

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: D.O.T. LITIGATION

TGIG, LLC; NEVADA HOLISITIC
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
GREAN LEAF FARMS HOLDINGS
LLC,

Appellants,

vs.

THE STATE OF NEVADA, ON
RELATION OF ITS DEPARTMENT
OF TAXATION,

Respondent.

Supreme Court Case No.: 82014

Electronically Filed
Jun 22 2022 03:58 p.m.

District Court Case No.: A787004
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANTS' SUPPLEMENTAL BRIEF IN RESPONSE TO ESSENCE
ENTITIES' MOTION TO DISMISS OR STAY APPEAL PENDING CURE
OF JURISDICTIONAL DEFECT**

Appellants, by and through their attorneys of record, of the law firm of Clark Hill, PLLC, hereby submit their Supplemental Brief in Response to Essence Entities' Motion to Dismiss or Stay Appeal Pending Cure of Jurisdictional Defect.

This Supplemental Response is made and based upon the papers and pleadings on file, any attached exhibits, the following points and authorities, and any oral argument the court may allow.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

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*.

All parties hereto unanimously acknowledge that the trials of these consolidated actions were to occur in multiple phases. That unanimous understanding derives from the Amended Trial Protocol No. 2 attached hereto as **Exhibit 1**. The district court envisioned three phases of trial as follows:

1. Phase 1: Judicial Review – The TGIG Plaintiffs¹ were expressly referenced as participating in this Phase 1 [See **Exhibit 1**: Trial Protocol 13:7-14:3];
2. Phase 2: “Legality of the 2018 recreational marijuana application process (claims for Equal Protection, Due Process, Declaratory Relief, Intentional Interference with Prospective Economic Advantage, Intentional Interference with Contractual Relations, and Permanent Injunction.” The

¹ At the time of issuance of the Trial Protocol, the “TGIG Plaintiffs” were then collectively referred to as the “Serenity Wellness Plaintiffs.” Serenity Wellness left this group of plaintiffs during the litigation and the group was subsequently referenced as the “TGIG Plaintiffs.”

TGIG Plaintiffs were expressly referenced as participating in this Phase 2 [See **Exhibit 1**: Trial Protocol 14:4-15:1];

3. Phase 3: “Writ of mandamus (Improper scoring of applications related to calculation errors on the 2018 recreational marijuana application).” The TGIG Plaintiffs were **NOT** expressly referenced as participating in this Phase 3. Rather the district court characterized Phase 3 as encompassing the following: “MM Development Company, Inc. and Livfree Wellness LLC and any other Plaintiffs with mandamus claims will present their affirmative claims related to their writ of mandamus claim based on the allegation of improper scoring of their applications due to calculation errors.” [See **Exhibit 1**: Trial Protocol 15:2-21];

Significantly, although some of the complaints consolidated together in this action raised claims under 42 USC 1983, the Trial Protocol did not directly address those claims at all. The parties anticipated that those Section 1983 claims would be tried separately to a jury following completion of Phases 1-3.

The operative TGIG Second Amended Complaint² evidences that the TGIG Plaintiffs raised claims subject to Phase 1 and Phase 2 under the trial Protocol but did not raise any claims subject to Phase 3 of the Trial Protocol. The Second Amended Complaint set forth the following claims:

² APP vol 49: 6025-6047

- a. First Claim for Relief: Due Process –Deprivation of Property;
- b. Second Claim for Relief: Due Process –Deprivation of Liberty;
- c. Third Claim for Relief: Equal Protection;
- d. Fourth Claim for Relief: Judicial Review;
- e. Fifth Claim for Relief: Mandamus; and,
- f. Sixth Claim for Relief: Declaratory Judgment.

While the Second Amended Complaint raised a claim for mandamus, said claim was not the same mandamus claim which was to be the subject of Phase 3. The Trial Protocol specifically references the mandamus claims to be heard in Phase 3 as “the claims of MM Development Company, Inc. and Livfree Wellness LLC and any other Plaintiffs with mandamus claims ... **based on the allegation of improper scoring of their applications due to calculation errors.**” (emphasis added). The TGIG Plaintiffs made no such claims. As to the mandamus claim and mandamus relief sought by the TGIG Plaintiffs, the district court specifically denied such relief in its final Findings of Fact and Conclusions of Law as to Phase 2. [See APP at vol. 333 at page 46876: “The Court declines to issue an extraordinary writ unless violation of the permanent injunction occurs. All remaining claims for relief raised by the parties in this Phase are denied.”]

It is respectfully submitted that the jurisdictional confusion that exists with respect to the finality of the district court’s order as to the TGIG Plaintiffs arises out of

the fact that Phase 3 of the proceedings, as contemplated by the district court in its Trial Protocol, never occurred and never will occur because the plaintiffs advancing claims otherwise subject to Phase 3 all settled their cases during the trial of Phase 2. What remains are the Section 1983 claims which were not subject to the Trial Protocol and were not envisioned as being a part of Phases 1-3 of the trial at all. In referring to these Section 1983 claims as being “Phase 3,” as contemplated in the Trial Protocol, is incorrect, inaccurate and leads to jurisdictional confusion.

In the Essence Entities Motion to Dismiss, they summarize what happened to Phase 3 as follows:

The mandamus claims originally contemplated for the third phase were partially resolved by pretrial motion practice and the affected parties settled with the State during Phase 2 (but conducted first). (*See* Ex. 4, §VIII(C) n.5.) Because those claims have been resolved, the last, third phase will only involve the remaining jury trial for Section 1983 claims. (*See* Ex. 5.)

The third phase has not started, so there has been no final judgment concluding all three phases of the trial. There have been no orders certifying the Phase 1 or Phase 2 interim rulings as final under NRCP 54(b). Consequently, there is no appealable order. [See Motion to Dismiss at pg. 5

In the Respondents’ Notice Of Non-Opposition To Essence Entities’ Motion To Dismiss Or Stay Pending Cure Of Jurisdictional Defect, the DOT describes the proceedings slightly differently as follows:

Pursuant to the amended trial protocol, the third phase was to be “MM Development Company, Inc. and Livefree Wellness LLC [sic] and any other Plaintiffs with mandamus

claims...related to their writ of mandamus claim based on the allegation of improper scoring of their applications due to calculation errors.” Mtn., Ex. 4 at VIII(C)(1). This phase did not occur due to a settlement between the Department and MM Development and LivFree.

See Non-Opposition at page 1.

In footnote 1 of the Non-Opposition, the DOT acknowledges that “The district court denied mandamus relief in Phase II but the district court’s reasoning appeared confined to its ruling regarding NAC 453.255(1).” In stating its belief as to the reasoning underlying the district court’s denial of TGIG’s mandamus claims, the DOT falls short of asserting that the TGIG Second Amended Complaint sets forth a claim that otherwise would be subject to Phase 3 as envisioned in the Trial Protocol.

In their Opposition to TGIG Plaintiffs’ Motion to Retax and Settle Costs, WCN asserted as follows:

As this Court is aware, the trial in this matter is divided into three phases: (1) Petition for Judicial Review; (2) the legality of the 2018 recreational marijuana application process and related claims; and (3) the 42 U.S.C. § 1983 claims.¹ The Third Phase of this trial does not concern or involve Wellness. The Court rendered its decision for the Second Phase on September 3, 2020 and for the First Phase on September 16, 2020. (FFCL, Sep. 3, 2020, on file.; FFCL, Sep. 16, 2020, on file.) Therefore, this Court resolved all claims against Wellness when it rendered its decision on September 16, 2020.

See **Exhibit 2** hereto.

//

In footnote 1 thereto, WCN further represented as follows:

“Contrary to the Settling Plaintiffs, Inyo Plaintiffs, and Natural Medicine’s arguments, the Third Phase only involves the 42 U.S.C. § 1983 claims as all of the other claims have been resolved.”

[See **Exhibit 2**].

In their Appellants’ Response To Essence Entities’ Motion To Dismiss Or Stay Appeal Pending Cure Of Jurisdictional Defect, the TGIG Plaintiffs affirm that they have no claims for relief that they are pursuing in the Section 1983 portion of the case that is apparently still ongoing. Similarly, in THC Nevada, LLC And Herbal Choice, Inc.’s Joinder To Appellants’ Response To Essence Entities’ Motion To Dismiss Or Stay Appeal Pending Cure Of Jurisdictional Defect, they assert “THC and HERBAL CHOICE, further submit that not only are none of the Appellants party to Phase 3 of the underlying litigation, but further advise the Court that Respondent, State of Nevada on Relation of its Department of Taxation, is also not a party to Phase 3.” Likewise, in their Joinder to Appellants’ Response to Essence Entities’ Motion to Dismiss or Stay Appeal Pending Cure of Jurisdictional Defect, the GLF Appellants “submit that they are not maintaining § 1983 claims and are not parties to Phase 3 of the consolidated case below.”

Thus, not a single party or person claiming to have an interest in this appeal has maintained that they also have an interest in and/or are participating in the portion of the cases relating to the Section 1983 claims that have yet to be resolved.

As to all such persons, they have no rights or privileges or interests in the outcome of any matter or issue yet to be decided in the pending 1983 action. Neither has any person disputed that all matters otherwise subject to the Trial Protocol have been resolved during trial of Phase 1 and Phase 2 and/or by settlement. 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."

Based upon the above and foregoing, it is clear that the district court has issued orders finally resolving all issues related to certain constituent consolidated cases, including TGIG's Second Amended Complaint. As such, the orders were immediately appealable as a final judgment even though another constituent case or cases involving Section 1983 claims (not involving any party to these appeals) remain pending. *Matter of Est. of Sarge*, 134 Nev. 866, 866–67, 432 P.3d 718, 719–20 (2018).

II.

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

A. Facts Relevant to Estoppel Issue

The following facts are relevant to the estoppel issue raised by this Court in its request for Supplemental Briefing:

1. On September 21, 2020, pursuant to NRS 18.110(4), Wellness Connection of Nevada, LLC filed a *Memorandum of Costs of Wellness Connection of Nevada, LLC* (“WCN Memo of Costs”). See **Exhibit 3**. Similarly, on September 28, 2020, Lone Mountain Partners, LLC filed their *Lone Mountain Partners, LLC’s Memorandum of Costs Pursuant to NRS 18.110* (“LMP Memo of Costs”). See **Exhibit 4**.
2. On September 24, 2020, the TGIG Plaintiffs filed MOTION TO RETAX AND SETTLE COSTS relating to the WCN Memo of Costs. See **Exhibit 5**. On October 1, 2020, the TGIG Plaintiffs filed a MOTION TO RETAX AND SETTLE COSTS relating to the LMP Memo of Costs. See **Exhibit 6**.
3. On October 8, 2020, Wellness Connection of Nevada, LLC filed its Opposition to TGIG’s Motion to Retax and Settle Costs the WCN Memo of Costs. See **Exhibit 2**. On October 23, 2020, LMP filed its Opposition to TGIG’s Motion to Retax and Settle Costs the LMP Memo of Costs. See **Exhibit 7**.
4. On or about October 15, 2020, the TGIG Plaintiffs filed their Reply in Support of MOTION TO RETAX AND SETTLE COSTS relating to the WCN Memo of Costs. See **Exhibit 8**. On October 30, 2020, the TGIG Plaintiffs filed their Reply in Support of MOTION TO RETAX AND SETTLE COSTS relating to the LMP Memo of Costs. See **Exhibit 9**.

5. No hearing was scheduled for the TGIG Plaintiffs' Motions to Retax. A Minute Order was issued on November 6, 2020 granting the Motions. See **Exhibit 10**. The Minute Order contained the following statement:

The award of costs is premature under NRS 18.110 as there is not a final judgement in this matter. Final judgment will be issued following completion of phase 3 currently scheduled for a jury trial on June 28, 2021. This decision is without prejudice to seek recovery costs at the time of the final judgment.

See **Exhibit 10**.

6. A formal written order was not signed and entered into the District Court Record until August 30, 2021. The written order reiterated the language of the Minute Order by providing as follows:

1. The award of costs is premature under NRS 18.110 as there is not a final judgement in this matter.
2. Final judgment will be issued following completion of Phase 3 scheduled for a jury trial on June 28, 2021.
3. This decision is without prejudice to seek recovery costs at the time of the final judgment. See **Exhibit 11**.

B. TGIG Plaintiffs Did Not Argue Against Taxation Of Costs Based Upon The Order Not Being Final

Neither of TGIG's Motions to Retax and Settle Costs argued that costs should not be awarded based upon a legal or factual theory that the Order appealed from herein

was not a final order. To the contrary, TGIG’s argument in both cases assumed that the Order was a final order and based upon the finality of the Order, both the WCN Memo of Costs and the LMP Memo of Costs were filed late and should be rejected as untimely rather than being filed prematurely.³

In addition to arguing that the Memo of Costs were filed late, the TGIG Plaintiffs advanced the following arguments against taxation of costs as to both the WCN Memo of Costs and the LMP Memo of Costs:

- a. Plaintiffs, not LMP or WCN, fall within the definition of a “prevailing party” for purposes of an award of costs;
- b. Denial of the Petition for Judicial Review is not one of the types of cases in which costs would be allowed to a prevailing party, pursuant to NRS 18.020;
- c. The vast majority – nearly all -- of the claimed costs have nothing to do with the Petition for Judicial Review claim; and,
- d. Neither WCN nor LMP can be characterized as a “prevailing party” for purposes of an award of costs in connection with the Petition for Judicial Review.

³ “If it is LMP’s position its Memo of Costs was filed in connection with a belief the *Findings of Fact, Conclusion of Law and Permanent Injunction* which was e-filed and e-served on September 3, 2020 (“9-3-2020 FFCL&PI”) and/or the *Findings of Fact, Conclusion of Law and Permanent Injunction* which was e-filed and e-served on September 16, 2020 (“9-16-2020 FFCL&PI”, was/were final order(s), then the Memo of Costs is untimely and should be denied.”

Significantly, it was WCN and LMP who each raised the issue of whether their Memorandums of Costs were filed prematurely in their Oppositions to the TGIG Plaintiffs' Motions.

The possibility that Wellness' Memorandum of Costs may have been premature, because it was filed before the final judgment on all three phases was entered, does not require that it be stricken. *Randono v. Turk*, 86 Nev. 123, 132-33, 466 P.2d 218, 224 (1970) (holding that a bill of costs filed nine months before final judgment was effective); *see also Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 278, 182 P.3d 764, 768 (2008) (holding that a party need not wait until a judgment is entered to file a memorandum of costs that meets NRS 18.110(1)'s deadline).

See **Exhibit 2**.

....

Consistent with NRS 18.110 and Nevada Supreme Court authority, Lone Mountain filed its Memorandum of Costs (the "Memorandum") early, well within the deadline that will eventually come to pass once the Court enters a final judgment following all three phases of trial.

See **Exhibit 7**.

Neither did the TGIG Plaintiffs seize upon the opportunity presented in the Oppositions to comment upon whether the Memorandums of Costs were filed prematurely in the TGIG Plaintiffs' Replies they submitted in support of their Motions to Retax and Settle Costs. Rather, the TGIG Plaintiffs responded only as to the arguments they advanced in their moving papers.

In a rather bizarre twist worthy of this litigation, the district court actually granted the TGIG Plaintiffs' Motions to Retax and Settle Costs based upon the legal argument advanced by WCN and LMP in opposition to the motions while rejecting the arguments advanced by the moving party. Thus, the question posed by this Court for further analysis is really the following: Should the TGIG Plaintiffs be estopped from asserting the finality of the judgment on appeal because the opposing parties argued that the judgment was not final which argument was accepted by the district court.

While no cases directly on point have been found by the TGIG Plaintiffs, this Court has rendered decisions relating to when parties may be estopped from arguing the finality of judgments based upon earlier court proceedings. "While it is a general rule that a jurisdictional question may be raised at any time, it is also settled in this court that a party may, by his conduct, become estopped to raise such a question. A party in an appellate court who has treated the judgment as final and asked that the same be affirmed or reversed will not be heard afterwards, when the decision has gone against him, to contend that the judgment was not final and the court therefore without jurisdiction to determine the questions presented on the appeal." *Gamble v. Silver Peak Mines*, 35 Nev. 319, 133 P. 936, 937 (1913). See also *Renfro v. Forman*, 99 Nev. 70, 71, 657 P.2d 1151, 1152 (1983)

(“The Honda motor companies previously treated the judgment against them as final when they appealed to this court from the judgment, and when they did not request an NRCP 54(b) certification before they appealed. They are now estopped from asserting that the judgment was not final and that a certification of finality was necessary under NRCP 54(b)”); *Witter v. State*, 135 Nev. 412, 416, 452 P.3d 406, 409 (2019) (“This court has long precluded a litigant from arguing that a judgment was not final or that this court lacked jurisdiction in a prior appeal when the party treated the judgment as final” citing *Renfro v. Forman*, 99 Nev. 70, 71-72, 657 P.2d 1151, 1151-52 (1983).

In that the TGIG Plaintiffs have consistently maintained that the judgment in this case is final and appealable, there is no basis for applying the doctrine of estoppel against them to preclude this Court from finding the judgment/order at issue is, in fact, final and appealable. The arguments advanced by parties opposing the TGIG Plaintiffs in the underlying proceedings cannot be used to estop the TGIG Plaintiffs from pursuing this appeal.

III.

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.

NRAP 3A(b)(3) provides as follows: “An appeal may be taken from the following judgments and orders of a district court in a civil action: ... (3) An order granting or refusing to grant an injunction or dissolving or refusing to dissolve an injunction.” Despite the plain language of the Rule, the Essence Entities have maintained that said Rule is inapplicable to the instant case based upon the rationale set forth in various California cases.

The lead case cited by the Essence Entities is *Kuang v. Sawyer*, No. B188747, 2007 WL 2307036, at *1 (Cal. Ct. App. Aug. 14, 2007) which examines cases finding that a similar rule of California appellate procedure applies “only to pendente lite injunctions.” Yet, the cases cited therein and in the Motion to Dismiss establish a principal not applicable to the instant case: i.e. an order granting or denying a permanent injunction is not immediately appealable under circumstances where damages claims between the parties remain to be tried. See *Engle v. City of Oroville* (1965) 238 Cal.App.2d 266, 269 [order granting injunction after bifurcated trial on equitable issues, when damages claims remained to be tried, was not appealable]; *McCarty v. Macy & Co.* (1957) 153 Cal.App.2d 837, 839-840 [similar].)

In the instant matter, as set forth above, there are no damages claims or any other claims to be tried in which any of the parties or interested persons to the appeal are participating in. The TGIG Plaintiffs are seeking no further relief against

Defendant DOT and the order entered by the district court resolves all issues between the parties.

If this Court views the orders appealed from as final orders, jurisdiction is proper pursuant to NRAP 3A(b)(1). If this Court finds that the orders are not “final orders,” then the injunction issued must be deemed an interlocutory order granting an injunction. If that is so, the further classification of the order as either a pendente lite injunction or a permanent injunction is largely irrelevant to the outcome.

This Court has not previously directly analyzed the full scope and meaning of NRAP 3A(b)(3). However, in *Sicor, Inc. v. Sacks*, 127 Nev. 896, 900, 266 P.3d 618, 620 (2011), this Court discussed when an interlocutory order granting an injunction is immediately appealable under NRAP 3A(b)(3).

Even for appealable interlocutory orders, however, we have consistently required that, for an appeal to be proper, the order must finally resolve the particular issue. For example, while a preliminary injunction is appealable under NRAP 3A(b)(3), a temporary restraining order, which is necessarily of limited duration pending further proceedings on the injunction request, is not. *Sugarman Co. v. Morse Bros.*, 50 Nev. 191, 255 P. 1010 (1927).

Sicor, Inc. v. Sacks, 127 Nev. 896, 900, 266 P.3d 618, 620 (2011)

Thus, *Sicor*, supra., suggests that an interlocutory order granting an injunction is immediately appealable pursuant to NRAP 3A(b)(3) if it “finally resolve(s) the

particular issue” presented to the court and there are no “pending further proceedings on the injunction request.”

Under this reading of NRAP 3A(b)(3) and *Sicor*, supra., appeal of the orders may be taken notwithstanding that a final appealable judgment has not been issued. Not only have the trials in Phase 1 and Phase 2 resolved all issues related to granting or denying the injunction, but said trials have resolved all issues between the parties to the appeal with no further proceedings at all being required.

In the event this Court determines that there is no final order subject to Court’s jurisdiction under NRAP 3A(b)(1) but that jurisdiction is appropriate under NRAP 3A(b)(3), TGIG Plaintiffs believe that the Court’s jurisdiction would be limited to addressing issues solely concerning the grant or denial of an injunction. However, in connection with TGIG’s appeal, this theoretical limitation has no practical application to the appeal, as filed. TGIG has identified 5 issues and all 5 are integrally related to the breadth and scope of the injunction issued in Phase 2 and/or an injunction sought but denied in Phase 1.

IV.

INTERIM DISTRICT COURT ACTION

In the Court’s June 8, 2022 Order, the Court specifically requested that “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.” The Court is advised that on June 20, 2022, the district court entered an Order setting a Status Hearing for June 29, 2022 regarding “Updated status on lead case and all consolidated cases.” See **Exhibit 12** hereto.

V.

CONCLUSION

For the above and foregoing reasons, the Motion to Dismiss should be denied.

Dated this 22nd day of June 2022.

CLARK HILL PLLC

/s/ Mark S. Dzarnoski, Esq.

Dominic P. Gentile, Esq. (NSBN 1923)

Mark S. Dzarnoski, Esq. (NSBN 3398)

John A. Hunt, Esq. (NSBN 1888)

A. William Maupin (NSBN 21315)

3800 Howard Hughes Pkwy, Suite 500

Las Vegas, Nevada 89169

Attorneys for Appellants

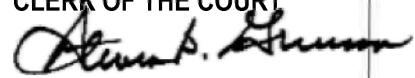
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that pursuant to NRAP 25(1(d) on the 22nd day of June 2022, I did serve at Las Vegas, Nevada a true and correct copy of **APPELLANTS' SUPPLEMENTAL RESPONSE TO ESSENCE ENTITIES' MOTION TO DISMISS OR STAY APPEAL PENDING CURE OF JURISDICTIONAL DEFECT** on all parties to this action by Electronic Filing.

/s/Tanya Bain
An employee of Clark Hill PLLC

EXHIBIT 1

EXHIBIT 1



1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 In Re: D.O.T. Litigation,

Case No. : A-19-787004-B

Dept. No.: XI

7 **CONSOLIDATED WITH:**

A-785818

A-786357

A-786962

A-787035

A-787540

A-787726

A-801416

12 **AMENDED TRIAL PROTOCOL NO. 2**

13 Trial Date: July 13, 2020

14
15 The Court having met with counsel for the parties, and after consideration of the proposal for
16 Trial Protocol submitted by the parties, the written status reports provided by counsel, the issues
17 posed by the current public health emergency and hearing comments of counsel, the Court adopts
18 the following as its amended trial protocol:

19 **I. COURTROOM ETIQUETTE**

20 **A.** Pursuant to Administrative Order No. 06-05, this Court permits counsel and their
21 staff to use wireless communications; however, such devices shall be placed away from recording
22 devices and microphones and must be turned off or placed on airplane mode to ensure that no
23 sounds are emitted from the device that may interrupt the proceedings. If the Court determines a
24 particular device is interfering with the sound and/or recording equipment, the Court may order all
25 electronic devices turned off.

26 **B.** The Court expects counsel to be punctual for all proceedings.

27 **C.** Counsel will be civil to one another as well as to all parties, witnesses, and court
28 personnel at all times. Do not interrupt.

1 **D.** Opposing counsel should not engage in extended conversations with each other when
2 court is in session. The Court will allow counsel to have a private conversation if it is requested and
3 efficient. Counsel should never argue with either opposing counsel or the Court.

4 **E.** Counsel will stand when addressing the Court or when examining witnesses.
5 Counsel must stand near a microphone and may not crowd the witness.

6 **F.** Counsel may approach a witness with the permission of the Court. If counsel needs
7 to approach the witness many times, the Court may instruct the attorney that he or she need not
8 continue to ask. Nonetheless, once the attorney has accomplished his or her reason for approaching
9 the witness (however many times), he or she should return to the place from which he or she is
10 questioning.

11 **G.** The Court does not permit speaking objections. Counsel should give the basis for the
12 objection in a word or phrase (e.g., “hearsay”).

13 **H.** Counsel must state every objection for the record. Counsel may join an objection for
14 purposes of the record. The Court does not permit continuing objections.

15 **I.** Counsel has the responsibility to advise their witnesses to comply with any orders
16 granting motions in limine.

17 **J.** Counsel should advise all witnesses that they are not to begin any answer until the
18 question has been completed. Department XI does not require counsel to use Court Call for
19 telephonic appearances. Counsel must contact the Department one (1) day prior to the hearing to
20 setup the telephonic appearance. If multiple counsel elect to appear telephonically, counsel shall set
21 up a conference call number for use by all participating counsel

22 **K.** Counsel may appear by alternate means upon request.

23 **L.** All counsel will comply with Administrative Order 20-17 related to face coverings
24 and social distancing. Screening requirements by marshal(s) will be posted and enforced. Given the
25 large number of participants, this proceeding will be conducted off-site in a location provided by the
26 Court that allows compliance with social distancing requirements and provides only those amenities
27 which are identified as Court critical for conduct of the proceedings.

28 **M.** Given the suspension of proceedings referenced in Administrative order 20-17 and its

1 predecessors, many of the items referenced to be completed under the original trial protocol were
2 near completion. As a result the Court has compressed the final deadlines for the completion of
3 those items.

4 **II. PRETRIAL MOTIONS**

5 **COMPLETED**

6 **III. EXHIBITS**

7 **A.** The Parties shall prepare a joint list of exhibits, based upon the exhibits used during
8 any depositions and documents properly disclosed during discovery, which will be pre-marked with
9 an identification number in the range of 1-999. The Parties will create a joint list of potential trial
10 exhibits that may later be offered for admission at trial and create an electronic storage device for
11 each party and the Court containing these exhibits. The proposed trial exhibit list will mirror the
12 numbering of the deposition exhibits and any withdrawn deposition exhibit will have at the
13 corresponding number a reference to either “reserved” or “withdrawn.” Prior to providing such trial
14 exhibits to the Court, the Parties will meet and identify exhibits that can be withdrawn or are
15 duplicates. If all Parties agree a deposition exhibit can be eliminated, it will be removed from the
16 preliminary trial exhibit list. If any party does not agree to eliminate a deposition exhibit, it will be
17 marked as a proposed trial exhibit.

18 **B.** For non-joint exhibits, the Parties will utilize the range of exhibit numbers assigned
19 to each party for identification of the exhibits. Each exhibit shall also bear the production number of
20 the document or item that was used during discovery to ensure that it is a properly, previously
21 produced document or other identifier that can be appropriately cross-referenced by the Parties. If
22 during the course of discovery a document was produced with an alphanumeric designation, the
23 discovery alphanumeric designation will be included on the exhibit list. If a party intends to use a
24 document as an exhibit at trial that was not given an alphanumeric designation (that all Parties were
25 previously provided access to), and was not utilized as an exhibit to a Court filing, the designating
26 party must identify the document in a manner that enables other parties to verify the prior
27 production and/or disclosure of the document and to locate such document.

28 **C.** The numbering system shall differentiate between evidentiary trial exhibits and

1 illustrative aids/demonstrative exhibits, with the illustrative aids/demonstrative exhibit identification
2 number containing the letter D preceding the identification number.

3 **D.** All exhibits shall be listed on a form used by Department XI to record such evidence
4 attached hereto as Exhibit "1."

5 **E.** After numbering the joint exhibits, non-joint trial exhibit number ranges will be
6 utilized by each side (ranges of 1,000 exhibits to each side). The numbering convention to be used
7 for trial exhibits will be strictly numeric. Each side shall designate a representative to eliminate
8 duplicate exhibits for the Plaintiffs and the Defendants, respectively. Each side is assigned a range
9 of exhibit numbers for their own exhibits.

10 **1.** Joint Proposed Exhibits (including deposition exhibits) 1-999

11 **2.** Proposed Non-Joint Exhibit Ranges for Each Side:

12 **a)** Plaintiffs 1,000-1,999.

13 **b)** Defendants 2,000-2,999.

14 If any additional party indicates an intention to participate in the trial by filing and serving a notice
15 with a courtesy copy delivered to the Court before the final pretrial conference on July 10, 2020, the
16 Court will make a determination as to additional ranges of exhibit numbers.

17 **F.** Each party must make its pre-trial disclosures under NRCP 16.1(a)(3) on or before
18 June 26, 2020. Each party's pre-trial disclosure must contain a list of their own proposed trial
19 exhibits in Excel format (including columns with the bates number, date, description, will call, and
20 may call) that can be integrated into a single Joint Exhibit List, and providing a complete set of the
21 exhibits to all the other Parties on an electronic storage device.

22 **G.** Each party will designate a paralegal and/or attorney to work together to coordinate
23 with the vendor on the production of the deposition exhibits and discovery documents to trial
24 exhibits, coordinate in the preparation of the Joint Trial Exhibit List, and ensure the Parties are
25 complying with the Court's requirements for marking exhibits for trial. The Parties'
26 representative(s) should be designated by June 29, 2020 so they can begin discussing Court's
27 requirements for marking exhibits and the Joint Exhibit List, and pricing and logistics with the
28 vendor. The Parties' Joint Exhibit List shall be finalized on or before July 2, 2020.

1 **H.** Given Administrative Order 20-17, the electronic exhibit protocol attached as Exhibit
2 “2” will be utilized by the parties.

3 **I.** All received exhibits shall be stored in the custody of the Court. Charts, summaries
4 or calculations sought to be admitted into evidence under NRS 52.275, along with the originals of
5 the voluminous documents or electronic information, shall be made available to other Parties at the
6 calendar call prior to trial, or, if created during the course of trial, at least one (1) days prior to
7 offering or using said chart, summary or calculation.

8 **J.** Enlargements of any exhibits sought to be used at trial, shall be handled in the same
9 manner as other exhibits. Any exhibit may be enlarged and utilized in a hard format if desired by a
10 Party but must contain the proposed trial exhibit number for reference.

