

IN THE SUPREME COURT OF THE STATE OF NEVADA

E&T VENTURES, LLC, a Nevada
Limited Liability Company,

Petitioner,

vs.

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

Respondents,

EUPHORIA WELLNESS, LLC, a
Nevada Limited Liability Company,

Real Party in Interest.

Electronically Filed
May 23 2022 02:38 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.: 84336

District Court No.: A-19-796919-B

**REAL PARTY IN INTEREST'S OPPOSITION TO MOTION TO STAY
DISTRICT COURT CASE PENDING DECISION ON PETITION**

NICOLE E. LOVELOCK, ESQ. (Nevada State Bar No. 11187)
JUSTIN C. JONES, ESQ. (Nevada State Bar No. 8519)
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I. INTRODUCTION.

Petitioner E&T Ventures, LLC's ("Petitioner") Motion to Stay District Court Case Pending Decision on Petition ("Motion") should be denied. Petitioner cannot meet its burden to support a stay. Each of the factors weigh in favor of denying the Motion.

II. FACTUAL AND PROCEDURAL BACKGROUND.

This is all an elaborate scheme for Petitioner to avoid sanctions rulings. Indeed, this is the second time that Petitioners have attempted to do so by filing a writ and a motion to stay with the Nevada Supreme Court. The Court denied the first attempt.¹ This Court should similarly deny the current request.

A. Setting of an Evidentiary Hearing on Sanctions.

On October 18, 2021, the District Court entered a discovery order ("Discovery Order")² compelling the Petitioner and Third-Party Defendants³ to supplement their responses to Euphoria's written discovery requests, including requests for production of documents.⁴ Thereafter, Petitioner and Third-Party Defendants' supplemental discovery responses were wholly insufficient and patently false.⁵ On November 24, 2021, Euphoria filed a Motion for Discovery Sanctions Against E&T

¹ See, Nevada Supreme Court Case No. 84133. The Court may take judicial notice of these proceedings and the rulings therein. NRS 47.130.

² **Exhibit B** is a copy of the Discovery Order.

³ Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC are "Third-Party Defendants".

⁴ Transcript of Proceedings on January 4, 2022 at p.65-71, attached as **Exhibit C**.

⁵ Marta Kurshumova's Decl. in support of this Opposition is attached as **Exhibit A**.

Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC (“Motion for Sanctions”) for failing to abide by the Discovery Order.⁶

At the hearing on the Motion for Sanctions on January 4, 2022, the District Court ruled that the E&T Parties’ Court Ordered Discovery Responses were impermissibly nonresponsive and inconsistent with the record and set the Evidentiary Hearing.⁷ On January 25, 2022, the Court entered the Order Granting In Part Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC (“Order Setting Evidentiary Hearing”) that fully detailed the Court’s order from the bench on January 4, 2022.⁸

B. Attempts to Avoid the Evidentiary Hearing on Sanctions.

To avoid the evidentiary hearing, the Petitioner filed a Petition for Writ of Prohibition Or, In the Alternative, Petition for Writ of Mandamus, which was Case No. 84133 and sought a stay. This Court issued an Order Denying Petition for Writ of Mandamus or Prohibition.⁹ In another attempt to avoid the evidentiary hearing on sanctions, the Petitioner attempted to disqualify the Honorable Judge Kishner. On February 2, 2022, the Petitioner filed an Application of E&T Ventures, LLC to

⁶ Ex. A, Kurshumova Declaration

⁷ Ex. C, Transcript at p.65-71.

⁸ **Exhibit D** is a copy of the Order Setting Evidentiary Hearing.

⁹ *See*, Nevada Supreme Court Case No. 84133. The Court may take judicial notice of these proceedings and the rulings therein. NRS 47.130.

Disqualify Judge Joanna Kishner and Affidavit Pursuant to NRS 1.235 and an errata thereto was filed later that same day (collectively “Motion to Disqualify”).¹⁰ On February 7, 2022, the Honorable Judge Kishner filed a Written Response (“Response”).¹¹ Despite the Petitioner’s representations, the parties never agreed upon a judge to rule upon the Motion to Disqualify.¹² On February 10, 2022, Chief Judge Bell issued a Decision and Order (“Decision”) on the Motion to Disqualify.

C. The Court Reset the Evidentiary Hearing And Petitioner Again Attempted to Avoid the Evidentiary Hearing.

On February 10, 2022, the Honorable Judge Kishner issued an Amended Order Setting Evidentiary Hearing. On the same day, February 10, 2022, Petitioner filed a Motion for Withdrawal/Reconsideration, Evidentiary Hearing on Disqualification, Or Alternatively For Stay Pending Writ Petition to Nevada Supreme Court (“Motion for Reconsideration”).¹³ The Motion for Reconsideration did not include an affidavit that complies with NRS 1.235(1). On March 3, 2022, Chief Judge Bell issued an Order denying the Motion for Reconsideration (“Order

¹⁰ Ex. 1 (APP 5-236), Petitioner’s Appendix, Volume I. **Exhibit E** to the Opposition is a true and correct copy of the Errata to Application for E&T Ventures, LLC to Disqualify Judge Joanna Kishner and Affidavit Pursuant to NRS 1.234.

¹¹ Ex. 2 (APP 241-255), Petitioner’s Appendix, Volume II.

¹² There is email correspondence whereby the parties discussed whether there could be an agreement on the judge to hear the Motion to Disqualify pursuant to NRS 1.235(6). However, the parties never agreed upon a judge. Indeed, Euphoria’s counsel required a response by a time certain and Petitioner’s counsel provided that no response would be provided. APP 277-279, Petitioner’s Appendix, Volume II.

¹³ Ex. 4 (APP 264-286), Petitioner’s Appendix, Volume II.

on Reconsideration”).

D. The Current Writ.

Petitioner’s current Writ is based upon two claims: (i) that Chief Judge Bell did not have authority to issue the Decision; and (ii) that the Honorable Judge Kishner should have treated the Motion for Reconsideration as a new request for disqualification under NRS 1.235. Both claims are meritless.

III. LEGAL ARGUMENT.

A. Standard for Relief.

NRAP 8(c) sets forth four factors that this Court will consider when determining whether to stay proceedings pending appeal. Those factors are: (1) whether the object of the writ petition will be defeated if a stay is denied; (2) whether Petitioner will suffer irreparable or serious injury if the stay is denied; (3) whether Real Party in Interest Euphoria will suffer irreparable or serious injury if the stay is granted; and (4) whether Petitioner is likely to prevail on the merits of the writ petition. NRAP 8(c). Here, Petitioner cannot satisfy any of the factors.

B. Petitioner Is Not Entitled to a Stay Pending Appeal.

1. Because the Writ is Meritless, the Object Will Not be Defeated if the Stay is Denied.

Petitioner’s writ asserts: (i) that Chief Judge Bell did not have the authority to rule upon the Motion to Disqualify; and (ii) that the Honorable Judge Kishner should have treated the Motion for Reconsideration as a new request to disqualify under NRS 1.235. Both claims are meritless.

a. Chief Judge Linda Bell Properly Heard the Motion to Disqualify.

Petitioner challenges Chief Judge Linda Bell's denial of the Motion to Disqualify by claiming that the Chief Judge was not the appropriate judge to rule upon said motion. Specifically, Petitioner claims that the parties had not disagreed as to the judge who should hear the Motion to Disqualify under NRS 1.235 and, therefore, the Motion to Disqualify should not have been heard by Chief Judge Bell. However, Petitioner's claim is not an accurate representation of facts. The parties *had not agreed* upon a judge to hear the Motion to Disqualify. This is undisputed—there is no evidence to suggest that the parties had an agreement for a certain judge to hear the Motion to Disqualify.¹⁴ Thus, without an agreement among the parties pursuant to NRS 1.235(6), the Motion to Disqualify is to be heard by the presiding judge, who was Chief Judge Linda Bell. NRS 1.235(6)(a). Thus, Petitioner's writ is meritless and a stay should not be granted.

b. The Motion for Reconsideration Is Not an Affidavit Under NRS 1.235(1).

Petitioner claims that the Motion to Reconsider somehow constituted a new affidavit under NRS 1.235(1) that required the Honorable Judge Kishner to transfer the case pursuant to NRS 1.235(5) or file a written answer pursuant to NRS 1.235(6). However, this is erroneous because the Motion to Reconsider did not constitute a

¹⁴ There is email correspondence whereby the parties discussed whether there could be an agreement on the judge to hear the Motion to Disqualify pursuant to NRS 1.235(6). However, the parties never agreed upon a judge. Indeed, Euphoria's counsel required a response by a time certain and Petitioner's counsel provided that no response would be provided. APP 277-279, Petitioner's Appendix, Volume II.

new affidavit pursuant to NRS 1.235(1). The Motion to Reconsider is not an affidavit pursuant to NRS 1.235(1). The Motion to Reconsider sets forth arguments why the Decision should be reconsidered, but does not include any “affidavit specifying the facts upon which the disqualification is sought.” NRS 1.235(1). Rather the declaration in support of the Motion to Reconsider simply provided the following:

1. I am counsel of record for E&T Ventures, LLC, a Nevada limited liability company (“E&T”)—the Plaintiff in the above-referenced case.
2. Joseph Kennedy is the sole manager and member of E&T.
3. The motion for disqualification (including my affidavit) filed on February 2, 2022 was served in accordance with NRS 1.235 via the district court’s e-service system on February 2, 2022 and delivered to the chambers of Judge Kishner on February 3, 2022. The motion for disqualification (including my affidavit) and the above motion (and this affidavit/declaration/certification) have been filed in good faith and not interposed for delay.
4. The facts set forth in the above motion are true and accurate. Such facts support withdrawal/reconsideration of the decision by Chief Judge Bell, an evidentiary hearing concerning the disqualification of Judge Kishner, and/or a stay of the case pending resolution of the issue of disqualification. I have personal knowledge of the facts contained in this filing 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.
5. The exhibits attached to the above motion are true, accurate and complete. Petitioner challenges Chief Judge Linda Bell’s denial of the Motion to Disqualify by claiming that the Chief Judge was not the appropriate judge to rule upon said motion.¹⁵

This is not an affidavit pursuant to NRS 1.235(1). Indeed, there are no statements “specifying the facts upon which the disqualification is sought”, a requirement under NRS 1.235(1). Rather, this is merely a declaration in support of the Motion to

¹⁵ APP 275, Petitioner’s Appendix, Volume II.

