

Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

NOAS

MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

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MCLEATCHIE LAW

701 East Bridger Avenue, Suite 520

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Telephone: (702) 728-5300

Email: maggie@nvlitigation.com

Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

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

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

Plaintiffs,

vs.

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

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

SERENITY WELLNESS CENTER, LLC, et
al.,

Plaintiffs,

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**

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

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

5 NEVADA WELLNESS CENTER, LLC, a
6 Nevada limited liability company,
7 Plaintiff,

7 vs.

8 STATE OF NEVADA, DEPARTMENT OF
9 TAXATION; and NEVADA ORGANIC
10 REMEDIES, LLC,
11 Defendants.

11 GREENMART OF NEVADA NLV LLC, a
12 Nevada limited liability company,
13 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

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

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

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

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

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25 _____
26 ¹ On September 19, 2019, GreenMart of Nevada NLV, LLC also filed an Amended Notice
27 Of Entry of the Court's August 23, 2019 Findings of Fact, Conclusions of Law and Order
28 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. MCLETSCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETSCHIE 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

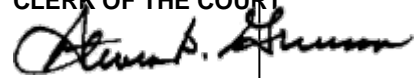
CERTIFICATE OF SERVICE

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



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

7 **EIGHTH JUDICIAL DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 MM DEVELOPMENT COMPANY, INC., a
10 Nevada Corporation, LIVFREE WELLNESS
11 LLC, dba The Dispensary, a Nevada limited
12 liability company,
13 Plaintiffs,
14 vs.

Case No.: A-18-785818-W

Dept. No.: VIII

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S CASE APPEAL
STATEMENT

13 STATE OF NEVADA, DEPARTMENT OF
14 TAXATION; and DOES 1 through 10; and
15 ROE CORPORATIONS 1 through 10,
16 Defendants,

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

18 SERENITY WELLNESS CENTER, LLC, et
19 al.,
20 Plaintiffs,
21 vs.

Case No.: A-19-786962-B

Dept. No.: XI

DEFENDANT-INTERVENOR
GREENMART OF NEVADA NLV
LLC'S CASE APPEAL
STATEMENT

21 STATE OF NEVADA, DEPARTMENT OF
22 TAXATION,
23 Defendant,
24 and

24 GREENMART OF NEVADA NLV LLC, a
25 Nevada limited liability company, et al.
26 Defendants-Intervenors.

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

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 CASE APPEAL
STATEMENT**

Case No.: A-18-786357-W

Dept. No.: XIV

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

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 CASE APPEAL
STATEMENT**

Case No.: A-19-787540-W

Dept. No.: XVIII

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

1. **Name of appellant filing this case appeal statement:** GreenMart of
Nevada NLV LLC ("GreenMart").

2. **Judge issuing the decision, judgment, or order appealed from:** The
Honorable Elizabeth Gonzalez.

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

MARGARET A. MCLETSCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
MCLETSCHIE LAW
701 E. Bridger Avenue, Suite 520
Las Vegas, NV 89101
Attorneys for Appellant, GreenMart of Nevada NLV LLC

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

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

DOMINIC P. GENTILE, Nevada Bar No. 1923
VINCENT SAVARESE III, Nevada Bar No. 2467
ROSS MILLER, Nevada Bar No. 8190
CLARK HILL PLC
3800 Howard Hughes Pkwy., #500
Las Vegas, Nevada 89169

Attorneys for Respondents, 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, Gravitas Nevada Ltd., Nevada Pure LLC, MediFarm LLC, and MediFarm IV LLC

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

WILLIAM S. KEMP, Nevada Bar No. 1205
NATHANIEL R. RULIS, Nevada Bar No. 11259
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, NV 89169

Attorneys for Respondents, MM Development Company, Inc. and LivFree Wellness, LLC

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

ADAM K. BULT, Nevada Bar No. 9332
MAXIMILIEN D. FETAZ, 12737
TRAVIS F. CHANCE, Nevada 13800
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 N. City Parkway, Suite 1600
Las Vegas, NV 89106

ADAM R. FULTON, Nevada Bar No. 11572
JENNINGS & FULTON, LTD.
2580 Sorrel Street
Las Vegas, NV 89146

Attorneys for Respondents, 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,

1 *LLC; THC Nevada, LLC; Zion Gardens, LLC; and MMOF Vegas Retail,*
2 *Inc.*

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

5 THEODORE PARKER, III, Nevada Bar No. 4716
6 PARKER, NELSON & ASSOCIATES, CHTD.
7 2460 Professional Court, Suite 200
8 Las Vegas, NV 89128
9 *Attorney for Respondent, Nevada Wellness Center LLC*

10 ***Compassionate Team of Las Vegas LLC v. Nevada Department of***
11 ***Taxation, Case No. A-18-786357-W***

12 DANIEL S. SIMON, Nevada Bar No. 4750
13 SIMON LAW
14 810 S. Casino Center Blvd.
15 Las Vegas, NV 89101
16 *Attorney for Respondent, Compassionate Team of Las Vegas LLC*

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

19 JAMES W. PUZEY, Nevada Bar No. 5745
20 MICHAEL AYERS, Nevada Bar No. 10851
21 CLARK V. VELLIS, Nevada Bar No. 5533
22 HOLLEY, DRIGGS, WALCH, FINE, PUZEY, STEIN & THOMPSON
23 800 South Meadows Parkway, Suite 800
24 Reno, NV 89521
25 *Attorneys for Respondent, High Sierra Holistics LLC*

26 **5. Name and address of interested party(ies)'s counsel:**

27 AARON FORD, Attorney General, Nevada Bar No. 7704
28 KETAN D. BHIRUD, Nevada Bar No. 10515
STEVE SHEVORSKI, Nevada Bar No. 8256
DAVID J. POPE, Nevada Bar No. 8617
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NEVADA OFFICE OF ATTORNEY GENERAL
555 E. Washington Ave., Ste. 3900
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Attorneys for Interested Party, State of Nevada of Nevada, Department of Taxation

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28

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10777 W. Twain Ave., 3rd Floor
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Attorneys for Interested Party, Clear River LLC

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JK LEGAL & CONSULTING, LLC
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Attorney for Interested Party, Helping Hands Wellness Center LLC

ERIC D. HONE, Nevada Bar No. 8499
JAMIE L. ZIMMERMAN, Nevada Bar No. 11749
MOOREA L. KATZ, Nevada Bar No. 12007
H1 LAW GROUP
701 N. Green Valley Pkwy., Suite 200
Henderson, NV 89074
Attorneys for Interested Party, Lone Mountain Partners, LLC

JAMES J. PISANELLI, Nevada Bar No. 4027
TODD L. BICE, Nevada Bar No. 4534
JORDAN T. SMITH, Nevada Bar No. 12097
PISANELLI BICE, PLLC
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Las Vegas, NV 89101

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JASON R. MAIER, Nevada Bar No. 8557
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PHILIP M. HYMANSON, Nevada Bar No. 2253
HENRY J. HYMANSON, Nevada Bar No. 14381
HYMANSON & HYMANSON
8816 Spanish Ridge Ave.
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Attorneys for Interested Parties, Integral Associates, LLC d/b/a Essence Cannabis Dispensaries; Essence Tropicana, LLC; Essence Henderson, LLC

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PHILIP M. HYMANSON, Nevada Bar No. 2253
HENRY J. HYMANSON, Nevada Bar No. 14381
HYMANSON & HYMANSON
8816 Spanish Ridge Ave.
Las Vegas, NV 89148

Attorneys for Interested Parties, CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, and Cheyenne Medical, LLC

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

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

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

9. **Whether appellant was granted leave to proceed in forma pauperis:** N/A.

10. **Date the proceedings commenced in the district court:** January 4, 2019.

11. **A brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:** Respondents filed Complaint (Business Court) on January 4, 2019 and a Motion for Preliminary Injunction on March 19, 2019. Appellant GreenMart was granted invention and filed its Answer on April 16, 2019. Pursuant to the district court's order entered on July 11, 2019, this case was coordinated with five other lawsuits regarding the State of Nevada Department of Taxation's procedures for awarding marijuana retail store licenses in

December 2018. Between May 24, 2019 and August 16, 2019, the Honorable Judge Gonzalez heard a twenty (20) day evidentiary hearing on the Motion for Preliminary Injunction. On August 23, 2019 the Findings of Fact and Conclusions of Law Granting Preliminary Injunction was filed and on August 28, 2019 the Notice of Entry of Order was entered.

12. **Whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:** N/A.

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

14. **In civil cases, whether the appeal involves the possibility of settlement:** Mediation has been ongoing with Honorable Judge (ret.) Jennifer Togliatti to no avail. Counsel for appellant GreenMart does not think that this matter is appropriate for settlement.

