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Attorneys for Respondents  
(less Serenity Wellness Center, LLC  
and the State of Nevada, Department of Taxation)

Electronically Filed  
May 27 2020 01:43 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

GREENMART OF NEVADA NLV LLC, a  
Nevada Limited Liability Company; and  
Nevada Organic Remedies, LLC,

Supreme Court Case No.: **79668**

District Court Case No.: A-19-786962-B

Appellants,

vs.

**RESPONSE  
TO  
NOTICE OF VOLUNTARY  
DISCLOSURE**

SERENITY WELLNESS CENTER, LLC, a  
Nevada limited liability company, TGIG,  
LLC, a Nevada limited liability company,  
NULEAF INCLINE DISPENSARY, LLC, a  
Nevada limited liability company,  
NEVADA HOLISTIC MEDICINE, LLC, a  
Nevada limited liability company, TRYKE  
COMPANIES SO NV, LLC a Nevada  
limited liability company, TRYKE  
COMPANIES RENO, LLC, a Nevada  
limited liability company, PARADISE  
WELLNESS CENTER, LLC, a Nevada  
limited liability company, GBS NEVADA  
PARTNERS, LLC, a Nevada limited  
liability company, FIDELIS HOLDINGS,  
LLC, a Nevada limited liability company,  
GRAVITAS NEVADA, LLC, a Nevada  
limited liability company, NEVADA PURE,  
LLC, a Nevada limited liability company,  
MEDIFARM, LLC, a Nevada limited  
liability company; MEDIFARM, IV LLC, a  
Nevada limited liability company; and THE  
STATE OF NEVADA, DEPARTMENT OF  
TAXATION,

Respondents.

1 Respondents (less Serenity Wellness Center, LLC and the State of Nevada,  
2 Department of Taxation<sup>1</sup>), by and through their attorneys, hereby submit this Response to  
3 the *Notice of Voluntary Disclosure* filed May 20, 2020 (“Notice”). This Response is  
4 made and based upon the following points and authorities and the papers and pleadings  
5 on file.

## 6 **POINTS & AUTHORITIES**

### 7 **I.** 8 **THE NOTICE**

9 The Notice signed by Justice Silver provides, in pertinent part:

10 This is an appeal from a district court order granting a preliminary  
11 injunction. Tisha Black, Esq. is on my permanent recusal list filed with the  
12 Nevada Supreme Court Clerk's Office. Ms. Black and the Black family are  
13 personal friends. Although I am unaware of the Black family's involvement  
14 in the pending case, if my participation in the above-entitled case could  
15 implicate other pending cases involving the Black family, I would ask the  
16 parties to make this court aware of any potential conflict or impact, or to  
17 make a motion to disqualify me from presiding over the above-entitled case  
18 based on those representations. The parties shall have 7 days from the date  
19 of this order to advise this court of any potential conflict or impact due to  
20 my participation in this case or file a motion for disqualification based on  
21 my disclosure.

22 Id., pg. 2.

### 23 **II.** 24 **DISCUSSION**

25 The Notice provides, in part, “Tisha Black, Esq. is on my [Justice Silver’s]  
26 permanent recusal list filed with the Nevada Supreme Court Clerk's Office. Ms. Black  
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28 <sup>1</sup> <sup>1</sup>PARADISE WELLNESS CENTER, LLC, a Nevada limited liability company  
29 (“PWC”), is listed in the caption as a Respondent. However, at a hearing on July  
30 2, 2019, in case number A-19-786962-B, in connection with the underlying  
31 Plaintiffs’ motion for leave to file a first amended complaint, the district court  
32 granted PWC leave to withdraw as a Plaintiff.

1 and the Black family are personal friends.” Id. Recusal lists are generally list of  
2 party’s/attorneys whose appearance would disqualify a judge for the objective  
3 relationships/factors found in the Nevada Code of Judicial Conduct. See Rule 2.11(A)(2)  
4 or NRS 1.230(2).<sup>2</sup> Recusal list are generally to: 1) list names; 2) state the basis of  
5 disqualification under rule/law; and 3) be public, and be reviewed by the judge. Millen v.  
6 Eighth Judicial Dist. Court, 122 Nev. 1245 (2006).

