

**IN THE SUPREME COURT OF THE**

**STATE OF NEVADA**

CLARK NMSD, LLC,  
Appellant,

vs

JENNIFER GOLDSTEIN,  
Respondent,

NUVEDA, LLC, Interested Party.

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Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No. 84623

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

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**REPLY TO OPPOSITION TO APPELLANT'S EMERGENCY MOTION  
FOR STAY OR INJUNCTION**

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LAW OFFICE OF MITCHELL STIPP  
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*Counsel for Appellant, Clark NMSD, LLC and  
Interested Party, NuVeda, LLC*

DATED this 23rd day of December, 2022.

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp

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## MEMORANDUM OF POINTS AND AUTHORITIES

This appeal concerns the post-judgment collection activity of Jennifer Goldstein (“Respondent”) in District Court Case No. A-15-728510-B pursuant to which Respondent is the judgment creditor and Interested Party, NuVeda, LLC (“NuVeda”), is the judgment debtor. The motion for stay/injunction before the Nevada Supreme Court was filed in good faith and is designed to prevent Respondent’s further illegal collection activity, which the district court has permitted despite clear facts and law. Respondent is seeking a receivership over NuVeda and its subsidiaries/affiliates, which she contends includes Appellant. There is no dispute Respondent’s judgment is only against NuVeda. Further, Appellant and NuVeda were parties to the petition/application before the district court for the return of money seized by the Constable’s Office at the request of Respondent from Appellant’s marijuana dispensary (i.e., not NuVeda’s dispensary). At the time Appellant filed its appeal, NuVeda’s chapter 11 bankruptcy was pending. For that reason, NuVeda initially did not join in the appeal.

### I. Respondent’s Opposition is Untimely and Exceeds the Page Limitations.

Appellant filed its emergency motion for a stay or injunction on December 5, 2022. See Dkt. No. 22-38207 through Dkt. No. 22-38211. In response, Respondent filed a motion to extend the time to respond and to exceed the page limits (Dkt. No. 22-39589) on December 16, 2022. Respondent filed her response without waiting for the decision by the Nevada Supreme Court on her request. See Dkt. No. 22-39590 and 22-39591. For the reasons set forth in Dkt. No. 22-39799, the opposition and appendix should be stricken from the docket. The response is untimely and

exceeds the page limitations permitted by the Nevada Rules of Appellate Procedure without a demonstration of good cause and/or diligence by Respondent.

II. Respondent is precluded from challenging the Bankruptcy Court's Determination of NuVeda's Assets and Income.

**Respondent does not address the elements of issue preclusion.** Instead, Respondent now complains that the bankruptcy court's determination was based on NuVeda's schedules filed in that case. Respondent also fails to mention that the decision was based in part on the CCB's agreement not to oppose NuVeda's position, which was memorialized in a stipulation entered by the bankruptcy court.<sup>1</sup> See Exhibit 1 to Appendix, Volume 1, Dkt. No. 22-38208. Respondent had the opportunity to challenge NuVeda's schedules and position. Instead, Respondent argued that the lack of material assets and income as shown on the schedules was a basis to dismiss the bankruptcy. Respondent may not like the result. However, Nevada law is clear that she cannot now claim NuVeda owns Appellant or any other purported subsidiary. See LaForge v. State, University System, 116 Nev. 415 (Nev. 2000) (discussing issue preclusion). The CCB's position in the bankruptcy also precludes the CCB from taking a contrary position. Id. From the perspective of Appellant/NuVeda, the CCB changed its position. It did not oppose the factual assertion in the bankruptcy that NuVeda divested itself of its cannabis business in June of 2019 but now opposes it before Department 31.

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<sup>1</sup> NuVeda's schedules were filed under penalty of perjury.

III. Appellant has satisfied the requirements for a stay/injunction.

Appellant has requested a stay and an injunction before Department 31. See Dkt. No. 22-38207, Page 6 (Article III, First Paragraph). NuVeda/Appellant has requested similar relief before Department 13, which presides over the receivership of CW Nevada, LLC (“CWNevada”). See Exhibits 7-10 to Appendix, Volumes II through IV, Dkt. Nos. 22-38209- 22-38211. Respondent’s contention otherwise is false.

Respondent has not explained how or why Appellant will not be successful on the merits of its appeal. Appellant cites to its opening brief. See Dkt. No. 22-38207, Page 8 (Article III, Fourth Paragraph) (citing to Dkt. 22-36636). Respondent has not addressed the merits of the appeal and instead moved to continue the deadline on the date her reply brief was due. Dkt. No. 22-40090. Noteworthy, Respondent freely admits to causing the Constable’s Office to seize cash at a dispensary operated by Appellant---not NuVeda (judgment debtor). Respondent also contends that her response to the appeal should be stayed pending the decision of the district court on her motion for a receivership. See Dkt. No. 22-40090. If a receiver is appointed over NuVeda, Appellant and other non-parties to the district court case on the basis of Respondent’s motion, Respondent is expecting the receiver to gain control over this appeal and the litigation with CWNevada before Department 13.

The harm caused by the appointment of a receiver over Appellant which operates two (2) marijuana dispensaries and other former subsidiaries of NuVeda, which are not subject to Respondent’s judgment, should be obvious to Respondent. Appellant briefed the same in its motion. See Dkt. No. 22-38207, Page 7 (Article III, Third Paragraph) (noting that a receivership “significantly impinges on the right of individuals or corporations to conduct their business affairs as they see fit, and

may endanger the viability of a business.”). It is incredible that Respondent just ignores the fact that the appeal exists because of her illegal collection activities and the motion for stay/injunction before the Nevada Supreme Court was required because Respondent seeks a receiver over more than just NuVeda, while the district court seems to disregard the facts and the law (including basic due process).

For the reasons set forth in the motion for a stay/injunction and the other filings before the Nevada Supreme Court in this case, the relief requested by Appellant and NuVeda should be granted. To avoid any prejudice to Respondent from the stay of the district court case in its entirety (which stay would prevent the district court from taking any further action including appointing a receiver over NuVeda), NuVeda will post a cash bond. NuVeda defers to the Nevada Supreme Court on the amount of the bond; however, NuVeda suggests the bond amount be **\$1,000,000.00** but should not exceed \$2,565,276.41 (which is the principal amount of the Goldstein Judgment). If the Nevada Supreme Court is unwilling to grant a stay of the district court proceedings below but is willing to enjoin Respondent from pursuing any collection activities against any person or entity other than NuVeda (including requesting a receivership over NuVeda’s purported subsidiaries/affiliates), Appellant will post a bond in an amount not to exceed **\$250,000.00**.

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DATED this 23rd day of December, 2022.

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp

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## **DECLARATION OF MITCHELL STIPP**

The undersigned, Mitchell Stipp, Attorney for Appellant and NuVeda, declares under penalty of perjury as follows:

1. The facts set forth in the reply are true and accurate to the best of my knowledge and belief.

2. I have personal knowledge of the facts contained in the reply unless otherwise qualified by information and belief or such knowledge is based on the record in this case, I am competent to testify thereto, and such facts are true and accurate to the best of my knowledge and belief.

DATED this 23rd day of December, 2022.

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23rd day of December, 2022, I filed the foregoing **OPPOSITION**, using the court's electronic filing system.

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By: /s/ Mitchell Stipp

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An employee of Law Office of Mitchell Stipp