

IN THE SUPREME COURT OF THE STATE OF NEVADA

JDD, LLC; TCS PARTNERS, LLC;
JOHN SAUNDERS; and TREVOR
SCHMIDT,

Petitioners,

Vs.

THE EIGHTH JUDICIAL DISTRICT
COURT of the State of Nevada, in and
for the County of Clark, and the
HONORABLE JUDGE TIMOTHY C.
WILLIAMS, District Court Judge,

Respondents,

and

ITEM 9 LABS 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 19 CAPITAL, LLC;
VIRIDIS GROUP HOLDINGS, LLC;
SNOWELL HOLDINGS, LLC;
ANDREW BOWDEN; DOUGLAS
BOWDEN; BRYCE SKALLA; and
CHASE HERSCHMAN,

Real Parties in Interest.

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No.: 83344

Dist. Ct. Case No.: A-20-811232-C

APPENDIX TO REAL PARTIES IN INTEREST'S ANSWER TO
PETITION FOR WRIT OF MANDAMUS
VOLUME 2 OF 5; RAPP 0248 - 0409

Candace Herling, Esq.
Nevada Bar No. 13503
Heather Armantrout, Esq.
Nevada Bar No. 14469
MESSNER REEVES LLP
8945 West Russell Road, Suite 300
Las Vegas, Nevada 89148
Telephone: (702) 363-5100
Facsimile: (702) 363-5101
E-mail: cherling@messner.com
harmantrout@messner.com

*Attorneys for Real Party in Interest,
Snowell Holdings, LLC*

CHRONOLOGICAL APPENDIX

<i>DOCUMENT</i>	<i>VOL. NO.</i>	<i>Bates No.</i>
First Amended Complaint	1A	RAPP_0001-0063
Snowell Holdings, LLC's Motion to Dismiss	1A	RAPP_0064-0077
Item 9 Labs Corp. et al.'s Motion to Dismiss	1A	RAPP_0078-0123
Plaintiff's Opposition to Snowell Holdings, LLC's Motion to Dismiss	1A	RAPP_0124-0127
Snowell Holdings, LLC's Reply in Support of Motion to Dismiss	1B	RAPP_0128-0133
Plaintiff's Opposition to Item 9 Labs Corp. et al.'s Motion to Dismiss	1B	RAPP_0134-0151
Item 9 Labs Corp. et al.'s Reply in Support of Motion to Dismiss	1B	RAPP_0152-0166
Reporter's Transcript of Motion to Dismiss	1B	RAPP_0167-0247
Snowell Holdings, LLC Motion for Attorneys' Fees	2	RAPP_0248-0264
Order Granting Snowell Holdings, LLC's Motion to Dismiss	2	RAPP_0265-0278
Notice of Entry of Order Granting Snowell Holdings, LLC's Motion to Dismiss	2	RAPP_0279-0295
Plaintiff's Opposition to Defendants Snowell Holdings, LLC's Motion for Fees	2	RAPP_0296-0367
Order Granting Item 9 Labs Corp. et al.'s Motion to Dismiss	2	RAPP_0368-0383
Notice of Entry of Order Granting Item 9 Labs Corp. et al.'s Motion to Dismiss	2	RAPP_0384-0404
Snowell Holdings, LLC's Reply in Support of Motion for Attorneys' Fees	2	RAPP_0405-0409
Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	3A	RAPP_0410-0494

Minute Order Granting Snowell Holdings, LLC's Motion for Attorneys' Fees	3A	RAPP_0495
Plaintiff's Opposition to Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	3A	RAPP_0496-0530
	3B	RAPP_0531-0632
	4	RAPP_0633-0882
Minute Order regarding Snowell Holdings, LLC's Motion for Attorneys' Fees (Issue of Work Performed)	5	RAPP_0883
Item 9 Labs Corp. et al.'s Reply in Support of Motion for Attorneys' Fees and Costs	5	RAPP_0884-0895
Reporter's Transcript of Proceedings – Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees	5	RAPP_0896-0915
Minute Order Granting Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	5	RAPP_0916
Order Granting Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	5	RAPP_0917-0931
Notice of Entry of Order Granting Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	5	RAPP_0932-0950

ALPHABETICAL APPENDIX

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Item 9 Labs Corp. et al.'s Reply in Support of Motion for Attorneys' Fees and Costs	5	RAPP_0884-0895
Item 9 Labs Corp. et al.'s Reply in Support of Motion to Dismiss	1B	RAPP_0152-0166
Minute Order Granting Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	5	RAPP_0916
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Order Granting Snowell Holdings, LLC Motion to Dismiss	2	RAPP_0265-0278
Plaintiff's Opposition to Item 9 Labs Corp. et al.'s Motion to Dismiss	1B	RAPP_0134-0151

Plaintiff's Opposition to Item 9 Labs Corp. et al.'s Motion for Attorneys' Fees and Costs	3A	RAPP_0496-0530
	3B	RAPP_0531-0632
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Snowell Holdings, LLC Motion for Attorneys' Fees	2	RAPP_0248-0264
Snowell Holdings, LLC Reply in Support of Motion for Attorneys' Fees	2	RAPP_0405-0409
Snowell Holdings, LLC's Motion to Dismiss	1A	RAPP_0064-0077
Snowell Holdings, LLC's Reply In Support of Motion to Dismiss	1B	RAPP_0128-0133

CERTIFICATE OF COMPLIANCE

I hereby certify that on this appendix consists of true and correct copies of papers in the Clark County District Court file as required by NRAP 30(g).

Dated this 1st of November 2021.

MESSNER REEVES LLP

/s/ Candace Herling

Candace Herling, Esq.

Nevada Bar No. 13503

Heather Armantrout, Esq.

Nevada Bar No. 14469

MESSNER REEVES LLP

8945 West Russell Road, Suite 300

Las Vegas, Nevada 89148

Telephone: (702) 363-5100

Facsimile: (702) 363-5101

E-mail: cherling@messner.com

harmantrout@messner.com

Attorneys for Real Parties in Interest,

Donald Burton, Larry Lemons, and

Snowell Holdings, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November, 2021, I served the foregoing
**APPENDIX TO REAL PARTIES IN INTEREST'S ANSWER TO PETITION
FOR WRIT OF MANDAMUS (VOL. 2 of 5)** upon the following parties by:

 X VIA ELECTRONIC SERVICE: by electronically filing with the
Clerk of the Nevada Supreme Court;

 VIA U.S. MAIL: By placing a true copy thereof enclosed in a sealed
envelope with postage thereon fully prepaid, addressed as indicated on the
service list below in the United States mail at Las Vegas, Nevada.

Therese M. Shanks
FENNEMORE VRAIG, P.C.
7800 Rancharra Parkway
Reno, NV 89511

Michael B. Wixom
Karl L. Nielson
Smith Larsen & Wixom
Hills Center Business Park
1935 Village Center Circle
Las Vegas, NV 89134

Justin M. Brandt
Makunda Shanbhag
Bianch & Brandt
6710 Scottsdale Road, Ste. 210
Scottsdale, Arizona 85253

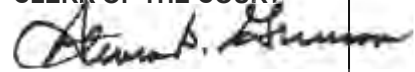
 /s/ Tya Frabott
An Employee of
MESSNER REEVES LLP

Lee Igoldy
2580 St. Rose Pkwy., Suite 330
Henderson, NV 89074

Lauren Elliott
Christian G. Stahl
Quarles & Brady LLP
Two North Central Avenue
Phoenix, AZ 85004

Honorable Timothy Williams
Civil Dept. XVI
Eighth Judicial District Court
200 Lewis Avenue
Las Vegas, NV 89101

Aaron Ford
Attorney General
OFFICE OF THE ATTORNEY
GENERAL
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101



MAFC

Justin M. Brandt (*pro hac vice*)
Mukunda Shanbhag (*pro hac vice*)

BIANCHI & BRANDT

6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253

Telephone: 480.531.1800

justin@bianchibrandt.com

mukunda@bianchibrandt.com

Attorneys for Defendants

Burton, Lemons, and Snowell

Candace C. Herling (NV SBN: 13503)

MESSNER REEVES LLP

8945 W. Russel Rd., Ste. 300

Las Vegas, NV 89148

Telephone: 702.363.5100

cherling@messner.com

*Attorneys for Defendants Burton,
Lemons, and Snowell*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual;
and TREVOR SCHMIDT, an individual,

Plaintiffs,

v.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation, et al.,

Defendants.

Case No. A-20-811232-B

Dept. No. 16

HEARING REQUESTED

**DEFENDANT SNOWELL
HOLDINGS, LLC'S MOTION FOR
ATTORNEYS' FEES**

Snowell Holdings, LLC ("Snowell") submits the following application for attorney's fees related to its motion to dismiss, which the Court granted on February 24, 2021. This application is supported by the Declaration of Justin M. Brandt (Ex. A) and the itemized statement of fees (Ex. A-1). As discussed below, Snowell requests a total award of \$19,145.00 in attorney's fees pursuant to N.R.S. § 18.010(2)(b).

I. Introduction

On December 1, 2020, Snowell filed its motion to dismiss on the grounds that Nevada lacked personal jurisdiction over Snowell. By way of background, Snowell is an Ohio entity that

1 has no contacts in Nevada and owns no interest in any Nevada companies or any of the
2 Defendant entities.

3 On November 17, 2020, Snowell's counsel informed Plaintiffs that it had no contacts
4 with Nevada and that it would seek dismissal and reimbursement of its attorney's fees if it was
5 forced to address this deficiency through the Court.

6 Plaintiffs initially agreed to dismiss Snowell but reneged on their agreement just days
7 later. This forced Snowell to brief and argue its motion at considerable expense. Notably,
8 Plaintiffs provided no law or facts in opposition to Snowell's motion, and instead argued that
9 they should be excused from meeting their burden to show personal jurisdiction.

10 Indeed, the claims against Snowell were without reasonable grounds and Plaintiff was
11 fully aware of Snowell's lack of contacts with Nevada. The attorney's fees caused by Plaintiffs'
12 conduct include those incurred in connection with Snowell's motion to dismiss, as well as fees
13 incurred in pursuing reimbursement of fees.

14 **II. Legal argument**

15 **A. Snowell is entitled to an award of attorney's fees because Plaintiffs'** 16 **claims were brought and maintained without reasonable ground.**

17 This Court may award attorney's fees for a motion to dismiss if Plaintiffs' claims were
18 brought or maintained without reasonable ground or to harass the prevailing party; and courts
19 must liberally construe this standard in favor of awarding fees. N.R.S. 18.010(2)(b); *see also*
20 *Davis v. Beling*, 128 Nev. 301, 321 (Nev. 2012) (attorney's fees may be awarded if permitted
21 by statute, rule, or contract), N.R.S. 18.010(3) (providing that the court may award attorney fees
22 without written motion). The inquiry for whether Plaintiffs' claims are groundless is based upon
23 the actual facts, not hypothetical facts favoring the plaintiff's allegations. *Bergmann v. Boyce*,
24 856 P.2d 560, 563 (Nev. 1993) (superseded by statute on other grounds).

25 An award of attorney's fees is especially warranted if Plaintiffs disregarded facts when
26 naming Snowell as a defendant. *See Allianz Ins. Co. v. Gagnon*, 860 P.2d 720, 724-25 (Nev.

1 1993) (holding that a claim is groundless if it is “disrespectful” of truth or accuracy).

2 On November 17, 2020, Plaintiffs and their counsel were informed that Snowell had no
3 contacts with Nevada and was not involved in any of the alleged events. On November 20, 2020,
4 Plaintiffs agreed to dismiss Snowell. But to Snowell’s surprise, Plaintiffs reneged on this
5 agreement a few days later even though they still could not proffer any evidence to support
6 personal jurisdiction. Indeed, Plaintiffs’ Opposition confirms as much. Snowell’s inclusion in
7 this lawsuit was groundless and served only to harass.

8 **B. The claimed attorney’s fees are reasonable.**

9 In Nevada, an attorney’s fees award must be reasonable under the *Brunzell* factors:
10 (1) the qualities of the advocate: his ability, his training, education, experience,
11 professional standing and skill; (2) the character of the work to be done: its
12 difficulty, its intricacy, its importance, time and skill required, the responsibility
13 imposed and the prominence and character of the parties where they affect the
14 importance of the litigation; (3) the work actually performed by the lawyer: the
skill, time and attention given to the work; (4) the result: whether the attorney was
successful and what benefits were derived.

15 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349 (Nev. 1969).

16 **1. Qualities of the advocates.**

17 Justin M. Brandt is lead counsel for Snowell and a founding partner of the law firm of
18 Bianchi & Brandt. He is licensed to practice in Arizona, California, and New Mexico, and has
19 over six years of business litigation experience. He has an outstanding reputation in the
20 community, having been featured as a Top 40 Under 40 by the Phoenix Business Journal and
21 MJ Venture magazine. He was also recognized in Southwest Super Lawyers from 2018 to 2021.
22 He has been actively involved in conferring with opposing counsel regarding Snowell, briefing
23 related to Snowell’s motion to dismiss, and preparation for the hearings related to the motion.
24 He has also been the primary point of contact for the client. Mr. Brandt’s hourly rate was
25 reasonable in light of his ability, training, education, experience, professional standing, and
26 skills.

1 Mukunda Shanbhag is an associate at Bianchi & Brandt. He is licensed to practice in
2 Arizona and Colorado, has over two years of litigation experience, including drafting motions,
3 participating in hearings and navigating discovery, and was a law clerk for much of law school.
4 Mr. Shanbhag graduated with a M.A. in Modern History and International Relations from the
5 University of Saint Andrews in Scotland and received his J.D. (*cum laude*) from Arizona State
6 University's Sandra Day O'Connor College of Law. Under Mr. Brandt's supervision, Mr.
7 Shanbhag's role included researching and drafting portions of Snowell's Motion to Dismiss and
8 Reply, communicating and conferring with opposing counsel, and attending and arguing
9 Snowell's motion to dismiss before the Court. Mr. Shanbhag's hourly rate was reasonable in
10 light of his ability, training, education, experience, professional standing, and skills.

11 Candace C. Herling is a partner at Messner Reeves, LLP. She is licensed to practice in
12 Nevada and has over six years of litigation experience. Ms. Herling was local counsel for
13 Snowell in Nevada and participated in drafting the briefing for Snowell's Motion to Dismiss and
14 preparing for and attending hearings regarding the same. Ms. Herling received a B.A. in
15 Communications, an M.A.T. from La Sierra University and received her J.D. (*cum laude*) from
16 Thomas Jefferson School of Law. Ms. Herling's hourly rate was reasonable in light of her
17 ability, training, education, experience, professional standing, and skills.

18 **2. The character of the work.**

19 Snowell's motion involved analysis of law and facts regarding general and specific
20 personal jurisdiction. Although the facts strongly supported Snowell's motion, counsel spent
21 significant time and effort conferring with Plaintiffs' counsel and requesting Snowell's
22 dismissal.

23 Moreover, Plaintiffs' Opposition was completely devoid of legal support, requiring a
24 measured and nuanced Reply from Snowell. Snowell's counsel also prepared for and attended
25 a hearing on Plaintiffs' requested extension of time for their opposition to Snowell's motion, as
26 well as two separate hearings regarding the merits of the motion.

3. The work actually performed.

Attached as Exhibit A is the Declaration of Justin M. Brandt, which provides detailed descriptions of tasks performed by Bianchi & Brandt and Messner Reeves LLP, regarding Snowell's motion, including the amount of time spent on each task. (Ex. A, Decl. of Justin M. Brandt). Snowell requests the following attorney's fees: incurred in connection with the motion to dismiss, in the amount of \$15,620.00; and incurred in connection with this application for attorney's fees, in the amount of \$3,525.00.

4. The result obtained.

On February 24, 2021, this Court granted Snowell’s motion and dismissed it from the lawsuit for lack of personal jurisdiction. *See Bergmann*, 856 P.2d at 563 (stating a court may award attorney’s fees under N.R.S. 18.010(2)(b) for a successful motion to dismiss). *See* Order on file herein.

III. Conclusion

The amount sought by Snowell reflects the services related to fees incurred in pursuing dismissal from a lawsuit that has nothing to do with Snowell. As early as November 17, 2020, Snowell informed Plaintiffs' counsel that the company had no contacts with Nevada and was not involved in any of the alleged events. While Plaintiffs initially agreed to dismiss Snowell, they reneged on their agreement and instead forced Snowell to brief and argue its motion to dismiss at considerable expense.

Accordingly, Snowell requests this Court award it the sum of \$19,145.00 in attorney's fees against Defendants, jointly and severally.

DATED: March 24, 2021.

BIANCHI & BRANDT

/s/ Justin M. Brandt
Justin M. Brandt, Esq.
Mukunda Shanbhag, Esq.
6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253

{04719373 / 1}

*Pro Hac Vice Attorneys for Defendants
Burton, Lemons, and Snowell*

MESSNER REEVES LLP

/s/ Candace C. Herling
Candace C. Herling, Esq.
8945 W. Russel Rd., Ste. 300
Las Vegas, NV 89148
*Attorneys for Defendants Burton,
Lemons, and Snowell*

CERTIFICATE OF SERVICE

On this 24th day of March, 2021, pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR, I caused the foregoing **DEFENDANT SNOWELL HOLDINGS, LLC'S MOTION FOR ATTORNEYS' FEES** to be transmitted to the person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

Lee I. Iglody, Esq.
Nevada Bar #: 7757
2580 St Rose Pkwy., Suite 330
Henderson, Nevada 89074
Tel: (702) 425-5366
Email: Lee@Iglody.com
Attorney for Plaintiffs

All parties registered through the Court's e-file system.

/s/ Tya Frabott
Employee of MESSNER REEVES LLP

EXHIBIT A

Justin Brandt (AZ SBN: 031573)
Mukunda Shanbhag (AZ SBN: 034754)
BIANCHI & BRANDT
6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253
Telephone: 480.531.1800
justin@bianchibrandt.com
mukunda@bianchibrandt.com
*Pro Hac Vice Attorneys for Defendants
Burton, Lemons, and Snowell*

Candace C. Herling (NV SBN: 13503)
MESSNER REEVES LLP
8945 W. Russel Rd., Ste. 300
Las Vegas, NV 89148
Telephone: 702.363.5100
cherling@messner.com
*Attorneys for Defendants Burton,
Lemons, and Snowell*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual;
and TREVOR SCHMIDT, an individual,

Plaintiffs,

v.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation, et al.,

Defendants.

Case No. A-20-811232-C

Dept. No. 26

**DECLARATION OF
JUSTIN M. BRANDT IN SUPPORT
OF SNOWELL HOLDING, LLC'S
APPLICATION FOR ATTORNEY'S
FEES RE: MOTION TO DISMISS**

Justin M. Brandt declares as follows:

1. I am a shareholder at the law firm of Bianchi & Brandt. Bianchi & Brandt represents Snowell Holdings, LLC ("Snowell") in this matter. I have personal knowledge of the facts stated herein and submit this Declaration in support of Snowell's Motion for Attorney's Fees.

2. Attached to this Declaration as Exhibit A-1 is an itemized compilation of all time expended by Bianchi & Brandt and Messner Reeves, LLP, for which Snowell seeks recovery from Plaintiffs pursuant to N.R.S. 18.010(2)(b). This detailed description of time

1 provides the following information: the identity of the timekeeper who worked on the tasks
2 related to the Motion to Dismiss and the Motion for Attorney's Fees; the amount of time
3 expended (measured in tenths of an hour); a brief description of the work performed on a daily
4 basis; and the date the work was performed. The information contained in Exhibit A-1 was
5 compiled from actual billings that were prepared and maintained by Bianchi & Brandt and
6 Messner Reeves in the regular course of business.

7 3. Under the fee agreements between Snowell and Bianchi & Brandt and Snowell
8 and Messner Reeves, Snowell is responsible for all fees and costs as they are incurred. These
9 fee agreements specify that fees will be billed to Snowell on an hourly-rate basis in accordance
10 with the stated hourly rate for the particular attorney performing the work.

11 4. Fees incurred for this matter were billed at the following rates for each attorney:
12 Justin M. Brandt at \$375.00 per hour, Mukunda Shanbhag at \$325.00 per hour, and Candace
13 C. Herling of Messner Reeves at \$350.00 per hour. The billing rates charged to Snowell by
14 Bianchi & Brandt and Messner Reeves in this matter were reasonable.

15 5. I have reviewed the time and evaluated the efforts necessary to represent
16 Snowell's interests in obtaining dismissal for lack of personal jurisdiction and believe these
17 amounts are reasonable and appropriate. The other attorneys who worked on this matter have
18 reviewed and approved the time and charges set forth in Exhibit A-1 and concluded they were
19 reasonable and necessary under the circumstances. The attorneys involved in this case have
20 outstanding reputations in the community and are actively involved in professional
21 organizations and activities.

22 6. I am a shareholder at Bianchi & Brandt. I received a B.A. in Business
23 Economics and Accounting from the University of California, Santa Barbara. I am graduate of
24 the University of San Diego School of Law. I am duly licensed to practice law in Arizona,
25 California, and New Mexico. I have been practicing business litigation for over six years. I
26 have an outstanding reputation representing clients in these industries, having been featured as

1 a Top 40 Under 40 by the Phoenix Business Journal and MJ Venture magazine. I am also
2 recognized in Southwest Super Lawyers from 2018 to 2021. I have been actively involved in
3 preparing the Motion to Dismiss and related filings. I have also served as the primary point of
4 contact with the client. My standard billing rate for 2021 is \$500.00 per hour, but for this
5 matter my billing rate was discounted to \$375.00 per hour.

6 7. Mukunda Shanbhag is an associate at Bianchi & Brandt. He is licensed to
7 practice in Arizona and Colorado, has over two years of litigation experience, including
8 drafting motions, participating in hearings and navigating discovery, and was a law clerk for
9 much of law school. Mr. Shanbhag graduated with a M.A. in Modern History and International
10 Relations from the University of Saint Andrews in Scotland and received his J.D. (*cum laude*)
11 from Arizona State University's Sandra Day O'Connor College of Law. Under my
12 supervision, Mr. Shanbhag's role included researching and drafting portions of Snowell's
13 Motion to Dismiss and Reply, communicating and conferring with opposing counsel, and
14 attending and arguing Snowell's Motion to Dismiss before the Court. Mr. Shanbhag's hourly
15 rate was reasonable in light of his ability, training, education, experience, professional
16 standing, and skills.

17 8. Candace C. Herling is an associate at Messner Reeves. She is licensed to
18 practice in Nevada and has over six years of litigation experience. Ms. Herling was local
19 counsel for Snowell in Nevada and participated in drafting the briefing for Snowell's Motion
20 to Dismiss and preparing for and attending hearings regarding the same. Ms. Herling received
21 a B.A. in Communications and an M.A.T. from La Sierra University and received her J.D.
22 (*cum laude*) from Thomas Jefferson School of Law. Ms. Herling's hourly rate was reasonable
23 in light of her ability, training, education, experience, professional standing, and skills.

24 9. The total attorney's fees requested in this Motion are \$19,145.00. Of those
25 requested fees: \$15,620.00 is related to the Motion to Dismiss; and \$3,525.00 is related to fees
26 incurred in pursuing recovery of fees through this Application for Attorney's Fees.

10. The fees sought cover services including: (a) research and preparation of the Motion to Dismiss and related filings; (b) various communications with Snowell regarding the status of the Motion to Dismiss and related issues; (c) communication with Plaintiffs and their counsel regarding the Motion to Dismiss, including meet and confer efforts for the same; (d) reviewing Plaintiffs' Opposition to the Motion to Dismiss; (e) preparing for and attending hearings on and related to the Motion to Dismiss; (f) research and preparation of the Motion for Attorney's Fees; and (g) miscellaneous services identified in Exhibit A-1.

11. I believe the services performed and the fees charged by Bianchi & Brandt and Messner Reeves, as reflected in Exhibit A-1, were (and are) necessary and reasonable in view of the nature of this litigation. The fees reflected in Exhibit A-1 are only those directly and reasonably: (a) caused by Plaintiffs' refusal to dismiss Snowell despite having no evidence supporting personal jurisdiction over Snowell in Nevada; and (b) incurred in connection with this Application for Attorney's Fees.

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

DATED: March 17, 2021.

BIANCHI & BRANDT

/s/ Justin M. Brandt
Justin Brandt, Esq.
6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253

EXHIBIT A-1

Exhibit A-1

Category of Requested Attorney's Fees	Hours	Amount
Motion to Dismiss Snowell Holdings	45.5	\$15,620.00
Application for Attorney's Fees	10.4	\$3,525.00
Total	55.9	\$19,145.00

Timekeepers

JMB Justin M. Brandt
MS Mukunda Shanbhag
CCH Candace C. Herling

Bianchi & Brandt Attorney Fees

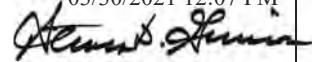
Date	Initials	Description	Hours	Rate	Amount
11/11/2020	JMB	Continue reviewing complaint for purposes of determining personal jurisdiction over Snowell Holdings and viability of motion to dismiss (.7).	.7	\$375.00	\$262.50
11/13/2020	MS	Research Nevada jurisprudence concerning jurisdiction over out of state defendants (1.6); begin drafting Snowell's Motion to Dismiss for lack of personal jurisdiction (.2).	1.8	\$325.00	\$585.00
11/16/2020	JMB	Ongoing correspondence with H. Smith regarding dismissal of Snowell for lack of personal jurisdiction (.3).	.3	\$375.00	\$112.50
11/16/2020	MS	Draft Motion to Dismiss Snowell for lack of personal jurisdiction (2.7); outline Declaration of L. Lemons for purposes of Motion to Dismiss (.3).	3.0	\$325.00	\$975.00
11/17/2020	MS	Research Nevada jurisprudence regarding general and specific jurisdiction (1.0); continue drafting Motion to Dismiss (2.1); phone call with opposing counsel regarding the dismissal of claims against Snowell for lack of jurisdiction (.4).	3.5	\$325.00	\$1,137.50
11/18/2020	MS	Revise the Declaration of L. Lemons (.3); ongoing correspondence with L. Lemons regarding his Declaration (.5).	.8	\$325.00	\$260.00
11/19/2020	MS	Email opposing counsel for an update regarding Snowell's dismissal (.3).	.3	\$325.00	\$97.50
11/23/2020	MS	Ongoing communications with opposing counsel regarding dismissal of Snowell (.5).	.5	\$325.00	\$162.50
11/26/2020	MS	Continue drafting Motion to Dismiss and request for attorney's fees (2.0).	2.0	\$325.00	\$650.00
11/30/2020	JMB	Revise and supplement Motion to Dismiss (1.5).	1.5	\$375.00	\$562.50
12/1/2020	JMB	Ongoing correspondence with Plaintiffs' counsel regarding dismissal of Snowell and acceptance of service for D. Burton (.4).	.4	\$375.00	\$150.00
12/3/2020	JMB	Ongoing correspondence with Plaintiffs' counsel regarding request for extension on response time to motion to dismiss (.3).	.3	\$375.00	\$112.50
12/8/2020	MS	Analyze Plaintiffs' Motion for Extension of Time to respond to the Motion to Dismiss (.1).	.1	\$325.00	\$32.50
12/9/2020	JMB	Attend hearing on motion to withdraw and motion to extend response deadlines for	1.1	\$375	\$412.50

		motion to dismiss (.9); update with local counsel regarding same (.2).			
1/19/2021	MS	Analyze Plaintiffs' Opposition to Snowell's Motion to Dismiss (.3); draft a detailed client update regarding Plaintiffs' Opposition (.4); draft a Reply in support of Snowell's Motion to Dismiss (3.5); telephone phone call C. Herling in preparation for hearing on Motion to Dismiss (.5).	4.7	\$325.00	\$1,527.50
1/19/2021	JMB	Prepare for hearing on Snowell's motion to dismiss (.8); revise Snowell's Reply in support of its Motion to Dismiss (.5).	1.3	\$450.00	\$585.00
1/20/2021	MS	Review filings by the parties to prepare for the upcoming hearing (.4); attend hearing on Snowell's Motion to Dismiss (1.5); email clients that the hearing had been continued (.1).	2.0	\$325.00	\$650.00
2/24/2021	MS	Prepare for oral argument on Snowell's Motion to Dismiss (1.1); attend hearing and argue Snowell's Motion to Dismiss (1.5).	2.6	\$325.00	\$845.00
3/1/2021	MS	Draft an email to client updating them on the Court's ruling on Defendants' Motions to Dismiss (.4).	.4	\$325.00	\$130.00
3/10/2021	MS	Analyze billing related to Snowell's Motion to Dismiss (.8); draft the Motion for Attorney's Fees (3.9).	4.7	\$325.00	\$1,527.50
3/11/2021	MS	Analyze C. Herling's billing related to Snowell's Motion to Dismiss (.8); revise and supplement the Motion for Attorney's Fees (2.0).	2.8	\$325.00	\$910.00
3/16/2021	JMB	Revise Motion for Attorney's Fees and supporting exhibits (2.9).	2.9	\$375.00	\$1,087.50
TOTALS		Hours: 37.7		Billed Amount: \$12,775.00	

Messner Reeves LLP Attorney Fees

Date	Initials	Description	Hours	Rate	Amount
11/25/2020	CCH	Exchange emails with Justin Brandt, Esq. and Mukunda Shanbhag, Esq. re: potential Motion to Dismiss and request for attorneys' fees (.2).	.2	\$350.00	\$70.00
12/1/2020	CCH	Exchange emails with Justin Brandt, Esq. and Mukunda Shanbhag, Esq. re: filing Snowell Holdings, LLC's Motion to Dismiss and accepting service for Donald Burton and Larry Lemons (.3).	.3	\$350.00	\$105.00
12/1/2020	CCH	Update and finalize Snowell Holdings, LLC's Motion to Dismiss (1.0).	1.0	\$350.00	\$350.00
12/2/2020	CCH	Review and evaluate Clerk's Notice of Hearing to determine necessary follow-up (.2).	.2	\$350.00	\$70.00
12/8/2020	CCH	Telephone conference with Justin Brandt, Esq. re: strategy related to mandatory hearing on Plaintiff's Ex Parte Motion to Extend Time to Oppose our Motion to Dismiss and Plaintiff's Motion to Withdraw as Counsel (.4).	.4	\$350.00	\$140.00
12/8/2020	CCH	Prepare for mandatory hearing on Plaintiffs' Ex Parte Motion to Extend Deadlines and Withdraw as Counsel; includes review of all pleadings and outline for oral argument (2.4).	2.4	\$350.00	\$840.00
12/8/2020	CCH	Telephone conference with Justin Brandt, Esq. re: strategy related to Plaintiffs' Ex Parte Motion to Extend Deadlines (.4).	.4	\$350.00	\$140.00
12/8/2020	CCH	Review and evaluate Notice of Entry of Plaintiffs' Ex Parte Motion to Extend Time to File an Opposition to Defendant Snowell Holdings, LLC's Motion to Dismiss and for An Order Shortening Time (.2).	.2	\$350.00	\$70.00
12/9/2020	CCH	Attend mandatory hearing Plaintiffs' Ex Parte Motion to Extend Deadlines and Motion to Withdraw as Counsel (2.3).	2.3	\$350.00	\$805.00
12/10/2020	CCH	Analyze draft Order to determine necessary amendments (.3).	.3	\$350.00	\$105.00
12/11/2020	CCH	Review and evaluate Order Granting Plaintiffs Motion to Extend Time and Withdraw from Case (.2).	.2	\$350.00	\$70.00

12/30/2020	CCH	Prepare Notice of Non-Opposition to Defendant Snowell Holdings, LLC's Motion to Dismiss (.6).	.6	\$350.00	\$210.00
1/6/2021	CCH	Telephone conference with Counsel for Marimed re: outstanding Motions and non-oppositions (.3).	.3	\$350.00	\$105.00
1/11/2021	CCH	Prepare draft Order granting Defendant Snowell Holdings, LLC's Motion to Dismiss (.3).	.3	\$350.00	\$105.00
1/19/2021	CCH	Review pleadings and prepare outline in preparation for oral argument and hearings on pending Motion to Dismiss (.9).	.9	\$350.00	\$315.00
1/19/2021	CCH	Analyze and assess Opposition to Motion to Dismiss to ascertain legal argument contained therein and accuracy of authority cited in preparation for Reply (.8).	.8	\$350.00	\$280.00
1/20/2021	CCH	Update and finalize Reply in Support of Snowell Holdings, LLC's Motion to Dismiss (1.0).	1.0	\$350.00	\$350.00
1/20/2021	CCH	Attend mandatory hearing on Defendants Snowell Holdings, LLC and Marimed's Motions to Dismiss (3.5).	3.5	\$350.00	\$1,225.00
2/1/2021	CCH	Review and evaluate Clerk's Notice of Hearing (.2).	.2	\$350.00	\$70.00
2/24/2021	CCH	Prepare for and attend mandatory hearing on Snowell's Motion to Dismiss (2.7).	2.7	\$350.00	\$945.00
TOTALS		Hours: 18.2		Amount Billed: \$6,370	


CLERK OF THE COURT

Justin M. Brandt (*pro hac vice*)
Mukunda Shanbhag (*pro hac vice*)
BIANCHI & BRANDT
6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253
Telephone: 480.531.1800
justin@bianchibrandt.com
mukunda@bianchibrandt.com
Attorneys for Defendants
Burton, Lemons, and Snowell

Candace C. Herling (NV SBN: 13503)
MESSNER REEVES LLP
8945 W. Russell Rd., Ste. 300
Las Vegas, NV 89148
Telephone: 702.363.5100
cherling@messner.com
Attorneys for Defendants Burton,
Lemons, and Snowell

DISTRICT COURT
CLARK COUNTY, NEVADA

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual;
and TREVOR SCHMIDT, an individual,

Plaintiffs,

v.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation, et al.,

Defendants.