Reconsider, which is seeking that the Honorable Judge Bell reconsider the Decision. Indeed, the declaration specifically provides that it is a “challenge” to the denial of the Motion to Disqualify. Thus, Petitioner’s writ is meritless and a stay should not be granted.

2. *Petitioner Has Failed to Establish Irreparable Harm.*

Petitioner has failed to provide any evidence or valid argument that it would be irreparably injured if the Court does not stay the underlying litigation. Indeed, Petitioner asserts that “Petitioner will not suffer serious irreparable or serious injury if the stay is denied.”¹⁶ Petitioner only states it will incur attorneys’ fees and costs. This factor warrants denial of the stay because the harm of Petitioner’s discovery abuses (and resulting attorneys’ fees and costs) outweigh the costs of litigation.

3. *The Balance of the Harms is in Euphoria’s Favor.*

It is in the interest of all parties if the district court litigation proceeded in the ordinary course. Trial is set to begin on a five-week stack on August 1, 2022. Euphoria will suffer irreparable harm if the Court grants the stay. The record demonstrates there is a high likelihood that, given more time, Petitioner would further obfuscate litigation, prevent access to witnesses, and manipulate evidence. As detailed in the declaration of Ms. Kurshumova, there is a long history of such occurrences that have forced Euphoria to incur unnecessary fees.¹⁷ To prevent the

¹⁶ Motion at 8 (emphasis added).

¹⁷ Ex. A, Kurshumova Decl. at ¶18.

Petitioner from engaging in further litigation abuses and delays, this Court should deny Petitioner's request for a stay of the Evidentiary Hearing.

The record demonstrates that E&T's efforts to disqualify the presiding judge are tactical and for the improper purpose of avoiding accountability for its discovery abuses and an attempt to avoid unfavorable orders. As such, any further delay of the District Court's ability to reach a resolution of the merits harms Euphoria, which has been required to spend substantial attorney's fees responding to frivolous motions and will be required to spend more if a stay is imposed.

C. The Motion Is Procedurally Improper.

Pursuant to NRAP 8(b)(ii), Petitioner's Motion requires sworn statements supporting facts. Here, the declaration of Joseph Kennedy in support of the Motion is deficient because it contains a statement of having personal knowledge of the facts in the motion without identifying those facts with specificity. This is not a proper declaration, which warrants denial of the Motion.

IV. CONCLUSION.

For the above reasons, Euphoria respectfully requests that the Court deny Petitioner's Motion.

DATED this 23rd day of May 2022.

BY: /s/ Marta D. Kurshumova, Esq.
Marta D. Kurshumova, Esq. (14728)
JONES LOVELOCK
Counsel for Euphoria Wellness, LLC

CERTIFICATE OF SERVICE

This is to certify that on May 23, 2022, a true and correct copy of the foregoing REAL PARTY IN INTEREST'S OPPOSITION TO MOTION TO STAY DISTRICT COURT CASE PENDING DECISION ON PETITION was served on the following by the Supreme Court Electronic Filing System:

LAW OFFICE OF MITCHELL STIPP
MITCHELL STIPP, ESQ. (Nevada Bar No. 7531)
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Las Vegas, Nevada 89144
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By /s/ Julie Linton
An Employee of JONES LOVELOCK

EXHIBIT “A”

EXHIBIT “A”

IN THE SUPREME COURT OF THE STATE OF NEVADA

E&T VENTURES, LLC, a Nevada
Limited Liability Company,

Petitioner,

vs.

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

Respondents,

EUPHORIA WELLNESS, LLC, a
Nevada Limited Liability Company,

Real Party in Interest.

Supreme Court No.: 84336

District Court No.: A-19-796919-B

**DECLARATION OF MARTA D. KURSHUMOVA IN SUPPORT OF REAL
PARTY IN INTEREST'S OPPOSITION TO MOTION TO STAY
DISTRICT COURT CASE PENDING DECISION ON PETITION**

I, Marta D. Kurshumova, declare and state as follows:

1. I am over the age of 18 and am competent to testify to the matters asserted herein, of which I have personal knowledge, except as to those matters stated upon information and belief. As to those matters stated upon information and belief, I believe them to be true.

2. I am an attorney duly licensed to practice law in the State of Nevada and am counsel for Real Party in Interest Euphoria Wellness, LLC (“Euphoria”).

3. On October 18, 2021, this Court entered an Order: (1) Compelling Joseph Kennedy to Appear for a Deposition; (2) Compelling Nye Natural Medicinal Solutions, LLC and Valjo, Inc. to Answer Deposition Questions; and (3) Compelling E&T Ventures LLC (“E&T”), Miral Consulting, LLC (“Miral”), Happy Campers, LLC (“Happy Campers”), and CBD Supply Co, LLC (“CBD Supply” and collectively with Miral and Happy Campers, the “Third-Party Defendants”) to Supplement Discovery Responses (“Discovery Order”). **Exhibit B** is a true and correct copy of the Discovery Order entered on October 18, 2021.

4. E&T’s and Third-Party Defendants’ (collectively the “E&T Parties”) supplemental discovery responses (collectively “Court Ordered Discovery Responses”) were insufficient. Some of the information contained therein appeared false. For instance, Kristin Taracki (“Ms. Taracki”) verified interrogatory responses wherein she provided a Henderson, Nevada address for herself and her husband,

Alexander Taracki (collectively, “Tarackis”). Our office was unable to serve a subpoena upon the Tarackis at that address because the Tarackis had sold the property and there were new residents at the time of attempted service.

5. On November 24, 2021, Euphoria filed a Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC (“Motion for Sanctions”) for failing to abide by the Discovery Order.

6. On January 4, 2022, the District Court heard oral argument on the Motion for Sanctions. The District Court ruled that the E&T Parties’ Court Ordered Discovery Responses were impermissibly nonresponsive and inconsistent with the record and set an evidentiary hearing (“Evidentiary Hearing”) to consider sanctions, including terminating sanctions, as a result of E&T Parties’ insufficient discovery responses in violation of the Discovery Order. The District Court, from the bench, also ordered Ms. Taracki to appear at the Evidentiary Hearing. **Exhibit C** is a true and correct copy of the pertinent excerpts of the Transcript of Proceedings on Euphoria’s Motion for Sanctions on January 4, 2022.

7. On January 20, 2022, the District Court issued an Order (“Evidentiary Hearing Order”) setting the Evidentiary Hearing whereby the Petitioner, along with Third-Party Defendants, would be required to explain why they failed to comply with the Discovery Order.

8. On January 25, 2022, the Court entered the Order (1) Granting In Part Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC; (2) Denying Countermotion for Related Relief; (3) Granting Motion to Seal Exhibits to the Reply in Support of Euphoria Wellness, LLC's Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC and Opposition to Countermotion for Related Relief; (4) Denying Without Prejudice Motion for Sanctions for Failure To Produce a Privilege Log; (5) Denying Without Prejudice Countermotion for Sanctions that fully detailed the Court's order from the bench on January 4, 2022. **Exhibit D** is a true and correct copy of the order.

9. On January 26, 2022, Petitioner filed a Writ for Prohibition, Or In The Alternative, Petition for Writ of Mandamus ("First Writ") with the Nevada Supreme Court. Nevada Supreme Court Case No. 84133. Third-Party Defendants did not join as parties in seeking the First Writ.

10. On February 2, 2022, Petitioner filed an Application of E&T Ventures, LLC to Disqualify Judge Joanna Kishner and Affidavit Pursuant to NRS 1.235 ("Motion to Disqualify").

11. On February 7, 2022, the Honorable Judge Kishner filed a Written Response ("Response").

12. The parties did not agree upon a judge to rule upon the Motion to

Disqualify.

13. On February 10, 2022, Chief Judge Bell issued a Decision and Order (“Decision”) on the Motion to Disqualify.

14. On the same day, February 10, 2022, the Honorable Judge Kushner issued an Amended Order Setting Evidentiary Hearing.

15. On the same day, the Nevada Supreme Court issued an order denying the First Writ (Order Denying Petition for Writ of Mandamus or Prohibition).

16. On the same day, Petitioner filed a Motion for Withdrawal/Reconsideration, Evidentiary Hearing on Disqualification, Or Alternatively For Stay Pending Writ Petition to Nevada Supreme Court (“Motion for Reconsideration”).

17. On March 3, 2022, Chief Judge Bell issued an Order denying the Motion for Reconsideration (“Order on Reconsideration”).