11 **K.** The proposed electronic exhibits shall be submitted in portable document format
12 (.PDF).

13 **L.** Objections to each party’s proposed pre-trial exhibits will be served pursuant to
14 NRCP 16.1(a)(3)(B) on or before July 1, 2020 to facilitate the creation of the Joint Exhibit List.
15 Counsel will be familiar with the basis for any objection made pursuant to NRCP 16.1(a)(3)(B) and
16 shall address the objections at the final pretrial conference. Objections not disclosed in accordance
17 with NRCP 16.1(a)(3), other than objections under NRS 48.025 and 48.035, shall be deemed waived
18 unless excused by the court for good cause shown.

19 **M.** All exhibits proposed for use in trial will be cross referenced to exhibits sought to be
20 introduced by all other parties and sides. Counsel shall eliminate duplicative exhibits.

21 **N.** All documents the Parties anticipate using at trial, but for rebuttal documents,
22 impeachment documents, and documents related to unanticipated issues, will be disclosed prior to
23 the start of trial. Documents that are not identified in pre-trial disclosures will be handled on a case
24 by case basis with the understanding that a party seeking to use any document that was not
25 identified in pre-trial disclosures must show good cause.

26 **O.** Certain documents and material, which the Parties shall have need to use and present
27 to the Court, have been produced in this Action pursuant to the Confidentiality Agreement and
28 Protective Order filed on December 20, 2019. Parties shall consult to redact, if appropriate, trial

1 exhibits previously designated as confidential during discovery.

2 **IV. FINAL PRETRIAL CONFERENCE**

3 **A.** Pursuant to EDCR 2.67(a) counsel shall meet and discuss all issues required by the
4 rule on or before July 9, 2020.

5 **B.** In accordance with NRCP 16.1(a)(3)(B)(i), the parties shall designate their trial
6 witnesses on or before July 2, 2020.

7 **C. Designations of Depositions to be Used in Lieu of Live Testimony**

8 **1.** The Parties are discouraged from reading depositions at trial unless absolutely
9 necessary.

10 **2.** The Parties anticipate a number of depositions or prior testimony from the
11 preliminary injunction hearing will be utilized at trial in lieu of live testimony due to the
12 unavailability of the witness or for any other permitted reason under NRCP 32. In accordance with
13 NRCP 16.1(a)(3)(A)(ii), the Parties will identify testimony to be provided via deposition or
14 transcript and provide initial transcript designations on or before June 29, 2020. Any party wishing
15 to make a counter-designation will do so on or before July 2, 2020. Any rebuttal deposition
16 designations are to be made on or before July 6, 2020. Objections to any deposition designation,
17 counter-designation, or rebuttal designation will be made on July 8, 2020.

18 **3.** The Court will rule on any objections to the designations at the Final Pretrial
19 Conference.

20 **4.** The Parties recognize that there may be a need to alter and/or amend
21 depositions designations based on testimony provided during trial. Accordingly, any changes to
22 deposition designations must be provided to the Parties and the Court no less than one (1) judicial
23 day before the deposition testimony is intended to be presented at trial unless good cause is shown
24 for the failure to do so. This procedure does not alter or change evidentiary limitations.

25 **5.** Any video deposition to be shown to the Court shall be edited to streamline
26 the presentation of evidence. The Parties can present excerpts in the order approved by the Court at
27 the Final Pretrial Conference. All portions of a video deposition used in lieu of live testimony
28 presented during a certain phase will be shown together.

1 6. For impeachment or rebuttal purposes, advance notice of the portions of the
2 deposition depicting inconsistent testimony is not required. Proposals for the presentation of
3 deposition transcripts are still subject to evidentiary limitations.

4 7. To avoid delays during trial, counsel will notify the clerk of any depositions
5 anticipated to be used prior to the start of the day's proceedings. Failure of counsel to do so may
6 result in the Court refusing to permit counsel to utilize a particular deposition.

7 **D. Proposed Findings of Fact and Conclusions of Law**

8 1. At the commencement of each phase, counsel will file proposed findings of
9 fact and conclusions of law pertaining to that portion of the trial.

10 2. A copy of the proposed findings of fact and conclusions of law will be
11 emailed to the Court in Word format at the time of filing.

12 E. Pursuant to EDCR 2.67(b), on or before 4:00 p.m. on July 9, 2020, counsel shall
13 submit a joint pretrial memorandum executed by all counsel including all issues required by the rule.

14 **F. Final Pretrial Conference**

15 1. The Court will conduct the final pretrial conference on July 10, 2020 at 9 a.m.

16 2. Counsel are required to bring all items identified in EDCR 2.69(a) to the final
17 pretrial conference and exchange all items identified in EDCR 2.69(a) by July 8, 2020.

18 3. Exhibits will be pre-admitted to the extent practicable at the Final Pretrial
19 Conference. All documentary exhibits will be presented in electronic format in accordance with
20 Exhibit "1". Photographic evidence may be presented in hard copy form but must also be submitted
21 in electronic format. In accordance with EDCR 2.67, counsel shall meet, review, and discuss
22 exhibits.

23 4. Any planned demonstrative exhibits including data summaries, compilations
24 or exemplars anticipated to be used must be disclosed prior to the final Pre-Trial Conference.
25 Pursuant to EDCR 2.68, at the final Pre-Trial Conference, counsel shall be prepared to stipulate or
26 make specific objections to individual proposed exhibits. Any additional demonstrative exhibits that
27 arise during trial shall be disclosed to all parties at least 24 hours in advance.

28 5. Any Power Point or computer animation anticipated to be used during the

1 presentation of evidence to illustrate a witness's testimony must be disclosed two (2) days prior to
2 the Final Pretrial Conference. At the time of the Final Pretrial Conference, the Court will rule on
3 any objections to the Power Point or computer animation. An electronic version of the Power Point
4 or computer animation must be presented to the Court at that time.

5 6. Unless impracticable to present evidence electronically, the Parties are
6 required to use trial presentation software to electronically and simultaneously display evidence to
7 everyone in the courtroom. The Parties will also be allowed to utilize traditional paper form
8 presentation of evidence as long as the other provisions are satisfied, i.e., the paper form
9 presentation of evidence has already been submitted electronically to the Court and other Parties, the
10 hard copy bears the same identifiers as the electronic copy, and hard copy documents of such
11 presentations are made available to the other Parties.

12 7. The Parties may hire an operator to provide, and upon the request of a party to
13 operate, the trial presentation software to avoid the complications of different systems, different
14 switching systems, and delays in presentation. All exhibits will be on one computer system with
15 traditional designations of potential exhibits and admitted exhibits. Each party is required to use the
16 software selected. A Party may contract with the provider for a person to operate the system during
17 trial or may take on the responsibility of hiring and training a person to operate the system for that
18 party during trial. Parties shall insure that non-admitted exhibits are blocked from viewing by the
19 Court until the Court directs the non-admitted exhibit to be disclosed for the Court's view.

20 8. Prior to the commencement of each phase, the Court will rule on any
21 objections to the deposition designations, counter-designations and editing of video deposition to be
22 used in lieu of live testimony. Any use of depositions will require publication of the original
23 transcript prior to reading or playing portions of the deposition.

24 **V. TRIAL SCHEDULE**

25 **A. Days and Hours**

26 1. All trial participants shall be punctual and prepared to proceed on schedule.
27 To minimize interruptions, attorneys may be permitted to enter and leave the courtroom discreetly
28 during the proceedings.

2. Court sessions will be held from 8:30 a.m. to 5:00 p.m., with a morning break, a lunch recess, and an afternoon break, Monday through Friday, unless there is a recognized judicial holiday as set forth below. If an issue arises that must be addressed prior to the commencement of the next day of trial, counsel will notify all parties. Counsel will report at 8:00 a.m. to resolve any issues that need to be addressed before the presentation of evidence and testimony.

3. The Court will recess on the following dates:

a) August 13-14, 2020.

b) September 7, 2020.

B. Weekly Conferences During Trial

1. To expedite the trial, it is advisable to devote the entire trial day to the uninterrupted presentation of evidence. To the extent possible, objections (other than to a question asked a witness), motions, and other matters that may interrupt the presentation of evidence, should be raised at a time set aside by the Court. To the extent possible, objections, motions and other matters that must be raised during the presentation of evidence shall be stated briefly.

2. Any issues to be addressed will be addressed on Friday sessions at 8:00 a.m. The Court will permit counsel to communicate to the Court to plan the week's proceedings and fix the order of witnesses and exhibits, avoiding surprises and ensuring that the Parties will not run out of witnesses. These Weekly Conferences will also be utilized to hear written motions, to resolve other issues and the Court may hear offers of proof and arguments accordingly in order to resolve the same.

VI. CONDUCT OF TRIAL

The trial will be conducted in Phases as defined by the Court. This Order will apply to each individual phase.

A. The use of trial briefs in this matter will be governed by EDCR Rule 7.27.

B. Opening Statements

1. Opening Statements, if any, shall commence on the first day of each phase.

2. The group of parties seeking affirmative relief in that phase shall be time

1 limited in Opening Statement to a total of three (3) hours. These parties shall agree among
2 themselves on the split of the time. If no agreement is reached the Court will allocate the time
3 among the group. No more than one attorney may address the Court during Opening Statement for
4 each party or similarly represented group of parties.¹

5 **3.** The group of parties participating in a phase not seeking affirmative relief in
6 that phase shall be time limited in Opening Statement to a total of three (3) hours. These parties
7 shall agree among themselves on the split of the time. If no agreement is reached the Court will
8 allocate the time among the group. No more than one attorney per party group represented by a
9 single team of counsel may address the Court during Opening Statement.

10 **4.** The Parties shall be allowed to deliver their Opening Statements in the order
11 of the presentation of the Parties' cases.

12 **5.** During Opening Statements, the Parties will be permitted to utilize charts and
13 other demonstrative aids not then in evidence; however, any such Power Points, charts or aids shall
14 be provided to opposing counsel at least one (1) judicial day prior to commencement of the
15 corresponding phase in order to allow any party to file any objection it may have to the same.

16 **C. Presentation of Evidence**

17 **1.** The Court, counsel and the witness shall be permitted to view a displayed
18 non-admitted exhibit prior to its formal admission.

19 **2.** Counsel shall advise the clerk prior to the commencement of the trial day of
20 any deposition transcripts anticipated to be used for publication.

21 **3.** Parties are encouraged to use trial aids such as glossaries, indexes, time lines,
22 graphics, charts, diagrams, and computer animations to permit the Court a better opportunity to
23 understand the evidence. To the extent practicable, the Parties shall endeavor to prepare joint
24 exhibits for glossaries, indexes, and time lines. Any trial aids will be submitted to the Court
25 electronically.

26 **4.** Each party shall electronically exchange lists of expected witnesses
27

28 ¹ The Court has modified and lengthened the trial week to accommodate the needs of completing this matter in
the time frames permitted for use of the offsite location.

(including any depositions to be used in lieu of live testimony) who will be called to testify on one (1) day notice. This list shall estimate the length of direct examination for each witness. Any objections shall be made within one (1) judicial day of service of the disclosure. For impeachment or rebuttal purposes, advance notice of the portions of the deposition depicting inconsistent testimony is not required.

5. Counsel shall give one (1) week notice of their intent to call an adverse party or its employees to testify. If a party will not make an employee available to testify and that employee is beyond the Court's subpoena power, any party may offer that witness's deposition for any purpose, unless it appears that the absence of the witness was procured by the party offering the deposition. Use of any such deposition is subject to the disclosure requirements and any evidentiary limitations.

6. No more than one attorney per party group represented by a single team of counsel may examine a witness or make objection during the examination of the witness.

7. If, for any reason, a break in the proceedings of any phase of more than a week occurs, counsel for the Parties may make an interim statement to the Court prior to the resumption of the presentation of evidence. No more than one attorney per party may make an interim statement. Such interim statement may only be used to explain or summarize evidence and testimony already presented to the Court during that phase.

D. Closing Arguments

1. Counsel should be prepared to begin closing arguments immediately following the close of all evidence in the phase.

2. During Closing Arguments, the Parties will be permitted to utilize Power Point, charts and other demonstrative aids; however, any such charts or aids shall be provided to opposing counsel at least one (1) judicial days prior to Closing Argument in order to allow any party to file any objection it may have to the same. An electronic copy of the Power Point, charts and other demonstrative aids must be provided to the Court.

3. The group of parties seeking affirmative relief in that phase shall be time limited in Closing Statement to a total of six (6) hours. These parties shall agree among themselves

1 on the split of the time. If no agreement is reached the Court will allocate the time among the group.

2 **4.** The group of parties participating in a phase not seeking affirmative relief in
3 that phase shall be time limited in Opening Statement to a total of six (6) hours. These parties shall
4 agree among themselves on the split of the time. If no agreement is reached the Court will allocate
5 the time among the group. No more than one attorney per party group represented by a single team
6 of counsel may address the Court during Closing Argument.

7 **5.** Each party with affirmative claims, will have two opportunities to address the
8 Court in closing arguments. Different attorneys may argue the first and second closing arguments
9 for each per party group represented by a single team of counsel. The total time will not be
10 increased.

11 **VII. TRANSCRIPTS AND COURT REPORTING**

12 **A.** The Parties agree to utilize the Court's JAVs Court Recording System which will be
13 the official record.

14 **B.** The Parties agree to equally split the cost of expedited daily transcripts from the
15 Official Court Recorder. Each party shall either commit or decline to receive expedited daily
16 transcripts at the beginning of each Phase of the trial, and costs will be split equally among the
17 Parties that choose to receive the expedited transcripts.

18 **C.** Additionally, to facilitate the ability of the Parties to view questions, objections and
19 testimony, the Parties agree to have the proceedings reported on a real-time basis at their own
20 expense. Each party shall either commit or decline access to real-time court reporting at the
21 beginning of each Phase of the trial, and costs will be split equally among the Parties that choose to
22 have real-time access.

23 **D.** Should the Parties desire to have real time reporting during any phase of the trial, the
24 parties are required to make their own arrangements with the real time court reporters. The details
25 of any arrangements shall also be provided to the Official Court Recorder, at 702-671-4374. Each
26 party will need to provide its own monitor, device or other equipment for real time reporting
27 viewing.
28

VIII. PHASES

The trial will be conducted in a series of phases presented to the same judge. The phases shall proceed seriatim, in the order set forth herein. Each phase may begin with an opening statement restricted to the issues to be litigated in that phase and may end with a closing statement. If all issues related to a particular phase have been resolved, the parties will proceed to the next phase with remaining issues.

A. First Phase – Petition for Judicial Review²

1. Unless otherwise resolved on the briefing outlined above in Section II, the DH Flamingo Plaintiffs, Serenity Wellness Plaintiffs, ETW Plaintiffs, Nevada Wellness Center, LLC, MM Development Company, Inc., Livfree Wellness LLC and Compassionate Team of Las Vegas, LLC and any other Plaintiffs with such claims will present their affirmative claims related to their claims for Petition for Judicial Review.

a) The Plaintiffs will have one (1) day to present oral arguments based upon the administrative record, unless good cause is shown to extend the time.

b) The administrative record shall be filed by the DOT and include, with appropriate redactions, if necessary, of all records related to the applications and DOT's granting or denial of applications.

2. The DOT and Defendants will present their defenses and affirmative claims, if any, related to the Plaintiffs' claims for petition for judicial review.

a) The DOT and Defendants will have one (1) day to present arguments based on the administrative record against the petitions for judicial review, unless good cause is shown to extend the time.

3. The Plaintiffs will present their rebuttal on their affirmative claims.

a) The Plaintiffs will have one day (1) to present oral arguments based on the administrative record in rebuttal on its claims for judicial

² This phase will follow the presentation of Phase 2.

1 review, unless good cause is shown to extend the time.

2 4. The Court will deliberate, review the evidence, and render a decision on the
3 claims raised in the First Phase.

4 B. Second Phase³ – Legality of the 2018 recreational marijuana application process
5 (claims for Equal Protection, Due Process, Declaratory Relief, Intentional Interference with
6 Prospective Economic Advantage, Intentional Interference with Contractual Relations, and
7 Permanent Injunction)⁴

8 1. The Serenity Wellness Plaintiffs, ETW Plaintiffs, Nevada Wellness Center,
9 LLC, Qualcan, LLC and Compassionate Team of Las Vegas, LLC and any other Plaintiffs with such
10 claims will present their affirmative claims related to legality of 2018 recreational marijuana
11 application process, including their claims for equal protection, due process, declaratory relief, and
12 permanent injunction.

13 a) The Plaintiffs will have four (4) weeks to present testimony and
14 evidence on their affirmative claims, unless good cause is shown to
15 extend the time.

16 2. The DOT and Defendants will present their defenses and affirmative claims,
17 if any, related to the claims by the plaintiffs.

18 a) The DOT and Defendants will have four (4) weeks to present
19 testimony and evidence their defenses and affirmative claims, if any, unless
20 good cause is shown to extend the time.

21 3. The Plaintiffs will present their rebuttal on their affirmative claims.

22 a) The Plaintiffs will have one (1) week to present testimony and
23 evidence in rebuttal on its affirmative claims, unless good cause is
24 shown to extend the time.

25 4. The Court will deliberate, review the evidence, and render a decision on the

26 ³ This phase will begin on July 13, 2020.

27 ⁴ Given the modification to the trial week, the Court has adjusted the time permitted to accommodate use of the offsite
28 facility.

1 claims raised in the Second Phase.

2 **C. Third Phase⁵ – Writ of mandamus (Improper scoring of applications related to**
3 calculation errors on the 2018 recreational marijuana application).

4 **1. MM Development Company, Inc. and Livfree Wellness LLC and any other**
5 Plaintiffs with mandamus claims will present their affirmative claims related to their writ of
6 mandamus claim based on the allegation of improper scoring of their applications due to calculation
7 errors.

8 **a)** The Plaintiffs will have three (3) days to present testimony and
9 evidence their affirmative claims, unless good cause is shown to
10 extend the time.

11 **2. The DOT and Defendants will present their defense and affirmative claims, if**
12 any, related to the claims by the MM Development Company, Inc. and Livfree Wellness LLC.

13 **a)** The DOT and Defendants will have one (1) day to present testimony
14 and evidence its defenses and affirmative claims, if any, unless good
15 cause is shown to extend the time.

16 **3. The Plaintiffs will present their rebuttal on their affirmative claims.**

17 **a)** The Plaintiffs will have one (1) day to present testimony and evidence
18 in rebuttal on its affirmative claims, unless good cause is shown to
19 extend the time.

20 **4. The Court will deliberate, review the evidence, and render a decision on the**
21 claims raised in the Third Phase.

22 **D. Duplication of Testimony**

23 In order to avoid duplication of testimony, if any party desires to use testimony from any
24 phase in a subsequent phase, the party shall inform all parties and the Court of the testimony to be
25 offered via transcript, cite the portions of the transcript to be used, and provide all parties and the
26 Court a copy of the portions of transcript to be used at least three (3) judicial days before the


27
28 ⁵ This phase has been partially resolved by motion practice. Any remaining issues will be presented following Phase 1.

1 beginning of the phase in which the testimony will be used in lieu of live testimony.

2 **IX. MISCELLANEOUS ISSUES**

3 The Court may amend this Order upon good cause shown. Any party, upon application to
4 the Court and a showing of good cause, may seek relief from the Court from any provision of this
5 Order.

6 Dated this 2nd day of July, 2020.

7
8 
9
10 Elizabeth Gonzalez, District Court Judge
11
12
13

14 **Certificate of Service**

15 I hereby certify that on the date filed, this Order was electronically served, pursuant to
16 N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing
17 Program.

18 
19 Jill Hawkins
20
21
22
23
24
25
26
27
28

EXHIBIT 2

EXHIBIT 2



HOWARD & HOWARD ATTORNEYS PLLC

L. CHRISTOPHER ROSE, ESQ.

Nevada Bar No. 7500

KIRILL V. MIKHAYLOV, ESQ.

Nevada Bar No. 13538

3800 Howard Hughes Parkway, Suite 1000

Las Vegas, Nevada 89169

Telephone: 702.257.1483

Fax: 702.567.1568

lcr@h2law.com

kvm@h2law.com

Attorneys for Defendant

Wellness Connection of Nevada, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CASE NO.: A-19-787004-B

DEPT NO.: XI

In Re: D.O.T. Litigation,

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

**WELLNESS CONNECTION OF
NEVADA, LLC'S OPPOSITION TO
TGIG PLAINTIFFS AND SETTLING
PLAINTIFFS' MOTIONS TO RETAX
AND SETTLE COSTS AND ALL
JOINDERS THERETO**

Defendant Wellness Connection of Nevada, LLC ("Wellness"), by and through its counsel of record, Howard & Howard Attorneys PLLC, hereby files its Opposition to: TGIG, LLC, Nevada Holistic Medicine, LLC, GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada, Nevada Pure, LLC, Medifarm, LLC, and Medifarm IV, LLC's ("TGIG Plaintiffs") Motion to Retax and Settle Costs; ETW Management Group, LLC, Global Harmony, LLC, Just Quality, LLC, Libra Wellness Center, LLC, Rombough Real Estate, Inc. dba Mother Herb, Zion Gardens, LLC, Nevada Wellness Center, LLC, MM Development Company, Inc. d/b/a Planet 13 and

LivFree Wellness, LLC d/b/a the Dispensary, and Qualcan, LLC's ("Settling Plaintiffs") Motion to Retax and Settle Costs; Clark Natural Medicinal Solutions, LLC, Nye Natural Medicinal Solutions, LLC, Clark NMSD, LLC and Inyo Fine Cannabis Dispensary, LLC's ("Inyo Plaintiffs") Joinder and Supplement to TGIG Plaintiffs' Motion to Retax and Settle Costs; Natural Medicine, LLC's ("Natural Medicine") Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs and Inyo's Plaintiffs' Supplement; Rural Remedies, LLC's Joinder to TGIG Plaintiffs and Settling Plaintiffs' Motions to Retax and Settle Costs; Green Leaf Farms Holdings, LLC, Green Therapeutics LLC, NevCann, LLC, and Red Earth, LLC's ("Green Leaf Plaintiffs") Joinder to TGIG Plaintiffs and Settling Plaintiffs' Motions to Retax and Settle Costs; and THC Nevada, LLC ("THC") and Herbal Choice, Inc.'s ("Herbal Choice") Joinder to TGIG Plaintiffs and Settling Plaintiffs' Motions to Retax and Settle Costs; and any other Joinders thereto. This Opposition is based on the pleadings and papers on file herein, the points and authorities below, and any oral argument the Court may allow during the hearing on this matter.

I. INTRODUCTION AND SUMMARY

In their Motions to Retax and Settle Costs, Plaintiffs' main arguments are that Wellness' Memorandum of Costs was filed late and that Wellness was not the prevailing party. However, Plaintiffs' contentions that they are the prevailing parties and that the time to file a Memorandum of Costs has passed begs the question: "why did the Plaintiffs not file a Memorandum of Costs?" Contrary to Plaintiffs' misguided assertions, Wellness' Memorandum of Costs was timely, if not early, and Wellness prevailed on the most significant issue in this case, the 2018 recreational marijuana application process was not overturned and Wellness retained its license.

The Settling Plaintiffs' argument that they settled with the Department of Taxation (the "Department") and some of the other Defendants does not absolve them from their responsibility to pay for Wellness' costs. The Settling Plaintiffs did not settle with Wellness and have not been dismissed from this case to this day. Similarly, Inyo Plaintiffs and Natural Medicine's arguments that their claims have not been decided by this Court have no merit. The only remaining claims to be tried are the 42 U.S.C. § 1983 claims, which do not involve Wellness. The Court has resolved all of the other claims.

1 Lastly, Plaintiffs make a big deal regarding costs associated with the Petition for Judicial
2 Review and argue that Wellness’ costs “were not reasonably necessary, and actually incurred as
3 part of the First Phase Claim [Petition for Judicial Review].” (Settling Plaintiffs’ Mot. to Retax,
4 9, Sep. 24, 2020, on file.) None of the Plaintiffs attempt to argue that Wellness’ costs were not
5 reasonable, necessary, and incurred as part of defending against Plaintiffs’ other claims and the
6 Second Phase of trial, which was the heart of this case. Plaintiffs’ silence on this issue is a
7 concession that Wellness’ costs were reasonable and necessarily incurred to defend this action
8 except for the Petition for Judicial Review phase. To that end, Wellness agrees with the TGIG
9 Plaintiffs’ argument that “the vast majority – nearly all – of the claimed costs have nothing to do
10 with the Petition for Judicial Review claim.” (TGIG Plaintiffs’ Mot. to Retax, 7, Sep. 24, 2020,
11 on file.)

12 The reality is that Plaintiffs’ ever-evolving legal theories and attempts to overturn the 2018
13 application process and strip Wellness of its license failed, and it is time for Plaintiffs to pay for
14 this expensive and unsuccessful conquest.

15 **II. WELLNESS IS ENTITLED TO ITS COSTS PURSUANT TO NRS 18.020**

16 **A. Wellness’ Memorandum of Costs is Timely.**

17 Although this Court has not entered a final judgment for all three phases of this case, the
18 Court has resolved all claims against Wellness. As a result, Wellness’ Memorandum of Costs
19 was not filed late, but was arguably filed early. As this Court is aware, the trial in this matter is
20 divided into three phases: (1) Petition for Judicial Review; (2) the legality of the 2018 recreational
21 marijuana application process and related claims; and (3) the 42 U.S.C. § 1983 claims.¹ The
22 Third Phase of this trial does not concern or involve Wellness. The Court rendered its decision
23 for the Second Phase on September 3, 2020 and for the First Phase on September 16, 2020.
24 (FFCL, Sep. 3, 2020, on file.; FFCL, Sep. 16, 2020, on file.) Therefore, this Court resolved all
25 claims against Wellness when it rendered its decision on September 16, 2020. Wellness then
26
27
28

¹ Contrary to the Settling Plaintiffs, Inyo Plaintiffs, and Natural Medicine’s arguments, the Third Phase only involves the 42 U.S.C. § 1983 claims as all of the other claims have been resolved.

1 timely filed its Memorandum of Costs on September 21, 2020. (Wellness' Memo of Costs, Sep.
2 21, 2020, on file.)

3 The possibility that Wellness' Memorandum of Costs may have been premature, because
4 it was filed before the final judgment on all three phases was entered, does not require that it be
5 stricken. *Randono v. Turk*, 86 Nev. 123, 132-33, 466 P.2d 218, 224 (1970) (holding that a bill of
6 costs filed nine months before final judgment was effective); *see also Las Vegas Fetish & Fantasy*
7 *Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 278, 182 P.3d 764, 768 (2008) (holding
8 that a party need not wait until a judgment is entered to file a memorandum of costs that meets
9 NRS 18.110(1)'s deadline).

10 As mentioned above, Plaintiffs' arguments that Wellness' Memorandum of Costs was
11 filed late has no merit. In their Motions to Retax and Settle Costs and Joinders thereto, Plaintiffs
12 fail to identify the final judgment, which resolved all claims against Wellness and triggered the
13 NRS 18.110(1) five-day deadline. However, Plaintiffs' efforts to overturn the entire application
14 process and to strip Wellness of its license concluded upon this Court's decision on September
15 16, 2020, and therefore Wellness filed its Memorandum of Costs on September 21, 2020, which
16 was within NRS 18.110(1) five-day requirement. Once again, Plaintiffs point to no final
17 judgment that was entered and that therefore triggered the time frame to file for costs.

18 Based on the above, Wellness' Memorandum of Costs was early, and at the very least,
19 timely. Nevertheless, assuming for the moment that the NRS 18.110(1) five-day deadline ran
20 from this Court's September 3, 2020 Finding of Fact and Conclusion of Law relating to the
21 Second Phase of trial (which it did not), the statutory time limit for filing memorandum of costs
22 is not a jurisdictional requirement and the district court has discretion to consider an untimely
23 memorandum of costs. *Eberle v. State ex rel. Nell J. Redfield Trust*, 108 Nev. 587, 590, 836 P.2d
24 67, 69 (1992). In *Eberle*, the district court considered the respondent's memorandum of costs,
25 which the appellant argued was untimely. *Id.* at 589, 836 P.2d at 69. The Nevada Supreme Court
26 held that the district court had discretion to consider an untimely motion for costs and by
27 considering the respondent's motion, "the district court either considered the motion to be timely,
28

1 or impliedly granted respondents additional time within which to move for ... costs.” *Id.* at 590,
2 836 P.2d at 69. Therefore, the Nevada Supreme Court held that the district court had the
3 discretion to consider an untimely memorandum of costs. *Id.* (noting that the district court's
4 decision to reach the merits of an untimely motion for costs will not be disturbed on appeal).
5 Here, to the extent Plaintiffs want to argue that Wellness was late, which it clearly is not, this
6 Court would still have discretion to consider Wellness’ Memorandum of Costs.

7 The Settling Plaintiffs’ argument that Wellness’ Memorandum of Costs should be stricken
8 because it “is not signed by an attorney” also misses the mark. Wellness’ Memorandum was
9 verified and compliant with NRS 18.110(1), which requires that the “memorandum must be
10 verified by the oath of the party, or the party’s attorney or agent, or by the clerk of the party’s
11 attorney, stating that to the best of his or her knowledge and belief the items are correct, and that
12 the costs have been necessarily incurred in the action or proceeding.” NRS 18.110(1). A
13 declaration or an affidavit swearing under penalty of perjury that the costs were correct and
14 necessarily incurred in the case, satisfies the requirement that a Memorandum of Costs be verified.
15 *Canepa v. Durham*, 62 Nev. 417, 432, 155 P.2d 788, 789 (1945).

16 Wellness’ counsel verified the Memorandum of Costs. (Wellness’ Memo of Costs, 7,
17 Sep. 21, 2020, on file.) In their Motion to Retax and Settle Costs, the Settling Plaintiffs essentially
18 argue that Wellness’ Memorandum of Costs requires two signatures. While Wellness’
19 Memorandum satisfies the requirements of NRS 18.110 because it was signed and verified by
20 counsel of record, and two signatures are not required to validate Wellness’ Memorandum,
21 Wellness timely filed an identical Memorandum of Costs on September 25, 2020 with two
22 signatures in order to eliminate Plaintiffs’ concerns. (Wellness’ Memo of Costs, Sep. 25, 2020,
23 on file.)

