

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
Jun 10 2022 04:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.: 84336

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

**APPENDIX IN SUPPORT OF REAL PARTY IN INTEREST
EUPHORIA WELLNESS, LLC'S ANSWERING BRIEF
(VOL. I)**

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APPENDIX

| DOCUMENT DESCRIPTION | DATE | VOL. | PAGE NOS. |
|---|------------|------|-----------------|
| Errata to Application of E&T Ventures LLC to Disqualify Judge Joanna Kishner and Affidavit Pursuant to NRS 1.235 | 02/02/2022 | I | RA 199 - RA 202 |
| Motion for Discovery Sanctions Against E&T Ventures, LLC, Miral Consulting, LLC, Happy Campers, LLC, and CBD Supply Co, LLC | 11/24/2021 | I | RA 18 - RA 45 |
| 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 | 10/18/2021 | I | RA 1 - RA 17 |
| 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 DBD 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 | 01/25/2022 | I | RA 191 - RA 198 |
| Notice of Entry of Order Regarding Euphoria Wellness, LLC's Motion for Discovery Sanctions After Conducting Evidentiary Hearing | 06/08/2022 | II | RA 257 - RA 278 |
| Order Denying Petition for Writ of Mandamus or Prohibition | 02/10/2022 | I | RA 203 - RA 204 |

| | | | |
|---|------------|----|--------------------|
| Transcript of Proceedings from Evidentiary Hearing | 02/11/2022 | II | RA 205 - RA 256 |
| Transcript of Proceedings from Motion for Sanctions Hearing | 01/04/2022 | I | RA 46 - RA 190 |

Dated: June 10, 2022.

JONES LOVELOCK

/s/ Nicole E. Lovelock, Esq.

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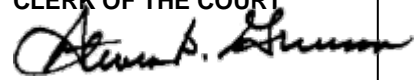
*Attorneys for Real Party In Interest Euphoria
Wellness, LLC*

CERTIFICATE OF SERVICE

This is to certify that on June 10, 2022, a true and correct copy of the foregoing **APPENDIX IN SUPPORT OF REAL PARTY IN INTEREST EUPHORIA WELLNESS, LLC'S ANSWERING BRIEF** was served on the following by the Supreme Court Electronic Filing System:

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By /s/ Julie Linton
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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)
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**

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

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.
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22 ///

23 ///

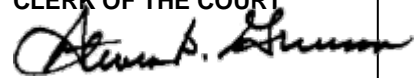
24 ///

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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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

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

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

8. On April 6, 2021, Mr. Stipp and Justin C. Jones, Esq. had a telephonic conference during which Mr. Jones agreed to move the depositions to April 16, 2021, and Mr. Stipp agreed to give Euphoria a one-day extension to file an opposition to E&T's Motion for Summary Judgment.

9. On April 16, 2021, Euphoria took the depositions of Nye Natural and Valjo.

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

11. On April 16, 2021, at the depositions for the persons most knowledgeable for Nye Natural and Valjo, Ms. Lovelock personally served Mr. Kennedy in his individual capacity with a Third Amended Subpoena (“Third Amended Subpoena”) scheduling the deposition for May 4, 2021 at 9:00 a.m. Ms. Lovelock did not tender a witness fee with the Third Amended Subpoena.

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

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

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

Conclusions of Law and Order Thereon

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

16. NRCp 26(c) provides the standard for protective orders, which states as follows: “A party or any person from whom discovery is sought may move for a protective order . . . The 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.

28

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.

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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 *Countermotion* is **GRANTED** by stipulation of the parties.

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

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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.
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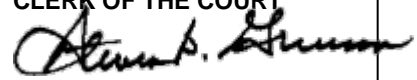
21 *Attorneys for Euphoria Wellness, LLC*

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
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Campers, LLC, and CBD Supply
Co, LLC, Joseph Kennedy, Nye
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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.

EUPHORIA WELLNESS, LLC, a Nevada
limited liability company,

Third- Party Plaintiff,

v.

MIRAL CONSULTING, LLC, a Nevada

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

(HEARING REQUESTED)

**MOTION FOR DISCOVERY SANCTIONS
AGAINST E&T VENTURES, LLC,
MIRAL CONSULTING, LLC, HAPPY
CAMPERS, LLC, AND CBD SUPPLY CO,
LLC**

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

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.

Defendant/Counterclaimant/Third-Party Plaintiff Euphoria Wellness, LLC (“Euphoria” or “Defendant”), by and through its attorneys of record, the law firm of Jones Lovelock, hereby submits this Motion for Discovery Sanctions (the “Motion”) against E&T Ventures, LLC (“E&T”), Miral Consulting, LLC (“Miral”), Happy Campers, LLC (“Happy Campers”)(collectively “E&T Parties”).¹

This Motion is made and based on the below Memorandum of Points and Authorities, the Declaration of Marta D. Kurshumova, Esq. (“Kurshumova Declaration”) attached to the Appendix as **Exhibit A**, the exhibits attached hereto, the papers and pleading on file herein, and any oral argument this Court may allow.

DATED this 24th day of November 2021.

JONES LOVELOCK

By: /s/ Justin C. Jones

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Attorneys for Euphoria Wellness, LLC

¹ On November 23, 2021, Euphoria submitted to Chambers an Omnibus Motion for Discovery Sanctions seeking an order shortening time for hearing the Omnibus Motion. The Omnibus Motion addressed two separate discovery issues, including the E&T Parties’ failure to comply with this Court’s August 6, 2021 Order and E&T Parties’ failure to produce a privilege log in this matter. Based upon the Court’s response that there is “no support for an omnibus motion,” Euphoria has separated out the two concerns into two separate motions for the Court’s consideration. Due to the impending Thanksgiving holiday, Euphoria will separately submit a request for hearing this Motion on shortened time.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

“Orders are not suggestions or recommendations, they are directives with which compliance is mandatory.”² Here, the E&T Parties³ have disregarded that mandate by knowingly and willfully violating this Court’s Order⁴ compelling them to supplement their responses to Euphoria’s First Set of Interrogatories (“Interrogatories”) and First Set of Requests for Production of Documents (“Requests for Production”) (collectively, “Discovery Requests”). Despite this Court’s admonishment and despite Euphoria’s attempts to communicate and confer, the E&T Parties have failed to provide truthful or substantive supplemental responses to discovery requests, failed to turn over documents, and failed to cooperate in the discovery process. Not only does the E&T Parties’ violation of the Court’s Order warrant immediate sanctions, but so does the E&T Parties’ overall continuous disregard for their discovery obligations.

Accordingly, and as further detailed below, dispositive sanctions against the E&T Parties are proper pursuant to NRCP 37, EDCR 7.60, and/or the Court’s inherent authority. More specifically, Euphoria respectfully requests that the E&T Parties’ pleadings be stricken in their entirety pursuant to NRCP 37(b)(1)(C). Alternatively, should the Court not be inclined to award dispositive sanctions at this time, Euphoria seeks an evidentiary hearing be set and the E&T Parties be ordered to appear in person at the evidentiary hearing to, *inter alia*, show cause why dispositive sanctions should not issue and/or the E&T Parties should not be held in contempt of court for violations of the Court’s orders and be subject to sanction under NRCP 37. An evidentiary hearing would provide the E&T Parties one final opportunity to explain their willful violations, the failure of which would confirm that dispositive sanctions are appropriate and warranted.

² *Lewis v. Caesars Entm’t Corp.*, No. 216CV02787JADNJK, 2019 WL 1571281, at *4 (D. Nev. Apr. 11, 2019) (citing *Chapman v. Pacific Tel. & Tel. Co.*, 613 F.2d 193, 197 (9th Cir. 1979); *Weddell v. Stewart*, 261 P.3d 1080, 1085 & n.9 (Nev. 2011)).

³ E&T Ventures, LLC (“E&T”), Miral Consulting, LLC (“Miral Consulting”), Happy Campers, LLC (“Happy Campers”), and CBD Supply Co, LLC (“CBD Supply”) (collectively “E&T Parties”).

⁴ **Exhibit B** to the Appendix is a copy of the 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 Entered on October 18, 2021.

1 Euphoria further requests that the Court find that each of the E&T Parties' principals, namely
2 Alexander Taracki ("Alex"), Kristin Taracki ("Kristin"), Miroslav Taracki ("Miro"), and Joseph
3 Kennedy ("Kennedy"), are deemed alter-egos of the respective named party. The E&T Parties'
4 current actions have confirmed that their principals are alter-egos of those entities. Indeed, either:
5 (i) the responses are accurate and none of the E&T Parties adhered to corporate formalities; or, (ii)
6 the E&T Parties failed to adhere to a Court order to provide such information to Euphoria. Under
7 either scenario, the Court should find that the E&T Parties and their respective principals are alter-
8 egos and that these parties flagrantly disobeyed a direct order of the Court, which warrants severe
9 sanctions, and also give Euphoria an opportunity to amend its Answer, Crossclaims and
10 Counterclaims to name the additional individuals as parties.

11 Because of the difficulty in locating Kristin and Alex for the purpose of service of process
12 and subpoena to attend and testify at depositions, Euphoria respectfully requests this Court allow
13 Euphoria to serve Alex and Kristin with subpoenas to appear at a deposition by service upon the Law
14 Office of Mitchell Stipp. Finally, Euphoria requests that the E&T Parties be ordered to pay
15 Euphoria's reasonable expenses, including attorney's fees, incurred in connection with bringing the
16 instant Motion and efforts to obtain the outstanding discovery at issue.

17 **II. THE E&T PARTIES DISOBEYED A DIRECT ORDER FROM THIS COURT.**

18 The E&T Parties' court-ordered First Supplemental Responses and Objections to Requests
19 for the Production of Documents and Interrogatories⁵ ("E&T Parties' Court Ordered Discovery
20 Responses") were wholly insufficient and have prejudiced Euphoria in its ability to obtain discovery
21 and litigate this case on the merits. Prior to Euphoria's Motion to Compel Responses to Discovery
22 Requests and for Sanctions ("Motion to Compel"), E&T's counsel, Mitchell Stipp, Esq. ("Mr.

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25 ⁵ **Exhibit C** to the Appendix is a copy of E&T's First Supplemental Responses and Objections to Requests for the
26 Production of Documents and Interrogatories, electronically served on October 25, 2021; **Exhibit D** to the Appendix is
27 a copy of Miral Consulting's First Supplemental Responses and Objections to Requests for the Production of Documents
28 and Interrogatories, electronically served on October 25, 2021; **Exhibit E** to the Appendix is a copy of Happy Campers'
First Supplemental Responses and Objections to Requests for the Production of Documents and Interrogatories,
electronically served on October 25, 2021; **Exhibit F** to the Appendix is a copy of CBD Supply's First Supplemental
Responses and Objections to Requests for the Production of Documents and Interrogatories, electronically served on
October 25, 2021.

Stipp”), represented that he had boxes of documents belonging to E&T.⁶ Yet, E&T produced only 111 pages, all of which had been previously disclosed, and the Third-Party Defendants produced *no* documents. This willfully inadequate document production and the E&T Parties’ insufficient responses to Euphoria’s Discovery Requests forced Euphoria to file the Motion to Compel. Even after this Court’s direct order, the E&T Parties refuse to disclose relevant information by providing evasive responses and disclosing only ninety-six (96) new pages of self-serving documents.

A. This Court Ordered The E&T Parties to Produce Documents in Response to Euphoria’s Requests for Production.

The Court’s Order required that the E&T Parties fully respond to each discovery request set forth in the Motion to Compel within twenty (21) days of the notice of entry of the Order.⁷ At a subsequent hearing on Euphoria’s Motion to Extend Discovery Deadlines, Mr. Stipp represented to the Court that the production would be made on or about October 25, 2021. What Mr. Stipp did not disclose to the Court was that the production would consist of only a few newly-disclosed documents. Based on Mr. Stipp’s representation that a substantial production would be forthcoming, the Court made a ruling as to the expert deadline.

There can be no dispute that the E&T Parties wholly failed to produce responsive documents and have disobeyed a direct order from the Court. Below is a chart that summarizes the deficient responses to each category:

| CATEGORY OF DOCUMENTS | E&T | Miral Consulting, CBD Supply, and Happy Campers |
|--|--|---|
| Category 1: The E&T Parties’ ownership, operations, and financial documents | Produced some new documents within the newly disclosed 96 pages. | Produced nothing. |
| Category 2: The Department of Taxation’s investigations, audits, and complaints | Produced nothing. | Produced nothing. |
| Category 3: The E&T Parties’ documents and | Produced some new documents within the newly disclosed 96 pages. | Produced nothing. |

⁶ Exhibit G to the Appendix is a true and correct copy of the e-mail communication from Mr. Stipp to Ms. Kurshumova on March 24, 2021.

⁷ Ex. B, Order.

| | | |
|---|--|-------------------|
| information relating to Euphoria | | |
| Category 4: The E&T Parties' documents and information relating to the equipment | Produced some new documents within the newly disclosed 96 pages. | Produced nothing. |
| Category 5: E&T's documents and information relating to product test results and the variances | Produced nothing. | Produced nothing. |
| Category 6: E&T's documents and information relating to third parties | Produced some new documents within the newly disclosed 96 pages. | Produced nothing. |
| Category 7: The Third-Party Defendants' documents and information relating to the parties in this litigation | Produced a single email. | Produced nothing. |
| Requests related to Exhibit 1 and Kristin Ehasz's Declaration | Produced some new documents within the newly disclosed 96 pages. | Produced nothing. |

The lack of any documentation about the most basic aspects of a business, such as organizational and financial documents, let alone documents relating to a major investigation by the State of Nevada, defies belief. Specifically, E&T expects Euphoria and the Court to believe the following:

- A company that obtained licenses to work in the highly regulated marijuana field and had numerous paid employees has no paper or electronic trail. According to E&T, it has no corporate documents, no tax documents, no tax returns, no QuickBooks records, no financial books or records (but by some means possesses a self-serving profit and loss statement), **nothing except the limited material that E&T deemed helpful to itself in the litigation.**
- A company that was issued a notice of default under a contract and was asked to explain the subject of the default had no documents related to the asserted default or its response to the notice of default. According to E&T, it has no internal emails, no correspondence with its employees or principals, **nothing except the limited material that E&T deemed may be helpful to itself in the litigation.**
- A company that was accused by its employee of tampering with test results, subjecting the company to investigation by the Department of Taxation had no documents related to the complaint or the investigation. According to E&T, it has no internal emails, no correspondence with its employees or principals, **E&T deemed may be helpful to itself in the litigation.**

This is just a sample of the absurdity of E&T's position that no responsive documents exist to the thirty-three (33) document requests propounded by Euphoria and to which E&T Parties were ordered

1 to respond. The E&T Parties' Court Ordered Discovery Responses are untruthful on their face.⁸
2 E&T chose to disobey a Court order and only produce 96 pages of documents that it believed would
3 help its case.

4 Miral Consulting, CBD Supply, and Happy Campers took a similar approach and have chosen
5 to produce no documents in this litigation even after this Court ordered them to do so. There is
6 evidence to prove that each of these companies operated—meaning there should be some emails,
7 correspondence, and financials. For instance, in a declaration to support a preliminary injunction,
8 E&T produced invoices for equipment related to Miral Consulting, CBD Supply, and Happy
9 Campers.⁹ Kennedy further testified as Valjo Inc.'s designated witness, under oath, that Valjo, Inc.
10 gave \$300,000 to Happy Campers on behalf of Kristin Ehasz and Alexander Taracki.¹⁰ Moreover,
11 Miral Consulting had an email address with the domain miralconsulting.com, which its principals
12 used in their communication with Euphoria, thus demonstrating that emails relevant to this litigation
13 do exist.¹¹ Yet, now, these parties claim that there are no communications, financial information, or
14 records for any of those entities. Very simply, these representations are untruthful and the E&T
15 Parties' decision to misrepresent facts and not produce documents is sanctionable.

16 **B. The E&T Parties Knowingly and Intentionally Verified Incorrect Information.**

17 The majority of the E&T Parties' Court Ordered Discovery Responses to Interrogatories are
18 evasive, but more importantly, they are also inconsistent with the record and the E&T Parties should
19 not be allowed to benefit from such deliberately disingenuous responses. Here are just a few
20 _____

21 ⁸ The list of untruthful statements is so numerous that it is overwhelming to go over each and every misstatement. For
22 instance, E&T provides there are no documents related to ACC Enterprises LLC ("ACC"). *See* Ex. C, E&T's Court
23 Ordered Response to RFP No. 24. E&T also claims to have no relationship with ACC Enterprises. *See Id.*, Response to
24 Interrogatory No. 16. Yet, ACC has filed suit against Euphoria based upon the actions of E&T and in doing so has
25 produced emails and invoices between E&T and ACC Enterprises, LLC. *See generally ACC Enterprises LLC v.*
Euphoria Wellness, LLC, Case No. CV 20-0402. In essence, E&T claims to have no records of an entity with which
26 E&T used to do business and which provided E&T a highly regulated raw material.

27 ⁹ The Ehasz Declaration was included in the Appendix in Support of Supplemental Motion for Preliminary Injunction
28 on Order Shortening time that was filed on July 9, 2019.

¹⁰ Valjo Transcript at 41:12-25, 42:1-11. **Exhibit H** to the Appendix is a copy of the Transcript of Deposition of Valjo,
Inc., which took place on April 16, 2021. Mr. Kennedy also testified to the same at his November 19, 2021 deposition,
though the transcript is not yet available.

¹¹ Ex. A, Kurshumova Decl. Specifically, while E&T was managing and operating the production facility and when
communicating with Euphoria regarding the variances and subsequent investigation and termination, Kristin on multiple
occasions used kristin@miralconsulting.com and listed Miral Consulting in the signature block.

1 examples of the misrepresentations:

2 **1. Kristin Taracki Verified the Incorrect Address for Alex Taracki and**
3 **Herself, Further Preventing Service of Process.**

4 Euphoria has been attempting to serve Kristin and Alex with service of process¹² for
5 approximately one month. Euphoria has also been attempting to notice their deposition in the instant
6 litigation because Mr. Stipp has refused to accept service on their behalf. Therefore, it was of utmost
7 importance that E&T provide Kristin's and Alex's current address in response to Interrogatory No.

8 1. Euphoria was dismayed (but not surprised) that not only did E&T provide the wrong address but
9 that Kristin signed a declaration under penalty of perjury verifying the accuracy of that address.¹³
10 Specifically, Kristin verified that her and Alex's current address is 2244 Summerwind Circle,
11 Henderson 89053 ("Property"). ***However, this is not Alex and Kristin's current address and has***
12 ***not been their address for at least 10 months.*** Per the Clark County Assessor Office's Records, they
13 sold the Property on or about December 23, 2020.¹⁴ Nonetheless, immediately after receiving E&T's
14 Court Ordered Discovery Responses, on October 28, 2021, Euphoria's process server went to that
15 address and confirmed that Kristin and Alex do not live at that address.¹⁵

16 The inquiry does not end with the issue of Alex and Kristin's address. More troublingly,
17 either (1) Kristin intentionally provided the wrong address to evade service and counsel for E&T
18 sanctioned that material misrepresentation; or, alternatively, (2) counsel for E&T listed the wrong
19 address and e-signed the declaration on his client's behalf without Kristin having reviewed the
20 information.

21 On November 2, 2021, counsel for Euphoria specifically asked Mr. Stipp if the signature on
22

23
24 ¹² *ACC Enterprises LLC v. Euphoria Wellness, LLC*, Case No. CV 20-0402. To add insult to injury, Euphoria previously
25 attempted to serve the Tarackis at the address they had listed on the Sale Deed for the Property (19 Brentmead Cove,
26 Jackson, TN 38305). However, the residents of the property located at 19 Brentmead Cove, Jackson, TN 38305
confirmed the Tarackis did not live there. And neither could the Tarackis be served at their purported work address in
Tennessee. Thus, to date, not only does their current address remain unknown but also E&T's Supplemental Responses
contain incorrect information.

27 ¹³ Kristin e-signed the declaration on October 25, 2021.

28 ¹⁴ **Exhibit I** to the Appendix is a copy of the Grant, Bargain, Sale Deed and PDF showing parcel No. and Parcel
Ownership History.

¹⁵ **Exhibit J** to the Appendix is a copy of the Affidavits of Attempted Service, executed on October 27, 2021.

1 the declaration was in fact Kristin's and if she had reviewed the responses.¹⁶ Mr. Stipp responded
2 he had no obligation to disclose whether Kristin verified the Court Ordered Discovery Responses
3 and that Euphoria simply had to rely on the existence of the signature.¹⁷ Per Nevada's Rules of
4 Professional Conduct, an attorney must be fair to opposing counsel and opposing parties and not "fail
5 to make reasonably diligent effort to comply with a legally proper discovery request by an opposing
6 party,"¹⁸ "obstruct another party's access to evidence,"¹⁹ or "assist a witness to testify falsely."²⁰
7 Yet, here, Mr. Stipp told Euphoria to subpoena Kristin to answer those questions and still produced
8 the incorrect address in the Court Ordered Discovery Responses. Since then, E&T's counsel has
9 largely ignored Euphoria's e-mail communications requesting Alex and Kristin's current address.²¹
10 The blatant misrepresentation of something as simple as a current address for E&T's principals shows
11 the willfulness of the E&T Parties' litigation tactics.²²

12 Because of the difficulty in locating Kristin and Alex for the purpose of service of process
13 and subpoena to attend and testify at depositions, Euphoria respectfully requests this Court allow
14 Euphoria to serve Alex and Kristin with subpoenas to appear at a deposition by service upon Law
15 Office of Mitchell Stipp.

16 **2. The E&T Parties Misrepresented They Do Not Have Any Relationships**
17 **with the Other Parties and Certain Non-Parties.**

18 According to the E&T Parties' discovery responses, none of them have any relationships with
19 the other parties in this litigation and with certain non-parties.²³ Their responses also state that they
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21

22 ¹⁶ Ex. A, Kurshumova Decl.

23 ¹⁷ Ex. A, Kurshumova Decl.

¹⁸ NRPC 3.4(d).

¹⁹ NRPC 3.4(a).

24 ²⁰ NRPC 3.4(b).

25 ²¹ **Exhibit K** to the Appendix is a true and correct copy of the e-mail communications between Ms. Kurshumova, Ms.
Lovelock, and Mr. Stipp regarding the current address of the E&T principals between November 3, 2021 and November
15, 2021.

26 ²² Mr. Stipp played a similar game with Joe Kennedy, refusing to accept service on his behalf because he said he did not
represent Mr. Kennedy individually.

27 ²³ See Ex. C, E&T's Court Ordered Response to Interrogatory No. 16; Ex. D, Miral Consulting's Court Ordered
Responses to Interrogatory Nos. 9-12; Ex. E, Happy Campers' Court Ordered Responses to Interrogatories Nos. 9-12;
28 Ex. F, CBD Supply's Court Ordered Responses to Interrogatories Nos. 9-12.

1 have not identified any documents relating to those parties or non-parties.²⁴ However, those
2 responses are inconsistent with the record.

3 For example, E&T claims that it has not identified any documents regarding communications
4 with Kennedy, a principal of Happy Campers, Nye Natural Medicinal Solutions, LLC (“Nye
5 Natural”), and Valjo, Inc. (“Valjo”), relating to this litigation.²⁵ Yet, on or about June 27, 2019,
6 Kennedy attended a hearing on E&T’s Motion for Preliminary Injunction where E&T conveyed to
7 this Court that the situation required immediate and emergency relief because E&T had a contract
8 with Nye Natural and needed the equipment to perform the contract. And on July 28, 2019, Kennedy
9 and the principals of E&T appeared at Euphoria’s Production Facility with police officers, waving
10 an order executed by the Honorable Judge Delaney in a different case, and demanded access to the
11 Production Facility to obtain all equipment and supplies located inside.²⁶ Therefore, the claim that
12 E&T has no record of any communications or documents regarding third parties, including Kennedy,
13 is not consistent with the record.

14 Further, in its Court Ordered Discovery Responses to Interrogatories, Happy Campers stated
15 it was previously dissolved.²⁷ Kennedy signed a declaration to verify that response.²⁸ Yet, per the
16 Nevada Secretary of State, Happy Campers was revived on July 29, 2021, approximately three
17 months before the supplemental interrogatory response.²⁹ During Kennedy’s deposition on
18 November 19, 2021, Kennedy confirmed his knowledge that Happy Campers was indeed revived
19 and currently active,³⁰ in direct contradiction of his supplemental response to Euphoria’s
20 interrogatory.

21 _____
22 ²⁴ See Ex. C, E&T’s Court Ordered Response to RFP No. 23, 24, 27-33; Ex. D, Miral Consulting’s Court Ordered
23 Responses to RFP Nos. 15-22; Ex. E, Happy Campers’ Court Ordered Responses to RFP Nos. 14-22; Ex. F, CBD
Supply’s Court Ordered Responses to RFP Nos. 14-22.

24 ²⁵ Ex. C, E&T’s Court Ordered Response to RFP No. 28.

25 ²⁶ **Exhibit L** to the Appendix, which is a true and correct copy of the e-mail communications between Nicole E. Lovelock
and Erika Pike-Turner (July 29-July 30, 2019). Ex. H, Valjo Deposition Transcript at p. 87-88.

26 ²⁷ Ex. E, Happy Campers’ Court Ordered Response to Interrogatory No. 8.

27 ²⁸ Ex. E, Happy Campers’ Court Ordered Responses at p. 28.

28 ²⁹ **Exhibit M** to the Appendix is a copy of Happy Campers’ Certificate of Revival filed on July 29, 2021.

³⁰ On November 19, 2021, Jones Lovelock took the deposition of Joseph Kennedy in his individual capacity, in his
capacity as a designated witness for Nye Natural Medicinal Solutions, LLC, and in his capacity as a designated witness
for Valjo, Inc. Jones Lovelock has requested a copy of the deposition transcripts on an expedited basis and will attach
them as an exhibit to Euphoria’s reply.

1 Finally, Happy Campers stated through its Court Ordered Discovery Responses that it had no
2 relationship with E&T.³¹ Yet, Kennedy testified as the witness for Valjo on April 16, 2021 that Valjo
3 loaned \$500,000 to E&T but gave \$300,000 from that loan to Happy Campers instead.³²

4 As such, not only are the majority of E&T Parties' Court Ordered Discovery Responses
5 evasive but they also continue to provide information inconsistent with the record. The E&T Parties
6 have been given multiple opportunities to supplement, clarify, and verify the accuracies of their
7 responses. That has not happened. Either the E&T Parties are not taking their discovery obligations
8 seriously or, more likely, they are deliberately obstructing Euphoria's efforts to obtain discovery.
9 Both necessitate sanctions. Here, the record clearly demonstrates the E&T Parties' noncompliance
10 is willful, thus sanctions are warranted.

11 **III. LEGAL STANDARD FOR SANCTIONS FOR IMPEDING DISCOVERY.**³³

12 Previously, this Court entered a clear and unambiguous order compelling disclosure and
13 discovery within 21 days of notice of entry of the Order.³⁴ This did not occur.

14 District courts in Nevada may sanction abusive litigation practices through their inherent
15 powers.³⁵ The inherent power to sanction is designed "to protect the dignity and decency of its
16 proceedings and to enforce its decrees, and thus it may issue contempt orders and sanction or dismiss
17 an action for litigation abuses."³⁶ Further, district courts have discretion to sanction a party for its
18 failure to comply with a discovery order under NRCP 37(b),³⁷ and those sanctions may include any

19
20 ³¹ Ex. E, Happy Campers' Court Ordered Response to Interrogatory No. 9.

³² Ex. H, Valjo Deposition Transcript at 41:2-15.