18. I have personal knowledge of the following facts, which indicate the E&T Parties have attempted to obfuscate discovery:

a. I attended the hearing on Euphoria’s Motion for Sanctions, where the Honorable Judge Kushner indicated that the E&T Parties’ Court Ordered Discovery Responses were insufficient, which demonstrates lack of compliance with the Discovery Order;

b. The testimony of Joseph Kennedy’s deposition on November 19, 2021

and E&T's deposition on April 15, 2022 indicate that the E&T Parties willfully chose to not comply with the Discovery Order by refusing to locate and/or disclose responsive documents;

c. the E&T Parties prevented Euphoria from inspecting responsive documents;

d. Petitioner prevented Euphoria from serving subpoenas upon Ms. Taracki and Alexander Taracki by providing what appears to be a wrong address under oath, by Mitchell D. Stipp, Esq. ("Mr. Stipp") (counsel for the E&T Parties) failing to provide their current address and refusing to produce them for a deposition as Petitioner's principals;

e. Ms. Taracki purportedly transferred her ownership interest in Petitioner immediately after Euphoria informed the court of the factual inconsistencies in the Court Ordered Discovery Responses;

f. After the District Court issued the Order and after Euphoria discovered that Mr. Stipp continues to represent Ms. Taracki in another Eighth Judicial District Court case (*Bionomic Solutions, Inc., et al. v. Alex Taracki dba CBD Supply Co., et al.*, Eighth Judicial District Court case number A-20-818856-C), Mr. Stipp represented in a court filing in *ACC Enterprises LLC v. Euphoria Wellness, LLC*, Eighth Judicial District Court case number A-21-831153-C that he intended to withdraw as counsel of record for Ms. Taracki;

g. After the court's oral ruling setting the Evidentiary Hearing, on or about January 5, 2022, Mr. Stipp informed me, Justin C. Jones, Esq., and Nicole E. Lovelock, Esq. that he planned to withdraw as attorney of record for the Third-Party Defendants;

h. E&T delayed appearing for its properly noticed deposition for approximately four months and its conduct resulted in four District Court orders compelling its appearance. E&T's NRCP 30(b)(6) designee then only appeared for approximately three (3) hours on April 15, 2022 and did not return for E&T's court-ordered continued deposition on April 18, 2022.

i. On April 6, 2022, Mr. Stipp represented that his client Anthony Napolitano ("Mr. Napolitano"), E&T's former employee, will not appear for a deposition until Euphoria subpoenaed him a second time, Mr. Stipp insisted that a new subpoena is required if the date and time of the deposition changes.

j. On April 15, 2022, Anthony Napolitano, E&T's former employee who is also represented by Mr. Stipp, failed to appear for his deposition despite being properly served with a valid subpoena.

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19. **Exhibit E** to the Opposition is a true and correct copy of the Errata to Application for E&T Ventures, LLC to Disqualify Judge Joanna Kishner and Affidavit Pursuant to NRS 1.234.

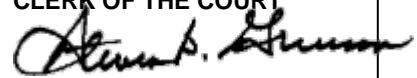
I declare under penalty of perjury that the foregoing is true and correct.

DATED this 23rd day of May 2022.


MARTA D. KURSHUMOVA, ESQ.

EXHIBIT “B”

EXHIBIT “B”



1 **NEOJ**

2 Nicole E. Lovelock, Esq.
3 Nevada State Bar No. 11187
4 Justin C. Jones, Esq.
5 Nevada State Bar No. 8519
6 Marta D. Kurshumova, Esq.
7 Nevada State Bar No. 14728

8 **JONES LOVELOCK**

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14 Email: jjones@joneslovelock.com
15 Email: mkurshumova@joneslovelock.com

16 *Attorneys for Euphoria Wellness, LLC*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

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

15 Plaintiff,

16 v.

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

21 Defendants.

22 EUPHORIA WELLNESS, LLC, a Nevada
23 limited liability company,

24 Counterclaimant,

25 v.

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

28 Counter-Defendant.

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

**NOTICE OF ENTRY OF ORDER: (1)
COMPELLING JOSEPH KENNEDY TO
APPEAR FOR A DEPOSITION; (2)
COMPELLING NYE NATURAL
MEDICINAL SOLUTIONS, LLC AND
VALJO, INC. TO ANSWER DEPOSITION
QUESTIONS; AND (3) COMPELLING
E&T VENTURES LLC, MIRAL
CONSULTING, LLC, HAPPY CAMPERS,
LLC, AND CBD SUPPLY CO, LLC TO
SUPPLEMENT DISCOVERY
RESPONSES**

1 EUPHORIA WELLNESS, LLC, a Nevada
limited liability company,

2 Third- Party Plaintiff,

3 v.

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

8 Third-Party Defendants.

9 PLEASE TAKE NOTICE that an *Order: (1) Compelling Joseph Kennedy to Appear for a*
10 *Deposition; (2) Compelling Nye Natural Medicinal Solutions, LLC and Valjo, Inc. to Answer*
11 *Deposition Questions; and (3) Compelling E&T Ventures LLC, Miral Consulting, LLC,*
12 *Happy Campers, LLC, and CBD Supply Co, LLC to Supplement Discovery Responses* was filed on
13 October 15, 2021, a true and correct copy of which is attached hereto.

14 DATED this 18th day of October 2021.

15 **JONES LOVELOCK**

16 /s/ Marta D. Kurshumova, Esq.
17 Nicole E. Lovelock, Esq.
Nevada Bar No. 11187
18 Justin C. Jones, Esq.
Nevada Bar No. 8519
19 Marta D. Kurshumova, Esq.
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21 *Attorneys for Euphoria Wellness, LLC*

22 ///

23 ///

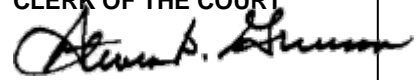
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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on the 18th day of October 2021, a true and correct
3 copy of the foregoing **NOTICE OF ENTRY OF ORDER: (1) COMPELLING JOSEPH**
4 **KENNEDY TO APPEAR FOR A DEPOSITION; (2) COMPELLING NYE NATURAL**
5 **MEDICINAL SOLUTIONS, LLC AND VALJO, INC. TO ANSWER DEPOSITION**
6 **QUESTIONS; AND (3) COMPELLING E&T VENTURES LLC, MIRAL CONSULTING,**
7 **LLC, HAPPY CAMPERS, LLC, AND CBD SUPPLY CO, LLC TO SUPPLEMENT**
8 **DISCOVERY RESPONSES** was served by electronically submitting with the Clerk of the Court
9 using the electronic system and serving all parties with an email-address on record.

10
11 By /s/ Julie Linton
12 An Employee of JONES LOVELOCK
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JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119



ORDR

Nicole E. Lovelock, Esq.
Nevada State Bar No. 11187
Justin C. Jones, Esq.
Nevada State Bar No. 8519
Marta D. Kurshumova, Esq.
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Email: mkurshumova@joneslovelock.com

Attorneys for Euphoria Wellness, LLC

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;

Defendants.

EUPHORIA WELLNESS, LLC, a Nevada
limited liability company,

Counterclaimant,

v.

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

Counter-Defendant.

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

ORDER: (1) COMPELLING JOSEPH KENNEDY TO APPEAR FOR A DEPOSITION; (2) COMPELLING NYE NATURAL MEDICINAL SOLUTIONS, LLC AND VALJO, INC. TO ANSWER DEPOSITION QUESTIONS; AND (3) COMPELLING E&T VENTURES LLC, MIRAL CONSULTING, LLC, HAPPY CAMPERS, LLC, AND CBD SUPPLY CO, LLC TO SUPPLEMENT DISCOVERY RESPONSES

1 EUPHORIA WELLNESS, LLC, a Nevada
limited liability company,

2 Third- Party Plaintiff,

3 v.

4
5 MIRAL CONSULTING, LLC, a Nevada
limited liability company; HAPPY
6 CAMPERS, LLC, a Nevada limited liability
company; CBD SUPPLY CO, LLC, a Nevada
7 limited liability company; DOE Individuals I-
X, inclusive; and ROE ENTITIES 1-10,
8 inclusive;

9 Third-Party Defendants.

10
11 The following motions came before the Court on September 23, 2021 at 1:00 p.m. with
12 Nicole Lovelock, Esq. of Jones Lovelock appearing on behalf of Euphoria Wellness, LLC
13 (“Euphoria”) and Mitchell Stipp, Esq. of Law Offices of Mitchell Stipp appearing on behalf of
14 E&T Ventures LLC (“E&T”), Miral Consulting, LLC (“Miral Consulting”), Happy Campers, LLC
15 (“Happy Campers”), and CBD Supply Co, LLC (“CBD Supply”) (collectively “E&T Parties”), and
16 on behalf of Joseph Kennedy (“Mr. Kennedy”), Nye Natural Medicinal Solutions LLC (“Nye
Natural”), and Valjo Inc. (“Valjo”) (collectively “Non-Parties”):

17 a) Order to Show Cause Why Joseph Kennedy Should Not Be Held in Contempt of
18 Court and for Sanctions; and for Order Compelling Joseph Kennedy to Appear for a Deposition;
19 and for an Award of Attorneys’ Fees and Costs, filed by Euphoria;

20 b) Order to Show Cause Why Nye Natural Medicinal Solutions, LLC and Valjo, Inc.
21 Should Not Be Held in Contempt; and for Order Compelling Said Entities to Answer Deposition
22 Questions; and for an Award of Attorneys’ Fees and Costs, filed by Euphoria;

23 c) Motion to Compel the E&T Parties’ Discovery Responses and for Sanctions, filed
24 by Euphoria;

25 d) Omnibus Opposition to Applications for Order to Show Cause, to Compel
26 Appearance for a Deposition, and for an Award of Attorney’s Fees and Costs and Countermotion
27 for a Protective Order and Related Relief, filed by the Non-Parties;
28

1 e) Opposition to Motion to Compel Discovery Responses and for Sanctions and
2 Countermotion for Related Relief, filed by the E&T Parties; and

3 f) Motion to Seal Exhibits to the Declaration of Marta D. Kurshumova in Support of
4 Reply in Support of Euphoria Wellness, LLC's Motion to Compel the E&T Parties' Discovery
5 Responses and for Sanctions; and Opposition to Countermotion, filed by Euphoria.

6 The Court having considered the filings, the evidence presented therein, oral argument of
7 counsel, and good cause appearing, hereby orders as follows:

8 **JOSEPH KENNEDY**

9 **Findings of Fact**

10 1. On January 2, 2021, Mr. Kennedy, in his individual capacity, was personally served
11 with a Subpoena. Mr. Kennedy's deposition was scheduled for January 28, 2021 at 9:00 a.m. A
12 witness fee was included in the service.

13 2. On January 2, 2021, Mr. Kennedy, in his capacity as manager of Nye Natural, was
14 personally served with the Subpoena to Nye Natural. The deposition was scheduled for January 28,
15 2021 at 1:00 p.m. A witness fee was included in the service.

16 3. On January 2, 2021, Mr. Kennedy, in his capacity as registered agent of Valjo, was
17 personally served with the Subpoena to Valjo. The deposition was scheduled for January 29, 2021
18 at 1:00 p.m. A witness fee was included in the service.

