

**IN THE SUPREME COURT OF THE
STATE OF NEVADA**

E&T VENTURES, LLC,
Petitioner,

vs

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, THE
HONORABLE JOANNA KISHNER,
DISTRICT JUDGE,
Respondent,

EUPHORIA WELLNESS, LLC a
Nevada limited liability company,
Real Party in Interest.

Electronically Filed
Feb 08 2022 09:46 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 84133

District Court Case: A-19-796919-B

**SUPPLEMENT TO EMERGENCY MOTION UNDER NRAP 27(E) TO
STAY EVIDENTIARY HEARING ON DISCOVERY SANCTIONS
[ACTION NOW REQUIRED
ON OR BEFORE FEBRUARY 11, 2022 AT 3PM]**

LAW OFFICE OF MITCHELL STIPP
MITCHELL STIPP, ESQ. (Nevada Bar No. 7531)
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Las Vegas, Nevada 89144
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Counsel for Petitioner

MEMORANDUM OF POINTS AND AUTHORITIES

The district court unilaterally re-scheduled the evidentiary hearing for case ending discovery sanctions from 8:30 a.m. on February 8, 2022 to 3pm on February 11, 2022. See **Exhibit 1** attached hereto.¹ Accordingly, Petitioner requests that the Nevada Supreme Court grant its request for a stay on or before the new time and date set for the re-scheduled evidentiary hearing. See Dkt. Nos. 22-03024, 22-03821, 22-03834, and 22-03835.

The district court provided its response to Petitioner's application/affidavit for disqualification. See **Exhibit 2** attached hereto. Petitioner filed its reply. See **Exhibit 3** attached hereto. While the issue of disqualification is not yet before this Court, the matters are relevant to the request for a stay and the underlying petition for a writ. The written response by the district court provides a unique opportunity for the Nevada Supreme Court to consider the judge's purported rationale for the order/decision which is the subject of the writ petition. As this Court should see, the district court has closed its mind to the facts and law before it. In fact, the district

¹ The fact that district court *sua sponte* re-set the evidentiary confirms the court had the power, discretion, and opportunity to consider Petitioner's request for a stay.

court distorts the record to justify the order/decision. Petitioner's due process rights (including the right to a fair trial) are being violated by the actions of the district court.

For the reasons set forth in Petitioner's Motion, Reply and this Supplement, Petitioner seeks to have this Court enter an order staying the evidentiary hearing on discovery sanctions.

DATED this 8th day of February, 2022

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp

MITCHELL STIPP, ESQ.
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mstipp@stipplaw.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of February, 2022, I filed the foregoing **SUPPLEMENT**, using the court's electronic filing system.

Notice of the filing of the Supplement was made upon acceptance by the Nevada Supreme Court using the District Court's electronic filing system to the following e-service participants in District Court Case and by mail to the addresses as indicated:

Judge Joanna Kishner:

Dept31lc@clarkcountycourts.us

Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89155

Euphoria Wellness, LLC as Real Parties-in- Interest:

Nicole E. Lovelock, Esq.
Nevada State Bar No. 11187
JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119
Telephone: (702) 805-8450
Fax: (702) 805-8451
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By: /s/ Amy Hernandez

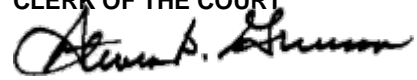
An employee of Law Office of Mitchell Stipp

EXHIBIT 1

CHAMBERS:
702-671-3634

LAW CLERK:
702-671-0899

Electronically Filed
2/7/2022 5:02 PM
Steven D. Grierson
CLERK OF THE COURT



MEMO
DISTRICT COURT
DEPARTMENT XXXI

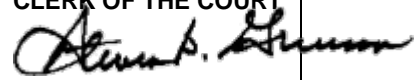
To:	ALL COUNSEL and/or PARTIES PRO SE – SERVED VIA E-SERVICE and/or E-MAIL
From:	DEPARTMENT 31
Subject:	A796919 – E&T VENTURES, ET AL. vs. EUPHORIA WELLNESS, ET AL. **Please review entire Memo** **PLEASE NOTE THAT DEPARTMENT 31 IS NOW LOCATED IN <u>COURTROOM 16B</u>**
Date:	February 7, 2022

Dear Counsel,

Please be advised that all pending matters that are currently scheduled for tomorrow, February 8, 2022, have been continued to be heard on Friday, February 11, 2022, at 3:00 p.m.

The Bluejeans remote appearance connection information will remain the same for the hearing on Friday.

EXHIBIT 2



DISTRICT COURT
CLARK COUNTY, NEVADA

E&T VENTURES, LLC, a Nevada limited liability company,

Plaintiff,

v.

EUPHORIA WELLNESS, LLC, a Nevada limited liability company; DOE Individuals I-X, inclusive; and ROE ENTITIES 1-10, inclusive;

Defendant.

EUPHORIA WELLNESS, LLC, a Nevada limited liability company,

Counterclaimant,

v.

E&T VENTURES, LLC, a Nevada limited liability company;

Counter-Defendant.

EUPHORIA WELLNESS, LLC, a Nevada limited liability company,

Third- Party Plaintiff,

v.

MIRAL CONSULTING, LLC, a Nevada limited liability company; HAPPY CAMPERS, LLC, a Nevada limited liability company; CBD SUPPLY CO, LLC, a Nevada limited liability company; DOE Individuals I-X, inclusive; and ROE ENTITIES 1-10, inclusive;

Third-Party Defendants.

CASE NO. A-19-796919-B

DEPT NO.: XXXI

WRITTEN RESPONSE

1 **WRITTEN RESPONSE OF JOANNA S. KISHNER, PURSUANT TO NRS 1.235, IN**
2 **RESPONSE TO E&T VENTURES, LLC.'S MOTION TO DISQUALIFY JUDGE**

3 1. I am a District Court Judge, presiding in Department XXXI of the Eighth
4 Judicial District Court.

5 2. I make this Written Response to the purported Application of E&T
6 Ventures LLC To Disqualify Judge Joanna Kishner and Affidavit Pursuant to NRS
7 1.235 and Errata to Application of E&T Ventures LLC To Disqualify Judge Joanna
8 Kishner and Affidavit Pursuant to NRS 1.235 to Disqualify Hon. Joanna Kishner
9 ("Application"). While the Application bears a file- stamp of 6:56 p.m. on February 2,
10 2022, and the Errata bears the file-stamp of 9:23 p.m., neither of these documents
11 comply with NRS 1.235.¹ Specifically, NRS 1.235 mandates that: "At the time the
12 affidavit is filed, a copy must be served upon the judge sought to be disqualified.
13 Service must be made by delivering the copy to the Judge personally or by leaving it
14 at the judges chambers with some person of suitable age and discretion employed
15 therein." As of the time that this written response is being finalized, the undersigned
16 has not been personally served. Further, in checking with my team, no copy was left
17 with them or in the Chambers box located outside the Courtroom. Further, there is no
18 Certificate of Service filed even asserting service was even attempted. Second, while
19 the document sets forth it is an "Affidavit", the last paragraph, prior to the typed
20 signature, sets forth that counsel is submitting a declaration as it states, "I submit the
21 above-titled declaration in support...." Third, NRS 1.235 requires that "The affidavit of
22 a party represented by an attorney must be accompanied by a certificate of the
23 attorney of record that the affidavit is filed in good faith and not interposed for delay."
24 Regardless of whether the statement of counsel is intended to be an Affidavit or a
25

26 _____
27 ¹ The Errata sets forth that it merely corrects an Exhibit reference, and thus, it does not remedy any of
28 the deficiencies set forth herein. Further, given the Errata is not substantive, the Court, when referring
to the Application, refers to the document file-stamped at 6:56 p.m. unless otherwise stated.

1 declaration as noted above, it does not contain the mandatory Certificate. In addition,
2 as the document attaches over 200 pages of "Exhibits", it is non-compliant with EDCR
3 2.27.

4
5 3. Given the Evidentiary Hearing at issue in the "Application" is set to be
6 heard at 8:30 am on February 8, 2022, however; and without waiving the Movant and
7 its counsel's failure to comply with the statutory provisions of NRS 1.235 and the
8 EDCR; the Court hereby provides this written answer to "challenge [the] affidavit"
9 consistent with NRS 1.235(6) and is doing so in less than the five judicial days
10 provided for in the statute. While the entire "written answer" is to be reviewed for
11 purposes of NRS 1.235 demonstrating that the Court has and will continue to preside
12 fairly and impartially over the instant matter, case number A-19-796919-B, the Court
13 has first outlined the procedural posture of the case, including the rulings of the Court,
14 and then addresses the upcoming February 8, 2022, Evidentiary Hearing which
15 appears to be the basis of the Application.

16 4. I am currently assigned to preside over A-19-796919-B wherein Movant
17 E&T Ventures is the Plaintiff and Counter-Defendant. Euphoria Wellness is the
18 Defendant and Counter-Claimant and Euphoria Wellness is also the Third-Party
19 Plaintiff with respect to Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply
20 Co. LLC, which are also represented by the same counsel, Mr. Stipp, who filed the
21 Application.

22
23 5. Based on the Court's Odyssey system, this case was filed on June 18,
24 2019, and since it was filed as a Business Court case designation, it was assigned to
25 Department XXVII, the Honorable Judge Nancy Allf. On February 4, 2020, Michael
26 Stipp substituted in as counsel for E &T Ventures LLC. The two names set forth as
27 the authorized agents who approved the substitution of counsel were listed as Kristin
28

1 Taracki (who is also known as Kristin Ehasz²) and Alex Taracki. Thereafter, on June
2 18, 2020, counsel Michael Stipp also appeared in the case for Cross-Defendants
3 Kristin Ehasz, (aka Kristin Taracki), Alexander Taracki, and other parties. After Judge
4 Allf's recusal in June of 2020, the case was reassigned to Department XVI, the
5 Honorable Judge Timothy Williams. On June 23, 2020 a Preemptory Challenge was
6 filed as to Judge Williams, so the case was reassigned to the Honorable Judge
7 Elizabeth Gonzalez. Thereafter, on or about September 7, 2021, the case was re-
8 assigned to the instant Department, Department XXXI, upon the retirement of Judge
9 Gonzalez.
10

11 6. At the time the case was reassigned, there were approximately 169
12 entries listed on Odyssey which included various requests for injunctive relief, Orders
13 to Show Cause hearings set regarding other clients of the counsel who filed the
14 Application, a Motion to Disqualify counsel who filed the Application, several Discovery
15 Motions and Orders, Motions for Attorney's Fees, Dispositive Motion(s), and
16 Motions/Stipulations to Extend Discovery and/or the Trial. Some of these matters
17 were still outstanding at the time the case was reassigned to the instant Court.
18 Accordingly, the Court heard the pending matters, as well as new Discovery matters
19 (including Countermotions and Motions for Sanctions and/or Attorney Fees) that arose
20 (including those set due to a properly submitted and filed Order Shortening Time) at
21 hearings on September 23, 2021; October 14, 2021; November 4, 2021; November
22 23, 2021, (Chambers); December 17, 2021, (Chambers); all prior to the hearing on
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27 ² Kristin Ehasz and Kristin Taracki are used interchangeably as the former was stated to be her maiden
28 name and the latter is her married name and both have been used in pleadings and documents.

