

SUPREME COURT OF NEVADA

Case No. 79669

GREENMART OF NEVADA NLV LLC,; and
NEVADA ORGANIC REMEDIES, LLC
Appellants/Cross-Respondents,

Electronically Filed
Apr 15 2020 10:30 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

ETW MANAGEMENT GROUP LLC; GLOBAL HARMONY LLC; GREEN
LEAF FARMS HOLDINGS LLC; GREEN THERAPEUTICS LLC; HERBAL
CHOICE INC.; JUST QUALITY LLC; LIBRA WELLNESS CENTER LLC;
ROMBOUGH REAL ESTATE INC. D/B/A MOTHER HERB; NEVCANN LLC;
RED GARDENS LLC; THC NEVADA LLC; ZION GARDENS LLC; and
MMOF VEGAS RETAIL INC.,
Respondents/Cross-Appellants,

and

THE STATE OF NEVADA DEPARTMENT OF TAXATION,
Respondent,

Appeal from the Eighth Judicial District Court,
Clark County, Nevada
District Court Case # A-19-797004-B
The Honorable Elizabeth Gonzalez

APPELLANT'S APPENDIX – VOLUME 26

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29	Notice of Entry of Order and Order Denying MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion to Alter or Amend Findings of Fact and Conclusions of Law Granting Preliminary Injunction	11/23/19	AA 007127 - AA 007130
23	Notice of Entry of Order and Order Granting Motion for Preliminary Injunction	8/28/19	AA 005544 - AA 005570
29	Notice of Entry of Order and Order Regarding Nevada Wellness Center, LLC's Motion to Alter or Amend Findings of Fact and Conclusions of Law Granting Preliminary Injunction	11/6/19	AA 007058 - AA 007067
20	Order Granting in Part Motion to Coordinate Cases for Preliminary Injunction Hearing	7/11/19	AA 004938 - AA 004940
22	Order Granting Preliminary Injunction (Findings of Fact and Conclusions of Law)	8/23/19	AA 005277 - AA 005300
46, 47	Preliminary Injunction Hearing, Defendant's Exhibit 2009 Governor's Task Force Report	n/a	AA 011408 - AA 011568
47	Preliminary Injunction Hearing, Defendant's Exhibit 2018 List of Applicants for Marijuana Establishment Licenses 2018	n/a	AA 011569 - AA 011575

VOL.	DOCUMENT	DATE	BATES
47	Preliminary Injunction Hearing, Defendant's Exhibit 5025 Nevada Organic Remedies, LLC's Organizational Chart	n/a	AA 011576 - AA 011590
47	Preliminary Injunction Hearing, Defendant's Exhibit 5026 Nevada Organic Remedies, LLC's Ownership Approval Letter	n/a	AA 011591, AA 011592
47	Preliminary Injunction Hearing, Defendant's Exhibit 5026 Nevada Organic Remedies, LLC's Ownership Approval Letter as Contained in the Application	n/a	AA 011593 - AA 011600
47	Preliminary Injunction Hearing, Defendant's Exhibit 5038 Evaluator Notes on Nevada Organic Remedies, LLC's Application	n/a	AA 011601 - AA 011603
47	Preliminary Injunction Hearing, Defendant's Exhibit 5045 Minutes of ther Legislative Commission, Nevada Legislative Counsel Bureau	n/a	AA 011604 - AA 011633
47	Preliminary Injunction Hearing, Defendant's Exhibit 5049 Governor's Task Force for the Regulation and Taxation of Marijuana Act Meeting Minutes	n/a	AA 011634 - AA 011641
47	Register of Actions for Serenity Wellness Center, LLC v. State of Nevada, Department of Taxation, Case No. A-18-786962-B	n/a	AA011642 - AA 011664
27	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	9/30/19	AA 006506 - AA 006508
2	Serenity Wellness Center, LLC et al.'s Complaint	1/4/19	AA 000343 - AA 000359
0	Serenity Wellness Center, LLC et al.'s Corrected First Amended Complaint	7/11/19	AA 004907 - AA 004924
5, 6	Serenity Wellness Center, LLC et al.'s Ex Parte Motion for Leave to file Brief in Support of Motion for Preliminary Injunction in Excess of Thirty Pages in Length	4/10/19	AA 001163 - AA 001288

VOL.	DOCUMENT	DATE	BATES
20	Serenity Wellness Center, LLC et al.'s First Amended Complaint	7/3/19	AA 004889 - AA 004906
40	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion for Preliminary Injunction	5/20/19	AA 003603 - AA 003636
23	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Objection to Court's Exhibit 3	8/27/19	AA 005540 - AA 005543
27	Serenity Wellness Center, LLC et al.'s Joinder to Nevada Wellness Center, LLC's Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	10/7/19	AA 006528 - AA 006538
4	Serenity Wellness Center, LLC et al.'s Motion for Preliminary Injunction	3/19/19	AA 000769 - AA 000878
18	Serenity Wellness Center, LLC et al.'s Reply in support of Motions for Summary Judgment	5/22/19	AA 004395 - AA 004408
29	Serenity Wellness Center, LLC et al.'s Second Amended Complaint	11/26/19	AA 007131 - AA 007153
5	Serenity Wellness Center, LLC et al.'s Summons to State of Nevada, Department of Taxation	3/26/19	AA 001031 - AA 001034
19	Serenity Wellness Center, LLC et al.'s Supplemental Memorandum of Points and Authorities in Support of Preliminary Injunction	6/10/19	AA 004564 - AA 004716
6	State of Nevada, Department of Taxation's Answer to ETW Management Group, LLC et al.'s Amended Complaint	4/17/19	AA 001313 - AA 001326
19	State of Nevada, Department of Taxation's Answer to ETW Management Group, LLC et al.'s Second Amended Complaint	6/4/19	AA 004513 - AA 004526
5	State of Nevada, Department of Taxation's Answer to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's First Amended Complaint	4/10/19	AA 001150 - AA 001162

VOL.	DOCUMENT	DATE	BATES
6	State of Nevada, Department of Taxation's Answer to Nevada Wellness Center, LLC's Complaint	5/2/19	AA 001342 - AA 001354
15	State of Nevada, Department of Taxation's Answer to Serenity Wellness Center, LLC et al.'s Complaint	5/20/19	AA 003637 - AA 003648
20	State of Nevada, Department of Taxation's Answer to Serenity Wellness Center, LLC et al.'s Corrected First Amended Complaint	7/15/19	AA 004949 - AA 004960
11	State of Nevada, Department of Taxation's Opposition to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion for Preliminary Injunction	5/20/19	AA 002704 - AA 002724
11-14	State of Nevada, Department of Taxation's Opposition to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion for Preliminary Injunction, Appendix	5/20/19	AA 002725 - AA 003444
24	State of Nevada, Department of Taxation's Opposition to Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	9/23/19	AA 005984 - AA 005990
28	State of Nevada, Department of Taxation's Opposition to Motion to Nevada Wellness Center, LLC's Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	10/24/19	AA 006827 - AA 006832
28	State of Nevada, Department of Taxation's Opposition to Nevada Organic Remedies, LLC's Application for Writ of Mandamus to Compel State of Nevada , Department of Taxation to Move Nevada Organic Remedies, LLC Into "Tier 2" of Successful Conditional License Applicants	10/24/19	AA 006889 - AA 006954
10	State of Nevada, Department of Taxation's Opposition to Serenity Wellness Center, LLC et al.'s Motion for Preliminary Injunction	5/9/19	AA 002273 - AA 002534
19-20	State of Nevada, Department of Taxation's Pocket Brief Regarding Regulatory Power Over Statutes Passed by Voter Initiative	6/10/19	AA 004717 - AA 004777

VOL.	DOCUMENT	DATE	BATES
20	State of Nevada, Department of Taxation's Supplement to Pocket Brief Regarding Regulatory Power Over Statutes Passed by Voter Initiative	6/24/19	AA 004879 - AA 004888
5	Stipulation and Order to Continue Hearing and Extend Briefing Schedule for Motion for Preliminary Injunction	4/8/19	AA 001144 - AA 001149
46	Transcripts for Hearing on Objections to State's Response, Nevada Wellness Center, LLC's Motion Re Compliance Re Physical Address, and Bond Amount Set	8/29/19	AA 011333 - AA 011405
29	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 1	5/24/19	AA 007170 - AA 007404
30	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 2 Volume 1	5/28/19	AA 007405 - AA 007495
30, 31	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 2 Volume 2	5/28/19	AA 007496 - AA 007601
31	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 3 Volume 1	5/29/19	AA 007602 - AA 007699
31, 32	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 3 Volume 2	5/29/19	AA 007700 - AA 007843
32, 33	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 4	5/30/19	AA 007844 - AA 008086
33	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 5 Volume 1	5/31/19	AA 008087 - AA 008149
33, 34	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 5 Volume 2	5/31/19	AA 008150 - AA 008369
34, 35	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 6	6/10/19	AA 008370 - AA 008594
35, 36	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 7	6/11/19	AA 008595 - AA 008847

VOL.	DOCUMENT	DATE	BATES
36	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 8 Volume 1	6/18/19	AA 008848 - AA 008959
36, 37	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 8 Volume 2	6/18/19	AA 008960 - AA 009093
37	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 9 Volume 1	6/19/19	AA 009094 - AA 009216
38	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 10 Volume 1	6/20/19	AA 009350 - AA 009465
38, 39	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 10 Volume 2	6/20/19	AA 009466 - AA 009623
39	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 11	7/1/19	AA 009624 - AA 009727
39, 40	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 12	7/10/19	AA 009728 - AA 009902
40, 41	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 13 Volume 1	7/11/19	AA 009903 - AA 010040
41	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 13 Volume 2	7/11/19	AA 010041 - AA 010162
41, 42	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 14	7/12/19	AA 010163 - AA 010339
42	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 15 Volume 1	7/15/19	AA 010340 - AA 010414
42, 43	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 15 Volume 2	7/15/19	AA 010415 - AA 010593
43	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 16	7/18/19	AA 010594 - AA 010698

VOL.	DOCUMENT	DATE	BATES
43, 44	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 17 Volume 1	8/13/19	AA 010699 - AA 010805
44	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 17 Volume 2	8/13/19	AA 010806 - AA 010897
44, 45	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 18	8/14/19	AA 010898 - AA 011086
45	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 19	8/15/19	AA 011087 - AA 011165
45, 46	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 20	8/16/19	AA 011166 - AA 011332

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **APPELLANT NEVADA ORGANIC REMEDIES, LLC'S OPENING BRIEF** was filed electronically with the Nevada Supreme Court on the 17th day of January, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Adam Fulton and Maximilien D. Fetaz
Brownsein Hyatt Farber Shreck, LLP

Counsel for Respondents,

ETWManagement Group LLC; Global Harmony LLC; Green Leaf Farms Holdings LL; Green Therapeutics LLC; Herbal Choice Inc.; Just Quality LLC; Libra Wellness Center LLC; Rombough Real Estate Inc. d/b/a Mother Herb; NEVCANN LLC; Red Gardens LLC; TH Nevada LLC; Zion Gardens LLC; and MMOF Vegas Retail Inc.

Ketan D. Bhirud, Aaron D. Ford, Theresa M. Haar, David J. Pope,
and Steven G. Shevorski

Office of the Attorney General

Counsel for Respondent,

The State of Nevada Department of Taxation

David R. Koch, Steven B. Scow, Daniel G. Scow, and Brody R. Wight

Koch & Scow, LLC

Counsel for Appellant,

Nevada Organic Remedies, LLC

Margaret A. McLetchie, Alina M. Shell

McLetchie Law

Counsel for Appellant,

Counsel for GreenMart of Nevada NLV LLC

/s/ David R. Koch

Koch & Scow

GRANTED IN PART. Redacted version of Exhibit "F" will be for public view and the original Exhibit "F" will remain SEALED.

DEFT/INTERVENOR HELPING HANDS WELLNESS CENTER, INC'S MOTION FOR SUMMARY JUDGMENT (CLAIMS 1-3)...CLEAR RIVER LLC'S JOINDER TO DEFT/INTERVENOR HELPING HANDS WELLNESS CENTER INC'S MOTION FOR SUMMARY JUDGMENT (CLAIMS 1-3)..DEFT/INTERVENOR GREENMART OF NEVADA NLV, LLC'S JOINDER TO DEFT/INTERVENOR HELPING HANDS WELLNESS CENTER, INC'S MOTION FOR SUMMARY JUDGMENT (CLAIMS 1-3)...JOINDER TO DEFT/INTERVENOR HELPING HANDS WELLNESS CENTER, INC'S MOTION FOR SUMMARY JUDGMENT:

Following arguments by counsel, Court FINDS license which was applied for in and of itself is not a property right that confers jurisdiction upon this Court to the extent that the claim is for a loss of a property right and for that reason, ORDERS, motion GRANTED IN PART as to those portions of the first cause of action in the Serenity claim and the second cause of action in the ETW claim that are based on the loss of a property right as opposed to the alternative issues plead in that claim. With respect to the remaining arguments, COURT ORDERED, motion DENIED. Department of Taxation had discretion to implement certain regulations related to ballot Question #2 others were mandatory for which no discretion existed on behalf of the department. The Court is in the process of hearing evidence and closing arguments related to those issues and genuine issues of material fact exist related to violations of the department.

CLEAR RIVER, LLC'S MOTION FOR SUMMARY JUDGMENT...JOINDER TO CLEAR RIVER, LLC'S MOTION FOR SUMMARY JUDGMENT...DEFT/INTERVENOR GREENMART OF NEVADA NLV, LLC'S JOINDER TO DEFT/INTERVENOR CLEAR RIVER, LLC'S MOTION FOR SUMMARY JUDGMENT:

Arguments by counsel. COURT ORDERED, motion DENIED. At the time of the filing of the two complaints that are assigned to Business Court on January 4, 2019, the process was confidential and it was difficult if not impossible for the Pltfs' in those matters to know who the other applicants were. FURTHER ORDERED, petition for judicial review DENIED.

Court stated once communication is received as to scheduling, the Court will set for argument.

Mr. Graf to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 05, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 05, 2019 9:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Haar, Theresa M.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Kahn, Jared B	Attorney
	Koch, David	Attorney
	Prince, Dennis M	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney

JOURNAL ENTRIES

- STATUS CHECK: SCHEDULING RESUMPTION OF PRELIMINARY INJUNCTION HEARING
...APPLICATION FOR TEMPORARY RESTRAINING ORDER ON AN ORDER SHORTENING TIME

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the
Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of
Taxation (Department VIII case);

Attorney Adam Bult for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada

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Minutes Date: March 01, 2019

AA 006252

Dept of Taxation (Department XI case);

Attorney Theodore Parker and Attorney Mahogany Turfley for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Ms. Higgins, Mr. Parker, and Mr. Kahn appeared by telephone.

STATUS CHECK: SCHEDULING RESUMPTION OF PRELIMINARY INJUNCTION HEARING: Court noted the Law Clerk sent out an email asking about the parties' availability. Court asked if the parties will negotiate amongst themselves or allow the Court to unilaterally set a date. Mr. Koch advised he has trial beginning next Tuesday, August 13. Court further noted it will finish the hearing before the end of the stack. Mr. Gentile inquired whether the State and Intervenor Defendants have rested. Court asked if it can hear closing arguments tomorrow. Mr. Gutierrez advised he has 3 witnesses left. Mr. Graf advised he set a while back 3 depositions for tomorrow. Mr. Parker advised he has calendar call in Reno tomorrow at 1:30. Ms. Higgins advised she is out of town until tomorrow evening. Mr. Gutierrez advised they are not available this week, but next week and the week after his side is. Mr. Shevorski stated he had no more witnesses. Mr. Gentile confirmed his witness is a person who is more on a bond issue which can be done after the hearing. Mr. Prince advised he has trial on September 9 but is available the 3rd and 4th. Mr. Graf stated he cannot let someone else do his depositions, as that would still be Ms. Higgins. Mr. Prince noted they have witness availability problems. Colloquy between Court and counsel. COURT ORDERED, matter TRAILED for parties to confer.

Matter RECALLED. Mr. Prince advised they would like a complete evidentiary record and that they will be filing additional motions before the end of the hearing. Court noted counsel may do so. Following further discussion on the Court and parties' availability, COURT ORDERED, hearing to RESUME on Tuesday, August 13 at 9:30 am, August 14 at 9 am, August 15 at 9:15 am, and August 16 at 9 am, and finish by August 16. If Mr. Parker's trial goes forward in federal court, the Court will determine with counsel where to put his closing argument.

APPLICATION FOR TEMPORARY RESTRAINING ORDER ON AN ORDER SHORTENING TIME: Following arguments by Mr. Gentile and Mr. Koch, COURT ORDERED, on the same basis that the Court previously ruled on Thrive, the request is GRANTED to prevent opening but not pre-opening work.

Court, noting information in the spreadsheet, inquired as to what an Xtreme Cube is. Mr. Koch stated it is a modular building and half has been paid.

With regards to a bond, Mr. Gentile stated he does not think there should be any additional bond. COURT ORDERED, BOND SET at \$25,000 each for a TOTAL of \$50,000 which is taking into account utilities, rent, and salaried employees only. The Temporary Restraining Order will REMAIN in place pending the outcome of the preliminary injunction hearing.

~

Mr. Parker added that his trial next week starts on Monday and the judge said it is for 7 to 10 days; calendar call is tomorrow at 1:30. COURT DIRECTED Mr. Parker to inform the federal judge after calendar call tomorrow that this Court set a hearing with 30 other lawyers and if they need to speak they can. Mr. Parker further advised it is Federal Court Judge Hicks.

Mr. Kemp advised they have also convinced Judge Togliatti to conduct their mediation this Saturday; they have asked commitments from principals of each company to attend; it would be his request that the Court order or strongly encourage the principals' participation. Court stated it will STRONGLY ENCOURAGE that as it is always better to have the decision-makers attend.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 08, 2019

A-19-786962-B	Serenity Wellness Center LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
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August 08, 2019 11:45 AM Telephonic Conference

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bhirud, Ketan D. Attorney Gentile, Dominic P. Attorney Graf, J. Rusty Attorney Gutierrez, Joseph A. Attorney Higgins, Brigid M. Attorney Hone, Eric D. Attorney Kahn, Jared B Attorney Koch, David Attorney Shell, Alina Attorney Shevorski, Steven G. Attorney
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JOURNAL ENTRIES

- APPEARANCES BY PHONE CONTINUED: Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

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Minutes Date: March 01, 2019

AA 006255

Mr. Parker advised his federal court case settled yesterday at 7 pm. Court stated it has confirmed with federal court Judge Hicks that even though he would have been unwilling to move the trial, the case has settled. The preliminary injunction hearing in the instant case will RESUME as scheduled on Tuesday (August 13, 2019) at 9:30 am despite any rumors to the contrary.

Mr. Gentile inquired as to what time their new request for a TRO will be heard. Court advised it signed the order shortening time earlier, setting the application for Monday (August 12, 2019) at 9 am. Mr. Gutierrez requested that the application be moved to Tuesday as he has another hearing in another department. Mr. Koch noted his trial starts on Tuesday at 9 am. COURT ORDERED, the application will REMAIN on Monday, August 12, 2019 unless the parties reach an agreement.

Mr. Gentile further advised there are critical motions on a homicide case before Judge Adair on Thursday (August 15, 2019) at 9:30 am; he will call the State to see if the motions can be moved to the following week; they will probably take one hour to argue. Court stated that if those motions cannot be moved, the hearing in the instant case will start later that day. Mr. Parker added that August 15 is also the third Thursday of the month, so he will have board meetings. Court so noted.

08/12/2019 9:30 AM - Department 11 APPLICATION FOR TEMPORARY RESTRAINING
ORDER ON AN ORDER SHORTENING TIME

08/13/2019 9:30 AM - Department 11 MOTION FOR PRELIMINARY
INJUNCTION...PRELIMINARY INJUNCTION HEARING (SERENITY WELLNESS AGAINST
DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/ A THRIVE CANNABIS
MARKETPLACE) FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-
B, A-19-787540-W, A-19-787726-C)

08/14/2019 9:00 AM - DEPARTMENT 11 MOTION FOR PRELIMINARY
INJUNCTION...PRELIMINARY INJUNCTION HEARING (SERENITY WELLNESS AGAINST
DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/ A THRIVE CANNABIS
MARKETPLACE) FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-
B, A-19-787540-W, A-19-787726-C)

08/15/2019 9:15 AM - DEPARTMENT 11 MOTION FOR PRELIMINARY
INJUNCTION...PRELIMINARY INJUNCTION HEARING (SERENITY WELLNESS AGAINST
DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/ A THRIVE CANNABIS
MARKETPLACE) FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-
B, A-19-787540-W, A-19-787726-C)

08/16/2019 9:00 AM - DEPARTMENT 11 MOTION FOR PRELIMINARY
INJUNCTION...PRELIMINARY INJUNCTION HEARING (SERENITY WELLNESS AGAINST
DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/ A THRIVE CANNABIS

MARKETPLACE) FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-B, A-19-787540-W, A-19-787726-C)

08/19/2019 9:00 AM - DEPARTMENT 11 INTERVENING DEFENDANT'S MOTION TO
DISSOLVE TEMPORARY RESTRAINING ORDER, OR, ALTERNATIVELY, INCREASE THE BOND
AMOUNT ON ORDER SHORTENING TIME...MOTION TO RELEASE CASH BOND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 12, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 12, 2019	9:00 AM	Motion for Temporary Restraining Order	Bond SET at \$15,000.
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HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Cristalli, Michael	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Koch, David	Attorney
	Shell, Alina	Attorney
	Smith, Jordan T., ESQ	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

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Minutes Date: March 01, 2019

AA 006258

Counsel for the State of Nevada Department of Taxation, Defendant, not present.

Call attempted to the contact number for Attorney Jared Kahn, counsel for Helping Hands Wellness Center; call went to voicemail. COURT stated it will ALLOW Mr. Gentile to proceed.

Mr. Gentile advised he has nothing to add. Mr. Koch argued they have continued to incur rent and payroll and the bond should be set at \$1 million. COURT ORDERED, Temporary Restraining Order GRANTED and BOND SET at \$15,000 because there appears to be irreparable harm given the limited licenses. The store is PRECLUDED from opening but not from seeking final approval from government agencies. Court NOTED it did not include payroll in the \$15,000 but added rent and securities.

Mr. Koch advised that as far as the preliminary injunction hearing their I.T. techs here are also the techs in his trial before Judge Denton, and detailed his trial schedule; on Thursday and Friday he has half days. Court so noted, and directed anyone to inform Mr. Kahn and the attorneys for the State.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 13, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 13, 2019 9:30 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bhirud, Ketan D.	Attorney
	Bice, Todd L	Attorney
	Cristalli, Michael	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Hymanson, Philip M.	Attorney
	Kahn, Jared B	Attorney
	Miller, Ross J.	Attorney
	Pisanelli, James J	Attorney
	Prince, Dennis M	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Smith, Jordan T., ESQ	Attorney
	Wight, Brody R.	Attorney

JOURNAL ENTRIES

- DAY 17

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Mr. Gutierrez advised he has 3 witnesses today. All other parties advised they had no other witnesses. Mr. Gentile noted that as of right now, the Plaintiffs do not have a rebuttal case.

Mr. Cristalli advised that with regards to Shane Terry, one of Mr. Gutierrez's witnesses, they do not have his application, not even in redacted form; if Mr. Terry is going to testify they would like the chance to review it. Mr. Rulis advised the company is no longer called Nuveda but TRNVP098 LLC. COURT ORDERED the application be made available before they go forward. Mr. Gutierrez stated that while that is being done, they can start with another witness.

Testimony and exhibits presented. (See worksheet.) RECESS.

Testimony and exhibits continued. (See worksheet.)

COURT DIRECTED the parties to check if there are any exhibits that have not been admitted that they want admitted and meet with the Clerk. LUNCH RECESS.

Proceeding resumed. COURT NOTED that in comparing Exhibits 5 and 5A, they both have the same version number, from the Department, of 5.4, and DIRECTED Mr. Shevorski to give the Court an explanation as to the change, because the change was testified to and without any indication on the forms the Court is trying to determine whether it has the correct versions of 5 and 5A.

Mr. Parker marked and offered Exhibits 308 through 311. (See worksheet.) All parties reviewed the exhibits and stated they had no objections, with the exception of Mr. Prince who objected to their admission based on relevance, foundation, and hearsay. COURT ORDERED, Mr. Parker to call a witness. Mr. Parker stated he will call Mr. Pupo in rebuttal.

COURT NOTED Mr. Bhirud has confirmed 5 and 5A both include the same footer.

Mr. Cristalli advised Serenity would like to admit 11 items, which were mostly produced by the State: Proposed Exhibits 219, 227, 232 through 234, 242 through 244, 247 through 249. Mr. Shevorski advised the State has no objection to their admission. Court noted the Defendants in Intervention would like the opportunity to review them.

With regards to Mr. Shane Terry's application, Mr. Cristalli advised they have not had the time to review the applications.

Testimony and exhibits presented. (See worksheet.) RECESS.

Testimony and exhibits continued. (See worksheet.)

COURT ORDERED, hearing CONTINUED tomorrow, August 14, 2019 at 9:30 am. Parties will be asked tomorrow individually if they rest. Any motions or pocket briefs prior to closing arguments are DUE by 3 pm on Wednesday. Court further noted it has also set aside Thursday and Friday morning for this hearing.

Mr. Kahn advised he will be calling his client as a witness tomorrow.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 14, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 14, 2019 9:30 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Cristalli, Michael	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Hymanson, Philip M.	Attorney
	Kahn, Jared B	Attorney
	Miller, Ross J.	Attorney
	Prince, Dennis M	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Wight, Brody R.	Attorney

JOURNAL ENTRIES

- DAY 18

MOTION FOR PRELIMINARY INJUNCTION...PRELIMINARY INJUNCTION HEARING
(SERENITY WELLNESS AGAINST DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/A
THRIVE CANNABIS MARKETPLACE)

PRINT DATE: 09/23/2019

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Minutes Date: March 01, 2019

AA 006263

FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-B, A-19-787540-W, A-19-787726-C)

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Mr. Wight submitted to the Court two proposed orders, one of them for the operation in Reno. Court signed the orders and returned them to counsel for filing.

Testimony and exhibits presented. (See worksheet.) Court SUSTAINED Mr. Gentile's objection to the admission of proposed exhibits 5065 and 5066 as to the documents themselves but not the testimonial evidence of the witness' personal knowledge. Mr. Kahn requested they submit unredacted versions of 5065 and 5066 and move to seal that portion. COURT stated it CANNOT SEAL the transcript nor these proceedings. Mr. Kahn requested an opportunity to meet with his client. RECESS.

Proceeding resumed. Unredacted copies provided and marked. Court NOTED there is still an objection by Mr. Gentile. Mr. Kahn argued he wished to establish there was a purchaser and his client was not able to act on it. COURT ORDERED, it will not accept the exhibits for the value of the business but as to the prejudice to this client. The OBJECTIONS are OVER RULED and Exhibits 5065 and 5066, which are the redacted versions, are ADMITTED. Unredacted versions RETURNED to Mr. Kahn.

Testimony and exhibits continued. (See worksheet.)

Mr. Shevorski requested an extension to the motion and pocket brief deadline. Mr. Gentile advised they will also be submitting additional authorities. COURT GRANTED the request and gave all parties until tomorrow, August 15, at 8 am. If filing additional authorities counsel to throw a cover sheet over them so they can be caught by the Department. LUNCH RECESS.

Testimony and exhibits resumed. (See worksheet.)

There being no objection, the following proposed exhibits were ADMITTED into evidence: ETW's 414 through 426, and 432 through 445; Serenity Wellness' 219, 227, 232 through 234, 242 through 244, 247 through 249. At the hour of 2:39 PM, ALL PARTIES RESTED.

Redacted version of Shane Terry's application submitted, MARKED as 267, and ADMITTED.

Mr. Graf made his record regarding leading objections and Ms. Shell about her concern regarding racist statements.

Colloquy regarding scheduling.

COURT ORDERED, hearing CONTINUED tomorrow, August 15 at 9:15 am, for closing arguments.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 15, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 15, 2019 9:15 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Cristalli, Michael	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Hone, Eric D.	Attorney
	Hymanson, Philip M.	Attorney
	Kahn, Jared B	Attorney
	Koch, David	Attorney
	Miller, Ross J.	Attorney
	Prince, Dennis M	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Wight, Brody R.	Attorney

JOURNAL ENTRIES

- DAY 19

MOTION FOR PRELIMINARY INJUNCTION...PRELIMINARY INJUNCTION HEARING
(SERENITY WELLNESS AGAINST DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/A
THRIVE CANNABIS MARKETPLACE)

PRINT DATE: 09/23/2019

Page 86 of 102

Minutes Date: March 01, 2019

AA 006266

FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-B, A-19-787540-W, A-19-787726-C)

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Exhibit 31A provided to the Clerk. Mr. Kahn advised the redactions to 31A were agreeable to him. COURT ORDERED, 31A ADMITTED.

Court acknowledged briefs filed by counsel.

COURT DIRECTED counsel to FOCUS on the following central questions in their closing arguments: whether the Department exceeded the scope of the provisions or acted arbitrarily and capriciously in implementing the provisions of ballot question no. 2, whether "all owners" is ambiguous, and whether the issue related to "all owners" can be cured. COURT ALSO DIRECTED counsel to FOCUS on the physical address issue and the diversity issue. Individual Plaintiffs to PROVIDE the specific RELIEF they are seeking. Court NOTED it is not discussing bond today.

Matter TRAILED for the Court to finish its morning calendar.

Matter RECALLED. Closing arguments by Mr. Gentile, Mr. Kemp, Mr. Parker, and Mr. Bult.

COURT ORDERED, hearing will be in RECESS until tomorrow, August 16 at 9:15 am for the continuation of closing arguments.

Mr. Bice advised the Court of an error on page 5 of his brief.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 16, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 16, 2019 9:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Cristalli, Michael	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Hymanson, Philip M.	Attorney
	Kahn, Jared B	Attorney
	Koch, David	Attorney
	Miller, Ross J.	Attorney
	Prince, Dennis M	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Wight, Brody R.	Attorney

JOURNAL ENTRIES

- DAY 20

MOTION FOR PRELIMINARY INJUNCTION...PRELIMINARY INJUNCTION HEARING
(SERENITY WELLNESS AGAINST DEFENDANT-INTERVENOR CPCM HOLDINGS, LLC D/B/A

PRINT DATE: 09/23/2019

Page 88 of 102

Minutes Date: March 01, 2019

AA 006268

THRIVE CANNABIS MARKETPLACE)

FILED IN A-19-786962-B (COORDINATED CASES - A-18-785818-W, A-19-787004-B, A-19-787540-W, A-19-787726-C)

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Closing arguments by Mr. Shevorski on behalf of the State of Nevada Department of Taxation, Defendant, and Mr. Bice, Mr. Koch, Mr. Prince, Mr. Kahn, Mr. Graf, Ms. Shell, and Mr. Hone on behalf of the Intervenor Defendants.

Rebuttal by Mr. Kemp, Mr. Gentile, Mr. Bult, and Mr. Parker.

COURT DIRECTED Mr. Shevorski to answer this question as a homework assignment: Which successful applicants completed the application in compliance with NRS 453D.206 at the time the application was filed in September 2018? Mr. Shevorski stated his best estimate to provide an answer would be next Tuesday by 5 pm. Court DIRECTED Mr. Shevorski to circulate an email to everyone, including the Law Clerk.

COURT ORDERED, matter will STAND SUBMITTED. Status Check SET on next Friday's (August 23, 2019) chambers calendar on the Court's decision.

8-19-19 9:00 AM INTERVENING DEFENDANT'S MOTION TO DISSOLVE
TEMPORARY RESTRAINING ORDER, OR, ALTERNATIVELY, INCREASE THE BOND AMOUNT
ON ORDER SHORTENING TIME...
...MOTION TO RELEASE CASH BOND

8-23-19 CHAMBERS STATUS CHECK: COURT'S DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 19, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 19, 2019 9:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

Bice, Todd L	Attorney
Cristalli, Michael	Attorney
Graf, J. Rusty	Attorney
Gutierrez, Joseph A.	Attorney
Hone, Eric D.	Attorney
McLetchie, Margaret A.	Attorney
Shell, Alina	Attorney
Shevorski, Steven G.	Attorney

JOURNAL ENTRIES

- MOTION TO RELEASE CASH BOND...INTERVENING DEFENDANT'S MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER, OR, ALTERNATIVELY, INCREASE THE BOND AMOUNT ON ORDER SHORTENING TIME

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Counsel for Intervenor Defendants Helping Hands Wellness Center, Inc. and Nevada Organic Remedies LLC, not present.

Following arguments by Mr. Cristalli, Mr. Graf, and Mr. Gutierrez, COURT ORDERED, motion to release cash bond GRANTED. While the Court understands the issues related to "Tertech" (phonetic) this does not mean the bond's obligations are extinguished. The Court DECLINES to dissolve the TRO or increase the bond given the extensive issues the Court has heard related to injunctive relief.

Mr. Shevorski advised he has spoken with Director Young but he has not heard back from her this morning. Court directed counsel to let everyone, including Court, know if the timeframe is too aggressive.

Mr. Parker advised that the question the Court posed to Mr. Shevorski last Friday made him think over the weekend, that if there are intervenors that did not submit a complete application relative to owners, directors, officers, would they have standing to make an argument regarding the bond? Court stated it does not know, but a bond hearing will be set after the Findings of Fact and Conclusions of Law are issued. If the Court grants the injunction it will probably keep the bond in place but will set an evidentiary hearing because Mr. Gentile had a witness to call.

8-23-19 CHAMBERS STATUS CHECK: COURT'S DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 22, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

August 22, 2019 10:08 AM Minute Order

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court MARKS the email from Mr. Shevorski as Court's Exhibit next in order -- Court's Exhibit 3. (See worksheet.) Any party wishing to object may SUBMIT objections by Monday, August 26, 2019 at 2 PM.

CLERK'S NOTE: Minute Order corrected to reflect the email is MARKED as Court's Exhibit 3, not 2. A copy of this minute order was distributed to all parties via electronic mail. / dr 8-22-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 22, 2019

A-19-786962-B	Serenity Wellness Center LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
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August 22, 2019 10:53 AM Minute Order

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court STRIKES the bench brief entitled MM Development Company Inc's and LivFree Wellness LLC Bench Brief Regarding Compliance with NRS 453D.200(6) as well as the Appendix in Support of Bench Brief Regarding Compliance with NRS 453D.200(6), both filed August 21, 2019, as not requested by the Court following the conclusion of the preliminary injunction hearing. The brief may be refiled as an objection to Court's Exhibit 3 lodged this morning and all objections will be HEARD on Thursday, August 29, at 9 am.