19 4. On January 4, 2021, Mr. Stipp sent Euphoria's counsel a letter advising he
20 represented the Non-Parties with respect to the subpoenas.

21 5. Mr. Stipp and Counsel for Euphoria rescheduled the Non-Parties' depositions on
22 several occasions due in part on the agreement that Darlene Purdy's deposition would occur first.

23 6. On March 22, 2021, Mr. Stipp informed Euphoria that he had not and would not
24 accept service of any documents rescheduling the depositions of the Non-Parties. Mr. Stipp
25 requested Euphoria serve the Non-Parties personally again.

26 7. On April 6, 2021, Mr. Stipp requested Euphoria move Nye Natural and Valjo's
27 depositions to April 16, 2021.
28

5 10. Mr. Kennedy appeared as the designated 30(b)(6) witness for Nye Natural and
6 Valjo, respectively.

11 12. There is a dispute if Mr. Kennedy still has the original witness fee served upon him
12 on January 2, 2021.

13 13. There was a mutual mistake between Mr. Stipp and counsel for Euphoria regarding
14 the date and time of appearance of Mr. Kennedy in his individual capacity.

15 14. Any of the foregoing findings of fact which shall constitute conclusion of law shall
16 be deemed as a conclusion of law.

18 15. A subpoena served pursuant to NRCP 45 commands “each person to whom it is
19 directed to do the following at a specified time and place: attend and testify; produce designated
20 documents, electronically stored information, or tangible things in that person’s possession,
21 custody, or control; or permit the inspection of premises.” NRCP 45(a)(1)(A)(iii). The rule permits
22 service of the subpoena by “[a]ny person who is at least 18 years old and not a party” to the case
23 and, should the subpoena order a person’s attendance, requires the tendering of a fee for one day’s
24 attendant and the mileage allowed by law. NRCP 45(b)(1).

25 16. NRCp 26(c) provides the standard for protective orders, which states as follows: “A
26 party or any person from whom discovery is sought may move for a protective order . . . The
27 motion must include a certification that the movant has in good faith conferred or attempted to

1 confer with other affected parties.” NRCP 26(c)(1). Should the court find good cause exists, the
2 court may “issue an order to protect a party or person from annoyance, embarrassment, oppression,
3 or undue burden or expense.” *Id.*

4 17. This Court orders Mr. Kennedy must appear for a deposition pursuant to the terms
5 of NRCP 45.

6 18. The deposition is to be set for a date no later than thirty (30) days from the notice of
7 entry of this order.

8 19. Euphoria shall tender a new witness fee to Mr. Kennedy and Mr. Stipp must accept
9 said witness fee on behalf of Mr. Kennedy.

10 20. Mr. Kennedy did not present an applicable legal basis for seeking a protective order
11 and, on that basis, Mr. Kennedy’s Countermotion for a Protective Order is denied.

12 21. Euphoria’s request for contempt is denied.

13 22. Euphoria’s request for attorney’s fees and costs is denied.

14 23. Any of the foregoing conclusions of law which shall constitute a finding of fact shall
15 be deemed as a finding of fact.

16 **NYE NATURAL MEDICINAL SOLUTIONS, LLC AND VALJO, INC.**

17 **Findings of Fact**

18 24. On April 16, 2021, Euphoria took the depositions of the person designated as the
19 30(b)(6) witness for Nye Natural and Valjo.

20 25. Mr. Kennedy appeared as the designated 30(b)(6) witness for Nye Natural and
21 Valjo, respectively.

22 26. Mr. Stipp appeared as Nye Natural and Valjo’s counsel of record for the purposes of
23 the depositions.

24 27. The deposition of Nye Natural commenced at 8:39 a.m. PST and concluded at 10:28
25 a.m. PST.

26 28. The deposition of Valjo commenced at 1:30 p.m. PST and concluded at 4:21 p.m.
27 PST.

1 29. During the depositions, Mr. Stipp instructed Mr. Kennedy, in his capacity as the
2 30(b)(6) witness for Nye Natural and Valjo, not to answer multiple deposition questions, as
3 summarized in Exhibit R to the Appendix of Exhibits in Support of *Ex Parte* Application for an
4 Order to Show Cause Why Nye Natural Medicinal Solutions, LLC and Valjo, Inc. Should Not Be
5 Held in Contempt; and for Order Compelling Said Entities to Answer Deposition Questions; and
6 for an Award of Attorneys' Fees and Costs. Exhibit R is attached to this Order as **Exhibit A**.

7 30. Ms. Lovelock and Mr. Stipp discussed Mr. Stipp's objections and instructions not to
8 answer on the record during the depositions of both Nye Natural and Valjo.

9 31. Mr. Stipp's instructions to Nye Natural's 30(b)(6) witness not to answer the
10 deposition questions were improper.

11 32. Mr. Stipp's instructions to Valjo's 30(b)(6) witness not to answer the deposition
12 questions were improper.

13 33. None of the questions identified in Exhibit A to this Order are subject to a privilege
14 or a limitation ordered by this Court. Neither Nye Natural nor Valjo sought relief under Rule
15 30(d)(3).

16 34. Nye Natural and Valjo did not present an applicable legal basis for seeking a
17 protective order and, on that basis, Nye Natural and Valjo's Countermotion for a Protective Order
18 is denied.

19 35. Any of the foregoing findings of fact which shall constitute conclusion of law shall
20 be deemed as a conclusion of law.

21 **Conclusions of Law and Order Thereon**

22 36. A subpoena served pursuant to NRCP 45 commands "each person to whom it is
23 directed to do the following at a specified time and place: attend and testify; produce designated
24 documents, electronically stored information, or tangible things in that person's possession,
25 custody, or control; or permit the inspection of premises." NRCP 45(a)(1)(A)(iii). The rule permits
26 service of the subpoena by "[a]ny person who is at least 18 years old and not a party" to the case
27
28

1 and, should the subpoena order a person's attendance, requires the tendering of a fee for one day's
2 attendant and the mileage allowed by law. NRCP 45(b)(1).

3 37. NRCP 26(c) provides the standard for protective orders, which states as follows: "A
4 party or any person from whom discovery is sought may move for a protective order . . . The
5 motion must include a certification that the movant has in good faith conferred or attempted to
6 confer with other affected parties." NRCP 26(c)(1). Should the court find good cause exists, the
7 court may "issue an order to protect a party or person from annoyance, embarrassment, oppression,
8 or undue burden or expense." *Id.*

9 38. Pursuant to NRCP 30(c)(2), an attorney may only instruct their client not to answer
10 a question "when necessary to preserve a privilege, to enforce a limitation ordered by the court, or
11 to present a motion under Rule 30(d)(3)."

12 39. For those reasons, Nye Natural is ordered to appear for a continued deposition and
13 provide responses to the questions identified in Exhibit A to this Order directed to Nye Natural.
14 The rescheduled deposition is to be set for a date no later than thirty (30) days from the notice of
15 entry of this order. The rescheduled deposition is to last for one (1) hour, not including breaks.

16 40. For those reasons, Valjo is ordered to appear for a continued deposition and provide
17 responses to the questions identified in Exhibit A to this Order directed to Valjo. The rescheduled
18 deposition is to be set for a date no later than thirty (30) days from the notice of entry of this order.
19 The rescheduled deposition is to last for one (1) hour, not including breaks.

20 41. Euphoria's request for contempt is denied.

21 42. Euphoria's request for attorney's fees and costs is denied.

22 43. Any of the foregoing conclusions of law which shall constitute a finding of fact shall
23 be deemed as a finding of fact.

24 ///

25 ///

26 ///

27 **E&T VENTURES LLC, MIRAL CONSULTING, LLC, HAPPY CAMPERS, LLC, AND**
28

CBD SUPPLY CO, LLC

Findings of Fact

44. On July 21, 2020, E&T served its Initial Disclosures which contained no documents.

45. On December 7, 2020, the Third-Party Defendants served their Initial Disclosures which contained no documents.

46. On February 1, 2021, Euphoria propounded Requests for Interrogatories (“Interrogatories”) and Requests for Production of Documents (“RFPs”) on the E&T Parties (“Euphoria’s Discovery Requests”).

47. Euphoria had inadvertently omitted to attach an exhibit to its Discovery Requests (“Exhibit 1”).

48. Euphoria had also provided the wrong date of filing of the Supplemental Declaration of Kristin Ehasz in Support of Motion for Preliminary Injunction on Application for Order Shortening Time (“Kristin Ehasz’ Declaration”) in its Discovery Requests.

49. The E&T Parties did not reach out to Euphoria to request the missing exhibit or a copy of Kristin Ehasz’ Declaration prior to submitting their Responses to Euphoria’s Discovery Requests.

50. On February 26, 2021, E&T responded to Euphoria’s Interrogatories and RFPs (“E&T’s Discovery Responses”) without identifying or producing any documents.

51. On March 2, 2021, Third-Party Defendants responded to Euphoria’s Interrogatories and RFPs (“Third-Party Defendants’ Discovery Responses”) (together with E&T’s Discovery Responses, “E&T Parties’ Discovery Responses”) without identifying or producing any documents.

52. In response to several requests for production, the E&T Parties responded they would make documents available for copying or inspection.

53. Instead of granting Euphoria’s requests to copy and inspect the documents, E&T served its First Supplemental Disclosures on March 24, 2021, attaching documents bates numbered Plaintiff’s Documents 00000-00111. The E&T Parties failed to respond to multiple discovery

1 requests based on Euphoria's omission to attach Exhibit 1 and mistaken date of filing of the Kristin
2 Ehasz' Declaration.

3 54. On March 5, 2021, counsel for Euphoria, Marta Kurshumova ("Ms. Kurshumova")
4 provided Exhibit 1 to Mr. Stipp.

5 55. On March 16, 2021, Euphoria's counsel sent the E&T Parties a Meet and Confer
6 Letter articulating the deficiencies within the E&T Parties' discovery responses. The Meet and
7 Confer Letter also provided the correct date of filing of Kristin Ehasz' Declaration.

