IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: D.O.T. LITIGATION

CLARK NATURAL MEDICINAL SOLUTIONS LLC; NYE NATURAL MEDICINAL SOLUTIONS LLC; CLARK NMSD, LLC; INYO FINE CANNABIS DISPENSARY LLC; AND RURAL REMEDIES, LLC,

Appellants/Cross-Respondents,

v.

NEVADA ORGANIC REMEDIES LLC; WELLNESS CONNECTION OF NEVADA, LLC; THE STATE OF NEVADA DEPARTMENT OF TAXATION; AND CANNABIS COMPLIANCE BOARD,

Respondents,

and

DEEP ROOTS MEDICAL, LLC
Respondent/Cross-Appellant

Supreme Court Case No. 86151

District Court Case No. A787004

APPELLANTS' APPENDIX: VOLUME 3

CRAIG D. SLATER (SBN 8667)
LUH & ASSOCIATES
8987 W. Flamingo Road, Suite 100
Las Vegas, Nevada 89147
702-367-8899
cslater@luhlaw.com

CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX

CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX

CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX

Electronically Filed
10/4/2022 4:40 PM
Steven D. Grierson
CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

IN RE D.O.T. LITIGATION	CASE NO. A-19-787004-B DEPT NO. XI

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

FRIDAY, SEPTEMBER 16, 2022

TRANSCRIPT OF HEARING RE:

SEE PAGES 4 THROUGH 12 FOR MATTERS

SEE PAGES 2 THROUGH 3 FOR APPEARANCES

RECORDED BY: LARA CORCORAN, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

A P P E A R A N C E S

FOR MM DEVELOPMENT AND LIVFREE WELLNESS:	NATHANAEL R. RULIS, ESQ.
FOR THE ETW PLAINTIFFS:	JAMES A. BECKSTROM, ESQ.
TGIG PLAINTIFFS:	MARK S. DZARNOSKI, ESQ.
FOR QUALCAN:	WHITNEY J. BARRETT, ESQ.
FOR HIGH SIERRA HOLISTICS:	JAMES W. PUZEY, ESQ.
FOR GREEN THERAPEUTICS, GREEN LEAF FARMS HOLDINGS, NevCANN, AND RED EARTH:	NICOLAS R. DONATH, ESQ.
FOR THC NEVADA:	AMY L. SUGDEN, ESQ.
FOR INYO FINE CANNABIS AND THE NUVEDA ENTITIES:	CRAIG D. SLATER, ESQ.
FOR HERBAL CHOICE:	SIGAL CHATTAH, ESQ.
FOR DEPARTMENT OF TAXATION AND CCB:	STEVEN G. SHEVORSKI, ESQ. Chief Litigation Counsel
FOR INTEGRAL ASSOCIATES AND THE ESSENCE ENTITIES:	TODD L. BICE, ESQ. JORDAN T. SMITH, ESQ.
FOR CLEAR RIVER:	J. RUSTY GRAF, ESQ. BRIGID M. HIGGINS, ESQ.
FOR WELLNESS CONNECTION OF NEVADA:	CHRISTOPHER L. ROSE, ESQ.

FOR LONE MOUNTAIN PARTNERS:	JOEL Z. SCHWARZ, ESQ. ERIC D. HONE, ESQ.
FOR CPCM HOLDINGS, CHEYENNE MEDICAL, AND COMMERCE PARK MEDICAL:	JOSEPH A. GUTIERREZ, ESQ.
FOR NATURAL MEDICINE:	STEPHANIE J. SMITH, ESQ.
FOR NEVADA WELLNESS CENTER:	THEODORE PARKER, III, ESQ. JENNIFER A. DELCARMEN, ESQ.
FOR DEEP ROOTS HARVEST:	RICHARD D. WILLIAMSON, ESQ. JONATHAN J. TEW, ESQ.
FOR HELPING HANDS WELLNESS CENTER:	JARED B. KAHN, ESQ.
FOR NEVADA ORGANIC REMEDIES:	DAVID R. KOCH, ESQ.
FOR GREENMART OF NEVADA NLV:	LEO WOLPERT, ESQ.
FOR CIRCLE S FARMS, LLC:	BENJAMIN B. GORDAN, ESQ.
FOR JORGE PUPO:	DANIEL C. TETREAULT, ESQ.

M A T T E R S

High Sierra Holistics, LLC's Motion to Retax and Settle Costs

Motion to Retax and Settle Costs (Clear River, LLC)

Motion to Retax and Settle Costs (Thrive)

Motion to Retax and Settle Costs (Deep Roots Harvest)

Motion to Retax and Settle Costs (Lone Mountain)

Motion to Retax and Settle Costs (Nevada Organic Remedies)

Motion to Retax and Settle Costs (Wellness Connection)

Motion to Retax And Settle Costs Regarding Deep Roots Harvest, Inc.'s Memorandum of Costs

Motion to Retax and Settle Costs Regarding Clear River, LLC's Memorandum of Costs

Motion To Retax And Settle Costs Regarding CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Cheyenne Medical, LLC and Commerce Park Medical, LLC

Plaintiffs Green Leaf Farms Holdings, LLC, Green Therapeutics, LLC, NevCann, LLC and Red Earth, LLC's Joinder to Motions to Retax and Settle Costs

Rural Remedies, LLC's Joinder to Motions to Retax and Settle Costs

THC Nevada, LLC and Herbal Choice, Inc.'s Joinder to Motion to Retax and Settle Costs

Motion to Retax and Deny Costs to Plaintiffs

Clark Natural Medicinal Solutions, LLC, Nye Natural Medicinal Solutions, LLC, Clark NMSD, LLC And Inyo Fine Cannabis Dispensary, LLC's Omnibus Joinder and Supplement to Motions to Retax

Motion to Retax and Settle Costs Regarding Nevada Organic Remedies, LLC

Motion to Retax and Settle Costs Regarding Lone Mountain Partners, LLC

Motion to Retax and Settle Cost Regarding Wellness Connection of Nevada, LLC

Joinder to the Essence Entities' and CPCM Holdings, LLC's Motion to Retax TGIG Plaintiffs' Memorandum of Costs and Disbursements

Lone Mountain Partners, LLC's Motion to Retax TGIG Plaintiffs Memorandum of Costs and Disbursements

The Essence Entities' Motion to Retax TGIG Plaintiffs' Memorandum of Costs and Disbursements

Clear River, LLC's Motion to Retax and Settle Costs (TGIG Plaintiffs)

High Sierra Holistics, LLC's Joinder to Motion to Retax and Settle Costs

Defendants in Intervention CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Cheyenne Medical, LLC and Commerce Park Medical, LLC's Motion to Retax Plaintiff TGIG's Memorandum of Costs and Disbursements

Natural Medicine, LLC's Joinder to High Sierra Holistics, LLC Motions to Retax and Settle Costs Re: Clear River, LLC, Deep Roots Harvest, Inc. and Thrive Entities Filed On August 11,

2022

Clear River, LLC's Joinder to Motions to Retax and Settle Costs Filed by (1) Essence Entities; (2) Thrive Entities (RE: TGIG Plaintiffs)

Department of Taxation's Motion to Retax and Settle Costs

Motion to Retax and Settle Costs - Deep Roots

Motion to Retax and Settle Costs Regarding Nevada Organic Remedies, LLC

Plaintiffs' Motion to Retax and Settle Costs Regarding Lone Mountain Partners, LLC

Plaintiffs' Motion to Retax and Settle Costs Regarding Nevada Organic Remedies, LLC

Joint Limited Motion to Retax and Settle Costs Regarding TGIG, LLC, Nevada Holistic Medicine, LLC, GBS Nevada Partners, Fidelis Holdings, LLC, Gravitas Nevada, Nevada Pure, LLC, Medifarm, LLC, and Medifarm LV, LLC

TGIG Plaintiff's in Case A786962 Motion to Retax and Settle Costs

MM Development Company, Inc. and LivFree Wellness, LLC Motion to Retax and Settle Costs

Joinder to TGIG Plaintiffs' Motion to Retax and Settle Costs and Joinder to MM Development Company, Inc., dba Planet 13 ("MM") and LivFree Wellness, LLC dba the Dispensary ("LivFree")'s Motion to Retax and Settle Costs

Rural Remedies, LLC's Joinder in TGIG Plaintiffs' Motion to Retax and Settle Costs

Plaintiffs Green Leaf Farms Holdings, LLC, Green Therapeutics, LLC, NevCANN, LLC and Red Earth, LLC's Joinder to TGIG Plaintiffs' Motion to Retax and Settle Costs (Re: The Essence Entities' Memorandum of Costs Filed August 5, 2022) and MM Development Company, Inc. dba the Dispensary's ("LivFree") Motion to Retax and Settle Costs

Rural Remedies, LLC's Joinder In Intervening Defendants CPCM Holdings, LLC D/B/A Thrive Cannabis Marketplace, Cheyenne Medical, LLC and Commerce Park Medical, LLC's Motion to Retax Plaintiff TGIG's Memorandum of Costs and Disbursements

Clark Natural Medicinal Solutions, LLC, Nye Natural Medicinal

Solutions, LLC, Clark NMSD, LLC and Inyo Fine Cannabis Dispensary, LLC's Joinder and Supplement to Motions to Retax

Rural Remedies, LLC's Joinder in MM and LivFree Plaintiffs' Motion to Retax and Settle Costs

High Sierra Holistics, LLC's Joinder in TGIG Plaintiffs' Motion to Retax and Settle Costs

High Sierra Holistics, LLC's Joinder and Supplement to MM Development Company, Inc. dba Planet 13 ("MM") and LivFree Wellness, LLC dba the Dispensary ("LivFree"), Qualcan, LLC ("Qualcan") and Natural Medicine, LLC ("Natural Medicine")'s Motion to Retax and Settle Costs

Natural Medicine, LLC's Joinder To TGIG Plaintiffs' Motion To Retax and Settle Costs Re: Essence Entities

Nevada Wellness Center, LLC's Joinder and Supplement to Motion to Retax and Settle Costs

TGIG's Joinder to Motion to Retax and Settle Costs - MM, LivFree, Qualcan, and Natural Medicine Regarding The Essence Entities' Memorandum of Costs filed August 5, 2022

Helping Hands Wellness Center, Inc's Joinder to Motions to Retax Filed by Intervening Parties: 1. CPCM Holdings, LLC dba Thrive Cannabis Marketplace, Cheyenne Medical, LLC and Commerce Park Medical, LLC's 2. Essence Parties 3. Clear River, LLC 4. Deep Roots

Lone Mountain Partners, LLC's Joinder to Motions to Retax and Settle Costs

Wellness Connection of Nevada, LLC's Joinder To Motion To Retax and Deny Costs To Plaintiff

Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs Regarding CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace, Cheyenne Medical, LLC and Commerce Park Medical, LLC

Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs Regarding Lone Mountain Partners, LLC

Deep Roots Harvest, Inc.'s Joinder to Motions to Retax TGIG Plaintiffs' Memorandum of Costs and Disbursements

Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs Regarding Wellness Connection of

Nevada, LLC

Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs Regarding Deep Roots Harvest, Inc.'s Memorandum of Costs

Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs Regarding Clear River, LLC's Memorandum of Costs

ETW Management Group, LLC's Joinder to Settling Plaintiffs' Motion to Retax and Settle Costs regarding Nevada Organic Remedies, LLC

Plaintiffs Green Leaf Farms Holdings, LLC, Green Therapeutics, LLC, NevCANN, LLC, and Red Earth, LLC's Joinder to Motions to Retax and Settle Costs

THC Nevada, LLC and Herbal Choice, Inc.'s Joinder to Motions to Retax and Settle Costs

Deep Roots Harvest, Inc.'s Joinder to Essence Entities Omnibus Opposition to TGIG's Motion to Retax and Settle Cost, MM Motion to Retax, and All Related Joinders and Supplements Thereto

Defendant Jorge Pupo's Joinder to Department of Taxation's Motion to Retax and Settle Costs

Greenmart of Nevada NLV, LLC s Joinder to Motions to Retax and Settle Costs

Wellness Connection of Nevada, LLC's Joinder to Deep Roots Harvest, Inc.'s Reply in Support of Motion to Retax and Deny Costs to Plaintiff

Circle S Farms, LLC's Joinder to Motion to Retax and Settle Costs

LAS VEGAS, CLARK COUNTY, NEVADA, SEPTEMBER 16, 2022, 9:11 A.M.

*** * * * ***

THE COURT: Okay. We're on Case 787004, In Re: D.O.T. Litigation, and it's, well, lots and lots of pages, 1 through 28 for today.

So what I ask is counsel, counsel both remotely and we have counsel here in court, so I'm just going to ask starting with the left gallery, could we just do one by one just do your appearances on behalf of your clients. We'll do in court first, and then we will do the order the parties checked in remotely.

So go ahead. Who's starting first here in court? Whoever, but we do need you near a microphone so we can make sure we get you a nice clear record. We do appreciate it. Thank you.

MS. HIGGINS: Good morning, Your Honor. Brigid Higgins on behalf of Clear River, LLC.

THE COURT: Okay. And there's someone on remote who is typing who haven't muted theirselves. Please make sure you mute yourself because we've got -- that goes right into my poor court recorder's ears.

Go ahead, Counsel, please.

MR. RULIS: Good morning, Your Honor. Nate Rulis on behalf of plaintiffs MM Development and LivFree Wellness.

THE COURT: Okay. Next, please.

MR. BECKSTROM: Good morning, Your Honor. James Beckstrom on behalf of ETW Management Group, Global Harmony, Libra River Center (as said), Rombough Real Estate and Zion Gardens. They're collectively referred to ETW plaintiffs.

THE COURT: Okay. Let's go to the other side. Thank you so much.

MR. J. SMITH: Good morning, Your Honor. Jordan Smith on behalf of Integral Associates and the Essence entities.

MR. BICE: Good morning, Your Honor. Todd Bice on behalf of Integral Associates and the two Essence entities. Thank you.

MR. GRAF: Good morning, Your Honor. Rusty Graf, also on behalf of Clear River, LLC.

MR. ROSE: Good morning, Your Honor. Christopher Rose, 7500, for Wellness Connection of Nevada.

THE COURT: Thank you.

MR. SCHWARZ: Good morning, Your Honor. Joel Schwarz on behalf of defendant Lone Mountain Partners.

MR. HONE: Your Honor, Eric Hone, also on behalf of defendant Lone Mountain Partners.

MR. GUTIERREZ: Good morning, Your Honor. Joseph Gutierrez on behalf of defendant CPCM Holdings, LLC, which is Thrive Cannabis Marketplace; Cheyenne Medical, LLC; and Commerce Park Medical, LLC.

THE COURT: Okay. Have we taken care of everyone here in court?

(No audible response.)

THE COURT: Okay. So we've got now our boxes. I'm going to start -- you all have the same order of boxes that I do. So we're just going to start with the top row and just go across, and then we'll go to the second row, then the third row, then the fourth row. Seems to me it makes the most sense. So assuming you all have the same boxes, let's try this out and see if that works.

Go ahead, Counsel. Ms. Smith, that would make you first; right? Because you have the left-hand box.

MS. S. SMITH: Apologies, Your Honor. I couldn't tell exactly where I was in line. Stephanie Smith on behalf of Natural Medicine.

THE COURT: Oh, you know what, you all may not have this in the same order that I do, right.

Well, then, Ms. DelCarmen, go ahead. Let's try it this way.

MS. DelCARMEN: Jennifer DelCarmen, Bar Number 1277 on behalf of Nevada Wellness Center.

THE COURT: Okay. The reason why you see me squint is I'm trying to --

THE COURT RECORDER: Sorry. Just one second.

Mr. Bice, you guys are right over our mic. If you

could just push that last one.

MR. BICE: Oh, I apologize, Your Honor.

THE COURT RECORDER: It's okay.

THE COURT: Pardon?

MR. BICE: I did not mean --

THE COURT RECORDER: They were over a mic. So I couldn't hear.

THE COURT: It's okay. No worries. Sorry. You see now I'm focusing on this, and so I didn't see that.

Sorry. Ms. DelCarmen, it seems like we need your name again, please.

MS. DelCARMEN: Jennifer DelCarmen, Bar Number 12727 on behalf of Nevada Wellness Center.

