IN THE SUPREME COURT OF THE STATE OF NEVADA

GREENMART OF NEVADA NLV LLC, A NEVADA LIMITED LIABILITY COMPANY; NEVADA ORGANIC REMEDIES, LLC,

Appellants,

VS.

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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 COMPANY HERBAL CHOICE, INC., A NEVADA LIMITED

LIABILITY COMPANY; JUST QUALITY. LLC, A NEVADA LIMITED LIABILITY COMPANY; LIBRA WELLNESS CENTER, LLC, A NEVADA LIMITED LIABILITY COMPANY; MOTHER HERB, INC., A

NEVADA LIMITED LIABILITY 16 COMPANY; GBS NEVADA PARTNERS,

LLC, A NEVADA LIMITED LIABILITY COMPANY; 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 STATE OF NEVADA. DEPARTMENT OF TAXATION.

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Respondents. 24

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 company; GREEN THERAPEUTICS, LLC, a Nevada limited Supreme Court Case Nect70662 all Filed Apr 22 2020 01:52 p.m.

Elizabeth A. Brown Case No .: Clerk of Supreme Court Consolidated with:

A-785818 A-786357

A-786962

A-787035

A-787540 A-787726

A-801416

Dept. No.:

XI

Docket 79669 Document 2020-15286

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 6 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, 9

Respondent/Cross-Appellants,

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STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency,

Respondent.

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MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR RESPONDENTS/CROSS APPELLANTS GREEN THERAPEUTICS LLC

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Vernon Nelson, Esq. of the Law Office of Vernon Nelson, PLLC ("LOVN"), hereby moves this Court, pursuant to NRAP 46(e)(3), SCR 46, and NRPC 1.16, to withdraw as counsel of record for Respondents/Cross Appellants Green Therapeutics LLC ("GT").

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On April 6, 2020, LOVN filed its Motion to Withdraw as Counsel of Record for Plaintiff Green Therapeutics, LLC. See Exhibit A (the "Motion to Withdraw"). The Motion to Withdraw. requests that LOVN be permitted to withdraw due to GT's failure to fulfill its obligations to LOVN. Similarly, given the pending Motion to Withdraw in the district court, LOVN, moves this court to withdraw as counsel of record for the Withdrawing Respondents.

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NRAP 46(e)(3) provides that "[a] withdrawal of counsel may be effected only by filing a motion in the court. The withdrawing attorney shall serve a copy of the motion on the attorney's client and any adverse party. The motion shall clearly state the reasons for the attorney's withdrawal consistent with SCR 46 and RPC 1.16." SCR 46(2) further provides that "The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows: Upon the order of the court or judge thereof on the application of the attorney or the client." Finally, NRPC 1.16(b) states that an attorney may be allowed to withdraw from representing a client if: "(1) [w]ithdrawal can be accomplished without material adverse effect on the interests of the client; ... (5) [t]he client fails to substantially fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (6) [t]he representation will result in an unreasonable financial burden on the lawyer ...; or (7) [o]ther good cause for withdrawal exists."

In this case, final judgment and final determination have not yet been entered in the underlying district court case. This appeal involves the validity of the issuance of a preliminary injunction (an interlocutory order), and therefore, the district court proceedings are moving forward in this matter with the preliminary injunction in effect. Further, LOVN has also filed a Motion to Withdraw in the continued proceedings below. *Ex. A.* Thus, withdrawal is appropriate under SCR 46(2).

Additionally, as explained in the Motion to Withdraw, NRPC 1.16(b) allows for withdrawal of counsel at this stage in the proceedings. As explained in the motion pending in district court: GT has (1) failed to fulfill it obligations to LOVN; (2) have been given an adequate warning that if they did not pay their past due legal bills that counsel would withdraw as counsel of record; (3) have failed to fulfill their obligations to LOVN, despite this warning. GT's failure to fulfill its obligations to LOVN will cause counsel to incur an unreasonable burden, and it will be forced to continue to provide legal services in this complex matter, with no prospect of being compensated.

Moreover, no facts exist that indicate that GT will suffer any adverse effect by counsel's withdrawal as counsel of record. There are multiple pending dispositive motions and LOVN has filed on behalf GT: (1) joinders to all relevant motions for summary judgment filed by similarly situated plaintiffs; and (2) joinders to all relevant oppositions to motions for summary judgment filed by similarly situated plaintiff. Further, given the delay in the trial date, there is ample time before trial for GT to retain new counsel. These facts are supported by the Declaration of Vernon Nelson attached as Exhibit "B" to this motion. Based on the foregoing, LOVN respectfully requests that this Court grant this motion to withdraw as counsel for GT in this matter.

DATED this 22st day of April, 2020.