8 56. On March 26, 2021, Euphoria and the E&T Parties held a telephonic meet and
9 confer conference.

10 57. On April 20, 2021, Euphoria and the E&T Parties held another telephonic meet and
11 confer conference.

12 58. The E&T Parties declined to supplement any of their discovery responses.

13 59. The E&T Parties agreed to provide signed verification pages to their Responses to
14 Interrogatories.

15 60. To date, the E&T parties have not provided signed verification pages to their
16 Responses to Interrogatories. Euphoria and the E&T Parties were unable to resolve the discovery
17 disputes regarding the E&T Parties' discovery responses.

18 61. In its Motion, Euphoria sought supplementation to the following categories of
19 requests:

20 **Category 1: The E&T Parties' ownership, operations, and financial documents**

21 *E&T:* Interrogatory No. 1; RFP Nos. 6-14
22 *CBD Supply:* Interrogatory Nos. 1-8; RFP Nos. 1-2, 5-13, 26
23 *Happy Campers:* Interrogatory Nos. 1-8, 15; RFP Nos. 1, 5-13, 26
Miral Consulting: Interrogatory Nos. 1-8, 28; RFP Nos. 1, 5-13, 26

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

25 *E&T:* Interrogatory Nos. 8-10; RFP Nos. 2, 5

26 **Category 3: The E&T Parties' documents and information relating to Euphoria**

27 *E&T:* Interrogatory No. 11; RFP Nos. 15-18
28 *CBD Supply:* Interrogatory No. 12; RFP Nos. 14, 18, 22

Happy Campers: Interrogatory No. 12; RFP Nos. 14, 18, 22
Miral Consulting: Interrogatory No. 12; RFP Nos. 14, 18, 22

Category 4: The E&T Parties' documents and information relating to the equipment

E&T: Interrogatory Nos. 14-15; RFP Nos. 19-20
CBD Supply: Interrogatory Nos. 13-15; RFP Nos. 23-25
Happy Campers: Interrogatory Nos. 13-14; RFP Nos. 23-25
Miral Consulting: Interrogatory Nos. 13-27; RFP Nos. 23-25

Category 5: E&T's documents and information relating to product test results and the variances

E&T: Interrogatory Nos. 2, 3, 5-7, 12-13; RFP Nos. 21

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

E&T: Interrogatory Nos. 4, 16, 17; RFP Nos. 22, 29-33

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

CBD Supply: Interrogatory Nos. 9-11; RFP Nos. 15-17, 19-21
Happy Campers: Interrogatory Nos. 9-11; RFP Nos. 15-17, 19-21
Miral Consulting: Interrogatory Nos. 9-11; RFP Nos. 15-17, 19-21

62. In its Motion, Euphoria further sought supplementation of the requests based on Exhibit 1 and Kristin Ehasz's Declaration:

E&T: Interrogatory Nos. 2-7
CBD Supply: RFP Nos. 23-25
Happy Campers: Interrogatory No. 14; RFP Nos. 22, 23
Miral Consulting: Interrogatory Nos. 14-27; RFP Nos. 23-26

63. Any of the foregoing findings of fact which shall constitute conclusion of law shall be deemed as a conclusion of law.

Conclusions of Law

64. Pursuant to EDCR 2.34(d), "discovery motions may not be filed unless an affidavit of moving counsel is attached thereto setting forth that after a discovery dispute conference or a good faith effort to confer, counsel have been unable to resolve the matter satisfactorily."

1 65. Counsel for Euphoria and counsel for the E&T Parties met and conferred as required
2 by EDCR 2.34(d) through the Meet and Confer Letter and two telephonic meet and confer
3 conferences.

4 66. NRCP 26 states that “[p]arties may obtain discovery regarding any nonprivileged
5 matter that is relevant to any party’s claims or defenses and proportional to the needs of the case.”

6 67. The discovery requests identified in Categories 1 to 7 and the requests based on
7 Exhibit 1 and Kristin Ehasz’s Declaration are relevant to the parties’ claims and defenses, and are
8 proportional to the needs of the case. NRCP 33 requires a full answer to each interrogatory and,
9 should the responding party object, a statement of the reasons for the objection with specificity.
10 NRCP 33(b)(3)-(4).

11 68. NRCP 34 requires that objections be stated with specificity and whether any
12 documents were withheld based on those objections. NRCP 34(b)(2)(B)-(C).

13 69. NRCP 26(e) imposes a duty on each party to “timely supplement or correct the
14 disclosure or response to include information thereafter acquired.”

15 70. The E&T Parties failed to respond to the discovery requests identified in Categories
16 1 to 7. The E&T Parties did not assert any objections entitling them not to respond to those
17 discovery requests.

18 71. The E&T Parties failed to respond to the discovery requests based on Exhibit 1 and
19 Kristin Ehasz’s Declaration. The E&T Parties did not assert any objections entitling them not to
20 respond to those discovery requests.

21 72. The E&T Parties had an obligation under NRCP 26(e) to supplement their responses
22 to the requests based on Exhibit 1 and Kristin Ehasz’s Declaration after receiving Exhibit 1 and the
23 correct date of filing of Kristin Ehasz’s Declaration.

24 73. The E&T Parties did not present an applicable legal basis for seeking a protective
25 order and, on that basis, the E&T Parties’ Countermotion for a Protective Order is denied.

74. The E&T Parties must supplement their responses to the discovery requests described in paragraphs 61 and 62 above no later than twenty-one (21) days from the date of notice of entry of this Order.

75. Euphoria's request for contempt is denied.

76. Euphoria's request for attorney's fees and costs is denied.

77. Any of the foregoing conclusions of law which shall constitute a finding of fact shall be deemed as a finding of fact.

ORDER

IT IS HEREBY ORDERED that the *Order to Show Cause Why Joseph Kennedy Should Not Be Held in Contempt of Court and for Sanctions; and for Order Compelling Joseph Kennedy to Appear for a Deposition; and for an Award of Attorneys' Fees and Costs* is **GRANTED IN PART AND DENIED IN PART**. Mr. Kennedy is ordered to appear for a deposition that is to be set for a date no later than thirty (30) days from the notice of entry of this order. Euphoria is to tender a new witness fee and Mr. Stipp is to accept said witness fee prior to the deposition of Mr. Kennedy. Euphoria's request for contempt and for an award of attorney's fees and costs is **DENIED**.

IT IS HERBY FURTHER ORDERED that Mr. Kennedy's *Countermotion for a Protective Order and Related Relief* is **DENIED**.

IT IS HEREBY FURTHER ORDERED that the *Order to Show Cause Why Nye Natural Medicinal Solutions, LLC and Valjo, Inc. Should Not Be Held in Contempt; and for Order Compelling Said Entities to Answer Deposition Questions; and for an Award of Attorneys' Fees and Costs* is **GRANTED IN PART AND DENIED IN PART**. Nye Natural is ordered to appear for a continued deposition pursuant to the terms of the subpoena personally served upon it on March 26, 2021. Nye Natural is ordered to answer all questions identified in Exhibit A to this Order that were directed to Nye Natural. The rescheduled deposition is to be set for a date no later than thirty (30) days from the notice of entry of this order. The rescheduled deposition is to last for one (1) hour, not including breaks.

Valjo is ordered to appear for a continued deposition pursuant to the terms of the subpoena

1 personally served upon it on March 26, 2021. Valjo is ordered to answer all questions identified in
2 Exhibit A to this Order that were directed to Valjo. The rescheduled deposition is to be set for a
3 date no later than thirty (30) days from the notice of entry of this order. The rescheduled deposition
4 is to last for one (1) hour, not including breaks.

5 Euphoria's request for contempt and for an award of attorney's fees and costs is **DENIED**.

6 **IT IS HERBY FURTHER ORDERED** that Nye Natural and Valjo's *Counter-motion for a*
7 *Protective Order and Related Relief* is **DENIED**.

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

15 **IT IS HERBY FURTHER ORDERED** that the E&T Parties' *Counter-motion for Related*
16 *Relief* requesting a protective order is **DENIED**.

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1 **IT IS HERBY FURTHER ORDERED** that Euphoria's *Motion to Seal Exhibits to the*
2 *Declaration of Marta D. Kurshumova in Support of Reply in Support of Euphoria Wellness, LLC's*
3 *Motion to Compel the E&T Parties' Discovery Responses and for Sanctions; and Opposition to*
4 *Counter-motion* is **GRANTED** by stipulation of the parties.

5 **IT IS SO ORDERED** this 15th day of October 2021.