THE COURT: Okay. Mr. Tew. It looks like you're next. Is it T-e-w? It's hard to read.

MR. TEW: Oh, yes, Your Honor. This is Jonathan Tew on behalf of Deep Roots Harvest. And I also have Richard Williamson, who's primary counsel on the case. He's a little bit lower down on the boxes.

THE COURT: Okay. Do you all have it the same way, boxes? So you've got five on the top, five on the second row, four and four, if we don't, okay. Then I'm just -- so.

UNIDENTIFIED SPEAKER: No, Your Honor.

THE COURT: No. Okay. It depends on how you've done your screens. Okay. So let's go next to it says --

UNIDENTIFIED SPEAKER: Whitney Barrett.

THE COURT: Whitney Barrett. Sorry. It's just really, really hard to read these.

Go ahead, please.

MS. BARRETT: Good morning, Your Honor. Whitney Barrett, Bar Number 13662, on behalf of Qualcan.

THE COURT: Thank you. Next it says Holley Driggs, the face at the end of the conference table. So, Counsel.

MR. PUZEY: Yes, Your Honor. Jim Puzey, Bar Number 5745, representing High Sierra Holistics.

THE COURT: Thank you.

It looks like it's Mr. Donath's next.

MR. DONATH: Good morning, Your Honor. Nick Donath, 13106 for Green Leaf Farms Holdings, Green Therapeutics, NevCANN, and Red Earth, all LLCs. Thank you.

THE COURT: Thank you.

And, Mr. Slater.

MR. SLATER: Good morning, Your Honor --

MS. SUGDEN: Good morning, Your Honor. Amy Sugden on behalf of THC Nevada.

THE COURT: Thank you.

Now Mr. Slater.

MR. SLATER: I thought I misheard you. Good morning, Your Honor. Craig Slater for Inyo Fine Cannabis and the NuVeda entities. Thank you.

THE COURT: Okay. Is that Kahn -- I think it's Mr. Kahn. Sorry. These really --

THE COURT RECORDER: Yeah. It's when they get so many of them. It gets smaller.

THE COURT: Go ahead. Mr. Kahn, go ahead, please.

MR. KAHN: Good morning, Your Honor. Jared Kahn on behalf of Helping Hands Wellness Center.

THE COURT: Thank you.

Mr. Shevorski, AG, go ahead, or --

MR. SHEVORSKI: I think it's Mr. Koch, Your Honor, but I'm happy to appear. Steve Shevorski of the Attorney General's Office on behalf of the Cannabis Compliance Board and the Department of Taxation.

THE COURT: Thanks. So I show Mr. Koch is in my next row. So --

MR. SHEVORSKI: Oh, okay. I apologize, Your Honor.

THE COURT: No worries.

MR. KOCH: David Koch for Nevada Organic Remedies. I think, Your Honor, that the -- you don't see yourself on the row the way BlueJeans works. So nobody knows where they are on the row, and that's the problem.

THE COURT: No worries. I was trying to make it a quicker way because well, best laid plans.

Okay. Dzarnoski, please.

MR. DZARNOWSKI: This is Mark Dzarnoski behalf of the

TGIG plaintiffs. They are TGIG, LLC; Nevada Holistic Medicine, LLC; GBS Nevada Partners; Fidelis Holdings, LLC; Gravitas Nevada; Nevada Pure, LLC; MediFarm, LLC; and MediFarm IV, LLC. And my bar number is 3398. Good morning to the Court and counsel.

THE COURT: Appreciate it.

Okay. Mr. Parker.

MR. PARKER: Good morning, Your Honor. Theodore Parker on behalf of (video interference).

THE COURT: You cut out, Mr. Parker. We heard on behalf of, and then it cut out.

MR. PARKER: I'm sorry, Your Honor. Again, Theodore Parker on behalf of Nevada Wellness Center.

THE COURT: Appreciate it. Thank you.

There's a phone number, which I'm not sure it's --

THE COURT RECORDER: It's Ms. Chattah.

THE COURT: Okay. Sorry. There was a phone number. Who is the phone number?

THE COURT RECORDER: It's Ms. Chattah, but I --

THE COURT: Sorry. Do we have somebody who was on the phone number, please?

MS. CHATTAH: Bar Number 8264, on behalf of (video interference).

THE COURT: Okay. Counsel.

MS. CHATTAH: Yes, Your Honor.

THE COURT: Would you mind repeating that because I think you had yourself on mute at the beginning of it. So we started to hear the beginning of your client, but not your full name, please. Would you mind starting over.

MS. CHATTAH: Sigal Chattah, Bar Number 8264, on behalf of Herbal Choice.

THE COURT: Appreciate it. Thank you.

Okay. Mr. Wolpert.

MR. WOLPERT: Yes. Good morning, Your Honor. Leo Wolpert, Number 12658, on behalf of GreenMart of Nevada NLV, LLC.

THE COURT: Mr. Gordon, please.

MR. GORDON: Thank you, Your Honor. Benjamin Gordon, Bar Number 15552, on behalf of defendant Circle S Farms, LLC.

THE COURT: Okay. The next one is partly not being able to see it. Daniel something. I'm sorry. It's coming across so small the letters are merging together.

MR. TETREAULT: Good morning, Your Honor. Dan Tetreault. Daniel Tetreault, Bar Number 11473, on behalf of Jorge Pupo.

THE COURT: Thank you.

Williamson, please.

MR. WILLIAMSON: Good morning, Your Honor. Richard Williamson on behalf of defendant Deep Roots Harvest, Inc.

THE COURT: Okay. Have we now taken care of

everybody? Did anyone else come in, either -- I don't see it in court but anyone remotely? Anybody else need to make an appearance?

Of course, it's a public courtroom. People are more than welcome to observe, but I want to make sure we've got all of your appearance is taken care of.

Okay. So you can probably appreciate the Court's first question is going to be -- well, I've got two questions, right. It's either A, in what order; or B, is there any of these, based on things that have happened between the filing and today that the Court is not going to be addressing today? Because we did see that there was some potential practice aspects. So if that impacts a particular motion just for it not being heard today.

If it's an argument base, we'll wait till we get to your motion. We'll deal with it from an argument base.

But if it's a it's no longer on for today, anybody?

Counsel, I think you were about to speak. Go ahead, please.

MR. RULIS: Yeah. Your Honor, Nate Rulis on behalf of MM and LivFree.

I think the only -- I think what you're referring to potentially is there were two notices of appeal that were filed in the intervening time when the motions to retax costs got filed, and then today. I don't believe that anybody has agreed

that any of the motions are not going forward. There may be a question. Personally, you know, on behalf of my clients, we have a question about possibly Wellness Connection's motion going forward because they are one of the two that filed a notice of appeal, but that has not been addressed between counsel.

THE COURT: Okay. I was -- thank you. I appreciate it.

So if there's not an agreement, then I'm just going to do it in order, but if we had agreements, I was really going to make your lives quicker and get you taken care of first. Okay.

So then the second way I'll phrase this is, is there any agreement among the parties as to --

Pardon?

(Courtroom interference.)

THE COURT: Well, it happens at least once a day; right?

Okay. So is there any agreement among the parties as to which one should go first?

MR. BICE: We haven't -- apologies, Your Honor.

THE COURT: You haven't -- okay.

MR. BICE: We haven't discussed that.

THE COURT: Okay. Well, then here's the way I'm going to do it.

MR. BICE: Okay.

THE COURT: I'm going to do it the way the clerk's office has done the motions, okay. Because at least that gives some clarity. That way my wonderful clerk and court recorder know which order we're going in. Okay.

So that means, based on the clerk's, the way they've done these, that means I have High Sierra Holistics, LLC's motion to retax and settle costs coming up first.

And just so that we're clear what -- we are going to have to limit people, like, five minutes each, otherwise, I will be seeing you over the weekend, and I can't see you over the weekend because they don't allow me to keep courtrooms open and everything over the weekend, and you might have plans, right.

Okay. So that means five minutes each if you need it. And then we can get through as much as we can on these. And if there's any joinder on your particular motion, what I'm going to just ask is I'm going to ask the parties to make their appearance and then a joinder party after I have -- you know, just set forth your joinder, I think is going to be the cleanest, clearest way to do this.

Go ahead.

MR. RULIS: Your Honor, if I might, could we have maybe just one or two minutes to talk. That way we might be able to agree. We just haven't talked about it. We might be

able to agree on a way to handle these that I think hopefully could short-circuit rather than having to go through each and every motion to retax --

THE COURT: Sure. Would you like --

MR. RULIS: -- I think we can maybe handle it on the cost.

THE COURT: Okay. Well, let me ask it this way. Does anyone disagree with counsel, Mr. Rulis's suggestion that we go off the record for a few moments to see if the parties want to get to a resolution? Does anybody want me to stay on the record and just start going forward on cases? If so, speak now.

MR. ROSE: No opposition to discussing it, Your Honor, but we can come back and see how we would proceed.

THE COURT: And that's Mr. Rose. Okay.

MR. BICE: It'll literally take us one minute.

THE COURT RECORDER: Just one second. (Indiscernible) attorneys.

MR. BICE: It'll just take us one minute.

THE COURT: Before I get a whole bunch of people starting to talk, I'm not hearing -- does anyone object to it? That's what I need right now. Anybody who objects, speak, please.

Okay. Nobody is saying that they object. I gave people a moment to unmute themselves in case that was a

situation.

We're going to go off the record. Tell us when you want to come back on. But remember, the people remotely can't hear what you're saying here in court. So go ahead.

(Proceedings recessed at 9:25 a.m., until 9:26 a.m.)

THE COURT: All right. Go ahead, Counsel.

MR. RULIS: Your Honor, we've -- Nate Rulis on behalf of MM and LivFree.

We've had a discussion here in court. And what we would propose doing on how to handle these is take them essentially by the party that filed the memo of costs. That way I think we can narrow it down to we essentially have seven or eight then specific topics.

So, for example, I believe Essence was the first. The Integral Associates, slash, Essence entities was the first entity to file their memo of costs. We could handle the motions related to Essence's costs first, then go to the next entity, which I believe was Clear River, and do it on an entity basis.

We'd do defendants' memo of costs first. And then at the end we could have Plaintiffs' memo of costs, which I think is only the TGIG parties that filed their memo of costs. And that's our proposal.

THE COURT: Okay. Anyone objecting to that proposal?

(No audible response.)

THE COURT: No. Okay.

So then what we need to do so we end up having clarity, here's the way I guess we're going to need to do it since it's a little different than kind of the way I've organized things; is parties that are going to do theirs, state your name, state the motion, right, the party the motion is on behalf of, just so that -- we're just trying to get you a nice clear record, you know what I mean, so you just don't get a jumble of who's talking on what. Okay.

So that means counsel and defendant movant on the memo of costs, who's going first? Please state your -- because these are done by motions rather than retax (indiscernible).

MR. BICE: Correct. So, Your Honor, I'll start, and I'll see if I can provide us some context in how we want to go about addressing this because it is a bit complicated in terms of just the overall number of parties.

So again, for the record --

THE COURT: And my court recorder -- thank you. I think you forgot to say your name. Go ahead.

MR. BICE: For the record, Todd Bice on behalf Integral Associates and Essence Henderson and Essence Tropicana.

So we filed our first memorandum of costs. Then the TGIG plaintiffs filed a motion to retax that. And then there were a series of joinders to the TGIG motion to retax. Then

TGIG, the Essence parties filed, I believe, the opening opposition to the plaintiff's motion to retax costs. And so I think the easiest way to sort of address this up front as opposed to getting into each individual sort of cost memorandum, the overall dispute, I believe, on all of these is the central issue of who was the prevailing party on this.

And on that issue, Your Honor, so we have, I would ask the Court to look at it from this perspective as do you really kind of have three buckets of litigants. You have the plaintiffs who did not settle with anybody, the defendants that did not settle with anybody, and then the settling parties.

So in this particular case, Your Honor, there really -- I would submit that what's going on here in part by the plaintiffs is you have inherited this case. We are actually about, it's almost to the day, two years after the trial in this matter. And so unfortunately, that's a little unfair to you, Her Honor, because you've inherited a case that you didn't actually try.

And so unfortunately, there's an effort here to kind of rewrite what the trial was about, and there's an effort to kind of rewrite what the claims were and then tell the Court that, oh, this was much ado about nothing. This was a month long trial that was an effort by the plaintiffs to upend the entire regulatory structure and an entire licensing process and to strip my clients and all the other defendants of their

licenses. That was made clear at the trial. That was what the trial was about. That's why we had a month long trial in the convention center of all places; it was in the middle of COVID. So that's what happened in this case.

Now, during the trial, some of the plaintiffs settled with some of the defendants, including the State. And they made an agreement, a private agreement amongst themselves, and I think -- I'll leave that mostly to Mr. Rulis to address because I think his team kind of led that effort.

So, but there were certain plaintiffs who didn't settle with anybody, and that would be the TGIG parties principally.

Then there were a group of defendants that didn't settle with anybody, and that would include the Essence entities, Clear River, and I apologize, I won't remember who they all are. So I don't want to speak for them.

So with respect to -- let me deal with my group, Your Honor.

On my group, which is the group that settled with no one --

THE COURT: And just so that we have clarity, you filed your memorandum of costs on 8/5/2022, at 5:27 p.m.

MR. BICE: Yes, Your Honor.

THE COURT: Okay.

MR. BICE: That's right.

THE COURT: Okay. Just so -- and I'm just going to give you a doc number so that we can assist everyone who's going to have to look back at these. And just bear with me. So, okay. Document 2863. There we go. Thank you.

MR. BICE: Yes.

THE COURT: Go ahead.

MR. BICE: So with respect to the defendants that did not settle, Your Honor, to suggest that those defendants who did not settle are not the prevailing parties in this I think is -- I mean, it just doesn't even pass, you know, the seriousness test.

They sued to invalidate our licenses, to take our licenses away from us and to try and reorient them to themselves. I mean, they brought in experts to talk about market share. That was the entire plaintiffs' theory of the case was the process should be blown up and redone, and all the licenses that had been issued, including the licenses to my client, which had actually received the highest number of licenses should be stripped away from them and either given to the plaintiffs or redone, the entire process.

We prevailed on every issue. We did not lose a license. We did not lose any claims against our clients, and we didn't settle and give up our rights. So that's with respect to the Essence entities, and I know the other parties will talk about that because several of them are in the same

boat as my clients are and the Essence parties.

So under any definition of prevailing party, Your Honor, the Essence parties prevailed against all the plaintiffs, and that includes the settling plaintiffs because the settling plaintiffs didn't settle with my client. They settled with some defendants, and they -- amongst that group, they made an agreement amongst themselves that they would each pay their own fees and costs, which they were obviously entitled to do, and that's very reasonable for them to do that amongst themselves.

THE COURT: And there was no motions for good faith settlement that this Court could find in the 3,000 plus entries in this case. Did I miss one?

MR. BICE: I don't believe so, but I'll let Mr. Rulis handle that.

THE COURT: Okay. And with relationship to your client. I'm just saying with regards to your clients. So there's nothing that -- okay. Okay.

MR. BICE: No. No. There was nothing relating to my client. My client proceeded all the way through trial, and I'll let others speak to the fact, but the Essence parties were very active and next to the Thrive parties might have been one of the more active, and I shouldn't say just the Thrive parties. I mean, Mr.-- the Clear River parties were also very active in the defense, but the point being, Your Honor, is we

expended tremendous amount of resources defending our licenses, preserving our licenses, and we did preserve them, and all of our licenses are intact and operating today.

So it can't be seriously argued that the Essence parties, with respect to all the plaintiffs are not the prevailing party because they are -- they prevail on every issue.

And you can't also -- some of the plaintiffs have tried to argue that, well, you know, the Essence parties were brought into this action at essentially their request. Well, that's also not really accurate.

What was happening was Judge Gonzalez ordered them to join all the successful applicants because you were trying to strip our licenses away from us. You can't litigate the validity of our licenses without us being parties to the case. So they were ordered to join us as necessary and indispensable parties because the relief they were seeking was to strip away our licenses.

And so that's why we remained in this action. And we prevailed in this action.

And then the last point I would like to make just on this issue, Your Honor, is I know Mr. Parker's client, Nevada Wellness, and he raised in this in his replies, he claimed that Judge Gonzalez already ruled that we weren't prevailing parties and he -- and he bases that on a minute order that he's

mischaracterizing. And, in fact, we have the order.