DATED this the 19th day of September, 2019.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLETCHE 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-INTERVENOR GREENMART OF NEVADA NLV LLC'S CASE APPEAL STATEMENT 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

CASE SUMMARY**CASE NO. A-19-787726-C****High Sierra Holistics LLC, Plaintiff(s)****vs.****State of Nevada Department of Taxation, Defendant(s)**§
§
§
§
§Location: **Department 14**Judicial Officer: **Escobar, Adriana**Filed on: **01/16/2019**Cross-Reference Case **A787726**

Number:

CASE INFORMATIONCase Type: **Other Civil Matters**Case
Status: **01/16/2019 Open****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number	A-19-787726-C
Court	Department 14
Date Assigned	01/16/2019
Judicial Officer	Escobar, Adriana

PARTY INFORMATION

Plaintiff	High Sierra Holistics LLC	<i>Lead Attorneys</i> Puzey, James W. <i>Retained</i> 775-851-8700(W)
Defendant	State of Nevada Department of Taxation	Ford, Aaron D. <i>Retained</i> 775-684-1100(W)
Intervenor	GreenMart of Nevada NLV LLC	McLetchie, Margaret A. <i>Retained</i> 702-728-5300(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

01/16/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff High Sierra Holistics LLC <i>Summons</i>
01/16/2019	 Initial Appearance Fee Disclosure Filed By: Plaintiff High Sierra Holistics LLC <i>Fee disclosure</i>
01/16/2019	 Complaint Filed By: Plaintiff High Sierra Holistics LLC <i>Complaint</i>
01/29/2019	 Proof Filed by: Plaintiff High Sierra Holistics LLC <i>Proof of Service</i>
04/12/2019	 Order Scheduling Status Check <i>Order Scheduling Hearing Re:Coordination</i>

CASE SUMMARY

CASE NO. A-19-787726-C

04/30/2019	 Acceptance of Service Filed By: Plaintiff High Sierra Holistics LLC <i>Acceptance of Serice</i>
05/08/2019	 Motion to Intervene Party: Intervenor GreenMart of Nevada NLV LLC <i>Motion to Intervene - Hearing Requested</i>
05/08/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/10/2019	 Answer Filed By: Defendant State of Nevada Department of Taxation <i>Answer to Complaint</i>
07/03/2019	 Order Filed By: Intervenor GreenMart of Nevada NLV LLC <i>Order Granting GreenMart of Nevada NLV LLC's Motion to Intervene</i>
07/03/2019	 Notice of Entry of Order Filed By: Intervenor GreenMart of Nevada NLV LLC <i>Notice of Entry of Order</i>
07/03/2019	 Answer to Complaint Filed by: Intervenor GreenMart of Nevada NLV LLC <i>Intervenor Defendant GreenMart of Nevada NLV LLC's Answer to Plaintiff's Complaint</i>
07/03/2019	 Initial Appearance Fee Disclosure Filed By: Intervenor GreenMart of Nevada NLV LLC <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
07/03/2019	 Amended Certificate of Service Party: Intervenor GreenMart of Nevada NLV LLC <i>Amended Certificate of Service</i>
09/19/2019	 Amended Notice of Entry of Order Filed By: Intervenor GreenMart of Nevada NLV LLC <i>Amended Notice of Entry of Order</i>
09/19/2019	 Notice of Appeal Filed By: Intervenor GreenMart of Nevada NLV LLC <i>Defendant-Intervenor GreenMart of Nevada NLV LLC's Notice of Appeal</i>
09/19/2019	 Case Appeal Statement Filed By: Intervenor GreenMart of Nevada NLV LLC <i>Defendant-Intervenor GreenMart of Nevada NLV LLC's Case Appeal Statement</i>
09/19/2019	 Amended Certificate of Service Party: Intervenor GreenMart of Nevada NLV LLC <i>Amended Certificate of Service</i>

HEARINGS

04/22/2019

CASE SUMMARY

CASE NO. A-19-787726-C



Status Check (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

APPEARANCES CONTINUED: A-19-786962-B - Serenity Wellness Center, LLC vs. State of Nevada Department of Taxation (Department XI case): - Attorney Dominic Gentile and Attorney Michael Cristalli for the Plaintiffs; - Attorney Jared Kahn participating by telephone for Intervenor Defendant Helping Hands Wellness Center, Inc.; - Attorney Alina Shell for Intervenor Defendant GreenMart of Nevada NLV LLC; - Attorney Joseph Gutierrez for Attorney for Intervenor Defendants Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana, LLC, Essence Henderson, LLC, CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, Cheyenne Medical, LLC; - Attorney David Koch for Nevada Organic Remedies LLC; - Attorney Eric Hone for Intervenor Defendant Lone Mountain Partners, LLC. A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation (Department IX case): Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs A-18-786357-W - Compassionate Team of Las Vegas LLC vs. Nevada Department of Taxation (Department XIV case): Attorney Daniel Simon for the Plaintiff A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case): Attorney Adam Bult for the Plaintiffs A-19-787035-C - D H Flamingo Inc vs. State Ex Rel Department of Taxation (Department VI case): Attorney Kelly Stout for the Plaintiffs A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation (Department XVIII case): Attorney Theodore Parker for the Plaintiff COURT advised today is a scheduling conference; these matters have been put on calendar because this Court has the lowest business court case (A-19-786962-B Serenity Wellness), the one with the motion for preliminary injunction. Mr. Kemp advised there are also cases in Washoe County and Lyon County; MM Development is the lowest case of all the cases locally; it is assigned to Department IX and has been administered by senior judges, although he understands Judge Silva will be the new judge in Department IX; he had informed Mr. Werbicky that they would not be opposed to coordination in general; however, the problem is that some cases are not in business court and they have a lot of missing parties; he will be filing an answer in a different case, and the proposition there is that even after a motion for coordination is granted a peremptory challenge may be filed; every time you coordinate you get a new bump which violates 48.1; the only way around that is to have a stipulation between all parties to go to one judge and keep that judge. Court stated its goal is to get the preliminary injunction hearing in the instant case finished and since this Court's ruling may affect all the people here today the Court is inviting everyone to participate; the Court is not consolidating the cases for the exact reason that counsel is identifying which could result in multiple things down the road. Mr. Kemp advised he supports the motion for preliminary injunction and can participate and submit briefing through Mr. Gentile; he points that out because they are already in the discovery process and have taken 6 depositions. At Ms. Stout's request for clarification, Court stated that at this point it is only planning to coordinate for purposes of the preliminary injunction hearing because of the primarily constitutional and business issue that is woven throughout all the cases. Mr. Bult advised he is probably in the same spot as Mr. Kemp and will help Mr. Gentile. Court noted if everyone is going to be relying on Mr. Gentile then that means all will be asking questions at the preliminary injunction hearing, which will triple the time if there are going to be witnesses. Mr. Bult further advised his only concern right now is a briefing schedule. Mr. Parker advised they were before the Discovery Commissioner a week and a half ago, and Nevada Wellness received a report and recommendation in their favor allowing them certain discovery; so, they may submit briefing which includes that additional discovery. Mr. Bhirud stated he would prefer to respond to one opposition although he would rather not have 7 different rulings either. As to whether parties will have witnesses at the hearing, Court stated it will be up to counsel. Mr. Bhirud added he would prefer that one or two attorneys on the Plaintiffs' side take the lead. Mr. Koch advised they had stipulated to May 2nd for the opposition; he is not sure if with regards to the hearing fact witnesses would help, because the motion for preliminary injunction as written is really legal argument regarding statutes. Court noted its only concern is that it was unclear when it read the briefing in Serenity Wellness - because it stopped reading before granting a motion to exceed page limit - if there is an argument that it is unconstitutional as applied, if that is the case, they probably need witnesses. Upon Mr. Puzey's inquiry, Court stated it does not intend to have the cases in Washoe and Lyon counties come here unless those judges want it to; if those judges and parties want to participate this Court will be happy to have them participate on May 24th; the cases here have the approval of the Chief Judge for coordination given the status of some of the departments they are assigned to. Mr. Bhirud advised the State will stipulate to bring those cases here. Mr. Puzey replied they are not yet prepared to enter into that stipulation today. Court stated it will let counsel discuss that amongst themselves. Mr. Kemp further advised there are two applications pending in Reno for new licenses which are currently not on the Washoe County agenda but could be put on the agenda on 5 days' notice; there is some

CASE SUMMARY

CASE NO. A-19-787726-C

concern that they could be heard as early as next week, which would be before the preliminary injunction hearing; if noticed, they will ask Mr. Gentile to take appropriate action to prevent those applications from becoming somehow moot. Court stated counsel can do whatever they want; the Court will sign an OST. Ms. Stout requested further clarification; her clients have sought slightly different relief and she wants to clarify whether the action that would be taken with respect to the motion for preliminary injunction here would not prevent other parties from seeking a preliminary injunction in other cases. Court stated yes if seeking on a different basis, but if the same basis as the instant case then it would be done here. Colloquy between Court and counsel regarding briefing. Per parties' STIPULATION, COURT ORDERED: Other Plaintiffs to make a decision by May 6, 2019 on whether they are formally joining the motion for preliminary injunction in A-19-786962-B (Serenity Wellness) and adding to some of the facts and raising new issues; Opposition DUE by May 9, 2019; Reply brief DUE by May 22, 2019 at noon. Ms. Stout advised that to the extent this proceeding would prevent her clients from raising a preliminary injunction seeking similar relief later on they would have to OBJECT under EDCR 2.50 and 1.61. COURT SO NOTED. Mr. Bhirud inquired as to whether the Court would prefer to have a motion for preliminary injunction by D H Flamingo filed here. COURT NOTED, if something happens and counsel thinks it needs to be done differently; no one has filed a formal motion to coordinate or consolidate. The Court has invited participation in the preliminary injunction hearing of all interested parties in order to avoid potentially conflicting rulings. COURT FURTHER NOTED that on May 6th, the date for the other Plaintiff's elections, if there are any other issues that are unanticipated or beyond the pale the Court can discuss those with the parties on a conference call; if there are any discovery disputes that relate to the preliminary injunction hearing the Court can also do this on a conference call. 5-24-19 9:00 AM PRELIMINARY INJUNCTION HEARING IN A-19-786962-B IN DEPARTMENT XI (Dept XI - Gonzalez);

05/24/2019



Preliminary Injunction Hearing (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)
05/24/2019, 05/28/2019-05/31/2019, 06/10/2019-06/11/2019, 06/18/2019-06/20/2019, 07/01/2019, 07/10/2019-07/12/2019, 07/15/2019, 07/18/2019, 08/13/2019-08/16/2019

Preliminary Injunction Hearing in A-19-786962-B in Department XI

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Decision Pending;

Journal Entry Details:

See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.;

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CASE SUMMARY

CASE NO. A-19-787726-C

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CASE SUMMARY

CASE NO. A-19-787726-C

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Decision Pending;

Journal Entry Details:

Preliminary Injunction Hearing (Serenity Wellness against Defendant-Intervenor CPCMC 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) APPEARANCES: Cristalli, Michael Attorney for Plaintiff Gentile, Dominic P. Attorney for Plaintiff Miller, Ross J. Attorney for Plaintiff Savarese, Vincent Attorney for Plaintiff Bhirud, Ketan D. Attorney for Defendant Shevorski, Steven G. Attorney for Defendant Haar, Theresa M. Attorney for Defendant Graf, J. Rusty Attorney for Intervenor Defendant Higgins, Brigid M. Attorney for Intervenor Defendant Shell, Alina Attorney for Intervenor Defendant Kahn, Jared B. Attorney for Intervenor Defendant Hone, Eric D. Attorney for Intervenor Defendant Gutierrez, Joseph

