
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: D.O.T. LITIGATION

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Elizabeth A. Brown
Clerk of Supreme Court

TGIG, LLC; NEVADA HOLISTIC MEDICINE, LLC; GBS NEVADA PARTNERS, LLC; FIDELIS HOLDINGS, LLC; GRAVITAS NEVADA, LLC; NEVADA PURE, LLC; MEDIFARM, LLC; MEDIFARM IV LLC; THC NEVADA, LLC; HERBAL CHOICE, INC.; RED EARTH LLC; NEVCANN LLC, GREEN THERAPEUTICS LLC; AND GREEN LEAF FARMS HOLDINGS LLC,

Appellants,

v.

THE STATE OF NEVADA DEPARTMENT OF TAXATION

Respondent.

**RESPONDENTS' UNOPPOSED MOTION TO EXTEND TIME TO
FILE ANSWERING BRIEFS**

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Cannabis Compliance Board

Respondents State of Nevada ex rel. Department of Taxation and Cannabis Compliance Board (collectively, the “Department”) move this Court, pursuant to NEV. R. APP. P. 26(b)(1)(A) and NEV. R. APP. P. 31(b)(3), for a 60-day extension, from the current due date of January 21, 2022, up to and including, March 22, 2022, to file its Answering Briefs. This is the Department’s first request. The Department brings this motion in good faith and not for the purpose of delay.

The Department reached out to counsel for the appellants who indicated they have no objection to a 60-day extension.

I. ARGUMENT

A. Good cause exists for a 60-day extension

The Nevada Rules of Appellate Procedure permit this Court to extend the time to file an answering brief upon a showing of good cause. NEV. R. APP. P. 26(b)(1)(A); NEV. R. APP. P. 31(b)(3). Good cause exists to grant a 60-day extension.

First, this is a multi-party appeal from two orders by the district court entered after two trial phases: Phase 1 pertaining the appellants’ petitions for judicial review; and Phase 2 pertaining to the legality of the 2018 recreational marijuana establishment application process. *See*

Notice of Appeal (Dkt. No. 2020-39860 filed Nov. 2, 2021) at 1-2. Phase 2 was a bench trial that started on July 17, 2020, and ended on August 18, 2020. *Id.* Ex. A at 1. Trial Phase 2 alone generated weeks of testimony, in addition to weeks of testimony generated during the preliminary hearing that preceded it. *See* Plaintiffs’ Joint Appendix filed December 23, 2021 at (unpaginated) pages 3 through 5, and 27 through 31.

Second, three groups of appellants—*i.e.*, the TGIG appellants, the THC appellants, and the Green Therapeutics appellants—have filed three separate opening briefs. By and large, the three opening briefs raise different issues. TGIG appellants’ opening brief raises five issues, including challenges to the district court’s statutory analysis, to its refusal to award certain remedies, and to its failure to admit extra-record evidence in Phase 1, among others. *See* TGIG appellants’ Opening Brief (“TGIG OB”) at 4. The THC appellants’ opening brief raises two main issues, only one of which somewhat overlaps with the first issue raised by the TGIG appellants, the other one being unique to THC. *See* THC OB at 2. The Green Therapeutics appellants raise three additional issues, challenging evidentiary rulings and standards applied by the

district court. *See* Green Therapeutics OB at v-vi. Given the three opening briefs and the multitude of issues, the Department anticipates it will prepare three answering briefs, which takes significant more time than responding to a single brief.

Third, this appeal is complex and has an extensive background, procedural history, and record, as evidenced by the 343-volume appendix filed by the three appellant groups. It involves a 2016 Ballot Initiative to legalize recreational marijuana that was implemented in NRS 453D and further regulated by the Department in NAC 453D. The Department seeks this extension to adequately present the merits of all aspects of this case to the Court. *See, e.g., Price v. Dunn*, 106 Nev. 100, 105 (1990) (noting this Court's preference for deciding cases on the merits).

Fourth, undersigned counsel for the Department has competing obligations and deadlines in other cases, including a reply in support of a motion to dismiss and a motion for summary judgment due in state court on January 24, 2022, and February 17, 2022, respectively; a reply in support of a motion for summary judgment in federal court on February 4, 2022; and an answering brief in the Ninth Circuit Court of Appeals on February 18, 2022. While competing deadlines and workload

alone may not justify an appellant's failure to timely comply with the appellate rules, *Varnum v. Grady*, 90 Nev. 374, 376, 528 P.2d 1027, 1029 (1974), the Department timely seeks an extension before the January 21, 2022, deadline and does not base this request solely on counsel's workload. Moreover, the Department did not oppose appellants' requests for an extension, which resulted in the opening briefs being due shortly before the holidays, further shortening the time to prepare an answering brief.

B. The 60-day extension should apply to all respondents

Several parties were allowed to intervene below, participated in the proceedings, and were named by various appellants as party defendants in their complaints. *See, e.g.*, TGIG OB at 7 (“ . . . Appellants ultimately filed their operative Second Amended Complaint on or about November 26, 2019, naming the DoT and the intervening successful Applicants as party defendants”). Although the opening briefs do not formally name the intervenors/defendants as respondents and they are not identified in the caption, the Department assumes, and hereby requests, that any extension granted by this Court equally applies to them.

These parties have also had discussions with appellants about resolving a potential jurisdictional defect. The 60-day extension will afford the appellants the opportunity to do so.

II. CONCLUSION

For these reasons, respondents respectfully request a 60-day extension.

Dated this 7th day of January, 2022.

AARON D. FORD
Attorney General

By: /s/ Steve Shevorski
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 7th day of January, 2022, and e-served the same on all parties listed on the Court's Master Service List.

/s/ Traci Plotnick

Traci Plotnick, an employee of
the office of the Nevada Attorney General