Can I have my order back.

And we didn't -- we weren't able to include this in our -- because this was raised for the first time in the reply brief by Nevada Wellness. They make the claim that Judge Gonzalez said that the Wellness connection --

THE COURT: Can you give me the date of the minute order just so we're all clear on which one you're referencing. Thank you.

MR. RULIS: Oh, yes, Your Honor. The dates of --

THE COURT: It should be on the minutes, right. It should be on the top if you're reading from the minute order.

MR. BICE: The date of that minute order --

No. She's talking about the minute order that Mr. Parker is relying on.

(Pause in the proceedings.)

MR. RULIS: Todd, if I can try and help you?

MR. BICE: Yes.

MR. RULIS: I believe it's November 20th of 2020, Your Honor.

UNIDENTIFIED SPEAKER: That's right.

MR. BICE: Yes. And I had it here, and I have somehow lost it.

THE COURT: No worries.

MR. BICE: But that minute order, Your Honor, is

actually about a motion for attorneys' fees that Wellness Connection brought. That Judge Gonzalez ruled then that that -- because the claim wasn't frivolous or was -- Nevada Wellness had argued that the claim was brought without a reasonable basis. And so it sought attorneys' fees in the statute.

And Judge Gonzalez said it wasn't -- denied that request saying it wasn't frivolous, and therefore you're not a prevailing party under the statutes for recovery of attorneys' fees.

But interestingly, Nevada well -- or Wellness Connections also brought a cost memorandum. They brought these way early, when Judge Gonzalez was still handling the case. And Judge Gonzalez denied that motion without prejudice because it was premature, and that order was entered by Judge Gonzalez on August 30, 2021, at 9:40 a.m., if I could approach, Your Honor, I'd hand you a copy of the order.

THE COURT: Okay. And this is part of the record?

And, Marshal --

MR. BICE: Oh, apologies.

THE COURT: I appreciate it. Thank you so much.

MR. BICE: So the point being, it has been suggested in their reply briefs that Judge Gonzalez already ruled that none of the defendants were prevailing parties for purposes of recovering their costs, and that's just not true. In fact,

Wellness Connection brought that -- their cost memorandum, and she ruled it was premature because the case wasn't over with. And that's why we are all bringing these -- the costs now because, as the Court will recall, you entered a 54(b) certification so as to clean up the jurisdictional mess that is up at the Supreme Court right now.

And so once Your Honor did that, the deadline to file cost memorandums were triggered, which is why we've all filed them now. So they are one, timely. And two, Judge Gonzalez did not rule that we were not the prevailing parties. In fact, she specifically ruled that Wellness Connection's motion or effort to tax costs was premature.

So with that, Your Honor, it's pretty simple with respect to the Essence parties.

THE COURT: I'm going to keep it for a second, but --

MR. BICE: It prevailed on all claims brought in the case. That's the end of the analysis. It didn't settle. So it's entitled to all of its costs against all of the plaintiffs. And Judge Gonzalez said that all of the plaintiffs, even those that settled, were still bound by the end judgment as to the parties that didn't settle, which includes my clients.

And then so under that -- under Nevada law, Essence is the prevailing party. It's entitled under Wright to recover its costs.

And while there has been a few little arguments they've made against our costs, for the most part, these are all depo transcripts that we incurred in the case, and, yes, we all videoed these depositions because many of the witnesses, particularly, the irony here, TGIG arguing that videos shouldn't -- somehow the cost of videos shouldn't be recoverable on our behalf. That's odd because one of the reasons that we took these videos is a lot of these litigants refused to show up at trial.

And I know Your Honor wasn't there, but we spent a lot of time kind of making a little fun of the TGIG parties over their client, their principal client's failure to show up at trial. After making all this noise and attacking all of his competitors, he refused to show up at trial. So we were forced to use videos, and we were forced to do that with respect to a number of the parties. So those were reasonably incurred, Your Honor.

And with that, I'll leave it to, I believe --

THE COURT: Okay. I am going to have a -- I'm going to have one question.

MR. BICE: Yes, Your Honor.

THE COURT: Raised in the op, a distinction between you're seeking costs pursuant to what they refer to as the declaratory relief versus they are calling it a PJR and so saying not fall within the category of where you can get costs

under the statute.

MR. BICE: Yes. So, Your Honor, with respect to the declaratory relief, that's where these costs -- I mean, that again was all the deposition transcripts. That was the month-long trial. That's the -- that is where the parties reached their settlement, was in the middle of that trial.

You know, we refused that. We kept our licenses. So we prevailed on that, and that was the effort to strip all of the licenses out. We quoted Your Honor in our opposition that the extensive argument that TGIG made at the close of trial accusing specifically my client of corrupting the process, and meaning that the entire process needed to be invalidated and undone, that was what their effort was.

This issue about this 5 percent rule, I'll wait -- unless you want me to address it now, I'll address it in response to Mr. Dzarnoski's position, but that is the most pyrrhic of victories. It actually is a rule that they took advantage of and benefited them until they wanted to try and blow the process up.

THE COURT: Okay. Okay. So are we doing it so that I'm hearing each party's, and then a response by the TGIG plaintiffs and their joinders? Is that the way you all want it versus it being --

MR. RULIS: Your Honor, so if I might, Nate Rulis for MM and LivFree.

THE COURT: Sure.

MR. RULIS: Just to clarify, yes, I think we want to handle it by party. So the thought was we'll handle Essence first.

THE COURT: Okay. I just saw you walking up to the podium.

MR. RULIS: Yeah.

THE COURT: That's why I was wondering.

MR. RULIS: Yeah.

MR. BICE: Okay. That's fine.

MR. RULIS: Yeah, and that's -- I want to clarify. Let me get to the podium.

THE COURT: Okay.

MR. RULIS: So, Your Honor, Nate Rulis again on behalf of MM and LivFree.

I also will note that we did file, and when I say "we," I'm going to refer, as Mr. Bice did, to the parties as the settling parties, which MM and LivFree are part of. That includes Natural Medicine, Qualcan and Nevada Wellness Center, and we together filed a -- and excuse me. I believe as part of the reply was the ETW plaintiffs.

We filed our own separate motion to retax on all of these. So I know Mr. Bice had first said that it was just TGIG that filed the motion to retax. That's not quite correct. We have a separate one. So I just want to clarify that.

THE COURT: Okay.

MR. RULIS: And so --

THE COURT: And your date of filing your motion to retax?

MR. RULIS: Yeah.

THE COURT: I'm just trying to keep these all so you all have a clear record --

MR. RULIS: I can tell you exactly. We filed our motion to retax on August 8th at 5:15 p.m. Your Honor.

THE COURT: You're one of the whole slew of August 8ths.

MR. RULIS: Yes.

THE COURT: Okay. Go ahead, please.

MR. RULIS: So I'm going to address this, as Mr. Bice alluded to, on behalf of the settling plaintiffs, and that's -- I do believe that that is -- there's an important distinction there, and that is because when we talk about prevailing party, we talk about did the parties obtain the relief they were seeking as part of their claims, and that's cited to in Essence's opposition to our motion -- well, the omnibus opposition that they filed.

But the reality is were the settling plaintiffs able to obtain the relief they were seeking. And I know Mr. Bice said that the overall goal was to blow up the process. I think he was generally talking more about the TGIG nonsettling

plaintiffs.

We came to and filed these claims in an attempt to obtain licenses that our clients believed they should have gotten. And so when we talk about what was the end result, when we're talking about the settling plaintiffs, we're talking about parties that through their settlement did, in fact, obtain licenses through this litigation.

THE COURT: And that's where I'm going to need --

MR. RULIS: Sure.

THE COURT: -- not having the benefit of some of the history, I am going to need ask a question here.

With regards to obtaining licenses, a distinction between new, slash, additional licenses versus that were already issued versus taking away someone's license or transferring it or however you'd like to phrase it, somebody who had an existing license and giving it to somebody else. Can you just make that distinction in your argument.

MR. RULIS: Absolutely.

THE COURT: Thank you.

MR. RULIS: So let me give you a little bit of background, just context for how the licenses got moved. So this whole litigation arose out of the application process. The application process was submit your applications, and the State was handing out, and I'm sure I'll get corrected from --

THE COURT: I'm familiar.

MR. RULIS: -- approximately 80 licenses across the State. There was that -- and that was a fixed number. So those got handed out. This litigation ensued because people didn't believe that the process was correct, or they believed that they had scoring problems. There were scoring issues, that if they had been done correctly, would have entitled them to licenses, for example, the arguments my clients MM did. So that's the context.

We went through this litigation as part of the settlement. There were parties that obtained licenses in the application process that agreed to transfer some of those licenses to the settling plaintiffs. Those are the licenses that we obtained. So it was essentially we're going to transfer to you a number of some of the licenses that the settling defendants had obtained in the application process.

THE COURT: That doesn't apply to the Essence entities; correct?

MR. RULIS: Correct.

THE COURT: They're not that grouping.

MR. RULIS: They did not transfer licenses. That's correct.

THE COURT: Okay. Go ahead.

MR. RULIS: But when Mr. Bice -- so let me address that one because Mr. Bice stood up here and said that they prevailed on every single subject that they litigated in this

case, and that is not correct.

And I want to point Your Honor to there were -- he alluded to the 5 percent. There was a motion for summary judgment that was filed, I believe initially by Nevada Wellness Center; that would be Mr. Parker's client, one of the settling plaintiffs. That was granted. That's a summary judgment motion that was granted then incorporated into the Judge's final findings of fact and conclusions of law at the end of trial.

Now, there was also a separate summary judgment that my clients filed, that we filed on behalf of MM and LivFree, and it was specific to the claims that we had asserted in this action, which was that my clients, MM and LivFree, there were scoring errors and that we had been denied an appeal before the department of -- excuse me, the Department of Taxation, which at the time was the overseeing.

I mean, that motion was also granted, and that was Judge Gonzalez -- and by the way, that was over an opposition that was filed by the Essence entities, by the other entities, the nonsettling defendants that are here asking for fees and costs. It's not just Essence.

And I can point Your Honor to the findings of fact and conclusions of law granting in part our motion for summary judgment was entered in this case on July 11th, 2020, at 3:29 a.m., and the Essence entities' opposition --

Now, I'm going to get a little complicated here, Your Honor, because our motion for summary judgment was initially filed in the prior case before it got consolidated. So we had filed a separate action that was A-18-785818-W. The Essence entities opposed, specifically opposed our motion for summary judgment on September 27th, 2019, at 2:20 p.m. And then, because of the various procedural hoops that we went through and consolidations, that didn't get heard until much later.

But needless to say, we did obtain summary judgment on our request to have our appeal heard by the Department of Taxation. And but for the settlement that we then later entered into, that didn't go forward because we didn't need it anymore because we obtained licenses.

And so that's the other thing, is the nonsettling defendants want to say that this essentially that they prevailed on everything; this happened in a vacuum. But the reality is they certainly benefited from and attained a benefit from the fact that we settled. And we didn't have to go forward with a appeal before the Department of Taxation and whatever that might have evolved. Because we had specifically alleged scoring errors and whether or not those would have -- I mean, that's -- so when we go back to, and what I want to get back to is for the settling plaintiffs, when we're talking about, did they obtain relief that they were seeking as part of this litigation; they certainly did by obtaining licenses that

they were trying to get.

And so when you're doing a prevailing party analysis, it was never -- the settling plaintiffs' specific claims were not take away Essence's licenses. It was, we believe that we were entitled to licenses.

THE COURT: But was it reallocating -- that's where I was trying to get to. Was it reallocating licenses or expanding the number of licenses or a combination of both depending on which party and which part of the litigation?

MR. RULIS: It was --

THE COURT: Is your assertion. I'm just, you know, going to get the parties' assertions.

MR. RULIS: It was that the scoring had been done incorrectly and needed to be redone, which would result in a -- summary allocation of the licenses. It wasn't as if we said Essence is going to end up with three, and there were no specific claims on who was going to have what licenses but rather that the process had been done incorrectly, and had it been done correctly, there would have been a different outcome as far as who obtained licenses.

So as far as that goes, you know, we talk about what was the outcome. It was, for the settling plaintiffs, we had obtained a preliminary injunction. We had obtained at least partial summary judgment on two separate issues. And then as a result of our settlement, our clients obtained licenses, which

was the point of the litigation. And so as far as the settling plaintiffs go, they certainly prevailed on the issues that they were litigating in this case.

THE COURT: So the Court is going to have one more question for a point of clarification.

MR. RULIS: Yes.

THE COURT: Understanding you're asserting that you prevailed with regards to your clients for the relief that you got because you ultimately receive licenses.

MR. RULIS: Yes.

THE COURT: But your opposition to Essence's is that basically as a settling plaintiff party, since you got the relief you wanted, they should -- they are not a prevailing party because vis-a-vis you?

MR. RULIS: Not -- not -- and so right. That's the -- I appreciate Mr. Bice trying to separate the parties into buckets.

THE COURT: Right.

MR. RULIS: By again, they are not a prevailing party against the settling plaintiffs. And that's, again, I get back to they have -- whether they want to acknowledge it or not, they certainly received a benefit of the settlement of the plaintiffs, and that's where I go back to summary judgment was ordered in our favor, which no longer was necessary --

THE COURT: In part.

MR. RULIS: In part, but was no longer necessary because we had obtained licenses.

THE COURT: Okay. I appreciate it. So who's going next on this one?

MR. PARKER: Your Honor, this is Teddy Parker. I don't know if you can hear me very well.

THE COURT: I can hear you, Mr. Parker. Go ahead, please.

MR. PARKER: Again, just good morning, Your Honor.

I wanted to add. We've joined in MM's motion, but I wanted to add to a few comments made by Mr. Rulis. I would ask the Court to start the consideration of our moving to retax based on the point raised by Judge Gonzalez, and this is more -- I believe this touches upon what Mr. Bice said earlier, but the Court indicated that we were simply added these defendants as a part of the motion practice and that Essence nor any of the other nonsettling defendants, they had no obligation to participate in the process.

We never asked them to participate. We named them only because the rule required it. They didn't have to participate in the process.

We brought our claim originally against the Department of Taxation, and then eventually we named all of the defendants as a matter of course. In fact, Clear River indicated that if we had not joined all of the defendants

that -- procedurally they did not go forward.

So I wanted the Court to consider that.

And I also wanted the Court to consider that none of the defendants fit within the categories under 18.020. And I didn't hear Mr. Bice or, from my review of any of the (indiscernible) defendants' briefs to indicate where they fall in in one of the categories under NRS 18.020.

Now, Nevada Wellness Center was a settling plaintiff. So we settled with MM and LivFree and ETW plaintiffs along with Qualcan as well, Your Honor.

And also, as Mr.-- as Mr. Rulis pointed out, we filed the motion indicating that a 5 percent rule had been violated -- was a violation, I'm sorry, of the statutes and of the parameters for handing out licenses. And we won that motion for summary judgment. Several of the other plaintiffs joined in it, but we filed the motion, and we won the motion, and it was opposed by all of the defendants.

And at the preliminary injunction hearing, we had findings of fact and conclusions of law that confirmed that the 5 percent rule was a deviation from the law.

And following the Phase 1 trial -- or Phase 2 trial, I'm sorry, the Court's final determination was that the 5 percent rule was a violation of law. So we prevailed on that issue, and I understand and appreciate that it was a motion for partial summary judgment, but it was ultimately a finding,

which Mr. Bice and the other defendants has asked the Court to take 54(b) recognition of. So that is a final decision of the Court at this point.

Your Honor, one thing that I would say that I don't think Mr. Bice or any other defendants would object to is that my client, Mr. Hawkins, unlike perhaps some others, was at every court appearance for the most part. I think probably 90 percent of them. He was there at every trial. He was there at the depositions. He didn't have -- he was there and did not have to appear by video because he was in -- because he was there in person. He was there, in fact, at the preliminary injunction hearing. So he took a great amount of time of his personal time to be there and to participate in this process.

I don't -- I believe our papers address why the defendants are not a prevailing party. They certainly didn't win anything. I'm not saying they lost anything, but they didn't win anything. So they walked away with the same licenses they came with. Nor did we ask to take specifically their license.