21 ³³ NRCP 37 was amended effective March 1, 2019. See In re Creating a Comm. to Update & Revise the Nev. Rules of
22 Civil Procedure, ADKT 0522 (Order Amending the Rules of Civil Procedure, the Rules of Appellate Procedure, and the
Nevada Electronic Filing and Conversion Rules, December 31, 2018). Accordingly, Euphoria cites the latest version of
the rules herein.

³⁴ Ex. B, Order.

23 ³⁵ *Ir. Bank v. V.*, 2020 Nev. Dist. LEXIS 132, *12; *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 92, 787 P.2d 777,
779 (1990).

24 ³⁶ *Ir. Bank v. V.*, 2020 Nev. Dist. LEXIS 132, *12 citing *Halverson v. Hardcastle*, 123 Nev. 245, 261, 163 P.3d 428, 440
(2007).

25 ³⁷ See also EDCR 7.60:

26 **The court may**, after notice and an opportunity to be heard, **impose** upon an attorney or a party **any**
and all sanctions which may, under the facts of the case, be reasonable, including the imposition
27 of fines, costs or attorney's fees **when an attorney or a party without just cause:**

28 . . .

(4) Fails or refuses to comply with these rules.

(footnote continued)

the following:

- (A) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;
- (B) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (C) striking pleadings in whole or in part;
- (D) staying further proceedings until the order is obeyed;
- (E) dismissing the action or proceeding in whole or in part;
- (F) rendering a default judgment against the disobedient party; or
- (G) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.³⁸

Generally, sanctions are imposed where there has been willful noncompliance with the court's order,³⁹ or where the adversary process has been halted by the actions of the unresponsive party.⁴⁰ Here, both of these elements have occurred.

In addition, EDCR 7.60(b) authorizes the Court to impose, upon notice and an opportunity to be heard, "any and all sanctions which may, under the facts of the case, be reasonable," including fines, costs or attorney's fees, when a party, without just cause, unreasonably and vexatiously multiplies the proceedings in a case as to increase costs, fails or refuses to comply with these rules, or fails or refuses to comply with any order of a judge of the court.⁴¹

Further, Nevada courts have "inherent equitable powers to dismiss actions or enter default judgments for . . . abusive litigation practices."⁴² This inherent power to sanction is designed "to protect the dignity and decency of its proceedings" and therefore courts "may issue contempt orders and sanction or dismiss an action for litigation abuses."⁴³

(5) Fails or refuses to comply with any order of a judge of the court.
(emphasis added).

³⁸ NRCP 37(b)(1); *Ir. Bank v. V.*, 2020 Nev. Dist. LEXIS 132, *11-12; *See also, Young v. Johnny Ribeiro Bldg.*, 106 Nev. 88, 787 P.2d 777 (1990); *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 606, 245 P.3d 1182 (2010).

³⁹ *Fire Ins. Exch. v. Zenith Radio Corp.*, 103 Nev. 648, 651, 747 P.2d 911, 913-14 (1987); *Finkelman v. Clover Jewelers Blvd., Inc.*, 91 Nev. 146, 147, 532 P.2d 608, 609 (1975).

⁴⁰ *Skeen v. Valley Bank of Nevada*, 89 Nev. 301, 303, 511 P.2d 1053, 1054 (1973). *See also, Temora Trading Co. v. Perry*, 98 Nev. 229, 645 P.2d 436 (1982); *Kelly Broadcasting v. Sovereign Broadcast*, 96 Nev. 188, 606 P.2d 1089 (1980).

⁴¹ EDCR 7.60(b)(3)–(5).

⁴² *Young*, 106 Nev. at 92, 787 P.2d at 779 (citation omitted); *see also Dietz v. Bouldin*, 136 S. Ct. 1885, 1892–93 (2016) (holding that "district courts have the inherent authority to manage their dockets and courtrooms with a view toward the efficient and expedient resolution of cases").

⁴³ *Halverson v. Hardcastle*, 123 Nev. 245, 261, 163 P.3d 428, 440 (2007).

IV. THE COURT SHOULD STRIKE THE E&T PARTIES' PLEADINGS.

Under NRCP 37(b)(1)(C) and (D), this Court can strike the pleadings and render a default judgment against each of the E&T Parties. Specifically, the district court may sanction a party by striking its pleadings under NRCP 37.⁴⁴ The Nevada Supreme Court has provided guidance for the Court on the factors to consider before striking a pleading as a sanction:

The factors a court may properly consider include, but are not limited to, the degree of willfulness of the offending party, the extent to which the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction of dismissal relative to the severity of the discovery abuse, whether any evidence has been irreparably lost, the feasibility and fairness of alternative, less severe sanctions, such as an order deeming facts relating to improperly withheld or destroyed evidence to be admitted by the offending party, the policy favoring adjudication on the merits, whether sanctions unfairly operate to penalize a party for the misconduct of his or her attorney, and the need to deter both the parties and future litigants from similar abuses.⁴⁵

Discovery violations such as the failure to appear at a deposition, obey an order compelling discovery, or answer interrogatories leaves the Court with clear discretion to dismiss an action and enter a default judgment.⁴⁶ Here, the analysis of the factors, which is discussed *infra*, warrants striking E&T's affirmative claims and the E&T Parties' Answer.

1. The Court Should Strike E&T's Affirmative Claims and the E&T Parties' Answer.

a. The E&T Parties Willfully Disobeyed this Court's Order.

The E&T Parties were well aware of their discovery obligations and the obligation to comply with the Court's Order. This Court should find that the E&T Parties willfully and intentionally disobeyed that order by concealing documents and information sought by Euphoria with an intent to preclude Euphoria from obtaining discovery relevant to its claims and defenses. As such, the E&T Parties have harmed and unfairly prejudiced Euphoria. Where, as here, discovery abuses are willful, as opposed to accidental or involuntary, courts have found dismissal an appropriate sanction.⁴⁷

⁴⁴ *Valley Health Sys., LLC v. Estate of Doe*, 427 P.3d 1021, 134 Nev. Adv. Rep. 76 (Nev. 2018). (The Court found that [Plaintiff] willfully violated its disclosure obligation.)

⁴⁵ *Young v. Johnny Ribeiro Bldg.*, 106 Nev. 88, 93 (Nev. 1990).

⁴⁶ *Riverside Casino Corp. v. J.W. Brewer Co.*, 80 Nev. 153, 390 P.2d 232 (Nev. 1964).

⁴⁷ See, e.g., *Picon v. Ryon*, 99 Nev. 801, 802, 671 P.2d 1133, 1134 (1983) (discovery abuses were willful where conduct was "unexplained and unwarranted").

1 Further, the Nevada Supreme Court “has upheld entries of default where litigants are unresponsive
2 and engage in abusive litigation practices that cause interminable delays.”⁴⁸

3 After being parties to this litigation for *two years*, Miral Consulting, CBD Supply, and Happy
4 Campers have produced **ZERO** documents. Even after the Court **compelled** Miral Consulting, CBD
5 Supply, and Happy Campers to produce documents, they still produced **ZERO** documents. This is
6 willful disobedience warranting terminating sanctions. An unexplained or unjustified failure to
7 provide discovery that halts the adversarial process will, in all likelihood, constitute willful
8 noncompliance.⁴⁹

9 Similarly, E&T was compelled to produce documents and subsequently produced only **96**
10 new pages—feigning that no other financial documents, email communications, or any other related
11 documents existed. This defies belief as E&T managed and operated Euphoria’s marijuana
12 Production Facility for almost two years. Yet, during this litigation, E&T’s document production
13 relating to the contract with Euphoria, the operation of the facility, and the investigations by the State
14 of Nevada amounts to a total of 622 pages. E&T has produced a total of *three emails*, and even then,
15 only those that it believes are helpful to its claims (the existence of said e-mails shows
16 communications do exist). E&T’s production of three self-serving emails, a few self-serving
17 invoices, and overall failure to produce responsive documents to the majority of Euphoria’s discovery
18 requests, is a brazen disregard for the Court’s Order. E&T’s willful disobedience warrants
19 terminating sanctions.

20 Dismissal is encouraged where the district court determines “a party has acted willfully or in
21 bad faith in failing to comply with rules of discovery or with court orders enforcing the rules.”⁵⁰ “[I]t
22 is clear that a ‘willful’ violation of a court order does not require proof of mental intent such as bad
23 faith or an improper motive, but rather, it is enough that a party acted deliberately.”⁵¹ In other words,
24 “‘disobedient conduct not shown to be outside the control of the litigant’ is all that is required to
25

26 ⁴⁸ *Foster v. Dingwall*, 126 Nev. 56, 65, 227 P.3d 1042, 1048 (2010).

27 ⁴⁹ *Fire Ins. Exch. V. Zenith Radio Corp.*, 103 Nev. 648, 747 P.2d 911 (Nev. 1987).

28 ⁵⁰ *Sigliano v. Mendoza*, 642 F.2d 309, 310 (9th Cir. 1981).

⁵¹ *Evon v. L. Offs. of Sidney Mickell*, 688 F.3d 1015, 1035 (9th Cir. 2012).

1 demonstrate willfulness, bad faith, or fault.”⁵² Indeed, the United States Supreme Court has upheld
2 the trial court’s inherent power to dismiss an action for failure to comply with the court’s orders, as
3 well as for failure to prosecute.⁵³

4 “Parties have an obligation to make a reasonable effort to locate all documents and
5 information necessary to fully respond to discovery. . . . Simply not responding to discovery requests
6 is not an option.”⁵⁴ Here, the E&T Parties simply chose not to meaningfully supplement their
7 Responses to Euphoria’s Discovery Requests, in direct contravention of the Court’s Order.

8 **b. A Less Severe Sanction Would be Unfair or Prejudicial to**
9 **Euphoria.**

10 The E&T Parties’ wholesale failure to respond to Euphoria’s Discovery Requests has
11 obstructed the fact-finding process, interfering with Euphoria’s ability to conduct meaningful
12 discovery, prepare for and go to trial, and ascertain facts as to the key issue of alter ego. The financial
13 documents of the E&T Parties were requested almost a year ago. To date, the E&T Parties have yet
14 to turn over even a single tax return or account to Euphoria. The E&T Parties’ continuing delays and
15 inexcusable refusal to cooperate in the discovery process have prejudiced, and continue to prejudice,
16 Euphoria in its efforts to litigate this case on the merits.⁵⁵ Accordingly, this factor weighs in favor of
17 dispositive sanctions.

18 **c. A Less Severe Sanction Would Not Deter E&T and the Third-**
19 **Party Defendants’ Behavior.**

20 With this Motion, Euphoria seeks several less severe sanctions against E&T and the Third-
21 Party Defendants. However, the facts demonstrate that a less severe sanction will not be enough to

22 ⁵² *Henry v. Gill Indus., Inc.*, 983 F.2d 943, 948 (9th Cir. 1993) (quoting *Fjelstad v. Am. Honda Motor Co.*, 762 F.2d
23 1334, 1341 (9th Cir. 1985)).

24 ⁵³ *See, e.g., Link v. Wabash R. Co.*, 370 U.S. 626, 633 (1962) (“[W]hen circumstances make such action appropriate, a
25 District Court may dismiss a complaint for failure to prosecute even without affording notice of its intention to do so or
26 providing an adversary hearing before acting.”).

27 ⁵⁴ *United States v. Reeves*, No. 2:12-cv-01916-JAD-GWF, 2013 U.S. Dist. LEXIS 146671, at *2-3, 112 A.F.T.R.2d
28 (RIA) 2013-6359 (D. Nev. Oct. 3, 2013).

⁵⁵ *See, e.g., Foster*, 126 Nev. at 66, 227 P.3d at 1049 (“Additionally, we conclude that appellants’ continued discovery
abuses and failure to comply with the district court’s first sanction order evidences their willful and recalcitrant disregard
of the judicial process, which presumably prejudiced Dingwall, Yang, and Chai.”); *see also In re Phenylpropanolamine*
(*PPA*) *Products*, 460 F.3d 1217, 1236 (9th Cir. 2006) (holding that, with respect to discovery abuses, “[p]rejudice from
unreasonable delay is presumed” and failure to comply with court orders mandating discovery “is sufficient prejudice”).

1 deter E&T and the Third-Party Defendants from abusing the discovery process. The record
2 demonstrates E&T and the Third-Party Defendants have purposefully avoided their required NRC
3 16.1 disclosures and discovery obligations. E&T and the Third-Party Defendants' responses to
4 Euphoria's Interrogatories are at best evasive and at worst, provide no actual responses, not to
5 mention the fact that E&T directly provided Euphoria with the wrong address for its principals, Alex
6 and Kristin.

7 In terms of document production, the Third-Party Defendants have literally produced nothing.
8 As for E&T, it strategically waited until the initial expert disclosure deadline to produce the majority
9 of its documents, which relate to only a handful of Euphoria's discovery requests. E&T's fervent
10 position that it has no other responsive documents stands for the irrational representation that E&T
11 has next to no documents to show for operating and managing a marijuana production facility for
12 two years except for mostly self-serving invoices and three e-mails.

13 Moreover, E&T's counsel refuses to produce E&T's principals for their noticed depositions
14 while E&T itself intentionally lists its principals' wrong address and refuses to provide the correct
15 one. As such, E&T has debilitated Euphoria's efforts to depose the principals. E&T has prevented
16 Euphoria from obtaining relevant information and documents necessary for its preparation for trial.
17 This purposeful and willful behavior demonstrates that E&T and the Third-Party Defendants have
18 no intention of participating in this litigation in good faith. As such, Euphoria doubts that a less
19 severe sanction would deter E&T and Third-Party Defendants from intentionally impeding
20 Euphoria's litigation efforts.

21 **d. The Policy Favoring Adjudication on the Merits Does Not Give**
22 **Refuge to a Willfully Disobedient Party.**

23 Although public policy favors adjudication on the merits, it should not do so to the detriment
24 of those who play by the rules. E&T and the Third-Party Defendants have shown they are not
25 interested in playing by the rules unless it is solely to their benefit, and should therefore not be
26 provided refuge by public policy. Given the need to deter both the parties and future litigants from
27 similar abuses, namely the intentional disruption of an opposing party's efforts to litigate on the
28

merits, this Court should strike E&T's affirmative claims and the Third-Party Defendants' defenses.

e. Those Sanctions Do Not Unfairly Operate to Penalize E&T and Third-Party Defendants for the Misconduct of Their Attorney.

E&T and Third-Party Defendants are responsible for their decision regarding their counsel and, therefore, bound by their counsel's acts. E&T and Third-Party Defendants were on notice of the possible consequences of their failure to participate in discovery following this Court's order compelling their responses. E&T's principal, Kristin, verified E&T's responses intentionally providing the wrong physical address for her and Alex. As such, it would not be unfair if this Court were to issue the requested sanctions.

f. The E&T Parties' Overall Actions in this Litigation Warrant Dispositive Sanctions.

According to the Ninth Circuit, the E&T Parties' overall discovery and litigation conduct should be properly considered.⁵⁶ Here, the litigation conduct demonstrates that sanctions are warranted. The E&T Parties' litigation tactics have effectively frustrated every simple matter so as to cause Euphoria to accrue unnecessary fees and potentially force Euphoria into an unfair settlement. Examples of the conduct in question include:

- Forcing Euphoria to file a motion, then after the motion is prepared and filed, changing its position so the motion was unnecessary. This has occurred on no less than two (2) occasions, including Euphoria's Motion to Enter Protective and Confidentiality Order, which E&T's counsel was refusing to sign despite representations to the contrary for a period of four months, and Euphoria's Motion for Protective Order to protect Darlene Purdy's appearance at a deposition until her toddler son was discharged from the hospital.

⁵⁶ See, e.g., *Adriana Int'l Corp. v. Thoeren*, 913 F.2d 1406, 1411 (9th Cir. 1990) (district court properly considered all of defendant's discovery conduct in ordering default judgment: "In evaluating the propriety of sanctions, we look at all incidents of a party's misconduct."); *Halaco Eng'g Co. v. Costle*, 843 F.2d 376, 381 n.2 (9th Cir. 1988) ("court may indeed consider prior conduct that has already been subject to sanction, when it is weighing a subsequent sanction motion").

- Unilaterally setting depositions and refusing to accommodate schedules, then vacating those depositions late the night before.
- Preventing access to E&T's principals by not providing their current address and by refusing to produce them for their depositions.

2. Alternatively, Euphoria Respectfully Requests this Court Set an Evidentiary Hearing and Order the E&T Parties to Appear in Person to Show Cause as to Why Dispositive Sanctions Should Not Issue and the E&T Parties Should Not Be Held in Contempt.

If the Court is not inclined to order the striking of the E&T Parties' pleadings as a discovery sanction, Euphoria respectfully requests an evidentiary hearing. Such a hearing will afford the E&T Parties an opportunity to explain their willful violations of this Court's Order and the rules governing discovery, and establish whether dispositive sanctions are appropriate and warranted.

District courts have both inherent and statutory authority to enforce orders by subsequent contempt proceedings.⁵⁷ Pursuant to NRCP 22.010, "[d]isobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers" shall be deemed contempt. NRCP 22.010(3). In addition, for contempt pursuant to subsection (3) of NRCP 22.010, as here, "the court may require the person to pay to the party seeking to enforce the writ, order, rule or process the reasonable expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt."⁵⁸ The Nevada Supreme Court generally "affords the district court sufficient leeway to exercise its [contempt] power."⁵⁹ "The ability to punish disobedience to judicial orders is regarded as essential to ensuring that the Judiciary has a means to vindicate its own authority without complete dependence on other Branches."⁶⁰

⁵⁷ See *City Council of Reno v. Reno Newspapers, Inc.*, 105 Nev. 886, 784 P.2d 974 (1989); see also *All Minerals Corp. v. Kunkle*, 105 Nev. 835, 784 P.2d 2 (1989). Specifically, NRCP 1.210(3) states that "[e]very Court shall have power . . . [t]o compel obedience to its lawful judgments, orders and process . . ." NRCP 1.210(3).

⁵⁸ NRCP 22.100(3); see also NRCP 22.130 ("Proceedings when defendant does not appear; measure of damages in action on undertaking.").

⁵⁹ See *In re Claimants*, 118 Nev. 901, 907, 59 P.3d 1226, 1229–30 (2002).

⁶⁰ *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 796, 107 S. Ct. 2124, 2131–32 (1987); see also *Bessette v. W.B. Conkey Co.*, 194 U.S. 324, 333, 24 S. Ct. 665, 668 (1904) (contempt power "has been uniformly held to be necessary

(footnote continued)

1 As set forth above, despite having knowledge of the Court's Order, the E&T Parties willfully
2 elected not to comply. The E&T Parties are not entitled to disregard this Court's orders without
3 consequence. Accordingly, their conduct is sanctionable under NRS § 22.010(3) and the E&T Parties
4 should be ordered to pay Euphoria's attorney's fees and costs incurred as a result of their contempt,
5 including the cost of pursuing the instant Motion. NRS § 22.100(3). Finally, if this Court is not
6 inclined to order the striking of the pleadings as a discovery sanction, the Court should order an
7 evidentiary hearing.

8 **V. THE COURT SHOULD FIND THAT THE PRINCIPALS ARE ALTER-EGOS OF**
9 **THE CORPORATE ENTITIES.**

10 This Court has considerable discretion to tailor the sanctions imposed to the misconduct at
11 issue.⁶¹ The Court should find that based upon the E&T Parties' Court Ordered Discovery Responses
12 to Euphoria's Discovery Requests, the principals of the E&T Parties are alter-egos of those parties.

13 Specifically, the E&T Parties have implied they are judgment-proof by communicating they
14 are not operational and do not generate income.⁶² Indeed, the E&T Parties' counsel has repeatedly
15 provided that the E&T Parties are not operational⁶³ and, therefore, suggesting Euphoria cannot collect
16 on any judgment entered against them. Yet, the E&T Parties have produced no documents to
17 evidence their statements. No corporate documents, no bank accounts, next to no financial records,
18 or anything to show the relationship of the company to the principals—nothing. The E&T Parties
19 maintain the organizational and financial documents requested by Euphoria are not relevant even
20 after this Court ruled they were relevant and ordered them to be produced. The E&T Parties have
21 knowingly provided incorrect information to Euphoria's counsel which is contradicted by the record

22
23 to the protection of the court from insults and oppressions while in the ordinary course of its duties, and to enable it to
enforce its judgments and orders necessary to the due administration of law and the protection of the rights of suitors").

24 ⁶¹ *Young*, 106 Nev. at 93, 787 P.2d at 780; *see also Emerson v. Eighth Judicial Dist. Court*, 127 Nev. 672, 680, 262 P.3d
224, 229 (2011) (noting broad discretion to sanction "any litigation abuses not specifically proscribed by statute").

25 ⁶² Ex. A, Kurshumova Decl.

26 ⁶³ Ex. A, Kurshumova Decl. *See Exhibit N* to the Appendix is a true and correct copy of the e-mail communication
from Mr. Stipp to Ms. Lovelock on November 2, 2021 ("E&T has not operated since Euphoria closed the production
27 facility. Happy Campers and CBD Supply are also out-of-business." Ex. N at p. 2); Omnibus Opposition to Applications
for Order to Show Cause, to Compel Appearance for a Deposition, and for an Award of Attorney's Fees and Costs and
28 Countermotion for a Protective Order and Related relief filed on August 30, 2021 at 3:2 ("E&T is no longer operating.");
Opposition to Motion to Compel Discovery Responses and for Sanctions and Countermotion for Related Relief filed on
August 20, 2021 at 2:27 ("E&T is no longer operating.").

1 and have intentionally prevented Euphoria from obtaining the information necessary to establish
2 whether the principals of those parties are alter-egos and should be held accountable. To add insult
3 to injury, Euphoria needs this Court's assistance to depose two of those principals. In other words,
4 Euphoria is forced to incur significant, unnecessary fees while the E&T Parties do little but drive up
5 the cost of litigation. The E&T Parties' violation of the Court's Order further evidences their openly
6 lackadaisical approach to the consequences of this litigation.

7 The E&T Parties' suggestion they are judgment proof and, therefore absolved of
8 consequences for their gamesmanship in the current litigation, coupled with their refusal to provide
9 information about their principals' involvement and relation to this litigation, demonstrate a more
10 sinister motive—shielding the bad actors from potential liability and judgment. This course of action
11 has successfully prejudiced Euphoria in establishing alter-ego liability and Euphoria will be left
12 without the ability to recover on any judgment. The evidence cannot be retrieved without the E&T
13 Parties' cooperation. A remedy must be fashioned to overcome the prejudice that Euphoria has
14 suffered at Euphoria's hands. The missing evidence goes directly to the issue of whether Kristin,
15 Alex, Miro, and Kennedy can be liable for the E&T Parties' conduct.

16 Here, either: 1) the responses are accurate and none of the E&T Parties adhered to corporate
17 formalities; or, alternative, 2) the E&T Parties failed to adhere to a Court order to provide such
18 information to Euphoria. Under either scenario, the Court should find that the E&T Parties and their
19 respective principals are alter-egos and that these parties flagrantly disobeyed a direct order of the
20 Court, which warrants severe sanctions. Based upon the willful disobedience of a discovery order,
21 the Court should find that: (i) Kristin, Alex, and Miro are alter-egos of E&T; (ii) Kristin and Alex
22 are alter-egos of Miral Consulting and CBD Supply; (iii) Kristin, Alex, and Joe Kennedy are alter-
23 egos of Happy Campers; and (iv) E&T, Miral Consulting, CBD Supply, and Happy Campers are all
24 alter-egos of each other.

25 **A. The Principals of the E&T Parties Had Notice and Knew, or Reasonably Should**
26 **Have Known, That They Would Be Named as Parties to the Litigation.**

27 On June 18, 2019, E&T filed its Complaint against Euphoria alleging that Euphoria breached
28

1 the First Amended and Restated Agreement, wrongfully retained equipment and property belonging
2 to E&T, and intentionally interfered with E&T's prospective economic advantage by converting
3 E&T's equipment and property.⁶⁴ On September 24, 2019, Euphoria filed a crossclaim against E&T
4 and counterclaims against Miral Consulting, Happy Campers, and CBD Supply, and against Kristin
5 Alex and Miro, as alter egos, for breaching the Agreement by failing to follow Nevada laws and
6 regulations, jeopardizing Euphoria's marijuana licenses with the State of Nevada, causing the State
7 of Nevada to shut down the Production Facility for investigation, and acting together to retain
8 Euphoria's property.

9 Euphoria has a good faith basis to believe that Kristin, Alex and Miro were alter egos of each
10 of the E&T Parties. Specifically, on or about June 27, 2019, E&T rushed into Court seeking an order
11 that Euphoria turn over equipment, supplies, and marijuana to E&T because E&T claimed that it
12 owned the equipment, supplies, and marijuana. On July 9, 2019, in support of E&T's claim of
13 ownership, E&T submitted a declaration executed by Kristin Ehasz ("Kristin Ehasz' Declaration").⁶⁵
14 The Ehasz Declaration provided that E&T owns the equipment at the production facility based upon
15 certain invoices and receipts that were attached to the declaration.⁶⁶ These invoices, which were
16 offered to prove ownership by E&T, did not make any distinction between Cross-Defendants and
17 E&T.⁶⁷ ***E&T treated the Third-Party Defendants as being E&T and E&T as being the Third-Party***
18 ***Defendants***. Judge Allf Instructed Euphoria to conduct discovery into the alter-ego elements before
19 amending its Answer, Counterclaims, and Cross-Claims.

20 While the Honorable Judge Allf dismissed the alter-ego remedy without prejudice, Judge Allf
21 specifically advised that there needed to be discovery into the alter-ego elements and then Euphoria
22 could bring back the alter-ego remedy against all E&T Parties, as well as against Kristin, Alex, and
23 Miro. As to the alter-ego remedy, the Honorable Judge Allf stated:

24
25 ⁶⁴ See generally E&T's Complaint.

26 ⁶⁵ The Ehasz Declaration was included in the Appendix in Support of Supplemental Motion for Preliminary Injunction
on Order Shortening time that was filed on July 9, 2019.

27 ⁶⁶ *Id.*

28 ⁶⁷ The Ehasz Declaration was included in the Appendix in Support of Supplemental Motion for Preliminary Injunction
on Order Shortening time that was filed on July 9, 2019.

1 And the way I normally look at these is that, you know, the piercing the corporate veil
2 is a statutory remedy and there's case law interpreting it. I usually, because it's a
3 business court case, **give you the option of either amending the complaint later to**
add the piercing the corporate veil causes of action after discovery, or if you can
argue that you have the facts now, then -- then we deal with it.⁶⁸

4 Importantly, the Honorable Judge Allf *already* addressed that Euphoria could take discovery into all
5 the parties to determine whether alter-egos claims and remedies might exist. When the issue of the
6 E&T Parties potentially playing games in discovery as to alter-ego claims came up, the following
7 exchanged occurred:

8 **THE COURT:** And I manage -- I manage discovery in the case. It's a business court
9 case.

10 **MS. LOVELOCK:** Understood, Your Honor.

11 **THE COURT:** And I will make sure that you get the discovery. And I can assure
12 you Mr. Ciciliano has been on both sides of this one, so -- **so he knows that I'll**
enforce your right to obtain discovery.⁶⁹

13 The Court again acknowledged that Euphoria had the right to complete discovery into its alter-ego
14 claims when the Honorable Judge Allf stated:

15 **THE COURT:** The individuals. All of the alter ego-defendants are dismissed without
16 prejudice, **but subject to being brought back in if the discovery** -- if they can make
a prima facie case.⁷⁰

17 Based upon the foregoing, the E&T Parties knew well that Euphoria was allowed to complete
18 discovery into the elements of alter ego for the E&T Parties.