CASE SUMMARY**CASE NO. A-19-787726-C**

A. Attorney for Intervenor Defendant Hymanson, Philip M. Attorney for Intervenor Defendant Koch, David Attorney for Intervenor Defendant Wight, Brody R. Attorney for Intervenor Defendant Rulis, Nathanael R. Attorney for Other Plaintiff Kemp, William Attorney for Other Plaintiff APPEARANCES CONTINUED: William Kemp, Esq. and Nathanael Rulis, counsel for Livfree Wellness LLC; counsel for Livfree Wellness LLC (A-18-785818-W) Adam Bult, Esq. and Maximilien Fetaz, Esq., counsel for Green Therapeutics LLC, ETW Management Group, LLC (A-19-787004-B) Theodore Parker, Esq. and Mahogany Turfley, Esq., counsel for Nevada Wellness Center, LLC (A-19-787540-W) Upon Court's inquiry, exhibits presented and Stipulated exhibits admitted. (See worksheets) Opening statements by counsel. Testimony presented. (See worksheets) Colloquy regarding scheduling. No objection noted. Proposed Findings of Fact, Conclusions of Law are to be submitted to the Court by Wednesday (May 26, 2019) at noon. Court recessed for the day. Court advised parties Court will entertain Motion to Compel next date. 5/28/19 9:45 a.m. Further Proceedings: Preliminary Injunction Hearing;

06/10/2019

**Minute Order** (12:30 PM) (Judicial Officer: Escobar, Adriana)*Motion to Intervene*

Granted;

Journal Entry Details:

A Motion to Intervene was filed by Greenmart of Nevada LV LLC on May 8, 2019, and a hearing was set for June 11, 2019. NRCP 24(a)(2) allows for intervention as a right, and NRCP 24(b)(1)(B) allows for permissive intervention. No opposition having been filed and good cause showing, pursuant to NRCP 24, EDCR 2.20, and EDCR 2.23(c), the Court hereby GRANTS the Motion to Intervene. Counsel for the Greenmart of Nevada is directed to prepare a detailed proposed order. Please include any findings and conclusions made by the Court, as well as any other pertinent information from your motion, such that a reviewing court would understand the basis for the Court's order. Please submit to the proposed order to chambers for signature;

06/11/2019

CANCELED Motion to Intervene (9:30 AM) (Judicial Officer: Escobar, Adriana)*Vacated**Motion to Intervene***DATE****FINANCIAL INFORMATION****Intervenor** GreenMart of Nevada NLV LLC

Total Charges

247.00

Total Payments and Credits

247.00

Balance Due as of 9/23/2019**0.00****Plaintiff** High Sierra Holistics LLC

Total Charges

270.00

Total Payments and Credits

270.00

Balance Due as of 9/23/2019**0.00**

A-19-787726-C

DISTRICT COURT CIVIL COVER SHEET

Department 14

Case No.

County, Nevada

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
High Sierra Holistics LLC	State of Nevada, Department of Taxation
c/o James W. Puzey, Esq.	
800 S. Meadows Parkway, #800	
Reno, NV 89521	
Attorney (name/address/phone):	Attorney (name/address/phone):
James W. Puzey, Esq. & Michael Ayers, Esq.	
800 S. Meadows Parkway, #800	
Reno, NV 89521	

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

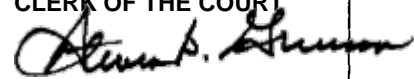
Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain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

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

1/16/19
Date

Signature of initiating party or representative

See other side for family-related case filings.



FFCL

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, 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

RECEIVED
AUG 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,

Intervenors.

6 This matter having come before the Court for an evidentiary hearing on Plaintiffs' Motion for
7 Preliminary Injunction beginning on May 24, 2019, and occurring day to day thereafter until its
8 completion on August 16, 2019;¹ Dominic P. Gentile, Esq., Vincent Savarese III, Esq., Michael V.
9 Cristalli, Esq., and Ross J. Miller, Esq., of the law firm Gentile Cristalli Miller Armeni Savarese,
10 appeared on behalf of Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, LLC,
11 Nevada Holistic Medicine, LLC, Tryke Companies SO NV, LLC, Tryke Companies Reno, LLC,
12 Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada,
13 LLC, Nevada Pure, LLC, Medifarm, LLC (Case No. A786962-B) (the "Serenity Plaintiffs"); Adam K.
14 Bult, Esq. and Maximilien D. Fetaz, Esq., of the law firm Brownstein Hyatt Farber Schreck, LLP,
15 appeared on behalf of Plaintiffs ETW Management Group LLC, Global Harmony LLC, Green Leaf
16 Farms Holdings LLC, Green Therapeutics LLC, Herbal Choice INC., Just Quality, LLC, Libra
17 Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NevCann LLC, Red Earth LLC,
18 THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (Case No. A787004-B) (the
19 "ETW Plaintiffs"); William S. Kemp, Esq. and Nathaniel R. Rulis, Esq., of the law firm Kemp, Jones
20 & Coulthard LLP, appeared on behalf of MM Development Company, Inc. and LivFree Wellness LLC
21 (Case No. A785818-W) (the "MM Plaintiffs"); Theodore Parker III, Esq., of the law firm Parker
22 Nelson & Associates, appeared on behalf of Nevada Wellness Center (Case No. A787540-W)
23 (collectively the "Plaintiffs"); Steven G. Shevorski, Esq., Ketan D. Bhirud, Esq., and Theresa M. Haar,
24 Esq., of the Office of the Nevada Attorney General, appeared on behalf of the State of Nevada,
25 Department of Taxation; David R. Koch, Esq., of the law firm Koch & Scow LLC, appeared on behalf

26 ¹ Although a preservation order was entered on December 13, 2018, in A785818, no discovery in any case was done
27 prior to the commencement of the evidentiary hearing, in part due to procedural issues and to statutory restrictions on
28 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.

of Nevada Organic Remedies, LLC; Brigid M. Higgins, Esq. and Rusty Graf, Esq., of the law firm Black & Lobello, appeared on behalf of Clear River, LLC; Eric D. Hone, Esq., of the law firm H1 Law Group, appeared on behalf of Lone Mountain Partners, LLC; Alina M. Shell, Esq., of the law firm McLetchie Law, appeared on behalf of GreenMart of Nevada NLV LLC; Jared Kahn, Esq., of the law firm JK Legal & Consulting, LLC, appeared on behalf of Helping Hands Wellness Center, Inc.; and Joseph A. Gutierrez, Esq., of the law firm Maier Gutierrez & Associates, and Philip M. Hymanson, Esq., of the law firm Hymanson & Hymanson; Todd Bice, Esq. and Jordan T. Smith, Esq. of the law firm Pisanelli Bice; and Dennis Prince, Esq. of the Prince Law Group appeared on behalf of Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana, LLC, Essence Henderson, LLC, CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, and Cheyenne Medical, LLC (the “Essence/Thrive Entities”). The Court, having read and considered the pleadings filed by the parties; having reviewed the evidence admitted during the evidentiary hearing; and having heard and carefully considered the testimony of the witnesses called to testify; having considered the oral and written arguments of counsel, and with the intent of deciding the Motion for a Preliminary Injunction,² makes the following preliminary findings of fact and conclusions of law:

PROCEDURAL POSTURE

Plaintiffs are a group of unrelated commercial entities who applied for, but did not receive, licenses to operate retail recreational marijuana establishments in various local jurisdictions throughout the state. Defendant is Nevada’s Department of Taxation (“DoT”), which is the administrative agency responsible for issuing the licenses. Some successful applicants for licensure intervened as Defendants.

The Serenity Plaintiffs filed a Motion for Preliminary Injunction on March 19, 2019, asking for a preliminary injunction to:

- a. Enjoin the denial of Plaintiffs applications;
- b. Enjoin the enforcement of the licenses granted;
- c. Enjoin the enforcement and implementation of NAC 453D;

² The findings made in this Order are preliminary in nature based upon the limited evidence presented after very 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.

19
20
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
24 Compassionate Team: 5/17; Joinder to Motion by ETW: 5/6 (filed in A787004); and Joinder to Motion by Nevada
25 Wellness: 5/10 (filed in A787540)); Opposition by the State filed 5/9/19 (Joinder by Essence/Thrive Entities: 5/23);
26 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:
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
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
28 (Joinder by Serenity: 5/20 (filed in A786962); Joinder by ETW: 5/6 (filed in A787004 and A785818); and Joinder by
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.

- 1 (d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;
2 (e) Individuals will have to be 21 years of age or older to purchase marijuana;
3 (f) Driving under the influence of marijuana will remain illegal; and
4 (g) Marijuana sold in the State will be tested and labeled.

5 NRS 453D.020(3).

6 8. BQ2 mandated the DoT to “conduct a background check of each prospective owner,
7 officer, and board member of a marijuana establishment license applicant.” NRS 453D.200(6).

8 9. On November 8, 2016, by Executive Order 2017-02, Governor Brian Sandoval
9 established a Task Force composed of 19 members to offer suggestions and proposals for legislative,
10 regulatory, and executive actions to be taken in implementing BQ2.

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

16 11. Some of the Task Force’s recommendations appear to conflict with BQ2.⁷

17
18
19 ⁷ The Final Task Force report (Exhibit 2009) contained the following statements:

20 The Task Force recommends that retail marijuana ownership interest requirements remain consistent with the
21 medical marijuana program. . . .
22 at 2510.

23 The requirement identified by the Task Force at the time was contained in NAC 453A.302(1) which states:

24 Except as otherwise required in subsection 2, the requirements of this chapter concerning owners of medical
25 marijuana establishments only apply to a person with an aggregate ownership interest of 5 percent or more in a
26 medical marijuana establishment.

27 The second recommendation of concern is:

28 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

12. During the 2017 legislative session Assembly Bill 422 transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of Public and Behavioral Health to the DoT.⁸

13. On February 27, 2018, the DoT adopted regulations governing the issuance, suspension, or revocation of retail recreational marijuana licenses in LCB File No. R092-17, which were codified in NAC 453D (the “Regulations”).