Case No. A-20-811232-B

Dept. No. 16

ORDER GRANTING DEFENDANT
SNOWELL HOLDING, LLC'S
MOTION TO DISMISS

THIS MATTER concerning Defendant, SNOWELL HOLDING, LLC'S Motion to Dismiss First Amended Complaint having come on for hearing before the Honorable Timothy C. Williams, on the 24th day of February, 2021, with attorneys Mukunda Shanbhag, Esq., Justin M. Brandt, Esq. and Candace C. Herling, Esq. appearing on behalf of Defendant SNOWELL HOLDING, LLC, and attorney Lee I. Iglody, Esq., appearing on behalf of Plaintiffs, JDD, LLC, TCS Partners, LLC, JOHN SAUNDERS, and TREVOR SCHMIDT, and the Court having considered the pleadings and moving papers on file therein as well as the arguments of counsel:

1 **THE COURT FINDS**, that a party may move for dismissal of claims for lack of
2 personal jurisdiction under Nev.R.Civ.P. 12(b)(2). Personal jurisdiction requires either
3 “substantial” or “continuous and systemic” contacts with the forum state (general personal
4 jurisdiction) or contacts related to the allegations in the lawsuit (specific personal jurisdiction).
5 *Trump v. Eighth Jud. Dist. Ct., In and For the Cnty. of Clark*, 857 P.2d 740, 747 (Nev. 1993).
6 When personal jurisdiction is challenged, Plaintiffs bear the burden of introducing evidence
7 sufficient to make a *prima facie* showing of personal jurisdiction. *Id.* at 743.

8 **THE COURT FURTHER FINDS**, that no general personal jurisdiction exists over
9 Snowell. The Amended Complaint failed to plead facts sufficient to show that Snowell has
10 sufficient contacts in Nevada to support specific personal jurisdiction.

11 **THE COURT FURTHER FINDS**, that Plaintiffs failed to meet their evidentiary
12 burden to make a *prima facie* showing of personal jurisdiction to overcome Snowell Holding,
13 LLC’s challenge to specific personal jurisdiction and the facts presented show that Snowell
14 Holding, LLC is an Ohio entity with no contacts in Nevada.

15 **NOW THEREFORE, IT IS HEREBY ORDERED**, Snowell Holding LLC’s Motion
16 to Dismiss for lack of personal jurisdiction is **GRANTED**.
17

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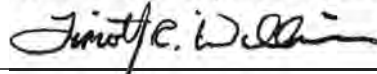
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25 . . .
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1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
2 claims in the First Amended Complaint as to Snowell Holding, LLC's are **DISMISSED**
3 **WITHOUT PREJUDICE**, in their entirety.

4 **IT IS SO ORDERED.**

5 Dated this _____ day of _____, 2021.

Dated this 30th day of March, 2021



HONORABLE TIMOTHY WILLIAMS

C0A F6F 22CD E35B
Timothy C. Williams
District Court Judge

ZJ

10 *Respectfully Submitted By:*

11 DATED this 24th day of March, 2021.

12 **BIANCHI & BRANDT**

13 /s/ Mukunda Shanbhag
14 Justin M. Brandt (*pro hac vice*)
15 Mukunda Shanbhag (*pro hac vice*)
16 6710 Scottsdale Rd., Ste. 210
17 Scottsdale, AZ 85253 Telephone:
18 480.531.1800
19 justin@bianchibrandt.com
20 mukunda@bianchibrandt.com
21 *Attorneys for Defendants*
22 *Burton, Lemons, and Snowell*

23 **MESSNER REEVES LLP**

24 /s/ Candace Herling
25 Candace C. Herling (NV SBN: 13503)
26 8945 W. Russel Rd., Ste. 300
Las Vegas, NV 89148
Telephone: 702.363.5100
cherling@messner.com
Attorneys for Defendants Burton,
Lemons, and Snowell

1
2 *Approved as to form and content:*

3 DATED this 23rd day of March,

4 2021. **IGLODY LAW**

5 /s/ Lee Igloody
LEE I. IGLODY
6 Nevada Bar No. 7757
7 *Attorneys for Plaintiffs JDD, LLC,*
TCS Partners, LLC, John Saunders,
And Trevor Schmidt

8
9 DATED this 22nd day of March, 2021.

10 **GABROY LAW OFFICES**

11 /s/ Christian Gabroy
CHRISTIAN GABROY, ESQ.
12 Nevada Bar No. 8805
13 KAINE MESSER, ESQ.
14 Nevada Bar No. 14240
15 *Attorneys for Defendant*
The Harvest Foundation
Attorneys for Defendant Sara Gullickson

16 DATED this 22nd day of March, 2021.

17 **SMITH LARSEN & WIXOM**

18 /s/ Karl Nielson
MICHAEL B. WIXOM, ESQ.
19 Nevada Bar No. 2812
20 KARL L. NIELSON, ESQ.
21 Nevada Bar No. 5082
22 *Attorneys for Defendants Item 9 Labs Corp,*
Item 9 Properties, LLC, Strive Management, L.L.C.,
23 *Viridis Group 19 Capital, LLC,*
Viridis Group Holdings, LLC,
24 *Andrew Bowden, Douglas Bowden, Bryce Skalla,*
Jeffrey Rassas, and Chase Herschman

DATED this 23rd day of March, 2021.

THE WRIGHT LAW GROUP, P.C.

/s/ John Wright
JOHN HENRY WRIGHT, ESQ.
Nevada Bar No. 6182
Attorneys for Defendants MARIMED, INC.,
ROBERT FIREMAN and JON LEVINE

DATED this 23rd day of March, 2021.

BARRETT & MATURA, P.C.

/s/ Kevin Barrett
KEVIN C. BARRETT, ESQ.
Nevada Bar No. 8959
Attorneys for Defendant
The Harvest Foundation

From: Christian Gabroy <christian@gabroy.com>
Sent: Monday, March 22, 2021 2:26 PM
To: Candace C. Herling
Cc: Lee Iglody, Esq.; John Wright; kmesser@gabroy.com; Karl L. Nielson; mbw@slwlaw.com; Kevin Barrett; Andrelle Stanley; Dayana Shakerian; Tya Frabott
Subject: Re: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

consent. thank you.

On Mon, Mar 22, 2021 at 1:32 PM Candace C. Herling <CHerling@messner.com> wrote:

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace



MESSNER REEVES LLP

Candace C. Herling

Attorney

Messner Reeves LLP

8945 W. Russell Road | Suite 300

Las Vegas, NV 89148

One East Liberty Street | Suite 600

Reno, NV 89501

From: Karl L. Nielson <kln@slwlaw.com>
Sent: Monday, March 22, 2021 2:43 PM
To: Candace C. Herling; Lee Iglody, Esq.; John Wright; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom; Kevin Barrett; Andrelle Stanley; Dayana Shakerian; Tya Frabott
Cc: Stine, Lauren Elliott; Mindy Warner; Stahl, Christian G.
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

You may use my e-signature on this Order.

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kln@slwlaw.com
<https://slwlaw.com>

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From: Candace C. Herling <CHerling@messner.com>
Sent: Monday, March 22, 2021 1:31 PM
To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; Mike Wixom <mbw@slwlaw.com>; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>
Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD
Importance: High

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Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace

Candace C. Herling

From: Kevin Barrett <kbarrett@barrettmatura.com>
Sent: Tuesday, March 23, 2021 9:46 AM
To: Candace C. Herling
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

You can sign for me.

Thanks

Kevin

Kevin C. Barrett, Esq.



Barrett & Matura, P.C.
7575 W. Vegas Drive
Suite 150c
Las Vegas, Nevada 89128
Main: 702.833.1033
Direct: 602.792.5715
Fax: 602.792.5710
Email: kbarrett@barrettmatura.com

This electronic message and any attachments contain information that is or may be legally privileged, confidential, proprietary in nature, or otherwise protected by law from disclosure. The message is intended only for the addressee. If you are not the intended recipient, please contact me so that the error can be corrected and delete from your computer the message and any attachments. Thank you.

In accordance with 31 C.F.R. Section 10.35(b)(4), this message has not been prepared and may not be relied upon by any person for protection against any federal tax penalty.

From: Candace C. Herling <CHerling@messner.com>
Sent: Monday, March 22, 2021 1:31 PM
To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; mbw@slwlaw.com; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>
Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD
Importance: High

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Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace



MESSNER REEVES LLP

Candace C. Herling
Attorney

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

DENVER | DENVER TECH CENTER | LAS VEGAS | LOS ANGELES | NEW YORK
NEWPORT BEACH | PHOENIX | RENO | SALT LAKE CITY | SILICON VALLEY

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From: Lee Iglody, Esq. <lee@iglody.com>
Sent: Tuesday, March 23, 2021 7:58 PM
To: Candace C. Herling
Cc: Tya Frabott
Subject: Re: FW: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Yes, I approve.

Kind regards,

Lee Iglody, Esq.
2580 St Rose Pkwy #330
Henderson, Nevada 89074
O: (702) 425-5366
C: (702) 561-9934
lee@iglody.com
www.iglodylaw.com



The IRS requires us to inform you that any tax information or advice is not intended and cannot be used to avoid tax penalties or promote, recommend or market any tax related matters. Also, this email contains confidential communications. If you received this email in error, notify the sender immediately. Thank you.

On Tue, Mar 23, 2021 at 12:19 PM Candace C. Herling <CHerling@messner.com> wrote:

Mr. Iglody,

It appears you may be the only person that has yet to respond. May we affix your e-signature to the Order?

Otherwise, please let me know if you “refuse to sign” and we will go ahead and submit.

Thanks,

Candace

Candace C. Herling

Attorney

Messner Reeves LLP

8945 W. Russell Road | Suite 300

Las Vegas, NV 89148

One East Liberty Street | Suite 600

Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*

cherling@messner.com

messner.com

From: Candace C. Herling

Sent: Monday, March 22, 2021 1:31 PM

To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; mbw@slwlaw.com; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>

Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Importance: High

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace

From: Candace C. Herling
Sent: Tuesday, March 23, 2021 1:30 PM
To: John Wright
Cc: Tya Frabott
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Thanks!

Candace C. Herling
Attorney

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

From: John Wright <john@wrightlawgroupnv.com>
Sent: Tuesday, March 23, 2021 1:30 PM
To: Candace C. Herling <CHerling@messner.com>
Cc: Tya Frabott <tfrabott@messner.com>
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Yes you may

John Henry Wright, Esq.
The Wright Law Group, P.C.
2340 Paseo Del Prado, Suite D-305
Las Vegas, Nevada 89102
Telephone: (702) 405-0001
Facsimile: (702) 405-8454
john@wrightlawgroupnv.com



THE WRIGHT LAW GROUP
P.C.

From: Candace C. Herling <CHerling@messner.com>
Sent: Tuesday, March 23, 2021 1:29 PM
To: John Wright <john@wrightlawgroupnv.com>
Cc: Tya Frabott <tfrabott@messner.com>
Subject: FW: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Hi John, Would you please provide consent to affix your e-sig?

Thanks,

CH

Candace C. Herling
Attorney

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

From: Candace C. Herling
Sent: Monday, March 22, 2021 1:31 PM
To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com;
kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; mbw@slwlaw.com; Kevin Barrett
<kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian
<dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>
Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD
Importance: High

Good Afternoon,

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Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace



Candace C. Herling
Attorney

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 JDD, LLC, Plaintiff(s)

CASE NO: A-20-811232-B

7 vs.

DEPT. NO. Department 16

8 Larry Lemons, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

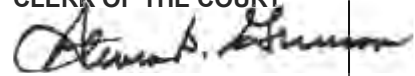
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/30/2021

15 Robert Rabbat	rrabbat@enensteinlaw.com
16 Christian Gabroy	christian@gabroy.com
17 Michael Wixom	mbw@slwlaw.com
18 Karl Nielson	kln@slwlaw.com
19 Barbara Clark	bclark@albrightstoddard.com
20 Mindy Warner	mwarner@slwlaw.com
21 Traci Bixenmann	traci@johnaldrichlawfirm.com
22 Kaine Messer	kmesser@gabroy.com
23 Lee Iglody	lee@iglody.com
24 John Wright	efile@wrightlawgroupnv.com
25 Candace Herling	cherling@messner.com

26
27
28

1	Stephanie Prescott	sprescott@messner.com
2	Jessica Gandy	Jgandy@messner.com
3	Tya Frabott	Tfrabott@messner.com
4	Hayden Smith	hsmith@albrightstoddard.com
5	Misha Ray	clerk@gabroy.com
6	Ella Dumo	assistant@gabroy.com
7	John Saunders	jsaunders@citrincooperman.com
8	Trevor Schmidt	ta_schmidt@yahoo.com
9	Trevor Schmidt	trevor@myshapelipo.com
10	Kevin Barrett	kbarrett@barrettmatura.com
11	Emily Iglody	emily@iglodylaw.com
12	Lauren Stine	Lauren.Stine@quarles.com
13	Maria Marotta	Maria.Marotta@quarles.com
14	Sky Jackson	sky@bianchibrandt.com
15	Justin Brandt	justin@bianchibrandt.com
16	Mukunda Shanbhag	mukunda@bianchibrandt.com
17	Christian Stahl	christian.stahl@quarles.com
18		
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28		



NEOJ

Justin M. Brandt, Esq. (pro hac vice)
Mukunda Shanbhag, Esq. (pro hac vice)
BIANCHI & BRANDT
6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253
P: (480) 531-1800
Email: justin@bianchibrandt.com
mukunda@bianchibrandt.com

and

Candace C. Herling, Esq.
Nevada State Bar No. 13503
MESSNER REEVES LLP
8945 W. Russell Rd., Ste. 300
Las Vegas, NV 89148
P: (702) 363-5100
Email: cherling@messner.com

Attorneys for Defendants

Donald Burton, Larry Lemons and Snowell Holdings, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

JDD, LLC, a Nevada Limited Liability Company; TCS
PARTNERS, LLC, a Nevada Limited Liability
Company; JOHN SAUNDERS, an individual; and
TREVOR SCHMIDT, an individual,

Plaintiff,

vs.

MARIMED INC. f/k/a WORLDS ONLINE, INC. a
Delaware Corporation; ITEM 9 LABS CORP. f/k/a
AIRWARE LABS CORP. AND CROWN DYNAMICS
CORP., a Delaware Corporation; ITEM 9
PROPERTIES LLC, a Nevada Limited Liability
Company; THE HARVEST FOUNDATION LLC f/k/a,
a Nevada Limited Liability Company a/k/a THE
HARVEST FOUNDATION, LLC; STRIVE
MANAGEMENT LLC d/b/a STRIVE LIFE, a Nevada
Limited Liability Company; STRIVE WELLNESS OF
NEVADA, LLC d/b/a STRIVE LIFE, a Nevada Limited
Liability Company; STRIVE WELLNESS OF
NEVADA 2 LLC d/b/a STRIVE LIFE, a Nevada
Limited Liability Company; VIRIDIS GROUP I9

Case No. A-20-811232-B

Dept. No. 16

NOTICE OF ENTRY
OF ORDER GRANTING
DEFENDANT SNOWELL
HOLDINGS, LLC'S MOTION TO
DISMISS

CAPITAL, LLC, an Arizona Limited Liability Company; VIRIDIS GROUP HOLDINGS, LLC, an Arizona Limited Liability Company; SNOWELL HOLDINGS, LLC, an Ohio Limited Liability Company; ROBERT FIREMAN, an individual; JON LEVINE, an individual; ANDREW BOWDEN, an individual; DOUGLAS BOWDEN, an individual; BRYCE SKALLA, an individual; JEFFREY RASSAS, an individual; DONALD BURTON, an individual; LARRY LEMONS, an individual; JEFFREY YOKIEL, an individual; JEROME YOKIEL, an individual; SARA GULLICKSON, an individual; CHASE HERSCHMAN, an individual; DOE INDIVIDUALS I through X, and ROE BUSINESS ENTITIES XI through XX, inclusive,

Defendants.

PLEASE TAKE NOTICE that an Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss was entered on the 30th day of March, 2021, regarding the above-entitled matter. A filed stamped copy is attached hereto.

DATED this 30th day of March, 2021.

MESSNER REEVES LLP

/s/ Candace Herling

CANDACE C. HERLING, ESQ. (NBN 13503)

8945 West Russell Road, Suite 300

Las Vegas, Nevada 89148

P: (702) 363-5100

F: (702) 363-5101

E-mail: cherling@messner.com

Attorneys for Defendants

*Donald Burton, Larry Lemons and
Snowell Holdings, LLC*

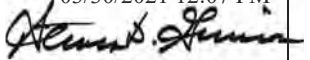
1 **CERTIFICATE OF SERVICE**

2 On this 5th day of March, 2021, pursuant to Administrative Order 14-2 and Rule 9 of the
3 NEFCR, I caused the foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT**
4 **SNOWELL HOLDINGS, LLC'S MOTION TO DISMISS** to be transmitted to the person(s)
5 identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth
6 Judicial District Court, County of Clark, State of Nevada. A service transmission report reported
7 service as complete and a copy of the service transmission report will be maintained with the
8 document(s) in this office.

9
10 Lee I. Iglody, Esq. (NBN 7757)
11 2580 St Rose Pkwy., Suite 330
12 Henderson, Nevada 89074
13 P: (702) 425-5366
14 Email: Lee@Iglody.com
15 *Attorney for Plaintiffs*

All parties registered through the Court's e-file system.

16 /s/ Tya Frabott
17 Employee of MESSNER REEVES LLP
18
19
20
21
22
23
24
25
26
27
28


CLERK OF THE COURT

Justin M. Brandt (*pro hac vice*)
Mukunda Shanbhag (*pro hac vice*)
BIANCHI & BRANDT
6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253
Telephone: 480.531.1800
justin@bianchibrandt.com
mukunda@bianchibrandt.com
Attorneys for Defendants
Burton, Lemons, and Snowell

Candace C. Herling (NV SBN: 13503)
MESSNER REEVES LLP
8945 W. Russell Rd., Ste. 300
Las Vegas, NV 89148
Telephone: 702.363.5100
cherling@messner.com
Attorneys for Defendants Burton,
Lemons, and Snowell

DISTRICT COURT
CLARK COUNTY, NEVADA

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual;
and TREVOR SCHMIDT, an individual,

Plaintiffs,

v.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation, et al.,

Defendants.

Case No. A-20-811232-B

Dept. No. 16

ORDER GRANTING DEFENDANT
SNOWELL HOLDING, LLC'S
MOTION TO DISMISS

THIS MATTER concerning Defendant, SNOWELL HOLDING, LLC'S Motion to Dismiss First Amended Complaint having come on for hearing before the Honorable Timothy C. Williams, on the 24th day of February, 2021, with attorneys Mukunda Shanbhag, Esq., Justin M. Brandt, Esq. and Candace C. Herling, Esq. appearing on behalf of Defendant SNOWELL HOLDING, LLC, and attorney Lee I. Iglody, Esq., appearing on behalf of Plaintiffs, JDD, LLC, TCS Partners, LLC, JOHN SAUNDERS, and TREVOR SCHMIDT, and the Court having considered the pleadings and moving papers on file therein as well as the arguments of counsel:

1 **THE COURT FINDS**, that a party may move for dismissal of claims for lack of
2 personal jurisdiction under Nev.R.Civ.P. 12(b)(2). Personal jurisdiction requires either
3 “substantial” or “continuous and systemic” contacts with the forum state (general personal
4 jurisdiction) or contacts related to the allegations in the lawsuit (specific personal jurisdiction).
5 *Trump v. Eighth Jud. Dist. Ct., In and For the Cnty. of Clark*, 857 P.2d 740, 747 (Nev. 1993).
6 When personal jurisdiction is challenged, Plaintiffs bear the burden of introducing evidence
7 sufficient to make a *prima facie* showing of personal jurisdiction. *Id.* at 743.

8 **THE COURT FURTHER FINDS**, that no general personal jurisdiction exists over
9 Snowell. The Amended Complaint failed to plead facts sufficient to show that Snowell has
10 sufficient contacts in Nevada to support specific personal jurisdiction.

11 **THE COURT FURTHER FINDS**, that Plaintiffs failed to meet their evidentiary
12 burden to make a *prima facie* showing of personal jurisdiction to overcome Snowell Holding,
13 LLC’s challenge to specific personal jurisdiction and the facts presented show that Snowell
14 Holding, LLC is an Ohio entity with no contacts in Nevada.

15 **NOW THEREFORE, IT IS HEREBY ORDERED**, Snowell Holding LLC’s Motion
16 to Dismiss for lack of personal jurisdiction is **GRANTED**.
17

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20 . . .

21
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23 . . .

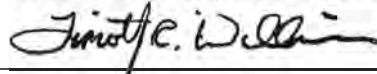
24
25 . . .
26

1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
2 claims in the First Amended Complaint as to Snowell Holding, LLC's are **DISMISSED**
3 **WITHOUT PREJUDICE**, in their entirety.

4 **IT IS SO ORDERED.**

5 Dated this ____ day of _____, 2021.

Dated this 30th day of March, 2021



HONORABLE TIMOTHY WILLIAMS

C0A F6F 22CD E35B
Timothy C. Williams
District Court Judge

ZJ

6 *Respectfully Submitted By:*

7 DATED this 24th day of March, 2021.

8 **BIANCHI & BRANDT**

9 /s/ Mukunda Shanbhag
10 Justin M. Brandt (*pro hac vice*)
11 Mukunda Shanbhag (*pro hac vice*)
12 6710 Scottsdale Rd., Ste. 210
13 Scottsdale, AZ 85253 Telephone:
14 480.531.1800
15 justin@bianchibrandt.com
16 mukunda@bianchibrandt.com
17 *Attorneys for Defendants*
18 *Burton, Lemons, and Snowell*

19 **MESSNER REEVES LLP**

20 /s/ Candace Herling
21 Candace C. Herling (NV SBN: 13503)
22 8945 W. Russel Rd., Ste. 300
23 Las Vegas, NV 89148
24 Telephone: 702.363.5100
25 cherling@messner.com
26 *Attorneys for Defendants Burton,*
Lemons, and Snowell

1
2 *Approved as to form and content:*

3 DATED this 23rd day of March,

4 2021. **IGLODY LAW**

5 /s/ Lee Igloody
LEE I. IGLODY
6 Nevada Bar No. 7757
7 *Attorneys for Plaintiffs JDD, LLC,*
TCS Partners, LLC, John Saunders,
And Trevor Schmidt

8
9 DATED this 22nd day of March, 2021.

10 **GABROY LAW OFFICES**

11 /s/ Christian Gabroy
CHRISTIAN GABROY, ESQ.
12 Nevada Bar No. 8805
13 KAINE MESSER, ESQ.
14 Nevada Bar No. 14240
Attorneys for Defendant
The Harvest Foundation
15 *Attorneys for Defendant Sara Gullickson*

16 DATED this 22nd day of March, 2021.

17 **SMITH LARSEN & WIXOM**

18 /s/ Karl Nielson
MICHAEL B. WIXOM, ESQ.
19 Nevada Bar No. 2812
20 KARL L. NIELSON, ESQ.
Nevada Bar No. 5082
21 *Attorneys for Defendants Item 9 Labs Corp,*
Item 9 Properties, LLC, Strive Management, L.L.C.,
22 *Viridis Group 19 Capital, LLC,*
Viridis Group Holdings, LLC,
23 *Andrew Bowden, Douglas Bowden, Bryce Skalla,*
24 *Jeffrey Rassas, and Chase Herschman*

DATED this 23rd day of March, 2021.

THE WRIGHT LAW GROUP, P.C.

/s/ John Wright
JOHN HENRY WRIGHT, ESQ.
Nevada Bar No. 6182
Attorneys for Defendants MARIMED, INC.,
ROBERT FIREMAN and JON LEVINE

DATED this 23rd day of March, 2021.

BARRETT & MATURA, P.C.

/s/ Kevin Barrett
KEVIN C. BARRETT, ESQ.
Nevada Bar No. 8959
Attorneys for Defendant
The Harvest Foundation

From: Christian Gabroy <christian@gabroy.com>
Sent: Monday, March 22, 2021 2:26 PM
To: Candace C. Herling
Cc: Lee Iglody, Esq.; John Wright; kmesser@gabroy.com; Karl L. Nielson; mbw@slwlaw.com; Kevin Barrett; Andrelle Stanley; Dayana Shakerian; Tya Frabott
Subject: Re: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

consent. thank you.

On Mon, Mar 22, 2021 at 1:32 PM Candace C. Herling <CHerling@messner.com> wrote:

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace



MESSNER REEVES LLP

Candace C. Herling

Attorney

Messner Reeves LLP

8945 W. Russell Road | Suite 300

Las Vegas, NV 89148

One East Liberty Street | Suite 600

Reno, NV 89501

From: Karl L. Nielson <kln@slwlaw.com>
Sent: Monday, March 22, 2021 2:43 PM
To: Candace C. Herling; Lee Iglody, Esq.; John Wright; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom; Kevin Barrett; Andrelle Stanley; Dayana Shakerian; Tya Frabott
Cc: Stine, Lauren Elliott; Mindy Warner; Stahl, Christian G.
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

You may use my e-signature on this Order.

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kln@slwlaw.com
<https://slwlaw.com>

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From: Candace C. Herling <CHerling@messner.com>
Sent: Monday, March 22, 2021 1:31 PM
To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; Mike Wixom <mbw@slwlaw.com>; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>
Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD
Importance: High

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace

Candace C. Herling

From: Kevin Barrett <kbarrett@barrettmatura.com>
Sent: Tuesday, March 23, 2021 9:46 AM
To: Candace C. Herling
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

You can sign for me.

Thanks

Kevin

Kevin C. Barrett, Esq.



Barrett & Matura, P.C.
7575 W. Vegas Drive
Suite 150c
Las Vegas, Nevada 89128
Main: 702.833.1033
Direct: 602.792.5715
Fax: 602.792.5710
Email: kbarrett@barrettmatura.com

This electronic message and any attachments contain information that is or may be legally privileged, confidential, proprietary in nature, or otherwise protected by law from disclosure. The message is intended only for the addressee. If you are not the intended recipient, please contact me so that the error can be corrected and delete from your computer the message and any attachments. Thank you.

In accordance with 31 C.F.R. Section 10.35(b)(4), this message has not been prepared and may not be relied upon by any person for protection against any federal tax penalty.

From: Candace C. Herling <CHerling@messner.com>
Sent: Monday, March 22, 2021 1:31 PM
To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; mbw@slwlaw.com; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>
Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD
Importance: High

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace



MESSNER REEVES LLP

Candace C. Herling
Attorney

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

DENVER | DENVER TECH CENTER | LAS VEGAS | LOS ANGELES | NEW YORK
NEWPORT BEACH | PHOENIX | RENO | SALT LAKE CITY | SILICON VALLEY

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From: Lee Iglody, Esq. <lee@iglody.com>
Sent: Tuesday, March 23, 2021 7:58 PM
To: Candace C. Herling
Cc: Tya Frabott
Subject: Re: FW: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Yes, I approve.

Kind regards,

Lee Iglody, Esq.
2580 St Rose Pkwy #330
Henderson, Nevada 89074
O: (702) 425-5366
C: (702) 561-9934
lee@iglody.com
www.iglodylaw.com



The IRS requires us to inform you that any tax information or advice is not intended and cannot be used to avoid tax penalties or promote, recommend or market any tax related matters. Also, this email contains confidential communications. If you received this email in error, notify the sender immediately. Thank you.

On Tue, Mar 23, 2021 at 12:19 PM Candace C. Herling <CHerling@messner.com> wrote:

Mr. Iglody,

It appears you may be the only person that has yet to respond. May we affix your e-signature to the Order?

Otherwise, please let me know if you “refuse to sign” and we will go ahead and submit.

Thanks,

Candace

Candace C. Herling

Attorney

Messner Reeves LLP

8945 W. Russell Road | Suite 300

Las Vegas, NV 89148

One East Liberty Street | Suite 600

Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*

cherling@messner.com

messner.com

From: Candace C. Herling

Sent: Monday, March 22, 2021 1:31 PM

To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; mbw@slwlaw.com; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>

Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Importance: High

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace

From: Candace C. Herling
Sent: Tuesday, March 23, 2021 1:30 PM
To: John Wright
Cc: Tya Frabott
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Thanks!

Candace C. Herling
Attorney

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

From: John Wright <john@wrightlawgroupnv.com>
Sent: Tuesday, March 23, 2021 1:30 PM
To: Candace C. Herling <CHerling@messner.com>
Cc: Tya Frabott <tfrabott@messner.com>
Subject: RE: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Yes you may

John Henry Wright, Esq.
The Wright Law Group, P.C.
2340 Paseo Del Prado, Suite D-305
Las Vegas, Nevada 89102
Telephone: (702) 405-0001
Facsimile: (702) 405-8454
john@wrightlawgroupnv.com



THE WRIGHT LAW GROUP
P.C.

From: Candace C. Herling <CHerling@messner.com>
Sent: Tuesday, March 23, 2021 1:29 PM
To: John Wright <john@wrightlawgroupnv.com>
Cc: Tya Frabott <tfrabott@messner.com>
Subject: FW: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD

Hi John, Would you please provide consent to affix your e-sig?