8-29-19 9:00 AM OBJECTIONS TO STATE OF NEVADA DEPARTMENT OF TAXATION'S RESPONSE TO COURT'S QUESTION ON NRS 453D.200(6)

CLERK'S NOTE: Minute order updated to reflect that the appendix in support of the bench brief was also STRICKEN. A copy of the updated minute order was distributed to the parties via electronic mail. / dr 8-22-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 23, 2019

A-19-786962-B	Serenity Wellness Center LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
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August 23, 2019 3:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Decision issued.

8-29-19 9:00 AM OBJECTIONS TO STATE OF NEVADA DEPARTMENT OF
TAXATION'S RESPONSE TO COURT'S QUESTION ON NRS 453D.200(6)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

August 29, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**August 29, 2019 9:00 AM All Pending Motions BOND \$5 million in
business court cases
collectively**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Haar, Theresa M.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Kahn, Jared B	Attorney
	Koch, David	Attorney
	Miller, Ross J.	Attorney
	Prince, Dennis M	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Wight, Brody R.	Attorney

JOURNAL ENTRIES

- PLAINTIFF NEVADA WELLNESS CENTER'S MOTION REGARDING COMPLIANCE WITH PHYSICAL ADDRESS REQUIREMENTS OF NRS 453D.210(5)(B), NAC 453D265(1)(B), AND NAC 453D.268(2)(E)...OBJECTIONS TO STATE OF NEVADA DEPARTMENT OF TAXATION'S

PRINT DATE: 09/23/2019

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Minutes Date: March 01, 2019

AA 006275

RESPONSE TO COURT'S QUESTION ON NRS 453D.200(6)

APPEARANCES CONTINUED: Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs in A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department VIII case);

Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case);

Attorney Theodore Parker for the Plaintiff in A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case).

Ms. Shell participated by telephone.

Court advised that after it released its Findings of Fact and Conclusions of Law a copy was sent to each of the judges that are not in business court, notifying the judges that this Court has completed the hearing on the preliminary injunction and that they are to handle the remainder of their cases; the Court has not heard from any of them. Court further inquired as to whether there would be any objection to advancing Lone Mountain's Motion to Strike, which was set for August 30th. Mr. Kemp stated they would like to file an Opposition.

Mr. Gentile advised he did not file a written joinder to Mr. Parker's motion that is on today's calendar, so for the record they join.

COURT FURTHER NOTED it will address the BOND issue today.

Following arguments by counsel, COURT ORDERED as follows:

PLAINTIFF NEVADA WELLNESS CENTER'S MOTION REGARDING COMPLIANCE WITH PHYSICAL ADDRESS REQUIREMENTS OF NRS 453D.210(5)(B), NAC 453D265(1)(B), AND NAC 453D.268(2)(E): Everyone who participated in the hearing process recognizes that the process used by the Nevada Department of Taxation was flawed; it was adversely impacted by changing the physical address location midstream in the application distribution process; given the Nevada Supreme Court's Decision in the NuLeaf case, the Court DENIES the motion.

OBJECTIONS TO STATE OF NEVADA DEPARTMENT OF TAXATION'S RESPONSE TO COURT'S QUESTION ON NRS 453D.200(6): The question the Court asked the Department of Taxation at the conclusion of arguments was made based on a suggestion by one of the Defendants in Intervention that a narrower scope for injunctive relief might be appropriate. The question the Court asked was which successful applicants completed the application in compliance with NRS 453D.200(6) at the time the application was filed in September 2018. Because the Court did not have unredacted versions of the applications for all applicants, it was impossible and it remains impossible for the

Court to make a determination, which is why the Court has asked the State to make that determination since that is within their records. The standard on injunctive relief is different from the standard that the parties will face at trial or at summary judgment if this matter should proceed, and based on the limited information that was provided to the parties through disclosures as part of the injunctive relief hearing, there was a hearing based on what the Court would characterize as extremely limited information, the Court is NOT GRANTING any affirmative relief to Clear River as requested, because that was not the purpose of this hearing. The Court previously made the determination that it would exclude applicants who properly completed the applications in accordance with NRS 453D.200(6) at the time the application was filed in September 2018. The applicants who fit into that category based upon the State's email to the Court are those in the first and second tier as identified by the State. While the Court understands the argument of some of the parties that certain other information was available that may not be within the scope of the Court's question, the Court's question was limited for a reason. Those in the third category will be subject to injunctive relief which is described in page 24 of the Findings of Fact and Conclusions of Law; those in the first and second category will be excluded from that relief. Any request for modifications by the State based on the State's review of the applications that were submitted by the applicant during the application period will be submitted by motion by the State, and all of the parties will have opportunities to submit briefs and argument that they think are appropriate. The Court is not precluding the State from making any other determinations in this very flawed process. The State will determine how to handle any corrections to this process. Any issues should be directed to the Department based on information that was in the applications at the time. The Court is not going to do the goose gander analysis urged upon the Court by one of the parties under the Whitehead decision.

BOND: Mr. Kemp advised the Court of the availability of Mr. Gentile's expert. Court noted it has received no briefing on the bond. Arguments by Mr. Kahn, Mr. Koch, Mr. Hone, Mr. Prince, Mr. Gentile, and Mr. Kemp. COURT ORDERED, while it appreciates comments from all counsel related to the amount of the bond, the risks of businesses actually opening prior to trial in this matter as well as the risks of any business that is a start-up or new location make it difficult for the Court to place a value on the income stream of any of those entities, which is what the bond needs to be based on, as losses suffered as a result of injunctive relief. For that reason, the Court SETS a fair BOND of \$5 million TO BE POSTED in ten (10) days. Mr. Koch argued the \$5 million should be posted in each of the cases. COURT ORDERED it is only being posted in the business court cases, collectively. This does not include the amount previously posted.

9-9-19 9:00 AM MANDATORY RULE 16 CONFERENCE

CLERK'S NOTE: Following this proceeding, Lone Mountain Partners, LLC's Motion to Strike MM Development Company, Inc. and Livfree Wellness, LLC's Objection to State's Response Regarding Compliance with NRS 453D.200(6) on Order Shortening Time, originally set for Friday, August 30th

VACATED per counsel's request.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 09, 2019

A-19-786962-B Serenity Wellness Center LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**September 09, 2019 9:00 AM Mandatory Rule 16
Conference**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Hunt, John A	Attorney
	Kahn, Jared B	Attorney
	Koch, David	Attorney
	Prince, Dennis M	Attorney
	Rulis, Nathanael R., ESQ	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Smith, Jordan T., ESQ	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group vs. Nevada Dept of Taxation.

Court acknowledged objections and joint proposal and noted that it wants this matter done by the

PRINT DATE: 09/23/2019

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Minutes Date: March 01, 2019

AA 006279

December final inspection deadline; however, the parties' proposed schedule is through January. Mr. Shevorski advised he lost two of his people; one went to Washington and one got a promotion, so he is literally the only one left; from the State's perspective, he cannot get this done by the deadline. Mr. Bult stated that in terms of the ETW Plaintiffs they would like to get this done but they understand the State's position. Mr. Koch requested that the date not be a hard deadline because of the trial being after that. COURT ORDERED, matter CONTINUED for the State to provide an answer; Department of Taxation to make the determination whether or not there are extenuating circumstances; if there are the Court will be willing to move the date beyond the December deadline, but if not unfortunately the Court will have to make Mr. Shevoski's life difficult.

Mr. Gentile advised they have mediation next Monday (September 16, 2019) at 9 am.

9-13-19 10:00 AM MANDATORY RULE 16 CONFERENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

September 13, 2019

A-19-786962-B	Serenity Wellness Center LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
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**September 13, 2019 10:00 AM Mandatory Rule 16
Conference**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Bice, Todd L	Attorney
	Gentile, Dominic P.	Attorney
	Graf, J. Rusty	Attorney
	Gutierrez, Joseph A.	Attorney
	Higgins, Brigid M.	Attorney
	Hone, Eric D.	Attorney
	Kahn, Jared B	Attorney
	Koch, David	Attorney
	Prince, Dennis M	Attorney
	Rulis, Nathanael R., ESQ	Attorney
	Shell, Alina	Attorney
	Shevorski, Steven G.	Attorney
	Smith, Jordan T., ESQ	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Attorney Adam Bult and Attorney Maximilien Fetaz for the Plaintiffs in A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation.

Court acknowledged objections and joint proposal and noted that it wants this matter done by the December final inspection deadline; however, the parties' proposed schedule is through January. Mr.

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Minutes Date: March 01, 2019

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Shevorski advised he lost two of his people; one went to Washington and one got a promotion, so he is literally the only one left; from the State's perspective, he cannot get this done by the deadline. Mr. Bult stated that in terms of the ETW Plaintiffs they would like to get this done but they understand the State's position. Mr. Koch requested that the date not be a hard deadline because of the trial being after that. COURT ORDERED, matter CONTINUED for the State to provide an answer; Department of Taxation to make the determination whether or not there are extenuating circumstances; if there the Court will be willing to move the date beyond the December deadline, but if there are not extenuating circumstances, unfortunately the Court will have to make Mr. Shevoski's life difficult.

Mr. Gentile advised they have mediation next Monday (September 16, 2019) at 9 am.

9-13-19 10:00 AM MANDATORY RULE 16 CONFERENCE

EXHIBIT(S) LIST

Case No.: **A-19-786962-B**

Hearing Date:

**MAY 17, 2019 – TELEPHONIC
CONFERENCE**

Dept. No.: **XI**

Judge: **HON. ELIZABETH GONZALEZ**

Court Clerk: **DULCE ROMEA**

Plaintiff: **SERENITY WELLNESS CENTER**
LLC

Recorder: **JILL HAWKINS**

Counsel for Plaintiff: **MICHAEL CRISTALLI, ESQ.**

VS.

Defendant: **STATE OF NEVADA**
DEPARTMENT OF TAXATION

Counsel for Defendant: **KETAN BHIRUD, ESQ.;**

DAVID POPE, ESQ.; ROBERT WERBICKY, ESQ.

*** See May 17, 2019 minutes for more appearances.**

HEARING BEFORE THE COURT

COURT'S EXHIBIT

[illegible]

Printed May 17, 2019

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EXHIBIT(S) LIST

Case No.: A-19-786962-B

Hearing Date:

MAY 23, 2019 – STATUS
CHECK

Dept. No.: XI

Judge: HON. ELIZABETH GONZALEZ

Court Clerk: DULCE ROMEA

Plaintiff: SERENITY WELLNESS CENTER,
LLC

Recorder: JILL HAWKINS

Counsel for Plaintiff: DOMINIC GENTILE, ESQ. ;

MICHAEL CRISTALLI, ESQ.

Defendant: STATE OF NEVADA
DEPARTMENT OF TAXATION

Counsel for Defendant: KETAN BHIRUD, ESQ. ;

STEVEN SHEVORSKI, ESQ.

vs.

* See May 23, 2019 minutes for more appearances.

HEARING BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted <i>Marked</i>
1A	BINDER: ESSENCE TROPICANA APPLICATION BATES NOS. DOT-ESSTrop000001 through DOT-ESSTrop001498	_____	_____	5-23-19 <i>wn</i>
1B	BINDER: ESSENCE TROPICANA APPLICATION BATES NOS. DOT-ESSTrop001499 through	_____	_____	5-23-19 <i>wn</i>
2	BINDER: THC NEVADA APPLICATION BATES NOS. DOT-THCNV000001-955	_____	_____	5-23-19 <i>wn</i>
	CLERK'S NOTE: CT'S EXH. 2 SETTLED BY COURT ORDER			
3	BINDER: MM DEVELOPMENT'S APPLICATION BATES NOS. DOT-MM000001 through 128	_____	_____	5-23-19 <i>wn</i>
	CLERK'S NOTE: CT'S EXH. 3 SETTLED BY COURT ORDER			
4	BINDER: LONG MOUNTAIN'S APPLICATION BATES NOS. DOT-LongMtn 000001 through 647	_____	_____	5-23-19 <i>wn</i>

Printed May 23, 2019

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CLERK

EXHIBIT(S) LISTCase No.: **A-19-786962-B**Hearing Date: **May 24, 2019**Dept. No.: **XI**Judge: **Honorable Elizabeth Gonzalez**Plaintiff: **Serenity Wellness Center, LLC, et al.**Court Clerk(s): **Dulce Romea** *ALAN PAUL CASTLE SR*Recorder: **Jill Hawkins**Counsel for Plaintiff: **Will Kemp, Esq.**
Nate Rulis, Esq.

vs.

Kemp, Jones and Coulthard, LLCDefendants: **STATE OF NEVADA,**
DEPARTMENT OF TAXATION; Nevada
Organic Remedies, LLC, Defendant
IntervenorCounsel for Defendant: **Aaron Ford, Esq.**
Ketan Bhirud, Esq.
Steve Shevorski, Esq.
David Pope, Esq.** NOTE: All exhibits that were not offered
or admitted were returned to counsel. See
Receipt filed 5-29-19. 574*

Office of the Attorney General

See minutes for complete list of appearances.

HEARING BEFORE THE COURT**PLAINTIFF'S EXHIBITS** *(MMA DEVELOPMENT represented by Attorneys Will
Kemp and Nathaniel Rulis)*

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted
0001	MMLF000001- MMLF000003	State 2014 HHS Scoring Clark County Henderson [On DOT Website under "Provisional Certificates Awarded in November 2014: Scores and Rankings "Dispensaries"]	5/24/19	STIP	5/24-19
0002	MMLF000004- MMLF000006	State 2014 HHS Scoring Clark County Uninc. [On DOT Website under "Provisional Certificates Awarded in November 2014: Scores and Rankings "Dispensaries"]			
0003	MMLF000007- MMLF000009	State 2014 HHS Scoring Clark County Uninc. [On DOT Website under "Provisional Certificates Awarded in November 2014: Scores and Rankings "Dispensaries"]			
0004	MMLF000010- MMLF000011	July 6, 2018 DOT Notice Of Intent To Accept Applications			
0005*	MMLF000012- MMLF000045	DOT Retail Marijuana Application			
0006	MMLF000046- MMLF000047	August 16, 2018 DOT Notice of Remaining Store Allocations by Jurisdiction			
0007	MMLF000048- MMLF000053	DOT Application Scoring Tool - Organizational Structure	5/14/19	STIP	5/24/19

574

* 574

*RECREATIONAL MARIJUANA
LICENSE APPLICATION*

5-31-19 003 Printed May 23, 2019

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EXHIBIT(S) LIST

0008	MMLF000054-MMLF000067	DOT Application Scoring Tool - Care, Quality & Safekeeping	5/24/19	STIP	5/24/19	WA
0009	MMLF000068-72MMLF0000	DOT Application Scoring Tool - Adequacy of Size of Building				WA
0010	MMLF000073-MMLF000074	DOT Application Scoring Tool - Likely Impact On Community				WA
0011	MMLF000077-MMLF000080	DOT Application Scoring Tool - Financial Resources				WA
0012	MMLF000081-MMLF000084	DOT Scoring Tool - Taxes & Financial Contributions				WA
0013	MMLF000085-MMLF000091	DOT Scoring All Jurisdictions All Applicants				WA
0014	MMLF000092-MMLF000094	DOT Scoring Clark County (Uninc.) (1 to 35)				WA
0015	MMLF000095-MMLF000096	DOT 2018 Scoring LV (1 to 30)				WA
0016	MMLF000097	DOT 2018 Scoring Henderson				WA
0017	MMLF000098-MMLF000099	DOT 2018 Scoring NLV				WA
0018	MMLF000100-MMLF000101	DOT 2018 Scoring Reno				WA
0019	MMLF000102-MMLF000103	DOT Scoring Lyon				WA
0020	DOT-MM000001-DOT-MM007520	MM Development 2018 Apps				WA
0021	DOT-LivFree000001-DOT-LivFree012790	LivFree 2018 Apps				WA
0022	DOT-LivFree006569-DOT-LivFree006570	LivFree Wells Fargo Bank Statement from 2018 App.				WA
0023	MMLF000104-MMLF000110	LivFree Identified and Non-Identified 2018 Grades				WA
0024	MMLF000111-MMFL00117	MM Development Identified and Non-Identified 2018 Grades				WA
0025	MMFL00118-MMFL00126	LivFree Handwritten Financial Subpart Grades				WA
0026	TO BE PRODUCED	Essence Henderson, LLC ("Essence") 2018 Apps (RD316-319)				WA
0027	TO BE PRODUCED	Essence Tropicana, LLC ("Essence") 2018 Apps (RD345-348)	5/24/19	STIP	5/24/19	WA
0028	TO BE PRODUCED	Nevada Organic Remedies, LLC ("The Source") 2018 Apps [RD215-222]	NOT	PROVIDED		
0029	TO BE PRODUCED	Nevada Organic Remedies, LLC ("The Source") Diversity Section Only From 2018 Apps	NOT	PROVIDED		

20A DOT-MM001122 MM DISPENSARY OPERATING BUDGET 6-20-19 NO 6-20-19 WA
 DOT-MM001123
 (NOTE: Exhibit 20A is in the back of binder-5.)
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EXHIBIT(S) LIST

0030	TO BE PRODUCED	Deep Roots Medical, LLC ("Deep Roots Harvest") 2018 Apps [RD397-401]	NOT	PROVIDED	
0031 31A	TO BE PRODUCED	Helping Hands Wellness Center, Inc. 2018 Apps [RD546-548]	NOT Redacted 5-29-19	PROVIDED NO	31A 008-19-19 WA
0032	TO BE PRODUCED	Cheyenne Medical, LLC ("Thrive") 2018 Apps [RD263-267]			
0033	TO BE PRODUCED	Commerce Park Medical, LLC ("Thrive") 2018 Apps [RD329-332]			
0034	TO BE PRODUCED	Lone Mountain Partners, LLC ("Zenleaf") 2018 Apps [RD590-602]	NOT	PROV. OSG	
0035	TO BE PRODUCED	Greenmart of Nevada NLV, LLC ("Health For Life") 2018 Apps [RD504-511]			
0036	...	Greenmart of Nevada NLV, LLC ("Health For Life") Diversity Section Only From 2018 Apps			
0037 33A 1727, 1741, 1744	TO BE PRODUCED DO NOT CLEAR RIVER	Clear River, LLC ("Kabunky") 2018 Apps [RD229-232]	NOT 33A-767879	PROVIDED NO	33A 5-18-19 WA
0038	TO BE PRODUCED	Clear River, LLC ("Kabunky") Diversity Section Only From 2018 Apps	NOT	PROVIDED	
0039	TO BE PRODUCED	Wellness Connections of Nevada, LLC ("Cultivate") 2018 Apps [RD631-633]	NOT	PROVIDED	
0040	TO BE PRODUCED	Circle S Farms, LLC ("Circle S") 2018 Apps [RD373-377]	NOT	PROVIDED	
0041	MMLF00127- MMLF00128	Essence Tropicana, LLC ("Essence") Identified and NonIdentified 2018 Grades (Uninc. Clark County) [227.84]	5/24/19	STIP	5/24/19 WA
0042	MMLF00129- MMLF00130	Essence Henderson, LLC ("Essence") Identified and NonIdentified 2018 Grades (Uninc. Clark County) [227.17]			WA
0043	MMLF00131- MMLF00132	Nevada Organic Remedies, LLC ("The Source") Identified and NonIdentified 2018 Grades (Uninc. Clark County) [222.66]			WA
0044	MMLF00133- MMLF00137	Deep Roots Medical, LLC ("Deep Roots Harvest") Identified and Non-Identified 2018 Grades (Uninc. Clark County) [222.49]	5/24/19	STIP	5/24/19 WA

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EXHIBIT(S) LIST

0045	MMLF00138- MMLF00139	Helping Hands Wellness Center, Inc. Identified 2018 Grades (Uninc. Clark County) Identified [218. 50]	5/24/19	STIP	5/24/19	WA
0046	MMLF00140- MMLF00141	Cheyenne Medical, LLC ("Thrive") Identified and Non-Identified 2018 Grades (Uninc. Clark County) [216.50]				WA
0047	MMLF00142- MMLF00143	Greenmart of Nevada NLV, LLC ("Health For Life") Identified and Non- Identified 2018 Grades (Uninc. Clark County) [214. 50]				WA
0048	MMLF00144- MMLF00145	Lone Mountain Partners, LLC ("Zenleaf") Identified and NonIdentified 2018 Grades (Uninc.) [214.58]				WA
0049	MMLF00146- MMLF00147	Commerce Park Medical, LLC ("Thrive") Identified and NonIdentified 2018 Grades (Uninc.) [212 .16]				WA
0050	MMLF00148- MMLF00149	Clear River, LLC ("Kabunky") Identified and Non-Identified 2018 Grades (Las Vegas) [210 .16]				WA
0051	MMLF00150- MMLF00151	Essence Tropicana, LLC ("Essence") Identified and NonIdentified 2018 Grades (Las Vegas) [227.84]				WA
0052	MMLF00152- MMLF00153	Nevada Organic Remedies, LLC ("The Source") Identified and NonIdentified 2018 Grades (Las Vegas) [222. 66]				WA
0053	MMLF00154- MMLF00155	Deep Roots Medical, LLC ("Deep Roots Harvest") Identified and Non- Identified 2018 Grades (Las Vegas) [222.49]				WA
0054	MMLF00156- MMLF00157	Helping Hands Wellness Center, Inc. Identified and NonIdentified 2018 Grades (Las Vegas) [218.50]				WA
0055	MMLF00158- MMLF00159	Cheyenne Medical, LLC ("Thrive") Identified and Non-Identified 2018 Grades (Las Vegas) [216. 50]				WA
0056	MMLF00160- MMLF00161	Lone Mountain Partners, LLC ("Zenleaf") Identified and NonIdentified 2018 Grades (Las Vegas) [214. 50]	5/24/19	STIP	5/24/19	WA

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EXHIBIT(S) LIST

0057	MMLF00162- MMLF00163	Greenmart of Nevada NLV, LLC ("Health For Life") Identified and Non- Identified 2018 Grades (Las Vegas) [212. 33]	5/24/19	STIP	5/24/19	WA
0058	MMLF00164- MMLF00165	Clear River, LLC ("Kabunky") Identified and Non-Identified 2018 Grades (Las Vegas) [210 .16]				WA
0059	MMLF00166- MMLF00167	Wellness Connections of Nevada, LLC ("Cultivate") Identified and Non- Identified 2018 Grades (Las Vegas) [208. 67]				WA
0060	MMLF00168- MMLF00169	Circle S Farms, LLC ("Circle S") Identified and Non-Identified 2018 Grades (Las Vegas) [208]				WA
0061	MMLF00170	Chart -- Diversity Scores of The Ten 2018 Winning Applicants in Uninc. Clark County				WA
0062	MMLF00171	Chart -- Diversity Scores of The Ten 2018 Winning Applicants in Las Vegas	5/24/19	STIP	5/24/19	WA
0063	MMLF00172	Chart -- Financial Scores of The Ten 2018 Winning Applicants in Uninc. Clark County				
0064	MMLF00173	Chart -- Financial Scores of The Ten 2018 Winning Applicants in Las Vegas				
0065	MMLF00174	Chart -- Building Scores of The Ten 2018 Winning Applicants in Uninc. Clark County				
0066	MMLF00175	Chart -- Building Scores of The Ten 2018 Winning Applicants in Las Vegas				
0067	MMLF00176	Chart -- Cheyenne Medical, LLC ("Thrive") and Commerce Park Medical Identical 19.67 Scores On ____ Applications For Locations With No Address				
0068	MMLF00177	Chart - - Taxes And Other Beneficial Contributions of 2018 Winning Applicants in Uninc. Clark County				

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EXHIBIT(S) LIST

0069	MMLF00178	Chart -- Taxes And Other Beneficial Contributions of 2018 Winning Applicants in Las Vegas				
0070	MMLF00179	Chart -- Scores Of 2018 Winning Applicants And 5 Applicants Under Winners In Uninc. Clark County Giving Zero Diversity Score To Winning Applicants Owned Or Controlled By Canadian Publicly Traded Companies [Green Shade Revised Winners	6-11-19	NO	6-11-19	WA
0071	MMLF00180	Chart -- Scores Of 2018 Winning Applicants And 5 Applicants Under Winners In Las Vegas Giving Zero Diversity Score To Winning Applicants Owned Or Controlled By Canadian Publicly Traded Companies [Green Shade Revised Winners]	6-11-19	NO	6-11-19	WA
0072	MMLF00181-MMLF00350	DOT May 1, 2019 Licensed Entity -- Owners/Officers/Board Members	5/24/19	STIP	5/24/19	WA
0073	MMLF00351	RD505 section from DOT May 1, 2019 Licensed Entity -- Owners/Officers/Board Members "Greenmart of Nevada, NLV LLC ("Greenmart of Nevada") Uninc. Clark				
0074	MMLF00352	RD215 section from DOT May 1, 2019 Licensed Entity -- Owners/Officers/Board Members Nevada Organic Remedies ("The Source") Uninc. Clark				
0075	MMLF00353	RD229 section from DOT May 1, 2019 Licensed Entity -- Owners/Officers/Board Members [Clear River LLC ("Kabunky") Uninc. Clark				
0076	MMLF00354	RD263 section from DOT May 1, 2019 Licensed Entity -- Owners/Officers/Board Members Cheyenne Medical LLC ("Thrive") Uninc. Clark				
0077	MMLF00355	RD329 section from DOT May 1, 2019 Licensed Entity -- owners/Officers/Board Members Commerce Park Medical LLC ("Thrive") Uninc. Clark				

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EXHIBIT(S) LIST

0078	MMLF00356	RD345 section from DOT May 1, 2019 Licensed Entity -- owners/Officers/Board Members Essence Henderson ("Essence") Uninc. Clark				
0079	MMLF00357	RD316 section from DOT May 1, 2019 Licensed Entity -- Owners/Officers/Board Members Essence Tropicana LLC ("Essence") Uninc. Clark				
0080	MMLF00358- MMLF00359	Essence Henderson, LLC 12/29/17 Nev.Sec.State filing	5/24/19	STIP	5/24/19	WR
0081	MMLF00360- MMLF00361	Essence Tropicana, LLC 12/29/17 Nev.Sec.State filing				WR
0082	MMLF00362- MMLF00363	Cheyenne Medical, LLC 7/25/14 Nev.Sec.State filing ("Thrive")				WR
0083	MMLF00364- MMLF00365	Commerce Park Medical, LLC 7/7/2014 Nev.Sec.State filing ("Thrive")				WR
0084	MMLF00366- MMLF00380	Greenmart of Nevada NLV, LLC Nev.Sec.State filing ("Health For Life") [Have Certified Copies]-.-Only Manager in 2018 is "F & L Investments, LLC."				WR
0085	MMLF00381- MMLF00383	12/11/18 Essence Press Release (Nov. 13???)				WR
0086	MMLF00384- MMLF00386	12/13/18 Gilbert Aff. (Para. 15-16; "The information [that Essence won multiple entities in the same jurisdiction], attributed by MM to 'press reports' related to the breakdown of licenses awarded in Clark County, is inaccurate;")	5/24/19	STIP	5/24/19	WR
0087	MMLF00387- MMLF00389	5/15/19 LV City Council package from Commerce Park Medical, LLC re: Sahara Store				
0088	MMLF00390- MMLF00396	January 23, 2017 Article in New Cannabis Ventures entitled "Wall Street Veteran Sells Cannabis Operations Stake in \$25 million Deal" regarding CXF Life Sciences, a subsidiary or				

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EXHIBIT(S) LIST

		Canadian Bioceuticals (CSE:BCC) buying an option to buy GreenMart in Nevada Nevada Secretary of State Information for CGX Life Sciences, Inc. [Have Certified]			
0089	MMLF00397-MMLF00411	Nevada Secretary of State Information for CGX Life Sciences, Inc. [Have Certified Copies]. Only officers in 2018 were Elizabeth Stavola as President and William Boyes as Sec/Treas/Director	5/24/19	STIP	5/24/19 NY
0090	MMLF00412-MMLF00413	May 9, 2019 Terteryan Aff.; "3. HHWC is a lawfully licensed cannabis cultivator and production facility in North Las Vegas.")	5/24/19	STIP	5/24/19 NY
0091	TO BE PRODUCED	Chart of 8 "Board Members" of Greenmart of Nevada, LLC, i.e., Caroline D. Clark, Stacey L. Dugan, Lucy Flores, Shelli Hayes, Hae U. Lee, Laura Martin and Scot D. Rutledge	NOT PROVIDED		
0092	MMLF00416-MMLF00652	Xanthic Biopharma Inc. Securities Filings	5/24/19	STIP	5/24/19 NY
0093	MMLF00414-MMLF00415	Xanthic Biopharma Inc. Form 51-102F4 Business Acquisition Report, Item 2.1, regarding "acquisition by GGB Nevada LLC ("GGB Nevada"), a wholly-owned subsidiary of Xanthic, of 100% of the outstanding membership interests of Nevada Organic Remedies LLC ("NOR") ... Xanthic ... completed the NOR Acquisition on September 7, 2018." and Item 2.2 "Date of Acquisition" stating that "[t]he effective date of the NOR Acquisition is September 4, 2018."	5/24/19	STIP	5/24/19 NY
0094	MMLF00653-MMLF00666	Nevada Organic Remedies LLC Consolidated Financial Statements for June 30, 2018 and 2017 stating in part that "In September 2018, the members of the Company sold 100% of their membership interest to GGB Nevada LLC in an arm's length arrangement."	5/24/19	STIP	5/24/19 NY
0095	MMLF00667-MMLF00671	GGB Nevada LLC Nevada Secretary of State filings	5/24/19	STIP	5/24/19 NY

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EXHIBIT(S) LIST

0096	MMLF00672	Cronkhite email re: NOR minor sales	5/24/19	STIP	5/24/19	WA
0097	MMLF00673- MMLF00682	September 7, 2018 Newswire report stating that "[t]he NOR Acquisition was completed on September 4, 2018. ... The trading of Xanthic's common shares on the Canadian Securities Exchange (the "CSE") remains halted. ... " because of completion of a reverse take-over of Xanthic by Green Growth Brands – another publicly traded entity. Green Growth Brands traded under the symbol OTCQB on OTCQB. Xanthic formally changed its name to Green Growth Brands, Inc., on January 2, 2019.				
0098	TO BE PRODUCED	February 27, 2019, Green Growth Brands reported revenue of \$3.14 Million.	NOT PROVIDED			
0099	MMLF00683- MMLF00724	Nevada Organic Remedies LLC Secretary Of State filing. Only managers in 4/12/18 filing were Stephen J. Byrne and Andrew M. Jolley. 1/2/19 filing changes also has Byrne and Jolley despite fact that GCB owned NOR membership interest at time -- not Byrne and Jolley	5/24/19	STIP	5/24/19	WA
0100	MMLF00725- MMLF00726	Naturex, LLC Nev. Secretary of State filing. Lists BB Marketing, LLC as only officer				WA
0101	MMLF00727- MMLF00729	BB Marketing, LLC. Nev. Secretary of State filing. Lists Ghost Pepper, LLC, Kosh, LLC and No. 2 With Swiss, LLC as only officers.				WA
0102	MMLF00730- MMLF00731	Ghost Pepper, LLC Nev. Secretary of State filing. Michael Frey as only officer.				WA
0103	MMLF00732- MMLF00733	Kosh, LLC Nev. Secretary of State filing. Lists Robert Frey as only officer.				WA
0104	MMLF00734- MMLF00735	No. 2 With Swiss, LLC Nev. Secretary of State filing. Lists Robert Frey as only officer	5/24/19	STIP	5/29/19	WA
0105	MMLF00736- MMLF00767	Naturex/BB Marketing Complaint against Verano/Lone Mountain alleging Verano/Lone Mountain committed				

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EXHIBIT(S) LIST

		fraud in getting 11 licenses.			
106	MMLF00768- MMLF00868	LivFree handwritten graders by 3 different evaluators and handwritten team grades	5/24/19	STIP	5/24/19 <i>WA</i>
0107		Nevada Secretary of State - Lone Mountain Partners, LLC	5/24/19	STIP	5/24/19 <i>WA</i>

SEE NEXT PAGE →

SUPPLEMENTAL EXHIBIT(S) LIST

PLAINTIFF'S EXHIBITS (CONTINUED)

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted
0108	KP000000001-P0000000044	Kyri Plaskon Cell Phone Extraction Report	5-28-19	NO	5-28-19 NY
0109	SG000000001-SG000000101	Steve Gilbert Cell Phone Extraction Report	6-11-19	NO	6-11-19 NY
0110	SG000000102-SG000000108	Steve Gilbert Cell Phone Voicemails (THUMB DRIVE) <i>In binder</i>			
0111	DOT020839-DOT020841	Department of Taxation September 2018 Marijuana Application Diversity Scoring Desktop Procedure	5-28-19	NO	5-28-19 NY
0112	MMLF00882-MMLF00888	Article "GTI - Green Thumb Industries, INC. Expands with the Acquisition of Integral Associates, Nevada's Top Cannabis Operator"			
0113	MMLF00889-MMLF00890	Top 20 Clark County Building & Location Subpart Scores			
0114	DOT020829-DOT020838	Regulation Training 3 - Nevada Department of Taxation Marijuana Compliance Certification Program	5-28-19	NO	5-28-19 NY
0115	MMLF00891-MMLF00911	Natural Medicine, LLC - Recreational Retail Marijuana Store, Part I, Tab IV			

SEE NEXT PAGE →

SUPPLEMENTAL EXHIBIT(S) LIST

0116	MMLF00912- MMLF00946	2018 iAnthus MPX Biocetical Corporation			
0117	MMLF00947- MMLF00953	Excerpts of MPX Biocetical Corporation Notice of Meeting and Management Information Circular			
0118	MMLF00954- MMLF00957	MPX Biocetical Corporation Board of Directors			
0119	MMLF00958- MMLF01000	MPX Biocetical Corporation – Management Discussion and Analysis for period ended 12/31/17			
0120	MMLF01001- MMLF01004 <i>(Transcript)</i>	Excerpt of Hearing on Motion for Protective Order and Motion to Compel 05/29/19			

SUPPLEMENTAL EXHIBIT(S) LIST

0121		Excerpts -Handwritten Notes. Adequacy of Size – Building Plans (Non-identified) RD 284)	5-31-19	NO	5-31-19	Wx
0122		Excerpts -Handwritten Notes. Financial Resources (Identified) RD292-RD297)	5-31-19	NO	5-31-19	Wx
0123		Excerpts -Handwritten Notes. (Organizational Structure (Identified) RD284-289)	5-31-19	NO	5-31-19	Wx
0124	DOT034932-DOT035223	Commerce Park Medical, LLC/ (RD 329-332) – State of Nevada Evaluation				
0125	DOT036694-DOT037138	Greenmart of NV (RD504-511) – State of Nevada Evaluation				
0126	DOT028046-DOT029567	Nevada Organic Remedies (RD215-222) – State of Nevada Evaluation				
0127	DOTNVOrganic000002-DOTNVOrganic002039	Nevada Organic Remedies Application.	6-10-19 pages 12 + 13 only 13	NO to	6-10-19 127A (pages 12 + 13)	Wx
0128	DOT-Greenmart001055-DOT-Greenmart001749	Greenmart of Nevada NLV, LLC Redacted 505ID				
0129	DOT039371-DOT039690	Cheyenne Medical, LLC/Thrive (RD263-267) – State of Nevada Evaluation	6-10-19 39472 39449	NO to pages 39472 + 39449	6-10-19 Admitted as 129A, 129B	Wx
0130	DOT044450-DOT044452	Department of Taxation Monopoly Analysis 2018 Retail Stores	6-18-19	NO	6-18-19	Wx
0131	DOT042990-DOT042991	Department of Taxation Final Letter – RD 230 – Clear River 30 day CHOW	6-18-19	NO	6-18-19	Wx
0132	DOT030741-DOT030830	Handwritten Excerpts of Clear River, LLC (RD230) – State of Nevada Evaluation				
132A	DOT030782	A page out of exhibit 132	6-18-19	OBJ	Admitted as 132A on 6-18-19	Wx

SUPPLEMENTAL EXHIBIT(S) LIST

0129A	DOT039472-DOT039473	Excerpts from Cheyenne Medical, LLC/Thrive (RD263-267) – State of Nevada Evaluation			
0129B	DOT039449	Excerpt from Cheyenne Medical, LLC/Thrive (RD263-267) – State of Nevada Evaluation			
0130	DOT044450-DOT044452	Department of Taxation Monopoly Analysis 2018 Retail Stores			
0131	DOT042990-DOT042991	Department of Taxation Final Letter – RD 230 – Clear River 30 day CHOW			
0132	DOT030741-DOT030830	Handwritten Excerpts of Clear River, LLC (RD230) – State of Nevada Evaluation			
0132A	DOT030782	Page from Handwritten Excerpts of Clear River, LLC (RD230) – State of Nevada Evaluation			
Story be 0133	MMLF01005-MMLF01023	Transcript of State of Nevada Tax Commission Video Conference Open Meeting January 14, 2019	7-12-19	NO	7-12-19 WR
0134	MMLF01024-MMLF01037	Transcript of State of Nevada Tax Commission Video Conference Open Meeting March 4, 2019	7-12-19	NO	7-12-19 WR
0135	DOT044539-DOT044551	Listserve Statement	7-10-19	NO	7-10-19 WR
0136	DOT044552-DOT044558	Listserve Statement Subscriptions for Cultivation List			
0137	DOT044559-DOT044566	Listserve Subscriptions for Dispensary List			
0138	DOT044567-DOT044569	Listserve Subscriptions for Lab List			
0139	DOT044570-DOT044575	Listserve Subscriptions for Production List			
0140	DOT044576-DOT044640	Listserve Subscriptions for Public List			
0141	DOT043175-DOT043184	DOT Meeting Notes			

Printed July 10, 2019

AA 006298

EXHIBIT(S) LIST

Case No.: A-19-786962-B

Hearing Date: May 24, 2019

Dept. No.: XI

Judge: Honorable Elizabeth Gonzalez

Court Clerk: DULCE ROMERA

Plaintiff: Serenity Wellness Center, LLC, et al.

