#### IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \*

NEVADA WELLNESS CENTER LLC, A NEVADA LIMITED LIABILITY COMPANY,

Appellants,

VS.

NEVADA DEPARTMENT OF TAXATION,

Respondent.

Supreme Court No. 80230
Electronically Filed
District Court No. Det 92782009-B1:35 p.m.
Consolidated with Clerk of Supreme Court
A-18-785818-W
A-18-786357-W
A-19-786962-B
A-19-787035-C

A-19-787540-W A-19-787726-C A-19-801416-B

> DOCKETING STATEMENT CIVIL APPEALS

### **GENERAL INFORMATION**

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

#### WARNING

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

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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

1.	Judicial District: Eighth Judicial Court County: Clark District Ct. Case No.: A-19-787004-B	Department: 11 Judge: Elizabeth Gonzalez
	Consolidated with: A-18-785818-W A-18-786357-W A-19-786962-B A-19-787035-C A-19-787540-W A-19-787726-C A-19-801416-B	
2.	Attorney filing this docketing statemed Mahogany Turfley, Esq. Parker, Nelson & Associates, Chtd. 2460 Professional Court, Suite 200 Las Vegas, Nevada 89128 702-868-8000 Client(s): Nevada Wellness Center LLC	
3.	Attorney(s) representing respondents See Attachment 1 Client(s):	s(s):
4.	Nature of disposition below (check al	l that apply)
	☐ Judgment after bench trial ☐ Judgment after jury verdict ☐ Summary judgment ☐ Default judgment ☐ Grant/Denial of NRCP 60(b) relief	<ul> <li>□ Dismissal:</li> <li>□ Lack of jurisdiction</li> <li>□ Failure to state a claim</li> <li>□ Failure to prosecute</li> <li>□ Other (specify):</li> </ul>
	<ul><li>■ Grant/Denial of injunction</li><li>□ Grant/Denial of declaratory relief</li><li>□ Review of agency determination</li></ul>	☐ Divorce Decree: ☐ Original ☐ Modification ☐ Other disposition (specify):
5.	Does this appeal raise issue concernin  ☐ Child Custody ☐ Venue ☐ Termination of parental rights	ng any of the following? No.

- **6. Pending and prior proceedings in this court**. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:
- 1. Greenmart of Nev. NLV LLC et al. v. Nev. Wellness Ctr., LLC, Case No. 79673
- 2. Greenmart of Nev. NLV LLC v. High Sierra Holistics LLC, Case No. 79672
- 3. Greenmart of Nev. NLV LLC v. Compassionate Team of Las Vegas LLC, Case No. 79671
- 4. Greenmart of Nev. NLV LLC et al. v. ETW Management Group, LLC, et al., Case No. 79669
- 5. Greenmart of Nev. NLV LLC et al. v. Serenity Wellness Ctr. LLC, et al., Case No. 79668.
- 7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

See Attachment 2.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

After the State of Nevada, Department of Taxation (the "Department") received and graded applications for licenses to open recreational marijuana establishments and allocated conditional licenses under NRS 453D.210, Appellant as well as several other Plaintiffs brought suit against the Department for irregularities and problems with the application scoring process. When plaintiffs in several of the cases filed motions for preliminary injunctions, the cases were coordinated in front of the Judge Elizabeth Gonzales for the purpose of holding an evidentiary hearing. At the conclusion of the evidentiary hearing, the district court issued findings about problems with the Department's scoring of applications and held that the Department violated NRS 453D.200(6) by failing to conduct background checks on owners for some of the successful applicants. The Court found that many applicants failed to submit complete applications, applications did not include an actual proposed physical location as was required. The Court did not enjoin any applicants that failed to provide a physical location.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the district court erred by failing to enjoin the State and its award of conditional licenses to any applicants that failed to provide a physical address and/or completed application as set forth in NRS453D.210(5)(b).