THE COURT: Okay.

MR. PARKER: So, Your Honor, I don't believe they fit under the parameters of 18.020.

Based upon Sun Realty versus the Eighth Judicial District Court, 91 Nevada 774, which is a 1975 case, in Nevada costs of suits are only recoverable if they're authorized by

statute or court rules.

So I don't believe they're entitled to an award of costs, Your Honor.

THE COURT: Okay.

MR. PARKER: And the only other thing I point out, Your Honor, is that we have a trial coming forward on Phase 3 on January 3rd. I'm sure the Court recalls that date.

THE COURT: I do recall that.

MR. PARKER: So the only other concern I would raise is whether or not there is -- any of these motions are premature based upon the Phase 3 trials still being outstanding. And that's the only other concern that no one's addressed before today, Your Honor.

THE COURT: Okay.

MR. PARKER: Thank you very much.

THE COURT: Thank you.

Anybody else remotely need to be heard before I circle back to people here in court?

UNIDENTIFIED SPEAKER: Yes, Your Honor.

MR. DZARNOWSKI: This is Mark Dzarnoski.

THE COURT: Okay. So, Mr. Dzarnoski, go ahead. You're the TGIG plaintiffs.

MR. DZARNOWSKI: Yes. I am TGIG. I represent TGIG.

THE COURT: Okay.

MR. DZARNOWSKI: I'd like to pick up just slightly

where Mr. Parker left off where he made the comment that the Essence entities did not win anything. And I think when you're sitting in the position you are, Your Honor, to decide who won and lost something, you need to look into the allegations that formed the basis of the action.

The Second Amended Complaint that we filed is what governs this action, and at least as to the TGIG plaintiffs. We never claimed that any particular license that was issued to Essence or any other entities ought to be, as Mr. Bice has indicated, stripped.

I defy Mr. Bice or anyone else to find in the Second Amended Complaint any allegations where the TGIG plaintiffs have made an allegation that the Essence entities did something wrong.

Our challenge to the case, our challenge was to the process. So when we filed our first complaint, it was entirely naming the Department of Taxation as the defendant, and the (video interference) --

THE COURT: You cut out. You cut out.

MR. DZARNOWSKI: -- the rights were violated by the way the State proceeded with the -- the way the State proceeded in awarding the licenses. We didn't claim Essence did anything wrong in that allegation. We claimed the State did.

And as other people have indicated to you, Essence then decided they were going to intervene because the

necessary -- what we asked for as a necessary outcome or what we wanted the outcome to be is based upon the constitutional infirmities that we were alleging that the entire process would then be mooted and that there would essentially be a redo, but that wasn't -- that is a product of the violations of the State of Nevada that we had alleged.

Now, it was specifically because there would be, if we obtained the relief that we ultimately wanted, to start the process anew, Mr. Bice's clients would be affected, as would other applicants who won, and so Judge Gonzalez asked that they be included as defendants.

But we then, when we added them as defendants, it was to allow them to argue and to participate in the action to defend the actions of the State of Nevada and the Department of Taxation.

So Mr. Bice can say we didn't lose anything. Well, he wasn't fighting a specific allegation that he's the one or his clients did something in violation of the Constitution. The State was the one.

So if you then go to the Second Amended Complaint, (video interference) on who wins -- who has won anything and who has lost anything, the Second Amended Complaint specifically raises the declaratory relief, asks for declaratory relief based upon the constitutional violations of the Nevada Constitution. It raises a claim for relief for

equal protection under the United States Constitution, and it asks for an injunction. Those are the first -- those are three of the seven prayers for relief that were included in our case.

And so if you then look at the ultimate decision of the Court, the ultimate decision of the Court on Phase 2, which was the trial phase, was that we were -- that, yes, the process was flawed. Yes, there were constitutional infirmities that existed as to the process. And, yes, the appropriate relief to be granted in this case was the issuance of both a preliminary and a permanent injunction. That's what we asked for.

To say that we did not prevail on the Second Amended Complaint when we got the declaratory relief, we got the decision by the Court that the process violated the Constitution, and we got the injunction, to say that Essence somehow prevailed is -- is simply ridiculous.

Our challenge was the process. And so when you take it in in conjunction with what our challenge was and what our requests, then, in fact, we are the -- we have prevailed at least substantially in terms of our claims. We didn't get everything we wanted and, you know, I'm the first one to acknowledge to Your Honor that we think the relief that was granted, the injunction should have been broader. That's why we are pursuing a case in the Nevada Supreme Court, is to see if we can extend and get the relief expanded from what we already received.

But Essence is not a prevailing party any more than the Department of Taxation can claim it's a prevailing party when it was found that their process was constitutionally infirm, and they had an injunction issued against them.

The second thing that I wish to bring up, and it will help for the other motions as well, is there apparently -- is an effort also to seek some costs by some parties for the Judicial Review Phase 1 of the trial. And as we have noted, judicial review is simply not one of the cases for which costs can be awarded. It is not a special proceeding, and it's not listed, and therefore, any costs that are being sought for Phase 1 judicial review should simply be ignored because they're not entitled to any costs.

So, I mean, our basic position is we are the prevailing party in Phase 2. Essence certainly is not, although we did challenge their conduct and think that they engaged in some very poor conduct.

The evidence that we had put in respecting Essence in some of these other entity is -- was probably Department of Taxation did not consider certain things that were done by these entities when they made a decision to determine that the applications were complete and then went into a scoring process.

So, yes, we did significantly attack Essence and its conduct, but not within the scope and framework of what

Mr. Bice is suggesting. It's within the scope and framework of our complaint, which is attacking the process utilized by the D.O.T.

THE COURT: Okay.

MR. DZARNOWSKI: So the fact that the Bice -- I'm sorry, the Essence entities --

THE COURT: Counsel. Counsel. I'm going to have to finish you up, in fairness.

MR. DZARNOWSKI: -- intervene --

THE COURT: I said five minutes for each people -- to each person.

MR. DZARNOWSKI: Thank you. I am done.

THE COURT: Okay. I do appreciate it.

MR. DZARNOWSKI: I'm done, Your Honor.

THE COURT: We're on the very first one, folks, and I'm not even through that one.

So, okay. Who has not had an opportunity to be heard on this case, on this one yet?

MR. PUZEY: Your Honor, Jim Puzey on behalf of High Sierra Holistics.

THE COURT: Okay. And you filed a joinder?

MR. PUZEY: Yes, I filed a joinder and a supplement. And I'd just like to address the supplement.

THE COURT: And on what basis -- how were you able to file a supplement without Court approval? Was it a stipulation

among the parties? I didn't see it.

MR. PUZEY: We filed it at the same time as our joinder and just added in separate -- our arguments that were unique. That's kind of been the way, if you will, that the procedure that has been filed throughout this case involving multiple parties, and this was just another, I think in the long line of people filing joinders, and occasionally if something was unique to their party, a supplement.

THE COURT: I'm going to hear your argument, and then I'll see if somebody objects. Go ahead, please.

MR. PUZEY: Thank you.

Again, I join the arguments you've heard. There's a couple of things that are unique to High Sierra Holistics.

Judge Gonzalez took over presiding this after Judge Bell consolidated the cases on December 6th of 2019. Prior to that, Essence had never intervened in the High Sierra Holistics matter. And based -- after the consolidation, that doesn't mean that Essence is now -- automatically becomes a party or pleading in the High Sierra Holistics matter.

The *Mikulich versus Carner* case at 68 Nevada 161, it says that consolidation does not merge two suits into a single cause or change the rights of the parties or make one party a party into a separate suit. Even after consolidation, parties maintain their separate identities, and the parties and pleadings in one action don't automatically become parties and

pleadings to the other action.

And what Judge Gonzalez then said to do, and for the Court's edification, High Sierra Holistics filed identical actions in Clark County, Nevada; followed an identical action in Lyon County, Nevada; an identical action in Washoe County, Nevada, against the Department of Taxation.

And once the matters in Las Vegas were consolidated, Judge Gonzalez invited -- she had invited people to file amended complaints to name additional defendants. Because no one ever intervened in Lyon County and Washoe County, not a single party ever intervened in those particular matters or attempted to, it became a unique situation for High Sierra Holistics where it didn't need to file an amended complaint. It was going to monitor what happened in this particular action. And so there was never an amended complaint to which Essence or any of the others that you'll hear later could answer.

And the Essence finally did file an answer, but it was to the original complaint that had been outstanding for over a year. They filed an answer on July 8th of 2020, which was literally nine days prior to the commencement of Phase 2, the first part of trial.

So if some party wanted to move against High Sierra Holistics to say that they hadn't named indispensable parties, then we could've addressed that at that particular time, but no

one ever did. They just went ahead and answered a complaint that didn't include them, 90 days before the trial started.

So for that reason and since no one had ever joined in either the Lyon County or Washoe County actions, which the State of Nevada removed to federal court and then were consolidated in federal court, when we settled as a future settling party, we settled all of our litigations. So we didn't abandon any claims against Essence as they went forward in this particular matter.

We never had any against Essence in this matter. We never had any contact with Essence. We didn't attend depositions. We didn't have communications. There were no phone calls, no correspondence, no one ever called any of our clients, and so based upon the fact they finally, at best, made an appearance in the High Sierra Holistics matter eight days before the commencement of trial, (video interference) believe the costs are improper.

Thank you, Your Honor.

THE COURT: Okay. I think I have one more.

(No audible response.)

THE COURT: No? Okay.

MR. RULIS: There was just one --

THE COURT: Mr. Rulis.

MR. RULIS: Thank you, Your Honor, Nate Rulis again on behalf of MM and LivFree.

Your Honor had asked Mr. Bice a question, and I just wanted -- about the good faith settlement that I failed to address before.

THE COURT: Yes.

MR. RULIS: So, no, there was not a motion for good faith settlement. What there was, was at the time we announced the settlement there were objections and motions to strike our settlement which Judge Gonzalez heard and denied and allowed the settlement to proceed. So I just wanted to clarify for --

THE COURT: No, I appreciate that.

MR. BICE: Yes, Your Honor. And so Mr. Rulis had asked to make that statement on the record, which I was fine with, obviously, but we didn't oppose their settlement. I mean, that wasn't something we could block.

THE COURT: Yeah. Okay.

MR. BICE: So, Your Honor, it is really --

THE COURT: Can you jump into 18.020 just so I can get that one taken care of --

MR. BICE: Yes. Right.

THE COURT: And then --

MR. BICE: So, Your Honor, the statute -- the statute provides, you know, that costs must be allowed, and, of course, a prevailing party against any adverse -- against whom judgment is rendered in the following cases, and actually for the recovery of real property or possession and every right

thereto, an action for the recovery or possession of personal property where the value of the property amounts to more than $2500, in an action recovered for money or damages where the plaintiff seeks more than $2500, which they did, and in a special proceeding, except a special proceeding conducted by 306.040.

So, Your Honor, the dec -- a dec relief action qualified as a special proceeding, and they also sought to take away our licenses, which were property worth more than $2500. And then --

THE COURT: And that's where I need to stop you. I'm sorry.

MR. BICE: Got it.

THE COURT: Is -- and I appreciate good lawyering and how your phrasing, each person is phrasing the argument. But the arguments from some of the counsel who have spoken you've heard is that the issue is not against Essence. It was against the process.

Now, a net result potentially could have impacted your client, but your client wasn't truly a defendant in the sense that they weren't seeking to take away Essence's licenses directly. It just could be a potential net result.

Do you want to -- do you want to therefore argue --

MR. BICE: Well, sure.

THE COURT: -- quote, a party for being -- and what

did you prevail on, because --

MR. BICE: Well, Your Honor, let me -- let me -- there's multiple ways I want to address that, because I wanted to start to say is, is that I, to say that these factual characterizations of what they argued and what happened, again, you didn't try the case.

THE COURT: That's why I phrased it as I appreciate good lawyering.

MR. BICE: So when I heard some of these assertions, I was turning around and looking at my colleague because we were sitting there, and I'll let some of them address it, in utter disbelief at some of the assertions that were just made to the Court.

THE COURT: I prefer to phrase it as you all have lawyering skills.

MR. BICE: Right. They -- let me quote to you the closing argument of Mr. Gentile, Mr. Dzarnoski's partner, who is lead counsel in the case. This is his closing argument:

> The Constitution of black letter law and the regulations were thrown to the wind, and that relationship between Amanda Connor -- who was my client's lawyer -- Jorge Pupo -- who was the head of the process -- and then later Armen Yemenidjian, so that the --

Because the Court doesn't understand this, Armen

Yemenidjian -- that's my client. That's Essence, is Mr. Yemenidjian.

-- corrupted this process in addition to throwing it to the wind would make a bet that nobody had more or even as many sales to minors as Essence did, and they got the most licenses. So I submit the case.

This entire attack -- and don't take it from me, Your Honor, I'm passionate for my client. But ask any of the defendants, my client Essence, Randy Black and others were endlessly attacked in this case by TGIG and the other parties trying to say that our licenses should be taken away from us, endlessly. The entire trial was focused on that, including the Thrive defendants, as Mr. Gutierrez will represent, because Thrive was also represented in the application process by Amanda Connor, the lawyer who they accused of corrupting it.

Now, of course, at the end of the day, what did Judge Gonzalez point out in her findings of fact? It's a little bit ironic that TGIG was attacking Amanda Connor, claiming she corrupted it because she was also their lawyer. That was the richness of this -- of these assertions. Mr. Dzarnoski's own client was represented by the same lawyer that they claimed had corrupted the process.

THE COURT: Someone's phone is going off and vibrate very loudly. Can we make sure that gets turned off because

I -- if I can hear it here, that means it's near a speaker. We do appreciate it. Thank you. I'm not going to call the person out.

MR. BICE: Thank you, Your Honor.

THE COURT: Just please get it taken care of. Thank you.

MR. BICE: So that's why when I heard these arguments, Your Honor, that somehow they never sought to take Essence's licenses away from them; that was -- they spent the entire month long trial trying to take Essence's licenses away from them and to try and blow up the whole process. They claimed that Essence wasn't eligible because there had been a prior sale to minors. They claimed that Essence wasn't eligible to have won these licenses because we somehow didn't get our ownership structure in place at the right time because we had a public sale transaction after the license applications had been submitted.

They spent weeks of this trial attacking my clients, claiming that they shouldn't have won licenses. That's what this entire lawsuit -- and you know why, Your Honor? Because we were their principal competitor.

Mr. Dzarnoski's client is Essence's principal competitor, and he was mad. So he used the litigation to go about bashing his competitors and trying to get their licenses taken away from them. He even had an expert witness on the

stand talking about market share.

All of this was about stripping his competitors of licenses. That's what this was about. And that was -- and that is true for all of the defendants. And if the Court looks at the trial transcript, that's what they were -- they spent their entire time doing.

And what -- and, you know, my friend Mr. Rulis largely kind of acknowledges that because when they -- at the end of the day, they settled. They settled with some of the defendants, getting them to give them some licenses. That's what this was all about.

So let me talk then just briefly now about what Mr. Rulis is arguing. He says, well, we didn't prevail on every issue because he cited a motion that was never actually resolved -- I'm sorry.

He cited a motion that we opposed. Yes, we opposed it, Your Honor, because it was claims splitting, but the motion concerned a scoring dispute that they had with the State, and we didn't believe that, one, that they could do that, and two that the Court had jurisdiction to order that. But we were defending the process there.

They got no relief against us. Even if they had prevailed on that, it wouldn't have impacted Essence because we were either first or second I think in every jurisdiction that we had applied for a license. We were never going to lose a

license due to a scoring error of their -- of their applications. It just it was impossible.

If they were right and had they prevailed on that, it would've been the lowest scoring party that had prevailed in that particular jurisdiction, which wasn't my clients. So they absolutely obtained no relief relative to the Essence parties.

And they -- Mr. Dzarnoski made the statement about, well, Essence can't be the prevailing party. They got nothing better than what they had at the time that the lawsuit was filed. That's the definition of a prevailing party if you're a defendant. If you -- if you retained everything you had at the time you were pulled into this litigation, you are the prevailing party, and that's exactly what happened. The only thing we were out are all the costs and attorneys' fees that we were forced to incur because they pulled us into this litigation.

And you can't claim that, well, Judge Gonzalez forced us to bring them in, forced us to bring in all these defendants.