Recorder: Jill Hawkins

Counsel for Plaintiff: Dominic P. Gentile, Esq.,
Michael V. Cristalli, Esq., Ross
Miller, Esq., Vincent Savarese,
Esq.

vs.

Gentile Cristalli Miller Armeni Savarese

Defendants: STATE OF NEVADA,
DEPARTMENT OF TAXATION; Nevada
Organic Remedies, LLC, Defendant
Intervenor

Counsel for Defendant: Aaron Ford, Esq.
Ketan Bhirud, Esq.
Steve Shevovski, Esq.
David Pope, Esq.

* NOTE: All exhibits that were offered
or admitted were returned to counsel. See
Receipt filed 8-16-19. *File*

Office of the Attorney General

HEARING BEFORE THE COURT

PLAINTIFF'S EXHIBITS

(SERENITY WELLNESS represented by Gentile, Cristalli,
Miller, Savarese)

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
201	Serenity000001 - Serenity000003	Essence Cannabis Dispensary Awarded Record Number of New Licenses in the State of Nevada (Article) - Not disclosed	5-24-19	STP	5-24-19	WA
202	Serenity000004 - Serenity000007	Green Growth Brands Solidifies Nevada Market Position with Award of Seven Additional Cannabis Licenses (Article) - Not Disclosed				WA
203	Serenity000008 - Serenity000013	Green Thumb Industries Inc. (GTI) Expands with the Acquisition of Integral Associates, Nevada Top Cannabis Operator (Article) - Not disclosed				WA
204	Serenity000014 - Serenity000017	MPX Awarded Four Conditional Retail Dispensary Licenses in Nevada (Article) - Not disclosed				WA
205	DOT1 - DOT170	Powerpoint Training - Day1				WA
206	DOT171 - DOT234	Powerpoint Training - Train the Trainer				WA
207	DOT235 - DOT367	Powerpoint Training - Application & Score Sheet				WA
208	DOT368 - DOT390	Powerpoint Training - Application Practice	5-24-19	STP	5-24-19	WA

EXHIBIT(S) LIST

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SEE NEXT PAGE →

EXHIBIT(S) LIST

		Liability Partnership Financial Questionnaire				
230	Serenity000633 – Serenity000701	Privileged Business License Application Packet	6-19-19	NO	6-19-19	WA
231	Serenity000702 – Serenity000703	Video re: Assembly Agenda Committee Judiciary Meeting on May 21, 2019				
232	Serenity000704 – Serenity000714	Transfer of Interest Checklist	8-14-19	NO	8-14-19	WA
233	Serenity000715 – Serenity000758	Chapter 453D – Adult Use of Marijuana / Production and Distribution of Marijuana	8-14-19	NO	8-14-19	WA
234	Serenity000759 – Serenity000762	Nevada Dept. of Taxation Regulatory Workshop – Minutes dated July 24, 2017	8-14-19	NO	8-14-19	WA
235	Serenity000763 – Serenity000778	Nevada Tax Commission Meeting Minutes dated January 16, 2018	7/1/19	NO	7/1/19	WA
236	Serenity000779 – Serenity000808	Minutes of the Legislative Commission / Nevada Legislative Counsel Bureau dated February 27, 2018	7-12-19	NO	7-12-19	WA
237	Serenity000809 – Serenity000813	Nevada Dept. of Taxation Marijuana Enforcement Division Bulletin – May 2019				
238	Serenity000814 – Serenity000848	Calendar Entries	6-20-19	NO	6-20-19	WA
239	Serenity000849 – Serenity000914	Phone Records	6-19-19	NO	6-19-19	WA
240	Serenity 000915	Facebook Post				
241	Serenity000916 – Serenity000917	Las Vegas Sun Article – <i>Competitive licensing for marijuana businesses helps the entire industry</i>				
242	DOT020885- DOT020964	PowerPoint for MMP Orientation and supporting documents	8-14-19	NO	8-14-19	WA
243	DOT020965- DOT021061	PowerPoint for MMP Application Eval Overview Class 201 and supporting documents	8-14-19	NO	8-14-19	WA
244	DOT021062- DOT021151	PowerPoint for MMP Application Eval Admin Team 202 and supporting documents	8-14-19	NO	8-14-19	WA
245	DOT021152- DOT021244	PowerPoint for MMP Application Eval Admin Team 203 and supporting documents	7/1/19	NO	7/1/19	WA
246	DOT021245- DOT021346	PowerPoint for MMP Application Eval Non Identified 204 and supporting documents	7/1/19	NO	7/1/19	WA
247	DOT021347- DOT021400	PowerPoint for MMP Train and Trainer and supporting documents	8-14-19	NO	8-14-19	WA

EXHIBIT(S) LIST

248	DOT021401- DOT021404	MMP Training Guide	8-14-19	NO	8-14-19	WA
249	DOT021405- DOT021420	MMP Training Outlines	8-14-19	NO	8-14-19	WA
250	DOT021421- DOT021451	MMP Evaluation Process Flows	6-19-19	NO	6-19-19	WA
251	DOT041858- DOT041859	Email Correspondence	6-19-19	NO	6-19-19	WA
252	DOT042442- DOT042463	App. Period - Final Letters - County Breakdown	6-19-19	NO	6-19-19	WA
253	DOT042986- DOT042989	Final Letters - Winners Only - Owners Diversity Statistics	6-19-19	NO	6-19-19	WA
254	DOT028140- DOT028142; DOT028168- DOT028170; DOT028186; DOT028188; DOT028190; DOT028204; DOT028206; DOT028220; DOT028238; DOT028256; DOT028364; DOT028366; DOT28474 and DOT028476	NV Organic Remedies DOT Scoring Sheet	6-19-19	NO to redacted version	6-19-19 + redacted version	WA
255	DOT-TGIG008853 - DOT-TGIG008867	TGIG Identified Application Tab 5.2.10	6-19-19	NO	6-19-19	WA
256	DOT040216- DOT040221; DOT040225- DOT040232; DOT040236; DOT040239- DOT040240; DOT040245- DOT040247	TGIG DOT Scoring Sheet	6-19-19	NO	6-19-19	WA
257	DOT024646- DOT024864	GBS Non-Identified Eval. Score Sheet	6-19-19	NO	6-19-19	WA
258	Serenity000918- Serenity000924	2018 Retail Marijuana Store Application Scores and Rankings				
259	Serenity000925- Serenity000927	Meeting Notice and Agenda Minutes dated 6.20.2018 - Nevada Legislature's Interim Finance Committee	6-19-19	NO	6-19-19	WA
260	Serenity000928	Meeting Notice and Agenda Minutes dated 6.20.2018 - Nevada Legislature's Interim Finance Committee (Vol 1 - Page 227)	6-19-19	NO	6-19-19	WA

261	Serenity000929 – Serenity000964	Agency Request for Proposal Template	6-2019	NO	6-2019	WA
262	Serenity000495 – Serenity000531	Correspondence between Gravitas Nevada, LTD (License RD238 & RD239) and Department of Taxation dated: January 4, 2019; January 10, 2019; February 7, 2019 and March 6, 2019	6-2019	NO	6-2019	WA
263	Serenity000532 – Serenity000535	August 29, 2013 Memo re: Guidance re Marijuana Enforcement	6-19-19	NO	6-19-19	WA

EXHIBIT(S) LIST

263	Serenity000532 - Serenity000535	August 29, 2013 Memo re: Guidance re Marijuana Enforcement	/	/	/
264	Serenity000536- Serenity000546	Building Establishment Information	7-15-19	NO	7-15-19 WA
265	DOT032126- DOT032393	Tryke Scoring Sheets			

266 SPREADSHEET 8-14-19 NO 8-14-19 WA

267 SHANE TERRY'S APPLICATION 8-14-19 NO 8-14-19 WA
(REDACTED)

EXHIBIT(S) LIST

Case No.: **A-19-786962-B**

Hearing Date: **MAY 24, 2019**

Dept. No.: **XI**

Judge: **HON. ELIZABETH GONZALEZ**

Plaintiff: **SERENITY WELLNESS CENTER, LLC**

Court Clerks: **DULCE ROMERA**

Recorder: **JILL HAWKINS**

Defendant: **STATE OF NEVADA
DEPARTMENT OF TAXATION**

Counsel for Plaintiff: **THEODORE PARKER, ESQ.**

Counsel for Defendant: **STEVEN SHEVORSKI;
KETAN DHIRUD;
THERESA HAAR**

See 5/24/19 minutes for complete list of appearances.

HEARING BEFORE THE COURT

PLAINTIFF'S EXHIBITS (NEVADA WELLNESS CENTER represented by Atty. Theodore Parker)

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
301	ATTACHMENT A: RECREATIONAL MARIJUANA ESTABLISHMENT APPLICATION (COMMERCIAL PARK MEDICAL)	6-11-19	NO	6-11-19	WA
302	ATTACHMENT A: RECREATIONAL MARIJUANA ESTABLISHMENT APPLICATION (ESSENCE TROPICANA)	6-11-19	NO	6-11-19	WA
303	SPREADSHEETS	6-11-19	NO	6-11-19	WA
304	SCORING NOTES (RD0263)	6-18-19	NO	6-18-19	WA
305	SCORING NOTES (RD386 to RD390)	6-18-19	NO	6-18-19	WA
306	NWC EVALUATOR'S FILE	6-20-19	NO	6-20-19	WA
307	PART 1 OF NEVADA WELLNESS' 2018 APPLICATION	6-20-19	NO	6-20-19	WA
308	OVERVIEW OF MEETING WITH DRS	8-13-19	OBJ	8-13-19	WA
309	MARKET DEMAND + DISTRIBUTION REQUIREMENTS	8-13-19	OBJ	8-13-19	WA?
310	EMAIL TO JORGE PUPO 8/23/18	8-13-19	OBJ	8-13-19	WA
311	EMAIL TO JORGE PUPO 8/4/17	8-13-19	OBJ	8-13-19	WA

* NOTE: All exhibits that were not offered or admitted returned to counsel. See receipt filed 8-16-19.

AA 006305

EXHIBIT(S) LIST

Case No.: A-19-786962-B

Hearing Date: May 24, 2019

Dept. No.: XI

Judge: Honorable Elizabeth Gonzalez

Plaintiff: Serenity Wellness Center, LLC, et al.

Court Clerk: DULCE ROMERA J. ALAN PAUL CASTLE SR

Recorder: Jill Hawkins

Counsel for Plaintiff: Adam K. Bult, Esq.
Maximilien D. Fetaz, Esq.
Travis F. Chance, Esq.

vs.

Brownstein Hyatt Farber Schreck, LLP

Defendants: STATE OF NEVADA,
DEPARTMENT OF TAXATION; Nevada
Organic Remedies, LLC, Defendant
Intervenor

Counsel for Defendant: Aaron Ford, Esq.
Ketan Bhirud, Esq.
Steve Shevorski, Esq.
David Pope, Esq.

Office of the Attorney General

HEARING BEFORE THE COURT

ETW PLAINTIFF'S EXHIBITS *(Represented by Bult, Fetaz, Chance)*

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
401	DOT-ETW000001-DOT-ETW000139	ETW MANAGEMENT GROUP LLC, September 2018 Recreational Marijuana Establishment License, Identified	5/24/19	STIP	5/24/19	WA
402	DOT-Global000001-DOT-Global000299	GLOBAL HARMONY LLC, September 2018 Recreational Marijuana Establishment License, Identified				WA
403	DOT-Green Therapeutics000001-DOT-Green Therapeutics000637	GREEN THERAPEUTICS LLC, September 2018 Recreational Marijuana Establishment License, Identified				WA
404	DOT-GreenLeaf000001-DOT-Greenleaf000448	GREEN LEAF FARMS HOLDINGS LLC, September 2018 Recreational Marijuana Establishment License, Identified				WA
405	DOT-HerbalChoice000001-DOT-HerbalChoice000093	HERBAL CHOICE INC., September 2018 Recreational Marijuana Establishment License, Identified				WA
06	DOT-JustQuality000001-DOT-JustQuality000243	JUST QUALITY, LLC, September 2018 Recreational Marijuana Establishment License, Identified	5/24/19	STIP	5/24/19	WA

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** All exhibits that were not offered/admitted were returned to counsel. See receipt filed 8-16-19.*

Printed May 23, 2019

AA 006306

EXHIBIT(S) LIST

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
107	DOT-Libra000001-DOT-Libra000333	LIBRA WELLNESS CENTER, LLC, September 2018 Recreational Marijuana Establishment License, Identified	5/24/19	STIP	5/24/19	WA
408	DOT-MMOF000001-DOT-MMOF000179	MMOF VEGAS RETAIL, INC., September 2018 Recreational Marijuana Establishment License, Identified				WA
409	DOT-NevCann000001-DOT-NevCann000153	NEVCANN LLC, September 2018 Recreational Marijuana Establishment License, Identified				WA
410	DOT-RedEarth000001-DOT-RedEarth000170	RED EARTH LLC, September 2018 Recreational Marijuana Establishment License, Identified				WA
411	DOT-Rombough000001-DOT-Rombough000519	ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, September 2018 Recreational Marijuana Establishment License, Identified				WA
412	DOT-THCNV000001-DOT-THCNV000955	THC NEVADA LLC, September 2018 Recreational Marijuana Establishment License, Identified				WA
413	DOT-Zion000001-DOT-Zion000652	ZION GARDENS LLC, September 2018 Recreational Marijuana Establishment License, Identified	5/24/19	STIP	5/24/19	WA
414	COMP A000001-COMP A000381	Company A, September 2018 Recreational Marijuana Establishment License, Non-Identified	8-14-19	NO	8-14-19	WA
415	COMP B000001-COMP B000318	Company B, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
416	COMP C000001-COMP C000175	Company C, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
417	COMP D000001-COMP D000215	Company D, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
418	COMP E000001-COMP E000324	Company E, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
419	COMP F000001-	Company F, September 2018	8-14-19	NO	8-14-19	WA

Printed May 23, 2019

EXHIBIT(S) LIST

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
	COMPF000359	Recreational Marijuana Establishment License, Non-Identified	8-14-19	NO	8-14-19	
420	COMPG000001- COMPG000228	Company G, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
421	COMPH000001- COMPH000232	Company H, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
422	COMPI000001- COMPI000368	Company I, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
423	COMPJ000001- COMPJ000228	Company J, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
424	COMPK000001- COMPK000363	Company K, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
425	COMPL000001- COMPL000678	Company L, September 2018 Recreational Marijuana Establishment License, Non-Identified				WA
426	COMPM000001- COMPM000382	Company M, September 2018 Recreational Marijuana Establishment License, Non-Identified	8-14-19	NO	8-14-19	WA
427		Affidavit of Paul Thomas executed May 3, 2019				
428		Affidavit of Ronald A. Memo executed May 3, 2019				
429		Affidavit of Dispensary Application of Andy Zhang executed May 6, 2019				
430		Affidavit of Global Harmony LLC executed by John Heishman on May 6, 2019				
431		Affidavit of Ronald Doumani executed May 6, 2019				
32	DOT-ETW000007-DOT- ETW000009	ETW MANAGEMENT GROUP LLC, Attachment A	8-14-19	NO	8-14-19	WA

SEE NEXT PAGE →

Printed May 23, 2019

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AA 006308

EXHIBIT(S) LIST

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
	DOT-Global000005-DOT-Global000010	GLOBAL HARMONY LLC, Attachment A	8-14-19	NO	8-14-19	WA
434	DOT-GreenLeaf000009-DOT-GreenLeaf000016	GREEN LEAF FARMS HOLDINGS LLC, Attachment E				WA
435	DOT-GreenTherapeutics000008-DOT-GreenTherapeutics000031	GREEN THERAPEUTICS LLC, Attachment A				WA
436	DOT-HerbalChoice000077-DOT-HerbalChoice000085	HERBAL CHOICE INC., Attachment A				WA
437	DOT-JustQuality000004-DOT-JustQuality000007	JUST QUALITY, LLC, Attachment A				WA
438	DOT-Libra000006-DOT-Libra000010	LIBRA WELLNESS CENTER, LLC, Attachment A				WA
439	DOT-MMOF000007-DOT-MMOF000012	MMOF VEGAS RETAIL, INC., Attachment A				WA
440	DOT-NevCann000003-DOT-NevCann000017	NEVCANN LLC, Attachment A				WA
441	DOT-RedEarth000008-DOT-RedEarth000014	RED EARTH LLC, Attachment A				WA
442	DOT-Rombough000009-DOT-Rombough000018	ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, Attachment A and E				WA
443	DOT-THCNV000006-DOT-THCNV000017	THC NEVADA LLC, Attachment A				WA
444	DOT-Zion000006-DOT-Zion000012	ZION GARDENS LLC, Attachment A				WA
445		Plaintiffs' Key re Non-Identified Applications	8-14-19	NO	8-14-19	WA
446	ETW000001-ETW000060	Email Correspondence with Department of Taxation re Application Question and Answers	6-20-19	NO	6-20-19	WA

EXHIBIT(S) LIST

Case No.: A-19-787004-B
Coordinated with:
A-18-785818-W,
A-18-786357-W,
A-19-787004-B,
A-19-787540-W,
A-19-786962-B, and
A-19-787726-C

Hearing Date: May 24, 2019

Dept. No.: XI

Judge: Elizabeth Gonzalez

Court Clerk: DULCE RIVERA; ALAN PAUL CASTLE SR

Recorder: JILL HAWKINS

Counsel for Plaintiff: Will Kemp, Esq.
Nathanael R. Rulis, Esq.

Plaintiff: MM DEVELOPMENT COMPANY, INC. a Nevada Corporation, LIVFREE WELLNESS LLC, dba The Dispensary, a Nevada limited liability company

vs.

Defendant: STATE OF NEVADA ex rel. its DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 1

Counsel for Defendant: Ketan D. Bhirud
Steve Shevorski
Theresa M. Haar
David J. Pope
Robert E. Werbicky

HEARING BEFORE THE COURT

DEFENDANT'S EXHIBITS - The Department of Taxation reserves the right to use, offer, and rely upon any other document identified by any other party to this coordinated matter.

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
2001	2000-2169	Application Training - Day 1 - Sign In & Complete Icebreaker	5/24/19	STIP	5/24/19	WA
2002	2170-2233	Application Training - Train the Trainer				WA
2003	2234-2366	Application Training - Application & Score Sheet				WA
2004	2367-2389	Application Training - Application Practice				WA
2005	2390-2400	Application Criteria Points Breakdown				WA
2006	2401-2444	Application Training - Sign In				WA
2007	2445-2483	Application Training - Sign In				WA
2008	2484-2486	Executive Order Establishing a Task Force on the Implementation of Ballot Question 2: The Regulation and Taxation of Marijuana Act				WA
2009	2487-2647	Governor's Task Force on the Implementation of Question 2: The Regulation and Taxation of Marijuana Act - Final Report	5/24/19	STIP	5/24/19	WA

*NOTE: All exhibits that were not offered or admitted returned to counsel. See Receipt filed 8-16-19

Printed May 23, 2019

AA 006310

EXHIBIT(S) LIST

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A-19-787004-B

coordinated with:

A-18-785818-W,

A-18-786357-W,

A-19-787004-B,

A-19-787540-W,

A-19-786962-B, and

A-19-787726-C

MM DEVELOPMENT COMPANY, INC., et al.

vs.

STATE OF NEVADA ex rel. its DEPARTMENT OF TAXATION

DEFENDANT'S EXHIBITS - The Department of Taxation reserves the right to use, offer, and rely upon any other document identified by any other party to this coordinated matter.

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
2010	2648-2650	Retail Dispensaries in Clark County and Washoe County	5/24/19	STIP	5/24/19	WA
2011	2651	Stores Outside Washoe and Clark Counties				WA
2012	2652-2656	Score Sheet - Adequacy of Size - Building Plans (Non-Identified)				WA
2013	2657-2670	Score Sheet - Care, Quality Safekeeping (Non-Identified)				WA
2014	2671-2674	Score Sheet - Financial Resources (Identified)				WA
2015	2675-2678	Score Sheet - Likely Impact on the Community (Non-Identified)				WA
2016	2679-2684	Score Sheet - Organizational Structure (Identified)				WA
2017	2685-2688	Score Sheet - Taxes Beneficial Financial Contributions				WA
2018	2689-2695	2018 Retail Marijuana Store Application Scores and Rankings	5/24/19	STIP	5/24/19	WA
2019	DOF-GBCSNV 000008	ATTACHMENT A TO RECREATIONAL MARIJUANA ESTABLISHMENT APPLICATION BALLOT INITIATIVE	5-30-19	NO	5-30-19	WA
2020			6-18-19	NO	6-18-19	WA
2021		LIST SERVE ARCHIVE	7-10-19	NO	7-10-19	WA
2022		EMAIL ARCHIVE	7-10-19	NO	7-10-19	WA
2023			7-15-19	NO	7-15-19	WA
2024			7-15-19	NO	7-15-19	WA

Printed May 23, 2019

AA 006311

EXHIBIT(S) LIST

Case No.: A-19-787004-B
Coordinated with:
A-18-785818-W,
A-18-786357-W,
A-19-787004-B,
A-19-787540-W,
A-19-786962-B, and
A-19-787726-C

Hearing Date: MAY 24, 2019

Dept. No.: XI

Judge: Elizabeth Gonzalez

Plaintiff: SERENITY WELLNESS ET AL.

Court Clerk: DULCE ROMERA; ALAN PAUL CASTLE SR.

Recorder: JILL HAWKINS

Counsel for Plaintiff: Will Kemp, Dominic Gentile

vs.

Defendant: **STATE OF NEVADA, DEPT. OF TAXATION**
Def. Intervenor: **NEVADA ORGANIC REMEDIES, LLC, et al.**

Counsel for Defendant-Intervenors: David Koch, Brody Wight

HEARING BEFORE THE COURT

DEFENDANT-INTERVENOR'S EXHIBITS – Defendant-Intervenors reserve the right to use, offer, and rely upon any other document identified by any other party to this coordinated matter.

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
5001		SB32	5/24/19	STIP	5/24/19	WA
5002		2014 Application				WA
5003		2018 Application				WA
5004		Final Score Rankings by Jurisdiction				WA
5005		July 6, 2018 Notice of Intent to Accept Applications				WA
5006		Entity Application Key				WA
5007		Identified Tally Sheets Combined				WA
5008		Non-Identified Tally Sheets				WA
5009		Procedure Scoring Review				WA
5010		TGIG Secretary of State Information				WA
5011	DOT-TGIG08853-8972	TGIG Organizational Structure Tab				WA
5012	DOT-TGIG00089	Sept. 13, 2018 Letter from Dept. of Taxation to Amanda Connor re TGIG, LLC	5/24/19	STIP	5/24/19	WA

* NOTE: All exhibits that were proposed but not offered/ admitted have been returned to counsel. See Receipt filed 8/29/19.

Printed May 24, 2019

AA 006312

EXHIBIT(S) LIST

5013	DOT- TGIG08878	TGIG list of officers, owners, board members	5/24/19	STIP	5/24/19	WA
5014		New Cannabis Ventures Article "5 U.S. Cannabis Companies..."	/	/	/	WA
5015		New Cannabis Ventures Article "This Cannabis SPAC Expects Dramatic Growth..."	/	/	/	WA
5016	DOT-Livfree 01441-1469	Livfree Wellness, LLC Part I, Tab X	/	/	/	WA
5017		Article: "Carpincho Capital Completes Business Combination with MM Development Company..."	6/24/19	STIP	5/24/19	WA

SEE NEXT PAGE - 7

EXHIBIT(S) LIST

5013	DOT-TGIG08878	TGIG list of officers, owners, board members			
5014		New Cannabis Ventures Article "5 U.S. Cannabis Companies..."			
5015		New Cannabis Ventures Article "This Cannabis SPAC Expects Dramatic Growth..."			
5016	DOT-Livfree 01441-1469	Livfree Wellness, LLC Part I, Tab X			
5017		Article: "Carpincho Capital Completes Business Combination with MM Development Company..."			
5018		Rating Criteria on Application - Recommendations	5-28-19	NO	5-28-19 WA
5019		Planet 13 Holdings Inc. Management Discussion and Analysis			
5020		Planet 13 Holdings Inc. Annual Information Form for the year ended December 31, 2018			
5021		Planet 13 Corporate Presentation April 2019	5-29-19	NO	5-29-19 WA
5022		Planet 13 Team	5-29-19	NO	5-29-19 WA
5023		Department of Taxation Licensed Entity Owners/Officers/Board Members as of May 1, 2019	5-29-19	NO	5-29-19 WA
5024		Dec. 29, 2016 Article "Las Vegas Pot Dispensary's License Is Suspended" Las Vegas Sun			

EXHIBIT(S) LIST

5013	DOT-TGIG08878	TGIG list of officers, owners, board members			
014		New Cannabis Ventures Article "5 U.S. Cannabis Companies..."			
5015		New Cannabis Ventures Article "This Cannabis SPAC Expects Dramatic Growth..."			
5016	DOT-Livfree 01441-1469	Livfree Wellness, LLC Part I, Tab X			
5017		Article: "Carpincho Capital Completes Business Combination with MM Development Company..."			
5018		Rating Criteria on Application - Recommendations			
5019		Planet 13 Holdings Inc. Management Discussion and Analysis			
5020		Planet 13 Holdings Inc. Annual Information Form for the year ended December 31, 2018			
5021		Planet 13 Corporate Presentation April 2019			
5022		Planet 13 Team			
5023		Department of Taxation Licensed Entity Owners/Officers/Board Members as of May 1, 2019			
5024		Dec. 29, 2016 Article "Las Vegas Pot Dispensary's License Is Suspended" Las Vegas Sun			
5025		Nevada Organic Remedies Organizational Structure	6-10-19	NO	6-10-19 WA
026		NOR Transfer of Interest Approval Letter	6-10-19	NO	6-10-19 WA
5027		NOR Ownership Approval Letter and Notice of Officer Letters	6-11-19	NO	6-11-19 WA
5028		Page from NOR Operating Agreement	6-11-19	NO	6-11-19 WA
5029		Serenity Wellness Center LLC Secretary of State Page	7-15-19	NO	7-15-19 WA
5030		Alternative Solutions LLC Secretary of State Page	7-15-19	NO	7-15-19 WA
5031		CLS Holdings USA, Inc. Secretary of State Page	7-15-19	NO	7-15-19 WA
5032		Serenity Wellness Attachment A			
5033		Serenity Wellness Organization Chart	7-15-19	NO	7-15-19 WA
5034		Serenity Wellness Center Attachment C			
5035	Serenity 00005	Serenity Wellness Center Letter Sept. 13, 2018	7/1/19	NO	7/1/19 WA
5036	ETW 00024-60	ETW Listserv Email	6-11-19	NO	6-11-19 WA
5037	ETW 00059	ETW Attachment A	6-11-19	NO	6-11-19 WA
5038	DOT021838-21840	Organizational Structure (Identified) NOR	6-11-19	NO	6-11-19 WA
039		MM Development Company, Inc. Secretary of State Listing	6-18-19	NO	6-18-19 WA
5040		Nevada Wellness Center, LLC Sec. State List	6-18-19	NO	6-18-19 WA

Printed June 19, 2019

AA 006315

EXHIBIT(S) LIST

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
5041	UPS Store Printout			
5042	Initiative to Regulate and Tax Marijuana – Filed April 23, 2014	6-20-19	NO	6-20-19 <i>WA</i>
5043	Statewide Ballot Questions 2016	6-20-19	NO	6-20-19 <i>WA</i>
5044	Letter dated January 10, 2019 from Jorge Pupo to Will Kemp	6-20-19	NO	6-20-19 <i>WA</i>

CONTINUED NEXT PAGE →

EXHIBIT(S) LIST

Case No.: A-19-787004-B
Coordinated with:
A-18-785818-W,
A-18-786357-W,
A-19-787004-B,
A-19-787540-W,
A-19-786962-B, and
A-19-787726-C

Hearing Date: MAY 24, 2019

Dept. No.: XI

Judge: Elizabeth Gonzalez

Court Clerk: Dulce Romero

Plaintiff: SERENITY WELLNESS ET AL.

Recorder: Jill Hawkins

Counsel for Plaintiff: Will Kemp, Dominic Gentile

vs.

Adam Bult, Theodore Parker

Defendant: STATE OF NEVADA, DEPT. OF TAXATION

Counsel for Defendant:
Intervenor: Joseph Gutierrez

HEARING BEFORE THE COURT

DEFENDANT-INTERVENOR'S EXHIBITS (ESSENCE, INTEGRAL, THRIVE)

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted
5045		MINUTES OF THE LEGISLATIVE COMMISSION	7-1-19	NO	7-1-19 WA
5046		FINAL REPORT OF GOVERNOR'S TASK FORCE MAY 31, 2017	* Same as 2009, already admitted. 5046 not provided to Clerk. *		
5047		TEXT MESSAGES	7-15-19	NO	7-15-19 WA
5048		TEXT MESSAGES	7-15-19	NO	7-15-19 WA
5049		GOVERNOR'S TASK FORCE MINUTES MARCH 3, 2017	7-11-19	NO	7-11-19 WA
5050		GOVERNOR'S TASK FORCE MINUTES MARCH 31, 2017			
5051		ASSEMBLY BILL MINUTES MAY 3, 2017			

EXHIBIT(S) LIST

			Offered	Objection	Date Admitted	
5052		ASSEMBLY BILL MINUTES MAY 30, 2017				
5053		EMAIL CORRESPONDENCE/ HEATHER AZZI; SUPPLEMENT TO POCKET BRIEF 16: MEANING OF PHRASE...				
5054		LEGISLATIVE REVIEW OF ADOPTED REGULATIONS				
5055		PLANET 13 HOLDINGS INC. MANAGEMENT DISCUSSION & ANALYSIS OF THE FINANCIAL POSITION & RESULTS OF OPERATIONS	7-15-19	NO	7-15-19	WA
5056		SUPPLEMENTAL REGISTRATION BY THRIVE	7-15-19	OBJ (Sustained)		WA
5057		LETTER FROM MARK BRADLEY TO DEPT. OF TAXATION				
5058		610 SCIENCES LETTER TO DEPT OF TAXATION				
5059		AFFIDAVIT OF KATHY PETERSON	7-18-19	OBJ (Sustained)		WA
5060		2/7/18 ARTICLE IN MARIJUANA BUSINESS DAILY: "STAND-ALONE MARIJUANA GROWERS"				
5061		2/27/18 ARTICLE: "IN SPITE OF CONCERNS FROM SMALLER BUSINESSES LAWMAKERS UNANIMOUSLY APPROVE MARIJUANA REGULATIONS				
5062		THRIVE BACKGROUND CHECK (5-2-10-2 OWNER, OFFICER, AND BOARD MEMBER ATTESTATION FORM)	8-13-19	NO	8-13-19	WA

CONTINUED NEXT PAGE --7

EXHIBIT(S) LIST

Case No.: A-19-786962-B

Hearing Date: May 24, 2019

Dept. No.: **XI**

Judge: Honorable Elizabeth Gonzalez

Court Clerk: Danielle Meriwether

Plaintiff: **Serenity Wellness Center, LLC et al**

Recorder: Jill Hawkins

Counsel for Plaintiff: Dominic Gentile, Esq.

vs.

