

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

CLARK NMSD, LLC,

Appellant,

vs

JENNIFER GOLDSTEIN,

Respondent.

No. 84623

DOCKETING STATEMENT
CIVIL APPEALS

Electronically Filed
May 19 2022 10:37 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 31
County Clark Judge Joanna Kishner
District Ct. Case No. A-15-728510-B

2. Attorney filing this docketing statement:

Attorney Mitchell Stipp Telephone 702-602-1242
Firm Law Office of Mitchell Stipp, P.C.
Address 1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144

Client(s) Clark NMSD, LLC (Appellant)

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Brian Irvine Telephone 775-343-7500
Firm DICKINSON WRIGHT PLLC
Address 100 West Liberty Street
Suite 940
Reno, Nevada 89501

Client(s) Jennifer Goldstein

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>NRS 31.070</u> |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Case Nos. 69648 and 79806.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

CLARK NMSD, LLC D/B/A THE SANCTUARY, PLAINTIFF, vs. CLARK COUNTY SHERIFF JOE LOMBARDO, OFFICE OF THE EX-OFFICIO CONSTABLE, DEFENDANT, CASE NO: A-22-850747-W, PENDING.

8. Nature of the action. Briefly describe the nature of the action and the result below:

The action concerns illegal collection activities by Respondent with respect to her judgment against NuVeda, LLC, a Nevada limited liability company. Respondent fraudulently caused the Constable's Office to serve a writ of execution for cash at the marijuana dispensary licensed to Appellant. The Constable's Office seized cash from the dispensary, which cash belongs to Appellant. NRS 31.070 provides exclusive remedy to Appellant for the return of its cash. The district court denied the Application/Petition Pursuant to NRS 31.070 because the court determined the Appellant failed to comply with the requirements under NRS 31.070 and failed to establish that it has any relationship with or interest in the judgment debtor or the cash seized. The clear evidence before the court confirmed Appellant's compliance with NRS 31.070 and its interest in the cash seized. Appellant's relationship with the judgment debtor is immaterial. The district court also refused to conduct an evidentiary hearing simply because Respondent did not want to participate.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Whether the district court has jurisdiction summarily to deny an application under NRS 31.070 if the applicant complied with the requirements of NRS 31.070 and offered prima facie evidence that the cash seized belonged to the applicant?
2. Whether the district court has discretion to deny an applicant an evidentiary hearing under NRS 31.070 when good cause existed simply because Respondent did not want to participate in such proceedings?
3. Whether the district court can arbitrarily impose on an applicant the burden of proving its relationship with the judgment debtor as a condition to pursuing its rights and remedies under NRS 31.070?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☒ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: Cooper v. Liebert, 81 Nev. 341, 344, 402 P.2d 989, 991 (1965) (holding that NRS 31.070 is a complete and valid remedy to third persons whose property has been attached, and that the remedy therein provided is exclusive).

All Nite Garage v. A.A.A. Towing, Inc., 85 Nev. 193, 452 P.2d 902 (1969) (claimant secured return of property by motion without the necessity of an independent action).

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

NRAP 17(a)(9): Cases originating in business court.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? Decision made w/o evidentiary hearing under NRS 31.070

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Mar 11, 2022

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served Apr 5, 2022

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See *AA Primo Builders v. Washington*, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Apr 21, 2022

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The order on appeal is a final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

NUVEDA, LLC, a Nevada limited liability company; SHANE M. TERRY, an individual; JENNIFER M. GOLDSTEIN, an individual, PEJMAN BADY, an individual; and POUYA MOHAJER, an individual.

Appellant (Third-Party Claimant under NRS 31.070).

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

The appeal concerns post-judgment collection activity of Jennifer Goldstein (judgment creditor of NuVeda, LLC) and Appellant's exclusive remedy under NRS 31.070.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Jennifer Goldstein obtained a judgment against NuVeda, LLC. See Order and Judgment filed on 11/15/2019.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

There are presently no claims remaining unresolved in the district court. The appeal concerns post-judgment collection activity of Jennifer Goldstein and Appellant's exclusive remedy under NRS 31.070.

(b) Specify the parties remaining below:
Jennifer Goldstein (judgment creditor)
NuVeda, LLC (judgment debtor)

Appellant (Third-Party Claimant under NRS 31.070)

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

Order under NRS 31.070 is independently appealable under NRAP 3A(b)(1).

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Clark NMSD LLC

Name of appellant

Mitchell Stipp

Name of counsel of record

May 19, 2022

Date

/s/ Mitchell Stipp

Signature of counsel of record

Nevada (Clark County)

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 19th day of May, 2022, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Brian Irvine at address set forth in Response to Item #3 above.

JANET TROST, ESQ.

501 S. Rancho Drive, Suite H-56

Las Vegas, Nevada 89106

Dated this 19th day of May, 2022

/s/ Mitchell Stipp

Signature

Electronically Filed
11/15/2019 1:53 PM
Steven D. Grierson
CLERK OF THE COURT



ORIGINAL

JUDG
DICKINSON WRIGHT PLLC
BRIAN R. IRVINE
Nevada Bar No. 7758
BROOKS T. WESTERGARD
Nevada Bar No. 14300
100 West Liberty Street
Suite 940
Reno, Nevada 89501
Tel.: (775) 343-7500
Fax: (844) 670-6009
Email: birvine@dickinsonwright.com
Email: bwestergard@dickinsonwright.com
Attorneys for Plaintiff Jennifer M. Goldstein

DISTRICT COURT
CLARK COUNTY, NEVADA

NUVEDA, LLC, a Nevada limited liability company, SHANE M. TERRY, a Nevada resident; and JENNIFER M. GOLDSTEIN, a Nevada resident,

Case No.: A-15-728510-B
Dept. No.: 11

ORDER AND JUDGMENT

Plaintiffs,

vs.

PEJMAN BADI; POUYA MOHAJER; DOE
Individuals I-X and ROE Entities I-X, inclusive,

Defendants.

The Court determined that the arbitration award in favor of Plaintiff JENNIFER M. GOLDSTEIN ("Goldstein"), and against Defendant NUVEDA, LLC ("NuVeda") in the amount of \$2,426,163.80 ("Award") should be confirmed and entered its order confirming the Final Award on September 6, 2019.

Following confirmation of the Award, Goldstein filed a Motion for Attorneys' Fees and Costs, which the Court granted, in part, following a hearing on October 21, 2019. Goldstein also filed a Motion for Entry of Judgment requesting that this Court enter a judgment for Goldstein and against NuVeda. On October 31, 2019, the Court entered its Minute Order Granting in Part

11-13-19A0-0391

1 of 3

Case Number: A-15-728510-B

1 Goldstein's Motion for Entry of Judgment. The Court therefore orders and enters judgment as
2 follows:

3 IT IS HEREBY ORDERED that Goldstein's Motion for Entry of Judgment is
4 GRANTED.

5 IT IS HEREBY FURTHER ORDERED that Goldstein is entitled to a judgment in an
6 amount to include: (1) \$2,426,163.80, which is the amount of the Final Award; (2) plus
7 \$112,168.53 in post-judgment interest accrued between the date of the Final Award and the date
8 of entry of the Minute Order Granting Goldstein's Motion for Entry of Judgment; (3) plus
9 \$26,944.08 in attorneys' fees and costs awarded by this Court pursuant to Goldstein's Motion for
10 Attorneys' Fees and Costs.

11 THE COURT THEREFORE ENTERS JUDGMENT for Plaintiff JENNIFER M.
12 GOLDSTEIN, and against Defendant NUVEDA, LLC in the amount of \$2,565,276.41
13 ("Judgment"). The Judgment shall accrue post-judgment interest at the applicable statutory rate
14 of interest commencing on October 31, 2019, until paid in full.

15 JUDGMENT IS SO ENTERED.

16 Dated this 13 day of November, 2019.

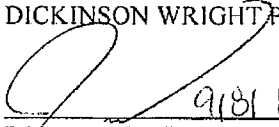
17 
18 DISTRICT COURT JUDGE


19 Respectfully submitted by:

Approved as to Form and Content

20 DICKINSON WRIGHT PLLC

KOLESAR & LEATHAM

21 
22 9/18/19 For:
23 BRIAN R. IRVINE
24 Nevada Bar No. 7758
25 BROOKS T. WESTERGARD
26 Nevada Bar No. 14300
27 100 West Liberty Street
28 Suite 940
Reno, Nevada 89501
birvine@dickinsonwright.com
bwestergard@dickinsonwright.com


Matthew T. Dushoff, Esq.
Scott D. Fleming, Esq.
400 South Rampart Boulevard
Suite 400
Las Vegas, NV 89145
mdushoff@klnevada.com
sfleming@klnevada.com

Attorneys for Nuveda, LLC

Attorneys for Plaintiff Jennifer M. Goldstein

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT PLLC, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the **ORDER AND JUDGMENT** on the parties as set forth below via the Court's Electronic service system to the following counsel of record:

Jason M. Wiley, Esq
Ryan S. Petersen
WILEY PETERSON
1050 Indigo Drive, Suite 200B
Las Vegas, NV 89145
jwiley@wileypetersen.com
rpetersen@wileypetersen.com

Matthew T. Dushoff
Scott D. Fleming
KOLESAR & LEATHAM
400 South Rampart Boulevard
Suite 400
Las Vegas, NV 89145
mdushoff@klinevada.com
sfleming@klinevada.com

Shane Terry
222 Karen Avenue, Suite 3305
Las Vegas, NV 89109
shane@ahcgroup.com

DATED this 15 day of November, 2019.

Audrey S. Enright
An Employee of DICKINSON WRIGHT PLLC

RENO 88728-1 48138v2

Inst #: 20191209-0004471

Fee: \$40.00

12/09/2019 03:03:45 PM

Receipt #: 3924369

Requestor:

DICKINSON WRIGHT PLLC

Recorded By: RYUD Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

Src: ERECORD

Ofc: ERECORD

RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only
and avoid printing in the 1" margins of document)

APN# NUVEDA, LLC

(11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

TITLE OF DOCUMENT

(DO NOT Abbreviate)

ORDER AND JUDGMENT

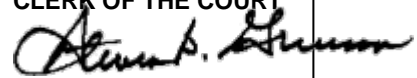
Document Title on cover page must appear EXACTLY as the first page of the document
to be recorded.

RECORDING REQUESTED BY:**Brian R. Irvine c/o Dickinson Wright PLLC****RETURN TO: Name** Brian R. Irvine c/o Dickinson Wright PLLC**Address** 100 West Liberty Street, Suite 940**City/State/Zip** Reno, Nevada 89501**MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)****Name** _____**Address** _____**City/State/Zip** _____

This page provides additional information required by NRS 111.312 Sections 1-2.

To print this document properly, do not use page scaling.

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MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144
Telephone: 702.602.1242
mstipp@stippplaw.com
Attorneys for NuVeda, LLC and
Applicant/Petitioner, Clark NMSD, LLC

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

NUVEDA, LLC, a Nevada limited liability
company; SHANE M. TERRY, an individual;
and JENNIFER M. GOLDSTEIN, an individual;

Plaintiffs,

v.

PEJMAN BADY, an individual; POUYA
MOHAJER, an individual; DOES I to X,
inclusive; and ROES I to X, inclusive,

Defendants.