1 January 4, 2022, where the Court set the Evidentiary Hearing which appears to be the
2 basis of the instant Application.³

3
4 7. As set forth in the Record through *inter alia* the recordings of the
5 hearings, transcripts, Minutes, Minute Orders, and Orders of the Court, the Court
6 granted several of the aspects of requested relief posited by Mr. Stipp, who is counsel
7 for the instant Movant on behalf of his different clients, since the Court was assigned
8 the case. Specifically, the Court ruled in favor of Movant and found that Defendant
9 had not provided a Privilege log in accordance with the NRCP and not only ordered
10 that they supplement the Privilege Log, but also awarded attorney fees. Prior to
11 awarding the fees, the Court, in order to minimize expense to their clients, offered the
12 parties an opportunity to meet and confer to reach agreement on an attorney fee
13 amount and then allowed each party to file a supplemental brief on the fee issue if
14 they could not reach an agreement. It is the general custom and practice of the
15 instant Court, where appropriate, to provide the parties an opportunity to come to an
16 agreement and/or allow the opportunity for additional briefing and/or set an evidentiary
17 hearing so that all parties can have a full opportunity to present their case before the
18 Court makes rulings regarding certain motions, including motions for sanctions or
19 attorney fees. This process is consistent with appellate case law including, but not
20 limited to, *Young v Johnny Ribeiro Bldg. Inc.*, 106 Nev 88 (1990) and *Bahena v.*
21 *Goodyear Tire & Rubber Co.*, 126 Nev.243 (2010)
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26 ³ Originally, there was an additional hearing set on December 28, 2021, due to the large number of
27 filings by the parties; but, for the convenience of the parties, although the Court was in session on the
28 28th, it combined their hearings with the matters already set for January 4, 2022, and notified the parties
by Minute Order on December 17, 2021.

1 8. On January 4, 2022, there were multiple hearings before the Court.
2 First, the Court addressed the Motions to Seal part of the Exhibits attached to the
3 pending Motions, and after discussion, the parties agreed on the action to be taken.
4 Next, the Court addressed the two Motions filed by Euphoria Wellness and two
5 Countermotions filed by Movant's counsel on behalf of some of his clients. Euphoria
6 Wellness had filed a Motion for Discovery Sanctions against several of Movants'
7 counsel's clients including E&T Ventures⁴ (Documents 198 and 205). In response,
8 E&T Ventures filed a Countermotion for Discovery Sanctions against Euphoria
9 Wellness (Document 212). Defendant Euphoria Wellness had also filed a Motion for
10 Sanctions against E&T Ventures for failure to file a privilege log (Document 203) and
11 E & T Ventures filed a Countermotion for Sanctions (Document 216).

12 9. From a review of the Application, it appears that the Movant disagrees
13 with the Court's determination to provide Corporate entities the opportunity to have an
14 Evidentiary Hearing where they could present evidence and testimony in response to
15 the Motion for Discovery Sanctions filed by Defendant Counter-Claimant Euphoria
16 Wellness, which included *inter alia* a request to Strike the Answer of E&T Ventures.
17 Indeed, the very process of holding an Evidentiary Hearing prior to making a
18 determination of whether sanctions should or should not be imposed is the favored
19 method articulated in several appellate opinions including *inter alia* *Young v. Johnny*
20 *Ribeiro Bldg. Inc.*, and *Bahena v. Goodyear Tire & Rubber Co.* Indeed, the Court in
21 these cases discusses how sanctions are awarded and that while an Evidentiary
22 Hearing is not required, even when case terminating sanctions are sought, it is a
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26 ⁴ Throughout the pleadings, the hearing, and in the Application, Movant's counsel uses the term E&T
27 Ventures to apply to that client individually as well as his group of clients. The Court uses that name as
28 applicable herein consistent with his usage although the Supplemental Interrogatory Responses
discussed below are as to E&T Ventures LLC itself.

1 preferred method to ensure the due process rights of the parties. Here, the Court
2 following the dictates of *Johnny Ribeiro* and other appellate cases, determined that it
3 would allow E&T Ventures the opportunity to provide evidence and testimony
4 regarding its compliance or non-compliance with the NRCP and prior Court Order(s)
5 (including an Order to Show Cause issued by Judge Gonzalez) before the Court made
6 a ruling on Defendant Counter-Claimants Motion for Discovery Sanctions.
7

8 10. In the instant case, as of the January 4, 2022, hearing, it was asserted
9 by Euphoria Wellness in their November 24, 2021, Motion for Sanctions that E&T
10 Ventures (and other parties represented by movant) had already not complied with
11 prior Discovery requests and at least one prior Order of the Court to provide
12 supplemental responses to Discovery.⁵ In their Motion and in oral argument, Euphoria
13 Wellness set forth that one clear example of how E&T Ventures did not comply with
14 the Court-Ordered supplementation of Discovery responses was the non-compliant
15 Supplemental Interrogatory Responses which were served on October 25, 2021, less
16 than a month before the Motion had been filed. As set forth beginning on Page 16 of
17 the transcript of that hearing (attached to Movant's Application as Exhibit A and is also
18 filed on January 5, 2022), Euphoria Wellness contended that the responses to the
19 Supplemental Interrogatories were false and questioned the validity of the Verification
20 signed by Kristin Ehasz (a/k/a Kristin Taracki). Specifically, Interrogatory Number 1
21 asked: "Please provide the name and address for the principals of E& T." In the
22 Supplemental Response to Interrogatory Number 1, it was stated that Kristin Ehasz
23 (a/k/a Kristin Taracki) and her husband Alex Taracki were the principals and their
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25
26 ⁵ The Court had Granted Euphoria Wellness' Motion to Compel previously, but had denied without
27 prejudice the portion of the Motion seeking sanctions and attorney fees; and instead, gave movant's
28 clients the benefit of the doubt and allowed them an opportunity to supplement their deficient responses
to various Discovery.

1 current residence (i.e. as of October 2021) was in Henderson, Nevada and the
2 response provided an address on Summerwind Circle in Henderson, Nevada. These
3 same October 25, 2021, Supplemental Interrogatory Responses were verified by
4 Kristin Ehasz (a/k/a Taracki) as a principal of E&T Ventures. (See, e.g Appendix, Page
5 70 to Euphoria's Motion). Euphoria Wellness contended that there was an issue as to
6 whether Ms. Ehasz (a/k/a Taracki) actually resided at that Henderson address as of
7 the date of the Verification given the listed address had shown up on records as being
8 sold the previous year and they had been informed that she may live in Tennessee
9 when they tried to subpoena her. They further contended that Ms. Ehasz' Verification
10 on behalf of E&T to an address that she would know if it was accurate or not
11 demonstrated that there was sanctionable non-compliance and violation of a Court
12 Order. Euphoria Wellness then set forth other examples of what they contended were
13 non-compliant supplementation and purported violation of Court Order(s).

15 11. In response to Euphoria's Motion and argument, Movant's counsel, Mr.
16 Stipp, contended that he had attached to his Reply as an Exhibit from the Nevada
17 Secretary of State's website showing that as of December 2021, that the Managing
18 Member of E&T was Kristin Ehasz and that her address was the Summerwind
19 address in Henderson, Nevada (See Transcript starting at Page 35). When the Court
20 asked directly, "Is that the correct address, the Henderson address listed in the actual
21 supplemental interrogatories?" Mr. Stipp responded: "Yes it is". (Id. Page 36) The
22 Court then asked if she owned the house and could be located at that address for
23 purposes of a subpoena, and Mr. Stipp said he could not answer the question. (Id.)
24 He then confirmed that Kristin Ehasz (a/k/a Taracki) verified the Supplemental
25 Interrogatories on behalf of E&T. (Id.) Mr. Stipp then set forth that he was the one
26 who typed Kristin Taracki's name with her consent as the person who was verifying
27

1 the Supplemental Responses on behalf of E&T Ventures. (Id.38) When asked if the
2 Supplemental Responses were provided by Mr. Stipp directly to Krisitn Ehasz (aka
3 Kristin Taracki) for her review, he then contended that, "I believe she received them
4 from Mr. Kennedy." There was no response, however, as to the inconsistency as to
5 why Mr. Kennedy would provide Ms. Ehasz' Supplemental Interrogatory Responses to
6 Verify under Oath, if only he and not she were a principal of E&T Ventures. (Id. Pg.
7 40) Instead, counsel for Movant stated that, "At the end of the day, I'm informing the
8 court. I completed the electronic signature personally. I did so with Kristin Taracki's
9 permission. I have no reason to believe that the information that's being provided is
10 not accurate." (Id.)