**Defendant: State of Nevada; Helping Hands
Wellness Center, Inc., Defendant
Intervenor**

Counsel for Defendant: Aaron Ford, Esq. (State Nevada)
Jared Kahn, Esq., (Intervenor Defendant)

HEARING BEFORE THE COURT

Defendant Intervenor's EXHIBITS *(HELPING HANDS WELLNESS CENTER, INC.)*

[illegible]

Printed August 13, 2019

AA 006319

EXHIBIT(S) LIST

Case No.: A-19-786962-B

Hearing Date: MAY 24, 2019

Dept. No.: XI

Judge: HON. ELIZABETH GONZALEZ

Plaintiff: SERENITY WELLNESS CENTER, LLC

Court Clerk(s): DULCE ROMERA

Recorder: JILL HAWKINS

Counsel for Plaintiff: _____

vs.

Defendant: STATE OF NEVADA
DEPARTMENT OF TAXATION

Counsel for Defendant: _____

See 5/24/19 minutes for complete list of appearances.

HEARING BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted Marked	
1	COURT'S DISCLOSURE RE: FLOWERS RECEIVED	_____	_____	6-10-19	WA
2	DENNIS PRINCE'S POWERPOINT FOR CLOSING ARGUMENT	_____	_____	8-16-19	WA
3	EMAIL FROM MR. SHEVORSKI (See 8-22-19) (White Order)	_____	_____	8-22-19	WA

EXHIBIT(S) LIST

Case No.: A-19-786962-B

Hearing Date: MAY 24, 2019

Dept. No.: XI

Judge: HON. ELIZABETH GONZALEZ

Plaintiff: SERENITY WELLNESS CENTER, LLC

Court
Clerks: DULCE ROMERA

Recorder: JILL HAWKINS

Counsel for Plaintiff:

Defendant: STATE OF NEVADA
DEPARTMENT OF TAXATION

Counsel for Defendant:

See 5/24/19 minutes for complete list of appearances.

HEARING BEFORE THE OCURT

DEMONSTRATIVE EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted Marked	
D-1	THUMB DRIVE			5-28-19	WA
D-2	SLIDE "FACTUAL STATEMENT"			5-31-19	WA
D-3	MR. KEMP'S HYPOTHETICAL DRAWING			6-10-19	WA
D-4	SLIDES BY MR. CRISTALL			6-11-19	WA
D-5	INSTRUCTIONS FOR LIMITED-LIABILITY COMPANY ARTICLES OF ORGANIZATION			6-11-19	WA
D-6	NEVADA ORGANIC REMEDIES LLC ANNUAL LIST OF OFFICERS			6-11-19	WA
D-7	GOOGLE MAPS PHOTO			6-11-19	WA
D-8	UPS STORE ADDRESS			6-11-19	WA
D-9	SLIDES USED BY MR. MILLER IN EXAMINATION OF JORGE PUPO			6-20-19	WA
D-10	RED LINE DRAFT VERSION OF 453A RE: 5% INTEREST			7-12-19	WA

AA 006321



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

MARGARET A. MCLETCHIE
701 E. BRIDGER AVE., SUITE 250
LAS VEGAS, NV 89101

DATE: September 23, 2019
CASE: A-19-786962-W

RE CASE: SERENITY WELLNESS CENTER, LLC; TGIG, LLC; NULEAF INCLINE DISPENSARY, LLC;
NEVADA HOLISTIC MEDICINE, LLC; TRYKE COMPANIES SO NV, LLC; TRYKE COMPANIES RENO, LLC; GBS
NEVADA PARTNERS, LLC; FIDELIS HOLDINGS, LLC; GRAVITAS NEVADA, LLC; NEVADA PURE, LLC;
MEDIFARM, LLC; MEDIFARM IV, LLC vs. STATE OF NEVADA DEPARTMENT OF TAXATION

NOTICE OF APPEAL FILED: September 19, 2019

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.***

AA 006322

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):

DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S
NOTICE OF APPEAL; DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S
CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET;
FINDINGS OF FACT AND CONCLUSIONS OF LAW GRANTING PRELIMINARY INJUNCTION;
NOTICE OF ENTRY; AMENDED NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES;
EXHIBITS LIST; NOTICE OF DEFICIENCY

SERENITY WELLNESS CENTER, LLC;
TGIG, LLC; NULEAF INCLINE
DISPENSARY, LLC; NEVADA HOLISTIC
MEDICINE, LLC; TRYKE COMPANIES SO
NV, LLC; TRYKE COMPANIES RENO, LLC;
GBS NEVADA PARTNERS, LLC; FIDELIS
HOLDINGS, LLC; GRAVITAS NEVADA,
LLC; NEVADA PURE, LLC; MEDIFARM,
LLC; MEDIFARM IV, LLC,

Plaintiff(s),

vs.

STATE OF NEVADA DEPARTMENT OF
TAXATION,

Defendant(s),

GREENMART OF NEVADA NLV LLC,

Defendant-Intervenor.

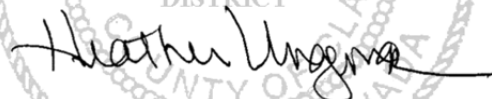
Case No: A-19-786962-W

Dept No: XI

now on file and of record in this office.

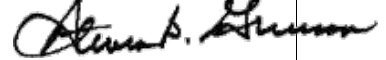
IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 23 day of September 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

AA 006323



**NOAS
H1 LAW GROUP**

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Phone 702-608-3720
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*Attorneys for Intervenor/Defendant
Lone Mountain Partners, LLC*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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, 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 IV,
LLC a Nevada limited liability company, DOE
PLAINTIFFS I through X; and ROE ENTITY
PLAINTIFFS I through X,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant.

LONE MOUNTAIN PARTNERS, LLC, a Nevada
limited liability partnership,

Intervenor/Defendant.

Case No. A-19-786962-B

Dept. No. 11

**LONE MOUNTAIN PARTNERS, LLC'S
NOTICE OF APPEAL**





1 Notice is hereby given that Lone Mountain Partners, LLC appeals to the Supreme Court of
2 Nevada from the Findings of Fact and Conclusions of Law Granting Preliminary Injunction issued
3 by Judge Elizabeth Gonzalez, notice of which was entered on August 28, 2019.¹

4 Dated this 27th day of September 2019.

5 H1 LAW GROUP

6 A blue ink signature of Eric D. Hone, written over a horizontal line.

7 Eric D. Hone, NV Bar No. 8499
eric@h1lawgroup.com

8 Jamie L. Zimmerman, NV Bar No. 11749
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10 701 N. Green Valley Parkway, Suite 200
11 Henderson NV 89074

12 Phone 702-608-3720

13 Fax 702-608-3759

14 *Attorneys for Intervenor/Defendant*
15 *Lone Mountain Partners, LLC*

16
17
18
19
20
21
22 ¹ The Amended Notice of Entry of Order filed on September 19, 2019 identifies the following six matters coordinated
23 for the purposes of the preliminary injunction hearing pursuant to the Court's July 11, 2019 Order regarding same:

- 24 1) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-18-785818-W;
25 2) *Compassionate Team of Las Vegas LLC v. State of Nevada, Department of Taxation*, Case No. A-18-786357-W;
26 3) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;
27 4) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;
28 5) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W; and
6) *High Sierra Holistics, LLC v. State of Nevada, Department of Taxation*, Case No. A-19-787726-C.




CERTIFICATE OF SERVICE

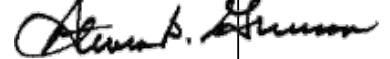
The undersigned, an employee of H1 Law Group, hereby certifies that on the 27th day of September 2019, she caused a copy of the foregoing **Notice of Appeal**, to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system.

<p><i>Serenity Wellness Center LLC; TGIG, LLC; Nuleaf Incline Dispensary, LLC; Nevada Holistic Medicine, LLC; Tryke Companies SO NV, LLC; Tryke Companies Reno, LLC; Paradise Wellness Center, LLC; GBS Nevada Partners, LLC; Fidelis Holdings, LLC; Gravitas Nevada, LLC; Nevada Pure, LLC; and Medifarm, LLC:</i> Dominic P. Gentile (dgentile@clarkhill.com) Vincent Savarese III (vsavarese@clarkhill.com) Michael V. Cristalli (mcristalli@clarkhill.com) Ross J. Miller (rmiller@clarkhill.com) ShaLinda Creer (screer@clarkhill.com) Tanya Bain (tbain@clarkhill.com)</p>	<p><i>ETW Management Group, LLC; Global Harmony, LLC; Green Leaf Farms Holdings, LLC; Green Therapeutics, LLC; Herbal Choice, Inc.; Just Quality, LLC; Libra Wellness Center, LLC; Rombough Real Estate, Inc. dba Mother Herb; NevCann, LLC; Red Earth, LLC; THC Nevada, LLC; Zion Gardens, LLC; and MMOF Vegas Retail, Inc.:</i> Adam K. Bult (abult@bhfs.com) Maximillen Fetaz (mfetaz@bhfs.com) Travis Chance (tchance@bhfs.com) Adam Fulton (afulton@jfnvlaw.com) Jared Jennings (jjennings@jfnvlaw.com) Vicki Bierstedt (vickib@jfnvlaw.com) Norma Richter (nrichter@jfnvlaw.com) Logan Willson (Logan@jfnvlaw.com) Paula Kay (pkay@bhfs.com)</p>
<p><i>MM Development Company, Inc. and LivFree Wellness, LLC</i> William S. Kemp Nathaniel R. Rulis (n.rulis@kempjones.com) Patricia Stoppard (p.stoppard@kempjones.com) Ali Augustine (a.augustine@kempjones.com)</p>	<p><i>Nevada Wellness Center, LLC.</i> Theodore Parker ('tparker@pnalaw.net)</p>
<p><i>State of Nevada Department of Taxation:</i> Aaron Ford Steven Shevorski (sshevorski@ag.nv.gov) David J. Pope(dpope@ag.nv.gov) Robert E. Werbicky (rwerbicky@ag.nv.gov) Ketan Bhirud (kbhirud@ag.nv.gov) Traci Plotnick (tplotnick@ag.nv.gov) Theresa Haar (thaar@ag.nv.gov) Mary Pizzariello (mpizzariello@ag.nv.gov) Barbara Fell (bfell@ag.nv.gov)</p>	<p><i>Clear River, LLC:</i> Brigid Higgins (bhiggins@blacklobello.law) Jerri Rusty J. Graf (Rgraf@blacklobello.law) Hunsaker (jhunsaker@blacklobello.law) Diane Meeter (dmeeter@blacklobello.law) Joyce Martin (jmartin@blacklobello.law)</p>



<p>GreenMart of Nevada NLV LLC: Margaret McLetchie (maggie@nvlitigation.com) Alina Shell (alina@nvlitigation.com)</p>	<p>Helping Hands Wellness Center Inc: Jared Kahn (jkahn@jk-legalconsulting.com)</p>
<p>Integral Associates, LLC d/b/a Essence Cannabis Dispensaries; Essence Tropicana, LLC; Essence Henderson, LLC: James Pisanelli (lit@pisanellibice.com) Todd Bice (tlb@pisanellibice.com) Jordan Smith (jts@pisanellibice.com) MGA Docketing (docket@mgalaw.com) Shannon Dinkel (sd@pisanellibice.com) Joseph Gutierrez (jag@mgalaw.com) Jason R. Maier (jrm@mgalaw.com) Philip M. Hymanson (phil@hymansonlawnv.com) Henry J. Hymanson (hank@hymansonlawnv.com)</p>	<p>CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace: Dennis M. Prince (dprince@thedplg.com) Kevin T. Strong (kstrong@thedplg.com) Joseph Gutierrez (jag@mgalaw.com) Jason R. Maier (jrm@mgalaw.com) Philip M. Hymanson (phil@hymansonlawnv.com) Henry J. Hymanson (hank@hymansonlawnv.com)</p>
<p>Nevada Organic Remedies: David R. Koch (dkoch@kochscow.com) Steven B. Scow (sscow@kochscow.com) Brody R. Wight (bwight@kochscow.com) Daniel G. Scow (dscow@kochscow.com) Andrea Eshenbaugh - Legal Assistant (aeshenbaugh@kochscow.com)</p>	<p>Other Service Contacts not associated with a party on the case: Daniel Simon (lawyers@simonlawlv.com) Alisa Hayslett (a.hayslett@kempjones.com) Cami Perkins, Esq. (cperkins@nevadafirm.com) Thomas Gilchrist (tgilchrist@bhfs.com) Lisa Lee (llee@thedplg.com) Eservice Filing (eservice@thedplg.com) Monice Campbell (monice@envision.legal) Theresa Mains, Esq. (theresa@theresamainspa.com) Rebecca Post (rebecca@connorpllc.com)</p>


Bobbye Donaldson, an employee of
H1 LAW GROUP



1 **JOPP**

2 MARGARET A. MCLEITCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEITCHIE LAW

5 701 East Bridger Avenue, Suite 520

6 Las Vegas, NV 89101

7 Telephone: (702) 728-5300

8 Email: maggie@nvlitigation.com

9 Counsel for Intervenor Defendant, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 NEVADA WELLNESS CENTER, LLC, a
13 Nevada limited liability company,

14 Plaintiff,

15 vs.

16 STATE OF NEVADA, DEPARTMENT OF
17 TAXATION; and NEVADA ORGANIC
18 REMEDIES, LLC,

19 Defendants.

20 GREENMART OF NEVADA NLV LLC, a
21 Nevada limited liability company,

22 Intervenor Defendant.

Case No.: A-19-787540-W

Dept. No.: XVIII

INTERVENOR DEFENDANT
GREENMART OF NEVADA NLV
LLC'S JOINDER TO
DEPARTMENT OF TAXATION'S
OPPOSITION TO NEVADA
WELLNESS CENTER, LLC'S
MOTION TO AMEND FINDINGS
OF FACTS AND CONCLUSIONS
OF LAW ISSUED ON AUGUST 23,
2019

23 Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its
24 undersigned counsel, McLetchie Law, hereby joins the Opposition to Nevada Wellness
25 Center, LLC's Motion to Amend Findings of Facts and Conclusions of Law Issued on August
26 23, 2019 filed in this matter by Defendant Department of Taxation on September 23, 2019
27 and adopts the arguments and grounds as stated in the Points and Authorities filed in support
28 of said Opposition.

In addition to the arguments raised by the Department of Taxation, GreenMart of
Nevada NLV LLC asserts that amending the Findings and Fact and Conclusions of Law
("FFCL") at this stage would be improvident given that the FFCL is currently the subject of



ATTORNEYS AT LAW
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LAS VEGAS, NV 89101
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WWW.NVLITIGATION.COM

multiple appeals. (See **Exhibits A-F**.) Given these multiple pending appeal, granting Nevada Wellness Center LLC summary judgment at this stage would run contrary to Nev. R. Civ. P. 1, which mandates that the Rules of Civil Procedure must “be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” If the Court were to grant Nevada Wellness Center LLC’s motion prior to the resolution of the appeals and amend the FFCL, the parties and the Court would be required to expend time and resources unwinding the effects of any such amendment or alteration. Thus, the Court should deny Nevada Wellness Center LLC’s motion.

DATED this the 30th day of September, 2019.

/s/ Alina M. Shell

MARGARET A. MCLETTCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETTCHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Intervenor Defendant, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing INTERVENOR DEFENDANT GREENMART OF NEVADA NLV LLC'S JOINDER TO DEPARTMENT OF TAXATION'S OPPOSITION TO NEVADA WELLNESS CENTER, LLC'S MOTION TO AMEND FINDINGS OF FACTS AND CONCLUSIONS OF LAW ISSUED ON AUGUST 23, 2019 in *Nevada Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No A- 19-787540-W, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

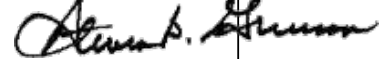
/s/ Pharan Burchfield

An Employee of McLetchie Law

INDEX OF EXHIBITS

Exhibit	Description	Case Related To
A	September 19, 2019 Notice of Appeal	A-18-786357-W
B	September 19, 2019 Notice of Appeal	A-19-787004-B
C	September 19, 2019 Notice of Appeal	A-19-787726-C
D	September 19, 2019 Notice of Appeal	A-18-785818-W
E	September 19, 2019 Notice of Appeal	A-19-787540-W
F	September 19, 2019 Notice of Appeal	A-19-786962-B

EXHIBIT A



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

5 701 East Bridger Avenue, Suite 520

6 Las Vegas, NV 89101

7 Telephone: (702) 728-5300

8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenors.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

(1) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;

(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLECHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLECHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

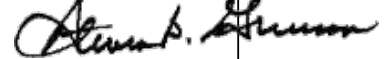
I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No. A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT B



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

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8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

29 STATE OF NEVADA, DEPARTMENT OF
30 TAXATION,

31 Defendant,

32 and

33 GREENMART OF NEVADA NLV LLC, a
34 Nevada limited liability company, et al.

35 Defendants-Intervenors.

36 ETW MANAGEMENT GROUP LLC, a
37 Nevada limited liability company; GLOBAL
38 HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive

Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,

Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

(1) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;

(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLEATCHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

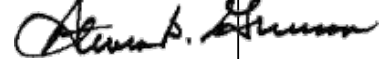
I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No. A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT C



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

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8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenor.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive

Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,

Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,

Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,

Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

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(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLECHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLECHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

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Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

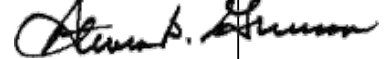
I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

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/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT D



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

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7 Telephone: (702) 728-5300

8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenor.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive

Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,

Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

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(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

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¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETCHIE LAW

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Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

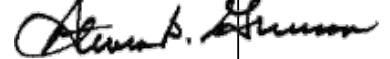
I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No. A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT E



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9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenors.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

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(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

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¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

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(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETCHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

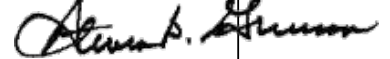
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/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT F



1 **NOAS**

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9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenor.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive

Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,

Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

(1) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;

(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

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¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

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(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETCHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

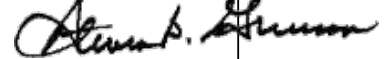
CERTIFICATE OF SERVICE

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/s/ Pharan Burchfield

An Employee of McLetchie Law



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9 Counsel for Intervenor Defendant, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 NEVADA WELLNESS CENTER, LLC, a
13 Nevada limited liability company,

14 Plaintiff,

15 vs.

16 STATE OF NEVADA, DEPARTMENT OF
17 TAXATION; and NEVADA ORGANIC
18 REMEDIES, LLC,

19 Defendants.

20 GREENMART OF NEVADA NLV LLC, a
21 Nevada limited liability company,

22 Intervenor Defendant.

Case No.: A-19-787540-W

Dept. No.: XVIII

INTERVENOR DEFENDANT
GREENMART OF NEVADA NLV
LLC'S JOINDER TO THE
ESSENCE ENTITIES' OPPOSITION
TO NEVADA WELLNESS CENTER,
LLC'S MOTION TO AMEND
FINDINGS OF FACTS AND
CONCLUSIONS OF LAW ISSUED
ON AUGUST 23, 2019, PURSUANT
TO NRCP 52

23 Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its
24 undersigned counsel, McLetchie Law, hereby joins the Opposition To Nevada Wellness
25 Center, LLC's Motion To Amend Findings Of Facts And Conclusions Of Law Issued On
26 August 23, 2019, Pursuant To NRCP 52 filed in this matter by Defendant in Intervention The
27 Essence Entities on September 23, 2019 and adopts the arguments and grounds as stated in
28 the Points and Authorities filed in support of said Opposition.

In addition to the arguments raised by the Essence Entities, GreenMart of Nevada
NLV LLC asserts that amending the Findings and Fact and Conclusions of Law ("FFCL")
at this stage would be improvident given that the FFCL is currently the subject of multiple



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1 appeals. (See **Exhibits A-F**.) Given these multiple pending appeal, granting Nevada
2 Wellness Center LLC summary judgment at this stage would run contrary to Nev. R. Civ. P.
3 1, which mandates that the Rules of Civil Procedure must “be construed, administered, and
4 employed by the court and the parties to secure the just, speedy, and inexpensive
5 determination of every action and proceeding.” If the Court were to grant Nevada Wellness
6 Center LLC’s motion prior to the resolution of the appeals and amend the FFCL, the parties
7 and the Court would be required to expend time and resources unwinding the effects of any
8 such amendment or alteration. Thus, the Court should deny Nevada Wellness Center LLC’s
9 motion.

10 DATED this the 30th day of September, 2019.

11
12 /s/ Alina M. Shell

13 MARGARET A. MCLETCHIE, Nevada Bar No. 10931

14 ALINA M. SHELL, Nevada Bar No. 11711

15 MCLETCHIE LAW

16 701 East Bridger Avenue, Suite 520

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20 *Counsel for Intervenor Defendant, GreenMart of Nevada NLV LLC*
21
22
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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing INTERVENOR DEFENDANT GREENMART OF NEVADA NLV LLC'S JOINDER TO THE ESSENCE ENTITIES' OPPOSITION TO NEVADA WELLNESS CENTER, LLC'S MOTION TO AMEND FINDINGS OF FACTS AND CONCLUSIONS OF LAW ISSUED ON AUGUST 23, 2019, PURSUANT TO NRCP 52 in *Nevada Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No A-19-787540-W, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

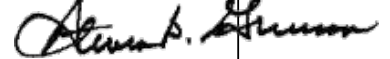
/s/ Pharan Burchfield

An Employee of McLetchie Law

INDEX OF EXHIBITS

Exhibit	Description	Case Related To
A	September 19, 2019 Notice of Appeal	A-18-786357-W
B	September 19, 2019 Notice of Appeal	A-19-787004-B
C	September 19, 2019 Notice of Appeal	A-19-787726-C
D	September 19, 2019 Notice of Appeal	A-18-785818-W
E	September 19, 2019 Notice of Appeal	A-19-787540-W
F	September 19, 2019 Notice of Appeal	A-19-786962-B

EXHIBIT A



1 **NOAS**

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3 ALINA M. SHELL, Nevada Bar No. 11711

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9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
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15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

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Nevada limited liability company, et al.

Defendants-Intervenors.

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Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

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DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

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DEFENDANT-INTERVENOR

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STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

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Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
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Defendants.

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Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

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(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLECHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLECHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

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Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

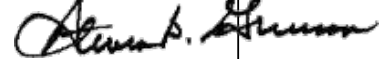
I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No. A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT B



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

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7 Telephone: (702) 728-5300

8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenors.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

(1) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;

(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

1 (4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case
2 No. A-19-787540-W;

3 (5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*,
4 Case No. A-18-786357-W; and

5 (6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case
6 No. A-19-787726-C.

7 DATED this the 19th day of September, 2019.

8
9 /s/ Margaret A. McLetchie

10 MARGARET A. MCLETCHIE, Nevada Bar No. 10931

11 ALINA M. SHELL, Nevada Bar No. 11711

12 MCLETCHIE LAW

13 701 East Bridger Avenue, Suite 520

14 Las Vegas, NV 89101

15 Telephone: (702) 728-5300

16 Email: maggie@nvlitigation.com

17 *Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC*

18
19 **CERTIFICATE OF SERVICE**

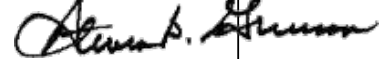
20 I hereby certify that on this 19th day of September, 2019, pursuant to
21 Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing
22 DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV
23 LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada,*
24 *Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be
25 served electronically using the Odyssey File & Serve system, to all parties with an email
26 address on record.

27 This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No.
28 A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-
787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT C



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

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8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenors.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

(1) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;

(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETCHIE LAW

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

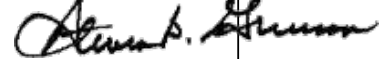
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/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT D



1 **NOAS**

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3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

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8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenor.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

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(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLECHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLECHIE LAW

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Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

CERTIFICATE OF SERVICE

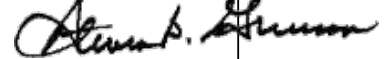
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This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No. A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT E



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

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6 Las Vegas, NV 89101

7 Telephone: (702) 728-5300

8 Email: maggie@nvlitigation.com

9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenors.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive
Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,
Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

(1) *Serenity Wellness Center, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-786962-B;

(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

1 (4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case
2 No. A-19-787540-W;

3 (5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*,
4 Case No. A-18-786357-W; and

5 (6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case
6 No. A-19-787726-C.

7 DATED this the 19th day of September, 2019.

8
9 /s/ Margaret A. McLetchie

10 MARGARET A. MCLETCHIE, Nevada Bar No. 10931

11 ALINA M. SHELL, Nevada Bar No. 11711

12 MCLETCHIE LAW

13 701 East Bridger Avenue, Suite 520

14 Las Vegas, NV 89101

15 Telephone: (702) 728-5300

16 Email: maggie@nvlitigation.com

17 *Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC*

18
19 **CERTIFICATE OF SERVICE**

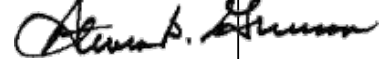
20 I hereby certify that on this 19th day of September, 2019, pursuant to
21 Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing
22 DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV
23 LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada,*
24 *Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be
25 served electronically using the Odyssey File & Serve system, to all parties with an email
26 address on record.

27 This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No.
28 A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-
787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law

EXHIBIT F



1 **NOAS**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

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9 Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MM DEVELOPMENT COMPANY, INC., a
13 Nevada Corporation, LIVFREE WELLNESS
14 LLC, dba The Dispensary, a Nevada limited
15 liability company,

16 Plaintiffs,

17 vs.

18 STATE OF NEVADA, DEPARTMENT OF
19 TAXATION; and DOES 1 through 10; and
20 ROE CORPORATIONS 1 through 10,

21 Defendants,

22 GREENMART OF NEVADA NLV LLC, a
23 Nevada limited liability company,

24 Defendant-Intervenor.

25 SERENITY WELLNESS CENTER, LLC, et
26 al.,

27 Plaintiffs,

28 vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION,

Defendant,

and

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company, et al.

Defendants-Intervenor.

ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS
HOLDINGS LLC, a Nevada limited liability

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL

Case No.: A-19-787004-B

Dept. No.: XI

DEFENDANT-INTERVENOR

company; GREEN THERAPEUTICS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; ROMBOUGH REAL ESTATE INC. dba MOTHER HERB, a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; and DOES 1 through 20; and ROE CORPORATIONS 1 through 20, inclusive

Defendants.

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Defendant-Intervenor.

COMPASSIONATE TEAM OF LAS VEGAS LLC, a Nevada Limited Liability Company;

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF TAXATION; DOES 1 through 10; and ROE CORPORATIONS 1 through 10,

Defendants;

GREENMART OF NEVADA NLV LLC, a Nevada limited liability company,
Intervenor Defendant.

HIGH SIERRA HOLISTICS, LLC,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF

**GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-18-786357-W

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

Case No.: A-19-787726-C

Dept. No.: XIV

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV**

TAXATION; DOES 1-10 and ROE
CORPORATIONS 1-10,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

NEVADA WELLNESS CENTER, LLC, a
Nevada limited liability company,
Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and NEVADA ORGANIC
REMEDIES, LLC,
Defendants.

GREENMART OF NEVADA NLV LLC, a
Nevada limited liability company,
Intervenor Defendant.

LLC'S NOTICE OF APPEAL

Case No.: A-19-787540-W

Dept. No.: XVIII

**DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Defendant-Intervenor GreenMart of Nevada NLV LLC, by and through its attorneys of record, Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Law, pursuant to Nevada Rule of Appellate Procedure 4(b)(1), hereby timely appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order entered in the following cases on August 28, 2019:¹

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(2) *MM Development Company, Inc. et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-785818-W;

(3) *ETW Management Group, LLC et. al. v. State of Nevada, Department of Taxation*, Case No. A-19-787004-B;

///

¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order which, in compliance with EDCR 2.50(b)(2), lists all six matters coordinated pursuant to the Court's order entered July 11, 2019. Regardless, this does not affect the timeliness of GreenMart of Nevada NLV, LLC's Notice of Appeal.

(4) *Nevada Wellness Center v. State of Nevada, Department of Taxation*, Case No. A-19-787540-W;

(5) *Compassionate Team of Las Vegas LLC v. Nevada Department of Taxation*, Case No. A-18-786357-W; and

(6) *High Sierra Holistics LLC v. State of Nevada Department of Taxation*, Case No. A-19-787726-C.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

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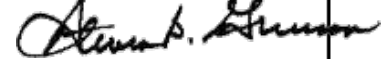
CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing DEFENDANT-DEFENDANT-INTERVENOR GREENMART OF NEVADA NLV LLC'S NOTICE OF APPEAL in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District Court Case No. A-19-786962-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

This document applies to Case No. A-19-786962-B; Case No. A-19-785818-W; Case No. A-19-787004-B; Case No. A-19-787540-W; Case No. A-18-786357-W; and Case No. A-19-787726-C.

/s/ Pharan Burchfield

An Employee of McLetchie Law



1 MTN
2 THEODORE PARKER, III, ESQ.
3 Nevada Bar No. 4716
4 **PARKER, NELSON & ASSOCIATES, CHTD.**
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9 Email: tparker@pnalaw.net

10 *Attorneys for Plaintiff*

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

13 SERENITY WELLNESS CENTER, LLC, a
14 Nevada limited liability company, TGIG, LLC,
15 a Nevada limited liability company, NULEAF
16 INCLINE DISPENSARY, LLC, a Nevada
17 limited liability company, NEVADA
18 HOLISTIC MEDICINE, LLC, a Nevada
19 limited liability company, TRYKE
20 COMPANIES SO NV, LLC a Nevada limited
21 liability company, TRYKE COMPANIES
22 RENO, LLC, a Nevada limited liability
23 company, PARADISE WELLNESS CENTER,
24 LLC, a Nevada limited liability company, GBS
25 NEVADA PARTNERS, LLC, a Nevada
26 limited liability company, FIDELIS
27 HOLDINGS, LLC, a Nevada limited liability
28 company, GRAVITAS NEVADA, LLC, a
Nevada limited liability company, NEVADA
PURE, LLC, a Nevada limited liability
company, MEDIFARM, LLC, a Nevada limited
liability company; DOE PLAINTIFFS I through
X; and ROE ENTITIES I through X,

Plaintiffs,

v.

THE STATE OF NEVADA, DEPARTMENT
OF TAXATION,
Defendant.

Defendants.

CASE NO.: A-19-786962-B
DEPT. NO.: XI

DATE OF HEARING:
TIME OF HEARING:

NEVADA WELLNESS CENTER, LLC,
MOTION TO AMEND FINDINGS OF
FACTS AND CONCLUSIONS OF LAW
ISSUED ON AUGUST 23, 2019,
PURSUANT TO NRCP 52

[Hearing Requested]

1 NEVADA WELLNESS CENTER, LLC, a
2 Nevada Limited Liability Company,
Plaintiff,

CASE NO.: A-19-787540-W
DEPT. NO.: XVIII

3 STATE OF NEVADA, DEPARTMENT OF
4 TAXATION; and DOES I through X; and ROE
CORPORATIONS I through X, inclusive,

5 Defendants.

6 MM DEVELOPMENT COMPANY, INC., a
7 Nevada corporation; LIVFREE WELLNESS
8 LLC, dba The Dispensary, a Nevada limited
liability company,

CASE NO.: A-18-785818-W
DEPT. NO.: VIII

9 Plaintiffs,

10 v.

11 STATE OF NEVADA, DEPARTMENT OF
TAXATION; and DOES 1 through 10; and
12 ROE CORPORATIONS 1 through 10.

13 Defendants

14 ETW MANAGEMENT GROUP LLC, a
Nevada limited liability company; GLOBAL
15 HARMONY LLC, a Nevada limited liability
company; GREEN LEAF FARMS HOLDINGS
16 LLC, a Nevada limited liability company;
GREEN THERAPEUTICS LLC, a Nevada
17 limited liability company; HERBAL CHOICE
INC., a Nevada corporation; JUST QUALITY,
18 LLC, a Nevada limited liability company;
LIBRA WELLNESS CENTER, LLC, a Nevada
19 limited liability company; ROMBOUGH
REAL ESTATE INC. dba MOTHER HERB, a
20 Nevada corporation; NEVCANN LLC, a
Nevada limited liability company; RED
21 EARTH LLC, a Nevada limited liability
company; THC NEVADA LLC, a Nevada
22 limited liability company; ZION GARDENS
LLC, a Nevada limited liability company; and
23 MMOF VEGAS RETAIL, INC., a Nevada
corporation,

CASE NO.: A-19-787004-B
DEPT. NO.:

24 Plaintiffs,

25 v.

26 STATE OF NEVADA, DEPARTMENT OF
TAXATION, a Nevada administrative agency;
27 DOES 1 through 20, inclusive; and ROE
CORPORATIONS 1 through 20, inclusive,
28 Defendants.

1
2
3 **NEVADA WELLNESS CENTER, LLC. MOTION TO AMEND FINDINGS OF FACTS AND**
4 **CONCLUSIONS OF LAW ISSUED ON AUGUST 23, 2019, PURSUANT TO NRCP 52**

5 COMES NOW, Plaintiff, NEVADA WELLNESS CENTER, LLC (hereinafter "NWC"), by
6 and through its attorney of record, THEODORE PARKER, III, ESQ. of the law firm of PARKER,
7 NELSON & ASSOCIATES, CHTD., and files this Reply in Support of Motion to Amend the
8 Findings of Facts and Conclusions of Law issued August 23, 2019, pursuant to NRCP 52 which was
9 originally timely filed September 13, 2019, in case number A-19-787540-W and files this
10 Motion A-19-786962-B, for all consolidates and related cases.

11 This Reply is made and based upon the pleadings and paper on file herein, the points and
12 authorities included herewith, the exhibits attached hereto and such oral argument as the Court may
13 entertain at the time this matter is heard.