14. The Regulations for licensing were to be “directly and demonstrably related to the operation of a marijuana establishment.” NRS 453D.200(1)(b). The phrase “directly and demonstrably related to the operation of a marijuana establishment” is subject to more than one interpretation.

*Use the marijuana establishments governing documents to determine who has approval rights and signatory authority for purposes of signing ownership transfers, applications and any other appropriate legal or regulatory documents.

There was Task Force dissent on the recommendation. The concern with this recommendation was that by 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.
at 2515-2516.

⁸ Those provisions (a portion of which became NRS 453D.205) are consistent with BQ2:

1. When conducting a background check pursuant to subsection 6 of NRS 453D.200, the Department may 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.

2. When determining the criminal history of a person pursuant to paragraph (c) of subsection 1 of NRS 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.

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 ⁹ 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 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 4. A description of the proposed organizational structure of the proposed marijuana establishment, including,
without limitation:

- 5 (a) An organizational chart showing all owners, officers and board members of the proposed marijuana
6 establishment;
7 (b) A list of all owners, officers and board members of the proposed marijuana establishment that contains the
8 following information for each person:
9 (1) The title of the person;
10 (2) The race, ethnicity and gender of the person;
11 (3) A short description of the role in which the person will serve for the organization and his or her
12 responsibilities;
13 (4) Whether the person will be designated by the proposed marijuana establishment to provide written notice to
14 the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a
15 marijuana establishment agent at the proposed marijuana establishment;
16 (5) Whether the person has served or is currently serving as an owner, officer or board member for another
17 medical marijuana establishment or marijuana establishment;
18 (6) Whether the person has served as an owner, officer or board member for a medical marijuana establishment
19 or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as
20 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 33. When decisions were made on who to hire, the individuals were notified that they would
21 need to register with "Manpower" under a pre-existing contract between the DoT and that company.
22 Individuals would be paid through Manpower, as their application-grading work would be of a
23 temporary nature.
24

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
27
28

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
8 36. NAC 453D.272(1) required the DoT to determine that an Application is “complete and
9 in compliance” with the provisions of NAC 453D in order to properly apply the licensing criteria set
10 forth therein and the provisions of the Ballot Initiative and the enabling statute.

11 37. When the DoT received applications, it undertook no effort to determine if the
12 applications were in fact “complete and in compliance.”

13 38. In evaluating whether an application was “complete and in compliance” the DoT made
14 no effort to verify owners, officers or board members (except for checking whether a transfer request
15 was made and remained pending before the DoT).

16
17 39. For purposes of grading the applicant’s organizational structure and diversity, if an
18 applicant’s disclosure in its application of its owners, officers, and board members did not match the
19 DoT’s own records, the DoT did not penalize the applicant. Rather the DoT permitted the grading, and
20 in some cases, awarded a conditional license to an applicant under such circumstances, and dealt with
21 the issue by simply informing the winning applicant that its application would have to be brought into
22 conformity with DoT records.

23
24 40. The DoT created a Regulation that modified the mandatory BQ2 provision “[t]he
25 Department shall conduct a background check of each prospective owner, officer, and board member of
26 a marijuana establishment license applicant” and determined it would only require information on the

27
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 43. The limitation of “unreasonably impracticable” in BQ2¹² does not apply to the
15 mandatory language of BQ2, but to the Regulations which the DoT adopted.
16

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
9 47. The DoT did not comply with BQ2 by requiring applicants to provide information for
10 each prospective owner, officer and board member or verify the ownership of applicants applying for
11 retail recreational marijuana licenses. Instead the DoT issued conditional licenses to applicants who
12 did not identify each prospective owner, officer and board member.¹⁵

13 48. The DoT's late decision to delete the physical address requirement on some application
14 forms while not modifying those portions of the application that were dependent on a physical location
15 (i.e. floor plan, community impact, security plan, and the sink locations) after the repeated
16 communications by an applicant's agent; not effectively communicating the revision; and, leaving the
17 original version of the application on the website, is evidence of conduct that is a serious issue.

18
19 49. Pursuant to NAC 453D.295, the winning applicants received a conditional license that
20 will not be finalized unless within twelve months of December 5, 2018, the licensees receive a final
21 inspection of their marijuana establishment.
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 BO2.

59. NRS 33.010 governs cases in which an injunction may be granted. The applicant must show (1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy.

60. Plaintiffs have the burden to demonstrate that the DoT's conduct, if allowed to continue, will result in irreparable harm for which compensatory damages is an inadequate remedy.

61. The purpose of a preliminary injunction is to preserve the *status quo* until the matter can be litigated on the merits.

62. In *City of Sparks v. Sparks Mun. Court*, the Supreme Court explained, "[a]s a constitutional violation may be difficult or impossible to remedy through money damages, such a violation may, by itself, be sufficient to constitute irreparable harm." 129 Nev. 348, 357, 302 P.3d 1118, 1124 (2013).

63. Article 19, Section 2 of the Constitution of the State of Nevada provides, in pertinent part:

"1. Notwithstanding the provisions of section 1 of article 4 of this constitution, but subject to the limitations of section 6 of this article, **the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this constitution, and to enact or reject them at the polls.**

...

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the secretary of state before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the legislature is held. After its circulation, it shall be filed with the secretary of state not less than 30 days prior to any regular session of the legislature. The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The secretary of state shall transmit such petition to the legislature as soon as the legislature 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.**

7 (Emphasis added.)

8 64. The Nevada Supreme Court has recognized that “[i]nitiative petitions must be kept
9 substantively intact; otherwise, the people’s voice would be obstructed. . . [I]nitiative legislation is not
10 subject to judicial tampering-the substance of an initiative petition should reflect the unadulterated will
11 of the people and should proceed, if at all, as originally proposed and signed. For this reason, our
12 constitution prevents the Legislature from changing or amending a proposed initiative petition that is
13 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.
20

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.
27
28

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

13 77. The hiring of Temporary Employees was well within the DoT's discretionary power.

14 78. The evidence establishes that the DoT failed to properly train the Temporary
15 Employees. This is not an appropriate basis for the requested injunctive relief unless it makes the
16 grading process unfair.

17
18 79. The DoT failed to establish any quality assurance or quality control of the grading done
19 by Temporary Employees.¹⁷ This is not an appropriate basis for the requested injunctive relief unless it
20 makes the grading process unfair.

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 DoT 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

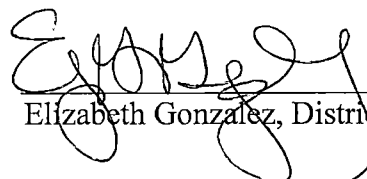
IT IS HEREBY ADJUDGED ORDERED AND DECREED that Plaintiffs' Motions for Preliminary Injunction are granted in part.

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.

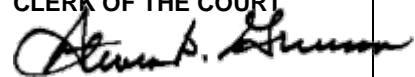

Elizabeth Gonzalez, District Court Judge

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.



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*Attorneys for Defendants in Intervention,
Integral Associates LLC d/b/a Essence Cannabis Dispensaries,
Essence Tropicana, LLC, Essence Henderson, LLC*

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, 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,

Plaintiffs,

vs.

THE STATE OF NEVADA, DEPARTMENT
OF TAXATION,

Defendants.

INTEGRAL ASSOCIATES LLC d/b/a
ESSENCE CANNABIS DISPENSARIES, a
Nevada limited liability company; ESSENCE

Case No.: A-19-786962-B
Dept. No.: XI

NOTICE OF ENTRY

1 TROPICANA, LLC, a Nevada limited liability
2 company; ESSENCE HENDERSON, LLC, a
3 Nevada limited liability company; CPCM
4 HOLDINGS, LLC d/b/a THRIVE CANNABIS
MEDICAL, LLC, a Nevada limited liability
company; and CHEYENNE MEDICAL, LLC,
a Nevada limited liability company,

5 Defendants in Intervention.

6
7 PLEASE TAKE NOTICE that a "Findings of Fact and Conclusions of Law Granting
8 Preliminary Injunction" was entered in the above-captioned matter on August 23, 2019, a true and
9 correct copy of which is attached hereto.

10 DATED this 28th day of August, 2019.

11 PISANELLI BICE PLLC

12 By: /s/ Todd L. Bice

13 James J. Pisanelli, Esq., Bar No. 4027

14 Todd L. Bice, Esq., Bar No. 4534

15 Jordan T. Smith, Esq., Bar No. 12097

400 South 7th Street, Suite 300

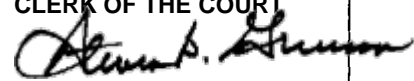
Las Vegas, Nevada 89101

16 *Attorneys for Defendants in Intervention,*
17 *Integral Associates LLC d/b/a Essence Cannabis*
18 *Dispensaries, Essence Tropicana, LLC, Essence*
19 *Henderson, LLC*
20
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 28th day of August, 2019, I caused to be served via the Court's e-filing/e-service system true and correct copies of the above **NOTICE OF ENTRY** to all parties listed on the Court's Master Service List.

/s/ Shannon Dinkel
An employee of Pisanelli Bice PLLC



FFCL

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, 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

RECEIVED
AUG 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,

Intervenors.