19 **B. It Is Judge Allf's Practice to Not Allow Alter-Ego Claims Go Forward Until After**
20 **the Evidence is Collected and Then Allows Amendments.**

21 During the same hearing, Judge Allf indicated that allowing alter-ego claims from the
22 inception of the case could create grounds for attorney's fees and costs should those claims be
23 dismissed later. As such, the better approach would be to assert alter-ego claims after the parties
24

25 _____
26 ⁶⁸ See Transcript of hearing on Defendant's Motion to Dismiss Cross-Claim and Counterclaim for Fraud December 5,
27 2019, at 2:11-19 (emphasis added). **Exhibit O** to the Appendix is a copy of Transcript of hearing on Defendant's Motion
to Dismiss Cross-Claim and Counterclaim for Fraud December 5, 2019.

28 ⁶⁹ *Id.* at 8:2-9 (emphasis added).

⁷⁰ Ex. O, Transcript of hearing at 12:21-24 (emphasis added).

1 have been able to conduct discovery.

2 **THE COURT:** So let me make the risk clear, then. If I keep them in but later dismiss
3 them, there may be an issue with attorney's fees.

4 **MS. LOVELOCK:** Based upon notice pleading? I mean, the

5 **THE COURT:** Based upon -- yeah, based upon not having grounds to proceed.

6 **MS. LOVELOCK:** Based upon alter ego.

7 **THE COURT:** If down the road it turns out that -- that the alter ego claims fail, it
8 could detriment your client.

9 **MS. LOVELOCK:** So the alternative is for them to be dismissed without prejudice
10 today?

11 **THE COURT:** Exactly.⁷¹

12 Following Judge Allf's directions and ruling, Euphoria proceeded with discovery before asserting
13 alter-ego claims.

14 **C. This Court Should Order that the Facts of an Alter-Ego Remedy are Taken as**
15 **Established and Allow Euphoria to Move to Amend its Crossclaims and**
16 **Counterclaims.**

17 NRCP 37(b)(1) allows this Court to sanction a party for violating a court order by "directing
18 that the matters embraced in the order or other designated facts be taken as established for purposes
19 of the action, as the prevailing party claims."⁷² The E&T Parties violated this Court's Order by
20 failing to produce documents and information, much of which pertains specifically to the
21 establishment of alter ego liability. As such, this Court has discretion to issue an order that the facts
22 of an alter-ego remedy are taken as established. Should the Court rule that the facts of an alter-ego
23 remedy are taken as established, Euphoria respectfully requests an opportunity to move to amend its
24 Crossclaims and Counterclaims.

25 The elements for finding alter ego, which must be established by a preponderance of the

26
27 ⁷¹ *Id.* at 7:13-25.

28 ⁷² NRCP 37(b)(1)(A).

evidence, are: (1) the corporation must be influenced and governed by the person asserted to be the alter ego; (2) there must be such unity of interest and ownership that one is inseparable from the other; and (3) the facts must be such that adherence to the corporate fiction of a separate entity would, under the circumstances, sanction a fraud or promote injustice.⁷³ The following factors, though not conclusive, may indicate the existence of an alter-ego relationship: (1) commingling of funds; (2) undercapitalization; (3) unauthorized diversion of funds; (4) treatment of corporate assets as the individual's own; and (5) failure to observe corporate formalities. Notwithstanding these enumerated factors, the Nevada Supreme Court has emphasized that "there is no litmus test for determining when the corporate fiction should be disregarded; the result depends on the circumstances of each case."⁷⁴

Here, the facts demonstrate the following:

- ***E&T treated the Third-Party Defendants as being E&T and E&T as being the Third-Party Defendants***, as demonstrated by the invoices attached to Kristin Ehasz' Declaration and used by E&T to allege ownership over Euphoria's equipment;⁷⁵
- ***Kristin is a principal of all E&T Parties and Alex is a principal of all E&T Parties except for Miral Consulting***, as demonstrated by the E&T Parties' Court Ordered Discovery Responses;⁷⁶
- ***Upon information and belief, during the time period relevant to this litigation, Miro was a principal of Miral Consulting and CBD Supply;***
- ***The E&T Parties' principals, Kristin, Alex, and Kennedy, and upon information and belief, Miro, claimed the E&T Parties' profits and losses on their individual tax returns***, as represented by the E&T Parties' counsel;⁷⁷
- ***E&T, Miral Consulting, and CBD Supply are defunct companies***, as represented by the E&T Parties' counsel.⁷⁸ ***Happy Campers is operational only for the purpose of maintaining a property lease, and only after years of being defunct according to the Secretary of State;***⁷⁹
- ***All E&T Parties shut down at the same time—when Euphoria locked E&T out of the***

⁷³ See, e.g., *LFC Mktg. Grp., Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841, 847 (2000).

⁷⁴ *LFC Mktg. Grp., Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841, 847 (2000) citing *Polaris Industrial Corp. v. Kaplan*, 103 Nev. 598, 601, 747 P.2d 884, 886 (1987).

⁷⁵ The Ehasz Declaration was included in the Appendix in Support of Supplemental Motion for Preliminary Injunction on Order Shortening time that was filed on July 9, 2019.

⁷⁶ Ex. C, E&T's Court Ordered Response to Interrogatory No. 1; Ex. D, Miral Consulting's Court Ordered Response to Interrogatory No. 1; Ex. E, Happy Campers' Court Ordered Response to Interrogatory No. 1; Ex. F, CBD Supply's Court Ordered Response to Interrogatory No. 1.

⁷⁷ Ex. A, Kurshumova Decl.; See also Ex. C, E&T's Court Ordered Response to RFP No. 10; Ex. D, Miral Consulting's Court Ordered Response to RFP No. 9; Ex. E, Happy Campers' Court Ordered Response to RFP No. 9; Ex. F, CBD Supply's Court Ordered Response to RFP No. 9.

⁷⁸ Ex. A, Kurshumova Decl.

⁷⁹ *Supra*, n. 29.

Production Facility, as represented by the E&T Parties' counsel;⁸⁰

- *Miral Consulting, CBD Supply, and Happy Campers were created as ancillary entities to E&T*, as represented by the E&T Parties' counsel;⁸¹
- *Kristin utilized both E&T's and Miral Consulting's e-mail addresses and signature lines when managing and operating the Production Facility and communicating with Euphoria about the events leading to the termination of the First Amended and Restated Agreement and the State of Nevada's investigation;*
- Pursuant to Valjo, Inc.'s deposition testimony, *E&T directed a non-party, Valjo, to pay \$300,000.00 of E&T's loan to Happy Campers.*⁸² Pursuant to Kennedy's recent deposition testimony, Valjo gave the entire \$500,000 loan amount to E&T, Alex, and Kristin.⁸³ Both demonstrate that neither the principals nor the entities have proper understanding of the financial dealings between said principals and entities.
- *Kristin, Alex, Miro, Kennedy, the E&T Parties, Valjo, and Nye Natural, allegedly executed a Joint Defense, Confidentiality, and Forbearance Agreement on or about June 18, 2019 claiming to have a common interest in this litigation;*
- Kennedy encouraged Alex and Kristin to file the instant litigation as a strategy to obtain Euphoria's equipment and enable E&T to pay off the promissory note to Valjo, Inc. Kennedy also reviewed E&T's complaint prior to filing and provided feedback. Even though Valjo had an interest in the equipment subject to this litigation, Kennedy made the strategic decision not to join as a party but to file a separate action through a confession of judgment.⁸⁴

The above undisputed facts demonstrate that the E&T Parties were governed by the same individuals, that their ownership and interest was inseparable, and that neither the principals nor the E&T Parties followed corporate formalities. The fact that the E&T Parties' principals jointly claimed the E&T Parties' profits and losses on their individual tax returns demonstrates, coupled with the lack of any financial documents, suggests that Alex, Kristin, Kennedy and the E&T Parties comingled funds and treated the corporate assets as their own. For those reasons, and because the E&T Parties have failed to produce any documents to show the opposite, this Court should issue an order that the facts of an alter ego remedy are taken as established and those principals, in their individual capacities, are necessary parties to the action, and allow Euphoria to move to amend its Crossclaims and Counterclaims accordingly.

⁸⁰ Ex. A, Kurshumova Decl.

⁸¹ Ex. A, Kurshumova Decl.

⁸² Ex. H, Valjo's Deposition Transcript, at 41:2-15.

⁸³ *Supra*, n. 29.

⁸⁴ *Supra*, n. 29

1 **VI. THE COURT SHOULD AWARD EUPHORIA ATTORNEYS' FEES AND COSTS.**

2 When a party, or a party's officer, director, or managing agent fails to obey a court order to
3 provide discovery, the court **must** order the disobedient party, or their attorney, or both to pay the
4 reasonable expenses and attorney's fees caused by the failure, "**unless** the failure was substantially
5 justified," or such an award would be unjust.⁸⁵ The Court may also hold them in contempt for failing
6 to obey the order.⁸⁶

7 Here, this Court's Order specifically required the E&T Parties to supplement their discovery
8 responses to the requests identified in Categories 1-7 and the requests based on Exhibit 1 and Kristin
9 Ehasz's Declaration.⁸⁷ Completely disregarding this Court's Order, the Third-Party Defendants
10 produced no documents. E&T similarly failed to produce documents responsive to the majority of
11 Euphoria's Requests for Production. Not only are the E&T Parties' Court Ordered Discovery
12 Responses to Euphoria's Interrogatories evasive but they also contain information manifestly
13 inconsistent with the record. Finally, Kristin and Kennedy intentionally verified information they
14 know to be inaccurate, which is a gross misrepresentation and violation of the rules. On November
15 2, 2021, the E&T Parties further demonstrated their lack of regard for this Court's Order by requiring
16 Euphoria's counsel to explain yet again why Euphoria needs the requested records,⁸⁸ even though
17 the Order specifically states the following:

18 The discovery requests identified in Categories 1 to 7 and the requests based on
19 Exhibit 1 and Kristin Ehasz's Declaration **are relevant** to the parties' claims and
20 defenses, **and** are **proportional** to the needs of the case.⁸⁹

21 The E&T Parties provided deficient supplementation and continue to disregard the Court's
22 findings, thus frustrating this process and delaying Euphoria's discovery efforts. Specifically, the
23 E&T Parties were required to provide full responses to Euphoria's Discovery Requests but, without
24 justification, failed to do so. Euphoria has been prejudiced by the E&T Parties' repeated failures to

25 _____
26 ⁸⁵ NRCP 37(b)(1)-(3).

27 ⁸⁶ NRCP 37(b)(1)(G).

28 ⁸⁷ Ex. B, Order at p. 12 at Para. 74.

⁸⁸ Ex. A, Kurshumova Decl.

⁸⁹ Ex. B, Order at p. 11, para. 67 (emphasis added).

1 cooperate in discovery; moreover, Euphoria expended time, money and effort in pursuit of discovery
2 that the E&T Parties were legally obligated to provide. As such, an award of attorneys' fees and
3 costs would not be unjust considering the willful violation of the Order and the continued insistence
4 to withhold information. For those reasons, this Court should hold the E&T Parties in contempt and
5 order the E&T Parties to pay the reasonable expenses and attorney's fees Euphoria incurred in
6 pursuing this discovery.

7 Accordingly, Euphoria requests that the E&T Parties be ordered to pay the reasonable
8 expenses, including attorney's fees, incurred by Euphoria in connection with bringing the instant
9 Motion and efforts to obtain the outstanding discovery at issue with the exact amount to be briefed
10 before the Court within fourteen days of entry of such order or other later date deemed reasonable by
11 the Court. Further, the E&T Parties should be ordered to pay the fee award within fourteen days of
12 entry of such order setting forth the exact amount deemed reasonable by the Court.

13 **VII. CONCLUSION.**

14 Based upon the foregoing, Euphoria respectfully requests that this honorable Court:

15 1. Strike the E&T Parties' pleadings and enter default judgment with an amount of
16 judgment to be determined. That this relief be made upon the instant motion and oral argument, or
17 in the alternative, for the Court to set an evidentiary hearing as to this relief.

18 2. Find that the principals be found to be alter-egos of the parties, specifically:

- 19 a. Kristin, Alex, and Miro are deemed to be alter-egos of E&T and now parties to this
20 action in their individual capacities;
- 21 b. Kristin, Alex, and Miro are deemed to be alter-egos of Miral Consulting and now
22 parties to this action in their individual capacities;
- 23 c. Kristin, Alex and Miro are deemed to be alter-egos of CBD Supply and now parties
24 to this action in their individual capacities; and,
- 25 d. Kennedy, Kristin and Alex are deemed to be alter-egos of Happy Campers and now
26 parties to this action in their individual capacities.

3. Allow Euphoria to move to amend its Crossclaims and Counterclaims to add Kristin, Alex, Miro, and Kennedy as parties and add the alter-ego related facts this Court deems established.

4. Allow Euphoria to serve Alex and Kristin with subpoenas to appear at a deposition by service upon the Law Office of Mitchell Stipp.

5. Award Euphoria its attorneys' fees and costs.

DATED this 24th day of November 2021.

JONES LOVELOCK

By: /s/ Justin C. Jones

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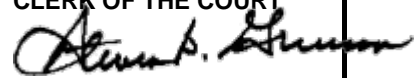
Attorneys for Euphoria Wellness, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24th day of November 2021, a true and correct copy of the foregoing **MOTION FOR DISCOVERY SANCTIONS AGAINST E&T VENTURES, LLC, MIRAL CONSULTING, LLC, HAPPY CAMPERS, LLC, AND CBD SUPPLY CO, LLC** was served by electronically submitting with the Clerk of the Court using the electronic system and serving all parties with an email-address on record.

By /s/ Julie Linton

An Employee of JONES LOVELOCK



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

E&T VENTURES LLC,)
)
Plaintiff,)
)
vs.)
)
EUPHORIA WELLNESS LLC,)
)
)
Defendant.)
)
AND RELATED PARTIES)

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

**TRANSCRIPT OF
PROCEEDINGS**

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
Countermotion 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 Countermotion 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 Okay. So we've got a variety of things up for us
2 today. First thing that the Court wanted to do, and I think
3 this is just to make sure we have a clarification is we had
4 Document 219 was a motion to seal exhibits. That technically
5 is not on today. That is set for a later date; however, it
6 does impact presumably motions that are being heard today.
7 Now, I did see that there was a limited opposition filed,
8 Document 236, to that motion to seal.

9 So here's the question from the Court is: Do the
10 parties wish me to address the motion to seal today, advance
11 and address it today because you feel it impacts the other
12 hearings for today; or are the parties jointly requesting that
13 the Court not address it today? And that would raise its own
14 issues, but, okay.

15 So let me hear each party's position.

16 So counsel for global plaintiffs -- a lot of the
17 plaintiffs. I'm just saying all the totality of plaintiffs.
18 Go ahead.

19 MR. STIPP: Good morning, Your Honor. This is
20 Mitchell Stipp. We have no objection if the Court wants to
21 address the matter of the motion to seal today's hearing.

22 THE COURT: Okay. Counsel for Euphoria Wellness.

23 MS. LOVELOCK: We agree, Your Honor. We would
24 appreciate it (indiscernible).

25 THE COURT: Okay. So since both parties are

1 requesting the Court to do so, the Court is going to address
2 that right up front.

3 I did see that there was a limited opposition, but
4 the opposition seemed to say that the entirety of the
5 deposition was sought to be sealed.

6 What the Court saw is the actual exhibits really were
7 just certain pages and certain pages to be sealed. So I really
8 need a point of clarification because to make sure I'm
9 literally on the same page or pages.

10 So, Counsel, please.

11 MS. LOVELOCK: Your Honor, if I may I believe that
12 the issue is just the exhibits to our reply in support of the
13 motion for discovery sanctions. Those are two depositions of
14 Mr. Stipp's client. And if you look at the page 4, he asked at
15 the deposition that these be confidential. So these are
16 actually his documents that we're trying to keep confidential.
17 So I was confused when I read the limited opposition.

18 THE COURT: Okay. But were you attaching the
19 entirety of the deposition to keep confidential or only certain
20 sections that were your parts as exhibits?

21 MS. LOVELOCK: We -- the entire exhibit we were
22 seeking to be confidential, and that was under the request of
23 Mr. Stipp at the time of the deposition.

24 THE COURT: Okay. So let me go back to Mr. Stipp for
25 point of clarification, please, if you'd clarify.

1 MR. STIPP: Good morning, Your Honor. Mitchell
2 Stipp.

3 Our issue is is that the entirety of the deposition
4 transcripts are not necessary to be included as the exhibit to
5 the appendix for purposes of the reply brief. Our position is
6 is that, you know, we don't have any objection to Euphoria
7 using the transcript of this deposition for the purposes of
8 supporting its matters before the Court relevant to the
9 citations to that exhibit, but we don't see the need to include
10 the entire deposition transcript of nonparties to be filed in
11 this matter even if the matter is sealed.

12 THE COURT: Okay. That clarifies it a little bit
13 more because I had understood, since it was a sealing request,
14 that I was just seeing an inconsistency between -- sorry, a
15 request for sealing. And I wasn't sure if it was pages versus
16 the entire depo. So.

17 MS. LOVELOCK: Your Honor.

18 THE COURT: Counsel is actually correct. You don't
19 attach entire depositions (indiscernible) court, but I didn't
20 see that you attached the entire deposition. That's why I
21 asked you your first question. Remember, the Court's first
22 question was, were you seeking the entirety of the deposition,
23 or I only saw that the exhibits were certain pages. So --

24 MS. LOVELOCK: Sorry, Your Honor. I misstated. I --
25 we were seeking to attach the entirety of the exhibit. The

1 exhibit is not the entirety of the transcript. They are
2 portions. They are attached. They've been given to Mr. Stipp.
3 And again, we can withdraw this. We were seeking to have it
4 under seal at the request of Mr. Stipp. If Mr. Stipp no longer
5 believes that these are confidential, then we can withdraw our
6 motion.

7 THE COURT: I'm seeing you all on different pages of
8 what the issue is. I'm hearing counsel for Euphoria Wellness
9 saying that it's an issue of whether it should be sealed or not
10 sealed. I'm hearing counsel for numerous plaintiffs saying the
11 issue is attached in the entirety of the depositions versus
12 selected pages. So I'm not even hearing -- that's --
13 realistically, I didn't even see that you all had the same
14 arguments.

15 So, Mr. Stipp, on behalf of the various plaintiffs,
16 realizing what counsel for Euphoria Wellness is saying is that
17 she did not attach the entirety of the deposition; she attached
18 the pages that were referenced and is only requesting that
19 those exhibits that are pages of the deposition, not the
20 entirety of the deposition be sealed. Are you on that same
21 page, or did you get copies of entire depositions? I'm really
22 trying to flush this out for you all.

23 MR. STIPP: Sure, Your Honor. This is Mitchell Stipp
24 speaking.

25 It's my understanding that what Euphoria has asked is

1 the entirety of the deposition transcripts, which is why we had
2 filed our limited opposition. I'm not aware that Euphoria's
3 position is is that what's attached to the exhibits are only
4 portions, and I think -- and I don't know what the Court has
5 before it in order to evaluate that statement, but that's my
6 understanding. My understanding is that they're the entirety
7 of the deposition transcripts are proposed as exhibits from
8 Euphoria.

9 THE COURT: Hold on. Let's --

10 MR. STIPP: If I'm mistaken, then certainly there's
11 no issue with sealing the specific portions of the transcript
12 that are cited in the documents referencing those exhibits.

13 THE COURT: Okay. I'm looking at document 231, okay.
14 Document -- wait. I'm looking at the wrong one. That was the
15 temporary sealed one filed on 12/22/21. Okay.

16 So, Counsel, give me the date and year because I show
17 there's a temporary seal pending approval on 12/22/2021, which
18 is the appendix of exhibits in support of defendant Euphoria
19 Wellness's motion for partial summary judgment. Yes or no or a
20 different document?

21 MS. LOVELOCK: I believe that the temporary seal is
22 Document 221, Exhibit O and P to the reply, dated December 15
23 of 2021.

24 THE COURT: Okay. So 12/15/2021, temporary seal
25 pending Court approval, Exhibit O and P to the reply in support

1 of motion for discovery sanctions. That document, which the
2 Court can look at, Exhibit O -- okay. Going through like the
3 first -- okay. The way the Court saw this, and I've got it in
4 front of me right now, okay, is that it includes pages -- the
5 introductory pages, which is the index. I'm not going to go
6 through every single page, but then it skips. Then it goes to
7 page 4, and then the next page is page 19, and I think it's 23
8 if I remember right, yeah, 23. Then 36. Then 37. Then 38.
9 39. 40.

10 But then it skipped 41. It skips again in just a
11 second. 42. 43.

12 So, Counsel, you hear what the Court -- the exhibits
13 that were actually attached, right, as the O and P, the Court
14 didn't see was the entirety of the deposition because of it
15 going from page 4 --

16 MR. STIPP: Okay.

17 THE COURT: -- to 19 to 23.

18 Now, there is a span of pages in the 40s that is
19 consistent, right, but then it went from 47 to 52; right? I
20 think it was 47 to 52. Yeah, 47 to 52. So that's O. And then
21 when -- do you want me to go into P as well? P, similarly, had
22 skipped pages; right? It had some bulk of certain pages, but
23 those were referenced in the brief as having those pages, you
24 know what I mean, about 10 in a grouping or whatever, but then
25 there were skips. So then it was the beginning and the ending

1 showing appearances, you know what I mean, and the
2 introductory. Like so --

3 MR. STIPP: This is Mitchell Stipp, and we don't have
4 any issues with what the Court has informed us as it relates to
5 those exhibits, and so if the Court would like to grant the
6 motion, then we don't oppose and would withdraw our limited
7 opposition.

8 THE COURT: Okay. So in that regard, the Court is
9 going to find under Supreme Court Rule 3, temporarily it's
10 going to be appropriate. I'm going to have to revisit this
11 closer to the time of trial, but -- or somebody may request me
12 to unseal it, because generally depositions are not, and this
13 really hasn't had the full fleshing out through, but at least
14 temporarily, since it was requested by the opposing party that
15 the deposition be confidential, and because then as a result of
16 that request for sealing the Court is going to grant the motion
17 for O and P, which are sections of two depositions for purposes
18 of today's hearing.

19 The Court is going to remind the parties that we need
20 to revisit this, like I said, closer to your time of trial,
21 and, you know, either at your pretrial conference in March
22 or -- of 2022 or your calendar call in April; right, because
23 when you're more preparing for trial.

24 Okay. Does that meet your needs on behalf of movant?

25 MS. LOVELOCK: Yes, Your Honor.

1 THE COURT: Does that meet your needs, Mr. Stipp on
2 behalf of your clients?

3 MR. STIPP: Yes, Your Honor. We appreciate it.

4 THE COURT: Okay. So that part is taken care of.

5 Now, let's go substance, right. So substance, we've
6 got a couple of different motions.

7 We've got defendant Euphoria Wellness's motion for
8 discovery sanctions against E&T Ventures, Miral Consulting,
9 Happy Campers and CBD Supply Company, Document 198.

10 Plaintiff E&T Ventures countermotion and for related
11 relief. You also want discovery sanctions against opposing
12 party. Document 212.

13 Defendant Euphoria Wellness's motion for sanctions
14 for failure to produce a privilege log, Document 203.

15 And plaintiff E&T Ventures countermotion for related
16 relief. Document 216.

17 Okay. And that's what's for today, not taking into
18 account you have a whole bunch of hearings set up later in
19 January, which we're going to talk about consolidating those
20 hearing dates unless you want to see me on January 20th, 25th
21 and February 3rd, but we're not there yet. I'll do that
22 towards the end of the hearing after we get through what we
23 have.

24 Okay. So for purposes just for clarity of the record
25 for Madame Clerk, Madam Court Recorder, the Court did advance

1 and grant the motion to seal exhibits, which was originally
2 scheduled on January 18th at 8:30. So that's been advanced
3 and granted, and that was Document 219, and it was temporarily
4 and re-revisited at the time of pretrial conference or calendar
5 call, whichever the parties request.

6 Okay. So substantively, normally the Court would go
7 in document order because if somebody files something first
8 they usually have an opportunity to have it heard first, right,
9 but it seems to me realistically that these motions pretty much
10 get combined. In general, you're both saying the other side
11 hasn't done what the other side needs to do in a couple of
12 different areas, and I'm using the term couple. You really
13 have more than just a couple.

14 So do you want them heard in a combined fashion and
15 ruled on, or do you want them heard one by one? I'm going to
16 ask each side, and if you agree then we'll do it that way. If
17 you disagree, then I'll hear them one by one.

18 Go ahead.

19 MS. LOVELOCK: Your Honor, as the countermotions are
20 a countermotion in that Mr. Stipp puts it into a caption and
21 then adds a sentence so that he gets a final surreply, I think
22 it makes sense to do it one by one so that we can understand
23 what his countermotions are.

24 THE COURT: Okay. Mr. Stipp, do you concur? Just
25 doing these motions one by one?

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 Judge Alf, and then we were in front of Judge Gonzalez, and
2 then upon her retirement we are now in front of you.

3 At the time Judge Gonzalez had this, she executed an
4 order to show cause that included relief with -- under Rule 37.

5 You, thankfully, and we appreciate it, had spent
6 hours with us going over that, and you granted most of our
7 relief, and it resulted in an order which is attached in our
8 exhibit. And it essentially required that the nonparties,
9 Mr. Kennedy appear as an individual, that he reappear as a PMK
10 for Valjo to answer questions that he refused to, and that he
11 also appear as the PMK for Nye Natural to answer questions that
12 he had previously refused to.

13 And then you ordered that as to all of our requests
14 that they compel and respond to discovery. You granted it in
15 its entirety. You gave them 21 days to supplement their
16 discovery responses to each one of our requests. This included
17 interrogatories. This included request for production. And at
18 that time, because we had asked, they had not responded to
19 anything as a whole, we broke them into categories saying this
20 is the documents we really need so that we can move forward and
21 be ready for trial, including have the information we need for
22 a potential expert. They were given 21 days to respond.

23 In the meantime, we came in here on an emergency, and
24 we asked for that discovery to be extended so that we had time,
25 and the expert deadlines be pushed out because we believe that

1 there's alter ego claims here. Judge Allf said that we could
2 do discovery on it, and we wanted to be able to give our expert
3 financial documents so that they could opine as to the alter
4 ego elements.

5 At that time, Mr. Stipp said that he would be
6 producing the documents by I believe the 25th, and you made
7 your ruling based upon the expert deadlines, based upon their
8 representations of when we would get it. We then received the
9 documents or the lack thereof in the supplemental responses.

10 Your Honor, we've attached those to an appendix. In
11 Exhibit A you have a declaration, and this is Document 199, the
12 appendix that I'm referring to.

13 THE COURT: I appreciate it. Thank you.

14 MS. LOVELOCK: And if you look at Exhibit A, which is
15 marked as the Appendix 3 through quite a few pages, that is the
16 declaration of Marta Kurshumova from my office, and she lays
17 out the information that we received, which is essentially not
18 information.

19 They produced approximately 500 pages of documents,
20 but most of those documents have been previously produced. So
21 they really only disclosed, despite this Court's order, 96 new
22 documents. So they still had not produce financial records,
23 which they were required to do. They still had not produced
24 any information as to parties' ownership. They had not
25 produced e-mails. They had not produced information related to

1 the audit. I mean, full categories, and we lay out the
2 categories, and I'm sure you've seen this. So I don't want to
3 belabor the point. But essentially they provided nonresponses
4 completely.