14 DATED this 30th day of September, 2019.

15 **PARKER, NELSON & ASSOCIATES, CHTD.**

16 /s/Theodore Parker, III, Esq.
17 THEODORE PARKER, III, ESQ.
18 Nevada Bar No. 4716
19 2460 Professional Court, Suite 200
20 Las Vegas, Nevada 89128

21 *Attorneys for Plaintiff*

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I.**

24 **INTRODUCTION**

25 Following lengthy hearings, on August 23, 2019, this Court issued Findings of Fact and
26 Conclusions of Law Granting Preliminary Injunction. (See Findings of Fact and Conclusions of Law
27 Granting Preliminary Injunction, filed August 23, 2019, a true and correct copy attached hereto as
28 Exhibit "A".) NWC now moves to amend those findings pursuant to NRCP 52. As shown below,
the entire selection process was so flawed, and conducted in such degradation of NWC's
constitutional rights, that the previous results must be discarded and the process redone in order to

1 arrive at impartial and fair results, as contemplated under the applicable laws and regulations.
2 Specifically, that the State must be enjoined from conducting a final inspection on any of the
3 conditional licenses issued in or about December of 2018 because the process was so rife with errors,
4 subject to corruption, including inappropriate sharing of information, lunches, dinners and drinks
5 between DoT staff and certain privileged applicants, and improper changes to the process which
6 amounted to DoT's refusal to follow the will of Nevada voters and therefore the entire process must
7 be deemed invalid.

8 II.

9 DISCUSSION

10 A. LEGAL AUTHORITIES

11 I. Motions to Amend Findings of Fact and Conclusions of Law

12 NRCP 52 provides in pertinent part:

13 (a) Findings and Conclusions.

14 (1) In General. In an action tried on the facts without a jury or with an
15 advisory jury, the court must find the facts specially and state its conclusions
16 of law separately. The findings and conclusions may be stated on the record
17 after the close of the evidence or may appear in an opinion or a memorandum
18 of decision filed by the court. Judgment must be entered under Rule 58.

19 (b) Amended or Additional Findings. On a party's motion filed no later than
20 28 days after service of written notice of entry of judgment, the court may
21 amend its findings — or make additional findings — and may amend the
22 judgment accordingly. The time for filing the motion cannot be extended
23 under Rule 6(b). The motion may accompany a motion for a new trial under
24 Rule 59.

25 NRCP 65 states in relevant part:

26 (a) Preliminary Injunction.

27 (1) Notice. The court may issue a preliminary injunction only on notice to the adverse
28 party.

29 (2) Consolidating the Hearing With the Trial on the Merits. Before or after beginning the
30 hearing on a motion for a preliminary injunction, the court may advance the trial on the
31 merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence
32 that is received on the motion and that would be admissible at trial becomes part of the trial
33 record and need not be repeated at trial. But the court must preserve any party's right to a jury
34 trial.

35 (b) Temporary Restraining Order.

36 (1) Issuing Without Notice. The court may issue a temporary restraining order without
37 written or oral notice to the adverse party or its attorney only if:

1 (A) specific facts in an affidavit or a verified complaint clearly show that immediate
2 and irreparable injury, loss, or damage will result to the movant before the adverse
3 party can be heard in opposition; and

4 (B) the movant's attorney certifies in writing any efforts made to give notice and the
5 reasons why it should not be required.

6 (2) Contents; Expiration. Every temporary restraining order issued without notice must
7 state the date and hour it was issued; describe the injury and state why it is irreparable; state
8 why the order was issued without notice; and be promptly filed in the clerk's office and
9 entered in the record. The order expires at the time after entry — not to exceed 14 days —
10 that the court sets, unless before that time the court, for good cause, extends it for a like
11 period or the adverse party consents to a longer extension. The reasons for an extension must
12 be entered in the record.

13 **2. Violations of the Public Trust Warrant Voiding Results from a Flawed** 14 **Process**

15 Invitations to bid are akin to requests for applications for licenses. As the Nevada Supreme
16 Court has stated, "[a]n awarding board has a duty to reject any bid materially varying from bid
17 specifications." Faust v. Donrey Media Grp., 95 Nev. 235, 237 (1979). This is done to "preserve the
18 competitive nature of bidding by preventing unfair advantage to any bidder, or other conditions
19 undermining the necessary common standard of competition" and to "save public funds and guard
20 against favoritism, improvidence and corruption. Id. at 238, fn 1 and Richardson Constr. V. Clark
21 Cty. Scho. Dist., 123 Nev. 61, 66 (2007). It was with these principles in mind, that the Nevada
22 Supreme Court declared that a "contract is void if it materially differs from the contents of the
23 invitation to bid." Orion Portfolio Servs. 2, LLC v. County of Clark ex rel. Univ. Med. Ctr., 126
24 Nev. 397 (2010). Likewise, applications for licenses that fail to conform to the standards and
25 requirements issued by DoT in DoT's request for applications, should be deemed void on their face.

26 Ms. Contine provided sworn testimony that the physical locations were required under the
27 regulations she created and should have been a part of the application.

28 Further, when insider information is provided to some, but not all applicants, it precludes all
applicants from competing on equal terms. Spiniello Constr. Co. V. Manchester, 189 Conn 539, 544
(Conn. 1983). In Spiniello, while the Court recognized the City's actions were done in good faith
to obtain the best result for residents, the Court still found that "judicial relief is warranted where the
municipal action amounts to an erosion on the integrity of the bidding statute." Id. at 545. "One of

1 the essentials to competitive bidding is that bidders **shall have the opportunity to bid on the same**
2 **thing.** Gamewell Co. V. Phoenix, 216 F.2d 928, 934 (9th Cir. 1954) (emphasis added). "The
3 requirement is that specifications be such that **all parties can familiarize themselves with the**
4 **details.** Id. (emphasis added). Not only did the DoT give certain information to a privileged few
5 applicants but additionally made two different applications available during the application process.

6 It is appropriate for a Court to intervene when the process established by a governmental
7 agency "destroys the very principles of public policy that form the underlying basis of competitive
8 bidding." Weinder v. City of Reno, 88 Nev. 127, 494 P.2d 277, 281 (1972). "[C]ourts should
9 scrutinize the conduct of the bidding process by any governmental agency when it appears that a
10 violation of the public trust may be involved." Id. "Public confidence should be maintained at all
11 costs, even at the expense of those who errors are inadvertent." Comm'n on Ethics v. JMA/Lucchesi,
12 110 Nev. 1, 10 (1994). "Innocence cannot deflect the appearance of impropriety." Id. (reversing the
13 district court and reinstating the opinion of the Nevada Commission on Ethics because architects
14 obtained an unfair advantage over competitors by virtue of insider information).

15 Here, all applicants were not given equal access to information, or even access to the same
16 application, as evidenced by multiple communications between DoT and certain applicants over
17 others. The failure of DoT to follow the voters' mandate, and failure to consistently provide
18 information to all applicants, undeniably amounts to an erosion of the integrity of the process.
19 Favoritism and bias governed this process, and grading of the applications was partial to those the
20 DoT staff favored. Notwithstanding, government has a strong desire to prevent opportunities for –
21 and suspicion of -- fraud or favoritism; "neither favoritism nor fraud is necessary to invalidate non-
22 compliance with a request for bidding...". Gamewell, 216 F.2d at 937; Haman v. Board of
23 Education, 107 P. 646 (OK 1909). Here, the failure to provide all information to all applicants,
24 failing to abide by the terms of the bid (by changing the physical location requirement), and the
25 insider communications that were ongoing and abundant) warrant preventing the issuance of any
26 permanent licenses as the competitive process, by virtue of DoT's improper actions, was unsound,
27 flawed, biased and favored the connected few.

1 **B. FINDINGS OF FACT**

2 **1. Removal of Physical Location**

3 It is an indisputable the DoT failed to comply with the physical location requirement. The
4 DoT's arbitrary and improper elimination of the physical address requirement, as required by
5 NRS453D.210(5)(b), NAC 453D.265(1)(b), and NAC 453D.268(2)(e), made the grading process
6 unfair. Because winning applicants should not have received a license but for their manipulation of
7 the DoT's unfair process, the Court's preliminary injunction should also apply to those winning
8 applicants that did not provide actual physical addresses for the proposed marijuana establishments
9 (e.g., those that listed UPS stores or P.O. boxes). Former DoT Director Deonne Contine explicitly
10 testified that applications without a real physical address should have been summarily rejected.

11 The Court's related findings:

12 The Task Force's findings, issued on May 30, 2017, referenced the 2014 licensing process
13 for issuing Medical Marijuana Establishment Registration Certificates under NRS 453A. The
14 Task Force recommended that "the qualifications for licensure of a marijuana establishment
15 and the impartial numerically scored bidding process for retail marijuana stores be
maintained as in the medical marijuana program except for a change in how local
jurisdictions participate in selection of locations. (See Exhibit "A" at p. 10.)

16 The DoT made a change to the application after circulating the first version of the application
17 to delete the requirement of a physical location. The modification resulted in a different
18 version of the application bearing the same "footer" with the original version remaining
19 available on the DoT's website. The DoT's late decision to delete the physical address
20 requirement on some application forms while not modifying those portions of the
application that were dependent on a physical location (i.e. floor plan, community impact,
security plan, and the sink locations) after the repeated communications by an applicant's
agent; not effectively communicating the revision; and, leaving the original version of the
application on the website, is evidence of conduct that is a serious issue. P75

21 By selectively eliminating the requirement to disclose an actual physical address for each and
22 every proposed retail recreational marijuana establishment, the DoT limited the ability of the
23 Temporary Employees to adequately assess graded criteria such as (i) prohibited proximity
to schools and certain other public facilities, (ii) impact on the community, (iii) security, (iv)
building plans, and (v) other material considerations prescribed by the Regulations. P76"

24 NWC provided a physical address for each desired jurisdiction and was graded incorrectly.
25 The graders seemed to only understand floor plans and deducted points for actual building plans and
26 inspection of NWC's location which was approved by the DoT on September 18, 2018.
27
28

1 **2. This Case is Distinguishable from the Nuleaf Case**

2 This motion to amend is based upon the failure of applicants to provide a physical location
3 in order for the DoT to even approve an application for a retail marijuana stores. Applications
4 submitted without a physical address were incomplete and should have been rejected. The Nuleaf
5 case is easily distinguishable from this case.

6 In Nuleaf, an injunction was sought due to applicants failure to comply with applicable local
7 and governmental zoning requirements before the applicant received a registration certificate for
8 a medical marijuana establishment. Nuleaf CLV Dispensary, LLC v. State Dep't of Health & Human
9 Servs., 414 P.3d 305, 306, (2018). The Court in Nuleaf was tasked with determining whether NRS
10 453A.322(3)(a)(5) required applicants compliance with applicable local and governmental zoning
11 requirements before a applicant can receive a registration certificate. Specifically NRS
12 453A.322(3)(a)(5) states:

13 “ (5) If the city, town or county in which the proposed medical marijuana establishment will
14 be located has enacted zoning restrictions, proof of licensure with the applicable local
15 governmental authority or a 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; and”

16 NRS 453A.322(3)(a)(5) requires proof of licensure with the applicable local governmental
17 authority or a letter from the applicable local governmental authority certifying that the proposed
18 medical marijuana establishment is in compliance with zoning restrictions and satisfies all applicable
19 building requirements.

20 Nuleaf **did not** address NRS 453A.322 requirement that a physical location be provided in
21 the application. Rather, the issue was an applicants failure to obtain licensure from applicable local
22 governmental authority certifying that the proposed medical marijuana establishment is in
23 compliance with zoning restrictions and satisfied all applicable building requirements.

24 In the case at bar, NWC is seeking injunctive relief because other applicants failed to comply
25 with the requirement to list a physical address on the initial application as required by NRS
26 453D.210(5)(b).

1 Specifically NRS 453D.210(5)(b) provides:

2 "5. The Department shall approve a license application if:

3 (b) The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property. . . ."

4 According to plain unambiguous language of NRS 453D.210(5)(b) the DoT shall only
5 approve a completed license application that includes a physical address. Consequently, all
6 applications without physical locations should have been deemed incomplete and rejected, not
7 approved or scored by the DoT. Unlike the Nuleaf case, here the court is asked to determine
8 whether the clear language of 453D.210(5)(b) applications to include a physical address where the
9 proposed marijuana establishment will operate in order for the DoT to approve a completed license
10 application. Stated a different way, pursuant to NRS 453D.210(5)(b) applications without physical
11 addresses were incomplete and should have been rejected.

12 Unlike this case, the issue in Nuleaf was applicants obtaining approval or proof of licensure
13 with the applicable local governmental authority. Furthermore, the Court in Nuleaf found the statute
14 at issue ambiguous. Here, the plain language of NRS 453D.210 clearly specifies **conditions for**
15 **approval of application** and clearly states the DoT is only to consider **completed applications**.
16 There is no similar language in NRS 453A.322(3)(a)(5), and thus the Nuleaf Court found NRS
17 453A.322(3)(a)(5) was open to interpretation. Here, NRS 453D.210 has additional language making
18 the plain language of the statute clear and unambiguous. When the language of a statute is plain and
19 unambiguous, a court should give that language its ordinary meaning and not go beyond it." City
20 Council of Reno v. Reno Newspapers, 105 Nev. 886, 891, 784 P.2d 974, 977 (1989).

21 NRS 453D.210(4) provides:

22 "Acceptance of applications for licensing; priority in licensing; **conditions for approval of**
23 **application**; limitations on issuance of licenses to retail marijuana stores; competing
24 applications. [This section was proposed by an initiative petition and approved by the voters
25 at the 2016 General Election and therefore is not subject to legislative amendment or repeal
26 until after November 22, 2019.]

27 4. **Upon receipt of a complete** marijuana establishment license application. . . . (a) Issue
28 the appropriate license if the license application is approved...." (*Emphasis added*)

The court should give that language of NRS 453D.210 its ordinary meaning and not go
beyond it. Id. The plain language of NRS 453D.210 requires conditions for approval of all
applications. The plain language requires all applicants to provide a **complete** application which

1 requires a **physical location** for approval of the application. Former DoT Executive Deonne Contine
2 confirmed the DoT required a real physical location be provided on all applications. In fact, she
3 stated that "applications that did not have a real physical address should not have even been
4 considered."¹ In addition, DoT Deputy Executive Jorge Pupo testified that the DoT expected a
5 physical location to be included on all applications. He confirmed that applications without a
6 physical location are incomplete.² Thus according to the plain and unambiguous language of NRS
7 453D.210(4) and 453D.210(5)(b), as affirmed by DoT Executive and DoT Deputy Executive, all
8 applications without a physical location are incomplete and should have been rejected, not approved
9 and/or scored by the DoT. Accordingly the preliminary injunction should apply to all applications
10 that failed to provide a real physical location.

11 **2. Violation of Nevada Open Meeting Laws/Communication Methods**

12 The Nevada Open Meeting Law (OML) was enacted in 1960 to ensure that the actions and
13 deliberations of public bodies be conducted openly. The OML is set forth in chapter 241 of the
14 Nevada Revised Statutes (NRS). The DoT is a public body subject to NRS Chapter 241.

15 NRS 241.020 provides:

16 * Meetings to be open and public; limitations on closure of meetings; notice of meetings;
copy of materials; exceptions.

17 "1. Except as otherwise provided by specific statute, all meetings of public bodies must be
open and public, and all persons must be permitted to attend any meeting of these public
18 bodies. A meeting that is closed pursuant to a specific statute may only be closed to the
extent specified in the statute allowing the meeting to be closed. All other portions of the
meeting must be open and public, and the public body must comply with all other provisions
19 of this chapter to the extent not specifically precluded by the specific statute. Public officers
and employees responsible for these meetings shall make reasonable efforts to assist and
20 accommodate persons with physical disabilities desiring to attend.

21 2. Except in an emergency, written notice of all meetings must be given at least 3 working
days before the meeting. . . ."

22 The DoT failed to comply with the open meeting laws with regard to dissemination of
23 information related to the recreational marijuana licensing application and associated requirements.
24 The application process for a license to sell recreational marijuana, unlike the application process
25 for a license to sell medical marijuana, did not contain any information on how or where to submit
26

27 ¹ See Exhibit B, Trial Transcript Excerpts from July 12, 2019 P48:L15-49:16.

28 ² See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P:19:L21-P:20:L11.

1 questions regarding the application.³ Steve Gilbert testified that he did not know why this was the
2 case. (Id.) Mr. Gilbert further confirmed that while there was an email address to send questions to,
3 the questions and responses were not provided to all applicants.⁴ Compounding this with the fact
4 that the scoring criteria was deliberately kept secret from applicants, DoT's conduct raises red flags.⁵
5 The DoT permitted applicants and their representatives to personally contact the DoT staff about
6 the application process.

7 Unfortunately, DoT went a step further than merely carelessly failing to share all pertinent
8 information with all applicants; Mr. Pupo actively discussed the regulations with some applicants'
9 counsel on his personal cell phone. Mr. Pupo was aware before the applications were released that
10 there was confusion regarding some of the criteria.⁶ Yet, Mr. Pupo took "no corrective action" to
11 clarify the rule for the rest of the industry. (Id.) Mr. Pupo was offered a job by the same applicants
12 he spoke with on his personal cell phone and dined.⁷ In Mr. Pupo's own words "everyone had the
13 same opportunity to request clarification..."⁸)

14 Mr. Pupo's purported belief – that all applicants had the same opportunity to contact DoT
15 and obtain the same clarification, – is belied by Mr. Pupo's own testimony. Mr. Pupo admits to
16 speaking with the owners of some of the applicants personally *during the application process*.⁹ Mr.
17 Pupo met these applicants after DoT was charged with implementing the scoring procedure for
18 recreational marijuana.¹⁰ Mr. Pupo further had multiple dinners and lunches with certain owners.

20
21 ³See Exhibit D, Trial Transcript Excerpts from May 30, 2019, P:218:22-25.

22 ⁴ See Exhibit E, Trial Transcript Excerpts from May 30, 2019 Volume II, P207:L8-P209:9.

23 ⁵See Exhibit F, Trial Transcript Excerpts from June 19, 2019 Volume I, P120:L5-8.

24 ⁶ See Exhibit G, Trial Transcript Excerpts from June 19, 2019 Volume II, P46:L21-P48:L25.

25 ⁷See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P83:L8-P84:L21.

26 ⁸ See Exhibit G, Trial Transcript Excerpts from June 19, 2019 Volume II, P58:L1-12.

27 ⁹See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P9:L15-25

28 ¹⁰ See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P12:L1-15.

1 ¹¹ Moreover, DoT itself refused to answer questions for applicants with which they were personally
2 unfamiliar. ¹² Mr. Pupo could not explain why some applicants were simply denied information by
3 DoT. (*Id.*) However, Mr. Pupo could confirm he did not go out to dinners or lunches, or speak with,
4 NWC or its owners during the application process. ¹³

5 As Mr. Pupo was the final decision maker on the scoring criteria – the buck stops here –,¹⁴
6 It appears Mr. Pupo manipulated the application process to award licenses to select applicants. This
7 violated the trust of the voters of Nevada and NRS 241. Pursuant to NRS 241.020 private meetings
8 by the DoT are prohibited. Since there is no statutory exception specifically providing public bodies
9 with the privilege to meet in private just because they have their attorneys present, such meetings are
10 prohibited. *McKay v. Board of County Comm'rs*, 103 Nev. 490, 746 P.2d 124, 1987 Nev. (Nev.
11 1987).

12 The DoT's arbitrary and improper communication with applicants and their
13 representatives/attorney violated NRS chapter 241. DoT's actions violated the statute and made the
14 grading process unfair by allowing some applicants the benefit of inside information when other
15 applicants were not afforded the same opportunity.

16 The Court's related findings:

17 The DoT utilized a question and answer process through a generic email account at
18 marijuana@tax.state.nv.us to allow applicants to ask questions and receive answers
19 directly from the Department, which were not consistent with NRS 453D, and that
20 information was not further disseminated by the DoT to other applicants.
21 **See Exhibit A ¶ 20**

22 In addition to the email question and answer process, the DoT permitted applicants and
23 their representatives to personally contact the DoT staff about the application process.
24 **See Exhibit A ¶ 21**

25 ¹¹ See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P12:L1-15.

26 ¹² See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P72:L22-P74:L20.

27 ¹³ See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P47:L14-P:48:L2.

28 ¹⁴ See Exhibit F, Trial Transcript Excerpts from June 19, 2019 Volume I, P118:L25-P119:3.

1 The DoT conducted the following in violation of Nevada OML/NRS chapter 241:

- 2 1. Failed to provide a single point of contact for all applicants;
- 3 2. Allowed applicants to ask questions and receive answers directly from the
- 4 Department, without disseminating the same information to all applicants;
- 5 3. Modified the application without informing all applicants the application was
- 6 modified;
- 7 4. Failed to disseminate the modified application to all applicants;
- 8 5. Removed the requirement of a physical location from the application without
- 9 informing all applicants the physical location requirement was removed;
- 10 6. Removed compliance from the grading process and failed to inform all applicants
- 11 of the removal of compliance; and
- 12 7. DoT Executives held private meetings with applicants/representatives/attorneys.

13 The DoT by its actions precluded all applicants from competing on equal terms. All actions
14 taken by the DoT following DoT's violation of NRS chapter 241, should be declared void pursuant
15 NRS 241.037.¹⁵ The DoT's action in issuing marijuana establishment licenses after it violated NRS
16 Chapter 241 should be voided. Accordingly the preliminary injunction should apply to all marijuana
17 establishment licenses issued.

18 3. DoT Deputy Executive Jorge Pupo Actions

19 Most alarming, are the actions of DoT Deputy Executive Jorge Pupo. Mr. Pupo exhibited
20 favoritism with certain applicants, made significant changes to the application and scoring process
21 substantial affecting the outcome thereof, and directed DoT investigators not to consider the sale
22 of marijuana to minors by a certain applicant thereby impacting the compliance section of
23 application scoring. Mr. Pupo's actions so infected the integrity of the application and scoring
24

25 ¹⁵ See NRS 241.037(2) Any person denied a right conferred by this chapter may sue in the district court of
26 the district in which the public body ordinarily holds its meetings or in which the plaintiff resides. A suit may seek to
27 have an action taken by the public body declared void, to require compliance with or prevent violations of this
28 chapter or to determine the applicability of this chapter to discussions or decisions of the public body. The court may
order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this
subsection.

1 process that it impacted NWC's right to just and fair application scoring process.

2 Specifically, Mr. Pupo explicitly testified that he had lunch, dinner and drinks with certain
3 applicants and/or their representatives.¹⁶ Karalin Cronkhite DoT Chief Investigator testified that
4 Mr. Pupo directed her not to include non compliance involving the sale of marijuana to minors by
5 certain facilities.¹⁷ Mr. Gilbert, testified that Mr. Pupo was responsible for applying the percentage
6 and break down of points to certain categories.¹⁸ Mr. Gilbert testified that it was Mr. Pupo's decision
7 not to employ QuantumMark for the 2018 application process.¹⁹ Mr. Pupo confirmed that he decided
8 to remove the physical location as a scoring item from the application.²⁰ Mr. Pupo through multiple
9 actions was able to manipulate the application and scoring process. Consequently, the Court's
10 preliminary injunction should also apply to the entire process. Accordingly, the Court's Findings of
11 Fact and Conclusion of Law should be amended and the preliminary injunction should also apply
12 to the entire process.

13 **4. Former DoT Director Deonne Contine Actions**

14 Former DoT Director Deonne Contine's actions also exhibited favoritism with certain
15 applicants. Mrs. Contine's actions affected the integrity of the application and scoring process
16 impacting NWC's right to a just and fair application scoring process.

17 Specifically, Mrs. Contine explicitly testified that she had lunch, dinner and drinks with
18 certain applicants and/or their representatives, and that certain applicants called her on her cellular
19 telephone.²¹ She also testified that after leaving the DoT she received campaign contributions when
20
21

22 ¹⁶ See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P:13:L7-15.

23 ¹⁷ See Exhibit H, Trial Transcript Excerpts from July 11 Volume I, 2019, P:78:L23-25.

24 ¹⁸ See Exhibit I, Trial Transcript Excerpts from June 11, 2019, P:98:L12-16.

25 ¹⁹ See Exhibit I, Trial Transcript Excerpts from June 11, 2019, P:96:L5-10.

26 ²⁰ See Exhibit C, Trial Transcript Excerpts from June 20, 2019 Volume II, P:14:L19-P15:L11.

27 ²¹ See Exhibit B, Trial Transcript Excerpts from July 12, 2019, P:99:L21-P:100:L17.

1 she ran for Nevada State Assembly from applicants and/or their representatives.²² Mrs. Contine
2 through multiple actions taken along side Mr. Pupo was able to manipulate the application and
3 scoring process infecting the integrity of the application and scoring process. Consequently, the
4 Court's preliminary injunction should also apply to the entire process.

5 **C. ARGUMENT**

6 **1. Competitive Bidding Process**

7 The purpose of a competitive application or bidding process "is to secure competition, save
8 public funds, and to guard against favoritism, improvidence and corruption." *Gulf Oil Corp. v. Clark*
9 *Cty.*, 94 Nev. 116, 118-19, 575 P.2d 1332, 1333 (1978); see also *City of Boulder City v. Boulder*
10 *Excavating, Inc.*, 124 Nev. 749, 758, 191 P.3d 1175, 1181 (2008) (same). The statutes and
11 regulations that govern these competitive processes "are deemed to be for the benefit of the
12 taxpayers" and "are to be construed for the public good." *Gulf Oil*, 94 Nev. at 118-19.

13 **a. DoT's Violation of Nevada Open Meeting**
14 **Laws/Communication Methods**

15 By permitting applicants to submit applications with inside information when other
16 applicants were not afforded the same opportunity, the DoT precluded the other applicants from
17 competing on equal terms. See *Spiniello Const. Co. v. Town of Manchester*, 189 Conn. 539, 544,
18 456 A.2d 1199, 1202 (1983). By giving some applicants information that was not available to others,
19 the DoT defeated the objectivity and integrity of the competitive application process by exhibiting
20 favoritism. *Spiniello*, 189 Conn. 544-545. In that situation, an injunction was appropriate. *Id.*

21 **b. Violation of Initiative Ballot, NRS 453D.210(4) and (5), and**
22 **NAC 453D Requirements for Physical Address**

23 Under the marijuana ballot initiative, as codified in NRS 453D.210(4) and (5), the DoT shall,
24 within 90 days of receipt of applications, approve a license application if the prospective marijuana
25 establishment has submitted an application in compliance with regulations adopted by the
26 Department' and: (b) The physical address where the proposed marijuana establishment will operate
27 is owned by the applicant or the applicant has the written permission of the property owner to operate

28 ²² See Exhibit B, Trial Transcript Excerpts from July 12, 2019, P:101:L4-P:102:L8.

1 the proposed marijuana establishment on that property; NRS 453D.210(5)(b). As the statute requires
2 the DoT to determine whether an application was submitted "in compliance with the regulations,"
3 the regulations likewise require that any application submitted must have the physical address in it:

- 4 1. On or before November 15, 2018, a person who holds a medical marijuana
5 establishment registration certificate may apply for not more than one
6 license for a marijuana establishment of the same type by submitting:
7 (b) An application on a form prescribed by the Department which includes, without
8 limitation:
9 (3) The physical address where the proposed marijuana establishment will be
10 located and the physical address of any co-owned or otherwise affiliated marijuana.

11 The application submission period began on September 7, 2018 and closed on September
12 20, 2018. The DoT, pursuant to statute, had until December 5, 2018 to complete its compliance
13 review. NAC 453D.265()(b)(3) (bold added). As if stating it once in the regulations was not
14 enough to be clear, NAC 453D.268(2)(c) also requires that "[The] application must include, without
15 limitation."

- 16 (c) The physical address where the proposed marijuana establishment will be located and
17 the physical address of any co-owned or otherwise affiliated marijuana
18 establishments;

19 Both the Ballot Initiative (which was enacted as NRS 453D) and the DoT's adopted
20 regulations (NAC 453D) absolutely required all applications to be complete and approved
21 applications to include physical address where the proposed marijuana establishment will be located.
22 But the DoT only informed certain applicants (those that had direct access to DoT employees), that
23 real physical addresses were not required and would not be graded at all. The selective disclosure
24 of information by DoT employees about the grading and the need for a real physical address
25 impacted the entire process:

26 48. The DoT's late decision to delete the physical address requirement on some
27 application forms while not modifying those portions of the application that were
28 dependent on a physical location (i.e. floor plan, community impact, security plan,
and the sink locations) after the repeated communications by an applicant's agent;
not effectively communicating the revision; and, leaving the original version of the
application on the website, is evidence of conduct that is a serious issue.

71. Based upon the evidence adduced, the Court finds that the DoT selectively
discussed with applicants or their agents the modification of the application related
to physical address information.

76. By selectively eliminating the requirement to disclose an actual physical
address for each and every proposed retail recreational marijuana establishment, the
DoT limited the ability of the Temporary Employees to adequately assess graded

1 criteria such as (i) prohibited proximity to schools and certain other public facilities,
2 (ii) impact on the community, (iii) security, (iv) building plans, and (v) other
3 material considerations prescribed by the Regulations.
(See Exhibit "A".)

4 The DoT's failure to require an actual physical address, its failure to confirm whether actual
5 addresses were provided, and its failure to consider those addresses as part of the evaluation and
6 grading resulted in an unfair process. The DoT's unfair process allowed winning applicants to take
7 advantage of inside information to which they were privy and it permitted winning applicants to
8 manipulate their scoring for graded categories like (i) impact on the community, (ii) security, and
9 (iii) building plans, among others. An example of the resulting unfairness is shown by the fact that
10 the highest graded building scores were given to those applicants (e.g., Thrive) that did not have an
11 actual physical address and were able to submit fairy-tale building plans because they were not
12 bound by reality and an actual location. Currently, NWC provided physical addresses, building
13 plans, and parking plans of an existing building. The NWC building was inspected by DoT on
14 September 18, 2018 and approved.²³

15 Former DoT Director Deonne Contine testified that applications that did not have a real
16 physical address should not have even been considered:

17 Q You couldn't use a UPS Store, because that's not a real physical address; right?

18 A I don't think -- I don't think that it would be allowed.

19 Q Okay. And if you'd been the director at the time, you would have disqualified
20 those applications?

21 A I wouldn't have even reviewed the applications.²⁴

22 Q. Your staff would have been instructed that if they didn't have a physical address
23 apart from a Post Office box or a UPS Store that that application should not be
24 accepted; right?

25 A I think that would be the direction.

26 Q Okay. So the answer to my question is yes?

27 A Yes.

28 I mean, the reason for your position is because the statute says that?

A Right.²⁵

Because applicants would not have received a license but for their manipulation of the DoT's

²³ See Exhibit J, A copy of the inspection result.

²⁴ See Exhibit B, Trial Transcript Excerpts from July 12, 2019, P:48:L15-21.

²⁵ See Exhibit B, Trial Transcript Excerpts from July 12, 2019, P49:L2-16.

1 unfair process, NWC believes that the Court's preliminary injunction should also apply to those
2 winning applicants that did not provide actual physical addresses for the proposed marijuana
3 establishments (e.g., those that listed UPS stores or P.O. boxes). In order to determine which of the
4 winning applicants failed to provide actual physical addresses for the proposed marijuana
5 establishments, the Court should order the DoT to identify which of winning applicants did not
6 comply with NRS 453D.210(5)(b), NAC 453D.265(1)(b), and NAC 453D.268(2)(e).

7 By comparison, NRS 333 (State Purchasing Chapter) provides:

8 "A contract may not be awarded to a bidder who does not comply with the
9 requirements set forth in the request for proposal".

10 NRS 333.311

11 **c. Violation of Integrity of the Application and Scoring Process**
12 **that it Impacting NWC's Interest in a Just and Fair**
13 **Competitive Bidding Process**

14 Mr. Pupo and Mrs. Contine's actions in meeting with certain applicants and providing
15 information permitting applicants to submit applications with inside information when other
16 applicants were not afforded the same opportunity, the DoT precluded the other applicants from
17 competing on equal terms. See Spiniello Const. Co. v. Town of Manchester, 189 Conn. 539, 544,
18 456 A.2d 1199, 1202 (1983). Moreover, Mr. Pupo and Mrs. Contine by and through their actions
19 defeated the objectivity and integrity of the competitive application process. Spiniello, 189 Conn.
20 544-545. Mr. Pupo exhibited favoritism with certain applicants by making significant changes to
21 the application and scoring process, including physical location and scoring breakdown and
22 percentages, substantially affecting the outcome thereof. In addition, Mr. Pupo directed DoT
23 investigators not to investigate the sale of marijuana to minors by certain facilities thereby impacting
24 the compliance grading section of those applicants applications. Mr. Pupo made the decision to not
25 consider any deficiencies or violations committed by the applicant in violation of NAC
26 453D.272(i)(g). Mr. Pupo's totality of actions infected the integrity of the application and scoring
27 process, thereby impacted NWC's interest in a just and fair application scoring process. In that
28 situation, an injunction is appropriate. *Id.*

1 **d. The DoT May Not Waive Material Irregularities**

2 A government entity may waive minor irregularities with the bid documents as mere
3 informalities, *see AAB, Elec., Inc. v. Stevensen Public School Dist. No. 303*, 491 P.2d 684, 685
4 (Wash. 1971).²⁶ Material irregularities may not be waived, *Blount, Inc. v. U.S.*, 22 Cl.Ct. 221, 227
5 (1989). A bid which contains a material nonconformity must be rejected as nonresponsive. *Blount*
6 citing *Honeywell, Inc. v. United States*, 16 Cl. Ct. 173, 181 (1989), *rev'd on other grounds*, 870 F.2d
7 644 (Fed. Cir. 1989). Material terms and conditions of a solicitation involve price, quality, quantity,
8 and delivery. *Id.* The rule is designed to prevent bidders from taking exception to material
9 provisions of the contract in order to gain an unfair advantage over competitors and to assure that
10 the government evaluates all bids on an equal basis.

11 The violations allowed by the DoT cannot be considered "minor irregularities." First and
12 foremost, the DoT has allowed applicants to violate the mandatory provision of NRS 453D.
13 Specifically, NRS 453D.210 provides that a applicant "must include" the names of prospective
14 owners, officers, board members and physical addresses of the proposed entities. *See e.g., Blaine*
15 *Equip. Co. v. State*, 122 Nev. 860, 866, 138 P.3d 820, 823 (2006) (the district court may not rely on
16 its equitable power to disregard the mandatory language of a statute). "When the language of a
17 statute is plain and unambiguous, a court should give that language its ordinary meaning and not go
18 beyond it." *Id.* citing *City Council of Reno v. Reno Newspapers*, 105 Nev. 886, 891, 784 P.2d 974,
19 977 (1989). Minor irregularities may be waived but violations of Statutes and Regulations can not.
20 Therefore, all applications not complying with Nevada Statutes and/or Regulations must be rejected.