6 This matter having come before the Court for an evidentiary hearing on Plaintiffs' Motion for
7 Preliminary Injunction beginning on May 24, 2019, and occurring day to day thereafter until its
8 completion on August 16, 2019;¹ Dominic P. Gentile, Esq., Vincent Savarese III, Esq., Michael V.
9 Cristalli, Esq., and Ross J. Miller, Esq., of the law firm Gentile Cristalli Miller Armeni Savarese,
10 appeared on behalf of Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, LLC,
11 Nevada Holistic Medicine, LLC, Tryke Companies SO NV, LLC, Tryke Companies Reno, LLC,
12 Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada,
13 LLC, Nevada Pure, LLC, Medifarm, LLC (Case No. A786962-B) (the "Serenity Plaintiffs"); Adam K.
14 Bult, Esq. and Maximilien D. Fetaz, Esq., of the law firm Brownstein Hyatt Farber Schreck, LLP,
15 appeared on behalf of Plaintiffs ETW Management Group LLC, Global Harmony LLC, Green Leaf
16 Farms Holdings LLC, Green Therapeutics LLC, Herbal Choice INC., Just Quality, LLC, Libra
17 Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NevCann LLC, Red Earth LLC,
18 THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (Case No. A787004-B) (the
19 "ETW Plaintiffs"); William S. Kemp, Esq. and Nathaniel R. Rulis, Esq., of the law firm Kemp, Jones
20 & Coulthard LLP, appeared on behalf of MM Development Company, Inc. and LivFree Wellness LLC
21 (Case No. A785818-W) (the "MM Plaintiffs"); Theodore Parker III, Esq., of the law firm Parker
22 Nelson & Associates, appeared on behalf of Nevada Wellness Center (Case No. A787540-W)
23 (collectively the "Plaintiffs"); Steven G. Shevorski, Esq., Ketan D. Bhirud, Esq., and Theresa M. Haar,
24 Esq., of the Office of the Nevada Attorney General, appeared on behalf of the State of Nevada,
25 Department of Taxation; David R. Koch, Esq., of the law firm Koch & Scow LLC, appeared on behalf

26 ¹ Although a preservation order was entered on December 13, 2018, in A785818, no discovery in any case was done
27 prior to the commencement of the evidentiary hearing, in part due to procedural issues and to statutory restrictions on
28 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.

of Nevada Organic Remedies, LLC; Brigid M. Higgins, Esq. and Rusty Graf, Esq., of the law firm Black & Lobello, appeared on behalf of Clear River, LLC; Eric D. Hone, Esq., of the law firm H1 Law Group, appeared on behalf of Lone Mountain Partners, LLC; Alina M. Shell, Esq., of the law firm McLetchie Law, appeared on behalf of GreenMart of Nevada NLV LLC; Jared Kahn, Esq., of the law firm JK Legal & Consulting, LLC, appeared on behalf of Helping Hands Wellness Center, Inc.; and Joseph A. Gutierrez, Esq., of the law firm Maier Gutierrez & Associates, and Philip M. Hymanson, Esq., of the law firm Hymanson & Hymanson; Todd Bice, Esq. and Jordan T. Smith, Esq. of the law firm Pisanelli Bice; and Dennis Prince, Esq. of the Prince Law Group appeared on behalf of Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana, LLC, Essence Henderson, LLC, CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, and Cheyenne Medical, LLC (the “Essence/Thrive Entities”). The Court, having read and considered the pleadings filed by the parties; having reviewed the evidence admitted during the evidentiary hearing; and having heard and carefully considered the testimony of the witnesses called to testify; having considered the oral and written arguments of counsel, and with the intent of deciding the Motion for a Preliminary Injunction,² makes the following preliminary findings of fact and conclusions of law:

PROCEDURAL POSTURE

Plaintiffs are a group of unrelated commercial entities who applied for, but did not receive, licenses to operate retail recreational marijuana establishments in various local jurisdictions throughout the state. Defendant is Nevada’s Department of Taxation (“DoT”), which is the administrative agency responsible for issuing the licenses. Some successful applicants for licensure intervened as Defendants.

The Serenity Plaintiffs filed a Motion for Preliminary Injunction on March 19, 2019, asking for a preliminary injunction to:

- a. Enjoin the denial of Plaintiffs applications;
- b. Enjoin the enforcement of the licenses granted;
- c. Enjoin the enforcement and implementation of NAC 453D;

² The findings made in this Order are preliminary in nature based upon the limited evidence presented after very 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.

19
20
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
24 Compassionate Team: 5/17; Joinder to Motion by ETW: 5/6 (filed in A787004); and Joinder to Motion by Nevada
25 Wellness: 5/10 (filed in A787540)); Opposition by the State filed 5/9/19 (Joinder by Essence/Thrive Entities: 5/23);
26 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:
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
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
28 (Joinder by Serenity: 5/20 (filed in A786962); Joinder by ETW: 5/6 (filed in A787004 and A785818); and Joinder by
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

12. During the 2017 legislative session Assembly Bill 422 transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of Public and Behavioral Health to the DoT.⁸

13. On February 27, 2018, the DoT adopted regulations governing the issuance, suspension, or revocation of retail recreational marijuana licenses in LCB File No. R092-17, which were codified in NAC 453D (the “Regulations”).

14. The Regulations for licensing were to be “directly and demonstrably related to the operation of a marijuana establishment.” NRS 453D.200(1)(b). The phrase “directly and demonstrably related to the operation of a marijuana establishment” is subject to more than one interpretation.

*Use the marijuana establishments governing documents to determine who has approval rights and signatory authority for purposes of signing ownership transfers, applications and any other appropriate legal or regulatory documents.

There was Task Force dissent on the recommendation. The concern with this recommendation was that by 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.
at 2515-2516.

⁸ Those provisions (a portion of which became NRS 453D.205) are consistent with BQ2:

1. When conducting a background check pursuant to subsection 6 of NRS 453D.200, the Department may 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.

2. When determining the criminal history of a person pursuant to paragraph (c) of subsection 1 of NRS 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.

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 ⁹ 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 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 4. A description of the proposed organizational structure of the proposed marijuana establishment, including,
without limitation:

- 5 (a) An organizational chart showing all owners, officers and board members of the proposed marijuana
6 establishment;
7 (b) A list of all owners, officers and board members of the proposed marijuana establishment that contains the
8 following information for each person:
9 (1) The title of the person;
10 (2) The race, ethnicity and gender of the person;
11 (3) A short description of the role in which the person will serve for the organization and his or her
12 responsibilities;
13 (4) Whether the person will be designated by the proposed marijuana establishment to provide written notice to
14 the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a
15 marijuana establishment agent at the proposed marijuana establishment;
16 (5) Whether the person has served or is currently serving as an owner, officer or board member for another
17 medical marijuana establishment or marijuana establishment;
18 (6) Whether the person has served as an owner, officer or board member for a medical marijuana establishment
19 or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as
20 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
25
26
27
28

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 33. When decisions were made on who to hire, the individuals were notified that they would
21 need to register with "Manpower" under a pre-existing contract between the DoT and that company.
22 Individuals would be paid through Manpower, as their application-grading work would be of a
23 temporary nature.
24

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
27
28

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
8 36. NAC 453D.272(1) required the DoT to determine that an Application is “complete and
9 in compliance” with the provisions of NAC 453D in order to properly apply the licensing criteria set
10 forth therein and the provisions of the Ballot Initiative and the enabling statute.

11 37. When the DoT received applications, it undertook no effort to determine if the
12 applications were in fact “complete and in compliance.”

13 38. In evaluating whether an application was “complete and in compliance” the DoT made
14 no effort to verify owners, officers or board members (except for checking whether a transfer request
15 was made and remained pending before the DoT).

16
17 39. For purposes of grading the applicant’s organizational structure and diversity, if an
18 applicant’s disclosure in its application of its owners, officers, and board members did not match the
19 DoT’s own records, the DoT did not penalize the applicant. Rather the DoT permitted the grading, and
20 in some cases, awarded a conditional license to an applicant under such circumstances, and dealt with
21 the issue by simply informing the winning applicant that its application would have to be brought into
22 conformity with DoT records.

23
24 40. The DoT created a Regulation that modified the mandatory BQ2 provision “[t]he
25 Department shall conduct a background check of each prospective owner, officer, and board member of
26 a marijuana establishment license applicant” and determined it would only require information on the

27
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 43. The limitation of “unreasonably impracticable” in BQ2¹² does not apply to the
15 mandatory language of BQ2, but to the Regulations which the DoT adopted.
16

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
9 47. The DoT did not comply with BQ2 by requiring applicants to provide information for
10 each prospective owner, officer and board member or verify the ownership of applicants applying for
11 retail recreational marijuana licenses. Instead the DoT issued conditional licenses to applicants who
12 did not identify each prospective owner, officer and board member.¹⁵

13 48. The DoT's late decision to delete the physical address requirement on some application
14 forms while not modifying those portions of the application that were dependent on a physical location
15 (i.e. floor plan, community impact, security plan, and the sink locations) after the repeated
16 communications by an applicant's agent; not effectively communicating the revision; and, leaving the
17 original version of the application on the website, is evidence of conduct that is a serious issue.

18
19 49. Pursuant to NAC 453D.295, the winning applicants received a conditional license that
20 will not be finalized unless within twelve months of December 5, 2018, the licensees receive a final
21 inspection of their marijuana establishment.
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 BO2.

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.**

7 (Emphasis added.)

8 64. The Nevada Supreme Court has recognized that “[i]nitiative petitions must be kept
9 substantively intact; otherwise, the people’s voice would be obstructed. . . [I]nitiative legislation is not
10 subject to judicial tampering-the substance of an initiative petition should reflect the unadulterated will
11 of the people and should proceed, if at all, as originally proposed and signed. For this reason, our
12 constitution prevents the Legislature from changing or amending a proposed initiative petition that is
13 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.
20

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.
27
28

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

13 77. The hiring of Temporary Employees was well within the DoT's discretionary power.

14 78. The evidence establishes that the DoT failed to properly train the Temporary
15 Employees. This is not an appropriate basis for the requested injunctive relief unless it makes the
16 grading process unfair.

17
18 79. The DoT failed to establish any quality assurance or quality control of the grading done
19 by Temporary Employees.¹⁷ This is not an appropriate basis for the requested injunctive relief unless it
20 makes the grading process unfair.

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
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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 DoT 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

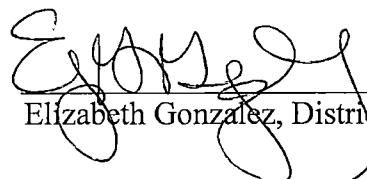
IT IS HEREBY ADJUDGED ORDERED AND DECREED that Plaintiffs' Motions for Preliminary Injunction are granted in part.

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.

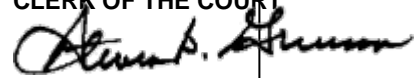

Elizabeth Gonzalez, District Court Judge

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.



1 ANEO

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 MCLEATCHIE LAW

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6 Las Vegas, NV 89101

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8 Email: maggie@nvlitigation.com

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

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

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

Plaintiffs,

vs.