5 And then with the interrogatories, there's
6 verifications, but the information in the interrogatories are
7 false. For instance, I want to give this example. We've been
8 trying to depose the principals of E&T, which are Kristin
9 Ehasz. She then married Alexander (phonetic) Taracki. So
10 she's now Kristin Taracki. So her new husband is also a
11 principal. We wanted to depose Alex. And then there's a
12 brother Miro. We've been asking for addresses. We've been
13 asking for Mr. Stipp to agree to produce them. They were the
14 principals of E&T, and we have not been able to do that.

15 In January of last year, one of the requests was that
16 they produce addresses. We didn't get them. Then in a
17 supplement the address that they provided that they verified is
18 an address of a house that they sold in 2020.

19 Clearly the issue becomes we are not getting
20 responses. Despite the Court's order that they had to produce
21 documents and supplement with actual responses to our
22 interrogatories, they did not do that, Your Honor.

23 And I think it's important that you understand and
24 that I explain fully, just as briefly as possible, and you
25 indulge me just for a second so you kind of understand what has

1 transpired in this case and in this litigation and the players.

2 So Euphoria runs a production facility or is a
3 licensee for the production facility. They are also a licensee
4 for cultivation and dispensary.

5 For production they entered into an agreement with
6 E&T Ventures. E&T Ventures had three principals. Again,
7 Kristin, Alex and Miro, all related by marriage or being a
8 sibling. They are the ones that actually keep the contract.
9 They are the ones that performed under the contract with
10 employees under them. They, because this is a heavily
11 regulated industry, were required to follow the law, follow
12 Nevada rules, statutes, regulations completely. And if they
13 violated them, it was a reason that they could terminate the
14 contract.

15 The issue is, it's Euphoria's position that they
16 violated Nevada laws and regulations. And so Euphoria
17 terminated the contract. That's the dispute that we're here is
18 whether or not they violated the law and Euphoria properly
19 terminated the contract.

20 E&T's position is they didn't violate the law, and
21 then also, when they were terminated, Euphoria kept certain
22 equipment that they think belongs to them. That's the dispute
23 here, completely.

24 So the parties that were involved from E&T at that
25 time were again Kristin, Alex and Miro. At that time, they

1 retained Garman Turner, Erika Pike Turner came in before
2 Judge Allf and sought a TRO saying give us the equipment. We
3 successfully opposed that. Judge Gonzalez -- or sorry,
4 Judge Allf said, no, I'm not going to grant that relief. But
5 anyone who has an outside interest in this equipment, like such
6 as third parties, lenders or creditors, they have the right to
7 go after their equipment.

8 Then, miraculously, we hear about this person named
9 Joe Kennedy. He's a client of Mitchell Stipp. It's after
10 Judge Allf's order, and we find out about him because he shows
11 up at the production facility and says that's my equipment.
12 Turn it over. And the response, of course, is we have an order
13 from Judge Allf that we do not have to.

14 We then, two weeks later, Euphoria, Sunday morning,
15 cops show up with Joe Kennedy, and he has an order in his hand
16 that was signed by Judge Delaney saying E&T and Valjo, which is
17 one of Joe Kennedy's entities, represented by Mitchell Stipp,
18 went before Judge Delaney, did a confession of judgment and
19 sought an order to get that equipment. Never told Judge
20 Delaney about the Judge Allf ruling. He showed up on a Sunday
21 to try to, with a crowd, to try to get all that equipment, and
22 they weren't allowed in. That's when we first heard about Joe
23 Kennedy.

24 So the players that originally were involved were
25 again Kristin, Alex and Miro. But what we learned is that Joe

1 Kennedy is involved with them on a variety of businesses.
2 Those are the third-party defendants.

3 And then it was Joe Kennedy's outside business that
4 they claimed they need the equipment for, and that's what their
5 intentional interference was. And so then all these parties
6 are now working together in this litigation and/or to try to
7 get back this equipment.

8 Then E&T moved -- substitutes in counsel for Mitchell
9 Stipp. Mitchell Stipp, who had represented the lender, which
10 is Joe Kennedy, against E&T, who was unrepresented, Erika Pike
11 Turner had no involvement in that rush to Judge Delaney behind
12 Judge Allf's back, and suddenly it turned into a different type
13 of litigation where we requested can we -- we want to depose
14 Kristin, Alex and Miro, but we were essentially not getting
15 addresses. They all moved to Tennessee, sold their house,
16 moved to Tennessee.

17 And so when we are trying to get information,
18 discovery, anything related to this pretty straightforward
19 case, we received nothing in return. And we don't know what's
20 happened behind the scenes. We don't know if it's because
21 Kristin, Alex and Miro are just no longer involved even though
22 they were still the principals of E&T, and they were still the
23 principals of third-party defendants. We don't know if they
24 are involved. And their answer is say nothing. Nothing exists
25 anymore. What we get told is any supplemental responses is

1 that there's no corporate documents; there's no e-mails;
2 there's no records; there's no anything except the limited
3 information that we were given.

4 That absolutely cannot be correct. And what's
5 shocking and just confusing is how Kristin could verify an
6 interrogatory with her incorrect address, especially when we
7 have been seeking to depose her in her individual capacity.
8 Again, we understand that we can do a PMK of the different
9 entities. But before that we wanted to take the deposition of
10 those three individuals.

11 THE COURT: On what -- and that's -- I'm going to
12 stop you here for a second because that's part of what's in
13 their countermotion and opposition is the individuals are not
14 named.

15 MS. LOVELOCK: Correct.

16 THE COURT: And --

17 MS. LOVELOCK: And we wanted to serve third parties.
18 We want to serve a subpoena on them to appear.

19 THE COURT: But they're in Tennessee or not.

20 MS. LOVELOCK: Wherever they are, I think in this
21 litigation we have the right to know a proper address of a fact
22 witness. We have a PMK set up for the 7th, and I want to
23 explain that as well.

24 THE COURT: Are those witnesses listed as 16.1
25 witnesses in the disclosures by E&T, or -- and just to be

1 clear, when I'm using the term E&T, I'm using the term with
2 relationship to all the plaintiffs, so E&T, slash, plaintiffs;
3 right?

4 MS. LOVELOCK: Understood, Your Honor.

5 THE COURT: So for any of the plaintiffs, was
6 Kristin, Miro or Alex listed as a witness?

7 MS. LOVELOCK: Yes, Your Honor, and this is what
8 occurred is originally it was through Mitchell Stipp's office,
9 which makes sense. They were principals. We should -- like in
10 most litigation, I should be able to say, hey, I want to -- and
11 we should be able to work out how to get them deposed in
12 Tennessee or wherever is required.

13 But instead what happened is when we started pushing,
14 trying to say we want to take their individual depositions, and
15 we will subpoena them if you're not willing to produce them
16 voluntarily, we then get a supplement where everything is gone,
17 and it's just their name, no contact information, Your Honor.

18 THE COURT: Well, that's a Rule 16 issue, what you
19 need to do if you have the information, but, okay.

20 MS. LOVELOCK: So there's a 16 -- but the other issue
21 is there is a direct request to E&T, a party in this case,
22 saying give us the address of your principals. And what they
23 provided, if you turn to it, if you turn to our appendix, and
24 again, which is Document 199, and you go to our appendix 58 --

25 THE COURT: Just one --

1 MS. LOVELOCK: Marked in the bottom right corner.

2 THE COURT: And you heard me on the other cases.

3 This is why it's helpful because I can actually know where
4 people are going. Okay. 158.

5 Go ahead, please.

6 MS. LOVELOCK: Okay. If you look at the supplemental
7 response to Interrogatory Number 1, it says an address 2244
8 Summerwind Circle, and that is supposedly for Alex and Kristin
9 Taracki, who we want to serve third-party subpoenas on, which
10 counsel and E&T knew we've been trying to do.

11 THE COURT: Okay.

12 MS. LOVELOCK: We've been sending them e-mails as
13 well seeking that information.

14 If you go to Appendix 70.

15 THE COURT: Okay.

16 MS. LOVELOCK: You see a verification of the
17 e-signature of Kristin Taracki that says that she verifies
18 those responses.

19 THE COURT: Uh-huh.

20 MS. LOVELOCK: There's no explanation why she
21 wouldn't know her own address or the address of her husband or
22 the address of her brother-in-law, Your Honor. The question
23 is, is this her signature? Did she actually verify this? And
24 we had a meet and confer with Mr. Stipp after we received this,
25 and we asked that question, and the response was no comment

1 essentially. I don't have to respond. You have a document.
2 You can ask her that question in the deposition. But we can't
3 depose her if we can't figure out where she is.

4 Following this I sent him multiple correspondence
5 saying please provide a current address, and we haven't gotten
6 it.

7 THE COURT: Okay.

8 MS. LOVELOCK: This is just one example of the
9 impropriety in this discovery, Your Honor, and I understand
10 that we focused this as to their violation of your court order.
11 I understand that there's 16.1 violations too that aren't in
12 here.

13 THE COURT: So how do you tie that to the court
14 order? Because you had the ability to take Kennedy, but go
15 ahead on Kristin Taracki.

16 MS. LOVELOCK: Your Honor, so I agree with what
17 you're asking. So we did a motion to compel against E&T, the
18 E&T parties, all of them.

19 THE COURT: Right.

20 MS. LOVELOCK: You ordered that they had to
21 supplement all of their discovery responses. This is their
22 supplement. That is wrong.

23 THE COURT: Okay. So not the portion with regards to
24 the deposition.

25 MS. LOVELOCK: No.

1 THE COURT: You're talking -- okay.

2 MS. LOVELOCK: Your Honor, I just put that as a
3 background. I was just trying to explain kind of the situation
4 that we've been in, and so I know that we've appeared in front
5 of you, my side from my office, and we are exhausted. And so I
6 know that comes across when we're in here, and I'm trying to
7 give a little bit of context of why we're exasperated.

8 THE COURT: Sure. Okay.

9 MS. LOVELOCK: So, Your Honor, if I may, so
10 interrogatory responses, I can go through sample after sample
11 where they're incorrect. And I understand if a party does
12 interrogatory responses and they verify it, even if the
13 information is wrong I can use it at trial. I can use that as
14 some -- I can use it in different ways against them. I
15 appreciate that, but the issue is you ordered them to produce
16 documents. They produced no documents. According --

17 THE COURT: 96 pages.

18 MS. LOVELOCK: 96 pages, but they operated a
19 production facility. They were under investigation by the
20 CCB -- or the Department of Taxation, Your Honor. We know that
21 they had meetings on their own with representatives there, and
22 they say there's no documents that exist. We asked for e-mails
23 related to certain things, and they say no documents exist. We
24 asked for financials, which you ordered they produce, no
25 financials exist. I mean, the list goes on and on of

1 everything that doesn't exist.

2 But then when we deposed Mr. Kennedy, who had tried
3 to evade his deposition, but you forced him to appear, he
4 responds there's tax returns for all of these different
5 entities essentially. That's in PMQ. So you see portions
6 where we highlight where he admits documents exist. He even
7 says in there documents were provided to Mr. Stipp. So we know
8 documents exist. I mean, it's irrational to take the position
9 that these documents don't exist and that they looked for them.

10 What they do is get a little bit cute and say well,
11 it's not in our control on some of these documents.

12 And then this is, this is the part that, I mean, we
13 were aghast by, is following these verifications this
14 supplement that the Court ordered that were signed by Kristin
15 Taracki, following the deposition of Mr. Kennedy suddenly
16 Mr. Kennedy takes over as manager of E&T, and the response is
17 to our claims of everything they did wrong, which is now, well,
18 Kristin, Alex and Miro are no longer involved. So they don't
19 have a response as to why allegedly Kristin, Alex would verify
20 these responses that are completely wrong or why these
21 documents don't exist. And we are prevented from taking their
22 deposition.

23 That's why in this motion for sanctions we seek three
24 times the relief.

25 The first relief is a default judgment against all

1 the parties. Allow us to prove up our damages. We didn't ask
2 for complete terminating sanctions. That requires an
3 evidentiary hearing, but we ask that the answers be stricken
4 from the E&T parties, the third parties, and let me be clear.
5 They produced zero documents. You ordered that they supplement
6 discovery requests, zero, Your Honor, zero. E&T parties
7 produced 96.

8 THE COURT: Okay. That's where I was -- okay. That
9 was a little confusing in your pleadings --

10 MS. LOVELOCK: Understood.

11 THE COURT: -- is whether or not the 500, slash, 96,
12 depends on whoever wants to phrase it, were on behalf of all
13 parties or only on behalf of --

14 MS. LOVELOCK: E&T.

15 THE COURT: -- some parties or one party. Okay.

16 MS. LOVELOCK: Your Honor, if you can turn to my
17 appendix page 8, my associate went through in painstaking
18 detail to make sure that we appropriately explain these
19 documents, and she created this chart that I think will make it
20 easy for you to understand because I know this is complicated,
21 and there are so many moving parties, people, nonparties.

22 So if you look, there's the category of documents
23 that we requested on the left column.

24 THE COURT: Wait. Sorry. Which --

25 MS. LOVELOCK: Sorry. Page 8.

1 THE COURT: Okay. Okay.

2 MS. LOVELOCK: Okay. Category of documents is on the
3 left column. E&T is in the middle column. Miral Consulting,
4 CBD Supply and Happy Campers are on the right column. So Miral
5 Consulting, CBD Supply and Happy Campers produced nothing.
6 They claim there's no documents relating to their corporate
7 structure, no financial documents. There's nothing -- I mean,
8 you can just go through it. There's no e-mails although we
9 know Miral Consulting had an e-mail address. We know they
10 dealt with Euphoria using that e-mail address. I mean, we
11 understand that according to them, Valjo, Kennedy loaned money
12 to these parties, to E&T, but though E&T used the money for
13 these entities or at least one of the entities, which is Happy
14 Campers.

15 I mean, these parties are interrelated. They're
16 mixed together, but according to that, nothing exists. And we
17 have Joe Kennedy stating he did because he has another entity
18 that does tax preparation. He did taxes for these entities,
19 but they're saying that they don't exist and/or, like I said,
20 they get cute and say, well, it's in a third party's control,
21 but the third-party control is another one of their entities.

22 So you ordered them, Your Honor, to produce
23 documents. Of the four parties that were here today, three of
24 them did nothing, produced nothing, signed verifications with
25 information we know is incorrect. And E&T reproduced documents

1 and produced 96 new pages of documents. And again, in that
2 production they produced e-mails; there was like three of them,
3 that helped them. So there's e-mails that exist out there, but
4 there was only three that were produced to us, and those
5 happened to be ones they think help them.

6 Other than that, it's their position nothing exists,
7 and they did their best.

8 THE COURT: Prior documents that you've received by
9 the other plaintiffs that are not E&T?

10 MS. LOVELOCK: Zero.

11 THE COURT: So I'm just -- because I'm going to ask
12 Mr. Stipp the same question when I get to him, and the
13 challenge is, remember, folks -- okay. So in the third-party
14 plaintiff complaint, so you have the defendants Miral
15 Consulting, Happy Campers, CBD Supply Company. Have they
16 produced any documents whatsoever in this litigation under
17 their name, according to your client's position?

18 MS. LOVELOCK: No. Zero. Even after the Court's
19 order, zero, and we've included their discovery responses.

20 THE COURT: Okay. And they are only third-party
21 defending, correct, in looking at the various captions?

22 MS. LOVELOCK: Well, I mean, our argument is they are
23 all alter egos of each other, but, yes.

24 THE COURT: For --

25 MS. LOVELOCK: Yes, Your Honor.

1 THE COURT: For caption purposes.

2 MS. LOVELOCK: Yes.

3 THE COURT: I'm just right now looking at caption
4 purposes.

5 MS. LOVELOCK: Yes, Your Honor.

6 THE COURT: Okay. Okay. Go ahead, please.

7 MS. LOVELOCK: We believe that that warrants an
8 answer to be stricken and that we should be able to take a
9 default judgment against them and prove up our damages.

10 THE COURT: Okay.

11 MS. LOVELOCK: Okay. The other request that we have,
12 Your Honor, is -- the other request, so the first one we ask
13 for is everyone's answer be stricken or their affirmative
14 claims, and we be allowed to do a prove-up as to damages.
15 That's our first request.

16 The backup request or the second request is, Your
17 Honor, it has been explained to us ad nauseam that E&T, the
18 plaintiff, is judgment proof. It has been insinuated to us
19 that our best option is to settle for whatever they offer
20 because we're never going to recover against them, and even if
21 we do they're judgment proof. We asked for all financials.
22 We -- let me take it back.

23 When Erika Pike Turner's firm was in and they went in
24 for the TRO, they produced receipts to prove up that that
25 equipment belonged to them. In those receipts, those

1 third-party defendants were in there somehow. That's why we
2 tied them in as well because that's when we started under
3 learning the interplay that was happening outside the
4 production facility and how it affected our production facility
5 or Euphoria's production facility.

6 Okay. So we went in front of Judge Allf. We had
7 alter ego claims. Garman Turner did a motion to dismiss those
8 claims, and Judge Allf said it's in -- what she does is say
9 alter ego can be added on after the end of discovery, once you
10 do discovery into that issue. Not every Judge deals with it
11 that way. I understand that, but Judge Allf has in her
12 business court. She does it that way. We included the
13 transcript in here so that you can see that.

14 So we were expecting that we would get financial
15 documents because it's business court. She would be the one
16 overseeing these requests, and we'd be able to prove they're
17 alter egos. So our second request here is you now have ordered
18 them produce all financial documents, all corporate structures.
19 Essentially we were looking so that we could then give those
20 documents to a potential expert, and he could tell us, yeah,
21 they didn't adhere, and he could go -- we could then provide to
22 you why they are alter egos of each other. So E&T is not
23 necessarily judgment proof because they're alter egos. Joe
24 Kennedy, Miro, Alex, Chris and in these different entities are
25 alter egos of each other.

1 So because they didn't comply and they didn't give us
2 the documents, here are the two options that we have to believe
3 is, one, either there are no financial documents; there are no
4 corporate documents. And guess what then? They did not adhere
5 to corporate formalities, and those should not be respected in
6 their alter egos. Or, all of that information exists, but
7 despite your order, despite our request, despite trying to get
8 that information, they have refused to comply with your order
9 completely, just absolutely didn't comply with your order. And
10 that's why we are requesting that this Court deem them alter
11 egos.

12 And I think the fact that since we deposed
13 Mr. Kennedy, he has now taken over E&T as the manager of E&T,
14 it shows that he is the alter ego of E&T. It shows that he's
15 the one who's been paying for all this litigation. He's using
16 his personal counsel Mr. Stipp. These are alter egos of each
17 other, Your Honor. That was our second request.

18 Our third request is that there be an order or that
19 he at least provide the address so that we can do a third-party
20 subpoena, or, more importantly, because he included them care
21 of Mitchell Stipp at a certain point, that you order Mitchell
22 Stipp to produce Kristin Ehasz, Kristin Taracki and her
23 husband, Alex Taracki, so we can depose them in their
24 individual capacities.

25 We have a 30(b)(6), a PMK that's set for the 7th that

1 we finally, despite not having documents, despite not are what
2 we wanted to -- we wanted to dispose in a certain order. We
3 have it set on the 7th, and we have gotten the feeling that
4 Mitchell Stipp is not producing them on the 7th. And we'll
5 deal -- we can deal with not producing the PMK.

6 But here we want to take the deposition of the two
7 individuals that were part of this dispute. We've asked for
8 information as to how to serve them with a subpoena, and we
9 can't get it from E&T, which is a plaintiff in this case, who
10 should be able to tell us where we can find a fact witness.

11 Those are the three requests, including our
12 attorneys' fees, for having to bring this motion.

13 THE COURT: Okay. We're not going to be able to have
14 all the motions be this long, as you can appreciate.

15 MS. LOVELOCK: I know, but this is the bulk, Your
16 Honor.

17 THE COURT: I understand. I'm just, in fairness to
18 timing. Okay.

19 MR. STIPP: Understood.

20 THE COURT: So, Counsel for response. And I'm going
21 to ask you a couple of questions. And I can ask at the end,
22 okay, or I can ask you up front. What would you prefer me to
23 kind of tell you what some of my questions are going to be? Do
24 you want me to wait until the end?

25 MR. STIPP: Your Honor, this is Mitchell Stipp. I'm

1 happy to defer to you, but, Your Honor, I would suggest that 45
2 minutes of oral argument here this morning on behalf of
3 Euphoria substantially is based on facts that are not in
4 evidence. And, in fact, many of the facts are in dispute. So
5 we're happy to go through our presentation. We're happy to
6 address the Court's issues. To the extent that it has
7 questions, we'll defer to the Court.

8 But we would like the opportunity though to address
9 some of the more specific issues that Euphoria's counsel raises
10 this morning. Because this is a discovery motion; right? This
11 is about sanctions on the basis of your order, and we've heard
12 lots of misrepresentations about what was produced and not
13 produced, what was ordered to be produced, what was not. Your
14 Honor, you have your order. Your order is entered in.

15 And in this particular case, the Court didn't grant
16 Euphoria's relief. It granted Euphoria's relief on its motion
17 to compel only in part. Sanctions were denied. Contempt was
18 denied. Attorneys' fees was denied, and the parties that were
19 subject to that particular order, and that order that the
20 notice of entry was filed on October 18, there's only specific
21 categories of items that were required to be supplemented.

22 But in this particular case, Your Honor, the E&T, CBD
23 Supply, Happy Campers and Miral Consulting supplemented every
24 single discovery response, every single one of them were
25 supplemented.

1 Now, the fact that there were no additional specific
2 documents disclosed on behalf of CBD, Happy Campers and Miral
3 Consulting shouldn't come as a surprise, Your Honor. You know
4 why? They're not a party to the agreement between E&T and
5 Euphoria, and they're only in this case by two flimsy causes of
6 action -- conspiracy and concert of action of which have not
7 even been properly pled.

8 I'm happy to address, and we can go through the
9 discovery supplemental responses by these entities one by one,
10 and so the Court can see that the response that was provided is
11 complete, accurate, in accordance with the rules and that there
12 isn't a need to be before this Court or to sanction these
13 parties any further.

14 So I will defer to the Court in terms of how you
15 would like me to (video interference), but I would like an
16 opportunity to address at some point --

17 THE COURT: Well, you've already started. You've
18 already started, Counsel. Just finish. Yeah. You've already
19 started. So go ahead. Feel free to address what you're --

20 MR. STIPP: So, Your Honor, if you go to our
21 exhibits, which were filed in this case on December the 10th,
22 if you go to Exhibit 2, 3, 4 and 5, you will see the
23 supplemental responses by each of the parties. E&T, Miral
24 Consulting, Happy Campers, CBD Supply.

25 THE COURT: Uh-huh.

1 MR. STIPP: Their responses are supplemented to each
2 and every one of the requests.

3 Now, the facts are as follows. These are entities
4 that are no longer in business. These are entities that are
5 essentially defunct. These are entities that were brought in
6 as a result of Euphoria's baseless claims. They're not
7 operating. There's not financial data to be provided. We've
8 disclosed the ownership interest in these entities by virtue of
9 responding to the discovery requests. That -- all of that
10 information was provided. And to suggest that the information
11 wasn't provided is simply not true.

12 The biggest issue that Euphoria highlights to the
13 Court is the response by E&T as to of the addresses for the
14 principals of E&T, but what Euphoria doesn't communicate to the
15 Court is what is exactly the discovery request that was made?
16 What was made? And it was an interrogatory, and it was an
17 interrogatory addressed to E&T.

18 Interrogatory Number 1. Please provide the name and
19 current addresses of the principals of E&T.

20 That was directed to E&T. E&T's response is based on
21 available information at the time. If you go to the Nevada
22 Secretary of State's website, and we've attached in our reply,
23 our reply that was filed on 12/21, the exhibit to that reply
24 says very clearly who the principals are of E&T at the time and
25 the addresses associated with those principals. We've attached

1 it as an exhibit, although not required to support necessarily
2 the response to the interrogatory, we've attached that
3 response.

4 And if the Court looks at the reply, according to the
5 books and records of E&T, the managing member Kristin Ehasz,
6 the address is 2244 Summerwind Circle, Henderson, Nevada 89052.
7 So E&T --

8 THE COURT: Can I stop you right there though,
9 Counsel.

10 MR. STIPP: Yes.

11 THE COURT: If E&T, right, you had her do -- verify
12 the rogs; right? Supplemental rogs, Kristin; right?

13 MR. STIPP: Correct.

14 THE COURT: She knows her address.

15 MR. STIPP: She does know her address.

16 THE COURT: Is that the correct address, the
17 Henderson address listed in the actual supplemental
18 interrogatories?

19 MR. STIPP: Yes, it is.

20 THE COURT: She owns that house, and she can be
21 located at that house for purposes of subpoena?

22 MR. STIPP: I don't know the answer to that question,
23 Your Honor, I --

24 THE COURT: But she would. But, Counsel, wouldn't
25 she have known the answer to that when she was verifying those

1 interrogatories, right --

2 MR. STIPP: That's right.

3 THE COURT: -- and putting that address down.

4 MR. STIPP: I have no reason to -- and I have no
5 reason to believe that the address that has been provided is
6 not accurate. I have no information that that information is
7 not accurate, zero. And I have no reason to believe that --

8 Go ahead.

9 THE COURT: So she still lives here? So she still
10 lives at that Henderson address?

11 MR. STIPP: I've never been to her address, Your
12 Honor. I don't know where she lives. I simply am relying on
13 the information that she's provided to me as her counsel.

14 THE COURT: Okay. So I just want to be clear on
15 this, right. Obviously she knows where she lives. Obviously
16 the interrogatory specifically set forth that Henderson
17 address, okay. Correct?

18 MR. STIPP: Correct.

19 THE COURT: So and she verified the interrogatories;
20 correct?

21 MR. STIPP: She verified the interrogatories on
22 behalf of E&T. Correct.

23 THE COURT: Correct. But the interrogatories were to
24 E&T. But since she verified them on behalf of E&T, she had to
25 ensure that they were accurate, right, based on her own

1 personal knowledge?

2 MR. STIPP: Absolutely.

3 THE COURT: Okay. So that's why I'm asking the
4 question is she would know if that's a correct address for
5 where she lives, as represented in the interrogatories.

6 MR. STIPP: Yeah. I don't have any reason to believe
7 that that's not a correct address, Your Honor.

8 THE COURT: Okay. So --

9 MR. STIPP: And if I did, if I did, I wouldn't
10 have -- I wouldn't have supplied the supplemental response on
11 behalf of E&T if that was the case because --

12 THE COURT: So are you saying that Kristin --

13 MR. STIPP: -- if I had any reason --

14 THE COURT: Wait. Did Kristin Taracki actually
15 review all of those supplemental responses before she had a
16 slash S placed in her name?

17 MR. STIPP: Yes. I mean, the supplemental responses
18 were provided, and it's --

19 THE COURT: To her? To her directly? I'm just
20 asking. Were they provided to her?

21 MR. STIPP: Yes, they were, to the best of my
22 knowledge.

23 THE COURT: Well, you're her counsel; you'd have the
24 obligation to provide them to her. So either you did or you
25 didn't.

1 MR. STIPP: I don't represent -- I don't represent
2 her personally. I represent E&T.

3 THE COURT: Okay. So but on behalf of E&T, right,
4 it's your job as a lawyer to ensure, right, Rule 11; right?

5 MR. STIPP: Correct.

6 THE COURT: You can't submit anything to the Court or
7 anything, right?

8 MR. STIPP: That's right.

9 THE COURT: To ensure that E&T, who those were sent
10 to. Now, whoever E&T decided to be the corporate
11 representative, right, they --

12 MR. STIPP: Correct.

13 THE COURT: -- for the verification. So who typed
14 her -- let's put it this way. Who typed her name on that
15 page for verification? Did she do that herself, or did
16 someone --

17 MR. STIPP: I typed her name.

18 THE COURT: Pardon?

19 MR. STIPP: I typed her name with her permission.

20 THE COURT: Okay. So then you knew that she was the
21 one verifying them; right?

22 MR. STIPP: Correct.

23 THE COURT: Okay. So and she was sent -- so to your
24 knowledge, how did she obtain the interrogatories and what she
25 verified?