Thanks,

CH

Candace C. Herling
Attorney

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

From: Candace C. Herling
Sent: Monday, March 22, 2021 1:31 PM
To: Lee Iglody, Esq. <lee@iglody.com>; John Wright <john@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Karl L. Nielson <kln@slwlaw.com>; mbw@slwlaw.com; Kevin Barrett <kbarrett@barrettmatura.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Tya Frabott <tfrabott@messner.com>
Subject: CASE NO. A-20-811232-B / JDD v. Snowell et al. - Order Granting MTD
Importance: High

Good Afternoon,

Please see the attached *Order Granting Defendant Snowell Holdings, LLC's Motion to Dismiss Amended Complaint* in the above-referenced case. If the Order meets with your approval, please provide your consent to affix your e-signature on the same.

Otherwise, please do not hesitate to contact me with any questions or concerns.

Thanks,

Candace



Candace C. Herling
Attorney

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 JDD, LLC, Plaintiff(s)

CASE NO: A-20-811232-B

7 vs.

DEPT. NO. Department 16

8 Larry Lemons, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/30/2021

15 Robert Rabbat rrabbat@enensteinlaw.com

16 Christian Gabroy christian@gabroy.com

17 Michael Wixom mbw@slwlaw.com

18 Karl Nielson kln@slwlaw.com

19 Barbara Clark bclark@albrightstoddard.com

20 Mindy Warner mwarner@slwlaw.com

21 Traci Bixenmann traci@johnaldrichlawfirm.com

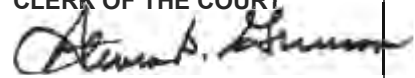
22 Kaine Messer kmesser@gabroy.com

23 Lee Iglody lee@iglody.com

24 John Wright efile@wrightlawgroupnv.com

25 Candace Herling cherling@messner.com

1	Stephanie Prescott	sprescott@messner.com
2	Jessica Gandy	Jgandy@messner.com
3	Tya Frabott	Tfrabott@messner.com
4	Hayden Smith	hsmith@albrightstoddard.com
5	Misha Ray	clerk@gabroy.com
6	Ella Dumo	assistant@gabroy.com
7	John Saunders	jsaunders@citrincooperman.com
8	Trevor Schmidt	ta_schmidt@yahoo.com
9	Trevor Schmidt	trevor@myshapelipo.com
10	Kevin Barrett	kbarrett@barrettmatura.com
11	Emily Iglody	emily@iglodylaw.com
12	Lauren Stine	Lauren.Stine@quarles.com
13	Maria Marotta	Maria.Marotta@quarles.com
14	Sky Jackson	sky@bianchibrandt.com
15	Justin Brandt	justin@bianchibrandt.com
16	Mukunda Shanbhag	mukunda@bianchibrandt.com
17	Christian Stahl	christian.stahl@quarles.com
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OPPM

Lee I. Iglody, Esq.
Nevada Bar #: 7757
2580 St Rose Pkwy., Suite 330
Henderson, Nevada 89074
Tel: (702) 425-5366
Email: Lee@Iglody.com
Attorney for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

JDD, LLC, a Nevada limited liability company; TCS
Partners, LLC, a Nevada limited liability company;
JOHN SAUNDERS, an individual; and TREVOR
SCHMIDT, an individual

Plaintiffs,

vs.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation; ITEM 9 LABS CORP. f/k/a
Airware Labs Corp. and Crown Dynamics Corp., a
Delaware corporation; ITEM 9 PROPERTIES LLC, a
Nevada limited liability company; THE HARVEST
FOUNDATION LLC f/k/a, a Nevada limited liability
company a/k/a THE HARVEST FOUNDATION,
LLC; STRIVE MANAGEMENT L.L.C. d/b/a Strive
Life, a Nevada limited liability company; STRIVE
WELLNESS OF NEVADA, LLC d/b/a Strive Life, a
Nevada limited liability company; STRIVE
WELLNESS OF NEVADA 2 L.L.C. d/b/a Strive
Life, a Nevada limited liability company; VIRIDIS
GROUP I9 CAPITAL, LLC, an Arizona limited
liability company; VIRIDIS GROUP HOLDINGS,
LLC, an Arizona limited liability company;
SNOWELL HOLDINGS, LLC, an Ohio limited
liability company; ROBERT FIREMAN, an
individual; JON LEVINE, an individual; ANDREW
BOWDEN, an individual; DOUGLAS BOWDEN, an
individual; BRYCE SKALLA, an individual;
JEFFREY RASSAS, an individual; DONALD
BURTON, an individual; LARRY LEMONS, an
individual; JEFFREY YOKIEL, an individual;
JEROME YOKIEL, an individual; SARA
GULLICKSON, an individual; CHASE
HERSCHMAN, an individual; DOE INDIVIDUALS
I through X, and ROE BUSINESS ENTITIES XI
through XX, inclusive,

Defendants.

CASE NO.: A-20-811232-C

DEPT. NO.: XXVI

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS SNOWELL
HOLDINGS' MOTION FOR FEES**

Hearing date: May 12, 2021

Hearing time: 9:00 a.m.

1 Plaintiffs, JDD, LLC; TCS Partners, LLC; JOHN SAUNDERS; and TREVOR SCHMIDT,
2 by and through undersigned counsel, hereby opposes the Motion for Fees filed by Defendant
3 Snowell Holdings, LLC (“Snowell”).

4 MEMORANDUM

5 **I. INTRODUCTION**

6 Defendant Snowell inappropriately seeks fees for being hailed into court as a result of the
7 actions of its sole member and manager, Larry Lemons. Snowell claims that since the Court
8 accepted its representations as true, and Plaintiffs’ as false, after no discovery of any kind, it is
9 appropriate to issue an award of attorneys fees. This is incorrect.

10 This Court granted Snowell’s motion to dismiss *without prejudice*. At some point
11 Plaintiffs will finally be able to commence discovery and actually piece together what happened to
12 the approximately \$750,000.00 they entrusted to Larry Lemons (the sole member and manager of
13 Snowell Holdings) and Donald Burton.

14 Further, Plaintiffs were not permitted to conduct limited discovery on the jurisdiction issue
15 with Snowell; therefore, it is inappropriate for the Court to award fees for allegedly “groundless”
16 claims against Snowell, since no determination has been made regarding the complicity of
17 Snowell Holdings and Larry Lemons.

18 Plaintiffs respectfully request the Court deny the motion for fees, or at least stay a decision
19 until after Plaintiffs finally have their chance to conduct discovery.

20 **II. FACTUAL BACKGROUND**

21 **The TCS Agreement**

22 In or about the beginning of 2015, Plaintiff Trevor Schmidt learned of Harvest—a Clark
23 County, Nevada, limited liability company that holds a special use permit and two licenses for
24 recreational and medical cannabis cultivation—and met two of its owners and officers, Donald
25

1 Burton and Larry Lemons. Compl. ¶¶ 8, 15-16, 32. Schmidt then toured the Harvest facility and
2 expressed interest in investing in its operations and becoming part of the company. *Id.* ¶ 33.

3 On or about January 22, 2015, after negotiations with Burton and Lemon, Schmidt, as the
4 managing member of Plaintiff TCS Partners, LLC (“TCS”), entered into a Membership Interest
5 Sales Agreement (“TCS Agreement”) with Burton and Lemons, who were acting as officers of
6 Harvest. *Id.* ¶ 34. A true and accurate copy of the TCS Agreement is attached to Plaintiffs’ First
7 Amended Complaint as Exhibit 1. *Id.* ¶ 36 & Ex. 1.

9 Under Section 1 of the TCS Agreement, Burton and Lemons agreed to transfer 9.9% of the
10 total membership interests in Harvest to Schmidt in exchange for Schmidt’s payment of
11 \$371,250.00. *Id.* ¶ 35. Section 1 of the TCS Agreement stated that, upon the transfer of the 9.9%
12 interest to TCS, the other members of Harvest would retain the following percentages of the total
13 ownership interests: Burton would own 25.05%; Lemons would own 25.05%; Jeffrey Yokiel
14 would own 30%; and Jerome Yokiel would own 10%. *Id.* ¶ 36 & Ex. 1 at 1.

16 Additionally, under Section 4 of the TCS Agreement, Burton and Lemons, as officers of
17 Harvest, agreed that there would be no additional transfer of any equity or membership interest in
18 Harvest for a period of twelve months, to prevent TCS’s 9.9% membership from being diluted. *Id.*
19 ¶ 37. Further, under Sections 5 and 6 of the TCS Agreement, TCS would be entitled to a pro rata
20 share of any distributions of profits and would have the right to vote as a member of Harvest
21 pursuant to Harvest’s operating agreement. *Id.* ¶ 38 & Ex. 1 at 2.

23 Also, Burton and Lemons reaffirmed that they would continue as Harvest’s CEO and
24 COO, respectively, and as managing members. *Id.* Finally, under Section 8 of the TCS
25 Agreement, Harvest’s operating agreement and all other governing documents were to be revised
26 to reflect TCS’s 9.9% membership interest, with a copy of the TCS Agreement to be attached
27 thereto. *Id.* ¶ 39 & Ex. 1 at 2.

1 On or about January 22, 2015, TCS performed all of its obligations under the TCS
2 Agreement by wiring the full \$371,250.00 to Harvest. *Id.* ¶ 40.

3 **The JDD Agreement**

4 In or about 2016, Plaintiff John Saunders learned of Harvest and expressed interest in
5 becoming part of the company to Burton, Lemons, and Schmidt. *Id.* ¶ 41. In or about 2016, as
6 managing member of Plaintiff JDD, LLC, Saunders entered into an agreement with Burton and
7 Lemon, acting in their respective capacities as CEO and COO of Harvest and as members of
8 Harvest, to purchase 9.9% of the Harvest membership interests (the “JDD Agreement”). *Id.* ¶ 42.
9 Although this deal was not memorialized in a fully integrated writing like the TCS Agreement,
10 Saunders engaged in a series of negotiations with Burton and Lemons—via text, emails, and other
11 documents—to purchase his 9.9% interest, and all members of Harvest approved or otherwise
12 ratified the JDD Agreement. *Id.* ¶¶ 43-45.

13
14 Under the JDD Agreement, JDD agreed to pay \$370,000.00 to Harvest for 9.9% of the
15 total membership interests in Harvest, and, like TCS, JDD was expressly granted the rights to vote
16 and receive distributions. *Id.* ¶ 46. Moreover, under the JDD Agreement, Saunders was appointed
17 as Harvest’s Chief Financial Officer, was to be paid an annual salary of \$70,000.00, and was to be
18 given an active role in Harvest’s operations. *Id.* ¶ 47.

19
20 As with the TCS Agreement, the JDD Agreement required Harvest’s other members,
21 except TCS, to transfer portions of their own respective membership interests to JDD. *Id.* ¶ 48.
22 Thus, the new distribution of membership interests was to be:
23

- 24 • Burton would own 24.1%;
- 25 • Lemons (either individually or through Snowell Holdings, LLC) would own 24.1%;
- 26 • Jeffrey Yokiell would own 22%;
- 27 • Jerome Yokiell would own 10%;
- 28

- TCS would own 9.9%; and
- JDD would own 9.9%.

Id. ¶ 49.

Moreover, as part of the JDD Agreement, TCS and JDD’s interests were to remain undiluted by any future sale or transfer of interests by other members. *Id.* ¶ 50. In fact, TCS and JDD retained a right of first refusal to purchase any of the other Harvest members’ ownership interests, if any owner proposed the sale or transfer of his or her respective membership interests. *Id.* ¶ 51.

Also, as part (the “Exclusive Authorizations Rights”) of the JDD Agreement, Burton and Lemons (acting as CEO and COO of Harvest, respectively) agreed that Harvest would not sell any of Harvest’s assets, including its licenses, or make any additional marijuana deal regarding Harvest’s operations in Nevada, without the express prior written authorization of both JDD and TCS. *Id.* ¶ 52. Finally, TCS and JDD were to receive a pro rata share of any cash distributions that Harvest would make to its members, as the JDD Agreement closely mirrored the terms of the TCS agreement. *Id.* ¶ 53.

On or about May 6, 2016, JDD made a partial payment of \$200,000.00 to Harvest under the JDD Agreement. *Id.* ¶ 56. On or about June 17, 2016, JDD paid the remaining \$170,000 to Harvest, as the JDD Agreement required. *Id.* ¶ 57.

Plaintiffs’ Exclusion from Harvest

Initially, Burton and Lemons actively involved Plaintiffs in drafting an amended operating agreement for Harvest and kept Plaintiffs apprised of Harvest’s operations. *Id.* ¶ 60. In fact, in or around 2016, Saunders attended the Third Annual Marijuana Business and Conference Expo (the “2016 Conference”) in Las Vegas with Burton and Lemons. *Id.* ¶¶ 61, 89.

1 In or about mid-2016, Burton and Lemons became less responsive and more
2 confrontational with regard to the proposed amended Harvest operating agreement. *Id.* ¶ 64. Then
3 Burton and Lemons began excluding Plaintiffs from Harvest’s business operations altogether. *Id.*
4 ¶ 65. Specifically, Saunders attempted to participate in Harvest’s operations as CFO, but Burton
5 and Lemons repeatedly excluded him. *Id.* at ¶ 66. Additionally, Burton and Lemons refused
6 Plaintiffs’ multiple requests to review Harvest’s books and records, in violation of both Harvest’s
7 operating agreement and NRS 86.241, claiming that the books and records were not “ready” for
8 review. *Id.* ¶ 67.

10 In or around 2017, after several unsuccessful attempts to reconcile with Burton and
11 Lemons and to participate in the operations of the business, Plaintiffs demanded that Harvest buy
12 out their entire membership interests. *Id.* ¶ 68. For several months afterward, Burton and Lemons
13 claimed to be working on a plan to do so—but they never provided any concrete plan. *Id.* ¶ 69.

15 Although Plaintiffs were frustrated by Burton’s and Lemons’s unfulfilled promises, they
16 nonetheless continued to attempt to amicably resolve the dispute without resorting to litigation. *Id.*
17 ¶ 70. In or about the beginning of 2018, however, Burton and Lemons became unresponsive to
18 Plaintiffs’ requests. *Id.* ¶ 71.

19 In or about 2018, Plaintiffs began to suspect that Defendants were deliberately concealing
20 Harvest’s financial situation from Plaintiffs, and that Harvest might lack the means to buy out
21 their membership interests. *Id.* ¶ 72. Plaintiffs renewed their demand for Harvest’s books and
22 records, and in or about August of 2018, Burton finally resumed communications with Plaintiffs
23 and told them that the books and records were “ready” for review and that their buyout requests
24 had been “submitted.” *Id.* ¶¶ 73-74.

26 After months of difficulty in arranging the inspection, Saunders finally was given access to
27 Harvest’s books and records—and discovered that Harvest had *failed to keep any books and*
28 *records since its inception.* *Id.* ¶¶ 75-78. And Harvest’s bookkeeper revealed that all of Harvest’s

1 transactions had been conducted with cash, with Burton and Lemons personally removing it from
2 and depositing it in a safe box in the office. *Id.* ¶ 79.

3 After that, Saunders worked with Harvest’s office manager to implement proper financial
4 records. *Id.* ¶ 80. For the next several months, Saunders continued to attempt to fulfill his role as
5 CFO and to assist in the business’s operations while awaiting his buyout, but Burton and Lemons
6 refused to respond to his calls and emails. *Id.* ¶ 81.

7
8 Finally, in or around September 2019, and in response to Saunders’s request for his 2018
9 K-1 and a demand for the buyout to be finalized, Lemons asked to set up a phone call. *Id.* ¶ 82.
10 Lemons failed to answer his phone and continued to evade Saunders’s calls and emails. *Id.* ¶ 83.
11 Plaintiffs then filed suit.

12 **III. ARGUMENT**

13 A district court *may* award attorneys fees to a “prevailing party” when it finds that the
14 opposing party “brought of maintained [a claim] without reasonable ground[s]” NRS
15 18.010(2)(b); *Patush v. Las Vegas Bistro, LLC*, 135 Nev. Adv. Op. 46, 449 P.3d 467 (2019). To
16 support such a discretionary award, "there must be evidence in the record supporting the
17 proposition that the complaint was brought without reasonable grounds or to harass the other
18 party." *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 486, 851 P.2d 459, 464 (1993).

19
20 Here, Plaintiffs had reasonable grounds to name Snowell, an entity that has as its sole
21 member and manager the very man who defrauded them, Larry Lemons. Absent discovery,
22 Plaintiffs should not be penalized for the current inability to substantiate Snowell’s involvement
23 without detailed specificity. Plaintiffs reasonably believed and alleged that Snowell was part of
24 Defendant Lemons’s web of deceit. There is no evidence in the record that the Plaintiffs
25 intentionally made false allegations or disregarded the truth prior to naming Snowell.
26
27
28

1 This Court, after considering arguments of counsel, granted Snowell's motion to dismiss,
2 without prejudice. The Court was not persuaded that the complaint had recited sufficient facts to
3 allow for exercise of the Court's jurisdiction over Snowell.

4 The Court accepted the representations of Lemons in his supporting declaration.
5 Discovery on the issue of specific jurisdiction was not permitted; hence, as of the timing of this
6 motion, no evidence exists to support the claims of Lemons, except the testimony via affidavit of
7 Lemons, the same Lemons who took Plaintiffs' money and ownership interest in Harvest
8 Foundation.
9

10 Further, because the dismissal was *without prejudice*, Snowell does not meet the
11 "prevailing party" standard. As noted by the Nevada Supreme Court in *145 E. Harmon II Tr. v.*
12 *Residences at MGM Grand - Tower A Owners' Ass'n*, 460 P.3d 455, 459 (Nev. 2020), "[t]he Ninth
13 Circuit distinguishes between dismissals with and without prejudice, explaining that a "dismissal
14 without prejudice does not alter the legal relationship of the parties because the defendant remains
15 subject to the risk of re-filing." *Cadkin v. Loose*, 569 F. 3d 1142, 1148 (9th Cir. 2009)
16 (quoting *Oscar v. Alaska Dep't of Educ. & Early Dev.*, 541 F.3d 978, 981 (9th Cir. 2008)). Here,
17 Snowell is also subject to being brought back into the case once discovery has taken place.
18

19 **IV. CONCLUSION**

20 For the foregoing reasons, Plaintiffs respectfully request the Court deny the motion for
21 fees, or at least hold any such decision in abeyance until some discovery is conducted regarding
22 the central claim that Snowell was involved with Lemons here.
23

24 DATED this 7th day of April, 2021.

25 Respectfully submitted,

26 /s/ Lee Iglody

27 Lee I. Iglody, Esq.

28 *Attorney for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2021, the foregoing **OPPOSITION TO MOTION FOR FEES** was served on the parties via electronic service through Odyssey pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26.

/s/ Lee Iglody



ACOM
G. MARK ALBRIGHT, ESQ., #1394
DANIEL R. ORMSBY, ESQ., #14595
HAYDEN R. D. SMITH, ESQ., #15328
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
Tel: (702) 384-7111 / Fax: (702) 384-0605
gma@albrightstoddard.com
dormsby@albrightstoddard.com
hsmith@albrightstoddard.com
Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual; and
TREVOR SCHMIDT, an individual,

Plaintiffs,

vs.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation; ITEM 9 LABS CORP. f/k/a
Airware Labs Corp. and Crown Dynamics Corp., a
Delaware corporation; ITEM 9 PROPERTIES
LLC, a Nevada limited liability company; THE
HARVEST FOUNDATION LLC f/k/a, a Nevada
limited liability company a/k/a THE HARVEST
FOUNDATION, LLC; STRIVE MANAGEMENT
L.L.C. d/b/a Strive Life, a Nevada limited liability
company; STRIVE WELLNESS OF NEVADA,
LLC d/b/a Strive Life, a Nevada limited liability
company; STRIVE WELLNESS OF NEVADA 2
L.L.C. d/b/a Strive Life, a Nevada limited liability
company; VIRIDIS GROUP I9 CAPITAL, LLC,
an Arizona limited liability company; VIRIDIS
GROUP HOLDINGS, LLC, an Arizona limited
liability company; SNOWELL HOLDINGS, LLC,
an Ohio limited liability company; ROBERT
FIREMAN, an individual; JON LEVINE, an
individual; ANDREW BOWDEN, an individual;
DOUGLAS BOWDEN, an individual; BRYCE
SKALLA, an individual; JEFFREY RASSAS, an
individual; DONALD BURTON, an individual;
LARRY LEMONS, an individual; JEFFREY
YOKIEL, an individual; JEROME YOKIEL, an
individual; SARA GULLICKSON, an individual;
CHASE HERSCHMAN, an individual; DOE
INDIVIDUALS I through X, and ROE
BUSINESS ENTITIES XI through XX, inclusive,

Defendants.

CASE NO.: A-20-811232-C

DEPT. NO.: 26

FIRST AMENDED COMPLAINT

JURY DEMAND

**EXEMPT FROM ARBITRATION
(INJUNCTIVE, DECLARATORY, AND
OTHER EXTRAORDINARY
EQUITABLE RELIEF REQUESTED)**

LAW OFFICES
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 SOUTH RANCHO DRIVE
LAS VEGAS, NEVADA 89106

**FIRST AMENDED COMPLAINT (JURY DEMANDED) EXEMPT FROM
ARBITRATION (INJUNCTIVE, DECLARATORY,
AND OTHER EXTRAORDINARY EQUITABLE RELIEF REQUESTED)**

COMES NOW, Plaintiffs, JDD, LLC, a Nevada limited liability company (“JDD”); TCS PARTNERS L.L.C., a Nevada limited liability company (“TCS”); JOHN SAUNDERS, an individual (“Saunders”); and TREVOR SCHMIDT, an individual (“Schmidt”) (collectively “Plaintiffs”); and hereby allege against MARIMED INC. f/k/a Worlds Online, Inc., a Delaware corporation (“MariMed”); ITEM 9 LABS CORP. f/k/a Airware Labs Corp. and Crown Dynamics Corp., a Delaware corporation (“Item 9 Labs”); ITEM 9 PROPERTIES LLC, a Nevada limited liability company (“Item 9 Properties”); THE HARVEST FOUNDATION LLC, a/k/a THE HARVEST FOUNDATION, LLC, a Nevada limited liability company (“Harvest”); STRIVE MANAGEMENT L.L.C. d/b/a Strive Life, a Nevada limited liability company (“Strive Management”); STRIVE WELLNESS OF NEVADA, LLC d/b/a Strive Life, a Nevada limited liability company (“Strive Wellness”); STRIVE WELLNESS OF NEVADA 2 L.L.C. d/b/a Strive Life, a Nevada limited liability company (“Strive Wellness 2”); VIRIDIS GROUP I9 CAPITAL, LLC, an Arizona limited liability company (“Viridis Capital”); VIRIDIS GROUP HOLDINGS, LLC, an Arizona limited liability company (“Viridis Holdings”); SNOWELL HOLDINGS, LLC, an Ohio limited liability company (“Snowell Holdings”); ROBERT FIREMAN, an individual (“Fireman”); JON LEVINE, an individual (“Levine”); ANDREW BOWDEN, an individual (“Andrew”); DOUGLAS BOWDEN, an individual (“Douglas”); BRYCE SKALLA, an individual (“Skalla”); JEFFREY RASSAS, an individual (“Rassas”); DONALD BURTON, an individual (“Burton”); LARRY LEMONS, an individual (“Lemons”); JEFFREY YOKIEL, an individual (“Jeffrey”); JEROME YOKIEL, an individual (“Jerome”); SARA GULLICKSON, an individual (“Gullickson”); CHASE HERSCHMAN, an individual (“Hershman”) (collectively “Defendants”), as follows:

PARTIES

1. Plaintiff JDD is a Nevada limited liability company with its principal place of business in Clark County, Nevada.

1 2. Plaintiff TCS is a Nevada limited liability company, with its principal place of
2 business in Clark County, Nevada.

3 3. Plaintiff Saunders is an individual residing in Los Angeles, California, and is the
4 managing member of JDD.

5 4. Plaintiff Schmidt is an individual residing in Clark County, Nevada, and is the
6 managing member of TCS.

7 5. Upon information and belief, Defendant MariMed is Delaware limited liability
8 company, and is an owner, officer, director, manager, member, and/or is otherwise affiliated with
9 Harvest, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2,
10 Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on
11 behalf of such entities in Clark County, Nevada.

12 6. Upon information and belief, Defendant Item 9 Labs, is Delaware corporation, and
13 is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest,
14 MariMed, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis
15 Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of
16 such entities in Clark County, Nevada.

17 7. Upon information and belief, Defendant Item 9 Properties is a Nevada limited
18 liability company, and is an owner, officer, director, manager, member, and/or is otherwise affiliated
19 with Harvest, MariMed, Item 9 Labs, Strive Management, Strive Wellness, Strive Wellness 2,
20 Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on
21 behalf of such entities in Clark County, Nevada.

22 8. Upon information and belief, Defendant Harvest is a Nevada limited liability
23 company conducting business in Clark County, Nevada. Upon information and belief, Harvest is
24 the holder of a special use permit and two (2) licenses for recreational and medical cannabis
25 cultivation, with establishment identification numbers, RC086 and C086 ("Harvest Licenses"), and,
26 upon information and belief, is an owner, officer, director, member, and/or manager of Defendants

27 9. Upon information and belief, Defendant Strive Management is a Nevada limited
28 liability company, and is an owner, officer, director, manager, member, and/or is otherwise affiliated

1 with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive
2 Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing
3 business on behalf of such entities in Clark County, Nevada.

4 10. Upon information and belief, Defendant Strive Wellness is the holder of two (2)
5 licenses for the production and cultivation of medical cannabis, with establishment identification
6 numbers P131 and C206d (“Strive Wellness Licenses”), and is an owner, officer, director, manager,
7 member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive
8 Management, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is
9 regularly doing business on behalf of such entities in Clark County, Nevada.

10 11. Upon information and belief, Strive Wellness 2 is a Nevada limited liability
11 company, and is an owner, officer, director, manager, member, and/or is otherwise affiliated with
12 Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Viridis
13 Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of
14 such entities in Clark County, Nevada.

15 12. Upon information and belief, Defendant Viridis Capital is an Arizona limited liability
16 company, and is an owner, officer, director, manager, member, and/or is otherwise affiliated with
17 Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive
18 Wellness 2, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf
19 of such entities in Clark County, Nevada.

20 13. Upon information and belief, Defendant Viridis Holdings is an Arizona limited
21 liability company, is an owner, officer, director, manager, member, and/or is otherwise affiliated
22 with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive
23 Wellness 2, Viridis Capital, and/or Snowell Holdings, and is regularly doing business on behalf of
24 such entities in Clark County, Nevada.

25 14. Upon information and belief, Defendant Snowell Holdings is an Ohio limited
26 liability company, is an owner, officer, director, manager, member, and/or is otherwise affiliated
27 with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive
28

Wellness 2, and/or Viridis Capital, and is regularly doing business on behalf of such entities in Clark County, Nevada.

15. Upon information and belief, Defendant Burton is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

16. Upon information and belief, Defendant Lemons is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

17. Upon information and belief, Defendant Jerome is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

18. Upon information and belief, Defendant Jeffrey is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

19. Upon information and belief, Defendant Fireman is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

20. Upon information and belief, Defendant Levine is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

21. Upon information and belief, Defendant Andrew is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

22. Upon information and belief, Defendant Douglas is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

23. Upon information and belief, Defendant Skalla is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

24. Upon information and belief, Defendant Rassas is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in Clark County, Nevada.

25. Upon information and belief, Defendant Gullickson is an owner, officer, director, manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis

1 Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in
2 Clark County, Nevada.

3 26. Upon information and belief, Defendant Herschman is an owner, officer, director,
4 manager, member, and/or is otherwise affiliated with Harvest, MariMed, Item 9 Labs, Item 9
5 Properties, Strive Management, Strive Wellness, Strive Wellness 2, Viridis Capital, Viridis
6 Holdings, and/or Snowell Holdings, and is regularly doing business on behalf of such entities in
7 Clark County, Nevada.

8 27. The true names and capacities, whether individual, corporate, associate, or otherwise,
9 of Defendants Doe Individuals I through X and Roe Business Entities XI through XX, including,
10 without limitation, for example, any involved business entity owned by or affiliated with the named
11 Defendants or any other party whose acts are involved in this matter, are unknown to Plaintiff, who
12 therefore sues said Defendants by such fictitious names. Plaintiffs are informed and believe, and
13 therefore allege, that each of the Defendants designated as Doe Individuals I through X or Roe
14 Business Entities XI through XX is responsible in some manner for the events and occurrences
15 referred to in this First Amended Complaint, and/or owes money to Plaintiffs and/or may be
16 affiliated with one of the other Defendants. Plaintiffs will ask leave of the Court to amend this First
17 Amended Complaint in order to insert the true names and capacities of Doe Individuals I through X
18 and Roe Business Entities XI through XX when the same have been ascertained, and to join said
19 Defendants in this action.

20 28. At all relevant times, Defendants, and each of them, were the agents, ostensible
21 agents, employees, employers, partners, co-owners and/or joint venturers of each other and of their
22 co-defendants, and were acting within the color, purpose and scope of their employment, agency,
23 ownership and/or joint venture and by reasons of such relationships, the Defendants, and each of
24 them, are vicariously and jointly and severally responsible for the acts of omissions of their co-
25 defendants. Furthermore, at all relevant times, Defendants, and each of them expressly, implicitly
26 and/or tacitly authorized, approved, consented to and/or ratified the acts of its agents, servants,
27 employees, co-owners and each other and, as a result thereof, are liable for compensatory and
28 punitive damages.

JURISDICTION AND VENUE

29. This Court has subject matter jurisdiction over the action pursuant to Article VI of the Nevada Constitution.

30. The Court has personal jurisdiction over the Defendants in accordance with NRS 14.060 and 14.065.

31. Venue is proper in the Eight Judicial District Court in accordance with NRS 13.010 and 13.040.

GENERAL ALLEGATIONS

A. TCS Agreement

32. In or about the beginning of 2015, Schmidt learned of Harvest, and came in contact with Burton and Lemons.

33. Thereafter, Schmidt toured the Harvest facility and expressed interest in investing in Harvest's operations and becoming part of the company.

34. On or about January 22, 2015, after negotiations with Burton and Lemon, Schmidt, as the managing member of TCS, entered into a Membership Interest Sales Agreement ("TCS Agreement") with Burton and Lemons, acting as officers of Harvest.

35. Under Section 1 of the TCS Agreement, Burton and Lemons agreed to transfer 9.9% of the total membership interests in Harvest to Schmidt in exchange for Schmidt's payment of \$371,250.00.

36. Moreover, Section 1 of the TCS Agreement stated that upon the transfer of the 9.9% membership interest to TCS, the other members of Harvest would retain the following percentages of the total ownership interests:

- a. Burton would own 25.05%;
- b. Lemons would own 25.05%;
- c. Jeffrey Yokiell would own 30%; and
- d. Jerome Yokiell would own 10%.

A true and correct copy of the TCS Agreement is attached hereto as **Exhibit "1."**

37. Additionally, under Section 4 of the TCS Agreement, Burton and Lemons, as officers of Harvest, agreed that there would be no additional transfer of equity or membership interest in Harvest for a period of twelve (12) months, to prevent TCS's 9.9% membership interest from being diluted.

38. Furthermore, under Sections 5 and 6 of the TCS Agreement, TCS was entitled to a pro rata share of any distributions of profits and was given the right to vote as a member of Harvest pursuant to Harvest's operating agreement; in addition, Burton and Lemons reaffirmed that they would continue as CEO and COO of Harvest, respectively, and as managing members. *Id.* at 2.