Well, of course, she did. You were trying to take their licenses. These plaintiffs were trying to litigate licenses that belonged to other people without them being participants in the case. Well, of course, they would love to do that. They would love to litigate their competitors' licenses without the defendants defending their rights to those

licenses. And that was what they actually attempted to do, which is why Judge Gonzalez said you aren't allowed to do that. You must name them all pursuant to Rule 19.

So we are necessary parties, and that was her ruling. And with respect to my -- again, to Mr. Rulis's arguments, you can prevail against some -- he says, well, we did prevail. We got licenses. That's true, you did, and you entered into a settlement to get those license, and you can prevail against some defendants and not all, but that doesn't mean that because you prevailed by settling with certain defendants that you then prevailed against all the defendants.

The Nevada Supreme Court has addressed that, Your Honor, and said that's not the case. In our -- the Essence party's case, as well as several of the other defendants, like Clear River, we gave up nothing. We prevailed. We kept our licenses. We are the prevailing party.

So with respect to now Mr. Parker, I just want to deal briefly with a couple of his.

First of all, Mr. Parker's clients, and I apologize, Your Honor, these -- there are so many litigants, I always forget all of their names. I think it was Nevada Wellness Center is Mr. Parker's client. And if I got that wrong, I apologize to Mr. Parker.

But in actuality his motion to retax is untimely. Under the statute, you only get five days to file a motion to

retax. What he filed is a joinder to other people's motions claiming the benefit of the rule, that you can file a joinder seven days after a motion, but the statute says that if you're going to challenge a cost memorandum, you must do so in five days. Well, Nevada Wellness didn't do that.

Instead they filed a joinder raising this, he admits, new arguments on behalf of his client. And by the way, Mr. Puzey did the exact same thing. He calls it a supplement. Well, you can't have a joinder that constitutes new arguments, Your Honor. And that's -- they're trying to get around the statutory deadline by claiming that, well, we'll file them as joinders to other people's motions who were timely, and now we want to claim the benefits of the timeliness of other -- of other parties. But the statute doesn't work that way.

That would be like saying, well, if one party files a summary judgment motion within the Court's scheduling order, I can file a joinder thereafter and raise on behalf of myself on an entirely different party. That's not what the statute authorizes. You can't get around the five days that the statute says you must file the costs -- or the motion to retax by simply filing the joinder in somebody else's timely motion.

And then just briefly, Your Honor, because again this is just such revisionist history. Mr. Parker talks about how his client attended every hearing. Actually, I'll give him credit on that; he did, but you know what he wouldn't attend,

he wouldn't attend trial. And everybody in this courtroom knows it because we tried to serve him with a subpoena, and he wouldn't show. And the irony for everybody in the courtroom was is that his client Mr. Hawkins, who had attended every court hearing, managed to be unavailable for the entire month that we had trial. So I don't know why he was bragging about his client appearing at other court hearings when those substantive one where we tried to get him to show he wouldn't show.

And then finally, Mr. Parker says, well, nobody is raising the issue about, and is this premature. Your Honor, that was the whole point of the 54(b) issue was to make sure that there was finality so that the appeal could be straightened out and then the cost memorandum would be due, which is what -- this is why everybody filed them when we did.

Now, let me just deal with briefly, Your Honor, with this injunction that they are claiming Mr. Dzarnoski says they prevailed because they got this narrow injunction.

This narrow injunction that actually provided them no benefit. They got no licenses. They didn't get the process redone. And, in fact, Mr. Dzarnoski doesn't tell the Court how many of his own clients would have actually been harmed by the injunction that they got because they didn't care about the outcome. They just wanted some way to try and blow up the process, which was unsuccessful.

And that 5 percent rule didn't apply to my clients. So you can't claim that you prevailed as did Essence or Clear River or any of the other parties that they sued in this case trying to strip our licenses away from us.

But to come to the Court and say that they didn't come after Essence's licenses, this wasn't about trying to strip Essence of its license, Your Honor, that's not a serious argument. And if Judge Gonzalez were here, I think she would laugh out loud at that argument because we spent weeks in trial over Mr. Dzarnoski's clients trying to do just that. That's what this entire case was about.

Thank you, Your Honor.

THE COURT: Okay. So you're getting up again because?

MR. RULIS: It's our motion, Your Honor. I would believe that we get the --

THE COURT: You get the final words, yes, you do.

MR. RULIS: Thank you, Your Honor. So Nate Rulis for MM and LivFree. And again we filed the motion to retax on behalf of the settling parties.

So a couple things to address that Mr. Bice said. He said that they had to be brought into this, but I want to make sure Your Honor understands. They weren't brought in late. Essence intervened voluntarily over -- by the way, in Planet 13, in MM and LivFree's case, over our objection.

THE COURT: Uh-huh.

MR. RULIS: So it's not as if they were later to the case. They came into the case. I just want to make sure that that's clear.

Now, Mr. Bice started talking again about the summary judgment motion that I brought up, and I want to be clear, Your Honor. He said it had to do with claim splitting. I think Mr. Bice is thinking of a different motion for summary judgment. He did have the motion for summary judgment on claim splitting. That's not the one we're talking about. They specifically opposed our motion to have our scoring errors addressed on appeal.

And I have -- excuse me, Your Honor. I have their opposition again that was filed in A-18-785818-W on September 27th, 2019, and they don't say claim splitting. What they say is there needs to be -- all the parties need to be involved, and we haven't named everybody, okay. That's one of their arguments.

And then they say, not only is it an opposition, but it's a countermotion for summary judgment because they say we're not entitled to have an appeal for -- by the Department of Taxation.

And Judge Gonzalez heard that, denied their countermotion and granted our motion. So again we're talking about whether or not we prevailed on issues that we were

fighting over. Clearly we did prevail.

THE COURT: What I'm trying to get is you prevailed because it's subject to the 54(b). So it's already up, and so you don't have the stage three issue that some of the parties have; is that part of your argument?

MR. RULIS: Correct.

THE COURT: Okay. So then your second part of your argument, you prevailed vis-à-vis Essence in what direct -- you got certain things that you wanted; right?

MR. RULIS: Yes.

THE COURT: Because that would be versus the Department of Taxation, now the Cannabis Compliance Board, but, okay.

What did you get vis-à-vis Essence?

MR. RULIS: What we were -- so, yeah, let me address that, and let me go back to --

THE COURT: And the reason why I'm doing that --

MR. RULIS: Sure.

THE COURT: -- is realistic, the closest thing I can kind of come up with is, just so everyone understands here's what the Court is at least thinking, the closest I can get to this is *Golightly versus Vannah* in an interpleader case, realistically, you know, is the most -- because there's not direct plaintiff defendants, right, because I don't have any Rule 68 issues or anything like that. Then I don't have a

straight prevailing on a monetary damages; right?

MR. RULIS: Right.

THE COURT: So the closest ruling you can get is Golightly versus Vannah says you could potentially have gotten it, right. So there you didn't have to have pure money. You had -- that was a priority lien case, right, okay. And that was a distinction from Leventhal (phonetic), but it was a priority lien case, and they could have gotten it and they didn't award it in that because for the reasons stated in the decision, but there, at least the priority lien concept was vis-à-vis Renown, if I recall correctly, that's the medical center. I'm doing this off the top of my head. So if I'm off one, let me know, but I believe it was Renown. It was a medical center, right, and they didn't end up getting -- the Judge disagreed lower court, and lower court got affirmed, but at least there was vis-à-vis who gets priority, you know, so who gets the -- that piece of the pie or the biggest or the first bite of the piece of pie or however you want to phrase it; right?

Here, the challenge the Court's having is I'm not seeing how anybody prevailed against Essence. And I appreciate it's their memo of costs, and yours is a retaxing, and the issue really is did Essence prevail, but part of your arguments and response is you really prevailed, not Essence.

MR. RULIS: Right. And if you're doing a weighing of

who was the prevailing party, right, I agree with you because they're saying --

THE COURT: And a prevailing party has to prevail on at least one of its claims.

MR. RULIS: Right. So they're saying they're the prevailing party, and I would agree, I think, based on everything, they're not, but if you're looking at weighing of who prevailed on what --

THE COURT: Why are they not though, and that's a --

MR. RULIS: Why are they -- so, yeah. I mean, let me --

THE COURT: And I have heard everyone. You have to know this, I've heard everyone's arguments, but where I'm kind of going to the Essence is somebody had to prevail; right?

MR. RULIS: Or it's mutually assured destruction, but...

THE COURT: In the absence of total settlement, there genuinely is someone who has prevailed or kept their rights. Okay. And I'm going to go back to Golightly versus Vannah, right. The medical center, like I said, which I think is Renown -- if I'm saying the wrong medical center, excuse me, but, you know, pretty close.

MR. RULIS: Mr. Graf would probably know.

THE COURT: I'm sure.

MR. GRAF: And we cited it, Your Honor. So...

THE COURT: Yeah. Right. But if you look at that, right, Renown got the priority on the interpleader action, okay. And they were viewed as a prevailing party. Golightly Vannah firm wasn't because it didn't get -- so if I put Essence in the role of Renown, didn't they -- because Renown got to keep what it was asserting was its portion of the interpled funds --

MR. RULIS: So I think there's --

THE COURT: -- isn't Essence falling into that same - isn't it substituting then the shoes here? And the most analogous thing --

MR. RULIS: Sure.

THE COURT: -- I mean, realistically, you all (indiscernible) I am trying to --

MR. RULIS: I guess I'd say there's a distinction that has a significant difference, which was those parties were asserting claims to the same thing.

THE COURT: But aren't you asserting claims to the same --

MR. RULIS: Not --

THE COURT: -- part licenses? That's why the Court's question right at the beginning is I was trying to make sure, okay, and understand the claims that really it was a reallocation or add to the initial number.

MR. RULIS: So it's a couple things, and that's

what -- and let me go back and give Your Honor a little again, the background context.

This was originally filed against just the Department of Taxation on the basis that, among other things they had messed up, but specifically, and I'll, you know --

THE COURT: I appreciate it. I know the scoring. I know the different issues, how they allocated, how they do different things. There's a whole bunch of different --

MR. RULIS: Right. And I think it's important, at least I can talk about MM and LivFree because those are my clients. I know. There were scoring issues that were specifically addressed related to MM and LivFree. Again, that's what the motion for summary judgment was about, and the next part of it was that the relief requested was that they hear the appeal that was filed with the Department of Taxation.

THE COURT: Because you had no -- you had no remedies to try and get to be heard.

MR. RULIS: Right.

THE COURT: And basically you wanted to be heard to see if you could get relief, but is your relief reallocation or additional licenses? And that's where I --

MR. RULIS: It's reallocation. It admittedly is reallocation because there's a limited number of licenses.

THE COURT: Okay.

MR. RULIS: You don't -- I mean, if the Department is

willing to add licenses and hand those out --

THE COURT: I didn't see that as any issue in the case, that somebody was asking for --

MR. RULIS: -- I think any of them would have accepted it.

THE COURT: -- I saw it as the pie was the pie, it was just who was getting the slices of the pie.

MR. RULIS: Right. So that was the claims. Then I believe -- and I don't remember the exact order, but Mr. Koch's clients, Nevada Organic Remedies; Mr. Gutierrez's clients, Thrive, Essence, Clear River, they had moved to intervene.

THE COURT: Okay.

MR. RULIS: So that's how they came into the case. It wasn't that there was later on an amendment that brought them in unwillingly.

THE COURT: Correct.

MR. RULIS: And again, so for settling plaintiffs, they all had petitions for judicial review. Mr. Graf repeatedly argued, and Mr. Bice and Essence repeatedly argued that when you have a petition for judicial review, you have to name every single -- essentially I believe Mr. Graf's argument was it had to name everybody that submitted an application.

THE COURT: Okay, because their slice of pie, whether it be a sliver or a nice big quarter piece of pie was potentially impacted; right?

MR. RULIS: Right.

THE COURT: Okay.

MR. RULIS: So they have that. So when it comes to a appeal on scoring issues, they're named. That's what our motion for summary judgment is filed on.

THE COURT: Right.

MR. RULIS: They oppose, countermove and say, we can't -- we're not allowed to -- the State doesn't do -- there's no appellate remedy.

THE COURT: You won that, but, okay. Yes.

MR. RULIS: Yes.

THE COURT: Yeah.

MR. RULIS: And so the only reason that that appeal then did not go forward is as a result of our settlement because it essentially eliminated the need for an appeal to go forward.

THE COURT: Is your argument that because you settled you can't be subject to a costs award, or because they did not prevail they're not entitled to a cost award, or those are alternative arguments?

MR. RULIS: I think it could be either one. I think they're alternative, but I think at the end of the day, as a result of the settlement, if you're doing a weighing of who prevailed in this action, again, their defense in this case was that we are not entitled to and should not be given any

licenses.

THE COURT: But don't they disagree that their defense is that versus their ultimate goal was we want to keep our licenses? We don't -- we went to keep our slices of pie. We just don't -- we don't think anybody has a right to what we've already been given?

MR. RULIS: Well, I think that's good lawyering, but in reality, what they argued -- I mean, if we want to talk about what was argued in motions or at trial --

THE COURT: No. I need to keep you all here. Where I'm trying to go is, realistically is to, when you're looking at prevailing, right, you all have a very broad difference of opinion on what is, quote, the claims at issue; right?

MR. RULIS: Right.

THE COURT: And because you have a multitude of parties you have a multitude of complaints that then get consolidated. You have a multitude of issues that kind of get reformatted depending on if you're talking Phase 1 versus Phase 2. I appreciate all of that.

So I'm trying to boil it to its Essence in order to get prevailing, right. The statute goes about claims. Case law says it has to prevail on at least one of their claims, right.

MR. RULIS: Yes.

THE COURT: And it can be a defendant in a claim by

keeping what they have, you know, and can look at a whole bunch of, you know, pick your favorite tort claims, med mal. Well, it doesn't really matter, right. Okay. By keeping what you have and getting a defense verdict, you can get costs in the absence. Are you saying you can't get costs in the absence of a Rule 68?

MR. RULIS: Well, I don't think they got a defense verdict.

THE COURT: No, I'm sorry. I'm trying to parallel this.

So in a nontraditional plaintiff, defendant third-party claim or whatever, okay, you have to look at I think -- interpleader is the closest thing. There's a whole bunch of applicants trying to get something or trying to keep what they have.

MR. RULIS: I know --

THE COURT: What analogy would you use? I mean, what case has addressed something similar to this --

MR. RULIS: Well, I think the issue is --

THE COURT: -- where there's been an issue before any appellate court on --

MR. RULIS: Because there's petitions for judicial review and declaratory relief, it comes down to a weight of who asked for what and who -- and I think Your Honor is already going there.

But the issue is, and that's where I want to get to what's their defense? They say their defense was we want to just keep our licenses, but that's not -- that's not totally true. Their defense was they're not entitled to any rescoring, any redo of the application process. It is what it is and should stay the same.

THE COURT: But do they really care if they get to keep their licenses? The reason why I'm trying to boil it down, right, is if they get to keep their licenses do they really care -- I'm not saying you don't care in an intrinsic manner. I'm just talking for purposes of litigation. Does Essence really care if the processes viewed to be constitutional, unconstitutional, fair, unfair, whatever labels, right, as long as they get to keep their licenses and they're not impacted?

MR. RULIS: I can't say what they care about. All I can say is what they've litigated. And what they've litigated was that the process should not -- there's nothing that should change with the process. There's no reallocation of licenses. There shouldn't be any appeals. That's what was litigated. So when we talk about what was litigated and who prevailed on that, it wasn't just we're Essence. We're keeping our licenses. It's that was a part of it, but it was also the process is fine. There's nothing that needs to be redone, changed, figured out with the process. So it's -- I get it.

They're trying -- and a very great lawyering.

THE COURT: It's lawyering. It's lawyering.

MR. RULIS: They're trying to be very narrow on what they litigated, but that's not the reality.

THE COURT: Well, because you prevailed on the process concept. You would have had a right to have something, and so it has an impact.

MR. RULIS: Right.

THE COURT: Okay. Let me let you finish, and then I've got to make a ruling. Go ahead.