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

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

SERENITY WELLNESS CENTER, LLC, et
al.,

Plaintiffs,

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

**AMENDED NOTICE OF ENTRY OF
ORDER**

Case No.: A-19-786962-B

Dept. No.: XI

**AMENDED NOTICE OF ENTRY
OF ORDER**

Case No.: A-19-787004-B

Dept. No.: XI

AMENDED NOTICE OF ENTRY OF

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 TAXATION; DOES 1-10 and ROE

ORDER

Case No.: A-18-786357-W

Dept. No.: XIV

AMENDED NOTICE OF ENTRY OF ORDER

Case No.: A-19-787726-C

Dept. No.: XIV

AMENDED NOTICE OF ENTRY OF ORDER

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.

Case No.: A-19-787540-W

Dept. No.: XVIII

**AMENDED NOTICE OF ENTRY OF
ORDER**

TO: THE PARTIES HERETO AND THEIR RESPECTIVE COUNSEL OF RECORD:
PLEASE TAKE NOTICE that on the 23rd day of August, 2019, the Findings of
Fact and Conclusions of Law Granting Preliminary Injunction was entered in the above-
captioned action. A copy of the Findings of Fact and Conclusions of Law Granting
Preliminary Injunction is attached hereto as **Exhibit 1**.

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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Counsel for Defendant-Intervenor, GreenMart of Nevada NLV LLC

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CERTIFICATE OF SERVICE

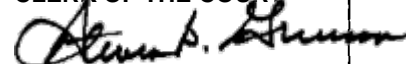
I hereby certify that on this 19th day of September, 2019, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing AMENDED NOTICE OF ENTRY OF ORDER in *Serenity Wellness Center, LLC, et al. v. State of Nevada, Department of Taxation, et al.*, Clark County District 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 Nos. A-19-786962-B; A-19-785818-W; A-19-787004-B; A-19-787540-W; A-18-786357-W; and A-19-787726-C.

/s/ Pharan Burchfield
An Employee of McLetchie Law

INDEX OF EXHIBITS TO AMENDED NOTICE OF ENTRY	
Exhibit	Description
1	August 23, 2019 Findings of Fact and Conclusions of Law Granting Preliminary Injunction

EXHIBIT 1



FFCL

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, 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

RECEIVED
AUG 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,

Intervenors.

6 This matter having come before the Court for an evidentiary hearing on Plaintiffs' Motion for
7 Preliminary Injunction beginning on May 24, 2019, and occurring day to day thereafter until its
8 completion on August 16, 2019;¹ Dominic P. Gentile, Esq., Vincent Savarese III, Esq., Michael V.
9 Cristalli, Esq., and Ross J. Miller, Esq., of the law firm Gentile Cristalli Miller Armeni Savarese,
10 appeared on behalf of Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, LLC,
11 Nevada Holistic Medicine, LLC, Tryke Companies SO NV, LLC, Tryke Companies Reno, LLC,
12 Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada,
13 LLC, Nevada Pure, LLC, Medifarm, LLC (Case No. A786962-B) (the "Serenity Plaintiffs"); Adam K.
14 Bult, Esq. and Maximilien D. Fetaz, Esq., of the law firm Brownstein Hyatt Farber Schreck, LLP,
15 appeared on behalf of Plaintiffs ETW Management Group LLC, Global Harmony LLC, Green Leaf
16 Farms Holdings LLC, Green Therapeutics LLC, Herbal Choice INC., Just Quality, LLC, Libra
17 Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NevCann LLC, Red Earth LLC,
18 THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (Case No. A787004-B) (the
19 "ETW Plaintiffs"); William S. Kemp, Esq. and Nathaniel R. Rulis, Esq., of the law firm Kemp, Jones
20 & Coulthard LLP, appeared on behalf of MM Development Company, Inc. and LivFree Wellness LLC
21 (Case No. A785818-W) (the "MM Plaintiffs"); Theodore Parker III, Esq., of the law firm Parker
22 Nelson & Associates, appeared on behalf of Nevada Wellness Center (Case No. A787540-W)
23 (collectively the "Plaintiffs"); Steven G. Shevorski, Esq., Ketan D. Bhirud, Esq., and Theresa M. Haar,
24 Esq., of the Office of the Nevada Attorney General, appeared on behalf of the State of Nevada,
25 Department of Taxation; David R. Koch, Esq., of the law firm Koch & Scow LLC, appeared on behalf

26 ¹ Although a preservation order was entered on December 13, 2018, in A785818, no discovery in any case was done
27 prior to the commencement of the evidentiary hearing, in part due to procedural issues and to statutory restrictions on
28 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;

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.

19
20
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
24 Compassionate Team: 5/17; Joinder to Motion by ETW: 5/6 (filed in A787004); and Joinder to Motion by Nevada
25 Wellness: 5/10 (filed in A787540)); Opposition by the State filed 5/9/19 (Joinder by Essence/Thrive Entities: 5/23);
26 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:
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
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
28 (Joinder by Serenity: 5/20 (filed in A786962); Joinder by ETW: 5/6 (filed in A787004 and A785818); and Joinder by
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.

- 1 (d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;
2 (e) Individuals will have to be 21 years of age or older to purchase marijuana;
3 (f) Driving under the influence of marijuana will remain illegal; and
4 (g) Marijuana sold in the State will be tested and labeled.

5 NRS 453D.020(3).

6 8. BQ2 mandated the DoT to “conduct a background check of each prospective owner,
7 officer, and board member of a marijuana establishment license applicant.” NRS 453D.200(6).

8 9. On November 8, 2016, by Executive Order 2017-02, Governor Brian Sandoval
9 established a Task Force composed of 19 members to offer suggestions and proposals for legislative,
10 regulatory, and executive actions to be taken in implementing BQ2.

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

16 11. Some of the Task Force’s recommendations appear to conflict with BQ2.⁷

17
18
19 ⁷ The Final Task Force report (Exhibit 2009) contained the following statements:

20 The Task Force recommends that retail marijuana ownership interest requirements remain consistent with the
21 medical marijuana program. . . .
22 at 2510.

23 The requirement identified by the Task Force at the time was contained in NAC 453A.302(1) which states:

24 Except as otherwise required in subsection 2, the requirements of this chapter concerning owners of medical
25 marijuana establishments only apply to a person with an aggregate ownership interest of 5 percent or more in a
26 medical marijuana establishment.

27 The second recommendation of concern is:

28 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

12. During the 2017 legislative session Assembly Bill 422 transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of Public and Behavioral Health to the DoT.⁸

13. On February 27, 2018, the DoT adopted regulations governing the issuance, suspension, or revocation of retail recreational marijuana licenses in LCB File No. R092-17, which were codified in NAC 453D (the “Regulations”).

14. The Regulations for licensing were to be “directly and demonstrably related to the operation of a marijuana establishment.” NRS 453D.200(1)(b). The phrase “directly and demonstrably related to the operation of a marijuana establishment” is subject to more than one interpretation.

*Use the marijuana establishments governing documents to determine who has approval rights and signatory authority for purposes of signing ownership transfers, applications and any other appropriate legal or regulatory documents.

There was Task Force dissent on the recommendation. The concern with this recommendation was that by 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.
at 2515-2516.

⁸ Those provisions (a portion of which became NRS 453D.205) are consistent with BQ2:

1. When conducting a background check pursuant to subsection 6 of NRS 453D.200, the Department may 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.

2. When determining the criminal history of a person pursuant to paragraph (c) of subsection 1 of NRS 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.

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 ⁹ 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 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 4. A description of the proposed organizational structure of the proposed marijuana establishment, including,
without limitation:

- 5 (a) An organizational chart showing all owners, officers and board members of the proposed marijuana
6 establishment;
7 (b) A list of all owners, officers and board members of the proposed marijuana establishment that contains the
8 following information for each person:
9 (1) The title of the person;
10 (2) The race, ethnicity and gender of the person;
11 (3) A short description of the role in which the person will serve for the organization and his or her
12 responsibilities;
13 (4) Whether the person will be designated by the proposed marijuana establishment to provide written notice to
14 the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a
15 marijuana establishment agent at the proposed marijuana establishment;
16 (5) Whether the person has served or is currently serving as an owner, officer or board member for another
17 medical marijuana establishment or marijuana establishment;
18 (6) Whether the person has served as an owner, officer or board member for a medical marijuana establishment
19 or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as
20 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
25
26
27
28

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 33. When decisions were made on who to hire, the individuals were notified that they would
21 need to register with "Manpower" under a pre-existing contract between the DoT and that company.
22 Individuals would be paid through Manpower, as their application-grading work would be of a
23 temporary nature.
24

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
27
28

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
8 36. NAC 453D.272(1) required the DoT to determine that an Application is “complete and
9 in compliance” with the provisions of NAC 453D in order to properly apply the licensing criteria set
10 forth therein and the provisions of the Ballot Initiative and the enabling statute.

11 37. When the DoT received applications, it undertook no effort to determine if the
12 applications were in fact “complete and in compliance.”

13 38. In evaluating whether an application was “complete and in compliance” the DoT made
14 no effort to verify owners, officers or board members (except for checking whether a transfer request
15 was made and remained pending before the DoT).

16
17 39. For purposes of grading the applicant’s organizational structure and diversity, if an
18 applicant’s disclosure in its application of its owners, officers, and board members did not match the
19 DoT’s own records, the DoT did not penalize the applicant. Rather the DoT permitted the grading, and
20 in some cases, awarded a conditional license to an applicant under such circumstances, and dealt with
21 the issue by simply informing the winning applicant that its application would have to be brought into
22 conformity with DoT records.

23
24 40. The DoT created a Regulation that modified the mandatory BQ2 provision “[t]he
25 Department shall conduct a background check of each prospective owner, officer, and board member of
26 a marijuana establishment license applicant” and determined it would only require information on the

27
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 43. The limitation of “unreasonably impracticable” in BQ2¹² does not apply to the
15 mandatory language of BQ2, but to the Regulations which the DoT adopted.
16

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
9 47. The DoT did not comply with BQ2 by requiring applicants to provide information for
10 each prospective owner, officer and board member or verify the ownership of applicants applying for
11 retail recreational marijuana licenses. Instead the DoT issued conditional licenses to applicants who
12 did not identify each prospective owner, officer and board member.¹⁵

13 48. The DoT's late decision to delete the physical address requirement on some application
14 forms while not modifying those portions of the application that were dependent on a physical location
15 (i.e. floor plan, community impact, security plan, and the sink locations) after the repeated
16 communications by an applicant's agent; not effectively communicating the revision; and, leaving the
17 original version of the application on the website, is evidence of conduct that is a serious issue.