24
25 In essence, given the Court’s discretion to enter judgment to fewer than all parties, the
26 risk of failing to comply with NRS 18.110’s deadline, and the Court’s ability to entertain a
27 memorandum of costs before entry of a final judgment, Wellness filed its Memorandum of Costs
28

1 within five days of this Court's decision on the petition for judicial review phase. Wellness'
2 Memorandum of Costs was filed timely and was verified in compliance with NRS 18.110.

3 **B. Wellness is the Prevailing Party, not Plaintiffs**

4 The term "prevailing party" is "broadly construed" to encompass both plaintiffs and
5 defendants. *Valley Elec. Ass'n v. Overfield*, 121 Nev. 7, 10, 106 P.3d 1198, 1200 (2005). A party
6 prevailing on the significant issue in the litigation is the party that should be considered the
7 prevailing party. *Id.*; *see also Moritz v. Hoyt Enterprises, Inc.*, 604 So. 2d 807, 810 (Fla. 1992).
8 *Davis v. Beling*, 128 Nev. 301, 278 P.3d 501 (2012) is particularly instructive regarding this issue.
9 In *Davis*, homeowners sought to recover attorney's fees against their former real estate agent for
10 successfully defending against the agent's claims of breach of the listing agreement between the
11 parties. *Id.* at 307, 278 P. 3d at 506. The Nevada Supreme Court noted that the matter was
12 straightforward:

13 [B]ecause the [homeowners] successfully defended against [the
14 agent's] breach of contract action[], pursuant to the clear language
15 of the[] agreements, the [homeowners] were entitled to recover
16 reasonable attorney's fees incurred in the defense of those particular
claims.

17 *Id.* at 515. The Nevada Supreme Court affirmed these attorney's fees and costs even though the
18 agent had recovered \$115,455 against the homeowners on a related unjust enrichment cause of
19 action. *Id.* at 507. This ruling demonstrates the common sense meaning of "prevailing party," the
20 homeowners won on the major issue of the case even though they lost on another secondary issue.

21 Similarly, here Wellness prevailed on the major issue of the case. In fact, Wellness
22 prevailed as to every issue pertaining to Wellness. Plaintiffs sought to overturn the entire 2018
23 recreational marijuana application process and to strip Wellness of its license. Plaintiffs did not
24 obtain such relief, nor did they obtain any relief whatsoever against Wellness. Although the Court
25 found that the Department improperly replaced the mandatory requirement for a background
26 check of each prospective owner, officer and board member with five percent or greater standard,
27 Plaintiffs did not convince the Court to overturn the process and take away Wellness' license.
28

1 Simply put, Plaintiffs did not obtain what they sought and this Court’s ruling does not afford them
2 any benefit. To the contrary, this Court’s injunction may adversely affect some of the Plaintiffs.

3 The Settling Plaintiffs’ arguments that Wellness cannot recover its costs from them
4 because their claims “were not litigated, they were settled” also does has no merit. The Settling
5 Plaintiffs did not settle with Wellness or a number of other Defendants and have not been
6 dismissed from this case. The Court’s docket clearly indicates that none of the Settling Plaintiffs
7 have been dismissed, and therefore their claims were litigated to conclusion of both of the phases
8 of trial. In fact, the Settling Plaintiffs are still parties in this case to this day. The Settling
9 Plaintiffs’ decision not to make opening and closing statement, question witnesses, or seek
10 dismissal was their own decision. But they never dismissed or even attempted to dismiss their
11 claims against Wellness.

12 To the extent the Settling Plaintiffs argue that their settlement with the Department and
13 some of the Defendants somehow equates to their dismissal, such argument further supports
14 Wellness’ entitlement to costs.² The Nevada Supreme Court recently held that a voluntary
15 dismissal with prejudice confers prevailing party status on the opposing party for an award of
16 attorney fees and costs. *145 E. Harmon II Tr. v. Residences at MGM Grand - Tower A Owners’*
17 *Ass’n*, 136 Nev. Adv. Op. 14, 460 P.3d 455, 459 (2020). Contrary to the Settling Plaintiffs
18 arguments, the Nevada Supreme Court has never “expressly held that an action has not proceeded
19 to judgment when it was dismissed with prejudice.” *Id.* at 458. Accordingly, in the event this
20 Court determines that the Settling Plaintiffs have dismissed their claims with prejudice, which
21 they have not because they are still in the case, they would still be responsible for Wellness’ costs.

22 Moreover, Natural Medicine and the Inyo Plaintiffs attempt to avoid their obligation to
23 pay for Wellness’ costs through additional creative arguments. Natural Medicine argues that it
24 “did not affirmatively assert individual constitutional claims.”³ (Natural’s Joinder, 2, Sep. 25,
25 2020, on file.) The Inyo Plaintiffs make a similar argument, “[t]he operative complaint asserted

26
27 ² The Settlement Agreement required the Settling Plaintiffs to dismiss their claims. However, they have
not done so.

28 ³ Natural Medicine asserted causes of action for: (1) Declaratory Relief; (2) Petition for Judicial Review;
(3) Petition for Writ of Certiorari; (4) Petition for Writ of Mandamus; (5) Petition for Writ of Prohibition.
(Natural’s Complaint, Feb. 7, 2020, on file.)

1 the following claims for relief: 1) Petition for Judicial Review; 2) Petition for Writ of Certiorari;
2 3) Petition for Writ of Mandamus; and 4) Petition for Writ of Prohibition. None of these claims
3 were heard during the 5-week trial conducted in this matter as part of Phase 2.” (Inyo’s Joinder,
4 2, Sep. 25, 2020.) Natural Medicine and the Inyo Plaintiffs seem to suggest that there is another
5 phase of trial for their claims. Such arguments are without merit as this Court has rendered its
6 decision on all claims except for the remaining 42 U.S.C. § 1983 claims. As such, Plaintiffs’
7 creative arguments fail, and Wellness is prevailing against Natural Medicine and the Inyo
8 Plaintiffs for the same reasons discussed above.⁴

9 **C. Nearly All of Wellness’ Costs Have Nothing to Do with the Petition for**
10 **Judicial Review.**

11 None of the Plaintiffs argue that Wellness’ costs were not reasonable, necessary, and
12 actually incurred for having to defend against Plaintiffs’ claims during discovery and the Second
13 Phase of trial. Instead, the Settling Plaintiffs argue that “Wellness Connection cannot recover any
14 of the claimed costs because they were not reasonably, necessarily, and actually incurred as part
15 of the First Phase Claim.” (Settling Plaintiffs’ Motion to Retax, 9, Sep. 24, 2020, on file.) The
16 TGIG Plaintiffs also argue that “nearly all – of the claimed costs have nothing to do with the
17 Petition for Judicial Review claim.” (TGIG Plaintiffs’ Mot. to Retax, Sep. 24, 2020, on file.)
18 Despite the TGIG Plaintiffs’ attempts to expand the record for the Petition for Judicial Review to
19 include applications of every successful applicant, TGIG Plaintiffs and the Settling Plaintiffs
20 argue that Wellness’ costs do not relate to the Petition for Judicial Review claim. (*Id.*)

21 However, Wellness agrees with Plaintiffs on this issue. Nearly all of Wellness’ costs have
22 nothing to do with the Petition for Judicial Review claim. The only cost that may relate to the
23 Petition for Judicial Review was Wellness’ Business Court Answer. (Wellness’ Memo, 2, Sep
24 21, 2020, on file.) However, Wellness was obligated to respond to Complaints that contained

26 ⁴ Although Rural Remedies’ joined the TGIG Plaintiffs and the Settling Plaintiffs’ Motions to Retax and
27 Settle Costs, Rural Remedies also filed Points and Authorities Re: Entry of Judgment and Costs arguing
28 that the Court should not impose costs against it because its case was severed. (Rural’s Points and
Authorities, Sep. 24, 2020, on file.) However, Rural Remedies is now collaterally estopped from
relitigating the same issues and should be bound by this Court’s ruling and also responsible for Wellness’
costs for the same reasons set forth in this Opposition.

multiple causes of action. Wellness' Answer to a Complaint that contains other allegations does not deprive it from its right to seek costs for such Answer. In regard to the remaining claimed costs, the Plaintiffs correctly point out that such costs do not relate to the Petition for Judicial Review.

As mentioned above, Wellness timely filed a Memorandum of Costs after this Court resolved all of the Plaintiffs' claims against Wellness in the Second and First phase of trial. Wellness' verified its Memorandum,

The costs itemized in this Memorandum of Costs are true and correct to the best of my knowledge and belief and were necessarily incurred in this lawsuit. More specifically, each of these costs itemized in this Memorandum of Costs was actually incurred and necessary in this action for the following reasons:

...

(Wellness' Memo, 6, Sep. 21, 2020, on file.) Wellness also attached supporting documentation for all of their costs and Plaintiffs do not attempt to call them into question aside from arguing that they do not relate to the Petition for Judicial Review. (*Id.*) In short, Plaintiffs do not challenge the reasonableness of Wellness' costs nor the adequacy of the evidence and documentation supporting those costs. Therefore, Wellness is entitled to recover its costs in defending this case through discovery and the Second Phase of trial.

III. CONCLUSION

For the foregoing reasons, Wellness respectfully requests this Court to deny Plaintiffs' Motions to Retax and Settle Costs and all Joinders thereto, and to award Wellness its costs enumerated in its Memorandum of Costs.

DATED this 8th day of October, 2020.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ L. Christopher Rose

L. CHRISTOPHER ROSE, ESQ.

KIRILL V. MIKHAYLOV, ESQ.

3800 Howard Hughes Parkway, Suite 1000

Las Vegas, NV 89169

Attorneys for Defendant

Wellness Connection of Nevada, LLC

Howard & Howard
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

CERTIFICATE OF SERVICE

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is Howard & Howard Attorneys PLLC, 3800 Howard Hughes Parkway, Suite 1000, Las Vegas, Nevada 89145.

On October 8, 2020, I served the **WELLNESS CONNECTION OF NEVADA, LLC'S OPPOSITION TO TGIG PLAINTIFFS AND SETTLING PLAINTIFFS' MOTIONS TO RETAX AND SETTLE COSTS AND ALL JOINDERS THERETO** in this action or proceeding electronically with the Clerk of the Court via the Odyssey E-File system and e-served the same on all parties listed on the Court's Master Service List.

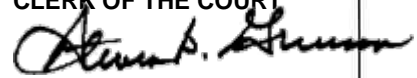
/s/ Julia M. Diaz

An employee of HOWARD & HOWARD ATTORNEYS PLLC

4810-5555-2206, v. 1

EXHIBIT 3

EXHIBIT 3



HOWARD & HOWARD ATTORNEYS PLLC

L. CHRISTOPHER ROSE, ESQ.

Nevada Bar No. 7500

KIRILL V. MIKHAYLOV, ESQ.

Nevada Bar No. 13538

3800 Howard Hughes Parkway, Suite 1000

Las Vegas, Nevada 89169

Telephone: 702.257.1483

Fax: 702.567.1568

lcr@h2law.com

kvm@h2law.com

Attorneys for Defendant

Wellness Connection of Nevada, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

In Re: D.O.T. Litigation,

CASE NO.: A-19-787004-B

DEPT NO.: XI

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

**MEMORANDUM OF COSTS OF
WELLNESS CONNECTION OF
NEVADA, LLC**

Howard & Howard
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

Filing Fees		\$ 1,490.00
02/12/20 Business Court Answer ¹	\$1,483.00	
11/13/19 Motion/Joinder E-filing	\$ 3.50	
12/11/19 Motion/Joinder E-filing	\$ 3.50	
Westlaw Legal Research ²		\$12,856.35
03/03/20	\$ 503.50	
04/01/20	\$ 407.55	
07/08/20	\$ 135.85	
07/10/20	\$1,182.75	
07/13/20	\$ 523.45	
07/14/20	\$ 251.75	
07/16/20	\$ 407.55	
07/18/20	\$2,832.90	
07/19/20	\$1,162.80	
07/22/20	\$1,572.25	
07/28/20	\$ 271.70	
07/31/20	\$ 135.85	
08/06/20	\$ 815.10	
08/16/20	\$2,517.50	
08/17/20	\$ 135.85	
Photocopies ³		\$ 312.00
Deposition and Transcript Fees ⁴		\$31,885.17
Video Deposition of Rino Tenorio	\$1,436.25	
Video and Transcript of Robert Potter	\$ 504.50	
Transcript of Steve Gilbert (Vol. 1)	\$1,682.35	
Transcript of Damon Hernandez	\$1,473.90	
Transcript of Integral (Yemenidjian)	\$1,300.35	
Transcript of Serenity (Sillitoe)	\$ 801.05	
Transcript of GBS (Viellion)	\$1,670.75	
Transcript of TGIG (Kouretas)	\$2,138.00	
Transcript of THC Nevada (Puliz)	\$1,312.90	
Transcript of Richard Elloyan	\$ 919.00	
Transcript of Duane Lemons	\$ 427.60	
Transcript of Danette Kleuver	\$1,487.07	
Transcript of Steve Gilbert (Vol. 2)	\$ 792.40	
Transcript of William Anderson	\$ 405.20	
Transcript of Natural Medicine (White/Mersha)	\$1,182.95	

¹ See Exhibit 1

² See Exhibit 2

³ See Exhibit 3

⁴ See Exhibit 4

1	Transcript of Nevadapure (Thomas)	\$2,578.17	
2	Transcript of Gravitas Nevada (Feldman/Thompson)	\$1,576.25	
3	Transcript of Fidelis (Stewart/Thompson)	\$1,504.60	
4	Transcript of Nevada Holistic (Sibley)	\$ 936.85	
5	Transcript of Inyo Fine (Goldwater)	\$1,873.58	
6	Transcript of Clark Natural (Bady) (Vol. 1)	\$ 676.00	
7	Transcript of Herbal Choice (Madrigal)	\$1,213.10	
8	Transcript of Clark Natural (Bady) (Vol. 2)	\$ 832.95	
9	Transcript of Rural Remedies (Ramos)	\$1,387.85	
10	Transcript of Medifarm (Nahass/Thompson)	\$1,771.55	
11	Messenger Service, Printing and Deliveries ⁵		\$ 1,165.92
12	02/21/20 Pick-Up/Delivery	\$ 65.00	
13	02/25/20 Pick-Up / Delivery	\$ 37.00	
14	02/27/20 Delivery	\$ 25.00	
15	03/06/20 Pick-up	\$ 52.00	
16	07/09/20 Copies, Binders.....	\$ 986.92	
17	Parking – Hearing and Trial Appearances		\$ 120.00
18	05/28/19 Hearing	\$ 6.00	
19	11/12/19 Hearing	\$ 15.00	
20	12/06/19 Hearing	\$ 6.00	
21	12/17/19 Hearing	\$ 9.00	
22	12/20/19 Hearing	\$ 6.00	
23	01/24/20 Hearing	\$ 6.00	
24	01/27/20 Hearing	\$ 12.00	
25	02/07/20 Hearing	\$ 6.00	
26	02/14/20 Hearing	\$ 6.00	
27	02/21/20 Hearing	\$ 6.00	
28	02/28/20 Hearing	\$ 12.00	
29	03/06/20 Hearing	\$ 15.00	
30	03/13/20 Hearing	\$ 15.00	
31	Witness Fees (cost split for Aguero, Holifield, Signeur and Smith) ⁶		\$ 235.00

///

///

///

///

⁵ See Exhibit 5

⁶ See Exhibit 6

Trial Costs ⁷	\$ 7,237.04
Trial Exhibits	\$ 161.57
Trial Transcript (Day 2)	\$2,000.25
07/28/20 Jury to Verdict Trial Services	\$1,882.14
08/09/20 Jury to Verdict Trial Services	\$1,564.28
08/23/20 Jury to Verdict Trial Services	\$1,628.80
TOTAL	\$55,301.48

DATED this 21st day of September, 2020.

HOWARD & HOWARD ATTORNEYS PLLC

L. CHRISTOPHER ROSE, ESQ.
KIRILL V. MIKHAYLOV, ESQ.
3800 Howard Hughes Parkway, Suite 1000
Las Vegas, NV 89169

Attorneys for Defendant
Wellness Connection of Nevada, LLC

⁷ See Exhibit 7

1. I am an attorney licensed to practice law in the state of Nevada. I was previously a partner at Jolley, Urga, Woodbury, Holthus & Rose (“JUWHS”), and joined Howard & Howard Attorneys PLLC (“H&H”) as a member on January 13, 2020, attorneys of record for Defendant Wellness Connection of Nevada, LLC (“Wellness”) in this action. I am and at all times have been the responsible attorney at JUWHS and H&H in charge of this case. I have personal knowledge of the facts stated in this Affidavit, except for those facts stated upon information and belief, and as to those matters, I believe them to be true. If called upon, I am competent to testify to the matters set forth herein.

2. Our office prepared an itemization of the costs necessarily incurred in this case. JUWHS and H&H's records of costs are stored in a computer database. It is JUWHS and H&H's practice to assign a file number to each case, and post costs and legal fees to that file number.

3. It is JUWHS and H&H's practice to code copying, facsimiles, and computerized legal research to a particular file number, and post the same electronically to the respective client's account. Charges for Federal Express, UPS, service of process, large copying jobs performed outside the offices of JUWHS and H&H, deposition transcripts, court reporter fees, and appearance fees are posted by the Accounting Departments to the file number of the case for which the respective invoices are received after the responsible attorney authorizes payment of the invoices. Witness fees and filing fees are posted by the Accounting Departments to the file number of the case on which a check is requested at the direction of the responsible attorney. The responsible attorney of JUWHS and H&H then reviews for accuracy the bills sent to the client on a monthly basis. All of these steps are taken to assure that the costs charged are accurate, i.e.,

1 reasonable and necessary.

2 4. The costs itemized in this Memorandum of Costs are true and correct to
3 the best of my knowledge and belief and were necessarily incurred in this lawsuit. More
4 specifically, each of the costs itemized in this Memorandum of Costs was actually
5 incurred and necessary in this action for the following reasons:

- 6 a. Filing Fees: Filing fees were incurred and necessary when responding to
7 the numerous Complaints, and filing and serving the multiple pleadings
8 and papers that were filed and served throughout this action;
- 9 b. Westlaw Legal Research: Westlaw legal research was necessary and
10 incurred in this action due to the various and unique legal issues presented.
11 That legal research resulted in locating case law and other authorities that
12 Wellness used throughout this case. Among other things, extensive legal
13 research was required to develop strategy in this unprecedented case and for
14 pleadings associated with Wellness' Trial Brief (August 17, 2020);
- 15 c. Photocopies: Charges for photocopies were necessarily incurred due to the
16 need for copies of pleadings, documents produced in discovery, deposition
17 exhibits, trial exhibits, and legal research;
- 18 d. Deposition and Trial Transcripts: Deposition transcripts were necessary
19 for the various depositions taken in this case. Further, hearing and trial
20 transcripts of the proceedings in district court were necessary to review the
21 Court's rulings for assisting in preparation of pleadings;
- 22 e. Messenger: Charges for a messenger service were necessarily incurred in
23 this action for delivering documents to and picking documents up from
24 either opposing counsel or to the courthouse;
- 25 f. Parking – Hearing and Trial Appearances: Costs for parking were
26 necessary and incurred in this action for counsel to attend the various court
27 hearings. Parking around the courthouse requires payment and some of
28 these costs were tracked and charged to the client; and

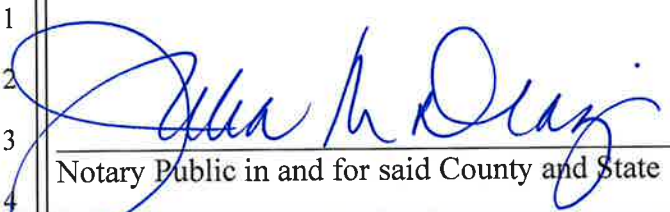
1 g. Legal CopyCats – Printing and Trial Books: This cost was necessarily
2 incurred in preparing exhibits and trial binders for the trial of this matter,
3 including multiple copies for Wellness’ counsel.

4 5. Based on the above, Wellness requests costs in the amount of \$55,301.48.

5 DATED this 21st day of September, 2020.

6
7
8 
L. CHRISTOPHER ROSE, ESQ.

9 SUBSCRIBED TO AND SWORN before me
10 this 21st of September, 2020.

11
12 
13 Notary Public in and for said County and State
14

CERTIFICATE OF SERVICE

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is Howard & Howard Attorneys PLLC, 3800 Howard Hughes Parkway, Suite 1000, Las Vegas, Nevada 89145.

On September 21, 2020, I served the **MEMORANDUM OF COSTS OF WELLNESS CONNECTION OF NEVADA, LLC** in this action or proceeding electronically with the Clerk of the Court via the Odyssey E-File system and e-served the same on all parties listed on the Court's Master Service List.

/s/ Julia M. Diaz

An employee of HOWARD & HOWARD ATTORNEYS PLLC

4819-4085-0123, v. 1

EXHIBIT 1

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
L. Christopher Rose

Receipt No.
2020-41137-CCCLK

Transaction Date
07/28/2020

Description	Amount Paid
Wellness Connection of Nevada LLC A-19-787004-B In Re: D.O.T. Litigation	
05BC Business Court Answer/Appear \$1,483	1,483.00
SUBTOTAL	1,483.00
Remaining Balance Due: \$0.00	

PAYMENT TOTAL **1,483.00**

Credit / Debit Card (Ref #020524) Tendered	1,483.00
Total Tendered	1,483.00
Change	0.00

07/28/2020
09:16 AM

Cashier
Station RJCC1

Audit
37591658

OFFICIAL RECEIPT

EXHIBIT 2

Recap of Cost Detail



All Entries ▼

Matter Number 118880.00003 ▾

Summary

Submit

☒ Sort by Date
 ☐ Sort by Timekeeper

☒ Date Worked

1/1/2020



to 9/21/2020


☐ Date Billed


to



First Column



Second Column



Invoice



1 2

Date	Timekeeper	Name / Invoice Number	Code	Rate	Quantity	Amount	Description
7/8/2020	0491	L. Christopher Rose	WEST	135.85	1.00	135.85	Online Research - Westlaw
8/7/2020		Invoice=660601		135.85	1.00	135.85	
7/9/2020	0491	L. Christopher Rose	COP	986.92	1.00	986.92	Copies - Legal Copy Cats & Printing
9/11/2020		Invoice=664292		986.92	1.00	986.92	Copies,
		Voucher=358663					Side Tabs and Binders
		Unpaid					Vendor=Legal Copy Cats & Printing
							Balance= 986.92 Amount=
							986.92
7/10/2020	0491	L. Christopher Rose	WEST	1,182.75	1.00	1,182.75	Online Research - Westlaw 7/10/20
8/7/2020		Invoice=660601		1,182.75	1.00	1,182.75	
7/13/2020	0491	L. Christopher Rose	WEST	523.45	1.00	523.45	Online Research - Westlaw 7/13/20
8/7/2020		Invoice=660601		523.45	1.00	523.45	
7/14/2020	0491	L. Christopher Rose	WEST	251.75	1.00	251.75	Online Research - Westlaw 7/14/20
8/7/2020		Invoice=660601		251.75	1.00	251.75	
7/16/2020	0491	L. Christopher Rose	WEST	407.55	1.00	407.55	Online Research - Westlaw 7/16/20
8/7/2020		Invoice=660601		407.55	1.00	407.55	
7/18/2020	0491	L. Christopher Rose	WEST	2,832.90	1.00	2,832.90	Online Research - Westlaw 7/18/20
8/7/2020		Invoice=660601		2,832.90	1.00	2,832.90	
7/19/2020	0491	L. Christopher Rose	WEST	1,162.80	1.00	1,162.80	Online Research - Westlaw 7/19/20
8/7/2020		Invoice=660601		1,162.80	1.00	1,162.80	
7/22/2020	0491	L. Christopher Rose	WEST	1,572.25	1.00	1,572.25	Online Research - Westlaw 7/22/20
8/7/2020		Invoice=660601		1,572.25	1.00	1,572.25	
7/28/2020	0491	L. Christopher Rose	FF	1,483.00	1.00	1,483.00	Filing fee
9/11/2020		Invoice=664292		1,483.00	1.00	1,483.00	Rose/Business Court Answer Fee
		Voucher=358896					Vendor=PNC Bank Balance= .00
		Paid					Amount= 45261.93
							Check #Visa0820 08/27/2020
7/28/2020	0491	L. Christopher Rose	WEST	271.70	1.00	271.70	Online Research - Westlaw 7/28/20
9/11/2020		Invoice=664292		271.70	1.00	271.70	
7/31/2020	0491	L. Christopher Rose	WEST	135.85	1.00	135.85	Online Research - Westlaw 7/31/20
9/11/2020		Invoice=664292		135.85	1.00	135.85	
8/6/2020	0491	L. Christopher Rose	WEST	815.10	1.00	815.10	Online Research - Westlaw
9/11/2020		Invoice=664292		815.10	1.00	815.10	
8/6/2020	0491	L. Christopher Rose	WEST	815.10	1.00	815.10	Online Research - Westlaw
9/11/2020		Invoice=664292		815.10	1.00	815.10	
8/16/2020	0491	L. Christopher Rose	WEST	2,517.50	1.00	2,517.50	Online Research - Westlaw 8/16/20
9/11/2020		Invoice=664292		2,517.50	1.00	2,517.50	
8/17/2020	0491	L. Christopher Rose	WEST	135.85	1.00	135.85	Online Research - Westlaw 8/17/20
9/11/2020		Invoice=664292		135.85	1.00	135.85	

BILLED TOTALS:		
WORK:	16,864.37	34 records
BILLED TOTALS:		
BILL:	16,864.37	
GRAND TOTAL:		
WORK:	16,864.37	34 records
GRAND TOTAL: BILL:	16,864.37	

EXHIBIT 3

Jolley Urga Woodbury & Holthus
12098-26001

Trans Desc	Trans Date	Price	Units/Hrs	Value	Write U/D	ExtAmt	Discount	Billed	Paid
Soft Cost									
Electronic Print	08/23/2019	0.25	24.00						
Electronic Print	11/12/2019	0.25	6.00						
Electronic Print	11/12/2019	0.25	6.00						
Electronic Print	11/12/2019	0.25	7.00						
Electronic Print	11/12/2019	0.25	6.00						
Electronic Print	11/12/2019	0.25	2.00						
Electronic Print	11/12/2019	0.25	2.00						
Electronic Print	11/12/2019	0.25	6.00						
Electronic Print	11/12/2019	0.25	6.00						
Electronic Print	12/04/2019	0.25	90.00						
Electronic Print	12/04/2019	0.25	110.00						
Electronic Print	12/04/2019	0.25	1.00						
Electronic Print	12/10/2019	0.25	23.00						
Electronic Print	12/12/2019	0.25	2.00						
Electronic Print	12/12/2019	0.25	1.00						
Electronic Print	12/12/2019	0.25	2.00						
Electronic Print	12/16/2019	0.25	6.00						
Electronic Print	12/16/2019	0.25	3.00						
Color Electronic Prints	12/16/2019	0.50	9.00						
	Soft Cost		312.00						
Hard Cost									
Parking at Court	05/28/2019	6.00	1.00	6.00	0.00	6.00	0.00	6.00	6.00
E-Filing / Clark County	11/13/2019	3.50	1.00	3.50	0.00	3.50	0.00	3.50	3.50
Deposition Fee- Video deposition Rino Tenorio vol 1	12/16/2019	1,436.25	1.00	1,436.25	0.00	1,436.25	0.00	1,436.25	1,436.25
E-Filing / Clark County	12/11/2019	3.50	1.00	3.50	0.00	3.50	0.00	3.50	3.50
Parking	11/12/2019	15.00	1.00	15.00	0.00	15.00	0.00	15.00	15.00
Parking	12/20/2019	6.00	1.00	6.00	0.00	6.00	0.00	6.00	6.00

EXHIBIT 4



Litigation
SERVICES

Discovery | Depositions | Trial

3770 Howard Hughes Pkwy.
Suite 300
Las Vegas, NV 89169
Phone: 800.330.1112
LitigationServices.com

Client Wellness Connection
Bill to Client Y N
Approved LCR
GL# 2098-26001

L. Christopher Rose, Esq.
Jolley, Urga, Woodbury, Holthus & Rose
330 S. Rampart Boulevard, Suite 380
Las Vegas, NV 89145

INVOICE

Invoice No.	Invoice Date	Job No.
1356020	12/16/2019	587944
Job Date	Case No.	
12/5/2019		
Case Name		
MM Development Company, Inc., et al. vs. State of Nevada, et al.		
Payment Terms		
Net 30		

One Certified Copy of the Video Deposition of:

Rino Tenorio-Volume I

1,436.25

TOTAL DUE >>> \$1,436.25

AFTER 1/15/2020 PAY \$1,579.88

Please note, disputes or refunds will not be honored or issued after 30 days

Tax ID: 27-5114755

Phone: 702-699-7500 Fax: 702-699-7555

Please detach bottom portion and return with payment.

L. Christopher Rose, Esq.
Jolley, Urga, Woodbury, Holthus & Rose
330 S. Rampart Boulevard, Suite 380
Las Vegas, NV 89145

Invoice No. : 1356020
Invoice Date : 12/16/2019
Total Due : \$1,436.25
AFTER 1/15/2020 PAY \$1,579.88

Remit To: **Litigation Services and Technologies of Nevada, LLC**
P.O. Box 98813
Las Vegas, NV 89193-8813

Job No. : 587944
BU ID : LV-CR
Case No. :
Case Name : MM Development Company, Inc., et al. vs. State of Nevada, et al.