THE LAW OFFICE OF VERNON NELSON

By: /s/ Vernon A. Nelson, Jr., Esq.
VERNON NELSON, ESQ.
Nevada Bar No.: 6434
6787 W. Tropicana Avenue, Ste. 103
Las Vegas, NV 89103
Attorney for Green Therapeutics. LLC

CERTIFICATE OF SERVICE

Supreme Court Case No.: 79669

I, Ana Brady, am over the age of eighteen (18) years and not a party to the within entitled action. I am employed by The Law Office of Vernon Nelson, PLLC, 6787 W. Tropicana Avenue, Suite 103, Las Vegas, Nevada 89103, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9.1 caused a true and correct copy of the foregoing NOTICE OF APPEARANCE to be submitted electronically to all parties currently on the electronic service list on April 21, 2020.

/s/ Ana Brady

An Employee of the Law Offices of Vernon Nelson

EXHIBIT A

Electronically Filed 4/6/2020 6:11 PM Steven D. Grierson CLERK OF THE COURT

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VERNON A. NELSON, JR., ESQ.
Nevada Bar No.: 6434
THE LAW OFFICE OF VERNON NELSON
6787 W. Tropicana Ave., Suite 103
Las Vegas, NV 89103
Tel.: 702-476-2500
Fax.: 702-476-2788
E-mail: vnelson@nelsonlawfirmlv.com
Attorneys for Green Therapeutics, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

In Re: D.O.T. Litigation

Case No.:
A-19-787004-B
Dept. No.:
XI

MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR PLAINTIFF GREEN THERAPEUTICS, LLC

HEARING REQUESTED

The Law Office of Vernon Nelson ("LOVN") moves to withdraw as counsel of record for Plaintiff Green Therapeutics, LLC. ("Green") in the above-captioned matter. Counsel's Motion to Withdraw is based upon Supreme Court Rule 46, Nevada Rules of Professional Conduct 1.16, Eighth Judicial District Court Rule 7.40, the following memorandum of points and authorities, the attached Declaration of Vernon A. Nelson, Esq., the papers and pleadings on file herein, and any oral argument permitted by this Court.

DATED this 6th day of April, 2020.

THE LAW OFFICE OF VERNON NELSON

/s/ Vernon A. Nelson, Jr., Esq.
VERNON A. NELSON, JR., ESQ.
Nevada Bar No.: 6434
THE LAW OFFICE OF VERNON NELSON
6787 W. Tropicana Ave., Suite 103
Las Vegas, NV 89103
Tel.: 702-476-2500
Fax.: 702-476-2788

E-mail: vnelson@nelsonlawfirmlv.com Attorneys for Green Therapeutics, LLC.

DECLARATION IN SUPPORT OF ORDER SHORTENING TIME

- I, Vernon Nelson, Esq. do hereby declare, under the penalty of perjury as follows:
- 1. I am an attorney licensed in the State of Nevada. I make this Declaration in support of The Law Office of Vernon Nelson's ("LOVN") Motion to Withdraw as Counsel of Record for Green Therapeutics, LLC. I am the Managing Member of LOVN.
- 2. LOVN has given notice to Plaintiffs that it intends to withdraw from this action unless the Plaintiffs fulfill their obligations to LOVN. Nevertheless, Plaintiffs have failed to fulfill their obligations, making this Motion necessary. As such, LOVN respectfully requests that this Court enter an order granting LOVN's Motion to Withdraw as Counsel of Record for Plaintiffs.
- 3. Plaintiffs retained LOVN to represent them in this matter. LOVN provided substantial services to Plaintiffs in this matter.
- 4. Pursuant to EDCR 7.40(b)(2) and NRPC 1.16(b)(6), good cause exists to allow withdrawal because Plaintiffs have substantially failed to fulfill their obligations to LOVN regarding LOVN's services.
- 5. The last known address for Green Therapeutics ("Green") is 848 N. Rainbow Blvd. #12, Las Vegas, NV 89107.
 - 6. The telephone number is 702-372-7505
 - 7. I declare under penalty of perjury that the foregoing is true and correct. DATED this 6th day of March, 2020.

THE LAW OFFICE OF VERNON NELSON

<u>/s/ Vernon A. Nelson, Jr., Esq.</u> VERNON A. NELSON, JR., ESQ.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

Green retained LOVN to represent it in this matter. LOVN provided substantial services to Green. (See Declaration of Vernon Nelson (DVN') above).

II. LEGAL ARGUMENT

Pursuant to EDCR 7.40(b)(2), an attorney may withdraw from a case by order of the Court pursuant to a written motion that must include an affidavit of the movant, stating that there is good cause for such withdrawal, as well as providing the Court with the last known address and telephone number of the client for whose case the attorney wishes to withdraw. See EDCR 7.40(b)(2). Supreme Court Rule 46 provides that an attorney in an action may be changed, upon application of the attorney or client; and pursuant to an order of the Court. (See SCR 46(2)). Supreme Court Rule 166 further provides that if termination of representation is approved, the attorney must, to the extent reasonably practicable, protect the client's interests. This includes giving reasonable notice to the client and allowing time for employment of other counsel. Id.

NRCP 1.16(b) provides, in part, that a lawyer may withdraw from representing a client if the client fails to substantially fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled.