18
19 49. Pursuant to NAC 453D.295, the winning applicants received a conditional license that
20 will not be finalized unless within twelve months of December 5, 2018, the licensees receive a final
21 inspection of their marijuana establishment.
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 BO2.

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.**

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

13 77. The hiring of Temporary Employees was well within the DoT's discretionary power.

14 78. The evidence establishes that the DoT failed to properly train the Temporary
15 Employees. This is not an appropriate basis for the requested injunctive relief unless it makes the
16 grading process unfair.

17
18 79. The DoT failed to establish any quality assurance or quality control of the grading done
19 by Temporary Employees.¹⁷ This is not an appropriate basis for the requested injunctive relief unless it
20 makes the grading process unfair.

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

15 84. Under the circumstances presented here, the Court concludes that certain of the
16 Regulations created by the DoT are unreasonable, inconsistent with BQ2 and outside of any discretion
17 permitted to the DoT.

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 DoT 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

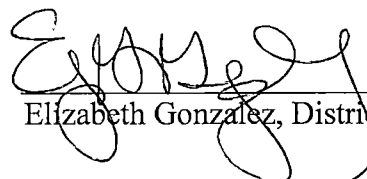
IT IS HEREBY ADJUDGED ORDERED AND DECREED that Plaintiffs' Motions for Preliminary Injunction are granted in part.

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.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

April 22, 2019

A-19-787726-C	High Sierra Holistics LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
---------------	--

April 22, 2019 9:00 AM Status Check

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

COURT CLERK: Dulce Romea

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Bhirud, Ketan D.	Attorney
	Pope, David J.	Attorney
	Puzey, James W.	Attorney
	Werbicky, Robert E.	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED:

A-19-786962-B - Serenity Wellness Center, LLC vs. State of Nevada Department of Taxation (Department XI case):

- Attorney Dominic Gentile and Attorney Michael Cristalli for the Plaintiffs;
- Attorney Jared Kahn participating by telephone for Intervenor Defendant Helping Hands Wellness Center, Inc.;
- Attorney Alina Shell for Intervenor Defendant GreenMart of Nevada NLV LLC;
- Attorney Joseph Gutierrez for Attorney for Intervenor Defendants Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana, LLC, Essence Henderson, LLC, CPCMC Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, Cheyenne Medical, LLC;
- Attorney David Koch for Nevada Organic Remedies LLC;
- Attorney Eric Hone for Intervenor Defendant Lone Mountain Partners, LLC.

A-18-785818-W - MM Development Company, Inc. vs. State of Nevada, Department of Taxation

(Department IX case):

Attorney William Kemp and Attorney Nathanael Rulis for the Plaintiffs

A-18-786357-W - Compassionate Team of Las Vegas LLC vs. Nevada Department of Taxation

(Department XIV case):

Attorney Daniel Simon for the Plaintiff

A-19-787004-B - ETW Management Group LLC vs. Nevada Dept of Taxation (Department XI case):

Attorney Adam Bult for the Plaintiffs

A-19-787035-C - D H Flamingo Inc vs. State Ex Rel Department of Taxation (Department VI case):

Attorney Kelly Stout for the Plaintiffs

A-19-787540-W - Nevada Wellness Center, LLC vs. State of Nevada, Department of Taxation

(Department XVIII case):

Attorney Theodore Parker for the Plaintiff

COURT advised today is a scheduling conference; these matters have been put on calendar because this Court has the lowest business court case (A-19-786962-B Serenity Wellness), the one with the motion for preliminary injunction.

Mr. Kemp advised there are also cases in Washoe County and Lyon County; MM Development is the lowest case of all the cases locally; it is assigned to Department IX and has been administered by senior judges, although he understands Judge Silva will be the new judge in Department IX; he had informed Mr. Werbicky that they would not be opposed to coordination in general; however, the problem is that some cases are not in business court and they have a lot of missing parties; he will be filing an answer in a different case, and the proposition there is that even after a motion for coordination is granted a peremptory challenge may be filed; every time you coordinate you get a new bump which violates 48.1; the only way around that is to have a stipulation between all parties to go to one judge and keep that judge. Court stated its goal is to get the preliminary injunction hearing in the instant case finished and since this Court's ruling may affect all the people here today the Court is inviting everyone to participate; the Court is not consolidating the cases for the exact reason that counsel is identifying which could result in multiple things down the road.

Mr. Kemp advised he supports the motion for preliminary injunction and can participate and submit briefing through Mr. Gentile; he points that out because they are already in the discovery process and have taken 6 depositions.

At Ms. Stout's request for clarification, Court stated that at this point it is only planning to coordinate for purposes of the preliminary injunction hearing because of the primarily constitutional and business issue that is woven throughout all the cases. Mr. Bult advised he is probably in the same spot as Mr. Kemp and will help Mr. Gentile. Court noted if everyone is going to be relying on Mr. Gentile then that means all will be asking questions at the preliminary injunction hearing, which will

triple the time if there are going to be witnesses. Mr. Bult further advised his only concern right now is a briefing schedule.

Mr. Parker advised they were before the Discovery Commissioner a week and a half ago, and Nevada Wellness received a report and recommendation in their favor allowing them certain discovery; so, they may submit briefing which includes that additional discovery. Mr. Bhirud stated he would prefer to respond to one opposition although he would rather not have 7 different rulings either. As to whether parties will have witnesses at the hearing, Court stated it will be up to counsel. Mr. Bhirud added he would prefer that one or two attorneys on the Plaintiffs' side take the lead.

Mr. Koch advised they had stipulated to May 2nd for the opposition; he is not sure if with regards to the hearing fact witnesses would help, because the motion for preliminary injunction as written is really legal argument regarding statutes.

Court noted its only concern is that it was unclear when it read the briefing in Serenity Wellness - because it stopped reading before granting a motion to exceed page limit - if there is an argument that it is unconstitutional as applied, if that is the case, they probably need witnesses.

Upon Mr. Puzey's inquiry, Court stated it does not intend to have the cases in Washoe and Lyon counties come here unless those judges want it to; if those judges and parties want to participate this Court will be happy to have them participate on May 24th; the cases here have the approval of the Chief Judge for coordination given the status of some of the departments they are assigned to. Mr. Bhirud advised the State will stipulate to bring those cases here. Mr. Puzey replied they are not yet prepared to enter into that stipulation today. Court stated it will let counsel discuss that amongst themselves.

Mr. Kemp further advised there are two applications pending in Reno for new licenses which are currently not on the Washoe County agenda but could be put on the agenda on 5 days' notice; there is some concern that they could be heard as early as next week, which would be before the preliminary injunction hearing; if noticed, they will ask Mr. Gentile to take appropriate action to prevent those applications from becoming somehow moot. Court stated counsel can do whatever they want; the Court will sign an OST.

Ms. Stout requested further clarification; her clients have sought slightly different relief and she wants to clarify whether the action that would be taken with respect to the motion for preliminary injunction here would not prevent other parties from seeking a preliminary injunction in other cases. Court stated yes if seeking on a different basis, but if the same basis as the instant case then it would be done here.

Colloquy between Court and counsel regarding briefing. Per parties' STIPULATION, COURT ORDERED:

Other Plaintiffs to make a decision by May 6, 2019 on whether they are formally joining the motion

for preliminary injunction in A-19-786962-B (Serenity Wellness) and adding to some of the facts and raising new issues;

Opposition DUE by May 9, 2019;

Reply brief DUE by May 22, 2019 at noon.

Ms. Stout advised that to the extent this proceeding would prevent her clients from raising a preliminary injunction seeking similar relief later on they would have to OBJECT under EDCR 2.50 and 1.61. COURT SO NOTED. Mr. Bhirud inquired as to whether the Court would prefer to have a motion for preliminary injunction by D H Flamingo filed here. COURT NOTED, if something happens and counsel thinks it needs to be done differently; no one has filed a formal motion to coordinate or consolidate. The Court has invited participation in the preliminary injunction hearing of all interested parties in order to avoid potentially conflicting rulings.

COURT FURTHER NOTED that on May 6th, the date for the other Plaintiff's elections, if there are any other issues that are unanticipated or beyond the pale the Court can discuss those with the parties on a conference call; if there are any discovery disputes that relate to the preliminary injunction hearing the Court can also do this on a conference call.

5-24-19 9:00 AM PRELIMINARY INJUNCTION HEARING IN A-19-786962-B IN
DEPARTMENT XI (Dept XI - Gonzalez)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 24, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

May 24, 2019

9:00 AM

All Pending Motions

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Alan Castle

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

Bhirud, Ketan D.
Shell, Alina

Attorney
Attorney

JOURNAL ENTRIES

- 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)

APPEARANCES:

Cristalli, Michael Attorney for Plaintiff
Gentile, Dominic P. Attorney for Plaintiff
Miller, Ross J. Attorney for Plaintiff
Savarese, Vincent Attorney for Plaintiff

Bhirud, Ketan D. Attorney for Defendant
Shevorski, Steven G. Attorney for Defendant
Haar, Theresa M. Attorney for Defendant

Graf, J. Rusty Attorney for Intervenor Defendant

Higgins, Brigid M. Attorney for Intervenor Defendant

Shell, Alina Attorney for Intervenor Defendant

Kahn, Jared B. Attorney for Intervenor Defendant

Hone, Eric D. Attorney for Intervenor Defendant

Gutierrez, Joseph A. Attorney for Intervenor Defendant

Hymanson, Philip M. Attorney for Intervenor Defendant

Koch, David Attorney for Intervenor Defendant

Wight, Brody R. Attorney for Intervenor Defendant

Rulis, Nathanael R. Attorney for Other Plaintiff

Kemp, William Attorney for Other Plaintiff

APPEARANCES CONTINUED:

William Kemp, Esq. and Nathanael Rulis, counsel for Livfree Wellness LLC; counsel for Livfree Wellness LLC (A-18-785818-W)

Adam Bult, Esq. and Maximillien Fetaz, Esq., counsel for Green Therapeutics LLC, ETW Management Group, LLC (A-19-787004-B)

Theodore Parker, Esq. and Mahogany Turfley, Esq., counsel for Nevada Wellness Center, LLC (A-19-787540-W)

Upon Court's inquiry, exhibits presented and Stipulated exhibits admitted. (See worksheets)
Opening statements by counsel. Testimony presented. (See worksheets)

Colloquy regarding scheduling. No objection noted. Proposed Findings of Fact, Conclusions of Law are to be submitted to the Court by Wednesday (May 26, 2019) at noon. Court recessed for the day. Court advised parties Court will entertain Motion to Compel next date.