7 Rule 2.11 of Nevada Code of Judicial Conduct (NCJC) addresses disqualification.  
8 NCJC 2.11(A) provides “[a] judge shall disqualify himself or herself in any proceeding in  
9 which the judge’s impartiality might reasonably be questioned, including but not limited  
10 to the following circumstances....” The “comments” to NCJC 2.11 provide, in pertinent  
11 part:

12 Under this Rule, a judge is disqualified whenever the judge’s  
13 impartiality might reasonably be questioned, regardless of whether any  
14 of the specific provisions of paragraphs (A)(1) through (6) apply. For  
15 example, if a judge were in the process of negotiating for employment with  
16 a law firm, the judge would be disqualified from any matters in which that  
17 law firm appeared, unless the disqualification was waived by the parties  
18 after disclosure by the judge.

19 Id. (Emphasis added.)

20 NCJC 2.11, adopted from the model rule, imposes a duty upon a judge to  
21 disqualify himself, or herself, in a proceeding where the judge's impartiality "*might*  
22 *reasonably be questioned.*" (Emphasis added). Throughout the Code of Judicial Conduct,  
23 the "appearance of impropriety" - not actual impropriety or actual bias - is the standard.

24 The primary policy behind the Code of Judicial Conduct is "to promote public  
25 confidence in the judiciary." Hogan v. Warden, Ely State Prison, 112 Nev. 553, 558, 916  
26 P.2d 805, 808 (1996). Because fundamental fairness requires an absence of actual bias in

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27 <sup>2</sup> It is recognized that NRS 1.230 is inapplicable to Justices of the Supreme Court.  
28

1 the consideration of a case or appeal, and "because the legal system has always sought to  
2 prevent even the probability of unfairness, due process may sometimes require a trial  
3 judge who has no actual bias to recuse himself or herself from a case where that judge's  
4 hearing of the case would create the appearance of partiality." People v. Hall, 157 Ill.2d  
5 324, 626 N.E.2d 131 (1993), rehearing denied January 31, 1994, cert. denied 130 L.  
6 Ed.2d 415, 115 S.Ct. 507 (1994).

7  
8 The Notice provides, in part, "[t]he parties shall have 7 days from the date of this  
9 order to advise this court of any potential conflict or impact due to my participation in  
10 this case or file a motion for disqualification based on my disclosure." Id., pg. 2. Here,  
11 Tisha Black, Esq. is the founding partner of the law firm Black & LoBello. Black &  
12 LoBello represents Defendant in Intervention, Clear River LLC, in the now consolidated  
13 district court matter captioned "In Re: DOT LITIGATION" from which the above-  
14 captioned appeal originates. As the Notice reflects, this is an appeal from a district court  
15 order granting a preliminary injunction. The Appellants, in part, seek to have the  
16 preliminary injunction reversed or set aside. The Black & LoBello client, Defendant in  
17 Intervention, Clear River LLC, would benefit if the district court's order granting  
18 preliminary injunction were reversed, set aside, or limited.

### 22 **III.**

### 23 **CONCLUSION**

24 Accordingly, pursuant to the Notice, the preceding is provided to advise of the  
25 potential conflict or impact due to Justice Silver's participation in this case. In keeping  
26 with the Notice and the above, including the fact that Tisha Black, Esq. is on Justice  
27

1 Silver's permanent recusal list filed with the Nevada Supreme Court Clerk's Office, and  
2 that Tisha Black, Esq. and the Black family are personal friends of Justice Silver, it is  
3 submitted Justice Silver's impartiality might be reasonably questioned, and, therefore,  
4 Justice Silver should enter her disqualification relative to this appeal.  
5

6 Respectfully submitted this 27th day of May, 2020.

7 **CLARK HILL, PLLC**

8 By: /s/ John A. Hunt, Esq.

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18 Attorneys for Respondents

19 (less Serenity Wellness Center, LLC and the  
20 State of Nevada, Department of Taxation)  
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**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to NRAP 25(1)(d) on the 27th day of May 2020, I served a true and correct copy of the foregoing via the appellate CM/ECF electronic filing system to all parties currently on the electronic service list.

/s/ Tanya Bain  
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An employee of Clark Hill PLLC