No. 36, 37, 38, 39, 44, 45, 46, 47, and 48 of the Division's
25 Issuance of Provisional Certificates Section of the Complaint, said paragraph contains a legal
26 conclusion and requires no response thereto; otherwise, GB Sciences is without information sufficient
27 to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and,
28 therefore, denies the same in their entirety.

DEFENDANT NULEAF'S APPLICATION

11. Answering Paragraphs No. 49, 53 and 54 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

12. Answering Paragraphs No. 50, 51, 52, 57, 58, and 59 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences admits the allegations contained therein.

13. Answering Paragraph No. 55 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegation "which included Plaintiff in Intervention" but admits the remaining allegations contained in said paragraph.

14. Answering Paragraph No. 56 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences admits the allegation that "Nuleaf did not meet those requirements" but is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

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

15. Answering Paragraphs No. 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 76, and 77 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

16. Answering Paragraphs No. 63, 74, and 75 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences admits the allegations contained in said paragraphs.

17. Answering Paragraph No. 73 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, the Order speaks for itself; otherwise, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraph, and, therefore, denies the same in their entirety.

18. Answering Paragraph No. 78 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences denies the allegations that "Plaintiff in Intervention is the 13th ranked applicant," and "[t]hat 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," and otherwise is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

DIVISION'S REFUSAL TO IDENTIFY NEXT HIGHEST RANKED APPLICANT

19. Answering Paragraphs No. 79, 80, and 81 of the Division's Refusal to Identify the Next Highest Ranked Applicant Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

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

20. Answering Paragraphs No. 82, 86, 87, 88, and 89 of the City of Las Vegas' Subsequent Processing of Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

21. Answering Paragraphs No. 83, 84, and 85 of the City of Las Vegas' Subsequent Processing of Nuleaf's Application Section of the Complaint, GB Sciences admits the allegations contained in said paragraphs.

FIRST CAUSE OF ACTION
(Declaratory Relief)

22. Answering Paragraph No. 90 of the First Cause of Action set forth in the Complaint, GB Sciences repeats its responses to Paragraphs No. 1 through 89 of the Complaint as if more fully set forth herein.

23. Answering Paragraphs No. 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, and 104 of the First Cause of Action set forth in the Complaint, GB Sciences is without information

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1 sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said
2 paragraphs, and, therefore, denies the same in their entirety.

3 SECOND CAUSE OF ACTION
4 (Injunctive Relief Against the Division and the City of Las Vegas)

5 24. Answering Paragraph No. 105 of the Second Cause of Action set forth in the Complaint,
6 GB Sciences repeats its responses to Paragraphs No. 1 through 104 of the Complaint as if more fully
7 set forth herein.

8 25. Answering Paragraphs No. 106, 107, 108, 109, 110, 111, 112, 113 (a through e,
9 inclusive), 114 (a through b, inclusive), and 115 of the Second Cause of Action set forth in the
10 Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or
11 falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

12 PETITION FOR WRIT OF MANDAMUS

13 26. Answering Paragraph No. 116 of the Petition for Writ of Mandamus set forth in the
14 Complaint, GB Sciences repeats its responses to Paragraphs No. 1 through 115 of the Complaint as if
15 more fully set forth herein.

16 27. Answering Paragraphs No. 117, 120, 122, and 123 of the Petition for Writ of Mandamus
17 set forth in the Complaint, GB Sciences is without information sufficient to form a reasonable belief
18 as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same
19 in their entirety.

20 28. Answering Paragraphs No. 118 and 119 of the Petition for Writ of Mandamus set forth
21 in the Complaint, GB Sciences admits the allegations contained in said paragraphs.

22 29. Answering Paragraph No. 121 of the Petition for Writ of Mandamus set forth in the
23 Complaint, GB Sciences admits that the Division failed to perform the acts described in Paragraphs 118
24 and 119 of the Petition for Writ of Mandamus that Nevada law compelled the Division to perform, but
25 is otherwise without information sufficient to form a reasonable belief as to the truth or falsity of the
26 allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

27 AFFIRMATIVE DEFENSES

28 1. The Complaint in Intervention fails to state a claim upon which relief may be granted.

2. ACRES MEDICAL, LLC's claims are barred by the doctrine of laches.
3. ACRES MEDICAL, LLC's claims are barred by the doctrine of waiver.
4. ACRES MEDICAL, LLC's claims are barred by the doctrines of estoppel, estoppel by fraud, and equitable estoppel.
5. The Complaint in Intervention is barred by the statute of frauds.
6. Plaintiff in Intervention failed to fulfill the requirements of NRS Chapter 453A, NAC 453A, and/or the requirements of the City of Las Vegas for issuance of a provisional registration certificate for an MME license.
7. The re-scoring of Plaintiff in Intervention's was void, against public policy, and inequitable.
8. The Order issued by Judge Cadish violates GB Sciences' due process rights, enshrined in the United States Constitution and Nevada State Constitution.
9. The Order issued by Judge Cadish has no *res judicata* effect upon GB Sciences.
10. Plaintiffs in Intervention's own conduct, and that of its own principals, is the proximate cause of Plaintiffs in Intervention's damages or other grievances, if any.
11. Plaintiffs in Intervention have acted in bad faith.
12. Plaintiffs in Intervention have unclean hands.
13. GB Sciences denies each and every allegation of the Complaint in Intervention not specifically admitted or otherwise pleaded to herein.
14. It has been necessary to employ the services of an attorney to defend this action and a reasonable sum should be allowed GB Sciences as and for attorney's fees, together with their costs expended in this action.
15. GB Sciences incorporates by reference those affirmative defenses enumerated in N.R.C.P. 8 as if fully set forth herein. If further investigation or discovery reveals the applicability of any such defenses, GB Sciences reserves the right to seek leave of Court to amend this answer to complaint in intervention to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defenses.

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1 16. Pursuant to N.R.C.P. Rule 11, as amended, all possible affirmative defenses may not
2 have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
3 filing of the Answer to Complaint in Intervention and, therefore, GB Sciences reserves the right to
4 amend its Answer to Complaint in Intervention to allege additional affirmative defenses.

5 WHEREFORE, Plaintiff/Defendant in Intervention/Counterclaimant in Intervention GB
6 Sciences prays for relief as follows:

- 7 1. That Acres Medical take nothing by way of its Complaint in Intervention,
- 8 2. That GB Sciences be awarded its attorneys' fees and costs incurred in defendant against
9 the Complaint in Intervention; and
- 10 3. That GB Sciences be awarded such other and further relief as the Court deems
11 appropriate in the premises.

12
13 **COUNTERCLAIM**

14 COMES NOW Plaintiff/Counterclaimant in Intervention, GB SCIENCES NEVADA, LLC, a
15 Nevada limited liability company, by and through its attorneys of record, SMITH & SHAPIRO, PLLC,
16 and for its Counterclaim in Intervention, alleges and avers as follows:

17 1. Counterclaimant, GB SCIENCES NEVADA, LLC ("GB Sciences") is a Nevada limited
18 liability company located in Clark County, Nevada.

19 2. Upon information and belief, Counterdefendant ACRES MEDICAL, LLC ("Acres
20 Medical") is a Nevada limited liability company doing business in Clark County, Nevada.

21 3. Defendant, STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL
22 HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (the "Division") is an
23 agency of the State of Nevada.

24 4. Venue is proper in this Court pursuant to N.R.S. § 13.020(3) and N.R.S. §
25 233N.130(2)(b), in that this is the county where the cause, or some part thereof, arose and the aggrieved
26 party resides.

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GENERAL ALLEGATIONS

5. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medicinal marijuana.

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

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

8. The Division, as well as the local jurisdiction, played a role in the ultimate licensing of MMEs.

9. Specifically, the local jurisdiction was tasked with considering issues such as site plans, zoning and proximity to other business or facilities while the Division focused on public health, public safety, and marijuana as a medicine.

10. The City of Las Vegas was allotted twelve (12) MME registration certificates (the "Registration Certificates") by the Division.

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

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

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

14. In addition, the City of Las Vegas prepared and issued a separate application packet for any person wishing to obtain the required special use permit and business licensing for the operation of a medical marijuana establishment in the City of Las Vegas (the "Las Vegas Application").

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

3 16. Counterclaimant, Nuleaf CLV Dispensary, LLC ("Nuleaf"), and Counterdefendant
4 Acres Medical were three (3) of the applicants.

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

7 18. The City of Las Vegas granted a special use permit to twenty-seven (27) applicants,
8 including Counterclaimant.

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

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

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

17 22. While the Division was allowed to *accept* all applications submitted, under N.R.S. §
18 453A.322, the Division could only issue a Provisional Certificate if the applicant's application included
19 six (6) specific items and if the applicant otherwise met the requirements established by N.R.S. Chapter
20 453A.

21 23. NRS 453A.322(3)(a)(2) through (5) provided a list of items that every application for
22 a medical marijuana establishment must have submitted to the Division.

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

28 \ \ \

1 25. The Division was required to rank from first to last the completed applications within
2 a particular jurisdiction based on the content of each application as it relates to the criteria for
3 evaluation determined by the Division and provided by NRS Chapter 453A.

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

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

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

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

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

21 31. The City of Las Vegas is a Nevada city that enacted ordinances for the zoning and
22 business licensing of medical marijuana establishments.

23 32. As such, the Division was required to ensure compliance with NRS 453A.326(3)(5).

24 33. The Nevada Legislature enacted NRS 453A.322(3)(a)(5), which expressly required all
25 applicants for the operation of a medical marijuana establishment in he City of Las Vegas to submit
26 proof of the City of Las Vegas' zoning approval or a letter from the City of Las Vegas acknowledging
27 that the applicant's proposed medical marijuana establishment was in compliance with the City of Las
28 Vegas' restrictions and applicable building requirements.

1 34. On or before the Division's August 18, 2014 deadline, the Division received multiple
2 applications for the City of Las Vegas' twelve (12) allotted medical marijuana establishment registration
3 certificates for the operation of a medical marijuana dispensary in the City of Las Vegas.

4 35. Counterclaimant, Nuleaf, and Acres were among these applicants to the Division.

5 36. Prior to submitting an application to the Division, Counterclaimant, Nuleaf, and Acres
6 each submitted an application to the City of Las Vegas for a Special Use Permit and a Business License
7 as required by the City of Las Vegas' newly enacted ordinances.

8 37. After an October 29, 2014 special meeting, the City Council of the City of Las Vegas
9 denied Nuleaf's application for a Special Use Permit.

10 38. To the contrary, Counterclaimant received a Special Use Permit for the operation of
11 medical marijuana dispensary from the City of Las Vegas and further, its application for Business
12 License was recommended for approval.

13 39. In addition, Counterclaimant submitted as part of its application to the Division the City
14 of Las Vegas' certification that Counterclaimant complied with the City of Las Vegas's ordinances and
15 building requirements concerning the operation of a medical marijuana establishment in the City of Las
16 Vegas.

17 40. Upon information and belief, the City of Las Vegas informed the Division of those
18 applicants that it approved for a Special Use Permit, which included Counterclaimant, and those
19 applicants that it denied a Special Use Permit, which included Nuleaf.

20 41. Upon information and belief, the Division, upon receipt of the 49 applications for the
21 operation of a medical marijuana dispensary in the City of Las Vegas, never made the required initial
22 determination that each application for the operation of a medical marijuana dispensary was complete.

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

27 43. As a result, the Division improperly ranked the application of Nuleaf against the
28 acceptable criteria.

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

4 45. Counterclaimant had been ranked number 13 based upon a score of 166.86.

5 46. Acres had received a score of 126 and was ranked only 36 or 37 by the Division.

6 47. At the same time, Counterclaimant discovered that the Division ranked and issued
7 provisional registration certificate to Nuleaf (ranked #3 even though it was denied the required Special
8 Use Permit and Business License from the City of Las Vegas).

9 48. Had the Division complied with the express requirements of NRS 453A.322(3), NAC
10 453A.310, NAC 453A.312, and NAC 453A.332, and the Division's previous public statements regarding
11 the correct application procedure, Nuleaf should not have received a ranking let alone a provisional
12 registration certificate.

13 49. More importantly, Counterclaimant's score (166.86) would have and should been high
14 enough to rank within the top 12 spots (# 11) allotted for the City of Las Vegas and therefore,
15 Counterclaimant should have received a provisional registration certificate from the Division within
16 the 90-day evaluation period.

17 50. Consequently, Counterclaimant, in actuality being ranked #11, would have received
18 provisional registration certificate from the Division in accordance with Nevada law and as approved
19 by the City of Las Vegas.

20 51. On or about June 9, 2015, Counterdefendant Acres filed an action against the Division
21 with the Eighth Judicial District Court, being Case No. A-15-719637-W, to have its MME application
22 with the Division re-scored based upon a purported math error (the "Acres Case").

23 52. Counterdefendant did not include Counterclaimant as a party to the Acres Case.

24 53. On or about October 8, 2015, the Court in the Acres Case granted Counterdefendant's
25 Petition for Writ of Mandamus, compelling the Division to re-score Counterdefendant's application for
26 a Provisional Certificate by adding 41.3 to the score, thus raising the score to 167.3 and making
27 Counterdefendant's application rank number 13 for the 12 Registration Certificates allotted to the City
28 of Las Vegas (the "Order").

1 54. On or about November 9, 2015, the Court granted Counterdefendant's motion to
2 intervene in this case.

3 55. On or about November 13, 2015, the Court entered a minute order in this case revoking
4 Nuleaf's Provisional Certificate, but granting it to Counterdefendant, applying the re-coring set forth
5 in the Order and moving Counterdefendant to #12 in rank with the removal of Nuleaf, even though
6 Counterclaimant was never a party to the Acres Case or able to litigate the re-scoring.

7 56. On or about November 17, 2015, Acres Medical filed its Complaint in Intervention,
8 seeking to impose the effect of the Order upon Counterclaimant and jump ahead of Counterclaimant
9 in line for the 12 Registration Certificates allotted to the City of Las Vegas.

10 **FIRST CAUSE OF ACTION**
11 **(Declaratory Relief, Pursuant to N.R.S. § 30.010 et seq.)**

12 57. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through
13 56 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set
14 forth herein.

15 58. Under Nevada law, the Order does not bind Counterclaimant and has no *res judicata*
16 effect upon Counterclaimant's right to seek the revoked Provisional Certificate originally issued to
17 Nuleaf.

18 59. Under Nevada law, the Court in the Acres Case had no jurisdiction to determine the
19 relative position of Acres *vis-a-vis* Counterclaimant as Counterclaimant was not a party to the Acres
20 Case.

21 60. The rescoring of Acres Medical's MME application by the court in the Acres Case was
22 void as against Counterclaimant because Acres Medical failed to include Counterclaimant as a party
23 in the case, which was a necessary and indispensable party.

24 61. Counterclaimant was denied its due process right to contest the scoring of MME
25 applications by the Division and to contest entitlement to Nuleaf's revoked Provisional Certificate.

26 62. The re-scoring of Acres Medical's MME application with the Division was void, against
27 public policy, and inequitable.

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63. Under the doctrines laches, waiver and/or estoppel, as well as general equitable principles, and notwithstanding the Order, Acres Medical should not have priority over Counterclaimant.

64. There exists a justiciable controversy between Counterclaimant, on the one hand, and Acres Medical on the other hand regarding the scoring of applications and the issuance of provisional certificates for MME dispensaries under NRS Chapter 453A.

65. The interests of Counterclaimant are adverse to the interests of Acres Medical.

66. Counterclaimant has a legally protectable interest in the controversy.

67. The issue involved in the controversy is ripe for judicial determination with respect to the construction, interpretation, and implementation of NRS Chapter 453A, NAC 453A, and other Nevada laws and regulations as to the Counterclaimant.

68. Counterclaimant is entitled to a declaration, pursuant to N.R.S. § 30.010 *et seq.*, that while the Order from the Acres Case may have required to Division to rerank Acres Medical's application, the Acres Court Order lacks any prejudicial or precedential value when it comes to the relative positions of Acres Medical and Counterclaimant; that the Order has no force or effect upon Counterclaimant; that under the doctrines laches, waiver and/or estoppel, as well as general equitable principles, Counterclaimant should have priority over Acres Medical when it comes to any available provisional certificates; that the Provisional Certificate issued to Nuleaf and subsequently revoked by the Court should be issued to Counterclaimant (not Acres Medical); that Acres Medical is behind and below Counterclaimant in rank; that Acres Medical should not be issued an actual provisional certificate until this dispute is resolved; and that the deadlines and requirements for issuance of licenses for MME Dispensaries should be tolled for the benefit of the Counterclaimant until after the Counterclaimant's claims are determined in this case so that Counterclaimant will not suffer detriment due to the fact that it should have been issued a provisional certificate on November 3, 2014.

69. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

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SECOND CAUSE OF ACTION
(Injunctive Relief)

70. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through 69 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set forth herein.

71. Counterclaimant has already asserted claims against the Division in this case for injunctive relief regarding the issuance of provisional certificates to Nuleaf and Desert Aire.

72. However, to the extent necessary to ensure this remedy is still available, Counterclaimant is likewise entitled to a permanent mandatory injunction against the Division, enjoining the Division:

- (a) from issuing actual Registration Certificates to Nuleaf and Acres Medical;
- (b) to revoke the provisional certificates issued to Nuleaf and Acres Medical;
- (c) to identify Counterclaimant as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and
- (d) to issue a provisional certificates to the Counterclaimant.

73. Counterclaimant is likewise entitled to a permanent mandatory injunction against the City, requiring the City to toll all deadlines which would have been required of the Counterclaimant until after the Court rules on Counterclaimant's claims in this case, by virtue of the fact that Counterclaimant should have received a Provisional Certificate on November 3, 2014.

74. Alternatively, Counterclaimant is entitled to a permanent mandatory injunction that the one revoked provisional certificates be issued to the Counterclaimant, and not to Acres Medical because the re-scoring and re-ranking of Acres Medical was void, and/or that due to public policy and/or equitable principles, Acres Medical should not receive the one available provisional certificate, which should instead be issued to Counterclaimant.

75. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

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PETITION FOR WRIT OF MANDAMUS

76. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through 74 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set forth herein.

77. Counterclaimant has already petition for a writ of mandamus against the Division in its original Complaint.

78. To the extent required, that petition is repeated and reasserted herein in its entirety.

WHEREFORE, Counterclaimant in Intervention prays for relief as follows:

1. For declaratory relief in the manner set forth in Counterclaimant's First Cause of Action;
2. For injunctive relief, specifically a preliminary and permanent mandatory injunction, enjoining the Division:

- (a) from issuing actual Registration Certificates to Nuleaf and Acres Medical;
- (b) to revoke the Provisional Certificates issued to Nuleaf and Acres Medical;
- (c) to identify Counterclaimant as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and
- (d) to issue a Provisional Certificate to Counterclaimant.

3. For injunctive relief, specifically a preliminary and permanent mandatory injunction, requiring the City to toll all deadlines which would have been required of the Counterclaimant until after the Court rules on Counterclaimants claims in this case, by virtue of the fact that Counterclaimant should have received a Provisional Certificate on November 3, 2014.

4. Alternatively, for a permanent mandatory injunction that the one revoked provisional certificates be issued to the Counterclaimant, and not to Acres Medical because the re-scoring and re-ranking of Acres Medical was void, and/or that due to public policy and/or equitable principles, Acres Medical should not receive the one available provisional certificate, which should instead be issued to Counterclaimant.

5. For reasonable attorneys' fees and costs of suit; and

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Henderson, Nevada 89074
(702) 318-5033

1 6. For such other and further relief as the Court deems appropriate in the premises.

2 DATED this 3rd day of December, 2015.

3 SMITH & SHAPIRO, PLLC

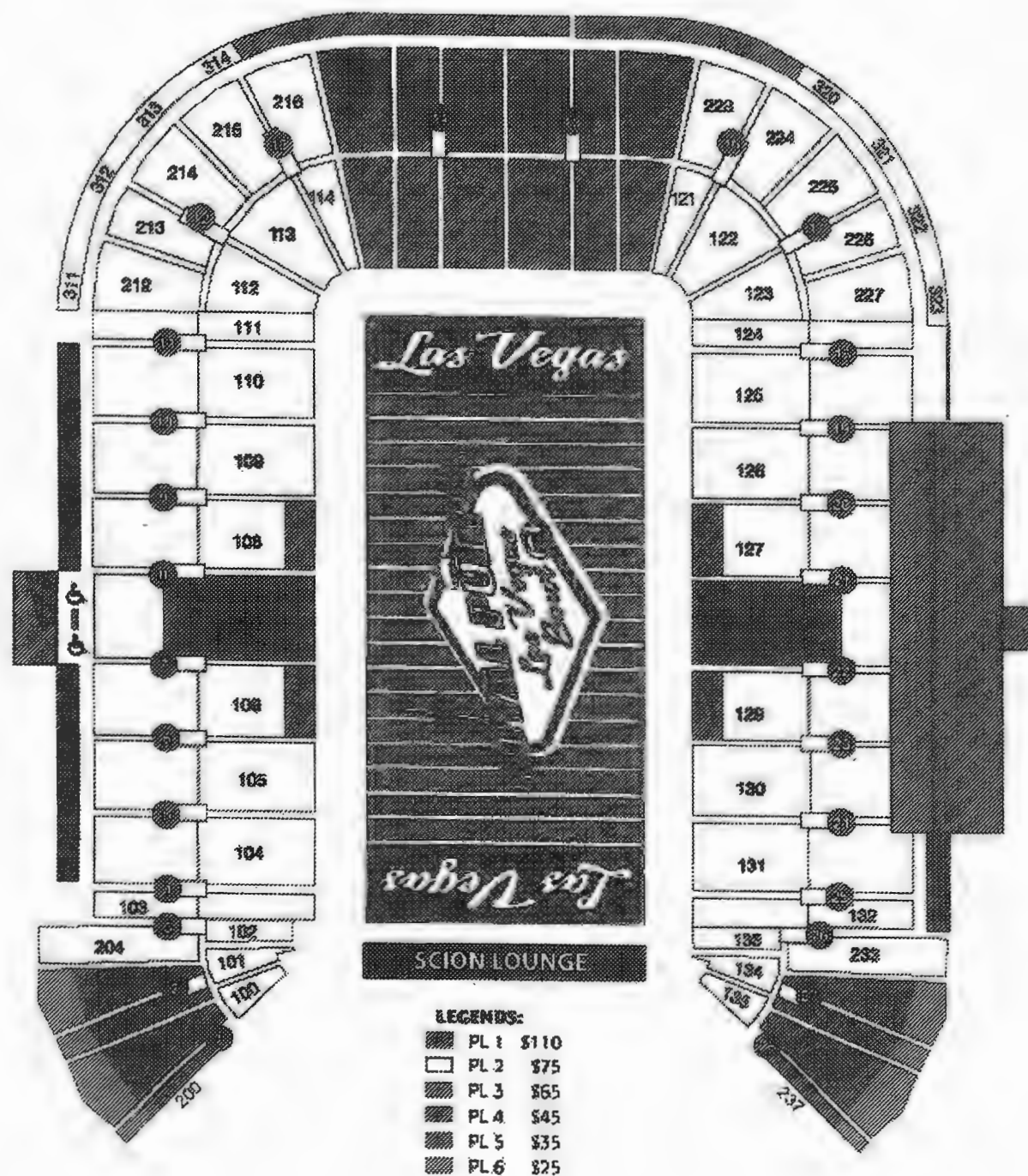
4 /s/ James E. Shapiro
5 James E. Shapiro, Esq.
6 Nevada Bar No. 7907
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11 *Attorneys for Plaintiff/Defendant*
12 *in Intervention/Counter-*
13 *claimant in Intervention*
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 3rd day of December, 2015, I served a true and correct copy of the forgoing **ANSWER TO COMPLAINT IN INTERVENTION AND COUNTERCLAIM**, by e-serving a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer Togliatti, on May 9, 2014.

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





CLERK OF THE COURT

1 **ANS / CNTR**
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2 Nevada Bar No. 7907
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5 (702) 318-5033
Attorneys for GB SCIENCES NEVADA, LLC

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 **GB SCIENCES NEVADA, LLC**, a Nevada limited
9 liability company,

10 Plaintiff,

11 vs.

12 **STATE OF NEVADA, DIVISION OF PUBLIC**
13 **AND BEHAVIORAL HEALTH OF THE**
14 **DEPARTMENT OF HEALTH AND HUMAN**
15 **SERVICES; NULEAF CLV DISPENSARY, LLC,**
16 **a Nevada limited liability company; DOES 1-10, and**
17 **ROE ENTITIES 1-100, inclusive,**

18 Defendants.

19 **ACRES MEDICAL, LLC,**

20 Plaintiff in Intervention,

21 vs.

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

Defendants in Intervention.

Case No. A-14-710597-C
Dept. No. XX

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

3 Counterclaimant in Intervention,

4 vs.

5 ACRES MEDICAL, LLC, a Nevada limited
6 liability company, and STATE OF NEVADA,
7 DIVISION OF PUBLIC AND BEHAVIORAL
8 HEALTH OF THE DEPARTMENT OF HEALTH
9 AND HUMAN SERVICES,

10 Counterdefendants in Intervention.

Date: N/A
Time: N/A

11 ANSWER TO COMPLAINT IN INTERVENTION AND
12 COUNTERCLAIM

13 COMES NOW Plaintiff/Defendant in Intervention/Counterclaimant in Intervention, GB
14 SCIENCES NEVADA, LLC, a Nevada limited liability company ("GB Sciences"), by and through its
15 attorneys of record, SMITH & SHAPIRO, PLLC, and for its Answer to Complaint in Intervention (the
16 "Complaint"), admits, denies, defends, and affirmatively states as follows:

17 THE PARTIES

18 1. Answering Paragraphs No. 1, 2, 3, and 4 of the Parties Section of the Complaint, GB
19 Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the
20 allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

21 2. Answering Paragraph No. 5 of the Parties Section of the Complaint, GB Sciences admits
22 the allegations contained therein.

23 JURISDICTION

24 3. Answering Paragraph No. 6 of the Jurisdiction Section of the Complaint, said paragraph
25 contains a legal conclusion and requires no response thereto; otherwise, GB Sciences admits the
26 allegations contained therein.

27 GENERAL STATUTORY AND REGULATORY FRAMEWORK

28 4. Answering Paragraphs No. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, and 20 of the
General Statutory and Regulatory Framework Section of the Complaint, GB Sciences admits the
allegations contained therein.

1 5. Answering Paragraph No. 18 of the General Statutory and Regulatory Framework
2 Section of the Complaint, GB Sciences admits that the City of Las Vegas granted a special use permit
3 to twenty-seven (27) applicants, but is without information sufficient to form a reasonable belief as to
4 the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the
5 same in their entirety.

6 THE DIVISION'S APPLICATION AND APPROVAL PROCESS

7 6. Answering Paragraphs No. 21, 22, 23, 26, and 27 of the Division's Application and
8 Approval Process Section of the Complaint, said paragraph contains a legal conclusion and requires
9 no response thereto; otherwise, GB Sciences admits the allegations contained therein.

10 7. Answering Paragraphs No. 24 and 25 of the Division's Application and Approval
11 Process Section of the Complaint, said paragraph contains a legal conclusion and requires no response
12 thereto; otherwise, GB Sciences is without information sufficient to form a reasonable belief as to the
13 truth or falsity of the allegations contained in said paragraphs but admits the allegations contained
14 therein upon information and belief.

15 THE DIVISION'S ISSUANCE OF PROVISIONAL CERTIFICATES

16 8. Answering Paragraphs No. 28, 29, 30, 32, and 35 of the Division's Issuance of
17 Provisional Certificates Section of the Complaint, said paragraph contains a legal conclusion and
18 requires no response thereto; otherwise, GB Sciences admits the allegations contained therein.

19 9. Answering Paragraphs No. 31, 33, 34, 40, 41, 42, and 43 of the Division's Issuance of
20 Provisional Certificates Section of the Complaint, said paragraph contains a legal conclusion and
21 requires no response thereto; otherwise, GB Sciences is without information sufficient to form a
22 reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore,
23 denies the same in their entirety.

24 10. Answering Paragraphs No. 36, 37, 38, 39, 44, 45, 46, 47, and 48 of the Division's
25 Issuance of Provisional Certificates Section of the Complaint, said paragraph contains a legal
26 conclusion and requires no response thereto; otherwise, GB Sciences is without information sufficient
27 to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and,
28 therefore, denies the same in their entirety.

DEFENDANT NULEAF'S APPLICATION

11. Answering Paragraphs No. 49, 53 and 54 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

12. Answering Paragraphs No. 50, 51, 52, 57, 58, and 59 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences admits the allegations contained therein.

13. Answering Paragraph No. 55 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegation "which included Plaintiff in Intervention" but admits the remaining allegations contained in said paragraph.

14. Answering Paragraph No. 56 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences admits the allegation that "Nuleaf did not meet those requirements" but is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

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

15. Answering Paragraphs No. 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 76, and 77 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

16. Answering Paragraphs No. 63, 74, and 75 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences admits the allegations contained in said paragraphs.

17. Answering Paragraph No. 73 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, the Order speaks for itself; otherwise, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraph, and, therefore, denies the same in their entirety.

1 18. Answering Paragraph No. 78 of the Plaintiff in Intervention's Application and District
2 Court Order in Case Section of the Complaint, GB Sciences denies the allegations that "Plaintiff in
3 Intervention is the 13th ranked applicant," and "[t]hat error was corrected when Plaintiff in Intervention
4 obtained an order of mandamus directing the Division to rescore and re-rank the Application. As such,
5 Plaintiff in Intervention should receive the first Provisional License should one become available," and
6 otherwise is without information sufficient to form a reasonable belief as to the truth or falsity of the
7 remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

8 DIVISION'S REFUSAL TO IDENTIFY NEXT HIGHEST RANKED APPLICANT

9 19. Answering Paragraphs No. 79, 80, and 81 of the Division's Refusal to Identify the Next
10 Highest Ranked Applicant Section of the Complaint, GB Sciences is without information sufficient to
11 form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and,
12 therefore, denies the same in their entirety.

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

14 20. Answering Paragraphs No. 82, 86, 87, 88, and 89 of the City of Las Vegas' Subsequent
15 Processing of Nuleaf's Application Section of the Complaint, GB Sciences is without information
16 sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said
17 paragraphs, and, therefore, denies the same in their entirety.

18 21. Answering Paragraphs No. 83, 84, and 85 of the City of Las Vegas' Subsequent
19 Processing of Nuleaf's Application Section of the Complaint, GB Sciences admits the allegations
20 contained in said paragraphs.

21 FIRST CAUSE OF ACTION
22 (Declaratory Relief)

23 22. Answering Paragraph No. 90 of the First Cause of Action set forth in the Complaint, GB
24 Sciences repeats its responses to Paragraphs No. 1 through 89 of the Complaint as if more fully set forth
25 herein.

26 23. Answering Paragraphs No. 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, and
27 104 of the First Cause of Action set forth in the Complaint, GB Sciences is without information

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1 sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said
2 paragraphs, and, therefore, denies the same in their entirety.

3 SECOND CAUSE OF ACTION
4 (Injunctive Relief Against the Division and the City of Las Vegas)

5 24. Answering Paragraph No. 105 of the Second Cause of Action set forth in the Complaint,
6 GB Sciences repeats its responses to Paragraphs No. 1 through 104 of the Complaint as if more fully
7 set forth herein.

8 25. Answering Paragraphs No. 106, 107, 108, 109, 110, 111, 112, 113 (a through e,
9 inclusive), 114 (a through b, inclusive), and 115 of the Second Cause of Action set forth in the
10 Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or
11 falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

12 PETITION FOR WRIT OF MANDAMUS

13 26. Answering Paragraph No. 116 of the Petition for Writ of Mandamus set forth in the
14 Complaint, GB Sciences repeats its responses to Paragraphs No. 1 through 115 of the Complaint as if
15 more fully set forth herein.

16 27. Answering Paragraphs No. 117, 120, 122, and 123 of the Petition for Writ of Mandamus
17 set forth in the Complaint, GB Sciences is without information sufficient to form a reasonable belief
18 as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same
19 in their entirety.

20 28. Answering Paragraphs No. 118 and 119 of the Petition for Writ of Mandamus set forth
21 in the Complaint, GB Sciences admits the allegations contained in said paragraphs.

22 29. Answering Paragraph No. 121 of the Petition for Writ of Mandamus set forth in the
23 Complaint, GB Sciences admits that the Division failed to perform the acts described in Paragraphs 118
24 and 119 of the Petition for Writ of Mandamus that Nevada law compelled the Division to perform, but
25 is otherwise without information sufficient to form a reasonable belief as to the truth or falsity of the
26 allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

27 AFFIRMATIVE DEFENSES

28 1. The Complaint in Intervention fails to state a claim upon which relief may be granted.

2. ACRES MEDICAL, LLC's claims are barred by the doctrine of laches.
3. ACRES MEDICAL, LLC's claims are barred by the doctrine of waiver.
4. ACRES MEDICAL, LLC's claims are barred by the doctrines of estoppel, estoppel by fraud, and equitable estoppel.
5. The Complaint in Intervention is barred by the statute of frauds.
6. Plaintiff in Intervention failed to fulfill the requirements of NRS Chapter 453A, NAC 453A, and/or the requirements of the City of Las Vegas for issuance of a provisional registration certificate for an MME license.
7. The re-scoring of Plaintiff in Intervention's was void, against public policy, and inequitable.
8. The Order issued by Judge Cadish violates GB Sciences' due process rights, enshrined in the United States Constitution and Nevada State Constitution.
9. The Order issued by Judge Cadish has no *res judicata* effect upon GB Sciences.
10. Plaintiffs in Intervention's own conduct, and that of its own principals, is the proximate cause of Plaintiffs in Intervention's damages or other grievances, if any.
11. Plaintiffs in Intervention have acted in bad faith.
12. Plaintiffs in Intervention have unclean hands.
13. GB Sciences denies each and every allegation of the Complaint in Intervention not specifically admitted or otherwise pleaded to herein.
14. It has been necessary to employ the services of an attorney to defend this action and a reasonable sum should be allowed GB Sciences as and for attorney's fees, together with their costs expended in this action.
15. GB Sciences incorporates by reference those affirmative defenses enumerated in N.R.C.P. 8 as if fully set forth herein. If further investigation or discovery reveals the applicability of any such defenses, GB Sciences reserves the right to seek leave of Court to amend this answer to complaint in intervention to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defenses.

///

1 16. Pursuant to N.R.C.P. Rule 11, as amended, all possible affirmative defenses may not
2 have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
3 filing of the Answer to Complaint in Intervention and, therefore, GB Sciences reserves the right to
4 amend its Answer to Complaint in Intervention to allege additional affirmative defenses.

5 WHEREFORE, Plaintiff/Defendant in Intervention/Counterclaimant in Intervention GB
6 Sciences prays for relief as follows:

- 7 1. That Acres Medical take nothing by way of its Complaint in Intervention,
- 8 2. That GB Sciences be awarded its attorneys' fees and costs incurred in defendant against
9 the Complaint in Intervention; and
- 10 3. That GB Sciences be awarded such other and further relief as the Court deems
11 appropriate in the premises.

12
13 COUNTERCLAIM

14 COMES NOW Plaintiff/Counterclaimant in Intervention, GB SCIENCES NEVADA, LLC, a
15 Nevada limited liability company, by and through its attorneys of record, SMITH & SHAPIRO, PLLC,
16 and for its Counterclaim in Intervention, alleges and avers as follows:

17 1. Counterclaimant, GB SCIENCES NEVADA, LLC ("GB Sciences") is a Nevada limited
18 liability company located in Clark County, Nevada.

19 2. Upon information and belief, Counterdefendant ACRES MEDICAL, LLC ("Acres
20 Medical") is a Nevada limited liability company doing business in Clark County, Nevada.

21 3. Defendant, STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL
22 HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (the "Division") is an
23 agency of the State of Nevada.

24 4. Venue is proper in this Court pursuant to N.R.S. § 13.020(3) and N.R.S. §
25 233N.130(2)(b), in that this is the county where the cause, or some part thereof, arose and the aggrieved
26 party resides.

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GENERAL ALLEGATIONS

5. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medicinal marijuana.

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

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

8. The Division, as well as the local jurisdiction, played a role in the ultimate licensing of MMEs.

9. Specifically, the local jurisdiction was tasked with considering issues such as site plans, zoning and proximity to other business or facilities while the Division focused on public health, public safety, and marijuana as a medicine.

10. The City of Las Vegas was allotted twelve (12) MME registration certificates (the "Registration Certificates") by the Division.

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

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

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

14. In addition, the City of Las Vegas prepared and issued a separate application packet for any person wishing to obtain the required special use permit and business licensing for the operation of a medical marijuana establishment in the City of Las Vegas (the "Las Vegas Application").

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

3 16. Counterclaimant, Nuleaf CLV Dispensary, LLC ("Nuleaf"), and Counterdefendant
4 Acres Medical were three (3) of the applicants.

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

7 18. The City of Las Vegas granted a special use permit to twenty-seven (27) applicants,
8 including Counterclaimant.

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

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

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

17 22. While the Division was allowed to *accept* all applications submitted, under N.R.S. §
18 453A.322, the Division could only issue a Provisional Certificate if the applicant's application included
19 six (6) specific items and if the applicant otherwise met the requirements established by N.R.S. Chapter
20 453A.

21 23. NRS 453A.322(3)(a)(2) through (5) provided a list of items that every application for
22 a medical marijuana establishment must have submitted to the Division.

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

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1 25. The Division was required to rank from first to last the completed applications within
2 a particular jurisdiction based on the content of each application as it relates to the criteria for
3 evaluation determined by the Division and provided by NRS Chapter 453A.

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

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

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

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

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

21 31. The City of Las Vegas is a Nevada city that enacted ordinances for the zoning and
22 business licensing of medical marijuana establishments.

23 32. As such, the Division was required to ensure compliance with NRS 453A.326(3)(5).

24 33. The Nevada Legislature enacted NRS 453A.322(3)(a)(5), which expressly required all
25 applicants for the operation of a medical marijuana establishment in the City of Las Vegas to submit
26 proof of the City of Las Vegas' zoning approval or a letter from the City of Las Vegas acknowledging
27 that the applicant's proposed medical marijuana establishment was in compliance with the City of Las
28 Vegas' restrictions and applicable building requirements.

1 34. On or before the Division's August 18, 2014 deadline, the Division received multiple
2 applications for the City of Las Vegas' twelve (12) allotted medical marijuana establishment registration
3 certificates for the operation of a medical marijuana dispensary in the City of Las Vegas.

4 35. Counterclaimant, Nuleaf, and Acres were among these applicants to the Division.

5 36. Prior to submitting an application to the Division, Counterclaimant, Nuleaf, and Acres
6 each submitted an application to the City of Las Vegas for a Special Use Permit and a Business License
7 as required by the City of Las Vegas' newly enacted ordinances.

8 37. After an October 29, 2014 special meeting, the City Council of the City of Las Vegas
9 denied Nuleaf's application for a Special Use Permit.

10 38. To the contrary, Counterclaimant received a Special Use Permit for the operation of
11 medical marijuana dispensary from the City of Las Vegas and further, its application for Business
12 License was recommended for approval.

13 39. In addition, Counterclaimant submitted as part of its application to the Division the City
14 of Las Vegas' certification that Counterclaimant complied with the City of Las Vegas's ordinances and
15 building requirements concerning the operation of a medical marijuana establishment in the City of Las
16 Vegas.

17 40. Upon information and belief, the City of Las Vegas informed the Division of those
18 applicants that it approved for a Special Use Permit, which included Counterclaimant, and those
19 applicants that it denied a Special Use Permit, which included Nuleaf.

20 41. Upon information and belief, the Division, upon receipt of the 49 applications for the
21 operation of a medical marijuana dispensary in the City of Las Vegas, never made the required initial
22 determination that each application for the operation of a medical marijuana dispensary was complete.

23 42. Also upon information and belief, the Division never determined whether each applicant
24 had submitted the required proof of licensure from the City of Las Vegas or a letter from the City of
25 Las Vegas certifying that each applicant's proposed medical marijuana dispensary complied with the
26 City of Las Vegas' restrictions and building requirements as prescribed by NRS 455A.322(3)(a)(5).

27 43. As a result, the Division improperly ranked the application of Nuleaf against the
28 acceptable criteria.

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

4 45. Counterclaimant had been ranked number 13 based upon a score of 166.86.

5 46. Acres had received a score of 126 and was ranked only 36 or 37 by the Division.

6 47. At the same time, Counterclaimant discovered that the Division ranked and issued
7 provisional registration certificate to Nuleaf (ranked #3 even though it was denied the required Special
8 Use Permit and Business License from the City of Las Vegas).

9 48. Had the Division complied with the express requirements of NRS 453A.322(3), NAC
10 453A.310, NAC 453A.312, and NAC 453A.332, and the Division's previous public statements regarding
11 the correct application procedure, Nuleaf should not have received a ranking let alone a provisional
12 registration certificate.

13 49. More importantly, Counterclaimant's score (166.86) would have and should been high
14 enough to rank within the top 12 spots (# 11) allotted for the City of Las Vegas and therefore,
15 Counterclaimant should have received a provisional registration certificate from the Division within
16 the 90-day evaluation period.

17 50. Consequently, Counterclaimant, in actuality being ranked #11, would have received
18 provisional registration certificate from the Division in accordance with Nevada law and as approved
19 by the City of Las Vegas.

20 51. On or about June 9, 2015, Counterdefendant Acres filed an action against the Division
21 with the Eighth Judicial District Court, being Case No. A-15-719637-W, to have its MME application
22 with the Division re-scored based upon a purported math error (the "Acres Case").

23 52. Counterdefendant did not include Counterclaimant as a party to the Acres Case.

24 53. On or about October 8, 2015, the Court in the Acres Case granted Counterdefendant's
25 Petition for Writ of Mandamus, compelling the Division to re-score Counterdefendant's application for
26 a Provisional Certificate by adding 41.3 to the score, thus raising the score to 167.3 and making
27 Counterdefendant's application rank number 13 for the 12 Registration Certificates allotted to the City
28 of Las Vegas (the "Order").

1 54. On or about November 9, 2015, the Court granted Counterdefendant's motion to
2 intervene in this case.

3 55. On or about November 13, 2015, the Court entered a minute order in this case revoking
4 Nuleaf's Provisional Certificate, but granting it to Counterdefendant, applying the re-coring set forth
5 in the Order and moving Counterdefendant to #12 in rank with the removal of Nuleaf, even though
6 Counterclaimant was never a party to the Acres Case or able to litigate the re-scoring.

7 56. On or about November 17, 2015, Acres Medical filed its Complaint in Intervention,
8 seeking to impose the effect of the Order upon Counterclaimant and jump ahead of Counterclaimant
9 in line for the 12 Registration Certificates allotted to the City of Las Vegas.