Case No.: A-15-728510-B

Dept. No.: XI

**APPLICATION/PETITION
PURSUANT TO NRS 31.070(5) AND
REQUEST TO PROHIBIT GOLDSTEIN
FROM ANY FURTHER COLLECTION
ACTIVITY WITHOUT COURT
APPROVAL**

HEARING REQUESTED

NuVeda, LLC, judgment debtor, and Applicant/Petitioner, Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary ("The Sanctuary"), by and through their counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced application/petition in accordance with NRS 31.070(5).

This filing is based on the papers and pleadings on file in this action, the memorandum of points and authorities that follows, the exhibits attached hereto (or filed separately in support), and any argument of counsel permitted by the court at any hearing.

1 DATED this 12th day of August, 2021.

2
3 **LAW OFFICE OF MITCHELL STIPP**

4
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

8 LAW OFFICE OF MITCHELL STIPP

9 1180 N. Town Center Drive, Suite 100

10 Las Vegas, Nevada 89144

11 Telephone: 702.602.1242

12 mstipp@stipplaw.com

13 *Attorneys for Clark NMSD, LLC*

14
15 **[MEMORANDUM OF POINTS AND AUTHORITIES FOLLOW]**
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MEMORANDUM OF POINTS AND AUTHORITIES

Jennifer Goldstein (“Goldstein”), former member of NuVeda, LLC, a Nevada limited liability company (“NuVeda”), has a judgment against NuVeda in the approximate amount of \$2,565,276.41 (plus interest from October 31, 2019). The judgment arises from binding arbitration (AAA Case # 01-15-005-8574), which was supervised by this court.

Goldstein’s judgment is subject to an indemnification agreement with CWNevada, LLC (which through Brian Padgett controlled the arbitration proceedings). See **Exhibit 1**. This agreement is part of NuVeda’s proof of claim submitted in the Receivership Action, which the receiver has refused to honor.¹ The Sanctuary is **NOT** subject to the judgment in favor of Goldstein.

On June 11, 2021, NuVeda received copies of writs of execution filed by Goldstein in this case. The writs asked that the sheriff/constable’s office seize “all cash, currency, and other monies from the cash register, vault, safe and cash box” at the following locations:

CANOPI 2113 N. Las Vegas Blvd. Las Vegas, NV 89030	The Sanctuary Dispensaries 1324 S. 3rd St. Las Vegas, NV 89104	Solaris Farms 2795 W. Brooks Ave. North Las Vegas, NV 89032
---	---	--

NUVEDA 301 S. Oxbow Ave., Unit 13 Pahrump, NV 89048	NUVEDA 1620 W. Charleston Park Pahrump, NV 89048
--	---

The clerk of the court confirmed the existence of the judgment in favor of Goldstein against NuVeda and signed the writs. **The constable’s office served writs at each of the above locations and did not locate any property which belongs to NuVeda.** However, the officers from the constable’s office, which served writs at 1324 S. 3rd Street, Las Vegas, Nevada 89104, physically forced the employees of The Sanctuary to remove **\$638.00 in cash** from the facility on or about August 9, 2021. See **Exhibit**

¹ Goldstein also submitted a proof of claim in the Receivership Action based on the indemnification agreement.

2 (specifically Exhibit A—cash receipt). ***This money does not belong to NuVeda.*** The sole and exclusive remedy for third parties whose property is wrongfully seized is set forth in NRS 31.070. See Cooper v. Liebert, 81 Nev. 341, 344, 402 P.2d 989, 991 (1965) (confirming NRS 31.070 as exclusive remedy). Given this circumstance, any judgment creditor can claim property is located at a casino, bank, or other business, and the constable's office is apparently statutorily obligated to seize all property described in the writ without regard to ownership. Given Goldstein's tactics, it would now seem fair game for any judgment creditor who has a judgment to seek a writ seizing any and all property in the possession of Goldstein. The constable's office can seize it, and the parties can litigate ownership.

NRS 31.070 provides as follows:

NRS 31.070 Third-party claims in property levied on; undertaking by plaintiff; liability of sheriff; exception to sufficiency of sureties; hearing to determine title to property.

1. If the property levied on is claimed by a third person as the person's property by a written claim verified by the person's oath or that of the person's agent, setting out the person's right to the possession thereof, and served upon the sheriff, the sheriff must release the property if the plaintiff, or the person in whose favor the writ of attachment runs, fails within 7 days after written demand to give the sheriff an undertaking executed by at least two good and sufficient sureties in a sum equal to double the value of the property levied on. If such undertaking be given, the sheriff shall hold the property. The sheriff, however, shall not be liable for damages to any such third person for the taking or keeping of such property if no claim is filed by any such third person.

2. Such undertaking shall be made in favor of and shall indemnify such third person against loss, liability, damages, costs and counsel fees by reason of such seizing, taking, withholding or sale of such property by the sheriff. By entering into such an undertaking the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

3. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 7 days after notice of receipt of the undertaking, the third person shall be deemed to have waived any and all objections to the sufficiency of the sureties.

4. The sheriff may demand and exact the undertaking herein provided for notwithstanding any defect, informality or insufficiency of the verified claim served upon the sheriff.

5. Whenever a verified third-party claim is served upon the sheriff upon levy of the writ of attachment, the plaintiff or the third-party claimant is entitled to a hearing within 10 days therefrom before the court having jurisdiction of the action, in order to determine title to the property in question, which hearing must be granted by the court upon the filing of an application or petition therefor. Seven days' notice of such hearing must be given to all parties to the action and all parties claiming an interest in the property, or their attorneys, which notice must specify that the hearing is for the purpose of determining title to the property in question. The court may continue the hearing beyond the 10-day period, but good cause must be shown for any such continuance.

[1911 CPA § 210 1/2; added [1933, 88](#); 1931 NCL § 8708.01] — (NRS A [1965, 550](#); [1973, 1178](#))

The Sanctuary made a written demand on the constable on August 10, 2021, which demand included a sworn declaration of Dr. Pejman Bady as manager of The Sanctuary. See Declaration

1 included as part of **Exhibit 2**. Accordingly, The Sanctuary requests a hearing in accordance with NRS
2 31.070 (i.e., on or before August 20, 2021). On the issue of ownership of the cash, Nevada law
3 provides guidance. The seizure of property from someone is prima facie evidence of that person's
4 entitlement, particularly when the seized property is money-negotiable instruments difficult to identify
5 and trace. See Ferris v. United States, 501 F. Supp. 98 (D. Nev. 1980). In addition to the declaration
6 of Dr. Bady included as part of **Exhibit 2**, Exhibit B thereto includes a shift report from the operating
7 manager of The Sanctuary, Armando Mendoza, which confirms the cash shortfall of the business. The
8 court should note that the report clearly identifies "Clark NMSD, LLC" as the business entity
9 associated with the same.

10 After the court denied NuVeda's request to quash the writs, NuVeda supplemented its responses
11 to Goldstein's post-judgment written discovery and provided almost 800 pages of documents. Despite
12 the demand that the person most knowledgeable for NuVeda appear for a judgment debtor examination
13 within 15 judicial days after service of the court's minute order, Goldstein failed to conduct the same.
14 See **Exhibit 3**. While it is understandable that Goldstein is frustrated by the inability to satisfy her
15 judgment, NuVeda has complied with its post-judgment obligations to provide responses to written
16 discovery and appear for a judgment debtor examination.

17 For the record, NuVeda does not claim that Goldstein's remedies are limited to a charging
18 order. She has the right to seize all non-exempt property **which is owned by NuVeda**. Goldstein
19 does not have the right to seize cash which belongs to The Sanctuary despite the parent/subsidiary
20 relationship between NuVeda and The Sanctuary. Paragraph 15 of the order entered by the court on
21 July 30, 2021 provides as follows:

22 15. Here, Goldstein is not seeking to satisfy the judgment out of any member's
23 interest in NuVeda because Goldstein does not have a judgment against any member of NuVeda,
24 but has a judgment against NuVeda itself, and the exclusive remedy provision pursuant to NRS
25 86.401 therefore does not apply. Therefore, NuVeda's assets (other than interests in LLCs) are
26 subject to execution.
27
28

1 **NuVeda has never claimed Goldstein is seeking to satisfy her judgment out of a member's interest**
2 **in NuVeda.** Goldstein is a judgment creditor of NuVeda, and NuVeda is the sole member of The
3 Sanctuary. Under NRS 86.401, Goldstein's charging order limits her recovery **only with respect to**
4 **The Sanctuary** to NuVeda's interest in The Sanctuary, and she is not permitted to seize directly the
5 assets of The Sanctuary. Goldstein's misrepresentations to the court regarding NuVeda's position on
6 post-judgment collection activity pertaining to subsidiaries of NuVeda has caused the court to make
7 findings not supported by NuVeda's position in this case.

8 For the reasons set forth above, the cash seized by the constable's office should be returned to
9 The Sanctuary. Further, the court should require Goldstein to file a motion with notice to and an
10 opportunity to be heard by NuVeda for approval of any further collection activity. It should be clear
11 that Goldstein is abusing the court process and manipulating the court.

12 DATED this 12th day of August, 2021.

13
14 **LAW OFFICE OF MITCHELL STIPP**

15
16 /s/ Mitchell Stipp, Esq.
17 MITCHELL STIPP, ESQ.
18 Nevada Bar No. 7531
19 LAW OFFICE OF MITCHELL STIPP
20 1180 N. Town Center Drive, Suite 100
21 Las Vegas, Nevada 89144
22 Telephone: 702.602.1242
23 mstipp@stipplaw.com
24 *Attorneys for NuVeda, LLC*
25
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27
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1
2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify that I am an employee of the Law Office of Mitchell Stipp and that on the 12th
5 day of August, 2021, I electronically filed the foregoing with the Clerk of the Court for the Eighth
6 Judicial District Court, which provided e-service to the following:

7 Briar R. Irvine, Esq.
8 Brooks T. Westergard, Esq.
9 **DICKINSON WRIGHT PLLC**
10 100 West Liberty Street, Suite 940
11 Reno, Nevada 89501
Attorneys for Jennifer Goldstein

12 And via U.S. Mail, Hand Delivery, and Facsimile to:

13 Office of the Ex-Officio Constable
14 Las Vegas Township
301 E. Clark Ave., Suite 100
15 Las Vegas, NV 89101
Fax: (702) 385-2436

16
17
18 */s/ Amy Hernandez*

19 _____
Amy Hernandez
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EXHIBIT 1

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INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (the "Agreement") is made and entered into as of June 5th, 2018 between, C'W Nevada, L.L.C, a Nevada limited liability corporation (hereinafter "C'W" or "Indemnitor"), and NuVeda, L.L.C, Dr. Pejman Bady and Dr. Pouya Mohajer (collectively "Indemnitees").

RECITALS

On December 3, 2015, Shane Terry and Jennifer Goldstein (collectively, "Plaintiffs") filed an action purportedly on behalf of NuVeda against Dr. Bady and Dr. Mohajer in Clark County District Court Case No. A-15-728510-B ("District Court Case"). The judge in the District Court Case ruled that the matter be sent to arbitration. As a result, Plaintiffs filed an arbitration action with AAA against the Indemnitees in Case No. 01-15-005-8574 (hereinafter "Arbitration Case"). On or about May 2, 2018, BCP 7, LLC purchased Shane Terry's interest in District Court Case and Arbitration Case, therefore, became a Co-Plaintiff with Ms. Goldstein.

It is reasonable, prudent and necessary for C'W contractually to obligate itself to indemnify the Indemnitees to the fullest extent permitted by applicable law so that they will be able to defend themselves in the District Court, Arbitration Cases and appeals thereof (hereinafter collectively, "Proceedings"). This Agreement is a supplement to and in furtherance of the Operating Agreement of C'W and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitees thereunder.