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Alexandria Von Mohr
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1364344	1/31/2020	600016
Job Date	Case No.	
1/30/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

DVD Copy - Videography for:
Robert Potter (Video)

225.00

TOTAL DUE >>> \$225.00

AFTER 3/1/2020 PAY \$247.50

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 225.00

(+) Finance Charges/Debits: 22.50

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Alexandria Von Mohr
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1364344
Invoice Date : 1/31/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 600016
BU ID : LV-VID
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Alexandria Von Mohr
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1366410	2/12/2020	600015
Job Date	Case No.	
1/30/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:
Robert Potter

279.50
TOTAL DUE >>> \$279.50
AFTER 3/13/2020 PAY \$307.45

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 279.50
(+) Finance Charges/Debits: 27.95
(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Alexandria Von Mohr
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1366410
Invoice Date : 2/12/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 600015
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Alexandria Von Mohr
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1367212	2/14/2020	602728
Job Date	Case No.	
2/4/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:
Steve Gilbert

1,682.35

TOTAL DUE >>> \$1,682.35

AFTER 3/15/2020 PAY \$1,850.59

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,682.35

(+) Finance Charges/Debits: 168.24

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Alexandria Von Mohr
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1367212
Invoice Date : 2/14/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 602728
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1368000	2/18/2020	600383
Job Date	Case No.	
2/11/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Damon Hernandez

1,473.90

TOTAL DUE >>> \$1,473.90

AFTER 3/19/2020 PAY \$1,621.29

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,473.90

(+) Finance Charges/Debits: 147.39

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1368000
Invoice Date : 2/18/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 600383
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1370421	2/27/2020	603733
Job Date	Case No.	
2/17/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Armen Yemenidjian - 30(b)(6) of Integral Associates, LLC

1,300.35

TOTAL DUE >>> \$1,300.35

AFTER 3/28/2020 PAY \$1,430.39

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,300.35

(+) Finance Charges/Debits: 130.04

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1370421
Invoice Date : 2/27/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 603733
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1373861	3/16/2020	610825
Job Date	Case No.	
3/5/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

One Certified Copy of the Video Deposition of:
Benjamin Sillitoe

801.05

TOTAL DUE >>> \$801.05

AFTER 4/15/2020 PAY \$881.16

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 881.16

(+) Finance Charges/Debits: 0.00

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1373861
Invoice Date : 3/16/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 610825
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Karsen Bright, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1376708	3/30/2020	610815
Job Date	Case No.	
3/6/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Michael Viellion - 30(b)(6) of GBS Nevada Partners, LLC

Exhibits - b&w

Exhibits - Color

Digital Litigation Package

406.00	Pages	@	3.50	1,421.00
295.00	Pages	@	0.55	162.25
30.00	Pages	@	1.25	37.50
			50.00	50.00

TOTAL DUE >>> \$1,670.75

AFTER 4/29/2020 PAY \$1,837.83

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,670.75

(+) Finance Charges/Debits: 167.08

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Karsen Bright, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1376708
Invoice Date : 3/30/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 610815
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Karsen Bright, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1377019	3/30/2020	607211
Job Date	Case No.	
3/12/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:
Demetri Kouretas

2,138.00

TOTAL DUE >>> \$2,138.00

AFTER 4/29/2020 PAY \$2,351.80

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 2,138.00

(+) Finance Charges/Debits: 213.80

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Karsen Bright, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1377019
Invoice Date : 3/30/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 607211
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Karsen Bright, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1377380	3/31/2020	607006
Job Date	Case No.	
3/9/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Allen J. Puliz - 30(b)(6) THC Nevada, LLC

1,098.40

1 CERTIFIED COPY OF TRANSCRIPT OF:

Allen J. Puliz - 30(b)(6) THC Nevada, LLC - Confidential Portion

214.50

TOTAL DUE >>>

\$1,312.90

AFTER 4/30/2020 PAY

\$1,444.19

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,312.90

(+) Finance Charges/Debits: 131.29

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Karsen Bright, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1377380
Invoice Date : 3/31/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 607006
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1386982	6/25/2020	600396
Job Date	Case No.	
2/20/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:
Richard Elloyan

919.00
TOTAL DUE >>> \$919.00
AFTER 7/25/2020 PAY \$1,010.90

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 919.00
(+) Finance Charges/Debits: 91.90
(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1386982
Invoice Date : 6/25/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 600396
BU ID : LV-CRO
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1386981	6/25/2020	605184
Job Date	Case No.	
2/21/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:
Duane Lemons

427.60

TOTAL DUE >>> \$427.60

AFTER 7/25/2020 PAY \$470.36

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 427.60

(+) Finance Charges/Debits: 42.76

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1386981
Invoice Date : 6/25/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 605184
BU ID : LV-CRO
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1387019	6/25/2020	598155
Job Date	Case No.	
1/28/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Danette Kluever

1,487.07

TOTAL DUE >>> **\$1,487.07**

AFTER 7/25/2020 PAY \$1,635.78

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,487.07

(+) Finance Charges/Debits: 148.71

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1387019
Invoice Date : 6/25/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 598155
BU ID : LV-CRO
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1389417	7/9/2020	632306
Job Date	Case No.	
7/2/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Steve Gilbert Vol II

792.40

1 CERTIFIED COPY OF TRANSCRIPT OF:

William Anderson

405.20

TOTAL DUE >>> \$1,197.60

AFTER 8/8/2020 PAY \$1,317.36

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,197.60

(+) Finance Charges/Debits: 119.76

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1389417
Invoice Date : 7/9/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 632306
BU ID : LV-CRO
Case No. :
Case Name : In Re: D.O.T. Litigation



LIT Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1391498	7/20/2020	645112
Job Date	Case No.	
7/16/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

^DOT Trial Exhibits

146.88

TOTAL DUE >>>

\$146.88

AFTER 8/19/2020 PAY

\$161.57

Invoice Represents Pro Rata Share for Total cost based on Exhibits Represented

Your Client: Wellness Connection of Nevada, LLC

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 0.00

(+) Finance Charges/Debits: 14.69

(=) New Balance: **\$161.57**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1391498
Invoice Date : 7/20/2020
Total Due : \$ 161.57

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 645112
BU ID : LV-TRIAL
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394891	8/6/2020	609214
Job Date	Case No.	
3/9/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Tia White & Endalkachew Mersha - 30(b)(6) of Natural Medicine

1,182.95

TOTAL DUE >>>

\$1,182.95

AFTER 9/5/2020 PAY

\$1,301.25

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,182.95

(+) Finance Charges/Debits: 118.30

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394891
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 609214
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394879	8/6/2020	607206
Job Date	Case No.	
3/10/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

David Thomas - 30(b)(6) of Nevadapure, LLC

2,578.17

TOTAL DUE >>> **\$2,578.17**

AFTER 9/5/2020 PAY \$2,835.99

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 2,578.17

(+) Finance Charges/Debits: 257.82

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394879
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 607206
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394875	8/6/2020	607106
Job Date	Case No.	
3/4/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Barry Fieldman - 30(b)(6) for Gravitas Nevada, Ltd, LLC

948.80

1 CERTIFIED COPY OF TRANSCRIPT OF:

Jeremy Thompson, Esq.- 30(b)(6) for Gravitas Nevada, Ltd, LLC

627.45

TOTAL DUE >>>

\$1,576.25

AFTER 9/5/2020 PAY

\$1,733.88

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits:

1,576.25

(+) Finance Charges/Debits:

157.63

(=) New Balance:

\$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394875
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 607106
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394884	8/6/2020	607180
Job Date	Case No.	
3/2/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Daniel Stewart, Esq. - Fidelis

1,172.45

1 CERTIFIED COPY OF TRANSCRIPT OF:

Jeremy Thompson, Esq. - Fidelis

332.15

TOTAL DUE >>>

\$1,504.60

AFTER 9/5/2020 PAY

\$1,655.06

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits:

1,504.60

(+) Finance Charges/Debits:

150.46

(=) New Balance:

\$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394884
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 607180
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394880	8/6/2020	634475
Job Date	Case No.	
6/25/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:
Scott Sibley-30(b)(6) of Nevada Holistic

936.85

TOTAL DUE >>> **\$936.85**
AFTER 9/5/2020 PAY \$1,030.54

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 936.85
(+) Finance Charges/Debits: 93.69
(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394880
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 634475
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394886	8/6/2020	632459
Job Date	Case No.	
6/11/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

Original and One Certified Copy of the Video Deposition of:
David Goldwater - 30(b)(6) of Inyo Fine Cannabis Dispensary, LLC.

1,873.58

TOTAL DUE >>> **\$1,873.58**
AFTER 9/5/2020 PAY \$2,060.94

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,387.85
(+) Finance Charges/Debits: 187.36
(=) New Balance: \$673.09

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394886
Invoice Date : 8/6/2020
Total Due : \$ 673.09

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 632459
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394889	8/6/2020	608169
Job Date	Case No.	
3/9/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Dr. Pejman Bady - 30(b)(6) for Clark Natural Medicinal Solutions -
Volume I

676.00

TOTAL DUE >>> \$676.00

AFTER 9/5/2020 PAY \$743.60

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 676.00

(+) Finance Charges/Debits: 67.60

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394889
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 608169
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394893	8/6/2020	611462
Job Date	Case No.	
3/3/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Norberto Madrigal - 30(b)(6) Herbal Choice Inc.

1,213.10

TOTAL DUE >>> **\$1,213.10**

AFTER 9/5/2020 PAY \$1,334.41

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,213.10

(+) Finance Charges/Debits: 121.31

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394893
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 611462
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394890	8/6/2020	613337
Job Date	Case No.	
3/10/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Dr. Pejman Bady - 30(b)(6) for Clark Natural Medicinal Solutions -
Volume II

832.95

TOTAL DUE >>> \$832.95

AFTER 9/5/2020 PAY \$916.25

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 832.95

(+) Finance Charges/Debits: 83.30

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394890
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 613337
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394896	8/6/2020	609211
Job Date	Case No.	
3/10/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

Joseph Ramos, M.D. - 30(b)(6) of Rural Remedies, LLC

1,387.85

TOTAL DUE >>>

\$1,387.85

AFTER 9/5/2020 PAY

\$1,526.64

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,387.85

(+) Finance Charges/Debits: 138.79

(=) New Balance: **\$0.00**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394896
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 609211
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1394903	8/6/2020	607194
Job Date	Case No.	
3/5/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

1 CERTIFIED COPY OF TRANSCRIPT OF:

30(b)(6) Medifarm LLC- Michael 1,382.85

1 CERTIFIED COPY OF TRANSCRIPT OF:

30(b)(6) Medifarm LLC- Jeremy 388.70

TOTAL DUE >>> \$1,771.55

AFTER 9/5/2020 PAY \$1,948.71

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 1,771.55

(+) Finance Charges/Debits: 177.16

(=) New Balance: \$0.00

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1394903
Invoice Date : 8/6/2020
Total Due : \$ 0.00

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 607194
BU ID : LV-CR
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1396715	8/17/2020	645834
Job Date	Case No.	
7/20/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

Transcript of Proceedings:

Trial, Day 2 - Unofficial Copy

2,000.25

TOTAL DUE >>> \$2,000.25

AFTER 9/16/2020 PAY \$2,200.28

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 0.00

(+) Finance Charges/Debits: 200.03

(=) New Balance: \$2,200.28

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1396715
Invoice Date : 8/17/2020
Total Due : \$ 2,200.28

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 645834
BU ID : LV-TRIAL
Case No. :
Case Name : In Re: D.O.T. Litigation

EXHIBIT 5



Molasky Corporate Center
100 City Parkway, Suite 150
Las Vegas, NV 89106

Invoice

Office) 702.598.4455 • Fax) 702.998.0346
www.legalcopycats.com

Bill To
Howard & Howard Attorneys, LLP Attn: Barbara Dunn 3800 H. Hughes Pkwy., Ste. 1000 Las Vegas, NV 89169

Date	Invoice #
2/21/2020	65240

Client Name		Terms	Case or Matter No.
Anya		10 Days/EOM	File 118880-3
Quantity	Description	Amount	
1	Pick up Signature Page - Area B	25.00	
Total			\$25.00

QC'd By

MD

QC'd By
MD



Molasky Corporate Center
100 City Parkway, Suite 150
Las Vegas, NV 89106

Invoice

Office) 702.598.4455 • Fax) 702.998.0346
www.legalcopycats.com

Bill To

Howard & Howard Attorneys, LLP
Attn: Barbara Dunn
3800 H. Hughes Pkwy., Ste. 1000
Las Vegas, NV 89169

Date

2/25/2020

Invoice #

65245

Client Name

Anya

Terms

10 Days/EOM

Case or Matter No.

File 118880-3

Quantity**Description****Amount**

1 Deliver SAO to Extend Exp Disclosure - Area B
1 Rush

25.00
12.00

Total

\$37.00

QC'd By

MD



Molasky Corporate Center
100 City Parkway, Suite 150
Las Vegas, NV 89106

Invoice

Office) 702.598.4455 • Fax) 702.998.0346
www.legalcopycats.com

Bill To
Howard & Howard Attorneys, LLP 3800 H. Hughes Pkwy. Ste. 1000 Las Vegas, NV 89169

Date	Invoice #
7/9/2020	90400

Client Name		Terms	Case or Matter No.
Julia		10 Days/EOM	118880.3
Quantity	Description	Amount	
2,818	B/W COPIES LEVEL 2	450.88T	
446	COLOR LASER COPIES, LETTER OR LEGAL	441.54T	
50	SIDE TABS	22.50T	
4	BINDERS	72.00T	
	Out-of-state sale, exempt from sales tax	0.00	
Total			\$986.92
QC'd By			
JP			

EXHIBIT 6

H1 LAW GROUP
701 N GREEN VALLEY PKWY, STE 200
HENDERSON, NV 89074
(702) 608-3720 P.
H1 LAW GROUP.COM
JOEL SCHWARZ
JOEL@H1LAWGROUP.COM

May 11, 2020

Via Email

Todd Bice (tlb@pisanellibice.com)	Jared Kahn (jkahn@jk-legalconsulting.com)
Jordan Smith (jts@pisanellibice.com)	David Koch (dkoch@kochscow.com)
Dennis Prince (dprince@thedplg.com)	Brody Wight (bwight@kochscow.com)
Joseph Gutierrez (jag@mgalaw.com)	Rusty Graf (rgraf@blacklobello.law)
Maggie McCletchie (maggie@nvlitigation.com)	Brigid Higgins (bhiggins@blacklobello.law)
Alina Shell (alina@nvlitigation.com)	Jennifer Braster (jbraster@nblawnv.com)
Christopher Rose (lcr@h2law.com)	Andrew Sharples (asharples@nblawnv.com)
Kirill Mikhaylov (kvm@h2law.com)	

RE: *In Re: D.O.T. Litigation, Case No. A-19-787004-B*
Expert Witness Cost Splitting

Counsel:

This letter follows my communication to each of you dated April 29, 2020 as it relates to the cost splitting of expert depositions. As of today, we have only heard back from the State of Nevada. Therefore, we have taken the liberty of breaking down the expert invoices among the remaining ten (10) defense firms (excluding the State of Nevada) and have included herewith copies of the invoices and W-9's for each of the four experts. As you will see, the amounts due and owing by each firm is noted in a red box on the invoices.

<u>Name of Expert</u>	<u>Invoice Total</u>	<u>Cost Split</u>
Jeremy Aguero	\$900.00	\$90.00 Per Firm
Larry Holifield	\$500.00	\$50.00 Per Firm
Ron Seigneur	\$820.00	\$82.00 Per Firm
Greg Smith	\$130.00	\$13.00 Per Firm
TOTAL:	\$2,350.00	\$235 Per Firm

Our office is currently submitting our prorated share of these expert costs to Clark Hill and we are asking that your offices place them in line for payment at your earliest convenience. Thank you in advance for your prompt attention and cooperation in this regard.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joel Schwarz', with a large, sweeping flourish extending to the right.

Joel Schwarz
H1 LAW GROUP

Invoice

BILL TO
Mr. Dominic Gentile, Member Clark Hill, PLC 3800 Howard Hughes Pkwy., Suite 500 Las Vegas, NV 89169

DATE	INVOICE #
4/26/2020	CHA042620

DESCRIPTION	AMOUNT
Professional Consulting Services: Nevada Marijuana Licensing Matter - Two-Hour Deposition Fees for Jeremy Aguero, Principal	900.00
<p>Split by 10 firms = \$90.00 Each DUE UPON RECEIPT</p>	
Invoice Total	\$900.00

INVOICE

Corporate Integrity Services LLC

5846 S. Flamingo Rd. #3170

Cooper City, FL 33330-3206

INVOICE #1969

DATE: 4/30/2020

TO: TANYA BAIN
TBAIN@CLARKHILL.COM

RE: DOT LITIGATION

DESCRIPTION	HOURS	RATE	AMOUNT
May 12, 2020: Deposition of Larry Holifield.	2	\$250	\$500
Split by 10 firms = \$50.00 Each - DUE UPON RECEIPT			
Please make payment to Corporate Integrity Services at the address listed above.			
TOTAL			\$500.00



CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS
Beyond the Number\$

940 Wadsworth Boulevard, Suite 200
Lakewood, CO 80214
303-980-1111

Clark Hill
c/o Dominic Gentile, Esq.
3800 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169

Invoice No. 516995

Date 04/27/2020
Client# 69999-94.01

PROFESSIONAL SERVICES:

SERVICE	AMOUNT
Two hours of deposition time (\$410/hr.) for Ronald Seigneur on May 8th, 2020.	\$ 820.00
Previously Due	<u>0.00</u>
Total Amount Due (This Invoice)	\$ <u>820.00</u>

Split by 10 firms - \$82.00 Each - DUE UPON RECEIPT

**Pursuant to the disclosures in our retention contract and and on Mr. Seigneur's Rule 26 CV, depositions require a 4 hour minimum deposit in advance of the deposition. It is understood that this advance deposit will only allow for 2 hours of deposition time unless an additional retainer is funded in advance.*

We accept Visa, MasterCard, Discover and American Express for your convenience.
We appreciate your business.

Greg Smith

INVOICE

3919 Timberline Drive
Carson City, Nevada 89703
Phone: (775) 720-2390
Email: gm_smith1@outlook.com

INVOICE # 0002

DATE 4/24/2020

TO

Ross Miller

CLARK HILL PLLC

3800 Howard Hughes Parkway, Suite 500 | Las Vegas, Nevada
89169

(702) 697-7513 (direct) | (702) 862-8400 (fax)

rmiller@ClarkHill.com | www.clarkhill.com

FOR Hourly Services

Description	Amount
5-14-20 Deposition (2 hrs @ \$65)	\$130.00
TOTAL DUE	\$130.00

Notes:

Split by 10 firms = \$13.00 Each - DUE UPON RECEIPT

Please Make All Checks Payable To: **Greg Smith**

Payment is due within 30 days.

If you have any questions concerning this invoice, contact

Greg Smith | (775) 720-2390 | gm_smith1@outlook.com

THANK YOU FOR YOUR BUSINESS!

EXHIBIT 7

INVOICE



Litigation
SERVICES

Discovery | Depositions | Trial

3770 Howard Hughes Prkwy.
Suite 300
Las Vegas, NV 89169
Phone: 800.330.1112
LitigationServices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No.	Invoice Date	Job No.
1391498	7/20/2020	645112
Job Date	Case No.	
7/16/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

^DOT Trial Exhibits

146.88

TOTAL DUE >>> **\$146.88**

AFTER 8/19/2020 PAY \$161.57

Invoice Represents Pro Rata Share for Total cost based on Exhibits Represented

Your Client: Wellness Connection of Nevada, LLC

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 0.00

(+) Finance Charges/Debits: 0.00

(=) New Balance: **\$146.88**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1391498
Invoice Date : 7/20/2020
Total Due : \$ 146.88

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 645112
BU ID : LV-TRIAL
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1391498	7/20/2020	645112
Job Date	Case No.	
7/16/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

^DOT Trial Exhibits

146.88

TOTAL DUE >>>

\$146.88

AFTER 8/19/2020 PAY

\$161.57

Invoice Represents Pro Rata Share for Total cost based on Exhibits Represented

Your Client: Wellness Connection of Nevada, LLC

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 0.00

(+) Finance Charges/Debits: 14.69

(=) New Balance: **\$161.57**

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Julia M. Diaz
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1391498
Invoice Date : 7/20/2020
Total Due : \$ 161.57

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 645112
BU ID : LV-TRIAL
Case No. :
Case Name : In Re: D.O.T. Litigation



Litigation
SERVICES

3960 Howard Hughes Pkwy
Suite 700
Las Vegas, NV 89169
Phone: 800.330.1112
litigationservices.com

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

INVOICE

Invoice No.	Invoice Date	Job No.
1396715	8/17/2020	645834
Job Date	Case No.	
7/20/2020		
Case Name		
In Re: D.O.T. Litigation		
Payment Terms		
Net 30		

Transcript of Proceedings:

Trial, Day 2 - Unofficial Copy

2,000.25

TOTAL DUE >>> \$2,000.25

AFTER 9/16/2020 PAY \$2,200.28

Please note, disputes or refunds will not be honored or issued after 30 days

(-) Payments/Credits: 0.00

(+) Finance Charges/Debits: 200.03

(=) New Balance: \$2,200.28

Tax ID: 27-5114755

Phone: 702-257-1483 Fax: 702-567-1568

Please detach bottom portion and return with payment.

Kirill Maikhaylov, Esq.
Howard & Howard
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, NV 89169

Invoice No. : 1396715
Invoice Date : 8/17/2020
Total Due : \$ 2,200.28

Remit To: **Litigation Services and Technologies of
Nevada, LLC
P.O. Box 98813
Las Vegas, NV 89193-8813**

Job No. : 645834
BU ID : LV-TRIAL
Case No. :
Case Name : In Re: D.O.T. Litigation



Jury to Verdict Trial Services

10620 Southern Highlands Pkwy.
Suite 110-208
Las Vegas, NV 89141
702-375-2538

Invoice

Date	Invoice #
7/28/2020	2019-2087

Howard & Howard
L. Christopher Rose, Esq.
3800 Howard Hughes Pkwy.
Wells Fargo Tower, Ste. 1000
Las Vegas, NV 89169-5980

Case	Terms
Dept. of Taxation	Due on receipt

Quantity	Description	Rate	Amount
5	7/10/20-Set up courtroom at Covention Center	100.00	500.00
9.5	7/13/20-Trial-David Pope	150.00	1,425.00
2	7/14/20-Hearing prep/setup and hearing	150.00	300.00
7	7/14/20-Fixing exhibits and videos	100.00	700.00
1.5	7/14/20-Prep videos for opening	100.00	150.00
5	7/15/20-Opening prep	100.00	500.00
1.5	7/16/20-Opening (suspended)	150.00	225.00
3.5	7/16/20-Video clips for opening	100.00	350.00
9.5	7/17/20-Opening/Video of Arbelaez	150.00	1,425.00
2	7/18/20-Prep exhibits	100.00	200.00
9	7/20/20-Hooks/Borhani (read)/Kellee Jesse (read)/Lucy Flores (video)	150.00	1,350.00
3	7/20/20-Prep exhibits	100.00	300.00
9	7/21/20-Amanda Connor	150.00	1,350.00
2	7/21/20-Prep exhibits	100.00	200.00
9	7/22/20-Connor/Steven Gilbert	150.00	1,350.00
1.5	7/22/20-Prep exhibits	100.00	150.00
9	7/23/20-Gilbert/Randy Black/Damon Hernandez	150.00	1,350.00
9	7/24/20-Hernandez/Kara Cronkhite	150.00	1,350.00
1	Less balance owed by 6 other parties	-11,292.86	-11,292.86

Thank you for your business.
brian@jurytoverdict.com

Balance Due \$1,882.14



Jury to Verdict Trial Services

10620 Southern Highlands Pkwy.

Suite 110-208

Las Vegas, NV 89141

702-375-2538

Invoice

Date	Invoice #
8/9/2020	2020-2095

Howard & Howard
L. Christopher Rose, Esq.
3800 Howard Hughes Pkwy.
Wells Fargo Tower, Ste. 1000
Las Vegas, NV 89169-5980

Case	Terms
Dept. of Taxation	Due on receipt

Quantity	Description	Rate	Amount
9	7/27/20-Plaskon	150.00	1,350.00
9	7/28/20-Video of Elloyan/Video of Kluever	150.00	1,350.00
9	7/29/20-Video of Kluever/Video of Lemons	150.00	1,350.00
7	7/30/20-Video of Lemons/Video of Contine/Read/Armen/Yemenidjian	150.00	1,050.00
4.5	7/31/20-Hearing/Holifield	150.00	675.00
7.5	8/3/20-Keith Capurra/Jorge Pupo	150.00	1,125.00
9	8/4/20-Ron Seigneur/Jorge Pupo	150.00	1,350.00
9	8/5/20-Jorge Pupo/Greg Smith/Allan Puliz	150.00	1,350.00
9	8/6/20-Allan Puliz/Cronkhite/Video of William Anderson	150.00	1,350.00
1	Less amounts charged to other parties	-9,385.72	-9,385.72

Thank you for your business.
brian@jurytoverdict.com

Balance Due \$1,564.28



Jury to Verdict Trial Services

10620 Southern Highlands Pkwy.
Suite 110-208
Las Vegas, NV 89141
702-375-2538

Invoice

Date	Invoice #
8/23/2020	2020-2103

Howard & Howard
L. Christopher Rose, Esq.
3800 Howard Hughes Pkwy.
Wells Fargo Tower, Ste. 1000
Las Vegas, NV 89169-5980

Case	Terms
DOT	Due on receipt

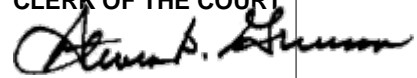
Quantity	Description	Rate	Amount
7	8/10/20-Mitchell Britten/Jeremy Aguero	150.00	1,050.00
4	8/10/20-Video Clips Nahass/Stewart/Thompson (Gravitas)/Thomas/Fieldman/Thompson (Fidelis)	100.00	400.00
5	8/10/20-Sillitoe/Viellion/Sibley Videos	100.00	500.00
1.5	8/11/20-Videos Nahass/Madriral	100.00	150.00
9	8/11/20-Hearing/Kouretas/Video Nahass, Stewart, Sillitoe, Sibley	150.00	1,350.00
7	8/11/20-Fix videos Dave Thomas/White clips/Mersha clips	100.00	700.00
4.5	8/12/20-Video Dave Thomas/Madriral video/Thompson (Fidelis) video/Kara Cronkhite/Read Ritter	150.00	675.00
5	8/15/20-Closing prep	100.00	500.00
5	8/16/20-Closing prep	100.00	500.00
9	8/17/20-Closing	150.00	1,350.00
4.5	8/18/20-Closing	150.00	675.00
4	8/19/20-Break down court room	100.00	400.00
1	Exhibit Coverations	300.00	300.00
1	Equipment	2,851.58	2,851.58
1	Amounts paid by other parties	-9,772.78	-9,772.78

Thank you for your business.
brian@jurytoverdict.com

Balance Due \$1,628.80

EXHIBIT 4

EXHIBIT 4



1 **MEMC**

2 **H1 LAW GROUP**

3 Eric D. Hone, NV Bar No. 8499

eric@h1lawgroup.com

4 Joel Z. Schwarz, NV Bar No. 9181

joel@h1lawgroup.com

5 Jamie L. Zimmerman, NV Bar No. 11749

jamie@h1lawgroup.com

6 Moorea L. Katz, NV Bar No. 12007

moorea@h1lawgroup.com

7 701 N. Green Valley Parkway, Suite 200

Henderson, NV 89074

8 Phone 702-608-3720

9 Fax 702-703-1063

10 *Attorneys for Defendant/Intervenor*

11 *Lone Mountain Partners, LLC*

12 **EIGHTH JUDICIAL DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 In Re: D.O.T. Litigation,

Case No. A-19-787004-B

Consolidated with A-785818

A-786357

A-786962

A-787035

A-787540

A-787726

A-801416

Dept. No. XI

17 **LONE MOUNTAIN PARTNERS, LLC'S**
18 **MEMORANDUM OF COSTS**
19 **PURSUANT TO NRS 18.110**

20 Pursuant to Nevada Revised Statutes ("NRS") 18.005 and 18.110, Defendant/Intervenor

21 Lone Mountain Partners, LLC ("LMP"), by and through counsel, the law firm of H1 Law Group,

22 hereby claims the following costs:

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///





Clerk Filing Fees Per NRS 18.005(1)¹

\$ 7,944.36

DATE PAID	COURT FILING FEES	AMOUNT
03/22/2019	Envelope Receipt 4034863	\$ 3.50
03/25/2019	Envelope Receipt 4038434	\$ 3.50
03/28/2019	Envelope Receipt 4060608	\$ 3.50
04/03/2019	Envelope Receipt 4086766	\$ 3.50
04/10/2019	Envelope Receipt 4125443	\$ 3.50
04/17/2019	Envelope Receipt 4160639	\$ 3.50
04/17/2019	Envelope Receipt 4159906	\$ 3.50
04/17/2019	Envelope Receipt 4159906	\$ 3.50
04/17/2019	Envelope Receipt 4160639	\$ 3.50
04/23/2019	Envelope Receipt 4189818	\$ 3.50
05/11/2019	Envelope Receipt 4279701	\$ 3.50
05/13/2019	Envelope Receipt 4294393	\$ 3.50
05/13/2019	Envelope Receipt 4283485	\$ 3.50
05/20/2019	Envelope Receipt 4325161	\$ 3.50
05/24/2019	Envelope Receipt 4346910	\$ 3.50
06/05/2019	Envelope Receipt 4401871	\$ 233.19
06/05/2019	Envelope Receipt 4402212	\$ 233.19
06/07/2019	Envelope Receipt 4412294	\$ 233.19
06/11/2019	Envelope Receipt 4428698	\$ 3.50
07/45/2019	Envelope Receipt 4551200	\$ 3.50
07/22/2019	Envelope Receipt 4629315	\$ 3.50
07/30/2019	EJDC Receipt No. 201946422-CCCLK	\$ 1,260.00
08/15/2019	Envelope Receipt 4753057	\$ 3.50
08/25/2019	Envelope Receipt 4806929	\$ 3.50
08/27/2019	Envelope Receipt 4808376	\$ 3.50
08/28/2019	Envelope Receipt 4821972	\$ 3.50
08/28/2019	Envelope Receipt 4821972	\$ 3.50
08/28/2019	Envelope Receipt 4823669	\$ 3.50
09/27/2019	Envelope Receipt 4976897	\$ 28.22
09/27/2019	Envelope Receipt 4977793	\$ 3.50
09/27/2019	Envelope Receipt 4977793	\$ 3.50
09/27/2019	Envelope Receipt 4976897	\$ 28.22
10/02/2019	Supreme Court of Nevada	\$ 250.00
10/03/2019	Envelope Receipt 5003312	\$ 3.50
10/03/2019	Envelope Receipt 5003264	\$ 3.50
10/03/2019	Envelope Receipt 5004569	\$ 3.50
10/03/2019	Envelope Receipt 5006102	\$ 3.50
10/05/2019	EJDC Receipt No. 2019-61473-CCCLK	\$ 500.00
10/10/2019	Envelope Receipt 5040794	\$ 3.50
10/17/2019	Envelope Receipt 5077478	\$ 3.50
10/24/2019	Envelope Receipt 5112136	\$ 3.50
10/28/2019	Envelope Receipt 5121467	\$ 3.50
10/28/2019	Envelope Receipt 5121537	\$ 3.50
11/12/2019	Envelope Receipt 5197523	\$ 3.50
11/12/2019	Envelope Receipt 5197966	\$ 3.50
11/15/2019	Envelope Receipt 5217954	\$ 3.50
11/25/2019	Envelope Receipt 5262643	\$ 3.50
12/10/2019	Envelope Receipt 5325447	\$ 3.50