10 **FIRST CAUSE OF ACTION**
11 **(Declaratory Relief, Pursuant to N.R.S. § 30.010 et seq.)**

12 57. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through
13 56 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set
14 forth herein.

15 58. Under Nevada law, the Order does not bind Counterclaimant and has no *res judicata*
16 effect upon Counterclaimant's right to seek the revoked Provisional Certificate originally issued to
17 Nuleaf.

18 59. Under Nevada law, the Court in the Acres Case had no jurisdiction to determine the
19 relative position of Acres *vis-a-vis* Counterclaimant as Counterclaimant was not a party to the Acres
20 Case.

21 60. The rescoring of Acres Medical's MME application by the court in the Acres Case was
22 void as against Counterclaimant because Acres Medical failed to include Counterclaimant as a party
23 in the case, which was a necessary and indispensable party.

24 61. Counterclaimant was denied its due process right to contest the scoring of MME
25 applications by the Division and to contest entitlement to Nuleaf's revoked Provisional Certificate.

26 62. The re-scoring of Acres Medical's MME application with the Division was void, against
27 public policy, and inequitable.

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63. Under the doctrines laches, waiver and/or estoppel, as well as general equitable principles, and notwithstanding the Order, Acres Medical should not have priority over Counterclaimant.

64. There exists a justiciable controversy between Counterclaimant, on the one hand, and Acres Medical on the other hand regarding the scoring of applications and the issuance of provisional certificates for MME dispensaries under NRS Chapter 453A.

65. The interests of Counterclaimant are adverse to the interests of Acres Medical.

66. Counterclaimant has a legally protectable interest in the controversy.

67. The issue involved in the controversy is ripe for judicial determination with respect to the construction, interpretation, and implementation of NRS Chapter 453A, NAC 453A, and other Nevada laws and regulations as to the Counterclaimant.

68. Counterclaimant is entitled to a declaration, pursuant to N.R.S. § 30.010 *et seq.*, that while the Order from the Acres Case may have required to Division to rerank Acres Medical's application, the Acres Court Order lacks any prejudicial or precedential value when it comes to the relative positions of Acres Medical and Counterclaimant; that the Order has no force or effect upon Counterclaimant; that under the doctrines laches, waiver and/or estoppel, as well as general equitable principles, Counterclaimant should have priority over Acres Medical when it comes to any available provisional certificates; that the Provisional Certificate issued to Nuleaf and subsequently revoked by the Court should be issued to Counterclaimant (not Acres Medical); that Acres Medical is behind and below Counterclaimant in rank; that Acres Medical should not be issued an actual provisional certificate until this dispute is resolved; and that the deadlines and requirements for issuance of licenses for MME Dispensaries should be tolled for the benefit of the Counterclaimant until after the Counterclaimant's claims are determined in this case so that Counterclaimant will not suffer detriment due to the fact that it should have been issued a provisional certificate on November 3, 2014.

69. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

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SECOND CAUSE OF ACTION
(Injunctive Relief)

70. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through 69 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set forth herein.

71. Counterclaimant has already asserted claims against the Division in this case for injunctive relief regarding the issuance of provisional certificates to Nuleaf and Desert Aire.

72. However, to the extent necessary to ensure this remedy is still available, Counterclaimant is likewise entitled to a permanent mandatory injunction against the Division, enjoining the Division:

- (a) from issuing actual Registration Certificates to Nuleaf and Acres Medical;
- (b) to revoke the provisional certificates issued to Nuleaf and Acres Medical;
- (c) to identify Counterclaimant as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and
- (d) to issue a provisional certificates to the Counterclaimant.

73. Counterclaimant is likewise entitled to a permanent mandatory injunction against the City, requiring the City to toll all deadlines which would have been required of the Counterclaimant until after the Court rules on Counterclaimant's claims in this case, by virtue of the fact that Counterclaimant should have received a Provisional Certificate on November 3, 2014.

74. Alternatively, Counterclaimant is entitled to a permanent mandatory injunction that the one revoked provisional certificates be issued to the Counterclaimant, and not to Acres Medical because the re-scoring and re-ranking of Acres Medical was void, and/or that due to public policy and/or equitable principles, Acres Medical should not receive the one available provisional certificate, which should instead be issued to Counterclaimant.

75. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

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PETITION FOR WRIT OF MANDAMUS

76. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through 74 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set forth herein.

77. Counterclaimant has already petition for a writ of mandamus against the Division in its original Complaint.

78. To the extent required, that petition is repeated and reasserted herein in its entirety.

WHEREFORE, Counterclaimant in Intervention prays for relief as follows:

1. For declaratory relief in the manner set forth in Counterclaimant's First Cause of Action;
2. For injunctive relief, specifically a preliminary and permanent mandatory injunction, enjoining the Division:

- (a) from issuing actual Registration Certificates to Nuleaf and Acres Medical;
- (b) to revoke the Provisional Certificates issued to Nuleaf and Acres Medical;
- (c) to identify Counterclaimant as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and
- (d) to issue a Provisional Certificate to Counterclaimant.

3. For injunctive relief, specifically a preliminary and permanent mandatory injunction, requiring the City to toll all deadlines which would have been required of the Counterclaimant until after the Court rules on Counterclaimants claims in this case, by virtue of the fact that Counterclaimant should have received a Provisional Certificate on November 3, 2014.

4. Alternatively, for a permanent mandatory injunction that the one revoked provisional certificates be issued to the Counterclaimant, and not to Acres Medical because the re-scoring and re-ranking of Acres Medical was void, and/or that due to public policy and/or equitable principles, Acres Medical should not receive the one available provisional certificate, which should instead be issued to Counterclaimant.

5. For reasonable attorneys' fees and costs of suit; and

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2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

1 6. For such other and further relief as the Court deems appropriate in the premises.

2 DATED this 3rd day of December, 2015.

3 SMITH & SHAPIRO, PLLC

4 /s/ James E. Shapiro
5 James E. Shapiro, Esq.
6 Nevada Bar No. 7907
7 Sheldon A. Herbert, Esq.
8 Nevada Bar No. 5988
9 2520 St. Rose Parkway, Suite 220
10 Henderson, NV 89074
11 *Attorneys for Plaintiff/Defendant*
12 *in Intervention/Counter-*
13 *claimant in Intervention*
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SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 3rd day of December, 2015, I served a true and correct copy of the forgoing **ANSWER TO COMPLAINT IN INTERVENTION AND COUNTERCLAIM**, by e-serving a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer Togliatti, on May 9, 2014.

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

EXHIBIT 10

EXHIBIT 10


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
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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.



MORAN BRANDON
BENDAVID MORAN
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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 11

EXHIBIT 11


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
DESERT AIRE WELLNESS, LLC,
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,

///

///



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

2 DATED this 1st day of April, 2015.

3
4 **MORAN BRANDON BENDAVID MORAN**

5
6 /s/: Jeffery A. Bendavid, Esq.

7 **JEFFERY A. BENDAVID, ESQ.**

8 Nevada Bar No. 6220

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

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13 *Attorneys for Plaintiff*

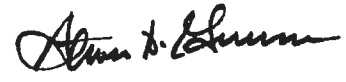


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EXHIBIT 12

EXHIBIT 12



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**

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8 Las Vegas, Nevada 89101

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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)**

29 **FIRST AMENDED COMPLAINT AND IN ADDITION, OR IN THE**
30 **ALTERNATIVE, FIRST AMENDED PETITION FOR JUDICIAL REVIEW AND**
31 **WRIT OF MANDAMUS**

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



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

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

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

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



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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



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

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

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

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

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

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



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THE DIVISION'S APPLICATION AND APPROVAL PROCESS

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

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

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

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

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



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

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

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



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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 **PLAINTIFF AND DEFENDANTS’ APPLICATIONS**

11
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 53. Plaintiff, Desert Aire, and Nuleaf were among these 49 applicants to the
17 Division.

18
19 54. Prior to submitting an application to the Division, Plaintiff, Desert Aire, and
20 Nuleaf, also each submitted an application to the City of Las Vegas for a Special Use Permit
21 and a Business License as required by the City of Las Vegas’ newly enacted ordinances.

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

25
26 56. After an October 29, 2014 special meeting, the City Council of the City of
27 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 59. Upon information and belief, the City of Las Vegas informed the Division of
11 those applicants that it approved for a Special Use Permit, which included Plaintiff, and
12 those applicants that it denied a Special Use Permit, which included Nuleaf, or otherwise
13 had withdrawn their applications, which included Desert Aire.

14
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)*.



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

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

65. At the same time, Plaintiff discovered that the Division ranked and issued a "provisional" registration certificate to 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.

66. 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.

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

68. Consequently, Plaintiff, 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.



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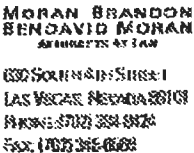
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1 80. Nuleaf also applied to the City of Las Vegas for a Special Use Permit and
2 Compliance Permit for the operation of a medical marijuana establishment in the City of Las
3 Vegas.

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

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

21
22 100. Plaintiff also seeks a declaration from this Court that the Division is not
23 prohibited by NRS Chapter 453A, NAC Chapter 453A, or any other applicable Nevada law
24 or regulation from issuing Plaintiff at any time, a “provisional” registration certificate for
25 the operation of a medical marijuana establishment in the City of Las Vegas since the City
26 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.

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

16
17 104. It has also become necessary for Plaintiff to retain the services of an
18 attorney to commence this action, and Plaintiff is therefore entitled to reasonable attorney's
19 fees and the costs of this suit.
20

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.

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

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

19 109. The Division's continued refusal to comply with the requirements of NRS
20 Chapter 453A and NAC Chapter 453A in declaring Plaintiff as the next available qualified
21 applicant has and continues to harm Plaintiff as Plaintiff has not received a "provisional"
22 registration certificate for the operation of a medical marijuana establishment in the City of
23 Las Vegas that Plaintiff otherwise is entitled to receive pursuant to NRS Chapter 453A and
24 NAC Chapter 453A.
25
26
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28



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

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

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

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



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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**

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

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.
27
28



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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.



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

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

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

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

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

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

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



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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

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23 *Attorneys for Plaintiff*
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EXHIBIT 13

EXHIBIT 13



CLERK OF THE COURT

COMP
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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**

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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.

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GENERAL STATUTORY AND REGULATORY FRAMEWORK

7. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medical marijuana.

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

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

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

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

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

13. In accordance with such responsibilities, the City Council of the City of Las Vegas enacted Ordinance no. 6321 to establish zoning regulations and standards for medical marijuana establishments.

14. The City Council of the City of Las Vegas also enacted Ordinance no. 6324 to establish licensing regulations and standards for medical marijuana establishments.

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

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

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

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

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

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

THE DIVISION'S APPLICATION AND APPROVAL PROCESS

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

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

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

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.

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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
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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.

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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
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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
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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)

3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169

Counsel for Plaintiff in Intervention Acres Medical, LLC

1 **CERTIFICATE OF SERVICE**

2 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
3 November, 2015, I caused a true and correct copy of the foregoing **COMPLAINT IN**
4 **INTERVENTION FOR DECLARATORY AND INJUNCTIVE RELIEF AND/OR**
5 **PETITION FOR WRIT OF MANDAMUS OR PROHIBITION** to be filed and served via the
6 Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the
7 date and place of deposit in the mail.

8
9 */s/ Joyce Heilich*

10 An employee of GREENBERG TRAUIG, LLP
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GREENBERG TRAUIG, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89189
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

EXHIBIT A



CLERK OF THE COURT

1 **ORDG**

2 MARK E. FERRARIO (NV Bar #1625)

3 LONDON LERNER (NV Bar #13368)

4 GREENBERG TRAURIG, LLP

5 3773 Howard Hughes Parkway, Suite 400 North
6 Las Vegas, NV 89169

7 Telephone: (702) 792-3773

8 Facsimile: (702) 792-9002

9 E-mail: ferrariom@gtlaw.com

10 lernerl@gtlaw.com

11 *Counsel for Plaintiffs/Petitioners*

12 *Acres Medical, LLC and Acres Cultivation, LLC*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 ACRES MEDICAL, LLC, a Nevada limited
16 liability company; and ACRES
17 CULTIVATION, LLC, a Nevada limited
18 liability company,

19 Plaintiffs/Petitioners,

20 ~ vs. ~

21 NEVADA DEPARTMENT OF HEALTH
22 AND HUMAN SERVICES, DIVISION OF
23 PUBLIC AND BEHAVIORAL HEALTH,

24 Defendant/ Respondent,

25 And

26 NLVG, LLC; NULEAF CLV CULTIVATION,
27 LLC; THE MEDMEN OF NEVADA 2, LLC;
28 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; THE
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**

☐ Non-Jury
Disposed After Trial Start
☐ Non-Jury
Judgment Reached
☐ Transferred before Trial

☐ Jury
Disposed After Trial Start
☐ Jury
Verdict Reached
☒ Other -

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

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

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

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

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

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

16 5. Despite having information indicating that the Application should have received a
17 score of 41.3 in the Organizational Structure category, the Division gave the Application a score of
18 0 in the Organizational Structure category;

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

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

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

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

28 ///

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)
LANDON 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*

10
11
12
13 GREENBERG TRAURIG, LLP
14 3773 Howard Hughes Parkway
15 Suite 400 North
16 Las Vegas, Nevada 89169
17 Telephone: (702) 792-3773
18 Facsimile: (702) 792-9002
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Form SS-4 (Rev. January 2010) Department of the Treasury Internal Revenue Service		Application for Employer Identification Number (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) ▶ See separate instructions for each line. ▶ Keep a copy for your records.		OMB No. 1545-0003 EIN															
Type or print clearly.	1 Legal name of entity (or individual) for whom the EIN is being requested CONNECTORS PLUS, LLC																		
	2 Trade name of business (if different from name on line 1)		3 Executor, administrator, trustee, "care of" name MARIZA M. BELTRAN																
	4a Mailing address (room, apt., suite no. and street, or P.O. box) 4162 ABERNETHY FOREST PL.		5a Street address (if different) (Do not enter a P.O. box.)																
	4b City, state, and ZIP code (if foreign, see instructions) LAS VEGAS, NV 89141		5b City, state, and ZIP code (if foreign, see instructions)																
	6 County and state where principal business is located CLARK, NEVADA																		
	7a Name of responsible party RICARDO L. BELTRAN		7b SSN, ITIN, or EIN 182-84-8536																
	8a Is this application for a limited liability company (LLC) (or a foreign equivalent)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		8b If 8a is "Yes," enter the number of LLC members 1																
8c If 8a is "Yes," was the LLC organized in the United States? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																			
9a Type of entity (check only one box). Caution. If 8a is "Yes," see the instructions for the correct box to check. <table border="0"><tr><td><input type="checkbox"/> Sole proprietor (SSN) _____</td><td><input type="checkbox"/> Estate (SSN of decedent) _____</td></tr><tr><td><input type="checkbox"/> Partnership</td><td><input type="checkbox"/> Plan administrator (TIN) _____</td></tr><tr><td><input type="checkbox"/> Corporation (enter form number to be filed) ▶ _____</td><td><input type="checkbox"/> Trust (TIN of grantor) _____</td></tr><tr><td><input type="checkbox"/> Personal service corporation</td><td><input type="checkbox"/> National Guard <input type="checkbox"/> State/local government</td></tr><tr><td><input type="checkbox"/> Church or church-controlled organization</td><td><input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military</td></tr><tr><td><input type="checkbox"/> Other nonprofit organization (specify) ▶ _____</td><td><input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises</td></tr><tr><td><input checked="" type="checkbox"/> Other (specify) ▶ DISREGARDED</td><td>Group Exemption Number (GEN) if any ▶ _____</td></tr></table>					<input type="checkbox"/> Sole proprietor (SSN) _____	<input type="checkbox"/> Estate (SSN of decedent) _____	<input type="checkbox"/> Partnership	<input type="checkbox"/> Plan administrator (TIN) _____	<input type="checkbox"/> Corporation (enter form number to be filed) ▶ _____	<input type="checkbox"/> Trust (TIN of grantor) _____	<input type="checkbox"/> Personal service corporation	<input type="checkbox"/> National Guard <input type="checkbox"/> State/local government	<input type="checkbox"/> Church or church-controlled organization	<input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military	<input type="checkbox"/> Other nonprofit organization (specify) ▶ _____	<input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises	<input checked="" type="checkbox"/> Other (specify) ▶ DISREGARDED	Group Exemption Number (GEN) if any ▶ _____	
<input type="checkbox"/> Sole proprietor (SSN) _____	<input type="checkbox"/> Estate (SSN of decedent) _____																		
<input type="checkbox"/> Partnership	<input type="checkbox"/> Plan administrator (TIN) _____																		
<input type="checkbox"/> Corporation (enter form number to be filed) ▶ _____	<input type="checkbox"/> Trust (TIN of grantor) _____																		
<input type="checkbox"/> Personal service corporation	<input type="checkbox"/> National Guard <input type="checkbox"/> State/local government																		
<input type="checkbox"/> Church or church-controlled organization	<input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military																		
<input type="checkbox"/> Other nonprofit organization (specify) ▶ _____	<input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises																		
<input checked="" type="checkbox"/> Other (specify) ▶ DISREGARDED	Group Exemption Number (GEN) if any ▶ _____																		
9b If a corporation, name the state or foreign country (if applicable) where incorporated		State		Foreign country															
10 Reason for applying (check only one box) <table border="0"><tr><td><input type="checkbox"/> Started new business (specify type) ▶ _____</td><td><input checked="" type="checkbox"/> Banking purpose (specify purpose) ▶ _____</td></tr><tr><td><input type="checkbox"/> Hired employees (Check the box and see line 13.)</td><td><input type="checkbox"/> Changed type of organization (specify new type) ▶ _____</td></tr><tr><td><input type="checkbox"/> Compliance with IRS withholding regulations</td><td><input type="checkbox"/> Purchased going business</td></tr><tr><td><input type="checkbox"/> Other (specify) ▶ _____</td><td><input type="checkbox"/> Created a trust (specify type) ▶ _____</td></tr><tr><td></td><td><input type="checkbox"/> Created a pension plan (specify type) ▶ _____</td></tr></table>					<input type="checkbox"/> Started new business (specify type) ▶ _____	<input checked="" type="checkbox"/> Banking purpose (specify purpose) ▶ _____	<input type="checkbox"/> Hired employees (Check the box and see line 13.)	<input type="checkbox"/> Changed type of organization (specify new type) ▶ _____	<input type="checkbox"/> Compliance with IRS withholding regulations	<input type="checkbox"/> Purchased going business	<input type="checkbox"/> Other (specify) ▶ _____	<input type="checkbox"/> Created a trust (specify type) ▶ _____		<input type="checkbox"/> Created a pension plan (specify type) ▶ _____					
<input type="checkbox"/> Started new business (specify type) ▶ _____	<input checked="" type="checkbox"/> Banking purpose (specify purpose) ▶ _____																		
<input type="checkbox"/> Hired employees (Check the box and see line 13.)	<input type="checkbox"/> Changed type of organization (specify new type) ▶ _____																		
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<input type="checkbox"/> Other (specify) ▶ _____	<input type="checkbox"/> Created a trust (specify type) ▶ _____																		
	<input type="checkbox"/> Created a pension plan (specify type) ▶ _____																		
11 Date business started or acquired (month, day, year). See instructions.		12 Closing month of accounting year DECEMBER																	
13 Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14. <table border="1"><tr><td>Agricultural -0-</td><td>Household -0-</td><td>Other -0-</td></tr></table>		Agricultural -0-	Household -0-	Other -0-	14 If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability generally will be \$1,000 or less if you expect to pay \$4,000 or less in total wages.) If you do not check this box, you must file Form 941 for every quarter. <input type="checkbox"/>														
Agricultural -0-	Household -0-	Other -0-																	
15 First date wages or annuities were paid (month, day, year). Note. If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) ▶ _____																			
16 Check one box that best describes the principal activity of your business. <table border="0"><tr><td><input type="checkbox"/> Construction</td><td><input type="checkbox"/> Rental & leasing</td><td><input type="checkbox"/> Transportation & warehousing</td><td><input type="checkbox"/> Health care & social assistance</td><td><input type="checkbox"/> Wholesale-agent/broker</td></tr><tr><td><input type="checkbox"/> Real estate</td><td><input type="checkbox"/> Manufacturing</td><td><input type="checkbox"/> Finance & insurance</td><td><input type="checkbox"/> Accommodation & food service</td><td><input type="checkbox"/> Wholesale-other</td></tr><tr><td colspan="3"></td><td><input type="checkbox"/> Other (specify)</td><td><input type="checkbox"/> Retail</td></tr></table>					<input type="checkbox"/> Construction	<input type="checkbox"/> Rental & leasing	<input type="checkbox"/> Transportation & warehousing	<input type="checkbox"/> Health care & social assistance	<input type="checkbox"/> Wholesale-agent/broker	<input type="checkbox"/> Real estate	<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Finance & insurance	<input type="checkbox"/> Accommodation & food service	<input type="checkbox"/> Wholesale-other				<input type="checkbox"/> Other (specify)	<input type="checkbox"/> Retail
<input type="checkbox"/> Construction	<input type="checkbox"/> Rental & leasing	<input type="checkbox"/> Transportation & warehousing	<input type="checkbox"/> Health care & social assistance	<input type="checkbox"/> Wholesale-agent/broker															
<input type="checkbox"/> Real estate	<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Finance & insurance	<input type="checkbox"/> Accommodation & food service	<input type="checkbox"/> Wholesale-other															
			<input type="checkbox"/> Other (specify)	<input type="checkbox"/> Retail															
17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided.																			
18 Has the applicant entity shown on line 1 ever applied for and received an EIN? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," write previous EIN here ▶ _____																			
Third Party Designee	Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.																		
	Designee's name SMITH & SHAPIRO, PLLC (GREGORY S. SMITH, ESQ.)		Designee's telephone number (include area code) (702) 318-5033																
	Address and ZIP code 2520 St. Rose Parkway, Ste. 220, Henderson, NV 89074		Designee's fax number (include area code) (702) 318-5034																
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete. Name and title (type or print clearly) ▶ MARIZA M. BELTRAN, MEMBER			Applicant's telephone number (include area code) (702) 851-7600																
Signature ▶ _____			Applicant's fax number (include area code) (702) 318-5034																
Date ▶ _____																			

EXHIBIT 14

EXHIBIT 14


CLERK OF THE COURT

1 **ANS / CNTR**
James E. Shapiro, Esq.
2 Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
3 Nevada Bar No. 5988
SMITH & SHAPIRO, PLLC
4 2520 St. Rose Parkway, Suite 220
Henderson, NV 89074
5 (702) 318-5033
Attorneys for GB SCIENCES NEVADA, LLC

6
7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

12 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
DEPARTMENT OF HEALTH AND HUMAN
13 SERVICES; NULEAF CLV DISPENSARY, LLC,
a Nevada limited liability company; DOES 1-10, and
14 ROE ENTITIES 1-100, inclusive,

15 Defendants.

16 ACRES MEDICAL, LLC,

17 Plaintiff in Intervention,

18 vs.

19 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
20 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
21 corporation and political subdivision of the State of
Nevada; NULEAF CLV DISPENSARY, LLC, a
22 Nevada limited liability company; GB SCIENCES
NEVADA, LLC, a Nevada limited liability
23 company,

24 Defendants in Intervention.

25
26 \\\

27 \\\

28 \\\

Case No. A-14-710597-C
Dept. No. XX

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

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

3 Counterclaimant in Intervention,

4 vs.

5 ACRES MEDICAL, LLC, a Nevada limited
6 liability company, and STATE OF NEVADA,
7 DIVISION OF PUBLIC AND BEHAVIORAL
8 HEALTH OF THE DEPARTMENT OF HEALTH
9 AND HUMAN SERVICES,

10 Counterdefendants in Intervention.

Date: N/A
Time: N/A

11 ANSWER TO COMPLAINT IN INTERVENTION AND
12 COUNTERCLAIM

13 COMES NOW Plaintiff/Defendant in Intervention/Counterclaimant in Intervention, GB
14 SCIENCES NEVADA, LLC, a Nevada limited liability company ("GB Sciences"), by and through its
15 attorneys of record, SMITH & SHAPIRO, PLLC, and for its Answer to Complaint in Intervention (the
16 "Complaint"), admits, denies, defends, and affirmatively states as follows:

17 THE PARTIES

18 1. Answering Paragraphs No. 1, 2, 3, and 4 of the Parties Section of the Complaint, GB
19 Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the
20 allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

21 2. Answering Paragraph No. 5 of the Parties Section of the Complaint, GB Sciences admits
22 the allegations contained therein.

23 JURISDICTION

24 3. Answering Paragraph No. 6 of the Jurisdiction Section of the Complaint, said paragraph
25 contains a legal conclusion and requires no response thereto; otherwise, GB Sciences admits the
26 allegations contained therein.

27 GENERAL STATUTORY AND REGULATORY FRAMEWORK

28 4. Answering Paragraphs No. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, and 20 of the
General Statutory and Regulatory Framework Section of the Complaint, GB Sciences admits the
allegations contained therein.

1 5. Answering Paragraph No. 18 of the General Statutory and Regulatory Framework
2 Section of the Complaint, GB Sciences admits that the City of Las Vegas granted a special use permit
3 to twenty-seven (27) applicants, but is without information sufficient to form a reasonable belief as to
4 the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the
5 same in their entirety.

6 THE DIVISION'S APPLICATION AND APPROVAL PROCESS

7 6. Answering Paragraphs No. 21, 22, 23, 26, and 27 of the Division's Application and
8 Approval Process Section of the Complaint, said paragraph contains a legal conclusion and requires
9 no response thereto; otherwise, GB Sciences admits the allegations contained therein.

10 7. Answering Paragraphs No. 24 and 25 of the Division's Application and Approval
11 Process Section of the Complaint, said paragraph contains a legal conclusion and requires no response
12 thereto; otherwise, GB Sciences is without information sufficient to form a reasonable belief as to the
13 truth or falsity of the allegations contained in said paragraphs but admits the allegations contained
14 therein upon information and belief.

15 THE DIVISION'S ISSUANCE OF PROVISIONAL CERTIFICATES

16 8. Answering Paragraphs No. 28, 29, 30, 32, and 35 of the Division's Issuance of
17 Provisional Certificates Section of the Complaint, said paragraph contains a legal conclusion and
18 requires no response thereto; otherwise, GB Sciences admits the allegations contained therein.

19 9. Answering Paragraphs No. 31, 33, 34, 40, 41, 42, and 43 of the Division's Issuance of
20 Provisional Certificates Section of the Complaint, said paragraph contains a legal conclusion and
21 requires no response thereto; otherwise, GB Sciences is without information sufficient to form a
22 reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore,
23 denies the same in their entirety.

24 10. Answering Paragraphs No. 36, 37, 38, 39, 44, 45, 46, 47, and 48 of the Division's
25 Issuance of Provisional Certificates Section of the Complaint, said paragraph contains a legal
26 conclusion and requires no response thereto; otherwise, GB Sciences is without information sufficient
27 to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and,
28 therefore, denies the same in their entirety.

DEFENDANT NULEAF'S APPLICATION

11. Answering Paragraphs No. 49, 53 and 54 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

12. Answering Paragraphs No. 50, 51, 52, 57, 58, and 59 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences admits the allegations contained therein.

13. Answering Paragraph No. 55 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegation "which included Plaintiff in Intervention" but admits the remaining allegations contained in said paragraph.

14. Answering Paragraph No. 56 of the Defendant Nuleaf's Application Section of the Complaint, GB Sciences admits the allegation that "Nuleaf did not meet those requirements" but is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

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

15. Answering Paragraphs No. 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 76, and 77 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

16. Answering Paragraphs No. 63, 74, and 75 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, GB Sciences admits the allegations contained in said paragraphs.

17. Answering Paragraph No. 73 of the Plaintiff in Intervention's Application and District Court Order in Case Section of the Complaint, the Order speaks for itself; otherwise, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraph, and, therefore, denies the same in their entirety.

18. Answering Paragraph No. 78 of the Plaintiff in Intervention’s Application and District Court Order in Case Section of the Complaint, GB Sciences denies the allegations that “Plaintiff in Intervention is the 13th ranked applicant,” and “[t]hat 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,” and otherwise is without information sufficient to form a reasonable belief as to the truth or falsity of the remaining allegations contained in said paragraph, and, therefore, denies the same in their entirety.

DIVISION’S REFUSAL TO IDENTIFY NEXT HIGHEST RANKED APPLICANT

19. Answering Paragraphs No. 79, 80, and 81 of the Division’s Refusal to Identify the Next Highest Ranked Applicant Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

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

20. Answering Paragraphs No. 82, 86, 87, 88, and 89 of the City of Las Vegas’ Subsequent Processing of Nuleaf’s Application Section of the Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

21. Answering Paragraphs No. 83, 84, and 85 of the City of Las Vegas’ Subsequent Processing of Nuleaf’s Application Section of the Complaint, GB Sciences admits the allegations contained in said paragraphs.

FIRST CAUSE OF ACTION
(Declaratory Relief)

22. Answering Paragraph No. 90 of the First Cause of Action set forth in the Complaint, GB Sciences repeats its responses to Paragraphs No. 1 through 89 of the Complaint as if more fully set forth herein.

23. Answering Paragraphs No. 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, and 104 of the First Cause of Action set forth in the Complaint, GB Sciences is without information

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1 sufficient to form a reasonable belief as to the truth or falsity of the allegations contained in said
2 paragraphs, and, therefore, denies the same in their entirety.

3 SECOND CAUSE OF ACTION
4 (Injunctive Relief Against the Division and the City of Las Vegas)

5 24. Answering Paragraph No. 105 of the Second Cause of Action set forth in the Complaint,
6 GB Sciences repeats its responses to Paragraphs No. 1 through 104 of the Complaint as if more fully
7 set forth herein.

8 25. Answering Paragraphs No. 106, 107, 108, 109, 110, 111, 112, 113 (a through e,
9 inclusive), 114 (a through b, inclusive), and 115 of the Second Cause of Action set forth in the
10 Complaint, GB Sciences is without information sufficient to form a reasonable belief as to the truth or
11 falsity of the allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

12 PETITION FOR WRIT OF MANDAMUS

13 26. Answering Paragraph No. 116 of the Petition for Writ of Mandamus set forth in the
14 Complaint, GB Sciences repeats its responses to Paragraphs No. 1 through 115 of the Complaint as if
15 more fully set forth herein.

16 27. Answering Paragraphs No. 117, 120, 122, and 123 of the Petition for Writ of Mandamus
17 set forth in the Complaint, GB Sciences is without information sufficient to form a reasonable belief
18 as to the truth or falsity of the allegations contained in said paragraphs, and, therefore, denies the same
19 in their entirety.

20 28. Answering Paragraphs No. 118 and 119 of the Petition for Writ of Mandamus set forth
21 in the Complaint, GB Sciences admits the allegations contained in said paragraphs.

22 29. Answering Paragraph No. 121 of the Petition for Writ of Mandamus set forth in the
23 Complaint, GB Sciences admits that the Division failed to perform the acts described in Paragraphs 118
24 and 119 of the Petition for Writ of Mandamus that Nevada law compelled the Division to perform, but
25 is otherwise without information sufficient to form a reasonable belief as to the truth or falsity of the
26 allegations contained in said paragraphs, and, therefore, denies the same in their entirety.

27 AFFIRMATIVE DEFENSES

28 1. The Complaint in Intervention fails to state a claim upon which relief may be granted.

- 1 2. ACRES MEDICAL, LLC's claims are barred by the doctrine of laches.
- 2 3. ACRES MEDICAL, LLC's claims are barred by the doctrine of waiver.
- 3 4. ACRES MEDICAL, LLC's claims are barred by the doctrines of estoppel, estoppel by
- 4 fraud, and equitable estoppel.
- 5 5. The Complaint in Intervention is barred by the statute of frauds.
- 6 6. Plaintiff in Intervention failed to fulfill the requirements of NRS Chapter 453A, NAC
- 7 453A, and/or the requirements of the City of Las Vegas for issuance of a provisional registration
- 8 certificate for an MME license.
- 9 7. The re-scoring of Plaintiff in Intervention's was void, against public policy, and
- 10 inequitable.
- 11 8. The Order issued by Judge Cadish violates GB Sciences' due process rights, enshrined
- 12 in the United States Constitution and Nevada State Constitution.
- 13 9. The Order issued by Judge Cadish has no *res judicata* effect upon GB Sciences.
- 14 10. Plaintiffs in Intervention's own conduct, and that of its own principals, is the proximate
- 15 cause of Plaintiffs in Intervention's damages or other grievances, if any.
- 16 11. Plaintiffs in Intervention have acted in bad faith.
- 17 12. Plaintiffs in Intervention have unclean hands.
- 18 13. GB Sciences denies each and every allegation of the Complaint in Intervention not
- 19 specifically admitted or otherwise pleaded to herein.
- 20 14. It has been necessary to employ the services of an attorney to defend this action and a
- 21 reasonable sum should be allowed GB Sciences as and for attorney's fees, together with their costs
- 22 expended in this action.
- 23 15. GB Sciences incorporates by reference those affirmative defenses enumerated in
- 24 N.R.C.P. 8 as if fully set forth herein. If further investigation or discovery reveals the applicability of
- 25 any such defenses, GB Sciences reserves the right to seek leave of Court to amend this answer to
- 26 complaint in intervention to specifically assert any such defense. Such defenses are herein incorporated
- 27 by reference for the specific purpose of not waiving any such defenses.
- 28 ///

1 16. Pursuant to N.R.C.P. Rule 11, as amended, all possible affirmative defenses may not
2 have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
3 filing of the Answer to Complaint in Intervention and, therefore, GB Sciences reserves the right to
4 amend its Answer to Complaint in Intervention to allege additional affirmative defenses.

5 WHEREFORE, Plaintiff/Defendant in Intervention/Counterclaimant in Intervention GB
6 Sciences prays for relief as follows:

- 7 1. That Acres Medical take nothing by way of its Complaint in Intervention,
- 8 2. That GB Sciences be awarded its attorneys' fees and costs incurred in defendant against
9 the Complaint in Intervention; and
- 10 3. That GB Sciences be awarded such other and further relief as the Court deems
11 appropriate in the premises.

12
13 **COUNTERCLAIM**

14 COMES NOW Plaintiff/Counterclaimant in Intervention, GB SCIENCES NEVADA, LLC, a
15 Nevada limited liability company, by and through its attorneys of record, SMITH & SHAPIRO, PLLC,
16 and for its Counterclaim in Intervention, alleges and avers as follows:

17 1. Counterclaimant, GB SCIENCES NEVADA, LLC ("**GB Sciences**") is a Nevada limited
18 liability company located in Clark County, Nevada.

19 2. Upon information and belief, Counterdefendant ACRES MEDICAL, LLC ("**Acres**
20 **Medical**") is a Nevada limited liability company doing business in Clark County, Nevada.

21 3. Defendant, STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL
22 HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (the "**Division**") is an
23 agency of the State of Nevada.

24 4. Venue is proper in this Court pursuant to N.R.S. § 13.020(3) and N.R.S. §
25 233N.130(2)(b), in that this is the county where the cause, or some part thereof, arose and the aggrieved
26 party resides.

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28 \\\

5. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medicinal marijuana.

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

9. Specifically, the local jurisdiction was tasked with considering issues such as site plans, zoning and proximity to other business or facilities while the Division focused on public health, public safety, and marijuana as a medicine.

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

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

9

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

3 16. Counterclaimant, Nuleaf CLV Dispensary, LLC ("Nuleaf"), and Counterdefendant
4 Acres Medical were three (3) of the applicants.

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

7 18. The City of Las Vegas granted a special use permit to twenty-seven (27) applicants,
8 including Counterclaimant.

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

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

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

17 22. While the Division was allowed to *accept* all applications submitted, under N.R.S. §
18 453A.322, the Division could only issue a Provisional Certificate if the applicant's application included
19 six (6) specific items and if the applicant otherwise met the requirements established by N.R.S. Chapter
20 453A.

21 23. NRS 453A.322(3)(a)(2) through (5) provided a list of items that every application for
22 a medical marijuana establishment must have submitted to the Division.

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

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1 25. The Division was required to rank from first to last the completed applications within
2 a particular jurisdiction based on the content of each application as it relates to the criteria for
3 evaluation determined by the Division and provided by NRS Chapter 453A.

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

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

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

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

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

21 31. The City of Las Vegas is a Nevada city that enacted ordinances for the zoning and
22 business licensing of medical marijuana establishments.

23 32. As such, the Division was required to ensure compliance with NRS 453A.326(3)(5).

24 33. The Nevada Legislature enacted NRS 453A.322(3)(a)(5), which expressly required all
25 applicants for the operation of a medical marijuana establishment in the City of Las Vegas to submit
26 proof of the City of Las Vegas' zoning approval or a letter from the City of Las Vegas acknowledging
27 that the applicant's proposed medical marijuana establishment was in compliance with the City of Las
28 Vegas' restrictions and applicable building requirements.

1 34. On or before the Division's August 18, 2014 deadline, the Division received multiple
2 applications for the City of Las Vegas' twelve (12) allotted medical marijuana establishment registration
3 certificates for the operation of a medical marijuana dispensary in the City of Las Vegas.

4 35. Counterclaimant, Nuleaf, and Acres were among these applicants to the Division.

5 36. Prior to submitting an application to the Division, Counterclaimant, Nuleaf, and Acres
6 each submitted an application to the City of Las Vegas for a Special Use Permit and a Business License
7 as required by the City of Las Vegas' newly enacted ordinances.

8 37. After an October 29, 2014 special meeting, the City Council of the City of Las Vegas
9 denied Nuleaf's application for a Special Use Permit.

10 38. To the contrary, Counterclaimant received a Special Use Permit for the operation of
11 medical marijuana dispensary from the City of Las Vegas and further, its application for Business
12 License was recommended for approval.

13 39. In addition, Counterclaimant submitted as part of its application to the Division the City
14 of Las Vegas' certification that Counterclaimant complied with the City of Las Vegas's ordinances and
15 building requirements concerning the operation of a medical marijuana establishment in the City of Las
16 Vegas.

17 40. Upon information and belief, the City of Las Vegas informed the Division of those
18 applicants that it approved for a Special Use Permit, which included Counterclaimant, and those
19 applicants that it denied a Special Use Permit, which included Nuleaf.

20 41. Upon information and belief, the Division, upon receipt of the 49 applications for the
21 operation of a medical marijuana dispensary in the City of Las Vegas, never made the required initial
22 determination that each application for the operation of a medical marijuana dispensary was complete.

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

27 43. As a result, the Division improperly ranked the application of Nuleaf against the
28 acceptable criteria.

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

4 45. Counterclaimant had been ranked number 13 based upon a score of 166.86.

5 46. Acres had received a score of 126 and was ranked only 36 or 37 by the Division.

6 47. At the same time, Counterclaimant discovered that the Division ranked and issued
7 provisional registration certificate to Nuleaf (ranked #3 even though it was denied the required Special
8 Use Permit and Business License from the City of Las Vegas).

9 48. Had the Division complied with the express requirements of NRS 453A.322(3), NAC
10 453A.310, NAC 453A.312, and NAC 453A.332, and the Division' previous public statements regarding
11 the correct application procedure, Nuleaf should not have received a ranking let alone a provisional
12 registration certificate.

13 49. More importantly, Counterclaimant's score (166.86) would have and should been high
14 enough to rank within the top 12 spots (# 11) allotted for the City of Las Vegas and therefore,
15 Counterclaimant should have received a provisional registration certificate from the Division within
16 the 90-day evaluation period.

17 50. Consequently, Counterclaimant, in actuality being ranked #11, would have received
18 provisional registration certificate from the Division in accordance with Nevada law and as approved
19 by the City of Las Vegas.

20 51. On or about June 9, 2015, Counterdefendant Acres filed an action against the Division
21 with the Eighth Judicial District Court, being Case No. A-15-719637-W, to have its MME application
22 with the Division re-scored based upon a purported math error (the "Acres Case").

23 52. Counterdefendant did not include Counterclaimant as a party to the Acres Case.

24 53. On or about October 8, 2015, the Court in the Acres Case granted Counterdefendant's
25 Petition for Writ of Mandamus, compelling the Division to re-score Counterdefendant's application for
26 a Provisional Certificate by adding 41.3 to the score, thus raising the score to 167.3 and making
27 Counterdefendant's application rank number 13 for the 12 Registration Certificates allotted to the City
28 of Las Vegas (the "Order").

1 54. On or about November 9, 2015, the Court granted Counterdefendant's motion to
2 intervene in this case.

3 55. On or about November 13, 2015, the Court entered a minute order in this case revoking
4 Nuleaf's Provisional Certificate, but granting it to Counterdefendant, applying the re-coring set forth
5 in the Order and moving Counterdefendant to #12 in rank with the removal of Nuleaf, even though
6 Counterclaimant was never a party to the Acres Case or able to litigate the re-scoring.

7 56. On or about November 17, 2015, Acres Medical filed its Complaint in Intervention,
8 seeking to impose the effect of the Order upon Counterclaimant and jump ahead of Counterclaimant
9 in line for the 12 Registration Certificates allotted to the City of Las Vegas.

10 **FIRST CAUSE OF ACTION**
11 **(Declaratory Relief, Pursuant to N.R.S. § 30.010 *et seq.*)**

12 57. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through
13 56 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set
14 forth herein.

15 58. Under Nevada law, the Order does not bind Counterclaimant and has no *res judicata*
16 effect upon Counterclaimant's right to seek the revoked Provisional Certificate originally issued to
17 Nuleaf.

18 59. Under Nevada law, the Court in the Acres Case had no jurisdiction to determine the
19 relative position of Acres *vis-a-vis* Counterclaimant as Counterclaimant was not a party to the Acres
20 Case.

21 60. The rescoring of Acres Medical's MME application by the court in the Acres Case was
22 void as against Counterclaimant because Acres Medical failed to include Counterclaimant as a party
23 in the case, which was a necessary and indispensable party.

24 61. Counterclaimant was denied its due process right to contest the scoring of MME
25 applications by the Division and to contest entitlement to Nuleaf's revoked Provisional Certificate.

26 62. The re-scoring of Acres Medical's MME application with the Division was void, against
27 public policy, and inequitable.

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63. Under the doctrines laches, waiver and/or estoppel, as well as general equitable principles, and notwithstanding the Order, Acres Medical should not have priority over Counterclaimant.

64. There exists a justiciable controversy between Counterclaimant, on the one hand, and Acres Medical on the other hand regarding the scoring of applications and the issuance of provisional certificates for MME dispensaries under NRS Chapter 453A.

65. The interests of Counterclaimant are adverse to the interests of Acres Medical.

66. Counterclaimant has a legally protectable interest in the controversy.

67. The issue involved in the controversy is ripe for judicial determination with respect to the construction, interpretation, and implementation of NRS Chapter 453A, NAC 453A, and other Nevada laws and regulations as to the Counterclaimant.

