

HOWARD & HOWARD ATTORNEYS PLLC

L. CHRISTOPHER ROSE, ESQ.

Nevada Bar No. 7500

CONNOR J. BODIN, ESQ.

Nevada Bar No. 16205

3800 Howard Hughes Parkway, Suite 1000

Las Vegas, Nevada 89169

Telephone: 702.257.1483

Fax: 702.567.1568

lcr@h2law.com

Electronically Filed
Apr 01 2024 01:30 PM
Elizabeth A. Brown
Clerk of Supreme Court

Attorneys for Appellant Wellness Connection of Nevada, LLC

IN THE SUPREME COURT OF THE STATE OF NEVADA

In Re: D.O.T. Litigation,

WELLNESS CONNECTION OF
NEVADA, LLC,

Appellant,

vs.

CLARK NATURAL MEDICINAL
SOLUTIONS, LLC dba NUVEDA;
NYE NATURAL MEDICINAL
SOLUTIONS, LLC dba NUVEDA;
CLARK NMSD, LLC dba NUVEDA;
INYO FINE CANNABIS
DISPENSARY LLC dba INYO FINE
CANNABIS DISPENSARY; DH
FLAMINGO INC.; SURTERRA
HOLDINGS INC.; TGIG, LLC;
NEVADA HOLISTIC MEDICINE,
LLC; GBS NEVADA PARTNERS,
LLC; FIDELIS HOLDINGS, LLC;
GRAVITAS NEVADA, LLC;
NEVADA PURE, LLC; MEDIFARM,

Supreme Court Case No.: 85314

District Court Case No.:
A-19-787004-B

CONSOLIDATED WITH:

A-18-785818-W
A-18-786357-W
A-19-786962-B
A-19-787035-C
A-19-787540-W
A-19-787726-C
A-19-801416-B

**MOTION FOR COURT TO
TAKE JUDICIAL NOTICE OF
TRIAL TRANSCRIPT**

LLC; MEDIFARM IV LLC; RURAL
REMEDIES LLC; THC NEVADA
LLC; HERBAL CHOICE INC.;
TRYKE COMPANIES SO NV, LLC;
NULEAF INCLINE DISPENSARY,
LLC; GREEN LEAF FARMS
HOLDINGS LLC; GREEN
THERAPEUTICS LLC; NEVCANN
LLC; RED EARTH LLC; LONE
MOUNTAIN PARTNERS, LLC;
INTEGRAL ASSOCIATES, LLC dba
ESSENCE CANNABIS
DISPENSARIES, ESSENCE
TROPICANA, LLC, ESSENCE
HENDERSON, LLC; THE STATE OF
NEVADA DEPARTMENT OF
TAXATION; NEVADA ORGANIC
REMEDIES, LLC; and GREENMART
OF NEVADA NLV LLC,

Respondents.

Appellant Wellness Connection of Nevada, LLC (“Wellness”) hereby moves for an order for the Court to take judicial notice of the trial transcript in the district court proceedings (the “Trial Transcript”). The Trial Transcript is on file with the Court in Nevada Supreme Court Case Number 82014 (the “TGIG Appeal”), which arose from the same district court proceedings. Wellness brings this motion pursuant to NRS 47.130 and 47.150.

The Trial Transcript in the district court proceedings is voluminous because Phase 2 of the trial was a lengthy, one-month trial spanning from July 17, 2020 to

August 18, 2020 (20 judicial days). Phase 1 of the trial included an additional day of argument on September 8, 2020. The Trial Transcript for Phase 1 and Phase 2 were included in the appendices for the TGIG Appeal, spanning from appendix volume 280 through 332. The Trial Transcript consists of thousands of pages and spans 41 volumes of the appendix in the TGIG Appeal. For all the reasons set forth herein, Wellness submits that judicial notice of the Trial Transcript is appropriate in this case rather than the Trial Transcript being reproduced and filed as additional appendix volumes in this appeal.

First, although Wellness refers to the Trial Transcript several times in its Opening Brief, it does so only generally. Wellness does not refer to any specific arguments, testimony, or pages from the Trial Transcript. The reason Wellness refers to the Trial Transcript only generally is to prove what it does *not* contain. More specifically, the Trial Transcript from the month-long Phase 2 trial demonstrates that:

- none of the Plaintiffs made any arguments relating to Wellness, its conduct, or its applications to the State of Nevada Department of Taxation (“DOT”) relating to the disputed 2018 application and licensing process;
- none of the Plaintiffs called any Wellness representatives as witnesses at trial;

- none of the Plaintiffs presented any evidence about Wellness, its applications to the DOT, its conduct, or its license; and
- there was no mention of any wrongdoing on behalf of Wellness during trial, and no mention of any wrongdoing by the DOT in regard to Wellness or its applications.

Because Wellness only cites the Trial Transcript generally for what it does not contain rather than citing to content on specific pages or lines, judicial notice is appropriate.

Second, the Trial Transcript is extremely voluminous, spanning thousands of pages and taking up 41 volumes of the appendix in the TGIG Appeal. Conversely, Wellness' appendix in this case spans only 14 volumes. Given the limited size of Wellness' appendix in this case and the limited purpose for which Wellness cites to the Trial Transcript in its Opening Brief, reproducing the entire Trial Transcript in this appeal does not make judicial or economic sense. It would unnecessarily lengthen and complicate the appendix here. Because the Trial Transcript is already on file in the TGIG Appeal, judicial notice is appropriate rather than the Trial Transcript being completely reproduced again in the appendix in this case.

Third, judicial notice is appropriate under NRS 47.130 because the Trial Transcript is “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned” such that the facts and events in

the Trial Transcript are “not subject to reasonable dispute.” Furthermore, NRS 47.150(2) states that “[a] judge or court shall take judicial notice if requested by a party and supplied with the necessary information.” Because the necessary information is on file with the Court in the TGIG Appeal, judicial notice is appropriate.

Fourth, and finally, no party will be prejudiced by judicial notice. In fact, all parties in this case will benefit by the Court taking judicial notice of the Trial Transcript in the TGIG Appeal by a shorter and more easily navigable appendix in this case. If any party wishes to cite to matters in the Trial Transcript, they may do so.

For all the reasons set forth herein, Wellness respectfully submits that judicial notice is appropriate. The Court should grant Wellness’ Motion and take judicial notice of the Trial Transcript that is on file in the appendix for the TGIG Appeal.

DATED this 1st day of April, 2024.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ L. Christopher Rose

L. CHRISTOPHER ROSE, ESQ.

CONNOR J. BODIN, ESQ.

3800 Howard Hughes Parkway, Suite 1000

Las Vegas, NV 89169

Attorneys for Appellant

Wellness Connection of Nevada, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of April 2024, I caused a true and correct copy of the **MOTION FOR COURT TO TAKE JUDICIAL NOTICE OF TRIAL TRANSCRIPT** to be electronically filed and served with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system.

/s/ Kelly McGee

An employee of Howard & Howard Attorneys PLLC