The parties hereto agree that each of the Recitals set forth above are true and correct and hereby incorporated into this Agreement by this reference and made as part hereof and further agree as follows:

INDEMNIFICATION OF INDEMNITEES

C'W hereby agrees to hold harmless and indemnify Indemnitees to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof:

- A. **Proceedings in the Arbitration and District Court Cases.** Indemnitees shall be entitled to the rights of indemnification provided in this Section if, as a result of the Proceedings, Indemnitees are ordered to pay "Expenses". "Expenses" are defined as judgments, penalties, fines, and amounts paid or ordered to be paid in settlement, actually and reasonably incurred by them or on their behalf, in connection with the Proceedings, or any claim, issue or matter therein.
- B. As C'W has agreed to indemnify the Indemnitees for Expenses in the Proceedings pursuant to the Terms listed in this Agreement, in consideration for such indemnity, C'W has the right to direct the litigation strategy of the Proceedings subject to any objections by Indemnitees or their respective counsel. C'W also shall be entitled to veto any settlement with Plaintiffs or payment of any judgment.
- C. **Terms of the Indemnification.** If Indemnitees are entitled under any provision of this Agreement to indemnification by C'W, C'W shall indemnify Indemnitees for the portion thereof to which Indemnitees are entitled. The parameters of the indemnity are as follows:
 1. For any Expenses (as defined in Section A. above) below \$5M, C'W agrees to completely indemnify Indemnitees;
 2. For any Expenses in excess of \$5M, C'W agrees to indemnify Indemnitees fifty percent (50%) of the Expenses. The terms and conditions of indemnification contained in this Provision (C)(2) are meant to be used in conjunction with Provision (C)(1) and are not to be construed as an exclusive.

PROCEDURES AND PRESUMPTIONS FOR DETERMINATION OF ENTITLEMENT TO INDEMNIFICATION

- A. To obtain indemnification under this Agreement, Indemnitees shall submit to C'W a written request, including such documentation and information as is available to Indemnitees and is reasonably necessary to determine whether and to what extent Indemnitees are entitled to indemnification. C'W shall upon settlement or award, and within thirty (30) business days upon receipt of such a request for indemnification, pay the Indemnitees the requested indemnification.
- B. In making a determination with respect to entitlement to indemnification hereunder, C'W shall presume that Indemnitees are entitled to indemnification under this Agreement.
- C. If C'W does not remit the indemnification amount to the Indemnitees within thirty (30) days after receipt by C'W of the request therefor, Indemnitees shall be entitled to file an action in Clark County District Court of the State of Nevada for Indemnitees entitlement to such indemnification. C'W shall not oppose Indemnitees' right to seek any such adjudication.
- D. The parties shall be precluded from asserting in any judicial proceeding to enforce this Agreement that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the parties are bound by all the provisions of this Agreement.

DURATION OF AGREEMENT

All agreements and obligations of CW contained herein shall continue during the period of the Proceedings, subsequent appeals and potential future Proceedings based upon the ruling on the appeals.

ENFORCEMENT

- A. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof
- B. In the event of any inconsistency or conflict between (i) this Agreement; (ii) CW's Operating Agreement; (iii) NuVeda's Operating Agreement; and (iv) the MIPA (collectively, the "Organizational Documents") with respect to indemnification, then the parties shall be bound by the provisions of this Agreement.

SEVERABILITY

The invalidity of unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. This Agreement is intended to confer upon Indemnitees indemnification rights to the fullest extent permitted by applicable laws.

MODIFICATION AND WAIVER

No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

NOTICE BY INDEMNITEES

Indemnitees agrees promptly to notify CW in writing upon being served with or otherwise receiving any relating to the Proceedings which may be subject to indemnification covered hereunder. The failure to so notify the CW shall not relieve CW of any obligation which it may have to Indemnitees under this Agreement.

NOTICES

All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery, (b) electronic mail or facsimile, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the addresses below.

COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada, without regard to its conflict of laws rules. CW and Indemnitees hereby irrevocably and unconditionally agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Clark County District Court (the "Nevada Court"). The prevailing party will be entitled to their attorney's fees.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

Indemnitor

Indemnitees


CW Nevada, LLC.

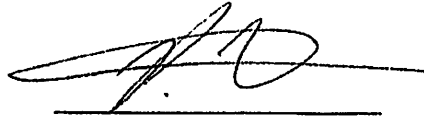

NuVeda, LLC

4145 W. Alibaba LN.

2171 River Plate Dr.

Las Vegas NV. 89118

Pahrump NV. 89048

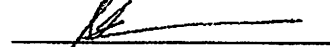


6/5/18

Dr. Pouya Mohajer

2700 Las Vegas Blvd S. #3311

Las Vegas, NV. 89109



Dr. Pejman Bady

2700 Las Vegas Blvd S. #2709

Las Vegas, NV. 89019

EXHIBIT 2

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Mitchell Stipp
Law Office of Mitchell Stipp
T: 702.602.1242 | M: 702.378.1907
E: mstipp@stipplaw.com | www.stipplaw.com

1180 N. Town Center Drive, Suite 100, Las Vegas, Nevada 89144

August 10, 2021

VIA FAX at 702-385-2436

Office of the Ex-Officio Constable
Las Vegas Township
301 E. Clark Ave., Suite 100
Las Vegas, NV 89101

RE: Writs of Execution by Jennifer Goldstein
Eighth Judicial District Court, State of Nevada (Case No. A-15-728510-B)

To Whom It May Concern:

My firm represents Clark NMSD, LLC ("The Sanctuary"). We sent letters to the Constable's Office dated June 15, 2021 and July 21, 2021 via fax objecting to writs of execution prepared and filed in the above-referenced case by Jennifer Goldstein. We received no response. The writs asked the Constable's Office to seize without regard to ownership "all cash, currency, and other monies from the cash register, vault, safe and cash box" at several business locations including the cannabis dispensary operated and leased by The Sanctuary addressed as 1324 S. 3rd Street, Las Vegas, Nevada 89104. My firm has previously notified the Constable's Office that the judgment debtor, NuVeda, LLC, has no property at these business locations. We even supplied a sworn statement by Dr. Pejman Bady, as manager of The Sanctuary. Notwithstanding these letters, the Constable's Office served the writs. On August 9, 2021, officers from the Constable's Office placed an employee of The Sanctuary, Armando Mendoza, in handcuffs and forced the staff to open the dispensary floor area to gain access to the cash register. Despite being informed that NuVeda, LLC had no property at the facility (including by the undersigned via telephone), the officers removed \$638.00 in cash, which belongs to The Sanctuary. See Declaration of Dr. Bady included herewith; see also Cash Receipt attached as Exhibit A and Shift Report by Mr. Mendoza attached as Exhibit B.

NRS 31.070(1) provides if property levied upon "is claimed by a third person as his property by a written claim verified by his oath or that of his agent[]" and "served upon the sheriff," the sheriff "must release the property" if the plaintiff fails "within 7 days after written demand to give the sheriff an undertaking executed by at least two good and sufficient sureties in a sum equal to double the value of the property levied on." See also Cooper v. Liebert, 81 Nev. 341, 344, 402 P.2d 989, 991 (1965). The cash seized by the Constable's Office based on Ms. Goldstein's writs

Mailing and Payment Address: 10120 W. Flamingo Rd., PMB 4-124, Las Vegas, Nevada 89147

must be returned unless Ms. Goldstein posts a bond in accordance with NRS 31.070. The Sanctuary and its employee, Mr. Mendoza, are reserving their rights and remedies against the Constable's Office and the officers who arrested Mr. Mendoza. The Constable's Office had adequate notice that the cash seized did not belong to the judgment debtor.

If you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Best Regards,

A handwritten signature in black ink, appearing to read "Mitchell Stipp", written in a cursive style.

Mitchell D. Stipp

DECLARATION UNDER PENALTY OF PERJURY

Dr. Pejman Bady, as manager of Clark NMSD, LLC, declares under penalty of perjury, that the cash removed from cannabis dispensary addressed as 1324 S. 3rd Street, Las Vegas, Nevada 89104, in the amount of \$638.00 on August 9, 2021, belongs to Clark NMSD, LLC.

STATE OF NEVADA)

COUNTY OF CLARK)

This Declaration was acknowledged before me on August 10, 2021, by Dr. Pejman Bady, as manager of Clark NMSD, LLC.

Signature Victoria O'Hara (Seal)



EXHIBIT A



2021

CLARK COUNTY, Sheriff

OFFICE OF THE EX-OFFICIO CONSTABLE
 LVMPD - DETENTION SERVICES DIVISION
 CONSTABLE OPERATIONS SECTION
 301 E. Clark #100 • Las Vegas NV 89101 • (702) 455-4099

No. 0334

Opening Amount
 Cash Tenders
 Safe Drops
 Returns
 Expected Drawer
 CC Terminal

DATE: 08-09-21 TIME:

CASH RECEIPT

CASE# A-15-728510-B

ADDRESS: 1324 S. 3RD ST. LAS VEGAS, NV. 89104

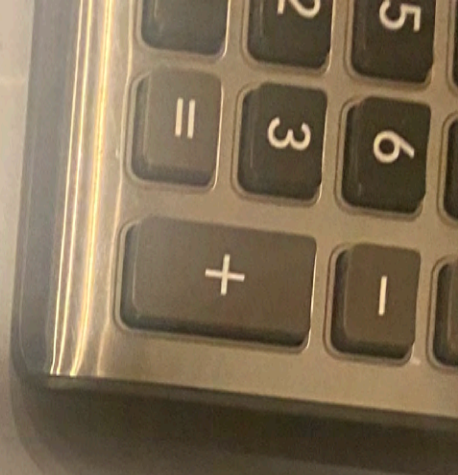
Cash Retrieved	Dollars/Cents	Cash Retrieved	Dollars/Cents	Cash Retrieved	Dollars/Cents
48 X \$1 =	\$48	X \$50 =	\$50.00	X Quarters =	
X \$2 =		X \$100 =		X Halves =	
18 X \$5 =	\$90.00	X Pennies =		X Dollars =	
5 X \$10 =	\$50.00	X Nickels =		Checks =	
20 X \$20 =	\$400.00	X Dimes =		TOTAL =	\$638

Officer's Signature: [Signature]
 Officer's Signature: [Signature]
 Received From: REFUSED

Officer's Name: (Print) S. ROBB 9580
 Officer's Name: (Print) J. DAVIS 15518
 Name: _____

Rev. 7-2015 DISTRIBUTION: WHITE • Garnishee CANARY • Officer PINK • Book

EXHIBIT B



The Sanctuary Dispensaries

Date:	Name: <u>Hubert</u>	Reg: <u>1</u>
\$1.00		
\$5.00		
\$10.00		
\$20.00		
\$50.00		
\$100.00		
Coin Change		
Grand Total:	<u>1.98</u>	

Signature: _____
MOD Signature: Armando Mendoza

Shift Report

Clark MSD LLC Ipad 1 08-09-2021
Shift closed by Armando Mendoza on
August 09, 2021 at 10:28 am

Opening Amount	\$328.00
Cash Tenders	\$311.52
Safe Drops	\$0.00
Returns	\$0.00
Expected Drawer	\$639.52
Actual Drawer	\$1.98
Short	\$637.54