39. Finally, under Section 8 of the TCS Agreement, the Operating Agreement and all other governing documents for Harvest were to be revised to reflect TCS's 9.9% membership interest in Harvest, with a copy of the TCS Agreement to be attached thereto. *Id.* at 2.

40. On or about January 22, 2015, TCS performed all of its obligations under the TCS Agreement by wiring the full \$371,250.00 to Harvest.

B. JDD Agreement

41. In or about 2016, Saunders learned of Harvest and expressed interest to Burton, Lemon, and Schmidt to become part of the company.

42. In or about 2016, as the managing member of JDD, Saunders entered into an agreement with Burton and Lemon (acting in their respective capacities as CEO and COO of Harvest), and TCS, as a member of Harvest (holding non-dilutable membership interests), to purchase 9.9% of the Harvest membership interests ("JDD Agreement").

43. While this deal was not memorialized in a fully integrated written contract like the TCS Agreement, *see Exhibit "1,"* Saunders engaged in a serious of negotiations with Burton, Lemons (acting in their respective capacities as CEO and COO of Harvest), and Schmidt (as the managing member of TCS) to purchase his 9.9% interest.

44. These negotiations were conducted through a series of phone calls, and memorialized in numerous text messages, emails, and other documents.

45. Upon information and belief, all members of Harvest approved, or otherwise ratified, the JDD Agreement.

1 46. Under the JDD Agreement, JDD agreed to pay \$370,000.00 to Harvest in exchange
2 for 9.9% of the total membership interests in Harvest, and, like TCS, JDD was expressly granted
3 voting rights and distributions.

4 47. Moreover, under the JDD Agreement, Saunders was appointed as Chief Financial
5 Officer of Harvest, was to be paid an annual salary of \$70,000.00, and was to be given an active
6 role in Harvest's operations.

7 48. As with the TCS Agreement, the JDD Agreement required the other members, except
8 for TCS, to transfer portions of their own respective membership interests to JDD.

9 49. Thus, the new distribution of membership interests was to be as follows:

- 10 a. Burton would own 24.1%;
- 11 b. Lemons (either individually and/or through Snowell Holdings) would own
12 24.1%;
- 13 c. Jeff Yokiell would own 22%; and
- 14 d. Jerome Yokiell would own 10%.
- 15 e. TCS would own 9.9%; and
- 16 f. JDD would own 9.9%.

17 50. Moreover, as part of the JDD Agreement, TCS and JDD's interests were to remain
18 undiluted by any future sale or transfer of interests by the other members.

19 51. In fact, TCS and JDD retained a right of first refusal to purchase any of the other
20 Harvest members' ownership interests, if any member proposed the sale or transfer of his or her
21 respective membership interests.

22 52. Moreover, as part of the JDD Agreement, Burton and Lemons (acting in their
23 respective capacities as CEO and COO of Harvest) agreed that Harvest would not sell any of
24 Harvest's assets, including its licenses, or make any additional Marijuana deal regarding Harvest's
25 operations in the state of Nevada, without the express prior written authorization of both JDD and
26 TCS ("Exclusive Authorization Rights").

1 53. Finally, TCS and JDD were to receive a pro rata share of any cash distributions made
2 by Harvest to its Members, as the JDD Agreement closely mirrored the terms of the TCS Agreement,
3 with regard to both JDD and TCS, and was approved by TCS's managing partner Plaintiff Schmidt.

4 54. Defendants Lemons, Burton, Harvest, Jeffrey agreed to all terms of the JDD
5 Agreement and also agreed that the operating agreement of Harvest would be amended to reflect
6 TCS and JDD's respective 9.9% (totaling 19.8%).

7 55. Upon information and belief, Defendant Jerome ratified or otherwise accepted the
8 JDD Agreement.

9 56. On or about May 6, 2016, JDD made a partial payment of \$200,000.00 to Harvest,
10 under the JDD Agreement.

11 57. On or about June 17, 2016, JDD paid the remaining \$170,000.00 to Harvest, as
12 required by the JDD Agreement.

13 **C. Plaintiffs' Exclusion from Harvest**

14 58. Plaintiffs relied on the above representations made by Burton and Lemons in the TCS
15 and JDD Agreements, as valid and binding contracts.

16 59. Moreover, in or about 2016, Plaintiffs discussed various revisions to the Harvest
17 operating agreement, with Burton and Lemons, including the specific request to amend the Harvest
18 operating agreement to reflect the new membership interests of TCS and JDD.

19 60. Initially, Burton and Lemons actively involved Plaintiffs in the drafting process of
20 the amended operating agreement, and kept Plaintiffs apprised of Harvest's operations.

21 61. In fact, in or around 2016, Saunders even attended the Lemons at the Third Annual
22 Marijuana Business and Conference Expo at the Rio Hotel and Casino in Las Vegas, Nevada ("2016
23 Conference").

24 62. At the 2016 Conference, Saunders met Defendants Fireman and Levine, who were
25 the CEO and CFO, respectively, of Defendant MariMed, and informed them directly that Saunders
26 and Schmidt owned nearly 20% of the membership interests in Harvest.

27 63. Saunders informed Fireman and Levine that he was the CFO and a member of
28 Harvest.

1 64. In or about the middle of 2016, Burton and Lemons became less responsive, and
2 more confrontational with regard to the proposed amended Harvest operating agreement.

3 65. Thereafter, Burton and Lemons began to exclude Plaintiffs from Harvest's business
4 operations all together.

5 66. Specifically, Saunders attempted to participate in the operations of Harvest as CFO,
6 but Saunders was repeatedly excluded by Burton and Lemons.

7 67. Additionally, Burton and Lemons refused Plaintiffs' multiple requests to review
8 Harvest's books and records in violation of both the Harvest operating agreement and NRS 86.241,
9 claiming that the books and records were not "ready" for review

10 68. In or around 2017, after several unsuccessful attempts to reconcile with Burton and
11 Lemons and to participate in the operations of the business, Plaintiffs demanded that Harvest buy
12 out Plaintiffs' entire membership interest (which totaled 19.8% of Harvest's total membership
13 interests).

14 69. For several months thereafter, Burton and Lemons claimed to be working on a plan
15 to buyout TCS and JDD's membership interests, but failed to provide any concrete plan.

16 70. While Plaintiffs were frustrated with Burton and Lemons's unfulfilled promises,
17 Plaintiffs attempted to continue and amicably resolve the dispute without resorting to litigation.

18 71. In or about the beginning of 2018, Burton and Lemons became unresponsive to
19 Plaintiffs' requests.

20 72. In or about 2018, Plaintiffs began to suspect that Defendants were deliberately
21 concealing Harvest's financial situation from Plaintiffs, and that Harvest may not have the means
22 to buy out Plaintiffs' membership interests.

23 73. In or about 2018, Plaintiffs renewed their demand of Burton and Lemons to provide
24 Harvest's books and records, and to follow through with the promised buyout of Plaintiffs'
25 membership interests.

26 74. In or about August 2018, Burton finally began communicating with Plaintiffs, and
27 claimed that the books and records were "ready" for review, and that their requested buyout had
28

1 been “submitted” (though he never clarified who the request had been submitted to, as Burton was
2 purportedly acting as CEO and would have been the one to approve a buyout).

3 75. Nevertheless, for nearly two more months, Burton provided no helpful information
4 beyond a few cryptic responses stating that Saunders could go to inspect the books and records
5 “anytime.”

6 76. After several fruitless attempts by Saunders to schedule a time to visit Harvest’s
7 facility in Las Vegas, Nevada to inspect Harvest’s books and records, Burton finally directed
8 Saunders to speak with the Harvest’s office manager to schedule a time to visit Harvest’s
9 headquarters.

10 77. Thereafter, Saunders scheduled a time to August 2018, Saunders was finally given
11 access to Harvest’s books and records, and travelled to Harvest’s headquarters in Las Vegas,
12 Nevada.

13 78. Upon his arrival, Saunders finally learned why Burton and Lemons had refused his
14 previous requests to inspect the books, as Saunders discovered that Harvest had failed to keep and
15 books or records whatsoever, since its inception.

16 79. Saunders also learned from Harvest’s book keeper that all financial transactions,
17 including paying bills and payroll, were done using cash, and involved Burton and Lemons
18 personally removing and depositing cash into a safe box in the office.

19 80. Thereafter, Saunders worked with Harvest’s office manager to effectively to begin
20 implementing proper financial records, including preparing a cash flow projection template for her
21 to use.

22 81. For the next several months, Saunders continued to attempt to fulfill his role as CFO
23 and to assist in the operations of the business while he awaited his buyout, but Burton and Lemons
24 refused to respond to his calls and emails.

25 82. Finally, in or around September 2019, and in response to Saunders’s request for his
26 2018 K-1 and a demand for the buyout to be finalized, Lemons asked to set up a phone call.

27 83. But, true to form, Lemons failed to answer his phone and continued to evade
28 Saunders’s calls and emails thereafter.

84. Defendants further breached their fiduciary obligations as officers and managing members of Harvest by refusing to provide Plaintiff's with all requisite Schedule K-1 forms, denying their request for copies of Harvest's yearly federal, state and local income tax returns, denying their request to review the books and records of Harvest and/or failing to prepare and maintain adequate books and records for Harvest, in direct violation of NRS 86.241.

D. Conspiracy with MariMed.

85. In or about December 2019, Plaintiffs received a copy of Membership Interest Purchase Agreement entered into between Burton, Lemons, Jeffrey, and MariMed ("MariMed Purchase Agreement"), which had been executed on August 8, 2019. The MariMed Purchase Agreement is attached hereto as **Exhibit "2."**

86. The MariMed Purchase Agreement misrepresented that Burton, Lemons, and Jeffrey were the only members of Harvest and that these three individuals owned 100% of the membership interests in Harvest, and MariMed agreed to pay \$1,200,000 in MariMed's common stock to purportedly purchase 100% of the membership interests of Harvest. *See Exhibit "2"* at 1.

87. In fact, the "Allocation Schedule" of the MariMed Purchase Agreement blatantly misrepresent the true allocation of Harvest membership interests as follows (*see Exhibit B of Exhibit "2"*):

- a. Donald Burton 34.5%
- b. Larry Lemon[sic] 34.5%
- c. Jeffrey Yokiell 31%

88. The MariMed Purchase Agreement is even more egregious due to the fact that Fireman and Levine (respectively, MariMed's CEO and CFO) had actual knowledge of Plaintiffs' interests (as explained *supra*).

89. Specifically, in or around 2016, Levine, Fireman's partner and Chief Financial Officer ("CFO") of MariMed, met with Saunders, Burton, and Lemons at the 2016 Conference and was informed of Plaintiffs' ownership interests.

90. On or about August 8, 2019, unbeknownst to Plaintiff's, Defendants MariMed and Fireman conspired with, and aided and abetted, Defendants Harvest, Burton, and Lemons who

1 breached their fiduciary duties, by covertly entering into a purchase agreement with MariMed (the
2 “MariMed Purchase Agreement”). Such agreement purported to sell MariMed 100% of the
3 ownership interests in Harvest and its valuable Harvest Licenses.

4 91. Not only was the MariMed Purchase Agreement fraudulent and an attempt to convert
5 the membership interests from JDD and TCS, but the MariMed Purchase Agreement was also a
6 clear breach of the TCS and JDD Agreements the Exclusive Authorization Rights granted to TCS
7 and JDD, respectively, in the TCS Agreement and JDD Agreement (as explained *supra*).

8 92. Moreover, according to MariMed’s most recent 10K filing with the SEC, MariMed
9 paid Harvest over \$1,000,000.00 and invested another \$2,200,000 into Harvest which, upon
10 information and belief, was solely used to line the pockets of Burton, Lemons, Jeffrey, and Jerome.

11 **E. Conspiracy with Item 9 Labs and Associated Entities.**

12 93. Upon information and belief, in or about 2019, Burton and Lemons also began
13 conspiring to commit fraud with the other named Defendants.

14 94. Gullickson, Burton, and Lemons are all listed as managing-members of Strive
15 Management and Strive Wellness 2.

16 95. Gullickson and Burton are listed as managing-members of Strive Wellness.

17 96. Only recently, did Plaintiffs learn that Gullickson began appearing as a member, let
18 alone a managing member of Harvest, beginning with the March 2019 annual list filled with the
19 Nevada Secretary of State.

20 97. Such unilateral addition of not only a member, but a managing member, was in clear
21 breach of the Exclusive Authorization Rights granted to TCS and JDD, respectively, in the TCS
22 Agreement and JDD Agreement (as explained *supra*).

23 98. Moreover, all named Defendants had actual or constructive knowledge of Plaintiffs
24 membership interests in Harvest and the associated Exclusive Authorization Rights.

25 99. Moreover, in or about September 12, 2018, and unbeknownst to Plaintiffs and in
26 clear breach of the Exclusive Authorization Rights granted to TCS and JDD, respectively, in the
27
28

1 TCS Agreement and JDD Agreement (as explained *supra*), and upon information and belief, all
2 named Defendants Item 9 Labs, Item 9 Properties, Viridis Capital, Viridis Holdings, Andrew,
3 Douglas, Skalla, and Rassas, Herschman, made a capital contribution of \$1,500,000.00 into Strive
4 Management, LLC, a Nevada limited liability company, the management arm of Defendant Strive
5 Wellness (“Item 9 Agreements”) which owns two (2) other valuable Cannabis licenses in Nye,
6 County.
7

8 100. The Item 9 Agreements were in direct violation of Plaintiffs’ Exclusive
9 Authorization Rights.

10 101. Upon information, this capital was based on a total investment of \$2,700,000.00 from
11 Viridis Capital and Viridis Holdings under a revenue participation agreement.

12 102. Upon information and belief, in exchange for this capital contribution secured by
13 Viridis Capital, Viridis Holdings, Andrew, Douglas, Skalla, Rassas, Item 9 Labs and/or Item 9
14 Properties purchased 20% of the membership interests in Strive Management with the remaining
15 ownership held by Burton, Lemons, and Gullickson.
16

17 103. The Item 9 Agreements also include Item 9 Labs acquiring an additional 31%
18 ownership of Strive Management and Strive Wellness. The Item 9 Agreements also include Item 9
19 Labs investing \$5,500,000.00 in order to construct a facility in Nevada which will be wholly owned
20 by Item 9 Labs and leased to Strive Management.
21

22 104. Upon information and belief, in exchange for the investments contemplated under
23 the Item 9 Agreements, Defendants Viridis Capital, Viridis Holdings, Andrew, and Douglas will
24 receive waterfall revenue participation including 5% of Item 9 Lab’s gross revenue from Nevada
25 operations and scaling down to a lower percentage in perpetuity and that Defendants would own an
26 aggregate of 51% of the Nevada operations which represent tens of millions of dollars. Item 9 Lab’s
27 most recent 10K filing with the SEC, dated January 14, 2020 brazenly represented the breach by
28 describing an Item 9 Lab and Harvest Joint Venture in Nevada.

1 (a) Entering into a Purchase Agreement with MariMed, which entirely neglected to
2 mention and account for Plaintiffs' membership interest in Harvest, as set forth under the TCS
3 Agreement and JDD Agreement;

4 (b) Covertly entering into a Purchase Agreement with MariMed, which falsely
5 represented that Burton, Lemons and Jeffrey collectively owned 100% of the issued and outstanding
6 membership interests in Harvest despite Plaintiffs' membership interests in Harvest, as set forth
7 under the TCS Agreement and JDD Agreement;

8 (c) Thereafter failing to reimburse Plaintiffs for their pro rata investment in Harvest;

9 113. Failing to amend the Purchase Agreement with MariMed to reflect Harvest's proper
10 ownership interest, including but not limited to Plaintiffs' membership interests;

11 114. Upon reasonable demand, NRS 86.241 affords each member of a limited liability
12 company the right to, among other things, (i) obtain complete records regarding the activities and
13 the status of the business and financial condition of the company; and (ii) obtain a copy of the
14 company's federal, state and local income tax returns for each year.

15 115. Despite Plaintiffs' membership interests in Harvest, Defendants refused to provide
16 Saunders and Schmidt with copies of Harvest's yearly federal, state and local income tax returns,
17 failed to prepare and maintain adequate books and records for Harvest, and refused to grant Saunders
18 and Schmidt access to review the books and records of Harvest, in direct violation of the statutory
19 obligations set forth under NRS 86.241.

20 116. Lemons and Burton explicitly breached their respective covenants not to compete
21 and to include Plaintiffs in all marijuana cultivation, distribution, retail, or other ventures in the State
22 of Nevada.

23 117. As a direct and foreseeable consequence of the unlawful, improper, unprivileged,
24 and unjustified conduct of the Defendants named herein Plaintiffs and the shareholders have been
25 damaged in excess of \$15,000.00.

26 118. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
27 this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs
28 incurred in accordance with the law, including, without limitation, as special damages.

SECOND CLAIM FOR RELIEF
ALTERNATIVELY, UNJUST ENRICHMENT
(Against All Defendants)

119. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

120. Upon information and belief, Defendants excluded Plaintiffs from the MariMed Purchase Agreement and/or the Item 9 Agreements, without paying Plaintiffs reasonably equivalent value of the same, to the benefit of Defendants.

121. This cause of action is pleaded only in the alternative, if the Court determines that Plaintiffs breach of contract claim fails.

122. As a direct and foreseeable consequence of the unlawful, improper, unprivileged, and unjustified conduct of the Defendants named herein Plaintiffs and the shareholders have been damaged in excess of \$15,000.00.

123. The actions of the Defendants named herein were deliberate, wanton, willful, and malicious, which justifies an award of punitive damages in favor of Plaintiffs and shareholders, pursuant to NRS 42.005.

124. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs incurred in accordance with the law, including, without limitation, as special damages.

THIRD CLAIM FOR RELIEF
FRAUD - INTENTIONAL MISREPRESENTATION AND INDUCEMENT
(Against Burton, Lemons, and Harvest)

125. Plaintiffs repeat and re-allege herein by reference each and every allegation set forth in the preceding paragraphs of the First Amended Complaint as though fully set forth herein.

126. Pursuant to the TCS Agreement and JDD Agreement, Burton, Lemons, and Harvest represented that Plaintiffs would (1) have a right of first refusal of regarding transfer of any of the membership interests, and (2) that Plaintiffs would be given Exclusive Authorization Rights to approve or deny the purchase, sale, or transfer of any cannabis cultivation, distribution, retail, or other license held by Harvest or any of its individual members, and would be included on any current or future licenses.

127. Defendants knew that these false representations were false when they made them and/or made them recklessly and without regard for their truth because, in order to induce Plaintiffs to invest nearly \$750,000.00 in Harvest.

128. Plaintiffs were unaware of Burton, Lemons, and Harvest's intention not to perform the promises contained in the TCS Agreement and JDD Agreement, and justifiably relied and acted in reliance upon the false representations.

129. As a direct and proximate result of the false representations described herein, Plaintiffs have suffered damages in excess of \$15,000.00.

130. The aforementioned conduct of Defendants was willful and constitutes oppression, fraud, and malice, and entitles Plaintiffs to an award of punitive damages, pursuant to NRS 42.005, and to attorney's fees in the amount of NRS 41.600.

FOURTH CLAIM FOR RELIEF
FRAUD - FRAUDULENT CONCEALMENT
(Against Burton, Lemons, and Harvest)

131. Burton, Lemons, and Harvest concealed or suppressed one or more material facts from Plaintiffs, regarding the sale of 100% of the membership interests of Harvest to MariMed, and had a duty to disclose such facts to the Plaintiffs (as all the Defendants named herein had actual or constructive knowledge of Plaintiffs' membership interests).

132. The Defendants named herein intentionally concealed or suppressed the facts of such sale with the intent to defraud the Plaintiffs out of their membership interests in Harvest.

133. Plaintiffs were unaware of the execution of the MariMed Purchase Agreement until after it had been completed, and would have intervened before the deal was consummated had Plaintiffs had such prior knowledge of the impending deal.

134. As a direct and proximate result of the aforementioned Defendants' concealment, as described herein, Plaintiffs have suffered damages in excess of \$15,000.00.

135. The aforementioned conduct of Defendants was willful and constitutes oppression, fraud, and malice, and entitles Plaintiffs to an award of punitive damages, pursuant to NRS 42.005, and to attorney's fees in the amount of NRS 41.600.

FIFTH CLAIM FOR RELIEF
CONSTRUCTIVE FRAUD
(Against Burton, Lemons, and Harvest)

136. Burton, Lemons, and Harvest, with full knowledge of the legal, equitable, and fiduciary obligations owed to Plaintiffs as managing members, officers, and majority shareholders (and as explained in greater detail herein, *infra* Twelfth Cause of Action).

137. The Defendants named herein breached their legal, equitable, and/or fiduciary duties owed to Plaintiffs, in such a way that Nevada law declares such behavior is fraudulent.

138. As a direct and proximate result of the aforementioned Defendants' concealment, as described herein, Plaintiffs have suffered damages in excess of \$15,000.00.

139. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute this action, and the aforementioned Defendants should be required to pay reasonable attorneys' fees as well as costs incurred in accordance with the law, including, without limitation, as special damages.

SIXTH CLAIM FOR RELIEF
ALTERNATIVELY, NEGLIGENT MISREPRESENTATION
(Against Burton, Lemons, and Harvest)

140. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

141. Burton, Lemons, and Harvest supplied false information to induce Plaintiffs to enter into the TCS Agreement and the JDD Agreement, as described in the foregoing paragraphs.

142. Specifically, the Defendants named herein represented that Plaintiffs would (1) have a right of first refusal of regarding transfer of any of the membership interests, and (2) that Plaintiffs would be given Exclusive Authorization Rights to approve or deny the purchase, sale, or transfer of any cannabis cultivation, distribution, retail, or other license held by Harvest or any of its individual members, and would be included on any current or future licenses.

143. Such above representations and associated information was supplied to induce Plaintiffs in making an investment in Harvest.

144. The Defendants named herein failed to exercise reasonable care or competence in obtaining or communicating such information.

1 155. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
2 this action, and the aforementioned Defendants should be required to pay reasonable attorneys' fees
3 as well as costs incurred in accordance with the law, including, without limitation, as special
4 damages.

5 **EIGHTH CLAIM FOR RELIEF**
6 **BREACH OF FIDUCIARY DUTIES AND**
7 **USURPATION OF CORPORATE OPPORTUNITY**
8 **(Against Burton, Lemons, and Harvest)**

9 156. Plaintiffs repeat and re-allege herein by reference each and every allegation set forth
10 in the preceding paragraphs as though fully set forth herein.

11 157. Burton, Lemons, and Harvest owed fiduciary duties to Plaintiffs, by virtue of their
12 positions as officers, managing-members, and majority shareholders.

13 158. The Defendants named herein owed (and/or continue to owe) Plaintiffs and the
14 Company's shareholders fiduciary duties, which include, but are not limited to, duties of loyalty,
15 care, and the implied covenant of good faith and fair dealing.

16 159. The Defendants named herein were under a duty to act for or give advice for the
17 benefit of Plaintiffs, individually, and the shareholders generally, upon matters within the scope of
18 that relationship.

19 160. The Defendants named herein owed Plaintiffs the duty to use due care or diligence,
20 to act with utmost faith, to exercise ordinary skill, and/or to act with reasonable intelligence.

21 161. The Defendants named herein breached their fiduciary duties to Plaintiffs,
22 specifically, and to the shareholders generally, which caused Plaintiffs and the shareholders losses
23 or injuries.

24 162. Moreover, The Defendants named herein appropriated for their own use, an
25 opportunity that belonged to Harvest and its members, including Plaintiffs. At a minimum all
26 Defendants ratified Defendant Anderson and his co-conspirator's conduct.

27 163. Upon information and belief, the Defendants named herein, used the investments of
28 Plaintiffs to acquire additional cannabis cultivation, distribution, and/or retail licenses, for the use
and benefit of all other Harvest's members, other than Plaintiffs.

1 164. Moreover, the Defendants named herein have breached their agreements with
2 Plaintiffs, who were induced to remain as shareholders and investors as a result of such promises.

3 165. Furthermore, the Board that acted unilaterally by circumventing the requirements of
4 NRS 86.241, the Harvest operating agreement, the TCS Agreement, and the JDD Agreement.

5 166. As a direct and foreseeable consequence of Defendants' unlawful and improper
6 conduct, Plaintiffs have been damaged in excess of \$15,000.00.

7 167. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
8 this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs
9 incurred in accordance with the law, including, without limitation, as special damages.

10 **NINTH CLAIM FOR RELIEF**
11 **CONVERSION**

12 (Against Burton, Lemons, Jeffrey, Fireman, Levine, MariMed, and Harvest)

13 168. Plaintiffs repeat and re-allege herein by reference each and every allegation set forth
14 in the preceding paragraphs as though fully set forth herein.

15 169. The Defendants named herein, facilitated the sale of 100% of the membership
16 interests in Harvest to MariMed without the authorization of and without compensating Plaintiffs.

17 170. The Defendants named herein, specifically denied Plaintiffs the use and enjoyment
18 of their rights in ownership in Harvest.

19 171. Such acts were committed in derogation, exclusion, or defiance of Plaintiffs' rights.

20 172. As a direct and foreseeable consequence of Defendants' unlawful and improper
21 conduct, Plaintiffs has been damaged in excess of \$15,000.00.

22 173. The aforementioned Defendants' actions were deliberate, wanton, willful, and
23 malicious, which justifies an award of punitive damages in favor of Plaintiffs and shareholders,
24 pursuant to NRS 42.005.

25 174. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
26 this action, and aforementioned Defendants should be required to pay reasonable attorneys' fees as
27 well as costs incurred in accordance with the law, including, without limitation, as special damages.
28

TENTH CLAIM FOR RELIEF
GROSS NEGLIGENCE

(Against Burton, Lemons, and Harvest)

175. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

176. The Defendants named herein, owed a legal or fiduciary duty to Plaintiffs (as described in the foregoing paragraphs) as majority shareholders, and/or as managing members and officers of Harvest.

177. The Defendants named herein, failed to exercise even the slightest degree of care with regard to the duties owed to Plaintiffs, and breach those duties.

178. The Defendants named herein, attempted to sell Plaintiffs interest to MariMed without giving them any valuable consideration.

179. The Defendants named herein, engaged in an act or omission respecting legal duty of an aggravated character, or with willful, wanton misconduct.

180. As a direct and proximate result of such actions, Plaintiffs have been damaged and continue to be damaged in a sum in excess of \$15,000.00.

181. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute this action, and aforementioned Defendants should be required to pay reasonable attorneys' fees as well as costs incurred in accordance with the law, including, without limitation, as special damages.

ELEVENTH CLAIM FOR RELIEF
CIVIL CONSPIRACY
(Against All Defendants)

182. Plaintiffs incorporate by reference all previous paragraphs above as though set forth herein.

183. Defendants intended to work together as part of a conspiracy to commit the unlawful and improper conduct described herein.

184. Defendants acted by a concert of action by agreement, understanding, or "meeting of the minds," whether explicit or by tacit agreement, to carry out the unlawful and improper conduct described herein.

1 185. As a direct and foreseeable consequence of Defendants' unlawful and improper
2 conduct, Plaintiffs and the shareholders have been damaged in excess of \$15,000.00.

3 186. The Defendants' conduct is wanton, willful, and malicious, justifying an award of
4 punitive damages in favor of Plaintiffs, pursuant to NRS 42.005.

5 187. The Defendant's conduct is wanton, willful, and malicious, justifying an award of
6 punitive damages in favor of Plaintiffs in excess of \$15,000.00.

7 188. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
8 this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs
9 incurred in accordance with the law, including, without limitation, as special damages.

10 **TWELFTH CLAIM FOR RELIEF**
11 **EQUITABLE RELIEF - ALTER EGO**
12 (Against All Defendants)

13 189. Plaintiffs repeat, reallege and incorporate by reference each and every allegation
14 contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

15 190. Upon information and belief, there is a unity of interest and ownership between all
16 Defendants, such that the Defendant entities and the individual persons are inseparable from one
17 another.

18 191. Upon information and belief, the adherence to the corporate fiction of Harvest,
19 MariMed, Strive Management, Strive Wellness, Strive Wellness 2, Item 9 Labs, and Item 9
20 Properties ("Defendant Entities"), under the circumstances, would sanction a fraud or promote
21 injustice, as described herein.

22 192. Upon information and belief, all individual Defendants (1) undercapitalized each
23 Defendant Entity and comingled funds with the general funds of each Defendant entity, (2) failed
24 to observe corporate formalities, (3) took and gave loans to or from one or more of the Defendant
25 Entities without sufficient consideration, and (4) generally treated the assets of the Defendant
26 Entities as their own personal assets.

27 ///

28 ///

THIRTEENTH CLAIM FOR RELIEF
AIDING AND ABETTING BREACH OF FIDUCIARY DUTIES
(Against all Defendants)

193. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

194. As specified foregoing paragraphs, a fiduciary relationship exists between Plaintiffs as members of Harvest, on the one hand, and Burton and Lemons as officers and managing-members of Harvest, on the other hand.

195. As specified in the foregoing paragraphs, Burton and Lemons, as officers and managing-members of Harvest, breached their fiduciary duties to Plaintiffs.

196. Each Defendant, including Burton and Lemons as to each other's respective breaches, knowingly participated in or facilitated said breaches.

197. As a direct and foreseeable consequence of Defendants' unlawful and improper conduct, Plaintiffs and the shareholders have been damaged in excess of \$15,000.00.

198. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs incurred in accordance with the law, including, without limitation, as special damages.

199. Defendants' actions were deliberate, wanton, willful, and malicious, which justifies an award of punitive damages in favor of Plaintiffs and shareholders, pursuant to NRS 42.005.

FOURTEENTH CLAIM FOR RELIEF
INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
(Against All Defendants)

200. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

201. Defendants had actual knowledge, or had reason to know, of Plaintiffs interests in Harvest, and Plaintiffs' Exclusive Authorization Rights and the right of first refusal, as outlined in the foregoing paragraphs.

1 202. Upon information and belief, Defendants intentional acts were intended or designed
2 to disrupt the contractual relationships between Plaintiffs and other cannabis entities, including, but
3 not limited to Defendants, and other Doe individuals and Roe entities.

4 203. Upon information and belief, Defendants new of the TCS Agreement and JDD
5 Agreement, and committed intentional acts to prevent Plaintiffs from appreciating rights thereunder.

6 204. As a direct and foreseeable consequence of the unlawful, improper, unprivileged,
7 and unjustified conduct of the Defendants named herein, Plaintiffs and the shareholders have been
8 damaged in excess of \$15,000.00.

9 205. Defendants' actions were deliberate, wanton, willful, and malicious, which justifies
10 an award of punitive damages in favor of Plaintiffs and shareholders, pursuant to NRS 42.005.

11 206. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
12 this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs
13 incurred in accordance with the law, including, without limitation, as special damages.

14 **FIFTEENTH CLAIM FOR RELIEF**
15 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
16 **(Against All Defendants)**

17 207. Plaintiffs repeat, reallege and incorporate by reference each and every allegation
18 contained in the foregoing Paragraphs of this First Amended Complaint as though set forth in full.

19 208. Upon information and belief, Defendants new of the TCS Agreement and JDD
20 Agreement, and committed intentional acts to prevent Plaintiffs from appreciating rights under the
21 MariMed Purchase Agreement or Item 9 Agreements.

22 209. Defendants' actions were intended or designed to disrupt the prospective contractual
23 relationships between Plaintiffs and other cannabis entities, including, but not limited to Defendants,
24 and other Doe individuals and Roe entities.

