

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: D.O.T. LITIGATION

No. 82014

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,

vs.

THE STATE OF NEVADA
DEPARTMENT OF TAXATION,
Respondent.

FILED

JUN 08 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER

This is an appeal from a denial of judicial review and injunction in a district court action involving eight consolidated district court cases. Attorneys Todd L. Bice and Jordan T. Smith of Pisanelli Bice PLLC have filed a notice of appearance on behalf of defendants in intervention below, Integral Associates, LLC d/b/a Essence Cannabis Dispensaries; Essence Tropicana, LLC; and Essence Henderson, LLC (the Essence Entities), and request that the Essence Entities be added as parties to this appeal. The

request is granted, and the clerk of this court shall add the Essence Entities as respondents to this appeal represented by Mr. Bice and Mr. Smith.

The Essence Entities have filed a motion to dismiss the appeal for lack of jurisdiction or in the alternative to stay the instant proceedings pending a final disposition of all phases of the litigation below. Appellants TGIG, LLC; Nevada Holistic Medicine, LLC; GBS Nevada Partners, LLC; Fidelis Holdings, LLC; Gravitas Nevada, LLC; Nevada Pure, LLC; Medifarm, LLC; and Medifarm IV LLC oppose the motion, and appellants THC Nevada, LLC; Herbal Choice, Inc.; Green Leaf Farms Holdings, LLC; Green Therapeutics, LLC; NevCann LLC; and Red Earth, LLC have filed joinders to the opposition. The Essence Entities have filed a reply.¹ Additionally, the State has in its answering briefs contested appellate jurisdiction, asserting that judgment has not been entered resolving certain appellants' mandamus claims.

The Essence Entities argue that this court lacks jurisdiction because the appeal is from interlocutory orders resolving only the first two phases of a three phase trial and that the appeal should either be dismissed as premature or be stayed until the final third phase is completed. In phases one and two, the district court heard evidence and denied appellants' petitions for judicial review and resolved their requests for injunctive relief. The parties disagree on who are parties to and what claims remain for trial in the third phase of the trial. Appellants argue that the orders resolving phases one and two are appealable as final judgments from consolidated matters. *See Matter of Estate of Sarge*, 134 Nev. 866, 432 P.3d 718 (2018) (holding that consolidated cases retain their separate identities so that an

¹Respondents have filed a notice of non-opposition to the motion to dismiss and stay.

order resolving all of the claims in one of the consolidated cases is immediately appealable as a final judgment) *overruling Mallin v. Farmers Ins. Exch.*, 106 Nev. 606, 609, 797 P.2d 978, 980 (1990).

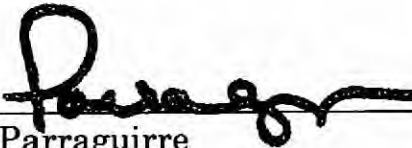
The Essence Entities' request to stay the proceedings in this appeal is granted to the following extent. The briefing schedule related to the merits briefing of this appeal shall be suspended pending further order of this court.² Appellants shall have 14 days from the date of this order to file supplemental briefs addressing the jurisdictional issue raised in the Essence Entities' motion to dismiss. The supplemental briefs shall include, but not necessarily be limited to, the following: 1) demonstration of whether the orders challenged on appeal fully resolve any of the eight consolidated district court cases below, rendering them appealable as appeals from final judgments under this court's holding in *Sarge*. See *Lee v. GNLV Corp.*, 116 Nev. 424, 427, 996 P.2d 416, 417 (2000) ("[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs."); 2) analysis of whether appellants are estopped from asserting the judgments are final and appealing by reason of their argument in district court against taxation of costs at this point in the proceeding; and 3) whether NRAP 3A(b)(3) (allowing an appeal from an order granting or refusing to grant an injunction) provides this court with jurisdiction over this appeal and if so, whether this court's jurisdiction is limited to addressing issues solely concerning the injunction and which issues raised on appeal that would cover. Respondents, including the Essence Entities, shall have 14 days from service of the supplemental briefs


²Respondent's second motion to extend time to file its answering briefs is granted. The answering briefs were filed on March 29, 2022.

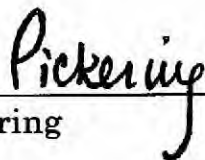
to file and serve supplemental responses, including addressing these issues. Appellants shall then have 7 days from service of the supplemental responses to file and serve any supplemental replies. This court defers ruling on the Essence Entities' motion to dismiss this appeal pending review of the supplemental briefing.

Included with the supplemental briefing, the parties shall bring to this court's attention any stipulation or certification that has subsequently been filed in the district court that may resolve any potential jurisdictional issues.

It is so ORDERED.


_____, S.J.
Parraguirre


_____, J.
Cadish


_____, J.
Pickering

cc: Amy L. Sugden
Clark Hill PLC
N.R. Donath & Associates PLLC
Chattah Law Group
Attorney General/Carson City
Attorney General/Las Vegas
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