Note



CLARK COUNTY Sheriff

DATE 08-09-21 TIME 301

ADDRESS: 1324 S. 3RD

Cash Retrieved	Dollars/Cent
<u>48</u> X \$1 = <u>\$48</u>	
X \$2 =	
<u>18</u> X \$5 = <u>\$90</u>	
<u>5</u> X \$10 = <u>\$50</u>	
<u>80</u> X \$20 = <u>\$1600</u>	

Officer's Signature: [Signature]
Officer's Signature: [Signature]
Received From: RE

EXHIBIT 3

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Mitchell Stipp <mstipp@stippaw.com>

Re: EXTERNAL: Re: Goldstein v. NuVeda

1 message

Mitchell Stipp <mstipp@stippaw.com>

Mon, Aug 9, 2021 at 11:07 AM

To: "Brian R. Irvine" <BRIrvine@dickinson-wright.com>

Cc: "Brooks T. Westergard" <BWestergard@dickinson-wright.com>

Brian--

I received your response below. NuVeda is not taking the position that it is only required to produce its PMK by today or no examination will occur. The court has not ordered NuVeda to produce anything by any deadline. In fact, you have not asked for any additional documents since your motion for an order to show cause. Further, you did not prepare the order from that hearing or respond to my email provided to you after the same. You insisted in the recent order submitted to the court that NuVeda's PMK appear within 15 judicial days after the court served its minute order. Yet, you have done nothing to schedule the examination. You have not asked for my availability or that of NuVeda's PMK during the 15 judicial day window (despite my initial email). Instead, you sent an email late in the afternoon on Friday requesting supplemental responses to the written discovery. Of course, this approach was designed to give you cover for failing to schedule the judgment debtor examination. We produced supplemental responses with documents on the same day and advised you that Dr. Bady as the PMK for NuVeda still would be available today (within the 15 judicial day window). Instead of completing the examination, you want to push it off to the middle/end of August.

We have complied with our obligations under the court's orders. We responded to your client's written discovery. We made Dr. Bady available within 15 judicial days after service of the minute order. Your client has every right to pursue her post judgment remedies. If you would like to schedule a new judgment debtor examination, I am more than happy to coordinate the same after your client's review of the recent supplemental responses and documents. I look forward to hearing from you at that time.

www.stippaw.com**Mitchell D. Stipp****Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144****T: 702.602.1242 | M: 702.378.1907****E: mstipp@stippaw.com**

On Fri, Aug 6, 2021 at 7:31 PM Brian R. Irvine <BRIrvine@dickinson-wright.com> wrote:

Mitchell--

Respectfully, that is a ridiculous position. NuVeda did not provide documents until late this afternoon, despite being required to do so for many months due to multiple Court orders. And you have never, until today, provided a deposition date for NuVeda's PMK.

We will review the documents and prepare for the deposition. Please provide available dates in mid to late August for NuVeda's PMK. Ms. Goldstein will not take the position that NuVeda has violated the deposition deadline if you provide dates in August as requested.

Thanks,

Brian

On Aug 6, 2021, at 4:02 PM, Mitchell Stipp <mstipp@stippaw.com> wrote:

Brian--

I received your email below. When finalizing the order from the last hearing, you desired to compress the timeframe for the judgment debtor exam based on the ambiguity in the minute order. The minute order was not specific (so you took liberties to make it sooner rather than later). You initially insisted that the judgment debtor exam be held within 15 judicial days of the date of the minutes (which were dated July 13, 2021 but e-served on July 19). When we objected, you insisted that the judgment debtor examination occur within 15 judicial days of service of the minute order. The judge agreed with your last proposal when the court entered your draft order. That 15 judicial day period ends Monday, August 9, 2021. Further, the order did not require NuVeda to produce any documents. In any event, please see the attached supplemental responses which are available for download via the enclosed Google link:

 [Second Response to Discovery Requests-8.6.21-Em...](#)

After the court issued its minute order and served the same on July 19, 2021, I reached out to you to set up the judgment debtor examination. You made no attempt to do so until today. Now, you want to continue it for 10 days. Unfortunately, I cannot agree. The court's order requires the PMK for NuVeda to appear for a judgment debtor exam no later than by August 9. My client does not want to be in violation of any order of the court. Accordingly, Dr. Bady as the PMK for NuVeda will be available on Monday in Las Vegas, Nevada for an in-person examination. Please advise of the time and place.


www.stippplaw.com
Mitchell D. Stipp

Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144

T: 702.602.1242 | M: 702.378.1907

E: mstipp@stippplaw.com

Brian R. Irvine Member

100 West Liberty Street Phone 775-343-7507
 Suite 940 Fax 844-670-6009
 Reno NV 89501-1991 Email BrIrvine@dickinsonwright.com

[Profile](#) [V-Card](#)

DICKINSON WRIGHT PLLC

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA
 OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

On Fri, Aug 6, 2021 at 2:35 PM Brian R. Irvine <BrIrvine@dickinson-wright.com> wrote:

Mitchell-

As you are aware, the Court entered its Order for Supplementary Proceedings on March 16, 2020 (attached). Pursuant to that Order, NuVeda was required to produce documents responsive to 27 different document requests. It was also required to produce its Person Most Knowledgeable for a judgment debtor examination, and was "forbidden from making any transfer of NuVeda's property, including funds in any bank or deposit account of any kind, that is not exempt from execution and from interfering therewith until further ordered."

Ms. Goldstein has attempted to obtain the documents responsive to the requests included in the Order for Supplementary Proceedings. Only after Ms. Goldstein file a Motion for Order to Show Cause did NuVeda finally respond to the document requests. That February 24, 2021 Response included numerous objections (which are inappropriate as the Court issued the Order with the document requests) and claimed that, for Requests 1-9 and 11-21, there are no responsive documents which are available for production. NuVeda did not produce documents responsive to Request No. 10, claiming that the term "property assessment notices" was not defined. NuVeda indicated that it would produce documents responsive to Requests Nos. 22-25 subject to a confidentiality order. NuVeda refused to provide documents responsive to Request No. 26, claiming that responsive documents are publicly available. NuVeda objected to Request No. 27 as follows:

NuVeda incorporates general objections herein. NuVeda objects to the underlying request for production, and thus to this request, because asking for all papers, pleadings, and discovery is impermissibly overbroad. Because the information sought is overbroad and unduly burdensome, it will require unreasonable efforts and expense on behalf of NuVeda to identify and/or produce. NuVeda also objects to this request on the basis that it seeks information and knowledge in the possession of Ms. Goldstein, who has access to the filings in the identified cases. Additionally, asking for the production of documents which are not publicly available seeks to obtain counsel's mental impressions, conclusions, opinions and legal theories and matters which are otherwise confidential. Therefore, NuVeda objects to this request on the basis of the attorney-client privilege and the attorney work-product

doctrine.

With regard to Request No. 10, that request was intended to refer to property tax assessment notices. With regard to Requests 22-25, the Court indicated that Ms. Goldstein and her counsel could receive those documents, and that they "will not share documents marked as confidential with any other party." (Minutes of March 1, 2021 hearing). With regard to Request No. 26, NuVeda's response is unacceptable – even if some responsive documents may be publicly available, Ms. Goldstein cannot be expected to scour court dockets across the country looking for them. And, arbitration awards would not necessarily be public. NuVeda's response to Request No. 27 is equally unacceptable for the same reasons. Moreover, the Court granted the Motion for Order to Show Cause with awareness of NuVeda's responses.

Ms. Goldstein needs to obtain all responsive documents and proceed with the PMK deposition, as ordered yet again by the Court in the Order Denying NuVeda's Motion to Quash Writs of Execution (attached). To date, NuVeda has not produced even a single page. Please produce all responsive documents within ten (10) days. Please also identify NuVeda's person(s) most knowledgeable and provide me with available dates for the deposition(s) within ten (10) days. Absent compliance, we will be filing another Motion for Order to Show Cause and will seek sanctions.

Please let me know if you have any questions.

Thank you,

Brian Irvine

Brian R. Irvine Member

100 West Liberty Street Phone 775-343-7507
Suite 940 Fax 844-670-6009
Reno NV 89501-1991 Email BIrvine@dickinsonwright.com
<image33cf82.JPG>
<image301ef5.JPG>

<image38ea1e.JPG>

The information contained in this e-mail, including any attachments, is confidential, intended only for the named recipient(s), and may be legally privileged. If you are not the intended recipient, please delete the e-mail and any attachments, destroy any printouts that you may have made and notify us immediately by return e-mail.

Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

The information contained in this e-mail, including any attachments, is confidential, intended only for the named recipient(s), and may be legally privileged. If you are not the intended recipient, please delete the e-mail and any attachments, destroy any printouts that you may have made and notify us immediately by return e-mail.

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MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144
Telephone: 702.602.1242
mstipp@stippplaw.com
*Attorneys for NuVeda, LLC and
Applicant/Petitioner, Clark NMSD, LLC*

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

NUVEDA, LLC, a Nevada limited liability
company; SHANE M. TERRY, an individual;
and JENNIFER M. GOLDSTEIN, an individual;

Plaintiffs,

v.

PEJMAN BADY, an individual; POUYA
MOHAJER, an individual; DOES I to X,
inclusive; and ROES I to X, inclusive,

Defendants.

Case No.: A-15-728510-B

Dept. No.: XI

**ERRATA TO APPLICATION/
PETITION PURSUANT TO NRS
31.070(5) AND REQUEST TO
PROHIBIT GOLDSTEIN FROM ANY
FURTHER COLLECTION ACTIVITY
WITHOUT COURT APPROVAL**

NuVeda, LLC, judgment debtor, and Applicant/Petitioner, Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary ("The Sanctuary"), by and through their counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced errata to its application/petition made in accordance with NRS 31.070(5). **Exhibit 2** to the application/petition should include the Declaration of Dr. Pejman Bady as set forth in this Errata. Dr. Bady's signature block to the Declaration was automatically removed when the document was added to the letter of Mitchell Stipp and compiled as part of the exhibits to the application/petition via Adobe.

1 DATED this 26th day of August, 2021.

2
3 **LAW OFFICE OF MITCHELL STIPP**

4
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

8 LAW OFFICE OF MITCHELL STIPP

9 1180 N. Town Center Drive, Suite 100

10 Las Vegas, Nevada 89144

11 Telephone: 702.602.1242

12 mstipp@stipplaw.com

13 Attorneys for NuVeda, LLC and Clark


14 NMSD, LLC
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6 **DECLARATION UNDER PENALTY OF PERJURY**

7 Dr. Pejman Bady, as manager of Clark NMSD, LLC, declares under penalty of perjury,
8 that the cash removed from cannabis dispensary addressed as 1324 S. 3rd Street, Las Vegas,
9 Nevada 89104, in the amount of \$638.00 on August 9, 2021, belongs to Clark NMSD, LLC.

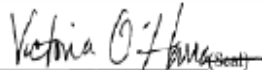
10 STATE OF NEVADA)

COUNTY OF CLARK)

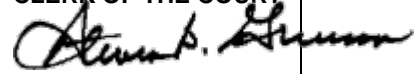
 Dr. Pejman Bady

11 This Declaration was acknowledged before me on August 10, 2021, by Dr. Pejman Bady,
12 as manager of Clark NMSD, LLC.

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Signature

 (Seal)





OPPS
DICKINSON WRIGHT PLLC
BRIAN R. IRVINE
Nevada Bar No. 7758
BROOKS T. WESTERGARD
Nevada Bar No. 14300
100 West Liberty Street
Suite 940
Reno, Nevada 89501
Tel.: (775) 343-7500
Fax: (844) 670-6009
Email: birvine@dickinsonwright.com
Email: bwestergard@dickinsonwright.com
Attorneys for Plaintiff Jennifer M. Goldstein

DISTRICT COURT
CLARK COUNTY, NEVADA

NUVEDA, LLC, a Nevada limited liability
company, SHANE M. TERRY, a Nevada
resident; and JENNIFER M. GOLDSTEIN, a
Nevada resident,

Plaintiffs,
vs.