6
7
8 

9 **Respectfully submitted by:**

10 JONES LOVELOCK

11
12 /s/ Nicole E. Lovelock, Esq.
13 NICOLE E. LOVELOCK, ESQ.
14 Nevada Bar No. 11187
15 JUSTIN C. JONES, ESQ.
16 Nevada Bar No. 8519
17 MARTA D. KURSHUMOVA, ESQ.
18 Nevada Bar No. 14728
19 6600 Amelia Earhart Ct., Suite C
20 Las Vegas, Nevada 89119

21 *Attorneys for Euphoria Wellness, LLC*

22 **Approved as to form and substance:**

23 LAW OFFICE OF MITCHELL STIPP

24 Competing Order
25 MITCHELL D. STIPP, ESQ.
26 Nevada Bar No. 7531
27 1180 N. Town Center Drive, Suite 100
28 Las Vegas, Nevada 89144

*Attorneys for E&T Ventures LLC,
Miral Consulting, LLC, Happy
Campers, LLC, and CBD Supply
Co, LLC, Joseph Kennedy, Nye
Natural Medicinal Solutions LLC,
and Valjo Inc.*

EXHIBIT “C”

EXHIBIT “C”

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

E&T VENTURES LLC,)	
)	
Plaintiff,)	CASE NO. A-19-796919-B
)	DEPT NO. XXXI
vs.)	
)	
EUPHORIA WELLNESS LLC,)	
)	
)	TRANSCRIPT OF
Defendant.)	PROCEEDINGS
)	
AND RELATED PARTIES)	

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

TUESDAY, JANUARY 4, 2022

SEE NEXT PAGE FOR MATTERS

APPEARANCES:

FOR E&T VENTURES, LLC,
CBD SUPPLY CO, LLC,
HAPPY CAMPERS, LLC,
MIRAL CONSULTING, LLC:

MITCHELL D. STIPP, ESQ.
via BlueJeans

FOR EUPHORIA WELLNESS, LLC:

NICOLE E. LOVELOCK, ESQ.
JUSTIN C. JONES, ESQ.
via BlueJeans
MARTA D. KURSHUMOVA, ESQ.
via BlueJeans

RECORDED BY: ANGELICA MICHAUX, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

M A T T E R S

Plaintiff's Opposition to Motion for Discovery Sanctions and
Counter-motion for Related Relief

Defendant Euphoria Wellness, LLC's Motion for Discovery
Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC,
Happy Campers, LLC, and CBD Supply Co, LLC

Defendant's Motion for Sanctions for Failure to Produce a
Privilege Log

Plaintiff's Opposition to Motion for Sanctions for Failure to
Produce a Privilege Log and Counter-motion for Related Relief

1 **LAS VEGAS, CLARK COUNTY, NEVADA, JANUARY 4, 2022, 10:01 A.M.**

2 * * * * *

3 THE COURT: Pages 15 and 16, 796919.

4 So counsel for -- we've got binders and
5 (indiscernible). So feel free to get yourself set up. We're
6 going to do E&T Ventures counsel and then Euphoria Wellness's
7 counsel.

8 Go ahead, E&T Ventures.

9 MR. STIPP: Good morning, Your Honor. This is
10 Mitchell Stipp appearing on behalf of E&T Ventures, Happy
11 Campers, CBD Supply and Miral Consulting.

12 THE COURT: Okay. Thank you so much for the
13 clarification in the multiparties. Do appreciate it.

14 And for Euphoria Wellness, I'll -- go ahead, Counsel.

15 MS. LOVELOCK: Good morning, Your Honor. Nicole
16 Lovelock on behalf of Euphoria Wellness.

17 THE COURT: Okay. Give us a quick second to get in
18 to this case.

19 So what we have is we've got a couple of different
20 things, and the Court is cognizant that there is -- there was
21 one -- did I take care of that?

22 I'm just making sure there was one order, and I
23 thought I took care of it. But I was just double checking that
24 there wasn't anything outstanding orders. I do not see any
25 outstanding orders in the app.

1 MR. STIPP: This is Mitchell Stipp.

2 We're happy to proceed however the Court would like.
3 We agree with the Court that it probably makes sense to decide
4 these issues as a whole, but we don't have any problem
5 deferring to Euphoria Wellness's counsel's preference this
6 morning.

7 THE COURT: Okay. So since you have a preference,
8 okay. So that means we're going to hear them one by one. So
9 although --

10 Okay. So defendant Euphoria Wellness's motion for
11 discovery sanctions against E&T Ventures, Miral Consulting,
12 Happy Campers and CBD Supply, Document 198, counsel for movant,
13 go ahead, please.

14 MS. LOVELOCK: Thank you, Your Honor. And I
15 appreciate that you're allowing us to hear it one by one. I
16 won't repeat myself as to every motion, but there are
17 accusations being made against us, and I want to make sure I
18 have the ability to respond to those in one-by-one order, and
19 that's why I'm asking them to be heard separately.

20 THE COURT: Sure. No worries.

21 MS. LOVELOCK: Your Honor, we are here on this one on
22 a motion for sanctions against all of the parties: Plaintiff
23 E&T, and then a third-party defendants, which we collectively
24 call E&T parties.

25 As this Court recalls, we originally were in front of

1 Honor. We are no longer dealing with just our discovery
2 requests.

3 When you made an order very clearly that they had to
4 do all of these tasks and produce these documents, what
5 happened? Because what we know is they produced information.
6 The public records show that they sold that house. There's
7 been communication among clients -- among counsel that we know
8 that those principals live in Tennessee, but they produced
9 information that is clearly wrong and no documents.

10 At the very least, they should be in here explaining
11 to you what they did to comply with your order.

12 THE COURT: Okay. And that's what we're going to do.

13 MS. LOVELOCK: Okay.

14 THE COURT: The Court's ruling is going to be as
15 follows. The Court is going to defer the ruling with regards
16 to the other relief requested.

17 The Court is going to grant the portion of defendant
18 Euphoria Wellness's motion for discovery sanctions against E&T
19 Ventures, Miral Consulting, Happy Campers and CBD Supply Co.
20 and order for the --

21 It's going to be a two-step process:

22 The first step in this process is going to be that
23 the portion of the relief requested to hold an evidentiary
24 hearing where there is going to need to be the specific people
25 who would be responsible for providing the information on

1 behalf of all of the entities listed -- so on behalf of E&T
2 Ventures, Miral Consulting, Happy Campers and CBD Supply --
3 providing responses to this Court how what they have provided
4 to their counsel to provide to the Court as demonstrating
5 compliance with the order.

6 Said hearing is going to be -- I'm going to give you
7 a date next week, and people can appear remotely, but they must
8 be audiovisual, or they can appear in person. It's going to be
9 you all's choice, okay. And so we're going to do said
10 evidentiary hearing.

11 I will tell you at this juncture, based on the review
12 of the supplemental responses, the Court does see the need for
13 an evidentiary hearing to determine whether or not there's
14 going to be case terminating sanctions or a default because,
15 and I gave a couple of examples.

16 I have looked at the -- well, I've looked at it all,
17 but let's go first with Miral Consulting, Happy Campers and
18 CBD Supply Company. The Court does not see that a single
19 document was actually produced. At best, there is a reference
20 in Happy Campers to a publicly available filing with regards to
21 the entity I guess being reopened, resurrected, however what
22 happened. That's the only thing I saw. I did not see a single
23 document, and I even asked. And thank you I appreciate counsel
24 we had to go through a little bit of details.

25 To the extent they were stating that there was a

1 cross-reference, there's not even a cross-reference to other
2 documents that have been previously produced or a specific
3 Bates reference to documents that may have been produced in
4 regards to 16.1. There is nothing, but, realistically,
5 boilerplate, impermissible responses and objections. And
6 that's going with the document requests with regards to
7 Miral Consulting, Happy Campers and CBD Supply.

8 With regards to E&T Ventures and their document
9 requests, supplemental responses, taking into account
10 everything -- I'm not just looking at the supplemental, I'm
11 giving everyone the benefit of the doubt, the totality of
12 everything that they provided -- the Court also finds that the
13 E&T is impermissibly nonresponsive. The Court gave an example.
14 The reason why the Court really looked at 11 is because 11 said
15 it was something to a third party, okay.

16 First off, third party is it within the custody and
17 control, under the rules, with regards to, and still needs to
18 be provided. It should have been provided because E&T in this
19 case is also a plaintiff. So E&T would have the obligation for
20 initially providing documents relevant under Rule 16
21 disclosures. But even if they felt this wasn't something that
22 they needed for their affirmative case, even if -- and they
23 feel it wasn't for something for one of their defenses in their
24 regards to the various parts of the caption in which they are
25 in a defendant, third-party defendant, et cetera, role, they

1 still needed to provide it expressly as requested in discovery
2 responses.

3 The Court even given the benefit of the supplementals
4 we were way back in October is absolutely incomprehensible to
5 this Court on how somebody with supposedly a very small company
6 can't provide basic records in a more than two month time
7 period, nor was there anything provided to this Court that was
8 any good-faith efforts to try and get that, obtain that
9 information. I'm not saying --

10 So to the extent the clients aren't providing it to
11 counsel, they're going to provide it and explain why they are
12 not complying with a Court order and risking...

13 For E&T as well, I'm going to evaluate what is going
14 to be the appropriate sanctions under -- after the evidentiary
15 hearing, which could include potentially striking their
16 complaint, striking some of their defenses in their defendant's
17 role, monetary sanctions, a whole bunch of other relief.

18 I'm going to have to evaluate it, and I'm not going
19 to evaluate it until I hear what everybody is going to provide
20 this Court at the evidentiary hearing, but I'm trying to make
21 it clear to everyone about the breadth and depth that is
22 appropriate.

23 Okay. So then we look at the interrogatory
24 responses. The interrogatory responses do not provide any
25 (indiscernible) any of the -- let's start first with the

1 third-party defendant onlys, and then I'm going to E&T
2 Ventures, so from Miral Consulting, Happy Campers and
3 CBD Supply. I'm not seeing anything in their interrogatory
4 responses that complies with the rules.

5 And let's be clear. And we also have to look at,
6 remember, what NRCP 33, the responding party. If that party is
7 a public or private corporation, a partnership, an association,
8 a governmental agency or other entity by any officer or agent
9 who must -- it's mandatory -- must furnish the information
10 available to that party.

11 So that means to the extent we have Ms. Taracki --
12 I'm probably mispronouncing her name -- did verifications of
13 interrogatories, she is stating that she is an officer or agent
14 who has the information available to her and can provide said
15 information, and she is responsible for doing so. So she put
16 her name on the document. She's responsible for doing that.
17 These are noncompliant.

18 I look at the interrogatory responses and the
19 interrogatory responses, realistically, having -- I'm going to
20 has to ask at the evidentiary hearing if at the time the
21 verification was done she was physically living and owned said
22 residence in Henderson or not. That's the way to find out the
23 answer, folks. But I'll tell you it's very concerning if she
24 did not, how she could possibly verify interrogatories.

25 When I look at the rest of the interrogatories in the

1 totality, like I said, first looking at the parties and the
2 third-party defendant role with regards to everyone other than
3 E&T, I do not find that those supplemental responses are really
4 supplemental responses. They're not providing any new
5 information, not providing any information. They're really
6 just boilerplate objections, and we can't find anything.