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25 ²⁶The test of whether or not a nonconformity or irregularity is material is whether or not it gives a bidder a
26 substantial advantage or benefit not enjoyed by the other bidders. *Id.* Irregularities are minor or immaterial only if
27 they do not affect price, quantity, or delivery of the overall supplies or services to be contracted. *George & Benjamin*
28 *General Contractors v. Government of the Virgin Islands Dept. of Property and Procurement*, 921 F. Supp. 304, 309
 (V.I. 1996). See also 48 C.F.R. § 14.301(a) ("to be considered for award, a bid must comply in all material respects
 with the invitation for bids. Such compliance enables all bidders to stand on an equal footing and maintains the
 integrity of the sealed bidding system.").

1 **CERTIFICATE OF SERVICE**

2 Pursuant to N.R.C.P. 5(b), I certify that I am an employee of the law office of PARKER,
3 NELSON & ASSOCIATES, CHTD., and that on this 30th day of September, 2019, I served a true
4 and correct copy of the foregoing **NEVADA WELLNESS CENTER, LLC, MOTION TO**
5 **AMEND FINDINGS OF FACTS AND CONCLUSIONS OF LAW ISSUED ON AUGUST 23,**
6 **2019, PURSUANT TO NRCP 52** on the party(s) set forth below by:

- 7 ☐ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the
8 United States Mail, at Las Vegas, NV, postage prepaid, following ordinary business practices.
- 9 ☐ Facsimile transmission, pursuant to the amendment to the Eighth Judicial District Court Rule 7.26,
10 by faxing a true and correct copy of the same to each party addressed as follows:
- 11 ☐ By E-mail: by electronic mail delivering the document(s) listed above to the e-mail address(es) set
12 forth below on this date before 5:00 p.m.
- 13 ☒ By EFC: by electronic filing with the Court delivering the document(s) listed above via E-file & E-
14 serve (Odyssey) filing system in all related cases A-19-786962-B, A-19-785818-W;
15 A-19-787004-B; A-19-787540-W, A-18-786357-W; and A-19-787726-C.

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17 
18 An employee of PARKER, NELSON & ASSOCIATES, CHTD.
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EXHIBIT “A”

Steven D. Grierson

DISTRICT COURT

CLARK COUNTY, NEVADA

SERENITY WELLNESS CENTER, LLC, a
Nevada limited liability company, TGIG, LLC,
a Nevada limited liability company, NULBAF
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, DOE PLAINTIFFS I
through X; and ROE ENTITY PLAINTIFFS I
through X,

Plaintiff(s),

vs.

THE STATE OF NEVADA, DEPARTMENT
OF TAXATION,

Defendant(s).

and

NEVADA ORGANIC REMEDIES, LLC;
INTEGRAL ASSOCIATES LLC d/b/a
ESSENCE CANNABIS DISPENSARIES, a
Nevada limited liability company; ESSENCE
TROPICANA, LLC, a Nevada limited liability
company; ESSENCE HENDERSON, LLC, a
Nevada limited liability company; CPCM
HOLDINGS, LLC d/b/a THRIVE CANNABIS
MARKETPLACE, COMMERCE PARK
MEDICAL, LLC, a Nevada limited liability
company; and CHEYENNE MEDICAL, LLC, a
Nevada limited liability company; LONE
MOUNTAIN PARTNERS, LLC, a Nevada

Case No. A-19-786962-B
Dept. No. 11

FINDINGS OF FACT AND
CONCLUSIONS OF LAW GRANTING
PRELIMINARY INJUNCTION

CLERK OF THE COURT

ASB 23 2019

1 limited liability partnership; HELPING HANDS
2 WELLNESS CENTER, INC., a Nevada
3 corporation; GREENMART OF NEVADA
4 NLV LLC, a Nevada limited liability company;
5 and CLEAR RIVER, LLC,

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Intervenors.

5 This matter having come before the Court for an evidentiary hearing on Plaintiffs' Motion for
6 Preliminary Injunction beginning on May 24, 2019, and occurring day to day thereafter until its
7 completion on August 16, 2019,¹ Dominic P. Gentile, Esq., Vincent Savarese III, Esq., Michael V.
8 Cristalli, Esq., and Ross J. Miller, Esq., of the law firm Gentile Cristalli Miller Arnone Savarese,
9 appeared on behalf of Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, LLC,
10 Nevada Holistic Medicine, LLC, Tryke Companies SO NV, LLC, Tryke Companies Reno, LLC,
11 Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada,
12 LLC, Nevada Pure, LLC, Medifarm, LLC (Case No. A786962-B) (the "Serenity Plaintiffs"); Adam K.
13 Bult, Esq. and Maximilien D. Fetaz, Esq., of the law firm Brownstein Hyatt Farber Schreck, LLP,
14 appeared on behalf of Plaintiffs ETW Management Group LLC, Global Harmony LLC, Green Leaf
15 Farms Holdings LLC, Green Therapeutics LLC, Herbal Choice INC., Just Quality, LLC, Libra
16 Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NevCann LLC, Red Earth LLC,
17 THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (Case No. A787004-B) (the
18 "ETW Plaintiffs"); William S. Kemp, Esq. and Nathaniel R. Rulis, Esq., of the law firm Kemp, Jones
19 & Coulthard LLP, appeared on behalf of MM Development Company, Inc. and LivFree Wellness LLC
20 (Case No. A785818-W) (the "MM Plaintiffs"); Theodore Parker III, Esq., of the law firm Parker
21 Nelson & Associates, appeared on behalf of Nevada Wellness Center (Case No. A787540-W)
22 (collectively the "Plaintiffs"); Steven G. Shevorski, Esq., Ketan D. Bhirud, Esq., and Theresa M. Haar,
23 Esq., of the Office of the Nevada Attorney General, appeared on behalf of the State of Nevada,
24 Department of Taxation; David R. Koch, Esq., of the law firm Koch & Scow LLC, appeared on behalf

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¹ Although a preservation order was entered on December 13, 2018, in A785818, no discovery in any case was done
prior to the commencement of the evidentiary hearing, in part due to procedural issues and to statutory restrictions on
disclosure of certain information modified by SB 32 just a few days before the commencement of the hearing. As a result,
the hearing was much longer than anticipated by any of the participating counsel. In compliance with SB 32, the State
produced previously confidential information on May 21, 2019. These documents were reviewed for confidentiality by the
Defendants in Intervention and certain redactions were made prior to production consistent with the protective order entered
on May 24, 2019.

1 of Nevada Organic Remedies, LLC; Brigid M. Higgins, Esq. and Rusty Graf, Esq., of the law firm
2 Black & Lobello, appeared on behalf of Clear River, LLC; Eric D. Hone, Esq., of the law firm H1 Law
3 Group, appeared on behalf of Lone Mountain Partners, LLC; Alina M. Shell, Esq., of the law firm
4 McLetchie Law, appeared on behalf of GreenMart of Nevada NLV LLC; Jared Kahn, Esq., of the law
5 firm JK Legal & Consulting, LLC, appeared on behalf of Helping Hands Wellness Center, Inc.; and
6 Joseph A. Gutierrez, Esq., of the law firm Maier Gutierrez & Associates, and Philip M. Hymanson,
7 Esq., of the law firm Hymanson & Hymanson; Todd Bice, Esq. and Jordan T. Smith, Esq. of the law
8 firm Pisanelli Bice; and Dennis Prince, Esq. of the Prince Law Group appeared on behalf of Integral
9 Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana, LLC, Essence Henderson,
10 LLC, CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, and
11 Cheyenne Medical, LLC (the "Essence/Thrive Entities"). The Court, having read and considered the
12 pleadings filed by the parties; having reviewed the evidence admitted during the evidentiary hearing;
13 and having heard and carefully considered the testimony of the witnesses called to testify; having
14 considered the oral and written arguments of counsel, and with the intent of deciding the Motion for a
15 Preliminary Injunction,² makes the following preliminary findings of fact and conclusions of law:

16 ***PROCEDURAL POSTURE***

17 Plaintiffs are a group of unrelated commercial entities who applied for, but did not receive,
18 licenses to operate retail recreational marijuana establishments in various local jurisdictions throughout
19 the state. Defendant is Nevada's Department of Taxation ("DoT"), which is the administrative agency
20 responsible for issuing the licenses. Some successful applicants for licensure intervened as Defendants.

21 The Serenity Plaintiffs filed a Motion for Preliminary Injunction on March 19, 2019, asking for
22 a preliminary injunction to:

- 23 a. Enjoin the denial of Plaintiffs applications;
- 24 b. Enjoin the enforcement of the licenses granted;
- 25 c. Enjoin the enforcement and implementation of NAC 453D;

26
27 ² The findings made in this Order are preliminary in nature based upon the limited evidence presented after very
28 limited discovery permitted on an expedited basis and may be modified based upon additional evidence presented to the
Court at the ultimate trial of the business court matters.

- 1 d. An order restoring the *status quo ante* prior to the DoT's adoption of NAC 453D;
2 and
3 e. Several orders compelling discovery.

4 This Court reviewed the Serenity Plaintiffs' Motion for Preliminary Injunction and at a hearing on
5 April 22, 2019, invited Plaintiffs in related cases, not assigned to Business Court, to participate in the
6 evidentiary hearing on the Motion for Preliminary Injunction being heard in Department 11 for the
7 purposes of hearing and deciding the Motions for Preliminary Injunction.³

8 *PRELIMINARY STATEMENT*

9 The Attorney General's Office was forced to deal with a significant impediment at the early
10 stages of the litigation. This inability to disclose certain information was outside of its control because
11 of confidentiality requirements that have now been slightly modified by SB 32. Although the parties
12 stipulated to a protective order on May 24, 2019, many documents produced in preparation for the
13 hearing and for discovery purposes were heavily redacted because of the highly competitive nature of
14 the industry and sensitive financial and commercial information being produced.

15 All parties agree that the language of an initiative takes precedence over any regulation that is in
16 conflict and that an administrative agency has some discretion in determining how to implement the
17 initiative. The Court gives deference to the agency in establishing those regulations and creating the
18 framework required to implement those provisions in conformity with the initiative.

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21 ³ The complaints filed by the parties participating in the hearing seek declaratory relief, injunctive relief and writs of
22 mandate, among other claims. The motions and joinders seeking injunctive relief which have been reviewed by the Court in
conjunction with this hearing include:

23 A786962-B Serenity: Serenity Plaintiffs' Motion for Preliminary Injunction filed 3/19/19 (Joinder to Motion by
Compassionate Team: 5/17; Joinder to Motion by ETW: 5/6 (filed in A787004); and Joinder to Motion by Nevada
Wellness: 5/10 (filed in A787540)); Opposition by the State filed 5/9/19 (Joinder by Essence/Thrive Entities: 5/23);
24 Opposition by Nevada Organic Remedies: 5/9 (Joinder by Lone Mountain: 5/13; Joinder by Helping Hands: 5/21; and
Joinder by Essence/Thrive Entities: 5/23). Application for TRO on OST filed 5/9/19 (Joinder by Compassionate Team:
25 5/17; and Joinder by ETW: 5/10 (filed in A787004)); Opposition by Nevada Organic Remedies: 5/9 (Joinder by Clear River:
5/9); Opposition by Essence/Thrive Entities: 5/10 (Joinder by GreenMart: 5/10; Joinder by Lone Mountain: 5/11; and
26 Joinder by Helping Hands: 5/12).

27 A785818-W MM Development: MM Plaintiffs' Motion for Preliminary Injunction or Writ of Mandamus filed 5/9/19
(Joinder by Serenity: 5/20 (filed in A786962); Joinder by ETW: 5/6 (filed in A787004 and A785818); and Joinder by
28 Nevada Wellness: 5/10 (filed in A787540)).

1 The initiative to legalize recreational marijuana, Ballot Question 2 ("BQ2"), went to the voters
2 in 2016. The language of BQ2 is independent of any regulations that were adopted by the DoT. The
3 Court must balance the mandatory provisions of BQ2 (which the DoT did not have discretion to
4 modify);⁴ those provisions with which the DoT was granted some discretion in implementation;⁵ and
5 the inherent discretion of an administrative agency to implement regulations to carry out its statutory
6 duties. The Court must give great deference to those activities that fall within the discretionary
7 functions of the agency. Deference is not given where the actions of the DoT were in violation of BQ2
8 or were arbitrary and capricious.

9 FINDINGS OF FACT

10 1. Nevada allows voters to amend its Constitution or enact legislation through the initiative
11 process. Nevada Constitution, Article 19, Section 2.

12 ⁴ Article 19, Section 2(3) provides the touchstone for the mandatory provisions:

13 An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or
14 suspended by the Legislature within 3 years from the date it takes effect.

15 ⁵ NRS 453D.200(1) required the adoption of regulations for the licensure and oversight of recreational marijuana
16 cultivation, manufacturing/production, sales and distribution, but provides the DoT discretion in exactly what those
17 regulations would include.

18 . . . the Department shall adopt all regulations necessary or convenient to carry out the provisions of this chapter.
19 The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations
20 that make their operation unreasonably impracticable. The regulations shall include:

- 21 (a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana
22 establishment;
- 23 (b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana
24 establishment;
- 25 (c) Requirements for the security of marijuana establishments;
- 26 (d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21
27 years of age;
- 28 (e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-
resistant packaging;
- (f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana
establishments including a numerical indication of potency based on the ratio of THC to the weight of a product
intended for oral consumption;
- (g) Requirements for record keeping by marijuana establishments;
- (h) Reasonable restrictions on signage, marketing, display, and advertising;
- (i) Procedures for the collection of taxes, fees, and penalties imposed by this chapter;
- (j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another
qualified person and to enable a licensee to move the location of its establishment to another suitable location;
- (k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and
marijuana establishments at the same location;
- (l) Procedures to establish the fair market value at wholesale of marijuana; and
- (m) Civil penalties for the failure to comply with any regulation adopted pursuant to this section or for any
violation of the provisions of NRS 453D.300.

1 2. In 2000, the voters amended Nevada's Constitution to allow for the possession and use
2 of marijuana to treat various medical conditions. Nevada Constitution, Article 4, Section 38(1)(a). The
3 initiative left it to the Legislature to create laws "[a]uthoriz[ing] appropriate methods for supply of the
4 plant to patients authorized to use it." Nevada Constitution, Article 4, Section 38(1)(e).

5 3. For several years prior to the enactment of BQ2, the regulation of medical marijuana
6 dispensaries had not been taken up by the Legislature. Some have argued in these proceedings that the
7 delay led to the framework of BQ2.

8 4. In 2013, Nevada's legislature enacted NRS 453A, which allows for the cultivation and
9 sale of medical marijuana. The Legislature described the requirements for the application to open a
10 medical marijuana establishment. NRS 453A.322. The Nevada Legislature then charged the Division of
11 Public and Behavioral Health with evaluating the applications. NRS 453A.328.

12 5. The materials circulated to voters in 2016 for BQ2 described its purpose as the
13 amendment of the Nevada Revised Statutes as follows:
14

15 Shall the *Nevada Revised Statutes* be amended to allow a person, 21 years old or older, to
16 purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated
17 marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana
18 paraphernalia; impose a 15 percent excise tax on wholesale sales of marijuana; require the
19 regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and
20 retailers; and provide for certain criminal penalties?

21 6. BQ2 was enacted by the Nevada Legislature and is codified at NRS 453D.⁶

22 7. BQ2 specifically identified regulatory and public safety concerns:

23 The People of the State of Nevada proclaim that marijuana should be regulated in a manner
24 similar to alcohol so that:

- 25 (a) Marijuana may only be purchased from a business that is licensed by the State of
26 Nevada;
27 (b) Business owners are subject to a review by the State of Nevada to confirm that the
28 business owners and the business location are suitable to produce or sell marijuana;
 (c) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly
controlled through State licensing and regulation;

⁶ As the provisions of BQ2 and the sections NRS 453D currently in effect (with the exception of NRS 453D.205) are identical, for ease of reference the Court cites to BQ2 as enacted by the Nevada Legislature in NRS 453D.

- (d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;
- (e) Individuals will have to be 21 years of age or older to purchase marijuana;
- (f) Driving under the influence of marijuana will remain illegal; and
- (g) Marijuana sold in the State will be tested and labeled.

NRS 453D.020(3).

8. BQ2 mandated the DoT to "conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant." NRS 453D.200(6).

9. On November 8, 2016, by Executive Order 2017-02, Governor Brian Sandoval established a Task Force composed of 19 members to offer suggestions and proposals for legislative, regulatory, and executive actions to be taken in implementing BQ2.

10. The Task Force's findings, issued on May 30, 2017, referenced the 2014 licensing process for issuing Medical Marijuana Establishment Registration Certificates under NRS 453A. The Task Force recommended that "the qualifications for licensure of a marijuana establishment and the impartial numerically scored bidding process for retail marijuana stores be maintained as in the medical marijuana program except for a change in how local jurisdictions participate in selection of locations."

11. Some of the Task Force's recommendations appear to conflict with BQ2.⁷

⁷ The Final Task Force report (Exhibit 2009) contained the following statements:

The Task Force recommends that retail marijuana ownership interest requirements remain consistent with the medical marijuana program. . . .
at 2510.

The requirement identified by the Task Force at the time was contained in NAC 453A.302(1) which states:

Except as otherwise required in subsection 2, the requirements of this chapter concerning owners of medical marijuana establishments only apply to a person with an aggregate ownership interest of 5 percent or more in a medical marijuana establishment.

The second recommendation of concern is:

The Task Force recommends that NRS 453A be changed to address companies that own marijuana establishment licenses in which there are owners with less than 5% ownership interest in the company. The statute should be amended to:

*Limit fingerprinting, background checks and renewal of agent cards to owners officers and board members with 5% or less cumulatively of the company to once every five years;

*Only require owners officers and board members with 5% or more cumulatively and employees of the company to obtain agent registration cards; and

1 12. During the 2017 legislative session Assembly Bill 422 transferred responsibility for the
2 registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of
3 Public and Behavioral Health to the DoT.⁸

4 13. On February 27, 2018, the DoT adopted regulations governing the issuance, suspension,
5 or revocation of retail recreational marijuana licenses in LCB File No. R092-17, which were codified in
6 NAC 453D (the "Regulations").

7 14. The Regulations for licensing were to be "directly and demonstrably related to the
8 operation of a marijuana establishment." NRS 453D.200(1)(b). The phrase "directly and demonstrably
9 related to the operation of a marijuana establishment" is subject to more than one interpretation.
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18 *Use the marijuana establishments governing documents to determine who has approval rights and signatory
19 authority for purposes of signing ownership transfers, applications and any other appropriate legal or regulatory
documents.

20 There was Task Force dissent on the recommendation. The concern with this recommendation was that by
21 changing the requirements on fingerprinting and background checks, the state would have less knowledge of when
an owner, officer, and board member commits an offense not allowed under current marijuana law, potentially
creating a less safe environment in the state.
22 at 2515-2516.

23 ⁸ Those provisions (a portion of which became NRS 453D.205) are consistent with BQ2:

24 1. When conducting a background check pursuant to subsection 6 of NRS 453D.200, the Department may
25 require each prospective owner, officer and board member of a marijuana establishment license applicant to submit
a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the
Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation
for its report.

26 2. When determining the criminal history of a person pursuant to paragraph (c) of subsection 1 of NRS
27 453D.300, a marijuana establishment may require the person to submit to the Department a complete set of
fingerprints and written permission authorizing the Department to forward the fingerprints to the Central
Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its
report.
28

1 15. A person holding a medical marijuana establishment registration certificate could apply
2 for one or more recreational marijuana establishment licenses within the time set forth by the DoT in
3 the manner described in the application. NAC 453D.268.⁹

4
5 Relevant portions of that provision require that application be made

6 ... by submitting an application in response to a request for applications issued pursuant to NAC 453D.260 which
7 must include:

8 ***
9 2. An application on a form prescribed by the Department. The application must include, without limitation:

10 (a) Whether the applicant is applying for a license for a marijuana establishment for a marijuana cultivation
11 facility, a marijuana distributor, a marijuana product manufacturing facility, a marijuana testing facility or a retail
12 marijuana store;

13 (b) The name of the proposed marijuana establishment, as reflected in both the medical marijuana establishment
14 registration certificate held by the applicant, if applicable, and the articles of incorporation or other documents filed
15 with the Secretary of State;

16 (c) The type of business organization of the applicant, such as individual, corporation, partnership, limited-liability
17 company, association or cooperative, joint venture or any other business organization;

18 (d) Confirmation that the applicant has registered with the Secretary of State as the appropriate type of business,
19 and the articles of incorporation, articles of organization or partnership or joint venture documents of the applicant;

20 (e) The physical address where the proposed marijuana establishment will be located and the physical address of
21 any co-owned or otherwise affiliated marijuana establishments;

22 (f) The mailing address of the applicant;

23 (g) The telephone number of the applicant;

24 (h) The electronic mail address of the applicant;

25 (i) A signed copy of the Request and Consent to Release Application Form for Marijuana Establishment License
26 prescribed by the Department;

27 (j) If the applicant is applying for a license for a retail marijuana store, the proposed hours of operation during
28 which the retail marijuana store plans to be available to sell marijuana to consumers;

(k) An attestation that the information provided to the Department to apply for the license for a marijuana
establishment is true and correct according to the information known by the affiant at the time of signing; and

(l) The signature of a natural person for the proposed marijuana establishment as described in subsection 1 of NAC
453D.250 and the date on which the person signed the application.

3. Evidence of the amount of taxes paid, or other beneficial financial contributions made, to this State or its
political subdivisions within the last 5 years by the applicant or the persons who are proposed to be owners, officers
or board members of the proposed marijuana establishment.

4. A description of the proposed organizational structure of the proposed marijuana establishment, including,
without limitation:

(a) An organizational chart showing all owners, officers and board members of the proposed marijuana
establishment;

(b) A list of all owners, officers and board members of the proposed marijuana establishment that contains the
following information for each person:

(1) The title of the person;

(2) The race, ethnicity and gender of the person;

(3) A short description of the role in which the person will serve for the organization and his or her
responsibilities;

(4) Whether the person will be designated by the proposed marijuana establishment to provide written notice to
the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a
marijuana establishment agent at the proposed marijuana establishment;

(5) Whether the person has served or is currently serving as an owner, officer or board member for another
medical marijuana establishment or marijuana establishment;

(6) Whether the person has served as an owner, officer or board member for a medical marijuana establishment
or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as
applicable, revoked;

1 NRS 453D.210(6) mandated the DoT to use "an impartial and numerically scored competitive bidding
2 process" to determine successful applicants where competing applications were submitted.

3 16. NAC 453D.272(1) provides the procedure for when the DoT receives more than one
4 "complete" application. Under this provision the DoT will determine if the "application is complete and

5 (7) Whether the person has previously had a medical marijuana establishment agent registration card or
6 marijuana establishment agent registration card revoked;

7 (8) Whether the person is an attending provider of health care currently providing written documentation for the
8 issuance of registry identification cards or letters of approval;

9 (9) Whether the person is a law enforcement officer;

10 (10) Whether the person is currently an employee or contractor of the Department; and

11 (11) Whether the person has an ownership or financial investment interest in any other medical marijuana
12 establishment or marijuana establishment.

13 5. For each owner, officer and board member of the proposed marijuana establishment:

14 (a) An attestation signed and dated by the owner, officer or board member that he or she has not been convicted of
15 an excluded felony offense, and that the information provided to support the application for a license for a
16 marijuana establishment is true and correct;

17 (b) A narrative description, not to exceed 750 words, demonstrating:

18 (1) Past experience working with governmental agencies and highlighting past experience in giving back to the
19 community through civic or philanthropic involvement;

20 (2) Any previous experience at operating other businesses or nonprofit organizations; and

21 (3) Any demonstrated knowledge, business experience or expertise with respect to marijuana; and

22 (c) A resume.

23 6. Documentation concerning the size of the proposed marijuana establishment, including, without limitation,
24 building and general floor plans with supporting details.

25 7. The integrated plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana
26 from seed to sale, including, without limitation, a plan for testing and verifying marijuana, a transportation or
27 delivery plan and procedures to ensure adequate security measures, including, without limitation, building security
28 and product security.

8. A plan for the business which includes, without limitation, a description of the inventory control system of the
proposed marijuana establishment to satisfy the requirements of NRS 453D.300 and NAC 453D.426.

9. A financial plan which includes, without limitation:

(a) Financial statements showing the resources of the applicant;

(b) If the applicant is relying on money from an owner, officer or board member, evidence that the person has
unconditionally committed such money to the use of the applicant in the event the Department awards a license to
the applicant and the applicant obtains the necessary approvals from the locality to operate the proposed marijuana
establishment; and

(c) Proof that the applicant has adequate money to cover all expenses and costs of the first year of operation.

10. Evidence that the applicant has a plan to staff, educate and manage the proposed marijuana establishment on a
daily basis, which must include, without limitation:

(a) A detailed budget for the proposed marijuana establishment, including pre-opening, construction and first-year
operating expenses;

(b) An operations manual that demonstrates compliance with this chapter;

(c) An education plan which must include, without limitation, providing educational materials to the staff of the
proposed marijuana establishment; and

(d) A plan to minimize the environmental impact of the proposed marijuana establishment.

11. If the application is submitted on or before November 15, 2018, for a license for a marijuana distributor,
proof that the applicant holds a wholesale dealer license issued pursuant to chapter 369 of NRS, unless the
Department determines that an insufficient number of marijuana distributors will result from this limitation.

12. A response to and information which supports any other criteria the Department determines to be relevant,
which will be specified and requested by the Department at the time the Department issues a request for
applications which includes the point values that will be allocated to the applicable portions of the application
pursuant to subsection 2 of NAC 453D.260.

1 in compliance with this chapter and Chapter 453D of NRS, the Department will rank the applications .
2 in order from first to last based on the compliance with the provisions of this chapter and chapter
3 453D of NRS and on the content of the applications relating to . . .” several enumerated factors. NAC
4 453D.272(1).

5 17. The factors set forth in NAC 453D.272(1) that are used to rank competing applications
6 (collectively, the “Factors”) are:

- 7
- 8 (a) Whether the owners, officers or board members have experience operating another kind
9 of business that has given them experience which is applicable to the operation of a marijuana
10 establishment;
 - 11 (b) The diversity of the owners, officers or board members of the proposed marijuana
12 establishment;
 - 13 (c) The educational achievements of the owners, officers or board members of the proposed
14 marijuana establishment;
 - 15 (d) The financial plan and resources of the applicant, both liquid and illiquid;
 - 16 (e) Whether the applicant has an adequate integrated plan for the care, quality and
17 safekeeping of marijuana from seed to sale;
 - 18 (f) The amount of taxes paid and other beneficial financial contributions, including, without
19 limitation, civic or philanthropic involvement with this State or its political subdivisions, by the
20 applicant or the owners, officers or board members of the proposed marijuana establishment;
 - 21 (g) Whether the owners, officers or board members of the proposed marijuana establishment
22 have direct experience with the operation of a medical marijuana establishment or marijuana
23 establishment in this State and have demonstrated a record of operating such an establishment in
24 compliance with the laws and regulations of this State for an adequate period of time to
25 demonstrate success;
 - 26 (h) The (unspecified) experience of key personnel that the applicant intends to employ in
27 operating the type of marijuana establishment for which the applicant seeks a license; and
 - 28 (i) Any other criteria that the Department determines to be relevant.

18. Each of the Factors is within the DoT’s discretion in implementing the application
process provided for in BQ2. The DoT had a good-faith basis for determining that each of the Factors
is “directly and demonstrably related to the operation of a marijuana establishment.”

19. The DoT posted the application on its website and released the application for
recreational marijuana establishment licenses on July 6, 2018.¹⁰

¹⁰ The DoT made a change to the application after circulating the first version of the application to delete the
requirement of a physical location. The modification resulted in a different version of the application bearing the same
“footer” with the original version remaining available on the DoT’s website.

1 20. The DoT utilized a question and answer process through a generic email account at
2 marijuana@tax.state.nv.us to allow applicants to ask questions and receive answers directly from the
3 Department, which were not consistent with NRS 453D, and that information was not further
4 disseminated by the DoT to other applicants.

5 21. In addition to the email question and answer process, the DoT permitted applicants and
6 their representatives to personally contact the DoT staff about the application process.

7 22. The application period ran from September 7, 2018 through September 20, 2018.

8 23. The DoT accepted applications in September 2018 for retail recreational marijuana
9 licenses and announced the award of conditional licenses in December 2018.

10 24. The DoT used a listserv to communicate with prospective applicants.

11 25. The DoT published a revised application on July 30, 2018. This revised application was
12 sent to all participants in the DoT's listserv directory. The revised application modified a sentence on
13 attachment A of the application. Prior to this revision, the sentence had read, "Marijuana
14 Establishment's proposed physical address (this must be a Nevada address and cannot be a P.O. Box)."
15 The revised application on July 30, 2018, read: "Marijuana Establishment's proposed physical address
16 if the applicant owns property or has secured a lease or other property agreement (this must be a
17 Nevada address and not a P.O. Box). Otherwise, the applications are virtually identical.

18 26. The DoT sent a copy of the revised application through the listserv service used by the
19 DoT. Not all Plaintiffs' correct emails were included on this listserv service.

20 27. The July 30, 2018 application, like its predecessor, described how applications were to
21 be scored. The scoring criteria was divided into identified criteria and non-identified criteria. The
22 maximum points that could be awarded to any applicant based on these criteria was 250 points.

23 28. The identified criteria consisted of organizational structure of the applicant (60 points);
24 evidence of taxes paid to the State of Nevada by owners, officers, and board members of the applicant
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1 in the last 5 years (25 points); a financial plan (30 points); and documents from a financial institution
2 showing unencumbered liquid assets of \$250,000 per location for which an application is submitted.

3 29. The non-identified criteria consisted of documentation concerning the integrated plan of
4 the proposed marijuana establishment for the care, quality and safekeeping of marijuana from seed to
5 sale (40 points); evidence that the applicant has a plan to staff, educate and manage the proposed
6 recreational marijuana establishment on a daily basis (30 points); a plan describing operating
7 procedures for the electronic verification system of the proposed marijuana establishment and
8 describing the proposed establishment's inventory control system (20 points); building plans showing
9 the proposed establishment's adequacy to serve the needs of its customers (20 points); and, a proposal
10 explaining likely impact of the proposed marijuana establishment in the community and how it will
11 meet customer needs (15 points).
12

13 30. An applicant was permitted to submit a single application for all jurisdictions in which it
14 was applying, and the application would be scored at the same time.
15

16 31. By September 20, 2018, the DoT received a total of 462 applications.

17 32. In order to grade and rank the applications the DoT posted notices that it was seeking to
18 hire individuals with specified qualifications necessary to evaluate applications. The DoT interviewed
19 applicants and made decisions on individuals to hire for each position.
20

21 33. When decisions were made on who to hire, the individuals were notified that they would
22 need to register with "Manpower" under a pre-existing contract between the DoT and that company.
23 Individuals would be paid through Manpower, as their application-grading work would be of a
24 temporary nature.

25 34. The DoT identified, hired, and trained eight individuals to grade the applications,
26 including three to grade the identified portions of the applications, three to grade the non-identified
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1 portions of the applications, and one administrative assistant for each group of graders (collectively the
2 "Temporary Employees").

3 35. It is unclear how the DoT trained the Temporary Employees. While portions of the
4 training materials were introduced into evidence, testimony regarding the oral training based upon
5 example applications was insufficient for the Court to determine the nature and extent of the training of
6 the Temporary Employees.¹¹

7 36. NAC 453D.272(1) required the DoT to determine that an Application is "complete and
8 in compliance" with the provisions of NAC 453D in order to properly apply the licensing criteria set
9 forth therein and the provisions of the Ballot Initiative and the enabling statute.

10 37. When the DoT received applications, it undertook no effort to determine if the
11 applications were in fact "complete and in compliance."

12 38. In evaluating whether an application was "complete and in compliance" the DoT made
13 no effort to verify owners, officers or board members (except for checking whether a transfer request
14 was made and remained pending before the DoT).

15 39. For purposes of grading the applicant's organizational structure and diversity, if an
16 applicant's disclosure in its application of its owners, officers, and board members did not match the
17 DoT's own records, the DoT did not penalize the applicant. Rather the DoT permitted the grading, and
18 in some cases, awarded a conditional license to an applicant under such circumstances, and dealt with
19 the issue by simply informing the winning applicant that its application would have to be brought into
20 conformity with DoT records.

21 40. The DoT created a Regulation that modified the mandatory BQ2 provision "[t]he
22 Department shall conduct a background check of each prospective owner, officer, and board member of
23 a marijuana establishment license applicant" and determined it would only require information on the

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28 ¹¹ Given the factual issues related to the grading raised by MM and LivFree, these issues may be subject to additional
evidentiary proceedings in the assigned department.

1 application from persons "with an aggregate ownership interest of 5 percent or more in a marijuana
2 establishment." NAC 453D.255(1).

3 41. NRS 453D.200(6) provides that "[t]he DoT shall conduct a background check of each
4 prospective owner, officer, and board member of a marijuana establishment license applicant." The
5 DoT departed from this mandatory language in NAC 453D.255(1) and made no attempt in the
6 application process to verify that the applicant's complied with the mandatory language of the BQ2 or
7 even the impermissibly modified language.
8

9 42. The DoT made the determination that it was not reasonable to require industry to
10 provide every owner of a prospective licensee. The DOT's determination that only owners of a 5% or
11 greater interest in the business were required to submit information on the application was not a
12 permissible regulatory modification of BQ2. This determination violated Article 19, Section 3 of the
13 Nevada Constitution. The determination was not based on a rational basis.
14

15 43. The limitation of "unreasonably impracticable" in BQ2¹² does not apply to the
16 mandatory language of BQ2, but to the Regulations which the DoT adopted.

17 44. The adoption of NAC 453D.255(1), as it applies to the application process is an
18 unconstitutional modification of BQ2.¹³ The failure of the DoT to carry out the mandatory provisions
19 of NRS 453D.200(6) is fatal to the application process.¹⁴ The DoT's decision to adopt regulations in
20 direct violation of BQ2's mandatory application requirements is violative of Article 19, Section 2(3) of
21 the Nevada Constitution.
22

23 ¹² NRS 453D.200(1) provides in part:

24 The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations
25 that make their operation unreasonably impracticable.

