

**IN THE SUPREME COURT OF THE**

**STATE OF NEVADA**

CLARK NMSD, LLC,  
Appellant,

vs

JENNIFER GOLDSTEIN,  
Respondent.

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Nov 21 2022 08:51 PM  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No. 84623

District Court Case No. A-15-728510-B

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**APPELLANT'S APPENDIX: Volume 2**

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DATED this 21st day of November, 2022.

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 21st day of November, 2022, I filed the foregoing **Appellant's Appendix**, using the court's electronic filing system.

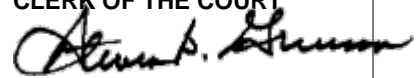
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**OPPS**  
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

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:**  
**HEARING TIME:**

**OPPOSITION TO MOTION FOR RECONSIDERATION OF DENIAL OF APPLICATION/PETITION PURSUANT TO NRS 31.070(5)**

Plaintiff Jennifer Goldstein ("Goldstein"), by and through her counsel of record, Dickinson Wright PLLC, hereby respectfully files her Opposition to Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary's ("Clark") Motion for Reconsideration of Denial of Application Petition Pursuant to NRS 31.070(5) ("Motion"). This Opposition is based on the following Memorandum of Points and Authorities, the Declaration of Brian R. Irvine, attached hereto as **Exhibit 1**, all papers and pleadings on file herein and in related cases, and any oral argument this Court chooses to consider.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 “Motions for reconsideration are disfavored” and not “to be used to ask the court to  
4 rethink what it has already thought”. See Peoples v. Wells Fargo Bank, No. 2:07-cv-01025, 2008  
5 WL 5050675, at \*1 (D. Nev. Nov. 20, 2008) (Jones, J.). Clark’s Motion is nothing but a request  
6 for this Court to “rethink what it has already thought” as Clark’s Motion only repeats arguments  
7 that it has already made in its Application, and such arguments were already correctly rejected.  
8 Clark’s Motion presents no newly discovered evidence or change in law, and Clark’s Motion  
9 identifies no clear error by this Court in its March 11, 2022 Order. Therefore, Clark’s Motion  
10 must be denied.

11 **II. FACTUAL AND PROCEDURAL HISTORY**

12 **A. The Application and Goldstein’s Opposition**

13 On August 12, 2021, judgment debtor NuVeda LLC and Clark filed their Application  
14 claiming that Goldstein’s judgment is somehow “subject to” an indemnity agreement between  
15 NuVeda and CWNevada, LLC (Appl. at 3, on file herein), accusing Goldstein of making  
16 unspecified misrepresentations regarding NuVeda’s position in the case and requested, with no  
17 supporting legal authority, that Goldstein be required “to file a motion with notice to and an  
18 opportunity to be heard by NuVeda for approval of any further collection activity.” (Id. at 6). In  
19 the Application, Clark, which is not a party to this case, requested a hearing in accordance with  
20 NRS 31.070 (Id. at 4-5) and demanded that the \$638.00 seized pursuant to the writ of execution  
21 be returned. (Id. at 6). The sole basis for this request was a purported declaration from Dr.  
22 Pejman Bady, manager of Clark. (Id. at Ex. 2, p. 3).

23 In her Opposition, Goldstein argued that even had Clark complied with the requirements  
24 of NRS 31.070, which it did not, the statement in the letter to the Constable attached to the  
25 Application, that NuVeda has no property located at 1324 S. 3rd Street, Las Vegas, Nevada  
26 89104, was directly contradicted by prior statements made by NuVeda to this very Court. (Opp’n  
27 to Appl. at 5, on file herein). Goldstein further argued that NuVeda had consistently taken the  
28 position in this case and in the CWNevada Receivership Case, that NuVeda owns and operates

1 the locations where the Writs were directed, including the 1324 S. 3rd Street, Las Vegas, Nevada  
2 89104. (Id). Finally, Goldstein reminded the Court that it had also found that NuVeda operates  
3 these locations. (Id). Thus, Goldstein argued that NuVeda and its subsidiary, Clark, should be  
4 judicially estopped from attempting to avoid Goldstein’s collection efforts by taking a contrary  
5 position in the Application. (Id.)

6 **B. This Court’s Order Denying the Application**

7 On March 11, 2022, this Court entered its Order Denying the Application. (See Ord.  
8 Denying Appl., on file herein). In its Order, this Court determined that (1) “[t]o avail itself of  
9 any of the remedies afforded by NRS 31.070, Clark must serve the constable with ‘w written  
10 claim verified by the person’s oath or that of the person’s agent, setting out the person’s right to  
11 the possession’ of the property at issue,” (2) “Clark has failed to comply with the requirements  
12 under NRS 31.070 and has not established that it has any relationship with or interest in NuVeda  
13 or the property at issue in the Application,” (3) “as already held by this Court in its Order  
14 denying NuVeda’s Motion to Quash Writs of Execution, NuVeda lacks ‘standing to assert  
15 exemptions on behalf of third parties,’” and (4) NuVeda and Clark are thus not entitled to any  
16 relief under NRS 31.070.” (Ord. ¶¶ 1-4). This Court further held that because “[n]one of the  
17 motions enumerated under NRCP 62(d) [were] currently pending, . . . neither NuVeda nor Clark  
18 may obtain relief under NRCP 62(b).” (Id. ¶ 5).

19 **II. ARGUMENT**

20 **A. Legal Standard**

21 A rehearing is not appropriate unless “substantially different evidence is subsequently  
22 introduced or the decision was clearly erroneous.” *Masonry & Tile Contractors Ass'm of S. Nev.*  
23 *v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 742, 941 P.2d 486, 489 (1997). “A motion for  
24 reconsideration should not be granted, absent highly unusual circumstances, unless the district  
25 court is presented with newly discovered evidence, committed clear error, or if there is an  
26 intervening change in the controlling law.” E.g., *McDonald v. Olivas*, 2016 WL 3883355, \*6 (D.  
27 Nev. June 20, 2016).

28 “[M]otions for reconsideration are not the proper vehicles for rehashing old arguments

1 and are not intended to give an unhappy litigant one additional chance to sway the judge.  
2 Accordingly, a motion for reconsideration is properly denied where it presents no new  
3 arguments. At the same time, a motion for reconsideration may not be used to raise arguments or  
4 present evidence for the first time when they could reasonably have been raised earlier in the  
5 litigation.” Walker v. Clark Cty., No. 2:07-CV-01528-HDM, 2011 WL 232033, at \*1 (D. Nev.  
6 Jan. 24, 2011) (internal quotation marks and citations omitted).