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

  None.
- 11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

	$\square$ N/A
	■ Yes
	□ No
	If not, explain:
12.	Other issues. Does this appeal involve any of the following issues?
	☐ Reversal of well-settled Nevada precedent (identify the case(s))
	☐ An issue arising under the United States and/or Nevada Constitutions
	☐ A substantial issue of first impression
	☐ An issue of public policy
	☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
	■ A ballot question
	If so, explain:

The appeal raises questions regarding a government agency's ability to change the requirements of a statute passed as the result of a ballot initiative under Article 19, Section 2(3) of the Nevada State Constitution.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circum-stance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The matter is presumptively retained by the Supreme Court under several subsections of NRAP 17(a). It is a matter involving a ballot question and the discretion in interpreting statutes created by ballot question under subsection (2), it is an administrative agency case involving Department of Taxation determinations under subsection (8), it is a matter decided by a business court under subsection (9), and it is a matter raising as a principal issue a question of statewide public importance under subsection (12) as the resolution of the appeal will have a statewide impact regarding recreational marijuana in Nevada.

14. Trial. If this action proceeded to trial, how many days did the trial last?

Not applicable.

Was it a bench or jury trial?

Not Applicable.

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

#### TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from:

August 23, 2019.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17.	Date	written noti	ce of entry of judgment or order was served
	Augus	st 28, 2019 a	and September 20, 2019.
		ervice by: elivery	
	■ Ma	il/electronic	/fax
judgr	18. nent m	If the time notion (NRC	e for filing the notice of appeal was tolled by a post- CP 50(b), 52(b), or 59).
and th		ecify the typof of filing.	be of motion, the date and method of service of the motion,
•	□NR	CP 50(b)	Date of filing:
	■ NR	CP 52(b)	Date of filing: September 13, 2019 and September 24, 2019.
	□NR	CP 59	Date of filing:
recon	siderat	ion may tol	pursuant to NRCP 60 or motions for rehearing or 1 the time for filing a notice of appeal. See <u>AA Primo</u> 126 Nev., 245 P.3d 1190 (2010).
	(b) (c)	November 6 Date writte served.	ry of written order resolving tolling motion. 6, 2019 and November 22, 2019. n notice of entry of order resolving tolling motion was 6, 2019 and November 22, 2019.
		Was service  ☐ Delivery	•
		■ Mail/elec	

### 19. Date notice of appeal filed

December 6, 2019.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal: Nevada Organic Remedies, LLC filed its notice of appeal on September 19, 2019. Greenmart of Nevada NLV, LLC filed its notice of appeal on September 19, 2019. MM Development Company, Inc. and LivFree Wellness, LLC filed the Notice of Cross-Appeal on October 3, 2019. On October 3, 2019 ETW Management Group LLC, Global Harmony LLC, Green Leaf Farms Holdings LLC, Green Therapeutics LLC, Herbal Choice Inc., Just Quality, LLC, Libra Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NEVCANN LLC, Red Earth LLC, THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (collectively, "ETW Plaintiffs") filed a cross appeal.

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP $4(a)$ .	
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#### SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

NRAP	3A(b)	$(1)\square$	NRS	38.205	
NRAP	3A(b)(	(2) <b></b>	NRS	233B.15	0
NRAP	3A(b)	(3)□	NRS	703.376	
Other (	specify	7)			

(b) Explain how each authority provides a basis for appeal from the judgment or order: The principal issue on appeal is whether the district court erred in the scope of a preliminary injunction against the State of Nevada, Department of Taxation that directly affects the Appellant. As this is an appeal of an order granting in part and denying in part an injunction, the order is appealable under NRAP 3A(b)(3), which states that an appeal may be taken from "[a]n order granting or refusing to grant an injunction ... "

# 22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

On October 29, 2019, Chief Judge Linda Bell orally granted a Motion to Consolidate in all matters listed in Attachment 3.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

The other Defendant-Intervenors, besides Appellants; Lone Mountain Partners, LLC; and Helping Hands Wellness Center, Inc., were not directly affected by the preliminary injunction because the district court did not enjoin the State from conducting final inspections on their establishments. Lone Mountain Partners LLC has only filed a single appeal on the relevant issues in Greenmart of Nevada NLV LLC v. Serenity Wellness Center LLC, Case No. 79668.

