

No. 83344

---

IN THE SUPREME COURT OF THE STATE OF NEVADA

---

JDD, LLC; TCS PARTNERS, LLC; JOHN SAUNDERS;

and TREVOR SCHMIDT,

Petitioners,

vs.

THE HONORABLE TIMOTHY C. WILLIAMS,  
EIGHTH JUDICIAL DISTRICT COURT IN AND FOR  
THE COUNTY OF CLARK

Respondent,

-and-

ITEM 9 LAB CORP. f/k/a Airware Labs Corp. and Crown Dynamics Corp.; ITEM  
9 PROPERTIES, LLC; STRIVE MANAGEMENT, LLC f/k/a Strive Life; VIRIDIS  
GROUP I9 CAPITAL, LLC; VIRIDIS GROUP HOLDINGS, LLC; SNOWELL  
HOLDINGS, LLC; ANDREW BOWDEN; DOUGLAS BOWDEN; BRYCE  
SKALLA; AND CHASE HERSHMAN,

Real Parties in Interest

---

REAL PARTIES IN INTEREST'S APPENDIX

---

Lauren Elliott Stine  
AZ Bar 025083 (admitted Pro Hac Vice)  
Christian G. Stahl  
AZ Bar 029984 (admitted Pro Hac Vice)  
Quarles & Brady LLP  
One Renaissance Square  
Two North Central Avenue  
Phoenix, AZ 85004  
602-229-5200

Michael B. Wixom  
NV Bar No. 2812  
Karl L. Nielson  
NV Bar No. 5082  
Smith Larsen & Wixom  
Hills Center Business Park  
1935 Village Center Circle  
Las Vegas, Nevada 89134  
702-252-5002

*Attorneys for Real Parties in Interest*

DESCRIPTION	FILE DATE	PAGE
Reporter's Transcript of Proceedings before the Honorable Judge Timothy C. Williams, District Court Judge	06/08/2021	RPI 001

RESPECTFULLY submitted this 1st day of November, 2021.

SMITH LARSEN & WIXOM

/s/ Karl L. Nielson

Michael B. Wixom, Esq.

Nevada Bar No. 2812

Karl L. Nielson, Esq.

Nevada Bar No. 5082

Hills Center Business Park

1935 Village Center Circle

Las Vegas, Nevada 89134

and

Lauren Elliott Stine (#025083)

(admitted Pro Hac Vice)

Christian G. Stahl (#029984)

(admitted Pro Hac Vice)

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Renaissance One

Two North Central Avenue

Phoenix, AZ 85004-2391

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 1, 2021, I served the following document(s):

### **REAL PARTIES IN INTEREST'S APPENDIX**

☒ **BY ELECTRONIC TRANSMISSION:** by transmitting the document to the parties identified below via the Court's E-Flex e-filing system.

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/s/ Jana L. Rivard  
An Employee of SMITH LARSEN & WIXOM

JUNE 8, 2021

JDD, LLC V. LARRY LEMONS, ET AL.

1 A-20-811232-B

2 DEPARTMENT XVI

3  
4  
5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 \* \* \* \* \*

8 JDD, LLC, A NEVADA LIMITED )  
9 LIABILITY COMPANY; TCS PARTNERS, )  
LLC, A NEVADA LIMITED LIABILITY )  
10 COMPANY; JOHN SAUNDERS, AN )  
INDIVIDUAL; AND TREVOR SCHMIDT, AN )  
11 INDIVIDUAL, )

12 Plaintiffs, )

13 vs. )