7 “Reconsideration of a prior order is an extraordinary remedy, to be used sparingly in the  
8 interests of finality and conservation of judicial resources.” Cohen v. Clark County School Dist.,  
9 2012 WL 5473483, \*2 (D. Nev. Nov. 9, 2012) (citing Kona Enters. v. Estate of Bishop, 229 F.3d  
10 877, 890 (9th Cir. 2000) (citing 12 James Wm. Moore et al., Moore's Federal Practice § 59.30[4]  
11 (3d ed. 2000)). The moving party bears the “burden on a motion to reconsider.” E.g., Peoples v.  
12 Wells Fargo Bank, No. 207-CV-01025-RCJ-PAL, 2008 WL 5050675, at \*2 (D. Nev. Nov. 20,  
13 2008).

14 **B. Clark is Not Entitled to Reconsideration of this Court’s Order**

15 First, Clark has not introduced one scintilla of new evidence in support of its Motion.  
16 Indeed, the only exhibit attached to the Motion is the same Indemnification Agreement that was  
17 also attached to the Application. (Compare Mot., Ex. A with Appl., Ex. A). Clark’s failure to  
18 even suggest the existence of, let alone introduce, new evidence in support of its Motion is  
19 grounds for denial. Swain v. Gafford, 497 P.3d 639 at \*1 (Nev. App. 2021) (“The district court  
20 appropriately determined that . . . the motion for reconsideration did not set forth any newly  
21 discovered evidence that was unavailable at the time Swain filed her opposition to the motion,  
22 and therefore properly denied reconsideration.”); see also Wallis v. J.R. Simplot Co., 26 F.3d  
23 885, 892 n.6 (9th Cir. 1994) (“Evidence is not newly discovered if it was in the party’s  
24 possession at the time of summary judgment or could have been discovered with reasonable  
25 diligence.”).

26 Second, the arguments in the Motion are near carbon-copies of the arguments raised in  
27 the Application, and the Reply thereto, and thus cannot be properly raised on a motion for  
28 reconsideration. For example, Clark argues in the Motion that it “satisfied its burden under NRS



1 31.070” because “[t]he statute does not require a third-party to establish any relationship with the  
2 judgment debtor or creditor.” (Mot. at 6). However, part of the basis of the Court’s Order  
3 denying the Application was that Clark had not established that it had any “relationship with or  
4 interest in NuVeda or the property at issue in the Application.” (Ord. ¶ 2). To that end, NRS  
5 31.070 does require that the third party serve the constable with “a written claim verified by the  
6 person’s oath or that of the person’s agent, setting out the person’s right to the possession” of the  
7 property at issue. NRS 31.070(1). Clark (again) argues that it complied with this provision of  
8 NRS 31.070 by citing directly to the Application and the exhibits attached hereto. (Mot. at 6-7).  
9 Clark’s re-hashing of its identical argument that was already made in the Application is wholly  
10 improper and does not militate in favor of reconsideration.

11 Third, Clark has not identified any change in controlling law that would support its  
12 request for consideration. Indeed, Clark does not cite a single case in its Motion that has been  
13 published in the last decade. (See generally, Mot.) Moreover, although Clark styles its motion as  
14 one for “reconsideration,” Clark cites to NRCP 60(b)(6) as the sole rule or statute upon which it  
15 bases its Motion. However, Clark does not identify any of the factors relevant to a request for  
16 relief pursuant to Rule 60, and the most recent case it cites for the standard for reconsideration  
17 were published during the Reagan Administration. As such, Clark has not levied a persuasive or  
18 even cogent argument warranting reconsideration. See *Edwards v. Emperor's Garden Rest.*, 122  
19 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not  
20 supported by relevant legal authority or cogent argument).

21 In sum, Clark has not identified a single reason for this Court to reconsider its Order, and  
22 Clark’s Motion must be denied.

### 23 **C. Clark is Not Entitled to a Stay**

24 When considering whether to stay district court proceedings pending appeal, the Nevada  
25 Supreme Court considers: “(1) Whether the object of the appeal or writ petition will be defeated  
26 if the stay is denied; (2) Whether appellant/petitioner will suffer irreparable or serious injury if  
27 the stay is denied; (3) Whether respondent/real party in interest will suffer irreparable or serious  
28 injury if the stay is granted; and (4) Whether appellant/petitioner is likely to prevail on the merits

1 in the appeal or writ petition.” Hansen v. Eighth Jud. Dist. Ct. ex rel. Cty. of Clark, 116 Nev.  
2 650, 657, 6 P.3d 982, 986 (2000). Clark’s request for a stay pending its anticipated writ petition  
3 seeking review of the Order is completely unsupported in fact or law.

4 Initially, Clark has not filed an affirmative motion to stay, and is not a “party” to this  
5 litigation. Thus, the request for this Court to stay these proceedings pending resolution of its  
6 anticipated writ petition is improper under NRAP 8(a)(1). Moreover, Clark argues that it will be  
7 harmed if a stay is not granted because “[c]ash which belongs to [Clark] will be delivered to Ms.  
8 Goldstein . . .,” and “Ms. Goldstein will use this court’s order to support further improper  
9 collection activity . . .” (Mot. at 9). Both these arguments are without merit.

10 First, the object of the anticipated writ will not be defeated if the stay is denied because,  
11 if the anticipated writ is granted, Clark will be able to recoup the sums that were collected  
12 pursuant to Goldstein’s Writ of Execution. Second, the sum collected from Clark (under \$700),  
13 certainly cannot rise to the level of irreparable harm that would warrant a stay. Such a monetary  
14 sum “is neither irreparable nor serious.” Hansen, 116 Nev. at 657, 6 P.3d at 986. In fact, the sum  
15 collected from Clark has not been delivered to Goldstein as of the filing of this Opposition.  
16 (Irvine Decl. ¶ 3). Third, Goldstein will suffer serious injury, because her Judgment will remain  
17 unsatisfied, notwithstanding her continued collection efforts since the Judgment was entered. See  
18 Sobol v. Capital Management, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986) (concluding, in the  
19 context of an injunction, that “acts committed without just cause which unreasonably interfere  
20 with a business or destroy its credit or profits, may do an irreparable injury”).