- 23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.
  - 1. Plaintiffs brought claims for violation of constitutional rights, writs of mandamus, declaratory relief, and judicial review against the State of Nevada, Department of Taxation seeking that errors with the grading be fixed and to obtain one or more dispensary licenses and/or damages.
  - 2. Nevada Organic Remedies, LLC and Integral Associates, LLC, et al., brought counterclaims for declaratory relief.
- 24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

□Yes

No.

## 25. If you answered "No" to question 24, complete the following:

- (a) Specify the claims remaining pending below: All claims remain pending before the district court. This appeal only challenges a preliminary injunction order.
- (b) Specify the parties remaining below: All parties remain in the proceedings pending below.
- (c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?
  - Yes
  - □ No
- (d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?
  - □ Yes
  - No
- 26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The order is independently appealable under NRAP 3A(b)(3).

# 27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

See attachment 4- A through H

### **VERIFICATION**

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Nevada Welness Center LLC	Theodore Parker, III, Esq. and Mahogany Turfley, Esq.
Name of appellant	Name of counsel of record
12/27/19 Date	Make Mylley Signature of counsel of record
Nevada, Clark County	
State and county where signed	_

#### CERTIFICATE OF SERVICE

I certify that on the Yaday of December, 2019 I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

See Attachment 1.

Dated this \( \frac{1}{2} \), day of December, 2019

An employee of Parker, Nelson & Associates Chtd.

Margaret A. McLetchie, Nevada Bar No.: 10931 Alina M. Shell, Nevada Bar No. 11711 Mcletchie Law 701 E. Bridger Avenue, Suite 520 Las Vegas, Nevada 89101 Attorneys for Greenmart of Nevada NLV, LLC

David R. Koch, Nevada Bar No.: 8830 Steven B. Scow, Nevada Bar No.: 9906 Brody R. Wight, Nevada Bar No.:13615 Daniel G. Scow, Nevada Bar No.:14614 Koch & Scow LLC 11500 S. Eastern Avenue, Suite 210 Henderson, Nevada 89052 Attorneys for Nevada Organic Remedies LLC

Aaron Ford, Attorney General, Nevada Bar No. 7704
Steve Shevorski, Nevada Bar No.: 8256
David J. Pope, Nevada Bar No.: 8617
Theresa M. Haar, Nevada Bar No.: 12158
Nevada Office of Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Attorneys for State of Nevada of Nevada, Department of Taxation

Jared Kahn, Nevada Bar No.: 12603
JK Legal & Consulting, LLC
9205 W. Russell Road, Suite 240
Las Vegas, Nevada 89148
Attorney for 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 Parkway, Suite 200
Henderson Nevada 89074
Attorneys for Lone Mountain Partners, LLC

Joseph A. Gutierrez, Nevada Bar No.: 9046

Jason R. Maier, Nevada Bar No.: 8557

Maier Gutierrez & Associates

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for 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

Philip M. Hymanson, Nevada Bar No.: 2253

Henry J. Hymanson, Nevada Bar No.: 14381

Hymanson & Hymanson

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for 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

Dennis M. Prince, Nevada Bar No.: 5092 Kevin T. Strong, Nevada Bar No.: 12107

Prince Law Group

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace,

Commerce Park Medical, LLC, and Cheyenne Medical, LLC

Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana LLC, Essence Henderson LLC

James J. Pisanelli, Nevada Bar No.: 4027

Todd L. Bice, Nevada Bar No.: 4534

Jordan T. Smith, Nevada Bar No.: 12097

Pisanelli Brice, PLLC

400 S. 7th Street, Suite 300

Las Vegas, Nevada 89101

Attorneys for Integral Associates, LLC d/b/a Essence Cannabis Dispensaries:

Essence Tropicana, LLC; Essence Henderson, LLC,

Brigid M. Higgins, Nevada Bar No.: 5990

Rusty J. Graf, Nevada Bar No.: 6322

Black & Lobello

10777 W. Twain Avenue, 3rd Floor

Las Vegas, Nevada 89135

Attorneys for Clear River LLC

Dominic P. Gentile, Nevada Bar No.:1923 Gentile Cristalli Miller Armeni Savarese 410 S. Rampart Boulevard, Suite 420 Las Vegas, Nevada 89145