68. Counterclaimant is entitled to a declaration, pursuant to N.R.S. § 30.010 *et seq.*, that while the Order from the Acres Case may have required to Division to rerank Acres Medical's application, the Acres Court Order lacks any prejudicial or precedential value when it comes to the relative positions of Acres Medical and Counterclaimant; that the Order has no force or effect upon Counterclaimant; that under the doctrines laches, waiver and/or estoppel, as well as general equitable principles, Counterclaimant should have priority over Acres Medical when it comes to any available provisional certificates; that the Provisional Certificate issued to Nuleaf and subsequently revoked by the Court should be issued to Counterclaimant (not Acres Medical); that Acres Medical is behind and below Counterclaimant in rank; that Acres Medical should not be issued an actual provisional certificate until this dispute is resolved; and that the deadlines and requirements for issuance of licenses for MME Dispensaries should be tolled for the benefit of the Counterclaimant until after the Counterclaimant's claims are determined in this case so that Counterclaimant will not suffer detriment due to the fact that it should have been issued a provisional certificate on November 3, 2014.

69. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

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SECOND CAUSE OF ACTION
(Injunctive Relief)

70. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through 69 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set forth herein.

71. Counterclaimant has already asserted claims against the Division in this case for injunctive relief regarding the issuance of provisional certificates to Nuleaf and Desert Aire.

72. However, to the extent necessary to ensure this remedy is still available, Counterclaimant is likewise entitled to a permanent mandatory injunction against the Division, enjoining the Division:

- (a) from issuing actual Registration Certificates to Nuleaf and Acres Medical;
- (b) to revoke the provisional certificates issued to Nuleaf and Acres Medical;
- (c) to identify Counterclaimant as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and
- (d) to issue a provisional certificates to the Counterclaimant.

73. Counterclaimant is likewise entitled to a permanent mandatory injunction against the City, requiring the City to toll all deadlines which would have been required of the Counterclaimant until after the Court rules on Counterclaimant's claims in this case, by virtue of the fact that Counterclaimant should have received a Provisional Certificate on November 3, 2014.

74. Alternatively, Counterclaimant is entitled to a permanent mandatory injunction that the one revoked provisional certificates be issued to the Counterclaimant, and not to Acres Medical because the re-scoring and re-ranking of Acres Medical was void, and/or that due to public policy and/or equitable principles, Acres Medical should not receive the one available provisional certificate, which should instead be issued to Counterclaimant.

75. Counterclaimant has been required to retain the services of an attorney to prosecute this matter, and Counterclaimant is, therefore, entitled to its reasonable attorneys' fees and costs incurred in prosecuting this matter.

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PETITION FOR WRIT OF MANDAMUS

76. Counterclaimant repeats and realleges the allegations contained in Paragraphs 1 through 74 of the Counterclaim in Intervention, and incorporates the same by this reference as if more fully set forth herein.

77. Counterclaimant has already petition for a writ of mandamus against the Division in its original Complaint.

78. To the extent required, that petition is repeated and reasserted herein in its entirety.

WHEREFORE, Counterclaimant in Intervention prays for relief as follows:

1. For declaratory relief in the manner set forth in Counterclaimant's First Cause of Action;
2. For injunctive relief, specifically a preliminary and permanent mandatory injunction, enjoining the Division:

- (a) from issuing actual Registration Certificates to Nuleaf and Acres Medical;
- (b) to revoke the Provisional Certificates issued to Nuleaf and Acres Medical;
- (c) to identify Counterclaimant as the next highest ranking applicant for one of the Provisional Certificates allocated to the City of Las Vegas; and
- (d) to issue a Provisional Certificate to Counterclaimant.

3. For injunctive relief, specifically a preliminary and permanent mandatory injunction, requiring the City to toll all deadlines which would have been required of the Counterclaimant until after the Court rules on Counterclaimants claims in this case, by virtue of the fact that Counterclaimant should have received a Provisional Certificate on November 3, 2014.

4. Alternatively, for a permanent mandatory injunction that the one revoked provisional certificates be issued to the Counterclaimant, and not to Acres Medical because the re-scoring and re-ranking of Acres Medical was void, and/or that due to public policy and/or equitable principles, Acres Medical should not receive the one available provisional certificate, which should instead be issued to Counterclaimant.

5. For reasonable attorneys' fees and costs of suit; and

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1 6. For such other and further relief as the Court deems appropriate in the premises.
2 DATED this 3rd day of December, 2015.

3 SMITH & SHAPIRO, PLLC

4 /s/ James E. Shapiro
5 James E. Shapiro, Esq.
6 Nevada Bar No. 7907
7 Sheldon A. Herbert, Esq.
8 Nevada Bar No. 5988
9 2520 St. Rose Parkway, Suite 220
10 Henderson, NV 89074
11 Attorneys for Plaintiff/Defendant
12 in Intervention/Counter-
13 claimant in Intervention
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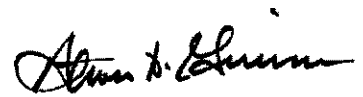
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 3rd day of December, 2015, I served a true and correct copy of the forgoing **ANSWER TO COMPLAINT IN INTERVENTION AND COUNTERCLAIM**, by e-serving a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer Togliatti, on May 9, 2014.

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

EXHIBIT I

EXHIBIT I



CLERK OF THE COURT

Electronically Filed
Apr 07 2016 04:17 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

NOTC
James E. Shapiro, Esq.
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(702) 318-5033
Attorneys for GB SCIENCES NEVADA, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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 CLV DISPENSARY, LLC, a Nevada limited liability company; DOES 1-10, and ROE ENTITIES 1-100, inclusive,

Defendants.

Case No. **A-14-710597-C**
Dept. No. XX

Date:
Time:

AND RELATED CLAIMS

NOTICE OF CROSS-APPEAL

Notice is hereby given that Plaintiff/Defendant-in-Intervention/Counterclaimant-in-Intervention GB SCIENCES NEVADA, LLC, a Nevada limited liability company, hereby cross-appeals to the Supreme Court of Nevada from the following:

- 1) The District Court's Minute Order, entered on November 13, 2015.
- 2) The District Court's Order, entered on December 14, 2015.
- 3) The District Court's Minute Order, entered on January 26, 2016.

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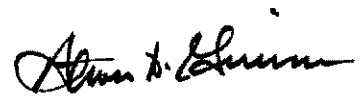
SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

- DATED this 30th day of March, 2016.

/s/ James E. Shapiro
James E. Shapiro, Esq.
Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
Nevada Bar No. 5988
2520 St. Rose Parkway, Suite #220
Henderson, NV 89074
*Attorneys for Plaintiff/Defendant
in Intervention/Counter-
claimant in Intervention*

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 30th day of March, 2016, I served a true and correct copy of the forgoing **NOTICE OF CROSS-APPEAL**, by e-serving a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer Togliatti, on May 9, 2014.

2



CLERK OF THE COURT

1 **ASTA**
James E. Shapiro, Esq.
2 Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
3 Nevada Bar No. 5988
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4 2520 St. Rose Parkway, Suite 220
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5 (702) 318-5033
Attorneys for GB SCIENCES NEVADA, LLC

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

12 STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
13 DEPARTMENT OF HEALTH AND HUMAN
SERVICES; CITY OF LAS VEGAS, a municipal
14 corporation and political subdivision of the State of
Nevada; NULEAF CLV DISPENSARY, LLC, a
15 Nevada limited liability company; DOES 1-10, and
ROE ENTITIES 1-100, inclusive,

16 Defendants.

Case No. **A-14-710597-C**

Dept. No. XX

Date:
Time:

17
18 **AND RELATED CLAIMS**
19

20 **CASE APPEAL STATEMENT**

21 1. Name of appellant filing this case appeal statement: GB SCIENCES NEVADA, LLC,
22 a Nevada limited liability company.

23 2. Identify the judge issuing the decision, judgment, or order appealed from:
24 HONORABLE ERIC JOHNSON, DEPT. NO. 20.

25 3. Identify each appellant and the name and address of counsel for each appellant: GB
26 SCIENCES NEVADA, LLC, SMITH & SHAPIRO, PLLC, 2520 St. Rose Parkway, Suite 220,
27 Henderson, NV 89074.

28 \ \ \

SMITH & SHAPIRO, PLLC
2520 St. Rose Parkway, Suite 220
Henderson, Nevada 89074
(702) 318-5033

4. Identify each respondent and the name and address of respondent counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

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

Appellate counsel: unknown

Trial counsel:

Linda C. Anderson, Esq.
Chief Deputy Attorney General
555 E. Washington Ave., #3900
Las Vegas, NV 89101

NULEAF CLV DISPENSARY, LLC,
a Nevada limited liability company

Appellate counsel:

Todd L. Bice, Esq.
PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101

ACRES MEDICAL, LLC,
a Nevada limited liability company

Appellate counsel: unknown

Trial counsel:

Mark E. Ferrario, Esq.
GREENBERG TRAURIG, LLP
3773 Howard Hughes Pkwy., #400N
Las Vegas, NV 89169

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission): N/A.

6. Indicate whether appellant was represented by appointed or retained counsel in the district court: retained counsel.

7. Indicate whether respondent is represented by appointed or retained counsel on appeal: retained counsel.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: N/A.

1 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
2 indictment, information, or petition was filed): December 2, 2014.

3 10. Provide a brief description of the nature of the action and result in the district court,
4 including the type of judgment or order being appealed and the relief granted by the district court:

5 The action involves the issuance of provisional registration certificates ("Provisional
6 Certificate") by the State of Nevada to applicants for medical marijuana establishment ("MME")
7 dispensaries in the City of Las Vegas, pursuant to the provisions of N.R.S. Chapter 453A.
8 Notwithstanding the fact that Respondent NuLeaf CLV Dispensary, LLC ("NuLeaf") did not satisfy
9 the requirement identified in N.R.S. § 453A.322(3)(a)(5), the State of Nevada issued a Provisional
10 Certificate to NuLeaf. The District Court revoked NuLeaf's Provisional Certificate but awarded it to
11 intervening party, Respondent Acres Medical, LLC ("Acres"). NuLeaf previously appealed the
12 decision. Cross-Appellant agree that NuLeaf's Certificate should have been revoked, but contend that
13 it should have been awarded to Cross-Appellant.

14 On November 13, 2015, the District Court entered a Minute Order in relation to competing
15 motions for summary judgment, in which the Court revoked NuLeaf's Provisional Certificate and
16 directed that it be issued to Acres. On December 14, 2015, the material terms of the Minute Order were
17 memorialized in a written Order.

18 On January 26, 2016, the District Court entered a Minute Order in relation to Cross-Appellant's
19 motion to alter or amend the December 14, 2015 Order, and Respondent Acres' motion to dismiss
20 Cross-Appellant's counterclaims against Acres. On March 3, 2016, the District Court entered an Order
21 Denying Plaintiff GB Sciences of Nevada's Motion to Alter or Amend Judgment; or, in the Alternative,
22 Motion for Partial Reconsideration and an Order Granting Intervenor Acres Medical, LLC's Motion
23 to Dismiss GB Sciences of Nevada, LLC Counterclaims against Acres Medical, LLC.

24 The Appellant is appealing the November 13, 2015 Minute Order, December 14, 2015 Order,
25 January 26, 2016 Minute Order, and the two Orders entered on March 3, 2016.

26 11. Indicate whether the case has previously been the subject of an appeal to or original writ
27 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior
28

proceeding: Respondent NuLeaf filed a Notice of Appeal on March 2, 2016, and its case is currently pending in the Nevada Supreme Court, Appeal No. 69909, *styled as follows*:

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; DESERT AIRE
WELLNESS, LLC, a Nevada limited liability
company; ACRES MEDICAL, LLC, a
Nevada limited liability company; and GB
SCIENCES NEVADA, LLC, a Nevada
limited liability company,

Respondents.

Supreme Court No. 69909
District Court Case No. A710597

12. Indicate whether this appeal involves child custody or visitation: N/A.

13. If this is a civil case, indicate whether this appeal involves the possibility of
settlement: Settlement is possible.

DATED this 30th day of March, 2016.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro

James E. Shapiro, Esq.

Nevada Bar No. 7907

Sheldon A. Herbert, Esq.

Nevada Bar No. 5988

2520 St. Rose Parkway, Suite #220

Henderson, NV 89074

*Attorneys for Plaintiff/Defendant
in Intervention/Counter-
claimant in Intervention*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 30th day of March, 2016, I served a true and correct copy of the forgoing **CASE APPEAL STATEMENT**, by e-serving a copy on all parties registered and listed as Service Recipients in Wiznet, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered by the Chief Judge, Jennifer Togliatti, on May 9, 2014.

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

DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C

GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services,
Defendant(s)

§
§
§
§
§
§

Location: **Department 20**
Judicial Officer: **Johnson, Eric**
Filed on: **12/02/2014**
Case Number History:
Cross-Reference Case Number: **A710597**
Supreme Court No.: **69909**

CASE INFORMATION

Case Type: **Other Civil Matters**
Case Flags: **Appealed to Supreme Court
Automatically Exempt from
Arbitration**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-14-710597-C
Court	Department 20
Date Assigned	05/04/2015
Judicial Officer	Johnson, Eric

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	GB Sciences Nevada LLC	Shapiro, James E. <i>Retained</i> 702-796-4000(W)
Defendant	City Of Las Vegas Removed: 01/23/2015 Dismissed	
	Desert Aire Wellness LLC Removed: 04/01/2015 Dismissed	Ciciliano, Dylan T. <i>Retained</i> 702-796-5555(W)
	Nevada State Department of Health and Human Services	Anderson, Linda Christine <i>Retained</i> 702-486-3420(W)
	Nuleaf CLV Dispensary LLC	Bice, Todd L <i>Retained</i> 702-214-2100(W)
Counter Claimant	GB Sciences Nevada LLC Removed: 03/03/2016 Dismissed	Shapiro, James E. <i>Retained</i> 702-796-4000(W)
Counter Defendant	Acres Medical LLC Removed: 03/03/2016 Dismissed	Ferrario, Mark E., ESQ <i>Retained</i> 702-792-3773(W)
Intervenor Defendant	GB Sciences Nevada LLC	Shapiro, James E. <i>Retained</i> 702-796-4000(W)
	Nevada State Department of Health and Human Services	Anderson, Linda Christine <i>Retained</i> 702-486-3420(W)
	North Las Vegas, City of	

DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C










Nuleaf CLV Dispensary LLC

Bice, Todd L
Retained
702-214-2100(W)













**Intervenor
Plaintiff**

Acres Medical LLC









Ferrario, Mark E., ESQ
Retained
702-792-3773(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
12/02/2014	 Complaint Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Complaint and in Addition, and or in the Alternative, Petition for Judicial Review and Writ of Mandamus</i>	
12/02/2014	Case Opened	
12/03/2014	 Initial Appearance Fee Disclosure Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Initial Appearance Fee Disclosure</i>	
12/05/2014	 First Amended Complaint Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>First Amended Complaint and in Addition, or in the Alternative, First Amended Petition for Judicial Review and Writ of Mandamus</i>	
12/09/2014	 Order Denying <i>Order Denying Plaintiff's Ex Parte Application for Temporary Restraining Order</i>	
12/11/2014	 Motion for Preliminary Injunction Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff, GB Sciences Nevada LLC's Motion for Preliminary and Permanent Injunction Against Defendants, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Service, Desert Aire Wellness, LLC, NULEAF CLV Dispensary, LLC, Does 1 through 100, and ROE Entities 1 through 100 on an Order Shortening Time</i>	
12/17/2014	 Re-Notice Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Re-Notice of Hearing of Plaintiff, GB Sciences Nevada, LLC's Motion for Preliminary and Permanent Injunction Against Defendants, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Service, Desert Aire Wellness, LLC Nuleaf CLV Dispensary, LLC Does 1 through 100 and Roe Entities 1 through 100 on an Order Shortening Time</i>	
12/19/2014	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>	
12/19/2014	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>	
12/19/2014	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>	




DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C

12/19/2014	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>
12/19/2014	 Affidavit of Service Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Affidavit of Service - Nuleaf CLV Dispensary LLC</i>
12/19/2014	 Affidavit of Service Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Affidavit of Service - Richard Whitley M S</i>
12/19/2014	 Affidavit of Service Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Affidavit of Service - Desert Aire Wellness LLC</i>
12/19/2014	 Affidavit of Service Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Affidavit of Service - City of Las Vegas</i>
12/19/2014	 Affidavit of Service Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Affidavit of Service - State of Nevada</i>
12/22/2014	 Response Filed by: Intervenor Defendant Nevada State Department of Health and Human Services <i>State Response To Motion For Preliminary and Permanent Injunction</i>
12/26/2014	 Initial Appearance Fee Disclosure Filed By: Defendant Desert Aire Wellness LLC <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
12/26/2014	 Opposition to Motion Filed By: Defendant Desert Aire Wellness LLC <i>Opposition to Plaintiff GB Sciences Nevada, LLC,'s Motion for Preliminary and Permanent Injunction Against Defendants State of Nevada, Division of Public And Behavioral Health of The Department of Health and Human Services; Desert Aire Wellness, LLC; Nuleaf CLV Dispensary, LLC; Does 1 through 100; and Roes Entities 1 through 100</i>
12/29/2014	 Initial Appearance Fee Disclosure Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
12/29/2014	 Opposition to Motion Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary LLC's Opposition to Plaintiff GB Sciences Nevada, LLC's Motion for Preliminary and Permanent Injunction</i>
12/30/2014	 Reply Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff, GB Sciences Nevada, LLC's Reply to State of Nevada's Response to Plaintiff's Motion for Preliminary and Permanent Injunction Against Defendants, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Service, Desert Aire Wellness, LLC, Nuleaf CLV Dispensary, LLC, Does 1 through 100, and Roe Entities 1 though 100 on an Order Shortening Time</i>












DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C

12/30/2014	 Reply to Opposition Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Reply to Desert Aire Wellness, LLC's Opposition to to Plaintiff's Motion for a Preliminary and Permanent Injunction against Defendants, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Service, Desert Aire Wellness, LLC, Nuleaf CLV Dispensary LLC Does 1 through 100, and Roe Entities 1 Through 100 on a Order Shortening Time</i>
12/30/2014	 Reply to Opposition Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff GB Sciences Nevada LLC Reply to Nuleaf CLV Dispensary, LLC's Opposition to Plaintiff's Motion for a Preliminary and Permanent Injunction against Defendants, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Service, Desert Aire Wellness LLC Nuleaf CLV Dispensary, LLC Does 1 through 100 and Roe Entities 1 Through 100 on an Order Shortening Time</i>
12/31/2014	 Motion for Preliminary Injunction (9:00 AM) (Judicial Officer: Tao, Jerome T.) Events: 12/11/2014 Motion for Preliminary Injunction <i>Plaintiff, GB Sciences Nevada, LLC's Motion for Preliminary and Permanent Injunction Against Defendants, State of Nevada, Division of Public and Behavioral Health of the Department of Health and Human Service, Desert Aire Wellness, LLC, Nuleaf CLV Dispensary, LLC, Does 1 through 100, and Roe Entities 1 through 100 on an Order Shortening Time</i>
01/09/2015	 Recorders Transcript of Hearing Party: Intervenor Defendant GB Sciences Nevada LLC <i>Transcript of Proceedings Plaintiff's Motion for Preliminary and Permanent Injunction against Defendants on Order Shortening Time 12/31/14</i>
01/23/2015	 Voluntary Dismissal Without Prejudice Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Voluntary Dismissal Without Prejudice of Defendant</i>
01/23/2015	Dismissal Pursuant to NRCP 41 (Judicial Officer: Tao, Jerome T.) Debtors: City Of Las Vegas (Defendant) Creditors: GB Sciences Nevada LLC (Plaintiff) Judgment: 01/23/2015, Docketed: 01/28/2015
02/02/2015	 Answer Filed By: Intervenor Defendant Nevada State Department of Health and Human Services <i>Answer</i>
04/01/2015	 Voluntary Dismissal Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Voluntary Dismissal Without Prejudice of Defendant Desert Aire Wellness, LLC</i>
04/01/2015	Dismissal Pursuant to NRCP 41 (Judicial Officer: Tao, Jerome T.) Debtors: Desert Aire Wellness LLC (Defendant) Creditors: GB Sciences Nevada LLC (Plaintiff) Judgment: 04/01/2015, Docketed: 04/08/2015
05/04/2015	Case Reassigned to Department 20 <i>Case reassigned from Judge Jerome Tao Dept 20</i>
06/05/2015	 Joint Case Conference Report Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Joint Case Conference Report</i>















DEPARTMENT 20
CASE SUMMARY
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07/02/2015	 Scheduling Order <i>Scheduling Order</i>
07/15/2015	 Order Setting Civil Jury Trial <i>Order Setting civil Jury Trial</i>
09/14/2015	 Substitution of Attorney Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Substitution of Attorney</i>
09/18/2015	 Motion for Summary Judgment Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Motion for Summary Judgment</i>
09/18/2015	 Appendix Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Appendix to GB Sciences Nevada, LLC's Motion for Summary Judgment</i>
09/28/2015	 Application Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Application for Entry of Default</i>
09/28/2015	 Response <i>State Response To Motion For Summary Judgment</i>
10/05/2015	 Answer to Amended Complaint Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary LLC's Answer To First Amended Complaint And In Addition, Or In The Alternative, First Amended Petition For Judicial Review And Writ Of Mandamus</i>
10/05/2015	 Motion for Summary Judgment Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary LLC's Opposition To Plaintiff GB Sciences Nevada, LLC's Motion For Summary Judgment And Countermotion For Summary Judgment</i>
10/06/2015	 Amended Order Setting Civil Non-Jury Trial <i>Amended Order Setting Civil Non-Jury Trial</i>
10/14/2015	 Reply to Opposition Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Reply to Defendant NuLeaf CLV Dispensary LLC's Opposition to Plaintiff GB Sciences Nevada, LLC's Motion for Summary Judgment; and Opposition to Countermotion for Summary Judgment</i>
10/14/2015	 Reply Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Reply to State Response to Motion for Summary Judgment</i>
10/15/2015	 Notice of Entry of Order Filed By: Intervenor Defendant Nevada State Department of Health and Human Services <i>Notice Of Entry Of Order</i>

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10/19/2015	 Motion to Intervene Party: Intervenor Plaintiff Acres Medical LLC <i>Acres Medical, LLC's Motion to Intervene as a Matter of Right Pursuant to NRCP 24 on an Order Shortening Time</i>
10/20/2015	 Minute Order (7:30 AM) (Judicial Officer: Thompson, Charles)
11/03/2015	 Opposition Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary LLC's Opposition To Acres Medical, LLC's Motion To Intervene As A Matter Of Right Pursuant To NRCP 24 On An Order Shortening Time</i>
11/03/2015	 Reply in Support Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary LLC's Reply In Support Of Countermotion For Summary Judgment</i>
11/04/2015	Motion for Summary Judgment (8:30 AM) (Judicial Officer: Johnson, Eric) 11/04/2015, 11/09/2015 <i>Plaintiff's Motion for Summary Judgment</i>
11/04/2015	Opposition and Countermotion (8:30 AM) (Judicial Officer: Johnson, Eric) 11/04/2015, 11/09/2015 <i>Defendant Nuleaf CLV Dispensary LLC's Opposition To Plaintiff GB Sciences Nevada, LLC's Motion For Summary Judgment And Countermotion For Summary Judgment</i>
11/04/2015	Motion to Intervene (8:30 AM) (Judicial Officer: Johnson, Eric) 11/04/2015, 11/09/2015 <i>Intervenor Acres Medical's Motion to Intervene As A Matter of Right Pursuant to NRCP 24 On An OST</i>
11/04/2015	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)
11/06/2015	 Reply in Support Filed By: Intervenor Plaintiff Acres Medical LLC <i>Reply in Support of Acres Medical, LLC's Motion to Intervene Pursuant to NRCP 24 on an Order Shortening Time</i>
11/09/2015	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)
11/13/2015	 Minute Order (7:30 AM) (Judicial Officer: Johnson, Eric)
11/16/2015	 Motion to Amend Complaint Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff's Motion for Leave to Amend First Amended Complaint</i>
11/17/2015	 Complaint Filed By: Intervenor Plaintiff Acres Medical LLC <i>Complaint in Intervention for Declaratory and Injunctive Relief and/or Petition for Writ of Mandamus or Prohibition</i>
11/17/2015	 Application Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Application for Order Shortening Time on Plaintiff's Motion for Leave to Amend First Amended Complaint</i>












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11/18/2015	 Initial Appearance Fee Disclosure Filed By: Intervenor Plaintiff Acres Medical LLC <i>Initial Appearance Fee Disclosure</i>
11/19/2015	 Order Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Order Shortening Time on Plaintiff's Motion for Leave to Amend First Amended Complaint</i>
11/20/2015	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>
11/20/2015	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>
11/20/2015	 Receipt of Copy Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Receipt of Copy</i>
11/20/2015	 Notice of Entry of Order Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Entry of Order Shortening Time on Plaintiff's Motion for Leave to Amend First Amended Complaint</i>
11/20/2015	 Order <i>Order Resetting Calendar Call</i>
11/24/2015	 Response Filed by: Intervenor Defendant Nevada State Department of Health and Human Services <i>State Response to Motion for Leave to Amend First Amended Complaint</i>
11/24/2015	 Order Granting Motion Filed By: Intervenor Plaintiff Acres Medical LLC <i>Order Granting Acres Medical, LLC's Motion to Intervene on Order Shortening Time</i>
11/25/2015	 Motion to Intervene Party: Other Samantha Inc <i>Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRCF 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
11/25/2015	 Notice of Entry of Order Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Entry of Order Granting Acres Medical, LLC's Motion to Intervene on Order Shortening Time</i>
12/01/2015	 Opposition Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Opposition To Motion To Amend</i>
12/02/2015	 Motion to Amend (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Plaintiff's Motion for Leave to Amend First Amended Complaint</i>
12/03/2015	 Answer to Complaint

DEPARTMENT 20
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CASE NO. A-14-710597-C











	Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Answer to Complaint in Intervention and Counterclaim</i>
12/07/2015	 Response Filed by: Intervenor Defendant Nevada State Department of Health and Human Services <i>State Response to Samantha Remedies' Motion to Intervene and Motion to Stay</i>
12/14/2015	 Opposition Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Opposition To Motion Of Samantha Inc. D/B/A Samantha's Remedies' To Intervene As Plaintiff Pursuant To NRCP 24 And Motion To Stay Proceedings</i>
12/14/2015	 Opposition to Motion Filed By: Intervenor Plaintiff Acres Medical LLC <i>Response in Opposition to Motion of Samantha Inc. to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
12/14/2015	 Opposition to Motion Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff's Opposition to Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceeding Pending Resolution of Supreme Court Proceedings</i>
12/14/2015	 Order <i>Order</i>
12/15/2015	 Notice of Entry of Order Filed By: Intervenor Plaintiff Acres Medical LLC <i>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</i>
12/18/2015	 Reply to Opposition Filed by: Other Samantha Inc <i>Brief in Further Support of Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRCP 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings and in Reply to Oppositions</i>
12/22/2015	 Answer Filed By: Intervenor Defendant Nevada State Department of Health and Human Services <i>Answer To Complaint In Intervention</i>
12/23/2015	 Motion Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff's Motion to Alter or Amend Judgment; or, in the Alternative, Motion for Partial Reconsideration</i>
12/24/2015	 Motion Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary, LLC's Emergency Motion To Stay Pending Review By The Nevada Supreme Court On Order Shortening Time</i>
12/28/2015	 Motion to Dismiss Filed By: Intervenor Plaintiff Acres Medical LLC <i>Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical, LLC</i>

DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C

12/28/2015	 Response Filed by: Intervenor Defendant Nevada State Department of Health and Human Services <i>State Response to Defendant Nuleaf CLV Dispensary's Emergency Motion to Stay Pending Review by the Nevada Supreme Court</i>
12/29/2015	 Opposition Filed By: Intervenor Plaintiff Acres Medical LLC <i>Opposition to Defendant Nuleaf CLV Dispensary, LLC's Emergency Motion to Stay Pending Review by the Nevada Supreme Court on Order Shortening Time</i>
12/29/2015	 Opposition Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Plaintiff's Opposition To Defendant Nuleaf Clv Dispensary, Llc's Emergency Motion To Stay Pending Review By The Nevada Supreme Court On Order Shortening Time</i>
12/30/2015	Motion to Intervene (8:30 AM) (Judicial Officer: Johnson, Eric) 12/30/2015, 01/06/2016 <i>Motion of Samantha Inc. d/b/a Samantha's Remedies to Intervene as Plaintiff Pursuant to NRC P 24 and Motion to Stay Proceedings Pending Resolution of Supreme Court Proceedings</i>
12/30/2015	Motion to Stay (8:30 AM) (Judicial Officer: Johnson, Eric) 12/30/2015, 01/06/2016 <i>Def Nuleaf CLV Dispensary, LLC's Emergency Motion to Stay Pending Review by the Nevada Supreme Court on OST</i>
12/30/2015	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)
01/05/2016	 Supplement to Opposition Filed By: Intervenor Plaintiff Acres Medical LLC <i>Supplemental Opposition to Defendant Nuleaf CLV Dispensary, LLC's Emergency Motion to Stay Pending Review by the Nevada Supreme Court on Order Shortening Time</i>
01/05/2016	 Amended Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>First Amended Answer to Complaint in Intervention and Counterclaim</i>
01/06/2016	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)
01/11/2016	 Opposition Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Opposition to Motion to Dismiss Counterclaim; or, in the Alternative Motion for Leave to Amend</i>
01/11/2016	 Opposition to Motion Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>OPPOSITION TO PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT; OR, IN THE ALTERNATIVE MOTION FOR PARTIAL RECONSIDERATION</i>
01/18/2016	 Reply to Opposition Filed by: Intervenor Defendant GB Sciences Nevada LLC <i>Reply to Opposition to Plaintiff's Motion to Alter or Amend Judgment; or, in the Alternative Motion for Partial Reconsideration</i>
01/19/2016	 Reply in Support Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Reply in Support of Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against</i>









DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C

Acres Medical, LLC

01/25/2016	 Order Denying Motion Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Order Denying Plaintiff's Motion For Leave To Amend</i>
01/25/2016	 Order Denying Motion Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Order Denying Samantha Remedies' Motion To Intervene</i>
01/25/2016	 Motion to Dismiss Filed By: Intervenor Plaintiff Acres Medical LLC <i>Motion to Dismiss GB Sciences Nevada, LLC'S First Amended Counterclaim Against Acres Medical, LLC</i>
01/26/2016	 Notice of Entry of Order Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Entry of Order</i>
01/26/2016	 Notice of Entry of Order Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Entry of Order</i>
01/26/2016	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
01/26/2016	Motion to Amend Judgment (3:00 PM) (Judicial Officer: Johnson, Eric) <i>Plaintiff's Motion to Alter or Amend Judgment; or, in the Alternative, Motion for Partial Reconsideration</i>
01/26/2016	Motion to Dismiss (3:00 PM) (Judicial Officer: Johnson, Eric) <i>Plaintiff in Intervention Acre's Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical, LLC</i>
01/26/2016	 All Pending Motions (3:00 PM) (Judicial Officer: Johnson, Eric)
01/27/2016	CANCELED Calendar Call (10:45 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i>
02/08/2016	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i>
02/24/2016	CANCELED Motion to Dismiss (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i> <i>Motion to Dismiss GB Sciences Nevada, LLC'S First Amended Counterclaim Against Acres Medical, LLC</i>
03/02/2016	 Notice of Appeal Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Defendant Nuleaf CLV Dispensary, LLC's Notice Of Appeal</i>
03/02/2016	 Case Appeal Statement Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Case Appeal Statement</i>
03/03/2016	 Order

CASE SUMMARY

CASE NO. A-14-710597-C

	<p>Filed By: Intervenor Plaintiff Acres Medical LLC <i>Order re: Defendant Nuleaf CLV Dispensary, LLC's Emergency Motion to Stay Pending Review by the Nevada Supreme Court on Order Shortening Time</i></p>
03/03/2016	<p> Order Granting Motion Filed By: Intervenor Plaintiff Acres Medical LLC <i>Order Granting Intervenor Acres Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaims Against Acres Medical, LLC</i></p>
03/03/2016	<p> Order Denying Motion Filed By: Intervenor Plaintiff Acres Medical LLC <i>Order Denying Plaintiff GB Sciences Nevada, LLC's Motion to Alter or Amend Judgment; or, in the Alternative Motion for Partial Reconsideration</i></p>
03/03/2016	<p>Order of Dismissal With Prejudice (Judicial Officer: Johnson, Eric) Debtors: GB Sciences Nevada LLC (Counter Claimant) Creditors: Acres Medical LLC (Counter Defendant) Judgment: 03/03/2016, Docketed: 03/10/2016</p>
03/04/2016	<p> Notice of Entry of Order Filed By: Intervenor Plaintiff Acres Medical LLC <i>Notice of Entry of Order Granting Intervenor Acres Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaims Against Acres Medical, LLC</i></p>
03/04/2016	<p> Notice of Entry of Order Filed By: Intervenor Plaintiff Acres Medical LLC <i>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</i></p>
03/04/2016	<p> Notice of Entry of Order Filed By: Intervenor Plaintiff Acres Medical LLC <i>Notice of Entry of Order re: Defendant Nuleaf CLV Dispensary, LLC's Emergency Motion to Stay Pending Review by the Nevada Supreme Court on Order Shortening Time</i></p>
03/09/2016	<p> Notice of Posting Bond Filed By: Intervenor Defendant Nuleaf CLV Dispensary LLC <i>Notice Of Posting Bond</i></p>
03/30/2016	<p> Notice of Appeal Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Notice of Cross-Appeal</i></p>
03/30/2016	<p> Case Appeal Statement Filed By: Intervenor Defendant GB Sciences Nevada LLC <i>Case Appeal Statement</i></p>

DATE**FINANCIAL INFORMATION****Defendant** Desert Aire Wellness LLC

Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 4/1/2016	0.00

Intervenor Defendant Nuleaf CLV Dispensary LLC

Total Charges	670.00
Total Payments and Credits	670.00
Balance Due as of 4/1/2016	0.00

DEPARTMENT 20
CASE SUMMARY
CASE NO. A-14-710597-C

Intervenor Plaintiff Acres Medical LLC

Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 4/1/2016	0.00

Other Samantha Inc

Total Charges	7.00
Total Payments and Credits	7.00
Balance Due as of 4/1/2016	0.00

Intervenor Defendant GB Sciences Nevada LLC

Total Charges	494.00
Total Payments and Credits	494.00
Balance Due as of 4/1/2016	0.00

Intervenor Defendant Nuleaf CLV Dispensary LLC

Appeal Bond Balance as of 4/1/2016	500.00
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Intervenor Defendant GB Sciences Nevada LLC

Appeal Bond Balance as of 4/1/2016	500.00
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DISTRICT COURT CIVIL COVER SHEET

A-14-710597-C

County, Nevada

Case No.

XX

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

GB Sciences Nevada, LLC

Defendant(s) (name/address/phone):

State of Nevada, Division of Public and Behavioral Health of the
Department of Health and Human Services;

Desert Aire Wellness, LLC;

NULEAF CLV Dispensary, LLC

Attorney (name/address/phone):

Moran Brandon Bandavid Moran

630 South 4th Street

Las Vegas, NV 89101

(702) 384-8424

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Negligence	Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters	

Business Court filings should be filed using the Business Court civil coversheet.

12/2/14

Date:

Signature of initiating party or representative

See other side for family-related cover sheets.

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.

20 ACRES MEDICAL, LLC,

21 Plaintiff in Intervention,

22 vs.

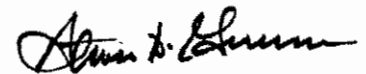
23 STATE OF NEVADA, DIVISION OF PUBLIC
24 AND BEHAVIORAL HEALTH OF THE
25 DEPARTMENT OF HEALTH AND HUMAN
26 SERVICES; CITY OF LAS VEGAS, a
27 municipal corporation and political subdivision
28 of the State of Nevada; NULEAF CLV
29 DISPENSARY, LLC, a Nevada limited liability
30 company; GB SCIENCES NEVADA, 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.
(NRS § 453A.322(3)(a)(5)).

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

23 11. On October 28-29, 2014, the Las Vegas City Council held a special meeting to
24 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."
24

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

1 **CERTIFICATE OF SERVICE**

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

3 JAMES E. SHAPIRO, ESQ.

4 **jshapiro@smithshapiro.com**

Attorney for Plaintiff, Counter Claimant, Intervenor Defendant

5 TODD L. BICE, ESQ.

6 **tlb@pisanellibice.com**

Attorney for Defendant, Intervenor Defendant

7 MARK E. FERRARIO, ESQ.

8 **lvitdock@gtlaw.com**

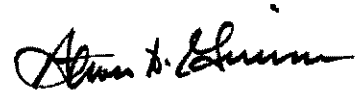
Attorney for Counter Defendant, Intervenor Plaintiff

9 /s/Kelly Muranaka

10

Kelly Muranaka

11 Judicial Executive Assistant



CLERK OF THE COURT

1 **NEOJ**

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

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

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

a municipal corporation and political
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

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

DATED this 15th day of December, 2015.

GREENBERG TRAURIG, LLP

By: /s/ Moorea L. Katz

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*

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,

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9 AND BEHAVIORAL HEALTH OF THE
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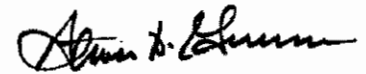
23 STATE OF NEVADA, DIVISION OF PUBLIC
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29 DISPENSARY, LLC, a Nevada limited liability
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Case No. A-14-710597-C

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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."
24

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.

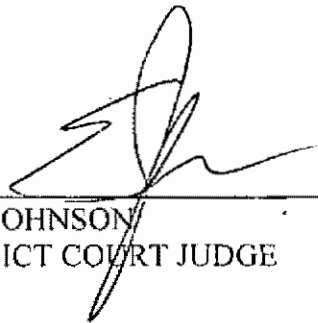
22 40. **IT IS FURTHER ORDERED** that Plaintiff's Motion is **DENIED** to the extent
23 Plaintiff seeks the re-issue of Nuleaf's registration to Plaintiff.
24

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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

1 **CERTIFICATE OF SERVICE**

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

3 JAMES E. SHAPIRO, ESQ.

4 **jshapiro@smithshapiro.com**

Attorney for Plaintiff, Counter Claimant, Intervenor Defendant

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6 **tlb@pisanellibice.com**

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7 MARK E. FERRARIO, ESQ.

8 **lvitdock@gtlaw.com**

Attorney for Counter Defendant, Intervenor Plaintiff

9 /s/Kelly Muranaka

10 _____
Kelly Muranaka

11 Judicial Executive Assistant


CLERK OF THE COURT

1 **ORDR**

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

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

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

12 Plaintiff,

13 v.

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

25 Defendants.

26 ACRES MEDICAL, LLC,

27 Plaintiff in Intervention,

28 v.

29 STATE OF NEVADA, DIVISION OF
30 PUBLIC AND BEHAVIORAL HEALTH OF
31 THE DEPARTMENT OF HEALTH AND
32 HUMAN SERVICES; CITY OF LAS VEGAS,
33 a municipal corporation and political
34 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 TRAURIG, LLP
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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 GB SCIENCES
6 NEVADA, LLC'S ("Plaintiff") Motion to Alter or Amend Judgment; or, in the Alternative Motion
7 for Partial Reconsideration ("Motion"), Plaintiff, having appeared by and through its attorneys of
8 record, SMITH & SHAPIRO, PLLC; Defendant STATE OF NEVADA, DEPARTMENT OF
9 HEALTH AND HUMAN SERVICES (the "State" or "Division"), having appeared by and through
10 ADAM PAUL LAXALT, Attorney General through his Chief Deputy Attorney General, LINDA C.
11 ANDERSON; Defendant NuLeaf CLV Dispensary LLC, having appeared by and through its
12 attorneys of record, PISANELLI BICE, PLLC; Intervenor ACRES MEDICAL, LLC ("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 findings and conclusions on the record, and good cause appearing, NOW
16 **THEREFORE, THE COURT FINDS AND CONCLUDES:**

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

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

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

25
26
27
28

DISTRICT COURT JUDGE

ERIC JOHNSON

1 Respectfully Submitted by:

2 **GREENBERG TRAURIG, LLP**

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

8 Approved/Disapproved as to Form and Content:

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14 Henderson, Nevada 89074
15 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

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22 *Attorneys for Nuleaf CLV Dispensary LLC*

22 Approved/Disapproved as to Form and Content:

23 **ADAM PAUL LAXALT**
24 Attorney General

25 _____
26 Linda C. Anderson, Esq.
27 Chief Deputy Attorney General
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16 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

17 Approved/Disapproved as to Form and Content:

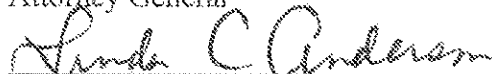
18 **PISANELLI BICE, PLLC**

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23 *Attorneys for Nuleaf CLV Dispensary LLC*

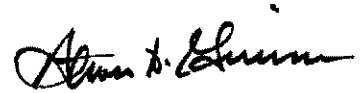
24 Approved/Disapproved as to Form and Content:

25 **ADAM PAUL LAXALT**

26 Attorney General

27 

28 Linda C. Anderson, Esq.
Chief Deputy Attorney General
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Las Vegas, NV 89101



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

6
7 Defendants in Intervention
8
9

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

14 DATED this 4th day of March, 2016.

15 GREENBERG TRAURIG, LLP

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

2 MARK E. FERRARIO, ESQ. (NV Bar #1625)
3 MOOREA L. KATZ, ESQ. (NV Bar #12007)
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11 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

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

12 Plaintiff,

13 v.

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

25 Defendants.

26 ACRES MEDICAL, LLC,

27 Plaintiff in Intervention,

28 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**

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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).

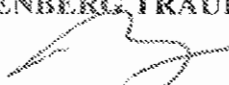
NOW THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion to Alter or Amend Judgment; or, in the Alternative Motion for Partial Reconsideration is **DENIED**.