1 MR. STIPP: I believe she received them from
2 Mr. Kennedy.

3 THE COURT: But Mr. Kennedy didn't verify them? If
4 he's the -- if she's no longer with the company -- okay. If
5 you typed her name with her permission --

6 You understand this is not making sense to the Court,
7 right, because if whoever the --

8 MR. STIPP: No. I think that --

9 THE COURT: And I'm not asking about any client
10 communications, right. I'm merely asking about --

11 MR. STIPP: I'm not given a --

12 THE COURT: Okay.

13 MR. STIPP: I'm not given an adequate time in order
14 to respond to the Court's question, Your Honor.

15 THE COURT: Sure. Go ahead.

16 MR. STIPP: I think that the details --

17 THE COURT: Go ahead, please.

18 MR. STIPP: I think the details are a little more
19 complicated.

20 At the end of the day, I'm informing the Court. I
21 completed the electronic signature personally. I did so with
22 Kristin Taracki's permission. I have no reason to believe that
23 the information that's being provided is not accurate.

24 Your Honor, this isn't the only issue of addresses
25 here. There's a laundry list of witnesses that haven't been

1 disclosed properly by Euphoria, parties who Euphoria has
2 intentionally withheld their addresses on their books and
3 records. So, you know, to cherry pick this specific issue to
4 suggest that this should be a basis upon which to order
5 discovery sanctions would be unfair. There are many more
6 parties involved here than just Ms. Taracki on behalf of E&T.

7 THE COURT: Go ahead with whatever else you wish to
8 respond to their motion. Go ahead, Counsel.

9 MR. STIPP: Sure, Your Honor. So if you go to our
10 exhibits that were filed as part of the appendix on December
11 the 10th, starting with Exhibit 2 through the remainder, you'll
12 see that each and every discovery request has a response.
13 There's supplemental responses made on behalf of E&T, Miral,
14 Happy Campers and CBD Supply. It would not be unusual, Your
15 Honor, to see limited records produced by parties who were not
16 a party to the transaction, who were simply included in the
17 pleadings on the basis of -- a baseless conspiracy claim and
18 concert of action.

19 The entities are no longer in business and operating.
20 There isn't financial information to provide on behalf of those
21 specific entities. To the extent that organizational documents
22 have been requested, Nevada law doesn't require an operating
23 agreement, and it's not my understanding that any of these
24 entities had operating agreements. That doesn't necessarily
25 mean that the failure to have an operating agreement should

1 justify a alter ego claim, specifically because NRS Chapter 86
2 doesn't require that members adopt an operating agreement.

3 But there's been no attempt to evade or withhold
4 information. Ownership for the entities is specifically
5 provided and in the responses to the -- in responses to the
6 written discovery. And if the Court goes through these line
7 by -- I'm happy to do it, to go through each of the discovery
8 requests and our responses and point out to the Court how the
9 responses are more than accurate.

10 THE COURT: Okay. So --

11 MR. STIPP: With respect to --

12 THE COURT: Sure. Sure.

13 MR. STIPP: Pardon?

14 THE COURT: Counsel, you referenced the page --
15 sorry, of your discovery responses. Can you restate that page
16 number. I was going back trying to find it in your appendix.

17 MR. STIPP: Sure. The appendix that was filed was
18 filed on December the 10th. And we're talking about starting
19 with the Exhibit 2, which would be the appendix page 207.

20 THE COURT: Okay. Okay. That was your
21 electronically served 10/25/2021, first supplemental responses
22 and objections to request for production of documents; is that
23 correct?

24 MR. STIPP: Correct.

25 THE COURT: Okay.

1 MR. STIPP: And so you'll see in Exhibits 2, 3, 4 and
2 5 of the specific discovery, the responses. And Euphoria's
3 position is, is, well, we just don't believe you. Well, I
4 don't know what to tell them. I mean, the facts of the matter
5 are as follows. E&T operated the production facility. E&T was
6 wrongfully evicted from the production facility. The facility
7 was closed, and E&T and its principals were excluded from any
8 access to the facility.

9 As a result of the termination of the joint venture
10 means that E&T was left financially devastated. So it's not a
11 surprise in litigation where you see parties who have been, you
12 know, affected by the results of another party to have, you
13 know, limited information.

14 Having said that, whether E&T is an alter ego of
15 Happy Campers, whether Happy Campers is an alter ego of Miral
16 Consulting, whether Miral Consulting is an alter ego of CBD
17 Supply really doesn't matter because alter ego is a remedy, a
18 remedy, which means that, as this Court is aware, that Euphoria
19 would have to prevail on the merits, and have damages. And as
20 a result of those damages could proceed against any one of
21 these parties as an alter ego.

22 But what Euphoria has failed to communicate to the
23 Court but we've highlighted in our filings, Your Honor -- you
24 can ask Ms. Lovelock directly -- you don't have any damages.
25 And the reason why they don't have any damages, Your Honor, is

1 because they didn't receive any profits from the production
2 facility that was previously operated by E&T; however, when
3 they terminated the contract and took over the facility,
4 they've been retaining all of the profits. So they don't --
5 and they're not sharing any of those profits. So not only did
6 they keep E&T's equipment that it paid for, almost half a
7 million dollars worth, it's also been keeping all of the
8 profits for the last year and a half.

9 And so, Your Honor, this whole idea that there's this
10 grand conspiracy between E&T and these other entities and
11 somehow Euphoria has been deprived of its ability to litigate
12 this case in fairness is a red herring. It's absolutely false.

13 The facts are, and Ms. Lovelock will confirm, they
14 kept the equipment and (video interference) operating the
15 facility, and they don't have any damages, which is why they
16 didn't supply an expert report on damages.

17 They also didn't supply a rebuttal expert report to
18 our expert report. That's the point, Your Honor, is they keep
19 coming into Court making these outlandish allegations, right,
20 and yet they're not supported. I mean, we extended deadlines
21 in this case because they needed time to gather evidence for
22 their expert report on damages. They never intended to supply
23 a damages report because they don't have any. And if they
24 don't have any damages, then the issue of an alter ego is -- it
25 means nothing.

1 THE COURT: Counsel. Counsel. I need to focus you
2 on their motion for discovery. I appreciate you're trying to
3 inform the Court of your client's position.

4 MR. STIPP: Your Honor, I'm just responding --

5 THE COURT: But really, okay, I'm looking at the
6 document request and the supplemental document request, right.
7 I have to confirm or find one way or another, right, whether or
8 not your client complied with the Court's prior order, okay.

9 MR. STIPP: Correct.

10 THE COURT: So when I looked through the Happy
11 Campers' response, right, other than a reference to the
12 Secretary of State website for a public document, any documents
13 produced, because I did not see anything, okay, with regards to
14 Happy Camper after the Court's order. Was there a single piece
15 of paper produced by Happy Camper, physically produced by Happy
16 Camper?

17 MR. STIPP: Happy Campers that did not produce any
18 documents in response to the supplemental request.

19 But if you look at what the supplemental requests
20 are, it's not accurate to say, well, they didn't produce
21 anything. Well, you know what, in response to our motion to
22 compel, Euphoria produced an additional 33 documents.

23 THE COURT: Counsel. Counsel.

24 MR. STIPP: -- that's not the --

25 THE COURT: We're not there yet. You're going to

1 have -- Counsel, you're going to have an opportunity, right, on
2 your affirmative motions. We're not there yet, right. We have
3 to focus because --

4 MR. STIPP: Sure.

5 THE COURT: -- take them one by one.

6 So Happy Camper did not -- in this litigation, has
7 Happy Camper produced a single document by Happy Camper?

8 MR. STIPP: Not directly, Your Honor, no.

9 THE COURT: When you say not directly, there's -- I
10 did not see any reference to any 16.1 disclosures. I did not
11 see any reference in any of the discovery in preparing for,
12 well, the prior hearing and this hearing, okay. So did Happy
13 Camper provide --

14 MR. STIPP: Your Honor, so let me --

15 THE COURT: -- provide a single document?

16 MR. STIPP: So let me be clear about what that
17 response is. You don't have to produce documents, as you know,
18 Your Honor, independently. If they've already been produced in
19 the case by a party, you can simply reference them by Bates
20 number.

21 Happy Campers, CBD Supply, Miral Consulting, they've
22 all produced documents by referencing other documents produced
23 in the case. So this isn't an issue --

24 THE COURT: Can you point that out to me. Can you
25 point that out to me in your document responses then, please.

1 MR. STIPP: Sure. I'm happy to do that.

2 THE COURT: Thank you.

3 MR. STIPP: Let me see if I can come up with an
4 example.

5 You don't have -- unfortunately, you don't have,
6 because they're not served, only the disclosures in this case,
7 and so you don't have those before you, Your Honor, I don't
8 believe.

9 THE COURT: Well, the issue before this Court, right,
10 this issue before this Court, I focused first right on the
11 discovery responses, okay.

12 MR. STIPP: Sure.

13 THE COURT: And I, like I said, I keep looking
14 through, and what I keep on -- I see objections. It just has
15 not identified any.

16 MR. STIPP: You don't see -- Your Honor, you don't
17 see objections.

18 THE COURT: I did not see any cross-reference.

19 MR. STIPP: You don't see objections.

20 THE COURT: I did not see any cross-references. You
21 mentioned the fact that there was cross-references, right?

22 MR. STIPP: That's correct. And so that may be with
23 respect to E&T and some of the other parties. We're talking
24 about four parties here, Your Honor. You're asking me to pick
25 out, out of four separate discovery responses, references an

1 example to documents that we produce. And so if the Court will
2 indulge, I'm happy to go through them to identify what those
3 are.

4 THE COURT: Okay. Which is why I was trying to go --
5 right. For Happy Camper, okay, Happy Camper, there was
6 document requests, 41 document requests, not taking any
7 position, right, there's 41 document requests, which are the
8 first 19 pages of the supplement is what the Court saw, and it
9 ends on page, the appendix page 267 is what the Court saw.

10 I did not see a single document that was referenced
11 with a Bates stamp number that was being produced. The only
12 thing I saw, and I just rechecked right now, was the reference
13 that I said about the Secretary of State saying something was
14 publicly available; right?

15 MR. STIPP: Sure.

16 THE COURT: Saying -- and that was earlier on, and
17 that's it. I did not see a single document. And when you
18 mentioned that you cross-referenced to other of the defendants,
19 third-party defendants, right, I went back and looked through
20 that because I didn't recall seeing it, and I didn't see any
21 cross-reference to, you know, see the response of the
22 third-party defendant blank or plaintiff blank, you know what I
23 mean?

24 MR. STIPP: Sure.

25 THE COURT: You know what I mean, Bates stamp numbers

1 blank to blank.

2 MR. STIPP: Sure.

3 THE COURT: I didn't see any. Now, once again --

4 MR. STIPP: Okay.

5 THE COURT: As you can appreciate with the thousands
6 and thousands of pages you all each provided me, right, in your
7 references to subparts, if you think I missed something --
8 that's why I was asking you to point out because you said you
9 could point out for each of them that they did do that, and I
10 just didn't see it. Now, maybe I missed it; that's why I was
11 asking you.

12 MR. STIPP: Sure. And I'm looking at the Happy
13 Campers one as well. I don't see any specific
14 cross-references. That doesn't mean that the response or the
15 supplemental response is inaccurate. It doesn't mean that
16 the -- like, for example, there wouldn't have been financial
17 information disclosed in this case by Happy Campers unless it
18 was specifically requested by Euphoria. And so I agree I don't
19 see a cross-reference on those items.

20 And so since they weren't involved in the joint
21 venture, they weren't involved in the termination, they weren't
22 involved in the investigation, all of the requests for
23 discovery appear to be specifically related to the entity
24 financials, organizational documents and things of that nature.
25 And so I agree with you, Your Honor. I don't see anything

1 where a response incorporates the reference to other documents
2 for Happy Campers.

3 THE COURT: Sure. And in particular --

4 MR. STIPP: However, that doesn't mean that the
5 supplemental response is not accurate.

6 THE COURT: Okay. Counsel, of particular concern was
7 Document Request 26, right, because Document Request 26 said,
8 Please produce a list of all persons who performed work for
9 Happy Campers from July 7th, 2017, until August 31, 2019, and
10 all related payroll records, tax forms, timecards, shifts, and
11 work location assignments; right? So that would be Happy
12 Camper specific question, and it had a date restriction, and it
13 specifically referenced only Happy Camper payroll records, tax
14 forms, timecards, shifts and work locations.

15 MR. STIPP: Sure.

16 THE COURT: And like I said, I'm reading Document
17 Request 26.

18 MR. STIPP: Sure.

19 THE COURT: So I appreciate it's not part of the
20 joint venture agreement, but I don't see -- the next one says,

21 NRCP 26 does not permit discovery of
22 Happy's employee independent contractor
23 information since such matters are not relevant
24 and cannot lead (indiscernible) of evidence.
25 Discovery may not invade Happy's right to

1 privacy without weighing the needs of the case,
2 the amount of controversy --

3 MR. STIPP: Your Honor, that's not the response.

4 THE COURT: I'm about to go to the supplemental one.
5 I'm sorry. That was the original one.

6 MR. STIPP: Okay.

7 THE COURT: I'm trying to give you the benefit of the
8 first one and the second one. So in case something was in the
9 first one, right, okay. So then it says --

10 MR. STIPP: Yeah, I just want to be clear for the
11 record, Your Honor, that Happy Campers doesn't have any
12 employees, to my knowledge and what I've been informed, never
13 had any employees. There are no payroll records, tax forms,
14 timecards, shifts or work.

15 I'm only aware of Joseph Kennedy and Alex and Kristin
16 Taracki having a membership interest in the entity, none of
17 which were employees, and none of those records are available
18 or in existence. And so that's an accurate response to the
19 request.

20 THE COURT: Sure. Counsel, I was just trying to go
21 to the supplemental, just make sure I'm reading it right.

22 The supplemental response to Document Request 26
23 says, Happy has identified Joseph Kennedy, Alex and Kristin
24 Taracki, right?

25 MR. STIPP: Correct.

1 THE COURT: So presumably those three people would
2 have performed work for Happy Campers. At least, once again
3 Happy --

4 MR. STIPP: Not necessarily, Your Honor.

5 THE COURT: Well, but the request -- I mean, maybe
6 that's this is a little confusing. Let me read the rest of it.
7 So because the request was please produce a list of persons who
8 performed work for Happy Campers from July 7th, 2017, to
9 August 31, 2019, and all related payroll records, tax forms,
10 timecards, shifts, work locations, assignments.

11 So there was no names or anything in the first
12 response. So then the supplemental response does say Happy has
13 identified Joseph Kennedy, Alex and Kristin Taracki. And then
14 the second sentence says; however, after good-faith efforts,
15 Happy has not identified any documents responsive to this
16 request. And then it says discovery is ongoing, and Happy
17 reserves the right to supplement its responses.

18 Well, since 2019 and way before, that's not a proper
19 response, regardless, but where the concern was when the Court
20 was reading this and preparing for today, right, is in order to
21 have answered Document Request 26, which asked to produced a
22 list of the persons who performed work for Happy Campers,
23 right, they would either have to -- if somebody is doing work,
24 okay, because that was the way it was phrased, and once again,
25 I'm not the drafter. I'm just the reviewer, and purposes for

1 today's motions, right, is -- but it says who performed the
2 work. And then it lists Happy has identified Joseph Kennedy,
3 Alex and Kristin Taracki. So that would seem to imply that
4 those three individuals did work for Happy. And if they did
5 work for Happy, under applicable law, they would have something
6 relating to them doing work for Happy, would they not?

7 MR. STIPP: No, Your Honor. They were -- they were
8 members in the entity. They were not employees, and Alex and
9 Kristin Taracki are no longer members in Happy. These matters
10 were explored in detail during Mr. Kennedy's deposition. So
11 you don't have to be an employee for -- of an entity --

12 THE COURT: Right. I didn't use the term --

13 MR. STIPP: -- second of all --

14 THE COURT: Right. Counsel, just to be clear. I did
15 not use the term employee. I read straight from the document
16 request, which said, Did work for; right?

17 MR. STIPP: And I'm not even sure what that means,
18 right. I don't even know what you -- what it means, all
19 persons who did work, is that, you know, any service providers?
20 Is it independent contractors, is it officers, directors,
21 managers? Is it lenders --

22 THE COURT: But you listed -- but you listed them.
23 They were listed, okay.

24 MR. STIPP: That's right.

25 THE COURT: Okay. So that means they did work for,

1 and that's what it was saying. If somebody did work for
2 something in some capacity -- and not saying what that capacity
3 is, it's very difficult for the Court --

4 MR. STIPP: And that's why they're identified.

5 THE COURT: -- to have an understanding how there
6 would be absolutely nothing relating to them if they did work
7 for them; right? Because that's outside their capacity --

8 MR. STIPP: Well, Your Honor, I'm assuming -- I'm
9 assuming that if you're negotiating a partnership deal, right,
10 and as part of that negotiation, that's work. You know, I
11 could take the position to say, well, it's not work, but I want
12 to be more inclusive rather than inclusive [sic]. When you use
13 words like he performed work, and it's so ambiguous, you leave
14 the person who's responsible for responding in a very difficult
15 spot.

16 And so in this instance, Happy identified those three
17 individuals. They're not employees. There's no payroll
18 records, tax returns, timecards, work location assignments
19 applicable to them.

20 And the scope of their involvement in that entity was
21 fully disclosed during the deposition. So I think that we have
22 to be careful here, Your Honor, about making assumptions.

23 THE COURT: But, Counsel, I'm hearing what you're
24 saying, but I didn't see that anywhere in your response, right.
25 I didn't see it was vague as to the word. I didn't see a

1 reference to Kennedy's deposi -- I didn't -- I'm hearing you
2 say that in oral arguments, right, but remember this Court's
3 order --

4 MR. STIPP: But, Your Honor, this was --

5 THE COURT: -- was to supplement the responses, and
6 that's the --

7 MR. STIPP: Yes.

8 THE COURT: I'm hearing what you're saying, Counsel,
9 but --

10 MR. STIPP: And we supplemented. You can't -- so
11 you're saying that the list of people here, which we provided
12 the list, Joseph Kennedy, Alex and Kristin Taracki, check.
13 What other else? There's no payroll records. There's no tax
14 forms. There's no timecards. There's no shifts or work
15 location assignments. So if that's the case, it's accurate to
16 say there's not any -- there's no documents. And I understand
17 that the Court's position is, is, well, I don't understand.

18 Well, the Court is not fully briefed on what this
19 entity did, how long it did it, what were its relationships,
20 and so there's a lot of assumptions being made that are not
21 accurate. And so the list here is -- there's compliance.
22 Please provide a list. Okay. Well, those are the three.
23 Okay. Payroll records, there's none. Tax forms, none.
24 Timecards, none. Shifts, none. Work location assignments
25 none.

1 But yet the Court seems to be still concerned.

2 THE COURT: Okay. Go ahead, Counsel, feel free
3 whatever else is your response, and then we're going to circle
4 back to brief response. The Court is going to need to make a
5 ruling.

6 Go ahead, please.

7 MR. STIPP: Sure, Your Honor.

8 So as we laid out in our opposition, Your Honor, in
9 painstaking detail, that this is just a -- this is a
10 distraction. This is an attempt to point out where, as a
11 litigation strategy, right, because if the Court really thinks
12 through, you know, what's going on here, where's the issues?
13 Alter ego, is a remedy. Euphoria has no damages.

14 At the end of the day, the responses have been
15 provided consistent with available information, due diligence
16 and inquiry. Euphoria has not pointed out in any manner
17 whatsoever how there exists documents out there that are
18 inconsistent. And so until they've done that, I think that it
19 would be improper to assume well, you know, these parties must
20 not be telling the truth.

21 Our position, Your Honor, is that in terms of the
22 countermotion we've asked for attorneys' fees as sanctions.

23 THE COURT: Right. Counsel. Counsel.

24 MR. STIPP: -- because the --

25 THE COURT: We're not at your countermotion yet.

1 Remember, we're not at your countermotion yet.

2 MR. STIPP: I see.

3 THE COURT: We're doing this one by one so that
4 everyone has a full opportunity to respond to each of these
5 motions independently, appreciating that it's taking a little
6 bit of --

7 MR. STIPP: I apologize, Your Honor. So I don't have
8 anything further other than what we've provided in our brief.
9 We've supplemented all of the responses. The Court should look
10 at its actual order. The order was to supplement. Mr. Kennedy
11 appeared for his depositions. He answered all of the
12 questions. The supplements were done well in advance to
13 accommodate Euphoria's request for this information in order to
14 prepare its expert reports.

15 I think the Court should be concerned when a party
16 appears before it and says, hey, I need something for expert
17 reports. And yet they didn't need any information for purposes
18 of expert reports. An expert isn't going to review financial
19 data and say, well, you know, we believe that there's an alter
20 ego claim here or not.

21 The facts of the matter are is that these entities
22 are still in this case, and they shouldn't be. But having said
23 that, they've complied with their discovery obligations, Your
24 Honor, and we would say that Euphoria's motion on this issue
25 should be denied.

1 THE COURT: The Court has a couple more questions.
2 You note in your supplemental response that E&T is a
3 pass-through entity for federal income tax purposes.

4 MR. STIPP: Correct.

5 THE COURT: Pass-through for whom?

6 MR. STIPP: The entity itself is a pass-through,
7 which means it doesn't report. So Euphoria -- or I apologize.
8 E&T is a limited liability company, which can be designated in
9 any number of tax categories. In this case, it's a
10 pass-through entity which means that it doesn't report
11 separately its income and losses --

12 THE COURT: Who reports it. Who reports -- who
13 reports it then? Who reports the losses and the income?

14 MR. STIPP: Individual members.

15 THE COURT: The individual members do?

16 MR. STIPP: Correct. They report it on their
17 Schedule C.

18 THE COURT: Okay. So what I've got was there any --
19 okay.

20 MR. STIPP: So Euphoria, CBD, Miral, these are all --
21 they're not public companies. They haven't been around a long
22 time. None of them are in business anymore. We're talking
23 about like Miral, for example, you know, that's a husband and
24 wife deal. CBD Supply is a family deal. Happy was more than a
25 family deal, but that deal failed. These are not successful

1 business enterprises that have a going concern. They don't
2 have employees. You know --

3 THE COURT: Did they ever -- Counsel. You can
4 appreciate. Are you stating that none of the third-party
5 defendants or the first-party plaintiff E&T ever had any
6 individuals who received any compensation from any of those
7 entities?

8 MR. STIPP: I'm not saying that, Your Honor. I know
9 for a fact E&T had employees.

10 THE COURT: Okay. So E&T had employees; right?

11 MR. STIPP: Correct.

12 THE COURT: I was -- and that's why -- the challenge
13 I realistically -- so document requests for E&T asked copies of
14 the payroll documents from 2017 to present, including W-4
15 forms, W-2 forms, 1099s, I-9's, paystub --

16 MR. STIPP: Right.

17 THE COURT: -- total compensation letters, timecards
18 and payrolls, okay. So I didn't see in the initial response
19 there was anything produced. I looked at the supplemental
20 response. The supplemental response says,

21 After good-faith efforts E&T has not
22 identified any documents responsive to this
23 (indiscernible). Payroll for E&T was managed by
24 a third-party professional employer
25 organization. E&T has requested the available

1 records that are responsive.

2 And so, but they would have to -- so what PEO, so who
3 was the third-party professional employer, the PEO?

4 MR. STIPP: I don't have that information in front of
5 me, Your Honor. I know that the request has been made.
6 Clearly --

7 THE COURT: When?

8 MR. STIPP: -- I haven't received that information --

9 THE COURT: When was the request made? When was the
10 request made?

11 MR. STIPP: It was made at the time that the
12 discovery request was asked to be supplemented.

13 THE COURT: But initially, it wasn't made initially?

14 MR. STIPP: Your Honor, this is a business that was
15 kicked out of its facility, and all of its records were there.

16 THE COURT: Counsel, I'm hearing you but simply first
17 off --

18 MR. STIPP: Honestly, I don't recall whether --

19 THE COURT: -- companies have to maintain their own
20 records; right. Companies have to maintain their own records
21 even if they use a third party; right?

22 MR. STIPP: That's right.

23 THE COURT: Okay.

24 MR. STIPP: I don't know the answer to that. I don't
25 know whether or not they have to maintain it; they did maintain

1 it or they didn't maintain it.

2 THE COURT: Well, what date -- what date was the
3 documents, the payroll, what date was the documents provided --
4 well, I guess --

5 Okay. Your supplemental response date is -- I'm
6 trying to go back to when that supplemental response date is.

7 MR. STIPP: I think it's in October.

8 THE COURT: Right. And that's what I thought. I
9 thought it was October 25th, give or take a few days. But I
10 just wanted to be accurate.

11 MR. STIPP: That's right.

12 THE COURT: So since October, before October 25th,
13 the third-party PEO was refusing to provide or hasn't provided
14 these documents? That doesn't make sense. They have an
15 obligation.

16 MR. STIPP: Yes, Your Honor. I didn't -- I didn't
17 make the request. I made the request to the client to make the
18 request. I have not received that information.

19 But having said that, I guess what I would ask you is
20 this is information that Euphoria already has. And the reason
21 why they have it is because these -- this financial data was
22 reported to Euphoria as part of their joint venture. So you
23 see what I'm saying is that I understand they can make the
24 request. If we don't have it, we don't have it. But if they
25 have it, I don't understand what we're doing here.

1 THE COURT: Okay. I appreciate it. Thanks so much.
2 Those are the only Court's questions.

3 MR. STIPP: They don't tell you they have the --
4 they'll tell you they have the information.

5 THE COURT: Well, I'll ask it.

6 Counsel for Euphoria, do you have the documents that
7 you requested in the request for documents regarding the
8 payroll, I-9's, W-2's, W-4's, et cetera?

9 MS. LOVELOCK: No, Your Honor, not to my
10 understanding. They haven't disclosed in this case.

11 Your Honor, they kept their own QuickBooks. They had
12 their own computers. They had their own -- kept their own --
13 they were a management company. They kept their own records,
14 and we're trying to request those records.

15 THE COURT: And you have that from where?

16 MS. LOVELOCK: What?

17 THE COURT: You said that they have QuickBooks,
18 et cetera.

19 MS. LOVELOCK: We know that through the
20 communications that were exchanged during the time that they
21 were in breach. When they shut down the production facility,
22 their computers were still there. They had an office.
23 Euphoria allowed them to come in and take all the material --
24 or take all those computers. They were allowed to keep doing
25 payroll. So we know --

1 MR. STIPP: That's a point of dispute.

2 MS. LOVELOCK: -- through our evidence that these
3 things do exist, and they should be in the control of E&T, and
4 they should have been produced.

5 THE COURT: Okay. You did brief. It has to be
6 briefed because --

7 MS. LOVELOCK: It is absolutely briefed, Your Honor.
8 I just -- I want to make it clear is this wasn't a request from
9 us. This was an order from you, Your Honor. We did this. We
10 went through this game -- or not this game. We went through
11 these questions for three hours at a prior hearing. And your
12 order was very direct. It was lengthy. You have it before
13 you, and we got zero documents from three of the parties, and
14 we got a spattering of other documents. And now you hear
15 excuses, reasons what we've done wrong, what Euphoria
16 supposedly have.