Attorneys for Fidelis Holdings, LLC, GBS Nevada Partners, LLC, Gravitas Nevada, LLC, Medifarm IV LLC, Medifarm, LLC, Nevada Holistic Medicine, LLC, Nevada Pure, LLC, Nuleaf Incline Dispensary, LLC, Paradise Wellness Center, LLC, Serenity Wellness Center LLC, TGIG, LLC, Tryke Companies Reno, LLC, Tryke Companies SO NV, LLC

Daniel S. Simon, Nevada Bar No.: 4750
Daniel Simon Law Offices
10 S Casino Center Boulevard
Las Vegas, Nevada 89101
Attorneys for Compassionate Team of Las Vegas LLC and Attorney for DP Holdings

Nathanael R. Rulis, Nevada Bar No.: 11259 William Simon Kemp, Nevada Bar No.:1205 Kemp Jones & Coulthard, LLP 3800 Howard Hughes Parkway, 17th Floor Las Vegas, Nevada 89169 Attorneys for LivFree Wellness, LLC, MM Development Company, Inc.

Adam K. Bult, Nevada Bar No.: 9332
Brownstein Hyatt Farber Schreck, LLP
100 N. City Parkway, Suite 1600
Las Vegas, Nevada 89106
Attorneys for ETW Management Group LLC, Global Harmony LLC, Green Leaf Farms
Holdings LLC, Green Therapeutics LLC, Herbal Choice Inc., Just Quality, LLC, Libra
Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NEVCANN LLC,
Red Earth LLC, THC Nevada LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc.,Las
Vegas Wellness, Compassion LLC,

Peter S. Christiansen, Nevada Bar No.: 1656 Christiansen Law Office 810 S Casino Center Blvd Suite 104 Las Vegas, Nevada 89101 Attorneys for Qualcan LLC

Catherine A. Reichenberg, Nevada Bar No.: 10362 Gunderson Law Firm 3895 Warren Way Reno, Nevada 89509 Attorneys for D Lux LLC Richard D. Williamson, Nevada Bar No.: 9932 50 Liberty Street, Suite 600 Reno, Nevada 89501 3753 Howard Hughes Parkway, Suite 200 Las Vegas, Nevada 89169 Attorneys for Deep Roots Medical LLC

Nicole E. Lovelock, Nevada Bar No.: 11187 Jones Lovelock 400 S 4th Street, Suite 500 Las Vegas, Nevada 89101 Attorneys for Euphoria Wellness LLC

Dennis L. Kennedy, Nevada Bar No.: 1462 Bailey Kennedy, LLP 8984 Spanish Ridge Avenue Las Vegas, Nevada 89148

Attorneys for Clark Natural Medicinal Solutions LLC Doing Business As Nuveda, Clark NMSD LLC Doing Business As Nuveda, D H Flamingo Inc Doing Business As Apothecary Shoppe, Inyo Fine Cannabis Dispensary LLC Doing Business As Inyo Fine Cannabis Dispensary, Nye Natural Medicinal Solutions LLC Doing Business As Nuveda, Surterra Holdings Inc.

Lawrence J. Semenza, III, Nevada Bar No.:7174 Semenza Kircher Rickard 10161 Park Run Drive, Suite 150 Las Vegas, Nevada 89145 Attorneys for Agua Street LLC

Steven P. Handelin, Nevada Bar No.: 9575 Handelin Law, LTD. 1049 South Carson Street Carson City, Nevada 89701 Attorney for Bioneva Innovations of Carson City LLC

Charles Vlasic, Nevada Bar No.: 11308 CV4 Legal 197 E. California Avenue, Suite 302 Las Vegas, Nevada 89104 Attorneys for Blue Coyote Ranch LLC

Kenneth K. Ching, Nevada Bar No.: 10542 Dickinson Wright, PLLC 100 W. Liberty Street, Suite 940 Reno, Nevada 89501 Attorneys for Good Chemistry Nevada LLC Dan R. Reaser, Nevada Bar No.: 1170 Fennemore Craig, P.C. 300 S. Fourth Street, Suite 1400 Las Vegas, Nevada 89101 Attorney for Greenleaf Wellness Inc.