26 ¹³ For administrative and regulatory proceedings other than the application, the limitation of 5% or greater ownership
27 appears within the DoT's discretion.

28 ¹⁴ That provision states:

6. The Department shall conduct a background check of each prospective owner, officer, and board member of a
marijuana establishment license applicant.

1 45. Given the lack of a robust investigative process for applicants, the requirement of the
2 background check for each prospective owner, officer, and board member as part of the application
3 process impedes an important public safety goal in BQ2.

4 46. Without any consideration as to the voters mandate in BQ2, the DoT determined that
5 requiring each prospective owner be subject to a background check was too difficult for
6 implementation by industry. This decision was a violation of the Nevada Constitution, an abuse of
7 discretion, and arbitrary and capricious.

8 47. The DoT did not comply with BQ2 by requiring applicants to provide information for
9 each prospective owner, officer and board member or verify the ownership of applicants applying for
10 retail recreational marijuana licenses. Instead the DoT issued conditional licenses to applicants who
11 did not identify each prospective owner, officer and board member.¹⁵

12 48. The DoT's late decision to delete the physical address requirement on some application
13 forms while not modifying those portions of the application that were dependent on a physical location
14 (i.e. floor plan, community impact, security plan, and the sink locations) after the repeated
15 communications by an applicant's agent; not effectively communicating the revision; and, leaving the
16 original version of the application on the website, is evidence of conduct that is a serious issue.

17 49. Pursuant to NAC 453D.295, the winning applicants received a conditional license that
18 will not be finalized unless within twelve months of December 5, 2018, the licensees receive a final
19 inspection of their marijuana establishment.
20
21
22
23
24

25 ¹⁵ Some applicants apparently provided the required information for each prospective owner, officer and board
26 member. Accepting as truthful these applicants' attestations regarding who their owners, officers, and board members were
27 at the time of the application, these applications were complete at the time they were filed with reference to NRS
28 453D.200(6). These entities are Green Therapeutics LLC, Eureka NewGen Farms LLC, Circle S Farms LLC, Deep Roots
Medical LLC, Pure Tonic Concentrates LLC, Wellness Connection of Nevada LLC, Polaris Wellness Center LLC, and
TRNVP098 LLC, Clear River LLC, Cheyenne Medical LLC, Essence Tropicana LLC, Essence Henderson LLC, and
Commerce Park Medical LLC. See Court Exhibit 3 (post-hearing submission by the DoT).

50. The few instances of clear mistakes made by the Temporary Employees admitted in evidence do not, in and of themselves, result in an unfair process as human error occurs in every process.

51. Nothing in NRS 453D or NAC 453D provides for any right to an appeal or review of a decision denying an application for a retail recreational marijuana license.

52. There are an extremely limited number of licenses available for the sale of recreational marijuana.

53. The number of licenses available was set by BQ2 and is contained in NRS 453D.210(5)(d).

54. Since the Court does not have authority to order additional licenses in particular jurisdictions, and because there are a limited number of licenses that are available in certain jurisdictions, injunctive relief is necessary to permit the Plaintiffs, if successful in the NRS 453D.210(6) process, to actually obtaining a license, if ultimately successful in this litigation.

55. The secondary market for the transfer of licenses is limited.¹⁶

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

CONCLUSIONS OF LAW

57. "Any person...whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder." NRS 30.040.

58. A justiciable controversy is required to exist prior to an award of declaratory relief. *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986).

¹⁶ The testimony elicited during the evidentiary hearing established that multiple changes in ownership have occurred since the applications were filed. Given this testimony, simply updating the applications previously filed would not comply with BOQ.

1 59. NRS 33.010 governs cases in which an injunction may be granted. The applicant must
2 show (1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving
3 party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is
4 an inadequate remedy.

5 60. Plaintiffs have the burden to demonstrate that the DoT's conduct, if allowed to continue,
6 will result in irreparable harm for which compensatory damages is an inadequate remedy.

7 61. The purpose of a preliminary injunction is to preserve the *status quo* until the matter can
8 be litigated on the merits.

9 62. In *City of Sparks v. Sparks Mun. Court*, the Supreme Court explained, "[a]s a
10 constitutional violation may be difficult or impossible to remedy through money damages, such a
11 violation may, by itself, be sufficient to constitute irreparable harm." 129 Nev. 348, 357, 302 P.3d
12 1118, 1124 (2013).

13 63. Article 19, Section 2 of the Constitution of the State of Nevada provides, in pertinent
14 part:

15 "1. Notwithstanding the provisions of section 1 of article 4 of this constitution, but subject to the
16 limitations of section 6 of this article, the people reserve to themselves the power to propose,
17 by initiative petition, statutes and amendments to statutes and amendments to this
18 constitution, and to enact or reject them at the polls.

19 ...

20 3. If the initiative petition proposes a statute or an amendment to a statute, the person who
21 intends to circulate it shall file a copy with the secretary of state before beginning circulation
22 and not earlier than January 1 of the year preceding the year in which a regular session of the
23 legislature is held. After its circulation, it shall be filed with the secretary of state not less than
24 30 days prior to any regular session of the legislature. The circulation of the petition shall cease
25 on the day the petition is filed with the secretary of state or such other date as may be prescribed
26 for the verification of the number of signatures affixed to the petition, whichever is earliest. The
27 secretary of state shall transmit such petition to the legislature as soon as the legislature
28 convenes and organizes. The petition shall take precedence over all other measures except
appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted
or rejected by the legislature without change or amendment within 40 days. If the proposed
statute or amendment to a statute is enacted by the legislature and approved by the governor in
the same manner as other statutes are enacted, such statute or amendment to a statute shall
become law, but shall be subject to referendum petition as provided in section 1 of this article.

1 If the statute or amendment to a statute is rejected by the legislature, or if no action is taken
2 thereon within 40 days, the secretary of state shall submit the question of approval or
3 disapproval of such statute or amendment to a statute to a vote of the voters at the next
4 succeeding general election. If a majority of the voters voting on such question at such election
5 votes approval of such statute or amendment to a statute, it shall become law and take effect
6 upon completion of the canvass of votes by the supreme court. An initiative measure so
approved by the voters shall not be amended, annulled, repealed, set aside or suspended
by the legislature within 3 years from the date it takes effect."

6 (Emphasis added.)

7 64. The Nevada Supreme Court has recognized that "[i]nitiative petitions must be kept
8 substantively intact; otherwise, the people's voice would be obstructed. . . . [I]nitiative legislation is not
9 subject to judicial tampering-the substance of an initiative petition should reflect the unadulterated will
10 of the people and should proceed, if at all, as originally proposed and signed. For this reason, our
11 constitution prevents the Legislature from changing or amending a proposed initiative petition that is
12 under consideration." Rogers v. Heller, 117 Nev. 169, 178, 18 P.3d 1034,1039-40 (2001).

14 65. BQ2 provides, "the Department shall adopt all regulations necessary or convenient to
15 carry out the provisions of this chapter." NRS 453D.200(1). This language does not confer upon the
16 DoT unfettered or unbridled authority to do whatever it wishes without constraint. The DoT was not
17 delegated the power to legislate amendments because this is initiative legislation. The legislature itself
18 has no such authority with regard to NRS 453D until three years after its enactment under the
19 prohibition of Article 19, Section 2 of the Constitution of the State of Nevada.

21 66. Where, as here, amendment of a voter-initiated law is temporally precluded from
22 amendment for three years, the administrative agency may not modify the law.

23 67. NRS 453D.200(1) provides that "the Department shall adopt all regulations necessary or
24 convenient to carry out the provisions of this chapter." The Court finds that the words "necessary or
25 convenient" are susceptible to at least two reasonable interpretations. This limitation applies only to
26 Regulations adopted by the DoT.

1 68. While the category of diversity is not specifically included in the language of BQ2, the
2 evidence presented in the hearing demonstrates that a rational basis existed for the inclusion of this
3 category in the Factors and the application.

4 69. The DoT's inclusion of the diversity category was implemented in a way that created a
5 process which was partial and subject to manipulation by applicants.

6 70. The DoT staff provided various applicants with different information as to what would
7 be utilized from this category and whether it would be used merely as a tiebreaker or as a substantive
8 category.
9

10 71. Based upon the evidence adduced, the Court finds that the DoT selectively discussed
11 with applicants or their agents the modification of the application related to physical address
12 information.

13 72. The process was impacted by personal relationships in decisions related to the
14 requirements of the application and the ownership structures of competing applicants. This in and of
15 itself is insufficient to void the process as urged by some of the Plaintiffs.
16

17 73. The DoT disseminated various versions of the 2018 Retail Marijuana Application, one
18 of which was published on the DoT's website and required the applicant to provide an actual physical
19 Nevada address for the proposed marijuana establishment, and not a P.O. Box, (*see* Exhibit 5), whereas
20 an alternative version of the DoT's application form, which was not made publicly available and was
21 distributed to some, but not all, of the applicants via a DoT listserv service, deleted the requirement that
22 applicants disclose an actual physical address for their proposed marijuana establishment. *See* Exhibit
23 5A.
24

25 74. The applicants were applying for conditional licensure, which would last for 1 year.
26 NAC 453D.282. The license was conditional based on the applicant's gaining approval from local
27
28

1 authorities on zoning and land use, the issuance of a business license, and the Department of Taxation
2 inspections of the marijuana establishment.

3 75. The DoT has only awarded conditional licenses which are subject to local government
4 approval related to zoning and planning and may approve a location change of an existing license, the
5 public safety aspects of the failure to require an actual physical address can be cured prior to the award
6 of a final license.

7 76. By selectively eliminating the requirement to disclose an actual physical address for
8 each and every proposed retail recreational marijuana establishment, the DoT limited the ability of the
9 Temporary Employees to adequately assess graded criteria such as (i) prohibited proximity to schools
10 and certain other public facilities, (ii) impact on the community, (iii) security, (iv) building plans, and
11 (v) other material considerations prescribed by the Regulations.

12 77. The hiring of Temporary Employees was well within the DoT's discretionary power.

13 78. The evidence establishes that the DoT failed to properly train the Temporary
14 Employees. This is not an appropriate basis for the requested injunctive relief unless it makes the
15 grading process unfair.
16

17 79. The DoT failed to establish any quality assurance or quality control of the grading done
18 by Temporary Employees.¹⁷ This is not an appropriate basis for the requested injunctive relief unless it
19 makes the grading process unfair.
20

21 80. The DoT made licensure conditional for one year based on the grant of power to create
22 regulations that develop "[p]rocedures for the issuance, renewal, suspension, and revocation of a
23 license to operate a marijuana establishment." NRS 453D.200(1)(a). This was within the DoT's
24 discretion.
25

26
27
28 ¹⁷ The Court makes no determination as to the extent which the grading errors alleged by MM and Live Free may be
subject to other appropriate writ practice related to those individualized issues by the assigned department.

1 81. Certain of DoT's actions related to the licensing process were nondiscretionary
2 modifications of BQ2's mandatory requirements. The evidence establishes DoT's deviations
3 constituted arbitrary and capricious conduct without any rational basis for the deviation.

4 82. The DoT's decision to not require disclosure on the application and to not conduct
5 background checks of persons owning less than 5% prior to award of a conditional license is an
6 impermissible deviation from the mandatory language of BQ2, which mandated "a background check
7 of each prospective owner, officer, and board member of a marijuana establishment license applicant."
8 NRS 453D.200(6).
9

10 83. The argument that the requirement for each owner to comply with the application
11 process and background investigation is "unreasonably impracticable" is misplaced. The limitation of
12 unreasonably impracticable applied only to the Regulations not to the language and compliance with
13 BQ2 itself.

14 84. Under the circumstances presented here, the Court concludes that certain of the
15 Regulations created by the DoT are unreasonable, inconsistent with BQ2 and outside of any discretion
16 permitted to the DoT.
17

18 85. The DoT acted beyond its scope of authority when it arbitrarily and capriciously
19 replaced the mandatory requirement of BQ2, for the background check of each prospective owner,
20 officer and board member with the 5% or greater standard in NAC 453.255(1). This decision by the
21 DoT was not one they were permitted to make as it resulted in a modification of BQ2 in violation of
22 Article 19, Section 2(3) of the Nevada Constitution.
23

24 86. As Plaintiffs have shown that the DoT clearly violated NRS Chapter 453D, the claims
25 for declaratory relief, petition for writ of prohibition, and any other related claims is likely to succeed
26 on the merits.

27 87. The balance of equities weighs in favor of Plaintiffs.
28

1 88. "[N]o restraining order or preliminary injunction shall issue except upon the giving of
2 adequate security by the applicant, in such sum as the court deems proper, for the payment of such
3 costs and damages as may be incurred or suffered by any party who is found to be wrongfully enjoined
4 or restrained." NRCp 65(d).

5 89. The DoI stands to suffer no appreciable losses and will suffer only minimal harm as a
6 result of an injunction.

7 90. Therefore, a security bond already ordered in the amount of \$400,000 is sufficient for
8 the issuance of this injunctive relief.¹⁸

9 91. If any conclusions of law are properly findings of fact, they shall be treated as if
10 appropriately identified and designated.

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27 ¹⁸ As discussed during the preliminary injunction hearing, the Court sets a separate evidentiary hearing on whether to
28 increase the amount of this bond. That hearing is set for August 29, 2019, at 9:00 a.m.

ORDER

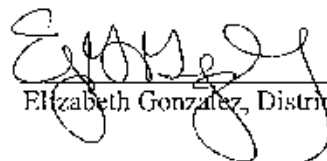
IT IS HEREBY ADJUDGED ORDERED AND DECREED that Plaintiffs' Motions for Preliminary Injunction are granted in part.

The State is enjoined from conducting a final inspection of any of the conditional licenses issued in or about December 2018 who did not provide the identification of each prospective owner, officer and board member as required by NRS 453D.200(6) pending a trial on the merits.¹⁹

The issue of whether to increase the existing bond is set for hearing on August 29, 2019, at 9:00 am.

The parties in A786962 and A787004 are to appear for a Rule 16 conference September 9, 2019, at 9:00 am and submit their respective plans for discovery on an expedited schedule by noon on September 6, 2019.

DATED this 23rd day of August 2019.


Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on the date filed, this Order was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.


Dan Kutinac

¹⁹ As Court Exhibit 3 is a post-hearing submission by the DoT, the parties may file objections and/or briefs related to this issue. Any issues related to the inclusion or exclusion from this group will be heard August 29, 2019, at 9:00 am.

EXHIBIT “B”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC, .
et al. .

Plaintiffs .

CASE NO. A-19-786962-B

vs. .

STATE OF NEVADA DEPARTMENT OF .
TAXATION .

DEPT. NO. XI

Defendant .

**Transcript of
Proceedings**

.

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

EVIDENTIARY HEARING - DAY 14

FRIDAY, JULY 12, 2019

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA 006441

1 address.

2 Q A physical address?

3 A Yes.

4 Q Okay. And a physical address in your mind could not
5 be a Post Office box?

6 A Right.

7 Q Or one of these companies that maintains Post Office
8 -- fake Post Office places. Couldn't be that, either; right?

9 A I think the idea was to have an office address
10 essentially.

11 Q Right. So you couldn't use -- I can't remember what
12 it is, UPS.

13 THE COURT: UPS Stores.

14 BY MR. KEMP:

15 Q You couldn't use a UPS Store, because that's not a
16 real physical address; right?

17 A I don't think -- I don't think that it would be
18 allowed.

19 Q Okay. And if you'd been the director at the time,
20 you would have disqualified those applications?

21 A I wouldn't have even reviewed the applications.

22 Q Okay. Because it was disqualified, or because you
23 wouldn't be the person doing the review?

24 A Well, I don't know. I mean, I --

25 Q And let me ask it --

1 A -- I would --

2 Q Let me ask it better. Your staff would have been
3 instructed that if they didn't have a physical address apart
4 from a Post Office box or a UPS Store that that application
5 should not be accepted; right?

6 A I think that would be the direction.

7 Q Okay. So the answer to my question is yes?

8 A Yes.

9 Q Okay. And the reason for that is because the
10 statute required it; right?

11 MR. KOCH: Objection. Misstates the law.

12 THE COURT: Overruled.

13 BY MR. KEMP:

14 Q I mean, the reason for your position is because the
15 statute says that?

16 A Right.

17 Q Okay. All right. Okay. I'm going to go to my last
18 area. Mr. Gutierrez asked you some questions about
19 extenuating circumstances. Do you recall those?

20 A Yes.

21 Q And your answer said, and I wrote it down -- I tried
22 to write it down verbatim. You said, if they were enjoined,
23 that would be beyond their control. Do you recall saying
24 that?

25 A I guess what I -- yes, I recall saying that.

1 A I've never met him. I mean, I know who he is,
2 but --
3 Q Armand?
4 A Armand -- yes, I know Armand.
5 Q What's his last name?
6 A I don't know.
7 Q Okay. All I know is Armand, as well.
8 A Armand -- I don't know. Somebody who understands
9 his last name better could probably say it. I don't know.
10 Q Phil Peckman?
11 A I know him.
12 Q Do you know the names of any of the marijuana
13 establishments that may have applied?
14 A I know -- I mean, I know -- I don't -- when I looked
15 at -- I didn't look too closely at the caption here.
16 Q How about Essence?
17 A Is Essence Armand? I'm not sure.
18 Q Thrive?
19 A Thrive I think is Mr. Peckman and his group.
20 Q Nevada Organics?
21 A I don't know who that is.
22 Q Okay. Have you had lunch, dinner, or even coffee
23 with any of these people that you listed?
24 A Yes.
25 Q On more than one occasion?

1 A Yes.

2 Q Tell me who you recall having lunch with.

3 A I think I've had lunch with Mr. Ritter --

4 Q Anyone else?

5 A -- a couple times. I've known Brett Scolari for

6 years before marijuana. I've had lunch or coffee with him in

7 the past.

8 Q How about dinner?

9 A Brett. I don't -- I don't know.

10 Q All right.

11 A I think I've had dinner with Mr. Ritter, as well.

12 Or lunch or dinner. I can't recall.

13 Q Okay. Would any of these people have your cell

14 phone number?

15 A Yes.

16 Q Would that include Amanda Connor?

17 A Yes.

18 Q Phil Peckman?

19 A I don't know.

20 Q Andrew Jolley?

21 A I don't know. I mean, generally I worked to make

22 the regulations, to create the process. So I will have had

23 some contact and know pretty much anyone that was involved in

24 that process.

25 Q Okay.

1 A Either -- yeah.

2 Q Did you run for political office?

3 A Yes.

4 Q And what position did you run for?

5 A I ran for the Nevada State Assembly.

6 Q And when did you run?

7 A In 2018.

8 Q Okay. Did you have any fundraisers for that

9 campaign?

10 A Yes.

11 Q Were any of the people you listed a participant or a

12 contributor to your campaign?

13 A Yes.

14 Q Can you tell me which people, entities contributed

15 to your campaign?

16 A No, I can't -- I mean, I know some. I can't -- I

17 can't list them all.

18 Q Can you tell me of the applicants that are involved

19 in the marijuana business which ones contributed to your

20 campaign?

21 A I don't know.

22 Q You don't know any of them by name?

23 A Well, I know some of them by name, but I can't give

24 you -- I know TGIG did, I think Essence did, Thrive, Tryke.

25 Q Anyone else?

1 A There were others, but I just can't remember.
2 Q All right. And do you remember because you remember
3 them attending, or do you remember them because you remember
4 checks coming to you with their names on them? Or both?
5 A I mean, I remember -- I remember people attending
6 and then generally contributions, but I don't remember -- but
7 I don't necessarily know who everybody's group was, and so I
8 might have to look that up. So --
9 Q Did you ever receive any inquiries, or has anyone
10 ever hypothecated to you perhaps hiring you, any of the
11 applicants?
12 A I did -- no. Not in this case.
13 Q I'm sorry. You did what?
14 A No. No, not in this case.
15 Q Not in this case. What do you mean by that?
16 A Do you mean anybody?
17 Q Anybody.
18 A Yeah. I did some -- a little of application work --
19 Q And when did you do this application work?
20 A In July to November.
21 Q July what?
22 A To November.
23 Q Of what year?
24 A 2018.
25 Q When did you leave the State originally?

EXHIBIT “C”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC,
et al.

Plaintiffs

vs.

STATE OF NEVADA DEPARTMENT OF
TAXATION

Defendant

CASE NO. A-19-786962-B

DEPT. NO. X1

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**EVIDENTIARY HEARING - DAY 10
VOLUME II**

THURSDAY, JUNE 20, 2019

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA 006449

1 A Normal business.

2 Q Okay. Explain that.

3 A My day-to-day interactions, you know, managing the
4 industry.

5 Q Okay. Day-to-day managing of the industry, or day-
6 to-day familiarity with these owners?

7 A No. Just day-to-day management of, you know, the
8 industry. And I don't know all the entire ownership. I know,
9 you know, maybe one or two people may have common ownership.
10 I'd have to go into the records to see, you know, what the
11 exact ownership is.

12 Q But you knew -- tell me, did you know names in terms
13 of owners?

14 A One of each probably.

15 Q Tell me who you are familiar with that had ownership
16 interest in these companies. And we can start with Essence
17 Trop and Essence Henderson.

18 A Armen Yemenidjian or however you pronounce it.

19 Q Do you know how to spell it?

20 A No.

21 Q Okay. Good enough. And how about Cheyenne and
22 Commerce Park, which is Thrive?

23 A Yeah, I believe that's Mitch Britten and --

24 Q Had you spoken with either of them before the first
25 gentleman you named or the second?

1 A Yes.

2 Q On more than one occasion?

3 A Yes.

4 Q So when I asked you about your familiarity with the
5 owners it goes beyond simply the industry. You actually knew
6 these owners; is that correct?

7 A No, I know them from my interactions with the
8 industry.

9 Q Right. But you actually know -- there are a lot of
10 people in the industry. You may not know the owners; right?

11 A Yes.

12 Q Right. But in this case you knew the owners of all
13 four locations?

14 A Yes.

15 Q All right.

16 A Or at least some of them, right.

17 Q Good enough. And had you spoken to them prior to
18 the submission of the applications?

19 A Yes.

20 Q Did you speak with them between July of 2018 and
21 September 20th of 2018?

22 A I believe so. Possibly, yes.

23 Q Would your phone records reflect telephone
24 conversations with those gentlemen?

25 A Possibly, yes.

1 Q Do they have medical marijuana locations?
2 A Yes.
3 Q Have you known them since 2014?
4 A No.
5 Q When did you meet the owner of Essence Trop and
6 Essence Henderson?
7 A Sometime after the Department of Taxation started
8 administering the marijuana program.
9 Q What year would that be?
10 A I believe it was July 1st, 2017.
11 Q Okay. So after it became clear that recreational
12 marijuana would be available?
13 A Yes.
14 Q Same with the owner of Commerce and Cheyenne?
15 A Yes.
16 Q Okay. And can you tell me the circumstances in
17 terms of how you met them.
18 A I don't recall specifically. It could have -- you
19 know, I've met a lot of people through meetings or
20 regulations, things like that.
21 Q All right. Now, you indicated you've spoken to them
22 and you've met them, and you said your phone records would
23 reflect conversations with them. Did you ever text either of
24 them?
25 A Yes.

1 Q Okay. Have you produced records indicating that you
2 -- your phone records indicating text messages between
3 yourself and those owners?

4 A Yes.

5 Q Okay. Have you received any emails from them?

6 A Don't know. Not sure.

7 Q Have you gone to dinner with either of them?

8 A Dinner, I believe, yes.

9 Q Have you gone to lunch with either of them?

10 A Yes.

11 Q More than one occasion?

12 A Possibly, yes.

13 Q And would it also -- would those lunches or dinners
14 have occurred between 2017 and September 20th of 2018?

15 A Yes.

16 Q All right. Now, let me get back to a couple more
17 questions. We may come back to that, but I want to get back
18 to the statutes, the regulations first.

19 When we left off you told me that while location was
20 important in the ballot, location was important in the
21 statutes, and location was important in the regulations, you
22 thought you had the ability to remove it from the scoring on
23 the application process; is that correct?

24 A Yes.

25 Q All right. Now, do you think you also had the power

1 in your position, the way you remove location, to change the
2 age in terms of what person can purchase recreational
3 marijuana? Because that seemed also important in the ballot
4 question that it'd be someone over 21. Did you have the
5 authority to change it to 20?

6 A No.

7 Q What makes you think you had the ability to change
8 the location, since that was important and actually a question
9 within the ballot, but you couldn't change the age?

10 MR. KOCH: Objection. Lacks foundation.

11 THE COURT: Overruled.

12 THE WITNESS: I think I explained before. I don't
13 think we -- the initiative doesn't say how to score an
14 application.

15 BY MR. PARKER:

16 Q Wait a second, sir. Let's make sure we're on the
17 same page. I didn't ask about scoring this time.

18 A I'm sorry.

19 Q You removed location as a scoring item, I
20 understand.

21 A Yes.

22 Q But you told me right before we left and you gave me
23 time to think about your response, the Court did, that you had
24 the authority to remove location as a scoring item. Do you
25 remember that?

1 A Yes.

2 Q All right. If you can change something that was
3 important to the citizens of Nevada like location, which is
4 represented in the ballot question, do you think you also have
5 the ability to change the age a person can be to buy
6 recreational marijuana?

7 A No.

8 Q Is there anything in the ballot that differentiates
9 your authority in terms of locality versus age?

10 A No.

11 Q That's what I thought. All right.

12 So now let's go to the statute.

13 THE COURT: And, sir, if you'd like the book if it's
14 easier, I'd be happy to get it for you.

15 THE WITNESS: Sure, Your Honor.

16 MR. PARKER: He may need it, Your Honor. I'm going
17 to be flipping back and forth a little bit.

18 THE COURT: I've just got to make sure I grab the
19 right one. 453; correct? There you go.

20 THE WITNESS: Thank you, ma'am.

21 BY MR. PARKER:

22 Q And we're going to start with the statutes, and then
23 we'll work to the regs, okay?

24 A Okay.

25 Q All right. And the first one we're going to look at

1 Q All right. Now, when you told Mr. Miller yesterday
2 that location -- a location was required but not scored does
3 that mean that every applicant who gave a floor plan without a
4 location had presented an incomplete or inadequate
5 application?

6 A I don't believe so.

7 Q Well, that's what you said. You said yesterday more
8 than once, and I was --

9 A Maybe I misunderstood the question.

10 Q Well, maybe you --

11 A Your question. Can you just say it again.

12 Q Certainly. Because I found this interesting. You
13 said that locations were required, but would not be scored.
14 Do you remember saying that more than once yesterday?

15 A Yes.

16 Q Right. So given what you've told me right before we
17 broke for lunch, that location was required, doesn't that mean
18 every applicant who provided a floor plan without a location,
19 even if a location wasn't scored, would have presented an
20 inadequate and incomplete application?

21 A I believe I said that location was required on the
22 application.

23 Q Right. So they provided an application that did not
24 have a location. Each one of those applicants' applications
25 were incomplete and should not be considered by your

1 Department; isn't that correct?

2 A I would say it can be considered incomplete, but it
3 would move forward.

4 Q Thank you. But it would be incomplete?

5 A If it's missing an element, yes. You know, we
6 expect the information --

7 Q You said location --

8 A -- that we ask for.

9 Q Right. You expected a location even if it wasn't
10 scored; isn't that correct?

11 A Yes.

12 Q Thank you. Now let's go to 453D.205 and paragraph
13 (1). Do you have that in front of you?

14 A Yes.

15 Q And it talks about background checks. And again it
16 refers to subsection (6), 453D.200, which is right above it,
17 okay?

18 A Okay.

19 Q And if you want, I can read what subsection (6) says
20 of 453D.200 --

21 A No, I see it.

22 Q You can see it?

23 A Yes.

24 Q Okay. Good. So yesterday when you were speaking
25 with Mr. Ross you talked about --

1 (Pause in the proceedings)

2 THE WITNESS: Is this the entire application?

3 BY MR. PARKER:

4 Q Yeah. But we're going to only look at a couple of
5 pages, okay.

6 Sir, I want you to take a look at DOTNEWELL2. So
7 it's page 2.

8 A Okay.

9 Q Are you familiar with this form -- document?

10 A With this letter, yeah. Yes.

11 Q Is this a form that is utilized by the Department of
12 Taxation Marijuana Enforcement Division?

13 A Yes.

14 Q All right. And can you tell me -- this was sent out
15 September 18th, 2018, to Mr. Frank Hawkins. Do you know who
16 he is?

17 A Yes.

18 Q Have you met him before?

19 A Yes.

20 Q When?

21 A This week.

22 Q Okay. Other than this week have you met him before?

23 A No.

24 Q Have you ever gone to lunch or dinner with him?

25 A No.

1 Q Has he ever called you on the phone?

2 A No.

3 Q All right. It says here, "On September 12th, 2018,
4 The Department of Taxation Marijuana Enforcement Division
5 conducted a routine inspection/audit of your establishment
6 located at 3200 South Valley View Boulevard, Las Vegas,
7 Nevada." And it has certificate numbers and the license
8 number. Do you see that?

9 A Yes.

10 Q All right. The next paragraph says, "The
11 audit/inspection results reveal that your establishment was in
12 compliance with Nevada Revised Statutes...", and it references
13 453A and 453D; is that correct?

14 A Yes.

15 Q All right. And it also says, "...the Administrative
16 Code, and no deficiencies were noted during the inspection."
17 Do you see that?

18 A Yes.

19 Q What does that mean in terms of the operation of
20 Nevada Wellness Center at this location?

21 A It means at this time upon the inspection from my
22 inspectors that they found nothing out of compliance.

23 Q All right. Would that mean that the location as
24 it's being operated would be suitable both in terms of
25 location and suitable in terms of adequacy of size to sell

1 THE COURT: The A-V guys are allowed to have a
2 break. Here he comes.

3 (Pause in the proceedings)

4 THE COURT: Okay. Now we're ready.

5 MR. PARKER: Thank you, Your Honor.

6 THE COURT: Okay.

7 MR. PARKER: May I proceed?

8 THE COURT: You may.

9 MR. PARKER: So can we look at Exhibit 446, page 1,
10 please.

11 BY MR. PARKER:

12 Q It should be coming up, Mr. Pupo.

13 So this is the Marijuana Nevada email to Ramsey, is
14 it Davise? How do you pronounce that?

15 Oh. Is yours not on?

16 A It's not on the screen here.

17 MR. PARKER: May I approach?

18 THE COURT: You may. Are you going to use the turn
19 off and hopefully it comes back on method?

20 (Pause in the proceedings)

21 BY MR. PARKER:

22 Q All right. Do you recognize that email address in
23 terms of the sender? It says "From: Marijuana Nevada."

24 A Okay. Yes.

25 Q Is that from the Department of Taxation?

1 A That's one of our boxes, yes.

2 Q Okay. And it's dated September 9, 2018. So this is
3 during the application process, is that correct, after
4 applications are being -- the window in terms of submission of
5 applications? Wasn't it the 7th through the 20th?

6 A Yeah. Okay. I believe it was the 7th through the
7 20th.

8 Q All right. So it appears here that Mr. Ramsey was
9 being responded to by Mr. Plaskon; is that correct?

10 A Yes.

11 Q All right. And he indicates here that he cannot
12 answer the question being asked; is that correct?

13 MR. KOCH: Objection. Document speaks for itself.

14 THE COURT: Overruled.

15 THE WITNESS: It's that would not provide guidance
16 to individual applicants.

17 BY MR. PARKER:

18 Q Now, tell me. That seems at odds with what has been
19 said earlier in this trial -- or in this hearing. I was told
20 that, you know, you've had conversations and others have had
21 conversations with representatives of applicants, as well as
22 applicants. Why would Mr. Plaskon take this position on
23 September 9th, 2018?

24 MR. KOCH: Objection. Speculation.

25 THE COURT: Overruled.

1 THE WITNESS: He must have gotten instruction.
2 BY MR. PARKER:
3 Q Okay. Did you give any instruction to not provide
4 information to this person?
5 A No.
6 Q Are you familiar with Libra Wellness?
7 A Yes.
8 Q Do they have a medical marijuana license?
9 A I believe so, yes.
10 Q Did they apply for or receive a conditional
11 recreational license?
12 A I don't know.
13 Q All right. Was this the position taken by the
14 agency, your Department, on September 9th, that there would be
15 no more answers given?
16 MR. KOCH: Objection. Mischaracterizes the
17 document.
18 THE COURT: Overruled.
19 THE WITNESS: Yeah. I don't know that was
20 instructions.
21 BY MR. PARKER:
22 Q It says, "With that said, the Division cannot
23 provide guidance to individual applicants.
24 THE COURT: Hold on a second.
25 THE COURT RECORDER: I'm having a hard time hearing

1 THE WITNESS: I could have. I think that would have
2 created more problems.

3 BY MR. PARKER:

4 Q Okay. Thank you.

5 MR. PARKER: Now, let's stay right here in terms of
6 Exhibit 252, Shane. I don't need the other email.

7 BY MR. PARKER:

8 Q You told Mr. Miller that you went to -- you were
9 offered ownership -- you were offered jobs by I believe one of
10 the owners that you allowed to have more than one location in
11 this jurisdiction; is that correct?

12 A Yeah. I don't characterize them as offers. They
13 were saying, hey, if you leave the State, make sure I'm the
14 first one to call, or, give me a call.

15 Q And who was that again? Was this the owner of
16 Essence?

17 A Yes.

18 Q Okay. And did anyone else or any of the other
19 owners from Essence -- did you meet with any of them?

20 A No.

21 Q Did you meet with any of the owners of Cheyenne or
22 Commerce Park?

23 A Regarding?

24 Q Any offers of employment.

25 A No.

1 Q Did you meet with any owners -- do you know the
2 owners of Commerce Park and Choyenne?

3 A I know -- I know some.

4 Q Okay.

5 A Yeah. I don't know that I know all the owners.

6 Q What owners do you know?

7 A Mitch Britten and Phil Peckman.

8 Q Okay. And who are the owners that you're aware of
9 in terms of Essence Trop and Essence Henderson?

10 A Just Armen.

11 Q No one else have you met with or are familiar with
12 that own that company?

13 A Not that I'm familiar with.

14 Q Okay. And did the owners of both these companies
15 the ones that you know in common -- you've spoken to them,
16 you've gone to lunch with them and/or dinner with them; right?