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


DISTRICT COURT JUDGE
ERIC JOHNSON


1 Respectfully Submitted by:

2 **GREENBERG TRAURIG, LLP**

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4 Mark E. Ferrario, Esq.
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9 *Counsel for Plaintiff in Intervention Acres Medical, LLC*


8 Approved/Disapproved as to Form and Content:

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15 *Attorneys for Plaintiff GB Sciences Nevada, LLC*

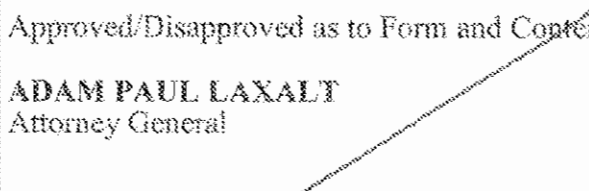
15 Approved/Disapproved as to Form and Content:

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22 *Attorneys for Nuleaf CLV Dispensary LLC*

21 Approved/Disapproved as to Form and Content:

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23 Attorney General

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25 Linda C. Anderson, Esq.
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Respectfully Submitted by:
GREENBERG TRAUBIG, LLP

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Counsel for Plaintiff in Intervention Acres Medical, LLC

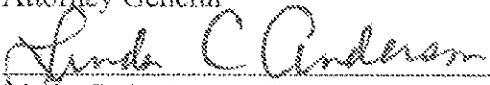
Approved/Disapproved as to Form and Content:
SMITH & SHAPIRO, PLLC

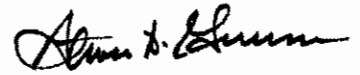
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Approved/Disapproved as to Form and Content:
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Attorney General


Linda C. Anderson, Esq.
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CLERK OF THE COURT

1 **ORDER**

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

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

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

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.

THIS MATTER, having come before the Court on January 26, 2016, on ACRES MEDICAL, LLC'S ("Acres" or "Intervenor") Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical, LLC ("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, 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 conclusions on the record, the Court being fully advised in the premises, and good cause appearing, **NOW THEREFORE, THE COURT FINDS AND CONCLUDES:**


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

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

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.

11
12
13
14 
DISTRICT COURT JUDGE
ERIC JOHNSON


15 Respectfully Submitted by:

16 **GREENBERG TRAURIG, LLP**

17 
18 Mark E. Ferrario, Esq.
19 Nevada Bar No. 1625
20 3773 Howard Hughes Parkway
21 Suite 400 North
22 Las Vegas, Nevada 89169
23 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

24 Approved/Disapproved as to Form and Content:

25 **SMITH & SHAPIRO, PLLC**

26 
27 James E. Shapiro, Esq.
28 Nevada Bar No. 7907
2520 Saint Rose Parkway, Suite 220
Henderson, Nevada 89074
Attorneys for Plaintiff GB Sciences Nevada, LLC

///

1 Approved/Disapproved as to Form and Content:

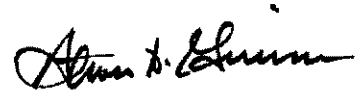
2 **PISANELLI BICE, PLLC**

3
4 Todd L. Bice, Esq.
5 Nevada Bar No. 4534
6 400 South 7th Street, Suite 300
7 Las Vegas, NV 89101
8 *Attorneys for Nuleaf CLV Dispensary LLC*

7 Approved/Disapproved as to Form and Content:

8 **ADAM PAUL LAXALT**
9 Attorney General

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



CLERK OF THE COURT

1 **NEOJ**

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

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

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

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

a municipal corporation and political
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

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

DATED this 4th day of March, 2016.

GREENBERG TRAURIG, LLP

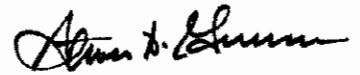
By: /s/ Moorea L. Katz
MARK E. FERRARIO (NV Bar No. 1625)
MOOREA L. KATZ (NV Bar No. 12007)
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
*Counsel for Plaintiff in Intervention
Acres Medical, LLC*

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 **ORDER**

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: ferrario@gflaw.com

10 katzmo@gflaw.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 GRANTING INTERVENOR ACRES
MEDICAL, LLC'S MOTION TO DISMISS
GB SCIENCES NEVADA, LLC'S
COUNTERCLAIMS AGAINST ACRES
MEDICAL, LLC**

GREENBERG TRAUIG, 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.

THIS MATTER, having come before the Court on January 26, 2016, on ACRES MEDICAL, LLC'S ("Acres" or "Intervenor") Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical, LLC ("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, 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 conclusions on the record, the Court being fully advised in the premises, and good cause appearing, **NOW THEREFORE, THE COURT FINDS AND CONCLUDES:**


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

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

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.

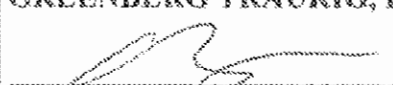
6
7 **IT IS HEREBY ORDERED** that Intervenor Acres's Motion to Dismiss GB Sciences
8 Nevada, LLC's Counterclaims Against Acres Medical, LLC is **GRANTED** and that GB Sciences'
9 Counterclaims against Acres are **DISMISSED WITH PREJUDICE**.

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

11
12
13
14 
DISTRICT COURT JUDGE
ERIC JOHNSON


15 Respectfully Submitted by:

16 **GREENBERG TRAURIG, LLP**

17 
18 Mark E. Ferrario, Esq.
19 Nevada Bar No. 1625
20 3773 Howard Hughes Parkway
21 Suite 400 North
22 Las Vegas, Nevada 89169
23 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

24 Approved/Disapproved as to Form and Content:

25 **SMITH & SHAPIRO, PLLC**

26 
27 James E. Shapiro, Esq.
28 Nevada Bar No. 7907
2520 Saint Rose Parkway, Suite 220
Henderson, Nevada 89074
Attorneys for Plaintiff GB Sciences Nevada, LLC

///

1 Approved/Disapproved as to Form and Content:

2 **PISANELLI BICE, PLLC**

3
4 Todd L. Bice, Esq.
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 *Linda C. Anderson*
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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 31, 2014

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

December 31, 2014 9:00 AM **Motion for Preliminary
Injunction**

HEARD BY: Tao, Jerome T.

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Anderson, Linda Christine	Attorney
	Bendavid, Jeffery A.	Attorney
	Bice, Todd L	Attorney
	Ciciliano, Dylan T.	Attorney
	Cristalli, Michael	Attorney
	Moran, John T., III	Attorney
	Smith, Jordan T., ESQ	Attorney

JOURNAL ENTRIES

- Arguments by Mr. Bendavid, Ms. Anderson, Mr. Bice and Mr. Ciciliano in support of their respective positions. Following, Court stated its findings and ORDERED, Motion for Preliminary Injunction is DENIED WITHOUT PREJUDICE. Mr. Ciciliano requested they be dismissed from the case. Mr. Bendavid objected at this point, however, requested counsel call him. Defendants to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 20, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

October 20, 2015 7:30 AM Minute Order

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Pursuant to request by Judge Johnson, who is out of the jurisdiction, COURT ORDERED, Plaintiff's Motion for Summary Judgment, Defendant Nuleaf CLV Dispensary LLC's Opposition to Plaintiff GB Sciences Nevada, LLC's Motion for Summary Judgment and Countermotion for Summary Judgment and Intervener Acres Medical's Motion to Intervene as a Matter of Right Pursuant to NRCP 24 set for October 21, 2015 are CONTINUED to November 4, 2015. Law Clerk to notify the parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 04, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

November 04, 2015 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber Riggio

PARTIES

PRESENT: Anderson, Linda Christine Attorney
 Bice, Todd L Attorney
 Katz, Morrea Attorney
 Leleu, Jonathan P., ESQ Attorney
 Shapiro, James E. Attorney
 Smith, Jordan T., ESQ Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT...DEFENDANT NULEAF CLV
DISPENSARY LLC'S OPPOSITION TO PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR
SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT...INTERVENER
ACRES MEDICAL'S MOTION TO INTERVENE AS A MATTER OF RIGHT PURSUANT TO NRCP
24 ON AN OST

Due to a scheduling issue, counsel requested this matter be continued. Following colloquy, COURT
ORDERED, matter CONTINUED.

... CONTINUED 11/9/15 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 09, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

November 09, 2015 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber Riggio

PARTIES

PRESENT: Anderson, Linda Christine Attorney
Bice, Todd L Attorney
Katz, Morrea Attorney
Leleu, Jonathan P., ESQ Attorney
Shapiro, James E. Attorney
Smith, Jordan T., ESQ Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT...DEFENDANT NULEAF CLV DISPENSARY LLC'S OPPOSITION TO PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION FOR SUMMARY JUDGMENT AND COUNTERMOTION FOR SUMMARY JUDGMENT...INTERVENER ACRES MEDICAL'S MOTION TO INTERVENE AS A MATTER OF RIGHT PURSUANT TO NRCP 24 ON AN OST

Arguments by Mr. Leleu, Mr. Shapiro and Mr. Bice in support of their respective positions. Following, COURT ORDERED, matter UNDER ADVISEMENT and will notify prevailing party.

CLERK'S NOTE: Court entered a Minute Order as to its Order on 11/13/15.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 13, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

November 13, 2015 7:30 AM Minute Order

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Keri Cromer

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court makes the following findings of fact and conclusions of law:

1. On October 30, 2014, the City of Las Vegas sent a letter to the Division of Public and Behavioral Health of Nevada Department of Health and Human Services (the Division) informing the Division that Defendant Nuleaf s application for a medical marijuana special use and compliance permit had been denied as not in compliance with land use restrictions and city code and ineligible for a business license.
2. The City of Las Vegas letter was intended to comply, and did comply, with NRS 453A.322(3)(a)(5). Specifically, pursuant to Las Vegas Municipal Code Section 6.95.080, the letter was to give notice to the Division, as intended in subsection 3(a)(5), as to those medical marijuana applicants which the City of Las Vegas had found to be or not to be in conformance with land use and zoning restrictions, and eligible for consideration for a business license. This letter described the applicable building requirements and zoning restrictions as outlined in the statute.
3. On or about November 3, 2014, the Division registered Nuleaf as a medical marijuana establishment and issued a registration certificate.

4. At the time the Department registered Nuleaf and issued a registration certificate, Nuleaf did not meet the requirements of NRS 453A.322, which specifically permitted the Division to register a medical marijuana establishment and issue a registration certificate if the business seeking to register had completed all of the requirements of subsection 3(a), including providing a letter from the applicable local authority certifying that the proposed medical marijuana establishment is in compliance with [zoning] restrictions and satisfies all applicable building requirements. Pursuant the plain terms of the statute, the Division should not have registered Nuleaf and issued a registration certificate as Nuleaf had not met all the requirements of the statute.

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

IT IS HEREBY ORDERED Plaintiff s Motion for Summary Judgment is GRANTED in part and DENIED in part. It is GRANTED to the extent Plaintiff is entitled to a declaration that Nuleaf should not have been registered or issued a certification of registration as a medical marijuana establishment because it had not met all the necessary requirements of 453A.322(3)(a). It is hereby ORDERED the Division shall rescind or withdraw the registration of Nuleaf as a medical marijuana establish. Plaintiff s Motion for Summary Judgment is DENIED to the extent Plaintiff seeks the re-issue of Nuleaf s registration to Plaintiff.

IT IS FURTHER ORDERED the Division register intervenor Acres Medical, which, 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, should have been the thirteenth ranked applicant on November 3, 2014, approved by the City of Las Vegas as in compliance with land use restrictions and city code and eligible for a business license, and meeting all other requirements of NRS 453A.322(3)(a).

IT IS FURTHER ORDERED Defendant Nuleaf s Countermotion for Summary Judgment is DENIED in its entirety.

IT IS FURTHER ORDERED intervenor Acres Medical provide the court with a proposed findings of fact, conclusions of law and order in Word format for the Court pursuant to EDCR 7.21 to provide a more fulsome decision.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 02, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

December 02, 2015 8:30 AM Motion to Amend

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber Riggio

PARTIES

PRESENT: Anderson, Linda Christine Attorney
Bice, Todd L Attorney
Ferrario, Mark E., ESQ Attorney
Katz, Morrea Attorney
Shapiro, James E. Attorney

JOURNAL ENTRIES

- John Curtas representing the City of Las Vegas also present. Arguments by Mr. Shapiro, Ms. Anderson, Mr. Bice, Mr. Ferrario and Mr. Curtas in support of their respective positions. Following, COURT ORDERED, Motion DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 30, 2015

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

December 30, 2015 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber Riggio

PARTIES

PRESENT: Anderson, Linda Christine Attorney
Bice, Todd L Attorney
Ferrario, Mark E., ESQ Attorney
Shapiro, James E. Attorney
Smith, Jordan T., ESQ Attorney

JOURNAL ENTRIES

- MOTION OF SAMANTHA INC. dba SAMANTHA'S REMEDIES TO INTERVENE AS PLAINTIFF PURSUANT TO NRCP 24 AND MOTION TO STAY PROCEEDINGS PENDING RESOLUTION OF SUPREME COURT PROCEEDINGS...DEFENDANT NULEAF CLV DISPENSARY, LLC'S EMERGENCY MOTION TO STAY PENDING REVIEW BY THE NEVADA SUPREME COURT ON OST

AS TO SAMANTHA INC'S MOTION: Court noted that no one is available to come to Court for Samantha Inc and ORDERED, Motion of Samantha Inc. dba Samantha's Remedies to Intervene is CONTINUED ONE (1) WEEK.

AS TO NULEAF'S MOTION: Arguments by Mr. Bice, Ms. Anderson, Mr. Shapiro and Mr. Ferrario in support of their respective positions. Following lengthy arguments, Court noted in view of how the statute is written, Court does not feel certificate can be given to Nuleaf, however, ORDERED, matter CONTINUED ONE (1) WEEK.

...CONTINUED 1/6/16 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

January 06, 2016

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

January 06, 2016 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber Riggio

PARTIES

PRESENT: Anderson, Linda Christine Attorney
Bice, Todd L Attorney
Ferrario, Mark E., ESQ Attorney
Katz, Morrea Attorney
Rushton, Kimberly Maxson Attorney
Shapiro, James E. Attorney
Smith, Jordan T., ESQ Attorney

JOURNAL ENTRIES

- MOTION OF SAMANTHA INC. dba SAMANTHA'S REMEDIES TO INTERVENE AS PLAINTIFF PURSUANT TO NRCP 24 AND MOTION TO STAY PROCEEDINGS PENDING RESOLUTION OF SUPREME COURT PROCEEDINGS...DEFT NULEAF CLV DISPENSARY, LLC'S EMERGENCY MOTION TO STAY PENDING REVIEW BY THE NEVADA SUPREME COURT ON OST

AS TO MOTION OF SAMANTHA: Arguments by Ms. Rushton, Ms. Anderson, Mr. Bice, Mr. Ferrario and Mr. Shapiro in support of their respective positions as to intervention. Following lengthy arguments, COURT ORDERED, Motion DENIED. Ms. Anderson to prepare the Order.

AS TO MOTION TO STAY: Arguments by Mr. Bice, Mr. Ferrario and Mr. Shapiro in support of their respective positions. Following lengthy arguments, COURT ORDERED, Motion DENIED. Mr. Ferrario to prepare the Order.

Colloquy as to Motions set for 2/3. Following, counsel to reply to Motion to Dismiss by Monday, January 11 and response to be filed by January 18 with hearing set on January 22.

1/22/16 9:00 AM PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT, OR IN THE ALTERNATIVE, MOTION FOR PARTIAL RECONSIDERATION...MOTION TO DISMISS GB SCIENCES NEVADA, LLC'S COUNTERCLAIM AGAINST ACRES MEDICAL, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

January 26, 2016

A-14-710597-C GB Sciences Nevada LLC, Plaintiff(s)
vs.
Nevada State Department of Health and Human Services, Defendant(s)

January 26, 2016 3:00 PM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber Riggio

PARTIES

PRESENT: Anderson, Linda Christine Attorney
 Ferrario, Mark E., ESQ Attorney
 Katz, Morrea Attorney
 Shapiro, James E. Attorney
 Smith, Jordan T., ESQ Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT OR IN THE ALTERNATIVE, MOTION FOR PARTIAL RECONSIDERATION...PLAINTIFF IN INTERVENTION ACRE'S MEDICAL, LLC'S MOTION TO DISMISS GB SCIENCES NEVADA, LLC'S COUNTERCLAIM AGAINST ACRES MEDICAL, LLC

Mr. Shapiro advised the issues for trial were with Nuleaf, which have been resolved and would request the trial date be vacated as he is not prepared to go to trial against Acres and that it can be reset after the hearing today. Upon Court's inquiry, Mr. Smith had no objection. COURT ORDERED, calendar call and trial date VACATED.

Arguments by Mr. Shapiro and Mr. Ferrario in support of their respective positions. Statements by Mr. Smith and Ms. Anderson. Following lengthy arguments, COURT ORDERED Plaintiff's Motion for Partial Reconsideration is DENIED and Plaintiff in Intervention Acre's Medical, LLC's Motion to Dismiss GB Sciences Nevada, LLC's Counterclaim Against Acres Medical is GRANTED. CASE

CLOSED. Mr. Ferrario to prepare the Order.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

JAMES E. SHAPIRO, ESQ.
2520 ST. ROSE PKWY., SUITE 220
HENDERSON, NV 89074

DATE: April 1, 2016
CASE: A710597

RE CASE: GB SCIENCES NEVADA, LLC vs. STATE OF NEVADA, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; NULEAF CLV DISPENSARY, LLC

NOTICE OF APPEAL FILED: March 30, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ **\$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)****
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ **\$24 – District Court Filing Fee (Make Check Payable to the District Court)****
- ☐ **\$500 – Cost Bond on Appeal (Make Check Payable to the District Court)****
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ **Case Appeal Statement**
 - NRAP 3 (a)(1), Form 2
- ☐ **Order**
- ☐ **Notice of Entry of Order**

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF CROSS-APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; 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; ORDER DENYING PLAINTIFF GB SCIENCES NEVADA, LLC'S MOTION TO ALTER OR AMEND JUDGMENT; OR, IN THE ALTERNATIVE MOTION FOR PARTIAL RECONSIDERATION; 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; ORDER GRANTING INTERVENOR ACRES MEDICAL, LLC'S MOTION TO DISMISS GB SCIENCES NEVADA, LLC'S COUNTERCLAIMS AGAINST ACRES MEDICAL, LLC; NOTICE OF ENTRY OF ORDER GRANTING INTERVENOR ACRES MEDICAL, LLC'S MOTION TO DISMISS GB SCIENCES NEVADA, LLC'S COUNTERCLAIMS AGAINST ACRES MEDICAL, LLC; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

GB SCIENCES NEVADA, LLC,

Plaintiff(s),

vs.

STATE OF NEVADA, DIVISION OF PUBLIC
AND BEHAVIORAL HEALTH OF THE
DEPARTMENT OF HEALTH AND HUMAN
SERVICES; NULEAF CLV DISPENSARY,
LLC,

Defendant(s),

Case No: A710597

Dept No: XX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 1 day of April 2016.

Steven D. Grierson, Clerk of the Court

A handwritten signature in black ink, appearing to read "Heather Ungermann", is written over a faint, circular court seal. The seal contains the text "CLERK OF THE COURT", "JUDICIAL DISTRICT", "COUNTY OF CLATSOP", and "STATE OF OREGON".

Heather Ungermann, Deputy Clerk

EXHIBIT H

EXHIBIT H

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

2 Todd L. Bice, Esq., Bar No. 4534
3 TLB@pisanellibice.com
4 Dustin Holmes, Esq., Bar No. 12776
5 DHH@pisanellibice.com
6 PISANELLI BICE PLLC
7 400 South 7th Street, Suite 300
8 Las Vegas, Nevada 89101
9 Telephone: 702.214.2100
10 Facsimile: 702.214.2101

Electronically Filed
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,

Supreme Court Docket No. 69909

14 Appellant,
15 vs.

**DOCKETING STATEMENT
CIVIL APPEALS**

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

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
Duston H. Holmes

14 Firm: PISANELLI BICE PLLC

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

17 Client(s) Nuleaf CLV Dispensary, LLC

18
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

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

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

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

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

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

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

n/a

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☒ A substantial issue of first impression

☒ An issue of public policy

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

☐ A ballot question

If so, explain:

This appeal presents issues of substantial first impression and of important public policy as it relates to the interpretation of NRS § 453A. The Court has not had the opportunity to evaluate the licensing process under NRS § 453A, a 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.

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

This case is presumptively retained by the Supreme Court under NRAP 17. 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.


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

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

DATED this 28th day of March, 2016.

PISANELLI BICE PLLC

By: 

Todd L. Bice, Esq., Bar No. 4534
Dustin H. Holmes, Esq., Bar No. 12776
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

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:

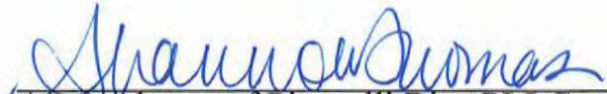
4 ☐ By personally serving it upon him/her; or

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
10 Las Vegas, NV 89169
Counsel for Plaintiff in Intervention Acres Medical, LLC

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

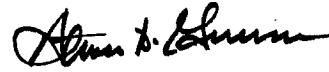
14 Adam Paul Laxalt, Attorney General
15 Linda C. Anderson, Esq., Chief Deputy Attorney General
STATE OF NEVADA, OFFICE OF THE ATTORNEY GENERAL
16 555 E. Washington Avenue, #3900
Las Vegas, NV 89101

17
18 
19 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

COMP
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: A710597
DEPT. NO: XX

**EXEMPTION FROM
ARBITRATION REQUESTED:**

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

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

COMES NOW, Plaintiff, GB SCIENCES NEVADA, LLC, a Nevada limited
liability company, by and through its attorneys of record, JEFFERY A. BENDAVID, ESQ.,
and JOHN T. MORAN, III, ESQ., of MORAN BRANDON BENDAVID MORAN, and
hereby submits its First Amended Complaint, and in addition, or in the alternative, First
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 3. Defendant, CITY OF LAS VEGAS ("City of Las Vegas"), a municipal
16 corporation and political subdivision of the State of Nevada.
17

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

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

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



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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



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

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

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

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

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



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

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

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

14
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)*.



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

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

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



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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



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.



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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.

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

16
17 104. It has also become necessary for Plaintiff to retain the services of an
18 attorney to commence this action, and Plaintiff is therefore entitled to reasonable attorney's
19 fees and the costs of this suit.
20

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.

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

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

19 109. The Division's continued refusal to comply with the requirements of NRS
20 Chapter 453A and NAC Chapter 453A in declaring Plaintiff as the next available qualified
21 applicant has and continues to harm Plaintiff as Plaintiff has not received a "provisional"
22 registration certificate for the operation of a medical marijuana establishment in the City of
23 Las Vegas that Plaintiff otherwise is entitled to receive pursuant to NRS Chapter 453A and
24 NAC Chapter 453A.
25
26
27
28



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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



28
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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.
27
28



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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



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



28
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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

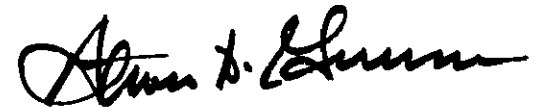
23 *Attorneys for Plaintiff*
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EXHIBIT 2



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.

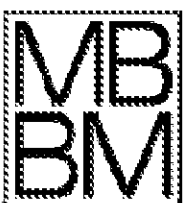
STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH
OF THE DEPARTMENT OF HEALTH
AND HUMAN SERVICES; CITY OF
LAS VEGAS, a municipal corporation and
political subdivision of the State of
Nevada; DESERT AIRE WELLNESS,
LLC, a Nevada limited liability
company; NULEAF CLV DISPENSARY,
LLC, a Nevada limited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

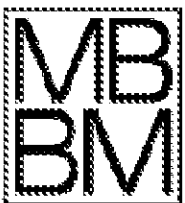
10 **JOHN T. MORAN, III, ESQ.**

11 Nevada Bar No. 7453

12 630 South 4th Street

13 Las Vegas, Nevada 89101

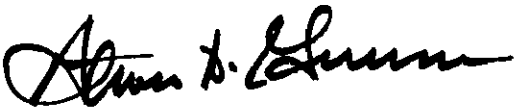
14 *Attorneys for Plaintiff*
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EXHIBIT 3


CLERK OF THE COURT

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Nevada Bar No. 7453
MORAN BRANDON BENDAVID MORAN
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(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.

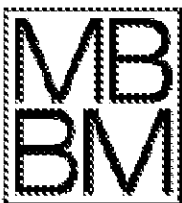
CASE NO: A-14-710597-C
DEPT. NO: XX

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

/ / /

/ / /



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

DATED this 1st day of April, 2015.

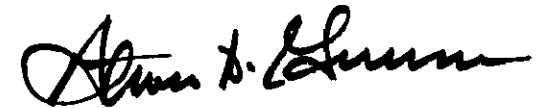
MORAN BRANDON BENDAVID MORAN

/s/: Jeffery A. Bendavid, Esq.
JEFFERY A. BENDAVID, ESQ.
Nevada Bar No. 6220
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

3773 Howard Hughes Parkway, Suite 400 North

Las Vegas, Nevada 89169

Telephone: (702) 792-3773

Facsimile: (702) 792-9002

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
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

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.

///

///

///

7. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part, provided for the registration of medical marijuana establishments authorized to cultivate and dispense marijuana and marijuana infused products to those persons authorized to use medical marijuana.

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

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

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

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

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

13. In accordance with such responsibilities, the City Council of the City of Las Vegas enacted Ordinance no. 6321 to establish zoning regulations and standards for medical marijuana establishments.

14. The City Council of the City of Las Vegas also enacted Ordinance no. 6324 to establish licensing regulations and standards for medical marijuana establishments.

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
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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.

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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
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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.

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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.

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
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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
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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

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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)
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
Counsel for Plaintiff in Intervention Acres Medical, LLC

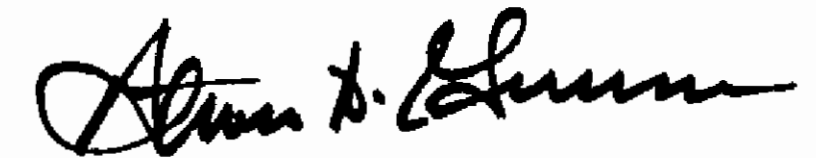
GREENBERG TRAURIG, LLP
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Suite 400 North
Las Vegas, Nevada 89169
Telephone: (702) 792-3773
Facsimile: (702) 792-9002

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

1 **ORDG**

2 MARK E. FERRARIO (NV Bar #1625)

3 LONDON LERNER (NV Bar #13368)

4 GREENBERG TRAUIG, LLP

5 3773 Howard Hughes Parkway, Suite 400 North

6 Las Vegas, NV 89169

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9 E-mail: ferrariom@gtlaw.com

10 lernerl@gtlaw.com

11 *Counsel for Plaintiffs/Petitioners*

12 *Acres Medical, LLC and Acres Cultivation, LLC*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 ACRES MEDICAL, LLC, a Nevada limited
16 liability company; and ACRES
17 CULTIVATION, LLC, a Nevada limited
18 liability company,

19 Plaintiffs/Petitioners,

20 -- vs. --

21 NEVADA DEPARTMENT OF HEALTH
22 AND HUMAN SERVICES, DIVISION OF
23 PUBLIC AND BEHAVIORAL HEALTH,

24 Defendant/ Respondent,

25 And

26 NLVG, LLC; NULEAF CLV CULTIVATION,
27 LLC; THE MEDMEN OF NEVADA 2, LLC;
28 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**

☐ Non-Jury
Disposed After Trial Start
☐ Non-Jury
Judgment Reached
☐ Transferred before Trial

☐ Jury
Disposed After Trial Start
☐ Jury
Verdict Reached
☒ Other -

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

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

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

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

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

16 5. Despite having information indicating that the Application should have received a
17 score of 41.3 in the Organizational Structure category, the Division gave the Application a score of
18 0 in the Organizational Structure category;

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

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

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

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

28 ///

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.

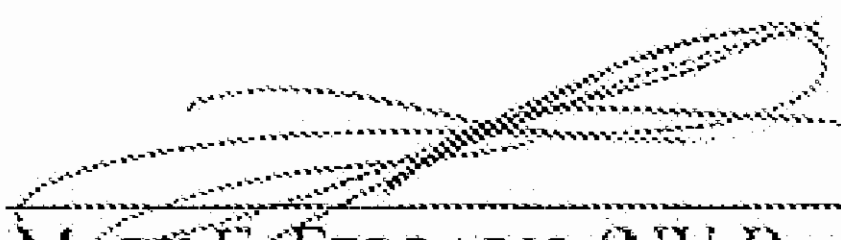
DATED this 8 day of October, 2015.


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:

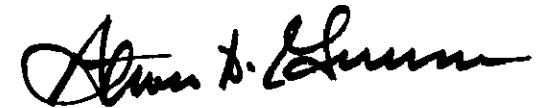
2 OFFICE OF THE ATTORNEY GENERAL
3 ADAM PAUL LAXALT

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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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**

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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
5 Defendants in Intervention.

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

9 A copy of said Order is attached hereto.

10 DATED this 25th day of November, 2015.

11 **GREENBERG TRAURIG, LLP**

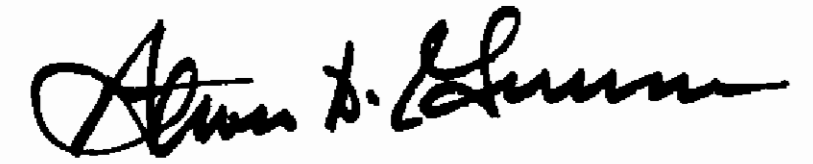
12
13 /s/ Moorea L. Katz
14 Mark E. Ferrario, Esq., Nevada Bar No. 1625
15 Moorea L. Katz, Esq., Nevada Bar No. 12007
16 3773 Howard Hughes Parkway
17 Suite 400 North
18 Las Vegas, Nevada 89169
19 *Counsel for Plaintiff in Intervention Acres Medical,*
20 *LLC*
21
22
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28

GREENBERG TRAURIG, LLP
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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 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)
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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**

GREENBERG TRAURIG, LLP
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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

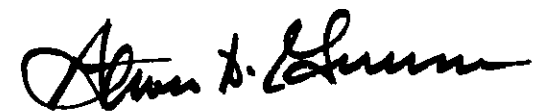
ERIC JOHNSON

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

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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**

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

6
7 Defendants in Intervention
8
9

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

15 DATED this 15th day of December, 2015.

16 GREENBERG TRAURIG, LLP

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*
24
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27
28

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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 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.

20

ACRES MEDICAL, LLC,

21 Plaintiff in Intervention,

22 vs.

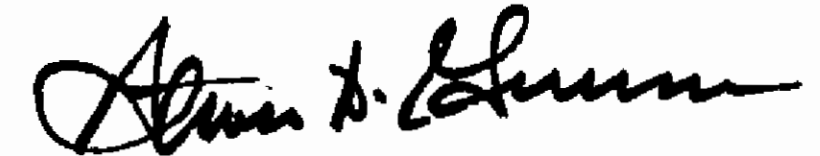
23 STATE OF NEVADA, DIVISION OF PUBLIC
24 AND BEHAVIORAL HEALTH OF THE
25 DEPARTMENT OF HEALTH AND HUMAN
26 SERVICES; CITY OF LAS VEGAS, a
27 municipal corporation and political subdivision
28 of the State of Nevada; NULEAF CLV
29 DISPENSARY, LLC, a Nevada limited liability
30 company; GB SCIENCES NEVADA,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

32 Defendants in Intervention.

Case No. A-14-710597-C

Dept. No. XX

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CLERK OF THE COURT

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ORDER

THIS MATTER having come before the Court on GB SCIENCES NEVADA, LLC's ("Plaintiff") Motion for Summary Judgment (the "Motion") and on Defendant NULEAF CLV DISPENSARY, LLC ("NuLeaf") Countermotion for Summary Judgment ("Countermotion"); 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, 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, and good cause appearing, THE COURT FINDS AND CONCLUDES:

FINDINGS OF FACTS

1. In 2013, Senate Bill 374 was passed which provided for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

2. Under N.R.S. § 453A.320 et seq., the Division was tasked with processing and ranking applications for Medical Marijuana Establishments ("MMEs") for each local jurisdiction in Nevada.

3. There were five types of MME's, including Dispensaries, Cultivation Facilities, and Production Facilities. The MME at issue in this lawsuit is a Dispensary.

4. The City of Las Vegas was allocated twelve Dispensary provisional certificates.

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.

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 11th 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

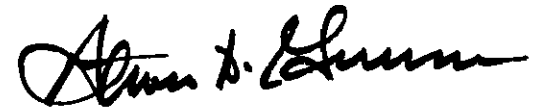
TODD L. BICE, ESQ.
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Attorney for Defendant, Intervenor Defendant

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

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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**

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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

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.

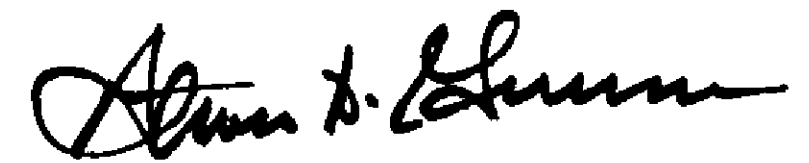
11 GREENBERG TRAURIG, LLP

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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*
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23
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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**

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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**

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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**

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8 Las Vegas, Nevada 89169

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

10 Approved/Disapproved as to Form and Content:

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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

Linda C. Anderson, Esq.

Chief Deputy Attorney General

Nevada Bar No. 4090

555 E. Washington Ave., #3900

Las Vegas, NV 89101

1 Respectfully Submitted by:

2 **GREENBERG TRAURIG, LLP**

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4 Mark E. Ferraro, Esq.
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9 *Counsel for Plaintiff in Intervention Acres Medical, LLC*

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24 Approved/Disapproved as to Form and Content:

25 **ADAM PAUL LAXALT**

26 Attorney General

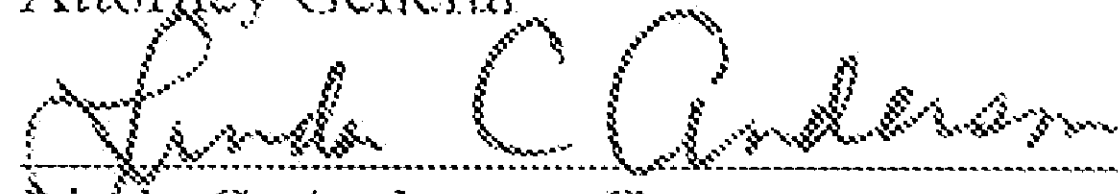
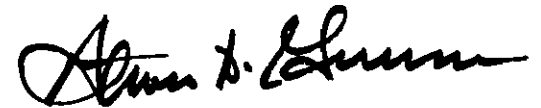
27 
28 Linda C. Anderson, Esq.
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EXHIBIT 8



CLERK OF THE COURT

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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.

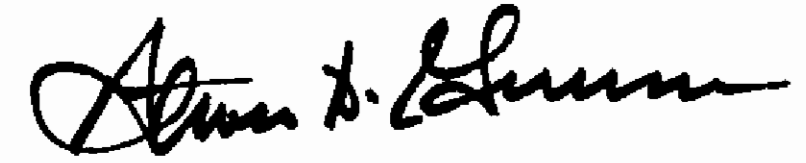
14 GREENBERG TRAURIG, LLP

15
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17 By: /s/ Moorea L. Katz
18 MARK E. FERRARIO (NV Bar No. 1625)
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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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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)

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

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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
27 THE DEPARTMENT OF HEALTH AND
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**.

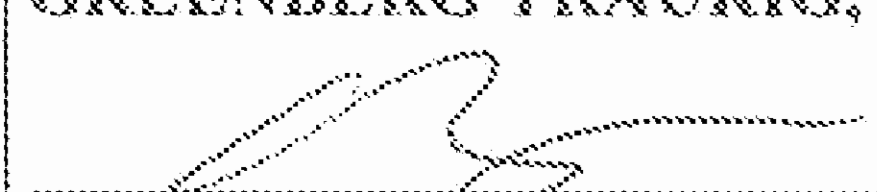
10 **IT IS SO ORDERED** this 29 day of February, 2016.

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DISTRICT COURT JUDGE
ERIC JOHNSON

Respectfully Submitted by:

GREENBERG TRAURIG, LLP


Mark E. Ferrario, Esq.

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Counsel for Plaintiff in Intervention Acres Medical, LLC

Approved/Disapproved as to Form and Content:

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James E. Shapiro, Esq.

Nevada Bar No. 7907

2520 Saint Rose Parkway, Suite 220

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

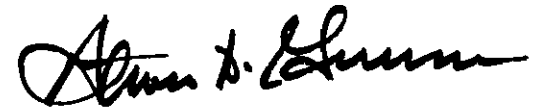
9 Approved/Disapproved as to Form and Content:

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

EXHIBIT G

EXHIBIT G



CLERK OF THE COURT

1 **ASTA**

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2 TLB@pisanellibice.com

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3 JTS@pisanellibice.com

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5 400 South 7th Street, Suite 300

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6 Telephone: (702) 214-2100

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8 *Attorneys for Nuleaf CLV Dispensary LLC*

9 **DISTRICT COURT**

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

26 Defendants.

Case No.: A-14-710597-C

Dept. No.: XX

**DEFENDANT NULEAF CLV
DISPENSARY, LLC'S NOTICE OF
APPEAL**

27 Notice is hereby given that Nuleaf CLV Dispensary, LLC, defendant above named, appeals
28 to the Supreme Court of Nevada from the Order Denying Defendant's Countermotion for Summary

...

...

...

Judgment entered in this action on December 14, 2015, attached hereto as Exhibit 1, and all other orders or rulings made appealable thereby.

DATED this 2nd day of March, 2016.

PISANELLI BICE PLLC

By: /s/ Todd L. Bice
Todd L. Bice, Esq., Bar No. 4534
Jordan T. Smith, Esq., Bar No. 12097
Dustun H. Holmes, Esq., Bar No. 12776
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Nuleaf CLV Dispensary LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 2nd day of March, 2016, I caused to be served a true and correct copy of the above and foregoing **DEFENDANT NULEAF CLV DISPENSARY, LLC'S NOTICE OF APPEAL** to all parties via the Court's Wiznet e-filing system:

Adam P. Laxalt, Esq.
Attorney General
Linda C. Anderson, Esq.
Chief Deputy Attorney General
555 E. Washington Ave., #3900
Las Vegas, NV 89101

Attorneys for The State of Nevada

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Las Vegas, NV 89169

Attorney for Intervener Acres Medical, LLC

/s/ Shannon Thomas
An employee of PISANELLI BICE PLLC

EXHIBIT 1



CLERK OF THE COURT

NEOJ

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

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

GREENBERG TRAURIG, LLP

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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,

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 TRAURIG, 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

5
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*
20
21
22
23
24
25
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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 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
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13 of the State of Nevada; DESERT AIRE
14 WELLNESS, LLC, a Nevada limited liability
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16 LLC, a Nevada limited liability company;
17 DOES 1 through 100; and ROE ENTITIES 1
18 through 100,

19 Defendants.

20 ACRES MEDICAL, LLC,

21 Plaintiff in Intervention,

22 vs.

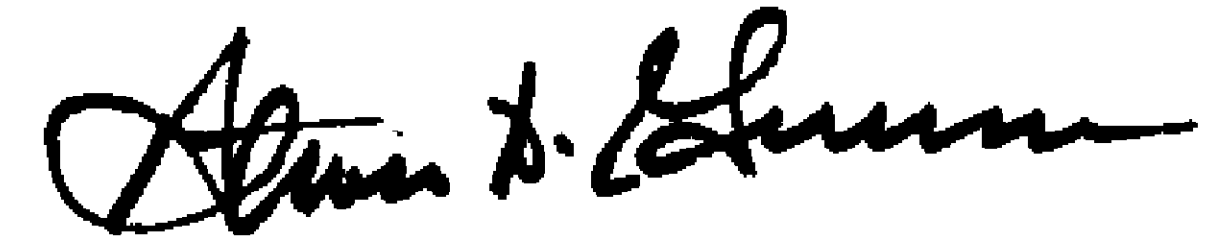
23 STATE OF NEVADA, DIVISION OF PUBLIC
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28 of the State of Nevada; NULEAF CLV
29 DISPENSARY, LLC, a Nevada limited liability
30 company; GB SCIENCES NEVADA, LLC, a
31 Nevada limited liability company,

32 Defendants in Intervention.

Case No. A-14-710597-C

Dept. No. XX

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CLERK OF THE COURT

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ORDER

THIS MATTER having come before the Court on GB SCIENCES NEVADA, LLC's ("Plaintiff") Motion for Summary Judgment (the "Motion") and on Defendant NULEAF CLV DISPENSARY, LLC ("NuLeaf") Countermotion for Summary Judgment ("Countermotion"); 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, 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, and good cause appearing, THE COURT FINDS AND CONCLUDES:

FINDINGS OF FACTS

1. In 2013, Senate Bill 374 was passed which provided for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. Senate Bill 374 was codified into N.R.S. Chapter 453A.

2. Under N.R.S. § 453A.320 et seq., the Division was tasked with processing and ranking applications for Medical Marijuana Establishments ("MMEs") for each local jurisdiction in Nevada.

3. There were five types of MME's, including Dispensaries, Cultivation Facilities, and Production Facilities. The MME at issue in this lawsuit is a Dispensary.

4. The City of Las Vegas was allocated twelve Dispensary provisional certificates.

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.
(NRS § 453A.322(3)(a)(5)).

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

23 11. On October 28-29, 2014, the Las Vegas City Council held a special meeting to
24 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).

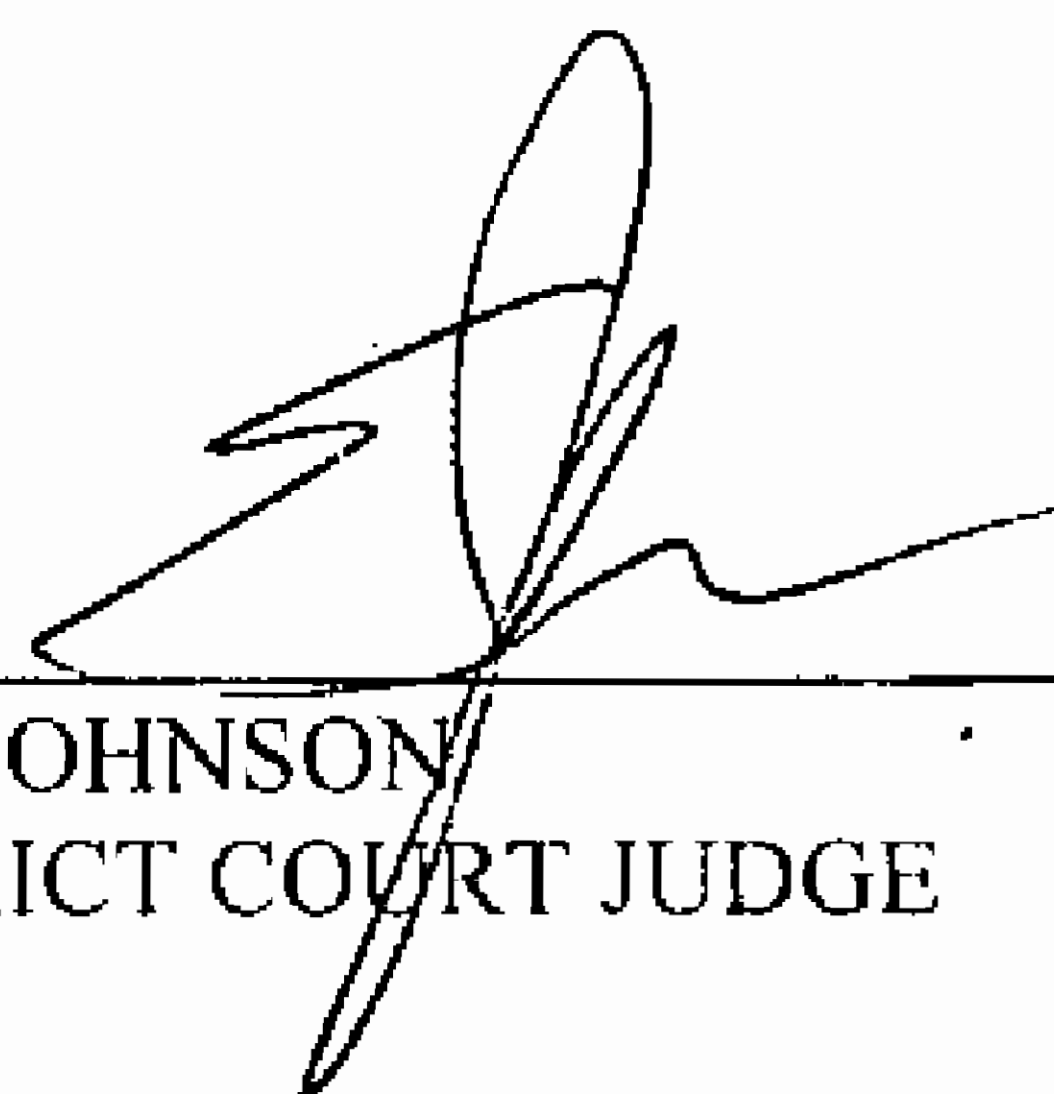
20 39. **IT IS FURTHER ORDERED** that the Division shall rescind or withdraw the
21 registration of Nuleaf as a medical marijuana establishment.