21 Finally, in showing a likelihood of success on the merits, “the movant must present a  
22 substantial case on the merits when a serious legal question is involved and show that the balance  
23 of equities weighs heavily in favor of granting the stay.” Id. Here, Clark has not even attempted  
24 to present a “substantial case on the merits [or] a serious legal question,” and has completely  
25 failed to articulate how the “the balance of equities weighs heavily in favor of granting the stay.”

26 As such, a stay is unwarranted, and Clark’s request for the same should be denied.

27 ///

28 ///

1     **III.     CONCLUSION**

2             For the reasons stated in this Opposition, the Motion should be denied.

3  
4                     DATED this 18th day of March, 2022.

5  
6  
7                             DICKINSON WRIGHT PLLC

8  
9                             /s/ Brian R. Irvine  
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11                            Nevada Bar No. 7758  
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18                            *Attorneys for Plaintiff Jennifer M. Goldstein*

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*Attorneys for NuVeda, LLC*

DATED this 18<sup>th</sup> day of March, 2022.

/s/ Angela Shoults  
An Employee of DICKINSON WRIGHT PLLC

4893-7125-1478 v1 [88728-1]

# EXHIBIT 1

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*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.: 31

**DECLARATION OF BRIAN R. IRVINE IN SUPPORT OF  
PLAINTIFF JENNIFER GOLDSTEIN'S OPPOSITION TO MOTION FOR  
RECONSIDERATION OF DENIAL OF APPLICATION/PETITION PURSUANT TO  
NRS 31.070(5)**

1. I am an attorney with the law firm of DICKINSON WRIGHT, PLLC, attorneys for Plaintiff, JENNIFER M. GOLDSTEIN ("Goldstein") in the above captioned action. I submit this Declaration in support of Goldstein's Opposition to Motion for Reconsideration of Denial of Application/Petition Pursuant to NRS 31.070(5). I have personal knowledge of the matters set forth in this Declaration and, if called as a witness could and would competently testify thereto.

2. In Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary's

1 (“Clark”) Application Petition Pursuant to NRS 31.070(5) (“Application”), Clark submitted that,  
2 pursuant to a Writ of Execution, “officers from the constable’s office, which served writs at 1324  
3 S. 3rd Street, Las Vegas, Nevada 89104, physically forced the employees  
4 of [Clark] to remove \$638.00 in cash from the facility on or about August 9, 2021.” (See Appl. at  
5 3).

6 3. Although the \$638.00 in cash was seized from Clark’s facility, the \$638.00 was  
7 never delivered to Goldstein, and, on information and belief remains in possession of the  
8 officers/constables who seized the cash.

9 I declare under penalty of perjury under the law of the State of Nevada that the foregoing  
10 is true and correct.

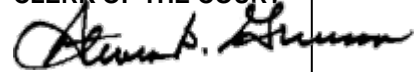
11 DATED this 18th day of March, 2022.

12  
13  
14 /s/ Brian R. Irvine  
15 BRIAN R. IRVINE  
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28 4868-5245-6214 v2 [88728-1]







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*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.: 31

**REPLY TO OPPOSITION TO MOTION  
TO ENTER ORDER FROM HEARING  
AND FOR RECONSIDERATION  
OF DENIAL OF  
APPLICATION/PETITION  
PURSUANT TO NRS 31.070(5)**

Applicant/Petitioner, Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary ("Clark NMSD" or "The Sanctuary"), by and through its counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced reply.

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  
2 DATED this 29th day of March, 2022.

3  
4 **LAW OFFICE OF MITCHELL STIPP**

5  
6 /s/ Mitchell Stipp, Esq.  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

1  
2 An order now has been entered for the hearing on October 5, 2022. See Dkt. No. 186.  
3 According to the order, The Sanctuary was required to serve the constable with a demand. Id.  
4 (paragraph 1, page 2). The Sanctuary provided a written demand/claim on the constable on August 10,  
5 2021, which was included as part of Exhibit 2 to The Sanctuary's Application filed on August 12, 2021,  
6 as Dkt. No. 169. Goldstein even acknowledges the written demand supported by the Declaration of  
7 Dr. Pejman Bady in her opposition. See Opposition, page 2 (lines 21-22), Dkt. No. 189. That demand/  
8 claim was supported by the Declaration of Dr. Bady, and it satisfies the requirement of NRS 31.070.  
9 Goldstein has not articulated how or why it fails to do so. The order also provides that The Sanctuary  
10 failed to comply with NRS 31.070 because it did not establish any relationship with or interest in  
11 NuVeda, LLC ("NuVeda") or the cash seized by the constable. See Dkt. No. 186 (paragraph 3, page  
12 2). First, NRS 31.070 does not require The Sanctuary to establish any relationship with or interest in  
13 NuVeda—the judgment debtor. Goldstein ignores this point in her opposition. Second, The  
14 Sanctuary's written demand/claim stated unequivocally that the cash belonged to The Sanctuary.  
15 Lastly, the order provides that NuVeda lacked standing to assert claims on behalf of third-parties. The  
16 Sanctuary does not dispute this conclusion but fails to understand how or why this determination affects  
17 The Sanctuary's remedies under NRS 31.070. Again, Goldstein fails to address this point.

1 Goldstein complains that The Sanctuary is not a party to this case. The Nevada Supreme Court  
2 in Elliott v. Denton Denton, 109 Nev. 979, 980 (Nev. 1993), provided a detailed analysis of NRS  
3 31.070, which The Sanctuary believes is instructive to Goldstein and her counsel on matters before this  
4 court:

5 Nevada, like most states, has a statute which, by its terms, provides an exclusive  
6 and summary means for disposing of claims like [The Sanctuary's], that the sheriff  
7 has levied on the wrong property. The statute, NRS 31.070, is called a "third-party  
8 claims" statute. This statute sets forth a very simple procedure for cases where, as  
9 here, "the property levied on is claimed by a third person as his [or her] property."  
10 NRS 31.070 (1). All the claimant has to do under the statute is to make a sworn  
11 statement claiming rightful ownership and possession of the property levied-upon  
12 and present the claim to the sheriff. The sheriff, in turn, "must release the property"  
13 unless the person who instituted the levy on the property disputes the third-party  
14 claim and gives to the sheriff an undertaking equal to double the value of the  
15 property. Id. If such an undertaking is not presented to the sheriff within seven days  
16 of the claim, the sheriff simply returns the property to its true owner. Id. In cases in  
17 which the levying party puts up the required undertaking, NRS 31.070 provides for  
18 resolution of the opposing claims by "motion to the court without the necessity of  
19 an independent action." NRS 31.070 (2).