MR. RULIS: So I guess I just wanted to go back to again, when we're talking about they said everybody needed to be involved because this whole litigation wasn't just about Essence's licenses, wasn't just about Clear River's licenses; it was about the process, and they said nothing needed to change with the process. It was fine. The Court shouldn't do anything. That's -- the Court shouldn't order any or allow any appeals because the process is fine. It is what it is, and it shouldn't change. And they didn't win on that.

They didn't win against the settling plaintiffs because they said the settling plaintiffs aren't entitled, shouldn't be given any licenses. And so when we talk about what was litigated and what the -- again, I'm talking about the settling plaintiffs, what the settling plaintiffs attained if we're doing a weighing of who prevailed on what. The fact that

they came in and said we shouldn't get anything, this should be -- the process is what it is and should stay the same, we got licenses.

THE COURT: Okay.

MR. RULIS: We prevailed on summary judgment. And under that they're not be a prevailing party that is entitled to costs against the settling plaintiffs.

THE COURT: Okay. Other than Mr. Parker on behalf of his client, which I appreciate that there's an objection that it's untimely, are you adopting the concept about whether or not there is or is not a final judgment because certain aspects are going to trial? And by the way, it's the week of January 3rd. It may not start on January 3rd. It's the week of January 3rd.

MR. RULIS: That is a -- that's an argument --

THE COURT: That's unique for them.

MR. RULIS: -- that I think is unique to his client.

THE COURT: Okay. And the reason why the Court was asking that question is because obviously there was not 54(b) at the time of Judge Gonzalez's order of 8/30/2021.

MR. RULIS: Right.

THE COURT: And that's why I was making sure that nobody was saying that that was --

And I understand, Mr. Parker on behalf of his clients got that issue, but I didn't hear anybody else saying somehow

that's law of the case because their clients are impacted. Since your clients are settled out, I was going to ask you how they would be impacted by these three, but...

MR. RULIS: I think the issue is she did make a -- she did make a statement at least that she was intending for there to be one final judgment at the end, but, Your Honor -- I certainly -- we -- I don't believe we opposed the 54(b) so I would rather --

THE COURT: Okay. No worries.

MR. RULIS: -- get this over with.

THE COURT: Yeah. Okay.

Okay. Everyone has had a chance to be heard for the last long time period. Okay.

MR. ROSE: And, Your Honor, just to correct --

THE COURT: Mr. Rose, go ahead, please.

MR. ROSE: Your Honor, Chris Rose. I'm sorry.

This is the Court's ruling on the Essence motion; correct?

THE COURT: Correct. And joinders -- well, Essence motion, opposition, timely joiners, which it's going to be part of my ruling.

So, Counsel, because you've got a different -- some of the similar arguments but a different defendant client base, I thought you wanted to be heard separately. Is that correct? Or are you concerned that you need to set your opinion now

because you think my ruling might impact your clients? So you get your choice one way or the other. Which one are you picking?

MR. ROSE: Well, that was the note. If the Court was going to make a ruling now, before the other arguments were heard that possibly could impact --

THE COURT: I understood it was the parties requesting the Court to do this client by client, which means that I would need to do one. If you're asking me to wait to hear everybody's arguments, and I do settling defendants in a grouping, I can do that, but I was, realistically just doing what you all had asked me to do.

MR. ROSE: Understood.

THE COURT: So just be clear which one you're asking me to do. If there's a difference of maybe people weren't contemplating that it might have an impact on people coming later.

MR. BICE: Well, I would ask --

THE COURT: And that's Mr. Bice speaking on behalf of Essence clients. Go ahead.

MR. BICE: Yes. Apologies. Apologies.

I would ask that the Court -- yeah, I thought you were going to address these, since it was our cost memorandum, you know, the motion to retax, I thought you were going to address it client my client, and I'm going to admit that I'm

being selfish. I would ask that you address that on behalf of my client now if possible because if I could leave to go to another matter, I wouldn't be opposed to that, but I'm not going to insult the Court if the Court would like to proceed and hear all of them, then I'll stick it out.

THE COURT: Okay. Realistically, I was doing what I thought you all had asked me.

MR. BICE: I thought so too.

THE COURT: If I misunderstood what you had asked me, then somebody needs to let me know.

MR. RULIS: That was my intention with what -- what Your Honor was about to do I think as far as issuing a ruling on the parties was at least what I thought we had agreed to. But if we want to do it otherwise, I'm open to that.

MR. ROSE: And, Your Honor, yeah, I think that's fine. We thought maybe there would be some arguments, and then a ruling toward the end, but I understand the Court is ready to rule now, and we're fine with the Court proceeding.

THE COURT: I'm ready to rule because I thought that's what you all asked me to do.

MR. BICE: Yes. Thank you, Your Honor.

MR. ROSE: Thank you, Your Honor.

THE COURT: So --

MR. BECKSTROM: Your Honor, can I just note, on the ETW, I think there's a confusion on the untimely joinder and

what party filed untimely. I don't know what Mr. Parker is going to say, but my clients, ETW, were alleged to be one of the untimely joinders to those. We briefed it for the Court. We'll rest on the pleadings, but I just want to make sure it's clear we provided to you that it's not jurisdictional.

We followed the local rule, prior counsel did, but also they don't -- I just want to make sure on it's clear on who was untimely and who was not in joining these --

THE COURT: What do you mean by you saying you followed the local rule?

MR. BECKSTROM: The local rule for joinder was filed, okay. There's been no authority saying that you can't join a motion to retax, okay. Prior counsel for my client did that. The Eberly (phonetic) case cited for the Court says that the motion to retax deadline and the memoranda of cost deadline is not jurisdictional. So we put that before the Court to the extent you're going to rule on the untimeliness issue like you just noted.

THE COURT: Okay. That means, since I let somebody else speak, do I now need to let Essence, since you get one minute if you want to respond to their comments on the timeliness aspect so it's -- since you would have gotten last word on that.

MR. BICE: Yeah. Sure. Their argument is that it's not, quote, jurisdictional, but that doesn't mean that it

wasn't untimely, and they never sought leave of the Court to file a motion to retax after the deadline. So thank you.

THE COURT: So I can hear it, but basically the Court can make a ruling one way or the other is where you all are going; right?

MR. BICE: Correct.

THE COURT: It doesn't preclude me from hearing it; it just means I have to rule on it. Okay.

So, okay. With regards to document --

Understand why the Court appreciates when sometimes I get courtesy copies so I don't have to click through 3,000 of these, but the rule is alive and well, folks.

(Pause in the proceedings.)

THE COURT: Okay. The Essence entities' memorandum of costs and disbursements, documents 2863 filed on 8/5/2022, the motion to retax filed on 8/8/2022, 2869 -- one second. It takes a while for these to open with over 3,000 entries. So give me a second to make sure I've got the correct one. That's one of the motions to retax that I just stated.

And then we also have the other motion to retax, also filed on 8/8. That was the TGIG was the one I just referenced, 2869. Thank you. You probably need me to clarify.

2870, Document 2870 also filed on 8/8, that was the one Mr. Rulis mentioned at 5:15 p.m., and that was by MM Development, and then we have joinders thereto.

Okay. And --

MR. RULIS: And, Your Honor, just Nate Rulis for the record.

The motion to retax that we filed, I just want to be clear, is on behalf of MM, LivFree, Qualcan and Natural Medicine.

THE COURT: Thank you. Yes. On behalf of all those parties that are all of document 2870 filed on 8/8 at 5:15 p.m.

Okay. And then all of the various joinders thereto.

The Court is going to find in the most analogous circumstance, realistically looking at Vannah versus Golightly [as said], okay, and looking at Nevada Revised Statute, that the Essence parties are a prevailing party. The Essence parties received and prevailed on their claim to retain their licenses. They did not lose any of their licenses, and by the best kind of analogy, realistically, it would be similar to someone who already has a, what I called a share of the pie in an interpleader action and doesn't lose part of that share of the pie by somebody else filing for priority, i.e., *Vannah* -- the *Vannah* case or in a situation in a prevailing defendant, where they get a defense verdict.

I'm just using those as analogies to try and give the concept of why this is a prevailing party because both of those concepts the entity, regardless of how they're titled, and it really doesn't matter if I call them a counterdefendant, a

defendant or if I call them the party subject to an interpleader. In each of those situations, the party has retained what they had when they started with the litigation. Here, Essence has retained, which is what they're -- makes them prevailing. They retained what they had, and so they did not lose any of their licenses.

Now, the Court is fully taking into account that there was intervening summary judgments, et cetera, that licenses could have been reviewed, but since the Court doesn't have anything that they actually were and there was any direct impact to Essence, and I appreciate because there was resolution, okay, but we have to look at did Essence prevail.

Essence did prevail. So it should be awarded costs.

It is one of the categories under NRS 18.020, the valued license that you all -- if it was not more than 2500, I wouldn't have this wonderful grouping of attorneys here both in the Court and remotely. So and declaratory relief action also would trigger it. Okay.

The Court doesn't find because there was a PJR that that PJR really is the final determination. You have to look at the totality of what happened for the prevailing as we sit here today. Since there is a 54(b) for all parties, and then I'll deal with Nevada Wellness in just one second, the parties under Nevada Wellness is 54(b) it's all final. So you don't have that issue.

The Court also notes the 8/30/2021, order granting motion to retax -- oh, it says granted motion to retax, but in any event, I'm just saying what the title says, even though I'm just going to call it the order of 8/30/2021, because the title doesn't seem to be correct, but --

So when I looked, it says it's granted in full, but, okay. So when I look at the briefing, here it says the award of costs is premature. Final judgment will be issued at the completion of Phase 3, jury trial June 20 at 2021, that second sentence no longer applies to most everyone other than Nevada Wellness, because of the intervening 54(b), and it says the decision is without prejudice to seek recovery of costs at the time of final judgment.

There you have a time of final judgment with regards to anyone other than people going on January of 2023, okay, potentially, and I'm about to carve that out about whether that's final judgment or not.

Nevada Wellness, you're giving me a look. Is that -- Nevada Wellness is going to trial?

MR. BICE: Yeah, but it's going to trial on -- against a different party on different claims. So the 54(b) -- in order to be 54(b), it has to resolve all the claims as between all the parties to those claims, which include Nevada Wellness.

THE COURT: I was going to get to them, but it's just

the whole idea of a stage two versus a stage three, they're the only one that had a stage three.

MR. BICE: Sorry.

THE COURT: No worries. I was going to deal with that towards the end and say the analysis is the same even though they're a stage three. That doesn't have an impact, but I was just trying to carve them out to the extent --

MR. BICE: Understood.

THE COURT: -- they were -- because the rest of you all have a stage two concept. Okay.

So I've jumped ahead, but it's going to be the same net result for Nevada Wellness. So I guess you already heard me say that.

So now let's circle back to who should the cost be against, okay, because that is the second prong. And since the prevailing party is entitled to costs, so who has to pay said costs, and then does it *meet Cadle versus Woods & Erickson*, *In re Dish Network*, *Bobby Berosini*? Okay. So prong two is who was it against?

It would be, well, we have the non-- it would be against the nonsettling plaintiffs because the nonsettling plaintiffs have not recovered anything against the Essence.

So then you go to does it also apply to the settling plaintiffs because the settling plaintiffs' arguments is a little bit different is it that they settled out. So they had

a right to potentially impact Essence, but they didn't pursue that right because they resolved, and there's lots of other arguments, but that was, focusing on your summary judgment argument for (indiscernible) be a prevailing.

So does that mean because you prevailed on a summary judgment which would have given the right to seek an appeal but doesn't give the ultimate right to the determination as what that appeal may result in, does that take it out of the situation where the settling plaintiffs would or would not be liable for Essence's costs.

The Court really sees that the settling plaintiffs would also be liable for Essence's costs because what looking at is what was the stage we have the net aspect? There's going to be a carve out though with the settling plaintiffs, which I don't see really is in your briefing, but a potential carve out.

And where I'm going is, is a cost allocation carve out. If there's costs that are asserted after the settling plaintiffs had settled their particular case, if that exists. I didn't see it in the briefing, but I'm going to have to give you two minutes to see if that exists. Because then that would be like a *Capanna versus Orth*, kind of by analogy concept even though that's a attorneys' fees case, but just by analysis to see if you need to do some kind of allocation.

So can we just clarify that is there costs that are

being asserted after the -- after settlement in your memorandum of costs?

MR. BICE: So that's actually a little hard for me to answer off the top of my head. I don't think so because the settlement really happened sort of after the -- I don't know what the state of -- the status of the trial. I'll actually let my friend Mr. Rulis address that because I can't remember exactly when you got that finalized with the commission.

MR. RULIS: Yeah. Well, so and I guess Mr. Bice just said with the commission. So there were certainly costs that were included in the memo that occurred, that were part of trial that occurred after Judge Gonzalez had approved the settlement. I understand that you're saying after the commission because there was the issue of the --

THE COURT: It's conditioned on the --

MR. RULIS: D.O.T. and CCB approving it, but we had approval from Judge Gonzalez at least --

THE COURT: Are you asserting that you raised that argument in your pleadings for the Court to do that parse out?

MR. RULIS: I think that's part of the Court's ability to parse that. When we're talking about what the costs were and whether they were excessive or not, I believe that you can make that cost allocation I think.

MR. BICE: Your Honor, I -- one, they did not raise that.

But more fundamentally, they didn't settle with us. So we proceeded to trial and, in fact, in front of Judge Gonzalez they actually argued -- they argued that the final judgment shouldn't apply against them because they had settled, and she ruled that's not correct, that the final judgment in favor of the defendants would apply as to all of the plaintiffs, whether they settled or not because they didn't settle with all defendants.

So as to my client, there is no basis for them to argue that the costs -- they proceeded to trial against us.

THE COURT: Right. But here's really where the Court's going. If they're no longer a party to the underlying -- that's the reason why the Court was asking the question.

MR. BICE: Yes.

THE COURT: If they're no longer a party, they wouldn't be responsible for things that occurred after they're no longer a party.

MR. BICE: Right.

THE COURT: Absent some unique circumstances that you all haven't raised in this case.

MR. BICE: But they were a party. They never were not a party. Even though -- because the settlement was only partial. They were still a party as to us. They were still a party as to Clear River. They were still a party as to all of

the defendants with whom they did not settle. They only settled with certain of the defendants in order to -- because they made a deal with them to reallocate their slice of the pie amongst that group, but they -- as Judge Gonzalez ruled, they proceeded to trial against us, and we prevailed.

THE COURT: I'm going to give Mr. Rulis a moment to respond to that if he wishes to because --

MR. GRAF: And, Your Honor, if we could be heard just on that issue just briefly, Clear River, Rusty Graff.

THE COURT: Then Mr. Rulis gets last word, but two minutes.

MR. GRAF: I'll go up to the mic, Your Honor.

We put this in our opposition and the motion to retax on various issues, and that's an important issue that Her Honor is talking about.

THE COURT: But I saw that only as to your client, and I'm focusing currently on Essence. That's the reason why it makes a difference what I'm ruling on; right?

MR. GRAF: So part of our argument included the claim under NRCP 41 that they never dismissed themselves. They were never dismissed out of the case, period, either voluntarily or by order of the Court. So --

THE COURT: But Essence didn't join your opposition, did it, and adopt your arguments? Because I'm now ruling solely on Essence. I'm not --

MR. GRAF: I joined in theirs, Your Honor.

THE COURT: Did Essence join in --

MR. BICE: Your Honor, I think so. I know we did some joinders, but I'm not going to represent we did because I can't remember off the top of my head, and I'm going to look at --

THE COURT: I can't hold this, you know what I mean. I've got to --

MR. GRAF: I just wanted to raise the issue though, Your Honor, in terms of --

THE COURT: I appreciate that's why it made a difference on which way I was going on this; right?

MR. GRAF: And I know that it's going to come up in our argument. So I just wanted to lay the groundwork now, Your Honor.

THE COURT: Okay. But can I consider it for Essence is really where I was going.

MR. GRAF: Well, Your Honor, you can consider the fact that as it exists, LivFree, MM, all of the settling defendants are still a party to this case. There's been no dismissal. There was no -- and one of the things that we were going to raise during ours is, Your Honor should go back, and unfortunately, look at all of the stipulations in this case. And any of those stipulations that involve the settlements, they only involved those settling parties. They didn't involve

the other parties.

THE COURT: So they're still live, ripe parties --

MR. GRAF: A hundred percent.