17 There was a direct order from the Court that they
18 were supposed to respond and produce these types of documents,
19 and they just clearly didn't. And you have a lot of
20 information that's coming from counsel and a lot of information
21 where he pushes it back onto his clients.

22 In our request we've received one, that they be
23 defaulted; but, two, we asked for an evidentiary hearing. They
24 should be able to come in here and let us know what does and
25 doesn't exist and what they did to comply with your order, Your

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: That's why I want to hear his --

2 MS. LOVELOCK: Understood, Your Honor.

3 THE COURT: Right. We are doing in procedural order.

4 MS. LOVELOCK: Understood. Thank you.

5 THE COURT: So I have a countermotion, and so we will
6 deal with it both procedurally and substantively.

7 Go ahead, movant on the countermotion.

8 MR. STIPP: Your Honor, are you referring to the
9 countermotion that was included as part of the opposition that
10 was filed on December the 10th?

11 THE COURT: Document 212, which is titled opposition
12 and countermotion -- opposition to motion for discovery
13 sanctions and countermotion for related relief. That's the
14 document that the Court was referring to. So as far as the
15 opposition component, I took care of that as part of the
16 affirmative motion by Euphoria Wellness.

17 Now I was addressing your countermotion for related
18 relief portion.

19 MR. STIPP: As you can see, Your Honor, the
20 countermotion refers to our request for an award of attorneys'
21 fees because our position is is that this motion by Euphoria
22 was frivolous, unnecessary and unwarranted.

23 I will note for the record, Your Honor, although the
24 Court has reserved judgment in connection with an evidentiary
25 hearing on these matters, the Court -- the Court is basing

1 its -- the Court is basing its decision on the same logic of
2 Euphoria, which is we asked for these things. They must exist.
3 Because they don't exist we don't believe you. And that isn't
4 the standard, Your Honor.

5 And so, you know, our position would be, and we've
6 highlighted in our filing that the Court should look beyond
7 what is being litigated in terms of discovery disputes and see
8 the bigger picture as it relates to the substance. And the
9 substance is as follows, Your Honor.

10 They have payroll information because it was reported
11 to them. And to suggest that E&T is somehow behaving
12 inappropriately, given Euphoria's own position on matters, I
13 think isn't supported by the record.

14 Miral Consulting is defunct. CBD Supply is defunct.
15 We can save time, money and resources by stipulating to the
16 relief requested by the parties. I mean, I -- I don't have any
17 intention to represent Miral Consulting, CBD Supply or
18 Happy Campers on a conspiracy and concert of action causes of
19 action. It doesn't matter. I mean, from my perspective, you
20 know, my preference will likely be, and I'll advise the clients
21 is that I'm going to file a motion to withdraw.

22 And Euphoria can take whatever steps it wants in
23 order to get a default judgment because from my perspective, it
24 doesn't matter.

25 The parties in my view have made more than adequate

1 effort to comply for discovery in a case that they shouldn't
2 even have been in.

3 And the fact that we're going to now have an
4 evidentiary hearing on these same discovery issues when the
5 request by Euphoria is alter ego, it seems to make little sense
6 if they don't have any damages.

7 And so, Your Honor, we think that the motion is
8 frivolous. The Court obviously disagrees with us and is
9 setting an evidentiary hearing.

10 In terms of that particular matter, we don't have
11 anything further to add.

12 THE COURT: Sure. Counsel, what actually is your
13 countermotion? Because it says countermotion for related
14 relief. And I was looking for points and authorities under the
15 EDCR for what said countermotion would need to be, right,
16 because EDCR specifically sets forth --

17 MR. STIPP: Sure.

18 THE COURT: -- that you need, if you have a
19 countermotion, right, you have to be related to the same topic,
20 and it has to set forth its own independent points and
21 authorities.

22 MR. STIPP: Correct.

23 THE COURT: I didn't see anything so can you --

24 MR. STIPP: Sure. Let me turn you to on page 2 of
25 the filing it indicates that the motion by Euphoria is

1 frivolous, unnecessary and unwarranted. The motion for
2 sanctions is meritless and intentionally misleads the Court.
3 We have asked that the motion be denied and attorneys' fees
4 awarded to E&T and third-party defendants under EDCR 7.60(b)
5 and that matter is, additionally briefed, and I'll point out to
6 you where that is.

7 But I just -- I feel bad for the Court, because the
8 Court is at a disadvantage in terms of taking over this case.
9 But we're spending a lot of time, money and effort on matters
10 that really don't affect the outcome, and parties are being
11 forced to do more than they ordinarily should given that
12 they're no longer in business and have made it clear that the
13 records that have been asked are not available. And so, you
14 know, these parties can't produce what they don't have.

15 THE COURT: Counsel, I'm sorry. My question, and I
16 maybe wasn't clear, while I saw the caption called it a
17 counter-motion for related relief, in the body of the motion, I
18 did not see any section that was parsed out to call itself a
19 counter-motion. I did not see anything that complied with EDCR
20 2.20, and having these separate --

21 MR. STIPP: I read it to you, Your Honor.

22 THE COURT: Pardon?

23 MR. STIPP: I read it to you. I read you the
24 paragraph on page 2.

25 THE COURT: Does it even use the word -- okay. So

1 that's the only thing that's in there, that portion of
2 paragraph --

3 MR. STIPP: No. That same point is further briefed
4 throughout the opposition.

5 You know, when you oppose a motion and you're saying,
6 hey, this motion is frivolous, at the same time you're opposing
7 it, we're also asking for relief that if the Court agreed with
8 us and believed that the motion was frivolous, the idea would
9 be is that we wanted our fees, and that was the request that
10 was made in the countermotion.

11 THE COURT: Okay. Thank you so much.

12 Response, Counsel.

13 MS. LOVELOCK: Your Honor, if I may, and I think you
14 caught on to the tactics that we've been dealing with.

15 THE COURT: Counsel, we're not going to use words
16 like that tactics.

17 MS. LOVELOCK: Understood.

18 THE COURT: We're going to focus on --

19 MR. STIPP: Objection, Your Honor.

20 THE COURT: Counsel, you already heard me say we're
21 not using terms like that.

22 But go ahead, please.

23 MS. LOVELOCK: I understand. And I just want to say
24 that we addressed this in front of Judge Gonzalez as well.
25 What happens is we file a motion, and every motion includes a

1 caption that essentially says and counter motion for, similarly.
2 It's consistent, and then what happens is it allows the E&T
3 parties to file a surreply. Their surreply is 226, and then
4 that's when they include new information to oppose our original
5 motion. This was another example, and we believe it should be
6 stricken, and there's no true counter motion before the Court,
7 and that Pleading 226, which is the reply to our reply, should
8 be stricken.

9 THE COURT: Okay. Counsel, you get last word since
10 you at least titled it as a counter motion.

11 MR. STIPP: Your Honor, you know, I'm having trouble
12 here today with the personal attacks and the characterization
13 of things that just isn't reflected by the docket in this case.
14 So this isn't a matter that was addressed before Judge
15 Gonzalez. We have every right to bring a counter motion if we
16 believe that the motion is frivolous. We've cited to the
17 rules, EDCR 7.60. We fulfilled our responsibilities in terms
18 of briefing the matter, citing to appropriate authority and
19 making the arguments.

20 Now, I regret the fact that Euphoria's counsel
21 disagrees with the approach, but, you know, there's a
22 transcript here today, and we'll order the transcript, and
23 hopefully that transcript will be available in time for the
24 evidentiary hearing next week where we'll be able to, when the
25 Court has more time, identify all the ways in which Euphoria's

1 counsel today is misrepresenting the record.

2 THE COURT: Okay. So here's where the Court's going.
3 With regards to the Document 212, plaintiff E&T Ventures, well,
4 it was called opposition and countermotion for related relief.
5 The Court denies -- well, the Court already ruled with regards
6 to the opposition that's referenced with regards to Document
7 118.

8 With regards to what is titled in the caption on the
9 first page, the title says countermotion for related relief.
10 The Court denies said countermotion on two separate bases.
11 First, the Court finds that it is not a proper countermotion
12 under EDCR 2.20. It does not set forth -- A, it's not set
13 forth in the pleading. It's distinct from the opposition but
14 instead seems to be melded within the opposition. So there's
15 really no basis for the Court to find out which portion is,
16 quote, a countermotion versus which part is a opposition. So
17 it fails to comply with EDCR 2.20, and so therefore it would be
18 denied procedurally.

19 Substantively, the Court is going to deny it
20 substantively. Taking into account what counsel read is his
21 statement of what was the countermotion. The Court denies that
22 because it, once again, it would be based -- based on the
23 Court's ruling on Document 198.

24 Euphoria Wellness's motion for discovery sanctions
25 against E&T Ventures, Miral Consulting, Happy Campers and

1 CBD Supply Company, based on the Court's ruling granting it in
2 part, that would mean I would need to deny the countermotion
3 for attorneys' fees and costs.

4 Also, subpart of that, there is no bases set forth on
5 how that would be appropriate relief for this Court. So
6 substantively it does not survive any points and authorities or
7 any aspect for the Court. It just says -- and finally,
8 Euphoria wants E&T and third-party defendants to pay Euphoria's
9 attorneys' fees and costs.

10 And when the Court looks at it, taking in the --
11 most -- well, it's supposed to take the most generous light to
12 the opposing party. Anyway, taking it in the most generous
13 that this was intended to be a countermotion, the Court doesn't
14 find that there's any supporting facts or case law to support
15 said countermotion. So substantively it is denied as well.

16 Moving on to the third one. The third one is
17 defendant Euphoria Wellness's motion for sanctions for failure
18 to produce a privilege log, Document 203. We also have an
19 opposition thereto, and that one also says that there's a
20 countermotion. I will tell you the Court's inclination here is
21 I don't see a proper privilege log. So therein lies the
22 challenge, but I'm going to wait to hear it because I did not
23 see in the opposition that somehow it's stated that there was a
24 proper privilege log provided.

25 Instead I saw that in Document 216 -- let me go back

1 to 216. One second, please. 216, which I didn't see that it's
2 asserted that there was a proper privilege log. What it says
3 is they have not asserted any privileges which would require a
4 privilege log.

5 So go ahead, Counsel. What documents were there
6 where there was a privilege asserted which you say a privilege
7 log was appropriate?

8 MS. LOVELOCK: Your Honor, in their responses, we
9 identify in our motion where they identify that the document
10 that there's a -- that there's a boiler point that there's
11 privilege, and those won't be produced, and then within the
12 document I think we identified two places, and a privilege log
13 has never produced in this case.

14 In addition, there is a claim of information and/or
15 topics could not be discussed because they were privileged to
16 point in regard to a joint defense agreement, but there's no
17 privilege log that deals with the joint defense. There's just
18 no privilege log period.

19 THE COURT: Okay. And how about the issue that this
20 was filed four months after a meet and confer. Do you agree or
21 disagree with that concept?

22 MS. LOVELOCK: We did meet and confer with Mr. Stipp
23 on this issue; however, with regards to the meet and confer
24 directly, we -- Your Honor has provided a meet and confer as to
25 a privilege log is not needed because that's an affirmative

1 duty of every party. Therefore, a meet and confer here isn't
2 required as to whether a privilege log exists.

3 THE COURT: Okay.

4 MS. LOVELOCK: And so we claim that a meet and confer
5 wasn't necessary as to the privilege log issue, but as you can
6 see from other motions, we've been trying to meet and confer
7 with him throughout the course of this litigation.

8 A privilege log as of this date still has not been
9 provided.

10 THE COURT: Okay. Counsel, your response, please.

11 MR. STIPP: Your Honor, we've briefed, and I'm a
12 little concerned that all of the information isn't being
13 considered by the Court. And the reason is --

14 THE COURT: Everything is being -- wait. Counsel,
15 let's be a hundred percent clear. Everything is being
16 considered by this Court. As you've noticed, we've gone into
17 subsections of your exhibits it's attached to. I'll be glad to
18 do it again, but the Court is considering everything. Are
19 you -- I said I didn't see a privilege log. I don't see
20 anywhere in your opposition. Are you saying you provided a
21 privilege log?

22 MR. STIPP: Your Honor, if you see the opposition,
23 the opposition indicates that there was no attorney-client
24 privilege or work product asserted. So why would a party
25 produce a privilege log when they haven't asserted the

1 privilege? And that's the point. This has been briefed. It's
2 in our opposition, and we lay out very specifically, including
3 attaching our supplemental discovery responses wherein no
4 privilege is asserted. And yet Euphoria stands here today
5 arguing that we didn't produce a privilege log, and we've
6 briefed, Your Honor, why no privilege log is necessary, and yet
7 there still appears to be some confusion. So I'm a little
8 frustrated.

9 THE COURT: Sure.

10 MR. STIPP: And while I know that this -- there's a
11 lot before the Court, you know, these decisions affect, you
12 know, people's lives. And at the end of the day, if this -- if
13 all of the matters aren't being considered by the Court in
14 terms of its rulings, I'm just concerned.

15 THE COURT: But, Counsel, what are you saying is not
16 being considered? You -- in your responses --

17 MR. STIPP: You asked-- you asked --

18 THE COURT: Okay -- whether there was a privilege
19 log --

20 MR. STIPP: You asked why there wasn't a privilege
21 log, and my response to you, Your Honor, is, well, we've
22 detailed this in painstaking detail --

23 THE COURT: Okay.

24 MR. STIPP: -- in our opposition that we have
25 asserted no privileges and that Euphoria is relying on

1 statements contained within instructions wherein no privilege
2 is being asserted.

3 And we've laid out in our appendix and included
4 copies of our responses, which detail very specifically that no
5 privilege is being asserted. In fact, if they had reached out
6 to us before filing the motion, we would've confirmed that
7 there isn't -- there isn't a privilege that's being asserted.
8 And yet here we are being asked why don't we have a privilege
9 log.

10 THE COURT: Well, the reason why is, Counsel,
11 remember, the Court doesn't only take into account your
12 supplemental responses, right. The motion was filed that with
13 regards to all the discovery requests, okay, the term privilege
14 was used, okay. And so therefore, in order to assert a
15 privilege, right, you have to have some type of privilege log
16 to assert a privilege.

17 I understand in your responses you're saying that
18 your supplemental responses, you did not use the term
19 privilege, but I don't believe that you are contending that in
20 the initial responses the term privilege was not used
21 throughout. So I'm seeing really that you all are on different
22 pages on what you're contending the scope is before the Court.

23 MR. STIPP: No.

24 THE COURT: So I -- this Court is looking at --

25 MR. STIPP: Your Honor.

1 THE COURT: -- the totality of everybody's documents,
2 all of the responses, right, including all of the supplemental
3 responses.

4 The reason why the Court asked the question about --

5 MR. STIPP: How many --

6 THE COURT: -- a privilege log is because in some of
7 the responses the term privilege is used. There is an
8 affirmative obligation if you're asserting that you're
9 withholding something on the basis of privilege, right, is to
10 set forth the privilege and provide a privilege log in
11 accordance with the rules.

12 So I'm not sure what you're saying. The Court does
13 look at everything. It's just I think you're focusing on the
14 supplemental responses, and I think the movant is focusing on
15 both the initial responses and the supplemental responses. At
16 least that's the way the Court read the pleadings.

17 MR. STIPP: So, Your Honor, when have you ever
18 considered, after hearing a motion to compel, that didn't
19 concern any attorney-client privilege issues or the production
20 of a privilege log, then consider after that a motion for
21 sanctions on the basis of failure to produce a privilege log in
22 connection with the original responses? I've never seen
23 something like that.

24 THE COURT: But, Counsel, that's exactly what
25 you're --

1 MR. STIPP: I've never seen --

2 THE COURT: Remember, the Court gave your clients all
3 the benefit of the doubt, right. Remember, the initial motion
4 before the Court. The initial motion before the Court was for
5 substantive sanctions, okay. The Court did not end up issuing
6 those sanctions. I gave all of your clients the benefit of the
7 doubt and provided them the opportunity to supplement all their
8 responses, right, rather than doing any of the harsher aspects
9 with regard to sanctions.

10 In no way was the Court's ruling saying that with the
11 supplement, supplements by definition, would include, to the
12 extent that there's asserted privileges, a privilege log. By
13 definition, it would include that because to the extent that
14 there was an improper objection that saying something was being
15 withheld on the basis of privilege, then you would have to have
16 a privilege log.

17 So I gave your clients a full opportunity to not only
18 provide additional documents, provide additional responses to
19 the document requests, provide additional responses to the
20 interrogatory requests, but also the other areas where they
21 were deficient, which would include privilege log.

22 So this Court does see it specifically before the
23 Court because your client had the opportunity if they chose to
24 withdraw some of their initial objections. Because when you do
25 a supplemental response, it takes into account your initial

1 response as well as your supplemental response unless you
2 specifically say that you're taking away your initial response
3 and instead you're providing this in exchange for or -- and
4 asking some kind of striking of the initial one.

5 So when the Court looks at, remember, to give you the
6 benefit of the doubt, on all your clients, the benefit of the
7 doubt, with regards to all the responses, I didn't only look at
8 the supplemental responses. I fully take into account the
9 initial responses as well. So I took them together to see if
10 your clients were in compliance.

11 So when you take those altogether, that includes the
12 objections, et cetera, because when I looked at your
13 supplemental responses on the various ones where you did assert
14 a privilege, you didn't say you were now withdrawing your
15 objection as to privilege. So you have to look in that
16 totality.

17 But, look, you're not providing anything, because,
18 look, we have some privilege, and you're also not providing
19 anything because even in addition to not, the privilege ones we
20 might not be withholding, we also found nothing else that would
21 be nonprivileged and so we're not producing it. That was
22 giving really your clients the full best benefit of the doubt
23 on everything. So that's completely what the Court is taking
24 into account if that answers your question, but go ahead,
25 please.

1 MR. STIPP: So our position -- and we appreciate that
2 additional explanation, Your Honor. That helps.

3 Our position would be is that if we're -- if we're
4 providing a supplemental response and that supplemental
5 response does not include an assertion of privilege, we're not
6 asserting it. And so we would have, to the extent that there
7 was any confusion over that position, had there been a
8 discovery conference required under 2.34, we would've confirmed
9 that there wasn't a privilege being asserted. And so -- and we
10 would've been happy to make that clear either in an additional
11 supplement, in an affidavit, in an e-mail, in a letter, in
12 whatever manner that Euphoria would've wanted under the time to
13 be sure that there wasn't -- there wasn't a privilege being
14 asserted.

15 And so that's our point, Your Honor. I think though,
16 you know, look, if -- I mean, if you're telling me that under
17 the rules that regardless of supplements that the other
18 responses are still part of the example -- are still part of
19 the party's response, then, you know, then, you know, there may
20 be additional motion practice in this area on the issue of
21 discovery.

22 But, you know, if I'm not asserting a privilege in a
23 supplement and there's confusion as to whether or not that
24 privilege still exists, I would've been happy to confirm it.
25 And I confirmed it in our opposition, and yet we're still here.

1 We're still here.

2 Euphoria easily could have called and said, oh, I
3 didn't realize that. After filing -- after you filing your
4 opposition, you know, can you give me an e-mail, a letter. Can
5 you supplement to make it even clearer that no privilege is
6 being asserted, and we would've been happy to do it, but we're
7 here --

8 THE COURT: So what your countermotion?

9 MR. STIPP: -- you know --

10 THE COURT: So, Counsel, just think about it by
11 analogy, right. Think about 16.1 disclosures, right. People
12 do initial 16.1 disclosures. Sometimes we get 20, 30
13 supplemental 16.1 disclosures before you get to trial,
14 depending on the size of the case, right.

15 MR. STIPP: Sure.

16 THE COURT: But you don't eliminate your initial 16.1
17 disclosures unless they're specifically withdrawn, the
18 documents, right. You take them all into --

19 MR. STIPP: Understood.

20 THE COURT: -- account. It's the same thing with
21 supplemental responses. That's the term supplemental, to
22 supplement, right. If you do a supplemental reply, okay.
23 You're supplementing your initial reply, okay.

24 MR. STIPP: Correct.

25 THE COURT: Okay. So --

1 MR. STIPP: But if we're telling you -- if we're
2 telling you that there's no -- if we're telling Euphoria and
3 we're telling the Court we're not asserting privilege under any
4 of those issues, how can we face sanctions for not producing a
5 privilege log on the basis of an initial response when we're
6 not asserting the privilege anymore?

7 THE COURT: Okay. So I will tell you in this one as
8 well, I do not see a countermotion under EDCR 2.20. It seems
9 to me, since your opposition was an opposition and
10 countermotion for related relief, are you asserting --

11 MR. STIPP: The countermotion --

12 THE COURT: Go ahead.

13 MR. STIPP: Your Honor, you issued a minute order two
14 weeks ago on our request for attorneys' fees. That matter lays
15 out very specifically that in our supplement to the request for
16 attorneys' fees wherein the Court awarded my clients \$2600 that
17 we raised the issue of Euphoria's deficient privilege log. And
18 the Court in its minute order said it would consider our
19 request for relief in that supplement as part of the
20 countermotion we filed in this matter. And, in fact,
21 yesterday, you're -- Ms. Lovelock reached out to chambers to
22 get clarification on the matters before the Court, and that was
23 further confirmed in writing.

24 The countermotion has nothing to do --

25 THE COURT: Wait. Wait. Wait. Further confirmed in

1 writing? There's no writing from our depart --

2 MS. LOVELOCK: Your Honor, just to be clear.

3 MR. STIPP: Sure there is.

4 MS. LOVELOCK: There was an 8:30 and a 10:00 o'clock.

5 So I copied counsel and just reached out to see if they were
6 being heard at one time, and we were told that everything will
7 be heard at 10:00. That's the writing.

8 THE COURT: Okay. But not the substance. There's
9 not a substantive --

10 MS. LOVELOCK: It was just what time. A 10:30 --

11 THE COURT: Okay.

12 MS. LOVELOCK: Mr. Stipp responded and said there was
13 a minute order from the Judge. It says (indiscernible). I
14 don't think there was anything of substance.

15 THE COURT: So let's --

16 MR. STIPP: But in that minute order that was issued
17 by the Court, it identifies our supplemental requests in
18 connection with the deficient privilege log for Euphoria, that
19 the Court said it wouldn't consider it as part of the
20 supplement. But since a countermotion has been filed, it will
21 hear it at that time and that both matters will be consolidated
22 before the Court at 10:00 o'clock on January the 4th.

23 But you're telling me, Your Honor, that the
24 countermotion you believe before you isn't related to that, and
25 I'm just utterly confused.

1 THE COURT: Okay. A couple of different things were
2 happening here. So let's focus on the different aspects.

3 There was no written documentation from this Court
4 giving anything substantive with regards to today. A standard
5 practice, and it happens a lot of times when people file
6 multiple motions is that sometimes, depending on the titling of
7 the motion, the clerk's office independently, on a different
8 floor, right, will set motions -- they're supposed to look and,
9 you know, but they're wonderful. They've got 50 million things
10 going on.

11 MR. STIPP: Sure.

12 THE COURT: They're supposed to try and like set
13 motions at the same time, right. Well, some slip through. So
14 sometimes we hear business court matters at 8:30. Generally
15 the business court matters are generally all at 8:30 unless
16 they're special settings, like what I'm doing I think this
17 afternoon. Anyway, no actually that's not a business court.
18 Anyway.

19 Unless there's a special setting, generally business
20 court matters are 8:30 on Tuesdays and Thursdays, okay.

21 But in addition, sometimes we have a special settings
22 at 10:00 o'clock. So realistically, try and get those
23 combined, from what I understood was is that there was just a
24 question about whether or not part of these motions would be
25 heard at 8:30 and part heard at 10:00 o'clock. We would've

1 told you that we would've combined them to the later time
2 because when there's more matters to be heard, we try not -- we
3 try and get the quicker matters done earlier on so we don't
4 have as many people waiting. That makes practical sense;
5 right?

6 So that's the only thing I'm aware of that there
7 would've been a confirmation that the 8:30 and 10:00 o'clock,
8 that all those matters that were set for 8:30 and 10:00 o'clock
9 would be heard at 10:00 o'clock. That's the only communication
10 that should have come from this Court.

11 Is anybody saying anything came substantive with
12 regards to the matters?

13 MR. STIPP: Your Honor, this is Mitchell Stipp.

14 THE COURT: I know. Yours is separate. Yours is a
15 minute order. I haven't gotten to your minute order yet. I'm
16 focusing first on yesterday.

17 Counsel, anything?

18 MS. LOVELOCK: Nothing substantive, Your Honor. It
19 was just a question as to the timing of the hearing.

20 THE COURT: Okay. So that's that.

21 Counsel, what you're referring to is you're referring
22 to, I believe, 12/7, the minute order. Is that correct?

23 MR. STIPP: It's dated December 17th.

24 THE COURT: All right. I said 7. I meant to say
25 17th. Sorry.

1 MR. STIPP: And it was heard on 12/21.

2 THE COURT: Okay. That is different. That's not
3 yesterday. So let's parse these out.

4 Yours, with regards to --

5 MR. STIPP: Let me see if I can clarify, Your Honor.

6 THE COURT: Sure.

7 MR. STIPP: So when this issue was raised, so
8 initially we were before the Court on a motion to compel.

9 THE COURT: Correct.

10 MR. STIPP: The Court granted our motion to compel.
11 There was a deficient privilege log. As a result, the Court
12 awarded attorneys' fees but asked us to brief the amount that
13 the Court was going to order.

14 THE COURT: Correct.

15 MR. STIPP: As part of our supplemental briefing, we
16 indicated to the Court that the privilege log that was revised
17 and produced by Euphoria still was deficient. The Court
18 indicated in its minutes, this minute order on December
19 the 17th, that that was beyond the scope of the matters before
20 it since it was just considering attorneys' fees but that it
21 was aware of the motion and countermotion that was filed on the
22 issue and that that matter would be addressed at today's
23 hearing.

24 And so that's what the minutes provided, and that was
25 my response to the Court yesterday was that these matters were

1 being consolidated at the 10:00 o'clock calendar on January
2 the 4th.

3 THE COURT: Okay. All right. And then what happened
4 is the clerk's office inadvertently, despite our minute order,
5 did not combine all of these until 10:00 o'clock.

6 MR. STIPP: Correct.

7 THE COURT: As we had requested, which is what
8 prompted to yesterdays.

9 Okay. So the answer to your direct question is yes,
10 the countermotion relating to privilege log is being addressed.
11 But the Court was really asking you with regards to your
12 countermotion, right, is where is the substance for the
13 countermotion. Hearing it versus asking you a substantive
14 question for complying, okay, is really what I was trying to
15 focus.

16 So you can just get me the document numbers so
17 everybody is clear on which is the document number because it
18 was a lot of hearings that were combined for today. Does that
19 make sense?

20 MR. STIPP: Sure. And so I can tell you the date
21 that it was filed, which is December the 14th.

22 THE COURT: Okay. So --

23 MR. STIPP: And it included an appendix. And the
24 crux of the opposition was that we are not asserting any
25 privileges.

1 THE COURT: Right.

2 MR. STIPP: And then Number 2, since the matters are
3 related, we have to get the issue of Euphoria's deficient
4 privilege log addressed, and the Court indicated in the minutes
5 that it would do so.

6 THE COURT: Right. So then I was asking you the
7 substance, okay. So --

8 MR. STIPP: Okay. So --

9 THE COURT: So -- where are we substantively with the
10 privilege log?

11 MR. STIPP: Are you asking me, Your Honor, to point
12 out in my brief where I make the argument? Because I'm --

13 THE COURT: No. No. I'm just asking you to address
14 that portion of it. Do you wish to address that portion of it?

15 MR. STIPP: Okay. Sure. Sure. No problem.

16 And so, Your Honor, there's still a dispute as to
17 Euphoria's compliance with NRCP 26(b) (5) (A). As we briefed,
18 Your Honor, the explanations for the communications only
19 apparently include the re line or the regarding line that was
20 part of the communications, which makes it impossible to
21 determine whether or not the privileges are valid.