20 (emphasis added). Surprisingly, Goldstein still claims The Sanctuary failed to comply with the  
21 requirements of NRS 31.070. It is not The Sanctuary's compliance that is at issue. Pursuant to NRS  
22 31.070, the constable's office was required to release the cash to The Sanctuary unless Goldstein  
23 disputed the claim and gave the constable two (2) times the value of the property. Goldstein never  
24 disputed the claim with the constable or posted the security. Why not? Goldstein fails to address her  
25 non-compliance. Unfortunately, the constable refused to return the cash without an order of the court.  
26 Given the constable's position, The Sanctuary followed the procedure as if Goldstein complied.

27 Goldstein alleges that NuVeda has claimed to own and operate the locations where Goldstein's  
28 writs were served. When? Where? This allegation is demonstrably false, but Goldstein continues to  
repeat the same lie. See Motion to Quash, filed on June 11, 2021, Dkt. No. 162; see also Reply, filed  
on July 2, 2021, Dkt. No. 167 (specifically Exhibit 1 which shows NuVeda, LLC ("NuVeda") is NOT  
a cannabis licensee). NuVeda does not operate any of the locations where Goldstein served her writs.

Goldstein claims that The Sanctuary is not entitled to reconsideration because the court adopted  
the basis for denial articulated by Goldstein for denying the application by The Sanctuary. The  
problem with this approach is Goldstein and her attorneys have actively misled the court on the

1 requirements of NRS 31.070. The Sanctuary filed its motion to provide the court an opportunity to  
2 base its decision on actual facts and the law rather than the misrepresentations of Goldstein and her  
3 attorneys. If the court elects not to reconsider its prior decision which was clearly erroneous, then The  
4 Sanctuary will address the matter with the Nevada Supreme Court. The Sanctuary asked for a stay  
5 not of all matters before the court but of the enforcement of the court's order on The Sanctuary's  
6 Application, which Goldstein will use to seek release of the cash from the constable and file additional  
7 illegal writs. The amount at issue is \$638.00. There is no harm to Goldstein to allow The Sanctuary  
8 to pursue the matter with the Nevada Supreme Court if the court denies the motion before it.

9 ///

10 ///

11 ///

12 DATED this 29th day of March of 2022.

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 Clark NMSD, LLC

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 29th  
5 day of March, 2022, 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  
12 Attorneys for Jennifer Goldstein

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

14 Office of the Ex-Officio Constable  
15 Las Vegas Township  
16 301 E. Clark Ave., Suite 100  
17 Las Vegas, NV 89101  
18 Fax: (702) 385-2436

19 */s/ Amy Hernandez*

20 \_\_\_\_\_  
21 Amy Hernandez  
22  
23  
24  
25  
26  
27  
28



---

A-15-728510-B      Nuveda, LLC , Plaintiff(s)  
vs.  
Pejman Bady, Defendant(s)

---

April 05, 2022      08:30 AM      Clark NMSD LLC's Motion to Enter Order from Hearing and for  
Reconsideration of Denial of Application/Petition Pursuant to  
NRS 31.070(5)

HEARD BY:      Kishner, Joanna S.      COURTROOM: RJC Courtroom 16B

COURT CLERK: Rapel, Stephanie

RECORDER:      Corcoran, Lara

REPORTER:

PARTIES PRESENT:

Brooks T Westergard      Attorney for Plaintiff

Mitchell D. Stipp      Attorney for Claimant, Plaintiff

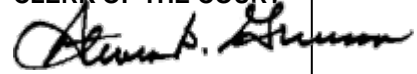
#### JOURNAL ENTRIES

Upon Court's inquiry, Mr. Stipp stated Nuveda was not making an appearance today and the Motion was filed by Clark doing business as Sanctuary. Colloquy regarding Order signed by the Court (DOC 186) and absent Notice of Entry of Order. Mr. Westergard stated Plaintiff was to submit the Notice of Entry of Order and failed to do so. Court stated its Findings and ORDERED Motion DENIED; prematurely filed. COURT DIRECTED Plaintiff to file the missing Notice of Entry of Order (in reference to DOCS 177 and 186) by the end of day. COURT FURTHER ORDERED Plaintiff to prepare the Order as to today's matter with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders. COURT ORDERED matter SET for a STATUS CHECK as to compliance.

4/21/22 8:30 AM STATUS CHECK: COMPLIANCE WITH NEO







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@stipplaw.com  
*Attorneys for NuVeda, LLC and 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.: 31

**NOTICE OF ENTRY**

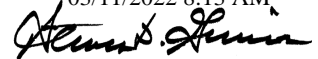
TO ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

The undersigned hereby provides notice of entry of the attached order.

1  
2  
3 DATED this 5th day of April, 2022.  
4

5 **LAW OFFICE OF MITCHELL STIPP**  
6

7 /s/ Mitchell Stipp, Esq.  
8 MITCHELL STIPP, ESQ.  
9 Nevada Bar No. 7531  
10 LAW OFFICE OF MITCHELL STIPP  
11 1180 N. Town Center Drive, Suite 100  
12 Las Vegas, Nevada 89144  
13 Telephone: 702.602.1242  
14 mstipp@stiplaw.com  
15 *Attorneys for NuVeda, LLC and Clark NMSD, LLC*  
16  
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CLERK OF THE COURT

**FFCO**

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.: 31

**[PROPOSED] FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER  
DENYING APPLICATION/PETITION  
PURSUANT TO PROHIBIT  
GOLDSTEIN FROM ANY FURTHER  
COLLECTION ACTIVITY WITHOUT  
COURT APPROVAL**

**Hearing Date: October 5, 2021**

This matter having come on for hearing related to Defendant NuVeda, LLC (“NuVeda”) and third-party Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary’s (“Clark”) Application/Petition Pursuant to Prohibit Goldstein From Any Further Collection Activity Without Court Approval (the “Application”) before the Court on October 5, 2021. Plaintiff Jennifer M. Goldstein (“Goldstein”) appeared by and through her counsel of record Brian Irvine of the law firm of Dickinson Wright PLLC; and NuVeda appeared by and through its counsel of record Mitchell Stipp of the Law Office of Mitchell Stipp; the Court having read and

1 considered the pleadings filed by the parties; the Court having considered the oral and written  
2 arguments of counsel, and with the intent of deciding the issues before the Court related to the  
3 Application, the Court finds and orders as follows:

4 1. 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.