THE COURT: I'm seeing -- I'm seeing you all in January is your argument?

MR. GRAF: No. No, Your Honor. We think that the cause of action, it's a 1983 action between NWC and one other settling party, Mr. Campbell's client against the State. So it doesn't involve any of our claims. They can't get a 1983 claim against my client.

THE COURT: But if I have a -- let's go back to the 54(b), right.

MR. GRAF: Yes.

THE COURT: If it's 54(b), it's all done, done and done. So doesn't the 54(b) argument go against your 41 argument because you all -- by stipulation; right? The 54(b) is where it is?

MR. GRAF: It means it's a final judgment, Your Honor. It doesn't mean that they were dismissed out of the case for purposes of allocating or apportioning those costs at some joint period of time.

They were still there, Your Honor. The settling defendants showed up to closing arguments. The settling defendants -- or settling plaintiffs showed up and up until the day before closing arguments we didn't know if MM was going to

make a closing argument against Clear River.

THE COURT: Okay.

MR. GRAF: We didn't know if they were going to make it clear. So I don't think that that timing issue, whenever it existed, the settlement, it applies procedurally or factually.

THE COURT: Well, here's what I'm going to do. I'm going to leave that five pages each side for Essence and (indiscernible), that if you or any of the settling plaintiffs, if you think that it was raised and it's an issue, I'll give you five pages each if you fall into that category, and I'll give you simultaneous briefing, what, a week out?

What do you need? A week? Two weeks? What do you need out time frame?

You understand where I'm going. I'm not going to require any briefing, but I'm going to give you a carve out if you all want to --

MR. BICE: Yeah, I'll --

THE COURT: Because the other choice is you're going through 3,000 plus entries because no one seems to be able to do this off their head right now, and I'm holding everybody else up; right?

MR. BICE: Your Honor, let's -- that's fine. Mr. Rulis and I will do that. I think it's eminently fair for the Court to just ask us, and five pages is more than enough, and what I think we might want 10 days because we've got --

THE COURT: That's fine. That's fine.

MR. BICE: If 10 days would work for the Court, we're happy to address that, and I think that's --

THE COURT: Let me see a if --

MR. BICE: And the issue you're asking us to brief is one. So he and I will get together, and we'll agree what the date of the settlement, and then we'll brief whether or not that should matter, and if it does matter, then we'll -- we'll determine what the added costs were.

Is that fair?

THE COURT: Or reduction. Okay.

MR. RULIS: Yeah.

THE COURT: And let me put it clearly. If somebody is asking me to rule today, I have the briefs that I have, and I will rule on what I have.

If anybody is requesting that they have this opportunity to do the supplemental briefing, then if you all agree that you want supplemental briefing, then -- and I say all, meaning settle the plaintiffs and Essence, right, because that's where I am currently, then I will give you the supplemental briefing, and I'm fine with two weeks. I'm fine with 10 days. I'm fine five pages-ish. It's just I'm trying not to have this be hundreds of pages and hundreds of pages of exhibits, but --

MR. RULIS: I -- your --

MR. PARKER: Your Honor. Your Honor -- I'm sorry, Mr. Rulis.

THE COURT: Let me deal with the people first, if you don't mind, in court, and then I'll go remotely, okay. So let me hear.

MR. PARKER: Thank you.

THE COURT: Essence, what's your position?

MR. PARKER: Thank you.

THE COURT: Do you wish me -- actually, let me ask (indiscernible) -- well, I've got two motions to retax. That's the reason why I'm going to go to the memo of costs first because it's quicker.

MR. RULIS: That's fine, Your Honor.

MR. BICE: So, Your Honor, no, I do not want rebriefing on all this. We've spent a lot of money on this. The only issue on this last issue that you're asking about with the settling plaintiffs and the date of the settlement and the cost thereafter, that small portion, that's fine. I think it's fair to -- for the settling plaintiffs and the settling -- and the Essence parties to submit no more than five pages and let you decide that narrow question.

But on the overall --

THE COURT: Oh, I'm not -- I wasn't asking -- okay. I'm sorry. Just so we're clear where the scope of what the Court's question was, okay. There's two movants that I have

today, right, for motions to retax vis-à-vis Essence, and then I have joinder parties, but joinder parties don't get the same (indiscernible) the movant.

With regards to those movants, they really have a right if they want the Court to rule today. The Court also has a right that if I want supplemental briefing on an issue that I can ask you all to do it; however, really this Court's position is if nobody wants that opportunity, you want me to rule today, I will rule today.

If somebody wants the opportunity to do supplemental briefing, no one is required to spend a penny more. I'm not requiring anyone to do it. I'm just doing an opportunity, then I'll give you supplemental briefing, five-ish -- five pages and two weeks or tell me what you need.

MR. RULIS: Five pages and two days to supplement on that.

THE COURT: Two weeks? You said two days.

MR. RULIS: Excuse me. Five pages and 10 days. Excuse me, Your Honor. Ten days to supplement on that issue would be -- yes, we're requesting that.

THE COURT: Okay. They're requesting it as movant.

MR. BICE: Yes. I said that narrow issue is fine, but I would ask the Court to rule on the rest of it today so that we just have that issue, we know what we're addressing. Thank you.

THE COURT: Okay. TGIG, you also had a motion to retax that was subject too. So do you oppose this idea of nonrequired supplemental briefing, five pages within 10 days on the narrow issue of the impact as to the settling defendants date and if that reduces or reallocates the costs that would be awarded to Essence? And don't ask me yet about I would then have to do a second prong, I realize that, after the supplemental briefing, really going to the *Cadle versus Woods*, *Bobby Barosini* and the *In re Dish Network*, right, because what actually would be the, quote, total cost awarded and then do an allocation thereof, but so, yes, you want it, no, you want me to rule today?

Counsel, go ahead, please.

MR. DZARNOWSKI: This is Mark Dzarnoski on behalf of TGIG plaintiffs. Your Honor, we're not a settling party. So we do not oppose giving the settling parties the opportunity to have 10 days and five pages to brief the issue. We will not, since we are not a settling party.

THE COURT: No worries. I just -- that's why I was treating you as movants, right. Okay. So now let's go to the rest of it.

With regards to the nonsettling plaintiffs, yes, costs, reasonable costs would be awarded against them. There's still live parties. Essence prevailed. It was a prevailing party. It would get costs against them.

Now, let's go to Nevada Wellness. Nevada Wellness, I think you fall -- Nevada Wellness, you are a --

MR. PARKER: Settling plaintiff, Your Honor.

THE COURT: Settled, but yet outstanding issue. I see you -- I was putting you in the same box with the rest of the settling. So if you want your five pages, you get your five pages within 10 days.

Does that work for you, Counsel?

MR. PARKER: Yes, it does work for me.

I had one issue, and I'm not sure we'll find it in the transcripts, Your Honor, but prior to the actual settlement being approved by the Cannabis Compliance Board, which took over for the Department of Taxation, we had an agreement. I don't know if you want to call it a gentlemen's agreement, but we stopped taking -- or examining witnesses at a certain point in the case prior to that approval being achieved.

THE COURT: Mr. Parker, the reason why I am stopping you, and I'm not trying to be rude by interrupting you, is because --

MR. PARKER: Of course.

THE COURT: -- you're going into what your five pages can potentially entail; right?

MR. PARKER: Yeah, that's fine. I just wanted to make sure.

THE COURT: So in fairness -- yeah, no worries. If

because I let you, then I have to let everybody else, and that would not be fair to the people who are waiting to have their motions being heard.

Okay. So we're taking care of everyone with regards to Essence, I believe.

Essence, have I missed anybody with regards to yours? I was not going to do the actual dollars today because the dollars may be impacted based on the concept of the costs; right? Because you wouldn't really --

MR. BICE: Your Honor, I guess my -- with respect to the settling -- the nonsettling plaintiffs, right, I would ask that the Court, that we fix the amount today since we're all here, and then when you address the issue -- because that way it will allow me to back out if --

THE COURT: Gotcha. Okay.

MR. BICE: You know, if you're -- once Mr. Rulis and I agree on what the date ought to be, then he and I will know which numbers to back out from that number, that end number.

THE COURT: Okay. So then I'm going to have to go back to the TGIG motion as well as the joinders thereto. So from TGIG, point the Court to reductions that you say would be appropriate under *Cadle versus Woods* and Erickson, *Bobby Barosini*, *In re Dish Network* or generally, NRS 18.020. Please point to me where in your motion those would be addressed.

You understand why the Court is asking the question?

MR. DZARNOWSKI: This is --

THE COURT: Because I only --

MR. DZARNOWSKI: This is Mark Dzarnoski --

THE COURT: Go ahead, Counsel. My apologies.

MR. DZARNOWSKI: This is Mark Dzarnoski on behalf of TGIG, Your Honor. I think your question was posed to me.

THE COURT: Uh-huh.

MR. DZARNOWSKI: And just so I understand the question clear -- oh, it was in the -- you're asking in the motion to retax.

THE COURT: Correct. Document 2869 filed on 8/8/2022, right, this Court only saw a seven page document. I did not see in that seven page document a discussion of a reduction of the costs. But once again, I was reading a lot of things for preparation today. So I'm just making sure that if there is -- so I see you have in your second-to-last paragraph, right, it says, review of Essence (indiscernible) cost reveals that other than the initial filing fee, it is submitted that the claimed cause cannot be deemed to relate to petition for judicial review since such claims limited to the records (indiscernible)Taxation.

So I see those general statements, but I didn't see any articulation under the case law as to what cost, either from a specific category of costs, right, or anything else, and if I'm looking at the wrong spot, please let me know. Feel

free.

MR. DZARNOWSKI: (Indiscernible) based on the prevailing party -- I'm sorry?

THE COURT: I'm sorry. I said if I was looking at the wrong place, I was looking at Document 2869, which was filed on 8/8, which is your motion to retax costs. I see the second to last paragraph right above the conclusion, there's a generalized statement, and I didn't see anything more specific --

MR. DZARNOWSKI: Yes.

THE COURT: -- as to what actually was to be retaxed, reduced for one of the various noncompliance aspects are not being covered or something to that extent.

MR. DZARNOWSKI: (video interference), Your Honor, the motion to retax, rested on the arguments about prevailing party. Also, if that any costs associated with judicial review are not awardable and collectible, but there was no specific itemization that occurred to determine whether or not any of the costs came from judicial review, and we didn't challenge any specific categories that was provided in the memorandum of costs submitted by Essence.

THE COURT: Okay. So, Essence, did you articulate petition for judicial review versus the other findings of fact and conclusions of law, or -- I'm just trying to see if you're taking a position that nothing should be reduced, or I have to

wait until Mr. Rulis because in their motion they did address things, but --

MR. BICE: Yeah, they addressed a few things. So if the Court would like, I'll let Mr. Rulis address those, and then I can address all of those if the Court would like. I'll leave it to Your Honor.

MR. DZARNOWSKI: We did -- this is Mark Dzarnoski again.

I believe, Your Honor, and again, we joined so many things. We did not prepare a separate itemization; however, I do believe we joined in other pleadings where individuals did challenge the individual (video interference) by Essence. So I have nothing more to add regarding that.

THE COURT: Then I'll circle to Mr. Rulis. Go ahead.

MR. RULIS: Thank you, Your Honor.

So, yes, we did challenge some of these claims costs.

THE COURT: Correct.

MR. RULIS: That's, you know, I think principally, when you look at the memo of costs, obviously the largest amount --

THE COURT: We're going to page 7 of your motion?

MR. RULIS: Yes. Correct, Your Honor. Thank you. Lines -- specifically lines 8 through 17.

But when you look at the vast majority of the costs are for related to depositions, but we have duplicative entries

for both transcripts and videotaping and I don't believe that we should be required to pay doubly for those.

There's, additionally, I think it says 16 -- over 16,000 in process server fees for, you know, brushes or stakeout -- you know, I've -- it's -- without much additional description, and I think that's the other thing is there are several entries when it comes to -- I know Westlaw, a research. I don't think there's any sort of breakout of what that was for. It's over $9,000, and then there are just an entry of $8,000 or a little over $8,000 in, quote, discovery-related expenses. I don't believe that, quote, discovery-related expenses are a recoverable cost under the statutory (indiscernible) allowed.

But, I think, I mean, other than what we put in there, I believe that some of these are excessive for the reasons that we stated, Your Honor.

THE COURT: Okay. Does anyone on any of the joinder parties assert that you set forth categories that needed to be addressed for a reduction in costs?

MR. PUZEY: Your Honor, this is Jim Puzey with High Sierra Holistics.

We have nothing to add to what Mr. Rulis has stated.

THE COURT: Okay. Thank you.

Anybody else need to be heard? I'm looking in court. I'm trying to look at the screens too.

Okay.

MR. SLATER: Your Honor, this is Craig Slater.

THE COURT: Sure. Go ahead, please.

MR. SLATER: May I be heard? Just one point of clarification, Your Honor. I understand how you're headed in the direction, but one point of clarification I would request is whether or not these costs that you presumably are going to award are for Phase 1 or Phase 2.

As I indicated in my joinder, my clients were only part of Phase 1, the judicial review process. So I think it's necessary that you indicate whether or not you're awarding costs for both phases. I won't repeat the arguments that Mr. Parker made as to why we don't believe costs are awarded under the judicial review claims, but for purposes of my client, and I believe there's one or two others in the same position, I believe it's necessary to make that distinction.

THE COURT: Okay. And since you filed a joinder rather than your own motion and your joinder applied to your client with an argument that was not asserted by either of the movants, how can the Court address that under the EDCR as a proper joinder?

MR. SLATER: Well, I'll address almost the identical way Mr. Puzey did, that during the course of this case it has become commonplace to file joinders, and my joinder was titled as a supplement, and I added one brief paragraph that is

clearly delineated as the supplement, and that is just that my clients were only -- they only asserted judicial review claims. So they only participated in Phase 1, which was not the trial. So the vast majority of these costs that are being sought to recover -- or sought to recover by the prevailing parties were not incurred as any of the claims that my client's asserted. So in that respect, to answer your question, I take the exact same position Mr. Puzey did, that this is the way we've been doing it throughout the course of this case. It basically has become the law of this case, and I followed that.

THE COURT: Do the parties agree? Because you can appreciate that concept of it is not anything that's happened since September of 2021. Now, granted I've had limited involvement since I took over the case, but I didn't see anything that there was any prior objections, agreements. I mean, this one is a quandary for being the newish Judge on the case. I mean, I've had it now a year, but I guess I'm newish on this concept.

So do all parties agree that there was a custom and practice that that had been done and that nobody objected, and so it was done, or do I have to go through 3,000 plus entries and see how many times it was done and if anyone raised it in any of their subbriefings? So.

MR. BICE: Well, Your Honor, I would agree --

THE COURT: Mr. Bice on behalf of --

MR. BICE: On behalf of the Essence parties. Again, apologies, Your Honor.

I would agree that it was common practice in big cases generally, not just this one that there will be joinders. What I don't agree with is that there was an agreement to waive deadlines, statutory deadlines and then allow new arguments to be raised in joinders that are not the arguments that were raised originally(inaudible).

THE COURT: Yeah. I mean, you do realize I'm one of the CD Judges. I mean joinders are, you know.

MR. BICE: Joinders are common, but not joinders to try and get around statutory deadline to file a motion to retax and then raise entirely new arguments that are particular to their client.

MR. ROSE: And, Your Honor, Christopher Rose for Wellness Connection. We agree with that statement from Mr. Bice.

MR. SCHWARZ: Your Honor, Joel Schwarz on behalf of Lone Mountain Partners.

We agree that there has been commonplace practice in joinders. We've done it ourselves. We've limited ourselves to identifying what we were joining, not making additional arguments and agree with the position articulated by Mr. Bice.

THE COURT: And see that's where --

Okay. Anybody else want to comment on the joinder

concept?

MR. RULIS: I guess, Your Honor, I would. Nate Rulis on behalf of MM and LivFree.

Certainly joinders have been very commonplace in this.

THE COURT: Yeah.

MR. RULIS: I would say though that throughout the course of this litigation there certainly have been substantive joinders that have been filed both by plaintiffs and defendants throughout.

THE COURT: That have addressed an issue --

MR. RULIS: Additional.