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.

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

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

5 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 F

EXHIBIT F

1 ORDR

2 EIGHTH JUDICIAL DISTRICT COURT

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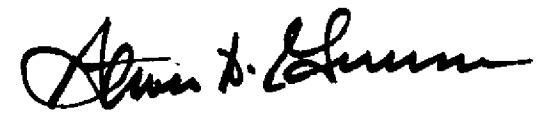
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Case No. A-14-710597-C

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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
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7 6321 and 6324 to establish zoning regulations, licensing regulations, and standards for MME
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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
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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
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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 11th 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@smithshapiro.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 E

EXHIBIT E

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No.

(Assigned by Clerk's Office)

XX

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

GB Sciences Nevada, LLC

Defendant(s) (name/address/phone):

State of Nevada, Division of Public and Behavioral Health of the
Department of Health and Human Services;

Desert Aire Wellness, LLC;

NULEAF CLV Dispensary, LLC

Attorney (name/address/phone):

Moran Brandon Bendavid Moran

630 South 4th Street

Las Vegas, NV 89101

(702) 384-8424

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

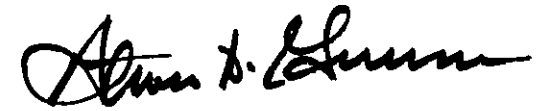
Business Court filings should be filed using the Business Court civil coversheet.

12/2/14

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP

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; 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.

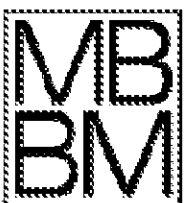
CASE NO: A - 14 - 710597 - C
DEPT. NO: XX

**EXEMPTION FROM
ARBITRATION REQUESTED:**

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

**COMPLAINT AND IN ADDITION, OR IN THE ALTERNATIVE, PETITION FOR
JUDICIAL REVIEW AND WRIT OF MANDAMUS**

COMES NOW, Plaintiff, GB SCIENCES NEVADA, LLC, a Nevada limited
liability company, by and through its attorneys of record, JEFFERY A. BENDAVID, ESQ.,
and JOHN T. MORAN, III, ESQ., of MORAN BRANDON BENDAVID MORAN, and
hereby submits its Complaint, and in addition, or in the alternative, Petition for Judicial
Review and Writ of Mandamus against Defendants, STATE OF NEVADA, DIVISION OF
PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND



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1 HUMAN SERVICES; CITY OF LAS VEGAS, a municipal corporation and political
2 subdivision of the State of Nevada; DESERT AIRE WELLNESS, LLC, a Nevada limited
3 liability company; NULEAF CLV DISPENSARY, LLC, a Nevada limited liability
4 company; DOES 1 through 100; and ROE ENTITIES 1 through 100 (collectively, the
5 “Defendants”), and alleges as follows:
6

7 **I. PARTIES**

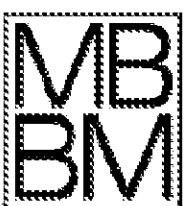
8 1. Plaintiff, GB SCIENCES NEVADA, LLC (the “Plaintiff”), is a Nevada
9 limited liability company business in Clark County, Nevada.

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

14 3. Upon Plaintiff’s information and belief, Defendant, DESERT AIRE
15 WELLNESS, LLC (“Desert Aire”), is a Nevada limited liability company conducting
16 business in Clark County, Nevada.
17

18 4. Upon Plaintiff’s information and belief, Defendant, NULEAF CLV
19 DISPENSARY, LLC (“Nuleaf”), is a Nevada limited liability company conducting
20 business in Clark County, Nevada.

21 5. The true names and capacities whether individual, corporate, associate or
22 otherwise of Defendants named herein as DOES 1 through 100, inclusive, and ROE
23 ENTITIES 1 through 100, inclusive, and each of them, are unknown to Plaintiff who
24 therefore sues those Defendants by such fictitious names. Plaintiff is informed, believes,
25 and thereon alleges that each of the Defendants designated herein as a DOE or ROE
26 ENTITY are one or more of the applicants improperly or unlawfully issued a provisional
27
28



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

12
13 6. Venue is proper in this Court pursuant to *NRS 13.020(3) and NRS*
14 *233B.130(2)(b)*, in that this is the county where the cause, or some part thereof, arose and
15 the aggrieved party resides.

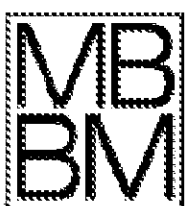
16 II. GENERAL ALLEGATIONS

17
18 7. The allegations of paragraphs 1 through 6 of this Complaint are incorporated
19 by reference herein with the same force and effect as set forth in full below.

20 GENERAL STATUTORY AND REGULATORY FRAMEWORK

21 8. In 2013, the Nevada Legislature passed Senate Bill 374, which, in part,
22 provided for the registration of medical marijuana establishments authorized to cultivate
23 and dispense marijuana and marijuana infused products to those persons authorized to use
24 medicinal marijuana.
25

26 9. The Nevada Legislature codified Senate Bill 374 in NRS Chapter 453A, *et*
27 *seq.*
28



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1 10. As part of *NRS Chapter 453A*, the Nevada Legislature tasked the Division
2 with protecting the people of Nevada's general welfare, health, and safety through the
3 registration of medical marijuana establishments and medical marijuana establishment
4 agents.

5
6 11. In order to achieve this purpose, the Division, in conjunction with various
7 Nevada counties, municipalities, interested parties, and Nevada citizens worked extensively
8 to create a regulatory framework for implementing and enforcing *NRS Chapter 453A, et*
9 *seq.*, in a fair and balanced manner.

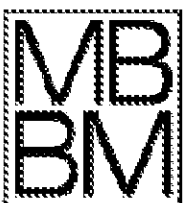
10 12. This effort resulted in the passage and implementation as of April 1, 2014,
11 of *NAC 453A.010, et seq.*, which provided the necessary regulations for the application,
12 review, approval, and ultimate registration of a medical marijuana establishment in
13 accordance with the requirements of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

15 **CITY OF LAS VEGAS' APPROVAL PROCESS**

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

22 14. In accordance with such responsibilities, the City Council of the City of Las
23 Vegas enacted Ordinance No. 6321 to establish zoning regulations and standards for
24 medical marijuana establishments.
25

26 15. The City Council of the City of Las Vegas also enacted Ordinance No. 6324
27 to establish licensing regulations and standards for medical marijuana establishments.
28



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1 16. In addition, the City of Las Vegas prepared and issued a separate application
2 packet for any person wishing to obtain the required special use permit and business
3 licensing for the operation of a medical marijuana establishment in the City of Las Vegas.
4

5 17. Accordingly, forty-three (43) applicants filed applications seeking the City
6 of Las Vegas' approval for zoning and licensing of a medical marijuana establishment to
7 dispense medical marijuana.

8 18. On October 28, 2014, the City Council of the City of Las Vegas held a
9 special meeting to consider each applicant for a special use permit for a proposed medical
10 marijuana dispensary.
11

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

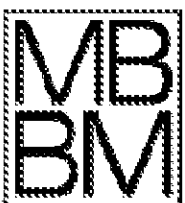
14 20. The City of Las Vegas denied ten (10) applicants, including Nuleaf, a
15 Special Use Permit.

16 21. Six applicants, including Desert Aire withdrew their applications prior to the
17 City Council's October 28, 2014 special meeting.
18

19 22. Upon information and belief, the City of Las Vegas thereafter informed the
20 Division of those applicants granted a special use permit and those applicants denied a
21 special use permit by the City of Las Vegas.
22

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

24 23. *NRS Chapter 453A.322(2)* requires any person who wished to operate a
25 medical marijuana establishment in Nevada to submit to the Division an application on a
26 form prescribed by the Division.
27
28



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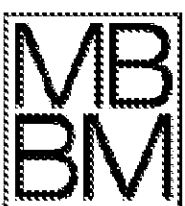
1 24. In addition, *NRS 453A.322(3)(a)(2)* through (5) provided a list of items that
2 every application for a medical marijuana establishment must have submitted to the
3 Division as part of an application.

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

11 26. To assist the Division in implementing the required statutory application
12 process, the Division adopted *NAC 453A.310(1)*, which obligated the Division upon
13 receiving more than one application for a medical marijuana establishment to determine
14 first that each application was complete and in compliance with NRS Chapter 453A and
15 NAC Chapter 453A.
16

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

23 28. Supposedly in accordance with these and many other statutory and
24 regulatory requirements, the Division issued an application packet on May 30, 2014.
25



26
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1 29. Thereafter, the Division set an August 18, 2014 deadline for submitting an
2 application to the Division for the registration of a medical marijuana establishment and
3 began accepting applications on August 5, 2014.

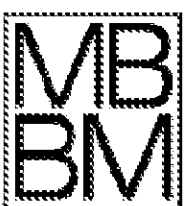
4 **THE DIVISION'S ISSUANCE OF PROVISIONAL CERTIFICATES**

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

12 31. However, the requirements of *NRS 453A.322(3)* and the Division's ability to
13 issue a medical marijuana registration certificate were subject expressly to the exceptions
14 set forth in *NRS 453A.326*.

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

18 33. *NRS 453A.326(3)* further required that this "provisional" status shall remain
19 until such time as the recipient of this "provisional" medical marijuana registration
20 certificate is in compliance with the applicable city, town, or county's ordinances and rules
21 and obtains a business license for the operation of a medical marijuana establishment from
22 the applicable city, town, or county.



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1 34. The City of Las Vegas is a Nevada city that enacted ordinances for the
2 zoning and business licensing of medical marijuana establishments.

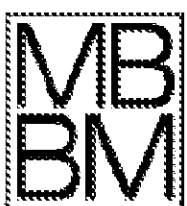
3 35. As such, *NRS 453A.326(3)* required that any medical marijuana
4 establishment registration certificate issued for the operation of a medical marijuana
5 establishment in the City of Las Vegas be deemed “provisional” until such applicant
6 complies with the City of Las Vegas’ ordinances and rules and obtains a business license
7 from the City of Las Vegas.
8

9 36. The Nevada Legislature anticipated that a recipient of a required
10 “provisional” registration certificate from the Division might not comply with the City of
11 Las Vegas’ ordinances or obtain the required licensing.
12

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

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

26 39. Accordingly, the Division adopted *NAC 453A.310*, which required the
27 Division to make an initial determination that each application filed with the Division was
28



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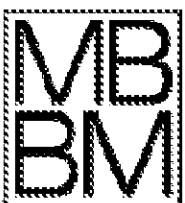
1 complete, including proof of evidence that each applicant had obtained the required zoning
2 and licensing from the City of Las Vegas, before ranking any applications.

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

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

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

22 43. Pursuant to the regulatory framework, the Division was first to ensure that
23 each applicant had the necessary City of Las Vegas zoning and licensing approvals before
24 accepting the application as complete and ranking the application against the Division's
25 criteria.
26



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

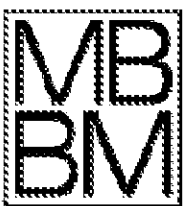
7 45. The Division’s regulatory scheme plainly adopted and endorsed this “next
8 highest ranked applicant” process as a resolution for situations where an applicant or a
9 recipient of a “provisional” registration certificate were denied a special use permit or a
10 business license by the City of Las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

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

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

24 48. In response to this question, Mr. Westom stated, “it was part of the process
25 for the applicants to provide evidence of local zoning and business license approval.”
26

27 49. Mr. Westom also stated that any jurisdiction where the Division issued
28 “provisional” registration certificates that jurisdiction would have the option of denying



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1 these businesses at the local level; whereupon the Division would then deny those same
2 businesses and notify the local jurisdiction of the next ranked applicant.

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

8 **PLAINTIFF AND DEFENDANTS' APPLICATIONS**

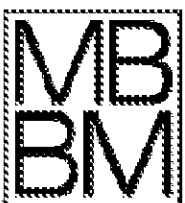
9 51. On or before the Division's August 18, 2014 deadline, the Division received
10 approximately forty-nine (49) applications for the City of Las Vegas' twelve (12) allotted
11 medical marijuana establishment registration certificates for the operation of a medical
12 marijuana dispensary in the City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

14 52. Plaintiff, Desert Aire, and Nuleaf were among these 49 applicants to the
15 Division.
16

17 53. Prior to submitting an application to the Division, Plaintiff, Desert Aire, and
18 Nuleaf, also each submitted an application to the City of Las Vegas for a Special Use Permit
19 and a Business License as required by the City of Las Vegas' newly enacted ordinances.

20 54. However, Desert Aire subsequently withdrew its application before the City
21 of Las Vegas and never obtained the required the Special Use Permit or Business License
22 from the City of Las Vegas.
23

24 55. After an October 29, 2014 special meeting, the City Council of the City of
25 Las Vegas denied Nuleaf's application for a Special Use Permit.
26



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1 56. 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, its application for a
3 Business License was recommended for approval.

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

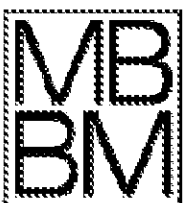
8 58. Upon information and belief, the City of Las Vegas informed the Division of
9 those applicants that it approved for a Special Use Permit, which included Plaintiff, and
10 those applicants that it denied a Special Use Permit, which included Nuleaf, or otherwise
11 had withdrawn their applications,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

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

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

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

22 62. As a result, the Division improperly accepted the applications of Desert Aire
23 and Nuleaf and ranked their applications against the acceptable criteria.



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

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

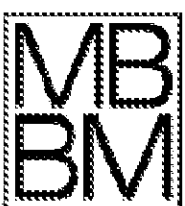
9 65. Had the Division complied with the express requirements of *NRS*
10 *453A.322(3)*, *NAC 453A.310*, *NAC 453A.312*, and *NAC 453A.332*, and the Division’s
11 previous public statements regarding the correct application procedure, neither Desert Aire
12 (ranked #10) nor Nuleaf should have received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

15 66. More importantly, Plaintiff’s score (166.86) would have and should been
16 high enough to rank within the top 12 spots (#11) allotted for the City of Las Vegas and
17 therefore, Plaintiff should have received a “provisional” registration certificate from the
18 Division within the 90-day evaluation period.
19

20 67. Consequently, Plaintiff, in actuality being ranked #11, would have received a
21 “provisional” registration certificate from the Division in accordance with Nevada law and
22 as approved by the City of Las Vegas.
23

24 **DIVISION’S REFUSAL TO IDENTIFY NEXT HIGHEST RANKED APPLICANT**

25 68. After the Division provided notice of those applicants who were issued a
26 “provisional” registration certificate for the operation of a medical marijuana establishment
27 in the City of Las Vegas, the City of Las Vegas inquired and/or requested that the Division
28



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1 identify the next highest ranked applicant(s) since Desert Aire (ranked #10) and Nuleaf
2 (ranked #3) were denied and/or failed to obtain the required Special Use Permit and
3 Business License from the City of Las Vegas.

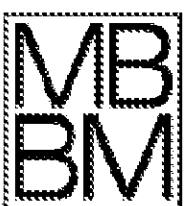
4
5 69. Despite the Division's adoption of *NAC 453A.312(1)* requiring the Division
6 to issue "provisional" registration certificates to the next highest ranked applicants until the
7 City of Las Vegas' allotment of actual registration certificates was filled and contrary to the
8 express statements made by the Division's representative, the Division, upon information
9 and belief, informed the City of Las Vegas and Plaintiff that it would not identify the next
10 highest ranked applicant.

11
12 70. Upon information and belief, the Division further informed the City of Las
13 Vegas that it would and could not issue any further "provisional" registration certificates
14 since the Division was only authorized by Nevada law to issue registration certificates
15 within a 90-day period that expired on November 3, 2014.

16
17 71. The Division's procedural reversal now results in the City of Las Vegas being
18 unable to fill two (2) of its twelve (12) allotted slots for medical marijuana dispensaries and
19 Plaintiff being unlawfully denied a "provisional" registration certificate that it should have
20 been issued had the Division complied with the provisions of NRS Chapter 453A and NAC
21 Chapter 453A.

22 **III. FIRST CLAIM FOR RELIEF**
23 **(Declaratory Judgment)**

24 72. The allegations of paragraphs 1 through 71 of this Complaint are
25 incorporated by reference herein with the same force and effect as set forth in full below.
26



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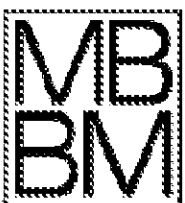
1 73. The Division's refusal to issue Plaintiff a "provisional" registration
2 certificate affects Plaintiff's rights afforded it by NRS Chapter 453A, NAC Chapter 453A,
3 and other Nevada laws and regulations.

4 74. Further, the Division's unlawful acceptance and ranking of Desert Aire and
5 Nuleaf's applications for a medical marijuana establishment registration certificate for the
6 operation of a medical marijuana establishment in the City of Las Vegas and the Division's
7 subsequent, unlawful issuance to each of a "provisional" registration certificate also affects
8 the rights of Plaintiff afforded it by NRS Chapter 453A, NAC Chapter 453A, and other
9 Nevada laws and regulations.
10

11 75. The Division's actions and/or inactions also have created an actual
12 justiciable controversy ripe for judicial determination between Plaintiff, Desert Aire,
13 Nuleaf, and the Division with respect to the construction, interpretation, and
14 implementation of NRS Chapter 453A and NAC Chapter 453A as to Plaintiff.
15

16 76. Accordingly, Plaintiff seeks a declaration from this Court that the Division
17 improperly accepted and ranked Desert Aire and Nuleaf's application for a medical
18 marijuana establishment registration certificate for the operation of a medical marijuana
19 establishment in the City of Las Vegas.
20

21 77. Plaintiff also seeks a declaration from this Court that the Division
22 improperly ranked and subsequently issued Desert Aire and Nuleaf a "provisional"
23 registration certificate for the operation of a medical marijuana establishment in the City of
24 Las Vegas as each failed to submit a complete application for a registration certificate for
25 the operation of a medical marijuana establishment as required by NRS 453A.322.
26



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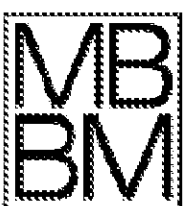
1 78. Plaintiff also seeks a declaration from this Court that Desert Aire and
2 Nuleaf's application for a medical marijuana establishment registration certificate for the
3 operation of a medical marijuana establishment in the City of Las Vegas must be denied by
4 the Division since each failed to submit proof to the Division of their licensure by the City
5 of Las Vegas or a letter from the City of Las Vegas certifying compliance with the City of
6 Las Vegas' restrictions regarding proposed medical marijuana establishments and had
7 satisfied all applicable building requirements of the City of Las Vegas as expressly required
8 by *NRS 453A.322(3)(a)(5)*.
9

10 79. Plaintiff also seeks a declaration from this Court that the Division cannot
11 issue Desert Aire and Nuleaf an actual registration certificate for the operation of a medical
12 marijuana establishment in the City of Las Vegas since each failed to obtain and/or were
13 denied a Special Use Permit and Business Licenses from the City of Las Vegas for the
14 operation a medical marijuana establishment.
15

16 80. Plaintiff also seeks a declaration from this Court that the Division
17 improperly denied Plaintiff a "provisional" registration certificate for the operation of a
18 medical marijuana dispensary in the City of Las Vegas.
19

20 81. Plaintiff also seeks a declaration from this Court that the Division
21 improperly refused to identify Plaintiff as the next available applicant in accordance with
22 applicable Nevada law upon notification that Desert Aire and Nuleaf failed to obtain and/or
23 were denied a Special Use Permit and Business Licenses from the City of Las Vegas for the
24 operation a medical marijuana establishment.
25

26 82. Plaintiff also seeks a declaration from this Court that the Division must issue
27 Plaintiff a "provisional" registration certificate for the operation of a medical marijuana
28



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1 establishment in the City of Las Vegas since Plaintiff's score issued by the Division would
2 have ranked high enough (#11) to be within the top 12 had the Division properly applied
3 the provisions of NRS Chapter 453A and NAC Chapter 453A.

4
5 83. Plaintiff also seeks a declaration from this Court that the Division must issue
6 Plaintiff a "provisional" registration certificate for the operation of a medical marijuana
7 establishment in the City of Las Vegas since Plaintiff is the next highest ranked applicant
8 ranked by the Division and the City of Las Vegas' allotment of twelve (12) actual
9 registration certificates have not been filled.

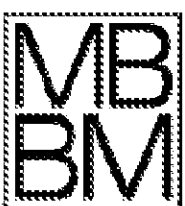
10
11 84. Plaintiff also seeks a declaration from this Court that the Division is not
12 prohibited by NRS Chapter 453A, NAC Chapter 453A, or any other applicable Nevada law
13 or regulation from issuing Plaintiff at any time, a "provisional" registration certificate for
14 the operation of a medical marijuana establishment in the City of Las Vegas since the City
15 of Las Vegas' allotment of twelve (12) actual registration certificates have not been filled.

16
17 85. It has also become necessary for Plaintiff to retain the services of an attorney
18 to commence this action, and Plaintiff is therefore entitled to reasonable attorney's fees and
19 the costs of this suit.

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

22 86. The allegations of paragraphs 1 through 85 of this Complaint are
23 incorporated by reference herein with the same force and effect as set forth in full below.

24 87. The Division's unlawful acceptance and ranking of Desert Aire and Nuleaf's
25 incomplete and unqualified applications for a medical marijuana establishment registration
26 certificate has and continues to irreparably harm Plaintiff as Plaintiff, as a consequence of
27 the Division's unlawful actions, has been denied the issuance of a "provisional" registration
28



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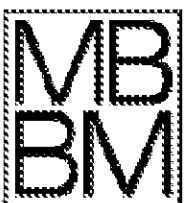
1 certificate from the Division that Plaintiff is entitled to receive under the proper application
2 of the provisions of NRS Chapter 453A and NAC Chapter 453A.

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

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

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

25 91. The Division's continued refusal to issue any further "provisional"
26 registration certificates for the operation of a medical marijuana establishment in the City
27



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1 of Las Vegas even though the City of Las Vegas' allotment of twelve (12) actual
2 registration certificates has not been filed has and continues to irreparably harm Plaintiff
3 since Plaintiff is the next available qualified applicant to receive a "provisional" registration
4 certificate from the Division under the proper application of the provisions of NRS Chapter
5 453A and NAC Chapter 453A.
6

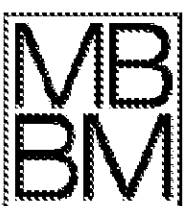
7 92. Further, Plaintiff will likely succeed on the merits since the plain language
8 of the applicable provisions of NRS Chapter 453A and NAC Chapter 453A require the
9 Division to issue Plaintiff a "provisional" registration certificate for the operation of a
10 medical marijuana establishment in the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

17 93. Plaintiff has no adequate remedy at law and compensatory relief is
18 inadequate.
19

20 94. Accordingly, Plaintiff is entitled to injunctive relief enjoining the Division:

21 a. From issuing an actual registration certificates to Desert Aire and Nuleaf for
22 the operation of a medical marijuana establishment in the City of Las Vegas;
23

24 b. To issue Plaintiff a "provisional" registration certificate for the operation of
25 a medical marijuana establishment in the City of Las Vegas as an applicant whose score
26 was within the top 12 positions allotted for the City of Las Vegas;
27
28



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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 operation of
5 a medical marijuana establishment in the City of Las Vegas as the next highest ranked
6 applicant eligible to receive a “provisional” registration certificate since Desert Aire and
7 Nuleaf have failed or otherwise been denied the required Special Use Permit and Business
8 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

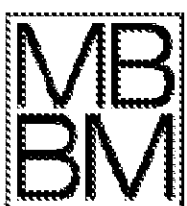
14 95. It has also become necessary for Plaintiff to retain the services of an attorney
15 to commence this action, and Plaintiff is therefore entitled to reasonable attorney’s fees and
16 the costs of this suit.
17

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

21 **V. PETITION FOR JUDICIAL REVIEW**

22 96. The allegations of paragraphs 1 through 95 of this Complaint are
23 incorporated by reference herein with the same force and effect as set forth in full below.
24

25 97. Petitioner, GB Sciences Nevada, LLC, a Nevada limited liability company
26 (hereinafter “Petitioner”) is an applicant to the Division for the Division’s issuance of a
27
28



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1 registration certificate for the operation of a medical marijuana establishment in the City of
2 Las Vegas.

3 98. Through the Division's application process and the Division's review,
4 scoring, and ranking of Petitioner's application for a medical marijuana registration
5 certificate, the Division has determined the legal rights, duties, or privileges of Petitioner as
6 to the issuance of a registration certificate for the operation of a medical marijuana facility
7 in the City of Las Vegas.

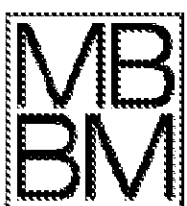
8 99. Accordingly, Petitioner is a party of record to proceedings at the Division in
9 a contested matter.

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

14 101. On or about November 20, 2014, Petitioner sent correspondence to the
15 Division requesting a hearing regarding Petitioner's application to the Division for a
16 registration certification for the operation of a medical marijuana facility in the City of Las
17 Vegas.

18 102. On November 25, 2014, the Division sent out a letter informing Petitioner
19 that Petitioner's request for a hearing was denied since the Nevada Legislature allegedly
20 did not provide Petitioner hearing rights concerning its application for a registration
21 certificate.

22 103. As such, the Division's November 3, 2014 notification to Petitioner refusing
23 to issue Petitioner a "provisional" registration certificate for the operation of a medical
24



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1 marijuana establishment in the City of Las Vegas is the Division's final decision on the
2 matter.

3 104. As such, Petitioner has been aggrieved by the Division's "final" refusal to
4 issue Petitioner a "provisional" registration certificate for the operation of a medical
5 marijuana establishment in the City of Las Vegas in accordance with NRS Chapter 453A
6 and NAC Chapter 453A.

7
8 105. Pursuant to *NRS 233B.130*, Petitioner is entitled to Judicial Review of the
9 Division's "final decision" denying Petitioner's application and refusing to issue Petitioner
10 a "provisional" registration certificate for the operation of a medical marijuana
11 establishment in the City of Las Vegas in accordance with NRS Chapter 453A and NAC
12 Chapter 453A.

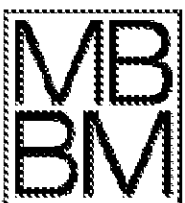
13
14 106. Petitioner, therefore, petitions this Court for Judicial Review of the
15 proceeding at the Division, including, but not limited to, Petitioner's submission, review,
16 scoring, and ranking of its application for registration certificate for the operation of a
17 medical marijuana establishment in the City of Las Vegas.

18
19 107. Petitioner further demands that the entire record of the proceeding at the
20 Division be transmitted by the Division in the manner required by *NRS 233B.131*.

21 **VI. PETITION FOR WRIT OF MANDAMUS**

22 108. The allegations of paragraphs 1 through 107 of this Complaint are
23 incorporated by reference herein with the same force and effect as set forth in full below.

24
25 109. The Division was required to solicit applications, review, score, rank, and
26 issue "provisional" registration certificates for the operation of a medical marijuana



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1 establishment in the City of Las Vegas in compliance with NRS Chapter 453A, NAC 453A,
2 and other Nevada laws and regulations.

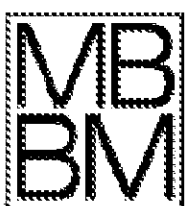
3 110. The Division failed to comply with the requirements of NRS Chapter 453A,
4 NAC 453A, and other Nevada laws and regulations when it unlawfully issued “provisional”
5 registration certificates for the operation of a medical marijuana establishment in the City
6 of Las Vegas to Desert Aire and Nuleaf.

7 111. The Division further failed to comply with the requirements of NRS Chapter
8 453A, NAC 453A, and other Nevada laws and regulations when it unlawfully denied
9 Petitioner a “provisional” registration certificate for the operation of a medical marijuana
10 establishment in the City of Las Vegas.

11 112. Accordingly, the Division has failed to perform acts that Nevada law
12 compelled the Division to perform.

13 113. Petitioner has no plain, speedy, and adequate remedy in the ordinary course
14 of law to correct the Division’s failure to perform as required by Nevada law or compel the
15 Division to perform, as it is required by Nevada law.

16 114. Petitioner, therefore, petitions this Court for a Writ of Mandamus as alleged
17 and in a formal Application for Writ of Mandamus to be filed separately, to compel the
18 Division to issue Petitioner the “provisional” registration certificate for the operation of a
19 medical marijuana establishment in the City of Las Vegas that Petitioner was entitled to
20 receive had the Division complied with the requirements of NRS Chapter 453A, NAC
21 453A, and other Nevada laws and regulations.



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

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

4 2. For injunctive relief, specifically a preliminary and permanent injunction
5 enjoining the Division:
6

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

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

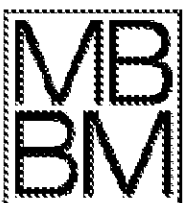
12 c. To identify Plaintiff as the next highest ranked applicant to receive a
13 "provisional" registration certificate for the operation of a medical marijuana establishment
14 in the City of Las Vegas;
15

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

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

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

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



MORAN BRANDON
BEN DAVID MORAN
ATTORNEYS AT LAW

690 SOUTH MAIN STREET
LAS VEGAS, NEVADA 89101
PHONE (702) 399-0826
FAX (702) 399-0828

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 2nd 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.**

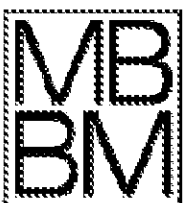
19 Nevada Bar No. 7453

20 630 South 4th Street

21 Las Vegas, Nevada 89101

22 (702) 384-8424

23 *Attorneys for Plaintiff*
24
25
26
27
28



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EXHIBIT D

EXHIBIT D



LAS VEGAS
CITY COUNCIL

CAROLYN G. GOODMAN
MAYOR

STAVROS S. ANTHONY
MAYOR PRO TEM

LOIS TARKANIAN
STEVEN D. ROSS
RICKI Y. BARLOW
BOB COFFIN
BOB BEERS

ELIZABETH N. FRETWELL
CITY MANAGER

CITY OF LAS VEGAS
DEPARTMENT OF PLANNING
BUSINESS LICENSING DIVISION
DEVELOPMENT SERVICES CENTER
333 NORTH RANCHO DRIVE
6TH FLOOR
LAS VEGAS, NEVADA 89108

VOICE 702.229.6281

FAX 702.382.6642

TTY 7-1-1

www.lasvegasnevada.gov

October 30, 2014

Chad Westom
Bureau Chief, Department of Health and Human Services
Division of Public & Behavioral Health
4150 Technology Way, Suite 200
Carson City, NV 89706

Dear Chad,

Las Vegas Municipal Code 6.95.080(D) – Medical Marijuana Establishments, requires notification to the State regulating authority if an applicant for a medical marijuana establishment has been found in conformance with land use restrictions and if the application to the City is eligible to be considered for a medical marijuana establishment business license. On October 28 and 29, 2014, the Las Vegas City Council deliberated on applications presented to the City for dispensaries, cultivation and production facilities. The attached list for each type of establishment is the result of Council actions on each application.

Please note that any application that resulted in a denial has also been denied land use for the proposed location and their application was found not to be in accordance with City Code and is not eligible for a business license for the proposed establishment. Those applications that are noted as approved, received land use and could be considered for a business license at such future time as they might receive a provisional certificate from your agency and have complied with all regulations and requirements of a privileged business license application.

During proceedings, it was noted that current definitions in the land use code restrict production and cultivation facilities from being located within a structure which houses any other type of use. Therefore, you will note on the attached lists for production and cultivation that several applications were tabled by the Council until such time as the Council can deliberate on a change in our land use code to allow the co-location of such facilities. Please do not consider a "tabled" item as an approval or denial.

Please consider the attached three tables as the required notification under LVMC 6.95.080.

Sincerely,

Karen E Duddleston
Business Licensing Manager
Department of Planning

KD:me

Attc: a/s



City of Las Vegas
Medical Marijuana Compliance Permits

CULTIVATION

Name & Address of Establishment	Type	Status
Acres Medical, LLC 2320 Western Ave.	Cultivation	TABLED
Boulevard Medical, LLC 2900 Highland Dr., Bldg. 20	Cultivation	APPROVED
Compassionate Team of Las Vegas, LLC 2601 Highland Dr.	Cultivation	TABLED
Cannabis Renaissance Group 2702 S. Highland Dr.	Cultivation	DENIED
Herbal Choice, Inc. 800 W. Mesquite Ave.	Cultivation	DENIED
Infinite Wellness Incorporated 2750 Highland Dr., Unit E	Cultivation	TABLED
The Medmen of Nevada 2, LLC d/b/a Medmen 2908 S. Highland Dr.	Cultivation	TABLED
Nuleaf CLV Cultivation 1018 S. Commerce St.	Cultivation	APPROVED
RG Highland Enterprises, Inc. d/b/a Highland Medical 1916 S. Highland Ave.	Cultivation	APPROVED

City of Las Vegas
Medical Marijuana Compliance Permits

PRODUCTION

Name & Address of Establishment	Type	Status
Acres Medical, LLC 2320 Western Ave.	Production	TABLED
Boulevard Medical, LLC 2900 Highland Dr., Bldg. 20	Production	TABLED
Cannabis Renaissance Group 2706 S. Highland Dr.	Production	DENIED

**City of Las Vegas
Medical Marijuana Compliance Permits**

DISPENSARY

THE FOLLOWING APPLICATIONS WERE APPROVED

Name & Address of Establishment	Type	Status
Acres Medical, LLC 2320 Western Ave.	Dispensary	APPROVED
Blossum Group, LLC 810 S. 4 th St.	Dispensary	APPROVED
Boulevard Medical, LLC 1600 S. Las Vegas Blvd. Stes. 150 & 160	Dispensary	APPROVED
Buffalo Center Medical Advocates 1591 N. Buffalo Dr. Ste. 130	Dispensary	APPROVED
Clark NMSD, LLC d/b/a NuVeda 1320 S. 3 rd St.	Dispensary	APPROVED
Commerce Park Medical 1112 S. Commerce St.	Dispensary	APPROVED
Compassionate Care of Las Vegas, LLC 2601 Highland Dr.	Dispensary	APPROVED
Diversified Modalities Retail Ltd. 5350 W. Charleston Blvd.	Dispensary	APPROVED
GB Sciences Nevada, LLC d/b/a GB Sciences 921 S. Las Vegas Blvd. Ste. 100	Dispensary	APPROVED
Golden Wellness, Inc. 2230 W. Bonanza Rd.	Dispensary	APPROVED
GreenMart of Nevada, LLC 1512 S. Main St.	Dispensary	APPROVED
Integral Associates, LLC d/b/a Great Basin Care 2307 S. Las Vegas Blvd.	Dispensary	APPROVED
MediFarm, LLC d/b/a Blum LV 1921 Western Ave.	Dispensary	APPROVED
Natural Apothecary, LLC 5801 W. Craig Rd. 120	Dispensary	APPROVED
Natural Medicine, LLC 2411 Western Ave.	Dispensary	APPROVED
Naturex II, LLC d/b/a Naturex 1860 Western Ave.	Dispensary	APPROVED
Nevada Wellness Center, LLC 3200 S. Valley View Blvd.	Dispensary	APPROVED
Nevada Wellness Project 823 S. 3 rd St.	Dispensary	APPROVED
Paradise Wellness Center, LLC d/b/a Las Vegas Releaf 2242-2246 Paradise Rd.	Dispensary	APPROVED

Physis One 231 W. Charleston Blvd. 110 & 120	Dispensary	APPROVED
Premium Produce City, LLC 707 N. Main St.	Dispensary	APPROVED
Qualcan of Las Vegas 546 N. Eastern Ave. 155-160	Dispensary	APPROVED
Red Rock Wellness, LLC 604 N. Main St.	Dispensary	APPROVED
Samantha, Inc. d/b/a Samantha's Remedies 3500 W. Sahara Ave.	Dispensary	APPROVED
Serenity Wellness Center 1800 S. Industrial Rd. 102, 160 & 180	Dispensary	APPROVED
Silver Sage Wellness 4626 W. Charleston Blvd.	Dispensary	APPROVED
THC Nevada, LLC d/b/a Welleaf 1800 Western Ave.	Dispensary	APPROVED

THE FOLLOWING APPLICATIONS WERE DENIED

Name & Address of Establishment	Type	Status
Cannabis Renaissance Group 2706 S. Highland Dr.	Dispensary	DENIED
Encanto Green Cross 5310 W. Sahara Ave. B	Dispensary	DENIED
Global Green Enterprises d/b/a 99 High Desert Healing 827 S. Las Vegas Blvd.	Dispensary	DENIED
Green Leaf Medical, LLC 3190 W. Sahara Ave.	Dispensary	DENIED
Herbal Choice, Inc. 800 W. Mesquite Ave.	Dispensary	DENIED
M'Life Wellness, LLC 2800 Highland Dr.	Dispensary	DENIED
The Medmen of Nevada 2, LLC d/b/a Medmen 2908 S. Highland Dr.	Dispensary	DENIED
Nuleaf CLV Dispensary 4500 W. Charleston Blvd.	Dispensary	DENIED
Primo Dispensary 3120 S. Valley View Blvd. A	Dispensary	DENIED
TopPharm, LLC 1615 S. Las Vegas Blvd.	Dispensary	DENIED

THE FOLLOWING APPLICATIONS WERE WITHDRAWN BY THE APPLICANT

Name & Address of Establishment	Type	Status
Desert Aire Wellness, LLC d/b/a Desert Aire of Las Vegas 420 E. Sahara Ave.	Dispensary	Withdrawn by Applicant
GreenMart of Nevada Charleston, LLC 1925 W. Charleston Blvd.	Dispensary	Withdrawn by Applicant
Herbal Choice, Inc. 5243 W. Charleston Blvd.	Dispensary	Withdrawn by Applicant
Over the Rainbow 2300 N. Rainbow Blvd. 118-122	Dispensary	Withdrawn by Applicant
Premium Produce City, LLC 215 N. 3 rd St.	Dispensary	Withdrawn by Applicant
TopPharm, LLC 7580 W. Sahara Ave.	Dispensary	Withdrawn by Applicant

EXHIBIT C

EXHIBIT C

1 **FIRST AMENDMENT**

2 **BILL NO. 2014-33**

3 **ORDINANCE NO. 6324**

4 AN ORDINANCE TO ESTABLISH LICENSING REGULATIONS AND STANDARDS FOR
5 MEDICAL MARIJUANA ESTABLISHMENTS, AND TO PROVIDE FOR OTHER RELATED
6 MATTERS.

7 Sponsored by:

Summary: Establishes licensing regulations and
standards for medical marijuana establishments.

8 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS
9 FOLLOWS:

10 SECTION 1: The document that is attached to this Ordinance is hereby adopted and
11 incorporated by reference. The provisions contained in the attached document:

12 (A) Contain section headings or catchlines, which are not to be considered part of the
13 Ordinance and are intended for information and clarification purposes only.

14 (B) Are intended to be codified and integrated into the Las Vegas Municipal Code as a
15 discrete chapter of Title 6. The attachment shows the provisions being adopted as a Chapter 95, with the
16 chapter being broken into constituent sections. However the provisions may be codified in a different
17 chapter and configuration. In connection with the codification, headings or catchlines will be supplied by
18 the codifier, as well as chapter and section numbering, which may or may not be the same or similar to
19 those set forth in the attached document.

20 (C) Before and after the codification referred to in Subsection (B), shall prevail over
21 and govern any other provisions of LVMC Title 6 to the extent of any consistency or conflict, except where
22 the City Manager or designee may determine the intent to be otherwise.

23 SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or
24 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
25 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
26 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City

1 of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph,
2 sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections,
3 subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

4 SECTION 3: Whenever in this ordinance any act is prohibited or is made or declared to
5 be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required
6 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of
7 such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon
8 conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of
9 not more than six months, or by any combination of such fine and imprisonment. Any day of any violation
10 of this ordinance shall constitute a separate offense.

11 SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases,
12 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983
13 Edition, in conflict herewith are hereby repealed.