DATE PAID	COURT FILING FEES	AMOUNT
12/11/2019	Envelope Receipt 5332107	\$ 3.50
12/12/2019	Envelope Receipt 5341257	\$ 3.50
12/12/2019	Envelope Receipt 5337110	\$ 3.50
01/09/2020	Envelope Receipt 5455077	\$ 3.50
02/04/2020	Envelope Receipt 5600379	\$ 3.50
02/11/2020	Envelope Receipt 5617950	\$ 223.19
02/13/2020	Envelope Receipt 5635155	\$ 3.50
02/20/2020	Envelope Receipt 5668463	\$ 3.50
03/04/2020	Envelope Receipt 5737428	\$ 3.50
03/06/2020	Envelope Receipt 5754264	\$ 3.50
03/06/2020	Envelope Receipt 5848218	\$ 3.50
03/18/2020	Envelope Receipt 5814724	\$ 3.50
03/22/2020	Envelope Receipt 5832103	\$ 3.50
03/29/2020	Envelope Receipt 5865167	\$ 209.50
04/01/2020	Envelope Receipt 5871763	\$ 3.50
04/02/2020	Envelope Receipt 5882348	\$ 3.50
04/14/2020	Envelope Receipt 5926003	\$ 3.50
04/19/2020	Envelope Receipt 5949871	\$ 3.50
04/19/2020	Envelope Receipt 5949848	\$ 3.50
04/19/2020	Envelope Receipt 5949835	\$ 3.50
04/19/2020	Envelope Receipt 5949816	\$ 3.50
04/19/2020	Envelope Receipt 5949796	\$ 3.50
04/19/2020	Envelope Receipt 5949561	\$ 3.50
04/19/2020	Envelope Receipt 5947892	\$ 3.50
04/24/2020	Envelope Receipt 5966709	\$ 3.50
05/03/2020	Envelope Receipt 6004359	\$ 3.50
05/03/2020	Envelope Receipt 6004383	\$ 3.50
05/07/2020	Envelope Receipt 6020839	\$ 3.50
05/14/2020	Envelope Receipt 6054390	\$ 209.50
05/14/2020	Envelope Receipt 6054625	\$ 209.50
05/14/2020	Envelope Receipt 6054690	\$ 209.50
05/14/2020	Envelope Receipt 6054742	\$ 209.50
05/14/2020	Envelope Receipt 6054776	\$ 209.50
05/14/2020	Envelope Receipt 6054804	\$ 209.50
06/07/2020	Envelope Receipt 6142493	\$ 3.50
06/28/2020	Envelope Receipt 6241896	\$ 3.50
07/01/2020	Envelope Receipt 6250629	\$ 3.50
07/02/2020	Envelope Receipt 6260869	\$ 3.50
07/02/2020	Envelope Receipt 6266968	\$ 223.19
07/02/2020	Envelope Receipt 6266728	\$ 223.19
07/02/2020	Envelope Receipt 6266906	\$ 223.19
07/02/2020	Envelope Receipt 6266852	\$ 223.19
07/03/2020	Envelope Receipt 6267562	\$ 3.50
07/03/2020	Envelope Receipt 6267562	\$ 3.50
07/03/2020	Envelope Receipt 6268915	\$ 3.50
07/03/2020	Envelope Receipt 6264180	\$ 3.50
07/03/2020	Envelope Receipt 6266968	\$ 233.19
07/03/2020	Envelope Receipt 6266906	\$ 233.19
07/03/2020	Envelope Receipt 6266852	\$ 233.19
07/03/2020	Envelope Receipt 6266728	\$ 233.19



DATE PAID	COURT FILING FEES	AMOUNT	
07/06/2020	Envelope Receipt 6275957	\$ 223.19	
07/06/2020	Envelope Receipt 6275393	\$ 223.19	
07/07/2020	Envelope Receipt 6278864	\$ 223.19	
07/07/2020	Envelope Receipt 6277709	\$ 3.50	
07/07/2020	Envelope Receipt 6275957	\$ 233.19	
07/07/2020	Envelope Receipt 6275393	\$ 233.19	
07/08/2020	Envelope Receipt 6281379	\$ 3.50	
07/08/2020	Envelope Receipt 6278864	\$ 233.19	
07/09/2020	Envelope Receipt 6291698	\$ 3.50	
07/26/2020	Envelope Receipt 6372505	\$ 3.50	
07/31/2020	Envelope Receipt 6396872	\$ 3.50	
08/02/2020	Envelope Receipt 6402188	\$ 3.50	
08/11/2020	Envelope Receipt 6448271	\$ 3.50	
08/16/2020	Envelope Receipt 6473188	\$ 3.50	
08/18/2020	Envelope Receipt 6478064	\$ 3.50	
08/25/2020	Envelope Receipt 6517841	\$ 3.50	
	TOTAL	\$ 7,944.36	
Reporters' Fees for Depositions and Transcripts Per NRS 18.005(2) ²			\$ 20,877.12
DATE PAID	DEPOSITION TRANSCRIPTS	AMOUNT	
11/05/2019	Litigation Services Invoice 1349664 Deposition Marcel Chmiel	\$ 817.15	
02/03/2020	Litigation Services Invoice 1356013 Deposition-Rino Tenorio-Volume I	\$ 1,436.25	
02/18/2020	Litigation Services Invoice 1368004 Deposition-Damon Hernandez	\$ 1,473.90	
02/20/2020	Litigation Services Invoice 1368609 Deposition-Danette Kluever	\$ 1,487.07	
03/04/2020	Litigation Services Invoice 1371760 Deposition-Duane Lemons	\$ 398.10	
03/11/2020	Litigation Services Invoice 1371837 Deposition-Daniel Stewart & Jeremy Thompson	\$ 1,977.10	
03/17/2020	Litigation Services Invoice 1374121 Deposition-Deonne Contine	\$ 919.20	
04/16/2020	Litigation Services Invoice 1370606 Deposition-Richard Elloyan	\$ 919.00	
05/06/2020	Litigation Services Invoice 1366409 Deposition-Robert Potter	\$ 279.50	
05/06/2020	Litigation Services Invoice 1367219 Deposition-Steve Gilbert	\$ 1,682.35	
07/06/2020	Litigation Services Invoice 1383180 Deposition-Greg Smith	\$ 1,304.50	
07/07/2020	Litigation Services Invoice 1387155 Deposition-Jorge Pupo	\$ 1,262.80	
07/21/2020	Litigation Services Invoice 1384359 Deposition-Jeremy Aguero	\$ 1,012.55	
07/21/2020	Litigation Services Invoice 1374121 Deposition-Deonne Contine	\$ 919.20	



DATE PAID	DEPOSITION TRANSCRIPTS	AMOUNT
07/22/2020	Litigation Services Invoice 1389413 Deposition-Gilbert Vol II and Anderson	\$ 1,197.60
07/22/2020	Litigation Services Invoice 1389784 Deposition-Diane Borhani and Kelly Jessee	\$ 452.00
07/22/2020	Litigation Services Invoice 1385490 Deposition-Larry Holifield	\$ 1,788.60
07/22/2020	Litigation Services Invoice 1383052 Deposition-Larry Holifield	\$ 800.00
08/12/2020	Litigation Services Invoice 1385073 Deposition-Ron Seigneur	\$ 750.25
	TOTAL	\$20,877.12

Expert Witness Fees Per NRS 18.005(5)³

\$ 331.11

DATE PAID	EXPERT WITNESS FEES	AMOUNT
05/12/2020	Expert Depositions-Jeremy Aguero, Larry Holifield, Ron Seigneur & Greg Smith	\$ 235.00
05/28/2020	Additional Deposition Fees-Jeremy Aguero, Larry Holifield, Ron Seigneur & Greg Smith	\$ 96.11
	TOTAL	\$ 331.11

Hearing/Trial Transcripts Per NRS 18.005(8)⁴

\$ 26,504.36

DATE PAID	HEARING AND TRIAL TRANSCRIPTS	AMOUNT
05/27/2019	Florence Hoyt Job #1905051 Transcript - Evidentiary Hearing	\$ 4,000.00
05/28/2019	Florence Hoyt Job # Unknown Transcript - Motion to Quash, Motion for Protective Order and Motion to Compel	\$ 209.96
06/03/2019	Florence Hoyt Job # Unknown Transcript - Status Conference	\$ 457.56
06/03/2019	Florence Hoyt Job # Unknown Transcript - Conf. Call Re: Search Terms	\$ 272.87
06/17/2019	Florence Hoyt Job #1905051-A Transcript - Evidentiary Hrng. 6/18-20/2019	\$ 5,000.00
07/29/2019	Florence Hoyt Job #1905051 Transcripts - Evidentiary Hearing Days 1-12	\$ 6,375.72
09/11/2019	Florence Hoyt Job #1908069 Transcript - Motion TRO Scheduling; Motion TRO Hearing Day 17 - Vol. I; Evid. Hearing Days 18-20 Motion to Dissolve Bond; and Motion Re State's Objection	\$ 3,266.85
12/10/2019	Shawna Ortega Invoice #000043 Transcripts - Hearing Joint Emergency Motion to Strike Peremptory Challenge	\$ 131.74
12/10/2019	Clark County Treasurer 11/12/2019 Hearing Transcript	\$ 10.00

///



DATE PAID	HEARING AND TRIAL TRANSCRIPTS	AMOUNT	
01/29/2020	Florence Hoyt Invoice 9/13/2019 - Motion to Compel Attendance 10/7/2019 - Motion to Dissolve/Stay PI 10/16/2019 - Motion to Extend Re: Experts 10/28/2019 - Motion for Reconsideration 11/18/2019 - Motion to Extend Re: Experts 12/02/2019 - Motion for Protective Order Re: Tenorio/Kluever 12/09/2019 - App. Writ of Mandamus 12/16/2019 - Motion to Dismiss DH Flamingo Complaint 12/17/2019 - Motion Entry of Prot. Order 12/20/2019 - Status Check Re: Tenorio Docs	\$ 80.00	
07/22/2020	Litigation Services Invoice 1391265 Trial Day 1 Realtime Fee	\$ 1,006.92	
07/22/2020	Litigation Services Invoice 1390347 Evidentiary Hearing, Day 1	\$ 1,105.14	
07/22/2020	Litigation Services Invoice 1390351 Evidentiary Hearing Day 2	\$ 158.34	
07/30/2020	Litigation Services Invoice 1391573 Trial Day 2 Realtime Fee	\$ 1,130.25	
07/30/2020	Litigation Services Invoice 1392557 Trial Day 6 Realtime Fee	\$ 1,046.52	
07/30/2020	Litigation Services Invoice 1392110 Trial, Day 4 Realtime Fee	\$ 1,125.72	
07/30/2020	Litigation Services Invoice 1390911 Trial Day 1 (Postponed) Realtime Fee	\$ 135.72	
07/30/2020	Litigation Services Invoice 1391852 Trial Day 3 Realtime Fee	\$ 991.05	
	TOTAL	\$ 26,504.36	
Photocopy Costs Per NRS 18.005(12) ⁵			\$ 655.18
DATE PAID	PHOTOCOPIES	AMOUNT	
06/01/2020	LDG Invoice No. 20-5077 Copies of Exhibits RE: Greg Smith	\$ 77.90	
06/01/2020	LDG Invoice No. 20-5086 Copies of Exhibits RE: Larry Holifield	\$ 98.97	
06/01/2020	LDG Invoice No. 20-5106 Copies of Exhibits RE: Rob Seigneur.	\$ 292.05	
06/17/2020	LDG Invoice No. 20-5110 Copies of Exhibits RE: Jeremy Aguero	\$ 177.32	
07/22/2020	Litigation Services Invoice 1391464 Trial Exhibits	\$ 8.94	
	TOTAL	\$ 655.18	
///			
///			
///			



Postage Costs Per NRS 18.005(14)⁶

\$ 54.38

DATE PAID	POSTAGE	AMOUNT
05/25/2020	FedEx to Linda Shaw Priority Overnight	\$ 54.38
	TOTAL	\$ 54.38

Other Reasonable and Necessary Expense Incurred with This Action
Per NRS 18.005(17)

\$ 15,065.21

Parking Fees to Attend Court Hearings⁷ \$882.00
 Relativity Database Fees⁸ \$1,797.58
 Mediation Fees⁹ \$2,639.91
 Trial Tech Services Fees¹⁰ \$8,287.72
 Remote Conferencing Fees¹¹ \$903.00
 Messenger Service Fees¹² \$555.00

DATE PAID	PARKING FEES	AMOUNT
04/01/2019	Parking	\$ 6.00
04/22/2019	Douglas Parking	\$ 12.00
04/15/2019	Douglas Parking	\$ 9.00
05/13/2019	Douglas Parking	\$ 18.00
05/23/2019	Parking	\$ 24.00
05/24/2019	Douglas Parking	\$ 24.00
05/28/2019	Parking	\$ 24.00
05/16/2019	Parking	\$ 15.00
05/30/2019	Parking	\$ 24.00
06/10/2019	Parking	\$ 48.00
06/18/2019	Douglas Parking	\$ 24.00
07/01/2019	Douglas Parking	\$ 24.00
06/13/2019	Parking	\$ 9.00
06/19/2019	Parking	\$ 24.00
06/20/2019	Parking	\$ 24.00
06/25/2019	Parking	\$ 6.00
07/18/2019	Parking	\$ 21.00
07/15/2019	Douglas Parking	\$ 24.00
07/23/2019	Douglas Parking	\$ 12.00
07/12/2019	Douglas Parking	\$ 24.00
08/05/2019	Parking	\$ 15.00
08/13/2019	Douglas Parking	\$ 18.00
08/13/2019	Douglas Parking	\$ 21.00
08/14/2019	Douglas Parking	\$ 24.00
08/19/2019	Parking	\$ 18.00
08/16/2019	Douglas Parking	\$ 24.00
08/29/2019	Douglas Parking	\$ 18.00
08/12/2019	Douglas Parking	\$ 18.00
09/09/2019	Douglas Parking	\$ 9.00
09/13/2019	Douglas Parking	\$ 18.00
08/15/2019	Douglas Parking	\$ 21.00
10/07/2019	Douglas Parking	\$ 12.00
09/27/2019	Parking	\$ 6.00
09/30/2019	Parking	\$ 9.00



DATE PAID	PARKING FEES	AMOUNT
09/16/2019	Douglas Parking	\$ 6.00
10/28/2019	Lewis St. Garage Parking	\$ 18.00
10/29/2019	Douglas Parking	\$ 15.00
12/09/2019	Douglas Parking	\$ 15.00
11/12/2019	Douglas Parking	\$ 15.00
11/18/2019	Douglas Parking	\$ 18.00
12/02/2019	Parking	\$ 12.00
12/16/2019	Parking	\$ 9.00
12/16/2019	Parking	\$ 12.00
12/17/2019	Parking	\$ 15.00
01/06/2020	Douglas Parking	\$ 12.00
01/13/2020	Douglas Parking	\$ 12.00
01/15/2020	Parking	\$ 12.00
01/13/2020	Douglas Parking	\$ 9.00
01/27/2020	Douglas Parking	\$ 15.00
02/07/2020	Douglas Parking	\$ 9.00
02/21/2020	Parking	\$ 3.00
02/28/2020	Las Vegas Parking	\$ 3.00
02/28/2020	Parking	\$ 3.00
03/06/2020	Las Vegas Parking	\$ 3.00
03/13/2020	Parking	\$ 3.00
03/13/2020	Douglas Parking	\$ 21.00
03/06/2020	Douglas Parking	\$ 15.00
	TOTAL	\$ 882.00

DATE PAID	RELATIVITY DATABASE FEES	AMOUNT
02/01/2020	Litigation Discovery Group Invoice EDD20-2013 - Electronic File Conversion	\$ 85.00
02/01/2020	Litigation Discovery Group Invoice EDD20-2014 - Data Hosting	\$ 16.26
02/01/2020	Litigation Discovery Group Invoice EDD20-2015 - User Licenses	\$ 190.00
02/11/2020	Litigation Discovery Group Invoice EDD20-2018 - Productions & QC	\$ 62.50
02/28/2020	Litigation Discovery Group Invoice EDD20-3006 - Relativity Charges	\$ 16.26
03/01/2020	Litigation Discovery Group Invoice EDD20-3012 - Relativity Fees	\$ 190.00
04/17/2020	Litigation Discovery Group Invoice EDD20-4011 - User Licenses	\$ 190.00
05/06/2020	Litigation Discovery Group Invoice EDD20-5005 - Data Hosting	\$ 16.26
05/06/2020	Litigation Discovery Group Invoice EDD20-5013 - User License	\$ 190.00
06/17/2020	Litigation Discovery Group Invoice EDD20-6005 - Data Hosting	\$ 16.26
06/17/2020	Litigation Discovery Group Invoice EDD20-6006 - Data Hosting	\$ 16.26
06/17/2020	Litigation Discovery Group Invoice EDD20-6015 - User Licenses	\$ 190.00



DATE PAID	RELATIVITY DATABASE FEES	AMOUNT
07/12/2020	Litigation Discovery Group Invoice EDD20-7005 – Data Hosting	\$ 16.26
08/12/2020	Litigation Discovery Group Invoice EDD20-7017 - User Licenses	\$ 190.00
08/12/2020	Litigation Discovery Group Invoice EDD20-8005 - Data Hosting	\$ 16.26
08/12/2020	Litigation Discovery Group Invoice EDD20-8019 - User Licenses	\$ 190.00
09/03/2020	Litigation Discovery Group Invoice EDD20-9005 - Data Hosting	\$ 16.26
09/03/2020	Litigation Discovery Group Invoice EDD20-9020 - User License	\$ 190.00
	TOTAL	\$ 1,797.58

DATE PAID	MEDIATION FEES	AMOUNT
08/09/2019	Advanced Resolution Mgmt. Invoice 4315 (\$12,650 Fees Split Between Seven Firms)	\$ 1,809.00
09/11/2019	Advanced Resolution Mgmt. Invoice 4533 (\$2,675 Fees Split Between Five Firms)	\$ 535.00
10/05/2019	Advanced Resolution Mgmt. Invoice 4613 (\$1,464.28 Fees Split 50/50 Between Defendants & Plaintiffs; Split Again Between Seven Firms)	\$ 104.59
10/10/2019	Advanced Resolution Mgmt. Invoice 4646 (\$1,339.28 Fees Split Between Seven Firms)	\$ 191.32
	TOTAL	\$ 2,639.91

DATE PAID	TRIAL TECH SERVICES FEES	AMOUNT
06/11/2019	Jury to Verdict Invoice 2019-2059	\$ 950.00
06/24/2019	Jury to Verdict Invoice 2019-2061	\$ 1,000.00
07/23/2019	Jury to Verdict Invoice 2019-2064	\$ 775.00
08/20/2019	Jury to Verdict Invoice 2019-2066	\$ 487.50
08/17/2020	Jury to Verdict Invoice 2019-2093	\$ 1,564.28
08/17/2020	Jury to Verdict Invoice 2019-2085	\$ 1,882.14
08/23/2020	Jury to Verdict Invoice 2020-2101	\$ 1,628.80
	TOTAL	\$ 8,287.72

DATE PAID	REMOTE CONFERENCING FEES	AMOUNT
10/18/2019	Court Call ID 10130055	\$ 103.00
05/29/2020	Litigation Services Invoice 1383052 Zoom Fee/LiveNote – Holifield Deposition	\$ 50.00
05/29/2020	Litigation Services Invoice 1383052 Zoom Fee – Holifield Deposition Location 1 (Las Vegas, NV)	\$ 375.00
05/29/2020	Litigation Services Invoice 1383052 Zoom Fees – Holifield Deposition Location 2 (San Antonio, TX)	\$ 375.00
	TOTAL	\$ 903.00



DATE PAID	MESSENGER SERVICE FEES	AMOUNT	
03/27/2019	Legal Wings Invoice 587010	\$ 122.00	
04/19/2019	Legal Wings Invoice 589090	\$ 30.00	
05/22/2019	Legal Wings Invoice 591441	\$ 58.00	
05/28/2019	Legal Wings Invoice 591703	\$ 35.00	
06/03/2019	Legal Wings Invoice 592109	\$ 60.00	
06/03/2019	Legal Wings Invoice 592137	\$ 25.00	
06/03/2019	Legal Wings Invoice 592146	\$ 35.00	
06/04/2019	Legal Wings Invoice 592235	\$ 130.00	
10/08/2019	Legal Wings Invoice R-1910751.01	\$ 25.00	
03/03/2020	Legal Wings Invoice R-1923783.01	\$ 35.00	
	TOTAL	\$ 555.00	
GRAND TOTAL:			\$71,431.72

DATED this 28th day of September 2020.

H1 LAW GROUP

Eric D. Hone, NV Bar No. 8499
eric@h1lawgroup.com
Joel Z. Schwarz, NV Bar No. 9181
joel@h1lawgroup.com
Jamie L. Zimmerman, NV Bar No. 11749
jamie@h1lawgroup.com
Moorea L. Katz, NV Bar No. 12007
moorea@h1lawgroup.com
701 N. Green Valley Parkway, Suite 200
Henderson, NV 89074
Phone 702-608-3720
Fax 702-703-1063
*Attorneys for Defendant/Intervenor
Lone Mountain Partners, LLC*

¹ See Exhibit A (true and correct copies of receipts not processed through e-filing). The back-up documentation for receipts processed through e-filing envelopes is not included in Exhibit A as said documentation exceed 1,200 pages. It is available upon request.

² See Exhibit B (true and correct copies of all reporters' invoices for depositions).

³ See Exhibit C (true and correct copies of all expert witness fee invoices).

⁴ See Exhibit D (true and correct copies of all court hearing and trial transcript invoices).

⁵ See Exhibit E (true and correct copies of all photocopy invoices).

⁶ See Exhibit F (true and correct copies of all postage receipts).

⁷ See Exhibit G (true and correct copies of all parking receipts).

⁸ See Exhibit H (true and correct copies of all Relativity database invoices).

⁹ See Exhibit I (true and correct copies of all mediation invoices).

¹⁰ See Exhibit J (true and correct copies of all trial tech services invoices).

¹¹ See Exhibit K (true and correct copies of all remote conferencing invoices).

¹² See Exhibit L (true and correct copies of all messenger service invoices).

DECLARATION OF ERIC D. HONE IN SUPPORT OF
LONE MOUNTAIN PARTNERS, LLC'S
MEMORANDUM OF COSTS PURSUANT TO NRS 18.110

I, Eric D. Hone, declare:

1. I am an attorney licensed to practice law in the state of Nevada and I am an attorney with the H1 Law Group, counsel for Lone Mountain Partners, LLC ("Lone Mountain") in this matter. I have personal knowledge of all facts stated herein.

2. My office prepared an itemization of costs necessarily incurred in the numerous district court actions prior to consolidation and in the *In re DOT* consolidated action. My office maintains a computer database that records costs incurred and paid in matters. As costs are incurred, they are posted to the file number of the case for billing to the client. As the responsible attorney for Lone Mountain, I reviewed all bills sent to the client for accuracy.

3. The cost items contained in the above memorandum are true and correct to the best of my knowledge and belief. In addition, said disbursements have been necessarily incurred and paid.

4. The cost items contained in the above memorandum were reasonably and necessarily incurred for the following reasons:

- a. Filing fees: Filing fees were reasonable and necessary to file and serve pleadings and papers in numerous district court actions prior to consolidation and in the *In re DOT* consolidated action;
- b. Deposition transcripts: Deposition transcripts were reasonable and necessary in furtherance of discovery and to review in preparation for dispositive motion practice in this action;
- c. Expert witness fees: Expert witness fees were reasonable and necessary to compensate plaintiffs' four expert witnesses for deposition in this action;
- d. Hearing and trial transcripts: Hearing and trial transcripts were reasonable and necessary to review witness testimony and documentary evidence admitted during the preliminary injunction hearing and Phase 2 of trial, as well as to review the Court's rulings on various motion hearings in this action;



- e. Photocopy fees: Photocopy fees were reasonable and necessary to prepare exhibits for depositions and trial;
- f. Postage fees: FedEx fees were reasonable and necessary to provide court reporters with copies of deposition exhibits;
- g. Parking: Parking fees were reasonable and necessary for counsel to attend numerous court hearings in the district court actions prior to consolidation, the coordinated preliminary injunction hearing, and numerous court hearings in the *In re DOT* consolidated action;
- h. Relativity database fees: Relativity database fees were reasonable and necessary to access the centralized document depository utilized for discovery;
- i. Mediation fees: Mediation fees were reasonable and necessary to participate in mediation before Hon. Jennifer Togliatti (Ret.) in furtherance of the parties' effort to achieve global resolution;
- j. Trial tech service fees: Trial tech services fees were reasonable and necessary to the defense's presentation of evidence at the preliminary injunction hearing and at Phase 2 of trial;
- k. Remote conferencing fees: Remote conferencing fees were reasonable and necessary to take a Zoom depositions and to participate in hearings by a department that required Court Call when in person attendance was not feasible; and
- l. Messenger fees: Messenger fees were reasonable and necessary to deliver and/or pick up documents from counsel and/or the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of September 2020.


ERIC D. HONE



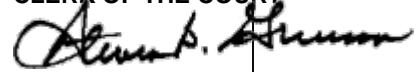
CERTIFICATE OF SERVICE

The undersigned, an employee of H1 Law Group, hereby certifies that on the 28th day of September 2020, she caused a copy of the foregoing to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system.

Karen M. Morrow, an employee of H1 LAW GROUP

EXHIBIT 5

EXHIBIT 5



CLARK HILL PLLC
DOMINIC P. GENTILE (NSBN 1923)
Email: dgentile@clarkhill.com
ROSS MILLER (NSBN 8190)
Email: rmiller@clarkhill.com
JOHN A. HUNT (NSBN 1888)
Email: jhunt@clarkhill.com
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Tel: (702) 862-8300; Fax: (702) 862-8400
Attorneys for TGIG, LLC, Nevada Holistic Medicine, LLC,
GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada,
Nevada Pure, LLC, Medifarm, LLC, and
Medifarm IV, LLC., Plaintiffs in Case A-19-786962-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

	)	Case No. A-19-787004-B
)	
	)	Consolidated with: A-785818
	)	A-786357
In Re: D.O.T. Litigation,	)	A-786962
	)	A-787035
	)	A-787540
	)	A-787726
	)	A-801416
	)	Dept. No. XI
)	
	)	Hearing Requested
	)	Oral Argument Requested: Yes
)	

MOTION TO RETAX AND SETTLE COSTS
(re: Memorandum of Costs of Wellness
Connection of Nevada, LLC filed September 21, 2020)

TGIG, LLC, Nevada Holistic Medicine, LLC, GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada, Nevada Pure, LLC, Medifarm, LLC, and Medifarm IV, LLC., Plaintiffs in Case A-19-786962-B (“Plaintiffs”), by and through counsel, the law firm CLARK HILL, PLLC, hereby submit their Motion to Retax and Settle Costs, pursuant to NRS 18.110(4), regarding the *Memorandum of Costs of Wellness Connection of Nevada, LLC* filed September 21, 2020 (“Memo of Costs”). In addition, as more fully addressed bellowed, by this Motion,

1 Plaintiffs contend Wellness Connection of Nevada, LLC's ("WCN") is simply not authorized as
2 a matter of law to receive its costs under NRS 18.020.

3 This Motion is made and based upon the following points and authorities, the papers and
4 pleadings on file herein, any attached exhibit, and any oral argument the court may allow.
5

6 **POINTS & AUTHORITIES**

7 **I.** 8 **INTRODUCTION**

9 WCN's Memo of Costs notes a total of \$55,301.48 in claimed costs. As more fully
10 referenced below, the Memo of Costs should be denied. NRS 18.110.

11 **II.** 12 **DISCUSSION**

13 **1. WCN's Memo of Costs should be denied as untimely if filed in connection with the** 14 **Findings of Fact, Conclusion of Law and Permanent Injunction e-filed and e-served** 15 **on September 3, 2020.**

16 "[S]tatutes permitting recovery of costs, being in derogation of the common law, must be
17 strictly construed." Bergmann v. Boyce, 109 Nev. 670, 679, 856 P.2d 560, 566 (1993) (quoting
18 Calcagagno v. Personalcare Health Management, 207 Ill. App. 3d 493, 152 Ill. Dec. 412, 418,
19 565 N.E.2d 1330, 1336 (Ill. App. 4th Dist. 1991) (citing Commissioners of Lincoln Park v.
20 Schmidt, 395 Ill. 316, 69 N.E. 2d 869 (Ill. 1946))). In Village Builders 96, L.P. v. U.S.
21 Laboratories, Inc., the Nevada Supreme Court held that "a district court's decision regarding an
22 award of costs will not be overturned absent a finding that the district court abused its
23 discretion." 121 Nev. 261, 276, 112 P.3d 1082, 1092 (2005) (citing U.S. Design & Constr. v.
24 I.B.E.W. Local 357, 118 Nev. 458, 462, 50 P.3d 170, 172 (2002); Parodi v. Budetti, 115 Nev.
25 236, 240, 984 P.2d 172, 174 (1999)).