PEJMAN BADY; POUYA MOHAJER; DOE
Individuals I-X and ROE Entities I-X, inclusive,
Defendants.

Case No.: A-15-728510-B

Dept. No.: XI

HEARING DATE: September 17, 2021
HEARING TIME: Chambers

OPPOSITION TO APPLICATION/PETITION
PURSUANT TO NRS 31.070(5) AND
REQUEST TO PROHIBIT GOLDSTEIN
FROM ANY FURTHER COLLECTION
ACTIVITY WITHOUT COURT APPROVAL

Plaintiff Jennifer Goldstein (“Goldstein”), by and through her counsel of record,
Dickinson Wright PLLC, hereby respectfully files her Opposition to NuVeda, LLC’s
 (“NuVeda”) Application Petition Pursuant to NRS 31.070(5) and Request to Prohibit Goldstein
 from ant further Collection Activity without Court Approval (“Application”). This Opposition is

1 based on the following Memorandum of Points and Authorities, all papers and pleadings on file
2 herein and in related cases, and any oral argument this Court chooses to consider.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I. INTRODUCTION**

5 The Application filed by NuVeda and its wholly-owned subsidiary, NMSD, LLC
6 (“Clark”), must be denied for several reasons. First, NuVeda has, at every turn, attempted to
7 interfere with Goldstein’s valid collection efforts and has violated a number of this Court’s
8 Orders. Despite this, and with no legal support for its request, NuVeda asks this Court to require
9 Goldstein to seek Court approval through a motion each time she needs to conduct collection
10 activities permitted under Nevada law. This request should be rejected.

11 Second, Clark has failed to comply with the requirement under NRS 31.070 to submit a
12 verified claim under oath and cannot now seek relief under that statute.

13 Finally, Clarks’ assertion that it owns all of the property at The Sanctuary cannabis
14 dispensary directly contradicts the positions taken by NuVeda in this case and other litigation
15 and also contradicts the findings made by this Court with regard to NuVeda’s ownership of that
16 location. Accordingly, the Application should be denied in its entirety.

16 **II. FACTUAL AND PROCEDURAL HISTORY**

17 Goldstein is the creditor, and NuVeda the debtor, on a judgment in the amount of
18 \$2,426,163.80 entered against Nevada on November 15, 2019 (the “Judgment”). (*See* [140]
19 Notice of Entry of Order and Judgment). On December 26, 2019, Goldstein filed her Motion for
20 Supplementary Proceedings, wherein she moved this Court for an order pursuant to NRS 21.270
21 requiring NuVeda through its designated Person Most Knowledgeable, to appear before a
22 master appointed by this Court for examination supplementary to execution upon the ground
23 that a judgment has been entered herein in favor of Goldstein and against NuVeda which
24 remains unsatisfied. (*See generally*, [142] Motion For Supplementary Proceedings).

25 This Court granted Goldstein’s Motion for Supplementary Proceedings by its Order
26 dated March 12, 2020, wherein it ordered:

- That the Person Most Knowledgeable for NuVeda appear on the 31st day of March, 2020, at 10:00 a.m. at Dickinson Wright PLLC . . . to then and there answer upon oath concerning the property of NuVeda and for such other proceedings as may there occur consistent with proceedings supplementary to execution.
- That not later than March 23, 2020, NuVeda produce to Plaintiffs' counsel, at the law offices of Dickinson Wright PLLC . . . the following books and records identified in Exhibit A attached to the Order;
- That the failure by NuVeda to produce all responsive documents and or appear at the above ordered examination may subject NuVeda to contempt of court; and
- That NuVeda, or anyone acting on its behalf, are forbidden from making any transfer of NuVeda's property, including funds in any bank or deposit account of any kind, that is not exempt from execution and from interfering therewith until ordered.

([149] Order for Supplemental Proceedings).

NuVeda failed to comply with this Court's Order, and, on January 27, 2021, Goldstein filed Motion requesting that this Court enter an Order to show cause why NuVeda, LLC should not be sanctioned for failing to comply with this Court's March 12, 2020 Order for Supplementary Proceedings. ([154] Motion for Order to Show Cause). NuVeda opposed the Motion for Order to Show Cause and filed a purported Countermotion to Stay Collection Proceedings, arguing that "Goldstein's judgment is subject to an indemnification agreement with CWNevada" and that "[u]ntil the disputes between NuVeda and CWNevada are resolved, postjudgment collection activity should be stayed." ([156] Opposition to Motion for an Order to Show Cause and Countermotion for Related Relief). This Court granted Goldstein's Motion for Order to Show Cause and ordered NuVeda to produce: (1) the documents responsive to the

1 requests in the Order for Supplementary Proceedings; and (2) its witness for a Judgment
2 Debtor's examination¹.

3 On June 11, 2021, Goldstein caused writs of execution to be issued for several locations
4 that are part of NuVeda's business operations, Execution directed at NuVeda and various third-
5 parties who are in possession of property subject to execution. (*See* Dkt. Nos. 160, 161, 164 and
6 165). NuVeda filed a Motion to Quash Writs of Execution, again arguing that "Goldstein's
7 judgment is subject to an indemnification agreement with CWNevada, LLC." ([162] Motion to
8 Quash Writs of Execution). NuVeda also argued that it "does not own or have rights to any
9 property at the addresses" where the writs of execution were directed. (*Id.*). This Court denied
10 the Motion to Quash Writs of Execution because: (1) "NuVeda lacks standing to assert
11 exemptions on behalf of third parties"; (2) NuVeda "failed to identify what property subject to
12 the Writs of Execution is exempt, as required to NRS Chapter 21"; and (3) "the Court is not
13 persuaded by NuVeda's argument that Goldstein's exclusive remedy is in the form of a charging
14 order pursuant to NRS 86.401" because "Goldstein is not seeking to satisfy the judgment out of
15 any member's interest in NuVeda." ([168] Findings of Fact, Conclusions of Law and Order
Denying Motion to Quash Writs of Execution at 3-4).

16 Now, NuVeda has filed another motion as part of its continued to attempt to interfere
17 with and frustrate Goldstein's valid efforts to collect on her judgment. In the application,
18 NuVeda again claims that Goldstein's judgment is somehow "subject to" an indemnity
19 agreement between NuVeda and CWNevada, LLC (Application at 3), accuses Goldstein of
20 making unspecified misrepresentations regarding NuVeda's position in the case and requests,
21 with no supporting legal authority, that Goldstein be required "to file a motion with notice to
22 and an opportunity to be heard by NuVeda for approval of any further collection activity."
23 (Application at 6). There is simply no basis under Nevada law for NuVeda to make such a

24
25 ¹ The Court also entered a protective order at NuVeda's request, which delayed the judgment debtor's examination
26 until NuVeda's witness was physically able to be deposed, and also prohibited Goldstein from sharing any
documents produced by NuVeda as confidential with any other party. (*See* March 1, 2021 Minute Order).

1 request, and the request is comical given NuVeda's repeated violation of this Court's Orders in
2 an effort to avoid paying the judgment in favor of Goldstein. NuVeda's conduct continues to
3 violate of this Court's Order wherein NuVeda was expressly ordered to not interfere with
4 Goldstein's execution efforts.

5 The Application is also purported filed on behalf of NuVeda's wholly-owned subsidiary,
6 Clark. Clark, which is not a party to this case, requests a hearing in accordance with NRS
7 31.070 (Application at 4-5) and demands that the \$638.00 seized pursuant to the writ of
8 execution be returned. (*Id.* at 6). The sole basis for this request is a purported declaration from
9 Dr. Pejman Bady, manager of Clark. (Application at Ex. 2, p. 3). However the relief sought by
10 Clark is unsupported for several reasons.

11 First, the "declaration" of Dr. Bady is not a declaration at all. It is a letter that is not
12 signed by Dr. Bady, but instead is signed by counsel for NuVeda, Mitchell Stipp. (Application
13 at Ex. 2). Although Exhibit 2 to the Application includes an acknowledgement signed by a
14 notary, there is nothing at all signed by Dr. Bady, so it is entirely unclear what is notarized. As
15 such, Clark has not met the requirements of NRS 31.070.

16 Second, even had Clark complied with the requirements of NRS 31.070, which it has
17 not, the statement in the letter to the Constable attached to the Application, that NuVeda has no
18 property located at 1324 S. 3rd Street, Las Vegas, Nevada 89104, is directly contradicted by
19 prior statements made by NuVeda to this very Court. NuVeda has consistently taken the
20 position in this case and in the CWNevada Receivership Case, that NuVeda owns and operates
21 the locations where the Writs were directed, including the 1324 S. 3rd Street, Las Vegas, Nevada
22 89104. This Court has also found that NuVeda operates these locations. NuVeda and its
23 subsidiary, Clark, should be judicially estopped from now attempting to avoid Goldstein's
24 collection efforts by taking a contrary position in the Motion.

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1 **II. ARGUMENT**

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3 **A. NuVeda provides no legal support for its request to require Goldstein to**
4 **seek Court permission before any collection activities, and there is no basis**
5 **for that request.**

6 NuVeda’s request, that Goldstein be required “to file a motion with notice to and an
7 opportunity to be heard by NuVeda for approval of any further collection activity” (Application
8 at 6) is not supported under Nevada law. NuVeda has not even identified what rule forms the
9 basis for the Application or any authority that supports the relief it seeks. Nor could it. Under
10 NRCP 62(b), a “court may stay execution on a judgment – or any proceedings to enforce it –
11 pending disposition of” (1) a motion under Rule 50 for judgment as a matter of law; (2) a
12 motion to amend findings under Rule 52(b); (3) a motion for a new trial or to amend judgment
under Rule 59, or (4) a motion for relief from judgment under Rule 60. None of the motions
enumerated under NRCP 62(b) are currently pending.

13 In addition, it is NuVeda, not Ms. Goldstein, that has continually ignored this Court’s
14 Orders and abused the judicial process. NuVeda ignored both this Court’s March 12, 2020
15 Order for Supplemental Proceedings and its March 1, 2021 Minute Order, both of which
16 required NuVeda to produce documents. Despite these Orders, NuVeda failed to produce even a
17 single page of responsive documents until August 6, 2021. (*See* Application at Ex. 3, p. 1 (email
18 from Mitchell Stipp to Brian Irvine with link to documents). And NuVeda never provided
19 available dates for Dr. Bady’s deposition until August 6, 2021, when it advised Goldstein that
20 Dr. Bady was available only on August 9, 2021, only one business day after NuVeda had
21 produced its first documents in the case. (*Id.*).

22 There is no basis whatsoever to require Ms. Goldstein to file a Motion prior to any
23 collection activity. This is just yet another attempt by NuVeda to obstruct Ms. Goldstein’s
24 collection efforts in violation of this Court’s Order. (*See* [149] Order for Supplemental
25 Proceedings at 2 (ordering that NuVeda is “forbidden from making any transfer of NuVeda’s
26

1 property . . . that is not exempt from execution and from interfering therewith until further
2 ordered.”)). This Court should deny NuVeda’s request.