14 PASSED, ADOPTED and APPROVED this 4TH day of June, 2014.

15 APPROVED:

16 By C. Goodman
17 CAROLYN G. GOODMAN, Mayor

18 ATTEST:

19 Beverly K. Bridges
20 BEVERLY K. BRIDGES, MMC
City Clerk

21 APPROVED FOR EXECUTION:

22 Val Steed 6-5-14
23 Val Steed, Date
24 Deputy City Attorney
25
26

1 The above and foregoing ordinance was first proposed and read by title to the City Council
2 on the 21st day of May, 2014, and referred to a committee for recommendation; thereafter
3 the said committee reported favorably on said ordinance on the 4th day of June, 2014,
4 which was a regular meeting of said Council; that at said regular meeting, the proposed
5 ordinance was read by title to the City Council as amended and adopted by the following
6 vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers Anthony, Tarkanian, Ross,
Barlow, Coffin and Beers

8 VOTING "NAY": None

9 EXCUSED: None

10 ABSTAINED: None

11
12 APPROVED:

13 
14 CAROLYN G. GOODMAN, Mayor

15 ATTEST:

16 
17 BEVERLY K. BRIDGES, MMC City Clerk

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

SECTION 1: Title 6 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 95, consisting of Sections 10 to 250, inclusive, reading as follows:

CHAPTER 6.95 MEDICAL MARIJUANA ESTABLISHMENTS

6.95.010 Findings.

A. The Las Vegas City Council finds:

1. In 2013 the Nevada Legislature passed, and the Governor signed into law, Senate Bill 374, now codified in NRS 453A, which allows medical marijuana establishments within the state of Nevada; and requires such establishments to comply with all local business licensing requirements and local land use and code requirements;
2. Federal law and related regulations classify marijuana as a Schedule I controlled substance and prohibit its cultivation, possession, dispensing and use, among other things, for medical reasons or otherwise. This Ordinance is intended to implement NRS 453A and to establish criteria for the issuance of licenses that are a prerequisite for the exemption from state prosecution provided for in NRS 453A;
3. Nevada law also allows the City to enact regulations to protect and promote the public health, safety and general welfare and regulate the use of buildings, structures, land use and business and other purposes;
4. Law enforcement and residents of states that authorize the medical use of marijuana report, among other things, that dispensaries and the medical use of marijuana are correlated to myriad negative secondary effects such as an increase in violent armed robberies, burglaries, traffic, noise, drug and gang activity, organized crime and other issues related to the presence of large amounts of cash, such as money laundering and firearms violations and the underreporting of crimes committed at Medical Marijuana Establishments, the creation of opportunities for the diversion of marijuana for medical use into illegal use, increased poisonings, structural fires and mold growth, and decreased quality of life; and a disregard of environmental standards;
5. The strong odor of marijuana plants, which increases as the plants mature, is offensive to many individuals and creates an attractive nuisance, alerting people to the location of valuable marijuana plants and creating an increased risk of crime;
6. Marijuana and cannabis edible and infused products pose risks to children, elderly and non-user populations; and
7. The public health, safety and welfare require that medical marijuana facilities and their employees be regulated and licensed in order to protect the public.

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

- B. The City Council declares that this Medical Marijuana Chapter is an exercise of the regulatory powers delegated to the City Council pursuant to the City Charter and NRS 268. The regulations contained in this Ordinance involve, to the highest degree, the economic, social, physical and moral well-being of the residents and taxpayers of the City. The cultivation, distribution, production and sale of medical marijuana is not a matter of right but of privilege, which would otherwise be unlawful if it were not conducted pursuant to NRS 453A, local land use regulations and a license under this Ordinance. This privilege may be denied, revoked, conditioned, suspended or subjected to any other disciplinary action by the City in the exercise of its police powers for the protection of the safety, welfare, health, peace and morals of the residents and taxpayers thereof. Businesses engaged in the sale or other disposition of medical marijuana must therefore comply with LVMC Chapter 6.06 and all requirements of this Ordinance. Every person licensed pursuant to this Ordinance shall cooperate with the Department and Metro personnel in the exercise of their duties under this Ordinance.
- C. Nothing in this Ordinance shall be construed to confer any legitimate claim of entitlement to any benefit which might otherwise devolve upon any licensee or any person approved for suitability.
- D. Nothing in this Ordinance is intended to authorize or make legal any act that federal or state law does not permit or sanction or assist any violation of any federal or state law. This Ordinance is intended to implement NRS 453A and to establish criteria for the issuance of licenses that are a prerequisite for the exemption from state prosecution provided for in NRS 453A.

6.95.020 Definitions.

Unless the context otherwise requires, the scope of all words in this Ordinance shall be liberally construed in order to effectuate the purpose of this Ordinance, and, in particular, the following words shall have the meaning ascribed to them as follows:

“Adequate supply” means the immediate availability, as determined by the Director, of a sufficient quantity and quality of medical marijuana, any specific strain of medical marijuana or any particular infused product to meet the immediate demand of registry identification card holders qualified under NRS 453A.362 within the City.

“Cannabis” or “marijuana” have the same meaning, and as may be amended, as defined by Nevada Revised Statutes Chapter 453A.

“Compliance permit” means a permit issued under LVMC 6.95.040.

“Cultivation facility” has the meaning ascribed to it in NRS 453A.056, and means a business that is registered under NRS 453A.322 and acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to a medical marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or other cultivation facilities.

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

“Designated primary caregiver” has the meaning ascribed to it in NRS 453A.080.

“Edible marijuana products” has the meaning ascribed to it in NRS 453A.101 and means products that contain marijuana or an extract thereof and are intended for human consumption by oral ingestion; and are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

“Independent testing laboratory” has the meaning ascribed to it in NRS 435A.107 and is a business certified under NRS 453A.368 which provides independent testing of marijuana, edible marijuana products and marijuana-infused products that are to be sold in the State.

“Medical marijuana” has the meaning ascribed to it in NRS 453A.096 and as used in accordance with NRS 453A.120.

“Marijuana infused products” has the meaning ascribed to it in NRS 453A.112 and means products that are infused with marijuana or an extract thereof; and are intended for use or consumption by humans through means other than inhalation or oral ingestion. The term includes, without limitation, topical products, ointments, oils and tinctures.

“Medical marijuana dispensary” has the meaning ascribed to it in NRS 453A.115, and means a business that is registered under NRS 453A.322 and which acquires, possesses, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.

“Medical marijuana establishment” has the meaning ascribed to it in NRS 453A.116 and means any establishment licensed under this Ordinance and in possession of a valid registration certificate under NRS 453A and may include a medical marijuana dispensary, medical marijuana production facility, cultivation facility or independent testing laboratory.

“Medical marijuana production facility” has the meaning ascribed to a “facility for the production of edible marijuana products or marijuana-infused products” in NRS 453A.105 and means a business which acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells at wholesale edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

“Ownership interest” means any principal, person, beneficial owner as defined by 6.50.020, and individual persons holding any ownership or financial interest for each business entity including all businesses organized under or governed by Title 7 of the Nevada Revised Statutes including but not limited to private corporations, publicly-traded corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations (“Business Entities”). Ownership interest in the context of publicly traded corporations shall include all corporate officers and members of any board of directors, and also includes individuals with ten percent or more ownership or financial interest in the publicly traded corporation. To the extent that a Business Entity has an ownership interest in a medical marijuana establishment, the term “ownership interest” shall also include all individuals with an ownership interest in such Business Entity. It is the intent of this Ordinance that

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

all individuals with a direct or indirect ownership interest in a medical marijuana establishment be disclosed and be subject to the requirements of this Ordinance.

"Paraphernalia" has the meaning ascribed to it in NRS 453A.125.

"Registration certificate" means a certificate issued pursuant to NRS 453A.322 by the State regulating authority. In accordance with subsection 3 of NRS 453A.326, any registration certificate issued by the State regulating authority is provisional until such time as the establishment is in compliance with all applicable City ordinances and rules, and the City has issued a business license for the operation of the establishment.

"Registry identification card" has the meaning ascribed to it in NRS 453A.140.

"State regulating authority" means The Division of Public and Behavioral Health of the Department of Health and Human Services of the State of Nevada and/or any other agency assigned to administer NRS 453A.

6.95.030 Unlawful Acts.

- A. It shall be unlawful for any person to operate any marijuana establishment in the City without a valid registration certificate duly issued by the State regulating authority, and a license issued pursuant to this Ordinance and operating in compliance with any and all applicable state laws and the Las Vegas Municipal Code.
- B. It shall be unlawful for any person to provide marijuana, edible marijuana products or marijuana infused products to a medical marijuana establishment within the City without a registration certification duly issued by the State regulating authority and a license issued by the City.
- C. Except for sales pursuant to NRS 453A.352(5), it shall be unlawful for any licensed medical marijuana establishment located within the City to accept for sale any marijuana, edible marijuana products or any marijuana infused products from any person who has not obtained a registration certificate from the State regulating authority, or who is not duly licensed under this Ordinance for the provision of such products.
- D. It shall be unlawful for a person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, transportation or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by NRS 453A and any administrative rules duly adopted by the State regulating authority.
- E. It shall be unlawful for any person to sell medical marijuana at a licensed medical marijuana dispensary at any time other than between the hours of 6:00 a.m. and 10:00 p.m. daily.
- F. It shall be unlawful for any medical marijuana dispensary to sell medical marijuana without complying with State requirements concerning use of the electronic verification system maintained by the State regulating authority,

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

including authenticating the validity of the medical marijuana registry identification card with the State electronic verification system.

6.95.040 Medical Marijuana Compliance Permit Required.

- A. A medical marijuana compliance permit issued by the City Council is required prior to the Director accepting a license application for a medical marijuana establishment.
- B. The City Council may consider proposals for a medical marijuana compliance permit from any business or individual applying to the State regulating authority for a registration certificate for a medical marijuana establishment located within the City.

6.95.050 Permit Application.

Upon determination to accept medical marijuana compliance permit applications for medical marijuana establishments, the Director shall issue a request for permit applications specifying the types of medical marijuana establishments for which medical marijuana compliance permit applications may be accepted, which request shall also establish the deadline to submit medical marijuana compliance permit applications. The Director shall:

- A. Post on the website of the Department at least 10 days prior to the acceptance period for such submittals the type of medical marijuana establishment permits that will be accepted.
- B. Provide a permit application period within which all applications must be submitted, which period shall be not more than 10 days, with a 3:00 p.m. Pacific Time deadline for all submitted applications on the final day.
- C. Return to the entity that submitted an application, any application received at a time other than the time set forth in this subsection, and consistent with the notice posted on the website.
- D. Not allow the modification of any application once the deadline for complete applications has passed.
- E. Reject and not process any applications that are incomplete.
- F. Reject and not process any application for which any person or entity with an ownership interest in the applicant has been previously issued a license pursuant to this Ordinance, or has had an ownership interest in another previous licensee, and such license has been revoked for non-payment of fees within the last five years.
- G. Reject and not process any application for which any person or entity with an ownership interest in the applicant has been previously issued a license pursuant to this Ordinance, or has had an ownership interest in another previous licensee,

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

and such license has been revoked for disciplinary action within the last ten years.

- H. Reject and not process any applications that are submitted by applicants where one or more individuals or entities with an ownership interest has been found unsuitable to hold a privilege license within the city or been subject to disciplinary action in any jurisdiction;

6.95.060 Permit Application Contents

A separate application must be submitted for each license for a medical marijuana establishment. The application for each medical marijuana compliance permit must include:

- A. A complete application per LVMC Chapter 6.06 for the applicant and each person with an ownership interest in the proposed medical marijuana establishment.
- B. A detailed personal and business financial history per LVMC 6.06.030(B) for each person with an ownership interest in the proposed medical marijuana establishment.
- C. A one-time, nonrefundable permit application fee of \$5,000.00.
- D. A complete Special Use Permit application, all applicable fees pursuant to LVMC Chapters 19.12 and 19.16, and all required accompanying documents.
- E. A medical marijuana compliance permit application on forms prescribed by the Director.
- F. A complete description of the products and services to be produced or sold by the medical marijuana establishment.
- G. A complete and accurate copy of the application and all accompanying documents to be filed pursuant to NRS 453A.322 including, but not limited to:
 - 1. All proposals for operations, business plans, attestations, financial documentation, and required tax reports;
 - 2. All documents detailing proposed organizational structure, all narratives, and resumes;
 - 3. All documentation required concerning the adequacy of the proposed building and construction plans with supporting details in the form specified by the City Building Official and the payment of all required review and inspection fees;
 - 4. All testing, transportation, policy and operations manuals, financial plan, and an environmental plan.

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

- H. A security plan, including a depiction of the location and configuration of security cameras, indicating how the applicant intends to comply with the requirements related to monitoring and securing the licensed premises as required by this Ordinance.
- I. An accounting plan that includes how sales and inventory will be tracked on a daily, weekly, and monthly basis, and how this information will be stored and safeguarded.
- J. A sign and advertising plan, including all proposed interior signage.
- K. A copy of all contracts, proposed contracts for consulting, management, renting or leasing the premises for the proposed medical marijuana establishment, including written documentation stating that the property owner of the proposed location for the establishment is fully aware of the property's intended use or a copy of the deed to such property showing ownership vested in the applicant;
- L. A written statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of Nevada and the laws and regulations of the City applicable thereto concerning the operation of a medical marijuana establishment. The written statement shall also acknowledge that any violation of any laws or regulations of the State of Nevada or of the City, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such medical marijuana establishment by federal authorities, may render the permit and such license subject to immediate suspension or revocation.
- M. A written statement to the Director that the applicant will hold harmless, indemnify, and defend the City against all claims and litigation arising from the issuance of a permit and/or license, including any claims and litigation arising from the establishment, operation, or ownership of the medical marijuana establishment, and that a bond to secure such obligation in the amount of \$250,000 will be provided prior to the issuance of any license.
- N. An acknowledgement that the applicant is seeking a privilege under LVMC Chapter 6.06 and understands that each person with an ownership interest must be found suitable to hold such license by the City Council prior to the issuance of any license; that the applicant understands and acknowledges that the burden of proving qualifications to receive such a permit or license is at all times on the applicant; that the granting of a medical marijuana compliance permit and/or license is at the discretion of the City Council; and that the applicant agrees to abide by the decision.

6.95.070 Director Review.

- A. The Director shall complete a preliminary review of all submitted applications for a medical marijuana compliance permit to determine whether the application is complete. An application shall be deemed complete by the Director only when

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an application filed prior to the close of the noticed application period contains each of the following:

1. Each application, narrative, plan, rendering, contract and other document required in this section;
 2. Proof of compliance with all submittal requirements of NRS 453A and any other regulation or requirement of the State regulating authority;
 3. Proof that the proposed location for the medical marijuana establishment is consistent with the requirements of LVMC Title 19;
 4. All fees have been paid;
 5. All waivers, acknowledgements, and statements are properly signed and acknowledged by the applicant and every principal and person with an ownership interest; and
 6. Each person with an ownership interest has filed complete applications per LVMC Chapter 6.06 and each individual has submitted to fingerprinting and photographing per LVMC Chapter 6.06.
- B. The Director shall reject and return to the applicant any application that is incomplete or otherwise fails to meet the criteria established in this Ordinance, in NRS 453A, or the regulations of the State regulating authority. Permit application fees are non-refundable, and shall not be refunded in the event of rejection of an application.
- C. The Director shall review all complete medical marijuana compliance permit applications that satisfy the applicable criteria, and may refer such applications in part, or in whole, to other City departments or Metro for investigation, review and comment, as the Director deems appropriate.
- D. The Director shall prepare a report on the merits of each complete medical marijuana compliance permit application, the potential suitability of any and all principals and the application's compliance with the provisions of this Ordinance and LVMC Title 19, and the application demonstrates the required financial, technical or educational ability or experience to perform the activity for which approval is sought. In recommending the granting or denying of such medical marijuana compliance permit, the Director shall give particular consideration to the identity, character, and background of the applicant, capacity, capitalization, past business practices of the applicant, operational plan, organizational structure, environmental sustainability and mitigation plans, interior floor plans of the buildings, odor control systems and suitability of the building for the use proposed, site plan as to parking, traffic movement and aesthetics; impact on the surrounding neighborhood; the type and degree of security personnel and facilities and any other factors that in his or her discretion deems necessary to the safety, peace, order and welfare of the public.
- E. The Director may inspect or cause to be inspected each proposed location for a medical marijuana establishment and may call for and conduct interviews. Prior

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to approval of a medical marijuana compliance permit, the Director shall require an inspection by the Fire and Building Departments. Applicants shall pay all inspection fees that may be required in connection therewith.

- F. Following the Director's review, the Director shall forward a report on the merits of each complete application with recommendations to the City Council for consideration.

6.95.080 Council Action on Permits.

- A. The City Council will review all applications for medical marijuana compliance permits that have been deemed complete by the Director. Such review shall occur simultaneously with the review of the applicant's Special Use Permit application for the proposed medical marijuana establishment.
- B. The City Council may approve, deny or take such other action with respect to the Director's recommendations on applications for medical marijuana compliance permits as it considers appropriate. The burden of showing the qualifications, acceptability or fitness for such permit and the location is upon the applicant.
- C. The City Council shall deny any permit if the permit will not be in the best interest of the welfare, health, or safety of the City; or if the application or location is determined by the Council to not be suitable under this Ordinance or the requirements of LVMC Title 19. In considering whether to approve or deny a medical marijuana compliance permit, the City Council shall consider the identity, character, and background of the applicant, capacity, capitalization, past business practices of the applicant, operational plan, organizational structure, environmental sustainability and mitigation plans, interior floor plans of the buildings, odor control systems and suitability of the building for the use proposed, site plan as to parking, traffic movement and aesthetics; impact on the surrounding neighborhood; the type and degree of security personnel and facilities and any other factors that in his or her discretion deems necessary to the safety, peace, order and welfare of the public.
- D. Upon approval of a medical marijuana compliance permit, the Director shall prepare a notice to the State regulating authority pursuant to NRS 453A.322.3(a)(5), outlining that the proposed location has been found in conformance with land use and zoning restrictions and that the applicant is eligible to be considered for a medical marijuana establishment business license. Issuance of such a notice does not preclude the City from conducting further review of an applicant's proposed medical marijuana establishment for compliance with land use, zoning and building requirements, in the context of evaluation of an application for a medical marijuana establishment business license pursuant to LVMC Chapter 6.06 and this Ordinance.
- E. If the City Council denies a medical marijuana compliance permit application, or the State regulating authority fails to rank the application presented within limits of the number of medical marijuana establishments allowed within the City, as established by state law, the applicant may reapply for a medical marijuana

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compliance permit no sooner than one year from the date of the application period in which the application was filed.

- F. Any medical marijuana compliance permit is considered surrendered by the applicant if a business license has not been granted within 12 months of the issuance of a registration certificate issued by the State regulating authority.

6.95.090 Medical Marijuana Establishment – Licenses.

- A. Following action by the State regulating authority issuing a provisional medical marijuana establishment registration certificate, the City Council shall evaluate whether to grant any proposed medical marijuana establishment that received a medical marijuana compliance permit a medical marijuana business license.
- B. The City Council may issue licenses for the following types of medical marijuana establishments:
 - 1. **Medical Marijuana Dispensary.** A medical marijuana dispensary license allows the licensee to acquire, possess, supply and sell or dispense usable marijuana, edible marijuana products, marijuana infused products, and marijuana paraphernalia exclusively to State regulating authority-designated medical marijuana registry card holders.
 - 2. **Cultivation Facility.** A cultivation facility license allows the licensee to acquire, possess, cultivate, package, label, deliver, transfer, transport, supply and sell wholesale marijuana and related supplies to a medical marijuana dispensary, medical marijuana production facility, or to other cultivation facilities only.
 - 3. **Independent Testing Laboratory.** An independent testing laboratory license allows the licensee to independently test marijuana, edible marijuana products and marijuana-infused products that are to be sold at medical marijuana establishments operating in accordance with the requirements of NRS 453A.
 - 4. **Medical Marijuana Production Facility.** A medical marijuana production facility license allows the licensee to acquire, process, manufacture, deliver, transfer, transport, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana dispensaries only.
- C. A medical marijuana establishment license applicant may not exercise any of the privileges of a medical marijuana establishment license until the City Council approves the license and suitability of each person with an ownership interest in the medical marijuana establishment, and final pre-operational inspections have been conducted and all applicable inspection and license fees are paid.
- D. Prior to issuance of a license, the licensee must designate one principal, all key employees and all management personnel to demonstrate competence in local

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regulations as evidenced by a written demonstration administered by the Director.

- E. Licenses shall expire two years from the date of issuance and a licensee must apply for biennial review pursuant to LVMC 6.95.170.
- F. A medical marijuana establishment licensee shall provide and maintain at all times and at its own expense a certificate of insurance at amounts and terms approved by the City Attorney prior to issuance or renewal of a license. Any failure to maintain insurance or provide proof of insurance is ground for the Director to suspend the license.
 - 1. The minimum amount which may be required by the City Attorney shall be \$1,000,000 per occurrence, \$2,000,000 general aggregate for bodily injury and property damage arising out of licensed activities and \$1,000,000 products and completed operations aggregate, Commercial Automobile Coverage in a minimum of \$1,000,000 and excess liability in a minimum of \$3,000,000.
 - 2. Additional insured: The City shall be named as an additional insured on all general liability, umbrella, and excess insurance policies as City, its elected officials, officers, agents, employees and volunteers are included as additional insured. All policies shall be primary over any other valid and collectible insurance.
- G. Prior to issuance or renewal of a license, medical marijuana establishment licensees shall provide a surety bond as set forth in this section. The bond must be at the licensee's own expense and remain in force throughout the term of the license. The bond must cover licensee's obligation, for itself and its agents, employees, subcontractors, and the agents and employees of any subcontractors, to indemnify, defend, and hold harmless the City, and any of its elected or appointed officers, agents, or employees, from any and all claims, demands, actions, damages, decrees, judgments, attorney fees, costs, and expenses which the City, or such elected or appointed officers or employees, may suffer, or which may be recovered from, or obtainable against the City, or such elected or appointed officers or employees, as a result of, by reason of, or arising out of the use of the license, or the exercise by the licensee of any or all of the rights, privileges, permission, and authority conferred herein, or as a result of any alleged act or omission on the part of the licensee in performing or failing to perform any of its obligations. Such surety bond shall be in the amount of \$250,000.
- H. Prior to the issuance or renewal of a license, medical marijuana establishment licensees shall file, and must maintain, a bond from a surety company qualified and authorized to do surety business in the State of Nevada in the penal sum of \$50,000. Such bond must be conditioned to be paid to the City for all license fees and penalties owing against such license.
- I. Upon approval by the City Council of a medical marijuana compliance permit and the issuance of a provisional medical marijuana registration certificate by the State regulating authority, the Director shall process a license application

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pursuant to LVMC Chapter 6.06: The Director shall not issue a temporary license for a medical marijuana establishment.

6.95.100 Facilities Not Located Within the City of Las Vegas.

A medical marijuana cultivation facility, an independent testing laboratory or a medical marijuana production facility which has obtained a business license in a jurisdiction within Nevada other than the City may apply to the Director for a license to provide testing, medical marijuana, edible marijuana products and/or marijuana infused products, if an adequate supply does not exist, to licensed medical marijuana establishments within the City. All applications for such licenses will be processed pursuant to LVMC Chapter 6.06 and shall be required to pay all license fees applicable to medical marijuana establishments located within the City. Medical marijuana establishments located outside of the City shall not be required to comply with the permit process set forth in LVMC 6.95.040.

6.95.110 Medical Marijuana Establishments – General Requirements and Restrictions.

- A. Each medical marijuana establishment licensee shall operate only in compliance with all State regulations, all City regulations, and the plans, procedures and policies submitted with the permit and approved by the Director, and any restrictions imposed in connection with issuance of the license.
- B. At least one qualified person shall be on the premises of a medical marijuana dispensary at all times during the hours of operation. For purposes of the preceding sentence, a “qualified person” means a principal who has been approved for suitability pursuant to LVMC 6.06.06 or a key employee who has been approved for suitability pursuant to that Section.
- C. A medical marijuana establishment may not allow the use, smoking, ingestion or consumption of any marijuana, edible marijuana, or marijuana-infused product on the licensed premises.
- D. Any person or premises licensed as a medical marijuana establishment shall comply with all City ordinances regulating signs and advertising. All signs and advertisements must comply with all requirements of the State regulating authority.
- E. Material that is misleading, deceptive, or false, as evidenced either by the content of the advertising material or by the medium or the manner, in which the advertising is disseminated, is designed to appeal to minors or promote the use of marijuana is prohibited.
- F. With respect to issues regarding signs and advertising that are not governed by LVMC Title 19, each medical marijuana establishment shall conform to the approved sign and advertising plan as a condition of the license. The Director shall not recommend for approval any sign and advertising plan that:

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1. Has not been approved by the State regulating authority and does not comply with all the requirements of the State regulating authority;
 2. Promotes the use of marijuana, or is appealing to minors;
 3. Provides advertising visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media:
 - a. A sign mounted on a vehicle;
 - b. Any hand-held, human signage or other portable sign; or
 - c. Any handbill, leaflet or flier directly handed to any person, deposited, fastened, thrown, scattered, cast, or placed in a public place, left upon a motor vehicle, or any handbill, leaflet or flier posted upon any public or private property without the consent of the property owner;
 4. Provides advertising by means of any video, print, online media, newspaper, magazine, other periodical of general circulation, radio or broadcast medium which is generally or specifically marketed to minors.
- G. The presence of minors on the premises of a medical marijuana establishment is prohibited unless the minor is a qualified patient on the premises of a dispensary and is accompanied by his or her parent or legal guardian. No licensee shall cause, permit or allow, either by act or by failure to act, the violation of this subsection.
- H. Medical marijuana, edible marijuana products and/or marijuana infused products may only be transported in accordance with the requirements of this Chapter, and only by a licensed medical marijuana establishment. No other person shall transport medical marijuana, edible marijuana products and/or marijuana infused products on behalf of a licensed medical marijuana establishment. Transportation must meet all requirements of the State regulating authority. Product must be placed in unmarked, non-transparent transportation containers.
1. All required transportation logs must be in the vehicle and made available to law enforcement at any time the log is inspected. Upon being stopped by a law enforcement officer within the City, each driver must identify to the officer that the product contained within the vehicle is medical marijuana, edible marijuana products or marijuana-infused products, as the case may be, from a licensed medical marijuana establishment and must present a state agent registration card, the route the vehicle was authorized to travel and the actual travel log for inspection.
- I. Each licensee is responsible to obtain a biennial building inspection from the Building Official prior to renewal of any license.

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- J. Any closure either temporary or permanent must be noticed in writing to the Director 15 days prior to such closure, unless an emergency requires the closure of such facility which must be reported to the Director within 24 hours of such closure.
- K. Each licensee must meet the accounting and auditing procedures established by the Department to track and record all sales for audit purposes. The Department must have access to such records as provided for under LVMC 6.02.020.
 - 1. If an annual audit is required by the State regulating authority, the licensee shall submit the audit report to the City within 90 days of the completion of the audit. All reports or evaluations submitted hereunder shall be confidential and shall not be available for public inspection, except as may be required under State or federal law.
 - 2. In compliance with all State and Federal privacy laws the licensee shall allow the Director or a designee unrestricted access to all financial documents, books, records, facilities, and all audio and video surveillance pertaining to the facilities. Any information obtained pursuant to this section or any statement filed by the licensee shall be deemed confidential in character and shall not be subject to public inspection or as determined by State and Federal privacy laws.

6.95.120 Security Requirements.

Each medical marijuana establishment must submit, maintain and follow a security plan approved by the Director. Any proposed modification to an approved security plan must be submitted to the Director for approval. Any security plan must meet all the criteria established by the State regulating authority and the following minimum requirements:

- A. Each licensed premises must have a security system which monitors all perimeter entry points, windows, and controlled areas by a centrally monitored alarm company properly licensed with the City, and whose agents are properly licensed and registered under applicable laws.
- B. A 24 hour surveillance system is required to monitor the interior and exterior of a medical marijuana establishment, a live feed of which must be accessible to authorized law enforcement at all times, and in real-time.
 - 1. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with U.S. National Institute of Standards and Technology standards.
 - 2. The surveillance system's data storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee or third-party tampering or criminal theft.
 - 3. A sign must be posted in any customer areas that the customer is under video surveillance.

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- C. The establishment shall be responsible for ensuring compliance with all local and state regulations regarding the facility and must monitor parking areas and outdoor areas of the licensed premises for loitering, unlawful sale of medical marijuana by customers, and consumption of medical marijuana.
- D. Any theft of items containing marijuana or the observance of any unauthorized transactions of medical marijuana on the licensed premises must be reported to Metro and the Department in written communication within 24 hours of occurrence.
- E. A sign shall be posted at the entrance to the location containing the name and functioning telephone number of a 24-hour on-call member engaged in the management of a medical marijuana establishment who shall receive, log, and respond to complaints and other inquiries.
- F. In addition to complying with all requirements set by the State regulating authority, any licensed cultivation facility shall:
 - 1. Secure the cultivation facility with full video surveillance capable of clearly identifying any activities occurring within twenty (20) feet of the exterior of the building and any parking, fenced, or loading areas. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.
 - 2. Must provide on-site security between the hours of 10:00 p.m. and 6:00 a.m.
- G. In addition to complying with all requirements set by the State regulating authority, any licensed medical marijuana production facility shall ensure all production, transport, delivery, shipping, labeling and packaging areas have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet.
- H. In addition to complying with all requirements set by the State regulating authority, any licensed medical marijuana dispensary shall contain the following areas, separated and segregated, and consistent with the following specific criteria:
 - 1. Waiting area containing only one entrance for the public, which is visible immediately from one fixed staffed security station. The entire waiting area must also be monitored by surveillance cameras.
 - 2. Consultation room where medical marijuana products are viewed for purchase, which must be:
 - a. Separated and segregated from any waiting area;
 - b. Any windows or viewing areas must be obscured from the public right of way or waiting area;

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- c. Any customer allowed to enter any room where medical marijuana, edible marijuana products, or marijuana infused products are viewed for purchase is required to be accompanied by an employee of the establishment;
 - d. Only sample products may be viewed for purchase in such a room; samples may be shown to customers outside of nontransparent packaging.
 - e. Customers may not remove any medical marijuana, edible marijuana products, or marijuana infused products from the consultation room.
- 3. All medical marijuana, edible marijuana products, or marijuana infused products, during non-business hours, must be stored in a separated and secured area.
 - a. The area must meet the Building Official's standards for odor control.
 - b. The area must be under surveillance by the camera system at all times.
 - c. One area may store both product and legal tender, however separate storage devices must be maintained and both must be under video surveillance.
- 4. All medical marijuana, edible marijuana products, or marijuana infused products must be placed in an opaque bag or cover that does not allow the product to be visible from outside of the bag or cover and closed by the attendant of the dispensary prior to transfer to a customer.

6.95.130 Cultivation Facility.

- A. A cultivation facility must meet all odor control regulations established by the building department. Within 24-hours of any complaints concerning odors, a cultivation facility shall respond to the complaints and file with the Director and the Building Official all action taken to address odor complaints. The Building Official, upon determination of the existence of detectable odor from any cultivation facility, may require additional measures by the facility to control such odor and a timeframe for the implementation of such measures at any cultivation facility. Failure to complete required improvements within the timeframe specified by the Building Official is grounds for suspension of the license by the Director.
- B. Any medical marijuana that is transported to a medical marijuana dispensary must be packaged for retail sale in tamper evident containers of not more than two and one-half ounces and placed in unmarked, non-transparent transportation containers.

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- C. Any medical marijuana that is transported to a medical marijuana production facility must meet all State regulating authority standards.
- D. Applicants must designate on their permit application the size of the area proposed to be under cultivation on the premises. The cultivation area will be limited to the square footage granted on the license. Other floor space of the facility may be used for walkways, ventilation, storage or any other purposes required by the State regulating authority or the licensee for operations of the business. Allocated square footage of cultivation area may be requested to be increased upon petition to the Director prior to the renewal of the license.
- E. The Council may reduce the square footage of any applicant or licensee if the Council determines the size of the proposed facility is not in the interest of the surrounding community;
- F. Prior to accepting any plant materials into the cultivation facility for the first time, the cultivation facility shall notify the Department to conduct a pre-operational inspection and shall pay all related inspection fees.

6.95.140 Independent Testing Laboratories.

In addition to any other requirement set forth herein, Independent Testing Laboratories must submit a registration certificate from the State regulating authority, must maintain all state laboratory licenses required to test substances such as medical marijuana, and provide a copy of such licenses and approvals at the time of licensing.

6.95.150 Medical Marijuana Production Facility.

- A. Inspections. The Department will conduct a pre-operational inspection at all medical marijuana production facilities to determine whether the facilities, methods, practices and controls used in the manufacture, processing, or holding of edible marijuana products or marijuana-infused products conform to or are operated or administered within the requirements of this Ordinance. The licensee is responsible for the costs of all inspections.
- B. Products and Labeling. Products sold at City-licensed medical marijuana dispensaries must meet the following:
 - 1. No infused products may contain alcoholic beverages as defined and regulated by LVMC Chapter 6.50;
 - 2. No product shall have the appearance or packaging of candies, characters, shapes or other like products which are commonly marketed to children;
 - 3. No infused water or beverages may be produced or bottled for drinking as a beverage;

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4. Packaging must be opaque. Products must not be visible from or depicted on the packaging;
5. Labels must be simple in appearance without pictures or depictions of objects, such as toys, characters, pictures of children, or cartoon characters or any other depiction which are commonly marketed to children;
6. Labels must not have the appearance of similar labels found in a grocery store;
7. The City may create a logo that must be placed on the packaging for all edible marijuana products and marijuana-infused products. If such a logo is created, it shall be applied to all such products;
8. Any edible marijuana products or marijuana infused products that are transported to a licensed medical marijuana dispensary must be packaged for retail sale in tamper evident containers and placed in unmarked, non-transparent transportation containers; and
9. The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings of no more than ten milligrams of active THC per serving. THC is defined in NRS 453A.155. A single unit of marijuana-infused extract for inhalation cannot exceed one gram.

6.95.160 Medical Marijuana Dispensary – Requirements and Limitations.

Each licensed medical marijuana dispensary shall comply with the following requirements:

- A. Prices for all products shall be prominently posted in the waiting area in a location and manner readily visible to prospective and actual clients. Prices shall not be posted on the exterior of the licensed premises.
- B. All edible marijuana products and marijuana infused products offered for sale at licensed dispensaries shall meet the requirements, restrictions and labeling of edible marijuana products and marijuana infused products in accordance with LVMC 6.95.150(B). (see Medical Marijuana Production Facility)
- C. Any dispensary that sells edible marijuana products or marijuana infused products must display a placard that states the following:
 1. Edible Marijuana and Marijuana Infused Products: There may be health risks associated with consumption of edible marijuana products or marijuana infused products.
 2. Edible products and marijuana infused products contain marijuana or active compounds of marijuana.

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3. Should not be used by women who are pregnant or breast feeding.
4. When eaten or swallowed, the intoxicating effects of this product can be delayed two or more hours.
5. Follow all recommended dosage and serving guidelines and recommendations.
6. "KEEP OUT OF REACH OF CHILDREN"

The placard shall be no smaller than 8 inches tall by 12 inches wide, with font size letters no smaller than 48. The placard shall be clearly visible and readable by customers and shall be written in English.

- D. A medical marijuana dispensary is not allowed to sell gifts, novelties or participate in ancillary business sales activity within a medical marijuana dispensary with the exception of the following:
1. Paraphernalia as defined by NRS453A.125, the sale of which is limited to the consultation room and only to a display area of 10 square feet of gross retail space in the room.
 2. Ancillary services which are services approved in the educational plan by the State regulating authority, and which also must be approved for an ancillary license by the City.
- E. A dispensary may locate one automatic teller machine for access to patients only for the dispensing of money if the person operating the machine has been approved by the Director under LVMC 6.06.125 and the business is licensed to operate such by the City. Money and legal tender may not be stored onsite except as detailed in the approved security plan.
- F. The following activities to promote the use of marijuana are prohibited:
1. The giving of free samples or free product to any person, employee or customer;
 2. No employee shall be paid for services in the form of marijuana product;
 3. Reward programs, customer loyalty programs, promotional activities;
 4. No novelty merchandise may be produced or allowed to have any approved logo or business name to be used on such merchandise; and
 5. The display of any product in any manner visible to the general public from the right of way or outside of the facility.
- H. The following activities are prohibited for all licensed medical marijuana dispensaries:

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1. Off-site transportation or sale of medical marijuana, edible marijuana products or marijuana infused products, except to another licensed medical marijuana establishment or the location of the residence of a registry card holder and only to a residential address specified on the registration card. All sales and distribution of medical marijuana, edible marijuana products or marijuana infused products by a licensed medical marijuana dispensary shall occur only upon the licensed premise, and the licensee shall be strictly prohibited from transporting or selling medical marijuana to any person at any other location.
2. A drive-thru or walk-up window for transactions or product transfer.
3. Except as otherwise permitted by Paragraph (1) of this Subsection (H):
 - a. A dispensary shall not dispense or distribute, sell, transfer or in any other way provide marijuana, edible marijuana products or marijuana infused products other than by direct, face-to face, in-person transaction with the holder of a registry identification card or designated primary caregiver at the licensed facility; and
 - b. Marijuana shall not be provided by any other means of delivery including, without limitation:
 - i. Internet sales.
 - ii. The transport, mail or private delivery of product.
- I. Dispensaries must inform each customer either by signage, written receipt or on product labeling that it is illegal to re-sell medical marijuana, edible marijuana products or marijuana infused products to any person.
- J. The Dispensary shall provide the Director, Metro and all neighbors located within fifty (50) feet of the premises with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary.
- K. No advertising, materials or postings within the waiting areas may advertise locations, devices or activities promoting the consumption of marijuana or other facilities selling or purporting to provide locations for the private or public consumption of marijuana.
- L. Medical marijuana, edible marijuana products and/or marijuana infused products shall be obtained from licensed medical marijuana establishments within Clark County if an adequate supply is available from licensed medical marijuana establishments located within Clark County.
- M. A medical marijuana dispensary must maintain an electronic verification system in accordance with the requirements of the State regulating authority, which must be used to record data required by the State regulating authority and to validate each registry identification card presented and the allowed amount of medical marijuana to be dispensed.

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- N. A medical marijuana dispensary's hours of operation shall be limited to between 6:00 a.m. and 10:00 p.m.

6.95.170 Biennial Review of License.

- A. Every two years from the date of issuance each licensee must submit to a review of the issued license.
- B. Documentation required for the biennial review must be submitted at least 60 days prior to the expiration of the license.
- C. Documentation for the biennial review must be provided on a form approved by the Director and accompanied by:
 - 1. A new license application per LVMC Chapter 6.06;
 - 2. A nonrefundable application renewal fee of \$1,000.00;
 - 3. List of all ownership or affidavit testifying that no changes have occurred;
 - 4. Signed affidavits from each principal attesting to the fact that there have not been any arrests or convictions of a crime in any jurisdiction and they have not had disciplinary action taken against them or an associated business where a business license is held;
 - 5. If changes are requested, a detailed proposal for changes to any of the plans or documents approved with the initial license or previous renewal, including the sign plan, security plan, environmental plan, operational plan, or building plans;
 - 6. A copy of all current and proposed contracts for consulting, management, renting or leasing;
 - 7. A copy of all contracts with any other medical marijuana establishments; and
 - 8. A statement certifying and attesting that no changes have occurred in the ownership, operations or original application with the exception of those specifically noted in the renewal application.
- D. The Director may approve the review and approve a renewal of the license based on a determination that no material changes have been made to the original application or refer the review with noted requested changes to the Council for consideration. The City Council may approve, approve with conditions, deny or take such other action as it deems appropriate. All changes in ownership or location must be referred to the City Council as a new permit application during a posted request for medical marijuana compliance permits.

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- E. The Director may deny renewal of a license based on the failure or refusal of a licensee to carry out the policies and procedures or comply with the plans and statements provided to the Department with the application for the license.
- F. The Director may deny renewal of a license if the establishment is not in compliance with this Ordinance or has any unpaid fees.

6.95.180 Closure or Bankruptcy of a Medical Marijuana Establishment.

- A. Prior to the issuance of a license or the renewal of a license, each applicant must file with the Director a plan for the disposal, maintenance or transfer of all plant material, products and usable medical marijuana for implementation due to any of the following conditions:
 - 1. Closure of the medical marijuana establishment, revocation or nonrenewal of the registration certificate issued by the State regulating authority, or revocation or nonrenewal of a license granted pursuant to this Ordinance.
 - 2. The appointment of an administrator, receiver, trustee, or assignee in the event of the receivership, bankruptcy, or assignment for benefit of creditors of any licensee.
- B. The plan must include:
 - 1. The Director must be notified within ten (10) days of such appointment to act pursuant to Paragraph (2) of Subsection (A) above.
 - 2. That business must cease all sales of medical marijuana products including wholesale, edible or infused products and dispensary sales until such time as a new certificate has been issued by the State regulating authority and a license has been granted by the City.
 - 3. An inspection prior to the transfer of any materials to be disposed of or transferred to another licensed medical marijuana establishment.
 - 4. The plan must be executable within ten (10) days and approved by the Director.
- C. When the matter is resolved, the true party(ies) of interest may apply for a license once certified by the State regulating authority.

6.95.190 Disposal of Medical Marijuana.

Medical marijuana and any waste including wastewater must be stored, secured and managed in accordance with applicable state statutes and regulations and LVMC Title 14 and state approved disposal plan. A medical marijuana establishment must dispose of medical marijuana that is not usable marijuana within ten (10) calendar days

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

of expiration of use. Medical marijuana waste must be made unusable prior to leaving a licensed medical marijuana facility.

- A. Wastes that must be rendered unusable prior to disposal include, but are not limited to:
 - 1. Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.
 - 2. Solid marijuana sample plant waste possessed by third-party laboratories certified by the State regulating authority for quality assurance that must be disposed of.
- B. The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with non-consumable solid waste or other ground materials so the resulting mixture is at least fifty percent non-marijuana waste by volume. Other methods to render marijuana waste unusable must be approved by the State regulating authority and the Director before implementing.
- C. Marijuana waste rendered unusable following an approved method in the facility disposal plan may be delivered to a franchised or licensed solid waste facility for final disposition.
- D. Disposal cannot include medical marijuana product including plant material entering the City wastewater collection system, storm drain system or any unsecure rubbish disposal system.
- E. A medical marijuana establishment shall not transfer, share, give, sell or deliver any unused medical marijuana in the establishment's possession to any other person, regardless of whether they are licensed as a medical marijuana establishment.
- F. A medical marijuana establishment shall not dispose of medical marijuana in any manner other than permitted under this Ordinance.

6.95.200 Work Card and Agent Registration Card Requirements.

Each employee, whether a full- or part-time employee, independent contractor, or volunteer who works in a medical marijuana establishment business or facility shall obtain prior to the commencement of work and keep in force during the term of employment, a work card issued pursuant to LVMC Chapter 6.86. A complete and accurate list of all employees and volunteers, each of whom must have a valid medical marijuana establishment agent registration card and work card issued pursuant to LVMC Chapter 6.86, must be kept onsite and available for inspection at all times. The list must contain the current employment status, position and title of each employee and volunteer, and work shift.

It shall be a condition of the license to inform the City of any change in the employment status of a registered employee or volunteer who serves in a management

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

position or as a key employee within ten (10) days of the effective date of the change in employment status. A change of employment status includes termination, leave of absence, and promotion to a management position or key employee.

6.95.210 Confidential Information.

The confidentiality of records regarding medical marijuana establishments shall be in accordance with Federal and State law. The duty to disclose any particular record as a public record shall be in accordance with State law.