14 MARIMED, INC. F/K/A WORLDS ONLINE, )  
INC., A DELAWARE CORPORATION; )

15 CONTINUED ON NEXT PAGE. )  
16 \_\_\_\_\_ )

17  
18 REPORTER'S TRANSCRIPT  
19 OF  
PROCEEDINGS

20 BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

21 DISTRICT COURT JUDGE

22  
23 DATED TUESDAY, JUNE 8, 2021

24  
25 REPORTED BY: MARLENE DURON, RPR, NV CCR NO. 958

1       ITEM 9 LABS CORP. F/K/A AIRWARE       )  
2       LABS CORP. AND CROWN DYNAMICS       )  
3       CORP., A DELAWARE CORPORATION; ITEM )  
4       9 PROPERTIES, LLC, A NEVADA LIMITED )  
5       LIABILITY COMPANY; THE HARVEST       )  
6       FOUNDATION, LLC F/K/A, A NEVADA       )  
7       LIMITED LIABILITY COMPANY A/K/A THE )  
8       HARVEST FOUNDATION, LLC; STRIVE       )  
9       MANAGEMENT, L.L.C. D/B/A STRIVE       )  
10      LIFE, A NEVADA LIMITED LIABILITY       )  
11      COMPANY; STRIVE WELLNESS OF NEVADA, )  
12      LLC D/B/A STRIVE LIFE, A NEVADA       )  
13      LIMITED LIABILITY COMPANY; STRIVE       )  
14      WELLNESS OF NEVADA 2, L.L.C. D/B/A )  
15      STRIVE LIFE, A NEVADA LIMITED       )  
16      LIABILITY COMPANY; VIRIDIS GROUP I9 )  
17      CAPITAL, LLC, AN ARIZONA LIMITED       )  
18      LIABILITY COMPANY; VIRIDIS GROUP       )  
19      HOLDINGS, LLC, AN ARIZONA LIMITED       )  
20      LIABILITY COMPANY; SNOWELL            )  
21      HOLDINGS, LLC, AN OHIO LIMITED       )  
22      LIABILITY COMPANY; ROBERT FIREMAN, )  
23      AN INDIVIDUAL; JON LEVINE, AN        )  
24      INDIVIDUAL; ANDREW BOWDEN, AN        )  
25      INDIVIDUAL; DOUGLAS BOWDEN, AN        )  
26      INDIVIDUAL; BRYCE SKALLA, AN         )  
27      INDIVIDUAL; JEFFREY RASSAS, AN        )  
28      INDIVIDUAL; DONALD BURTON, AN         )  
29      INDIVIDUAL; LARRY LEMONS, AN         )  
30      INDIVIDUAL; JEFFREY YOKIEL, AN        )  
31      INDIVIDUAL; JEROME YOKIEL AN         )  
32      INDIVIDUAL; SARA GULLICKSON, AN       )  
33      INDIVIDUAL; CHASE HERSCHMAN, AN       )  
34      INDIVIDUAL; DOE INDIVIDUALS I        )  
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1 APPEARANCES:

2 FOR THE PLAINTIFF:

3  
4 IGLODY LAW

5 BY: LEE I. IGLODY, ESQ.

6 2580 ST. ROSE PARKWAY, SUITE 330

7 HENDERSON, NEVADA 89074

8 (702) 425-5366

9 LEE@IGLODY.COM

10  
11 FOR THE DEFENDANTS ITEM 9 LABS CORP. F/K/A AIRWARE LABS  
12 CORP. AND CROWN DYNAMICS CORP.; ITEM 9 PROPERTIES, LLC;  
13 STRIVE MANAGEMENT, L.L.C. D/B/A STRIVE LIFE; VIRIDIS GROUP  
14 I9 CAPITAL, LLC; VIRIDIS GROUP HOLDINGS, LLC; ANDREW  
15 BOWDEN; DOUGLAS BOWDEN; BRYCE SKALLA; JEFFREY RASSAS; AND  
16 CHASE HERSCHMAN:

17  
18 QUARLES & BRADY, LLP

19 BY: CHRISTIAN G. STAHL, ESQ.

20 TWO NORTH CENTRAL AVENUE

21 PHOENIX, ARIZONA 85004

22 (602) 229-5200

23 CHRISTIAN.STAHL@QUARLES.COM

24  
25 AND

1 APPEARANCES CONTINUED:

2  
3 SMITH, LARSEN & WIXON

4 BY: KARL L. NIELSON, ESQ.

5 1935 VILLAGE CENTER CIRCLE

6 LAS VEGAS, NEVADA 89134

7 (702) 252-5002

8 HLN@SLWLAW.COM

9  
10 FOR DEFENDANT THE HARVEST FOUNDATION, LLC:

11  
12 BARRETT MATURA

13 BY: KEVIN C. BARRETT, ESQ.

14 7575 WEST VEGAS DRIVE, SUITE 150C

15 LAS VEGAS, NEVADA 89128

16 (702) 833-1033

17 KBARRETT@BARRETTMATURA.COM

1 LAS VEGAS, NEVADA; TUESDAY, JUNE 8, 2021

2 9:25 A.M.

3 P R O C E E D I N G S

4 \* \* \* \* \*

5

6 THE COURT: All right. So we're going to move on.

7 Next up happens to be page 10 of the calendar, and that's

8 JDD, LLC versus Larry Lemons. And let's go ahead and set

9 forth our appearances for the record.

09:25:19 10 MR. IGLODY: Good morning, your Honor. Lee Iglody  
11 for the plaintiffs.

12 MR. STAHL: Morning, your Honor. Christian Stahl

13 for the Item 9 defendants. There's ten of them. I can

14 list them off for the record. They are: Item 9 Labs

09:25:33 15 Corp., Item 9 Properties, Strive Management, Viridis Group

16 9 -- I9 Capital, Viridis Group Holdings, Andrew Bowden,

17 Douglas Bowden, Bryce Skalla, Jeffrey Rassas and Chase

18 Herschman.

19 THE COURT: Thank you, sir.

09:25:53 20 MR. NIELSON: Good morning, your Honor. Karl  
21 Nielsen, also on behalf of Item 9.

22 THE COURT: Okay. And does that cover all

23 appearances? I think so, right?

24 MR. BARRETT: This is Kevin Barrett on behalf of

09:26:06 25 Harvest, your Honor.



1 THE COURT: Yes, okay. Thank you, sir.

2 And we want to have this matter reported; is that  
3 correct?

4 MR. IGLODY: That is correct, your Honor. This is  
09:26:19 5 Lee Iglody speaking.

6 THE COURT: All right. And it's my understanding  
7 that this was the defendants' motion for attorneys' fees.  
8 We'll go ahead and pass the floor over to the defense.

9 MR. STAHL: Thank you, your Honor.

09:26:30 10 The Item 9 defendants should be awarded their  
11 attorneys' fees and costs of \$79,893.83 and the cost of  
12 this motion for three reasons.

13 First, the Item 9 defendants' incurred fees and  
14 costs are reasonable. This is not a simple two-party, red  
09:26:48 15 car, blue car case.

16 Second, Plaintiffs find themselves here because of  
17 their own actions. Plaintiffs reneged on their agreement  
18 to dismiss in November, leaving the Item 9 defendants to  
19 incur a substantial portion of their requested fees, only  
09:27:02 20 to have Plaintiffs concede half of their claims and dismiss  
21 all of the individual defendants in their opposition  
22 papers.

23 Third, Plaintiffs' attempts to relitigate the  
24 motion to dismiss by filing voluminous exhibits in their  
09:27:16 25 opposition is irrelevant and further demonstrates the

1 harassment the Item 9 defendants have had to navigate.

2           Going to the reasonableness of the fees, the  
3 criteria for attorneys' fees motions is governed by the  
4 Brunzell factors. Plaintiffs do not dispute any of the  
09:27:30 5 factors except the amount of fees for the work performed.  
6 This is found in Plaintiff's opposition at page 8. The  
7 fees are reasonable. As listed in the Item 9 defendants'  
8 reply brief at pages 8 and 9, Defendants performed  
9 necessary work to dismiss Plaintiffs' complaint against  
09:27:46 10 them.