12 12. As is clear from the various statements made to the Court at the hearing,
13 there was conflicting information provided to the Court. In such a situation, while the
14 Court had the authority to rule on January 4th on the pending Motion for Sanctions, it
15 wanted to ensure all parties had a full opportunity to provide evidence to support their
16 conflicting positions given what was stated at the hearing. As set forth above, holding
17 an Evidentiary Hearing is an encouraged process to ensure all parties due process
18 rights are taken into consideration in similar situations. Thus, Movant's contention that
19 the Court is somehow biased as it has already made up its mind on some issues is not
20 accurate. As noted above, while there is ample Appellate authority affirming that a
21 District Court could impose sanctions including dispositive sanctions, without an
22 Evidentiary Hearing, there is no case law cited that setting an Evidentiary Hearing is
23 improper prior to ruling on a Motion for Sanctions. Instead, *Young v. Johnny Ribeiro*
24 and several other cases state the opposite -- they encourage evidentiary hearings as
25 they allow more evidence to be taken into consideration prior to making a ruling.
26

1 13. Movant appears to assert that having Kristin Ehasz (a/k/a Kristin
2 Taracki) appear at the Evidentiary Hearing is somehow evidence of bias. It is
3 undisputed that a Court has the authority to Order a party to appear. As a corporation
4 or LLC can only speak through its agents/principals, it is also clear that the Court
5 could Order a Principal of that Corporation or entity to appear. In the instant case,
6 based on the only evidence presented to the Court, Kristin Taracki was, at the time, a
7 Principal of E&T Ventures. She signed the Supplemental Interrogatories in that
8 capacity. Movant 's counsel, Mr. Stipp, even asserted that he attached to his Reply,
9 on or about December 21, 2021, an Exhibit from the Secretary of State website that
10 showed her to be a Principal of E&T Ventures. Both the Supplemental Interrogatory
11 Responses verified by Kristin Ehasz (a/k/a Taracki) and the Secretary of State Exhibit
12 attached to Movant's Reply, show her address as being Henderson, Nevada. The
13 Court specifically asked counsel for Movant if the title and address were correct and
14 he did not assert that they were incorrect to his knowledge or that as an Officer of the
15 Court that he had specific new information that was different that what was on the
16 Supplemental Interrogatory Responses and the Secretary of State Exhibit he chose to
17 attach to his Reply in December. Thus, based on what was provided by Movant itself
18 and through its counsel, as of the January 4, 2022, hearing, the Court could Order
19 Kristin Ehasz (a/k/a Kristin Taracki) to attend the Evidentiary Hearing as she was
20 asserted to be a Principal of E&T Ventures who lives in Henderson, Nevada and the
21 one who signed the Verification for the Supplemental Interrogatories that were at
22 issue. It is also clear that having her attend the Evidentiary Hearing was the fair
23 determination. As it was stated that Movant's counsel thought Mr. Kennedy provided
24 her the Interrogatories, yet her name is on the Verification, she should have an
25 opportunity to explain why she, on behalf of E&T Ventures, set forth the answers that
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1 were in the Supplemental Responses that bear her signature on the Verification
2 page.⁶

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4 14. Movant also mentions in his Application that the Court did not set an
5 admittedly improperly-filed Order Shortening Time Motion on for hearing on shortened
6 time. Movant's counsel is aware that the EDCR 2.20 sets forth the rules regarding
7 Motions, and EDCR 2.26 sets forth the procedure when a Motion is sought to be
8 heard on Shortened Time. The Electronic Filing Rules set forth the procedure if a
9 document is electronically filed incorrectly. Movant does not dispute that its counsel
10 did not comply with each of these rules. It apparently concedes that its counsel
11 improperly filed a Motion requesting shortened time with the Clerk without first
12 submitting his proposed Motion to the Department. The Clerk properly filed and
13 served a Notice of Non-Conforming Document. From the Odyssey Record and the
14 Order in the Court application, it does not appear that Movant's counsel attempted to
15 fix the Non-Conforming Document or attempt to file a proper Proposed Order
16 Shortening Time consistent with the Rules. As set forth in further detail in the Minute
17 Order dated February 1, 2022, (which was served upon all parties) the Court became
18 aware of the improperly-filed document and re-reviewed it to determine if it could be
19 signed. It could not as it already had a file-stamped date and time as set forth in the
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21
22 ⁶ Movant also contends, inaccurately, that the Court stated its Order "angrily". As the transcript and the
23 recording of the hearing clearly show, the Court had to repeat its ruling in response to a point of
24 clarification raised by counsel for Euphoria Wellness as to the scope of the hearing and who could and
25 should attend. Moreover, as counsel was appearing remotely and the Court was in person in the
26 Courtroom, wearing a mask in accordance with the mandated mask policy, it is unclear how Movant
27 could even make such a contention though its counsel. Neither Movant, or its counsel, know what
28 emotions the Court had, and if either did it/he would know there was no anger by the Court. The Court
merely had to reiterate some statements, as it has had to do so at several hearings on several cases,
either due to other parties not muting themselves which causes parties not to hear the Court; counsel
speaking at the same time as the Court; a counsel needing something repeated due to their own
computer audio issues; or a party not hearing the Court's pronouncement for any other reason. These
are common occurrences in remote appearances and sometimes even require the Court to speak
louder to ensure all parties can hear.

1 Clerk's Notice of Non-Conforming Document and had other errors. The Court
2 returned the Order in the Order in the Court Application using the Return button.
3 Although not required, the Court also issued a Minute Order notifying all parties. Even
4 after that Minute Order was served, Movant still chose not to file a proper proposed
5 Order Shortening Time. Thus, there was nothing for the Court to consider. The Court
6 and the Clerk's Office followed the written letter of the law as set forth in the Rules.
7 While Movant acknowledges he did not submit and file his proposed pleading
8 correctly, he appears to contend that the Court following the Rules was somehow
9 biased. It is not and cannot be considered biased for a Court to follow the Rule of Law
10 and then even give Movant notice of why the improper document could not be signed
11 so that if he chose to do so, he could fix the errors and submit a correct pleading.
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13 15. As is clear from the above, this Court can and will continue to rule fairly
14 and impartially in the instant case. Further, decisions of any court are public record
15 and the undersigned takes its obligation to rule fair and impartially with all solemnity as
16 when the oath was first given. Moreover, I have a duty to sit and "preside to the
17 conclusion of all proceedings, in the absence of some statute, rule of court, ethical
18 standard, or other compelling reason to the contrary." City of Las Vegas Downtown
19 Redevelopment Agency v. Eighth Judicial Dist. Court ex rel. Cnty of Clark, 116 Nev.
20 640, 643, 5 P.3d, 1059, 1061 (2000) (quoting Ham v. Eighth Judicial Dist Court, In &
21 for Clark Cnty., 93 Nev. 409, 415, 566 P.2d 420, 424 (1977)).
22

23 16. I wish to honor my duty to sit in the absence of any rule, statute, case
24 law, ethical duty, or otherwise. If I were to remain on the case, I would continue to rule
25 fairly and impartially as I have done in every matter. As a Judge, I am also tasked
26 with ensuring that each party have their case heard without distraction or concern that
27 a party may raise an issue to attempt to delay the case. Thus, the Court notes that
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1 the Application was filed a few days before the hearing set for February 8, 2022, so
2 the parties should be informed as soon as practicable whether that hearing will go
3 forward so that their clients do not incur extra expense.
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5 17. As is clearly set forth herein, there is no merit to the Motion to Disqualify
6 and thus, if the appropriate court after reviewing the instant affidavit wishes the
7 undersigned to provide any further information, it would gladly do so.
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9 Dated this 7th day of February 2022.
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12 _____
13 HON. JOANNA S. KISHNER
14 DISTRICT COURT JUDGE
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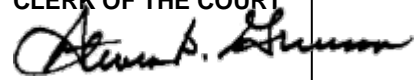
CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of this Order was served via Electronic Service to all counsel/registered parties, pursuant to the Nevada Electronic Filing Rules, and/or served via in one or more of the following manners: fax, U.S. mail, or a copy of this Order was placed in the attorney's file located at the Regional Justice Center:

ALL REGISTERED COUNSEL and/or PARTIES IN PROPER PERSON SERVED VIA ELECTRONIC SERVICE

/s/ Tracy L. Cordoba
TRACY L. CORDOBA
Judicial Executive Assistant

EXHIBIT 3



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
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Attorneys for E&T Ventures, LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

E&T VENTURES, LLC, a Nevada limited liability
company,

Plaintiff,

v.

EUPHORIA WELLNESS, LLC, a Nevada limited
liability company; DOE Individuals I-X, inclusive;
and ROE ENTITIES 1-10, inclusive;

Defendants.

ET AL.

CASE NO.: A-19-796919-B
DEPT. NO.: XXXI

**SUPPLEMENT TO APPLICATION OF E&T
VENTURES LLC TO DISQUALIFY JUDGE
JOANNA KISHNER AND AFFIDAVIT
PURSUANT
TO NRS 1.235**

E&T Ventures, LLC, a Nevada limited liability company ("E&T"), by and through Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, files the above-referenced supplement, in connection with E&T's request to disqualify Judge Joanna Kishner from presiding over the above-referenced case.

This filing is based on the papers and pleadings on file in this case, the memorandum of points and authorities that follow, the exhibits attached hereto or filed separately but concurrently herewith, and the argument of counsel at the hearing.

///

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///

///

1 DATED this 7th day of February, 2022.

2 **LAW OFFICE OF MITCHELL STIPP**

3 /s/ Mitchell Stipp

4 _____
5 MITCHELL STIPP, ESQ.

6 Nevada Bar No. 7531

7 1180 N. Town Center Drive, Suite 100

8 Las Vegas, Nevada 89144

9 Telephone: 702.602.1242

10 mstipp@stipplaw.com

11 *Attorneys for E&T Ventures, LLC*

1
2 **SUPPLEMENTAL AFFIDAVIT IN ACCORDANCE WITH NRS 1.235**
3

4 The undersigned, MITCHELL STIPP, ESQ., declares under penalty of perjury, as follows:

5 1. I am counsel of record for E&T Ventures, LLC, a Nevada limited liability company
6 (“E&T”)—the Plaintiff in the above-referenced case.

7 2. I certify that the application and affidavit were filed in good faith and not interposed for
8 delay.

9 3. Judge Kishner misrepresents the supplemental response by E&T to Interrogatory No. 1
10 propounded by Euphoria Wellness, LLC. For an accurate description, please see E&T’s
11 opposition/countermotion filed on December 10, 2021 at 1:52 p.m. (Page 11), which is attached hereto
12 for reference as **Exhibit F**. The supplemental response is as follows:

13
14 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

15 For purposes of responding to this Interrogatory, E&T will assume the term
16 “principals” mean the members of E&T. The members of E&T are Alex and Kristin
17 Taracki. E&T is informed and believes based on available records for E&T that Mr.
18 and Mrs. Taracki’s address is as follows:

19 2244 Summerwind Circle
20 Henderson 89053

21 Compare id. with Judge Kishner’s description in her written response filed on February 7, 2022 at 1:19
22 p.m. (Paragraph 11).