6.95.220 Disciplinary Actions, Suspension and Revocation of Licenses.

All licenses authorized and issued under the provisions of this Ordinance may be subject to immediate suspension by the Director, if the Director finds that:

- A. A licensee has violated, or permitted, allowed or caused a violation of any provision of this Ordinance, any regulation issued pursuant to this Ordinance, any condition of approval imposed upon the issuance of the permit or license, or any State law or regulation relating to the operation;
- B. If the State registration certificate has been surrendered, suspended or revoked;
- C. Based on ascertainable facts, the operation substantially aggravates the crime problems in the City, makes law enforcement unduly difficult, or is detrimental to the public health, safety or welfare of the City;
- D. A licensee has made any fraudulent statements as to a material fact on an application form, as to any other information presented as part of the application process, or in connection with any other information required to be submitted to the Director pursuant to this Ordinance;
- E. A licensee knowingly commits any act which would have constituted grounds for denial of an application for a license;
- F. Licensee has failed either to file the required reports or biennial review documentation or to furnish such information as may be reasonably required by the Director under the authority vested in the Director by the terms of the provisions relating to the specific license;
- G. Any fact or condition exists which, if it had existed or been known to exist at the time of the application for such compliance permit or license, would have warranted the Director to recommend denial of the permit or license;
- H. The licensee has failed to maintain the premises in compliance with the requirements of the building official or the fire chief or any environmental or health department.

Any act or omission committed by any employee, agent, or independent contractor that occurs in the course of his or her employment, agency, or contract with

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

the licensee shall be imputed to the licensee for the purposing of imposing any civil penalty, suspension, or revocation on the licensee.

In lieu of any license suspension, the director may assess a civil penalty against the licensee per LVMC Chapter 6.02.

In the event of any condition that justifies suspension of a license, the Director shall have the discretion to recommend to the City Council that the license be revoked, or other penalty imposed.

In the event of the suspension of any license, the Director shall provide written notice by certified mail addressed to the licensee and the building owner at the addresses of record. Notice shall also be sent to the state regulating authority.

Failure to immediately suspend all business operations to the public or other medical marijuana establishments shall require the Director to post the property as closed by order of the Director, and shall be grounds for revocation of a license. Staff of a licensed cultivation facility is permitted to be onsite during the appeal process to maintain the needs of the plants for a cultivation facility.

A licensee may appeal any suspension, nonrenewal or other penalty to the City Council. Any suspension or other penalty shall be effective pending completion of any appeal. All appeals will be processed per LVMC Chapter 6.06.

6.95.230 Fees.

A. Annual License Fee:

1. Each annual fee is due in advance on July 1st of each year. Applicants who receive license approval on a date other than such due date shall have their license fees prorated on a monthly basis. License fees paid pursuant to the code are not refundable.
2. Any annual fee which is not received by the Department on or before the due date shall be assessed a late-payment penalty amount equal to ten percent of the amount of such annual fee.
3. If the annual fee and penalty is not received by the Department within fifteen days after the due date, an additional penalty in an amount equal to twenty-five percent of such annual fee shall be assessed.
4. If the annual fee and all penalties are not received by the Department within sixty days after the due date, the license shall be automatically revoked.

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

5. Each licensee shall pay to the Department in advance, the annual fees set forth in the following schedule:

License Category	Annual License Fee (Dollars)
Medical Marijuana Cultivation Facility	\$20,000 for 1st 5,000 square feet of approved cultivation area and \$10,000 for each additional 5,000 square feet, or portion thereof, of approved cultivation area
Medical Marijuana Production Facility	\$25,000
Medical Marijuana Dispensary	\$75,000
Independent Testing Laboratory fees per LVMC 6.04	\$10,000

B. **Semi-Annual Gross Revenue Fee for Medical Marijuana Dispensary:**

1. Gross revenue fees shall be administered in accordance with LVMC 6.02.160 through 6.02.220, LVMC 6.02.240 through LVMC 6.02.260.
2. If the semi-annual fee and all penalties are not received by the Department within sixty days after the due date, the license shall be automatically revoked.
3. A semi-annual license fee based on the gross sales of the medical marijuana dispensary facility according to the following schedule:
 - a. All medical marijuana products received directly from the medical marijuana cultivation facility for sale shall be calculated on 5% of gross sales.
 - b. All medical marijuana products received directly from the medical marijuana production facility for sale shall be calculated at 7% of gross sales.
 - c. Sales other than medical marijuana shall be calculated pursuant to LVMC 6.04.005.

6.95.240 Cultivation Limit.

The Council may enter into agreements with other local governments to restrict cultivation to a regional location or a regional limit based on square feet of building space that may be licensed for the cultivation of medical marijuana to supply licensed dispensaries within the City.

Business Licensing Regulations for Medical Marijuana Establishments for the City of Las Vegas, Nevada

6.95.250 Construction

Except as otherwise specifically provided herein, this Ordinance incorporates the requirements and procedures set forth in NRS 453A and NAC 453A. In the event of any conflict between the provisions of this Ordinance and the provisions of NRS 453A and NAC 453A, or any other applicable State or local law, the more restrictive provision shall control.

SECTION 2: Title 6, Chapter 2, Section 250, of the Municipal Code of the City, Nevada, 1983 Edition, is hereby amended to read as follows:

6.02.250 Delinquency – Expiration – Reinstatement.

- (A) All license fees other than gaming, alcoholic beverage and medical marijuana license fees shall become delinquent if not received within fifteen days after the due date. If full payment is not made within fifteen days after the due date, fifteen percent of the entire license fee shall be assessed as a penalty, payable in addition to the license fee; provided, however, if the fifteenth day following the due date is a day that the principal offices of the City are not open to the public, the penalty must not be assessed if the license fee is received before midnight of the next day on which the principal offices of the City are open to the public.
- (B) Except as otherwise provided in Subsection (E) with respect to ice cream truck and medical marijuana establishment licenses, all licenses for which fees and assessed penalty charges have not been paid within sixty days after the license fee due date are deemed expired and shall not be reinstated until the license fees, assessed penalty charges and a reinstatement fee of fifty dollars have been paid. A license is eligible for reinstatement only within the four-month period following its expiration.
- (C) The Director may refer any delinquent license fees and assessed penalty charges to a collection agency for collection if they have not been paid within sixty days after the license fee due date. The Director may do likewise regarding any service charges and administrative fees that have been assessed pursuant to LVMC 6.02.020(B)(7) and have not been paid in a timely manner.
- (D) As a condition of reinstatement of a license deemed expired pursuant to Subsection (B) of this Section, the licensee shall, in addition to payment of any outstanding license fees, penalty charges, service charges, administrative fees, and reinstatement fees, reimburse the City for any expenses it has incurred as a result of referring the licensee's delinquent license fees and assessed penalty charges to a collection agency.
- (E) The renewal and expiration of ice cream truck licenses shall be in accordance with LVMC 6.47.030(B)(4). The renewal and expiration of medical marijuana licenses shall be in accordance with LVMC 6.95.170.

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

**RECEIVED
CITY CLERK**

**LV CITY CLERK
495 S MAIN ST
LAS VEGAS NV 89101**

**Account # 22515
Ad Number 0000197485**

2014 JUN -2 A 11: 53

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 05/23/2014 to 05/23/2014, on the following days:

05 / 23 / 14

BILL NO. 2014-33

AN ORDINANCE TO ESTABLISH
LICENSING REGULATIONS AND
STANDARDS FOR MEDICAL
MARIJUANA ESTABLISHMENTS,
AND TO PROVIDE FOR OTHER
RELATED MATTERS.

Sponsored by: Councilman Bob
Coffin

Summary: Establishes
licensing regulations and
standards for medical
marijuana establishments.

At the City Council meeting of
May 21, 2014
BILL NO. 2014-33 WAS READ BY
TITLE AND REFERRED TO A
RECOMMENDING COMMITTEE

COPIES OF THE COMPLETE
ORDINANCE ARE AVAILABLE FOR
PUBLIC INFORMATION IN THE
OFFICE OF THE CITY CLERK, 2ND
FLOOR, 495 SOUTH MAIN
STREET, LAS VEGAS, NEVADA

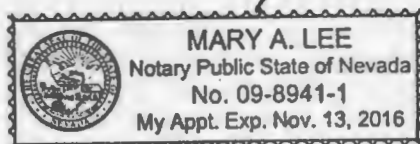
PUB: May 23, 2014
LV Review-Journal

Stacey M. Lewis

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 23rd day of May, 2014

Notary *Mary Lee*



AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

LV CITY CLERK
495 S MAIN ST
LAS VEGAS NV 89101

Account # 22515
Ad Number 0000212967

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 06/07/2014 to 06/07/2014, on the following days:

06 / 07 / 14

FIRST AMENDMENT

**BILL NO. 2014-33
ORDINANCE NO. 6324**

AN ORDINANCE TO ESTABLISH LICENSING REGULATIONS AND STANDARDS FOR MEDICAL MARIJUANA ESTABLISHMENTS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Bob Coffin
Summary: Establishes licensing regulations and standards for medical marijuana establishments.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 21st day of May 2014 and referred to a committee for recommendation; thereafter the committee reported favorably on said ordinance on the 4th day of June 2014, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as introduced and was adopted by the following vote:

VOTING "AYE": Mayor Goodman and Councilmembers Anthony, Ross, Barlow, Coffin, Tarkanian, and Beers
VOTING "NAY": NONE
EXCUSED: NONE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA

WIT: June 7, 2014
LV Review-Journal

IS/ Stacey M. Lewis
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 9th day of June, 2014

Notary Mary Lee

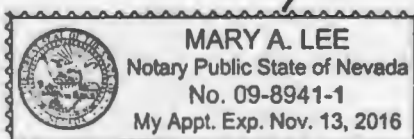


EXHIBIT B

EXHIBIT B

1 FIRST AMENDMENT

2 BILL NO. 2014-30

3 ORDINANCE NO. ~~6321~~

4 AN ORDINANCE TO ESTABLISH ZONING REGULATIONS AND STANDARDS FOR MEDICAL
5 MARIJUANA ESTABLISHMENTS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

6 Sponsored by: Councilman Bob Coffin

Summary: Establishes zoning regulations and
standards for medical marijuana establishments.

7
8 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS
9 FOLLOWS:

10 SECTION 1: Ordinance No. 6289 and the Unified Development Code adopted as Title
11 19 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended as set forth
12 in Sections 2 to 5, inclusive, of this Ordinance. The amendments are deemed to be amendments to both
13 Ordinance No. 6289 and the Unified Development Code adopted as Title 19.

14 SECTION 2: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
15 10, is hereby amended by adding, at the appropriate locations, entries for the uses "Medical Marijuana
16 Cultivation Facility" and "Medical Marijuana Production Facility," indicating by the letter "S" that each of
17 those uses is allowed by means of Special Use Permit in the C-M and M Zoning Districts.

18 SECTION 3: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
19 10, is hereby amended by adding, at the appropriate location, an entry for the use "Medical Marijuana
20 Dispensary," indicating by the letter "S" that the use is allowed by means of Special Use Permit in the C-1,
21 C-2, C-M and M Zoning Districts.

22 SECTION 4: Title 19, Chapter 12, Section 70, is hereby amended by adding thereto, at
23 the appropriate locations, entries for the uses "Medical Marijuana Cultivation Facility," "Medical
24 Marijuana Dispensary" and "Medical Marijuana Production Facility," reading respectively as follows:

25 **Medical Marijuana Cultivation Facility**

26 **Description:** A fully stand-alone detached enclosed structure which cultivates, delivers, transfers, transports,

1 supplies, or sells marijuana to medical marijuana dispensaries or medical marijuana production facilities. This
2 use includes a “cultivation facility,” as defined in NRS 453A.056.

3 **Minimum Special Use Permit Requirements:**

4 *1. Pursuant to its general authority to regulate the cultivation, production, dispensing and sale of medical
5 marijuana, the City Council declares that the public health, safety and general welfare of the City are best promoted
6 and protected by generally requiring a minimum separation between medical marijuana cultivation facilities and
7 certain other uses that should be protected from the impacts associated with a medical marijuana cultivation
8 facility. Therefore, except as otherwise provided below, no medical marijuana cultivation facility may be located
9 within 1000 feet of any school; or within 300 feet of any individual care center licensed for more than 12 children,
10 community recreational facility (public), City park, or church/house of worship.

11 *2. The distance separation referred to in Requirement 1 shall be measured with reference to the shortest
12 distance between two property lines, one being the property line of the proposed medical marijuana cultivation
13 facility which is closest to the existing use to which the measurement pertains, and the other being the property line
14 of that existing use which is closest to the proposed medical marijuana cultivation facility. The distance shall be
15 measured in a straight line without regard to intervening obstacles.

16 *3. For the purpose of Requirement 2, and for that purpose only:

17 a. The “property line” of a protected use refers to the property line of a fee interest parcel that
18 has been created by an approved and recorded parcel map or subdivision map, and does not include the
19 property line of a leasehold parcel; and

20 b. The “property line” of a medical marijuana cultivation facility refers to:

21 i. The property line of a parcel that has been created by an approved and recorded
22 parcel map or commercial subdivision map; or

23 ii. The property line of a parcel that is located within an approved and recorded
24 commercial subdivision and that has been created by a record of survey or legal description, if:

25 A. Using the property line of that parcel for the purpose of measuring the
26 distance separation referred to in Requirement 1 would qualify the parcel under the distance separation

1 requirement;

2 B. The proposed medical marijuana cultivation facility will have direct access
3 (both ingress and egress) from a street having a minimum right-of-way width of 100 feet. The required access
4 may be shared with a larger development but must be located within the property lines of the parcel on which
5 the proposed medical marijuana cultivation facility will be located;

6 *4. The use shall conform to, and is subject to, the provisions of LVMC Title 6, as they presently exist and
7 may be hereafter amended.

8 *5. No outside storage shall be permitted, including the use of shipping containers for on-site storage.

9 *6. An air filtration system to be designed by a Nevada licensed engineer shall be provided prior to the
10 issuance of a certificate of occupancy.

11 *7. Signage for the establishment shall be limited to one wall sign per street frontage, the face of the sign not
12 to exceed thirty square feet in area and not to exceed two feet in height. Such a sign shall be internally illuminated,
13 with the use of neon prohibited.

14 *8. The Special Use Permit shall be void without further action if the uses ceases for a period exceeding 90
15 days.

16 *9. A medical marijuana cultivation facility shall obtain all required approvals from the State of Nevada to
17 operate such a facility prior to the Special Use Permit being exercised pursuant to LVMC 19.16.110.

18 **On-site Parking Requirement:** One space for each 1000 square feet of gross floor/yard area
19 identified for cultivation.

20 **Medical Marijuana Dispensary**

21 **Description:** An establishment which acquires, possesses, delivers, transfers, transports, supplies, sells or
22 dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification
23 card. This use includes a "medical marijuana dispensary," as defined in NRS 453A.115.

24 **Minimum Special Use Permit Requirements:**

25 *1. Pursuant to its general authority to regulate the cultivation, production, dispensing and sale of medical
26 marijuana, the City Council declares that the public health, safety and general welfare of the City are best promoted

1 and protected by generally requiring a minimum separation between a medical marijuana dispensary and certain
2 other uses that should be protected from the impacts associated with a medical marijuana dispensary. Therefore,
3 except as otherwise provided below, no medical marijuana dispensary may be located within 1000 feet of any
4 school; or within 300 feet of any individual care center licensed for more than 12 children, community recreational
5 facility (public), City park, or church/house of worship.

6 *2. The distance separation referred to in Requirement 1 shall be measured with reference to the shortest
7 distance between two property lines, one being the property line of the proposed medical marijuana dispensary
8 which is closest to the existing use to which the measurement pertains, and the other being the property line of that
9 existing use which is closest to the proposed medical marijuana dispensary. The distance shall be measured in a
10 straight line without regard to intervening obstacles.

11 *3. For the purpose of Requirement 2, and for that purpose only:

12 a. The "property line" of a protected use refers to the property line of a fee interest parcel that
13 has been created by an approved and recorded parcel map or subdivision map, and does not include the
14 property line of a leasehold parcel; and

15 b. The "property line" of a medical marijuana dispensary refers to:

16 i. The property line of a parcel that has been created by an approved and recorded
17 parcel map or commercial subdivision map; or

18 ii. The property line of a parcel that is located within an approved and recorded
19 commercial subdivision and that has been created by a record of survey or legal description, if:

20 A. Using the property line of that parcel for the purpose of measuring the
21 distance separation referred to in Requirement 1 would qualify the parcel under the distance separation
22 requirement;

23 B. The proposed medical marijuana dispensary will have direct access (both
24 ingress and egress) from a street having a minimum right-of-way width of 100 feet. The required access may
25 be shared with a larger development but must be located within the property lines of the parcel on which the
26 proposed medical marijuana dispensary will be located;

1 C. All parking spaces required by this Section 19.12.070 for the medical
2 marijuana dispensary use will be located on the same parcel as the use; and

3 D. The owners of all parcels within the commercial subdivision, including the
4 owner of agreement, satisfactory to the City Attorney, that provides for perpetual, reciprocal cross-access,
5 ingress and egress throughout the commercial subdivision.

6 *4. The use shall conform to, and is subject to, the provisions of LVMC Title 6, as they presently exist and
7 may be hereafter amended.

8 *5. No outside storage shall be permitted, including the use of shipping containers for on-site storage.

9 *6. Subject to the requirements of applicable building and fire codes, public access to the building shall be
10 from one point of entry and exit, with no other access to the interior of the building permitted.

11 *7. No drive-through facilities shall be permitted in conjunction with a medical marijuana dispensary.

12 *8. Signage for the establishment shall be limited to one wall sign per street frontage, the sign not to exceed
13 thirty square feet in area and not to exceed two feet in height. Such a sign shall be internally illuminated, with the
14 use of neon prohibited.

15 *9. The Special Use Permit shall be void without further action if the uses ceases for a period exceeding 90
16 days.

17 *10. A medical marijuana dispensary shall obtain all required approvals from the State of Nevada to operate
18 such a facility prior to the Special Use Permit being exercised pursuant to LVMC 19.16.110.

19 *11. Elevations and signage must first be reviewed by the Downtown Design Review Committee established
20 pursuant to LVMC 19.10.100(D)(1) prior to any public hearing for a Special Use Permit. The review will be
21 performed in accordance with the procedures set forth in LVMC 19.10.100(D), as in the case of reviews normally
22 performed by that Committee, but measuring compliance instead with the substantive standards for elevations and
23 signage pertaining to dispensaries that are set forth in this Title or that have been established administratively by the
24 Director.

25 *12. No medical marijuana dispensary shall be located on any property which abuts Fremont Street west of 8th
26 Street.

*13. No accessory uses are permitted in association with a medical marijuana dispensary.

On-site Parking Requirement: One space for each 175 square feet of gross floor area.

Medical Marijuana Production Facility

Description: A fully stand-alone detached enclosed structure which acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries. This use includes a “facility for the production of edible marijuana products or marijuana-infused products,” as defined in NRS 453A.105.

Minimum Special Use Permit Requirements:

*1. Pursuant to its general authority to regulate the cultivation, production, dispensing and sale of medical marijuana, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by generally requiring a minimum separation between a medical marijuana production facility and certain other uses that should be protected from the impacts associated with a medical marijuana production facility. Therefore, except as otherwise provided below, no medical marijuana production facility may be located within 1000 feet of any school; or within 300 feet of any individual care center licensed for more than 12 children, community recreational facility (public), City park, or church/house of worship.

*2. The distance separation referred to in Requirement 1 shall be measured with reference to the shortest distance between two property lines, one being the property line of the proposed medical marijuana production facility which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed medical marijuana production facility. The distance shall be measured in a straight line without regard to intervening obstacles.

*3. For the purpose of Requirement 2, and for that purpose only:

a. The “property line” of a protected use refers to the property line of a fee interest parcel that has been created by an approved and recorded parcel map or subdivision map, and does not include the property line of a leasehold parcel; and

b. The “property line” of a medical marijuana production facility refers to:

i. The property line of a parcel that has been created by an approved and recorded

1 parcel map or commercial subdivision map; or

2 ii. The property line of a parcel that is located within an approved and recorded
3 commercial subdivision and that has been created by a record of survey or legal description, if:

4 A. Using the property line of that parcel for the purpose of measuring the
5 distance separation referred to in Requirement 1 would qualify the parcel under the distance separation
6 requirement;

7 B. The proposed medical marijuana production facility will have direct access
8 (both ingress and egress) from a street having a minimum right-of-way width of 100 feet. The required access
9 may be shared with a larger development but must be located within the property lines of the parcel on which
10 the proposed medical marijuana production facility will be located;

11 *4. The use shall conform to, and is subject to, the provisions of LVMC Title 6, as they presently exist and
12 may be hereafter amended.

13 *5. No outside storage shall be permitted, including the use of shipping containers for on-site storage.

14 *6. An air filtration system to be designed by a Nevada licensed engineer shall be provided prior to the
15 issuance of a certificate of occupancy.

16 *7. Distillation or extraction by combustible solvent is prohibited.

17 *8. Signage for the establishment shall be limited to one wall sign per street frontage, the face of the sign not
18 to exceed thirty square feet in area and not to exceed two feet in height. Such a sign shall be internally illuminated,
19 with the use of neon prohibited.

20 *9. The Special Use Permit shall be void without further action if the uses ceases for a period exceeding 90
21 days.

22 *10. A medical marijuana production facility shall obtain all required approvals from the State of Nevada to
23 operate such a facility prior to the Special Use Permit being exercised pursuant to LVMC 19.16.110.

24 **On-site Parking Requirement:** One space for each 500 square feet of gross floor area.

25 SECTION 5: Title 19, Chapter 18, Section 20, is hereby amended by adding thereto, at
26 the appropriate locations, the following terms and their corresponding definitions:

1 **Medical Marijuana Cultivation Facility.** A fully stand-alone detached enclosed structure which cultivates,
2 delivers, transfers, transports, supplies, or sells marijuana to medical marijuana dispensaries or medical
3 marijuana production facilities. The term includes a “cultivation facility,” as defined in NRS 453A.056.

4 **Medical Marijuana Dispensary.** An establishment which acquires, possesses, delivers, transfers, transports,
5 supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid
6 registry identification card. The term includes a “medical marijuana dispensary,” as defined in NRS 453A.115.

7 **Medical Marijuana Production Facility.** A fully stand-alone detached enclosed structure which acquires,
8 possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or
9 marijuana-infused products to medical marijuana dispensaries. The term includes a “facility for the production
10 of edible marijuana products or marijuana-infused products,” as defined in NRS 453A.105.

11 SECTION 6: For purposes of Section 2.100(3) of the City Charter, Sections 19.12.010,
12 19.12.070 and 19.18.020 are deemed to be subchapters rather than sections.

13 SECTION 7: If any section, subsection, subdivision, paragraph, sentence, clause or
14 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
15 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
16 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City
17 of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph,
18 sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections,
19 subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

20 SECTION 8: Whenever in this ordinance any act is prohibited or is made or declared to
21 be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required
22 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of
23 such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon
24 conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of
25 not more than six months, or by any combination of such fine and imprisonment. Any day of any violation
26 of this ordinance shall constitute a separate offense.


1 SECTION 9: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983
3 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this 21st day of May, 2014.


5 APPROVED:

6 By 
7 CAROLYN G. GOODMAN, Mayor

8 ATTEST:

9 
10 BEVERLY K. BRIDGES, MMC
City Clerk

11
12 APPROVED AS TO FORM:

13  5-22-14
14 Val Steed, Date
Deputy City Attorney

1 The above and foregoing ordinance was first proposed and read by title to the City Council
2 on the 7th day of May, 2014, and referred to a committee for recommendation; thereafter
3 the said committee reported favorably on said ordinance on the 21st day of May, 2014,
4 which was a regular meeting of said Council; that at said regular meeting, the proposed
5 ordinance was read by title to the City Council as amended and adopted by the following
6 vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers Anthony, Tarkanian, Ross,
Barlow, Coffin and Beers

8 VOTING "NAY": None

9 EXCUSED: None

10 ABSTAINED: None

11
12 APPROVED:

13 
14 CAROLYN G. GOODMAN, Mayor

15 ATTEST:

16 
17 BEVERLY K. BRIDGES, MMC City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

LV CITY CLERK
495 S MAIN ST
LAS VEGAS NV 89101

Account # 22515
Ad Number 0000198097

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 05/24/2014 to 05/24/2014, on the following days:

05 / 24 / 14

FIRST AMENDMENT
BILL NO. 2014-30
ORDINANCE NO. 6321

AN ORDINANCE TO ESTABLISH ZONING REGULATIONS AND STANDARDS FOR MEDICAL MARIJUANA ESTABLISHMENTS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Bob Coffin
Summary: Establishes zoning regulations and standards for medical marijuana establishments.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 7th day of May 2014 and referred to a committee for recommendation; thereafter the committee reported favorably on said ordinance on the 21st day of May 2014, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as introduced and was adopted by the following vote:

VOTING "AYE": Mayor Goodman and Councilmembers Anthony, Tarkanian, Ross, Barlow, Coffin, and Beers

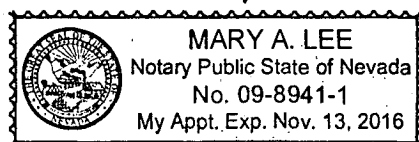
VOTING "NAY": NONE
EXCUSED: NONE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA
PUB: May 24, 2014
LV Review-Journal

Stacey M. Lewis
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 27th day of May, 2014

Notary *Mary Lee*



AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

**LV CITY CLERK
495 S MAIN ST
LAS VEGAS NV 89101**

**Account # 22515
Ad Number 0000181059**

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 05/08/2014 to 05/08/2014, on the following days:

05 / 08 / 14

BILL NO. 2014-30

AN ORDINANCE TO ESTABLISH ZONING REGULATIONS AND STANDARDS FOR MEDICAL MARIJUANA ESTABLISHMENTS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Bob Coffin
Summary: Establishes zoning regulations and standards for medical marijuana establishments.

At the City Council meeting of May 7, 2014
BILL NO. 2014-30 WAS READ BY TITLE AND REFERRED TO A RECOMMENDING COMMITTEE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA
PUB: May 8, 2014
LV Review-Journal

Stacey M. Lewis

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 8th day of May, 2014

Notary *Mary Lee*

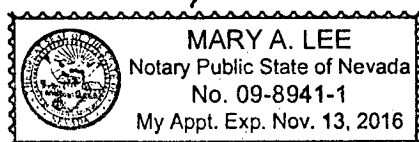


EXHIBIT A

EXHIBIT A

**MINUTES OF THE
ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE'S
SUBCOMMITTEE ON THE MEDICAL USE OF MARIJUANA**

JULY 9, 2014

The meeting of the Advisory Commission on the Administration of Justice's Subcommittee on the Medical Use of Marijuana was called to order by Senator Tick Segerblom at 9:05 a.m. on July 9, 2014, at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 3137, 401 South Carson Street, Carson City, Nevada. The Agenda is included as [Exhibit A](#) and the Attendance Roster is included as [Exhibit B](#). All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT (LAS VEGAS):

Yvanna Cancela, Political Director, Culinary Workers Union Local 226
Bob Coffin, Councilmember, City of Las Vegas
Russ Cutolo, Sergeant, Las Vegas Metropolitan Police Department
Chris Giunchigliani, Commissioner, Clark County
Gary Modafferi, Esq.
Sandra Douglass Morgan, City Attorney, City of North Las Vegas
Jennifer Solas, Advocate for Persons Who Use Medical Marijuana
John Watkins, Esq.
Chad Westom, Health Bureau Chief, Department of Health and Human Services, Division of Public and Behavioral Health
Kristina Wildeveld, Esq.
Assemblywoman Olivia Diaz, District No. 11 (via telephone)
Assemblywoman Michele Fiore, District No. 4
Senator Tick Segerblom, Chair, District No. 3

COMMITTEE MEMBERS PRESENT (CARSON CITY):

Christine Jones Brady, Deputy Public Defender, Washoe County
Keith Munro, Assistant Attorney General
Hillary Schieve, Councilmember, City of Reno (via telephone)
Eric Spratley, Lieutenant, Washoe County Sheriff's Office
Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada
Senator Mark Hutchison, District No. 6

COMMITTEE MEMBERS ABSENT:

Frank Adorno, Patient Who Holds a Valid Registry Identification Card

STAFF MEMBERS PRESENT:

Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel
Angela Hartzler, Deputy Administrator, Legal Division, Legislative Counsel Bureau
Olivia Lodato, Interim Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

John Sullivan, First Security Bank of Nevada
Cindy Brown
Julie Montero
David Kallas
Sal
Thomas Serato
Timothy
Vicki Hagans
Raymond Fletcher
Wes Henderson
Mike Cathcart
Nicole Garcia
Kevin Schiller
Assemblyman William Horne
Regina Harris
Sara Clourtiur
Nancy Wilden
Cary

Chair Segerblom opened the meeting at 9:05 a.m. He requested a roll call of members.

Mrs. Hartzler called the roll and a quorum was present.

Chair Segerblom stated that there was a full agenda today. He requested the members introduce themselves to the Committee.

Ms. Jones Brady said she worked for Washoe County Public Defender's Office. She represented clients with felony charges and the specialty courts. She worked with people with addictions or mental illness. She also had a background in anti-poverty work and in abuse and neglect cases regarding children. Her interest in the Committee was how the laws might impact people of lower income or with mental illness.

Ms. Cancela said she was the political director of the Culinary Workers Union Local 226. Her interest was in understanding how policy affected workers within the bargaining unit plus other positions on the Strip and downtown.

Mr. Coffin said he was a member of the Las Vegas City Council. He had been an advocate for medical marijuana for quite a while. He said he could bring a local government's perspective to the meetings. He hoped to get an owner-user of a co-op built out of the group's work. He intended to fully use medical marijuana when he can due to a spinal fracture.

Mr. Cutolo was with the Las Vegas Metropolitan Police Department and had been for the past 17 years. He said he had been in narcotics law enforcement for the past 10 years. He said the focus for Metro was to ensure that the laws made sense. He said they wanted to make the public aware of what the law really was so a legal patient followed the law.

Ms. Giunchigliani said she had served in the Legislature for 16 years and sponsored the original medical marijuana bill in 2001. She said there were issues raised, and she looked forward to working with the Committee.

Mr. Modafferri said he was a constitutional and criminal defense attorney. He was chief of the narcotics Division in Honolulu and now had clients who were prosecuted under the old laws. He hoped to get input in how to deal with people in a fair manner.

Chair Segerblom said the Committee would be looking at ways to go back and revisit people who had criminal convictions for marijuana and reduce or remove the convictions.

Ms. Douglass Morgan said she was the City Attorney for North Las Vegas. She was a voice for the local jurisdictions. She advised the Mayor and Council for North Las Vegas including developing the land use and business license regulations for the project. She also supervised the Criminal Division which prosecuted claims which included marijuana offenses. She also represented the Police Department.

Mr. Munro said he was with the Nevada Attorney General's Office. He said his role was helping the state agencies carry out their duties with respect to this law.

Ms. Schieve said she was a Reno City Council member at large. She said the issue was important to her due to a personal experience with her mother. The effects of medical marijuana could continue to give her a better life.

Ms. Solas said she was a Las Vegas resident and for five years has led a social group for medical marijuana. Her primary interest was patient advocacy and patient rights.

Mr. Spratley said he was with the Washoe County Sheriff's Office. He said Sheriff Haley supported good public policy and the will of the voters.

Ms. Spinazola was the ACLU Legislative and Advocacy Director. She was present to watch civil liberties as they came up in the process, particularly in regards to information sharing between agencies.

Mr. Watkins said he was a practicing lawyer, particularly defense work. He said his role was to point out the impropriety of the present law dealing with marijuana. He said there was a conflict with the medical marijuana and the criminal DUI laws. He said anybody who used marijuana lawfully was guilty of a DUI when they got in their car.

Mr. Westom was Bureau Chief for the State Division of Public and Behavioral Health. He said he had the obligation to implement S.B. 374 and the adopted regulations. He said his objective was to continue the program for card holders and get local governments up and running as soon as possible.

Ms. Wildeveld said she was a criminal defense attorney, lobbyist, and criminal litigator. She did death penalty defense and had never represented anyone who committed a murder while high on marijuana. She also did abuse and neglect cases concerning parents who lost children because of marijuana use. She also represented illegal and legal growers of marijuana.

Senator Hutchison was a co-founder of the medical marijuana bill. He said he looked forward to working with Chair Segerblom on this committee.

Assemblywoman Diaz was excited to be a member of the Committee. She was looking forward to gaining more knowledge in this subject area in order to have information for her constituents when they needed it

Chair Segerblom said Assemblywoman Fiore had the courage to vote for the bill during the Session.

Assemblywoman Fiore said she was excited to be on the committee. She said it was important to take back the freedoms and responsibilities as adults and United States citizens. She said she was going to work on laws to release prisoners arrested.

Chair Segerblom said it was a committee with a lot of background and experience with the issues. He asked Mr. Westom to make a presentation.

Mr. Westom opened his presentation with an overview of the program. He said the Nevada Constitution was changed to allow for medical marijuana. The new bill, S.B. 374, introduced the dispensaries and the cultivation facilities, and production for edible marijuana products and laboratories. He said his department would start reviewing applications on August 5, 2014, [Exhibit C](#). The medical marijuana dispensaries would only be open for those who were cardholders. He said the discussions had started in 2001, then revisions were made in 2003, 2009, and 2013.

Chair Segerblom asked Mr. Westom to explain how the application process would work. He said some entities plan to give a letter to the applicant to go with their application to the State. Another entity said they plan to recommend a specific 18 applicants only. He asked if the State looked at the applications by jurisdiction or ranked them.

Mr. Westom said they will receive applications for certificates from August 5 through August 18, 2014. He said they were following Chapter 453A of NRS and the regulations derived from the statutes and adopted. He said it was a merit based review, scoring and ranking by jurisdiction. They had specific criteria they had to review and they had developed a process to do so, [Exhibit C](#). He said there was an overview of the scoring on their website at Health.NV.gov. The application was there for review and it gave all the different categories of subjects they were reviewing and a point value for each subject.

Chair Segerblom said Clark County picked 18 applicants as their favorites. He asked if it made a difference that Clark County picked those people and did it affect the state scoring system.

Mr. Westom said they would review all the applications they received. He said they would review more than the 18 recommended by an entity. The rankings may differ and there was no assurance they would choose the same 18 applicants.

Chair Segerblom asked if there was a way to give credit in the state's merit system that Clark County said they liked certain groups or locations.

Mr. Westom replied that it was part of the process for the applicants to provide evidence of local zoning and business licensing approval.

Ms. Douglass Morgan said her review of the regulations did not show any contemplation of local jurisdiction approval of a business license. She said the medical marijuana certificate issued by the State was provisional until it was approved by the local jurisdiction.

Mr. Westom said it did talk about local government approvals. He said in some jurisdictions there were no business licenses issued.

Ms. Douglass Morgan said whether or not a business had the proper zoning was contemplated and that could be determined with a zoning verification letter.

Mr. Westom said the provisional certificates were issued so the local jurisdictions could approve.

Ms. Giunchigliani said a number of people said they were going to give nonprofits some assistance. She said she could not find anything in statute directing that as part of the merit base. She asked if that was a voluntary effort.

Mr. Westom said there were categories that spoke to community impact and other criteria where their contributions to non-profits and other entities were a factor.

Ms. Giunchigliani said she would like to see the sections where those categories were referenced.

Senator Hutchison asked Mr. Westom how it was going to work. He said he assumed the State was starting with a base analysis of the statute. He referred to Section 11.7 of S.B. 374 where

the law required certain criteria be applied in evaluating the applications before the certifications were issued. He said it included contemplation of taxes paid to integrated plans from seed to sell. He said they went to a for-profit model as opposed to a nonprofit model for a specific reason from the law enforcement standpoint.

Mr. Westom said they were looking at the criteria mentioned.

Senator Hutchison said when looking at the 18 applications approved by Clark County, they would be evaluating independently of the County's analysis in terms of who the best ranked applicants were. He said if applicants satisfied more of Section 11.7 in the statute, but were not included as part of the 18, the State would look at the applicants.

Ms. Jones Brady said government transparency was important to her. She asked what things were in place to ensure that things were transparent and consistent. She said there needed to be discussion around how or why decisions vary significantly. The other thing she was concerned about was the for-profit mode. She said transparency was very important and people were in the business to make money and a profit as opposed to helping a community.

Mr. Westom said Clark County and some other jurisdictions reviewed criteria at the local level. At the state level, they reviewed the entire operation. He said much of the information they received was confidential and they released what information they could, but did not have full transparency because of the law. They will release the information about those who received provisional certificates along with their rankings, [Exhibit C](#). He said they would not release information if the applicant did not sign a release form.

Assemblywoman Fiore commented about the nonprofit issue. She said the pharmaceutical companies and alcohol companies were for profit. The new medical marijuana businesses moving to Nevada will be giving a lot back to charity. She said it was a for-profit company.

Chair Segerblom said they made it for-profit because law enforcement suggested it and they wanted to bring the best and brightest from around the country to Nevada. He said they had received interest and applications from around the country of people with backgrounds from all varieties.

Ms. Giunchigliani said she thought the for-profit base made the most sense. She said nonprofits found a way around the rules and went underground. She wanted it as legal as possible. She said merit base would use Section 11.7, but the regulations added some additional information. They needed experts from out of state to assist. She was concerned about the staff available for the State. She asked what the turn-around time was for decisions and implementation back to local governments for final approval.

Mr. Westom said it was all factored in, including the vertical model proposal. He said each aspect would be reviewed separately. The time frame was 90 days to review all medical

marijuana applications in the state. He said they were staffed to meet the demand. They had a combination of state employees as well as contracted staff.

Ms. Giunchigliani asked if they did a disclosure so there were no conflicts or business interests.

Mr. Coffin said the bill was still in flux in order to meet things still needing solutions. He brought up an issue of an owner-grower co-op. He said he had not seen applications, but hoped for an incentive for owner-growers. He requested Mr. Westom keep the committee informed of all the things that arise concerning the issues. He asked a question about the selection of the 18 people chosen by the county, but the state chose the 19th person. He wondered what that did to the one who was number 18.

Mr. Westom said they will receive all the applications of people who apply across the state. He said they would come up with the highest 18 rankings in Clark County and issue provisional certificates. He said Clark County then had the option of denying the businesses at a local level. If they are denied at the local level, then the State will also deny them and the State would let Clark County know who was the next ranked entity.

Mr. Coffin said they would not know who was ranked because of confidential laws.

Mr. Westom said they would publish those rankings, but not in detail due to confidentiality clauses. They would be in conversation with the local government.

Chair Segerblom asked if Mr. Westom said they were going to publish the rankings of everyone who applied in the district or just the number the jurisdiction was eligible to receive.

Mr. Westom referred to [Exhibit C](#). He said they were issuing a release form to applicants and if they chose to sign it, then their ranking and score would be released.

Ms. Wildeveld said the City was requiring a copy of the State application for the licensing process. The State was supposed to be ranking the applications blindly. She asked if there was information sharing or was the State portion of the City application confidential.

Mr. Westom said he would do his best to answer the question. He said he had no comment on what the local governments decided to do. He said the ranking and review had identified and unidentified criteria in the application.

Mr. Modafferi said the 18 people approved by the County will end up with the licenses. He said there was going to be a push-back. He asked if that was correct.

Mr. Westom said the State process was merit based and it followed the statutes and regulations. The applications outlined their requests and they would review, ranking and scoring the applications regardless of what occurred at a local level.

Mr. Modafferi said after the ranking was accomplished, local government would have carte blanche power to choose the applicants.

Mr. Westom said they will notify the applicants that the State was planning on issuing them provisional certificates and then they will notify the local government of the highest rankings. It will then be up to Clark County to decide what they want to do. If the county denies an applicant, then the State will also deny them and then notify the county of the next ranked applicant.

Ms. Giunchigliani said Clark County kept alive all the other applicants besides the 18 in case the State did not select the same people.

Mr. Westom gave a brief overview of the current process as outlined in [Exhibit C](#). He said the security would be huge and there would be automatic notification to law enforcement if there was a security breach. He said it was important that the packaging had strict guidelines. The packaging was child resistant.

Ms. Jones Brady said she had seen cards and certificates from California. She asked if the medical marijuana cards and certificates have consistency and a professional appearance as well as being difficult to forge.

Mr. Westom said at least three documents were relevant to her concern. The existing marijuana patient cards were processed in a partnership between DMV, DPS and his office. He said there were a lot of security features. The Division issuing the medical marijuana agent cards or employees will have similar security features. The medical marijuana provisional certificates will be printed with security features like other licenses and certificates issued by the Division. He said they print a lot of certificates that are health related.

Mr. Watkins asked about child resistant packaging. He asked for a description of the packaging that would prevent children and other members from gaining access to the drug.

Mr. Westom said the regulations called out specifics on child resistant packaging. They review each applicants packaging and have a routine inspection at least once per year of the establishments. He said they had appropriate enforcement ability at the establishments to curtail packaging not in the best interest of children.

Mr. Watkins suggested that the packaging have a zip lock with an actual lock and the cardholder would have the key. He said they needed to make sure children and unauthorized adults do not get into the package.

Mr. Westom said they had 12 new positions and projected 15 contracted employees would be necessary to assist in reviewing the applications. He said the contractors had different specialties.

Chair Segerblom said Clark County did not limit the number of grows or edibles in the state law. He asked if there was some type of limited cultivation.

Mr. Westom referenced [Exhibit C](#). He said they wanted to be sure the supply was sufficient. He said if the supply authorized was far greater than the demand, then illegal diversion was a risk. The adopted regulations said the Division may limit the cultivation in the State. It would have to happen through a public hearing. He said they know how much square footage was needed in a cultivation facility to grow medical marijuana. He said they also factored in the reciprocity factor from other states. They were projecting a range of 600,000 square feet of cultivation up to almost 1 million.

Chair Segerblom asked if the Division had projected the number of cards needed for next year.

Mr. Westom said currently there were over 6,000 medical marijuana cardholders and a number of caregivers in Nevada. He said the numbers were growing rapidly. They issued statewide numbers only and it was posted on the website.

Mr. Watkins said he understood that police will have, in their scopes, the individuals who have marijuana cards.

Mr. Westom said they already had a process for law enforcement purposes where they can look at the data base to see if someone was a cardholder.

Mr. Watkins said the police could look at the card and run the information.

Mr. Westom said he could not comment on that.

Mr. Cutolo said part of S.B. 374 required law enforcement to have access to cardholders information in order to verify the card. He said the access was limited and the list was updated daily. It did not give names or addresses of the cardholder.

Mr. Watkins said the police would then not have any access or knowledge that a person driving a car was a marijuana user.

Mr. Cutolo said the information was removed from DMV four or five years ago.

Mr. Westom referred to the process of receiving the card as outlined in [Exhibit C](#).