26 If it is WCN's position its Memo of Costs was filed in connection with a belief the
27 *Findings of Fact, Conclusion of Law and Permanent Injunction* which was e-filed and e-served
28 on September 3, 2020 (9-3-2020 FFCL&PI") was a final order, then the Memo of Costs is
untimely and should be denied.

1 NRS 18.110(1) provides, in part: “1. The party in whose favor judgment is rendered,
2 and who claims costs, must file with the clerk, and serve a copy upon the adverse party, within 5
3 days after the entry of judgment....” NRCP 58(c) provides as follows when judgment is entered:

4 (c) When Judgment Entered. The filing with the clerk of a judgment signed by
5 the court, or by the clerk when authorized by these rules, constitutes the entry of
6 the judgment, and no judgment is effective for any purpose until it is entered. The
entry of the judgment may not be delayed for the taxing of costs.

7 Here, the 9-3-2020 FFCL&PI was e-filed and e-served on September 3, 2020. Also, the
8 last page of the document is its “Certificate of Service” which provides it was electronically
9 served, pursuant to NEFCR 9 on the day it was filed, i.e., September 3, 2020. In part, NEFCR
10 9(b) provides, “This notice is valid and effective service of the document on the registered users
11 and has the same legal effect as service of a paper document.” Accordingly, under the above
12 analysis regarding the 9-3-2020 FFCL&PI, WCN’s Memo of Costs was due Tuesday, September
13 8, 2020. WCN’s Memo of Costs was not filed until September 21, 2020, and therefore, it is
14 untimely and should be denied.

15 Further, a district court’s decision to accept an untimely memorandum of costs pursuant
16 to NRS 18.110(1) is reviewed for an abuse of discretion. Valladares v. DMJ, Inc., 110 Nev.
17 1291, 1293-94, 885 P.2d 580, 582 (1994) (holding that the district court did not abuse its
18 discretion when it denied a party’s memorandum of costs where the party’s lack of diligence
19 caused the memorandum to be untimely). Here, no basis exists for WCN’s untimely Memo of
20 Costs and, therefore, it would be an abuse of discretion to consider same.

21 **2. If WCN’s Memo of Costs pertains to the 9-3-2020 FFCL&PI and assuming,**
22 **arguendo, the Memo of Costs was timely (which it was not), it should still be denied**
23 **because it is Plaintiffs, not WCN, who fall within the definition of a “prevailing**
party” for purposes of an award of costs.

24 A party prevails “if it succeeds on any significant issue in litigation which achieves some
25 of the benefit it sought in bringing suit.” Valley Elec. Ass’n v. Overfield, 121 Nev. 7, 10, 106
26 P.3d 1198, 1200 (2005) (internal quotations omitted). To be a prevailing party, a party need not
27 succeed on every issue. See Hensley v. Eckerhart, 461 U.S. 424, 434, 103 S.Ct. 1933, 76 L.Ed.2d
28

40 (1983) (observing that “a plaintiff [can be] deemed ‘prevailing’ even though he succeeded on only some of his claims for relief”).

The 9-3-2020 FFCL&PI granted the claim for declaratory relief, equal protection (in part) and injunctive relief. Accordingly, because of such rulings, it is Plaintiffs, not WCN, who fall within the definition of a “prevailing party” for purposes of an award of costs. Accordingly, because WCN is not a “prevailing party” in connection with the 9-3-2020 FFCL&PI, its request for costs should be denied.

3. If WCN’s Memo of Costs is filed in connection with the *Findings of Fact, Conclusion of Law and Permanent Injunction* e-filed and e-served on September 16, 2020, it should be denied because it does not fall within the parameters of NRS 18.020.

Alternatively, if WCN’s Memo of Costs is filed in connection with the *Findings of Fact, Conclusion of Law and Permanent Injunction* e-filed and e-served on September 16, 2020 (9-16-2020 FFCL&PI”) which denied the Petition of Judicial Review, then the Memo of Costs should be denied because the 9-16-2020 FFCL&PI’s denial of the Petition for Judicial Review is not one of the types of cases in which costs would be allowed to a prevailing party, pursuant to NRS 18.020, which provides:

NRS 18.020 Cases in which costs allowed prevailing party. Costs must be allowed of course to the prevailing party against any adverse party against whom judgment is rendered, in the following cases:

1. In an action for the recovery of real property or a possessory right thereto.
2. In an action to recover the possession of personal property, where the value of the property amounts to more than \$2,500. The value must be determined by the jury, court or master by whom the action is tried.
3. In an action for the recovery of money or damages, where the plaintiff seeks to recover more than \$2,500.
4. In a special proceeding, except a special proceeding conducted pursuant to NRS 306.040.
5. In an action which involves the title or boundaries of real estate, or the legality of any tax, impost, assessment, toll or municipal fine, including the costs accrued in the action if originally commenced in a Justice Court. [1911 CPA § 435; RL § 5377; NCL § 8924] — (NRS A 1969, 435; 1977, 774; 1979, 65, 1725; 1981, 470; 1985, 1503, 1622; 1995, 2793)

1 A Petition for Judicial Review, which is the subject of the 9-16-2020 FFCL&PI, is not
2 within any of the five (5) category of cases listed at NRS 18.020 and, therefore, the same does
3 not provide authority for the Board to seek an award of costs.

4 In Nevada, costs of suit are only recoverable if they are authorized by statute or court
5 rule. Sun Realty v. Eighth Judicial Dist. Court In and For Clark County, 91 Nev. 774, 776, 542
6 P.2d 1072, 1074 (1975). As noted above, NRS 18.020 allows the prevailing party to receive its
7 costs in the following five actions: (1) an action for the recovery of real property or a possessory
8 right thereto; (2) an action to recover the possession of personal property valued more than
9 \$2,500; (3) an action to recover money or damages of more than \$2,500; (4) a special
10 proceeding; and (5) an action involving title or boundaries of real estate, the legality of any tax,
11 assessment, toll, or municipal fine. Obviously, a petition for judicial review is not one of the five
12 actions noted in NRS 18.020.

13
14
15 If the Legislature intended that costs be awarded for petitions for judicial review, the
16 Legislature would have so expressly stated. Smith v. Crown Financial Services of America, 111
17 Nev. 277, 286, 890 P.2d 769, 775 (1995). Not only does the plain language of NRS 18.020 not
18 reference petition for judicial review, but the legislature did not include more expansive phrases
19 in the wording of the statute such as “including but not limited to” or “in other actions where the
20 Court deems appropriate. Thus, the plain language of NRS 18.020 limits recovery of costs to
21 only the five cases specified, and the Court must follow the plain language of the statute. See
22 Harris Associates v. Clark County Sch. Dist., 119 Nev. 638, 641-42, 81 P.3d 532, 534 (2003). It
23 is significant that the Legislature did not include petitions for judicial review in the types of cases
24 for which a party may recover its costs. The Legislature is presumed to have knowledge of
25 existing statutes related to the same subject, i.e., NRS Chapter 233B. See City of Boulder v.
26
27
28

1 General Sales Drivers, 101 Nev. 117, 119, 694 P.2d 498 (1985); Ronnow v. City of Las Vegas,
2 57 Nev. 332, 366, 65 P.2d 133 (1937).

3 Chapter 233B of the NRS does not classify a petition for judicial review as a special
4 proceeding. NRS 233B.130 provides that judicial review in a district court is available to any
5 party who is aggrieved by a final decision from an administrative proceeding in a contested case.
6 An aggrieved party seeking review of a district court's decision on a petition for judicial review
7 may appeal which "shall be taken as in other civil cases." NRS 233B.150. NRS Chapter 233B
8 lacks any indication a petition for judicial review is a special proceeding. Rather, it indicates it is
9 a "civil case."
10

11
12 NRS 233B.131 is the only section of Chapter 233B which addresses costs in that it allows
13 a court to assess additional costs against a party unreasonably refusing to limit the record to be
14 transmitted to the reviewing court in for a petition for judicial review. NRS Chapter 233B
15 contains no other mention of assessing costs against a party in a petition for judicial review and it
16 doesn't mention or make reference to NRS Chapter 18
17

18 NRS 18.020, which was enacted in 1911, has been amended six times since then, with the
19 most recent amendment occurring in 1995 where it added to subsection 4 the following language
20 "except a special proceeding conducted pursuant to NRS 306.040." 1995 Stat. of Nev., at 2794.
21 By amending NRS 18.020 multiple times and not including petitions for judicial review as one of
22 the type of cases for which costs may be awarded, the Court may presume that the Legislature
23 intended only to include those types of cases specified in NRS 18.020. See Williams v. Clark
24 County Dist. Attorney, 118 Nev. 473, 487-88, 50 P.3d 536, 545 (2002) (Rose, J., concurring and
25 dissenting in part) ("[W]e have often said that the legislature is presumed to know what it is
26 doing and purposefully uses the specific language [it chooses].").
27
28

Therefore, the Memo of Costs should be denied because petitions for judicial review are not special proceedings for purposes of NRS 18.020.

4. **If WCN's Memo of Costs pertains to the 9-16-2020 FFCL&PI and assuming, *arguendo*, it falls within the parameters of NRS 18.020, the Memo of Costs should still be denied because the vast majority – nearly all -- of the claimed costs have nothing to do with the Petition for Judicial Review claim.**

If WCN's Memo of Costs pertains to the 9-16-2020 FFCL&PI and assuming, *arguendo*, it falls within the parameters of NRS 18.020, the Memo of Costs should still be denied because the vast majority – nearly all -- of the claimed costs have nothing to do with the Petition for Judicial Review claim.

Review of WCN's Memo of Costs reveals that other than the initial filing fee, it is submitted that the claimed costs cannot be deemed to relate to the Petition for Judicial Review claim since such a claim was limited to the record submitted by the Department of Taxation. The costs referenced in WCN's Memo of Costs pertain to discovery and trial, not the Petition for Judicial Review. Thus, such costs should be denied if same are claimed in connection with the 9-16-2020 FFCL&PI which addressed the Petition for Judicial Review claim.

III. CONCLUSION

Wherefore, as addressed above, WCN's Memo of Costs should be denied and no costs assessed against Plaintiffs.

Dated this 24th day of September 2020.

CLARK HILL, PLLC

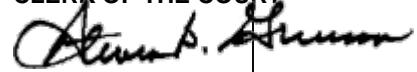
By /s/ Dominic P. Gentile, Esq.
Dominic P. Gentile, Esq. (NSBN 1923)
Ross Miller, Esq. (NSBN 8190)
John A. Hunt, Esq. (NSBN 1888)
Mark S. Dzarnoski, Esq. (NSBN 3398)
3800 Howard Hughes Pkwy., #500
Las Vegas, Nevada 89169
Attorneys for Plaintiffs in case A-19-786962-B

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

/s/ Tanya Bain
An Employee of Clark Hill

EXHIBIT 6

EXHIBIT 6



CLARK HILL PLLC
DOMINIC P. GENTILE (NSBN 1923)
Email: dgentile@clarkhill.com
ROSS MILLER (NSBN 8190)
Email: rmiller@clarkhill.com
JOHN A. HUNT (NSBN 1888)
Email: jhunt@clarkhill.com
MARK S. DZARNOSKI (NSBN 3398)
Email: mdzarnoski@clarkhill.com
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Tel: (702) 862-8300; Fax: (702) 862-8400
Attorneys for TGIG, LLC, Nevada Holistic Medicine, LLC,
GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada,
Nevada Pure, LLC, Medifarm, LLC, and
Medifarm IV, LLC,, Plaintiffs in Case A-19-786962-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

	)	Case No. A-19-787004-B
)	
	)	Consolidated with: A-785818
	)	A-786357
In Re: D.O.T. Litigation,	)	A-786962
	)	A-787035
	)	A-787540
	)	A-787726
	)	A-801416
	)	Dept. No. XI
)	
	)	Hearing Requested
	)	Oral Argument Requested: Yes

MOTION TO RETAX AND SETTLE COSTS
(re: Lone Mountain Partners, LLC's Memorandum of Costs Pursuant to NRS 18.110
filed September 28, 2020)

TGIG, LLC, Nevada Holistic Medicine, LLC, GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada, Nevada Pure, LLC, Medifarm, LLC, and Medifarm IV, LLC,, Plaintiffs in Case A-19-786962-B ("Plaintiffs"), by and through counsel, the law firm CLARK HILL, PLLC, hereby submit their Motion to Retax and Settle Costs, pursuant to NRS 18.110(4), regarding *Lone Mountain Partners, LLC's Memorandum of Costs Pursuant to NRS 18.110* filed

1 September 28, 2020 (“Memo of Costs”). In addition, as more fully addressed bellowed, by this
2 Motion, Plaintiffs contend Lone Mountain Partners, LLC (“Lone Mountain” or “LMP”) is
3 simply not authorized as a matter of law to receive its costs under NRS 18.020.
4

5 This Motion is made and based upon the following points and authorities, the papers and
6 pleadings on file herein, any attached exhibit, and any oral argument the court may allow.

7 **POINTS & AUTHORITIES**

8 **I.** 9 **INTRODUCTION**

10 LMP’s Memo of Costs notes a total of \$71,431.72 in claimed costs. As more fully
11 referenced below, the Memo of Costs should be denied. NRS 18.110.

12 **II.** 13 **DISCUSSION**

14 **1. LMP’s Memo of Costs should be denied as untimely if filed in connection with the**
15 **Findings of Fact, Conclusion of Law and Permanent Injunction e-filed and e-served**
16 **on September 3, 2020, or the Findings of Fact, Conclusion of Law and Permanent**
Injunction e-filed and e-served on September 16, 2020.

17 “[S]tatutes permitting recovery of costs, being in derogation of the common law, must be
18 strictly construed.” Bergmann v. Boyce, 109 Nev. 670, 679, 856 P.2d 560, 566 (1993) (quoting
19 Calcagno v. Personalcare Health Management, 207 Ill. App. 3d 493, 152 Ill. Dec. 412, 418,
20 565 N.E.2d 1330, 1336 (Ill. App. 4th Dist. 1991) (citing Commissioners of Lincoln Park v.
21 Schmidt, 395 Ill. 316, 69 N.E. 2d 869 (Ill. 1946))). In Village Builders 96, L.P. v. U.S.
22 Laboratories, Inc., the Nevada Supreme Court held that “a district court’s decision regarding an
23 award of costs will not be overturned absent a finding that the district court abused its
24 discretion.” 121 Nev. 261, 276, 112 P.3d 1082, 1092 (2005) (citing U.S. Design & Constr. v.
25 I.B.E.W. Local 357, 118 Nev. 458, 462, 50 P.3d 170, 172 (2002); Parodi v. Budetti, 115 Nev.
26 236, 240, 984 P.2d 172, 174 (1999)).

27 If it is LMP’s position its Memo of Costs was filed in connection with a belief the
28 *Findings of Fact, Conclusion of Law and Permanent Injunction* which was e-filed and e-served

1 on September 3, 2020 (“9-3-2020 FFCL&PI”) and/or the *Findings of Fact, Conclusion of Law*
2 *and Permanent Injunction* which was e-filed and e-served on September 16, 2020 (“9-16-2020
3 FFCL&PI”, was/were final order(s), then the Memo of Costs is untimely and should be denied.

4 NRS 18.110(1) provides, in part: “1. The party in whose favor judgment is rendered,
5 and who claims costs, must file with the clerk, and serve a copy upon the adverse party, within 5
6 days after the entry of judgment....” NRCP 58(c) provides as follows when judgment is entered:

7 (c) When Judgment Entered. The filing with the clerk of a judgment signed by
8 the court, or by the clerk when authorized by these rules, constitutes the entry of
9 the judgment, and no judgment is effective for any purpose until it is entered. The
entry of the judgment may not be delayed for the taxing of costs.

10 Here, the 9-3-2020 FFCL&PI was e-filed and e-served on September 3, 2020 and the 9-
11 16-2020 FFCL&PI was e-filed and e-served on September 16, 2020. The last page of the
12 documents are the “Certificate of Service” which provide it was electronically served, pursuant
13 to NEFCR 9 on the day it was filed, i.e., September 3, 2020 and September 16, 2020,
14 respectively. In part, NEFCR 9(b) provides, “This notice is valid and effective service of the
15 document on the registered users and has the same legal effect as service of a paper document.”
16 Accordingly, under the above analysis regarding the 9-3-2020 FFCL&PI, WCN’s Memo of
17 Costs was due Tuesday, September 8, 2020, and/or Monday, September 21, 2020, regarding the
18 9-16-2020 FFCL&PI. LMP’s Memo of Costs was not filed until September 28, 2020, and
19 therefore, it is untimely and should be denied.

20 Further, a district court’s decision to accept an untimely memorandum of costs pursuant
21 to NRS 18.110(1) is reviewed for an abuse of discretion. Valladares v. DMJ, Inc., 110 Nev.
22 1291, 1293-94, 885 P.2d 580, 582 (1994) (holding that the district court did not abuse its
23 discretion when it denied a party’s memorandum of costs where the party’s lack of diligence
24 caused the memorandum to be untimely). Here, no basis exists for LMP’s untimely Memo of
25 Costs and, therefore, it would be an abuse of discretion to consider same.

26 ///

27 ///

28 ///

1 **2. If WCN's Memo of Costs pertains to the 9-3-2020 FFCL&PI and assuming,**
2 **arguendo, the Memo of Costs was timely (which it was not), it should still be denied**
3 **because it is Plaintiffs, not LMP, who fall within the definition of a "prevailing**
4 **party" for purposes of an award of costs.**

5 A party prevails "if it succeeds on any significant issue in litigation which achieves some
6 of the benefit it sought in bringing suit." Valley Elec. Ass'n v. Overfield, 121 Nev. 7, 10, 106
7 P.3d 1198, 1200 (2005) (internal quotations omitted). To be a prevailing party, a party need not
8 succeed on every issue. See Hensley v. Eckerhart, 461 U.S. 424, 434, 103 S.Ct. 1933, 76 L.Ed.2d
9 40 (1983) (observing that "a plaintiff [can be] deemed 'prevailing' even though he succeeded on
10 only some of his claims for relief").

11 The 9-3-2020 FFCL&PI granted the claim for declaratory relief, equal protection (in part)
12 and injunctive relief. Accordingly, because of such rulings, it is Plaintiffs, not LMP, who fall
13 within the definition of a "prevailing party" for purposes of an award of costs. Accordingly,
14 because LMP is not a "prevailing party" in connection with the 9-3-2020 FFCL&PI, its request
15 for costs should be denied.

16 **3. If LMP's Memo of Costs is filed in connection with the 9-16-2020 FFCL&PI, it**
17 **should be denied because it does not fall within the parameters of NRS 18.020.**

18 Alternatively, if LMP's Memo of Costs is filed in connection with the 9-16-2020
19 FFCL&PI" which denied the Petition of Judicial Review, then the Memo of Costs should be
20 denied because the 9-16-2020 FFCL&PI's denial of the Petition for Judicial Review is not one of
21 the types of cases in which costs would be allowed to a prevailing party, pursuant to NRS
22 18.020, which provides:

23 NRS 18.020 Cases in which costs allowed prevailing party. Costs must be
24 allowed of course to the prevailing party against any adverse party against whom
25 judgment is rendered, in the following cases:

- 26 1. In an action for the recovery of real property or a possessory right thereto.
- 27 2. In an action to recover the possession of personal property, where the
28 value of the property amounts to more than \$2,500. The value must be determined
by the jury, court or master by whom the action is tried.
3. In an action for the recovery of money or damages, where the plaintiff
seeks to recover more than \$2,500.
4. In a special proceeding, except a special proceeding conducted pursuant
to NRS 306.040.

1 5. In an action which involves the title or boundaries of real estate, or the
2 legality of any tax, impost, assessment, toll or municipal fine, including the costs
3 accrued in the action if originally commenced in a Justice Court. [1911 CPA §
4 435; RL § 5377; NCL § 8924] — (NRS A 1969, 435; 1977, 774; 1979, 65, 1725;
5 1981, 470; 1985, 1503, 1622; 1995, 2793)

6 A Petition for Judicial Review, which is the subject of the 9-16-2020 FFCL&PI, is not
7 within any of the five (5) category of cases listed at NRS 18.020 and, therefore, the same does
8 not provide authority for the Board to seek an award of costs.

9 In Nevada, costs of suit are only recoverable if they are authorized by statute or court
10 rule. Sun Realty v. Eighth Judicial Dist. Court In and For Clark County, 91 Nev. 774, 776, 542
11 P.2d 1072, 1074 (1975). As noted above, NRS 18.020 allows the prevailing party to receive its
12 costs in the following five actions: (1) an action for the recovery of real property or a possessory
13 right thereto; (2) an action to recover the possession of personal property valued more than
14 \$2,500; (3) an action to recover money or damages of more than \$2,500; (4) a special
15 proceeding; and (5) an action involving title or boundaries of real estate, the legality of any tax,
16 assessment, toll, or municipal fine. Obviously, a petition for judicial review is not one of the five
17 actions noted in NRS 18.020.

18 If the Legislature intended that costs be awarded for petitions for judicial review, the
19 Legislature would have so expressly stated. Smith v. Crown Financial Services of America, 111
20 Nev. 277, 286, 890 P.2d 769, 775 (1995). Not only does the plain language of NRS 18.020 not
21 reference petition for judicial review, but the legislature did not include more expansive phrases
22 in the wording of the statute such as “including but not limited to” or “in other actions where the
23 Court deems appropriate. Thus, the plain language of NRS 18.020 limits recovery of costs to
24 only the five cases specified, and the Court must follow the plain language of the statute. See
25 Harris Associates v. Clark County Sch. Dist., 119 Nev. 638, 641-42, 81 P.3d 532, 534 (2003). It
26 is significant that the Legislature did not include petitions for judicial review in the types of cases
27
28

1 for which a party may recover its costs. The Legislature is presumed to have knowledge of
2 existing statutes related to the same subject, i.e., NRS Chapter 233B. See City of Boulder v.
3 General Sales Drivers, 101 Nev. 117, 119, 694 P.2d 498 (1985); Ronnow v. City of Las Vegas,
4 57 Nev. 332, 366, 65 P.2d 133 (1937).

6 Chapter 233B of the NRS does not classify a petition for judicial review as a special
7 proceeding. NRS 233B.130 provides that judicial review in a district court is available to any
8 party who is aggrieved by a final decision from an administrative proceeding in a contested case.
9 An aggrieved party seeking review of a district court's decision on a petition for judicial review
10 may appeal which "shall be taken as in other civil cases." NRS 233B.150. NRS Chapter 233B
11 lacks any indication a petition for judicial review is a special proceeding. Rather, it indicates it is
12 a "civil case."

14 NRS 233B.131 is the only section of Chapter 233B which addresses costs in that it allows
15 a court to assess additional costs against a party unreasonably refusing to limit the record to be
16 transmitted to the reviewing court in for a petition for judicial review. NRS Chapter 233B
17 contains no other mention of assessing costs against a party in a petition for judicial review and it
18 doesn't mention or make reference to NRS Chapter 18

20 NRS 18.020, which was enacted in 1911, has been amended six times since then, with the
21 most recent amendment occurring in 1995 where it added to subsection 4 the following language
22 "except a special proceeding conducted pursuant to NRS 306.040." 1995 Stat. of Nev., at 2794.
23 By amending NRS 18.020 multiple times and not including petitions for judicial review as one of
24 the type of cases for which costs may be awarded, the Court may presume that the Legislature
25 intended only to include those types of cases specified in NRS 18.020. See Williams v. Clark
26 County Dist. Attorney, 118 Nev. 473, 487-88, 50 P.3d 536, 545 (2002) (Rose, J., concurring and
27
28

1 dissenting in part) (“[W]e have often said that the legislature is presumed to know what it is
2 doing and purposefully uses the specific language [it chooses].”).

3
4 Therefore, the Memo of Costs should be denied because petitions for judicial review are
5 not special proceedings for purposes of NRS 18.020.

6 **4. If LMP’s Memo of Costs pertains to the 9-16-2020 FFCL&PI and assuming,**
7 **arguendo, it falls within the parameters of NRS 18.020, the Memo of Costs should**
8 **still be denied because the vast majority – nearly all -- of the claimed costs have**
9 **nothing to do with the Petition for Judicial Review claim.**

10 If LMP’s Memo of Costs pertains to the 9-16-2020 FFCL&PI and assuming, *arguendo*, it
11 falls within the parameters of NRS 18.020, the Memo of Costs should still be denied because the
12 vast majority – nearly all -- of the claimed costs have nothing to do with the Petition for Judicial
13 Review claim.

14 Review of LMP’s Memo of Costs reveals that other than the initial filing fee, it is
15 submitted that the claimed costs cannot be deemed to relate to the Petition for Judicial Review
16 claim since such a claim was limited to the record submitted by the Department of Taxation. The
17 costs referenced in LMP’s Memo of Costs pertain to discovery and trial, not the Petition for
18 Judicial Review. Thus, such costs should be denied if same are claimed in connection with the 9-
19 16-2020 FFCL&PI which addressed the Petition for Judicial Review claim.

20 **5. If LMP’s Memo of Costs pertains to the 9-16-2020 FFCL&PI, the same should also**
21 **be denied because LMP cannot be characterized as a “prevailing party” for**
22 **purposes of an award of costs in connection with the Petition for Judicial Review.**

23 In its Order filed November 7, 2019 (following oral argument on July 23, 2019), this
24 court addressed and approvingly ruled on the issue of jurisdiction concerning Plaintiffs’
25 (formerly collectively known as “Serenity”) Petition for Judicial Review:

26 The Court hereby Finds that Serenity did timely file its complaint and that
27 the cause of action for Petition for Judicial Review properly named only Serenity
28 and the State;

Further, the Court hereby Finds that upon the Legislatures passing of SB
32, the bill that required the production of the names of all of the applicants for

1 the retail marijuana establishment licenses submitted on or before September 20,
2 2018, including the applicants' addresses and any other identifying information,
3 did not require that the Plaintiffs to amend their existing petitions for judicial
4 review or to file new or amended complaints alleging anew their petition for
5 judicial review cause of action and naming all of the four hundred and sixty two
(462) applications pursuant to NRS 233B.130 from the September 2018
application submittal;

6 Further, the Court hereby Finds that the Plaintiffs did properly allege and
7 name the proper parties for purposes of complying with NRS 233B.130, when
they asserted themselves and the State as the only parties to the contested case;

8 Further, the Court hereby Finds that the contested case **for purposes of**
9 **the petition for judicial review cause of action was the scoring of the Serenity**
10 **application(s) and only involved the State and the Serenity** in that process;

11 Further, the Court hereby Finds that the ranking of the applicants pursuant
12 to NRS 453D.210(6) **only involved Serenity and the State**;

13 Further, the Court hereby Finds that as a result of these findings, Serenity
14 was not required to name all of the four hundred sixty-two (462) applicants who
15 submitted applications on or before September 20, 2018, and whose applications
were ranked pursuant to NRS 453D.210(6);

16 Further, the Court hereby Finds that on or after May 10, 2019, when the
17 State of Nevada, Department of Taxation, produced the four hundred sixty-two
18 (462) names of all of the applications for the retail marijuana establishment
19 licenses submitted on or before September 20, 2018, including the applicants'
20 addresses and any other identifying information, Serenity was not required to
amend its existing complaint and name all of the applicants or to file a new
complaint naming all of the applicants as respondents pursuant to NRS 233B.130;

21 See Order filed on 11-7-19 in the above-captioned matter (bold emphasis added).

22 Quite clearly, the petition for judicial review cause of action involved Plaintiffs and the
23 DOT. The DOT was the administrative agency at issue. Accordingly, LMP cannot be deemed a
24 “prevailing party” for purposes of an award of costs in connection with the 9-16-2020 FFCL&PI
25 which addressed the petition for judicial review cause of action.

26 ///

27 ///

28 ///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

III.
CONCLUSION

Wherefore, as addressed above, LMP's Memo of Costs should be denied and no costs assessed against Plaintiffs.

Dated this 1st day of October 2020.

20
21
22
23
24
25
26
27
28

CLARK HILL, PLLC

By /s/ John A. Hunt, Esq.
John A. Hunt, Esq. (NSBN 1888)
Dominic P. Gentile, Esq. (NSBN 1923)
Ross Miller, Esq. (NSBN 8190)
Mark S. Dzarnoski, Esq. (NSBN 3398)
3800 Howard Hughes Pkwy., #500
Las Vegas, Nevada 89169
Attorneys for Plaintiffs in case A-19-786962-B

CERTIFICATE OF SERVICE

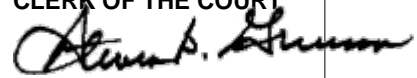
I hereby certify that on the 1st day of October , 2020, I served a true and correct copy of the foregoing via the Court's electronic filing system only, pursuant to the Nevada Electronic Filing and Conversion Rules, Administrative Order 14-2, to all parties currently on the electronic service list.

/s/ Tanya Bain
An Employee of Clark Hill

260923080.1 J2153-383272

EXHIBIT 7

EXHIBIT 7



1 **OPPM**

2 **H1 LAW GROUP**

3 Eric D. Hone, NV Bar No. 8499

4 eric@h1lawgroup.com

5 Joel Z. Schwarz, NV Bar No. 9181

6 joel@h1lawgroup.com

7 Jamie L. Zimmerman, NV Bar No. 11749

8 jamie@h1lawgroup.com

9 701 N. Green Valley Parkway, Suite 200

10 Henderson NV 89074

11 Phone 702-608-3720

12 Fax 702-608-3759

13 *Attorneys for Defendant/Intervenor*

14 *Lone Mountain Partners, LLC*

15 EIGHTH JUDICIAL DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 In Re: D.O.T. Litigation,

18 Case No. A-19-787004-B

19 Consolidated with A-785818

A-786357

A-786962

A-787035

A-787540

A-787726

A-801416

20 Dept. No. XI

21 **LONE MOUNTAIN PARTNERS, LLC'S
22 OPPOSITION TO TGIG PLAINTIFFS'
23 MOTION TO RETAX AND SETTLE
24 COSTS RE: LONE MOUNTAIN
25 PARTNERS, LLC'S MEMORANDUM
26 OF COSTS PURSUANT TO NRS 18.110
27 FILED SEPTEMBER 28, 2020**

28 **Date of Hearing: November 6, 2020**

Time of Hearing: In Chambers

29 Defendant/Intervenor Lone Mountain Partners, LLC ("Lone Mountain"), by and through
30 counsel undersigned, files this opposition to TGIG Plaintiffs' ("TGIG") Motion to Retax and
31 Settle Costs re: Lone Mountain Partners, LLC's Memorandum of Costs Pursuant to NRS 18.110
32 (the "Motion"), filed on October 1, 2020, including all associated joinders to same.