11           Second, with respect to Plaintiffs reneging the  
12 November dismissal agreement, Plaintiffs had agreed to  
13 dismiss all claims against the Item 9 defendants without  
14 prejudice in late November. Inexplicably Plaintiffs  
09:28:00 15 reneged, with no reasoning. Even more inexplicably, when  
16 faced with a motion to dismiss, Plaintiffs dismissed all of  
17 the individual defendants and half of their claims against  
18 all of the Item 9 defendants in their opposition papers and  
19 thus, did not have to incur the cost of defense and yet  
09:28:16 20 force Defendants to bring the motion.

21           Nothing changed between November and January.  
22 Notably, had Plaintiffs honored their agreements to dismiss  
23 unsubstantiated complaints against the Item 9 defendants,  
24 Defendants would not have had to incur over 70 percent of  
09:28:31 25 their requested fees and over 90 percent of the requested

1 costs. The amount of the Item 9 defendants' fees and costs  
2 falls squarely on Plaintiffs.

3 Finally, with respect to Plaintiffs' attempts to  
4 re-litigate the motion to dismiss and harassment of the  
09:28:46 5 Item 9 defendants, Plaintiffs attempt to justify their  
6 actions by attempting to re-litigate the motion to dismiss  
7 and filing over 300 pages of exhibits to a declaration.

8 The majority of the opposition in the declaration does not  
9 even pertain to the Item 9 defendants but, rather,

09:29:01 10 Defendants MariMed, Lemons and Burton. The motion to  
11 dismiss has already been decided, and the opposition papers  
12 and declaration are irrelevant.

13 Interestingly, Plaintiffs' opposition is the first  
14 time they explicitly admit their agency with Mr. Roche.

09:29:17 15 Mr. Roche's actions during the pendency of the case are  
16 another reason fees and costs are more than reasonable.  
17 Mr. Roche's tactics of obtaining client goals through fear,  
18 intimidation and harassment, regardless of merit, facts or  
19 actual substantiation, have no place in discourse.

09:29:35 20 For these reasons the Item 9 defendants request  
21 they be awarded their attorneys' fees and costs of  
22 \$79,893.83 and the costs of bringing this motion. If the  
23 court has any questions on the Item 9 defendants' motion, I  
24 am happy to answer them. Thank you for your time, your  
09:29:50 25 Honor.

1 THE COURT: Not at this time, sir.

2 We'll hear from the plaintiffs.

3 MR. IGLODY: Thank you, your Honor. Lee Iglody  
4 again, here for the plaintiffs.

09:30:00 5 Briefly, as outlined in our opposition, we, again,  
6 disagree with the court's dismissal of the claims; however,  
7 the standard here is whether or not there would have been a  
8 reasonable basis for bringing the claims in the first  
9 place.

09:30:14 10 Brian Roche was involved. He did investigate the  
11 facts and circumstances surrounding the \$741,250 invested  
12 in Harvest Foundation with Burton and Lemons. His  
13 investigation resulted in the first amended complaint that  
14 was the subject of the motion to dismiss, which the court  
09:30:33 15 granted.

16 Here, the question is whether or not Roche's  
17 declaration attached exhibits -- and, again, going back to  
18 the first amended complaint -- by the way, I'll be asking  
19 to file a second amended one tomorrow. But in the  
09:30:48 20 meantime, the facts that were pled were sufficient, we  
21 argued, to maintain the causes of action that were pled in  
22 the first amended complaint. And so we ask the court not  
23 to grant the motion for fees.

24 However, since the court recently granted the  
09:31:09 25 motion for fees from one of the other defendants, we went

1 ahead and said, on the Brunzell factors -- I'm not going to  
2 dispute in any way, shape or form the capabilities of  
3 opposing counsel. Their work was outstanding on every  
4 level. However, the amount of fees being requested on the  
09:31:25 5 motion to dismiss, where, again, the court dismissed our  
6 claims without us ever having an opportunity to offer one  
7 shred discovery, we're saying it would be somewhat  
8 excessive and unreasonable in the context of the case.