23 4. Judge Kishner again misrepresents the record concerning the print-out from the website
24 of the Nevada Secretary of State attached to E&T’s reply filed on December 21, 2021 at 1:34 p.m. See
25 Reply, page 5 and Exhibit 1 thereto, attached hereto as **Exhibit G**. E&T represented to Judge Kishner
26 that the print-out was the last annual list filed, which if reviewed clearly states it **was filed on July 1,**
27 **2019.** Compare id. with Judge Kishner’s description in her written response filed on February 7, 2022
28 at 1:19 p.m. (Paragraph 12).

1 5. Judge Kishner's decision to misrepresent the facts in her written response in order to
2 defend her abuse of judicial power is further evidence of her closed mind on the facts and law. She is
3 unwilling to take any responsibility for her error.

4 6. I submit the above-titled declaration in support of the request for disqualification. I have
5 personal knowledge of the facts contained in this filing unless otherwise qualified by information and
6 belief or such knowledge is based on the record in this case, and I am competent to testify thereto, and
7 such facts are true and accurate to the best of my knowledge and belief.
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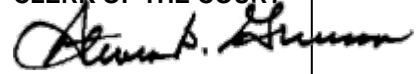
9
10 Dated this 7th day of February, 2022

11 */s/ Mitchell Stipp*

12 _____
13 Mitchell Stipp, Esq.
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EXHIBIT F

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Attorneys for Plaintiff, E&T Ventures, LLC and Third-Party Defendants, Happy Campers, LLC, CBD Supply Co., LLC, and Miral Consulting, LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

E&T VENTURES, LLC, a Nevada limited liability company,

Plaintiff,

v.

EUPHORIA WELLNESS, LLC, a Nevada limited liability company; DOE Individuals I-X, inclusive; and ROE ENTITIES 1-10, inclusive;

Defendants.

ET AL.

CASE NO.: A-19-796919-B
DEPT. NO.: XXXI

**OPPOSITION TO MOTION FOR
DISCOVERY SANCTIONS AND
COUNTERMOTION FOR RELATED
RELIEF**

Hearing Date: December 28, 2021
Time of Hearing: 8:30 a.m.

Plaintiff, E&T Ventures, LLC (“E&T”) and Third-Party Defendants, Happy Campers, LLC (“Happy”), CBD Supply Co., LLC (“CBD”), and Miral Consulting, LLC (“Miral”),¹ by and through Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, file the above-referenced opposition/countermotion to the motion for sanctions filed by Euphoria Wellness, LLC (“Euphoria”).

¹ Happy, CBD, and Miral are referred to herein collectively as “Third-Party Defendants.” The motion filed on November 24, 2021 includes CBD in the title of the motion but does not include CBD in its definition of E&T Parties. See Motion, page 2 (lines 5-8).

1 This filing is based on the papers and pleadings on file in this case, the memorandum of points and
2 authorities that follow, the exhibits attached hereto or filed separately but concurrently herewith, and the
3 argument of counsel at the hearing.

4
5 For the reasons set forth below, the motion by Euphoria is frivolous, unnecessary, and unwarranted.
6 Euphoria's motion for sanctions is meritless and intentionally misleads the court on the compliance by E&T and
7 the Third-Party Defendants with this court's orders and their respective discovery/disclosure obligations under
8 NRCP 16.1 and NRCP 26. The motion should be denied and attorney's fees and costs awarded to E&T and
9 Third-Party Defendants under EDCR 7.60(b).

10
11 DATED this 10th day of December, 2021.

12 **LAW OFFICE OF MITCHELL STIPP**

13 /s/ Mitchell Stipp
14

15 _____
16 Mitchell Stipp
17 Nevada Bar No. 7531
18 1180 N. Town Center Drive, Suite 100
19 Las Vegas, Nevada 89144
20 Telephone: 702.602.1242
21 mstipp@stipplaw.com
22 *Attorneys for Plaintiff and Third-Party Defendants*

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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction.

Euphoria seeks "dispositive sanctions" against E&T and the Third-Party Defendants by striking their pleadings in their entirety pursuant to NRCP 37(b)(1)(C). See Motion, page 3(lines 14-16). If the court is unwilling to grant Euphoria's request, Euphoria wants an evidentiary hearing on contempt (based on an order to show cause, which has not been issued). Id. at (lines 16-20). Further, Euphoria requests that non-parties, Alex Taracki, Kristin Taracki, Miro Taracki, and Joe Kennedy be "deemed alter-egos of the respective named party."

1 Id. at 4 (lines 1-3). It is not clear what Euphoria means by “respective named party,” but it appears that Euphoria
2 believes that these non-parties are alter egos of E&T and the Third-Party Defendants. Id. (lines 3-4). As part
3 of the foregoing relief, it appears that Euphoria seeks permission from the court to amend its pleadings to sue
4 these non-parties as alter egos and to assert other causes of action which it does not brief. Id. (lines 9-10).
5 Furthermore, Euphoria wants this court to order counsel of record for E&T and Third-Party Defendants to accept
6 service of process on behalf of two (2) of the non-parties (Alex and Kristin Taracki). Id. (lines 11-14). No
7 subpoena has been issued or notice provided of the same to Mr. and Ms. Taracki. And finally, Euphoria wants
8 E&T and the Third-Party Defendants to pay Euphoria’s attorney’s fees and costs. Euphoria’s motion is
9 punishment for the court granting E&T’s motion to compel and an award of attorney’s fees and costs.
10

11 To quickly review, this case is about the wrongful termination of the joint venture between E&T and
12 Euphoria. **It is important to note that the arrangement DID NOT entitle Euphoria to ANY PROFITS from**
13 **the activities of E&T at the production facility.** This fact is not in dispute. E&T agreed to package cannabis
14 product for Euphoria at cost. E&T was entitled to all profits from the production facility, which the parties
15 memorialized as monthly consulting fees booked by Euphoria that matched the sales generated by E&T.
16 Euphoria purportedly conducted an inventory audit of the production facility between March 11, 2019 and
17 March 14, 2019. The **only evidence** of any variances (difference between physical inventory and inventory
18 reported in METRC)² is the spreadsheet attached to the License Incident Report made by Nicole Lovelock to
19 the Nevada Department of Taxation (“DOT”) on March 15, 2019. In response to the investigation by DOT
20 arising from the report, Euphoria blamed E&T for the variances.
21

22 Euphoria **locked-down the production facility** at 8am on March 15, 2019 and prohibited E&T from
23 accessing the same (including even to remove its property and business records). This fact is also not in dispute.
24 On April 4, 2019, Euphoria communicated to the state its “Complete Investigation Results.” **E&T was not**
25 **provided an opportunity to explain the variances or confirm the results of Euphoria’s investigation.** See
26 Appendix (pages 19-22). On May 22, 2019, Euphoria (though its managing director, Darlene Purdy), terminated
27
28

² METRC is the “seed to sale” system used by the state to track cannabis product.

1 the joint venture between E&T and Euphoria. Since then, E&T has ceased operating as a going concern.
2 However, Euphoria has been operating the production facility and retaining all profits.

3
4 On or about July 9, 2019, the state accepted Euphoria's plan of correction. **The case was closed.**
5 Euphoria has not been disciplined by the state, and its cannabis production licenses are not in any jeopardy.
6 Euphoria also retained all furniture, fixtures, and equipment provided by E&T for the operation of the production
7 facility. To summarize, Euphoria conducted an audit, reported the results to the state, blamed E&T for the
8 variances, terminated the joint venture agreement with E&T (while retaining E&T's property), and re-started
9 the business. Despite being in a more favorable position financially, Euphoria has alleged a "grand conspiracy"
10 to harm Euphoria by E&T (with the supposed help of Miral, Happy, CBD and Alex, Kristin and Miro Taracki
11 and Joseph Kennedy). **There is no dispute that Euphoria has not been harmed as a result of the variances.** If
12 Euphoria was not harmed by the variances, what does Euphoria hope to gain by the remedy of alter ego?

13
14 Euphoria filed its answer, counterclaims and crossclaims on September 24, 2019. Paragraphs 53-56 of
15 this filing pertains to "Alter-Egos." See id., pg. 11. Judge Allf determined that Euphoria failed to plead alter
16 ego as a remedy properly but was willing to consider such remedy if Euphoria had evidence (more than wild
17 accusations). See Notice of Entry, filed on January 13, 2020. In addition to alter ego claims, Euphoria asserted
18 two (2) direct claims against Third-Party Defendants, which survived Judge Allf's rulings: civil conspiracy and
19 concert of action.

20 Actionable civil conspiracy arises where two (2) or more persons undertake some concerted action with
21 the intent "to accomplish an unlawful objective for the purpose of harming another," and damage results. Consol.
22 Generator-Nevada, Inc. v. Cummins Engine Co., 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998). Thus,
23 Euphoria is required to allege an explicit or tacit agreement between the alleged conspirators. Id. Euphoria has
24 not alleged there was any agreement between the "E&T Parties." The claim for concert of action also requires
25 some agreement. Ges, Inc. v. Corbitt, 117 Nev. 265 (Nev. 2001). For this cause of action, Euphoria also has
26 failed to allege there was any agreement between the "E&T Parties." Upon a motion to dismiss before Judge
27 Gonzalez, the court declined to dismiss the claims. See Notice of Entry filed on October 28, 2020. The court
28 deferred to Judge Allf and Euphoria's request to continue discovery on alter ego claims; however, Judge

1 Gonzales specifically noted on the record that she “would not have made that decision [by Judge Allf].” It is
2 clear that all elements for civil conspiracy and concert of action have not been pled properly. This review of
3 the case history is important because the claims for civil conspiracy and concert of action are the only reasons
4 Happy, Miral, and CBD are parties.

5
6 The deadline imposed by the court to amend pleadings/add parties expired on December 1, 2020—more
7 than twelve (12) months ago. See Stipulation and Order, filed on December 5, 2020 (pages 3-4, Sections III and
8 IV). Euphoria was aware of the deadline and voluntarily entered into a stipulation to extend discovery and trial
9 deadlines expressly except for the deadline to amend pleadings/add parties. Id.; see also Gallego v. State, 117
10 Nev. 348, 368, 23 P.3d 227, 241 (2001) (waiver requires the knowing and voluntary relinquishment of a right).
11 Euphoria had until December 1, 2020 to make its case against the Third-Party Defendants and to re-assert the
12 same or new claims against non-parties based on alter ego.