33 This opposition is made and based on the following memorandum of points and
34 authorities and the record on file herein.

35 ///

H1 LAW GROUP
701 N. Green Valley Parkway, Suite 200
Henderson, Nevada 89074
Tel: 702-608-3720 Fax: 702-608-3759



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 TGIG's motion to retax Lone Mountain's Memorandum of Costs (the "Memorandum") is
4 meritless. To state the obvious, this Court has not yet entered a final judgment in this action.
5 Thus, TGIG's arguments to the effect that Lone Mountain filed its Memorandum late are easily
6 disposed of. Consistent with NRS 18.110 and Nevada Supreme Court authority, Lone Mountain
7 filed its Memorandum of Costs (the "Memorandum") early, well within the deadline that will
8 eventually come to pass once the Court enters a final judgment following all three phases of trial.

9 Moreover, the motion to retax should be denied because Lone Mountain is the prevailing
10 party. To be sure, Lone Mountain prevailed on the most significant issue in this case, i.e.,
11 plaintiffs' myriad efforts to overturn the 2018 recreational marijuana application process failed
12 and Lone Mountain retained its licenses.

13 Lastly, the Court should deny the motion to retax because TGIG does not dispute that
14 Lone Mountain's costs were reasonable and necessarily incurred.

15 **II. LEGAL ARGUMENT**

16 **A. Lone Mountain's Memorandum is Timely**

17 As to the filing deadline for submitting a memorandum of costs, NRS 18.110(1) provides,
18 in relevant part:

19 The party in whose favor judgment is rendered, and who claims costs, must file
20 with the clerk, and serve a copy upon the adverse party, *within 5 days after the entry*
21 *of judgment*, or such further time as the court or judge may grant, a memorandum
of the items of the costs in the action or proceeding . . .

22 NRS 118.110(1) (emphasis added).

23 As the Court well knows, it has not entered judgment in this action yet. Indeed, it will
24 not do so until after the completion of Phase 3 of trial. Thus, TGIG's contention that Lone
25 Mountain filed its Memorandum late—based not on the date a final judgment was entered

26 ///

27 ///

28 ///





1 (because this has yet to occur), but on erroneous arguments concerning when findings of fact and
2 conclusions of law were entered¹—miss the mark entirely.

3 To be clear, Lone Mountain filed its Memorandum early. This is perfectly permissible.

4 On this subject, the Nevada Supreme Court has explained:

5 The statute does not, as LVFF contends, establish a short, five-day window during
6 which a prevailing party may file its memorandum. *Although some parties may*
7 *wait to file a memorandum of costs until after the district court enters judgment,*
8 *waiting is not a requirement.* Here, Ahern filed its memorandum of costs even
9 before the district court had entered its judgment—well within NRS 18.110's
10 deadline.

11 *Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 278, 182
12 P.3d 764, 768 (2008) (emphasis added).

13 Moreover, in *Jones v. Crawford*, the Nevada Supreme Court reversed a district court's
14 decision striking a bill of costs that “was technically premature because it was filed before the
15 final judgment was entered.” 281 P.3d 1190, 2009 WL 1437805 at *2 (2009).

16 In sum, TGIG's motion to retax should be denied because Lone Mountain timely filed its
17 Memorandum.

18 **B. Lone Mountain is the Prevailing Party**

19 A party is considered the prevailing party “if it succeeds on any significant issue in
20 litigation which achieves some of the benefit it sought in bringing suit.” *Valley Elec. Ass'n v.*
21 *Overfield*, 121 Nev. 7, 10, 106 P.3d 1198, 1200 (2005) (internal quotations omitted). As TGIG
22 recognizes, “[t]o be a prevailing party, a party need not succeed on every issue.” Motion at 4
23 (citing *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983)).

24 Here, Lone Mountain is the prevailing party entitled to recover costs because it prevailed
25 on the most significant issue in this case, i.e., plaintiffs' myriad efforts to overturn the 2018

26 ¹ The Court's Findings of Fact and Conclusions of Law (“FFCL”) entered on September 3 and 16, 2020, pertaining to
27 Phase 2 and Phase 1 of trial, respectively, are not final judgments because they do not dispose of all claims and all
28 parties. However, even assuming *arguendo* that the FFCLs could be considered final judgments (they are not), TGIG's
filing of a post-trial tolling motion tolled the deadline for filing a memorandum of costs. *See* TGIG Plaintiffs' Motion
to Amend Findings of Fact, Conclusions of Law, and Permanent Injunction filed on September 10, 2020 (on file
herein). In sum, even under TGIG's own errant theory, it has miscalculated the deadline for filing a memorandum of
costs such that its timeliness argument necessarily fails.



1 recreational marijuana application process failed and Lone Mountain retained its licenses. TGIG
2 and the other remaining plaintiffs failed to adduce any evidence at trial concerning Lone
3 Mountain’s ownership, let alone any evidence that could tend to establish Lone Mountain failed
4 to properly disclose its owners, officers, and board members. By way of the State’s Notice
5 Removing Entities From Tier 3, which was filed on August 11, 2020—after the remaining
6 plaintiffs rested their case during Phase 2 of trial—the State advised the Court that it had
7 removed Lone Mountain from Tier 3. Finally, as the Court recently clarified in its Minute Order
8 denying TGIG’s Motion to Amend the Findings of Fact, Conclusions of Law, and Order
9 Granting Permanent Injunction, the permanent injunction applies only to the State, not to specific
10 licensees. Thus, Lone Mountain prevailed on the most significant issue in this case and,
11 therefore, it is the prevailing party entitled to costs.

12 **C. TGIG Does Not Dispute that Lone Mountain’s Costs were Reasonable and**
13 **Necessarily Incurred**

14 Noticeably absent from TGIG’s motion is any argument challenging the reasonableness
15 of Lone Mountain’s costs or the adequacy of the documentation supporting same.² TGIG’s
16 silence operates as a concession that Lone Mountain’s costs were reasonable and necessarily
17 incurred to defend this action. As such, the motion to retax should be denied.

18 As a final note, when the Court eventually undertakes the matter of cost apportionment
19 following entry of its final judgment, Lone Mountain requests that it be awarded all costs
20 itemized in its Memorandum.

21 ///

22 ///

23 ///

24 ///

25 _____
26 ² TGIG’s sole challenge with respect to LMP’s claimed costs is the argument that “the vast majority – nearly all – of
27 the claimed costs have nothing to do with the Petition for Judicial Review claim.” Motion at 7. While Lone Mountain
28 agrees that the vast majority of its costs are not attributable to the judicial review claim, Lone Mountain rejects TGIG’s
characterization to the extent that it is based on a faulty premise concerning the deadline for parties to submit a costs
memorandum in this action.



1 **III. CONCLUSION**

2 For the foregoing reasons, Lone Mountain respectfully requests that the Court deny
3 TGIG's Motion.

4 Dated this 23rd day of October 2020.

5 H1 LAW GROUP

6 

7 Eric D. Hone, NV Bar No. 8499

8 eric@h1lawgroup.com

9 Joel Z. Schwarz, NV Bar No. 9181

10 joel@h1lawgroup.com

11 Jamie L. Zimmerman, NV Bar No. 11749

12 jamie@h1lawgroup.com

13 701 N. Green Valley Parkway, Suite 200

14 Henderson NV 89074

15 *Attorneys for Intervenor/Defendant*

16 *Lone Mountain Partners, LLC*

17 **CERTIFICATE OF SERVICE**

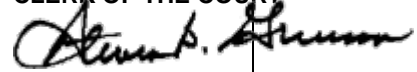
18 The undersigned, an employee of H1 Law Group, hereby certifies that on the 23rd day of
19 October 2020, he caused a copy of the foregoing to be transmitted by electronic service in
20 accordance with Administrative Order 14.2, to all interested parties, through the Court's
21 Odyssey E-File & Serve system.

22 

23 Dekova Huckaby, an employee of H1 LAW GROUP

EXHIBIT 8

EXHIBIT 8



CLARK HILL PLLC
DOMINIC P. GENTILE (NSBN 1923)
Email: dgentile@clarkhill.com
ROSS MILLER (NSBN 8190)
Email: rmiller@clarkhill.com
JOHN A. HUNT (NSBN 1888)
Email: jhunt@clarkhill.com
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Tel: (702) 862-8300; Fax: (702) 862-8400
Attorneys for TGIG, LLC, Nevada Holistic Medicine, LLC,
GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada,
Nevada Pure, LLC, Medifarm, LLC, and
Medifarm IV, LLC., Plaintiffs in Case A-19-786962-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

	)	Case No. A-19-787004-B
)	
	)	Consolidated with: A-785818
	)	A-786357
In Re: D.O.T. Litigation,	)	A-786962
	)	A-787035
	)	A-787540
	)	A-787726
	)	A-801416
	)	Dept. No. XI
)	
	)	Hearing Requested
	)	Oral Argument Requested: Yes
)	

**REPLY
TO**

***WELLNESS CONNECTION OF NEVADA, LLC'S OPPOSITION TO TGIG PLAINTIFFS
AND SETTLING PLAINTIFFS' MOTIONS TO RETAX AND SETTLE COSTS AND ALL
JOINDERS THERETO***

TGIG, LLC, Nevada Holistic Medicine, LLC, GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada, Nevada Pure, LLC, Medifarm, LLC, and Medifarm IV, LLC., Plaintiffs in Case A-19-786962-B ("Plaintiffs"), by and through counsel, the law firm CLARK HILL, PLLC, hereby submit their Reply to *Wellness Connection of Nevada, LLC's Opposition to TGIG Plaintiffs and Settling Plaintiffs' Motions to Retax and Settle Costs and All Joinders Thereto*

1 filed October 8, 2020 (“Opposition”) which, in part, addresses Plaintiffs’ Motion to Retax and
2 Settle Costs (“Motion”), pursuant to NRS 18.110(4), regarding the *Memorandum of Costs of*
3 *Wellness Connection of Nevada, LLC* filed September 21, 2020 (“Memo of Costs”), by Wellness
4 Connection of Nevada, LLC’s (“WCN”).

5
6 This Reply is made and based upon the following points and authorities, the papers and
7 pleadings on file herein, any attached exhibit, and any oral argument the court may allow.

8 **POINTS & AUTHORITIES**

9 **I.** 10 **INTRODUCTION**

11 WCN’s Memo of Costs notes a total of \$55,301.48 in claimed costs. As more fully
12 referenced below and in Plaintiffs’ underlying Motion, the Memo of Costs should be denied.
13 NRS 18.110.

14 **II.** 15 **REPLY**

- 16 **1. To the extent WCN’s Memo of Costs pertains to the 9-3-2020 FFCL&PI, it should**
17 **be denied because it is Plaintiffs, not WCN, who fall within the definition of a**
18 **“prevailing party” for purposes of an award of costs.**

19 A party prevails “if it succeeds on any significant issue in litigation which achieves some
20 of the benefit it sought in bringing suit.” Valley Elec. Ass’n v. Overfield, 121 Nev. 7, 10, 106
21 P.3d 1198, 1200 (2005) (internal quotations omitted). To be a prevailing party, a party need not
22 succeed on every issue. See Hensley v. Eckerhart, 461 U.S. 424, 434, 103 S.Ct. 1933, 76 L.Ed.2d
23 40 (1983) (observing that “a plaintiff [can be] deemed ‘prevailing’ even though he succeeded on
24 only some of his claims for relief”). See Motion, at pgs. 3-4.

25 A prevailing party must win on at least one of its claims. See Close v. Isbell Constr. Co.,
26 86 Nev. 524, 531, 471 P.2d 257, 262 (1970). In Close, the Court held that a party prevailed when
27 it won on its mechanic's lien claim but had its damages reduced significantly by the adverse
28 party's counterclaim. Id. at 525, 531, 471 P.2d at 258, 262. Although Isbell Constr. Co. received
net damages significantly less than the award on its successful claim, it nonetheless prevailed. Id.

1 at 531, 471 P.2d at 262. Such analysis is applicable here. Plaintiffs were successful on various
2 claims. As the Court is aware, the 9-3-2020 FFCL&PI granted the claim for declaratory relief,
3 equal protection (in part) and injunctive relief. While it may be argued Plaintiffs did not obtain
4 the complete relief sought at trial, they did win on these matters and, like with Isbell Constr. Co.
5 in Close which was not awarded all the relief it sought, it did obtain a lesser amount of relief and
6 was declared the prevailing party.

7 At page 6 of its Opposition, WCN cites to and discusses Davis v. Beling, 128 Nev. 301,
8 278 P.3d 501 (2012). Initially, it should be noted that the portion of Davis that WCN relies upon
9 dealt with the issue of attorney's fees, not costs. The issue of costs was not analyzed in Davis.¹
10 Further, the Davis Court's discussion of the attorney's fees issue was related to specific contract
11 terms which provided for an award of attorney's fees. The Davis Court found the parties'
12 contract's attorney's fees provision supported an award of attorney's fees to the party who
13 prevailed on the breach of contract claims. Id., 128 Nev. at 322, 278 P.3d at 515-16. It was this
14 focus on the contract's language pertaining to attorney's fees that was at the heart of the Davis
15 Court's analysis and relevant holding. Here, there are is no contract between the parties and there
16 are no specific attorney's fees contract provisions. Thus, the analysis and relevant holding of
17 Davis is inapplicable here.

18 Because the 9-3-2020 FFCL&PI granted the claim for declaratory relief, equal protection
19 (in part) and injunctive relief, it is Plaintiffs, not WCN, who fall within the definition of a
20 "prevailing party" for purposes of an award of costs. Accordingly, because WCN is not a
21 "prevailing party" in connection with the 9-3-2020 FFCL&PI, its request for costs should be
22 denied.² See Motion, at pg. 4.

24 ¹ Similarly, WCN's Opposition at 6:4-5 cites to Valley Elec. Ass'n v. Overfield, 121 Nev. 7, 106
25 P.3d 1198 (2005). That case too addressed an attorney's fees issue. It doesn't analyze costs or
26 NRS 18.020.

27 ²As more fully noted below, WCN is not entitled to costs if it were to argue it is entitled to award
28 of costs based upon the *Findings of Fact, Conclusion of Law and Permanent Injunction* e-filed
and e-served on September 16, 2020 (9-16-2020 FFCL&PI") which denied the Petition of
Judicial Review because the Petition for Judicial Review is not one of the types of cases in which
costs would be allowed to a prevailing party, pursuant to NRS 18.020. Moreover, as also

1 **2. WCN's Opposition does not address and thus fails to refute the argument if WCN's**
2 **Memo of Costs is filed in connection with the *Findings of Fact, Conclusion of Law***
3 **and *Permanent Injunction* e-filed and e-served on September 16, 2020, it should be**
4 **denied because it does not fall within the parameters of NRS 18.020.**

5 At 4:8 to 7:3 of its Motion, Plaintiffs alternatively argued if WCN's Memo of Costs is
6 filed in connection with the *Findings of Fact, Conclusion of Law and Permanent Injunction* e-
7 filed and e-served on September 16, 2020 (9-16-2020 FFCL&PI") which denied the Petition of
8 Judicial Review, then WCN's Memo of Costs should be denied because the 9-16-2020
9 FFCL&PI's denial of the Petition for Judicial Review is not one of the types of cases in which
10 costs would be allowed to a prevailing party, pursuant to NRS 18.020. WCN's Opposition,
11 however, fails to address, much less refute, the argument, case law, and other authority found at
12 4:8 to 7:3 of Plaintiffs' Motion.

13 As noted in Plaintiffs' Motion, a Petition for Judicial Review, which is the subject of the
14 9-16-2020 FFCL&PI, is not within any of the five (5) category of cases listed at NRS 18.020
15 and, therefore, the same does not provide authority for the Board to seek an award of costs. In
16 Nevada, costs of suit are only recoverable if they are authorized by statute or court rule. Sun
17 Realty v. Eighth Judicial Dist. Court In and For Clark County, 91 Nev. 774, 776, 542 P.2d 1072,
18 1074 (1975). NRS 18.020 allows the prevailing party to receive its costs in the following five
19 actions: (1) an action for the recovery of real property or a possessory right thereto; (2) an action
20 to recover the possession of personal property valued more than \$2,500; (3) an action to recover
21 money or damages of more than \$2,500; (4) a special proceeding; and (5) an action involving
22 title or boundaries of real estate, the legality of any tax, assessment, toll, or municipal fine.
23 Obviously, a petition for judicial review is not one of the five actions noted in NRS 18.020. See
24 Motion, at pg. 5.

25 If the Legislature intended that costs be awarded for petitions for judicial review, the
26 Legislature would have so expressly stated. Smith v. Crown Financial Services of America, 111

27 addressed more fully below, WCN's Opposition admits nearly all of its claimed costs have
28 nothing to do with the Petition for Judicial Review. See Opposition, at 8:9 to 9:17. Thus, even if
were a "prevailing party" for purposes of the Petition for Judicial Review claim, WCN admits
nearly all of its costs have nothing to do with that claim.

1 Nev. 277, 286, 890 P.2d 769, 775 (1995). Not only does the plain language of NRS 18.020 not
2 reference petition for judicial review, but the legislature did not include more expansive phrases
3 in the wording of the statute such as “including but not limited to” or “in other actions where the
4 Court deems appropriate. Thus, the plain language of NRS 18.020 limits recovery of costs to
5 only the five cases specified, and the Court must follow the plain language of the statute. See
6 Harris Associates v. Clark County Sch. Dist., 119 Nev. 638, 641-42, 81 P.3d 532, 534 (2003). It
7 is significant that the Legislature did not include petitions for judicial review in the types of cases
8 for which a party may recover its costs. The Legislature is presumed to have knowledge of
9 existing statutes related to the same subject, i.e., NRS Chapter 233B. See City of Boulder v.
10 General Sales Drivers, 101 Nev. 117, 119, 694 P.2d 498 (1985); Ronnow v. City of Las Vegas,
11 57 Nev. 332, 366, 65 P.2d 133 (1937). See Motion, at pgs. 5-6.

12 Chapter 233B of the NRS does not classify a petition for judicial review as a special
13 proceeding. NRS 233B.130 provides that judicial review in a district court is available to any
14 party who is aggrieved by a final decision from an administrative proceeding in a contested case.
15 An aggrieved party seeking review of a district court’s decision on a petition for judicial review
16 may appeal which “shall be taken as in other civil cases.” NRS 233B.150. NRS Chapter 233B
17 lacks any indication a petition for judicial review is a special proceeding. Rather, it indicates it is
18 a “civil case.” See Motion, at pg.6.

19 NRS 233B.131 is the only section of Chapter 233B which addresses costs in that it
20 allows a court to assess additional costs against a party unreasonably refusing to limit the record
21 to be transmitted to the reviewing court in for a petition for judicial review. NRS Chapter 233B
22 contains no other mention of assessing costs against a party in a petition for judicial review and it
23 doesn’t mention or make reference to NRS Chapter 18. See Motion, at pg. 6.

24 NRS 18.020, which was enacted in 1911, has been amended six times since then, with the
25 most recent amendment occurring in 1995 where it added to subsection 4 the following language
26 “except a special proceeding conducted pursuant to NRS 306.040.” 1995 Stat. of Nev., at 2794.
27 By amending NRS 18.020 multiple times and not including petitions for judicial review as one of
28 the type of cases for which costs may be awarded, the Court may presume that the Legislature

1 intended only to include those types of cases specified in NRS 18.020. See Williams v. Clark
2 County Dist. Attorney, 118 Nev. 473, 487-88, 50 P.3d 536, 545 (2002) (Rose, J., concurring and
3 dissenting in part) (“[W]e have often said that the legislature is presumed to know what it is
4 doing and purposefully uses the specific language [it chooses].”). See Motion, at pg. 6.

5 Therefore, in keeping with this unopposed argument, case law, and authority, the Memo
6 of Costs should be denied because petitions for judicial review are not special proceedings for
7 purposes of NRS 18.020.

8
9 **3. WCN’s Opposition admits nearly all of its claimed costs have nothing to do with the**
10 **Petition for Judicial Review claim and, therefore, if its Memo of Costs pertains to**
11 **the 9-16-2020 FFCL&PI and assuming, *arguendo*, it falls within the parameters of**
12 **NRS 18.020 (which it doesn’t), the Memo of Costs should still be denied.**

13 WCN’s Opposition admits nearly all of its claimed costs have nothing to do with the
14 Petition for Judicial Review. See Opposition, at 8:9 to 9:17. Thus, as addressed earlier in
15 Plaintiffs’ Motion 7:5-17, to the extent WCN’s Memo of Costs pertains to the 9-16-2020
16 FFCL&PI and assuming, *arguendo*, it falls within the parameters of NRS 18.020 (which it
17 doesn’t, as addressed above), the Memo of Costs should still be denied because the WCN admits
18 nearly all of the claimed costs have nothing to do with the Petition for Judicial Review claim.

19 WCN’s Opposition does not refute the fact that a review of WCN’s Memo of Costs
20 reveals that other than the initial filing fee the claimed costs cannot be deemed to relate to the
21 Petition for Judicial Review claim since such a claim was limited to the record submitted by the
22 Department of Taxation. See WCN’s Opposition at 9:2-4 (“In regard to the remaining claimed
23 costs, the Plaintiffs correctly point out that such costs do not relate to the Petition for Judicial
24 Review.”) The costs referenced in WCN’s Memo of Costs pertain to discovery and trial, not the
25 Petition for Judicial Review. Thus, such costs should be denied if same are claimed in
26 connection with the 9-16-2020 FFCL&PI which addressed the Petition for Judicial Review
27 claim.

28 ///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.
CONCLUSION

Wherefore, as addressed above and in Plaintiffs' underlying Motion, WCN's Memo of Costs should be denied and no costs assessed against Plaintiffs.

Dated this 15th day of October 2020.

CLARK HILL, PLLC

By /s/ John A. Hunt, Esq.
Dominic P. Gentile, Esq. (NSBN 1923)
Ross Miller, Esq. (NSBN 8190)
John A. Hunt, Esq. (NSBN 1888)
3800 Howard Hughes Pkwy., #500
Las Vegas, Nevada 89169
Attorneys for Plaintiffs in case A-19-786962-B

CERTIFICATE OF SERVICE

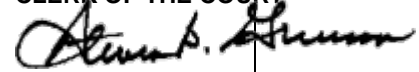
I hereby certify that on the 15th day of October, 2020, I served a true and correct copy of the foregoing via the Court's electronic filing system only, pursuant to the Nevada Electronic Filing and Conversion Rules, Administrative Order 14-2, to all parties currently on the electronic service list.

/s/ Tanya Bain
An Employee of Clark Hill

261045745.1 J2153-383272

EXHIBIT 9

EXHIBIT 9



CLARK HILL PLLC
DOMINIC P. GENTILE (NSBN 1923)
Email: dgentile@clarkhill.com
ROSS MILLER (NSBN 8190)
Email: rmiller@clarkhill.com
JOHN A. HUNT (NSBN 1888)
Email: jhunt@clarkhill.com
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Tel: (702) 862-8300; Fax: (702) 862-8400
Attorneys for TGIG, LLC, Nevada Holistic Medicine, LLC,
GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada,
Nevada Pure, LLC, Medifarm, LLC, and
Medifarm IV, LLC., Plaintiffs in Case A-19-786962-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

	)	Case No. A-19-787004-B
)	
	)	Consolidated with: A-785818
	)	A-786357
In Re: D.O.T. Litigation,	)	A-786962
	)	A-787035
	)	A-787540
	)	A-787726
	)	A-801416
)	
	)	Dept. No. XI
)	
	)	Hearing Date: 11-6-2020
	)	Hearing Time: n/a (in chambers)
)	

**REPLY
TO**

***LONE MOUNTAIN PARTNERS, LLC'S OPPOSITION TO TGIG PLAINTIFFS' MOTION
TO RETAX AND SETTLE COSTS RE: LONE MOUNTAIN PARTNERS, LLC'S
MEMORANDUM OF COSTS PURSUANT TO NRS. 18.110 FILED SEPTEMBER 28, 2020***

TGIG, LLC, Nevada Holistic Medicine, LLC, GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada, Nevada Pure, LLC, Medifarm, LLC, and Medifarm IV, LLC., Plaintiffs in Case A-19-786962-B ("Plaintiffs"), by and through counsel, the law firm CLARK HILL, PLLC, hereby submit their Reply to *Lone Mountain Partners, LLC's Opposition to TGIG Plaintiffs' Motion to Retax and Settle Costs re: Lone Mountain Partners, LLC's Memorandum of*

1 *Costs Pursuant to NRS 18.110 Filed September 28, 2020* filed October 23, 2020 (“Opposition”)
2 which addresses Plaintiffs’ Motion to Retax and Settle Costs (“Motion”), pursuant to NRS
3 18.110(4), regarding *Lone Mountain Partners, LLC’s Memorandum of Costs Pursuant to NRS*
4 *18.110* filed September 28, 2020 (“Memo of Costs”).

5
6 This Reply is made and based upon the following points and authorities, the papers and
7 pleadings on file herein, any attached exhibit, and any oral argument the court may allow.

8 **POINTS & AUTHORITIES**

9 **I.** 10 **INTRODUCTION**

11 Lone Mountain Partners, LLC’s (“LMP”) Memo of Costs notes a total of \$71,431.72 in
12 claimed costs. As more fully referenced below and in Plaintiffs’ underlying Motion, the Memo
13 of Costs should be denied. NRS 18.110.

14 **II.** 15 **REPLY**

16 **1. To the extent LMP’s Memo of Costs pertains to the 9-3-2020 FFCL&PI, it should be**
17 **denied because it is Plaintiffs, not LMP, who fall within the definition of a**
18 **“prevailing party” for purposes of an award of costs.**

19 A party prevails “if it succeeds on any significant issue in litigation which achieves some
20 of the benefit it sought in bringing suit.” Valley Elec. Ass’n v. Overfield, 121 Nev. 7, 10, 106
21 P.3d 1198, 1200 (2005) (internal quotations omitted). To be a prevailing party, a party need not
22 succeed on every issue. See Hensley v. Eckerhart, 461 U.S. 424, 434, 103 S.Ct. 1933, 76 L.Ed.2d
23 40 (1983) (observing that “a plaintiff [can be] deemed ‘prevailing’ even though he succeeded on
24 only some of his claims for relief”). See Motion, at pg. 4.

25 A prevailing party must win on at least one of its claims. See Close v. Isbell Constr. Co.,
26 86 Nev. 524, 531, 471 P.2d 257, 262 (1970). In Close, the Court held that a party prevailed when
27 it won on its mechanic's lien claim but had its damages reduced significantly by the adverse
28 party's counterclaim. Id. at 525, 531, 471 P.2d at 258, 262. Although Isbell Constr. Co. received
net damages significantly less than the award on its successful claim, it nonetheless prevailed. Id.

1 at 531, 471 P.2d at 262. Such analysis is applicable here. Plaintiffs were successful on various
2 claims. As the Court is aware, the 9-3-2020 FFCL&PI granted the claim for declaratory relief,
3 equal protection (in part) and injunctive relief. While it may be argued Plaintiffs did not obtain
4 the greatest relief sought, it did win on these matters and, like with Isbell Constr. Co. in Close
5 which was not awarded all the relief it sought, it did obtain a lesser amount of relief and was
6 declared the prevailing party.

7 Because the 9-3-2020 FFCL&PI granted the claim for declaratory relief, equal protection
8 (in part) and injunctive relief, it is Plaintiffs, not LMP, who fall within the definition of a
9 “prevailing party” for purposes of an award of costs. Accordingly, because LMP is not a
10 “prevailing party” in connection with the 9-3-2020 FFCL&PI, its request for costs should be
11 denied.¹ See Motion, at pg. 4.

12 **2. TGIG Plaintiffs’ operative Second Amended Complaint only alleged a claim for**
13 **declaratory relief as against LMP. The Court’s 9-3-2020 FFCL&PI granted**
14 **declaratory relief. Therefore, TGIG Plaintiffs’ only claim against LMP was**
15 **successful and, therefore, Plaintiffs are the “prevailing party” as opposed to LMP.**
16 **This is further justification for denial of LMP’s Memo of Costs.**

17 TGIG Plaintiffs’ operative Second Amended Complaint filed November 26, 2019,
18 (“SAC”) alleges six (6) claims for relief:

- 19 1. Violation of Civil Rights – Due Process: Deprivation of Property – U.S. Const.,
20 Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. 1983. See SAC,
21 ¶¶ 53-79, at 12:21 to 16:24.
- 22 2. Violation of Civil Rights – Due Process: Deprivation of Liberty – U.S. Const.,
23 Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. 1983. See SAC,
24 ¶¶ 80-87, at 17:1 to 18:11.

25 ¹As more fully noted below, LMP is not entitled to costs if it were to argue it is entitled to award
26 of costs based upon the *Findings of Fact, Conclusion of Law and Permanent Injunction* e-filed
27 and e-served on September 16, 2020 (9-16-2020 FFCL&PI”) which denied the Petition of
28 Judicial Review because the Petition for Judicial Review is not one of the types of cases in which
costs would be allowed to a prevailing party, pursuant to NRS 18.020. Also, the Petition for
Judicial Review claim was not alleged against LMP in TGIG’s operative Second Amended
Complaint (see further discussion herein) and, therefore, this is further and additional reason that
the “prevailing party” analysis doesn’t apply to the Petition for Judicial Review claim relative to
LMP and, therefore, provides no support for an award of costs to LMP.