3 **B. Clark has failed to comply with NRS 31.070.**

4 In order to avail itself of any of the remedies afforded by NRS 31.070, Clark must serve
5 the constable with “a written claim verified by the person’s oath or that of the person’s agent,
6 setting out the person’s right to the possession” of the property at issue. Here, Clark purports to
7 satisfy that requirement with Exhibit 2 to the application. However, that document does not
8 meet the statutory requirements. Exhibit 2 is an August 10, 2021 letter signed by Mitchell Stipp
9 as counsel for Clark. Mr. Stipp’s signature is not notarized or otherwise verified. The letter is
10 followed by a notary page that purports to authenticate a declaration from Dr. Bady, not Mr.
11 Stipp. However, that page is not signed by Dr. Bady at all. Therefore, Clark has failed to comply
12 with the requirements under NRS 31.070 and is not entitled to any relief under that statute,
13 including its request for a hearing or the return of the \$638.

14 **C. Clark’s position, that it owns all of the property located at 1324 S. 3rd Street,
15 Las Vegas, Nevada 89104, is completely inconsistent with NuVeda’s prior
16 assertions of ownership of that location in Court filings and should be
disregarded under the doctrine of judicial estoppel.**

17 Even if this Court were to consider Exhibit 2, the statements contained in that letter and
18 the following “declaration”, that Clark and not NuVeda owns all of the property at 1324 S. 3rd
19 Street, Las Vegas, Nevada 89104, should be disregarded. It has always been NuVeda’s position
20 in this case and in the CWNevada Receivership case that it is the owner of the cannabis licenses
21 that are in use at the locations where Goldstein has directed the subject Writs. (See Case No. A-
22 17-755479-C (CWNevada Receivership Case), April 8, 2020 Supplement to NuVeda’s Motion
23 to Lift the Litigation Stay and Opposition to Receiver’s Motion to Approve Retention of
24 Counsel Sponsored by Phil Ivey and Related Matters at p. 6:18-19 (“The receiver claims in its
25 filing that CWNevada did not receive any benefit from the joint venture with NuVeda.
26 *Apparently, the receiver is ignoring the money CWNevada pulled out of NuVeda’s*

1 *dispensaries while operating the same.”*); *Id.* at 8:8 (“NuVeda is not subject to an agreement to
2 sell *its licenses* to a third-party.”) (emphasis added); Case No. A-15-728510-B, October 9, 2019
3 Case Appeal Statement at 4 (“This matter involves an intra-company dispute by and between
4 the members of *NuVeda, a limited liability company that was awarded and continues to*
5 *possess and conduct operations related to six marijuana licenses based in Clark County,*
6 *Nevada.*”) (emphasis added). NuVeda should be judicially estopped from contradicting its prior
7 position, that it possessed and conducted operations at the locations where Goldstein has
8 directed the subject Writs, in order to attempt to avoid those Writs being executed upon. Under
9 the legal doctrine of judicial estoppel, “a party may be estopped merely by the fact of having
10 alleged or admitted in his pleadings in a former proceeding the contrary of the assertion sought
11 to be made.” *Sterling Builders, Inc. v. Fuhrman*, 80 Nev. 543, 549, 396 P.2d 850, 854 (1964)
12 (quoting 31 C.J.S. Estoppel § 121 at 649).

13 This Court has also twice held that NuVeda was in business “to operate dispensaries,
14 cultivation and processing facilities for medical marijuana (“MME”) pursuant to licenses
15 obtained from certain political subdivisions.” (See January 1, 2016 Findings of Fact,
16 Conclusions of Law Denying Defendant’s Countermotion for Preliminary Injunction and
17 Joinder, and Entering Provisional Remedy Pursuant to NRS 38.222 at 2; *see also* September 6,
18 2019 Findings of Fact, Conclusions of Law and Order: (1) Granting Plaintiff Jennifer
19 Goldstein’s Motion to Continue Hearing on NuVeda LLC’s Motion to Vacate Arbitration
20 Award and to Extend Briefing Deadlines; (2) Denying Defendant NuVeda LLC’s Motion to
21 Vacate Arbitration Award; and (3) Confirming Arbitration Award at 2). And, the Arbitration
22 Award that was confirmed by this Court clearly based its valuation of Goldstein’s interest in
23 NuVeda on the valuation of the six cannabis licenses. (See June 17, 2019 NuVeda, LLC’s
24 Motion to vacate Arbitration Award at Ex. 20, p. 2 (“Through the Subsidiaries, NuVeda applied
25 for and received six (6) valuable and privileged licenses to legally cultivate, process and
26 dispense marijuana (collectively, the “Licenses”) . . . [f]or purposes of this Arbitration, the

1 parties stipulated that I was to assume, without deciding, that the fair market value of NuVeda
2 includes the fair market value of the Licenses.”)

3 There is simply no question that NuVeda is the owner and operator of the locations
4 where Goldstein has directed the subject Writs, and the relief requested by Clark should be
5 denied.

6 **III. CONCLUSION**

7 For the reasons stated in this Opposition, the Application should be denied.

8 DATED this 26th day of August, 2021.

9 DICKINSON WRIGHT PLLC

10
11 /s/ Brian R. Irvine

12 BRIAN R. IRVINE

13 Nevada Bar No. 7758

14 BROOKS T. WESTERGARD

15 Nevada Bar No. 14300

16 100 West Liberty Street, Suite 940

17 Reno, Nevada 89501

18 Email: birvine@dickinsonwright.com

19 Email: bwestergard@dickinsonwright.com

20 *Attorneys for Plaintiff Jennifer M. Goldstein*

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CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT PLLC, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the **OPPOSITION TO APPLICATION/PETITION PURSUANT TO NRS 31.070(5) AND REQUEST TO PROHIBIT GOLDSTEIN FROM ANY FURTHER COLLECTION ACTIVITY WITHOUT COURT APPROVAL** to the following individuals by to the following individuals by Odyssey Electronic Service:

MITCHELL STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144
Telephone: 702.602.1242
mstipp@stipplaw.com

Attorneys for NuVeda, LLC

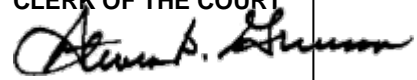
Matthew T. Dushoff
Scott D. Fleming
KOLESAR & LEATHAM
400 South Rampart Boulevard
Suite 400
Las Vegas, NV 89145

Shane Terry
222 Karen Avenue, Suite 3305
Las Vegas, NV 89109

DATED this 26th day of August, 2021.

/s/ Mina Reel
An Employee of DICKINSON WRIGHT PLLC

4822-4551-6024 v1 [88728-1]



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144
Telephone: 702.602.1242
mstipp@stippplaw.com
Attorneys for NuVeda, LLC and
Applicant/Petitioner, Clark NMSD, LLC

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

NUVEDA, LLC, a Nevada limited liability
company; SHANE M. TERRY, an individual;
and JENNIFER M. GOLDSTEIN, an individual;

Plaintiffs,

v.

PEJMAN BADY, an individual; POUYA
MOHAJER, an individual; DOES I to X,
inclusive; and ROES I to X, inclusive,

Defendants.

Case No.: A-15-728510-B

Dept. No.: 22

**REPLY TO OPPOSITION TO
APPLICATION/PETITION
PURSUANT TO NRS 31.070(5) AND
REQUEST TO PROHIBIT GOLDSTEIN
FROM ANY FURTHER COLLECTION
ACTIVITY WITHOUT COURT
APPROVAL**

NuVeda, LLC, judgment debtor, and Applicant/Petitioner, Clark NMSD, LLC, a Nevada
limited liability company d/b/a The Sanctuary ("The Sanctuary"), by and through their counsel of
record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced
reply to the opposition by Jennifer Goldstein

This filing is based on the papers and pleadings on file in this action, the memorandum of points
and authorities that follows, the exhibits attached hereto (or filed separately in support), and any
argument of counsel permitted by the court at any hearing.

1 DATED this 14th day of September, 2021.

2
3 **LAW OFFICE OF MITCHELL STIPP**

4
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

8 LAW OFFICE OF MITCHELL STIPP

9 1180 N. Town Center Drive, Suite 100

10 Las Vegas, Nevada 89144

11 Telephone: 702.602.1242

12 mstipp@stipplaw.com

13 *Attorneys for NuVeda, LLC and*

14 *Clark NMSD, LLC*

15
16 **[MEMORANDUM OF POINTS AND AUTHORITIES FOLLOW]**

MEMORANDUM OF POINTS AND AUTHORITIES

Jennifer Goldstein (“Goldstein”) is a creditor of NuVeda, LLC (“NuVeda”). Goldstein, a former member of NuVeda and its General Counsel, was expelled from the partnership due to misconduct (including conspiring with Shane Terry to block the joint venture with CWNevada, LLC). The expulsion of Goldstein still provided her a right under NuVeda’s operating agreement to the fair market value of her interests, which was determined in private arbitration before the American Arbitration Association and reduced to judgment.

Goldstein has a charging order which permits her to receive any distributions from subsidiaries of NuVeda. See Notice of Entry filed on February 10, 2020. As the court will note, NuVeda even stipulated to the request for a charging order (which charging order includes any distributions from The Dispensary).¹ Goldstein’s judgment is also subject to an indemnification agreement with CWNevada, LLC (which through Brian Padgett controlled the arbitration proceedings). See Exhibit 1 to Application filed on August 12, 2021. The judgment cannot be paid or settled without the consent of CWNevada, LLC. Further, The Sanctuary is **NOT** subject to any judgment in favor of Goldstein.

1. Written Discovery/Judgment Debtor Examination

The undersigned substituted into this case on or about May 26, 2020. Goldstein’s attorney did not contact the undersigned until November 18, 2020. See Opposition filed on February 8, 2021 Emails (Exhibit 3). Further, NuVeda was not aware of any arrangements made by prior counsel and Goldstein’s attorney (including entry of the order which did NOT reflect the decision of the court at the hearing). See id. (Exhibit 4). The order entered by the court on the supplementary proceedings is

¹ **NRS 86.401 Rights and remedies of creditor of member.**

1. On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the member’s interest with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the member’s interest.

2. This section:

(a) Provides the **exclusive remedy** by which a judgment creditor of a member or an assignee of a member may satisfy a judgment out of the member’s interest of the judgment debtor, whether the limited-liability company has one member or more than one member. No other remedy, including, without limitation, foreclosure on the member’s interest or a court order for directions, accounts and inquiries that the debtor or member might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor’s interest in the limited-liability company, and no other remedy may be ordered by a court.

(b) Does not deprive any member of the benefit of any exemption applicable to his or her interest.

(c) Does not supersede any written agreement between a member and a creditor if the written agreement does not conflict with the limited-liability company’s articles of organization or operating agreement.

1 broader than ordered at the hearing (i.e., not limited to information in possession of NuVeda).
2 According to the transcript from the hearing on the matter, the court indicated that NuVeda was
3 required to provide only the information that “is in its possession as the judgment debtor.” See id.
4 (Exhibit 5).

5 Goldstein has conducted post-judgement discovery. NuVeda has responded to the same. After
6 the hearing on March 1, 2021 concerning Goldstein’s motion for an order to show cause why NuVeda
7 should not be held in contempt, NuVeda reached out to Goldstein’s attorney to resolve any disputes
8 with NuVeda’s discovery responses and to coordinate a judgment debtor examination. Goldstein’s
9 attorney provided no response. See Exhibit 1 attached hereto.