25 210. Upon information and belief, Defendants new of the TCS Agreement and JDD
26 Agreement, and committed intentional acts to prevent Plaintiffs from appreciating rights thereunder,
27 or under the MariMed Purchase Agreement or Item 9 Agreements.

1 refused, and continue to fail and refuse to render such an accounting and to pay said sums to
2 Plaintiffs.

3 221. As a result of the aforementioned Defendant's actions set forth herein, Plaintiffs are
4 entitled to an Order of this Court, enjoining and restraining the Defendants to provide access to the
5 Court, and an accounting to be made of the aforementioned Defendant's records, regarding their
6 various breaches of or interference with the TCS Agreement and JDD Agreement.

7 222. Plaintiffs are also entitled to an order from this Court enjoining the closing of the
8 MariMed Purchase Agreement and transfer of Plaintiffs' Harvest membership interests to MariMed.

9 **SEVENTEENTH CLAIM FOR RELIEF**
10 **(CIVIL RACKETERING INFLUENCED AND CORRUPT**
11 **ORGANIZATIONS ACT - RICO)**
12 **(Against Burton, Lemons, and Harvest)**

13 223. Plaintiffs repeat, reallege and incorporate by reference each and every allegation
14 contained in the foregoing paragraphs of this First Amended Complaint as though set forth in full.

15 224. The Defendants named herein, engaged in racketeering activities as defined in NRS
16 207.390 and a racketeering enterprise as is defined in NRS 207.380.

17 225. Specifically, the Defendants named herein committed multiple violations of the acts
18 described in NRS 90.570 and NRS 205.377, based on the allegations in the foregoing paragraphs.

19 226. The Defendants named herein, acting directly, and in conspiracy with one another or
20 through their syndicate, participated directly in racketeering activity by engaging in at least two
21 crimes related to racketeering.

22 227. The activities of the Defendants named herein, have the same or a similar pattern,
23 intent, results, accomplices, victims, or methods of commission, or otherwise interrelated by
24 distinguishing characteristics and are not isolated events.

25 228. Specifically, Lemons and Burton have consistently excluded Plaintiffs from their
26 rights under the TCS Agreement and JDD Agreement, on multiple occasions.

27 229. The Defendants named herein, acquired or maintained directly or indirectly an
28 interest in, or control of, an enterprise, or otherwise employed by or associated with an enterprise,

1 to conduct or participate directly or indirectly in the affairs of the enterprise through a racketeering
2 activity.

3 230. Plaintiffs' injuries flow from Defendants' violation of a predicate act of Nevada's
4 RICO statute.

5 231. Plaintiffs' injury was proximately caused by the Defendant's violation of the
6 predicate act.

7 232. Plaintiffs did not participate in the commission of the predicate act.

8 233. Plaintiffs are entitled to institute a civil action for recovery of treble damages
9 proximately caused by the RICO violations listed in NRS 207.470(1), by Defendants named herein.

10 234. As a direct and foreseeable consequence of the unlawful, improper, unprivileged,
11 and unjustified conduct of the Defendants named herein Plaintiffs and the shareholders have been
12 damaged in excess of \$15,000.00.

13 235. The actions of the Defendants named herein were deliberate, wanton, willful, and
14 malicious, which justifies an award of punitive damages in favor of Plaintiffs and shareholders,
15 pursuant to NRS 42.005.

16 236. It has been necessary for Plaintiffs to retain the services of an attorney to prosecute
17 this action, and Defendants should be required to pay reasonable attorneys' fees as well as costs
18 incurred in accordance with the law, including, without limitation, as special damages.

19 **EIGHTEENTH CLAIM FOR RELIEF**
20 **ATTORNEYS' FEES AS SPECIAL DAMAGES**
21 **(Against All Defendants)**

22 237. Plaintiffs repeat, reallege and incorporate by reference each and every allegation
23 contained in the foregoing paragraphs of this First Amended Complaint as though set forth in full.

24 238. Plaintiffs are entitled to collect attorney fees as special damages pursuant to NRCP
25 9(g). *See Liu v. Christopher Homes, LLC*, 321 P.3d 875 (2014); *Sandy Valley Assoc. v. Sky Ranch*
Estates Owners Ass'n, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001).

26 239. Plaintiffs have incurred attorneys' fees as a "natural and proximate consequence of
27 the injurious conduct" of all named Defendants, with regard to Plaintiffs' Causes of Action as
28

1 pleaded *supra*. See *Liu v. Christopher Homes, LLC*, 321 P.3d 875 (2014); *Sandy Valley Assoc. v.*
2 *Sky Ranch Estates Owners Ass’n*, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001).

3 **NINETEENTH CLAIM FOR RELIEF**
4 **(DECLARATORY RELIEF)**
5 (Against All Defendants)

6 240. Plaintiffs repeat, reallege and incorporate by reference each and every allegation
7 contained in the foregoing paragraphs of this First Amended Complaint as though set forth in full.

8 241. A justifiable controversy exists between Plaintiffs each respective Defendants, as
9 named herein, with regard to Plaintiffs rights under the TCS Agreement, JDD Agreement, the
10 MariMed Purchase Agreement, and the Item 9 Membership Purchase Agreement.

11 242. Plaintiffs assert a claim of a legally protected right in contract, and such issue of
12 contractual rights is ripe for judicial determination at this time.

13 243. Plaintiffs assert of a legally protected right in all the personal and real property of
14 Harvest, including, but not limited to, the leasehold estate of Harvest’s cultivation facility located
15 at: 3395 Pinks Place, Las Vegas, Nevada, 89102-8407 (APN: 162-17-110-013).

16 244. Plaintiffs ask the Court to determine the parties’ relative rights under the contract,
17 and to find that all contractual agreements alleged in the foregoing paragraphs are subject to
18 Plaintiffs claims thereto.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE** Plaintiffs pray for judgment in their favor and against Defendants as
21 follows:

- 22 A. For damages and pre- and post-judgment interest in excess of \$15,000.00;
23 B. For all equitable, injunctive, and declaratory relief as pleaded herein;
24 C. For Plaintiffs’ attorney’s fees and costs incurred in bringing the action, including
25 attorney’s fees as special damages;
26 D. For punitive, treble, and other special damages; and

27 ///

28 ///

///

1 E. For such other and further relief as this Court may deem appropriate.

2 DATED this 9th day of September, 2020

3 **ALBRIGHT, STODDARD, WARNICK & ALBRIGHT**

4 

5 G. MARK ALBRIGHT, ESQ., NBN 001394

6 DANIEL R ORMSBY, ESQ., NBN 014595

7 HAYDEN R.D.SMITH, ESQ. NBN 015328

8 801 South Rancho Drive, Suite D-4

9 Las Vegas, Nevada 89106

10 Tel: (702) 384-7111

11 Fax: (702) 384-0605

12 *Attorneys for Plaintiffs*

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LAW OFFICES
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 SOUTH RANCHO DRIVE
LAS VEGAS, NEVADA 89106

EXHIBIT “1”

MEMBERSHIP INTEREST SALES AGREEMENT

This Membership Interest Sales Agreement ("Agreement"), dated this 22 day of November, 2015, is by and between TCS Partners L.L.C. a Nevada Limited Liability company ("TCS" or "Buyer"), and Larry Lemons ("Lemons") and Donald Burton ("Burton").

Recitals

1. Harvest is a Nevada Limited Liability Company in the business of operating a medical marijuana cultivation facility in Nevada. The Members of Harvest are Donald Burton, Larry Lemons, Jeff Yokiel, and Jerome Yokiel.

2. TCS wishes to purchase a 9.9% (nine and 9/10th percent) Membership interest in Harvest and the Members and Managing Member of Harvest have approved the sale of a 9.9% (nine and 9/10th percent) interest in Harvest to TCS.

Membership Interest Purchase

1. Transfer of Interest Lemons hereby transfers 4.95% (four and 95/100th percent) Membership interest in Harvest to TCS, Burton hereby transfers a 4.95% (four and 95/100th percent) Membership interest. With this transfer of Membership interests, TCS shall own 9.9% (nine and 9/10th percent) of the Membership interests in Harvest, Burton shall own 25.05% (twenty-five and 5/100th percent) of the Membership interests in Harvest, Lemons shall own 25.05% (twenty-five and 5/100th percent) of the Membership interest in Harvest, Jeff Yokiel shall own 30% (thirty percent) of the Membership interest in Harvest and Jerome Yokiel shall own 10% (ten percent) of the Membership interest in Harvest.

2. Authority to Transfer Lemons and Burton warrant that they have not sold, conveyed, assigned, pledged or otherwise encumbered the Membership interests in Harvest that have been conveyed to TCS and are fully authorized to enter into this agreement.

3. Payment TCS shall pay Harvest \$371,250.00 (three hundred seventy-one thousand two hundred fifty and no/100 dollars) for the transfer of 9.9% (nine and 9/10th percent) of Harvest's Membership interest to TCS. TCS shall pay this amount via wire transfer or in certified funds upon execution of this Agreement. The Parties agree that a member or members of TCS may make the payment on behalf of TCS.

4. Restriction on Transfers of Equity in Harvest The Parties agree that there will not be any additional transfer of equity or membership interest in Harvest in a period of twelve (12) months after the execution of this document as doing so could affect Harvest's license to operate pursuant to Nevada law.

5. Ownership Interest in Company. TCS understands and agrees that the purchase of these Membership Interests provides it an equity interest in Harvest.

6. Management. TCS understands and agrees that its purchase of Membership Interests in Harvest will entitle it to a pro rata share of any distributions of profits made by the Company, and to the right to vote as a Member on matters as provided in the Company's Operating Agreement. TCS understands and agrees that Huston is now and will continue to be a Managing Member and CEO of Harvest and that Lemons is now and will continue to be a Managing Member and COO of Harvest.

7. Additional Documents. The Parties agree to take any additional actions and to execute any additional documents that may be required by regulatory authorities to ensure compliance with any laws or regulations.

8. Revision of Governing Documents. The Parties agree that the Operating Agreement and all other governing documents for Harvest shall be revised to reflect TCS's purchase of the membership interest described herein and that this Agreement shall be attached as an exhibit thereto.

9. Notices. Any notice required to be given pursuant to this Agreement shall be given via certified mail to the addresses shown below, or to such other addresses as the Parties may hereafter designate in writing:

Donald E. Burnap
3395 Pinks Place
Las Vegas, NV 89102

TCS Partners L.L.C.
c/o Trevor Schmidt
2359 Villandry Ct.
Henderson, NV 89074

7. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. This Agreement may not be altered, amended, expanded or otherwise changed except by a written agreement executed by both Parties.

8. Governing Law. This Agreement shall be construed as if drafted equally by both Parties and shall not be construed against either Party. This Agreement shall be governed by the substantive laws of the State of Nevada without regard to any choice of law rules that might otherwise apply.

9. Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be resolved in a court of competent jurisdiction in the Nevada State Court system in Clark County, Nevada.

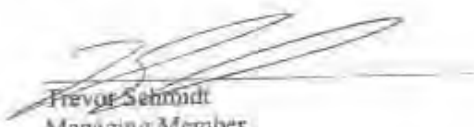


Donald E. Burton



Larry Lemons

By: TCS Partners I., L.C.



Trevor Schmidt
Managing Member

EXHIBIT “2”

MEMBERSHIP INTEREST PURCHASE AGREEMENT

This Membership Interest Purchase Agreement, dated as of August 7, 2019 (this "Agreement"), is entered into by and among (i) MariMed, Inc., a Delaware corporation ("Buyer"), (ii) The Harvest Foundation LLC, a Nevada limited liability company (the "Company") and (iii) Donald Burton, Larry Lemons and Jeffrey Yokiel (each, a "Seller," and collectively, the "Sellers"). The Sellers and the Company are sometimes referred to herein as the "Seller Parties," and the Buyer and the Seller Parties are sometimes referred to herein as the "Parties," and each, a "Party."

Recitals

WHEREAS, the Sellers collectively own 100% of the issued and outstanding membership interests of the Company (the "Membership Interests");

WHEREAS, the Company holds (i) a medical cannabis cultivation license, (ii) an adult use cannabis cultivation license and (iii) a cannabis distribution license, each from the State of Nevada, and operates a cannabis cultivation and distribution facility in Clark County, Nevada (the "Business"); and

WHEREAS, subject to the terms and conditions set forth in this Agreement, the Sellers have determined to sell, and the Buyer desires to purchase from the Sellers, the Membership Interests, all as more specifically provided herein.

NOW, THEREFORE, intending to be legally bound, in consideration of the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

Agreement

1. Definitions. For purposes of this Agreement, the capitalized terms not otherwise defined in the body of this Agreement shall have the meanings ascribed to such terms in Exhibit A attached hereto, which defined terms are incorporated herein by reference.

2. Sale and Purchase of Membership Interests.

2.1. Sale and Purchase. Subject to and upon the terms and conditions contained in this Agreement, the Sellers shall sell, transfer, convey, assign and deliver to the Buyer, and the Buyer shall purchase and acquire from the Sellers, good and marketable title to the Membership Interests at the Closing, free and clear of all Encumbrances.

2.2. Purchase Price. The aggregate consideration to be paid by the Buyer to the Sellers for the Membership Interests (the "Purchase Price") shall be a number of shares of common stock of the Buyer ("Buyer Common Stock") equal to \$1,200,000 *divided by* the closing stock price of Buyer Common Stock on the last trading day immediately preceding the Closing Date (the "Shares"). The Purchase Price shall be allocated to the Sellers in accordance with the allocation schedule attached hereto as Exhibit B (the "Allocation Schedule"). On the Closing Date, the Buyer shall issue to each Seller such Seller's pro rata portion of the Shares, as set forth on the Allocation

Schedule; *provided*, however, that no fractional shares of Buyer Common Stock shall be issued, and the Shares issuable to each Seller shall be rounded down to the nearest whole share.

2.3. Closing. The closing of the sale and purchase of the Membership Interests (the "Closing") shall take place via electronic exchange of signature pages, as promptly as practicable, but in no event later than the second (2nd) business day following the satisfaction or waiver of each of the conditions set forth in Section 6 (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions at Closing), or at such other time and place as the Buyer and the Sellers may agree in writing. The date on which the Closing occurs is the "Closing Date".

3. Representations and Warranties of the Seller Parties. The Seller Parties, jointly and severally, hereby represent and warrant to the Buyer as of the date hereof, and at and as of the Closing Date, as follows:

3.1. Organization. The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Nevada. The Company has the requisite power and authority to own, lease and operate the properties now owned, leased and operated by it and to carry on its business as currently conducted. The Company is duly qualified to do business as a foreign entity in each jurisdiction in which the nature of its business or the character of its properties makes such qualification necessary, except where the failure to do so would not have a Material Adverse Effect on the Company. The Company does not have any subsidiaries or hold any equity securities of any other Person.

3.2. Enforceability. This Agreement and each other agreement or instrument executed and delivered by any Seller Party at the Closing (collectively, the "Seller Party Closing Documents") has been duly authorized by all requisite action on the part of such Seller Party. This Agreement constitutes, and the Seller Party Closing Documents will constitute as of the Closing, the legal, valid and binding obligation of the Seller Parties, enforceable against the Seller Parties in accordance with its terms, subject to the effect of any applicable bankruptcy, moratorium, insolvency, fraudulent conveyance, reorganization, or other similar law affecting the enforceability of creditors' rights generally and to the effect of general principles of equity which may limit the availability of remedies (whether in a proceeding at law or in equity) (collectively, the "Enforceability Exceptions").

3.3. No Violation, Consents. The execution and delivery of this Agreement and each Seller Party Closing Document by the Seller Parties, and the performance of their obligations hereunder and thereunder does not and will not (a) violate or conflict with any provision of the organizational documents of the Company, (b) violate, or conflict with, or result in a breach of any provision of, or constitute a default or give rise to any right of termination, cancellation or acceleration (with the passage of time, notice or both) under any Contract to which a Seller Party is a party or by which a Seller Party is bound, (c) violate or conflict with any Legal Requirement to which the Company or any of their properties or assets are subject or (d) result in any Encumbrance on any assets of the Company. Without limiting the foregoing, none of the Seller Parties have granted any right to any third party which would conflict with the conveyance of the Membership Interests to Buyer. Except for the notices and Consents required under Nevada Cannabis Legal Requirements, no Seller Party is required to give any notice to or obtain any

Consent from any Person in connection with the Seller Parties' execution and delivery of this Agreement or any of the Seller Party Closing Documents, or the consummation or performance of the transactions contemplated hereby or thereby.

3.4. Capitalization. The Sellers own 100% of the issued and outstanding membership interests of the Company, in the amounts set forth on the Allocation Schedule, and no other Person has ever held any equity interest in the Company. The Membership Interests were duly authorized, validly issued, and are fully paid and non-assessable. There are no securities outstanding which are convertible into, exchangeable for, or carrying the right to acquire, equity interests (or securities convertible into or exchangeable for equity interests) of the Company, or subscriptions, warrants, options, calls, convertible securities, registration or other rights or other arrangements or commitments obligating the Company to issue, transfer or dispose of any of its equity interests or any ownership interest therein and there are no pre-emptive rights in respect of any securities of the Company. There are no outstanding obligations of the Company to repurchase, redeem or otherwise acquire any equity interests.

3.5. Title. Each Seller is the lawful owner of, and has good and marketable title to, the Membership Interest set forth opposite such Seller's name on the Allocation Schedule, free and clear of all Encumbrances. None of the Sellers have granted a currently effective power of attorney or proxy to any person with respect to all or any part of the Membership Interests. There are no outstanding options, warrants or other similar rights in respect of the Membership Interests and, except as set forth in this Agreement, none of the Seller Parties is a party to or bound by any agreement, undertaking or commitment to, directly or indirectly, sell, exchange or transfer the Membership Interests. Following the Closing, the Buyer will own 100% of the outstanding membership interests of the Company, free and clear of all Encumbrances.

3.6. Legal Proceedings. There is no pending or, to the knowledge of any Seller Party, threatened Proceeding by or against any Seller Party (i) that relates to or may affect the Business or any of the Membership Interests; or (ii) that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, the transactions contemplated hereby. There are no Judgments currently outstanding involving or related to the Company (or any of their managers, officers or members in their capacities as such) or affecting the Business or any of the Company's assets.

3.7. Compliance With Legal Requirements; Governmental Authorizations.

(a) Except with respect to federal Legal Requirements regarding the manufacture, cultivation, possession, use, sale or distribution of cannabis or cannabis products, the Company is in material compliance with all Legal Requirement applicable to the Company. The Company has not received any written notice from a Governmental Body that alleges that it is not in compliance with any Legal Requirement, and the Company has not been subject to any adverse inspection, finding, investigation, penalty assessment, audit or other compliance or enforcement action.

(b) The Company has all Governmental Authorizations reasonably necessary for the conduct of the Business (the "Company Permits"). All conditions of or restrictions on the Company Permits that may materially affect the ability of the Company to

perform any cannabis related activity authorized by Nevada law, whether or not embodied in such Company Permit, have been disclosed to the Buyer. All of the Company Permits are valid and in full force and effect, and the Company is not in breach or default in any material respect under any Company Permit. No notices have been received by and no claims have been filed against the Company alleging a material violation of any Company Permit and no event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, termination, lapse or limitation of any Company Permit. Each Seller Party hereby covenants that it shall promptly notify the Buyer of any such notice hereafter given and/or of any such action hereafter threatened or contemplated. All fees and charges with respect to the Company Permits due through the date hereof have been paid in full and will be paid in full through the Closing.

(c) Neither of the Sellers nor any of the Company's key employees, officers, directors or managers have been subject to a recommendation or determination by any Governmental Body that such Person is not suitable for licensure in connection with a cannabis business in the State of Nevada.

(d) None of the Seller Parties has, nor, to the knowledge of the Seller Parties have any employees, agents or other representatives of the Company on behalf of the Company, directly or indirectly, made or authorized any payment, contribution or gift of money, property or services, in contravention of applicable Legal Requirement, (1) as a kickback or bribe to any Person or (2) to any political organization, or the holder of or any candidate for any elective or appointive public office, except for personal political contributions not involving the direct or indirect use of funds of the Company.

(e) To the Seller Parties' knowledge (a) the Company is and has been in compliance with all Environmental Laws; (b) there has been no release or, to the Seller Parties' knowledge, threatened release, of any pollutant, contaminant or toxic or hazardous material, substance or waste or petroleum or any fraction thereof (each a "Hazardous Substance"), on, upon, into or from any site currently or heretofore owned, leased or otherwise used by the Company; (c) there have been no Hazardous Substances generated by the Company that have been disposed of or come to rest at any site that has been included in any published U.S. federal, state or local "superfund" site list or any other similar list of hazardous or toxic waste sites published by any governmental authority in the United States; and (d) there are no underground storage tanks located on, no polychlorinated biphenyls ("PCBs") or PCB-containing equipment used or stored on, and no hazardous waste as defined by the Resource Conservation and Recovery Act, as amended, stored on, any site owned or operated by the Company, except for the storage of hazardous waste in compliance with Environmental Laws. The Company has made available to the Buyer true and complete copies of all material environmental records, reports, notifications, certificates of need, permits, pending permit applications, correspondence, engineering studies and environmental studies or assessments. None of the Seller Parties have received any written notice regarding any actual or alleged violation of or material liability under Environmental Laws.

3.8. Brokers or Finders. No Seller Party has incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payments in connection with the sale of the Membership Interests or the transactions contemplated hereby.

3.9. Books and Records. All the books of account and other Records of the Company (including, without limitation, manager and member resolutions, minutes and written consents) have been made available to Buyer.

3.10. Property.

(a) Owned Property. The property and assets that the Company owns (including, without limitation, the Owned Real Property and the Tangible Personal Property) are (i) free and clear of Encumbrances, and (ii) are in good operating condition and repair (subject to normal wear and tear). The Company has good and insurable fee simple title to all parcels of Owned Real Property. The Company has not granted any lease, license or other agreement granting to any Person any right to use or occupancy of the Owned Real Property or any portion thereof. All Tangible Personal Property used in the Business is in the possession of the Company.

(b) Leased Property. With respect to the property and assets that the Company leases (including, without limitation, real property that the Company leases, subleases, licenses or otherwise uses or occupies (collectively, the "Leased Real Property," and together with the Owned Real Property, the "Company Real Property")), (i) the Company is in compliance with all agreements related to such property and assets, (ii) the Company holds a valid leasehold interest free of any Encumbrances, other than those of the lessors of such property or assets and (iii) such property and assets are in good operating condition and repair (subject to normal wear and tear). No Person other than the Company has any right to use or occupy the Leased Real Property or any portion thereof. The Company has made available to the Buyer true and correct copies of all leases with respect to the Leased Real Property.

(c) The Company Real Property is suitable for the conduct of the Business. The Closing will not affect the continued use and possession of the Company Real Property by the Company. Neither the operation of the Business on the Company Real Property nor such Company Real Property, including the improvements thereon, violate in any material respect any applicable building code, zoning requirement or statute relating to such property or operations thereon, and any such non-violation is not dependent on so-called non-conforming use exceptions. To the knowledge of the Seller Parties, there is no existing, pending or threatened (i) condemnation proceedings affecting the Company Real Property, (ii) zoning, building code or other moratorium proceedings, or similar matters which could reasonably be expected to adversely affect the ability to operate the Business on the Company Real Property, or (iii) special assessments or public improvements that may result in special assessments against or otherwise affect the Company Real Property. Neither the whole nor any material portion of the Company Real Property has been damaged or destroyed by fire or other casualty. To the knowledge of the Seller Parties, there are no structural, latent or hidden, defects in the buildings and other structures that are part of the Company Real Property, and there are no restrictive covenants, easements or other written agreements with respect to the Company Real Property, in either case that would materially affect the ability of the Company to operate the Business on the Company Real Property.

3.11. Title To Assets; Sufficiency. The Company owns good and marketable title to, or a valid lease or license, as applicable, to all of its assets free and clear of all Encumbrances. The furniture, machinery, equipment, vehicles, goods and other items of Tangible Personal Property of the Company are structurally sound, are in satisfactory operating condition and repair,

and are adequate for the uses to which they are currently being put, and none of such furniture, machinery, equipment, vehicles, goods and other items of Tangible Personal Property of the Company is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The assets of the Company are sufficient for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the Business.

3.12. Inventory. All inventory of the Company is and will, whether or not reflected in the Balance Sheet, consist of a quality and quantity useable and saleable in the Ordinary Course of Business consistent with past practice, except for obsolete, damaged or defective items that have been written off or written down to fair market value or for which adequate reserves have been established. All such inventory is owned by the Company free and clear of all Encumbrances, and no inventory is held on a consignment basis. The quantities of each item of inventory (whether raw materials, work-in-process or finished goods) at the Closing will be consistent with the quantities historically held by the Company.

3.13. Financial Statements. Complete copies of the financial statements of the Company consisting of (a) the balance sheet (audited if available) of the Company as of December 31, 2018 and the related statements of income, members' equity and cash flow for the year then ended and (b) the unaudited balance sheet of the Company as of June 30, 2019 (the "Balance Sheet") and the related statements of income, members' equity and cash flow for the six (6) months then ended (collectively, the "Financial Statements") have been made available to the Buyer. The Financial Statements are based on the books and records of the Company, and fairly present in all material respects the financial condition of the Company as of the dates they were prepared and the results of the operations of the Company for the periods indicated.

3.14. Undisclosed Liabilities. The Company does not have any indebtedness or other Liabilities except for (a) Liabilities specifically reflected on, and fully reserved against in, the Balance Sheet and (b) Liabilities which have arisen since the date of the Balance Sheet in the ordinary course of business and which are, in nature and amount, consistent with those incurred historically and are not material to the Company, individually or in the aggregate.

3.15. Company Indebtedness. The Company has disclosed to the Buyer all of the Company's obligations for borrowed money or in respect of loans or advances (whether or not evidenced by bonds, debentures, notes or other similar instruments or debt securities) incurred prior to the Closing ("Company Indebtedness"), all of which shall be repaid, discharged or otherwise satisfied at or prior to the Closing. The Company is not a guarantor for any Liability of any other Person.

3.16. Taxes.

(a) The Company has timely filed all Tax Returns that were required to be filed by it, taking into account any valid extensions of time to file such Tax Returns. All such Tax Returns were true, correct and complete in all material respects and have been prepared in compliance with all Legal Requirements. All Taxes owed by the Company (whether or not shown on any Tax Return) have been timely paid. No penalty, interest or other charge is or will become due with respect to the late filing of any such Tax Return or late payment of any such Tax. The

Company is not liable for any Tax of any other Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), or as a transferee or successor, by Contract or otherwise.

(b) The Company (i) has withheld from all payments to employees, customers, independent contractors, creditors, members and any other applicable payees proper and accurate amounts for all taxable periods in compliance with all Tax withholding provisions of applicable federal, state, local and foreign laws, (ii) has remitted, or will remit on a timely basis, such amounts to the appropriate taxing authority, and (iii) has furnished or been furnished properly completed exemption certificates for all exempt transactions and has maintained records of such exemption certificates in compliance with all Legal Requirements.

(c) No audit, examination or other proceeding of any nature by a Governmental Body is presently in progress with respect to any Tax or Tax Return of the Company. Neither the Company nor any member, manager, director or officer of the Company has received (i) notice of commencement of an audit, examination or other proceeding of any nature by a Governmental Body with respect to any Tax or Tax Return of the Company, (ii) a request for information related to any Tax matters of the Company or (iii) the assessment (or proposed assessment) of any additional Taxes against the Company for any period, nor does any Seller Party have any reason to expect any such items to be forthcoming. The Seller Parties have delivered to the Buyer correct and complete copies of all examination reports and statements of deficiencies assessed against or agreed to by the Company or that relate to any tax year or other Tax period for which the applicable limitations period has not expired.

(d) There are no liens for Taxes upon the assets of the Company, other than liens for Taxes not yet due and payable.

(e) There are no outstanding agreements or waivers (by operation of law or otherwise) extending the statutory period of limitations applicable to any Tax or Tax Return of the Company for any period.

(f) The Company is not a party to any Tax allocation or Tax sharing agreement (including any Tax indemnity arrangement) pursuant to which it would have any obligation to make payments after the Closing. The Company is not, and it has never been, a member of an affiliated, combined or unitary group for Tax purposes. The Company (i) has not made any payments; (ii) is not obligated to make any payments; and (iii) is not a party to any agreement that could obligate it to make any payments that will not be deductible (in whole or in part) under Sections 162, 280G or 404 of the Code.

(g) None of the assets of the Company is property that any Seller Party is required to treat as being owned by any other Person pursuant to the so-called "safe harbor lease" provisions of former Section 168(f)(8) of the Code. None of the assets of the Company directly or indirectly secures any debt the interest on which is tax-exempt under Section 103(a) of the Code. None of the assets of the Company is "tax-exempt use property" within the meaning of Section 168(h) of the Code. The Company does not own an interest in any controlled foreign corporation (as defined in Section 957 of the Code), passive foreign investment company (as defined in Section

1297 of the Code) or other entity the income of which is or could be required to be included in the income of the Company.

(h) The Company is, and from the date of its formation has been, classified as either a partnership or a disregarded entity for federal income tax purposes and in each state where the Company does business or is required to file Tax Returns. No election has been made (on IRS Form 8832 or any other form, or on any comparable state tax form) to classify the Company as an association taxable as a corporation or any other form of entity other than a partnership or disregarded entity for federal and state income tax purposes. The Company is not, and it has never been, a publicly traded partnership as that term is defined in Section 7704 of the Code.

3.17. Employees; Employee Benefit Plans.

(a) The Company is not delinquent in payments to any of its employees, consultants or independent contractors for any wages, salaries, commissions, bonuses, or other direct compensation for any service performed for it to the date hereof or amounts required to be reimbursed to such employees, consultants and independent contractors. The Company has complied in all material respects with all applicable state and federal equal employment opportunity laws and with other laws related to employment, including those related to wages, hours, worker classification and collective bargaining. The Company has withheld and paid to the appropriate Governmental Body or is holding for payment not yet due to such Governmental Body all amounts required to be withheld from employees of the Company and is not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing.

(b) The employment of each employee of the Company is terminable at the will of the Company, and upon termination of the employment of any such employees, no severance or other payments will become due. The Company does not have any policy, practice, plan or program of paying severance pay or any form of severance compensation in connection with the termination of employment or services.

(c) The Company has made available to the Buyer each employment, bonus, profit sharing, or other employee benefit plan, agreement, policy or arrangement maintained or contributed to, or required to be contributed to, by the Company for the benefit of any officer, employee, former employee, consultant, independent contractor or other service provider of the Company (collectively referred to herein as the "Employee Plans").

(d) The Company has made all payments and contributions to or with respect to the Employee Plans on a timely basis as required by the terms of each such Employee Plan and any applicable Legal Requirement. The Company has paid and will continue to pay all applicable premiums for any insurance contract which funds an Employee Plan for coverage provided through the Closing.

(e) The Company has maintained all of its Employee Plans in material compliance with their terms and with all applicable provisions of ERISA, the Code and state laws.

(f) None of the Company nor any of its affiliates (hereafter referred to as an "ERISA Affiliate") that together with the Company are deemed a "single employer" within

the meaning of Section 4001(a)(14) of ERISA, currently maintains any Employee Plan that is subject to Title IV of ERISA, and has not previously maintained any such Employee Plan that has resulted in any material liability or potential material liability to the Company or its ERISA Affiliates under said Title IV.

(g) Neither the Company nor an ERISA Affiliate maintains, maintained or contributed to within the past five (5) years, any multiemployer plan, within the meaning of Section 3(37) or 4001(a)(3) of ERISA. Neither the Company nor an ERISA Affiliate currently has any liability to make withdrawal liability payments to any multiemployer plan.