3. Violation of Civil Rights – Equal Protection – U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1; Title 42 U.S.C. 1983. See SAC, ¶¶ 88-92, at 18:13 to 19:5.
4. Petition for Judicial Review. See SAC, ¶¶ 93-98, at 19:6 to 20:1.
5. Petition for Writ of Mandamus. See SAC, ¶¶ 99-104, at 20:2-25.
- 6.² Declaratory Relief. See SAC, ¶¶ 105-110, at 20:27 to 21:12.

TGIG Plaintiffs’ only claim alleged against LMP was granted by the Court. At pages 4-6 of TGIG Plaintiffs’ SAC, there are allegations which identify “Parties Who Received Conditional Recreational Retail Marijuana Establishment Licenses (“Defendant Applicants”).” Id., 4:1-2. LMP is identified as one of the “Defendant Applicants.” Id., ¶ 25, at 5:6-8. The only claim that pertains to “Defendant Applicants” in TGIG Plaintiffs’ SAC is the claim for declaratory relief. Id., ¶¶ 105-110, at 20:26 to 21:12.

Because the declaratory relief claim was the only claim in TGIG Plaintiffs’ SAC that was alleged as against LMP, that is the only claim that can be addressed under the prevailing party analysis in relation to LMP’s Memo of Costs, to the extent it applies to TGIG Plaintiffs. Here, with regards to LMP and TGIG Plaintiffs’ SAC, there is only one claim upon which to address prevailing party, that being the declaratory relief claim. As noted above, the Court’s 9-3-2020 FFCL&PI granted Plaintiffs declaratory relief. Thus, as that claim was granted, Plaintiffs were the prevailing party for same. Costs in favor of LMP are, therefore, not appropriate on this claim – the only claim alleged against LMP in TGIG Plaintiffs’ SAC – because the claim was granted. LMP’s Memo of Costs must, therefore, be denied as against TGIG Plaintiffs.

3. **LMP’s Opposition does not address and thus fails to refute the argument if LMP’s Memo of Costs is filed in connection with the Findings of Fact, Conclusion of Law and Permanent Injunction e-filed and e-served on September 16, 2020, it should be denied because it does not fall within the parameters of NRS 18.020.**

At 4:16 to 7:6 of their Motion, Plaintiffs alternatively argued if LMP’s Memo of Costs is filed in connection with the *Findings of Fact, Conclusion of Law and Permanent Injunction* e-

² The SAC incorrectly titles this as the fifth claim for relief. Id., at 20:26.

1 filed and e-served on September 16, 2020 (9-16-2020 FFCL&PI”) which denied the Petition of
2 Judicial Review, then LMP’s Memo of Costs should be denied because the 9-16-2020
3 FFCL&PI’s denial of the Petition for Judicial Review is not one of the types of cases in which
4 costs would be allowed to a prevailing party, pursuant to NRS 18.020. LMP’s Opposition,
5 however, fails to address, much less refute, the argument, case law, and other authority found at
6 4:16 to 7:6 of Plaintiffs’ Motion.

7 As noted in Plaintiffs’ Motion, a Petition for Judicial Review, which is the subject of the
8 9-16-2020 FFCL&PI, is not within any of the five (5) category of cases listed at NRS 18.020
9 and, therefore, the same does not provide authority for the Board to seek an award of costs. In
10 Nevada, costs of suit are only recoverable if they are authorized by statute or court rule. Sun
11 Realty v. Eighth Judicial Dist. Court In and For Clark County, 91 Nev. 774, 776, 542 P.2d 1072,
12 1074 (1975). NRS 18.020 allows the prevailing party to receive its costs in the following five
13 actions: (1) an action for the recovery of real property or a possessory right thereto; (2) an action
14 to recover the possession of personal property valued more than \$2,500; (3) an action to recover
15 money or damages of more than \$2,500; (4) a special proceeding; and (5) an action involving
16 title or boundaries of real estate, the legality of any tax, assessment, toll, or municipal fine.
17 Obviously, a petition for judicial review is not one of the five actions noted in NRS 18.020. See
18 Motion, at pgs. 4-5.

19 If the Legislature intended that costs be awarded for petitions for judicial review, the
20 Legislature would have so expressly stated. Smith v. Crown Financial Services of America, 111
21 Nev. 277, 286, 890 P.2d 769, 775 (1995). Not only does the plain language of NRS 18.020 not
22 reference petition for judicial review, but the legislature did not include more expansive phrases
23 in the wording of the statute such as “including but not limited to” or “in other actions where the
24 Court deems appropriate. Thus, the plain language of NRS 18.020 limits recovery of costs to
25 only the five cases specified, and the Court must follow the plain language of the statute. See
26 Harris Associates v. Clark County Sch. Dist., 119 Nev. 638, 641-42, 81 P.3d 532, 534 (2003). It
27 is significant that the Legislature did not include petitions for judicial review in the types of cases
28 for which a party may recover its costs. The Legislature is presumed to have knowledge of

1 existing statutes related to the same subject, i.e., NRS Chapter 233B. See City of Boulder v.
2 General Sales Drivers, 101 Nev. 117, 119, 694 P.2d 498 (1985); Ronnow v. City of Las Vegas,
3 57 Nev. 332, 366, 65 P.2d 133 (1937). See Motion, at pgs. 5-6.

4 Chapter 233B of the NRS does not classify a petition for judicial review as a special
5 proceeding. NRS 233B.130 provides that judicial review in a district court is available to any
6 party who is aggrieved by a final decision from an administrative proceeding in a contested case.
7 An aggrieved party seeking review of a district court's decision on a petition for judicial review
8 may appeal which "shall be taken as in other civil cases." NRS 233B.150. NRS Chapter 233B
9 lacks any indication a petition for judicial review is a special proceeding. Rather, it indicates it is
10 a "civil case." See Motion, at pg.6.

11 NRS 233B.131 is the only section of Chapter 233B which addresses costs in that it
12 allows a court to assess additional costs against a party unreasonably refusing to limit the record
13 to be transmitted to the reviewing court in for a petition for judicial review. NRS Chapter 233B
14 contains no other mention of assessing costs against a party in a petition for judicial review and it
15 doesn't mention or make reference to NRS Chapter 18. See Motion, at pg. 6.

16 NRS 18.020, which was enacted in 1911, has been amended six times since then, with the
17 most recent amendment occurring in 1995 where it added to subsection 4 the following language
18 "except a special proceeding conducted pursuant to NRS 306.040." 1995 Stat. of Nev., at 2794.
19 By amending NRS 18.020 multiple times and not including petitions for judicial review as one of
20 the type of cases for which costs may be awarded, the Court may presume that the Legislature
21 intended only to include those types of cases specified in NRS 18.020. See Williams v. Clark
22 County Dist. Attorney, 118 Nev. 473, 487-88, 50 P.3d 536, 545 (2002) (Rose, J., concurring and
23 dissenting in part) ("[W]e have often said that the legislature is presumed to know what it is
24 doing and purposefully uses the specific language [it chooses.>"). See Motion, at pgs. 6-7.

25 Therefore, in keeping with this unopposed argument, case law, and authority, the Memo
26 of Costs should be denied because petitions for judicial review are not special proceedings for
27 purposes of NRS 18.020.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.
CONCLUSION

Wherefore, as addressed above and in Plaintiffs' underlying Motion, LMP's Memo of Costs should be denied and no costs assessed against Plaintiffs.

Dated this 30th day of October 2020.

CLARK HILL, PLLC

By /s/ John A. Hunt, Esq.
Dominic P. Gentile, Esq. (NSBN 1923)
Ross Miller, Esq. (NSBN 8190)
John A. Hunt, Esq. (NSBN 1888)
3800 Howard Hughes Pkwy., #500
Las Vegas, Nevada 89169
Attorneys for Plaintiffs in case A-19-786962-B

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October, 2020, I served a true and correct copy of the foregoing via the Court's electronic filing system only, pursuant to the Nevada Electronic Filing and Conversion Rules, Administrative Order 14-2, to all parties currently on the electronic service list.

/s/ Tanya Bain
An Employee of Clark Hill

261154584.1 J2153-383272

EXHIBIT 10

EXHIBIT 10

A-19-787004-B In Re: D.O.T. Litigation

November 06, 2020 03:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth COURTROOM: Chambers

COURT CLERK: Romea, Dulce

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

MOTION TO RETAX AND SETTLE COSTS...

...MOTION TO RETAX AND SETTLE COSTS (RE: LONE MOUNTAIN PARTNERS, LLC'S MEMORANDUM OF COST PURSUANT TO NRS 18.110 FILED SEPTEMBER 28, 2020)...

...RURAL REMEDIES, LLC'S JOINDER IN TGIG PLAINTIFFS'...

...CLARK NATURAL MEDICINAL SOLUTIONS LLC, NYE NATURAL MEDICINAL SOLUTIONS LLC CLARK NMSD LLC AND INYO FINE CANNABIS DISPENSARY L.L.C.'S JOINDER AND SUPPLEMENT TO MOTIONS TO RETAX...

...RURAL REMEDIES, LLC'S JOINDER IN TGIG PLAINTIFF'S MOTION TO RETAX AND SETTLE COSTS...

...NATURAL MEDICINE, LLC'S JOINDER TO JOINT MOTION TO RETAX AND SETTLE COSTS FILED ON SEPTEMBER 24, 2020...

...JOINDER TO TGIG'S MOTION TO RETAX AND SETTLE COSTS (RE: MEMORANDUM OF COSTS OF WELLNESS CONNECTION OF NEVADA, LLC FILED SEPTEMBER 21, 2020) AND JOINDER TO ETW PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS...

...PLAINTIFFS GREEN LEAF FARMS HOLDINGS LLC, GREEN THERAPEUTICS LLC, NEVCANN LLC AND RED EARTH LLC'S JOINDER TO TGIG PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS (RE: MEMORANDUM OF COSTS OF WELLNESS CONNECTION OF NEVADA, LLC FILED SEPTEMBER 21, 2020) AND JOINDER TO ETW PLAINTIFFS' MOTION TO RETAX AND SETTLE...

...RURAL REMEDIES, LLC'S JOINDER IN ETW PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS...

...HIGH SIERRA HOLISTICS, LLC'S JOINDER AND SUPPLEMENT TO MOTIONS TO RETAX AND SETTLE COSTS...

...PLAINTIFFS THC NEVADA LLC AND HERBAL CHOICE, INC'S JOINDER TO TGIG'S MOTION TO RETAX AND SETTLE COSTS FILED OCTOBER 1, 2020...

...PLAINTIFFS GREEN LEAF FARMS ET AL' JOINDER TO TGIG PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS FILED OCTOBER 1, 2020...

...NATURAL MEDICINE, LLC'S JOINDER TO TGIG PLAINTIFF'S MOTION TO RETAX AND SETTLE COSTS

The Court, having reviewed:

(1) TGIG Plaintiffs Motion to Retax Wellness Connection Memo of Costs (filed 9/21);

(2) ETW Plaintiffs et al. Motion to Retax Wellness Connection Memo of Costs (filed on 9/21);
and

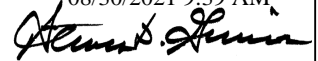
(3) TGIG Plaintiffs Motion to Retax Lone Mountain s Memo of Costs (filed 9/28);

and the related briefing and being fully informed, GRANTS the motions. The award of costs is premature under NRS 18.110 as there is not a final judgement in this matter. Final judgment will be issued following completion of phase 3 currently scheduled for a jury trial on June 28, 2021. This decision is without prejudice to seek recovery costs at the time of the final judgment. Counsel for TGIG is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr
11-12-20

EXHIBIT 11

EXHIBIT 11



CLERK OF THE COURT

OGM

ADAM K. BULT, ESQ., Nevada Bar No. 9332

abult@bhfs.com

MAXIMILIEN D. FETAZ, ESQ., Nevada Bar No. 12737

mfetaz@bhfs.com

TRAVIS F. CHANCE, ESQ., Nevada Bar No. 13800

tchance@bhfs.com

BROWNSTEIN HYATT FARBER SCHRECK, LLP

100 North City Parkway, Suite 1600

Las Vegas, NV 89106-4614

Telephone: 702.382.2101

Facsimile: 702.382.8135

ADAM R. FULTON, ESQ., Nevada Bar No. 11572

afulton@jfnvlaw.com

JENNINGS & FULTON, LTD.

2580 Sorrel Street

Las Vegas, NV 89146

Telephone: 702.979.3565

Facsimile: 702.362.2060

Attorneys for ETW Management Group LLC; et al.

DISTRICT COURT

CLARK COUNTY, NEVADA

In Re: D.O.T. Litigation,

Case No.: A-19-787004-B

Consolidated with: A-785818

A-786357

A-786962

A-787035

A-787540

A-787726

A-801416

Dept No.: XI

**ORDER GRANTING MOTIONS TO
RETAX**

Hearing Date: November 6, 2020

Hearing Time: In Chambers

On November 6, 2020, in chambers, these matters came on for hearing: TGIG Plaintiffs' Motion to Retax Wellness Connection's Memo of Costs; ETW Plaintiffs', Nevada Wellness Center, LLC's, MM Development Company, Inc. d/b/a Planet 13's, LivFree Wellness, LLC d/b/a The Dispensary's, and Qualcan LLC's Motion to Retax and Settle Costs; and TGIG Plaintiffs' Motion to Retax Lone Mountain's Memo of Costs (collectively, the "Motions to Retax").

1 And this Court, having considered the relevant briefing and evidence, the relevant legal
2 authorities, the joinders thereto, and good cause appearing, this Court finds as follows:

3 1. The award of costs is premature under NRS 18.110 as there is not a final judgement
4 in this matter.

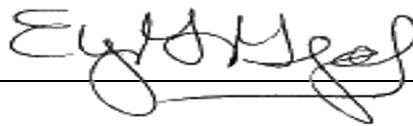
5 2. Final judgment will be issued following completion of Phase 3 scheduled for a jury
6 trial on June 28, 2021.

7 3. This decision is without prejudice to seek recovery costs at the time of the final
8 judgment.

9 **[ORDER CONTAINED ON THE FOLLOWING PAGE]**
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS HEREBY ORDERED that the Motions to Retax are **GRANTED** in full.
Dated this 30th day of August, 2021



Submitted by and approved as to form:

0E9 BEF EC69 BA0B
Elizabeth Gonzalez
District Court Judge

BROWNSTEIN HYATT FARBER
SCHECK, LLP

HOWARD & HOWARD ATTORNEYS
PLLC

BY: Maximilien D. Fetaz
Adam K. Bult, Esq., NV Bar No. 9332
Maximilien D. Fetaz, Esq.,
NV Bar No. 12737
Travis F. Chance, Esq., NV Bar No. 13800
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614

BY: /s/ L. Christopher Rose
L. Christopher Rose, Esq., NV Bar No. 7500
Kirill V. Mikhaylov, Esq., NV Bar No. 3800
Howard Hughes Parkway, Suite 1000
Las Vegas, Nevada 89169

*Attorneys for Wellness Connection of Nevada,
LLC*

Adam R. Fulton, Esq., NV Bar No. 11572
JENNINGS & FULTON, LTD.
2580 Sorrel Street
Las Vegas, NV 89146

Attorneys for ETW Plaintiffs

H1 LAW GROUP

BY: /s/ Joel Schwarz
Eric D. Hone, Esq., NV Bar No. 8499
Joel Schwarz, Esq., NV Bar No. 9181
701 N. Green Valley Parkway, Suite 200
Henderson NV 89074

Attorneys for Lone Mountain Partners, LLC

Cosby, Wendy C.

From: Joel Schwarz <joel@h1lawgroup.com>
Sent: Friday, August 27, 2021 12:25 PM
To: L. Christopher Rose; Fetaz, Maximilien
Cc: Bult, Adam K.; Chance, Travis F.; Cosby, Wendy C.; Kirill V. Mikhaylov; Eric Hone
Subject: RE: In re DOT Litigation: Order re Motions to Retax

You may use mine as well.

Joel Schwarz

Attorney

H1 Law Group

Joel@H1LawGroup.com

701 N Green Valley Parkway, Suite 200

Henderson, Nevada 89074

p. 702-608-5913 f. 702-608-5913

www.H1LawGroup.com

This message may contain information that is private or confidential.

If you have received this message in error, please notify the sender and delete this email and attachments if any.

From: L. Christopher Rose <lcr@h2law.com>
Sent: Friday, August 27, 2021 12:24 PM
To: Fetaz, Maximilien <MFetaz@BHFS.com>; Joel Schwarz <joel@h1lawgroup.com>
Cc: Bult, Adam K. <ABult@BHFS.com>; Chance, Travis F. <tchance@bhfs.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Kirill V. Mikhaylov <kvm@h2law.com>; Eric Hone <eric@h1lawgroup.com>
Subject: RE: In re DOT Litigation: Order re Motions to Retax

Max

You may use my electronic signature for this order.

Howard & Howard
law for business®

L. Christopher Rose
Attorney

3800 Howard Hughes Pkwy., Ste. 1000, Las Vegas, NV 89169

D: 702.667.4852 | C: 702.355.2973 | F: 702.567.1568

lcr@h2law.com | Bio | vCard | LinkedIn

NOTICE: Information contained in this transmission to the named addressee is proprietary information and is subject to attorney-client privilege and work product confidentiality. If the recipient of this transmission is not the named addressee, the recipient should immediately notify the sender and destroy the information transmitted without making any copy or distribution thereof.

From: Fetaz, Maximilien <MFetaz@BHFS.com>
Sent: Friday, August 27, 2021 12:01 PM
To: L. Christopher Rose <lcr@h2law.com>; Joel Schwarz <joel@h1lawgroup.com>
Cc: Bult, Adam K. <ABult@BHFS.com>; Chance, Travis F. <tchance@bhfs.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Kirill V. Mikhaylov <kvm@h2law.com>; 'Eric Hone' <eric@h1lawgroup.com>
Subject: In re DOT Litigation: Order re Motions to Retax

Chris/Joel,

I have attached for your review and approval the Order Granting Motions to Retax. Please let me know if we may affix your e-signature to the attached. Thank you,

Maximilien D. Fetaz

Brownstein Hyatt Farber Schreck, LLP

100 North City Parkway, Suite 1600

Las Vegas, NV 89106

702.464.7083 tel

MFetaz@BHFS.com

STATEMENT OF CONFIDENTIALITY & DISCLAIMER: The information contained in this email message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this email is strictly prohibited. If you have received this email in error, please notify us immediately by calling (303) 223-1300 and delete the message. Thank you.

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 In Re: D.O.T. Litigation

CASE NO: A-19-787004-B

7 DEPT. NO. Department 11
8

9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
12 system to all recipients registered for e-Service on the above entitled case as listed below:

13 Service Date: 8/30/2021

14 Amy Reams

areams@naylorandbrasterlaw.com

15 John Naylor

jnaylor@naylorandbrasterlaw.com

16 Jennifer Braster

jbraster@naylorandbrasterlaw.com

17 Heather Motta

hmotta@mcllawfirm.com

18 Peter Christiansen

pete@christiansenlaw.com

19 Whitney Barrett

wbarrett@christiansenlaw.com

20 R. Todd Terry

tterry@christiansenlaw.com

21 Eloisa Nunez

enunez@pnalaw.net

22 Alina Shell

alina@nvlitigation.com

23 Teresa Stovak

teresa@nvlawyers.com

24 Eileen Conners

eileen@nvlawyers.com

25 Jonathan Crain

26 jcrain@christiansenlaw.com
27
28

1	Todd Bice	tlb@pisanellibice.com
2	Debra Spinelli	dls@pisanellibice.com
3	Dustun Holmes	dhh@pisanellibice.com
4	Mariella Dumbrique	mdumbrique@blacklobello.law
5	Adam Fulton	afulton@jfnvlaw.com
6	Jared Jennings	jjennings@jfnvlaw.com
7	MGA Docketing	docket@mgalaw.com
8	Sarah Harmon	sharmon@baileykennedy.com
9	Kelly Stout	kstout@baileykennedy.com
10	Dennis Kennedy	dkennedy@baileykennedy.com
11	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
12	Jorge Ramirez	jorge.ramirez@wilsonelser.com
13	Patricia Stoppard	p.stoppard@kempjones.com
14	Ali Augustine	a.augustine@kempjones.com
15	Nathanael Rulis	n.rulis@kempjones.com
16	Chandi Melton	chandi@christiansenlaw.com
17	Traci Plotnick	tplotnick@ag.nv.gov
18	Steven Shevorski	sshevorski@ag.nv.gov
19	Robert Werbicky	rwerbicky@ag.nv.gov
20	Mary Pizzariello	mpizzariello@ag.nv.gov
21	David Pope	dpope@ag.nv.gov
22	Efile LasVegas	efilelasvegas@wilsonelser.com
23	Kimberly Burns	kimberly.burns@wilsonelser.com
24		
25		
26		
27		
28		

1	Norma Richter	nrichter@jfnvlaw.com
2	Andrea Eshenbaugh - Legal Assistant	aeshenbaugh@kochscow.com
3	Theodore Parker III	tparker@pnalaw.net
4	Alicia Ashcraft	ashcrafta@ashcraftbarr.com
5	Adam Bult	abult@bhfs.com
6	Travis Chance	tchance@bhfs.com
7	Maximillen Fetaz	mfetaz@bhfs.com
8	Daniel Scow	dscow@kochscow.com
9	Olivia Swibies	oswibies@nevadafirm.com
10	Alejandro Pestonit	apestonit@nevadafirm.com
11	Richard Holley, Esq.	rholley@nevadafirm.com
12	Lee Iglody	lee@iglody.com
13	Jennifer DelCarmen	jdelcarmen@pnalaw.net
14	Alisa Hayslett	a.hayslett@kempjones.com
15	Eric Hone	eric@h1lawgroup.com
16	Jamie Zimmerman	jamie@h1lawgroup.com
17	James Pisanelli	lit@pisanellibice.com
18	Logan Willson	Logan@jfnvlaw.com
19	Jordan Smith	jts@pisanellibice.com
20	Anastasia Noe	anastasia@pandalawfirm.com
21	Emily Dyer	edyer@bhfs.com
22	David Koch	dkoch@kochscow.com
23	Steven Scow	sscow@kochscow.com
24		
25		
26		
27		
28		

1	Shannon Dinkel	sd@pisanellibice.com
2	Joseph Gutierrez	jag@mgalaw.com
3	Jared Kahn	jkahn@jk-legalconsulting.com
4	Thomas Gilchrist	tgilchrist@bhfs.com
5	Eservice Filing	eservice@thedplg.com
6	Julia Diaz	jd@juwlaw.com
7	L Rose	lcr@juwlaw.com
8	Phyllis Cameron	pcameron@clarkhill.com
9	John Savage	jsavage@nevadafirm.com
10	Katherine MacElwain	kmacelwain@nevadafirm.com
11	Stephanie Glantz	sglantz@baileykennedy.com
12	Karen Morrow	karen@h1lawgroup.com
13	Dominic Gentile	dgentile@clarkhill.com
14	Ross Miller	rmiller@clarkhill.com
15	Tanya Bain	tbain@clarkhill.com
16	William Nobriga	wnobriga@bhfs.com
17	Gail May	Gail@ramoslaw.com
18	Jeffery Bendavid	jbendavid@bendavidfirm.com
19	Stephanie Smith	ssmith@bendavidfirm.com
20	Leilani Gamboa	lgamboa@bendavidfirm.com
21	Mark Dzarnoski	mdzarnoski@clarkhill.com
22	Clarence Gamble	clarence@ramoslaw.com
23	Gia Marina	gmarina@clarkhill.com
24		
25		
26		
27		
28		

1	Michelle Miller	michellemiller@millerlawinc.us
2	Joel Schwarz	joel@h1lawgroup.com
3	James Puzey	jpuzey@nevadafirm.com
4	Michael Ayers	mayers@nevadafirm.com
5	James Puzey	jpuzey@nevadafirm.com
6	Lawrence Semenza	ljs@skrlawyers.com
7	Steven Handelin	steve@handelinlaw.com
8	Richard Williamson	rich@nvlawyers.com
9	Kathleen McConnell	khmccconnell@frontiernet.net
10	Kenneth Ching	ken@argentumnv.com
11	Dan Reaser	dwheelen@fclaw.com
12	D. Neal Tomlinson	neal@hyperionlegal.com
13	Michael Becker	Michael@702defense.com
14	Rory Vohwinkel	rory@vohwinkellaw.com
15	Rick Hsu	rhsu@mcllawfirm.com
16	Clarence Gamble	Clarence@ramoslaw.com
17	Jeffrey Whittemore	chase@sandelawgroup.com
18	Ben Ross	ben@litigationservices.com
19	Depository LIT	Depository@litigationservices.com
20	Susan Matejko - Administrative Assistant	smatejko@nevadafirm.com
21	Craig Slater	efile@luhlaw.com
22	Candice Mata	lawclerk@h1lawgroup.com
23	L. Christopher Rose	lcr@h2law.com
24		
25		
26		
27		
28		

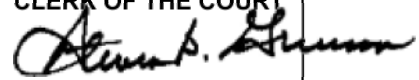
1	Julia Diaz	jd@h2law.com
2	Lisa Stewart	lisa@h1lawgroup.com
3	Akke Levin	alevin@ag.nv.gov
4	Megan Dunn	mdunn@howardandhoward.com
5	Kirill Mikhaylov	kvm@h2law.com
6	Kiel Ireland	kireland@ag.nv.gov
7	Dekova Huckaby	dekova@H1lawgroup.com
8	Beau Nelson	bnelson@mcdonaldcarano.com
9	Alicia Vega	avega@litigationervices.com
10	Vernon Nelson	vnelson@nelsonlawfirm.lv.com
11	Kimberly King	kking@clarkhill.com
12	Karen Stecker	kstecker@conantlawfirm.com
13	Brett Scolari	bscolari@trykecompanies.com
14	Paul Conant	pconant@conantlawfirm.com
15	Conant Law Firm	docket@conantlawfirm.com
16	Eddie Rueda	erueda@ag.nv.gov
17	Sigal Chattah	Chattahlaw@gmail.com
18	Sigal Chattah	Chattahlaw@gmail.com
19	Amy Sugden	amy@sugdenlaw.com
20	Anthony Arger	anthony@nvlawyers.com
21	Rusty Graf	rgraf@blackwadhams.law
22	Brigid Higgins	bhiggins@blackwadhams.law
23	Diane Meeter	dmeeter@blackwadhams.law
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Marsha Stallsworth	mstallsworth@blackwadhams.law
Nicolas Donath	Nick@nrdarelaw.com
Susan Owens	sao@h2law.com
Karyna Cervantes	kcervantes@jfnvlaw.com
Kaitlyn Brooks	Kaitlyn.Brooks@wilsonelser.com
Staci Ibarra	sibarra@pnalaw.net
Benjamin Gordon	bgordon@nblawnv.com

EXHIBIT 12

EXHIBIT 12



NOH

DISTRICT COURT
CLARK COUNTY, NEVADA

IN RE: D.O.T. LITIGATION

Case No.: A-19-787004-B
(AND ALL CONSOLIDATE CASES)

Dept. No.: XXXI

HEARING DATE: JUNE 29, 2022

HEARING TIME: 9:30 A.M.

NOTICE OF ORDER SETTING HEARING

PLEASE TAKE NOTICE that the above matter has been placed on calendar for a hearing regarding: Updated status on lead case and all consolidated cases.

The hearing will take place on JUNE 29, 2022, at 9:30 a.m., in Department XXXI, located at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, NV, 16th Floor, **Courtroom 16B. **NOTE: Alternatively, counsel may provide a joint status report on all remaining parties and claims in the lead/consolidated cases. Please include in the Status Report if there are any matters that have been completely resolved and should be closed** The Status Report must be filed by June 24, 2022, or all parties must appear for the hearing to provide a status update.**

Department 31 will be hearing this matter either via remote audiovisual appearances through Bluejeans, or parties may appear in-person. If appearing remotely, the Court would **strongly** prefer and encourage that **all** parties appear **audiovisually** to ensure a better record. However, any/all counsel and/or parties appearing in a multi-party case, Construction Defect (CD) case, Business Court (BC) case, **must** appear audiovisually or in person to better aid the Court with keeping track of connected parties.

1 ****NOTE**** Please be advised that any hearing on or after May 30, 2022,
2 **must** comply with Administrative Order 22-07 and Nevada Supreme Court Rule
3 **Part IX- A and B – Rules Governing Appearance by Telephonic Transmission**
4 **Equipment and Rules Governing Appearance by Simultaneous Audiovisual**
5 **Transmission Equipment. Current Administrative Orders and Forms for**
6 **Audiovisual** appearances may be found on the Court's website:
7 **www.clarkcountycourts.us. (Please see Administrative Order 22-07 and**
8 **Supreme Court Rule Part IX (A and B) to ensure full compliance.)**

9 Pursuant to the Rules and Administrative Order 22-07 (and previous
10 versions), **all parties** must ensure they are registered for electronic service to
11 ensure every party receives all Notices from the Court. Instructions on how to
12 register for electronic service may be found on the Court's website,
13 **www.clarkcountycourts.us.**

14 **The Bluejeans connection information is:**

15 **Phone Dial-in**

16 **[+1.408.419.1715](tel:+14084191715)** (United States(San Jose))
17 **[+1.408.915.6290](tel:+14089156290)** (United States(San Jose))
18 **[\(Global Numbers\)](#)**

19 **From internet browser, copy and paste:**

20 **<https://bluejeans.com/621838351/1475>**

21 **Room System**

22 199.48.152.152 or bjn.vc

23 **Meeting ID: 621 838 351 Participant Passcode: 1475**

24 Failure to appear at the hearing may result in an Order to Show Cause being
25 issued with sanctions, up to and including, dismissal of case for failure to prosecute.

26 Dated this 20th day of June, 2022.

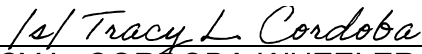
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



HON. JOANNA S. KISHNER
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of this Order was electronically submitted for automated Electronic Service by the Court to all counsel/registered parties, pursuant to the Nevada Electronic Filing Rules, unless otherwise noted below.



TRACY L. CORDOBA-WHEELER
JUDICIAL EXECUTIVE ASSISTANT