7 2. Clark has failed to comply with the requirements under NRS 31.070 and has not  
8 established that it has any relationship with or interest in NuVeda or the property at issue in the  
9 Application.

10 3. Moreover, as already held by this Court in its Order denying NuVeda’s Motion to  
11 Quash Writs of Execution, NuVeda lacks “standing to assert exemptions on behalf of third  
12 parties.” *Ciras, LLC v. Ziegler*, No. 2:10-CV-02019-RLH, 2011 WL 1979857, at \*2 (D. Nev.  
13 May 20, 2011).

14 4. NuVeda and Clark are thus not entitled to any relief under NRS 31.070.

15 5. In addition, the Application requests that the Court “require Goldstein to file a  
16 motion with notice to and an opportunity to be heard by NuVeda for approval of any further  
17 collection activity.” Although the Application cites no legal authority for this request, under  
18 NRCP 62(b), a “court may stay execution on a judgment – or any proceedings to enforce it –  
19 pending disposition of” (1) a motion under Rule 50 for judgment as a matter of law; (2) a motion  
20 to amend findings under Rule 52(b); (3) a motion for a new trial or to amend judgment under  
21 Rule 59, or (4) a motion for relief from judgment under Rule 60. None of the motions  
22 enumerated under NRCP 62(b) are currently pending, and therefore neither NuVeda nor Clark  
23 may obtain relief under NRCP 62(b).

24  
25 **ORDER**

26 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the  
27 Application is **DENIED**.

1 IT IS SO ORDERED.

Dated this 11th day of March, 2022



DD8 E60 D777 8DD6

Joanna S. Kushner  
District Court Judge

2  
3  
4  
5 *Respectfully submitted by:*

6 DICKINSON WRIGHT PLLC

7 */s/ Brian R. Irvine*

8 BRIAN R. IRVINE

9 Nevada Bar No. 7758

BROOKS T. WESTERGARD

10 Nevada Bar No. 14300

100 West Liberty Street

11 Suite 940

Reno, Nevada 89501

12 Tel.: (775) 343-7500

13 Fax: (844) 670-6009

Email: birvine@dickinsonwright.com

14 Email: bwestergard@dickinsonwright.com

15 *Attorneys for Plaintiff Jennifer M. Goldstein*

*Approved as to form and content:*

LAW OFFICE OF MITCHELL STIPP

7 */s/ Mitchell Stipp*

8 MITCHELL STIPP

9 Nevada Bar No. 7531

1180 N. Town Center Drive

Suite 100

Las Vegas, NV 89144

12 Tel: (702) 602-1242

mstipp@stiplaw.com

13 *Attorneys for NuVeda, LLC*

16 4886-3782-8372 v1 [88728-1]

**From:** [Mitchell Stipp](#)  
**To:** [Brian R. Irvine](#)  
**Subject:** Re: FW: EXTERNAL: Eighth Judicial District Court - Proposed Order Returned  
**Date:** Thursday, March 10, 2022 4:06:25 PM

---

Changes are fine.



**Mitchell Stipp**

**Law Office of Mitchell Stipp, P.C.**

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

**P:** [702-602-1242](tel:702-602-1242) **M:** [702-378-1907](tel:702-378-1907)

**E:** [mstipp@stipplaw.com](mailto:mstipp@stipplaw.com) **W:** [www.stipplaw.com](http://www.stipplaw.com)

On Thu, Mar 10, 2022 at 10:25 AM Brian R. Irvine <[BIrvine@dickinson-wright.com](mailto:BIrvine@dickinson-wright.com)> wrote:

Mitchell

Thanks for the email. I think your markup adequately addresses the reasons why the NRS Chapter 31 relief sought by Clark is denied, but does not provide an explanation why the relief is denied as to NuVeda, so I have added the standing paragraph back in. Also, your markup does not address the reasons for the denial of the request that the Court require "Goldstein to file a motion with notice to and an opportunity to be heard by NuVeda for approval of any further collection activity." I also included a paragraph explaining the denial of that relief. Please let me know if I have your authority to submit the attached proposed Order to the Court with those changes.

Thanks,

Brian

**From:** Mitchell Stipp <[mstipp@stipplaw.com](mailto:mstipp@stipplaw.com)>

**Sent:** Wednesday, March 9, 2022 7:05 PM

**To:** Brian R. Irvine <[BIrvine@dickinson-wright.com](mailto:BIrvine@dickinson-wright.com)>

**Subject:** Re: FW: EXTERNAL: Eighth Judicial District Court - Proposed Order Returned

Thanks Brian. I am sorry that happened.

Attached is your revised draft in tracked changes with my comments for your review and approval.



**Mitchell Stipp**

**Law Office of Mitchell Stipp, P.C.**

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

**P:** [702-602-1242](tel:702-602-1242) **M:** [702-378-1907](tel:702-378-1907)

**E:** [mstipp@stiplaw.com](mailto:mstipp@stiplaw.com) **W:** [www.stiplaw.com](http://www.stiplaw.com)

On Wed, Mar 9, 2022 at 4:10 PM Brian R. Irvine <[BIrvine@dickinson-wright.com](mailto:BIrvine@dickinson-wright.com)> wrote:

Mitchell-

I submitted the bare-bones Order you approved to Department 31 today, but the Order was rejected because "The order does not comply with the rules as it gives no basis for the Court's ruling." See the email from the Court below. I have attached the proposed order that I sent you in October of last year and again last month, which tracks the reasons set forth in our opposition why the motion should be denied. Do I have your authority to submit the attached? Please respond ASAP, as the Court has issued an order to show cause.

Thanks,

Brian

**Brian R. Irvine Member**

100 West Liberty Street  
Suite 940  
Reno NV 89501-1991

--	--

Phone 775-343-7507  
Fax 844-670-6009  
Email [BIrvine@dickinsonwright.com](mailto:BIrvine@dickinsonwright.com)

<cid:image004.jpg@01D83468.5465F200>



**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](mailto:Blrvine@dickinsonwright.com)



---

**From:** Mina Reel <[WReel@dickinson-wright.com](mailto:WReel@dickinson-wright.com)>  
**Sent:** Wednesday, March 9, 2022 3:57 PM  
**To:** Brian R. Irvine <[Blrvine@dickinson-wright.com](mailto:Blrvine@dickinson-wright.com)>  
**Subject:** FW: EXTERNAL: Eighth Judicial District Court - Proposed Order Returned

**From:** [NoReply@clarkcountycourts.us](mailto:NoReply@clarkcountycourts.us) <[NoReply@clarkcountycourts.us](mailto:NoReply@clarkcountycourts.us)>  
**Sent:** Wednesday, March 9, 2022 3:37 PM  
**To:** Mina Reel <[WReel@dickinson-wright.com](mailto:WReel@dickinson-wright.com)>  
**Subject:** EXTERNAL: Eighth Judicial District Court - Proposed Order Returned

A-15-728510-B - FFCO - Nuveda LLC et al v. Pejman Bady et al.