5/28/19 9:45 a.m. Further Proceedings: Preliminary Injunction Hearing

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 28, 2019

A-19-787726-C	High Sierra Holistics LLC, Plaintiff(s)
	vs.
	State of Nevada Department of Taxation, Defendant(s)

May 28, 2019	9:45 AM	Preliminary Injunction Hearing
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HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 29, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

May 29, 2019	9:00 AM	Preliminary Injunction Hearing
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HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 30, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**May 30, 2019 9:30 AM Preliminary Injunction
Hearing**

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

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 31, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**May 31, 2019 9:00 AM Preliminary Injunction
Hearing**

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

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 10, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**June 10, 2019 10:30 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 10, 2019

A-19-787726-C	High Sierra Holistics LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
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June 10, 2019 12:30 AM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- A Motion to Intervene was filed by Greenmart of Nevada LV LLC on May 8, 2019, and a hearing was set for June 11, 2019.

NRCP 24(a)(2) allows for intervention as a right, and NRCP 24(b)(1)(B) allows for permissive intervention. No opposition having been filed and good cause showing, pursuant to NRCP 24, EDCR 2.20, and EDCR 2.23(c), the Court hereby GRANTS the Motion to Intervene.

Counsel for the Greenmart of Nevada is directed to prepare a detailed proposed order. Please include any findings and conclusions made by the Court, as well as any other pertinent information from your motion, such that a reviewing court would understand the basis for the Court's order. Please submit to the proposed order to chambers for signature

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 11, 2019

A-19-787726-C	High Sierra Holistics LLC, Plaintiff(s) vs. State of Nevada Department of Taxation, Defendant(s)
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June 11, 2019	9:15 AM	Preliminary Injunction Hearing
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HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 18, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**June 18, 2019 9:30 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 19, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**June 19, 2019 9:00 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 20, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**June 20, 2019 9:15 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 01, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**July 01, 2019 10:00 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Michaela Tapia

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 10, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**July 10, 2019 1:00 PM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 11, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**July 11, 2019 10:00 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 12, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**July 12, 2019 10:00 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 15, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**July 15, 2019 10:00 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 18, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**July 18, 2019 9:30 AM Preliminary Injunction
Hearing**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 13, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**August 13, 2019 9:30 AM Preliminary Injunction
Hearing**

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

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 14, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**August 14, 2019 9:30 AM Preliminary Injunction
Hearing**

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

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 15, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**August 15, 2019 9:15 AM Preliminary Injunction
Hearing**

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

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 16, 2019

A-19-787726-C High Sierra Holistics LLC, Plaintiff(s)
vs.
State of Nevada Department of Taxation, Defendant(s)

**August 16, 2019 9:00 AM Preliminary Injunction
Hearing**

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

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See appearances and minutes under A-19-786962-B Serenity Wellness Center LLC vs. State of Nevada Department of Taxation on today's date.

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(s): Dulce Romea ALAN PAUL CASTLE SR

Recorder: Jill Hawkins

Counsel for Plaintiff: Will Kemp, Esq.
Nate Rulis, Esq.

vs.

Kemp, Jones and Coulthard, LLC

Defendants: 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 8-29-19. 574* Office of the Attorney General
See minutes for complete list of appearances.

HEARING BEFORE THE COURT

PLAINTIFF'S EXHIBITS (MM 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

* 5A

RECREATIONAL MARIJUANA
LICENSE APPLICATION

5-31-19 ODS 5-31-19 Printed May 23, 2019

EXHIBIT(S) LIST

0008	MMLF000054-MMLF000067	DOT Application Scoring Tool - Care, Quality & Safekeeping	5/24/19	STIP	5/24/19	WA
0009	MMLF000068-72MMLF00000	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
* 20A 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	MMLF00111-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-MM 001122 MM DISPENSARY OPERATING 6-20-19 NO 6-20-19 WA
 DOT-MM 001123 BUDGET
 (NOTE: Exhibit 20A is in the back of binder 5.)
 Printed May 23, 2019

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] <i>Redacted</i>	NOT	PROVIDED	WA
0032	TO BE PRODUCED	Cheyenne Medical, LLC ("Thrive") 2018 Apps [RD263-267]		NO	31A 008-14-19
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	PROVIDED	
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 37A 1737, 1741, 1744	TO BE PRODUCED NOT CLEAR RIVER	Clear River, LLC ("Kabunky") 2018 Apps [RD229-232]		NO	37A 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

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

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				

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				

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				

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 WY
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 WY
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 WY
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 WY
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 WY
0095	MMLF00667-MMLF00671	GGB Nevada LLC Nevada Secretary of State filings	5/24/19	STIP	5/24/19 WY

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	5/24/19	WA
0105	MMLF00736- MMLF00767	Naturex/BB Marketing Complaint against Verano/Lone Mountain alleging Verano/Lone Mountain committed				

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 WA
0107		Nevada Secretary of State – Lone Mountain Partners, LLC	5/24/19	STIP	5/24/19 WA

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	Kyryl Plaskon Cell Phone Extraction Report	5-28-19	NO	5-28-19 NY
0109	SG000000001-SG0000000101	Steve Gilbert Cell Phone Extraction Report	6-11-19	NO	6-11-19 NY
0110	SG0000000102-SG0000000108	Steve Gilbert Cell Phone Voicemails (THUMB DRIVE) In binder			
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 Retain Marijuana Store, Part I, Tab IV			

SEE NEXT PAGE ->

SUPPLEMENTAL EXHIBIT(S) LIST

0116	MMLF00912- MMLF00946	2018 iAnthus MPX Bioceutical Corporation			
0117	MMLF00947- MMLF00953	Excerpts of MPX Bioceutical Corporation Notice of Meeting and Management Information Circular			
0118	MMLF00954- MMLF00957	MPX Bioceutical Corporation Board of Directors			
0119	MMLF00958- MMLF01000	MPX Bioceutical 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 + 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 39473 39473 39449	NO to pages 39472 + 39473	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 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 to 0133	MMLF01005- MMLF01023	Transcript of State of Nevada Tax Commission Video Conference Open Meeting January 14, 2019	7-12-19	NO	7-12-19 WA
0134	MMLF01024- MMLF01037	Transcript of State of Nevada Tax Commission Video Conference Open Meeting March 4, 2019	7-12-19	NO	7-12-19 WA
0135	DOT044539-DOT044551	Listserve Statement	7-10-19	NO	7-10-19 WA
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			

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 Shevorski, Esq.
David Pope, Esq.

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

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 237)	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
(REDACTED)

8-14-19 NO 8-14-19 WA

EXHIBIT(S) LIST

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

Hearing Date: **MAY 24, 2019**

Dept. No.: **XI**

Judge: **HON. ELIZABETH GONZALEZ**

Court Clerks: **DULCE ROMERA**

Recorder: **JILL HAWKINS**

Plaintiff: **SERENITY WELLNESS CENTER, LLC**

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

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

Counsel for Defendant: **STEVEN SHEVORSKI;
KETAN BHIRUD;
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 (COMMERCE 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 Withdrawn	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.

[Signature]

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 ; ALAN PAUL CASTLE SR

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

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				WT
06	DOT-JustQuality000001-DOT-JustQuality000243	JUST QUALITY, LLC, September 2018 Recreational Marijuana Establishment License, Identified	5/24/19	STIP	5/24/19	WA

EXHIBIT(S) LIST

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted	
407	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

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 — 7

EXHIBIT(S) LIST

Exhibit mber	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
2	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 ROMERA; 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. Bhurud
 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	STIR	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	STIR	5/24/19	WA

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

EXHIBIT(S) LIST

Error! Reference source not found.

-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

vs.

STATE OF NEVADA ex rel. its DEPARTMENT
OF TAXATION

al.

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
014	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	DOT-GBSNV 000008	ATTACHMENT A TO RECREATIONAL MARIJUANA ESTABLISHMENT APPLICATION	5-30-19	NO	5-30-19	WA
2020		BALLOT INITIATIVE	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

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**

Counsel for Defendant-Intervenors: **David Koch, Brody Wight**

Def. Intervenors: **NEVADA ORGANIC REMEDIES, LLC, et al.**

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

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..."	5/24/19	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

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 Romeo

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-Intervenors: 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 AZZU; SUPPLEMENT TO POCKET BRIEF: 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		GB 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]

EXHIBIT(S) LIST

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

Hearing Date: **MAY 24, 2019**Dept. No.: **XI**

Judge: HON. ELIZABETH GONZALEZ

Court Clerk(s): DULCE ROMERA

Plaintiff: **SERENITY WELLNESS CENTER, LLC**

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

[illegible]

EXHIBIT(S) LIST

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

Hearing Date: **MAY 24, 2019**

Dept. No.: **XI**

Judge: **HON. ELIZABETH GONZALEZ**

Court
Clerks: DULCE ROMERA

Plaintiff: **SERENITY WELLNESS CENTER, LLC**

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

[illegible]



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

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

DATE: September 23, 2019
CASE: A-19-787726-C

RE CASE: HIGH SIERRA HOLISTICS 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.***

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

HIGH SIERRA HOLISTICS LLC,

Plaintiff(s),

vs.

STATE OF NEVADA DEPARTMENT OF
TAXATION,

Defendant(s),

GREENMART OF NEVADA NLV LLC,

Defendant-Intervenor.

Case No: A-19-787726-C

Dept No: XIV

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