James W. Puzey, Nevada Bar No.: 5745 800 S. Meadows Parkway, Suite 800 Reno, Nevada 89521 Attorneys for High Sierra Holistics LLC

D. Neal Tomlinson, Nevada Bar No.: 6851 LVMC C and PLLC Retained 3883 Howard Hughes Parkway, Suite 1100 Las Vegas, Nevada 89169

Rendal B. Miller, Nevada Bar No.: 12257 115 W. 5th Street Winnemucca, Nevada 89445 Attorneys for Miller Farms LLC

Jeffrey C. Whittemore, Nevada Bar No.: 14301 Argentum Law 6121 Lakeside Dr. Reno, Nevada 89511 Attorneys for Twelve Twelve LLC.

Jeffrey F. Barr, Nevada Bar No.:7269
Ashcraft & Barr
300 W Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
Attorneys for Southern Nevada Growers LLC, Waveseer of Nevada LLC, Harvest of Nevada LLC, Gravitas Nevada Ltd, Gravitas Henderson LLC, Franklin Bioscience NV LLC

L. Christopher Rose, Nevada Bar No.: 7500 Jolley Urga Woodbury Holthus & Rose 330 S Rampart Blvd #380 Las Vegas, Nevada 89145 Attorneys for Wellness Connection of Nevada LLC Kathleen H. McConnell, Nevada Bar No.: 9590 950 Idaho Street Elko, Nevada 89801 Attorneys for Eureka Newgen Farms LLC

Jeffrey A. Bendavid, Nevada Bar No.: 6220 Moran Brandon Bendavid Moran 630 S. 4th Street Las Vegas, Nevada 89101 Attorneys for Strive Wellness of Nevada LLC, Natural Medicine LLC

Clarence E. Gamble, Nevada Bar No.: 4268 Ramos Law 3000 Youngfield Street, Suite 200 Wheat Ridge, Colorado 80215 Attorneys for Rural Remedies LLC

Rick R. Hsu, Nevada Bar No.: 5374 Maupin, Cox & LeGoy 4785 Caughlin Parkway Reno, Nevada 89519 Attorneys for Pure Tonic Concentrates LLC

Rory J. Vohwinkel, Nevada Bar No.: 8709 4000 S. Eastern Avenue, Suite 200 Las Vegas, Nevada 89119 Attorneys for Nevada Medical Group LLC

Michael L Becker, Nevada Bar No.: 8765 Las Vegas Defense Group 2970 W. Sahara Avenue Las Vegas, Nevada 89102 Attorney for NCMM LLC

The attorneys for the below parties is unknown at this time 3AP Inc
5Seat Investments LLC
Acres Dispensary LLC
Acres Medical LLC
Alternative Medicine Association LC
Blossum Group LLC
Carson City Agency Solutions LLC
Cheyenne Medical LLC
Circle S Farms LLC
CN Licenseco I Inc

CWNevada LLC

Diversified Modalities Marketing Ltd

ECONevada LLC

Forever Green LLC

**FSWFL LLC** 

GB Sciences Nevada LLC

GBS Nevada Partners LLC

**GFIVE Cultivation LLC** 

Green Life Productions LLC

Greenpoint Nevada Inc

Greenscape Productions LLC

Greenway Health Community LLC

Greenway Medical LLC

GTI Nevada LLC

H and K Growers Corp

Harvest Foundation LLC

Healthcare Options for Patients Enterprises LLC

Helios NV LLC

High Sierra Cultivation LLC

International Service and Rebuilding Inc.