Your proposed order or document requiring a judge's signature to the court has been returned for the following reason(s): The order does not comply with the rules as it gives no basis for the Court's ruling.



## Mina Reel Legal Assistant

100 West Liberty Street    Phone 775-343-7509  
Suite 940    Fax 844-670-6009  
Reno NV 89501-1991    Email [MReel@dickinsonwright.com](mailto:MReel@dickinsonwright.com)

[cid:image001.jpg@01D833CF.8AE06C00](#)



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.

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.

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA  
4

5  
6 Nuveda, LLC , Plaintiff(s)

CASE NO: A-15-728510-B

7 vs.

DEPT. NO. Department 31

8 Pejman Bady, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/11/2022

15 "Kristina R. Cole, Legal Assistant" .

kcole@klnevada.com

16 "Mary Barnes, Legal Assistant" .

mbarnes@klnevada.com

17 "Matthew T. Dushoff, Esq." .

mdushoff@klnevada.com

18 "Ryan T. Gormley, Esq." .

rgormley@klnevada.com

19 Amy Reams .

areams@naylorandbrasterlaw.com

20 Claire Wildman .

buttelllawoffice@aim.com

21 eFiling District .

nvdistrict@klnevada.com

22 Jennifer Braster .

jbraster@naylorandbrasterlaw.com

23 John Naylor .

jnaylor@naylorandbrasterlaw.com

24 LaQuinta Smith .

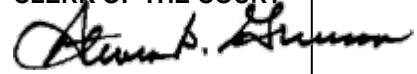
laquintasmith@aol.com

25 Jason Wiley

jwiley@wileypetersenlaw.com

1	Ryan Petersen	rpetersen@wileypetersenlaw.com
2	Jennifer Goldstein	jennifer@xanthussports.com
3	Brian Padgett	brian@briancpadgett.com
4	David Feuerstein	david@dfmklaw.com
5	Shane Terry	shane@ahcgroup.co
6	Mitchell Stipp	mstipp@stiplaw.com
7	Brian Irvine	birvine@dickinsonwright.com
8	Brooks Westergard	bwestergard@dickinsonwright.com
9	Catherine Ramsey	cathy@briancpadgett.com
10	Kira Harris	info@briancpadgett.com
11	Mina Reel	mreel@dickinsonwright.com
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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  
*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.: 31

**SECOND RENEWED MOTION FOR  
RECONSIDERATION  
OF DENIAL OF  
APPLICATION/PETITION  
PURSUANT TO NRS 31.070(5)**

**HEARING REQUESTED**

Applicant/Petitioner, Clark NMSD, LLC, a Nevada limited liability company d/b/a The Sanctuary ("Clark NMSD" or "The Sanctuary"), by and through its counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced motion. In the event the court decides not to reconsider its decision, The Sanctuary respectfully requests a stay of the matter so it can file a writ petition with the Nevada Supreme Court.

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 5th day of April, 2022.

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 Petitioner/Applicant, Clark NMSD, LLC*  
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1. I am counsel for Clark NMSD, LLC, a Nevada limited liability company (“The  
ary”). The Sanctuary is a non-party in the above-referenced case.

3. The Sanctuary filed a motion to enter an order from the hearing on October 5, 2021 and to reconsider its decision on March 4, 2022. See Dkt. No. 177. The clerk of the court scheduled a hearing on the motion for April 5, 2022 at 8:30 a.m. See Dkt. No. 178.

5. The parties agreed upon and submitted an order from the hearing on October 5, 2022, which the court entered. See Dkt. No. 186. According to the order, the court denied The Sanctuary's application for the return of its cash under NRS 31.070. Id. The order was filed on March 11, 2022.

7. EDCR 2.24(b) provides as follows:

(emphasis added). Written notice of the order was provided when it was filed and served on March 11, 2022. Notice of entry is not required. The district court at the hearing also stated that it was

1 prohibited from hearing the matter under Rust v. Clark Cty. School District, 103 Nev. 686 (Nev. 1988)  
2 due to the absence of notice of entry. However, Rust stands for the following proposition: “The district  
3 court's oral pronouncement from the bench, the clerk's minute order, and even an unfiled written order  
4 are ineffective for any purpose and cannot be appealed.” 103 Nev. at 689 (citation omitted). The order  
5 from the hearing on October 5, 2021 was entered by the court and filed on March 11, 2022. See Dkt.  
6 No. 186. Presumably, the order is effective and can be re-considered regardless of separate notice of  
7 entry.  
8

9 8. Given the court’s position at the hearing on April 5, 2022, notice of entry was provided  
10 on April 5, 2022. See Dkt. No. 199.

11 9. I submit the above-titled declaration in support of The Sanctuary’s motion. I have personal  
12 knowledge of the facts contained therein unless otherwise qualified by information and belief or such  
13 knowledge is based on the record in this case, and I am competent to testify thereto, and such facts are true  
14 and accurate to the best of my knowledge and belief.  
15

16 10. The exhibits attached to The Sanctuary’s Motion are true and accurate.  
17

18 Dated this 5th of April, 2022.

19 /s/ *Mitchell Stipp*

20 \_\_\_\_\_  
Mitchell Stipp, Esq.  
21  
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## MEMORANDUM OF POINTS AND AUTHORITIES

The court has the inherent authority to reconsider its prior decisions. Trail v. Faretto, 91 Nev. 401, 536 P.2d 1026 (1975). Reconsideration should be granted when “there is a reasonable probability that the court may have arrived at an erroneous conclusion or overlooked some important question necessary to a full and proper understanding of the case.” State v. Fitch, 68 Nev. 422, 233 P.2d 1070, 1072 (1951); accord, Moore v. City of Las Vegas, 92 Nev. 402, 551 P.2d 244, 246 (1976); Geller v. McCown, 64 Nev. 102, 178 P.2d 380, 381 (1947). “In a concise and non-argumentative manner, such a petition should direct attention to some controlling matter which the court has overlooked or misapprehended.” Matter of Ross, 99 Nev. 657, 668 P.2d 1089 (1983). The court may also relieve a party from an order for any reason that justifies relief. See NRCPC 60(b)(6). The cash seized from The Sanctuary’s dispensary does not belong to NuVeda, LLC (“NuVeda”). While The Sanctuary is a subsidiary of NuVeda, the cash belongs to The Sanctuary until it is distributed to NuVeda.