3.18. Contracts; Customers and Suppliers.

(a) All of the Contracts to which the Company is a party or by which the Company is bound (the "Company Contracts") are in full force and effect, and constitute legal, valid, binding and enforceable obligations against the Company and, to the knowledge of the Seller Parties, any other parties thereto. The Company is not in breach in any material respect under any Company Contract, nor, to the knowledge of the Seller Parties, is any other party to any such Company Contract in breach thereunder.

(b) No customer, vendor, supplier or service provider has given the Company notice that it intends to terminate or materially alter its business relationship with the Company (whether as a result of the consummation of the transactions contemplated by this Agreement or otherwise).

3.19. Insurance. True and complete copies of all Insurance Policies currently owned or maintained by the Company have been made available to the Buyer. All premiums due to date under such Insurance Policies have been paid and will be paid through the Closing Date, no breach by the Company exists thereunder and no material term of any such policy is void or voidable. The Company has not received any notice of cancellation with respect to any such current Insurance Policy and the Company has no knowledge of any threatened termination of, or premium increase with respect to, any of the Insurance Policies. There are no claims that are pending under any of the Insurance Policies, and no other Person is a named or additional insured under any such Insurance Policies.

3.20. Intellectual Property. The Company does not own or license any patents, copyrights, trademarks, tradenames or other intellectual property other than its name.

3.21. Related Party Transactions. None of the Company's directors, officers, managers, members (including the Sellers) or employees, or any members of their immediate families, or any Affiliate of the foregoing has, directly or indirectly, (a) borrowed money from or loaned money to the Company which remains unpaid or owed, (b) any interest in any assets owned or used by the Company or (c) engaged in any other material transactions with the Company.

3.22. Securities Laws.

(a) The Buyer intends to issue the Shares pursuant to a "private placement" exemption or exemptions from registration under Section 4(2) of the Securities Act and/or Regulation D promulgated under the Securities Act and an exemption from qualification

under applicable state securities laws. The Parties shall comply with all applicable provisions of and rules under the Securities Act and applicable state securities laws in connection with the offering and issuance of the Shares pursuant to this Agreement. The Sellers understand that the Shares will be "restricted securities" under federal and state securities laws and cannot be offered or resold except pursuant to registration under the Securities Act or an available exemption from registration.

(b) Each Seller (i) is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act, (ii) is acquiring the Shares only for its own account and not for the account of others, and (iii) is not acquiring the Shares with a view to, or for offer or sale in connection with, any distribution thereof in violation of the Securities Act.

3.23. Allocation Schedule. The Shares shall be distributed to the Sellers in accordance with the Allocation Schedule. Each of the Sellers irrevocably consents to the allocation of the Shares in accordance with the Allocation Schedule, notwithstanding anything to the contrary contained in the Company's governing documents.

3.24. Disclosure. No representation or warranty by the Seller Parties in this Agreement and no statement contained in any certificate furnished to the Buyer pursuant to the provisions hereof contains any untrue statement of material fact or omits to state any material fact necessary in order to make the statements made herein or therein not misleading.

4. Representations and Warranties of the Buyer. The Buyer represents and warrants to the Sellers as of the date hereof, and at and as of the Closing Date, as follows:

4.1. Organization And Good Standing. The Buyer is a corporation duly organized, validly existing and in good standing under the laws of Delaware, with full power and authority to conduct its business as it is now conducted.

4.2. Enforceability. This Agreement and each other agreement or instrument executed and delivered by the Buyer at the Closing (collectively, the "Buyer Closing Documents") has been or will be by the Closing duly authorized by all requisite action on the part of the Buyer. This Agreement constitutes, and the Buyer Closing Documents will constitute as of the Closing, the legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, subject to the Enforceability Exceptions.

4.3. Brokers Or Finders. Neither the Buyer nor any of its Representatives have incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with the transactions contemplated hereby.

4.4. Legal Proceedings. There is no pending or, to the knowledge of the Buyer, threatened Proceeding by or against the Buyer that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, the transactions contemplated hereby.

5. Covenants and Other Agreements.

5.1. Conduct of Business by the Seller Parties. From the date hereof through the earlier of consummation of the Closing and any earlier termination of this Agreement, the Company shall, and the Seller Parties shall cause the Company to: (a) conduct its business and operations in the Ordinary Course of Business; (b) preserve intact its existence and business organization; (c) use its commercially reasonable efforts to preserve its assets; (d) pay all applicable Taxes as such Taxes become due and payable; and (e) maintain all licenses and Governmental Authorizations applicable to its operations and business.

5.2. Access to Information. From the date hereof through the earlier of consummation of the Closing and any earlier termination of this Agreement, the Seller Parties shall give the Buyer and its Representatives access on reasonable notice during normal business hours to all properties, facilities and offices, and complete and correct copies of all books, Records and Contracts (including customer and supplier Contracts) and such financial and operating data and other information with respect to the Company as such persons may reasonably request. Such review shall be at the Buyer's sole cost and shall be conducted in a fashion that does not unreasonably interfere with the ability of the Company to conduct its day-to-day operations.

5.3. Notice of Developments. During the Term of this Agreement, the Seller Parties shall promptly notify the Buyer in writing of any events, circumstances, facts and occurrences arising subsequent to the date of this Agreement which would result in a breach of a representation, warranty or covenant of any Seller Party in this Agreement, or which would have the effect of making any representation or warranty of any Seller Party in this Agreement untrue in any material respect, or would be reasonably likely to result in a Material Adverse Effect of the Company. Any disclosure by any Seller Party pursuant to this Section 5.3 shall not be deemed to prevent or cure any misrepresentation, breach of representation or warranty or breach of covenant, or limit the rights of the Buyer under Section 6.3 or Section 7.

5.4. Exclusivity. During the Term of this Agreement, each of the Seller Parties agrees, and shall cause its Representatives, not to, directly or indirectly, (i) solicit, facilitate or initiate, or encourage the submission of, proposals, inquiries or offers relating to; (ii) respond to any submissions, proposals, inquiries or offers relating to; (iii) participate or engage in any negotiations or discussions with any Person relating to; (iv) otherwise cooperate in any way with or facilitate in any way (including, without limitation, by providing information) with any Person, other than the Buyer, relating to; or (v) enter into any agreement or agreement in principle in connection with, any acquisition, merger, business combination, recapitalization, consolidation, liquidation, dissolution, disposition or similar transaction involving the Company, or any issuance, acquisition, sale or transfer of any securities or any substantial portion of the assets of the Company.

5.5. Confidentiality. No Seller Party shall, directly or indirectly, disclose or divulge any information relating to the existence of this Agreement and the documents and instruments contemplated hereby, the terms of this Agreement and the documents and instruments contemplated hereby, the transactions contemplated hereby and thereby or the negotiations hereof and thereof without the consent of the Buyer; *provided*, however, that such information may be disclosed to such Party's legal, tax, accounting or related financial advisors that have a need to know and that are subject to an obligation of confidentiality to such Party. From and after the Closing, no Seller shall, directly or indirectly, use, disclose or divulge any confidential or

proprietary information of the Company or the Buyer for any purpose without the consent of the Buyer. Following a termination of this Agreement pursuant to Section 6.3, (a) the Buyer, shall not, directly or indirectly, use, disclose, or divulge any confidential or proprietary information of the Company for any purpose whatsoever without the consent of the Company, and (b) no Seller Party, shall, directly or indirectly, use, disclose, or divulge any confidential or proprietary information of the Buyer for any purpose whatsoever without the consent of the Buyer.

5.6. Further Assurances. Subject to the terms and conditions hereof, each of the Parties hereto shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable to the extent permitted under Legal Requirements to consummate and give effect to the transactions contemplated hereby. Without limiting the foregoing, the Parties shall act promptly, and use their commercially reasonable best efforts, and shall cooperate with each other, in making, or causing to be made, any filings, applications and submissions required under Nevada Cannabis Legal Requirements, in order to permit consummation of the Buyer's acquisition of the Membership Interests. The Seller Parties, on the one hand, and the Buyer on the other hand, shall each be responsible for 50% of the fees required to be paid in connection with such filings, applications and submissions.

5.7. Tax Matters.

(a) The Sellers shall be responsible for, and shall pay when due, all sales, use, transfer, stamp or similar Taxes and fees (collectively, "Transfer Charges") imposed with respect to the transactions contemplated hereby. The Sellers shall, at their own expense, timely file any Tax Return or other document with respect to such Transfer Charges, and the Buyer shall cooperate with respect thereto, as necessary.

(b) For federal income tax purposes, the Parties shall treat the sale of the Membership Interests pursuant to this Agreement in accordance with IRS Revenue Ruling 99-6, 1999-1 C.B. 432 (situation 2), (i) with respect to each Seller, as a sale of partnership interests, and (ii) with respect to the Buyer, as a purchase of all of the assets of the Company and assumption by the Buyer of all of the Company's liabilities. No Party shall take any position (whether in a Tax Return, an audit or otherwise) that is inconsistent with the foregoing treatment, unless required to do so by applicable Legal Requirements.

6. Conditions to Closing; Termination.

6.1. Conditions Precedent to Obligations of the Buyer. The obligation of the Buyer to consummate the purchase of the Membership Interests at the Closing shall be subject to the satisfaction, on or before the Closing Date, of each and every one of the following conditions, any or all of which the Buyer may waive in writing, at its sole and absolute discretion:

(a) Representations and Warranties. Each of the representations and warranties made by the Seller Parties in this Agreement shall be true and correct in all material respects as of the Closing Date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all material respects as of that specified date).

(b) Covenants. The Seller Parties shall have duly performed in all material respects all of the covenants, acts and undertakings required to be performed by them prior to the Closing under this Agreement.

(c) No MAE. There shall have been no Material Adverse Effect.

(d) No Injunction, Etc. No action, proceeding, investigation, regulation or legislation shall have been instituted before any Governmental Body to enjoin, restrain, prohibit, or obtain damages in respect of, or which is related to, or arises out of, this Agreement or the consummation of the transactions contemplated hereby.

(e) Consents and Notices. All consents, approvals and waivers of any Person necessary or desirable to the consummation of the Closing and the transactions contemplated hereunder shall have been obtained and all notices to any Person necessary or desirable to the consummation of the Closing and the transactions contemplated hereunder shall have been delivered. A copy of each such consent, approval, waiver or notice shall have been provided to the Buyer and all such consents, approvals, waivers and notices shall be in a form reasonably acceptable to the Buyer.

(f) Regulatory Approval. Without limiting the foregoing, all consents, approvals and waivers of any Governmental Body necessary under Nevada Cannabis Legal Requirements in order to permit consummation of the Closing and the transactions contemplated hereunder shall have been obtained, and all notices to any Governmental Body necessary under Nevada Cannabis Legal Requirements in order to permit consummation of the Closing and the transactions contemplated hereunder shall have been delivered. A copy of each such consent, approval, waiver or notice shall have been provided to the Buyer and all such consents, approvals, waivers and notices shall be in a form reasonably acceptable to the Buyer.

(g) Seller Parties Closing Deliveries. The Seller Parties shall have delivered to the Buyer the following:

(i) Officer's Certificate. A certificate from an executive officer of the Company, dated as of the Closing Date, certifying that attached thereto are true and correct copies of the Company's certificate of formation and any amendments thereto to date, as well as the resolutions duly adopted by the members and/or managers of the Company authorizing the Company's execution, delivery and performance of this Agreement;

(ii) Good Standing Certificate. A certificate of good standing for the Company issued by the Secretary of the State of Nevada, dated within ten (10) business days prior to the Closing Date;

(iii) Compliance Certificate. A certificate from an executive officer of the Company, dated as of the Closing Date, certifying compliance with Sections 6.1(a), 6.1(b) and 6.1(c) in a form reasonably acceptable to the Buyer;

(iv) Resignation Letters. Letters of resignation from each manager and officer of the Company, in form and substance reasonably acceptable to the Buyer, effective as of the Closing;

(v) Assignment of Membership Interests. An assignment by the Sellers to the Buyer assigning the Membership Interests to the Buyer on the Closing Date;

(vi) Withholding Certificates. A completed and duly executed IRS Form W-9 from each Seller, and a certificate from each Seller, in a form reasonably acceptable to the Buyer and in accordance with the Code, in each case dated as of the Closing Date and certifying such facts as to establish that the transactions contemplated hereby are exempt from withholding pursuant to Section 1445 of the Code; and

(vii) Company Indebtedness. Evidence, reasonably satisfactory to the Buyer, that all Company Indebtedness has been repaid, discharged or otherwise satisfied at or prior to the Closing.

(viii) Other Agreements. All other agreements, certificates, instruments, or documents reasonably requested by the Buyer in order to fully consummate the transactions contemplated hereby and to carry out the purposes and intent of this Agreement.

6.2. Conditions Precedent to Obligations of the Sellers. The obligation of the Sellers to consummate sale of the Membership Interests at the Closing shall be subject to the satisfaction, on or before the Closing Date, of each and every one of the following conditions, any or all of which the Sellers may waive in writing, at their sole and absolute discretion:

(a) Representations and Warranties. Each of the representations and warranties made by the Buyer in this Agreement as of the Closing Date shall be true and correct in all material respects as of the Closing Date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all material respects as of that specified date).

(b) Covenants of Buyer. The Buyer shall have duly performed in all material respects all of the covenants, acts and undertakings required to be performed by it prior to the Closing.

(c) No Injunction, Etc. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or legislative body to enjoin, restrain, prohibit, or obtain substantial damages in respect of, or which is related to or arises out of, this Agreement or the consummation of the transactions contemplated hereby.

6.3. Termination of Agreement. The Parties may terminate this Agreement as provided below:

(a) The Parties may terminate this Agreement by mutual written consent at any time prior to the Closing; and

(b) If the Buyer is not then in material breach under this Agreement, the Buyer may terminate this Agreement by giving written notice to the Seller Parties at any time prior to the Closing in the event any of the Seller Parties has materially breached any of their respective representations, warranties, or covenants contained in this Agreement, provided that Buyer has

notified the Seller Parties of the breach and the breach has continued without cure for a period of ten (10) business days after the notice of breach.

6.4. Effect of Termination. If this Agreement is terminated prior to the Closing for any reason, all rights and obligations of the Parties hereunder shall terminate without any Liability of any Party to any other Party except for provisions set forth in Sections 5.5, this Section 6.4 and Section 8. No termination of this Agreement shall relieve any Party of liability for its intentional breach or violation of this Agreement.

7. Indemnification.

7.1. Sellers' Obligation to Indemnify. Each Seller (the "Seller Indemnifying Parties"), jointly and severally, shall defend, indemnify and hold harmless the Buyer, its Affiliates and their respective Representatives and successors and permitted assigns, from and against any and all actions, suits, proceedings, claims, demands, debts, liabilities, obligations, losses, diminution in value, damages, costs and expenses (collectively "Adverse Consequences"), arising out of, or in connection with, or caused by, directly or indirectly, any or all of the following: (i) any misrepresentation or breach of any representation or warranty made by the Seller Parties in this Agreement or in any certificate or schedule delivered by the Seller Parties pursuant hereto, (ii) any breach by the Seller Parties to satisfy or perform any covenant, restriction or agreement applicable to the Seller Parties contained in this Agreement or in any certificate or schedule delivered pursuant hereto, (iii) any Liability for Taxes of the Company that are attributable to a taxable period (or portion thereof) ending on or prior to the Closing Date and any Transfer Charges, (iv) the termination of any officer or employee of the Company and (v) Company Indebtedness.

7.2. Matters Involving Third Parties.

(a) The party or parties seeking indemnification hereunder (each, an "Indemnified Party") shall give the party or parties from whom indemnification is sought or to be sought (each, an "Indemnifying Party") prompt written notice of any Adverse Consequences suffered by, affecting or otherwise directed at it. If an indemnification claim involves a claim by a third party (a "Third Party Claim"), the Indemnified Party shall promptly notify the Indemnifying Party thereof in writing, which notice shall include in reasonable detail a description of the Third Party Claim and copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practical of such Adverse Consequences, that has been or may be sustained by the Indemnified Party.

(b) The Indemnifying Party will have the right to defend the Indemnified Party against the Third Party Claim with counsel of its choice reasonably satisfactory to the Indemnified Party so long as the Indemnifying Party notifies the Indemnified Party in writing within fifteen (15) calendar days of its intention to assume the defense of any Third Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may compromise, defend such Third Party Claim and seek indemnification for any and all Adverse Consequences based upon, arising from or relating to such Third Party Claim. Seller and Buyer

shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(c) So long as the Indemnifying Party is conducting the defense of the Third Party Claim in accordance with Section 7.2(b) above, (i) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, (ii) the Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld) and (iii) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnified Party (not to be unreasonably withheld).

7.3. Survival. The representations and warranties made by the Seller Parties and the Buyer herein or in any certificate or schedule delivered pursuant hereto or thereto on the Closing Date, shall survive the Closing and continue in full force and effect for a period of eighteen (18) months from and after the Closing Date; provided, however, the representations and warranties set forth in Sections 3.1, 3.2, 3.4 and 3.5 shall survive indefinitely, and the representations and warranties set forth in Sections 3.7(e) and 3.16 shall survive until sixty (60) days after expiration of all applicable statutory limitation periods. Upon expiration of the representation and warranty limitation periods set forth herein, such representations and warranties shall cease to be of any further force or effect. No such expiration shall affect the rights of a Party hereto in respect of a claim made by such Party in writing received by another Party prior to the expiration of any such period until finally resolved.

8. Miscellaneous.

8.1. Expenses. Each Party shall pay all of the costs and expenses (including, without limitation, legal fees and expenses) incurred by it in negotiating and preparing this Agreement (and all other agreements, certificates, instruments and documents executed in connection herewith) and in consummating the transactions contemplated hereby.

8.2. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the Parties at the addresses as set forth on the signature pages hereto, or to such e-mail address or address as subsequently modified by written notice given in accordance with this Section 8.2.

8.3. Entire Understanding; Amendments. This Agreement, together with the exhibits and schedules hereto, and the other documents, certificates, agreements and other

instruments delivered in connection with the transactions contemplated hereby, states the entire understanding among the Parties with respect to the subject matter hereof and supersedes all prior oral and written communications and agreements with respect to the subject matter hereof. This Agreement shall not be amended or modified except in a written document signed by all Parties.

8.4. Parties in Interest; Assignment; No Waivers; No Third Party Rights. This Agreement shall bind, benefit, and be enforceable by the Parties hereto and their respective successors, legal representatives and assigns, heirs, executors, administrators and personal representatives. No Party hereto may assign this Agreement or its obligations hereunder without the prior written consent of all other Parties hereto. No waiver with respect to this Agreement shall be enforceable unless in writing and signed by the Party against whom enforcement of such waiver is sought. No failure to exercise, delay in exercising or single or partial exercise of any right, power or remedy by any Party, and no course of dealing between or among any of the Parties, shall constitute a waiver of, or shall preclude any other or further exercise of, the same or any other right, power or remedy. Except as may be expressly set forth in this Agreement, nothing herein will be construed to give any Person other than the Parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement.

8.5. Further Assurances. At any time and from time to time after the Closing Date, at the request of a Party and without further consideration, the other Parties shall promptly execute and deliver all such further agreements, certificates, instruments and documents and perform such further actions as such Party may reasonably request, in order to fully consummate the transactions contemplated hereby and carry out the purposes and intent of this Agreement.

8.6. Severability. If any provision of this Agreement is construed to be invalid, illegal or unenforceable, then the remaining provisions hereof shall not be affected thereby and shall be enforceable without regard thereto, and the Parties agree that this Agreement shall be reformed to replace such unenforceable provisions with a valid and enforceable provision that comes as close as possible to expressing the intent of the unenforceable provision.

8.7. Counterparts; Electronic Signatures. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

8.8. Governing Law; Exclusive Jurisdiction. This Agreement and the respective rights and obligations of the Parties under this Agreement shall be governed by, and shall be determined under, the internal laws of the State of Nevada without regard to choice of law principles.

8.9. Specific Enforcement; Remedies. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and

to enforce specifically the terms and provisions of this Agreement, in addition to any other remedy to which they are entitled at law or in equity. Any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy.

8.10. Interpretation. In this Agreement, unless a clear contrary intention appears: (a) the singular number includes the plural number and vice versa; (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually; (c) reference to any gender includes each other gender; (d) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (e) reference to any "Legal Requirement" means such Legal Requirement as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Legal Requirement means that provision of such Legal Requirement from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision; (f) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof; (g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; (h) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto; and (i) references to articles, sections, schedules and exhibits means articles and sections of, and schedules and exhibits attached to, this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

* * * * *

IN WITNESS WHEREOF, this Agreement has been duly executed as of the date set forth above.

COMPANY:

The Harvest Foundation LLC

By: _____

Name:

Title:

Address: 3395 Pinks Place
Las Vegas, Nevada 89102

E-mail:

SELLERS:

Donald Burton

Address:

E-mail:

Larry Lemons

Address:

E-mail:

Jeffrey Yokiel

Address:

E-mail:

BUYER:

MARIMED, INC.

By: 

Name:

Title:

Address: 10 Oceana Way, Floor 2
Norwood, MA 02062

E-mail:

rfireman@marimedinc.com

EXHIBIT A
DEFINITIONS

For purposes of the Agreement, the following terms and variations thereof have the meanings specified or referred to in this Exhibit A:

"Adverse Consequences" shall have the meaning set forth in Section 7.1.

"Affiliate" of a specified Person means each other Person who directly or indirectly controls, is controlled by, or is under common control with the specified Person.

"Agreement" shall have the meaning set forth in the preamble to this Agreement.

"Allocation Schedule" shall have the meaning set forth in Section 2.2.

"Buyer" shall have the meaning set forth in the preamble to this Agreement.

"Buyer Closing Documents" shall have the meaning set forth in Section 4.2.

"Closing" shall have the meaning set forth in Section 2.3.

"Closing Date" shall have the meaning set forth in Section 2.3.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company" shall have the meaning set forth in the background to this Agreement.

"Consent" means any approval, consent, ratification, waiver or other authorization.

"Contract" means any agreement, contract, lease, consensual obligation, promise or undertaking (whether written or oral).

"Employee Plans" shall have the meaning set forth in Section 3.17(c).

"Encumbrance" means any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage deed of trust, right of way, easement, encroachment, servitude, right of first option, right of first or last negotiation or refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.

"Enforceability Exceptions" shall have the meaning set forth in Section 3.2.

"Environmental Laws" means any Legal Requirement relating to (a) releases or threatened release of Hazardous Substances; (b) pollution or protection of employee health or safety, public health or the environment; or (c) the manufacture, handling, transport, use, treatment, storage, or disposal of Hazardous Substances.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any United States Department of Labor Regulations thereunder.

"Governmental Authorization" means any Consent, license, registration, approval, exemption, notification, franchise, certificate, authorization, bond or permit issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement.

"Governmental Body" means any: (a) nation, state, county, city, town, borough, village, district or other jurisdiction; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); (d) multinational organization or body; (e) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or (f) official of any of the foregoing.

"Indemnified Party" shall have the meaning set forth in Section 7.2(a).

"Indemnifying Party" shall have the meaning set forth in Section 7.2(a).

"Insurance Policy" means any public liability, product liability, general liability, comprehensive, property damage, vehicle, life, hospital, medical, dental, disability, worker's compensation, key man, fidelity bond, theft, forgery, errors and omissions, directors' and officers' liability, or other insurance policy of any nature.

"IRS" means the United States Internal Revenue Service and, to the extent relevant, the United States Department of the Treasury.

"Judgment" means any order, writ, injunction, citation, award, decree, ruling, assessment or other judgment of any Governmental Body or arbitrator.

"Legal Requirement" means any federal, state, local, municipal, foreign, international, multinational or other constitution, law, ordinance, principle of common law, code, regulation, guideline, standard, order, Governmental Authorization, statute or treaty.

"Liability" means with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

"Material Adverse Effect" means any change or effect that is materially adverse to the business, assets, liabilities, financial condition, prospects or results of operations of the Company taken as a whole.

"Membership Interests" shall have the meaning set forth in the Recitals.

"Nevada Cannabis Legal Requirements" means Legal Requirements regarding the cultivation, manufacture, possession, use, sale or distribution of cannabis or cannabis products promulgated by state and local Governmental Bodies in the State of Nevada.

"Ordinary Course of Business" means the ordinary course of business of the Company consistent with the past practices of the Company or taken in the ordinary course of the normal, day-to-day operations of the Company.

"Owned Real Property" means all land, together with all buildings, structures, improvements, and fixtures located thereon, and all easements, servitudes and other interests and rights appurtenant thereto, owned by the Company.

"Person" means any individual, sole proprietorship, joint venture, partnership, corporation, limited liability company, association, cooperative, trust, estate, Governmental Body, administrative agency, regulatory authority, or other entity of any nature whatsoever.

"Proceeding" means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

"Purchase Price" shall have the meaning set forth in Section 2.2.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Regulations" means the income tax regulations promulgated under the Code.

"Representative" means with respect to a particular Person, any director, officer, manager, employee, agent, consultant, advisor, accountant, financial advisor, legal counsel or other representative of that Person.

"Securities Act" means the Securities Act of 1933, as amended.

"Seller Indemnifying Parties" shall have the meaning set forth in Section 7.1.

"Seller Party" or "Seller Parties" shall have the meaning set forth in the preamble to this Agreement.

"Seller Party Closing Documents" shall have the meaning set forth in Section 3.2.

"Sellers" shall have the meaning set forth in the preamble to this Agreement.

"Tangible Personal Property" shall mean all furniture, fixtures, leasehold improvements, production equipment, office equipment, accessories, parts, supplies, materials, vehicles, computer hardware, data processing equipment and other equipment owned by the Company and all other tangible personal property of every kind owned or leased by the Company and all related warranties and similar rights.

"Tax" or "Taxes" means (a) mean any and all federal, state, local and foreign (whether imposed by a country or political subdivision or authority thereunder) taxes, assessments and other governmental charges, duties, impositions and liabilities relating to taxes, including, without limitation, any federal, state, local or foreign income, earnings, profits, gross receipts, franchise, capital stock, net worth, sales, use, value added, ad valorem, profits, occupancy, general property, real property, personal property, intangible property, transfer, stamp, premium, custom, duty, escheat, environmental, fuel, excise, license, lease, service, service use, recapture, parking, employment, occupation, severance, payroll, withholding, unemployment compensation, social security, retirement, imputed underpayment or other tax, fiscal levy or charge of any nature; (b) any foreign, federal, state or local organization fee, qualification fee, annual report fee, filing fee, occupation fee, assessment, other fee or charge of any nature imposed by a Governmental Body or other authority; or (c) any deficiency, interest, penalty or addition imposed with respect to any of the foregoing and any obligations under any agreements or arrangements with any other Person with respect to such amounts, and including any liability for taxes of a predecessor entity.

"Tax Return" means (a) all returns and reports, amended returns, information returns, statements, declarations, estimates, schedules, notices, notifications, forms, elections, certificates or other documents filed or required to be filed or submitted to any Governmental Body or any Person with respect to the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of, or compliance with, any Tax, and (b) TD F 90-22.1 (and its successor form, FinCEN Form 114), including any amendment thereto.

"Term" means the period from the date of this Agreement through the consummation of the Closing or earlier termination of this Agreement pursuant to its terms.

"Third Party Claim" shall have the meaning set forth in Section 7.2(a).

"Transfer Charges" shall have the meaning set forth in Section 5.7(a).

"Treasury Regulation" means a final, temporary or proposed regulation issued by the United States Department of the Treasury and/or the IRS under the Code.

EXHIBIT B
ALLOCATION SCHEDULE

Name of Seller	Membership Interest in Company		Pro Rata Portion of Purchase Price
Donald Burton	34.5%		34.5%
Larry Lemon	34.5%		34.5%
Jeffrey Yokiell	31%		31%

Heather L. Smith
CLERK OF THE COURT

SMITH LARSEN & WIXOM

ATTORNEYS
HILLS CENTER BUSINESS PARK
1935 VILLAGE CENTER CIRCLE
LAS VEGAS, NEVADA 89134
(702) 252-5002 • (702) 252-5006

ORDR

Michael B. Wixom, Esq.

Nevada Bar No. 2812

Karl L. Nielson, Esq.

Nevada bar No. 5082

SMITH LARSEN & WIXOM

Hills Center Business Park

1935 Village Center Circle

Las Vegas, Nevada 89134

Tel: (702) 252-5002

Fax: (702) 252-5006

Email: mbw@slwlaw.com

kln@slwlaw.com

Quarles & Brady LLP

Renaissance One

Two North Central Avenue

Phoenix, AZ 85004-2391

TELEPHONE 602-229-5200

Lauren Elliott Stine (#025083) (admitted Pro Hac Vice)

Lauren.Stine@quarles.com

Christian G. Stahl (#029984) (admitted Pro Hac Vice)

Christian.Stahl@quarles.com

*Attorneys for Defendants Item 9 Labs Corp., Item 9 Properties, LLC,
Strive Management, L.L.C., Viridis Group I9
Capital, LLC, Viridis Group Holdings, LLC, Andrew
Bowden, Douglas Bowden, Bryce Skalla, Jeffrey Rassas,
and Chase Herschman*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual; and
TREVOR SCHMIDT, an individual.

Plaintiffs,

vs.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation; ITEM 9 LABS CORP. f/k/a
Airware Labs Corp. and Crown Dynamics Corp., a
Delaware corporation; ITEM 9 PROPERTIES
LLC, a Nevada limited liability company; THE
HARVEST FOUNDATION LLC f/k/a, a Nevada

CASE NO.: A-20-811232-B
DEPT. NO.: 16

**ORDER GRANTING
DEFENDANTS ITEM 9 LABS
CORP., ITEM 9 PROPERTIES,
LLC, STRIVE MANAGEMENT,
L.L.C., VIRIDIS GROUP I9
CAPITAL, LLC, VIRIDIS GROUP
HOLDINGS, LLC, ANDREW
BOWDEN, DOUGLAS BOWDEN,
BRYCE SKALLA, JEFFREY**

limited liability company a/k/a THE HARVEST FOUNDATION, LLC; STRIVE MANAGEMENT L.L.C. d/b/a Strive Life, a Nevada limited liability company; STRIVE WELLNESS OF NEVADA, LLC d/b/a Strive Life, a Nevada limited liability company; STRIVE WELLNESS OF NEVADA 2 L.L.C. d/b/a Strive Life, a Nevada limited liability company; VIRIDIS GROUP I9 CAPITAL, LLC, an Arizona limited liability company; VIRIDIS GROUP HOLDINGS, LLC, an Arizona limited liability company; SNOWELL HOLDINGS, LLC, an Ohio limited liability company; ROBERT FIREMAN, an individual; JON LEVINE, an individual; ANDREW BOWDEN, an individual; DOUGLAS BOWDEN, an individual; BRYCE SKALLA, an individual; JEFFREY RASSAS, an individual; DONALD BURTON, an individual; LARRY LEMONS, an individual; JEFFREY YOKIEL, an individual; JEROME YOKIEL, an individual; SARA GULLICKSON, an individual; CHASE HERSCHMAN, an individual; DOE INDIVIDUALS I through X, and ROE BUSINESS ENTITIES XI through XX, inclusive,

Defendants.