This Court's granting LOVN's Motion to Withdraw is proper as LOVN has complied with EDCR 7.40(b)(2). Likewise, good cause separately exists to allow withdrawal under NRCP l.16(b)(6) because the Plaintiffs have substantially failed to fulfill their obligations to LOVN regarding LOVN's services. *See DVN*. Further, LOVN has given Green ample notice that it would be filing a Motion to Withdraw if it did not fulfill their obligations to LOVN. *Id.* Green has failed to do so. *Id.* In summary, the provisions of NRCP l.16(b) make it proper for this Court to grant LOVN's Motion to Withdraw.

III. CONCLUSION

LOVN has complied with EDCR 7.40(b)(2). Further, Plaintiffs have received reasonable notice that LOVN will withdraw as counsel of record. Thus, LOVN submits its Motion to Withdraw as Counsel of Record for Plaintiffs must be granted.

Dated this 6th day of April, 2020.

THE LAW OFFICE OF VERNON NELSON

/s/ Vernon A. Nelson, Jr.

VERNON A. NELSON, JR., ESQ.

Nevada Bar No.: 6434

THE LAW OFFICE OF VERNON NELSON

6787 W. Tropicana Ave., Suite 103

Las Vegas, ÑV 89103 Tel.: 702-476-2500 Fax.: 702-476-2788

E-mail: <u>vnelson@nelsonlawfirmlv.com</u> Attorneys for Green Therapeutics, LLC

PROOF OF SERVICE

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2 In Re: D.O.T. Litigation Case No.: A-19-787004-B 3 5 I am employed by The Law Office of Vernon Nelson, PLLC, 6787 W. Tropicana Avenue. Suite 103, Las Vegas, Nevada 89103. I am readily familiar with The Law Office of Vernon Nelson, PLLC's practice for collection and processing of documents for delivery by way of the service indicated below. On April 6, 2020, I served the following document(s): MOTION TO WITHDRAW AS 8 COUNSEL OF RECORD FOR PLAINTIFF GREEN THERAPEUTICS, LLC on the 9 interested party(ies) in this action as follows: 10 By Mail. By placing said document(s) in an envelope or package for collection and mailing, addressed to the person(s) at the address(es) listed above, following our ordinary business 11 practices. I am readily familiar with the firm's practice for collection and processing of mail. Under that practice, on the same day that mail is placed for collection and mailing, it is deposited in the 12 ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid. 13 X By Electronic Service. Pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR. 14 I caused said documents(s) to be transmitted to the person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State 15 of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office. 16 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is 17 true and correct. 18 19 /s/ Ana Brady An Employee of the Law Offices of Vernon Nelson 20 21 22 23 24 25 26 27 28

EXHIBIT B

ATTORNEY AT LAW

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DECLARATION OF VERNON NELSON IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR RESPONDENTS/CROSS APPELLANTS GREEN THERAPEUTICS LLC

- I, Vernon A. Nelson, Jr., Esq. hereby declare as follows:
- 1. I am the Managing Member of the Law Office of Vernon Nelson, PLLC ("LOVN"). I make this Declaration in support of LOVN's Motion to Withdraw as Counsel of Record for Respondents/Cross Appellants Green Therapeutics LLC ("GT"), pursuant to NRAP 46(e)(3), SCR 46, and NRPC 1.16. to withdraw as counsel of record for Respondents/Cross Appellants.
- 2. On April 6, 2020, LOVN filed its Motion to Withdraw as Counsel of Record for Plaintiff Green Therapeutics, LLC. See Exhibit A (the "Motion to Withdraw"). The Motion to Withdraw, requests that LOVN be permitted to withdraw due to GT's failure to fulfill its obligations to LOVN.
- 3. In this case, final judgment and final determination have not yet been entered in the underlying district court case. This appeal involves the validity of the issuance of a preliminary injunction (an interlocutory order), and therefore, the district court proceedings are moving forward in this matter with the preliminary injunction in effect. Further, LOVN has also filed a Motion to Withdraw in the continued proceedings below. Ex. A. Thus, withdrawal is appropriate under SCR 46(2).
- 4. Additionally, as explained in the Motion to Withdraw, NRPC 1.16(b) allows for withdrawal of counsel at this stage in the proceedings. As explained in the motion pending in district court: GT has (1) failed to fulfill it obligations to LOVN; (2) have been given an adequate warning that if they did not pay their past due legal bills that counsel would withdraw as counsel of record; (3) have failed to fulfill their obligations to LOVN, despite this warning. GT's failure to fulfill its obligations to LOVN will cause counsel to incur an unreasonable burden, and it will be forced to continue to provide legal services in this complex matter, with no prospect of being compensated.

5. Moreover, no facts exist that indicate that GT will suffer any adverse effect by counsel's withdrawal as counsel of record. There are multiple pending dispositive motions and LOVN has filed on behalf GT: (1) joinders to all relevant motions for summary judgment filed by similarly situated plaintiffs; and (2) joinders to all relevant oppositions to motions for summary judgment filed by similarly situated plaintiffs. Further, given the delay in the trial date, there is ample time before trial for GT to retain new counsel.

Dated April 22, 2020.

/s/ Vernon A. Nelson, Jr.	
VERNON A. NELSON JR., ESQ.	