13 14 **II. Argument**

15 **A. Euphoria fails to comply with EDCR 2.30(a), NRCP 15(a) and NRCP 16(b).**

16
17 EDCR 2.30(a) expressly provides that “[a] copy of a proposed amended pleading must be attached to
18 any motion to amend the pleading.”). Euphoria’s motion does not comply as no proposed amended pleading is
19 attached (despite requesting the court to allow it to amend). Under NRCP 15(a), a party should be granted leave
20 to amend a pleading “when justice so requires” and the proposed amendment is not futile. However, when a
21 party seeks to amend a pleading after the deadline previously set for seeking such amendment has expired,
22 NRCP 16(b) requires a showing of “good cause” for missing the deadline. Euphoria’s sole basis for requesting
23 to amend its pleading is discovery sanctions authorized by NRCP 37(b). Even if there was some basis for
24 sanctions, NRCP 37(b) does not allow amendments to pleadings to add parties and additional causes of action
25 as a remedy.

26 ///

27 ///

1 **B. E&T and Third-Party Defendant have complied with all Orders from the Court.**

2 Euphoria filed its motion to compel four (4) months after the parties completed their meet and confer
3 under EDCR 2.34 (and eight (8) months after the deadline to amend pleadings/add parties expired). After
4 substantial briefing and a half-day hearing on the matter, the court granted in part and denied in part Euphoria's
5 motion. See Notice of Entry, filed on October 18, 2021. According to the court's order, Mr. Kennedy was
6 required to appear for a personal deposition and the PMK's for Nye Natural Medicinal Solutions, LLC ("Nye")
7 and Valjo, Inc. ("Valjo"), were required to re-appear for continued depositions to answer specific questions
8 (which were not answered based on the instruction of counsel). Id. On November 19, 2021, Mr. Kennedy
9 appeared for and completed his personal deposition and as the PMK's for Nye and Valjo. Euphoria does not
10 contend otherwise in its motion. Further, E&T and the Third-Party Defendants were ordered **to supplement**
11 **their responses** to specific written discovery as identified in Euphoria's motion. Id. at 9-10. And finally,
12 **Euphoria's request for contempt and attorney's fees was expressly denied.** Id. at 13 (line 5). It was the
13 general understanding of E&T and the Third-Parties that the court believed supplementing their discovery
14 responses at this stage of the litigation was likely required under NRCP 16.1 regardless.

15
16 E&T and the Third-Party Defendants supplemented **all of their discovery responses** (not just the specific
17 responses requested by Euphoria). See Appendix (Pages 1-347), **Exhibits 1-5.** While these parties had twenty-
18 one (21) days to supplement after notice of entry of the court's order (as stipulated by the parties at the hearing),
19 they voluntarily agreed to respond on or about October 25, 2021 (based on Euphoria subsequent motion that it
20 needed "additional time" to disclose its expert and rebuttal experts). Noteworthy, even after the court extended
21 the expert deadlines, **Euphoria disclosed no report.**³

22
23 Euphoria's objection to the supplemental discovery responses appears substantially to be with the
24 production of documents. In its motion, Euphoria sought supplemental production as follows:

25 **Category 1: Ownership, operations, and financial documents.**

26
27
28 ³ Euphoria did not disclose an expert report on damages because Euphoria actually benefited from the termination of the joint venture with E&T. Euphoria retained E&T's property and re-started the production facility at substantial profit.

E&T: RFP Nos. 6-14
CBD Supply: RFP Nos. 1-2, 5-13, 26
Happy Campers: RFP Nos. 1, 5-13, 26
Miral Consulting: RFP Nos. 1, 5-13, 26

Category 2: The Department of Taxation's investigations, audits, and complaints.

E&T: RFP Nos. 2, 5

Category 3: Documents and information relating to Euphoria.

E&T: RFP Nos. 15-18
CBD Supply: RFP Nos. 14, 18, 22
Happy Campers: RFP Nos. 14, 18, 22
Miral Consulting: RFP Nos. 14, 18, 22

Category 4: Documents and information relating to the equipment

E&T: RFP Nos. 19-20
CBD Supply: RFP Nos. 23-25
Happy Campers: RFP Nos. 23-25
Miral Consulting: RFP Nos. 23-25

Category 5: Documents and information relating to product test results and the variances.

E&T: RFP No. 21

Category 6: E&T's documents and information relating to third parties

E&T: RFP Nos. 22, 29-33

Category 7: The Third-Party Defendants' documents and information relating to the parties in this litigation

1 *CBD Supply:* RFP Nos. 15-17, 19-21

2 *Happy Campers:* RFP Nos. 15-17, 19-21

3 *Miral Consulting:* RFP Nos. 15-17, 19-21

4
5 **Category 8: Kristin Ehasz's Declaration.**

6 *CBD Supply:* RFP Nos. 23-25

7 *Happy Campers:* RFP Nos. 22, 23

8 *Miral Consulting:* RFP Nos. 23-26

9
10 For clarity, based on Euphoria's requests above, E&T was asked to supplement its responses to RFP Nos. 2, 5,
11 6-22, and 29-33; CBD was asked to supplement its responses to RFP Nos. 1-2 and 5-26; Happy was asked to
12 supplement its responses to RFP Nos. 1 and 5-26; and Miral was asked to supplement its responses to RFP Nos.
13 1 and 5-26. The court did not award attorney's fees and costs and did not find these parties in contempt.

14
15 As a preliminary matter, the fact that documents are not physically produced in response to a request
16 for production is not evidence of discovery misconduct. A party is only required to produce non-privileged
17 records in its possession, custody, or control in response to a discovery request. See NRCP 26; 34(a)(1). Further,
18 referencing documents by bates number previously produced by others is acceptable production. Under these
19 circumstances, the number of actual pages physically produced means nothing. For example, Euphoria was
20 required to supplement its discovery responses (including to forty-five (45) requests for production) in response
21 to E&T's motion to compel (see Order filed on November 16, 2021), and in response to the court's order,
22 Euphoria produced only thirty-three (33) pages of additional records. See Supplemental Disclosures attached
23 as **Exhibit 6** to Appendix (pages 348-395). **Nothing can be inferred by the number of pages physically**
24 **produced by a party (or non-party).**

25
26 E&T and the Third-Party Defendants **do not** have cannabis licenses. That fact is undisputed (despite
27 Euphoria's contention in its motion to the contrary). The cannabis production licenses are owned by Euphoria.
28 The Third-Party Defendants **are not parties** to the joint venture between E&T and Euphoria and do not have any

1 relationship with Euphoria. That fact is also undisputed. The Third-Party Defendants were affiliated with
2 Alex and Kristin Taracki. After E&T was unlawfully evicted by Euphoria from the production facility, many
3 of E&T's business records were confiscated and retained by Euphoria.⁴ Fortunately, since Euphoria is the
4 cannabis license-holder and is regulated by the Cannabis Compliance Board ("CCB") and DOT, Euphoria is
5 required to file financial reports (including during the time E&T operated the production facility). NCCR 6.135
6 (as adopted by the CCB) expressly provides as follows:

7
8 6.135 Quarterly reporting concerning production, purchases and sales of cannabis
9 and cannabis products. Each cannabis cultivation facility, cannabis production
10 facility and cannabis sales facility shall submit the report required pursuant to NRS
11 372A.285 to the Board on or before the 30th day of each January, April, July and
12 October containing information concerning the 3 months immediately preceding
13 the date of the report. Each cannabis cultivation facility, cannabis production
14 facility and cannabis sales facility shall submit such a report regardless of whether
15 any purchases or sales have occurred.

16 NRS 372A.285(2) (as referenced in NCCR 6.135 above) provides the details on the report as follows:

- 17 2. Each cannabis production facility shall submit a report to the Department that
18 includes the following information, reported separately for each calendar month included
19 in the report:
- 20 (a) The amount of cannabis purchased;
 - 21 (b) The amount of cannabis products produced;
 - 22 (c) Sales by product type;
 - 23 (d) Prices by product type; and
 - 24 (e) Such other information as the Department may require.

25 **The court should note that at the time Euphoria filed its motion for sanctions Euphoria had not**
26 **disclosed any of these reports (despite a stipulated protective order being in place and an obligation to do so**
27 **under NRCP 16.1).** Further, E&T has asked Euphoria to produce financial information concerning the
28 production facility and Euphoria has declined without a valid basis under Nevada law to do so. See Exhibit 7
to Appendix (pages 396-430) (e.g., RFP Nos. 50 and 51 and Euphoria's Responses on pages 404-412).⁵ While

4 Even if available, Euphoria is generally not entitled to tax returns and financial records (especially if Euphoria is not
entitled to any profits from the facility). See Hetter v. Eighth Judicial Dist. Court, 110 Nev. 513, 520, 874 P.2d 762, 766
(1994) (recognizing that tax returns and financial records are relevant to the matter of punitive damages, not privileged, and
discoverable so long as the plaintiff demonstrates "some factual basis" supporting punitive damages). As pointed out,
Euphoria also has no damages (because it is operating the facility and retaining all profits). Further, limited liability
companies which are disregarded or pass-through entities for federal income tax purposes are not required to file a
partnership return. Profits and losses can be reported on Schedule C of the member's personal federal tax returns (which
is the case here).