Jennifer Goldstein (“Goldstein”) is a creditor of 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. The judgment is not being contested.

Goldstein has a charging order, which permits her to receive any membership distributions from subsidiaries of NuVeda.<sup>1</sup> Goldstein’s judgment is also subject to an indemnification agreement with

---

<sup>1</sup> **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.

1 CWNevada, LLC (which through Brian Padgett controlled the arbitration proceedings). See **Exhibit**  
2 **2**. The judgment cannot be paid or settled without the consent of CWNevada, LLC. Further, The  
3 Sanctuary is **NOT** subject to any judgment in favor of Goldstein. A receiver was appointed over  
4 CWNevada, LLC (now before Department 13, Judge Denton), and the receiver refuses to pay the  
5 judgment or allow NuVeda to settle the same. Payment to Ms. Goldstein without permission from the  
6 receiver and Department 13 would be a violation of the applicable receivership orders.

7 Goldstein prepared writs to seize cash at the facilities she knows are owned or operated by  
8 NuVeda's subsidiaries/affiliates. NuVeda filed a motion to quash the writs, which Goldstein opposed,  
9 and Judge Gonzalez determined that NuVeda did not have standing to assert any claims on behalf of  
10 third-parties (namely in this case, The Sanctuary). See Order filed on July 30, 2021. The Sanctuary  
11 (together with NuVeda) filed an application for the return of the cash under NRS 31.070. See  
12 Petition/Application filed on August 12, 2021 ("Application").<sup>2</sup> Goldstein opposed the same. Before  
13 the matter could be heard, Judge Gonzalez retired, and the case was administratively re-assigned.

14 The Nevada Supreme Court has stated that NRS 31.070 provides "a complete and valid remedy  
15 to third persons whose property has been attached." Cooper v. Liebert, 81 Nev. 341, 344, 402 P.2d  
16 989, 991 (1965). Accordingly, The Sanctuary can and did apply directly to the court as permitted by  
17 Cooper (third-party action is not required) for the return of its property.

18 At a hearing on October 5, 2021, this court considered the Application and papers and pleadings  
19 filed in support and opposition thereto. The court provided the parties two (2) options: (a) an  
20 evidentiary hearing; or (2) decision on the Application. The Sanctuary elected to have the matter  
21 decided after an evidentiary hearing. Ms. Goldstein wanted the matter decided without an evidentiary  
22 hearing. Accordingly, the court decided the matter without an evidentiary hearing. First, the court  
23 determined that NuVeda did not have standing (which was consistent with the prior decision of Judge  
24 Gonzalez). The Sanctuary concedes that this aspect of the decision is correct (but only as it relates to  
25 asserting claims or exemptions which belong to The Sanctuary). If NuVeda does not have standing,  
26 implicit in this decision is that the cash seized by the constable's office **DOES NOT** belong to NuVeda

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

<sup>2</sup> The Application is attached as **Exhibit 3** and page numbers added for ease of reference.

(otherwise NuVeda would have standing to make a claim or assert an exemption). Second, the court determined that The Sanctuary failed to meet its burden under NRS 31.070. The court reasoned that The Sanctuary failed to establish its relationship with NuVeda (judgment debtor) and the cash that was seized. There is no dispute that the cash was seized from The Sanctuary's dispensary.

The Sanctuary satisfied its burden under NRS 31.070. 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 statute does not require a third-party to establish any relationship with the judgment debtor or creditor. Regardless, the Application confirms that NuVeda is the sole member of The Sanctuary. See Application, page 6 (lines 1-2). NuVeda disclaimed any interest in the cash (page 4, lines 1-2 of Application), and The Sanctuary asserted that the cash belongs to The Sanctuary (pages 4-5 of

Application). Pursuant to the Application (pages 4-5), The Sanctuary expressly provided the following:<sup>3</sup>

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 included as part of **Exhibit 2**. Accordingly, The Sanctuary requests a hearing in accordance with NRS 31.070 (i.e., on or before August 20, 2021). On the issue of ownership of the cash, Nevada law provides guidance. 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). In addition to the declaration of Dr. Bady included as part of **Exhibit 2**, Exhibit B thereto includes a shift report from the operating manager of The Sanctuary, Armando Mendoza, which confirms the cash shortfall of the business. The court should note that the report clearly identifies "Clark NMSD, LLC" as the business entity associated with the same.

Ms. Goldstein wants the court to disregard NuVeda's legally distinct and separate existence from The Sanctuary under Nevada law. NuVeda is not the legal owner of any cannabis facility. It does not own assets of the The Sanctuary (including its licenses).

Goldstein has a charging order. Under Weddell v. H2O, Inc., 271 P.3d 743 (Nev. 2012), she has rights only to NuVeda's share of profits, losses and distributions in its subsidiaries, and she takes no interest in the assets of the subsidiaries. Id. (citing Dixon v. American Industrial Leasing Co., 157 W.Va. 735, 205 S.E.2d 4, 9 (1974); see In re Lucas, 107 B.R. 332, 336 (Bankr.D.N.M.1989) (stating that "[a]ny assignee of the [membership] interest merely entitles the assignee to receive the profits to which the [member] would otherwise be entitled"); Kellis v. Ring, 92 Cal.App.3d 854, 155 Cal.Rptr. 297, 299 (1979) (stating that "[w]hile [the judgment creditor] has a right to receive the share of the profits or other compensation by way of income, or the return of his contributions to which his assignor would otherwise be entitled, he has no right to interfere in the management of the limited partnership" (internal quotations omitted)); Madison Hills Ltd. v. Madison Hills, Inc., 35 Conn.App. 81, 644 A.2d 363, 367 (1994) (noting that "a charging creditor does not become a full partner, [and] is not entitled to manage the partnership"); Olmstead v. F.T.C., 44 So.3d 76, 79 (Fla.2010) (providing that "an assignment of a membership interest will not necessarily transfer the associated right to participate in

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<sup>3</sup> The Reply filed on September 14, 2021 includes a signed copy of Dr. Bady's declaration. See **Exhibit 4** (page 5) (page numbers added for ease of reference).

the LLC's management"); Green v. Bellerive, 763 A.2d at 260 (holding that the fundamental management rights of a partner are not transferred to a judgment creditor by a charging order) ; see also J. Gordon Gose, The Charging Order Under the Uniform Partnership Act, 28 Wash. L.Rev. 1, 13 (1953) (noting that "a receiver does not become a partner or participate in the management"). After the entry of Goldstein's charging order, NuVeda no longer had the right to future distributions from its subsidiaries to the extent of the charging order. Id. However, the cash seized by the constable's office was not distributed to NuVeda. Therefore, it remains the property of The Sanctuary.