**RASSAS, AND CHASE
HERSCHMAN'S MOTION TO
DISMISS FIRST AMENDED
COMPLAINT FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF MAY BE GRANTED AND
LACK OF PERSONAL
JURISDICTION**

On December 18, 2020, Defendants Item 9 Labs Corp., Item 9 Properties, LLC, Strive Management, L.L.C., Viridis Group I9 Capital, LLC, Viridix Group Holdings, LLC, Andrew Bowden, Douglas Bowden, Bryce Skalla, Jeffrey Rassas, and Chase Herschman (collectively, the "Item 9 Defendants") filed a Motion to Dismiss First Amended Complaint for Failure to State a Claim Upon Which Relief May be Granted and Lack of Personal Jurisdiction (the "Motion"). On January 26, 2021, Plaintiffs filed an Opposition to Defendants' Motion (the "Opposition").

In their Opposition, Plaintiffs voluntarily dismissed without prejudice (1) all claims against Defendants Andrew Bowden, Douglas Bowden, Jeffrey Rassas, Bryce Skalla, and Chase Herschman (the "Individual Defendants"), and (2) Count 12 (alter ego), Count 14 (intentional interference with contractual relations), Count 15 (intentional interference with

prospective economic advantage), Count 16 (equitable relief), and Count 17 (attorneys' fees as special damages) against each of the Item 9 Defendants.

A hearing on the Motion was heard on February 24, 2021, by the Honorable Timothy C. Williams. Lauren Elliott Stine of the law firm of Quarles & Brady LLP and Karl L. Nielson of the law firm of Smith Larsen & Wixom appeared on behalf of the Item 9 Defendants. Lee I. Iglody appeared on behalf of Plaintiffs JDD, LLC, TCS Partners, LLC, John Saunders, and Trevor Schmidt. After review and consideration of the written pleadings, arguments of counsel and all relevant statutory and case law, and good cause appearing:

The **COURT ORDERS** the Motion **GRANTED**.

The Court **FINDS** Plaintiffs have voluntarily dismissed without prejudice (1) all claims against the Individual Defendants, and (2) Count 12 (alter ego), Count 14 (intentional interference with contractual relations), Count 15 (intentional interference with prospective economic advantage), Count 16 (equitable relief), and Count 17 (attorneys' fees as special damages) against each of the Item 9 Defendants.

The Court **FURTHER FINDS** that to "obtain jurisdiction over a non-resident defendant, a plaintiff must show: (1) that the requirements of the state's long-arm statute [NRS 14.065] have been satisfied, and (2) that due process is not offended by the exercise of jurisdiction." *Trump v. Eighth Judicial Dist. Ex rel. Clark County*, 109 Nev. 687, 698 (1993); *Catholic Diocese, Green Bay v. John Doe 119*, 131 Nev. 246, 249 (2015).

The Court **FURTHER FINDS** that courts may exercise general jurisdiction where a defendant's "affiliations with the State are so 'continuous and systematic' as to render them essentially at home in the forum State." *See Vlega GmbH v. Eighth Jud. Dist. Ct.*, 130 Nev. 368, 376 (2014) (quoting *Goodyear Dunlop Tires Ops., S.A. v. Brown*, 564 U.S. 915, 919

(2011)); *Arbella*, 122 Nev. at 513; *Budget Rent-A-Car v. Eighth Judicial Dist. Court*, 108 Nev. 483, 485 (1992). For a corporate entity, general jurisdiction typically exists in the corporation's place of incorporation or principal place of business. *See Viega GmbH*, 130 Nev. at 376-77.

The Court **FURTHER FINDS** that "[s]pecific personal jurisdiction arises when the defendant purposefully enters the forum's market or establishes contacts in the forum and affirmatively directs conduct there, *and* the claims arise from that purposeful contact or conduct." *Viega GmbH*, 130 Nev. at 375 (emphasis added); *Dogra v. Liles*, 129 Nev. 932, 937 (2013). To establish specific personal jurisdiction over a non-resident defendant, the plaintiff must demonstrate that: (1) "the defendant must purposefully avail himself of the privilege of acting in the forum state or of causing important consequences in that state"; (2) "[t]he cause of action must arise from the consequences in the forum state of the defendant's activities"; and (3) "those activities, or the consequences thereof, must have a substantial enough connection with the forum state to make the exercise of jurisdiction over the defendant reasonable." *Consipio Holding, BV v. Carlberg*, 128 Nev. 454, 458 (App. 2012) (quotation omitted).

The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege any facts that would demonstrate that Defendants Viridis Group I9 Capital, LLC and Viridis Group Holdings, LLC (the "Non-Resident Defendants") are subject to general or specific personal jurisdiction in Nevada.

The Court **FURTHER FINDS** that the Non-Resident Defendants are Arizona limited liability companies with Arizona members that are located and doing business in Arizona (Viridis Group I9 Capital, LLC and Viridis Group Holdings, LLC).

The Court **FURTHER FINDS** that the Declarations submitted by the Non-Resident Defendants with their Motion demonstrated that the Non-Resident Defendants do not own

1 property in the State of Nevada, do not pay taxes in the State of Nevada, and do not have W-2
2 employees living or working within the State of Nevada.

3
4 The Court **FURTHER FINDS** that “[w]hen a defendant challenges the personal
5 jurisdiction of the Nevada courts, the plaintiff must introduce competent evidence of essential
6 facts establishing a prima facie showing of jurisdiction.” *Levinson v. Second Judicial Dist.*
7 *Court of State*, 103 Nev. 404 (1987) (emphasis added). “In determining whether a prima facie
8 showing has been made, the district court is not acting as a fact finder. It accepts properly
9 supported proffers of evidence by a plaintiff as true. However, the plaintiff must introduce
10 some evidence and may not simply rely on the allegations of the complaint to establish personal
11 jurisdiction.” *Trump v. Eighth Judicial Dist. Court*, 109 Nev. 687, 693 (1993) (internal
12 quotations and citations omitted).

13
14 The Court **FURTHER FINDS** that Plaintiffs failed to introduce any evidence of facts
15 essential to establishing a prima facie showing of general or specific personal jurisdiction, and
16 Plaintiffs failed to meet their burden of demonstrating that the Non-Resident Defendants are
17 subject to general or specific personal jurisdiction in the state of Nevada.

18
19 The Court **FURTHER FINDS** that the Court does not have general or specific personal
20 jurisdiction over the Non-Resident Defendants.

21
22 The Court **FURTHER FINDS** that a complaint should be dismissed if it fails “to state
23 a claim upon which relief can be granted.” NRCP 12(b)(5). While this court construes the
24 complaint liberally, the allegations therein must still be “sufficiently definite to give fair notice
25 of the nature and basis or grounds of the claim and a general indication of the type of litigation
26 involved.” *Taylor v. State of Nevada*, 73 Nev. 151, 152 (1957). A plaintiff must still show
27
28

1 "facts which support a legal theory." *See Liston v. LVMPD*, 111 Nev. 1575, 1578 (1995);
2 *Johnson v. Travelers Ins. Co.*, 89 Nev. 467, 472, 515 P.2d 68, 71 (1973).

3
4 The Court **FURTHER FINDS** that it is Plaintiffs' duty to present well-pleaded facts on
5 which grounds for relief can be sought against a defendant, and a court need not assume as true
6 any facts which require unreasonable inferences or unwarranted deductions. A pleading must
7 contain: "...a short and plain statement of the claim showing that the pleader is entitled to relief."
8 NRCP Rule 8(a).

9
10 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
11 facts sufficient to support any of the claims Plaintiffs have asserted against the Item 9
12 Defendants. Plaintiffs do not allege that they are parties to contracts with any of the Item 9
13 Defendants.

14 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
15 facts sufficient to demonstrate that Plaintiffs conferred a benefit on the Item 9 Defendants and
16 that the Item 9 Defendants unjustly retained such benefit. Plaintiffs' First Amended Complaint
17 therefore fails to plead facts sufficient to support a claim for unjust enrichment (Count 2).

18
19 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
20 facts sufficient to demonstrate that the Item 9 Defendants entered into an agreement to
21 accomplish an unlawful objective and for the purpose of harming Plaintiffs. Plaintiffs' First
22 Amended Complaint therefore fails to plead facts sufficient to support a claim for civil
23 conspiracy (Count 11).

24
25 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
26 facts sufficient to demonstrate that the Item 9 Defendants knowingly participated in or assisted
27
28

1 a breach of a fiduciary duty. Plaintiffs' First Amended Complaint therefore fails to plead facts
2 sufficient to support a claim for aiding and abetting a breach of fiduciary duty (Count 13).

3
4 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to plead
5 a justiciable controversy with the Item 9 Defendants. Plaintiffs do not allege that they were
6 parties to an agreement with the Item 9 Defendants. Plaintiffs' First Amended Complaint
7 therefore fails to plead facts sufficient to support a claim for declaratory judgment (Count 19).

8
9 **NOW THEREFORE, IT IS HEREBY ORDERED** that Plaintiffs have voluntarily
10 dismissed each of their claims against Defendants Andrew Bowden, Douglas Bowden, Jeffrey
11 Rassas, Bryce Skalla, and Chase Herschman.

12
13 **NOW THEREFORE, IT IS HEREBY ORDERED** that Plaintiffs have voluntarily
14 dismissed Count 12 (alter ego), Count 14 (intentional interference with contractual relations),
15 Count 15 (intentional interference with prospective economic advantage), Count 16 (equitable
16 relief), and Count 17 (attorneys' fees as special damages) against each of the Item 9 Defendants.

17
18 **NOW THEREFORE, IT IS HEREBY ORDERED**, that the Non-Resident
19 Defendants' Motion to Dismiss for Lack of Personal Jurisdiction is **GRANTED**.

20
21 **NOW THEREFORE, IT IS FURTHER HEREBY ORDERED**, that the Item 9
22 Defendants' Motion to Dismiss the First Amended Complaint for Failure to State a Claim Upon
23 Which Relief May be Granted is **GRANTED**.

24
25
26
27
28

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs' First Amended Complaint as to the Item 9 Defendants is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this ____ day of April, 2021

Dated this 12th day of April, 2021

Timothy C. Williams

DISTRICT JUDGE

ZJ

889 223 BE87 A91E
Timothy C. Williams
District Court Judge

Respectfully Submitted By:

/s/ Karl L. Nielson

Michael B. Wixom, Esq.

Nevada Bar No. 2812

Karl L. Nielson, Esq.

Nevada bar No. 5082

SMITH LARSEN & WIXOM

Hills Center Business Park

1935 Village Center Circle

Las Vegas, Nevada 89134

Tel: (702) 252-5002

Fax: (702) 252-5006

Email: mbw@slwlaw.com

kln@slwlaw.com

Quarles & Brady LLP

Renaissance One

Two North Central Avenue

Phoenix, AZ 85004-2391

TELEPHONE 602-229-5200

Lauren Elliott Stine (#025083) (admitted Pro Hac Vice)

Lauren.Stine@quarles.com

Christian G. Stahl (#029984) (admitted Pro Hac Vice)

Christian.Stahl@quarles.com

Attorneys for Defendants Item 9 Labs Corp., Item 9 Properties, LLC,

Strive Management, L.L.C., Viridis Group 19 Capital, LLC,

Viridis Group Holdings, LLC, Andrew Bowden, Douglas Bowden,

Bryce Skalla, Jeffrey Rassas, and Chase Herschman

Approved as to form and content

DATED this 8th day of April, 2021.

IGLODY LAW

/s/ Lee I. Igloody

LEE I. IGLODY

Nevada Bar No. 7757

*Attorneys for Plaintiffs JDD, LLC,
TCS Partners, LLC, John Saunders,
And Trevor Schmidt*

DATED this 8th day of April, 2021.

GABROY LAW OFFICES

/s/ Christian Gabroy

CHRISTIAN GABROY, ESQ.

Nevada Bar No. 8805

KAINE MESSER, ESQ.

Nevada Bar No. 14240

*Attorneys for Defendant
The Harvest Foundation
Attorneys for Defendant Sara Gullickson*

DATED this 8th day of April, 2021.

THE WRIGHT LAW GROUP, P.C.

/s/ John Henry Wright

JOHN HENRY WRIGHT, ESQ.

Nevada Bar No. 6182

*Attorneys for Defendants MARIMED, INC.,
ROBERT FIREMAN and JON LEVINE*

DATED this 8th day of April, 2021

MESSNER REEVES LLP

/s/ Candace C. Herling

CANDACE C. HERLING, ESQ.

Nevada Bar No. 13503

*Attorneys for Defendants Burton,
Lemons, and Snowell*

DATED this 8th day of April, 2021.

BARRETT & MATURA, P.C.

/s/ Kevin C. Barrett

KEVIN C. BARRETT, ESQ.

Nevada Bar No. 8959

*Attorneys for Defendant
The Harvest Foundation*

Mindy Warner

From: John Wright <john@wrightlawgroupnv.com>
Sent: Thursday, April 8, 2021 11:49 AM
To: Karl L. Nielson; Candace C. Herling; lee@iglody.com
Cc: Candi Ashdown; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom; kbarrett@barrettmatura.com; Andrelle Stanley; Dayana Shakerian; Mindy Warner; Stine, Lauren Elliott; Stahl, Christian G.
Subject: RE: CASE NO. A-20-811232-B

Yes, sorry.

John Henry Wright, Esq.

The Wright Law Group, P.C.
2340 Paseo Del Prado, Suite D-305
Las Vegas, Nevada 89102
Telephone: (702) 405-0001
Facsimile: (702) 405-8454
john@wrightlawgroupnv.com



WRIGHT LAW GROUP

From: Karl L. Nielson <kln@slwlaw.com>
Sent: Thursday, April 8, 2021 11:33 AM
To: Candace C. Herling <CHerling@messner.com>; lee@iglody.com
Cc: Candi Ashdown <Candi@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom <mbw@slwlaw.com>; kbarrett@barrettmatura.com; John Wright <john@wrightlawgroupnv.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Mindy Warner <mwarnersl@slwlaw.com>; Stine, Lauren Elliott <Lauren.Stine@quarles.com>; Stahl, Christian G. <Christian.Stahl@quarles.com>
Subject: RE: CASE NO. A-20-811232-B

John Wright (and Wright Law Group) – Do we have your permission to use your email signature on the revised final order for the Item 9 Defendants' motion to dismiss? Thanks,
Karl

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002

Mindy Warner

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Sent: Thursday, April 8, 2021 11:33 AM
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Cc: Candi Ashdown; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom; kbarrett@barrettmatura.com; John Wright; Andrelle Stanley; Dayana Shakerian; Mindy Warner; Stine, Lauren Elliott; Stahl, Christian G.
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Karl

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kln@slwlaw.com
<https://slwlaw.com>

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From: Candace C. Herling <CHerling@messner.com>
Sent: Tuesday, April 6, 2021 4:59 PM
To: lee@iglody.com; Karl L. Nielson <kln@slwlaw.com>
Cc: Candi Ashdown <Candi@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom <mbw@slwlaw.com>; kbarrett@barrettmatura.com; John Wright <john@wrightlawgroupnv.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Mindy Warner <mwarner@slwlaw.com>; Stine, Lauren Elliott <Lauren.Stine@quarles.com>; Stahl, Christian G. <Christian.Stahl@quarles.com>
Subject: RE: CASE NO. A-20-811232-B

If needed, please use my e-signature.

Thanks,

Candace

Candace C. Herling
Partner

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *main* | 702.363.5101 *fax*
cherling@messner.com
messner.com

From: Lee Iglody, Esq. <lee@iglody.com>

Sent: Tuesday, April 6, 2021 4:58 PM

To: Karl L. Nielson <kln@slwlaw.com>

Cc: Candi Ashdown <Candi@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Candace C. Herling <CHerling@messner.com>; Mike Wixom <mbw@slwlaw.com>; kbarrett@barrettmatura.com; John Wright <john@wrightlawgroupnv.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Mindy Warner <mwarner@slwlaw.com>; Stine, Lauren Elliott <Lauren.Stine@quarles.com>; Stahl, Christian G. <Christian.Stahl@quarles.com>

Subject: Re: CASE NO. A-20-811232-B

You have my permission.

Kind regards,

Lee Iglody, Esq.
2580 St Rose Pkwy #330
Henderson, Nevada 89074
O: (702) 425-5366
C: (702) 561-9934
lee@iglody.com
www.iglodylaw.com



The IRS requires us to inform you that any tax information or advice is not intended and cannot be used to avoid tax penalties or promote, recommend or market any tax related matters. Also, this email contains confidential communications. If you received this email in error, notify the sender immediately. Thank you.

On Mon, Apr 5, 2021 at 2:55 PM Karl L. Nielson <kln@slwlaw.com> wrote:

All – Please see attached the revised final version of the draft Order incorporating Mr. Iglody's redline changes referenced below. If the revised Order meets with your approval, please email permission to use your e-signature. Thanks,

– Karl

Karl L. Nielson, Esq.,

Smith Larsen & Wixom

1935 Village Center Circle

Mindy Warner

From: Karl L. Nielson
Sent: Tuesday, April 6, 2021 1:49 PM
To: Mindy Warner
Subject: FW: CASE NO. A-20-811232-B

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kln@slwlaw.com
<https://slwlaw.com>

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From: Kevin Barrett <kbarrett@barrettmatura.com>
Sent: Tuesday, April 6, 2021 10:48 AM
To: Karl L. Nielson <kln@slwlaw.com>
Subject: RE: CASE NO. A-20-811232-B

You can sign for me on behalf of Harvest.

Kevin

Kevin C. Barrett, Esq.

Barrett | Matura

Attorneys

Barrett & Matura, P.C.

7575 W. Vegas Drive

Suite 150c

Las Vegas, Nevada 89128

Main: 702.833.1033

Direct: 602.792.5715

Fax: 602.792.5710

Email: kbarrett@barrettmatura.com

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Mindy Warner

From: Christian Gabroy <christian@gabroy.com>
Sent: Monday, April 5, 2021 4:25 PM
To: Karl L. Nielson
Cc: lee@iglody.com; Candi Ashdown; kmesser@gabroy.com; Candace C. Herling; Mike Wixom; kbarrett@barrettmatura.com; John Wright; Andrelle Stanley; Dayana Shakerian; Mindy Warner; Stine, Lauren Elliott; Stahl, Christian G.
Subject: Re: CASE NO. A-20-811232-B

sure. thanks

On Mon, Apr 5, 2021 at 2:55 PM Karl L. Nielson <kln@slwlaw.com> wrote:

All – Please see attached the revised final version of the draft Order incorporating Mr. Iglody's redline changes referenced below. If the revised Order meets with your approval, please email permission to use your e-signature. Thanks,

- Karl

Karl L. Nielson, Esq.

Smith Larsen & Wixom

1935 Village Center Circle

Las Vegas, NV 89134

Tel: (702) 252-5002

Fax: (702) 252-5006

Email: kln@slwlaw.com

<https://slwlaw.com>

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From: Lee Iglody, Esq. <lee@iglody.com>
Sent: Wednesday, March 31, 2021 1:04 PM

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 JDD, LLC, Plaintiff(s)

CASE NO: A-20-811232-B

7 vs.

DEPT. NO. Department 16

8 Larry Lemons, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

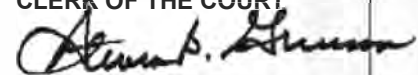
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/12/2021

15 Christian Gabroy	christian@gabroy.com
16 Michael Wixom	mbw@slwlaw.com
17 Karl Nielson	kln@slwlaw.com
18 Barbara Clark	bclark@albrightstoddard.com
19 Mindy Warner	mwarner@slwlaw.com
20 Traci Bixenmann	traci@johnaldrichlawfirm.com
21 Kaine Messer	kmesser@gabroy.com
22 Lee Iglody	lee@iglody.com
23 John Wright	efile@wrightlawgroupnv.com
24 Candace Herling	cherling@messner.com
25 Stephanie Prescott	sprescott@messner.com

26
27
28

1	Jessica Gandy	Jgandy@messner.com
2	Tya Frabott	Tfrabott@messner.com
3	Hayden Smith	hsmith@albrightstoddard.com
4	Misha Ray	clerk@gabroy.com
5	Ella Dumo	assistant@gabroy.com
6	John Saunders	jsaunders@citrincooperman.com
7	Trevor Schmidt	ta_schmidt@yahoo.com
8	Trevor Schmidt	trevor@myshapelipo.com
9	Kevin Barrett	kbarrett@barrettmatura.com
10	Emily Iglody	emily@iglodylaw.com
11	Lauren Stine	Lauren.Stine@quarles.com
12	Maria Marotta	Maria.Marotta@quarles.com
13	Sky Jackson	sky@bianchibrandt.com
14	Justin Brandt	justin@bianchibrandt.com
15	Mukunda Shanbhag	mukunda@bianchibrandt.com
16	Christian Stahl	christian.stahl@quarles.com
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1 **NEOJ**

2 Michael B. Wixom, Esq.

3 Nevada Bar No. 2812

4 Karl L. Nielson, Esq.

5 Nevada bar No. 5082

6 **SMITH LARSEN & WIXOM**

7 Hills Center Business Park

8 1935 Village Center Circle

9 Las Vegas, Nevada 89134

10 Tel: (702) 252-5002

11 Fax: (702) 252-5006

12 Email: mbw@slwlaw.com

13 kln@slwlaw.com

14 Quarles & Brady LLP

15 Renaissance One

16 Two North Central Avenue

17 Phoenix, AZ 85004-2391

18 TELEPHONE 602-229-5200

19 Lauren Elliott Stine (#025083) (admitted Pro Hac Vice)

20 Lauren.Stine@quarles.com

21 Christian G. Stahl (#029984) (admitted Pro Hac Vice)

22 Christian.Stahl@quarles.com

23 *Attorneys for Defendants Item 9 Labs Corp.; Item 9 Properties, LLC;*

24 *Strive Management, L.L.C., Viridis Group 19*

25 *Capital, LLC, Viridis Group Holdings, LLC, Andrew*

26 *Bowden, Douglas Bowden; Bryce Skalla Jeffrey Rassas,*

27 *and Chase Herschman*

28 **DISTRICT COURT**

CLARK COUNTY, NEVADA

29 JDD, LLC, a Nevada limited liability company;
30 TCS Partners, LLC, a Nevada limited liability
31 company; JOHN SAUNDERS, an individual; and
32 TREVOR SCHMIDT, an individual,

33 Plaintiffs,

34 vs.

35 MARIMED INC. f/k/a Worlds Online, Inc., a
36 Delaware corporation; ITEM 9 LABS CORP. f/k/a
37 Airware Labs Corp. and Crown Dynamics Corp., a
38 Delaware corporation; ITEM 9 PROPERTIES
LLC, a Nevada limited liability company; THE

CASE NO.: A-20-811232-B

DEPT. NO.: 16

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANTS ITEM 9
LABS CORP., ITEM 9
PROPERTIES, LLC, STRIVE
MANAGEMENT, L.L.C., VIRIDIS
GROUP 19 CAPITAL, LLC,
VIRIDIS GROUP HOLDINGS, LLC,
ANDREW BOWDEN, DOUGLAS
BOWDEN, BRYCE SKALLA,**

1 HARVEST FOUNDATION LLC f/k/a, a Nevada
2 limited liability company a/k/a THE HARVEST
3 FOUNDATION, LLC; STRIVE MANAGEMENT
4 L.L.C. d/b/a Strive Life, a Nevada limited liability
5 company; STRIVE WELLNESS OF NEVADA,
6 LLC d/b/a Strive Life, a Nevada limited liability
7 company; STRIVE WELLNESS OF NEVADA 2
8 L.L.C. d/b/a Strive Life, a Nevada limited liability
9 company; VIRIDIS GROUP 19 CAPITAL, LLC,
10 an Arizona limited liability company; VIRIDIS
11 GROUP HOLDINGS, LLC, an Arizona limited
12 liability company; SNOWELL HOLDINGS, LLC,
13 an Ohio limited liability company; ROBERT
14 FIREMAN, an individual; JON LEVINE, an
15 individual; ANDREW BOWDEN, an individual;
16 DOUGLAS BOWDEN, an individual; BRYCE
17 SKALLA, an individual; JEFFREY RASSAS, an
18 individual; DONALD BURTON, an individual;
19 LARRY LEMONS, an individual; JEFFREY
20 YOKIEL, an individual; JEROME YOKIEL, an
21 individual; SARA GULLICKSON, an individual;
22 CHASE HERSCHMAN, an individual; DOE
23 INDIVIDUALS I through X, and ROE
24 BUSINESS ENTITIES XI through XX, inclusive,

Defendants.

JEFFREY RASSAS, AND CHASE
HERSCHMAN'S MOTION TO
DISMISS FIRST AMENDED
COMPLAINT FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF MAY BE GRANTED AND
LACK OF PERSONAL
JURISDICTION

25 NOTICE IS HEREBY GIVEN that the attached Order Granting Defendants Item 9 Labs
26 Corp., Item 9 Properties, LLC, Strive Management, L.L.C. Viridis Group 19 Capital, LLC,
27 Viridis Group Holdings, LLC, Andrew Bowden, Douglas Dowden, Bryce Skalla, Jeffrey
28 Rassas and Chase Herschman's Motion to Dismiss First Amended Complaint for Failure to

1 State a Claim Upon Which Relief May be Granted and Lack of Personal Jurisdiction was
2 entered by the Court on the 12th day of April, 2021.

3
4 DATED this 13th day of April, 2021.

5 SMITH LARSEN & WIXOM

6
7 /s/ Karl L. Nielson

8 Michael B. Wixom, Esq.
9 Nevada Bar No. 2812
Karl L. Nielson, Esq.
10 Nevada bar No. 5082
Hills Center Business Park
1935 Village Center Circle
Las Vegas, Nevada 89134

11 QUARLES & BRADY LLP
12 Renaissance One
13 Two North Central Avenue
Phoenix, AZ 85004-2391

14 *Attorneys for Defendants Item 9 Labs Corp.,*
15 *Item 9 Properties, LLC, Strive Management,*
16 *L.L.C., Viridis Group I9 Capital, LLC, Viridis*
17 *Group Holdings, LLC, Andrew Bowden,*
18 *Douglas Bowden; Bryce Skalla Jeffrey Rassas,*
19 *and Chase Herschman*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 13, 2021 a true copy of the foregoing **Notice of Entry of Order Granting Defendants Item 9 Labs Corp., Item 9 properties, LLC, Strive Management, L.L.C. Viridis Group I9 Capital, LLC, Viridis Group Holdings, LLC, Andrew Bowden, Douglas Dowden, Bryce Skalla, Jeffrey Rassas and Chase Herschman's Motion to Dismiss First Amended Complaint for Failure to State a Claim Upon Which Relief May be Granted and Lack of Personal Jurisdiction** was sent via electronic means to the following at their last known email addresses, pursuant to EDCR 8.05(a):

Plaintiff, JDD, LLC

Lee L. Iglody

Lee@lglody.com

Robert A. Rabbat

rrabbat@enensteinlaw.com

JDD, LLC

jsaunders@citrincooperman.com

John E. Saunders

jsaunders@citrincooperman.com

Trevor Schmidt

ta_schmidt@yahoo.com
trevor@myshapelipo.com

TSC Partners, LLC

ta_schmidt@yahoo.com
trevor@myshapelipo.com**Defendant, Larry Lemons**

Tya Frabott

Tfrabott@messner.com

Jessica Gandy

jgandy@messner.com

SMITH LARSEN & WIXOM

ATTORNEYS

HILLS CENTER BUSINESS PARK
1935 VILLAGE CENTER CIRCLE
LAS VEGAS, NEVADA 89134
(702) 252-5002 • (702) 252-5006

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

Candace Herling

cherling@messner.com

David Mortensen

dmortensen@messner.com

Stephanie Prescott

sprescott@messner.com

**Defendants, TCS Partners, LLC John
Saunders and Trevor Schmidt**

Robert A. Rabbat

rrabbat@enensteinlaw.com

**Defendants, Jeffrey Yokiell and
Jerome Jokiel**

Traci Bixenmann

traci@johnaldrichlawfirm.com

**Defendants, Marimed, Inc, Robert
Fireman and John Levine**

John H Wright

efile@wrightlawgroupnv.com

Defendant Sara Gullickson

Ella Dumo

assistant@gabroy.com

Christian Gabroy

christian@gabroy.com

Kaine Messer

kmesser@gabroy.com

Misha Ray

clerk@gabroy.com

/s/ Mindy Warner
An employee of Smith Larsen & Wixom

SMITH LARSEN & WIXOM

ATTORNEYS
HILLS CENTER BUSINESS PARK
1935 VILLAGE CENTER CIRCLE
LAS VEGAS, NEVADA 89134
(702) 252-5002 • (702) 252-5006

1 **ORDR**

2 Michael B. Wixom, Esq.
3 Nevada Bar No. 2812
4 Karl L. Nielson, Esq.
5 Nevada bar No. 5082
6 SMITH LARSEN & WIXOM
7 Hills Center Business Park
8 1935 Village Center Circle
9 Las Vegas, Nevada 89134
10 Tel: (702) 252-5002
11 Fax: (702) 252-5006
12 Email: mbw@slwlaw.com
13 kln@slwlaw.com

14 Quarles & Brady LLP
15 Renaissance One
16 Two North Central Avenue
17 Phoenix, AZ 85004-2391
18 TELEPHONE 602-229-5200
19 Lauren Elliott Stine (#025083) (admitted Pro Hac Vice)
20 Lauren.Stine@quarles.com
21 Christian G. Stahl (#029984) (admitted Pro Hac Vice)
22 Christian.Stahl@quarles.com

23 *Attorneys for Defendants Item 9 Labs Corp., Item 9 Properties, LLC,*
24 *Strive Management, L.L.C., Viridis Group 19*
25 *Capital, LLC, Viridis Group Holdings, LLC, Andrew*
26 *Bowden, Douglas Bowden, Bryce Skalla, Jeffrey Rassas,*
27 *and Chase Herschman*

28 **EIGHTH JUDICIAL DISTRICT COURT**
CLARK COUNTY, NEVADA

21 JDD, LLC, a Nevada limited liability company;
22 TCS Partners, LLC, a Nevada limited liability
23 company; JOHN SAUNDERS, an individual; and
24 TREVOR SCHMIDT, an individual,

25 Plaintiffs,

26 vs.

27 MARIMED INC. f/k/a Worlds Online, Inc., a
28 Delaware corporation; ITEM 9 LABS CORP. f/k/a
Airware Labs Corp. and Crown Dynamics Corp., a
Delaware corporation; ITEM 9 PROPERTIES
LLC, a Nevada limited liability company; THE
HARVEST FOUNDATION LLC f/k/a, a Nevada

CASE NO.: A-20-811232-B
DEPT. NO.: 16

**ORDER GRANTING
DEFENDANTS ITEM 9 LABS
CORP., ITEM 9 PROPERTIES,
LLC, STRIVE MANAGEMENT,
L.L.C., VIRIDIS GROUP 19
CAPITAL, LLC, VIRIDIS GROUP
HOLDINGS, LLC, ANDREW
BOWDEN, DOUGLAS BOWDEN,
BRYCE SKALLA, JEFFREY**

limited liability company a/k/a THE HARVEST FOUNDATION, LLC; STRIVE MANAGEMENT L.L.C. d/b/a Strive Life, a Nevada limited liability company; STRIVE WELLNESS OF NEVADA, LLC d/b/a Strive Life, a Nevada limited liability company; STRIVE WELLNESS OF NEVADA 2 L.L.C. d/b/a Strive Life, a Nevada limited liability company; VIRIDIS GROUP 19 CAPITAL, LLC, an Arizona limited liability company; VIRIDIS GROUP HOLDINGS, LLC, an Arizona limited liability company; SNOWELL HOLDINGS, LLC, an Ohio limited liability company; ROBERT FIREMAN, an individual; JON LEVINE, an individual; ANDREW BOWDEN, an individual; DOUGLAS BOWDEN, an individual; BRYCE SKALLA, an individual; JEFFREY RASSAS, an individual; DONALD BURTON, an individual; LARRY LEMONS, an individual; JEFFREY YOKIEL, an individual; JEROME YOKIEL, an individual; SARA GULLICKSON, an individual; CHASE HERSCHMAN, an individual; DOE INDIVIDUALS I through X, and ROE BUSINESS ENTITIES XI through XX, inclusive,

Defendants.