5 E&T intends to file a motion to compel. The parties completed their meet and confer under EDCR 2.34 on December

1 Euphoria continues to complain about the lack of data from E&T, Euphoria has direct access to METRC and
2 possession (because it filed the reports) of all relevant inventory and sales data with respect to the production
3 facility at issue. Further, Ms. Purdy, the managing director of Euphoria, was the cannabis agent responsible
4 for inventory controls under NAC 453D.426 (now NCCR 6.080) while E&T operated the production facility.
5 In other words, Ms. Purdy as the agent for Euphoria was responsible for any variances (deference between
6 physical inventory and inventory reported in METRC). This fact (which is not in dispute) was confirmed by
7 Keoki Allen during her deposition as the PMK for the CCB and DOT. Ms. Allen was also the person responsible
8 for investigating the variances claimed by Euphoria.⁶
9

10 The CCB and DOT disclosed all investigative records in response to E&T's subpoena. As Euphoria is
11 aware, all such investigations are closed, and no action was taken by the state against E&T. Euphoria was
12 asked to submit and obtain approval of a plan of correction. There is nothing more to produce other than what
13 the state produced on the matters of the investigation. **Even if there were actual variances, Euphoria was not**
14 **harmed**. The duplicity of Euphoria should be clear to the court. Euphoria refused to provide the state's
15 investigative file in response to E&T's discovery requests based on a lack of a protective order. After a protect
16 order was entered, Euphoria still claimed confidentiality as to the state's files. Rather than battle Euphoria to
17 produce discovery, E&T provided notice of its subpoena to the state, and Euphoria filed a motion for a protective
18 order (which motion was denied by Judge Gonzalez). See Order filed on May 7, 2021. Unfortunately, it appears
19 E&T is exactly in the same position regarding financial matters concerning the production facility.
20

21 **C. E&T and Third-Party Defendants provided true and accurate responses to all discovery**
22 **requests.**

23 As expected, Euphoria also appears to have issues with responses to certain interrogatories. Although
24 Euphoria claims they are inconsistent with the record, Euphoria does not provide any authority for its position
25

26 9, 2021. During the discovery conference, Euphoria failed to agree to supplement any of its discovery responses. As the
27 court should see, Euphoria's objections are based on relevancy. E&T's damages include the profit earned by Euphoria
after it terminated the joint venture and commenced operating the production facility. The joint venture was a five (5)
year term.

28 ⁶ Given Euphoria's failure to comply with disclosure and discovery obligations, E&T is forced to obtain financial
information on the production facility from the Nevada Department of Taxation. See Exhibit 8 to Appendix (pages 431-
439).

(including to “the record” it believes contradicts the supplemental discovery responses).

1. Kristin Taracki’s Verification on Behalf of E&T included with E&T’s Supplemental Discovery Responses was accurate.

Euphoria complains that Ms. Taracki’s verification is false and/or E&T’s counsel has violated his ethical duties in connection with such responses. To remind the court, neither Mr. Taracki nor Mrs. Taracki is a party to this case. The primary basis for Euphoria’s argument is E&T’s supplemental response to Euphoria’s Interrogatory No. 1.

INTERROGATORY NO. 1:

Please provide the name and current addresses of the principals of E&T.

RESPONSE TO INTERROGATORY NO. 1:

E&T incorporates general objections herein. The term “principals” is not defined. NRCP 26 does not permit discovery of the personal addresses of members and managers of E&T (assuming they are principals), since such matters are not relevant and cannot lead to the discovery of admissible evidence. The members and managers of E&T are not parties to this case. Discovery may not invade the right to privacy of these individuals without weighing the needs of the case, the amount in controversy, the importance of the issues at stake, the potential for finding relevant material, and the importance of the proposed discovery in resolving the issues.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:

For purposes of responding to this Interrogatory, E&T will assume the term “principals” mean the members of E&T. The members of E&T are Alex and Kristin Taracki. E&T is informed and believes based on available records for E&T that Mr. and Mrs. Taracki’s address is as follows:

2244 Summerwind Circle
Henderson 89053

The supplemental response is true and accurate. See Exhibit 2 to Appendix (pages 207-247, specifically page 234). The undersigned counsel for E&T and the Third-Party Defendants does not represent Mr. or Mrs. Taracki. Further, Mr. and Mrs. Taracki are no longer affiliated with E&T.⁷

///

///

⁷ Euphoria has never provided notice of any subpoena to be served on Alex, Kristin or Miro Taracki. It is unclear what if anything Euphoria attempted to serve at the purported address of Alex and Kristin Taracki.

1 **2. E&T and Third-Party Defendants’ supplemental responses regarding their respective**
2 **relationships were accurate.**
3

4 Euphoria claims the fact that E&T has not identified any communications with Mr. Kennedy is
5 inconsistent with “the record” in this case. Euphoria points to E&T’s supplemental response to Euphoria’s RFP
6 No. 28 (as referenced in footnote 24 as part of Euphoria’s motion). Below is the actual request, initial response
7 and supplemental response by E&T:

8 DOCUMENT REQUEST NO. 28:

9 Produce any Document in Your possession, custody, or control regarding any of Your
10 communications with Joseph Kennedy regarding this litigation.

11 RESPONSE TO DOCUMENT REQUEST NO. 28:

12 Subject to and without waiving the foregoing objections, E&T has not identified any
13 documents that are responsive to this request. However, discovery is on-going, and E&T
14 reserves the right to supplement its response.

15 SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 28:

16 After good faith efforts, E&T has not identified any documents responsive to this request.
17 Discovery is on-going, and E&T reserves the right further to supplement its response to
18 Document Request No. 28.

19 See **Exhibit 2** to Appendix (pages 207-247, specifically page 230). Euphoria intentionally misrepresents the
20 scope of the discovery request and ignores contrary evidence which undermines its position.

21 At Mr. Kennedy’s deposition as the PMK for Nye, Mr. Kennedy testified that Nye did not have any
22 documents or communications concerning E&T, the proposed transaction between E&T and Nye was not
23 reduced to writing, and Mr. Kennedy’s dealings as an agent for Nye were with Mr. Taracki (on behalf of E&T)
24 and were ***entirely verbal***. See Pages 29-32 of Deposition Transcript included as part of **Exhibit 9** to Appendix
25 (pages 440-481, specifically 448-449). Further, at Mr. Kennedy’s deposition as the PMK for Valjo, Mr.
26 Kennedy testified that all documents were produced concerning the loan from Valjo to E&T and any
27 communications with E&T regarding the same were verbal. See Pages 47-48 of Deposition Transcript included
28 as part of **Exhibit 10** to Appendix (pages 482-538, specifically 495); see also Responses to Discovery by Valjo
 attached as **Exhibit 11** to Appendix (pages 539-564). It is unclear how or why Euphoria believes Mr. Kennedy’s
 appearance at a hearing on June 27, 2019 in this case makes E&T’s supplemental response regarding written

1 communications false or misleading.⁸

2
3 Happy was previously a dissolved limited liability company. The supplemental discovery responses
4 by Happy are accurate. Happy was revived on or about July 29, 2021. Mr. Kennedy testified to these facts
5 accurately on November 19, 2021. Euphoria believes the response to Euphoria's Interrogatory No. 8 is false.
6 Below is the actual request, initial response, and supplemental response:

7
8 INTERROGATORY NO. 8:

9 Please provide a detailed description of the nature and extent of Happy Campers' business
10 functions and activities.

11
12 RESPONSE TO INTERROGATORY NO. 8:

13 HAPPY incorporates general objections herein. The interrogatory is compound. Further, HAPPY is
14 not a party to the Joint Venture Agreement. Subject to and without waiving the foregoing objections,
15 Happy is a Nevada limited liability company, which has been dissolved.

16
17 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:

18 HAPPY attempted to enter the business of cannabidiol (CBD) extraction. HAPPY's efforts were not
19 successful. HAPPY was previously dissolved. HAPPY is not conducting business.

20 See Exhibit 3 to Appendix (pages 248-277, specifically page 271). Nothing about Happy's supplemental
21 response is false or misleading. Just because Happy was revived does not mean it is also a going concern.

22
23 Euphoria further claims that Happy's response to Euphoria's Interrogatory No. 9 is false. Below is the
24 actual request, initial response, and supplemental response:

25
26 INTERROGATORY NO. 9:

27 Please provide a detailed description of the nature and extent of Happy Camper's
28 relationship with E&T.

29
30 RESPONSE TO INTERROGATORY NO. 9:

31 HAPPY incorporates general objections herein. HAPPY is not a party to the Joint
32 Venture Agreement. NRCP 26 does not permit discovery of HAPPY's relationship with
33 E&T, since such matters are not relevant and cannot lead to the discovery of admissible
34 evidence. Discovery may not invade HAPPY's right to privacy without weighing the
35 needs of the case, the amount in controversy, the importance of the issues at stake, the
36 potential for finding relevant material, and the importance of the proposed discovery
37 in resolving the issues.

38
39 ⁸ On November 19, 2021, Mr. Kennedy appeared for and completed the continued depositions as the PMK's for Nye and
40 Valjo.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

HAPPY does not have a relationship with E&T. However, Alex and Kristin Taracki were members of HAPPY and purported members of E&T. Joseph Kennedy was a member of HAPPY, but upon information and belief, Mr. Kennedy was not a manager or member of E&T.

See id. (page 272). Happy did not provide that it had “no relationship” with E&T as falsely claimed by Euphoria in its motion. The fact that Mr. and Mrs. Taracki as members of E&T used \$300,000.00 from the loan by Valjo, Inc. to invest in Happy does not mean there is any “relationship” between E&T and Happy. Valjo, Inc. made a loan to E&T (making Valjo, Inc. the “lender” and E&T the “borrower”). E&T has every right to use any portion of the loan proceeds (including distributing the same to Alex and Kristin Taracki, who used the same to invest in Happy). Again, there is nothing false or inaccurate about Happy’s supplemental response.⁹

Counsel for E&T and Third-Party Defendants has never represented to Euphoria’s attorneys that Third-Party Defendants “were created as ancillary entities to E&T.” Counsel for E&T and Third-Party Defendants has represented to Euphoria’s attorneys that litigation over whether Third-Party Defendants are alter egos of E&T is ancillary to the dispute between the Euphoria and E&T—the actual parties to the joint venture agreement. Given that these entities are not going concerns, it is inexplicable why or how the remedy of alter ego helps Euphoria. Again, alter ego is a remedy (not a cause of action). If Euphoria is the prevailing party and judgment is entered against E&T, it does not matter whether Third-Party Defendants are alter egos of E&T. E&T’s only assets are the value of its claims in this case against Euphoria. The Third-Party Defendants have no assets from which to pay any judgment against E&T in favor of Euphoria. Where is the “lack of justice” by continuing to recognize the separate existences of E&T and Third-Party Defendants as LLC’s? Gardner v. Eighth Judicial Dist. Court of Nev., 405 P.3d 651 (Nev. 2017) (alter ego theory applies to LLC’s to do justice whenever it appears the protections provided by the LLC under NRS 86 are abused).