LNP LLC

Luff Enterprises NV Inc

Malana LV LLC

Matrix NV LLC

Nevada Botanical Science Inc

Nevada Group Wellness LLC

Nevada Holistic Medicine LLC

Nevada Pure LLC

NLV Wellness LLC

**NLVG LLC** 

Nuleaf Incline Dispensary LLC

NV 3480 Partners LLC

NV Green Inc

Nye Farm Tech Ltd

Paradise Wellness Center LLC

Phenofarm NV LLC

Physis One LLC

Polaris Wellness Center LLC

Releaf Cultivation LLC

RG Highland Enterprises Inc

Silver Sage Wellness LLC

Solace Enterprises LLLP

Wellness and Caregivers of Nevada NLV LLC

Sweet Goldy LLC

Vegas Valley Growers LLC

Green Therapeutics LLC

Polaris Wellness Center
Pure Tonic Concentrations LLC
TRNP098
Wellness Connection of Nevada LLC
Wendovera LLC
West Coast Development Nevada LLC
WSCC Inc
YMY Ventures LLC
The attorneys for the above parties is unknown at this time

Plaintiffs	Case No.	Court	Disposition
MM Development Company, Inc., et al. v. State of Nevada, Dept. of Taxation, et al.	A-18-785818-W	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	The Findings of Fact and Conclusions of Law at issue in this appeal has been entered
Compassionate Team of Las Vegas, LLC v. State of Nevada, Dept. of Taxation, et al.	A-18-786357-W	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	The Findings of Fact and Conclusions of Law at issue in this appeal has been entered
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Nevada Wellness Center, Inc. v. State of Nevada, Dept. of Taxation, et al.	A-19-787540-W	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	The Findings of Fact and Conclusions of Law at issue in this appeal has been entered
High Sierra Holistics, LLC v. State of Nevada, Dept. of Taxation, et al.	A-19-787726-C	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	The Findings of Fact and Conclusions of Law at issue in this appeal has been entered
Serenity Wellness Center, LLC, et al. v. State of Nevada, Dept. of Taxation, et al.	2:19-cv-00818- GMN-NJK	U.S. Dist. Ct., District of Nevada	N/A
Qualcan, LLC v. State of Nevada, Dept. of Taxation, et al.	A-19-801416-B	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	N/A

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Nevada Wellness Center, Inc. v. State of Nevada, Dept. of Taxation, et al.	A-19-787540-W	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	The Findings of Fact and Conclusions of Law at issue in this appeal has been entered
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Qualcan, LLC v. State of Nevada, Dept. of Taxation, et al.	A-19-801416-B	Eighth Jud. Dist. Ct., Clark County, Nevada, Dept. XI	N/A

STATE EX REL. DEPARTMENT OF TAXATION STATE EX REL. NEVADA TAX COMMISSION

3AP INC.

**5SEA T INVESTMENTS LLC** 

ACRES DISPENSARY LLC

ACRES MEDICAL LLC

AGUA STREET LLC

ALTERNATIVE MEDICINE ASSOCIATION LC

BIONEVA INNOVATIONS OF CARSON CITY LLC

BLOSSUM GROUP LLC

BLUE COYOTE RANCH LLC

CARSON CITY AGENCY SOLUTIONS L.L.C.

CHEYENNE MEDICAL LLC

CIRCLE S FARMS LLC

CLEAR RIVER, LLC

CN LICENSE CO I, INC.

COMMERCE PARK MEDICAL L.L.C.

COMPASSIONATE TEAM OF LAS VEGAS LLC

CW NEV ADA, LLC

D LUX LLC

DEEP ROOTS MEDICAL LLC

DIVERSIFIED MODALITIES MARKETING LTD.

DP HOLDINGS, INC.

ECO NEVADA LLC

ESSENCE HENDERSON, LLC

ESSENCE TROPICANA, LLC

ETW MANAGEMENT GROUP LLC

**EUPHORIA WELLNESS LLC** 

EUREKA NEWGEN FARMS LLC

FIDELIS HOLDINGS, LLC.

FOREVER GREEN, LLC

FRANKLIN BIOSCIENCE NV LLC

FSWFL, LLC

GB SCIENCES NEVADA LLC

GBS NEVADA PARTNERS, LLC

**GFIVE CULTIVATION LLC** 

GLOBAL HARMONY LLC

GOOD CHEMISTRY NEVADA, LLC

GRAVITAS HENDERSON L.L.C.

GRAVITAS NEVADA LTD.

GREEN LEAF FARMS HOLDINGS LLC

GREEN LIFE PRODUCTIONS LLC

**GREEN THERAPEUTICS LLC** 

GREENLEAF WELLNESS, INC.