22 As this Court is aware, 26(b) (5) (A) requires that the
23 party who's producing the -- or asserting the privilege
24 describe the nature of the documents, communications or
25 tangible things.

1 Here we don't have that. We have nondescript
2 characterizations such as high importance, your e-mail, no
3 subject, production, production facility, equipment, variances,
4 status update, offices, moving, inventory. There's no way to
5 determine on the basis of the descriptions that are actually
6 provided for by Euphoria that whether or not a privilege is
7 attached.

8 And so one, we've asked the Court to sanction
9 Euphoria because this Court is well aware, and it can look at
10 the revised privilege log, that it doesn't satisfy the
11 requirements under the rules.

12 And just as a side note, Your Honor, we're talking
13 about 8,000 plus records that Euphoria did not produce despite
14 asserting a privilege since the beginning of the case. So they
15 just in the last month disclosed these records. They have not
16 provided an adequate explanation as to the communication so
17 that we can determine whether or not the attorney-client
18 privilege attaches or work-product doctrine.

19 And these matters need to be addressed by the Court.
20 This is more than 8,000 pages of records.

21 And so what we're saying here, Your Honor, that's
22 what caught us off guard is when you said that you weren't
23 aware of the specific countermotion related to Euphoria's
24 privilege log and that our countermotion related to their -- to
25 our opposition to their motion for sanctions on the basis of

1 the failure to produce a privilege log when privilege hasn't
2 been asserted, that's why we were confused.

3 THE COURT: Okay. Go ahead, please.

4 Then your response.

5 MS. LOVELOCK: Yes. To keep it short, Your Honor, we
6 pointed out specific requests where they say that documents are
7 being withheld in privilege. If their position is that
8 responsive documents, which they haven't produced yet, and
9 contains no privileged information, then I -- they can't later,
10 when if the Judge, if Your Honor decides to make them produce
11 them withhold documents on privilege. They can't have it both
12 ways on this issue.

13 There are --

14 MR. STIPP: We're not.

15 THE COURT: Okay. Counsel, politeness, right.
16 Didn't interrupt while you were speaking.

17 MR. STIPP: I apologize, Your Honor.

18 THE COURT: So go ahead, please.

19 MS. LOVELOCK: Your Honor, we listened to what you
20 said about privilege logs, and we responded accordingly by
21 having -- asking the other parties to be at the same standard
22 that we have to comply with. And that's it, Your Honor. They
23 claim that there's privilege. If they're saying there's not a
24 privilege, then they should've revised it and/or produced a
25 privilege log.

1 If their position is that anything responsive to our
2 request does not even go near privilege, then later they can't
3 now claim that they can withhold information on privilege.
4 They can't have it both ways here, Your Honor.

5 THE COURT: Okay. And in regards to their
6 countermotion saying that your privilege log is not compliant?

7 MS. LOVELOCK: Your Honor, I'm still confused as to
8 their complaint with our privilege log. We've produced a third
9 amended privilege log. It states, it's an e-mail and produced
10 the to and from. It's very clear and it's either counsel or
11 the principals or the higher level management in Euphoria.
12 They are our client. We made it clear that when they retained
13 us on this litigation, which happened in March, as to this
14 specific topic, this was a long-standing client of ours, we
15 then produced everything which we had and when E&T filed the
16 litigation, and we produced these documents.

17 And I want to make it clear, Your Honor, that because
18 we were given two weeks to produce a privilege log, we went to
19 great extents. We got an ESI vendor. We produced everything.

20 And when you go through each of our actual privilege
21 log, it says the Bates stamps. It says the type of document it
22 is. It says who's on those e-mails, and the e-mails are all
23 either counsel or someone at Euphoria, which is privileged
24 material. Then it states the date, and it states the
25 description and whatever the re line was.

1 This is standard practice in ESI discovery. We don't
2 have an ESI protocol here because originally, it should have
3 been a very straightforward breach of contract case and
4 equipment case, but it's turned into another beast. So we
5 don't have an ESI protocol, but this would comply with an ESI
6 protocol.

7 THE COURT: Okay. Do you want to reference --
8 respond to the NRCP 26, two little i response in their
9 counter-motion? They're saying it doesn't comply with NRCP,
10 right, 26, two little i, with regards to privilege log.

11 MS. LOVELOCK: Your Honor, if you have a specific
12 question as to how you believe it doesn't, I'll respond,
13 because then I can address it.

14 THE COURT: I just was asking if you wanted to
15 respond to --

16 MS. LOVELOCK: No. I think we've -- this adequately
17 complies with our obligations under the rules.

18 THE COURT: Okay. Then let me hear last word from
19 the movant.

20 Go ahead, please, on the counter-motion.

21 MR. STIPP: Your Honor -- Your Honor have you had an
22 opportunity to look at their revised privilege log?

23 THE COURT: I have looked at everything that was
24 attached. So yes, it was attached to the pleadings, the third
25 was attached. And --

1 MR. STIPP: And --

2 THE COURT: I'm trying to find the exact appendix.
3 Wait. That was from -- I'm trying to -- I think it was the
4 12 --

5 MR. STIPP: Well, we can go to my -- we can go to my
6 appendix, Your Honor. And so, you know, it's --

7 THE COURT: It's 12/14 was the appendix.
8 Document 217 I know was one of them.

9 MR. STIPP: Well, we produced as a copy of their
10 original privilege log and then the privilege log dated
11 December the 8th.

12 THE COURT: Right. You did it attached your appendix
13 on 12/14; right, Counsel?

14 MR. STIPP: Correct.

15 THE COURT: That's one. Yeah. That's the one I
16 looked at. Go ahead.

17 MR. STIPP: And so you see -- you see -- okay. So
18 this Court is obviously very familiar with the issue of 26 and
19 of the requirements for an adequate description.

20 Your Honor, I have never seen a privilege log where
21 the parties simply just includes what was in the regarding line
22 as the explanation for the privilege. That prevents any
23 ability to determine whether or not that the actual substance
24 of the communication is actually privileged or not.

25 This does not qualify as a adequate privilege log

1 under the rules. This Court knows it. I do not (video
2 interference).

3 THE COURT: You cut off. Wait. Hold on a second.

4 THE COURT RECORDER: It's frozen, Judge.

5 THE COURT: Mr. Stipp, I think -- I don't know if you
6 know that you're losing your network. Are you back?

7 MR. STIPP: Am I connected?

8 THE COURT: You cut off for a minute or two, sir.

9 MR. STIPP: I apologize.

10 THE COURT: So you said this Court is very familiar
11 with Rule 26 and then that you've never seen a re line, and
12 then you cut off.

13 MR. STIPP: Okay. So if the Court looks at the
14 December 8th privilege log and the details -- is the Court
15 looking at that? I want to be --

16 THE COURT: Yeah, I'm there. Go ahead, please.

17 MR. STIPP: Okay. The explanations that they have
18 asserted there are nondescript. It doesn't -- it doesn't
19 provide any details. How are we supposed to tell when you have
20 a re line that says moving or draft of this or draft of that or
21 meeting, or status update or just the party's name, just like
22 as E&T? Those aren't adequate descriptions sufficient enough
23 for the parties or the Court to determine whether or not
24 there's a privilege.

25 And so the privilege log still does not comply.

1 Mind you, Your Honor, we're getting eight -- there's
2 8,000 plus records that were never disclosed until now, now,
3 two years until now. And we still haven't seen them, that the
4 basis for the privilege is we're just differing to Euphoria,
5 and we can't evaluate whether or not these records are, in
6 fact, privileged because the descriptions themselves are not
7 adequate.

8 And so we would ask the Court to sanction Euphoria as
9 it relates to their deficient privilege log to consider
10 reviewing all of the matters in camera, and we need to be able
11 to address whether or not these items are actually privileged,
12 if they're not privileged, and they should have been disclosed,
13 and what's the remedy for the failure to disclose.

14 And then we have also argued, Your Honor, that
15 because they have put the substance of what I think is, you
16 know, the communication where it relates to either variances or
17 the investigation or the default, because they put those, the
18 substance of those matters at issue, there's a strong
19 likelihood that even if there was a privilege it's waived.

20 THE COURT: Okay. Okay. So, Counsel for Euphoria,
21 the reason why I ask, right, the Subpart 2, right, you said is
22 enough information. So --

23 MS. LOVELOCK: Okay.

24 THE COURT: Your privilege log, right -- well, it's,
25 I don't know, 4/18/2019, says re production; right? Re

1 production. You've got a whole page of re productions, right.
2 We've got other ones that are at least what was attached
3 thereto. Re Emerald's (phonetic) outstanding invoices, re --
4 okay. So --

5 MS. LOVELOCK: Your Honor, usually you don't -- if I
6 may respond?

7 THE COURT: It would be nice if I could finish a
8 sentence in this case, but, okay. Go ahead.

9 MS. LOVELOCK: I'm sorry, Your Honor.

10 In a privilege log, we are allowed to redact and not
11 provide the topic of the correspondence. Usually there is a
12 letter between -- if there's between me and my clients. So I
13 could say correspondence this date. This is who drafted it.
14 This is who received it. That would comply with the privilege
15 log.

16 Here it's all e-mails. And so it says e-mails.
17 Here's who sent it, who's received it, and who's copied on it.
18 All counsel to a client, and here, going a step further, here's
19 the re line and what the topic generally is. If we went more
20 detailed, we'd be waiving the privilege within it.

21 THE COURT: Well, but, Counsel, isn't there a balance
22 somewhere between the two? Realistically, okay, okay.
23 Realistically, yes, you've identified the e-mails, right, but
24 remember, it's a little two i. I mean, little two i says what
25 it says. And since I'm having a little bit -- right. It says

1 describe the nature of the documents; you've done that. You've
2 complied with that. You've talked about e-mails.

3 MS. LOVELOCK: Okay.

4 THE COURT: Communications or intangible things not
5 produced or disclosed. You've done that. You've talked about
6 whether they're e-mails -- I haven't finished. Because the
7 rest of the sentence, right. And do so in a manner that
8 without revealing the information itself privileged or
9 protected will enable other parties to assess the claim.

10 So in order to assess the claim, right, you have to
11 look at who it's to, who it's from, right, and you have to have
12 some idea what it is generally about.

13 So production, how would production give somebody the
14 ability to assess whether or not there truly is a
15 attorney-client -- because does it mean production numbers?
16 Does it mean the fact that they're actually producing whatever
17 they're producing? I mean, do you understand it's a
18 generalized topic. I'm not saying that you have to do the
19 entirety of what the e-mail re line is, but don't you have to
20 give something that tells somebody some bases about what it is
21 so you can evaluate whether or not he thinks it's privileged or
22 not privileged? Go ahead.

23 MS. LOVELOCK: Not when it's a retained
24 (indiscernible) to handle a litigation dispute, Your Honor.

25 THE COURT: I'm sorry?

1 MS. LOVELOCK: One side retained to handle this
2 litigation dispute. Once they determine there may be a
3 violation under an agreement, let's retain our counsel to
4 handle this. So there's a time frame between I get retained,
5 and they're in a dispute under a contract agreement that deals
6 with the production facility. Once they start engaging, once
7 we're retained and we're talking about potential litigation,
8 including all the facts that are going to go into a potential
9 litigation, you don't need to go into more specifics.

10 When we're talking about production facility during a
11 time frame when they're in a dispute with their production,
12 with their management company, you should know if there's
13 correspondence between the attorney, Jones Lovelock, the
14 attorneys at Jones Lovelock, with Euphoria during that date
15 range it deals with production --

16 THE COURT: But, Counsel --

17 MS. LOVELOCK: -- and our communication is
18 privileged.

19 THE COURT: But, Counsel. Isn't what you're
20 basically saying is that once litigation commences or once
21 there's anticipation of litigation that by definition that all
22 communication, I mean, okay. So what you're -- let's look at
23 some of your --

24 MR. STIPP: Your Honor, if I may, I just want to
25 note, as this Court is well aware, facts are not privileged --

1 THE COURT: I --

2 MR. STIPP: -- legal advice in connection with -- the
3 legal advice in connection with those facts may be privileged.
4 And so for Ms. Lovelock to say that has --

5 THE COURT: Counsel.

6 MR. STIPP: Well --

7 THE COURT: Counsel, please --

8 MR. STIPP: I understand.

9 THE COURT: Realistically, you know, I've been very,
10 very lenient about you both interrupting me, but you've got to
11 stop it, okay, because you're going to have a very messy
12 record.

13 MR. STIPP: I understand.

14 THE COURT: Okay. It's not fair to my team who still
15 here now at 12:20 because you all are spending a lot of time
16 arguing with one another and keep interrupting the Court. So I
17 have to keep repeating myself. That's really not fair.

18 So I asked a specific question. The specific
19 question is how does the current one tell the other side
20 whether or not, and I'll use the one that opposing counsel just
21 said with production, how do we know if it's production
22 numbers, right, which may have to be subject to regulatory, and
23 may need to be provided to somebody, verses if they're just
24 passing on information? If they're passing on prior e-mails
25 about production, then that in itself wouldn't be privileged

1 because the underlying communications.

2 Now, maybe the communication asking advice on how to
3 do that, but the temporal aspect does not automatically make
4 everything privileged, right, because they can be providing you
5 future -- past e-mails and just forwarding on to counsel does
6 not make something privileged, okay.

7 So in looking at this, you can't see that
8 distinction. You as the attorney may know it, okay, the fact
9 that it has an e-mail from -- to your client or from your
10 client to you, you may know that that's what you were doing,
11 but when I look at this privilege log, okay, and I just see
12 cash from safe, okay, I don't know if that is historical
13 information that maybe cash from the safe, okay. I don't know
14 if there was an issue that the safe got broken into. I don't
15 know if that is saying what actually their dollars are.

16 I don't -- it -- once again, you're a lot more
17 familiar with the underlying case facts than this Court is,
18 okay. I'm very familiar with thousands and thousands of pages
19 of information, but I have to look at would a neutral person
20 looking at this, seeing if there's a privilege, right. So
21 there are some challenges. I appreciate it's 8,000 pages, but
22 if you're asserting 8,000 pages of attorney-client or
23 work-product privilege, then you have to do the work to have an
24 appropriate privilege log that gives some description for
25 somebody to have some information.

1 The Court in no way is suggesting, implying,
2 inferring or stating that you have to provide the underlying
3 privileged information.

4 But two little i does make it clear that there's got
5 to be enough information for the other side to assert it
6 because, realistically, if even situation, is another one.
7 Okay. Inventory variances. Inventory variances can very
8 simply be something that, guess what, they thought they had 50
9 jars of X, but really there's only 49 jars of X on the shelves.
10 If they passed on that information to counsel, that in and of
11 itself would not make it privileged.

12 Now, it may have some impact to you what that
13 designation means, but to the person trying to evaluate whether
14 or not these -- because you also have to look at the extent,
15 right, the extent from a temporal standpoint and as well as how
16 many pages are being privileged. This isn't like 5 or 10
17 pages, right, or 5 or 10 documents regardless of however many
18 pages the 5 or 10 documents would be. You all agree it's
19 around 8,000 pages. Right?

20 MS. LOVELOCK: No, I don't, Your Honor. And I just
21 want to be clear. When you first required us to do a
22 production log, we went to an ESI vendor. Plaintiff admitted
23 these documents are Bates stamped, but they're really images
24 that were embedded in e-mails from our client. Euphoria
25 Wellness has a logo. So if there were four exchanges, we now

1 have four pages of that logo. So the initial privilege log we
2 did, when it says image, image, image, those are embedded, and
3 they each have a Bates range because --

4 THE COURT: Is that described anywhere for the
5 opposing counsel to know that?

6 MS. LOVELOCK: I believe Mr. Jones might have had
7 that conversation with Mitchell Stipp.

8 But also, Your Honor.

9 THE COURT: It's not --

10 MR. STIPP: No, Your Honor.

11 THE COURT: It's not attached to any pleadings
12 provided to this Court.

13 MS. LOVELOCK: We didn't brief this, Your Honor. I
14 want to be clear, Your Honor, and I want to be -- I know there
15 was confusion. You asked --

16 THE COURT: What you mean it was not briefed?

17 MS. LOVELOCK: It was not briefed, Your Honor.

18 THE COURT: It's there --

19 MS. LOVELOCK: We were told to submit an amount that
20 they could be awarded attorneys' fees.

21 THE COURT: Correct.

22 MS. LOVELOCK: He took that opportunity and said now
23 produce it in camera, and that's -- that was part of
24 essentially the countermotion on top of when he was supposed to
25 be admitting fees. We didn't respond to that.

1 We then filed a separate motion against him for
2 privilege. And so here --

3 THE COURT: He's got --

4 MS. LOVELOCK: He has a countermotion, and we replied
5 to the countermotion, but we didn't go into detail as to our
6 privilege log because what he argued essentially was that
7 because this dealt with an investigation that everything should
8 be waived.

9 THE COURT: Well --

10 MS. LOVELOCK: So we're dealing with different issues
11 without the opportunity to brief and/or --

12 THE COURT: Okay. Hold on a second because it
13 specifically -- I mean, page 8 of his brief, a privilege log
14 references more than 8,000 pages of documents, bold and
15 underlined, which Euphoria claims are attorney-client
16 privileged required.

17 Remind the Court, and put the section for 26 B. 5 A,
18 right, two little i, which just the Court read from, and the
19 Valley Health is what he cited to, right, and then he cites to
20 the (indiscernible) on the mere facts. Okay.

21 So did not supplement with specific references to
22 privilege records. I see is on page 9 of his brief. So once
23 again, this may be another situation where you all are very
24 different pages of what you think each other is arguing.

25 MS. LOVELOCK: Correct, Your Honor.

1 THE COURT: But this Court, as the neutral fact
2 finder, right, and the one who needs to make the rulings, has
3 to look at the documents, how they viewed to the Court; right?

4 MS. LOVELOCK: Correct.

5 THE COURT: I did see this issue teed up. Unlike the
6 other countermotion, which didn't say countermotion anywhere,
7 had no points of authorities, had nothing that even
8 distinguished it from the opposition, this one does. Say --
9 I'm sorry. I'm just going back to the beginning of where it
10 said countermotion.

11 MS. LOVELOCK: We filed a motion against him for his
12 privilege log.

13 THE COURT: Correct.

14 MS. LOVELOCK: -- in the countermotion in the
15 opposition that asserts claims against our privilege log.
16 Those are separate issues, Your Honor.

17 THE COURT: Uh-huh.

18 MS. LOVELOCK: That's not appropriate for a
19 countermotion. If he thinks we're still in violation of this
20 Court's order on a privilege log, then we have the ability to
21 address it not as reply in support of our original motion, but
22 we should have the opportunity to understand what he's
23 claiming, respond, and then be able to come in front of you,
24 Your Honor, and explain why we think we complied with the
25 little i.

1 I understand your position, and --

2 THE COURT: It's not my position. It's in the
3 pleadings.

4 MS. LOVELOCK: Okay, Your Honor.

5 THE COURT: I mean, E&T requests -- I mean third
6 party provides -- it remains deficient. Subparagraph B. If
7 there's a privilege, it should be determined if it was waived.

8 Now, where I was going with that is that the Court is
9 going to do the following.

10 (Pause in the proceedings.)

11 THE COURT: Okay. I think it is a fair presentation
12 here when the Court was reviewing the supplemental OST -- the
13 order was broader. The Court had to reject certain aspects
14 because it included more information that was before the Court,
15 hence the minute order on the 17th.

16 In re-reviewing that minute order on the 17th, I
17 think a reasonable reading is that we knew what we were saying,
18 but that there might have been some confusion as to the breadth
19 and scope for today. Yes, we were combining all hearings,
20 okay. Yes, we were combining the pleadings that had actually
21 been filed because you all had filed them. It made no sense to
22 have them at two different time periods, realistically, folks,
23 okay. Most attorneys don't like to show up at one time, have
24 me hold other matters and come back at 10:00 o'clock. Usually
25 you have other cases. So we try and be nice, and we

1 consolidate things to help people out, okay. That was the
2 intention of it. It wasn't to add any scope aspect.

3 This titling does say countermotion. It does address
4 the privilege log, there are issues on E&T, whether it does it
5 in a clear countermotion format under EDCR 2.20, I am hearing
6 what each side is saying. I think there's a little bit of room
7 there. So here's what the Court's inclined to do, and then I'm
8 going -- the Court really -- I don't see it's a sanctionable
9 issue.

10 I think that the Court's inclined to -- I think there
11 has been substantial compliance, but not compliance within the
12 rules on the privilege log, okay, because I think two little i
13 of NRCP 26 makes it clear it's got to have some more
14 information for someone to make a well-reasoned determination;
15 however, I can't issue sanctions against somebody when that
16 kind of comes up in a countermotion that is addressing -- it
17 truly is not a countermotion. You can't say because you're
18 asking for sanctions on being a privilege log; I get to ask for
19 sanctions on you in a privilege log. Technically it's not an
20 appropriate countermotion.

21 A countermotion is someone asking for relief and they
22 think the same set of facts really entitle them to the opposite
23 result. That's a true countermotion.

24 So I hear the argument and the full opportunity to
25 really address this. So I have one of two choices. One choice

1 is I can allow Euphoria Wellness to do a supplementary
2 opposition to the countermotion and continue this part of the
3 hearing to a different day; two, you already know where I'm
4 heading on the inclination based on looking at the -- without
5 having the benefit of the supplemental motions, so it's not an
6 advance ruling, I'm just saying looking at the actual privilege
7 log that was attached for the December 8th and reading NRCP
8 26, you can probably appreciate the Court has already expressed
9 some of its concerns.

10 So choice two is to say that I'm not going to issue
11 sanctions, but that we need to have a supplemental privilege
12 log and give an appropriate amount of time for that to be
13 supplemented, particularly since I'm already holding an
14 evidentiary hearing, and you guys are already having issues on
15 both sides. I really see that I gave the full benefit of the
16 doubt to E&T and the other plaintiffs and allowed them to
17 provide supplemental responses and did not do sanctions on that
18 when there was, quote, some confusion on that.

19 I'm also -- well, I'll tell you where I'm also
20 heading is I'm deferring Euphoria Wellness's motion for
21 sanctions for failure to produce a privilege log based on the
22 specific statement as an officer of the court by the
23 plaintiffs' parties that they didn't -- that they are viewing
24 their supplements as instead of their initial responses, hence,
25 confusion. I wasn't going to grant your sanctions. So I

1 wasn't going to grant the other side sanctions because I think
2 you all both really need to speak to each other a little bit
3 more before you start bringing all these things to the Court.

4 Now, that is not to say that a privilege log doesn't
5 self-effectuating doesn't need a Rule 2.34 because that's
6 required. But I think if you all think there's deficiencies,
7 speak among yourselves. I think you are then getting into a
8 2.34 issue because you're asking for the sufficiency of what
9 has been provided, which is subject to a subsequent motion to
10 compel, not the fact of it being provided at all. This Court
11 does see a distinction between the two, okay.

12 So I'm inclined to do one of two things, as I
13 mentioned. One, like I said, if Euphoria is asking me for an
14 opportunity to oppose it, I will give you the opposition date,
15 and we'll get you a new hearing date so you can fully address
16 it; B, if after reviewing and hearing some of the questions the
17 Court is having you're requesting an advance for the Court to
18 allow you to do another supplemental privilege log, then the
19 Court would allow that.

20 And I'm not make a ruling on the first one. I'm
21 giving you an opportunity to do an opposition. If you're
22 asking me for something different, feel free to ask me for
23 something different.

24 MS. LOVELOCK: No, Your Honor. We would appreciate
25 doing a supplemental, and we appreciate you giving the time.

1 If you don't mind, I --

2 THE COURT: A supplement on which one?

3 MS. LOVELOCK: Oh, the amended privilege log, this
4 third amended privilege log that you say needs additional
5 information.

6 THE COURT: Okay.

7 MS. LOVELOCK: If we can supplement it, we would
8 appreciate that if we were given time to do that.

9 THE COURT: Okay.

10 MR. STIPP: Your Honor.

11 MS. LOVELOCK: And with that being --

12 THE COURT: Let her finish, and then I'll have
13 opposing counsel.

14 MS. LOVELOCK: And with that being said --

15 THE COURT: Uh-huh. Go ahead.

16 MS. LOVELOCK: -- our office, and the attorneys
17 working on this are adequately confused as to what additional
18 information. Should we have another column saying information
19 was provided seeking legal advice and/or I guess what's the
20 column that's missing that we need to --

21 THE COURT: Okay. It's not -- okay. The column you
22 currently have, the one that says words like "production" or
23 "inventory," okay, well, I think, like I said, I think there's
24 full compliance on the nature of the e-mail to and from
25 counsel.

1 But what it doesn't provide the information, right,
2 is if they are, like, seeking legal advice, right or something
3 that actually says that versus just forwarding on e-mails.
4 When you look at your privilege log, it really doesn't make it
5 clear, right.

6 If there's -- if you're talking about production,
7 production may or may not apply to this case, right. If it's
8 production that's, A, outside the time period, it won't apply.
9 It may not apply to this case; right?

10 B, if it's production, like you're having a
11 production issue and machines not working, and once again, I'm
12 just trying to give hypothetical examples that may not apply to
13 this case --

14 MS. LOVELOCK: Right.

15 THE COURT: -- particularly since I'm trying to give
16 hypothetical examples that may not apply to this case, right,
17 that production would not be a privileged aspect, right.

18 If they're, independently if the electricity went
19 out, okay, and they're calling that production, I don't know by
20 reading your privilege log whether their production is affected
21 because the electricity went out.

22 MS. LOVELOCK: Okay.

23 THE COURT: Or if it's something related to the case.
24 Okay. It's that type of information, right.

25 If they're asking you for, you know, legal advice

1 regarding production issues or something like that, it's got to
2 give something to give the other side an opportunity to review
3 that to say, I may want to challenge that. I may want to ask
4 the Court to do an in-camera review.

5 The Court is not going to do 8,000 pages of in-camera
6 review without giving somebody an opportunity to modify it,
7 right.

8 MS. LOVELOCK: Understood, Your Honor.

9 THE COURT: So it's that. That is the discretionary
10 portion of Subportion 2. I mean, there's --

11 MS. LOVELOCK: So I can say --

12 THE COURT: -- there's been some articles on this,
13 okay.

14 MS. LOVELOCK: So we can say seeking legal advice or
15 providing information.

16 THE COURT: I am -- the Court is not going to tell
17 you the magic words because the Court does not provide legal
18 advice.

19 MS. LOVELOCK: Understood, Your Honor.

20 THE COURT: You have to evaluate each of the
21 underlying aspects, which on the basis of what you're asserting
22 the privilege is and assert why that particular document is
23 privileged.

24 With regards to all of the things that you say are
25 their images and things like that, then at least drop a

1 footnote that these aren't separate documents, right, that
2 these are images or something, something that gives the other
3 side. Because I'll tell you, when looking at that and seeing
4 like eight or nine different lines between seeing a single word
5 makes it look like a whole bunch of them don't have
6 explanations.

7 Now, you may have something somewhere --

8 MS. LOVELOCK: We do have a footnote that explains
9 it. But maybe not well enough. We'll do that.

10 THE COURT: Right. Because what does that image
11 mean; right? Is it all the ones that are blank, you know what
12 I mean? Once again --

13 MS. LOVELOCK: Understood, Your Honor.

14 THE COURT: -- you both need to play better in the
15 sandbox, okay, and give each other more information, okay.

16 So --

17 MR. STIPP: Your Honor, may I be heard?

18 THE COURT: -- you're requesting to do that. Here's
19 what I'm inclined to do. I'm inclined to let the parties agree
20 on a date when you're going to have this evidentiary hearing.
21 Give me three proposed dates.