10 Goldstein prepared writs which were intentionally misleading. NuVeda filed a motion to quash
11 the writs, which Goldstein opposed, and Judge Gonzalez determined that NuVeda did not have standing
12 to assert any claims on behalf of third-parties (namely, The Sanctuary). See Order filed on July 30,
13 2021. In that order, Judge Gonzalez also required that a person with authority for NuVeda appear for
14 a judgment debtor examination within 15 judicial days of the minute order (based in part on the draft
15 order submitted by Goldstein). See Exhibit 2 attached hereto. NuVeda made a person available, but
16 Goldstein demanded to conduct the examination after the 15-day window (because it was not prepared
17 to move forward). See id.

18 The Sanctuary has filed an application for the return of its cash. Goldstein opposes the same
19 arguing that NuVeda owns, operates, or otherwise has rights in The Sanctuary’s Dispensary. Initially,
20 Goldstein contended (and the court accepted the position) in response to NuVeda’s motion to quash
21 that NuVeda did not have standing to challenge the writs (because it cannot assert exemptions on behalf
22 of a third-party). Now, Goldstein contends that the cash seized by the constable’s office actually
23 belongs to NuVeda. Which is it? If the cash belongs to NuVeda, then NuVeda had standing to ask the
24 court to quash the writs.

25 **2. The Sanctuary has complied with NRS 31.070.**

26 The constable’s office has accepted the claim attached as Exhibit 2 to the application filed on
27 August 12, 2021. See Exhibit 3 attached hereto. To the extent that Dr. Pejman Bady’s actual signature
28 was required, please see below:

DECLARATION UNDER PENALTY OF PERJURY

Dr. Pejman Bady, as manager of Clark NMSD, LLC, declares under penalty of perjury, that the cash removed from cannabis dispensary addressed as 1324 S. 3rd Street, Las Vegas, Nevada 89104, in the amount of \$638.00 on August 9, 2021, belongs to Clark NMSD, LLC.

STATE OF NEVADA)

COUNTY OF CLARK)

Dr. Pejman Bady

This Declaration was acknowledged before me on August 10, 2021, by Dr. Pejman Bady, as manager of Clark NMSD, LLC.

Signature Victoria O'Hara (Notary)



In any event, the undersigned made the claim on behalf The Dispensary (which statisfies the statutory requirements).

NRS 31.070(5) does not require intervention. The Nevada Supreme Court has stated that NRS 31.070 provides "a complete and valid remedy to third persons whose property has been attached." Cooper v. Liebert, 81 Nev. 341, 344, 402 P.2d 989, 991 (1965). Accordingly, The Sanctuary can apply directly to the court and is entitled to a hearing within ten (10) days. Here, the court previously refused to consider the matter within the timeframe permitted by the statute.

3. Judicial Estoppel does not apply.

Judicial estoppel applies when the following five (5) criteria are met:

(1) the same party has taken two positions; (2) the positions were taken in judicial or quasi-judicial administrative proceedings; (3) the party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as true); (4) the two positions are totally inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or mistake.

1 Marcuse v. Del Webb Communities, 123 Nev. 278, 287-88 (Nev. 2007) (citations omitted). Goldstein
2 does not address any of the criteria. Judicial estoppel should be applied only when a party's
3 inconsistent position arises from intentional wrongdoing or an attempt to obtain an unfair advantage.
4 Id. However, the doctrine of judicial estoppel does not preclude changes in positions that are not
5 intended to sabotage the judicial process.

6 This court has never determined that The Sanctuary's dispensary is actually owned and/or
7 operated by NuVeda. NuVeda has never claimed it owns The Sanctuary's dispensary. However, it
8 would not be crazy or unusual for the court or NuVeda "loosely" to refer to the dispensary as
9 "NuVeda's dispensary" since The Sanctuary is a subsidiary of NuVeda. Ownership of a cannabis
10 license (or possessing and conducting operations related to marijuana licenses) are NOT admissions
11 that NuVeda owns the The Sanctuary's dispensary. Certainly, this court is aware that a member is
12 "the owner of a member's interest in a limited-liability company or a noneconomic member." NRS
13 86.081. The term "[m]ember's interest" is defined by statute as "a share of the economic interests in a
14 limited-liability company, including profits, losses and distributions of assets." NRS 86.091. Under
15 NRS 86.401, Goldstein's charging order limits her recovery with respect to The Sanctuary only to
16 NuVeda's economic interest in the LLC that owns/operates the dispensary, and she is not permitted to
17 seize directly the assets of The Sanctuary before any such assets are distributed to NuVeda. Further,
18 under Goldstein's approach, a judgment creditor could serve writs on any person or entity, the constable
19 would be required to seize any cash, and the parties would be forced to litigate ownership later. That
20 is not how the process was designed to work.

21 For the reasons set forth above, the cash seized by the constable's office should be returned to
22 The Sanctuary. Further, the court should require Goldstein to file a motion with notice to and an
23 opportunity to be heard by NuVeda for approval of any further collection activity. Goldstein is abusing
24 the court process (changing legal positions, preparing and serving writs which are intentionally
25 misleading, etc.). While Goldstein is permitted to exercise her rights and remedies, she is not entitled
26 to carte blanche. It is likely the reason she does not want to complete a judgment debtor examination
27 (because she knows that there are no recoverable assets other than NuVeda's economic interests in the
28 LLC's which are the subject of the charging order).

29 If this court decides to deny the application before the court, NuVeda and The Dispensary
30 would respectfully request a stay of the proceedings so it can pursue a writ petition.

1 DATED this 14th day of September, 2021.

2
3 **LAW OFFICE OF MITCHELL STIPP**

4
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

8 LAW OFFICE OF MITCHELL STIPP

9 1180 N. Town Center Drive, Suite 100

10 Las Vegas, Nevada 89144

11 Telephone: 702.602.1242

12 mstipp@stipplaw.com

13 *Attorneys for NuVeda, LLC and*

14 *Clark NMSD, LLC*

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2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify that I am an employee of the Law Office of Mitchell Stipp and that on the 14th
5 day of September, 2021, I electronically filed the foregoing with the Clerk of the Court for the Eighth
6 Judicial District Court, which provided e-service to the following:

7 Briar R. Irvine, Esq.
8 Brooks T. Westergard, Esq.
9 **DICKINSON WRIGHT PLLC**
10 100 West Liberty Street, Suite 940
11 Reno, Nevada 89501
Attorneys for Jennifer Goldstein

12 And via U.S. Mail, Hand Delivery, and Facsimile to:

13 Office of the Ex-Officio Constable
14 Las Vegas Township
15 301 E. Clark Ave., Suite 100
Las Vegas, NV 89101
Fax: (702) 385-2436

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18 */s/ Amy Hernandez*

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Amy Hernandez
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EXHIBIT 1

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Mitchell Stipp <mstipp@stipplaw.com>

Jennifer Goldstein

1 message

Mitchell Stipp <mstipp@stipplaw.com>

Mon, Mar 1, 2021 at 8:29 PM

To: "Brian R. Irvine" <Blrvine@dickinson-wright.com>

I will supplement our responses. NuVeda has no banking records or financial statements. It owns nothing other than membership interests. You will be able to confirm this during the judgment debtor examination.

Just so we are clear, it was not my intention to exclude documents that may be in the possession of those who act on behalf of NuVeda. I fully understand that Nuveda cannot withhold documents in Dr. Bady's possession as manager. In this instance, it does not change Nuveda's responses.

After you receive our supplement, please advise when you would like to schedule a judgment debtor examination. If possible, I would like it to be in-person.

We are also open to re-start settlement discussions. I understand that Jason Wiley did not get very far. Let me know your thoughts.

--



Mitchell Stipp

Law Office of Mitchell Stipp

(O) 702.602.1242 | (M) 702.378.1907 | mstipp@stipplaw.com

Address: 1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144

Website: www.stipplaw.com

EXHIBIT 2

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Mitchell Stipp <mstipp@stipplaw.com>

Re: EXTERNAL: Re: Goldstein v. NuVeda

1 message

Mitchell Stipp <mstipp@stipplaw.com>

Mon, Aug 9, 2021 at 11:07 AM

To: "Brian R. Irvine" <Blrvine@dickinson-wright.com>

Cc: "Brooks T. Westergard" <BWestergard@dickinson-wright.com>

Brian--

I received your response below. NuVeda is not taking the position that it is only required to produce its PMK by today or no examination will occur. The court has not ordered NuVeda to produce anything by any deadline. In fact, you have not asked for any additional documents since your motion for an order to show cause. Further, you did not prepare the order from that hearing or respond to my email provided to you after the same. You insisted in the recent order submitted to the court that NuVeda's PMK appear within 15 judicial days after the court served its minute order. Yet, you have done nothing to schedule the examination. You have not asked for my availability or that of NuVeda's PMK during the 15 judicial day window (despite my initial email). Instead, you sent an email late in the afternoon on Friday requesting supplemental responses to the written discovery. Of course, this approach was designed to give you cover for failing to schedule the judgment debtor examination. We produced supplemental responses with documents on the same day and advised you that Dr. Bady as the PMK for NuVeda still would be available today (within the 15 judicial day window). Instead of completing the examination, you want to push it off to the middle/end of August.

We have complied with our obligations under the court's orders. We responded to your client's written discovery. We made Dr. Bady available within 15 judicial days after service of the minute order. Your client has every right to pursue her post judgment remedies. If you would like to schedule a new judgment debtor examination, I am more than happy to coordinate the same after your client's review of the recent supplemental responses and documents. I look forward to hearing from you at that time.

www.stipplaw.com**Mitchell D. Stipp**

Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144

T: 702.602.1242 | M: 702.378.1907

E: mstipp@stipplaw.comOn Fri, Aug 6, 2021 at 7:31 PM Brian R. Irvine <Blrvine@dickinson-wright.com> wrote:

Mitchell--

Respectfully, that is a ridiculous position. NuVeda did not provide documents until late this afternoon, despite being required to do so for many months due to multiple Court orders. And you have never, until today, provided a deposition date for NuVeda's PMK.

We will review the documents and prepare for the deposition. Please provide available dates in mid to late August for NuVeda's PMK. Ms. Goldstein will not take the position that NuVeda has violated the deposition deadline if you provide dates in August as requested.

Thanks,

Brian

On Aug 6, 2021, at 4:02 PM, Mitchell Stipp <mstipp@stipplaw.com> wrote:

Brian--

I received your email below. When finalizing the order from the last hearing, you desired to compress the timeframe for the judgment debtor exam based on the ambiguity in the minute order. The minute order was not specific (so you took liberties to make it sooner rather than later). You initially insisted that the judgment debtor exam be held within 15 judicial days of the date of the minutes (which were dated July 13, 2021 but e-served on July 19). When we objected, you insisted that the judgment debtor examination occur within 15 judicial days of service of the minute order. The judge agreed with your last proposal when the court entered your draft order. That 15 judicial day period ends Monday, August 9, 2021. Further, the order did not require NuVeda to produce any documents. In any event, please see the attached supplemental responses which are available for download via the enclosed Google link:

 [Second Response to Discovery Requests-8.6.21-Em...](#)

After the court issued its minute order and served the same on July 19, 2021, I reached out to you to set up the judgment debtor examination. You made no attempt to do so until today. Now, you want to continue it for 10 days. Unfortunately, I cannot agree. The court's order requires the PMK for NuVeda to appear for a judgment debtor exam no later than by August 9. My client does not want to be in violation of any order of the court. Accordingly, Dr. Bady as the PMK for NuVeda will be available on Monday in Las Vegas, Nevada for an in-person examination. Please advise of the time and place.



www.stippplaw.com

Mitchell D. Stipp

**Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144**

T: 702.602.1242 | M: 702.378.1907

E: mstipp@stippplaw.com

Brian R. Irvine Member

100 West Liberty Street Phone 775-343-7507
Suite 940 Fax 844-670-6009
Reno NV 89501-1991 Email Blrvine@dickinsonwright.com

[Profile](#) [V-Card](#)

DICKINSON WRIGHT PLLC

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

On Fri, Aug 6, 2021 at 2:35 PM Brian R. Irvine <Blrvine@dickinson-wright.com> wrote:

Mitchell-

As you are aware, the Court entered its Order for Supplementary Proceedings on March 16, 2020 (attached). Pursuant to that Order, NuVeda was required to produce documents responsive to 27 different document requests. It was also required to produce its Person Most Knowledgeable for a judgment debtor examination, and was "forbidden from making any transfer of NuVeda's property, including funds in any bank or deposit account of any kind, that is not exempt from execution and from interfering therewith until further ordered."