If Euphoria has real concerns over the supplemental discovery responses by Third-Party Defendants, Euphoria still has every right before the end of discovery to conduct depositions (including under NRCP 30(b)(6) for E&T and Third-Party Defendants). **To date, Euphoria has failed to do so.** It seems like depositions would

⁹ Euphoria also complains about the failure to produce operating agreements by E&T and Third-Party Defendants. There are none. Operating agreements for limited liability companies are not required to be adopted. NRS 86.286(1).

1 be the best way to get clarification on any supplemental responses. The only depositions taken by Euphoria in
2 this case have been with non-parties, Joseph Kennedy personally and Mr. Kennedy as the person most
3 knowledgeable for Valjo and Nye. Again, Mr. Kennedy, Valjo and Nye are not parties to this case.

4
5 **D. There is no basis for an award of any discovery sanctions (including striking the pleadings of**
6 **E&T and Third-Party Defendants).**

7
8 District courts in Nevada may sanction abusive litigation practices through their inherent powers. Young
9 v. Johnny Ribeiro Bldg., Inc., 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). A court's inherent power to sanction
10 is designed "to protect the dignity and decency of its proceedings and to enforce its decrees, and thus it may
11 issue contempt orders and sanction or dismiss an action for litigation abuses." Halverson v. Hardcastle, 123 Nev.
12 245, 261, 163 P.3d 428, 440 (2007). Generally, "[the appellate courts] will not reverse sanctions absent a clear
13 showing of abuse of discretion." Hamlett v. Reynolds, 114 Nev. 863, 865, 963 P.2d 457, 458 (1998). However,
14 case-ending sanctions require "a somewhat heightened standard of review." Foster v. Dingwall, 126 Nev. 56,
15 65, 227 P.3d 1042, 1048 (2010). That somewhat-heightened review requires a determination whether (1) the
16 sanction is just and relates to the specific conduct at issue; and (2) the district court engaged in an express,
17 thoughtful, and preferably written analysis of all material factors. Id.; Young, 106 Nev. at 92-93, 787 P.2d at
18 779-80. Such factors might include:

19
20 [1] the degree of willfulness of the offending party, [2] the extent to which
21 the non-offending party would be prejudiced by a lesser sanction, [3] the
22 severity of the sanction of dismissal relative to the severity of the
23 discovery abuse, [4] whether any evidence has been irreparably lost, [5]
24 the feasibility and fairness of alternative, less severe sanctions, such as an
25 order deeming facts relating to improperly withheld or destroyed evidence
26 to be admitted by the offending party, [6] the policy favoring adjudication
27 on the merits, [7] whether sanctions unfairly operate to penalize a party
28 for the misconduct of his or her attorney, and [8] the need to deter both the
parties and future litigants from similar abuses.

Young, 106 Nev. at 93, 787 P.2d at 780.

E&T and the Third-Party Defendants have not violated any order of the court (including the order to

1 supplement discovery responses). First, the subject order does not require any party to produce a document that
2 does not exist (emails, operating agreements, tax returns, etc.). Further, records which were retained by Euphoria
3 when it shut-down the production facility and evicted E&T remain in the exclusive possession, custody, or
4 control of Euphoria. If the court believes E&T and Third-Party Defendants have committed misconduct,
5 Euphoria does not explain why a lesser sanction would be inadequate. Third, given the evidence in
6 the record concerning Euphoria's discovery misconduct and the fact that Euphoria suffered no harm as a result
7 of the variances, the discovery sanctions requested by Euphoria are far more severe than the alleged
8 misconduct. Fourth, no evidence has been lost or destroyed. Financial information concerning E&T and
9 Third-Party Defendants is available from non-parties. Euphoria has had more than ample time to conduct third-
10 party discovery. Further, Euphoria has access to METRC and submitted reports of production activities
11 (including sales) to the state for the production facility. Under these facts, it is difficult to understand Euphoria's
12 request for punishment. Fifth, alternative sanctions exist if the court actually believes there was misconduct. It
13 is difficult to propose any alternatives given the lack of any misconduct. Sixth, striking the pleadings would be
14 entirely contrary to Nevada's policy favoring adjudication on the merits, particularly in this case, where actual
15 claims against Third-Party Defendants have not been properly pled, Third-Party Defendants are not parties to
16 the agreement between E&T and Euphoria, and Euphoria has no damages. E&T is not aware of any law, rule
17 or authority that would allow the district court to deem non-parties like Alex, Kristin and Miro Taracki together
18 with Joe Kennedy alter egos. Seventh, counsel for E&T and Third-Party Defendants has not violated any rules
19 (including rules of professional conduct). Mr. Stipp is not withholding knowledge of the addresses for Mr. and
20 Ms. Taracki. There is no duty to create records which do not exist or to accept service of process on parties an
21 attorney does not represent. Euphoria appears to be making up its own rules of professional conduct. Finally,
22 deterrence would not be best served by striking the pleadings because Euphoria is seeking sanctions far in excess
23 of the conduct sought to be punished. The reality is deterrence is not necessary because no discovery misconduct
24 has occurred.

25 ///

26 ///

27 ///

1 **III. Conclusion**

2 For the reasons set forth above, Euphoria's motion should be denied, and the court should award E&T
3 and Third-Party Defendants their attorney's fees and costs.¹⁰ The motion is frivolous and was designed purely
4 to harass E&T and Third-Party Defendants.

5
6 **DECLARATION OF MITCHELL STIPP**

7
8 The undersigned, Mitchell Stipp, declares under penalty of perjury as follows:

9 1. I am counsel of record in the above referenced case for Plaintiff and Third-Party Defendants.

10 2. I submit the above-titled declaration in support of the opposition/countermotion. I have personal
11 knowledge of the discovery dispute briefed therein unless otherwise qualified by information and belief or such
12 knowledge is based on the record in this case, and I am competent to testify thereto, and such facts are true and
13 accurate to the best of my knowledge and belief.

14 Dated this 10th day of December, 2021.

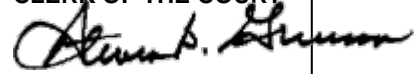
15 */s/ Mitchell Stipp*

16 _____
Mitchell Stipp, Esq., Counsel for Plaintiff and Third-Party Defendants

17
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26
27 ¹⁰ Matters related to a privilege log are addressed in a separate motion by Euphoria (despite also being briefed in Euphoria's
28 motion for sanctions). For this reason, they are not addressed here. In short, E&T and Third-Party Defendants have not
asserted the attorney-client and/or work product privilege in their supplemental responses to any discovery requests.
Euphoria's separate motion is entirely frivolous, and like the motion for sanctions, was filed to punish E&T for its successful
motion to compel and determination by the court that E&T is entitled to its attorney's fees and costs.

EXHIBIT G

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MITCHELL D. STIPP, ESQ.
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Las Vegas, Nevada 89144
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mstipp@stippplaw.com

Attorneys for Plaintiff, E&T Ventures, LLC and Third-Party Defendants, Happy Campers, LLC, CBD Supply Co., LLC, and Miral Consulting, LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

E&T VENTURES, LLC, a Nevada limited liability company,

Plaintiff,

v.

EUPHORIA WELLNESS, LLC, a Nevada limited liability company; DOE Individuals I-X, inclusive; and ROE ENTITIES 1-10, inclusive;

Defendants.

ET AL.

CASE NO.: A-19-796919-B
DEPT. NO.: XXXI

**REPLY TO OPPOSITION TO
COUNTERMOTION FOR RELATED
RELIEF
(INCLUDING UNDER EDCR 7.60(B))**

Hearing Date: December 28, 2021
Time of Hearing: 8:30 a.m.

Plaintiff, E&T Ventures, LLC (“E&T”) and Third-Party Defendants, Happy Campers, LLC (“Happy”), CBD Supply Co., LLC (“CBD”), and Miral Consulting, LLC (“Miral”),¹ by and through Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, file the above-referenced reply to the opposition to their counter-motion filed by Euphoria Wellness, LLC (“Euphoria”).

This filing is based on the papers and pleadings on file in this case, the memorandum of points and authorities that follow, the exhibits attached hereto or filed separately but concurrently herewith, and the argument of counsel at the hearing.

¹ Happy, CBD, and Miral are referred to herein collectively as “Third-Party Defendants.”

1 For the reasons set forth below, the motion by Euphoria is frivolous, unnecessary, and unwarranted.
2 Euphoria's motion for sanctions is meritless and intentionally misleads the court on the compliance by E&T and
3 the Third-Party Defendants with this court's orders and their respective discovery/disclosure obligations under
4 NRCP 16.1 and NRCP 26. The motion should be denied and attorney's fees and costs awarded to E&T and
5 Third-Party Defendants under EDCR 7.60(b).
6

7
8 DATED this 21st day of December, 2021.

9 **LAW OFFICE OF MITCHELL STIPP**

10 /s/ Mitchell Stipp
11

12 Mitchell Stipp
13 Nevada Bar No. 7531
14 1180 N. Town Center Drive, Suite 100
15 Las Vegas, Nevada 89144
16 Telephone: 702.602.1242
17 mstipp@stipplaw.com
18 *Attorneys for Plaintiff and Third-Party Defendants*

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I. Introduction.**

21 Euphoria seeks "dispositive sanctions" against E&T and the Third-Party Defendants. Euphoria claims
22 without evidence that Joe Kennedy's deposition in his personal capacity and as the person designated to appear
23 for Nye Natural Medicinal Solutions, LLC ("Nye") and Valjo, Inc. ("Valjo") establishes that E&T and Third-
24 Party Defendants have "willfully chose to not comply with the Court's order by refusing to locate and/or disclose
25 responsive documents." Despite this bold contention, Euphoria has not identified a single document requested
26 by Euphoria through discovery or otherwise that E&T and the Third-Party Defendants have withheld from
27 disclosure, which was identified by Mr. Kennedy as available for production during his deposition. Mr.
28 Kennedy is not a party to the case. Nye is not a party to the case. Valjo is not a party to the case. E&T and

1 Third-Party Defendants have responded to discovery. In addition, E&T and Third-Party Defendants have
2 disclosed substantial records including the investigative file it was forced to obtain from the Nevada Department
3 of Taxation and the Cannabis Compliance Board.
4