7 So the Court is going to, at the evidentiary hearing,
8 if there's nothing that they could find to be provided, I will
9 tell you one of the potential options is they have absolutely
10 no documents in which to support -- I don't see how they can go
11 to trial with no defenses and no documents and no witnesses
12 because if they have nothing, then that would be an interesting
13 concept.

14 MR. STIPP: Your Honor --

15 THE COURT: That's not an advance ruling by the
16 Court. The Court has to hear from an evidentiary hearing, but
17 there's no document, no information, and there's nothing that's
18 available. Just saying discovery is ongoing is not an
19 acceptable response, particularly when there's a specific court
20 order to provide supplemental information.

21 Going to E&T Ventures and their interrogatory
22 responses. They are deficient in many of the similar ways.
23 And since E&T is really the one that I was focusing on with
24 regards to the address, we'll have to find that out at the
25 evidentiary hearing, and I'm going to ask for the

1 establishment -- I mean, really it's going to be a matter of
2 public record of who owned the house at that particular time,
3 where people are living, but we'll ask.

4 And she's going to need to, since she verified the
5 interrogatories, need to actually be at this evidentiary
6 hearing. It's going to -- that one, whoever else you care to
7 bring, the evidentiary hearing is going to be fine on behalf of
8 plaintiff's third-party defendants, but I definitely want the
9 person who verified the interrogatories there because that is
10 going to have to have the specific information this Court is
11 going to ask about the efforts that were done before verifying
12 each of those interrogatories.

13 There's specific obligations under the Nevada Rules
14 of Civil Procedure. And at least by reviewing them it does not
15 appear that they were complied with, but I want to hear what
16 information, et cetera, is going to be provided at the
17 evidentiary hearing and have some understanding, better
18 understanding, excuse me, if there's maybe something the Court
19 is missing after reviewing the totality of everybody's
20 pleadings, everybody's appendices, all the responses, all the
21 supplemental responses.

22 So for purposes of the ruling, the ruling is such
23 that, as I stated, it is granted in part today for the relief
24 requested of an evidentiary hearing. After the evidentiary
25 hearing, the Court is going to determine what, if any, no

1 predetermination that there will be sanctions, but so the Court
2 is going to determine what appropriate -- what sanctions, if
3 any, up to and including striking complaints, striking answers,
4 striking some affirmative defenses, monetary sanctions, the
5 whole plethora of things will be evaluated if appropriate based
6 on the evidence presented at the evidentiary hearing.

7 The date of said evidentiary hearing is going to be
8 told to you in a few moments because let's get through a couple
9 of the other things before we go there. So let's go through
10 some more of your motions.

11 Now, let's go to the next motion because we'll have
12 to see how long we're going to need for that.

13 And I'm going to have Tracy evaluate some potential
14 dates while I'm continuing on with the motions, okay.

15 So the next motion is plaintiff E&T Ventures
16 countermotion for related relief, Document 212.

17 Counsel, in your role as counterclaimant, your
18 motion, go ahead, please, sir.

19 MS. LOVELOCK: Your Honor, if I may? I apologize.

20 THE COURT: We're going to wait until the end if
21 there's any clarifications on anything. Okay. So.

22 MS. LOVELOCK: This actually has to do with the
23 countermotion. In our reply, Your Honor, we make an argument
24 advancing that it should be stricken because there was no legal
25 authority --

1 THE COURT: The Court did not -- that was not brought
2 up in anybody's oral argument --

3 MS. LOVELOCK: Okay.

4 THE COURT: -- so that that was being requested. The
5 Court did not make that determination.

6 MS. LOVELOCK: Understood, Your Honor.

7 THE COURT: Okay. The Court said the one person that
8 is ordered.

9 Thank you so very much.

10 MR. STIPP: Thank you, Your Honor.

11 THE COURT: Appreciate it. Wish you all a great rest
12 of your day. We look forward to seeing your letter on Friday
13 and if not, like I said, we will pick dates that we need to
14 pick. Appreciate it. Thanks everyone for their time, and I'm
15 sure you all appreciate my wonderful team. It's 12:40. It's
16 not fair to them.

17 MS. LOVELOCK: Absolutely. Thank you --

18 MR. STIPP: Thank you.

19 THE COURT: You all have had more than --

20 MR. STIPP: Thank you, staff. We appreciate
21 everything you did.

22 / / /

23 / / /

24 / / /

25 / / /

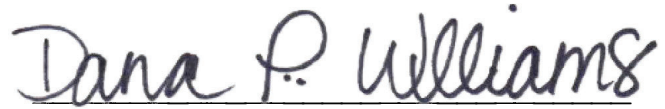
1 THE COURT: More than 2 hours and 40 minutes. You
2 had more than enough time to flush out everything on all these
3 issues. Thank you so much.

4 At this juncture we go off the record. Take care.

5 (Proceedings concluded at 12:44 p.m.)

6 -oOo-

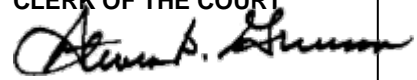
7 ATTEST: I do hereby certify that I have truly and correctly
8 transcribed the audio/video proceedings in the above-entitled
9 case to the best of my ability.

10 
11

12 Dana L. Williams
13 Transcriber
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EXHIBIT “D”

EXHIBIT “D”



1 **NEO**

2 Nicole E. Lovelock, Esq.

3 Nevada State Bar No. 11187

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16 *Attorneys for Euphoria Wellness, LLC*

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

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

21 Plaintiff,

22 v.

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

27 Defendants.

28 EUPHORIA WELLNESS, LLC, a Nevada
limited liability company,

Counterclaimant,

v.

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

Counter-Defendant.

CASE NO.: A-19-796919-B

DEPT. NO.: XXXI

**NOTICE OF ENTRY OF ORDER (1)
GRANTING IN PART MOTION FOR
DISCOVERY SANCTIONS AGAINST
E&T VENTURES, LLC, MIRAL
CONSULTING, LLC, HAPPY CAMPERS,
LLC, AND CBD SUPPLY CO, LLC;**

**(2) DENYING COUNTERMOTION FOR
RELATED RELIEF;**

**(3) GRANTING MOTION TO SEAL
EXHIBITS TO THE REPLY IN SUPPORT
OF EUPHORIA WELLNESS, LLC'S
MOTION FOR DISCOVERY SANCTIONS
AGAINST E&T VENTURES, LLC,
MIRAL CONSULTING, LLC, HAPPY
CAMPERS, LLC, AND CBD SUPPLY CO,
LLC AND OPPOSITION TO
COUNTERMOTION FOR RELATED
RELIEF;**

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.

**(4) DENYING WITHOUT PREJUDICE
MOTION FOR SANCTIONS FOR
FAILURE TO PRODUCE A PRIVILEGE
LOG;**

**(5) DENYING WITHOUT PREJUDICE
COUNTERMOTION FOR SANCTIONS**

PLEASE TAKE NOTICE that an *Order (1) Granting In Part Motion for Discovery
Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD
Supply Co, LLC; (2) Denying Countermotion for Related Relief; (3) Granting Motion to Seal
Exhibits to the Reply in Support of Euphoria Wellness, LLC's Motion for Discovery Sanctions
Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co,
LLC and Opposition to Countermotion for Related Relief; (4) Denying Without Prejudice Motion
for Sanctions for Failure To Produce a Privilege Log; (5) Denying Without Prejudice
Countermotion for Sanctions* was filed on January 25, 2022, a true and correct copy of which is
attached hereto.

DATED this 25th day of January 2022.

JONES LOVELOCK

/s/ Nicole E. Lovelock, Esq.

Nicole E. Lovelock, Esq.

Nevada Bar No. 11187 Justin C. Jones, Esq.

Nevada State Bar No. 8519

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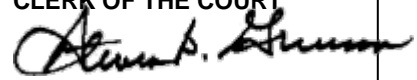
Attorneys for Euphoria Wellness

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on the 25th day of January 2022, a true and correct copy
3 of the foregoing **NOTICE OF ENTRY OF ORDER (1) GRANTING IN PART MOTION FOR**
4 **DISCOVERY SANCTIONS AGAINST E&T VENTURES, LLC, MIRAL CONSULTING,**
5 **LLC, HAPPY CAMPERS, LLC, AND CBD SUPPLY CO, LLC; (2) DENYING**
6 **COUNTERMOTION FOR RELATED RELIEF; (3) GRANTING MOTION TO SEAL**
7 **EXHIBITS TO THE REPLY IN SUPPORT OF EUPHORIA WELLNESS, LLC'S MOTION**
8 **FOR DISCOVERY SANCTIONS AGAINST E&T VENTURES, LLC, MIRAL**
9 **CONSULTING, LLC, HAPPY CAMPERS, LLC, AND CBD SUPPLY CO, LLC AND**
10 **OPPOSITION TO COUNTERMOTION FOR RELATED RELIEF; (4) DENYING**
11 **WITHOUT PREJUDICE MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE A**
12 **PRIVILEGE LOG; (5) DENYING WITHOUT PREJUDICE COUNTERMOTION FOR**
13 **SANCTIONS** was served by electronically submitting with the Clerk of the Court using the
14 electronic system and serving all parties with an email-address on record.

15
16 By /s/ Julie Linton
17 An Employee of JONES LOVELOCK
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28

JONES LOVELOCK
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Attorneys for Euphoria Wellness, LLC

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;

Defendants.

EUPHORIA WELLNESS, LLC, a Nevada limited liability company,

Counterclaimant,

v.

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

Counter-Defendant.

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

**ORDER (1) GRANTING IN PART
MOTION FOR DISCOVERY SANCTIONS
AGAINST E&T VENTURES, LLC,
MIRAL CONSULTING, LLC, HAPPY
CAMPER, LLC, AND CBD SUPPLY CO,
LLC;**

**(2) DENYING COUNTERMOTION FOR
RELATED RELIEF;**

**(3) GRANTING MOTION TO SEAL
EXHIBITS TO THE REPLY IN SUPPORT
OF EUPHORIA WELLNESS, LLC'S
MOTION FOR DISCOVERY SANCTIONS
AGAINST E&T VENTURES, LLC,
MIRAL CONSULTING, LLC, HAPPY
CAMPER, LLC, AND CBD SUPPLY CO,
LLC AND OPPOSITION TO
COUNTERMOTION FOR RELATED
RELIEF;**

1 EUPHORIA WELLNESS, LLC, a Nevada
2 limited liability company,

3 Third- Party Plaintiff,

4 v.