"A district court may decline to grant an evidentiary hearing if the moving party fails to show 'adequate cause' to hold a hearing and **must hold** a hearing if the party established adequate cause for the hearing." Rooney v. Rooney, 109 Nev. 540, 542-43, 853 P.2d 123, 124-25 (1993) (emphasis added). Under Rooney, "adequate cause" is prima facie evidence. Here, the seizure of cash **from The Sanctuary** and the declaration of Dr. Bady is prima facie evidence of The Sanctuary's entitlement to the cash. See Application (filed on August 12, 2021) and Reply (filed on September 14, 2021); see also Ferris, 501 F. Supp. 98. The declaration of Dr. Bady is set forth below (page 5 of Reply):

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 (Seal)



1 If this court decides not to reconsider its decision and schedule an evidentiary hearing, The  
2 Sanctuary would respectfully request a stay of the proceedings (so it can pursue a writ petition before  
3 the Nevada Supreme Court). While the amount in dispute is not significant, the decision of the court  
4 sets a dangerous precedent which will likely be abused by Ms. Goldstein.

5 The Nevada Rules of Appellate Procedure provide a mechanism for seeking a stay pending a  
6 decision from the Supreme Court. Under NRAP 8(a)(1), a party must ordinarily first seek a stay from  
7 the district court. In considering whether to grant the requested stay, the Nevada Supreme Court  
8 considers: “(1) whether the object of the ... writ petition will be defeated if the stay ... is denied; (2)  
9 whether [] petitioner will suffer irreparable or serious injury if the stay or injunction is denied; (3)  
10 whether respondent/real party in interest will suffer irreparable or serious injury if the stay ... is  
11 granted; and (4) whether [] petitioner is likely to prevail on the merits in the appeal or writ petition.”  
12 NRAP 8(c), Hansen v. Eighth Jud. Dist. Ct., 116 Nev. 650, 657, 6 P.3d 982, 986 (2000). Any one factor  
13 is not more important than the others; however, where “one or two factors are especially strong, they  
14 may counterbalance other weak factors.” Mikohn Gaming Corp. v. McCrea, 120 Nev. 248, 251, 89  
15 P.3d 36, 38 (2004). Here, these factors, both individually and collectively, justify granting The  
16 Sanctuary’s requested stay.  
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20 The purpose of the writ petition will be defeated if the court enters an order denying the  
21 application without providing a stay. Cash which belongs to The Sanctuary will be delivered to Ms.  
22 Goldstein, which is not entitled to the same. Further, Ms. Goldstein will use the court’s order to support  
23 further improper, collection activity through the constable’s office, which serves writs of  
24 execution/garnishment based on the signature of the clerk of the court. In fact, a judgment debtor can  
25 identify any person or entity with property which a creditor can claim belongs to the creditor, and the  
26 constable’s office is required to seize the property leaving the person or entity to pursue its remedy  
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1 under NRS 31.070. Here, The Sanctuary pursued its remedy under NRS 31.070, but its application  
2 was erroneously denied.

3  
4 DATED this 5th day of April of 2022.

5  
6 **LAW OFFICE OF MITCHELL STIPP**

7  
8 /s/ Mitchell Stipp, Esq.

9 MITCHELL STIPP, ESQ.

10 Nevada Bar No. 7531

11 LAW OFFICE OF MITCHELL STIPP

12 1180 N. Town Center Drive, Suite 100

13 Las Vegas, Nevada 89144

14 Telephone: 702.602.1242

15 mstipp@stipplaw.com

16 *Attorneys for Clark NMSD, LLC*  
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3 **CERTIFICATE OF SERVICE**

4 I hereby certify that I am an employee of the Law Office of Mitchell Stipp and that on the 5th  
5 day of April, 2022, I electronically filed the foregoing with the Clerk of the Court for the Eighth Judicial  
6 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  
12 Attorneys for Jennifer Goldstein

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

14 Office of the Ex-Officio Constable  
15 Las Vegas Township  
16 301 E. Clark Ave., Suite 100  
17 Las Vegas, NV 89101  
18 Fax: (702) 385-2436

19 */s/ Amy Hernandez*

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21 Amy Hernandez  
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# EXHIBIT 1

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# DISTRICT COURT DEPARTMENT XXXI

MEMO

*Chambers:* 702-671-3634  
*Law Clerk:* 702-671-0899

<b>To:</b>	Mitchell Stipp, Esq.
<b>From:</b>	DEPARTMENT XXXI
<b>Subject:</b>	<b>Returned – A728510 Nuveda, LLC v. Pejman Bady</b>
<b>Date:</b>	October 5, 2021

Thank you for your submission of the proposed Motion for Reconsideration of Denial of Application/Petition Pursuant to NRS 31.070(5) and Related Relief on an Order Shortening Time. Unfortunately, your proposed Order Shortening Time cannot be signed for the following reason(s):

There has been no written Order to trigger a Motion for Reconsideration, only an oral pronouncement from the bench which is to be memorialized into a written Order. A Court's "oral pronouncement from the bench, clerk's minute order, or even an unfiled written order are ineffective for any purpose" and a therefore "only a written judgment may be appealed." *Division of Child and Family Services v. Eighth Jud. Dist. Ct.*, 120 Nev. 445, 451-52 (2004). Further, pursuant to EDCR 2.24(b), reconsideration must be made within 14 days after service of the written notice of the order or judgment.

# EXHIBIT 2

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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.

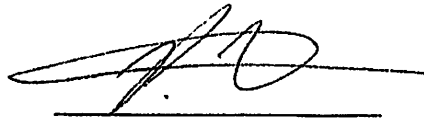
4145 W. Alibaba LN.

Las Vegas NV. 89118

  
NuVeda, LLC

2171 River Plate Dr.

Pahrump NV. 89048

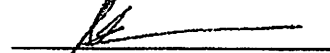


6/5/18

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