Ms. Goldstein has attempted to obtain the documents responsive to the requests included in the Order for Supplementary Proceedings. Only after Ms. Goldstein file a Motion for Order to Show Cause did NuVeda finally respond to the document requests. That February 24, 2021 Response included numerous objections (which are inappropriate as the Court issued the Order with the document requests) and claimed that, for Requests 1-9 and 11-21, there are no responsive documents which are available for production. NuVeda did not produce documents responsive to Request No. 10, claiming that the term "property assessment notices" was not defined. NuVeda indicated that it would produce documents responsive to Requests Nos. 22-25 subject to a confidentiality order. NuVeda refused to provide documents responsive to Request No. 26, claiming that responsive documents are publicly available. NuVeda objected to Request No. 27 as follows:

NuVeda incorporates general objections herein. NuVeda objects to the underlying request for production, and thus to this request, because asking for all papers, pleadings, and discovery is impermissibly overbroad. Because the information sought is overbroad and unduly burdensome, it will require unreasonable efforts and expense on behalf of NuVeda to identify and/or produce. NuVeda also objects to this request on the basis that it seeks information and knowledge in the possession of Ms. Goldstein, who has access to the filings in the identified cases. Additionally, asking for the production of documents which are not publicly available seeks to obtain counsel's mental impressions, conclusions, opinions and legal theories and matters which are otherwise confidential. Therefore, NuVeda objects to this request on the basis of the attorney-client privilege and the attorney work-product doctrine.

With regard to Request No. 10, that request was intended to refer to property tax assessment notices. With regard to Requests 22-25, the Court indicated that Ms. Goldstein and her counsel could receive those documents, and that they "will not share documents marked as confidential with any other party." (Minutes of March 1, 2021 hearing). With regard to Request No. 26, NuVeda's response is unacceptable – even if some responsive documents may be publicly available, Ms. Goldstein cannot be expected to scour court dockets across the country looking for them. And, arbitration awards would not necessarily be public. NuVeda's response to Request No. 27 is equally unacceptable for the same reasons. Moreover, the Court granted the Motion for Order to Show Cause with awareness of NuVeda's responses.

Ms. Goldstein needs to obtain all responsive documents and proceed with the PMK deposition, as ordered yet again by the Court in the Order Denying NuVeda's Motion to Quash Writs of Execution (attached). To date, NuVeda has not produced even a single page. Please produce all responsive documents within ten (10) days. Please also identify NuVeda's person(s) most knowledgeable and provide me with available dates for the deposition(s) within ten (10) days. Absent compliance, we will be filing another Motion for Order to Show Cause and will seek sanctions.

Please let me know if you have any questions.

Thank you,

Brian Irvine

Brian R. Irvine Member

100 West Liberty Street Phone 775-343-7507
Suite 940 Fax 844-670-6009
Reno NV 89501-1991 Email BIrvine@dickinsonwright.com
<image33cf82.JPG>
<image301ef5.JPG>

<image38ea1e.JPG>

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Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

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EXHIBIT 3

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Mitchell Stipp <mstipp@stiplaw.com>

Re: Writ Served on Clark NMSD, LLC d/b/a The Sanctuary

1 message

Mitchell Stipp <mstipp@stiplaw.com>

Thu, Aug 12, 2021 at 1:28 PM

To: Jeffrey Rogan <Jeffrey.Rogan@clarkcountyda.com>

Cc: maryjean.zalek@clarkcountynv.gov

No worries. We can connect tomorrow or Monday as well.

Attached is the application filed with the court for the return of the cash. I have copied the constable's office on this email so MJ has a courtesy copy.



www.stiplaw.com

Mitchell D. Stipp

**Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144**

T: 702.602.1242 | M: 702.378.1907

E: mstipp@stiplaw.com

On Thu, Aug 12, 2021 at 10:06 AM Jeffrey Rogan <Jeffrey.Rogan@clarkcountyda.com> wrote:

Thanks Mitchell. I have a hearing this afternoon beginning at 12:45 and am not sure how long it will last. I will call you after the hearing if time permits.

-Jeff

From: Mitchell Stipp <mstipp@stiplaw.com>

Sent: Thursday, August 12, 2021 9:59 AM

To: Jeffrey Rogan <Jeffrey.Rogan@clarkcountyda.com>

Subject: Re: Writ Served on Clark NMSD, LLC d/b/a The Sanctuary

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Thanks, Jeff. I represent NuVeda, LLC--the judgment debtor. NuVeda, LLC owns Clark NMSD, LLC d/b/a The Sanctuary. I also represent The Sanctuary and the other subsidiaries and affiliates of NuVeda, LLC. As you know, the judgment is against NuVeda, LLC. I have attached a copy of the judgment. The writs make that clear as well. Ms. Goldstein is a former member of NuVeda, LLC and its general counsel. Ms. Goldstein is aware of the organizational structure of NuVeda, LLC and its affiliates/subsidiaries. Unfortunately, the judgment cannot be satisfied because it requires the consent of a third-party, CWNevada, LLC (which is subject to a state receivership). NuVeda, LLC filed a proof of claim in the receivership action (which I have attached). The last 2 pages of the proof of claim include an indemnification agreement which provides that the judgment cannot be satisfied or settled without approval of CWNevada, LLC (since it is required to pay the same). Ms. Goldstein is obviously frustrated and decided to take advantage of the "writ system," where writs are signed by the clerk of the court simply upon verification of the judgment. As you know, the clerk of the court does not verify the property described in the writ as belonging to the judgment debtor. Apparently, the Constable's Office does not either. However, the writs provide authority only to seize NuVeda, LLC's property regardless of what is described (i.e., all cash at The Sanctuary (dispensary)). Debtors have exemption rights but no right to challenge the writs. The Constable's Office is not authorized to seize property that belongs to third-parties. However, if it occurs, NRS 31.070 provides the remedy.

It appears the Constable's Office is treating this matter as a seizure of NuVeda, LLC's property (which is the problem). The writs authorize the Constable Office's to seize NuVeda, LLC's property--not the property of others. The Constable's Office was informed that the cash at The Sanctuary does not belong to NuVeda, LLC. Further, we pointed out in our correspondence that the seizure of property from someone is prima facie evidence of that person's entitlement, particularly when the seized property is money-negotiable instruments difficult to identify and trace. See Ferris v. United States, 501 F. Supp. 98 (D. Nev. 1980). Here, the Constable's Office is ignoring The Sanctuary's rights to the return of its property. This is not an exemption issue.

I hope this additional information helps. I will follow up with you this afternoon after you have had an opportunity to review and digest.

 **Mitchell D. Stipp**

Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144


www.stipplaw.com

T: 702.602.1242 | **M:** 702.378.1907

E: mstipp@stipplaw.com

On Thu, Aug 12, 2021 at 9:28 AM Jeffrey Rogan <Jeffrey.Rogan@clarkcountyda.com> wrote:

Hi Mitchell,

Happy to discuss this with you. I am free from now until 12pm and can be reached at 455-4761. but for purposes of clarification, do you only represent the judgment debtor in this action? Or do you also represent a third-party with an interest in the property seized?

Thanks,

Jeff

From: Mitchell Stipp <mstipp@stipplaw.com>
Sent: Wednesday, August 11, 2021 10:34 PM
To: Jeffrey Rogan <Jeffrey.Rogan@clarkcountyda.com>
Subject: Fwd: Writ Served on Clark NMSD, LLC d/b/a The Sanctuary

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Jeff—

I appreciate the telephone call today. NRS 31.070 is the governing statute for third-party claims to property seized. NRS 21.112 governs the procedure for debtors (not third-parties) whose property is seized to object and claim an exemption. I have also attached the case referenced in my correspondence which confirms NRS 31.070 is the exclusive remedy for third-parties.

Clark NMSD LLC d/b/a The Sanctuary is not the debtor. It is a third-party whose property was wrongfully seized by the constable's office. Please review the statutes again and let's discuss before the constable takes any further action regarding the cash.

Thank you for your cooperation.

Mitchell D. Stipp

Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144

 
www.stipplaw.com

T: 702.602.1242 | **M:** 702.378.1907

E: mstipp@stipplaw.com

----- Forwarded message -----

From: Mitchell Stipp <mstipp@stipplaw.com>
Date: Aug 11, 2021, 10:52 AM -0700
To: maryjean.zalek@clarkcountynv.gov
Subject: Fwd: Writ Served on Clark NMSD, LLC d/b/a The Sanctuary

MJ---

Thank you for your call this morning. I appreciate your patience and understanding.

As described in my prior correspondence (see attached), the writs are materially misleading (which should be obvious to the Constable's Office). The writs signed by the clerk of the court are based on a judgment against NuVeda, LLC but list addresses for businesses in which this judgment debtor has no direct interest. In fact, the writs specifically describe the business at 1324 S. 3rd Street, Las Vegas, Nevada 89104 as "The Sanctuary Dispensary." The Sanctuary is NOT NuVeda, LLC. Clark NMSD, LLC is doing business as The Sanctuary.

If it is the policy of the Constable's Office simply to take any writs signed by a clerk of the court, which lists whatever address the judgment debtor includes and seize whatever property at those locations, then the Constable's Office is assuming the risk of liability that any such seizure is unlawful. Liability is clearer in this case because the Constable's Office had actual notice of the issues by my letters dated June 15 and July 21. Under the policy of the Constable's Office (since it appears it ignores actual facts and contrary evidence of property ownership), a judgment debtor can list the address of any person, business or government agency, and the Constable's Office must blindly seize any and all property described in the writs. Even more egregious in this case, the officers serving the writs placed an employee of The Sanctuary in handcuffs (which is an arrest) to force the other employees to open the cash register.

My firm represents a number of judgment creditors. Many of them would love to exploit this policy of the Constable's Office by listing the addresses of other businesses and fight with them about the cash which is unlawfully seized. No cash business would be safe. No safety deposit box would be secure. These clients could list the addresses of banks and casinos and the Constable's Office would need to take all cash at these facilities. If the judgment debtor won't pay, what better way to collect than seize the property of others and force them to contest the seizure? Obviously, this policy makes little sense.

Please forward to the DA's office for review. You can also provide my cell phone to the attorney in the DA's office for direct telephone communication.

I look forward to working with your office and the DA to resolve this matter.

Mitchell D. Stipp

Law Office of Mitchell Stipp, P.C.
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144

 
www.stipplaw.com

T: 702.602.1242 | **M:** 702.378.1907

E: mstipp@stipplaw.com



Application For Return of Cash-Filed and Accepted-8.12.21.pdf

1917K