22 Counsel for plaintiff, would it make it easier if I
23 don't do it next week if I continue it a bit so that it gives
24 you more chance to reach out to your clients, yes or no?

25 MR. STIPP: Yes, Your Honor.

1 I still haven't had an opportunity to address my
2 final point. I just want to state for the record, Your Honor,
3 that just in terms of the parallel, considering the prior
4 motion in this motion, which we've considered, discovery ends
5 in 20 days, and we have a party that's held more than 8,000
6 pages of records --

7 THE COURT: Counsel. Counsel. We're not going to
8 reiterate. Counsel, we're not reiterating, okay.

9 MR. STIPP: Okay.

10 THE COURT: I appreciate you each think that the
11 other side has withheld and precluded things, okay. I do not
12 have any other motions before me. I've had enough motions
13 before me for today's purposes, right. So with regards to
14 where we're going, it's here's going to be final ruling.

15 I have fully looked at everything, folks, okay.

16 With regards to defendant Euphoria Wellness's motion
17 for sanctions for failure to produce a privilege log, in light
18 of the affirmative statements of counsel for all the plaintiffs
19 that it was not intended that there would be asserted any
20 privilege, and there was not any document withheld due to any
21 privilege, first, I need to confirm.

22 Counsel, is that your representation?

23 MR. STIPP: Yes.

24 THE COURT: Okay. Based on that express
25 representation, this really could have been fleshed out before

1 today's hearing.

2 The Court is going to deny that motion for sanctions,
3 okay. But I'm also going to require counsel for the plaintiffs
4 that you're going to need to -- you need to send some kind of
5 clarifying written document so that it makes it clear that
6 you're not asserting any privileges and that your -- whether
7 your supplemental responses are in addition to your initial
8 responses or they are the substitute of so that we don't have
9 this issue down the road, okay.

10 You're intending them to be not in addition to, but
11 to be, instead of, you need to make that clear so that you all
12 are on the same page in that regard.

13 So that when I said denied without prejudice for
14 reasons stated.

15 Plaintiff E&T Ventures' countermotion for related
16 relief, the Court is going to deny without prejudice, and
17 because the Court is deferring in part. The Court is deferring
18 in part with regards to allowing, because I think there is
19 adequate confusion as to the scope of that motion and how it
20 would be a proper countermotion under EDCR 2.20.

21 But at the same time we need to move this case
22 forward where people are providing appropriate discovery and
23 not having you all spend cost, expenses, et cetera, back and
24 forth on different motions.

25 So since there is a voluntary agreement by Euphoria

1 Wellness to produce a supplemental privilege log with regards
2 to NRCP 26, two little i, the Court is going to defer the
3 request for sanctions until I see said additional privilege
4 log.

5 Now, I will tell you the Court is also going to,
6 instead of doing next week an evidentiary hearing, the Court is
7 going to allow the parties, okay, I'm going to give you a
8 specific timeline, i.e., by this Friday, if I have a letter by
9 this Friday with three proposed dates on when, A, you want the
10 evidentiary hearing and B, a time period in which a
11 supplemental privilege log will be provided, as agreed to by
12 the parties, then the Court will look at those dates, find you
13 a date for an evidentiary hearing. We also need to know how
14 long you anticipate the evidentiary hearing will take because
15 that's how we block it out, right, total time period.

16 Then the Court will look at that.

17 If I do not receive said letter by Friday, then the
18 Court is going to pick a date for an evidentiary hearing, and
19 I'm going to pick a date by which a privilege log will be
20 provided. That way we can ensure that everyone is fully and
21 adequately treated fairly and equitably and giving you all a
22 chance to talk among yourselves. Because pick dates that meet
23 in your own best interest. If not, the Court is going to have
24 to pick dates, right, okay.

25 So that's what we're doing. That takes care of all

1 of that.

2 With regards to some pending motions, 1/18, the
3 motion to seal records -- redact records, the Court already
4 addressed that. So that was advanced and granted today
5 consistent with what the Court's ruling.

6 On 1/20, we show a motion to compel.

7 1/25, we show a motion for partial summary judgment.

8 And 1/25, we see another motion to seal, redact
9 records, and that relates to documents that were attached to
10 the motion for partial summary judgment.

11 The Court is also, in said letter that I'm going to
12 get from you all on Friday, you're going to tell me if you want
13 to consolidate those three other dates to one date, or maybe
14 you want this all to be on this evidentiary hearing date and
15 have a whole to palooza of dealing with all of these, okay.

16 If you don't pick one, what we are likely to do is
17 realistically -- oh, sorry.

18 And 2/3, you're here for a status check on trial
19 readiness. If you want to -- it seems to me I should combine
20 your status check with the substantive hearings rather than
21 having you all for your clients' sake come back yet again. But
22 if you all make said request, put it in writing of what you all
23 would like the Court to do.

24 Please do not send me conflicting letters. It's
25 either going to be the parties were able to reach an agreement

1 on ABC. And the parties were not able to reach an agreement --
2 hopefully, there's nothing, but if there is, then, you know, on
3 blank and blank, and then the Court will have to pick dates and
4 do what it needs to do in order to insure the smooth running as
5 its goal, right, gatekeeper with regards to litigation.

6 Does that meet your needs on behalf of plaintiffs and
7 counterdefendants, Mr. Stipp?

8 MR. STIPP: Your Honor, I would just -- I would just
9 say that, one, I apologize for my patience level this morning.
10 Everybody in my family has been diagnosed with COVID, including
11 myself.

12 THE COURT: Well, I'm sorry. We would've been glad
13 to continue today's hearing if you had told us. We continued
14 lots of hearings when people have been diagnosed. We're more
15 than glad to accommodate.

16 MR. STIPP: Okay. I tried to push through it. And
17 so, you know, the -- I just certainly want to make the Court
18 aware of those circumstances. And, you know, hopefully we'll
19 get these matters addressed. And if it's possible for, you
20 know, Ms. Lovelock and I to reach an agreement, maybe we can
21 avoid some of these hearings and going forward.

22 But, you know, it is -- I just want to be clear
23 though. You know, I'm not agreeing to produce anybody for any
24 evidentiary hearing. I don't have --

25 THE COURT: Oh. Counsel. Counsel. You're being

1 ordered to. Let me be clear. Kristin Taracki is being
2 ordered. She needs to appear at the evidentiary hearing. That
3 is a Court order, okay. Because she signed -- she signed
4 interrogatory responses. I need to hear from her. Anybody
5 else you wish to provide is going to be your option, but she is
6 ordered by the Court to be present at the evidentiary hearing.
7 Okay.

8 MR. STIPP: Sure.

9 THE COURT: Just so we have that point of
10 clarification.

11 So I'll at least have one person, but anybody else is
12 really going to be up to you all.

13 And remember, if I don't -- I only can get the facts
14 and information based on the people that will be here.

15 So, Friday, a letter. If I don't see a letter, then
16 the Court is going to have to make its own determinations.

17 I really think you all can agree on simple things
18 like on the motion to seal and redact records attached to the
19 partial summary judgment. You all can agree to some hearing
20 dates you might want, right, rather than the Court picking one.

21 MS. LOVELOCK: Yes, Your Honor. We do send e-mails.

22 MR. STIPP: Yes.

23 MS. LOVELOCK: Your Honor, for point of
24 clarification, there was also a verification by Joe Kennedy.
25 He's also ordered to appear then as well, right, the two?

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 / / /

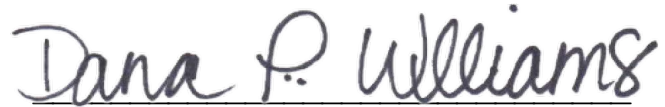
1 THE COURT: More than 2 hours and 40 minutes. You
2 had more than enough time to flush out everything on all these
3 issues. Thank you so much.

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.

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12 Dana L. Williams
13 Transcriber
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|---|--|--|--|--|
| <div>MR. STIPP: [185]</div> <div>MS. LOVELOCK: [110]</div> <div>3/15 4/23 5/11 5/21</div> <div>6/17 6/24 8/21 10/25</div> <div>12/19 13/14 13/21</div> <div>15/14 20/15 20/17</div> <div>20/20 21/4 21/7 21/20</div> <div>22/1 22/6 22/12 22/16</div> <div>22/20 23/8 23/16 23/20</div> <div>23/25 24/2 24/9 24/18</div> <div>26/10 26/14 26/16</div> <div>26/25 27/2 28/10 28/18</div> <div>28/22 28/25 29/2 29/5</div> <div>29/7 29/11 32/15 62/9</div> <div>62/16 62/19 63/2 63/7</div> <div>64/13 71/19 71/22 72/2</div> <div>72/4 76/13 76/17 76/23</div> <div>80/8 80/22 81/4 90/2</div> <div>90/4 90/10 90/12 92/18</div> <div>97/5 97/19 98/7 99/11</div> <div>99/16 102/23 103/5</div> <div>103/9 104/3 104/23</div> <div>105/1 105/17 108/20</div> <div>109/6 109/13 109/17</div> <div>109/19 109/22 110/4</div> <div>110/10 110/25 111/4</div> <div>111/11 111/14 111/18</div> <div>112/4 115/24 116/3</div> <div>116/7 116/11 116/14</div> <div>116/16 117/14 117/22</div> <div>118/8 118/11 118/14</div> <div>118/19 119/8 119/13</div> <div>125/21 125/23 126/3</div> <div>126/6 126/17</div> <div>THE COURT</div> <div>RECORDER: [1] 101/4</div> <div>THE COURT: [289]</div> <div>\$</div> <div>\$2600 [1] 89/16</div> <div>-</div> <div>-oOo [1] 127/6</div> <div>1</div> <div>1/18 [1] 123/2</div> <div>1/20 [1] 123/6</div> <div>1/25 [2] 123/7 123/8</div> <div>10 [4] 9/24 108/16</div> <div>108/17 108/18</div> <div>10/25/2021 [1] 42/21</div> <div>1099s [1] 59/15</div> <div>10:00 [1] 90/7</div> <div>10:00 o'clock [10] 90/4</div> <div>90/22 91/22 91/25 92/7</div> <div>92/8 92/9 94/1 94/5</div> <div>112/24</div> <div>10:01 [1] 3/1</div> <div>10:30 [1] 90/10</div> <div>10th [4] 34/21 41/11</div> <div>42/18 72/10</div> <div>11 [3] 39/4 66/14 66/14</div> <div>118 [1] 78/7</div> <div>12 [1] 100/4</div> <div>12/14 [1] 100/13</div> <div>12/14 was [1] 100/7</div> <div>12/15/2021 [1] 8/24</div> <div>12/21 [2] 35/23 93/1</div> | <div>12/22/2021 [1] 8/17</div> <div>12/22/21 [1] 8/15</div> <div>12/7 [1] 92/22</div> <div>12:20 because [1]</div> <div>106/15</div> <div>12:40 [1] 126/15</div> <div>12:44 p.m [1] 127/5</div> <div>14 [1] 100/13</div> <div>14th [1] 94/21</div> <div>15 [2] 3/3 8/22</div> <div>158 [1] 22/4</div> <div>16 [4] 3/3 21/18 21/20</div> <div>66/20</div> <div>16.1 [8] 20/24 23/11</div> <div>46/10 66/4 88/11 88/12</div> <div>88/13 88/16</div> <div>17th [5] 92/23 92/25</div> <div>93/19 112/15 112/16</div> <div>18 [2] 33/20 123/2</div> <div>18th [1] 12/2</div> <div>19 [3] 9/7 9/17 48/8</div> <div>198 [3] 11/9 13/12</div> <div>78/23</div> <div>199 [2] 15/11 21/24</div> <div>2</div> <div>2's [1] 62/8</div> <div>2.20 [6] 75/20 78/12</div> <div>78/17 89/8 113/5</div> <div>121/20</div> <div>2.34 [3] 87/8 115/5</div> <div>115/8</div> <div>2/3 [1] 123/18</div> <div>20 [3] 88/12 120/5</div> <div>123/6</div> <div>2017 [3] 50/9 52/8</div> <div>59/14</div> <div>2019 [4] 50/9 52/9</div> <div>52/18 102/25</div> <div>2020 [1] 16/18</div> <div>2021 [4] 8/17 8/23 8/24</div> <div>42/21</div> <div>2022 [3] 1/12 3/1 10/22</div> <div>203 [2] 11/14 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101/14</div> <div>114/7</div> <div>9</div> <div>9's [2] 59/15 62/8</div> <div>96 [6] 15/21 24/17</div> <div>24/18 26/7 26/11 28/1</div> <div>A</div> <div>A.M [1] 3/1</div> <div>ABC [1] 124/1</div> <div>ability [7] 13/18 23/14</div> <div>44/11 100/23 104/14</div> <div>111/20 127/9</div> <div>able [14] 15/2 16/14</div> <div>21/10 21/11 29/8 30/16</div> | <div>32/10 32/13 63/24</div> <div>77/24 102/10 111/23</div> <div>123/25 124/1</div> <div>about [35] 9/24 11/19</div> <div>18/8 18/10 18/20 18/22</div> <div>33/11 33/12 40/9 40/10</div> <div>42/18 46/16 47/24</div> <div>48/13 51/4 54/22 58/23</div> <div>67/21 70/11 80/19 84/4</div> <div>88/10 88/11 91/24</div> <div>96/13 97/20 104/2</div> <div>104/5 104/12 104/20</div> <div>105/7 105/10 106/10</div> <div>106/25 117/6</div> <div>above [1] 127/8</div> <div>above-entitled [1]</div> <div>127/8</div> <div>absolutely [9] 20/4</div> <div>31/9 38/2 44/12 54/6</div> <div>63/7 67/4 69/9 126/17</div> <div>acceptable [1] 69/19</div> <div>access [1] 43/8</div> <div>accommodate [2]</div> <div>57/13 124/15</div> <div>accordance [2] 34/11</div> <div>84/11</div> <div>according [5] 24/16</div> <div>27/11 27/16 28/17 36/4</div> <div>accordingly [1] 97/20</div> <div>account [8] 11/18 66/9</div> <div>78/20 83/11 85/25 86/8</div> <div>86/24 88/20</div> <div>accurate [12] 34/11</div> <div>37/6 37/7 37/25 40/23</div> <div>42/9 45/20 50/5 51/18</div> <div>55/15 55/21 61/10</div> <div>accusations [1] 13/17</div> <div>across [1] 24/6</div> <div>action [5] 34/6 34/6</div> <div>41/18 73/18 73/19</div> <div>actual [7] 5/6 16/21</div> <div>36/17 57/10 98/20</div> <div>100/23 114/6</div> <div>actually [19] 5/16 6/18</div> <div>9/13 17/8 22/3 22/23</div> <div>38/14 65/19 70/5 71/22</div> <div>74/12 91/17 96/5</div> <div>100/24 102/11 104/16</div> <div>107/15 112/20 117/3</div> <div>ad [1] 29/17</div> <div>add [2] 74/11 113/2</div> <div>added [1] 30/9</div> <div>addition [5] 80/14</div> <div>86/19 91/21 121/7</div> <div>121/10</div> <div>additional [11] 34/1</div> <div>45/22 85/18 85/18</div> <div>85/19 87/2 87/10 87/20</div> <div>116/4 116/17 122/3</div> <div>additionally [1] 75/5</div> <div>address [45] 4/10 4/11</div> <div>4/13 4/21 5/1 16/17</div> <div>16/18 20/6 20/21 21/22</div> <div>22/7 22/21 22/21 22/22</div> <div>23/5 27/9 27/10 31/19</div> <div>33/6 33/8 34/8 34/16</div> <div>34/19 36/6 36/14 36/15</div> <div>36/16 36/17 37/3 37/5</div> <div>37/10 37/11 37/17 38/4</div> | <div>38/7 69/24 95/13 95/14</div> <div>99/13 102/11 111/21</div> <div>113/3 113/25 115/15</div> <div>120/1</div> <div>addressed [9] 35/17</div> <div>76/24 77/14 93/22</div> <div>94/10 95/4 96/19 123/4</div> <div>124/19</div> <div>addresses [8] 16/12</div> <div>16/16 19/15 35/13</div> <div>35/19 35/25 40/24 41/2</div> <div>addressing [2] 72/17</div> <div>113/16</div> <div>adds [1] 12/21</div> <div>adequate [8] 40/13</div> <div>73/25 96/16 100/19</div> <div>100/25 101/22 102/7</div> <div>121/19</div> <div>adequately [3] 99/16</div> <div>116/17 122/21</div> <div>adhere [2] 30/21 31/4</div> <div>admits [1] 25/6</div> <div>admitted [1] 108/22</div> <div>admitting [1] 109/25</div> <div>adopt [1] 42/2</div> <div>advance [6] 4/10 11/25</div> <div>57/12 69/15 114/6</div> <div>115/17</div> <div>advanced [2] 12/2</div> <div>123/4</div> <div>advancing [1] 71/24</div> <div>advice [8] 106/2 106/3</div> <div>107/2 116/19 117/2</div> <div>117/25 118/14 118/18</div> <div>advise [1] 73/20</div> <div>affect [2] 75/10 82/11</div> <div>affected [3] 30/4 43/12</div> <div>117/20</div> <div>affidavit [1] 87/11</div> <div>affirmative [8] 29/13</div> <div>46/2 66/22 71/4 72/16</div> <div>80/25 84/8 120/18</div> <div>after [19] 11/22 18/7</div> <div>18/9 22/24 24/10 28/18</div> <div>30/9 45/14 52/14 59/21</div> <div>67/14 70/19 70/24</div> <div>80/20 84/18 84/20 88/3</div> <div>88/3 115/16</div> <div>afternoon [1] 91/17</div> <div>again [18] 7/3 9/10</div> <div>17/6 17/25 18/25 20/8</div> <div>21/24 28/1 49/3 52/2</div> <div>52/24 78/22 81/18</div> <div>107/16 110/23 117/11</div> <div>119/12 123/21</div> <div>against [19] 2/4 11/8</div> <div>11/11 13/11 13/17</div> <div>13/22 19/10 23/17</div> <div>24/14 25/25 29/9 29/20</div> <div>43/20 64/18 78/25</div> <div>110/1 111/11 111/15</div> <div>113/15</div> <div>agency [1] 68/8</div> <div>agent [2] 68/8 68/13</div> <div>aghost [1] 25/13</div> <div>ago [1] 89/14</div> <div>agree [12] 4/23 12/16</div> <div>13/3 16/13 23/16 49/18</div> <div>49/25 80/20 108/18</div> |
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| A | allowing [2] 13/15 121/18 allows [1] 77/2 almost [1] 44/6 already [12] 34/17 34/18 34/18 46/18 61/20 76/20 78/5 114/3 114/8 114/13 114/14 123/3 also [28] 11/11 14/11 16/10 17/3 17/21 44/7 44/17 66/12 66/19 68/5 76/7 79/4 79/18 79/19 85/20 86/18 86/20 102/14 108/14 109/8 114/19 114/19 121/3 122/5 122/13 123/11 125/24 125/25 alter [23] 15/1 15/3 28/23 30/7 30/9 30/17 30/22 30/23 30/25 31/6 31/10 31/14 31/16 42/1 43/14 43/15 43/16 43/17 43/21 44/24 56/13 57/19 74/5 although [4] 13/9 27/8 36/1 72/23 altogether [1] 86/11 am [4] 37/12 101/7 113/5 118/16 ambiguous [1] 54/13 amended [3] 98/9 116/3 116/4 among [4] 64/7 64/7 115/7 122/22 amount [4] 51/2 93/12 109/19 114/12 analogy [1] 88/11 ANGELICA [1] 1/24 another [12] 27/17 27/21 43/12 45/7 77/5 99/4 106/16 108/6 110/23 115/18 116/18 123/8 answer [10] 14/10 14/11 19/24 29/8 29/13 36/22 36/25 60/24 68/23 94/9 answered [2] 52/21 57/11 answers [3] 26/3 71/3 86/24 anticipate [1] 122/14 anticipation [1] 105/21 any [79] 3/24 6/6 10/4 13/4 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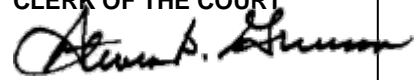
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103/1 119/5 123/15</p> <p>whom [1] 58/5</p> <p>why [35] 6/20 8/1 13/19 22/3 22/20 24/7 25/19 25/20 25/23 30/1 30/22 31/10 34/4 38/3 43/25 44/15 48/4 49/8 49/10 54/4 59/12 61/21 66/14 67/11 72/1 81/24 82/6 82/20 83/8 83/10 84/4 97/2 102/21 111/24 118/22</p> <p>wife [1] 58/24</p> <p>will [31] 21/15 26/19 34/14 34/22 44/13 48/1 65/11 69/8 71/1 71/5 72/5 72/23 73/20 77/23 79/20 89/7 90/6 90/20 90/21 91/8 104/9 115/14 122/5 122/11 122/12 122/14 122/16 122/19 124/3 125/14 126/13</p> <p>Williams [1] 127/12</p> <p>willing [1] 21/15</p> <p>wish [5] 4/10 41/7 95/14 125/5 126/11</p> <p>withdraw [5] 7/3 7/5 10/6 73/21 85/24</p> <p>withdrawing [1] 86/14</p> <p>withdrawn [1] 88/17</p> <p>withheld [5] 41/2 85/15 97/7 120/11 120/20</p> <p>withhold [3] 42/3 97/11 98/3</p> <p>withholding [2] 84/9 86/20</p> <p>within [6] 66/16 78/14 80/11 83/1 103/20 113/11</p> <p>without [7] 51/1 104/8 110/11 114/4 118/6 121/13 121/16</p> <p>witness [3] 20/22 21/6 32/10</p> <p>witnesses [4] 20/24 20/25 40/25 69/11</p> <p>won't [3] 13/16 80/11 117/8</p> <p>wonderful [2] 91/9 126/15</p> <p>word [5] 54/25 75/25 77/9 99/18 119/4</p> <p>words [4] 54/13 76/15 116/22 118/17</p> <p>work [29] 21/11 50/8 50/11 50/14 51/14 52/2 52/8 52/10 52/22 52/23 53/2 53/4 53/5 53/6 53/16 53/19 53/25 54/1 54/6 54/10 54/11 54/13</p> | <p>54/18 55/14 55/24 81/24 96/18 107/23 107/23</p> <p>work-product [2] 96/18 107/23</p> <p>working [3] 19/6 116/17 117/11</p> <p>worries [1] 13/20</p> <p>worth [1] 44/7</p> <p>would [76] 4/13 4/23 10/5 10/6 12/6 13/2 15/5 15/8 25/19 30/14 30/15 32/22 33/1 33/8 34/15 34/15 36/24 38/4 41/5 41/14 42/19 43/19 50/11 52/1 52/23 53/3 53/5 53/6 54/6 56/19 57/24 60/2 61/19 64/25 66/19 69/12 73/5 74/15 76/8 78/17 78/22 79/2 79/2 79/5 80/3 81/24 85/11 85/13 85/15 85/21 86/20 87/3 87/6 89/18 91/24 92/9 93/22 95/5 99/5 102/8 103/7 103/14 104/13 107/19 108/11 108/18 115/19 115/24 116/7 117/17 119/22 120/19 121/20 123/23 124/8 124/8</p> <p>would've [10] 83/6 87/8 87/10 87/12 87/24 88/6 91/25 92/1 92/7 124/12</p> <p>wouldn't [7] 22/21 36/24 38/9 38/10 49/16 90/19 106/25</p> <p>writing [5] 89/23 90/1 90/1 90/7 123/22</p> <p>written [3] 42/6 91/3 121/5</p> <p>wrong [7] 8/14 23/22 24/13 25/17 25/20 63/15 64/9</p> <p>wrongfully [1] 43/6</p> <p>X</p> <p>XXXI [1] 1/6</p> <p>Y</p> <p>yeah [8] 9/8 9/20 30/20 34/18 38/6 51/10 100/15 101/16</p> <p>year [3] 8/16 16/15 44/8</p> <p>years [1] 102/3</p> <p>yes [25] 8/19 10/25 11/3 21/7 28/23 28/25 29/2 29/5 36/10 36/19 38/17 38/21 55/7 61/16 94/9 97/5 99/24 103/23 112/19 112/20 119/24 119/25 120/23 125/21 125/22</p> <p>yesterday [4] 89/21 92/16 93/3 93/25</p> <p>yesterdays [1] 94/8</p> <p>yet [15] 11/21 44/20 45/25 46/2 56/1 56/25</p> | <p>57/1 57/17 82/4 82/6 83/8 87/25 92/15 97/8 123/21</p> <p>you [396]</p> <p>you'd [2] 5/25 38/23</p> <p>you'll [2] 41/11 43/1</p> <p>you're [56] 10/23 12/10 13/15 21/15 23/17 24/1 34/19 38/23 45/2 45/25 46/1 47/24 54/9 54/23 55/8 55/11 76/5 76/6 83/17 83/22 84/8 84/8 84/12 84/13 84/25 86/2 86/3 86/17 86/18 87/16 88/23 89/21 90/23 92/21 92/21 101/6 105/19 105/22 106/11 107/16 107/22 113/17 115/8 115/17 115/21 117/6 117/10 118/21 119/18 119/20 121/4 121/6 121/10 123/12 123/18 124/25</p> <p>you've [15] 16/2 28/8 34/17 34/17 34/18 81/16 101/11 103/1 103/23 104/1 104/1 104/2 104/5 104/5 106/10</p> <p>your [253]</p> <p>Yours [3] 92/14 92/14 93/4</p> <p>yourself [1] 3/5</p> <p>yourselves [2] 115/7 122/22</p> <p>Z</p> <p>zero [8] 26/5 26/6 26/6 28/10 28/18 28/19 37/7 63/13</p> |
|---|--|---|---|---|



1 **NEO**

2 Nicole E. Lovelock, Esq.

3 Nevada State Bar No. 11187

4 Justin C. Jones, Esq.

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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;**

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

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

Georlen K Spangler, Esq.

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6600 Amelia Earhart Ct., Suite C

Las Vegas, Nevada 89119

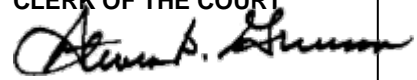
Attorneys for Euphoria Wellness

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
18
19
20
21
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25
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28

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
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ORDR

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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
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;**

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

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

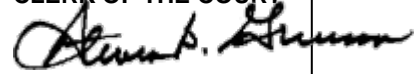
21 *Attorneys for Euphoria Wellness, LLC*

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.*



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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

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

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*

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.

IN THE SUPREME COURT OF THE STATE OF NEVADA

E&T VENTURES, LLC,
Petitioner,

vs.

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

Respondents,

and

EUPHORIA WELLNESS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Real Party in Interest.

No. 84133

FILED

FEB 10 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER DENYING PETITION
FOR WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus or prohibition challenges a district court order setting an evidentiary hearing to determine discovery sanctions, directing the nonparty who verified interrogatory responses on behalf of petitioner to appear, and directing counsel for petitioner to serve the order on the nonparty.

Having considered the petition and supporting documentation, we are not convinced that our extraordinary and discretionary intervention is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking writ relief bears the burden of showing such relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that writ

relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition). Accordingly, we

ORDER the petition DENIED.¹

1 Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Herndon, J.
Herndon

cc: Hon. Joanna Kishner, District Judge
Law Office of Mitchell Stipp
Jones Lovelock
Eighth District Court Clerk

¹In light of this order, petitioner's emergency motion for stay is denied as moot.