9 And so we just ask your Honor, first, deny the  
09:31:37 10 motion, but if the court's inclined to grant the motion, we  
11 would suggest the fees being requested are excessive.  
12 Thank you, your Honor.

13 THE COURT: Thank you, sir.

14 We'll hear the reply.

09:31:51 15 MR. STAHL: Yes, your Honor, thank you.

16 As Mr. Iglody has mentioned, the court has already  
17 granted Defendant Snowell's motion for attorneys' fees and  
18 costs. And in that grant, it granted \$15,620 in attorneys'  
19 fees for a motion that was over a lack of personal  
09:32:16 20 jurisdiction for a single client. I have ten clients,  
21 seven of which required declarations, and we're fighting  
22 eight different claims. If you multiply Snowell's award by  
23 ten you're at 150,000, and that's not what we're asking  
24 for. We're asking for our legitimate fees spent on the  
09:32:38 25 case of \$79,983.83.

1           Going through the work that was performed is  
2           substantial. In their opposition, Plaintiffs suggest that  
3           a reasonable fee is one hour of lawyer time and one hour of  
4           paralegal time per page of motion. That's illogical.

09:33:04 5           Walking through what actually occurred, we can see why.

6           The Item 9 defendants and some of my partners at my law  
7           firm had to deal with Mr. Roche's harassment, intimidation  
8           at the beginning of the case. He wasn't concerned about  
9           the actual merits of the case. He was just concerned about  
09:33:22 10          getting his clients their money. He sums it up nicely in  
11          one of this e-mails from June 20th, 2020:

12                       "The only path I'm aligned on  
13                       currently is the path to 100 percent  
14                       complete success: Getting my guys  
09:33:35 15          their money back. Anyone not helping  
16                       in that regard will be road kill in my  
17                       rearview mirror."

18          The Item 9 defendants wrote a letter to Plaintiffs'  
19          counsel detailing the harassment and lack of substantiated  
09:33:48 20          claims on November 10th, 2020 and showing the case was  
21          meritless. In response, Plaintiffs' former counsel agreed  
22          to dismiss the Item 9 defendants. The parties drafted  
23          dismissal papers and were on the verge of dismissing,  
24          finalizing details. Out of the blue, Plaintiffs fired  
09:34:07 25          their lawyers at that time and reneged on the agreement to

1 dismiss. Then the Item 9 defendants had to turn to writing  
2 a motion to dismiss.

3 Again, I have ten clients, each of which was  
4 defending eight claims of a 244-paragraph, meandering  
09:34:22 5 complaint. The eight claims were not simple claims. They  
6 ranged from unjust enrichment and civil conspiracy to alter  
7 ego and intentional interference with contract and  
8 prospective economic advantage. We also had to research  
9 and investigate the equitable relief that Plaintiff had  
09:34:40 10 brought forth in the first amended complaint. Each of  
11 these have to be researched, applied to the facts and  
12 argued in the motion. Moreover, several of the defendants  
13 had jurisdictional challenges which also had to be  
14 investigated, researched and argued in the motion. Those  
09:34:55 15 defendants also need declarations to support the  
16 jurisdictional challenges.

17 In the end, the ten Item 9 defendants had  
18 formulated a motion to dismiss seeking various forms of  
19 dismissal, from lack of personal jurisdiction, lack of  
09:35:08 20 subject matter jurisdiction, and failures to state a claim  
21 for each of the claims against them.

22 In Plaintiffs' opposition brief, they began it by  
23 dismissing five of the Item 9 defendants outright and then  
24 dismissing four other claims against of all the defendants  
09:35:24 25 outright. Nothing had changed between the November

1 dismissal agreement and the January opposition brief, yet  
2 Plaintiff forced the Item 9 defendants to brief,  
3 investigate, research the arguments for five defendants and  
4 four claims for no reason. The remainder of the  
09:35:38 5 plaintiffs' opposition barely pertained to the Item 9  
6 defendants and, rather, focused on MariMed, Lemons, Burton  
7 and Harvest.