Chair Segerblom said within the year the State could have 50,000 card holders. He asked if there was enough staff to process that number of cards next year.

Mr. Westom said if Chair Segerblom was correct and they had 50,000 cardholders rather than the 6,300 currently projected, they did not have enough staff. He said they had systems in place to request the resources to meet the demand.

Chair Segerblom asked if the money for the cards went to the Division.

Mr. Westom said the funding for the medical marijuana card holder program and the medical marijuana establishment program were held separately. He said the division was flexible and would ask for additional resources if necessary.

Mr. Westom said when they completed the application and turned it in, there was a letter that gave them 30 days as a cardholder until they received their card.

Ms. Solas asked if the statistical page looked different earlier. She said she remembered a separation of age and who had the card and their condition.

Mr. Westom said he did not have that information.

Ms. Solas said about two years ago the age of the person was released. She said it made it convenient to point out that it was not just young kids getting on the program. The majority of card holders were over 30.

Mr. Westom said she was correct, but it was not on their site due to confidentiality requirements.

Chair Segerblom said that might need to change to show who was participating and their age groups.

Ms. Solas said she would like to see the ages of the cardholders and the zip code so they could see where the population was located and who needed the medication.

Chair Segerblom reopened the meeting with a request for public comment.

J. Laub, President of the Las Vegas Medical Marijuana Association said they would continue to focus the industry to serve patients. He said it was to help the patient. He said the organization was working with doctors, researchers, and the University.

John Sullivan, President and CEO of First Security Bank of Nevada, said his bank was willing to provide banking services to medical marijuana establishments in the State. He said they did so out of compassion for individuals who required the medication. He said he had met many of the applicants in the past few months. It was still a grey area in the law, grey on the federal level. Any revenue derived from the sale of marijuana was still illegal. He said in February the Financial Crimes Enforcement Network, (FINCEN) released guidance to the banks. FINCEN said the services could receive banking services if they were in full compliance with the state and local laws and regulations. And secondly that the businesses do not violate the eight principles of the Cole Memorandum. He said they concluded it was possible to stay within the guidelines. He said FINCEN expected banks to implement robust monitoring systems in accordance with state law. The marijuana operations had to be complying with state and local laws. He said they also had to know who the customer was, how they operated and what revenue and currency deposits they were making. He said they had to track the customer. One area of guidance beneficial for

the committee was that FINCEN encouraged banks to establish lines of communication with state and local governments. He said the monitoring systems were a huge burden for the banks. The Cole Memo stated that they needed to remove the danger of an all cash business. He said huge sanctions can be imposed on financial systems that do not follow the regulations.

Chair Segerblom said Mr. Jones would meet with Mr. Sullivan about ways the committee could propose a bill to help the banking industry in Nevada. He added that Item VII of the Agenda, concerning credit unions, was pulled because they wanted more time before they made a presentation.

Cindy Brown said in Nevada the patients were required to be experts on marijuana. She wanted each dispensary to have at least one patient on their board.

Julie Montero said she was a registered nurse in Nevada. She said limiting the number of cultivation facilities seemed to limit patient access. She said the patients were having difficulty with the cards due to the length of the process.

Chair Segerblom requested she email her ideas to the committee.

David Kallas said he was a cardholder. He said he understood the need to protect children from access to the medication but it was important to remember it was medication and pharmacies were not required to put locks on the medicines they dispensed. He said the cost of locks would be passed on to the patient. He asked for a trial run on the application process to make sure an agricultural specialist did not evaluate everything they might not have knowledge about.

Mr. Watkins said child resistance packaging was not the case. He said he just wanted to show that child resistant packaging was not child resistant.

Ms. Solas said she went to Colorado and looked at their packaging and the packaging sold at the major conventions. She said the packaging sold in Colorado was harder to get into than aspirin or oxycodone.

Sal said the people on the board seemed open-minded and logical on this topic. He said he was a caregiver. He was concerned that the opportunities to get into this industry were limited to wealthy people. He said limiting the amount of growers reduced the quality of the medicine. He said from his personal experience small gardens produced the best medicine over bigger gardens.

Assemblywoman Fiore asked Sal to email his ideas to her.

Thomas Serato said he was a medical marijuana cardholder. He discussed concentrates made with a butane product. He said it took a natural product and applied gas to reduce it down. The butane was not totally removed from the product. He said he was able to offer a product that never put butane on the product. He said methane gas was completely natural. He added exploding hash labs were a serious problem.

Timothy said he had numerous concerns. He said S.B. 374 caused patients a lot of problems. He had to go to Colorado to be licensed. He said a patient only had a limited amount of funds. He said the system did not protect the patient and their medicine. He feared not being able to grow his own medicine. He said there was no scientific research concerning driving under the influence of cannabis.

Vicki Hagans said tax and political donations from the past as well as time should be considered. She said a swab test for the DUI and job issues are being developed at this time. She asked if there was a projected date after the applications were approved.

Chair Segerblom said it had to be by 90 days for the State.

Ms. Hagans said California had hundreds of different cards. She asked how to define too much medicine. Each dispensary needed 3 to 5 cultivation systems. The concentrates take a vast amount to make them. She said they needed to consider not putting limitations on cultivation. Patients needed to maintain their own gardens. She said agent cards were very expensive.

Chair Segerblom requested she email all of her suggestions to the committee.

Raymond Fletcher requested that they look at protection for patients as far as work. He lost his employment even though he was a medical marijuana patient. He said Voc-Rehab programs will throw them out if they use marijuana. He said they do not want to limit the ability for patients to grow their own.

Mr. Kallas requested they ask the state representatives from the Division of Public Health to post their presentation on their website.

Mr. Westom said it was on the legislative website and they would put it on the Division's website.

Mr. Westom said he had covered the majority of the presentation. He asked if there more questions.

Ms. Solas said the medical marijuana registry card took about 21 days to receive. She said she had not seen that level of turn around. She said they help people with the process.

Mr. Westom asked if the patient had sent in her card on the 21st of June.

Ms. Solas replied she sent it on the 21st of June and had not received anything in the mail. She said other patients turn-around time seemed more like about 6 weeks.

Ms. Westom said the calculations averaged 21 to 27 days for turnaround depending on when it was sent. He said the demand increased dramatically. They were adding additional resources to

be sure they were in compliance with the law, but did not have the resources to take the required 30 days and bring it down to 5 or 10 days. He said the background check required approximately 12 days.

Ms. Douglass Morgan said the estimated amount for grows was between 600,000 to 1 million square feet for the entire state. She said there was no public hearing scheduled to limit the number of cultivation growers.

Mr. Westom said she was correct. Public hearings required a 30 day notice. He said the estimates were given to meet the projected needs of Nevada patients as well as reciprocity with other states. He said that was not a limited, but rather a work load analysis.

Chair Segerblom asked if they gave a grow license did they have the ability to withdraw it or scale it back if there was too much product.

Mr. Westom said they did not have an exact process at this time. It would have to go to a public hearing.

Ms. Giunchigliani asked when the reapplication period would occur.

Mr. Westom said it was not scheduled at this time.

Ms. Giunchigliani asked if local business license departments needed to inspect the establishments.

Mr. Westom said it depended on decisions made at the local level. The state usually did not have a comment on local processes.

Ms. Giunchigliani said she appreciated Mr. Sullivan and the banks adding that there may be some flexibility there. She was curious about the no ex-felons rule working there. She said Nevada reinstated felon rights and she hoped they were not permanently barring people from working. She asked if someone changed their partners before the State opened their applications, what would happen.

Mr. Westom said they reviewed what was on the application when it was received. He said it would not be a factor if the ownership was different from the application for zoning or business licensing.

Ms. Giunchigliani said on the local level they might have voided themselves if they made changes. She said the original bill contained language about the attending physician. The attending physician was a physician licensed to practice medicine and had primary responsibility for the care and treatment of the patient with a debilitating medical condition. She wanted to make sure it was still a condition in the bill.

Mr. Westom said yes, those were things reviewed by staff for medical marijuana patient holders. Ms. Giunchigliani wanted to reinforce the idea of licensed physicians in the state.

Mr. Westom said there was a provision that they make themselves aware of recommendations from physicians for potential conflicts.

Mr. Coffin asked about sharing information on inspections. The City of Las Vegas wanted to know if someone failed or was in jeopardy of losing their special use permits. He asked how they received the information.

Mr. Westom said he hoped it would be the same as other programs and readily available. He said other programs special reports were posted on the websites. That was the quickest way to get the information out to the local governments.

Ms. Wildeveld commented that people concerned about receiving medical marijuana from a dispensary said some applications contemplated giving free medical marijuana to certain individuals. She asked if there was a standardized system for tracking and verifying state issued cards that the establishments were using. She said people would be coming from all over the country and wondered how they would know if a card is legitimate.

Mr. Westom said the law required the dispensaries verify that the cards are legitimate. He said in 2016 the State will have worked with other states to try and have verification of the cards through electronic systems. He said it was difficult because not all states had electronic systems.

Ms. Wildeveld asked about regulations changing the ownership of establishments once the license was granted.

Chair Segerblom said the law did not provide for the change of ownership. He said one of the purposes of the Committee was to design and process the transfer of ownership.

Mr. Spratley asked about the square footage needed for production facilities. He inquired about one applicant applying for the whole 1 million square feet of production, would it then be limited to one facility in the State or would they still allow other facilities.

Mr. Westom replied the production he mentioned of 600,000 to 1 million square feet of cultivation facility was for the growing. He said a super facility needed to rank in score high enough on their application to have that spot.

Chair Segerblom said he thought they were not going to rank the growers, but were going to approve all the growers until they had the public hearing.

Mr. Westom said they had to be sure that what was proposed was in compliance with the regulations and statutes. He said until they had the hearing, they could not limit production. He said he had not heard of any one proposing 1 million square feet.

Mr. Spratley said it was a concern from the law enforcement point of view.

Wes Henderson, Director, Nevada League of Cities and Municipalities, said Ms. Garcia and Mr. Cathcart were also present. Mr. Henderson gave a brief overview of actions of the various cities and towns throughout the State, [Exhibit D](#). He said there were a variety of responses concerning medical marijuana. He said two or three cities prohibited the establishment of facilities within their jurisdictions; however, one city was reconsidering its decision. Several cities had not taken any action, and some cities had enforced moratoriums from six months to two years. He said some cities had voiced concerns regarding the federal prohibition against marijuana. He said other cities had adopted regulations and were accepting applications.

Chair Segerblom said some rural counties had one or two incorporated cities but large geographical distances. He asked if they needed to increase the number of dispensaries for those counties.

Mr. Henderson said it had been expressed as a concern. He said there were no incorporated cities in Nye County, but there is the town of Pahrump.

Mr. Mike Cathcart, Business Operations Manager, City of Henderson, talked about their process. The council adopted ordinances on July 1, 2014, and opened the application process on July 7, 2014. He said they had received a lot of questions and calls but no applications to date. He said they had seven classes of different medical marijuana establishments. They were not selecting any number of applicants before the state process. He said when the list was returned from the State, the Council would look at doing the permits and issuing the business licenses. He said they were concerned they might not get their entire ranked list back.

Mr. Westom said they would send the top ranked to the City of Henderson. He said if an application was denied at the local level, the State also denied it and would let them know who was the next ranked entity.

Chair Segerblom thought he heard the whole ranking was public information. He asked if the city would not know who was ranked next after the first five entities.

Mr. Westom said it was two different processes. He said one was the discussion of what was released publically and the other was conversations with the local governments. He said it was subject to the applicants signing the release of information.

Mr. Cathcart was concerned about the open meeting law, and they also wished to have vertically integrated establishments. He said if a dispenser was ranked number 6 on the list but ranked as the number 1 cultivator, they wanted the flexibility to license them as a vertically integrated establishment.

Chair Segerblom asked Mr. Westom if the total rankings on the website would not necessarily be given directly to the city.

Mr. Westom said they did not have exact dates and when it would be posted to the website. They were still revising the process.

Ms. Douglass Morgan said they did not have the different classifications. She said they did not want to have to wait too long to receive the information and rankings.

Mr. Westom said their process was to issue the provisional certificates to the top ranked for the jurisdiction. He said they would look at the dispensaries being in the appropriate places for the patients. They were not authorized to approve someone who was not properly ranked. He said it was a merit based system.

Ms. Nicole Garcia, Henderson City Attorney's Office, reviewed the regulations the State presented as a rationale for withholding the entire list. She said they did not find anything in the regulations that prevented the State from giving them the entire list of qualified applicants. The legislature gave the cities the ability to regulate the zoning and the business licensing.

Ms. Giunchigliani said she did not want political bid shopping. She said it was not the whole list because it was merit based at the State level. She asked about a denial coming in at the State level.

Mr. Westom replied that once they got past the applicant issued provisional certificates, local approval of the businesses was required. He said at the point the local government denied the business, the State followed suit and denied the certificate.

Ms. Giunchigliani said they should not jump all over the list.

Ms. Garcia said they wanted the State to do the vetting of the applicants and the city gave a lot of weight to how the State ranked them. She said Henderson did not want clustered dispensaries.

Kevin Schiller, Assistant Manager Washoe County, gave a quick update concerning Washoe County. They passed regulatory and code changes in April. They provided provisional zoning letters and worked with the State around remaining issues. They were looking at locations including the other holders.

Chair Segerblom opened discussion on Agenda Item VIII, laws governing driving under the influence of marijuana.

Mr. Anthony said he had assembled a two-part handout; one on the National Conference of State Legislatures, [Exhibit E](#), and the other a colored chart on DUI laws, [Exhibit F](#). He said driving under the influence of a controlled substance was different than a traditional DUI. He said there was a .08 standard for driving under the influence. He said it was a per se standard meaning if the blood alcohol level was over .08, a person was considered impaired. Some states had effect

based laws where the officers had to prove you were impaired. There were also zero tolerance states where if you had any amount of a controlled substance in your system, you were presumed to be guilty. He said Nevada was a per se state that set out various requirements for controlled substances. He said in Nevada, urine level was 10 nanograms per milliliter for marijuana and 15 nanograms for marijuana metabolite. In terms of blood for marijuana, it was 2 nanograms and 5 metabolites. He said there had been earlier attempts to carve out exceptions for medical marijuana use. Mr. Anthony referenced [Exhibit F](#), the highlighted map. He said 6 states had per se limits similar to Nevada; 11 states had zero tolerance; the remaining 33 states had effect based laws and it was up to the prosecution to prove.

Chair Segerblom asked about the California law. He said the officer determined whether or not there was impairment and then there was some type of test.

Mr. Anthony said yes, that was his understanding. In California you were given a field sobriety test and if you failed, then you received blood and urine tests and it would be admissible in court.

Mr. Coffin asked how much marijuana had to be consumed to reach the 5 nanogram amount. He asked if it was literally a trace of exposure.

Mr. Anthony said that was one of the issues debated. He said for example, how long does it stay in the body and how is it metabolized. He said it was an emerging area of law.

Mr. Coffin said he was familiar with how much alcohol was involved, but what about a contact high for a person who had been near someone who smoked marijuana.

Mr. Watkins said there was a distinction between alcohol and marijuana. Alcohol was a "polar substance" which meant it loved water, and marijuana is non-polar and loved fat. When smoking the THC level rises rapidly and within 20 to 30 minutes it goes down quickly. He said 2 weeks later the marijuana THC in the fat can travel into the blood. He said the studies dealing with marijuana and driving did not show impairment in the numerical levels. We were putting people in jail who were not impaired. He said the nanogram numbers were plucked out of the air. He said the impairment standard was a better way.

Ms. Jones Brady said it was prison, not just jail.

Assemblyman Horne said he represented clients seeking medical marijuana licenses. Last session he sponsored a bill calling for a carve-out for patients with medical marijuana cards who were detained by police. He said the bill was a fairness issue. Medical marijuana card users were detained by police. Medicinal cannabis was the only medicine with limits on it. He said law enforcement had all the tools for proving impairment through field sobriety tests. People said his bill would allow more drunk drivers on the streets. He said nothing in the bill prevented medical marijuana cardholders from being prosecuted for driving under the influence. He said the prosecution still had to prove their case. He recommended another BDR similar to the one last session.

Ms. Giunchigliani said she tried to deal with the drunken driving issue in A.B. 351 from the 2003 session. She said marijuana and cocaine were added to the Prohibited Substances Act in 1999. She said the research did not tell what a metabolite was for cocaine and marijuana. They could change the substance act. She said it needed to be actual blood testing, not urine testing. The two nanograms needed to be looked at, not the metabolite. The U.S. Department of Health and Human Services said they ranked 15 nanograms for the purpose of hiring, firing and screening people for federal employment. She said it was important to measure the right thing. The issue of impairment also had to be investigated.

Mr. Spratley said law enforcement was a willing partner in A.B. 351. He remembered holders of commercial driver's licenses were not affected by the bill. He said law enforcement wanted discussions regarding the law and to make sure they crafted laws that would affect drivers on the roadways. He said the Federal Motor Carrier Safety Administration had a ban on medical marijuana use for commercial license holders.

Chair Segerblom opened discussion on the Agenda Item IX, obtaining a medical marijuana identification card in Nevada and Arizona. He said they needed a way to simplify receiving a card.

Mr. Anthony referred to [Exhibit G](#) and [Exhibit H](#). He said [Exhibit G](#) outlined the Nevada medical marijuana program and the other exhibit had information from Arizona, including a patient check list. He said in Nevada currently someone fills out a request for an application by mail, it cannot be done in person, and pays the required \$25 fee. The Division then sends a full application; the person fills it out and returns it with a \$75 fee. The Division checks it for completeness, and then within 30 days when there is a decision, the person can go get the card. He said in Nevada by statute and by regulation once the application is deemed complete the application can be treated like you were a cardholder.

Mr. Anthony said it appeared Arizona's process was much quicker. The application was done on-line, not in person. The on-line process returned the decision to the applicant within 10 business days. He did not find an exception grandfathering a person in once they applied for the card. He said they might have to wait the 10 full days before receiving the card. He said the other differences were very minor. Arizona had a slightly higher fee at \$150 and Nevada's was reduced this last year.

Chair Segerblom asked why they could not have an internet application as opposed to the current system.

Mr. Westom said they were looking at making the system more web based. The Division had a centralized licensing database system that was authorized and funded. He said they were looking at electronic systems but they took time to get.

Ms. Giunchigliani said they could remove the request for part of the application. The DMV card was for an official ID that would prove out. She said dispensaries were in place with reciprocity in place with minimal verification. She said they needed to speed up the process and offer an official government ID to protect the patient.

Ms. Solas said as soon as the patient received a doctor's approval, they could use medical marijuana before they received the card. She said if they removed the requirement for a mailed application and allowed on-line applications for the \$25 fee, it removed 5 to 7 days in mail time. The application would still require the doctor's signature to start the process.

Mr. Spratley said law enforcement was very much opposed to moving away from the DMV. He said it was a good card, they recognized it, and it was hard to forge. He said DMV did a fantastic job of producing medical marijuana cards in Nevada.

Ms. Solas said she had been stopped by law enforcement and they were unable to access her information until she handed them the card. She said the card made her feel safe.

Mr. Westom asked Mr. Anthony if Arizona gave any information about the background checks of the patients.

Mr. Anthony said he did not recall Arizona having as detailed a background check. He said they did fingerprints, but they had moved away from that.

Chair Segerblom added that felons were excluded from medical marijuana. He asked Ms. Regina Harris to come forward. She claims to have invented a new way to issue medical marijuana cards.

Regina Harris said she was with Get Legal 420. She said they provided residents with chronic and debilitating conditions support with the medical marijuana cards.

Sara Cloutiur said the service was designed to accommodate patients in need of the card. She said they were a mobile service. They were looking forward to working with nonprofit organizations to help them mitigate fees for patients in need. She said they were developing a full service medical marijuana kiosk allowing patients to automatically upload their information to the State, be evaluated by an attending physician via telemedicine, and acquire their temporary ID all at once. She said the machine had the capability of providing diet programs and stress tests, as well as on-line health monitoring.

Ms. Harris said they wanted to schedule, at a later date, a time to demonstrate the prototype.

Ms. Solas was concerned about degrading the medical profession by not having a doctor physically examine the person.

Ms. Harris said there was a blood pressure cuff, a scale, and monitoring for temperature. She said it was everything you were able to do in a doctor's office basically through telemedicine.

Chair Segerblom asked if the doctor was not present but was watching the patient.

Ms. Harris said yes, it was similar to Skype, the doctor was on the other side of the monitor. It had face recognition and could do an evaluation right then and upload the information to the State.

Ms. Giunchigliani said she thought they were promoting a business rather than wellness. She asked what they charged a patient.

Ms. Harris asked if she meant for their service to help them register for the card. She said they charged \$299 which covered the state fee, the doctor's evaluation, the notary and all the paperwork. She said they were a mobile service and went directly to the patient. She said they took out the tedious process by doing it for them.

Ms. Giunchigliani said under state law the doctor had to have the primary responsibility for the care and treatment of the patient, not be a drive-by. She was concerned, and she did not want to put people at risk.

Chair Segerblom said this was marijuana, not cocaine or heroin. They could change the law.

Ms. Giunchigliani said it was very clear that the voters had voted to allow you to be recognized by the card.

Ms. Harris said if the patient already had an attending physician they offered to take the doctor's fees out of the proposal.

Chair Segerblom said he had a guy who was fired due to a work injury and he tested positive. He said he looked in the yellow pages, called them, met the doctor and they started delivering to the house.

Ms. Giunchigliani said you did not need to pay anybody \$100 bucks for the help.

Chair Segerblom said you do not need to pay, it was just the possibility out there. He said he was interested in the kiosk.

Senator Hutchison said the idea of electronic and web services needed to be investigated. He asked if they could schedule a time for the parties to present some of these topics; databased, web based, electronic based solutions to the challenges with the law.

Chair Segerblom referred to [Exhibit I](#), five things he was interested in hearing for potential topics on future agendas. He said they would have at least two more and maybe three more meetings. He mentioned transfer of ownership of establishment licenses, additional dispensaries, the

estimated number of cardholders, the process for new ID cards and whether doctors who prescribe should be listed on a state website.

Ms. Giunchigliani said they cannot use the word prescribe, they need to look at application or something. She said they needed to look at the statute restricting public health labs from participating. They needed to look at Senator Rawson's language added to a bill in 2001 which allowed for research by the University System, but they had to apply to the Federal Government. She recommended removing that language. She wanted to discuss allowing green houses to grow. She was also concerned about the drunk driving laws and any criminal statutes woven into the bill. She said growing one's own medical marijuana needed further discussion. Horticulture programs at the public institutions should be established. She said they needed to look at "candy production" so the kids had access to it. She was concerned about price gouging for cost of applications. She was concerned about restrictions going across county lines.

Senator Hutchison said the committee needed to address and talk about the challenges the cash business had and possible electronic solutions. He was also concerned about reciprocity and a databased system they could review.

Mr. Watkins said they needed to discuss the usage of marijuana and driving. People need their medicine and also need to be able to go to work.

Mr. Kallas said he agreed with Ms. Giunchigliani. He said this should be about the patients and not profit sharing. He said as soon as possible eliminate the request from the cardholder to the State to receive an application. He said it was a waste of time to have to justify why you wanted the application. He said in regards to reciprocity it was important to require that each dispensary receive all other state's copies of what they issued to the cardholders.

Chair Segerblom said all they were doing was asking them to sign an affidavit; they were not going to grill people.

Assemblyman Horne said it would be beneficial to dovetail the state process with the local process. He suggested the State being responsible for the caliber of the applicants and the local government responsible for the zoning. He said that might eliminate a lot of the confusion. He said gaming license holders were not permitted to participate, however, the gaming licensees were the most vetted people in Nevada. He said originally they wanted the most above reproach caliber of people participating. He wanted to be sure high-caliber people were involved. He said the issue on transporting cannabis across county lines needed discussion. He said if the state said someone was an appropriate grower, then perhaps it was against public policy for other counties that permitted it to block it and only allow those growing in their jurisdiction.

Thomas Serato, long time user and advocate, said protecting the children was the first and last cry of prohibition. He said nobody ever died from using marijuana. He said he had smoked for 40 years and had driven an auto since he was 8 years old and never had an accident or been cited. He said he would take any test designed.

Nancy Wilden talked about clones. She said the cultivation sites are going to need 1,000 clones. Her brother was involved in cloning for almost 10 years. She had a group of gardeners who wanted to provide clones to the cultivation sites.

Chair Segerblom said they could sell 12 clones and give away 1,000.

Timothy said it was about wellness. He said he was forced out of the medical cannabis state registry in Nevada.

Chair Segerblom said he understood that what he wanted them to do was put free or really cheap marijuana into the law. He said they cannot do that until February.

Timothy said it was not about cheap cannabis. He said within the state's rehab medical system, he would like to use the opportunity to find jobs in the program.

Sal said the problem with verifying out-of-state people was that the dispensaries would be liable even if the customer signed an affidavit. He was in favor of telemedicine. He was concerned about a huge backlog in sending out cards.

Chair Segerblom said if they signed an affidavit, no one was liable.

Assemblywoman Fiore said if a dispensary in Nevada was not licensed or approved and not abiding by the laws, the officers will investigate and shut them down.

Julie Montero said she had patients who registered 300 nanograms. She recommended a clause where medical marijuana users were exempt from the 2 nanograms. She asked if there was a directory listing the doctors and dispensaries on a state website.

Mr. Westom said physicians were confidential, but dispensaries will become public.

Mr. Watkins said the law was 2 nanograms per milliliter.

Cary, secretary of the Board of Wellness Education Cannabis Advocates in Nevada, said he wanted to do away with plausible deniability for the police.

Chair Segerblom asked if there was any further public comment. He adjourned the meeting at 1:05 p.m.

Respectfully Submitted:

Olivia Lodato, Interim Secretary

Approved By:

Senator Tick Segerblom, Chair

Dated: _____

EXHIBITS

Committee Name: Advisory Commission on the Administration of Justice's
Subcommittee on the Medical Use of Marijuana

Date: July 9, 2014 Time of Meeting: 9:00 a.m.

	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Chad Westom	Medical Marijuana Program
	D	Wes Henderson	NLC&M Marijuana Update
	E	Nick Anthony	Drugged Driving Per Se Laws
	F	Nick Anthony	Zero Tolerance Per Se Laws
	G	Nick Anthony	State Medical Marijuana Program
	H	Nick Anthony	Medical Marijuana Patient Checklist
	I	Chair Segerblom	Potential Topics for Future Agendas

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jul 15 2016 11:05 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DESERT AIRE WELLNESS, LLC, a
Nevada limited liability company,

Appellant,

vs.

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

Respondent.

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

Cross-Appellant,

vs.

DESERT AIRE WELLNESS, LLC, a
Nevada limited liability company, THE
STATE OF NEVADA DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
DIVISION OF PUBLIC AND
BEHAVIORAL HEALTH;

Cross-Respondents.

Supreme Court No. 70462

**MOTION TO CONSOLIDATE
APPEAL NO. 70462 AND
APPEAL NO. 69909**

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MOTION TO CONSOLIDATE
APPEAL NO. 70462 AND APPEAL NO. 69909

Pursuant to NRAP 3(b)(2), Respondent/Cross-Appellant GB Sciences Nevada, LLC, a Nevada limited liability company, moves to consolidate Appeal No. 70462 and Appeal No. 69909.

Dated this 15th day of June, 2016.

SMITH & SHAPIRO, PLLC

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I. STATEMENT OF FACTS.

A. BACKGROUND APPLICABLE TO BOTH APPEALS.

The following facts are equally applicable to both appeals.

1. THE MME APPLICATION PROCESS.

In 2013, Senate Bill 374 was passed which provided for the registration of medical marijuana establishments (“*MMEs*”) to furnish marijuana products for sale to persons authorized to engage in the medical use of marijuana. Senate Bill 374 was codified into NRS Chapter 453A.

Pursuant to NRS § 453A.320 et seq., Respondent State of Nevada Division of Public and Behavioral Health (the “*Division*”) was tasked with processing and ranking applications for MMEs for each local jurisdiction in Nevada. The Division, as well as the local jurisdiction, played a role in the ultimate licensing of MMEs. *See* July 9, 2014 Minutes of Advisory Commission attached hereto as Exhibit “A”.

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1 The local jurisdiction was tasked with considering issues such as site plans,
2 zoning and proximity to other business or facilities while the Division focused on
3 public health, public safety, and marijuana as a medicine. *See* NRS § 453A.322.
4 In accordance with its responsibilities, the City of Las Vegas enacted Ordinance
5 No. 6321 and 6324 to establish zoning regulations, licensing regulations, and
6 standards for MME locations, along with an MME business license application
7 form. *See* Exhibits “B” & “C”.

8 While the Division was allowed to *accept* all applications submitted, under
9 NRS § 453A.322, the Division could only issue a Provisional Registration
10 Certificate (a “**Certificate**”) if the applicant’s application included six (6) specific
11 items and if the applicant otherwise met the requirements established by NRS
12 Chapter 453A, including NRS § 453A.322(3)(a)(5), which requires the applicant
13 to obtain preliminary zoning approval (“**Zoning Approval**”), as follows:

14 If the city, town or county in which the proposed medical marijuana
15 establishment will be located has enacted zoning restrictions, ***proof***
16 ***of licensure*** with the applicable local governmental authority ***or a***
17 ***letter from the applicable local governmental authority certifying***
that the proposed medical marijuana establishment is in
compliance with those restrictions and satisfies all applicable
building requirements.

18 NRS § 453A.322(3)(a)(5) (emphasis added).

19 **2. THE PARTIES’ APPLICATIONS.**

20 GB Sciences Nevada, LLC (“**GB Sciences**”), NuLeaf CLV
21 Dispensary, LLC (“**NuLeaf**”), and Desert Aire Wellness, LLC (“**Desert Aire**”)
22 were among the forty-nine (49) applicants for the twelve (12) Certificates allotted
23 to the City of Las Vegas.

24 GB Sciences, NuLeaf, and Desert Aire all submitted applications to the City
25 of Las Vegas for zoning approval as required by NRS § 453A.322(3)(a)(5).
26 However, Desert Aire subsequently withdrew its application.

27 On October 28-29, 2014, the Las Vegas City Council held a special meeting
28 to consider applicants for a special use permit and compliance permit for

1 Dispensaries.¹ Because Desert Aire’s application had already been withdrawn, it
2 was not considered. At the special meeting, the City of Las Vegas approved GB
3 Sciences’ application and denied NuLeaf’s application.

4 The very next day, on October 30, 2014, the City of Las Vegas sent a letter
5 to the Division notifying the Division of their decision and specifically identifying
6 the applicants that had been approved (including GB Sciences), the applicants
7 who had been denied (including NuLeaf), and the parties which had withdrawn
8 their applications (including Desert Aire). A copy of the City of Las Vegas’ letter
9 is attached hereto as Exhibit “D”. Notwithstanding, the Division inappropriately
10 issued Certificates to NuLeaf and Desert Aire, even though they did not have the
11 necessary approvals from the City of Las Vegas.

12 Unlike NuLeaf and Desert Aire, GB Sciences was one of the applicants
13 approved by the City of Las Vegas. However, on or about November 3, 2014,
14 GB Sciences was denied a Certificate because it was not ranked in the top twelve
15 (12) applicants by the Division; rather, it was ranked No. 13 by the Division. If
16 the Division had complied with NRS § 453A.322(3)(a) and disqualified NuLeaf
17 and/or Desert Aire due to their failure to comply with NRS § 453A.322(3)(a)(5),
18 GB Sciences would have been ranked 11th or 12th in the Division’s ranking and
19 would have received a Certificate.

20 In response, GB Sciences filed two different lawsuits, both of which are
21 now on appeal. The first lawsuit was filed on December 2, 2014 against both
22 NuLeaf and Desert Aire, being identified as District Court Case No.
23 A-14-710597-C, and Supreme Court Case No. 69909 (the “*NuLeaf Lawsuit*”).
24 Desert Aire was later dismissed without prejudice from the NuLeaf Lawsuit
25 because GB Sciences believed it only needed to have the Division revoke one
26

27 ¹ See Agenda and Video of Planning Commission, October 28-29, 2014 available
28 at: <http://www5.lasvegasnevada.gov/sirepub/mtgviewer.aspx?meetid=1699&doctype=AGENDA>; and
<http://www5.lasvegasnevada.gov/sirepub/mtgviewer.aspx?meetid=1698&doctype=AGENDA>.

1 Certificate in order for GB Sciences to obtain the Certificate it should have
2 received. However, after GB Sciences failed to obtain the NuLeaf Certificate, GB
3 Sciences subsequently filed a second lawsuit against Desert Aire, once again
4 asserting the same claims originally asserted against Desert Aire in the NuLeaf
5 Lawsuit, the new case being identified as District Court Case No. A-15-728448-C
6 and Supreme Court Case No. 70462 (the “*Desert Aire Lawsuit*”).

7 **B. APPEAL NO. 69909 (Appeal from the NuLeaf Lawsuit)**

8 In the Complaint filed in the NuLeaf Lawsuit, GB Sciences asserted
9 claims for: (1) Declaratory Judgment; (2) Injunctive Relief; (3) Petition for
10 Judicial Review; and (4) Petition for Writ of Mandamus. A copy of the NuLeaf
11 Complaint is attached hereto as Exhibit “E”. The basis of GB Sciences’ claims
12 was the fact that the Division had issued a Certificate to NuLeaf and Desert Aire
13 notwithstanding the fact that NuLeaf’s zoning application had been denied by the
14 City of Las Vegas and Desert Aire’s application had been withdrawn. Therefore
15 NuLeaf and Desert Aire failed to satisfy the requirement contained in NRS §
16 453A.322(3)(a)(5). Desert Aire was subsequently dismissed, and on November
17 9, 2015, Respondent/Cross-Respondent Acres Medical, LLC (“*Acres*”) intervened
18 in the case.

19 On November 13, 2015, the District Court entered a Minute Order in
20 relation to competing motions for summary judgment, in which the Court revoked
21 NuLeaf’s Certificate based upon the non-compliance with NRS §
22 453A.322(3)(a)(5) and directed that it be issued to Acres. On or about December
23 14, 2015, the material terms of the Minute Order were memorialized in a written
24 Order. A copy December 14, 2015 Order is attached hereto as Exhibit “F”.

25 On January 26, 2016, the District Court entered a Minute Order denying GB
26 Science’s motion to alter or amend the December 14, 2015 Order, and granting
27 Acres’ motion to dismiss GB Sciences’ counterclaims against Acres. On March
28 3, 2016, the District Court entered its written Order.

1 On March 2, 2016, NuLeaf filed its Notice of Appeal. Copies of NuLeaf's
2 Notice of Appeal and Docketing Statement are attached hereto as Exhibits "G" &
3 "H". On March 30, 2016, GB Sciences filed its Notice of Cross-Appeal. Copies
4 of GB Sciences' Notice of Appeal and Docketing Statement are attached hereto
5 as Exhibits "I" & "J".

6 **C. APPEAL NO. 70462 (Appeal from the NuLeaf Lawsuit)**

7 When the District Court awarded the NuLeaf Certificate to Acres, GB
8 Sciences immediately filed a Motion for Leave to Amend Complaint in the
9 NuLeaf Lawsuit seeking to reassert its claims against Desert Aire. When that
10 motion was denied, GB Sciences filed the Desert Aire Lawsuit. A copy of the
11 Complaint in the Desert Aire Lawsuit is attached hereto as Exhibit "K". The
12 Complaint filed in the Desert Aire Lawsuit is almost an exactly replica of the
13 Complaint in the NuLeaf Lawsuit, with GB Sciences asserting the same claims
14 based upon identical legal arguments and almost identical facts.

15 On April 28, 2016, the District Court entered its written Order on GB
16 Science's Motion for Summary Judgment and Desert Aire's Countermotion for
17 Summary Judgment, wherein the District Court reached the same conclusion as
18 the District Court in the NuLeaf Lawsuit and, based upon the same legal analysis,
19 revoked Desert Aire's Certificate. A copy April 28, 2016 Order is attached hereto
20 as Exhibit "L".

21 On May 25, 2016, Desert Aire filed its Notice of Appeal. A copy of Desert
22 Aire's Notice of Appeal is attached hereto as Exhibit "M". On March 30, 2016,
23 GB Sciences filed its Notice of Cross-Appeal. On May 25, 2016, GB Sciences
24 filed its Notice of Cross-Appeal. A copy of GB Sciences' Notice of Appeal is
25 attached hereto as Exhibit "O".

26 As can be seen by a comparison of the Complaints and Orders in both
27 lawsuits, most of the legal issues raised in both appeals are identical and both
28 appeals are based upon similar facts.

1 For the reasons set forth next, GB Sciences is asking that the appeals be
2 consolidated.

3 **II. STATEMENT OF AUTHORITIES.**

4 Nevada Rule of Appellate Procedure 3(b)(2) provides that “[w]hen the
5 parties have filed separate timely notices of appeal, the appeals may be joined or
6 consolidated by the Supreme Court upon its own motion or upon motion of a
7 party.”

8 The Nevada Supreme Court has consolidated cases when the issues raised
9 are identical. Schmidt v. Washoe County, 123 Nev. 128, 130, 159 P.3d 1099,
10 1101 (2007); O’Guinn v. State, 118 Nev. 849, 850, 59 P.3d 488, 489 (2002);
11 Gebers v. State, 118 Nev. 500, 501, 50 P.3d 1092 (2002); Ewell v. State, 105 Nev.
12 897, 898, 785 P.2d 1028, 1029 (1989).

13 The Court also looks at whether the facts relating to the issues are similar
14 or are not the deciding aspects of the cases. Barnes v. Eighth Judicial District
15 Court, 103 Nev. 679, 748 P.2d 483, 484 (1987). Whether the arguments present
16 below and on appeal are similar or identical is also a factor. Levinson v. Second
17 Judicial District Court, 103 Nev. 404, 406, 742 P.2d 1024 , 1025 (1987). Finally,
18 judicial economy is also relevant. Jackson v. State, 115 Nev. 21, 22, 973 P.2d 241
19 (1999).

20 In this case, the appeals, 69909 and 70462, should be consolidated. First,
21 the issues and facts raised in both appeals, for the most part, coincide and arise out
22 of the Division’s improper issuance of two Provisional Registration Certificates
23 to applicants which had not complied with N.R.S. § 453A.322(3)(a)(5).

24 Specifically, in each instance, the appellants are asking the Nevada
25 Supreme Court to reject the both District Courts’ interpretation of N.R.S. §
26 453A.322(3)(a)(5) that required the Division to deny the application of any
27 applicant who did not show up as approved on the City of Las Vegas’ October 30,
28 2014 letter. Both appellants are asking the Supreme Court to overturn the District

1 Court Orders directing the Division to revoke any Certificate issued in violation
2 of N.R.S. § 453A.322(3)(a)(5). Likewise, both appellants appear to be questioning
3 the District Court's ability to order the Division to revoke or rescind the
4 Certificates. Similarly, in both appeals, GB Sciences is asking the Supreme Court
5 to address whether the District Court should have ordered the Division to reissue
6 the revoked Certificates to the next applicant in line which had satisfied N.R.S. §
7 453A.322(3)(a)(5). Finally, while the NuLeaf Appeal includes additional issues
8 involving the propriety of the District Court's dismissal of GB Sciences' claims
9 against Acres, these additional issues are minor when compared to the forgoing
10 issues and do not change the fact that the majority of the issues in both appeals are
11 identical, thereby warranting consolidation.

12 How the Nevada Supreme Court ultimately interprets the requirements of
13 N.R.S. § 453A.322(3)(a)(5), the degree to which the District Court is permitted
14 to review and overrule the Division, the degree to which the Division is permitted
15 to exercise discretion over MME application decisions, and the manner in which
16 a violation by the Division over its handling of MME applications can be
17 remedied are directly at the heart of both cases, will affect one another, and should
18 not yield inconsistent results².

19 Further, both appeals are based upon similar facts. This is plainly discerned
20 by a quick review of GB Sciences' Complaint in both lawsuit, and is confirmed
21 by the fact that Desert Aire was one of the original parties in the NuLeaf Lawsuit.

22 Moreover, many of the same parties are involved in both appeals.
23 Certainly, GB Sciences and the Division are parties to both, and the City of Las
24 Vegas will ultimately issue business licenses and special use permits for MME
25 dispensaries and thus will be affected by what arises out of both cases.

26
27 ² In the NuLeaf Lawsuit, the District Court ordered the Division to issue NuLeaf's
28 Certificate to Acres. However, in the Desert Aire Lawsuit, the District Court refused to
order the Division to reissue Desert Aire's Certificate. These inconsistent approaches
need to be rectified.

1 Finally, consolidation will promote judicial economy. The briefing in
2 Appeal 69909 is not complete, with NuLeaf's Opening Brief not due until July 31,
3 2016, and Appeal 70462 has only recently been docketed. Naturally, then, the
4 Court has yet to rule on the merits of the issues in either appeal. At the same time,
5 consolidating the appeals saves time and resources, prevents piece-meal litigation,
6 and more efficiently produces a consistent result which can direct the various
7 parties' future actions.

8 **III. CONCLUSION.**

9 For the foregoing reasons, GB Sciences respectfully requests that Appeal
10 No. 70462 and Appeal No. 69909 be consolidated, pursuant to NRAP 3(b)(2).

11 Dated this 15th day of June, 2016.

12 SMITH & SHAPIRO, PLLC

13 /s/ James E. Shapiro
14 James E. Shapiro, Esq.
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17 *Attorneys for Respondent/Cross-Appellant,*
18 *GB Sciences, LLC*

19 **CERTIFICATE OF COMPLIANCE**

20 I hereby certify that the attached Motion to Consolidate Appeal No. 69909
21 and Appeal No. 70462 complies with the formatting requirements of Nev. R. App.
22 P. 32(a)(4), the typeface requirements of Nev. R. App. P. 32(a)(5) and the type
23 style requirements of Nev. R. App. P. 32(a)(6) because the Motion to Consolidate
24 Appeal No. 69909 and Appeal No. 70462 has been prepared in a proportionally
25 spaced typeface (14 point Times New Roman font).

26 \ \ \

27 \ \ \

28 \ \ \

1 I further certify that the attached Motion does not exceed 10 pages.

2 DATED this 15th day of June, 2016.

3 **SMITH & SHAPIRO, PLLC**

4 /s/ James E. Shapiro
5 James E. Shapiro, Esq.
6 Nevada Bar No. 7907
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10 Henderson, NV 89074
11 *Attorneys for Respondent/Cross-*
12 *Appellant, GB SCIENCES NEVADA, LLC*

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that the foregoing **MOTION TO CONSOLIDATE**
15 **APPEAL NO. 70462 AND APPEAL NO. 69909** was filed electronically with
16 the Nevada Supreme Court on the 15th day of June, 2016. Electronic service of
17 the foregoing document shall be made in accordance with the Master Service List
18 as follows:

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