GREENMART OF NEVADA NLV, LLC

GREENSCAPE PRODUCTIONS LLC

GREENWAY HEAL TH COMMUNITY L.L.C.

GREENWAY MEDICAL LLC

GTI NEVADA, LLC

H & K GROWERS CORP.

HARVEST OF NEVADA LLC

HEALTHCARE OPTIONS FOR PATIENTS ENTERPRISES, LLC

HELIOS NV LLC

HELPING HANDS WELLNESS CENTER, INC.

HERBAL CHOICE INC.

HIGH SIERRA CULTIVATION LLC

HIGH SIERRA HOLISTICS LLC

INTERNATIONAL SERVICE AND REBUILDING, INC.

JUST QUALITY, LLC

KINDIBLES LLC

LAS VEGAS WELLNESS AND COMPASSION LLC

LIBRA WELLNESS CENTER, LLC

LIVFREE WELLNESS LLC

LNP, LLC

LONE MOUNTAIN PARTNERS, LLC

LUFF ENTERPRISES NV, INC.

LVMC C&P LLC

MALANA LV L.L.C.

MATRIX NV, LLC

MEDIFARM IV, LLC

MILLER FARMS, LLC

MM DEVELOPMENT COMPANY, INC.

MM R & D, LLC.

MMNV2 HOLDINGS I, LLC

MMOF VEGAS RETAIL, INC.

NATURAL MEDICINE L.L.C.

NCMM, LLC

NEVADA BOTANICAL SCIENCE, INC.

NEVADA GROUP WELLNESS LLC

NEVADA HOLISTIC MEDICINE LLC,

NEVADA MEDICAL GROUP LLC

NEVADA ORGANIC REMEDIES LLC

NEVADA WELLNESS CENTER LLC

NEVADAPURE, LLC

**NEVCANN LLC** 

NLV WELLNESS LLC

NLVG, LLC

NULEAF INCLINE DISPENSARY LLC

NV 3480 PARTNERS LLC

NV GREEN INC.

NYE FARM TECH LTD.

PARADISE WELLNESS CENTER LLC

PHENOFARM NV LLC

PHYSIS ONE LLC

POLARIS WELLNESS CENTER L.L.C.

PURE TONIC CONCENTRATES LLC

QUALCAN L.L.C.

RED EARTH, LLC

RELEAF CULTIVATION, LLC

RG HIGHLAND ENTERPRISES INC.

ROMBOUGH REAL ESTATE INC.

**RURAL REMEDIES LLC** 

SERENITY WELLNESS CENTER LLC

SILVER SAGE WELLNESS LLC

SOLACE ENTERPRISES, LLP

SOUTHERN NEVADA GROWERS, INC.

STRIVE WELLNESS OF NEV ADA, LLC

SWEET GOLDY LLC

TGIG, LLC

THC NEVADA, LLC

THE HARVEST FOUNDATION LLC

THOMPSON FARM ONE L.L.C.

TRNVP098 LLC

TRYKE COMPANIES RENO, LLC

TRYKE COMPANIES SO NV, LLC

TWELVE TWELVE LLC

VEGAS VALLEY GROWERS NORTH, LLC

WAVESEER OF NEVADA, LLC

WELLNESS & CAREGIVERS OF NEVADA II, LLC

WELLNESS CONNECTION OF NEVADA, LLC

WENDOVERA LLC

WSCC,NC

YMY VENTURES LLC

ZION GARDENS LLC

D.H. FLAMINGO, INC., d/b/a THE APOTHECARY SHOPPE

CLARK NATURAL MEDICINAL SOLUTIONS LLC, d/b/a/ NuVEDA

NYE NATURAL MEDICINAL SOLUTIONS LLC, d/b/a NuVEDA

CLARK NMSD LLC, d/b/a NuVEDA

INYO FINE CANNABIS DISPENSARY L.L.C., d/b/a INYO FINE CANNABIS

**DISPENSARY** 

SURTERRA HOLDINGS, INC.

# Response to #27- file-stamped copies of documents

## SEE EXHIBITS A-H