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

11 Third-Party Defendants.

**(4) DENYING WITHOUT PREJUDICE
MOTION FOR SANCTIONS FOR
FAILURE TO PRODUCE A PRIVILEGE
LOG;**

**(5) DENYING WITHOUT PREJUDICE
COUNTERMOTION FOR SANCTIONS**

12 On January 4, 2022 the following motions came before the Court for oral hearing with Nicole
13 Lovelock, Esq. of Jones Lovelock appearing on behalf of Euphoria Wellness, LLC (“Euphoria”) and
14 Mitchell Stipp, Esq. of Law Offices of Mitchell Stipp appearing on behalf of E&T Ventures LLC,
15 Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC (collectively, “E&T
16 Parties”):

17 1. *Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC,*
18 *Happy Campers, LLC, and CBD Supply Co, LLC* filed by Euphoria;

19 2. *Opposition to Motion for Discovery Sanctions and Countermotion for Related Relief*
20 *filed by the E&T Parties;*

21 3. *Motion to Seal Exhibits to the Reply in Support of Euphoria Wellness, LLC’s Motion*
22 *for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC,*
23 *and CBD Supply Co, LLC and Opposition to Countermotion for Related Relief* filed by Euphoria;

24 4. *Motion for Sanctions for Failure to Produce a Privilege Log* filed by Euphoria;

25 5. *Opposition to Motion for Sanctions for Failure to Produce a Privilege Log and*
26 *Countermotion for Sanctions* filed by the E&T Parties.

27 / / /

1 The Court having considered oral arguments, the filings, the evidence presented therein, and
2 good cause appearing, hereby finds and orders as follows:

3 **IT IS HEREBY ORDERED** that the *Motion for Discovery Sanctions Against E&T*
4 *Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC* is
5 **GRANTED IN PART**.

6 **IT IS HEREBY ORDERED** that the parties shall appear at an evidentiary hearing on
7 Euphoria's *Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC,*
8 *Happy Campers, LLC, and CBD Supply Co, LLC* on a date to be determined by the Court. The Court
9 defers all other rulings on the Motion until the evidentiary hearing takes place.

10 **IT IS FURTHER ORDERED** that the evidentiary hearing shall take place on February 8,
11 2022 at 8:30 a.m.

12 **IT IS FURTHER ORDERED** that Kristin Taracki (formerly Kristin Ehasz) appear and
13 testify at the evidentiary hearing as the authorized agent who verified E&T Ventures, LLC, Happy
14 Campers, LLC, and CBD Supply Co, LLC' First Supplemental Responses and Objections to
15 Requests for the Production of Documents and Interrogatories served on October 25, 2021.

16 **IT IS FURTHER ORDERED** that the *Countermotion for Related Relief* to Euphoria's
17 *Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy*
18 *Campers, LLC, and CBD Supply Co, LLC* is **DENIED** on a procedural basis because the
19 Countermotion is not proper under EDCR 2.20 and on a substantive basis because the Court granted
20 Euphoria's *Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC,*
21 *Happy Campers, LLC, and CBD Supply Co, LLC* in part.

22 **IT IS FURTHER ORDERED** that the *Motion to Seal Exhibits to the Reply in Support of*
23 *Euphoria Wellness, LLC's Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral*
24 *Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC and Opposition to Countermotion*
25 *for Related Relief* is **GRANTED** and Exhibit O and Exhibit P to the *Reply in Support of Euphoria*
26 *Wellness, LLC's Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting,*
27 *LLC, Happy Campers, LLC, and CBD Supply Co, LLC and Opposition to Countermotion for Related*
28

1 *Relief* be sealed.

2 **IT IS FURTHER ORDERED** that the *Motion for Sanctions for Failure to Produce a*
3 *Privilege Log* is **DENIED WITHOUT PREJUDICE** on the basis of Mitchell Stipp, Esq.'s express
4 representation to the Court that: (1) the E&T Parties did not intend to assert any attorney-client or
5 attorney work-product doctrine to any responses in their First Supplemental Responses and
6 Objections to Requests for the Production of Documents and Interrogatories, served on October 25,
7 2021; (2) the E&T Parties did not withhold any documents or information in their First Supplemental
8 Responses and Objections to Requests for the Production of Documents and Interrogatories, served
9 on October 25, 2021; and (3) the E&T Parties' supplemental responses in their respective First
10 Supplemental Responses and Objections to Requests for the Production of Documents and
11 Interrogatories, served on October 25, 2021, are intended to replace any previous responses.

12 **IT IS FURTHER ORDERED** that the E&T Parties shall confirm in writing Mitchell Stipp,
13 Esq.'s express representations to the Court that: (1) the E&T Parties did not intend to assert any
14 attorney-client or attorney work-product doctrine to any responses in their First Supplemental
15 Responses and Objections to Requests for the Production of Documents and Interrogatories, served
16 on October 25, 2021; (2) the E&T Parties did not withhold any documents or information in their
17 First Supplemental Responses and Objections to Requests for the Production of Documents and
18 Interrogatories, served on October 25, 2021;, and (3) the E&T Parties' supplemental responses in
19 their respective First Supplemental Responses and Objections to Requests for the Production of
20 Documents and Interrogatories, served on October 25, 2021, are intended to replace any previous
21 responses.

22 **IT IS FURTHER ORDERED** that the confirmation shall be made on or before January
23 31, 2022 at 5:00 p.m.

24 **IT IS FURTHER ORDERED** that the *Countermotion for Sanctions* to Euphoria's *Motion*
25 *for Sanctions for Failure to Produce a Privilege Log* is **DENIED WITHOUT PREJUDICE**.

26 **IT IS FURTHER ORDERED** that Euphoria shall supplement its Third Amended Privilege
27 Log. The Court defers its decision on the request for sanctions in the *Countermotion for Sanctions*
28

1 to Euphoria's *Motion for Sanctions for Failure to Produce a Privilege Log* until Euphoria's
2 supplements its Third Amended Privilege Log.

3 **IT IS FURTHER ORDERED** that the supplementation shall be made on or before ~~January~~ February
4 2, 2022 at 5:00 p.m..

5 **IT IS SO ORDERED** this 25 day of January 2022.

6
7
8 

9 **Respectfully submitted by:**

10 JONES LOVELOCK

11
12 /s/ Nicole E. Lovelock, Esq.
13 NICOLE E. LOVELOCK, ESQ.
14 Nevada Bar No. 11187
15 JUSTIN C. JONES, ESQ.
16 Nevada Bar No. 8519
17 GEORLEN K. SPANGLER, ESQ.
18 Nevada Bar No. 3818
19 6600 Amelia Earhart Ct., Suite C
20 Las Vegas, Nevada 89119

21 *Attorneys for Euphoria Wellness, LLC*

22 **Approved as to form and substance:**

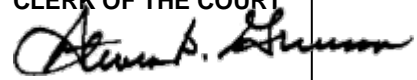
23 LAW OFFICE OF MITCHELL STIPP

24 Objection
25 MITCHELL D. STIPP, ESQ.
26 Nevada Bar No. 7531
27 1180 N. Town Center Drive, Suite 100
28 Las Vegas, Nevada 89144

*Attorneys for E&T Ventures LLC,
Miral Consulting, LLC, Happy
Campers, LLC, and CBD Supply Co,
LLC, Joseph Kennedy, Nye Natural
Medicinal Solutions LLC, and Valjo
Inc.*

EXHIBIT “E”

EXHIBIT “E”



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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

**ERRATA 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 errata.

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.

The reference to the Exhibit in Paragraph 8 on Page 4 of the Application is Exhibit C. For additional clarification, see Attachment A hereto.

///

///

///

1 DATED this 2nd day of February, 2022.

2 **LAW OFFICE OF MITCHELL STIPP**

3 /s/ Mitchell Stipp

4 _____
5 MITCHELL STIPP, ESQ.

6 Nevada Bar No. 7531

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8 Las Vegas, Nevada 89144

9 Telephone: 702.602.1242

10 mstipp@stipplaw.com

11 *Attorneys for E&T Ventures, LLC*

Attachment A

11) and Reply in Support of Euphoria Wellness, LLC's Motion for Discovery Sanctions and Opposition to Countermotion (electronically filed on December 15, 2021 at 4:42 pm) (page 3, lines 16-22). Further, counsel for E&T advised Judge Kishner at the hearing on January 4, 2022 that he could not agree to produce Ms. Taracki at the evidentiary hearing. In response, Judge Kishner responded angrily as follows:

THE COURT: *Oh. Counsel. Counsel. You're being ordered to. Let me be clear. Kristin Taracki is being ordered. She needs to appear at the evidentiary hearing. That is a Court order, okay.*

Because she signed -- she signed interrogatory responses. I need to hear from her. Anybody else you wish to provide is going to be your option, *but she is ordered by the Court to be present at the evidentiary hearing. Okay.*

See January 4, 2022 Hearing Transcript, page 124-125 (emphasis added).

8. E&T explained again to Judge Kishner in its opposition to the motion for instructions and countermotion (electronically filed in the district court on January 14, 2022 at 2:48 pm) the circumstances under which Ms. Taracki signed her declaration and Mr. Kennedy's acquisition of her interests in E&T. Id. at 3 (FN 3). A copy of the filing is attached hereto as E-.

9. The term "impartial" is defined in Part VI of the Nevada Code of Judicial Conduct and "means the absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 2, and 4, and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2."

10. Rule 2.11 of Nevada Code of Judicial Conduct requires disqualification "whenever the judge's impartiality *might be reasonably questioned*, regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) [of Rule 2.11] apply." See Comment 1, to Rule 2.11 of Nevada Code of Judicial Conduct.