17 A Yes.

18 Q All right. And you turned them both down on the
19 offers?

20 A I am not interested in staying in the marijuana
21 space here.

22 MR. PARKER: Thank you. I appreciate your time.

23 THE COURT: Sir, I'm going to switch gears, if it's
24 okay. Since the people on that side of the room have finished
25 asking questions, I'm going to ask some, because I need a

EXHIBIT “D”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC, .
et al. .

Plaintiffs .

CASE NO. A-19-786962-B

vs. .

STATE OF NEVADA DEPARTMENT OF .
TAXATION .

DEPT. NO. XI

Defendant .

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

EVIDENTIARY HEARING - DAY 4

THURSDAY, MAY 30, 2019

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA 006466

1 all at once.

2 BY MR. GENTILE:

3 Q All right. That's the 2018 application. Do you
4 recall it? Probably not.

5 A I'm not sure what I'm --

6 Q All right. Let me -- let me -- I've never lied to
7 you before, so I wouldn't start now, okay. Look at the top
8 one. The top one is the 2014 application form. The reason
9 you can see that is because due dates that end in the year
10 2014. Do you see that?

11 A Yes.

12 Q Okay. The bottom one is the 2018, and you could
13 trust me for the same reason, it says that there are due dates
14 for 2018, okay. I have a question for you.

15 The top one on the second line -- first one says,
16 "Request for application pay." Oddly enough, so does the
17 bottom one, first line says "Request for application pay,"
18 okay. But the second one on the top one says, "Deadline for
19 submitting questions." Look at the bottom one. Is there
20 anything there that indicates that you can submit questions in
21 2018?

22 A There is not.

23 Q Okay. How come?

24 A You know, to be quite honest with you, I wasn't the
25 one that made that decision. I don't -- I don't know.

EXHIBIT “E”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC, .
et al. .

Plaintiffs .

CASE NO. A-19-786962-B

vs. .

STATE OF NEVADA DEPARTMENT OF .
TAXATION .

DEPT. NO. XI

Defendant .

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**EVIDENTIARY HEARING - DAY 5
VOLUME II**

FRIDAY, MAY 30, 2019

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA 006469

1 regards to the diversity area?

2 A I don't -- I don't think so. You know, we do get a
3 lot of questions. Ky Plaskon, Mr. Plaskon would probably be
4 the better person to ask on how many questions he may have
5 received in regards to, you know, diversity. But I don't
6 recall we received too many.

7 Q What was -- oh. I've got it.

8 Sir, was there a procedure that the Department
9 implemented whereby an applicant that was confused could
10 potentially ask a question to get a clarification?

11 A Mr. Plaskon monitors generic email. A lot of
12 questions came in through there.

13 Q Okay. I've seen some responses to questions where
14 he says, "See application, see regulations," and other
15 responses where he actually gives some substantive
16 information. Is that your understanding of what was going on
17 here?

18 A I'm not aware of that.

19 Q Okay. Do you think it would have been a good idea
20 that any question and answer he gave was made available to all
21 the applicants so we had some consistency here?

22 A We try to do the best that we can to educate.

23 Q Okay.

24 A I think we did send out some list serves.

25 Q But you've seen bulletin boards that have questions

1 and answers posted on them so everybody's up to speed,
2 everybody's got the same information?

3 A Yeah, I've seen those.

4 Q That's commonly done with government contracting
5 programs; right?

6 A I'm not sure about that, but I've seen the boards.

7 Q Okay. But you didn't do that?

8 A We did not.

9 Q Okay. In retrospect do you think you should have
10 done that?

11 A Now, Ky would probably be a better person to ask
12 that, because I don't know the quantity and type of questions
13 that he did receive. I know he's in a situation where he did
14 receive a lot of questions, but he couldn't give out -- he
15 couldn't give out an answer that's -- that an applicant would
16 have an advantage with.

17 Q Well, there wouldn't be any advantage if you told
18 all the applicants the questions and answers. If you told
19 everybody the question and answer, no one has an advantage
20 there, do you think?

21 A We tried -- the Department did a good job, I think,
22 in my opinion, of providing the information they did.

23 Q A good job even though half the applicants knew the
24 that building address was not required and say half thought it
25 was required? The Department did a good job on that point?

1 MS. SHELL: Objection. Assumes facts not in
2 evidence.

3 THE COURT: Overruled.

4 THE WITNESS: I wasn't aware that half the
5 applicants didn't know that.

6 BY MR. KEMP:

7 Q You knew that some of the applicants didn't know
8 that?

9 A Yes.

10 Q For example, you know, that Livfree went out and got
11 real addresses for all six of those applications; right?

12 A I didn't know that.

13 Q Well, you heard Mr. Thomas testify to the extreme
14 efforts he went to get approved addresses; right?

15 A I did hear that.

16 Q And the Department expected people to be more like
17 Mr. Thomas than just to put down a Post Office box, didn't
18 they?

19 A Can you repeat that.

20 Q Didn't the Department expect that applicants would
21 be like Mr. Thomas, have real addresses and real locations?

22 A We -- the Department did not require a location.

23 Q Okay. And how could you rate things like community
24 impact without knowing where in Clark County the dispensary
25 was going to be?

EXHIBIT “F”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC,)
et al.,)

Plaintiffs,)

vs.)

STATE OF NEVADA DEPARTMENT OF)
TAXATION,)

Defendant.)

CASE NO. A-19-786962-B
DEPT NO. XI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE.

WEDNESDAY, JUNE, 19, 2019

EVIDENTIARY HEARING - DAY 9

VOLUME I OF II

RECORDED BY: JILL HAWKINS, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

1 were supposed to consider, they wouldn't have considered it;
2 right?

3 A Well, again, I don't know if it was part of their --
4 the additional training outside of the evaluation sheets.
5 Because they did receive training from staff for --

6 Q You just -- you're speculating that that might have
7 happened, even though the face of the application that we just
8 walked through -- we can walk through it again --

9 A I mean, we're speculating on a lot of things here.

10 THE COURT: Sir, I don't want you to speculate. I
11 want you to tell me why the Department did what it did and made
12 the decisions it made after Ballot Question 2 was passed and
13 your department was charged with implementing.

14 MR. MILLER: Well, let me say it this way.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Wait. Thank you, sir. Now you may go,
17 Mr. Miller.

18 MR. MILLER: Were you asking a question, Judge. I
19 didn't catch it all.

20 THE COURT: I was making a statement. He said, "Yes,
21 Your Honor," and I just needed him to verify that while we were
22 here.

23 MR. MILLER: Got it.

24 BY MR. MILLER:

25 Q Let's pull up the application. And then we get to

1 the scoring criteria. You were involved in that; right? You
2 determined which points were going to be awarded?

3 A Yes.

4 Q And this is the --

5 MR. MILLER: We should pull up the -- I think it's
6 going to be page 18, 17. There we go, the page before.

7 BY MR. MILLER:

8 Q -- talking about an organizational structure; right?
9 You evaluate that criteria that was described there; right?

10 A I'm sorry?

11 Q You reviewed that criteria that was described there;
12 right?

13 A Under "organization"?

14 Q Yeah. Sixty points on the top, not up -- it's going
15 the wrong way. Yeah, organization.

16 A Right, uh-huh. Yes.

17 Q Description of the proposal -- and then you, in turn,
18 that's all (indiscernible). The description of the proposed
19 organizational structure of proposed marijuana establishment
20 and information concerning each owner, officer, and board
21 member of the proposed marijuana establishment, including the
22 information provided in response to the regulation. Right?

23 A Yeah.

24 Q And you determined that that criteria should be worth
25 60 points in total; right?

1 A Well, there are subcategories that make up that 60.

2 Q Right. You didn't disclose that to the applicants,
3 did you?

4 A No.

5 Q So it was secret to the applicants as though which
6 criteria are going to be included in that regulation and how
7 many points are going to be awarded; right?

8 A Yes.

9 Q Why did you keep that secret?

10 A Well, it's almost like -- my opinion, it's almost
11 like giving the answers to the test.

12 Q Is it?

13 A I mean --

14 Q How would it --

15 A Everyone's score -- sorry.

16 Q -- be like giving answers to the test, letting
17 everyone know that diversity, for example, was going to be
18 given 20 points, but the experience of key employees was going
19 to be worth zero because it wouldn't be considered. Is that
20 giving answers to the test?

21 A Wait. Say that again.

22 Q How would it be giving the answers to the test to
23 tell the applicants that diversity, within that 60 points, was
24 going to be awarded 20 points?

25 A The application can be tailored to, you know, those

EXHIBIT “G”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC,
et al.

Plaintiffs

vs.

STATE OF NEVADA DEPARTMENT OF
TAXATION

Defendant
.....

CASE NO. A-19-786962-B

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**EVIDENTIARY HEARING - DAY 9
VOLUME II**

WEDNESDAY, JUNE 19, 2019

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA 006479

1 how they believed the applications would be interpreted if
2 they did not provide a physical address on the application?

3 A Yeah. I don't -- I don't recall any.

4 Q Okay. But you gave at least Amanda Connor and John
5 Ritter guidance that physical address, although it was
6 required by law, wouldn't be scored and so they didn't need to
7 include it?

8 A No, I didn't say they didn't need to include it. I
9 said the application requires that they put a physical
10 address, but that it -- you know, that location was not
11 scored, it's not part of the scoring criteria.

12 Q Okay. And when you gave that guidance did you go
13 back to the Department and share that information with anybody
14 else that might have been receiving calls from applicants
15 about information in the application?

16 A Well, I'm sure we discussed it several times.

17 Q Okay. Who'd you discuss it with?

18 A Steve Gilbert, Kara, Damon.

19 Q And this was prior to the application being released
20 on July 5th?

21 A Yes. There was a lot of discussion around that --
22 during the Task Force and the public meetings or the
23 recommendations while we were doing the regulations.

24 Q But the two you just identified, Amanda Connor and
25 John Ritter, were the two co-chairs for the Task Force that

1 came up with the -- two co-chairs of the committee on the Task
2 Force that were designed to help implement the regulations
3 that are on the application; correct?

4 A Say it again.

5 Q The two individuals that you named, Amanda Connor
6 and John Ritter, are you aware that those are the two co-
7 chairs on the Task Force for the subcommittee that was
8 designed and intended to review the applications for the
9 recreational manager license applications?

10 A No, I didn't know Amanda was a co-chair. Well, I
11 don't remember.

12 Q But nevertheless, they're very involved in the
13 industry; correct?

14 A Yes.

15 Q You would have expected them to have attended those
16 Task Force meetings?

17 A Yes.

18 Q All right. And participated in any public hearings
19 where the rules might have been explained?

20 A Yes.

21 Q Okay. And yet they didn't understand whether or not
22 a proposed physical address would be required; correct?

23 MR. SHEVORSKI: Objection. Speculation.

24 THE COURT: Overruled.

25 THE WITNESS: They would tell me -- like Amanda

1 would say she's getting questions from her clients and she
2 just wants to confirm, right. And, you know, John also was
3 more like a confirmation.

4 BY MR. MILLER:

5 Q Yeah. But at least for individuals that were highly
6 involved in the process it's apparent to you that there was
7 some confusion in this area; is that fair?

8 A Yes.

9 Q And so it's a fair assessment that other people
10 might have also had the same confusion; correct?

11 A Yes.

12 Q Did you make any attempts to clarify it?

13 A I believe I did.

14 Q How'd you do that?

15 A Well, I don't -- maybe not necessarily that I think
16 the clarification I was sending out was more regarding whether
17 someone owned or leased a location. They were asking about
18 where to put it. I don't think I put out a clarification
19 regarding physical location must be on -- must be listed on
20 the application.

21 Q Okay. So you knew in advance of the application
22 being released on July 5th that there was confusion within the
23 industry as to whether or not a proposed physical address was
24 required and would be scored; correct?

25 A Yes.

1 Q They believe that is required, and they submit their
2 application that way. Other applicants understand that a
3 proposed physical address will not be scored, so they don't
4 provide a physical address. Is that a fair application
5 process, sir?

6 A Is it a fair application process? I think everyone
7 had the same opportunity to request clarification. I think
8 that everyone had access to the Department. I think everyone
9 had access to submit their questions. I think everyone had an
10 opportunity to attend 70-plus public meetings and workshops
11 regarding this issue. I think the application was a fair
12 process -- the application process was a fair process.

13 Q Moving to 5.3.4.3, "Procedures to ensure adequate
14 security measures for building security." Sir, wouldn't you
15 agree that the consideration of that plan would indicate that
16 there is some tie-in within the scoring criteria to an actual
17 proposed physical address versus a fictional one?

18 A No.

19 Q So if you develop a plan that is designed to ensure
20 adequate security measures of a proposed physical location
21 that is tied to an actual address, has a real neighborhood
22 around it, may have additional security concerns, that one is
23 the same as one that could be submitted that doesn't have any
24 physical address associated with it at all?

25 A Pretty much, yeah.

EXHIBIT “H”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC,)
et al.,)

Plaintiffs,)

vs.)

STATE OF NEVADA DEPARTMENT OF)
TAXATION,)

Defendant.)

CASE NO. A-19-786962-B
DEPT NO. XI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

THURSDAY, JULY, 11, 2019

EVIDENTIARY HEARING - DAY 13

VOLUME I OF II

RECORDED BY: JILL HAWKINS, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

1 Q Okay. With regard to these episodes, how did they
2 come to your attention?

3 A They were incident reports submitted by the facility
4 themselves.

5 Q Okay. And what did you do in response to the
6 reports?

7 A We accepted them --

8 Q No. I don't want to hear we. We is a -- when I use
9 the word you, I'm using it in the second person singular. Do
10 you understand?

11 A Yes.

12 Q All right. What did you do in response to receiving
13 these incident reports?

14 A I did not personally receive the incident reports.
15 They go to a separate email address. The administrative
16 assistant intakes them. I assigned them to people to
17 investigate. I was then directed to hold off on that. I had a
18 discussion with Jorge Pupo, and then I gave the direction to
19 the assigned people investigating to send acknowledgment
20 letters or look through them and see if there was room for
21 improvement.

22 Q Okay. You said you received a directive not to
23 assign these cases for investigation. From whom did you
24 receive that directive?

25 A Jorge Pupo.

EXHIBIT “I”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SERENITY WELLNESS CENTER LLC,,
et al.

Plaintiffs

vs.

STATE OF NEVADA DEPARTMENT OF
TAXATION

Defendant
.....

CASE NO. A-19-786962-B

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

EVIDENTIARY HEARING - DAY 7

TUESDAY, JUNE 11, 2019

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

AA 006488

1 Q And then did QuantumMark provide its own training
2 tools for 2018 or did your Department amend QuantumMark's
3 training tools for purposes of training the evaluators?

4 A We amended the 2014 training tools.

5 Q Why didn't you ask QuantumMark to provide updated
6 training tools to fit a recreational application?

7 A That wasn't my decision.

8 Q Whose decision was that?

9 A That would have been a contract decision,
10 essentially Mr. Pupo or the director of the Department.

11 Q Do you know who made that decision?

12 A No, I do not.

13 Q And do you know why that decision was made? Why
14 wasn't QuantumMark utilized to come up with the 2018 training
15 tools?

16 A I don't -- I do not know. I don't know if it was
17 ever contemplated.

18 Q And so going back to where we were, you were a part
19 of the process in terms of the merit criteria for diversity,
20 is that correct?

21 A Yes.

22 Q Who made the decision on how the scoring would be
23 done?

24 A Can you be --

25 Q Yes. Who came up with let's give points based on

1 A Yes.

2 Q All right. So if you didn't get the information
3 from the ballot question and you did not get that information
4 from the regulations, you had to get it from somewhere. Did
5 you get it from any other jurisdiction like Colorado? Because
6 I saw in the production of your training tool where there's
7 thanks given to QuantumMark, thanks given to Colorado. Do you
8 remember those?

9 A I do.

10 Q All right. So where did you get this methodology in
11 scoring diversity?

12 A The methodology was put together by Kara, Mr. Pupo
13 and myself. As far as the breakdown on the evaluation tool --

14 Q Yes, sir.

15 A -- that was put in then -- like I said, if I recall
16 correctly, Mr. Pupo gave us the breakdown of the percentages.

17 Q Do you know where he got that breakdown from?

18 A I do not.

19 Q And do you have any understanding whether or not
20 that breakdown can be traced to another jurisdiction like
21 Colorado or Washington or California?

22 A I wouldn't know, no.

23 Q You have no idea?

24 A No.

25 Q Good enough. Do you know whether or not there was

EXHIBIT “J”



BRIAN SANDOVAL
Governor
JAMES DEVOLLO
Chair, Nevada Tax Commission
WILLIAM D. ANDERSON
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

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September 18, 2018

Frank Hawkins
Nevada Wellness Center (D009)
2300 Alta Dr.
Las Vegas, NV 89107

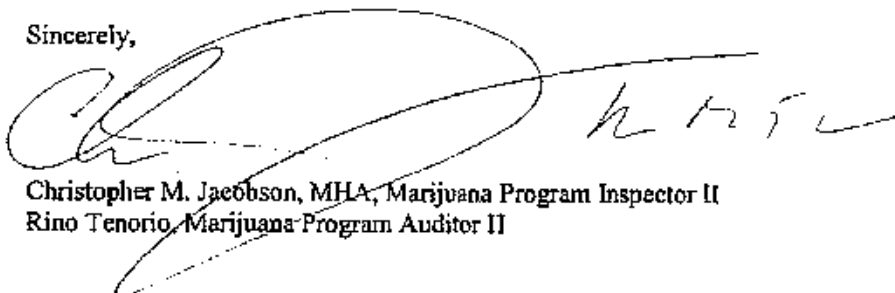
Dear Mr. Frank Hawkins:

On September 12, 2018, the Department of Taxation's Marijuana Enforcement Division conducted a routine inspection/audit of your establishment located at 3200 S. Valley View Blvd., Las Vegas, NV, certificate #30064186279328795105, license #1017582408-001-DIP.

The Audit/Inspection results revealed that your establishment was in compliance with Nevada Revised Statutes (NRS) 453A/453D and/or Nevada Administrative Code (NAC) 453A/R092-17 (NAC 453D). No deficiencies were noted during the inspection. Please retain this letter for your files.

Should you have any questions concerning this matter, please contact our office at (702) 466-5786.

Sincerely,



Christopher M. Jacobson, MHA, Marijuana Program Inspector II
Rino Tenorio, Marijuana Program Auditor II

DOT-NVWell001358

AA 006492

Steven D. Grierson

1 **RPLY**
2 **THEODORE PARKER, III, ESQ.**
3 Nevada Bar No. 4716
4 **PARKER, NELSON & ASSOCIATES, CHTD.**
5 2460 Professional Court, Suite 200
Las Vegas, Nevada 89128
6 Telephone: (702) 868-8000
Facsimile: (702) 868-8001
Email: tparker@pnalaw.net

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

9 **NEVADA WELLNESS CENTER, LLC, a**
10 Nevada Limited Liability Company,

Plaintiff,

12 v.

13 **STATE OF NEVADA, DEPARTMENT OF**
14 **TAXATION; and DOES I through X,**
15 **inclusive; and ROE CORPORATIONS I**
16 **through X, inclusive,**

Defendants.

CASE NO.: A-19-787540-W
DEPT. NO.: XVIII

DATE OF HEARING: 10/23/19
TIME OF HEARING: 9:00 am

NEVADA WELLNESS CENTER, LLC,
REPLY IN SUPPORT OF MOTION TO
AMEND FINDINGS OF FACTS AND
CONCLUSIONS OF LAW ISSUED ON
AUGUST 23, 2019, PURSUANT TO
NRCP 52

17 **MM DEVELOPMENT COMPANY, INC., a**
18 Nevada corporation; LIVFREE WELLNESS
19 LLC, dba The Dispensary, a Nevada limited
liability company,

Plaintiffs,

20 v.

21 **STATE OF NEVADA, DEPARTMENT OF**
22 **TAXATION; and DOES 1 through 10; and**
23 **ROE CORPORATIONS 1 through 10,**

Defendants.

CASE NO.: A-18-785818-W
DEPT. NO.: VIII

24 **SERENITY WELLNESS CENTER, LLC, a**
25 Nevada limited liability company, TGIG,
26 LLC, a Nevada limited liability company,
27 **NULEAF INCLINE DISPENSARY, LLC, a**
Nevada limited liability company, NEVADA
HOLISTIC MEDICINE, LLC, a Nevada
limited liability company, TRYKE

CASE NO.: A-19-786962-B
DEPT. NO.: XI

1 COMPANIES SO NV, LLC a Nevada limited
2 liability company, TRYKE COMPANIES
3 RENO, LLC, a Nevada limited liability
4 company, PARADISE WELLNESS
5 CENTER, LLC, a Nevada limited liability
6 company, GBS NEVADA PARTNERS, LLC,
7 a Nevada limited liability company, FIDELIS
8 HOLDINGS, LLC, a Nevada limited liability
9 company, GRAVITAS NEVADA, LLC, a
10 Nevada limited liability company, NEVADA
11 PURE, LLC, a Nevada limited liability
12 company, MEDIFARM, LLC, a Nevada
13 limited liability company; DOE PLAINTIFFS
14 I through X; and ROE ENTITIES I through
15 X,

16
17 Plaintiffs,

18 v.

19 THE STATE OF NEVADA, DEPARTMENT
20 OF TAXATION,

21
22 Defendants.

23 ETW MANAGEMENT GROUP LLC, a
24 Nevada limited liability company; GLOBAL
25 HARMONY LLC, a Nevada limited liability
26 company; GREEN LEAF FARMS
27 HOLDINGS LLC, a Nevada limited liability
28 company; GREEN THERAPEUTICS LLC, a
Nevada limited liability company; HERBAL
CHOICE INC., a Nevada corporation; JUST
QUALITY, LLC, a Nevada limited liability
company; LIBRA WELLNESS CENTER,
LLC, a Nevada limited liability company;
ROMBOUGH REAL ESTATE INC. dba
MOTHER HERB, a Nevada corporation;
NEVCANN LLC, a Nevada limited liability
company; RED EARTH LLC, a Nevada
limited liability company; THC NEVADA
LLC, a Nevada limited liability company;
ZION GARDENS LLC, a Nevada limited
liability company; and MMOF VEGAS
RETAIL, INC., a Nevada corporation,

29
30 Plaintiffs,

31 v.

32 STATE OF NEVADA, DEPARTMENT OF
33 TAXATION, a Nevada administrative
34 agency; DOES 1 through 20, inclusive; and
35 ROE CORPORATIONS 1 through 20,

CASE NO.: A-19-787004-B
DEPT NO.: XI

1 inclusive,

2 Defendants.

3
4 COMES NOW, Plaintiff, NEVADA WELLNESS CENTER, LLC (hereinafter "NWC"), by
5 and through its attorney of record, THEODORE PARKER, III, ESQ. of the law firm of PARKER,
6 NELSON & ASSOCIATES, CHTD., and files this Reply in Support of Motion to Amend the
7 Findings of Facts and Conclusions of Law issued August 23, 2019, pursuant to NRCP 52.

8 This Reply (The motion was re-filed on September 30, 2019 in case A-19-786962-B and
9 served in all related/consolidated cases including A-19-787540-W, A-18-785818-W,
10 A-19-786962-B, and A-19-787004-B) is made and based upon the pleadings and paper on file
11 herein, the points and authorities included herewith, the exhibits attached hereto and such oral
12 argument as the Court may entertain at the time this matter is heard.

13 DATED this 30th day of September, 2019.

14 PARKER, NELSON & ASSOCIATES, CHTD.

15 /s/Theodore Parker, III, Esq.
16 THEODORE PARKER, III, ESQ.
17 Nevada Bar No. 4716
2460 Professional Court, Suite 200
Las Vegas, Nevada 89128

18 Attorneys for Plaintiff

19
20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I.**

22 **INTRODUCTION**

23 On September 13, 2019, pursuant to NRCP 52(b), NWC filed timely its motion to amend
24 the findings of fact and conclusion of law. NWC's motion to amend is justified in fact, law and
25 equity. NWC's motion properly directs the court's attention to germane legal or factual matters,
26 relied upon by NWC, which were not considered in the court's earlier opinion. Accordingly, NWC
27 moved to amend those findings pursuant to NRCP 52. As outlined in NWC's motion the case is
28

1 distinguishable from the *Nuleaf* decision. The court made findings of fact and conclusions of law
2 but they were not applied to the entire bidding process nor were Nevada's Opening Meeting Laws
3 considered. Under the applicable laws and regulations application process is contemplated to be fair
4 and impartial. The evidence before the court demonstrates that the entire selection process contrary
5 to laws, and regulated application process, and conducted in such degradation of NWC's
6 constitutional rights, that the previous results must be discarded and the process redone in order to
7 arrive at impartial and fair results, as contemplated under the applicable laws and regulations.
8 Consequently, the State must be enjoined from conducting a final inspection on any of the
9 conditional licenses issued in or about December of 2018 and the entire process must be deemed
10 invalid.

11 II.

12 ARGUMENT

13 A. Nevada Wellness Center's Motion Satisfies NRCP 52(b)

14 1. Motions to Amend Findings of Fact and Conclusions of Law

15 NRCP 52 provides in pertinent part:

16 (b) Amended or Additional Findings. On a party's motion filed no
17 later than 28 days after service of written notice of entry of judgment,
18 the court may amend its findings — or make additional findings —
19 and may amend the judgment accordingly. The time for filing the
motion cannot be extended under Rule 6(b). The motion may
accompany a motion for a new trial under Rule 59.

20 On September 13, 2019 NWC properly and timely moved to amend the court's August 23,
21 2019, findings of fact and conclusion of law, pursuant to NRCP 52(b). NWC's motion to amend
22 is justified in fact, law and equity and requests the court amend specific findings of law and fact.
23 NWC's motion points to specific facts, recreational marijuana licensing regulations, recreational
24 marijuana licensing laws and opening meeting laws that were overlooked in the court's earlier
25 opinion. Based upon manifest errors in the bidding process and violations of the applicable laws and
26 regulations NWC properly moved to amend the Court August 23, 2019 Findings of Facts and
27 Conclusions of Law.
28

1 **B. Nevada Wellness Center is not Making the Same Challenge as the Nuleaf**
2 **Challengers regarding the Zoning Approval by the Local Agency**

3 In the case at bar, unlike the Nuleaf challengers, NWC is NOT challenging DoT failure to
4 comply with applicable local and governmental zoning requirements before the applicant received
5 a registration certificate for a medical marijuana establishment, as alleged by Essence. (See
6 Opposition at 4:3-8)

7 NWC is challenging applicants that failed to comply with the requirement to list a **physical**
8 **address on the initial application** as required by NRS 453D.210(5)(b).

9 Specifically NRS 453D.210(5)(b) provides:

10 “5. The Department shall approve a license application if:

11 (b) The physical address where the proposed marijuana establishment will operate is owned
12 by the applicant or the applicant has the written permission of the property owner to operate
13 the proposed marijuana establishment on that property. . . .”

14 **C. The Plain Language of NRS 453D.210 Require All Applications Provide a**
15 **Physical Location to be Complete and Only Complete Applications be Approved**
16 **by DoT.**

17 The plain language of NRS 453D.210 clearly specifies **conditions for approval of**
18 **application** and clearly states the DoT is only to consider **completed applications**. There is no
19 similar language in NRS 453A.322(3)(a)(5), and thus the Nuleaf Court found NRS
20 453A.322(3)(a)(5) was open to interpretation. Accordingly, the Nuleaf case has no application to this
21 case.

22 Essence opposition fails to address the additional language and requirements of NRS 453D.210.

23 NRS 453D.210(4) provides:

24 “Acceptance of applications for licensing; priority in licensing; **conditions for approval of**
25 **application**; limitations on issuance of licenses to retail marijuana stores; competing
26 applications. [This section was proposed by an initiative petition and approved by the voters
27 at the 2016 General Election and therefore is not subject to legislative amendment or repeal
28 until after November 22, 2019.]

29 4. **Upon receipt of a complete** marijuana establishment license application. . . . (a) Issue
30 the appropriate license if the license application is **approved...**” (*Emphasis added*)

31 Here, NRS 453D.210 has *additional language* making the plain language of the statute clear
32 and unambiguous. The Court in the Nuleaf case could not have considered a statute governing
33 recreational marijuana licensing because the statute was not in existence at the time of the Nuleaf
34 case. Similarly, the court overlooked the additional language and conditions that were not applicable

1 in the Nuleaf case when it issued its Findings of Facts and Conclusions of Law regarding the
2 physical location requirements.

3 As is the case at bar, when the language of a statute is plain and unambiguous, a court should
4 give that language its ordinary meaning and not go beyond it." City Council of Reno v. Reno
5 Newspapers, 105 Nev. 886, 891, 784 P.2d 974, 977 (1989). The court should give that language of
6 NRS 453D.210 its ordinary meaning and not go beyond it. Id. The plain language of NRS 453D.210
7 requires conditions for approval of all applications. The plain language requires all applicants to
8 provide a **complete** application which requires a **physical location** for approval of the application.
9 NRS 453D.210 requires that only **upon receipt of a complete** marijuana establishment license
10 application the DoT Issue the appropriate license. Therefore, DoT had no discretion to determine
11 whether applicants without a **physical** address listed on the application received a license because
12 licenses could upon be issued upon receipt of a complete application, which required a physical
13 location.

14 Former DoT Executive Deonne Contine confirmed the DoT required a real physical location
15 be provided on all applications. In fact, she stated that "applications that did not have a real physical
16 address should not have even been considered."¹ In addition, DoT Deputy Executive Jorge Pupo
17 testified that the DoT expected a physical location to be included on all applications. He confirmed
18 that applications without a physical location are incomplete.² Additionally, NAC 453D.272(1)
19 provides the procedure for when the DoT receives more than one "complete" application. Under this
20 provision the DoT will determine if the "application is complete and compliance with this chapter
21 and Chapter 453D of NRS, the Department will rank the applications . . . " (See FFCL ¶ 16.)

22 Thus according to the plain and unambiguous language of NRS 453D.210(4) and
23 453D.210(5)(b), as affirmed by DoT Executive and DoT Deputy Executive, all applications without
24 a physical location are incomplete and should have been rejected , not approved and/or
25

26
27 ¹ See Exhibit B attached to Motion, Trial Transcript Excerpts from July 12, 2019 P48:L15-49:16.

28 ² See Exhibit C attached to Motion, Trial Transcript Excerpts from June 20, 2019 Volume II, P:19:L21-
P:20:L11.

1 scored/ranked or issued a conditional license by the DoT. The DoT unlawfully issued conditional
2 licenses to applicants who submitted incomplete application. Accordingly the preliminary injunction
3 should apply to all applications that failed to provide a real physical location or otherwise submitted
4 an incomplete application.

5 **D. Judicial Relief is Warranted Because the DoT's Action Amounts to an Erosion**
6 **on the Integrity of the Competitive Bidding Statute**

7 The purpose of a competitive application or bidding process "is to secure competition, save
8 public funds, and to guard against favoritism, improvidence and corruption." *Gulf Oil Corp. v. Clark*
9 *City*, 94 Nev. 116, 118-19, 575 P.2d 1332, 1333 (1978); see also *City of Boulder City v. Boulder*
10 *Excavating, Inc.*, 124 Nev. 749, 758, 191 P.3d 1175, 1181 (2008) (same). The statutes and
11 regulations that govern these competitive processes "are deemed to be for the benefit of the
12 taxpayers" and "are to be construed for the public good." *Gulf Oil*, 94 Nev. at 118-19.

13 In addition, NRS 453D.210(6) mandated the DoT to use "an impartial and numerically scored
14 competitive bidding process" to determine successful applicants where competing applications were
15 submitted. (See FFCL ¶ 15.)

16 Essence opposition alleges the competitive bidding cases cited in NWC's motion support
17 "the State's process and the Court's finding." (See Opp. 5:4-5) Essence's opposition and the court's
18 FFCL overlooks the requirements of NRS 453 and underlying purpose of the competitive bidding
19 process to "guard against favoritism, improvidence and corruption." *Gulf Oil*, 94 Nev. at 118-19.

20 As outlined in NWC's motion the competitive bidding process was so rife with errors,
21 subject to corruption, including favoritism and inappropriate sharing of information, lunches, dinners
22 and drinks between DoT staff and certain privileged applicants, and improper changes to the process
23 that amount violations and undermine the purpose of the competitive bidding process. The errors
24 in the process include, but are not limited to:

- 25 1. The DoT failed to provide a single point of contact for all applicants;
- 26 2. The DoT allowed applicants to ask questions and receive answers directly from the
27 Department, without disseminating the same information to all applicants;

28

- 1 3. The DoT modified the application without informing all applicants the application
- 2 was modified;
- 3 4. The DoT failed to disseminate the modified application to all applicants;
- 4 5. The DoT removed the requirement of a physical location from the application
- 5 without informing all applicants the physical location requirement was removed;
- 6 6. The DoT removed compliance from the grading process and failed to inform all
- 7 applicants of the removal of compliance;
- 8 7. The DoT failed to investigate sell of marijuana to minors; and
- 9 8. The DoT Executives held private meetings including lunches and dinner with
- 10 applicants/representatives/attorneys.

11 When as is the case here, insider information is provided to some, but not all applicants, it
12 precludes all applicants from competing on equal terms. Spiniello Constr. Co. V. Manchester, 189
13 Conn 539, 544 (Conn. 1983). In Spiniello, while the Court recognized the City's actions were done
14 in good faith to obtain the best result for residents, the Court still found that "judicial relief is
15 warranted where the municipal action amounts to an erosion on the integrity of the bidding statute."
16 Id. at 545. "One of the essentials to competitive bidding is that bidders **shall have the opportunity**
17 **to bid on the same thing.**" Gamewell Co. V. Phoenix, 216 F.2d 928, 934 (9th Cir. 1954) (emphasis
18 added). "The requirement is that specifications be such that **all parties can familiarize themselves**
19 **with the details.** Id. (emphasis added). Not only did the DoT give certain information to a privileged
20 few applicants but additionally made two different applications available during the application
21 process, removed physical location requirements in violation of NRS 453, removed compliance from
22 scoring and halting investigations into the sale of marijuana to minors.

23 It is appropriate for a Court to intervene when the process established by a governmental
24 agency "destroys the very principles of public policy that form the underlying basis of competitive
25 bidding." Weinder v. City of Reno, 88 Nev. 127, 494 P.2d 277, 281 (1972). "[C]ourts should
26 scrutinize the conduct of the bidding process by any governmental agency when it appears that a
27 violation of the public trust may be involved." Id. "Public confidence should be maintained at all
28 costs, even at the expense of those who errors are inadvertent." Comm'n on Ethics v. JMA/Lucchese.