8           Nevertheless, the Item 9 defendants needed to  
9 address their opposition papers and file a reply brief.  
09:35:57 10 Given the multiple Item 9 defendants remaining and the  
11 remaining claims, counsel prepared at length for the  
12 hearing. The hearing itself was lengthy because of all the  
13 defendants involved and the various motions to dismiss.  
14 After the hearing, after prevailing, the Item 9 defendants  
09:36:11 15 also drafted the order hereby granted by the court.

16           Plaintiffs have no one to blame but themselves for  
17 the amount of fees incurred by the Item 9 defendants. Over  
18 73 percent of the fees and over 91 percent of the costs the  
19 Defendant requests now were occurred after November 30th,  
09:36:29 20 2020, which was the approximate date that Plaintiffs  
21 reneged on their agreement to dismiss. It would be wrong  
22 for Plaintiffs to be able run up costs only to punt later  
23 and not have to face the consequences of squandering legal  
24 and judicial resources.

09:36:44 25           Again, the Item 9 defendants request the court



1 grant them their motion for attorneys' fees for \$79,893.83  
2 and the costs of bringing this motion. Thank you again,  
3 your Honor.

4 THE COURT: All right. This is what I'm going to  
09:36:55 5 do. I just have a general comment. You don't file a  
6 complaint to conduct discovery. Rule 11 mandates that  
7 prior to filing a lawsuit, you have to have sufficient  
8 enough facts to support claims for relief and/or  
9 jurisdictional issues. If not, it's problematic. It just  
09:37:14 10 is.

11 And when I look at the history of this case, I  
12 become somewhat concerned because litigation shouldn't be  
13 utilized as a bludgeon, right? It shouldn't. Cases  
14 should -- there should be facts that support the complaint,  
09:37:29 15 and, hopefully, cases get decided on the merits by the  
16 factfinder at the end of the day.

17 I rarely grant motions to dismiss, I don't mind  
18 saying that. But to me, in this case, it was fairly  
19 obvious what the outcome should be. And so what I'm going  
09:37:46 20 to do is this -- and I think it's important to point out,  
21 number one, I did consider the Brunzell factors in this  
22 case, and it was a little more complex than the normal one-  
23 or two- or three-party case. It just was. And it  
24 appeared, to me, it did take a lot of work to prepare and  
09:38:04 25 investigate on behalf of the number of clients that were

1 part of the dismissal motion in this matter.

2 And so what I'm going to do is this: Regarding the  
3 motion for fees and costs, I'm going to grant that, number  
4 one.

09:38:19 5 Secondly, as far as the fees being requested, I've  
6 considered the Brunzell factors, as I'm required to do.  
7 And that focused on, you know, the quality of work  
8 performed, the background of the firm involved, the  
9 complexity of the issues and the like. And I'm going to go  
09:38:42 10 ahead and award the fees as requested in this matter.

11 And so, sir, what I'm going to require you to do is  
12 prepare an order with some detail, addressing the Brunzell  
13 factors and my ultimate decision in this case. Do you  
14 understand?

09:38:59 15 MR. STAHL: Thank you, your Honor.

16 THE COURT: All right.

17 MR. STAHL: Will do, thank you.

18 THE COURT: All right. Everyone, enjoy your day.

19

20 (Proceedings concluded at 9:39 a.m.)

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## REPORTER'S CERTIFICATE

STATE OF NEVADA)  
COUNTY OF CLARK)

I, MARLENE DURON, CERTIFIED SHORTHAND REPORTER DO  
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE  
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE TIME  
AND PLACE INDICATED, AND THAT THEREAFTER SAID STENOGRAPHY  
NOTES WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY  
DIRECTION AND SUPERVISION AND THE FOREGOING TRANSCRIPT  
CONSTITUTES A FULL, TRUE AND ACCURATE RECORD TO THE BEST OF  
MY ABILITY OF THE PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY  
NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF NEVADA.

MARLENE DURON, RPR, CCR NO. 958

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