5 **II. Argument**

6 **A. E&T and Third-Party Defendants have not withheld Responsive Documents.**

7

8 Euphoria claims the production of documents is “conveniently limited to material that E&T deemed
9 helpful to itself in the litigation.” Euphoria, however, does not explain how or why this statement is true.
10 Euphoria further claims production of documents by Third-Party Defendants is “non-existent.” That should not
11 be a surprise to Euphoria since Third-Party Defendants are only in this case based on poorly pled conspiracy
12 and concert of action claims. Further, these entities are not going concerns. Rather than focus on the substantive
13 issues between Euphoria and E&T, Euphoria has elected to focus its litigation efforts entirely on punishing Joe
14 Kennedy (based on the relationship of E&T with Third-Party Defendants and non-parties). Additionally, E&T
15 and Third-Party Defendants have never owned a cannabis license regulated by the state. E&T was involved in
16 the cannabis production facility the licensed to which is owned by Euphoria. Third-Party Defendants were not
17 involved in the joint venture between Euphoria and E&T. It seems that Euphoria simply “does not like” the
18 responses provided by E&T and the Third-Party Defendants.
19

20
21 Euphoria’s reply (and apparently its motion) is based on Mr. Kennedy’s deposition on November 19,
22 2021. However, Euphoria **did not** raise any of these purported examples in its motion filed on November 24,
23 2021. In response to these “examples” from Mr. Kennedy’s deposition testimony, the court should note the
24 following:

25 ///

26 ///

27 ///

1. E&T does not have a copy of any UCC statement other than the statement disclosed by Valjo. Under Article 9 of Nevada’s Uniform Commercial Code, financing statements are completed and filed/recorded by lenders to perfect a security interest. Valjo is E&T’s lender. If all financing statements have not been produced, then Euphoria should address that matter with Valjo. Regardless, financing statements are public records available from the Nevada Secretary of State and Clark County Recorder (fixture filings).
2. Mr. Kennedy testified that emails located on his personal “gmail account” did not concern the loan between E&T and Valjo. When asked about the actual subject of the emails, Mr. Kennedy testified that they were “regarding E&T and Happy Campers, from what I remember.” (emphasis added). Euphoria did not inquire further. Therefore, it is not clear how or why Mr. Kennedy’s purported personal emails should have been produced by E&T or Happy Campers. If they did not concern the loan by Valjo, it even less clear why Valjo would be obligated to produce them.
3. Mr. Kennedy testified that he thought Pro Advice filed one tax return for Miral Consulting, but he was not sure. During such time, he mentioned that he was “doing the taxes” for Happy Campers and E&T, but he did not recall whether these entities filed separate returns or whether tax matters were reported directly on Schedule C of a member’s individual tax return.
4. Mr. Kennedy testified that he was not certain whether he reported income from Happy Campers from a K-1 or directly on Schedule C of his personal tax return.
5. Mr. Kennedy testified that he searched his files for matters pertaining to Happy Campers, he did not remember what he found, but whatever he found he provided to Mr. Stipp.
6. Mr. Kennedy testified that he searched his files for matters pertaining to E&T and produced “all documents that were responsive” to Mr. Stipp. Mr. Kennedy then explained how he determined what records were “responsive.”

The record is not “clear” as argued by Euphoria that E&T and Third-Party Defendants willfully disobeyed their discovery obligations. If anything, Euphoria has misrepresented the actual testimony of Mr.

1 Kennedy to the court in a last-ditch effort to persuade the court to jump on Euphoria's bandwagon and punish
2 Mr. Kennedy.

3
4 **B. E&T and Third-Party Defendants have not knowingly and intentionally verified incorrect**
5 **information.**

6
7 Euphoria claims that E&T needs evidentiary support for its response to Interrogatory No. 1 by Euphoria.
8 Otherwise, Euphoria claims E&T is lying. This standard does not exist under Nevada law. Euphoria has access
9 to the same records available on the website of the Nevada Secretary of State as E&T. Attached hereto as
10 **Exhibit 1** is a true and accurate print out showing the address for Kristin Taracki (f/k/a Ehasz) as last reported
11 by E&T on its annual list of managers/members with the Nevada Secretary of State. The address shown is 2244
12 Summerwind Circle, Henderson, Nevada 89052, which is the address confirmed by E&T's response.

13
14 **C. Sanctions are not warranted for compliance by E&T and Third-Party Defendants based solely**
15 **on Euphoria's unsupported opinions and misrepresentations to the court.**

16
17 Again, Euphoria misrepresents the order of this court. The court ordered E&T and Third-Party
18 Defendants **to supplement** specific discovery responses identified by Euphoria. See Notice of Entry, filed on
19 October 18, 2021. The order expressly provides as follows:

20
21 IT IS HEREBY ORDERED that the Motion to Compel the E&T Parties'
22 Discovery Responses and for Sanctions is GRANTED IN PART AND DENIED
23 IN PART. E&T Ventures, Miral Consulting, Happy Campers, and CBD Supply
24 **are ordered to supplement their responses to the discovery requests as set forth**
25 **above.** E&T Ventures, Miral Consulting, Happy Campers, and CBD Supply shall
supplement their responses no later than twenty-one (21) days from the date of
notice of entry of this Order. Euphoria's request for an award of attorney's fees
and costs is DENIED.

26 Id. at 13 (lines 8-14) (emphasis added). Supplementing discovery responses does not mean that E&T or Third-
27 Party Defendants are ordered to produce any and all records demanded by Euphoria (regardless of valid
28 objections, available privileges, or if records do not exist or are not in their care, custody or control).

1 **D. Mr. Kennedy’s acquisition of E&T is not a basis to support a finding of alter ego.**

2
3 There is no order of the court that prohibits or otherwise restricts the sale, transfer, or exchange of
4 membership interests in E&T. Euphoria received approval by the CCB for the sale of membership interests.
5 The court required Euphoria to provide notice to E&T and the court in advance of any transfers of Euphoria’s
6 assets. See Notice of Entry of Order, filed on May 7, 2021. In response, Euphoria filed a motion for
7 reconsideration. The court considered Euphoria’s request and revised the order as follows:

8 The Court having reviewed the Motion to Modify Preliminary Injunction Order, countermotion and
9 the related briefing and being fully informed, GRANTS THE MOTION IN PART. The word “assets”
10 is modified to any asset valued over \$10,000, any membership interest in the LLC or its production
license.

11 See Minute Order filed on June 24, 2021. ***To date, Euphoria has not provided any notice to the court or E&T***
12 ***of any transfers.***

13
14 E&T is not subject to a similar order. Yet, Euphoria wants Mr. Kennedy’s acquisition of interests in
15 E&T to be deemed evidence that he (along with Alex, Kristin and Miro Taracki) should be alter egos of E&T
16 and Third-Party Defendants. E&T borrowed more than \$500k from Valjo and defaulted. Valjo has a judgment.
17 E&T’s equipment served as security for the loan. Euphoria claims it owns the equipment (despite not paying
18 for it). Euphoria’s breach of the joint venture has resulted in significant damages to E&T, which are a source of
19 repayment of the loan. Valjo’s collection activities should not be viewed as discovery games (simply because
20 Euphoria wants to assign an ulterior motive).

21 **E. Euphoria’s motion for sanctions is frivolous and was designed to harass E&T and Third-Party**
22 **Defendants.**

23
24 E&T and Third-Party Defendants cites to EDCR 7.60(b) as the basis for its countermotion for sanctions.
25 The opposition to the motion sets forth in detail how and why the motion by Euphoria is frivolous and was
26 designed to harass E&T and Third-Party Defendants. To remind the court, Mr. Kennedy is not a party to the
27 case. Third-Party Defendants are not parties to the joint venture between Euphoria and E&T. Euphoria also
28

has no damages (since it converted E&T's equipment and now collects all profits from the production facility). Alter ego is a remedy (not a cause of action). If Euphoria has no damages, what is the point of Euphoria's alter ego theory? Euphoria's strategy is to punish Mr. Kennedy for funding E&T (and this litigation) so it can keep E&T's equipment and all profits from the production facility. The issues in this case are clear: Which party breached the joint venture agreement? As a result of the breach, which party owes the other party damages? Euphoria terminated the transaction based on variances between METRC and physical inventory. Which party is responsible for the variances? If E&T was responsible, the question remains whether it received its contractual right to cure. The rest is simply litigation noise designed by Euphoria to distract the court and waste the time, money and resources of the other parties to the case.

III. Conclusion

For the reasons set forth above, Euphoria's motion should be denied, and the court should award E&T and Third-Party Defendants their attorney's fees and costs. The motion is frivolous and was designed purely to harass E&T and Third-Party Defendants.

DECLARATION OF MITCHELL STIPP

The undersigned, Mitchell Stipp, declares under penalty of perjury as follows:

1. I am counsel of record in the above referenced case for Plaintiff and Third-Party Defendants.
2. I submit the above-titled declaration in support of the reply. I have personal knowledge of the discovery dispute briefed therein unless otherwise qualified by information and belief or such knowledge is based on the record in this case, and I am competent to testify thereto, and such facts are true and accurate to the best of my knowledge and belief.

Dated this 21st day of December, 2021.

/s/ Mitchell Stipp

Mitchell Stipp, Esq., Counsel for Plaintiff and Third-Party Defendants

EXHIBIT 1

FILING HISTORY

ENTITY INFORMATION

Entity Name:
E & T VENTURES LLC

Entity Number:
E0278022017-9

Entity Type:
Domestic Limited-Liability Company (86)

Entity Status:
Active

Formation Date:
06/12/2017

NV Business ID:
NV20171373165

Termination Date:
Perpetual

Annual Report Due Date:
6/30/2022

Series LLC:
☐

Restricted LLC:
☐

FILING HISTORY DETAILS

File Date	Effective Date	Filing Number	Document Type	Amendment Type	Source	View
11/29/2021	11/29/2021	20211917223	Certificate of Reinstatement		External	
07/01/2019	07/01/2019	20190282002-96	Annual List		External	
04/23/2018	04/23/2018	20180180633-42	Annual List		External	
06/12/2017	06/12/2017	20170252644-83	Initial List		External	
06/12/2017	06/12/2017	20170252643-72	Articles of Organization		External	

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FILING DATE SNAPSHOT AS OF: 11/29/2021

Business Details		Name Changes	Principal Office	Registered Agent	Officer Information	Shares
Date	Title	Name	Attention	Address1/Address2/City/State/Zip/Country		
07/01/2019	Managing Member	KRISTIN EHASZ		2244 SUMMERWIND CIRCLE, HENDERSON, NV, 89052, USA		

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