**RASSAS, AND CHASE
HERSCHMAN'S MOTION TO
DISMISS FIRST AMENDED
COMPLAINT FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF MAY BE GRANTED AND
LACK OF PERSONAL
JURISDICTION**

On December 18, 2020, Defendants Item 9 Labs Corp., Item 9 Properties, LLC, Strive Management, L.L.C., Viridis Group 19 Capital, LLC, Viridis Group Holdings, LLC, Andrew Bowden, Douglas Bowden, Bryce Skalla, Jeffrey Rassas, and Chase Herschman (collectively, the "Item 9 Defendants") filed a Motion to Dismiss First Amended Complaint for Failure to State a Claim Upon Which Relief May be Granted and Lack of Personal Jurisdiction (the "Motion"). On January 26, 2021, Plaintiffs filed an Opposition to Defendants' Motion (the "Opposition").

In their Opposition, Plaintiffs voluntarily dismissed without prejudice (1) all claims against Defendants Andrew Bowden, Douglas Bowden, Jeffrey Rassas, Bryce Skalla, and Chase Herschman (the "Individual Defendants"), and (2) Count 12 (alter ego), Count 14 (intentional interference with contractual relations), Count 15 (intentional interference with

prospective economic advantage), Count 16 (equitable relief), and Count 17 (attorneys' fees as special damages) against each of the Item 9 Defendants.

A hearing on the Motion was heard on February 24, 2021, by the Honorable Timothy C. Williams. Lauren Elliott Stine of the law firm of Quarles & Brady LLP and Karl L. Nielson of the law firm of Smith Larsen & Wixom appeared on behalf of the Item 9 Defendants. Lee I. Iglody appeared on behalf of Plaintiffs JDD, LLC, TCS Partners, LLC, John Saunders, and Trevor Schmidt. After review and consideration of the written pleadings, arguments of counsel and all relevant statutory and case law, and good cause appearing:

The **COURT ORDERS** the Motion **GRANTED**.

The Court **FINDS** Plaintiffs have voluntarily dismissed without prejudice (1) all claims against the Individual Defendants, and (2) Count 12 (alter ego), Count 14 (intentional interference with contractual relations), Count 15 (intentional interference with prospective economic advantage), Count 16 (equitable relief), and Count 17 (attorneys' fees as special damages) against each of the Item 9 Defendants.

The Court **FURTHER FINDS** that to "obtain jurisdiction over a non-resident defendant, a plaintiff must show: (1) that the requirements of the state's long-arm statute [NRS 14.065] have been satisfied, and (2) that due process is not offended by the exercise of jurisdiction." *Trump v. Eighth Judicial Dist. Ex rel. Clark County*, 109 Nev. 687, 698 (1993); *Catholic Diocese, Green Bay v. John Doe I* 119, 131 Nev. 246, 249 (2015).

The Court **FURTHER FINDS** that courts may exercise general jurisdiction where a defendant's "affiliations with the State are so 'continuous and systematic' as to render them essentially at home in the forum State." *See Viegas GmbH v. Eighth Jud. Dist. Ct.*, 130 Nev. 368, 376 (2014) (quoting *Goodyear Dunlop Tires Ops., S.A. v. Brown*, 564 U.S. 915, 919

(2011)); *Arbella*, 122 Nev. at 513; *Budget Rent-A-Car v. Eighth Judicial Dist. Court*, 108 Nev. 483, 485 (1992). For a corporate entity, general jurisdiction typically exists in the corporation's place of incorporation or principal place of business. *See Viega GmbH*, 130 Nev. at 376-77.

The Court **FURTHER FINDS** that "[s]pecific personal jurisdiction arises when the defendant purposefully enters the forum's market or establishes contacts in the forum and affirmatively directs conduct there, *and* the claims arise from that purposeful contact or conduct." *Viega GmbH*, 130 Nev. at 375 (emphasis added); *Dogra v. Liles*, 129 Nev. 932, 937 (2013). To establish specific personal jurisdiction over a non-resident defendant, the plaintiff must demonstrate that: (1) "the defendant must purposefully avail himself of the privilege of acting in the forum state or of causing important consequences in that state"; (2) "[t]he cause of action must arise from the consequences in the forum state of the defendant's activities"; and (3) "those activities, or the consequences thereof, must have a substantial enough connection with the forum state to make the exercise of jurisdiction over the defendant reasonable." *Consipio Holding, BV v. Carlberg*, 128 Nev. 454, 458 (App. 2012) (quotation omitted).

The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege any facts that would demonstrate that Defendants Viridis Group I9 Capital, LLC and Viridis Group Holdings, LLC (the "Non-Resident Defendants") are subject to general or specific personal jurisdiction in Nevada.

The Court **FURTHER FINDS** that the Non-Resident Defendants are Arizona limited liability companies with Arizona members that are located and doing business in Arizona (Viridis Group I9 Capital, LLC and Viridis Group Holdings, LLC).

The Court **FURTHER FINDS** that the Declarations submitted by the Non-Resident Defendants with their Motion demonstrated that the Non-Resident Defendants do not own

1 property in the State of Nevada, do not pay taxes in the State of Nevada, and do not have W-2
2 employees living or working within the State of Nevada.

3
4 The Court **FURTHER FINDS** that "[w]hen a defendant challenges the personal
5 jurisdiction of the Nevada courts, the plaintiff must introduce competent evidence of essential
6 facts establishing a prima facie showing of jurisdiction." *Levinson v. Second Judicial Dist.*
7 *Court of State*, 103 Nev. 404 (1987) (emphasis added). "In determining whether a prima facie
8 showing has been made, the district court is not acting as a fact finder. It accepts properly
9 supported proffers of evidence by a plaintiff as true. However, the plaintiff must introduce
10 some evidence and may not simply rely on the allegations of the complaint to establish personal
11 jurisdiction." *Trump v. Eighth Judicial Dist. Court*, 109 Nev. 687, 693 (1993) (internal
12 quotations and citations omitted).

13
14 The Court **FURTHER FINDS** that Plaintiffs failed to introduce any evidence of facts
15 essential to establishing a prima facie showing of general or specific personal jurisdiction, and
16 Plaintiffs failed to meet their burden of demonstrating that the Non-Resident Defendants are
17 subject to general or specific personal jurisdiction in the state of Nevada.

18
19 The Court **FURTHER FINDS** that the Court does not have general or specific personal
20 jurisdiction over the Non-Resident Defendants.

21
22 The Court **FURTHER FINDS** that a complaint should be dismissed if it fails "to state
23 a claim upon which relief can be granted." NRCP 12(b)(5). While this court construes the
24 complaint liberally, the allegations therein must still be "sufficiently definite to give fair notice
25 of the nature and basis or grounds of the claim and a general indication of the type of litigation
26 involved." *Taylor v. State of Nevada*, 73 Nev. 151, 152 (1957). A plaintiff must still show
27
28

1 "facts which support a legal theory." See *Liston v. LVMPD*, 111 Nev. 1575, 1578 (1995);
2 *Johnson v. Travelers Ins. Co.*, 89 Nev. 467, 472, 515 P.2d 68, 71 (1973).

3
4 The Court **FURTHER FINDS** that it is Plaintiffs' duty to present well-pleaded facts on
5 which grounds for relief can be sought against a defendant, and a court need not assume as true
6 any facts which require unreasonable inferences or unwarranted deductions. A pleading must
7 contain: "...a short and plain statement of the claim showing that the pleader is entitled to relief,"
8 NRCP Rule 8(a).

9
10 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
11 facts sufficient to support any of the claims Plaintiffs have asserted against the Item 9
12 Defendants. Plaintiffs do not allege that they are parties to contracts with any of the Item 9
13 Defendants.

14
15 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
16 facts sufficient to demonstrate that Plaintiffs conferred a benefit on the Item 9 Defendants and
17 that the Item 9 Defendants unjustly retained such benefit. Plaintiffs' First Amended Complaint
18 therefore fails to plead facts sufficient to support a claim for unjust enrichment (Count 2).

19
20 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
21 facts sufficient to demonstrate that the Item 9 Defendants entered into an agreement to
22 accomplish an unlawful objective and for the purpose of harming Plaintiffs. Plaintiffs' First
23 Amended Complaint therefore fails to plead facts sufficient to support a claim for civil
24 conspiracy (Count 11).

25
26 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to allege
27 facts sufficient to demonstrate that the Item 9 Defendants knowingly participated in or assisted
28

1 a breach of a fiduciary duty. Plaintiffs' First Amended Complaint therefore fails to plead facts
2 sufficient to support a claim for aiding and abetting a breach of fiduciary duty (Count 13).

3
4 The Court **FURTHER FINDS** that Plaintiffs' First Amended Complaint fails to plead
5 a justiciable controversy with the Item 9 Defendants. Plaintiffs do not allege that they were
6 parties to an agreement with the Item 9 Defendants. Plaintiffs' First Amended Complaint
7 therefore fails to plead facts sufficient to support a claim for declaratory judgment (Count 19),
8

9 **NOW THEREFORE, IT IS HEREBY ORDERED** that Plaintiffs have voluntarily
10 dismissed each of their claims against Defendants Andrew Bowden, Douglas Bowden, Jeffrey
11 Rassas, Bryce Skalla, and Chase Herschman.

12 **NOW THEREFORE, IT IS HEREBY ORDERED** that Plaintiffs have voluntarily
13 dismissed Count 12 (alter ego), Count 14 (intentional interference with contractual relations),
14 Count 15 (intentional interference with prospective economic advantage), Count 16 (equitable
15 relief), and Count 17 (attorneys' fees as special damages) against each of the Item 9 Defendants.
16

17 **NOW THEREFORE, IT IS HEREBY ORDERED**, that the Non-Resident
18 Defendants' Motion to Dismiss for Lack of Personal Jurisdiction is **GRANTED**.

19 **NOW THEREFORE, IT IS FURTHER HEREBY ORDERED**, that the Item 9
20 Defendants' Motion to Dismiss the First Amended Complaint for Failure to State a Claim Upon
21 Which Relief May be Granted is **GRANTED**.
22
23
24
25
26
27
28

SMITH LARSEN & WIXOM

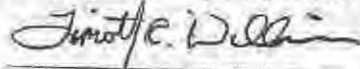
ATTORNEYS
HILLS CENTER BUSINESS PARK
1935 VILLAGE CENTER CIRCLE
LAS VEGAS, NEVADA 89134
(702) 252-5002 • (702) 252-5006

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs' First Amended Complaint as to the Item 9 Defendants is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this ____ day of April, 2021

Dated this 12th day of April, 2021



DISTRICT JUDGE

889 223 BE87 A91E
Timothy C. Williams
District Court Judge

ZJ

Respectfully Submitted By:

/s/ Karl L. Nielson

Michael B. Wixom, Esq.

Nevada Bar No. 2812

Karl L. Nielson, Esq.

Nevada bar No. 5082

SMITH LARSEN & WIXOM

Hills Center Business Park

1935 Village Center Circle

Las Vegas, Nevada 89134

Tel: (702) 252-5002

Fax: (702) 252-5006

Email: mbw@slwlaw.com

kln@slwlaw.com

Quarles & Brady LLP

Renaissance One

Two North Central Avenue

Phoenix, AZ 85004-2391

TELEPHONE 602-229-5200

Lauren Elliott Stine (#025083) (admitted Pro Hac Vice)

Lauren.Stine@quarles.com

Christian G. Stahl (#029984) (admitted Pro Hac Vice)

Christian.Stahl@quarles.com

Attorneys for Defendants Item 9 Labs Corp., Item 9 Properties, LLC,

Strive Management, L.L.C., Viridis Group I9 Capital, LLC,

Viridis Group Holdings, LLC, Andrew Bowden, Douglas Bowden,

Bryce Skalla, Jeffrey Russas, and Chase Herschman

Approved as to form and content:

DATED this 8th day of April, 2021.

IGLODY LAW

/s/ Lee I. Igloidy

LEE I. IGLODY

Nevada Bar No. 7757

*Attorneys for Plaintiffs JDD, LLC,
TCS Partners, LLC, John Saunders,
And Trevor Schmidt*

DATED this 8th day of April, 2021.

GABROY LAW OFFICES

/s/ Christian Gabroy

CHRISTIAN GABROY, ESQ.

Nevada Bar No. 8805

KAINE MESSER, ESQ.

Nevada Bar No. 14240

*Attorneys for Defendant
The Harvest Foundation
Attorneys for Defendant Sara Gullickson*

DATED this 8th day of April, 2021.

THE WRIGHT LAW GROUP, P.C.

/s/ John Henry Wright

JOHN HENRY WRIGHT, ESQ.

Nevada Bar No. 6182

*Attorneys for Defendants MARIMED, INC.,
ROBERT FIREMAN and JON LEVINE*

DATED this 8th day of April, 2021

MESSNER REEVES LLP

/s/ Candace C. Herling

CANDACE C. HERLING, ESQ.

Nevada Bar No. 13503

*Attorneys for Defendants Burton,
Lemons, and Snowell*

DATED this 8th day of April, 2021.

BARRETT & MATURA, P.C.

/s/ Kevin C. Barrett

KEVIN C. BARRETT, ESQ.

Nevada Bar No. 8959

*Attorneys for Defendant
The Harvest Foundation*

SMITH LARSEN & WIXOM

ATTORNEYS

HILLS CENTER BUSINESS PARK
1935 VILLAGE CENTER CIRCLE
LAS VEGAS, NEVADA 89134
(702) 252-5002 • (702) 252-5006

Mindy Warner

From: John Wright <john@wrightlawgroupnv.com>
Sent: Thursday, April 8, 2021 11:49 AM
To: Karl L. Nielson; Candace C. Herling; lee@iglody.com
Cc: Candi Ashdown; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom; kbarrett@barrettmatura.com; Andrelle Stanley; Dayana Shakerian; Mindy Warner; Stine, Lauren Elliott; Stahl, Christian G.
Subject: RE: CASE NO. A-20-811232-B

Yes, sorry.

John Henry Wright, Esq.

The Wright Law Group, P.C.
2340 Paseo Del Prado, Suite D-305
Las Vegas, Nevada 89102
Telephone: (702) 405-0001
Facsimile: (702) 405-8454
john@wrightlawgroupnv.com



WRIGHT LAW GROUP

From: Karl L. Nielson <kln@slwlaw.com>
Sent: Thursday, April 8, 2021 11:33 AM
To: Candace C. Herling <CHerling@messner.com>; lee@iglody.com
Cc: Candi Ashdown <Candi@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom <mbw@slwlaw.com>; kbarrett@barrettmatura.com; John Wright <john@wrightlawgroupnv.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Mindy Warner <mwarn@slwlaw.com>; Stine, Lauren Elliott <Lauren.Stine@quarles.com>; Stahl, Christian G. <Christian.Stahl@quarles.com>
Subject: RE: CASE NO. A-20-811232-B

John Wright (and Wright Law Group) – Do we have your permission to use your email signature on the revised final order for the Item 9 Defendants' motion to dismiss? Thanks,
- Karl

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002

Mindy Warner

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Sent: Thursday, April 8, 2021 11:33 AM
To: Candace C. Herling; lee@iglody.com
Cc: Candi Ashdown; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom; kbarrett@barrettmatura.com; John Wright; Andrelle Stanley; Dayana Shakerian; Mindy Warner; Stine, Lauren Elliott; Stahl, Christian G.
Subject: RE: CASE NO. A-20-811232-B

John Wright (and Wright Law Group) – Do we have your permission to use your email signature on the revised final order for the Item 9 Defendants' motion to dismiss? Thanks,
Karl

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kln@slwlaw.com
<https://slwlaw.com>

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Sent: Tuesday, April 6, 2021 4:59 PM
To: lee@iglody.com; Karl L. Nielson <kln@slwlaw.com>
Cc: Candi Ashdown <Candi@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Mike Wixom <mbw@slwlaw.com>; kbarrett@barrettmatura.com; John Wright <john@wrightlawgroupnv.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Mindy Warner <mwarner@slwlaw.com>; Stine, Lauren Elliott <Lauren.Stine@quarles.com>; Stahl, Christian G. <Christian.Stahl@quarles.com>
Subject: RE: CASE NO. A-20-811232-B

If needed, please use my e-signature.

Thanks,

Candace

Candace C. Herling
Partner

Messner Reeves LLP
8945 W. Russell Road | Suite 300
Las Vegas, NV 89148

One East Liberty Street | Suite 600
Reno, NV 89501

702.363.5100 *office* | 702.363.5101 *fax*
cherling@messner.com
messner.com

From: Lee Iglody, Esq. <lee@iglody.com>
Sent: Tuesday, April 6, 2021 4:58 PM
To: Karl L. Nielson <kln@slwlaw.com>
Cc: Candi Ashdown <Candi@wrightlawgroupnv.com>; christian@gabroy.com; kmesser@gabroy.com; Candace C. Herling <CHerling@messner.com>; Mike Wixom <mbw@slwlaw.com>; kbarrett@barrettmatura.com; John Wright <john@wrightlawgroupnv.com>; Andrelle Stanley <Andrelle@wrightlawgroupnv.com>; Dayana Shakerian <dayana@wrightlawgroupnv.com>; Mindy Warner <mwarner@slwlaw.com>; Stine, Lauren Elliott <Lauren.Stine@quarles.com>; Stahl, Christian G. <Christian.Stahl@quarles.com>
Subject: Re: CASE NO. A-20-811232-B

You have my permission.

Kind regards,

Lee Iglody, Esq.
2580 St Rose Pkwy #330
Henderson, Nevada 89074
O: (702) 425-5366
C: (702) 561-9934
lee@iglody.com
www.iglodylaw.com



The IRS requires us to inform you that any tax information or advice is not intended and cannot be used to avoid tax penalties or promote, recommend or market any tax related matters. Also, this email contains confidential communications. If you received this email in error, notify the sender immediately. Thank you.

On Mon, Apr 5, 2021 at 2:55 PM Karl L. Nielson <kln@slwlaw.com> wrote:

All - Please see attached the revised final version of the draft Order incorporating Mr. Iglody's redline changes referenced below. If the revised Order meets with your approval, please email permission to use your e-signature. Thanks,

- Karl

Karl L. Nielson, Esq.

Smith Larsen & Wixom

1935 Village Center Circle

Mindy Warner

From: Karl L. Nielson
Sent: Tuesday, April 6, 2021 1:49 PM
To: Mindy Warner
Subject: FW: CASE NO. A-20-811232-B

Karl L. Nielson, Esq.
Smith Larsen & Wixom
1935 Village Center Circle
Las Vegas, NV 89134
Tel: (702) 252-5002
Fax: (702) 252-5006
Email: kln@slwlaw.com
<https://slwlaw.com>

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From: Kevin Barrett <kbarrett@barrettmatura.com>
Sent: Tuesday, April 6, 2021 10:48 AM
To: Karl L. Nielson <kln@slwlaw.com>
Subject: RE: CASE NO. A-20-811232-B

You can sign for me on behalf of Harvest.

Kevin

Kevin C. Barrett, Esq.

Barrett | Matura

Attorneys

Barrett & Matura, P.C.
7575 W. Vegas Drive
Suite 150c
Las Vegas, Nevada 89128
Main: 702.833.1033
Direct: 602.792.5715
Fax: 602.792.5710
Email: kbarrett@barrettmatura.com

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Mindy Warner

From: Christian Gabroy <christian@gabroy.com>
Sent: Monday, April 5, 2021 4:25 PM
To: Karl L. Nielson
Cc: lee@iglody.com; Candi Ashdown; kmesser@gabroy.com; Candace C. Herling; Mike Wixom; kbarrett@barrettmatura.com; John Wright; Andrelle Stanley; Dayana Shakerian; Mindy Warner; Stine, Lauren Elliott; Stahl, Christian G.
Subject: Re: CASE NO. A-20-811232-B

sure. thanks

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- Karl

Karl L. Nielson, Esq.,

Smith Larsen & Wixom

1935 Village Center Circle

Las Vegas, NV 89134

Tel: (702) 252-5002

Fax: (702) 252-5006

Email: klN@slwlaw.com

<https://slwlaw.com>

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From: Lee Iglody, Esq. <lee@iglody.com>
Sent: Wednesday, March 31, 2021 1:04 PM

1 CSERV

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 JDD, LLC, Plaintiff(s)

CASE NO: A-20-811232-B

7 vs.

DEPT. NO. Department 16

8 Larry Lemons, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

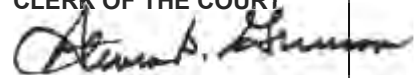
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 4/12/2021

15 Christian Gabroy	christian@gabroy.com
16 Michael Wixom	mbw@slwlaw.com
17 Karl Nielson	kln@slwlaw.com
18 Barbara Clark	bclark@albrightstoddard.com
19 Mindy Warner	mwarner@slwlaw.com
20 Traci Bixenmann	traci@johnaldrichlawfirm.com
21 Kaine Messer	kmesser@gabroy.com
22 Lee Iglody	lee@iglody.com
23 John Wright	efile@wrightlawgroupnv.com
24 Candace Herling	cherling@messner.com
25 Stephanie Prescott	sprescott@messner.com

26
27
28

1	Jessica Gandy	Jgandy@messner.com
2		
3	Tya Frabott	Tfrabott@messner.com
4	Hayden Smith	hsmith@albrightstoddard.com
5	Misha Ray	clerk@gabroy.com
6	Ella Dumo	assistant@gabroy.com
7	John Saunders	jsaunders@citrincooperman.com
8	Trevor Schmidt	ta_schmidt@yahoo.com
9	Trevor Schmidt	trevor@myshapelipo.com
10		
11	Kevin Barrett	kbarrett@barrettmatura.com
12	Emily Iglody	emily@iglodylaw.com
13	Lauren Stine	Lauren.Stine@quarles.com
14	Maria Marotta	Maria.Marotta@quarles.com
15	Sky Jackson	sky@bianchibrandt.com
16	Justin Brandt	justin@bianchibrandt.com
17		
18	Mukunda Shanbhag	mukunda@bianchibrandt.com
19	Christian Stahl	christian.stahl@quarles.com
20		
21		
22		
23		
24		
25		
26		
27		
28		



RIS

Justin M. Brandt (*pro hac vice*)
Mukunda Shanbhag (*pro hac vice*)

BIANCHI & BRANDT

6710 Scottsdale Rd., Ste. 210
Scottsdale, AZ 85253

Telephone: 480.531.1800

justin@bianchibrandt.com

mukunda@bianchibrandt.com

*Attorneys for Defendants Burton,
Lemons, and Snowell*

Candace C. Herling (NV SBN: 13503)

MESSNER REEVES LLP

8945 W. Russel Rd., Ste. 300

Las Vegas, NV 89148

Telephone: 702.363.5100

cherling@messner.com

*Attorneys for Defendants Burton,
Lemons, and Snowell*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JDD, LLC, a Nevada limited liability company;
TCS Partners, LLC, a Nevada limited liability
company; JOHN SAUNDERS, an individual;
and TREVOR SCHMIDT, an individual,

Plaintiffs,

v.

MARIMED INC. f/k/a Worlds Online, Inc., a
Delaware corporation, et al.,

Defendants.

Case No. A-20-811232-B

Dept. No. 16

**DEFENDANT SNOWELL
HOLDINGS, LLC'S REPLY IN
SUPPORT TO MOTION FOR
ATTORNEYS' FEES**

I. Plaintiffs' only basis for naming Snowell in this lawsuit is that Defendant Larry Lemons is the sole member and manager of the Ohio entity.

Plaintiffs' Opposition confirms that Snowell's inclusion in this lawsuit has no factual support (*i.e.*, was brought without reasonable ground) and was apparently maintained only to harass Defendant Lemons:

Here, Plaintiffs had reasonable grounds to name Snowell, an entity that has as its sole member and manager the very man who defrauded them, Larry Lemons. Absent discovery, Plaintiffs should not be penalized for the current inability to substantiate Snowell's

1 involvement without detailed specificity. (Pl.'s Oppo., 7:20-24).

2 How can Plaintiffs reasonably contend that Snowell should not be allowed to recover
3 its fees while simultaneously admitting they cannot substantiate Snowell's involvement in
4 this lawsuit? The stated intent of N.R.S. 18.010(2)(b) is to award attorney's fees to "punish
5 and deter" such unsubstantiated claims.

6 Though Plaintiffs conclude that they had reasonable grounds to name Snowell, the
7 **only** basis articulated to this Court is that Defendant Lemons is the sole member and
8 manager of Snowell. (Pl.'s Oppo., 7:20-24).

9 Plaintiffs argue they had reasonable ground because they "reasonably believed and
10 alleged that Snowell was part of Defendant Lemons's web of deceit." (Pl.'s Oppo., 7:24-25).
11 But the inquiry for reasonableness of Plaintiffs' claims is based on actual facts, not
12 Plaintiffs' unsupported allegations. *Bergmann v. Boyce*, 856 P.2d 560, 563 (Nev. 1993)
13 (superseded by statute on other grounds); *see also Frederic & Barbara Rosenberg Living Tr.*
14 *v. MacDonald Highlands Realty, LLC*, 427 P.3d 104, 113 (Nev. 2018) ("[A] claim is
15 frivolous or groundless if there is no credible evidence to support it.").

16 Moreover, Plaintiffs were informed about the absence of contacts between Snowell
17 and Nevada, and they initially agreed to dismiss Snowell from the case. But Plaintiffs
18 reneged on their agreement, willfully ignoring the facts presented to them. N.R.S.
19 18.010(2)(b) was enacted to punish such unsupported claims. Accordingly, Snowell should
20 be awarded its attorney's fees.

21 **II. Plaintiffs failed to timely request discovery on the issue of personal jurisdiction,**
22 **and they similarly failed to object to the declaration of Larry Lemons.**

23 Plaintiffs' failure to either timely seek discovery on the issue of personal jurisdiction
24 or to properly contest the declaration of Larry Lemons is not a valid reason to preclude
25 Snowell from recovering attorney's fees. This Court should not be persuaded by Plaintiffs'
26 attempt to pass off its own failures with how they handled Snowell's Motion to Dismiss as a

1 basis for precluding Snowell’s recovery of attorney’s fees.

2 **III. Snowell is a prevailing party.**

3 A defendant need not prevail on the merits to be a “prevailing party.” *CRST Van*
4 *Expedited, Inc. v. E.E.O.C.*, 136 S. Ct. 1642, 1651 (2016); *see also Sunlight Tr. v. Hsieh*
5 *Ying-Man*, 453 P.3d 398, 2019 WL 6840117, at *1 (Nev. 2019) (unpublished opinion)
6 (citing and approving *CRST Van Expedited, Inc.*).

7 Rather, a party prevails “if it succeeds on *any significant issue* in litigation which
8 achieves some of the benefit it sought in bringing suit.” *Valley Elec. Ass’n v. Overfield*, 106
9 P.3d 1198, 1200 (Nev. 2005) (emphasis added); *see also Affinity Network Inc. v. Schreck*,
10 129 Nev. 1093, 2013 WL 7155071, at *3 (Nev. 2013) (unpublished opinion) (acknowledging
11 that attorney’s fees may be awarded under N.R.S. 18.010(b)(2) following dismissal for lack
12 of personal jurisdiction but affirming the district court’s refusal to award fees). This standard
13 is construed broadly to include defendants. *Id.*; *see also Pilse v. Schwartzer*, 469 P.3d 194,
14 2020 WL 4905447, at *2 (Nev. App. 2020) (unpublished opinion) (awarding attorney’s fees
15 under N.R.S. 18.010(2)(b) following dismissal without prejudice).

16 Further, Nevada courts exercise considerable discretion in determining prevailing
17 party status and give effect to legislative intent when awarding fees. *See Sunlight Tr.*, 2019
18 WL 6840117, at *1; *Pilse*, WL 4905447, at *2 (interpreting prevailing party status broadly);
19 *see also Smith v. Crown Fin. Servs. of Am.*, 890 P.2d 769, 771 (Nev. 1995) (interpreting
20 N.R.S. 18.010 based heavily on legislative intent).

21 Here, Snowell obtained dismissal for lack of personal jurisdiction. Accordingly,
22 Snowell succeeded on a significant issue in the case and achieved the benefit that it sought.
23 *See Affinity Network Inc.*, 2013 WL 7155071, at *3; *Pilse*, 2020 WL 4905447, at *2.
24 Importantly, the legislative intent behind N.R.S. 18.010(b)(2) heavily favors an award of
25 attorney’s fees in this case. The statutory text plainly states that the legislature intended
26

1 courts to award attorney's fees "in all appropriate situations to punish for and deter frivolous
2 or vexatious claims...." *Id.*

3 As discussed, Plaintiffs had no factual or evidentiary support for Snowell's inclusion
4 in the lawsuit. Plaintiffs have all but admitted this, arguing (without basis) for forgiveness
5 from consequence. (*See* Pl.'s Oppo., p. 7). Snowell's attorney's fees should be awarded
6 under N.R.S. 18.010(b)(2).

7 **IV. Conclusion**

8 It should be noted that Plaintiffs do not dispute the reasonableness of the amount of
9 attorney's fees sought by Snowell, which totals \$19,145.00. Plaintiffs have repeatedly
10 admitted they have no factual basis to support personal jurisdiction over Snowell. They
11 nonetheless named Snowell in the lawsuit and opposed its motion to dismiss. This is exactly
12 the type of claim that N.R.S. 18.010(2)(b) was enacted to deter. Snowell should be awarded
13 \$19,145.00 in attorney's fees.

14 **DATED:** April 22nd 2021.

15 **BIANCHI & BRANDT**

16 /s/ Justin M. Brandt
17 Justin M. Brandt, Esq.
18 Mukunda Shanbhag, Esq.
6710 Scottsdale Rd., Ste. 210
19 Scottsdale, AZ 85253
Pro Hac Vice Attorneys for Defendants
Burton, Lemons, and Snowell

20 **MESSNER REEVES LLP**

21 /s/ Candace C. Herling
22 Candace C. Herling, Esq.
23 8945 W. Russel Rd., Ste. 300
24 Las Vegas, NV 89148
Attorneys for Defendants Burton,
Lemons, and Snowell

1 **CERTIFICATE OF SERVICE**

2 On this 22nd day of April, 2021, pursuant to Administrative Order 14-2 and Rule 9 of the
3 NEFCR, I caused the foregoing **DEFENDANT SNOWELL HOLDINGS, LLC'S REPLY IN**
4 **SUPPORT TO MOTION FOR ATTORNEYS' FEES DISMISS** to be transmitted to the person(s)
5 identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial
6 District Court, County of Clark, State of Nevada. A service transmission report reported service as
7 complete and a copy of the service transmission report will be maintained with the document(s) in this
8 office.

9 Lee I. Iglody, Esq.
10 Nevada Bar #: 7757
11 2580 St Rose Pkwy., Suite 330
12 Henderson, Nevada 89074
13 Tel: (702) 425-5366
Email: Lee@Iglody.com
Attorney for Plaintiffs

All parties registered through the Court's e-file system.

14
15 /s/ Tya Frabott
16 Employee of MESSNER REEVES LLP
17
18
19
20
21
22
23
24
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