THE COURT: -- additional arguments that were not part of the original motion or opposition because that's the distinction.

MR. RULIS: Yes, Your Honor. There were -- I can tell you when we were dealing with summary judgment motions, there were several defendants that filed substantive joinders that included new arguments that had not been included in the summary judgment or opposition that was filed.

But it --

THE COURT: Timely? Are you saying that they can be done after deadlines for joinders in the first place or are you --

MR. RULIS: I'm not here saying it should be. It

should be or is. I'm just saying it has been done in this case.

THE COURT: Where I'm trying to go is two different concepts, right. One is the joinders have their own deadline, okay, and I appreciate the distinction between joinder specifically under the EDCR, to motions versus whether you can do them to oppositions and replies, and we've had that battle for years, but anyway.

Here, the joinder issues is to the motions. So I don't even have to get to the opposition and reply concept. That's one thing adding substantive or not, and the argument on a joinder can go forward if it has substantive points and authorities that are not in the initial with the underlying motion that goes forward, but it usually is to those same arguments under the EDCR.

So I'm understanding there's a mixed view on whether that's been custom and practice in this case from the substantive component. Is that correct? Mixed view, easiest way to phrase that.

MR. RULIS: Nate Rulis for the record.

Yes, I think that's fair, Your Honor.

THE COURT: Mr. Bice, would you say there's a mixed view? I'm hearing some people saying yes and some people saying no; I take that as mixed view.

MR. BICE: I don't recall -- I really don't recall

there being, you know, deadlines that were -- that imposed deadlines were somehow extended.

THE COURT: I'm getting to that second prong. First time going scope of topic, right, substantive. My next question is going to be is are parties asserting that said, whether they were called supplements or whether they were substantive joinders, that those deadlines were also not met by agreement of the parties so you could pretty much file your supplement whenever you wanted to, or was it just the scope of the topics or are you saying also the deadlines? I see those as two different things. That's --

MR. BICE: I am sure -- I am sure Mr. Rulis is right, and the problem is it's been more than two years.

THE COURT: And that's fair.

MR. BICE: That there have been supplements filed by some people that were more expansive than the underlying documents. I don't recall any off the top of my head, but I'm not going to sit here and quarrel with them that that never happened, but I don't think -- I don't think we ever had an agreement that we would waive statutory deadlines or rules by people doing that.

THE COURT: Okay. So let me circle back to Mr. Rulis and then go back to Mr. Slater.

Mr. Rulis.

MR. RULIS: Yeah. Your Honor, Nate Rulis on behalf

of MM and LivFree.

I don't know that the timeliness or deadline of joinders and whether they were substantive or not has actually come up. Frankly I don't know that we addressed that previously.

THE COURT: Okay.

Mr. Slater, two prong question to you. You're asserting that your document that includes your Phase 1 argument, I'll phrase it that way, was timely done with response to the filing of the memo of costs from a time deadline as --

MR. SLATER: Yes, Your Honor. Craig Slater for the Inyo Fine Cannabis and NuVeda entities.

It was filed on August 9th. So I do believe it was timely.

And more importantly, I just, I think perhaps maybe I should have clarified this. I don't believe we asserted any new arguments other than me pointing out that the arguments raised by other people, that there was a distinction between the judicial review claims and the claims that went on to the six-week trial. All's I did is merely pointed out that that particularly affects or impacts my clients because they only asserted judicial review claims.

Those were arguments that were made in several of the motions to retax. I believe both by the TIG defendants as well

as Mr. Parker's motion. So I don't necessarily believe I raised anything new other than just pointing out that that particular argument strongly applied to my clients.

THE COURT: Okay. Eight, nine, joinder --

You don't happen to have a document number, do you?

MR. SLATER: To be honest with you, Your Honor, I have no idea of determining what the document number is. I can tell you it was filed at 12:57 p.m., and that's -- I'm looking at the document, and the stamp at the top does not identify a document number.

THE COURT: No worries. Okay. The thing is there was about 50 documents filed on 8/9. That's why I was -- and so many have been just a joinder.

MR. SLATER: I'm well aware that, Your Honor.

THE COURT: Yeah. Some of them just say joinders. So it doesn't say whose joinder. So that's why I was trying to find a quick way of getting to this.

Okay. Just one second, please.

(Pause in the proceedings.)

THE COURT: Back to your joinder. Did your joinder address which costs you were asserting were for the petition for judicial review phase versus the other phase? I found -- I found yours. 8, 9, 1257. I'm on it. So.

MR. BICE: Yeah. So, Your Honor, on that, we actually -- we did not -- so the petition for judicial review,

of course, was just a hearing. I believe it was on September 8th --

THE COURT: Right.

MR. BICE: -- of 2020. So that was the day -- that was the judicial review hearing date or hearing that we had. Everything else -- you know, we keep calling it Phase 1 and Phase 2, but, of course, Phase 2 occurred before Phase 1.

THE COURT: Correct.

MR. BICE: So if you look at our memo of costs where we break it out, the only thing that we would've had is we have certain limited Odyssey filings because there would've been, you know, court filings that relate to the judicial review and not the second phase, which was the overall trial.

And so if the Court's instruction is I need to back those out, I can break that out. I'd have to just do a quick calculation, but if you look at everything else, it's all, especially the deposition transcripts, the process server fees, those all relate to before the judicial review.

There would be probably one set of copies, and that was I think essentially if it that pertains just to the judicial review proceeding. Everything else is well before the date of judicial review.

THE COURT: Do you agree with Mr. Slater's position on behalf that his client did not participate in anything other than the judicial review phase, and so therefore we would not

be subject to any of the costs because judicial review really doesn't -- I would agree judicial -- a pure petition for judicial review comes up through the administrative processes. That does not have an 18.020 concept.

MR. BICE: But, of course, a traditional judicial review we don't have discovery; it's just the record and briefs and things like that, right, so that's why you typically wouldn't have costs in a case like that.

So this trial -- this thing became a bit of a hybrid because since the trial occurred first, everything basically bled on over into this petition for judicial review. So I would say that, number one.

Number two, I don't, and again, Your Honor, too much time has passed for me. I'm getting, you know, as my hair shows, I'm getting up there in age. I thought Mr. Slater was at the trial. Maybe I'm wrong. Maybe.

MR. J. SMITH: Judicial review.

MR. BICE: What's that?

MR. J. SMITH: Judicial review.

MR. BICE: No. Even at the trial. Maybe I'm wrong on that, maybe I -- there were a lot of us there. It was a huge room with a lot of lawyers.

THE COURT: So the challenge for the Court, realistically -- well, there's a lot of challenges on this one thing, but this particular challenge is I do not see, and this

is why I asked the TGIG movants, okay, which was different than Mr. Rulis's clients. I'll just phrase it you've got a lot of them. I'm not going to say it all the names, okay, because I did not see other breakdowns of categories or dollars, okay.

I saw in some of the motions there was a distinction between petition for judicial review versus some people called it Phase 1, Phase 2. Some people called it the summary judgment. Some -- versus the petition for judicial review phrased differently.

So I saw concepts, but the only breakdown of reduction of costs was I saw in Mr. Rulis's, and if somebody else thinks you did it with regards to Essence, let me know. I'm still on Essence. I realize I'm not going to get anywhere else today. I'm going to -- unless we're going to make it really short because --

MR. BICE: Understood, Your Honor. And --

THE COURT: So the challenge is, is if somebody is addressing substantive argument that they should not be responsible for some of the memorandums of costs, that's what the retax is. Even taking the generous view on a joinder, if it's not addressed to break it down, the Court can't create a breakdown, and nobody has established by any case law that it would have been on the memorandum of costs burden to have carved them out.

So, Mr. Slater, on behalf of your clients, you can

understand why the Court was asking these questions about dollars; right?

MR. SLATER: Absolutely, Your Honor.

THE COURT: So is there somewhere in your joinder that you say that you have dollars -- well, let me take it another way. Sometimes you get in standard cases, right, or other cases people say, look, we got out of the case by summary judgment at X time. So we're not responsible for any costs after X date. So anything that's dated after X date, we're done; we're not in this case, okay. Subject to certain other things. I'm just saying. Plaintiff -- okay.

Because you all are still in the case, still listed in the case, but anyway, completely out with a stip to dismiss (indiscernible) person, right. So they're no longer in the case, no matter what. It's clearly defined with the notice of entry of order, right, because sometimes there's an argument on the stip to dismiss versus the NEO date but looked up, not going there.

Here, I'm hearing the concept, but I didn't see it focused in on what would be the impact, and I'll, just since you asked the question, I would say what would be the impact for your client by not parsing that out for the Court to be able to make a ruling that X costs should be allocated to -- you call it Phase 1 and Phase 2 so I'll use that language. So how can the Court do that when it wasn't in the actual pleading

before the Court?

MR. SLATER: So in my joinder, I kind of addressed this issue. I just point out that there was no distinction made in any of the memorandum of costs.

Now, the reality is, a judicial review claim consists of reviewing the judicial records.

So Mr. Shevorski and his client obtained the record and submitted that to Judge Gonzalez. So in that essence and for her purposes on the judicial review claim, she only reviewed the record before her. So there would have been no reason to take depositions or conduct discovery.

So in that sense, I don't think any of the costs, whether they're broken out or not would ever relate to the judicial review claims. The judicial review claims are limited to a review of the record that was before Her Honor, former Judge Gonzalez.

THE COURT: And the ROA came from where? Record on appeal, ROA, for PJR, or petition for judicial review?

MR. SLATER: I believe that was produced by the Department Taxation and the Attorney General's office, Mr. Shevorski's office. They're the ones who prepared and submitted the record to the Court.

THE COURT: So that means so realistically, it kind of goes back really though to the Court's question.

Since it was not broken out as to what could be,

right -- let me go back to your joinder 2893.

You all want me to stop and see if you can (indiscernible) agreement between years. I mean -- the amount of dollars for every minute I'm here.

(Pause in the proceedings.)

MR. BICE: So, Your Honor, I --

THE COURT: (Indiscernible) I was looking at the wrong one. Hold on a second.

Go ahead, Counsel.

MR. BICE: Yeah, I would ask that we try and get this resolved because I'm afraid that if we just punted it will -- we'll be right back here with a whole bunch of new arguments, and I would just like to get this resolved.

If counsel's argument is, is that he's -- he was only involved up to the petition for judicial review, which again, I'm just not sure about that, but, okay, then I will be happy to break it out at the Court's direction as of September 8th going forward because the trial had ended.

THE COURT: I'm hearing what you're saying, and I'm appreciative that somebody else might be jumping up in just a moment, jumping being a euphemistic term, but somebody else may stand up, request to be heard that that may impact their allocation, and if the Court is --

MR. BICE: I see.

THE COURT: And if the Court is addressing an

argument that is not clearly before it in the pleadings, should I or should I not be doing that, which is why I was double checking the actual pleadings of Mr. Slater's clients, and that's why I'm --

MR. BICE: Yeah. So my point, Your Honor, on that is, is that's why the time frame for filing these motions to retax is quite short by statute is it's, it is if you've got an objection, provide that objection. They didn't break out any amounts that they claim that, you know, need to be subtracted, or I shouldn't -- some of them didn't. Mr. Rulis did, and I'm happy to address those. But I think it's unfair to then just come into court and say, well, let me flip the burden around on I didn't do that or they say they didn't do that, but let me try and flip the burden around and say now the Court should do it or the Court should order Essence to do it.

THE COURT: That's why the Court's going back to Mr. Slater's client's actual document. I am taking into account the, quote, supplemental argument based on if there's a mixture of viewpoints of what was the custom and practice in this case before this Court takes it, I think the better course of action is I take into account supplementals because at least some people thought that was the custom and practice.

So I'm looking at the section supplemental arguments to motion to retax, and I am seeing if there is any breakdown. Give me one second, please.

MR. WILLIAMSON: Your Honor, this is Richard Williamson. May I just be heard on one quick --

THE COURT: Well, wait. Wait. I'm not moving to a different person until I get this one clean, taken care of, right.

MR. WILLIAMSON: I know. I know that, Your Honor. I'm actually trying to help. I'm not even speaking about my client.

THE COURT: Do you need to go? Is that what you needed to say?

MR. WILLIAMSON: No. I was actually just going to jump in on what Mr. Bice said, just trying to help the Court and help the record. Mr. Bice said he wasn't -- he couldn't remember. He, you know, may be forgetting. I'm just looking at the Court's transcript from August 18th when Mr. Slater did make an appearance. I don't know what he said, I don't know what he did, but the point is that was before the PJR.

So I just wanted to, since Mr. Bice was unclear on the record, I wanted to provide that information, that the trial transcript from August 18th, that was day 20 of the bench trial. It does show at least that Mr. Slater made an appearance there, if that helps with this question of whether or not he was there during Phase 2.

THE COURT: I appreciate it.

So here's really where the Court's going to go. I'm

looking at the joinder. The joinder had the full opportunity to set forth what they wished to do to the joinder. The reason why -- and the Court said it was taking into account supplemental because I have some people saying custom and practice that you took into account supplemental. I'm looking at the whole two pages of that joinder. While it just has a general statement about which costs were incurred, in that respect the memorandums are fatally flawed as it relates to NuVeda and (indiscernible) because they did not participate in Phase 2 and only participated in Phase 1, that would not meet the appropriate standards under a motion to retax or a joinder for substantively for the Court to be able to reduce any of the costs between the two phases with regards to your clients, Mr. Slater, because it's not articulated, and it would be your obligation in either a motion to retax, or even giving the more generous view on a joinder with a supplement, to have that, not just a broad statement.

And since you would have had the time components, because you already knew the time components of when the PJR was versus the trial, the Court finds that that is the appropriate remedy. So that addresses Mr. Slater.

Mr. Rulis is standing up, but I have to -- you know, Mr. Rose and Mr. Graff are thinking they would have loved me to have done these altogether, but, okay. Go ahead.

MR. RULIS: Yes. Yes, Your Honor. Nate Rulis on

behalf of MM and LivFree, for the record.

I do want to address this issue because I believe we did raise it in our motion to retax on page 7, lines 3 through 7 of the motion to retax as to the settling plaintiffs. So it may be -- maybe that's what Your Honor was alluding to when you said somebody might be jumping up is that this might be something that we need to address as part of our previously agreed to supplementation.

THE COURT: Okay. The only carve out as to dollars for any time date carve out is in --

Mr. Rulis, this is your client's motion, that this Court saw. The other joinders have some general sentences, but yours is the only one I see that really articulates the arguments is how I see before for the Court, realistically. That's why I've -- I'm making sure if somebody thinks that there's some other supplement of a supplement that may not be called a supplement, which is somewhere in these 3,000 plus things that I'm trying to give you all a chance.

So let's circle back.

Other than Mr. Slater, does anybody else -- because I already addressed your concern, does anybody else -- see the easier things when you're here in court, you stand up, and I can see you. When you're remote, I don't know if -- plus many of you aren't even audiovisually even though you know you were only allowed to be audiovisually, but it's -- right, under the

remote appearance request that was made.

But in any event, anybody else need to be heard?

MR. DZARNOWSKI: Yes, Your Honor. This is Mark Dzarnoski.

Very briefly on behalf of TGIG, I would like to address the one issue or you made a comment that, you know, there's nothing to say who should be responsible for itemizing the different costs between the judicial review and the Phase 2 proceedings and, you know, I just looked again at, for instance, the memorandum of costs that was submitted by the Essence entities, and I just, for the life of me, I don't see how the information that is supplied in the memorandum of costs as to the expenses at all a person who looks at the memorandum of costs, like our firm could challenge anything based upon what the photocopies were made for, for instance, what the service fees were for, what the --

THE COURT: Okay. Counsel, Counsel, counsel. Counsel. Counsel.

MR. DZARNOWSKI: -- Westlaw fees were for. There's no way for us to challenge an entry and say this should be reduced because it's --

THE COURT: Counsel, the reason why I'm going to stop you is because --

MR. DZARNOWSKI: -- this is why. It was not for sufficient to determine that.

THE COURT: Right. That's the reason why I read all seven pages. That's why I was asking. Remember I asked you first whether or not there was any breakdown or any argument in your pleading. There was not an argument that this Court saw, and that's why I double checked with anybody who wanted to be heard either A, that they couldn't determine the costs because they were so vaguely done, and so therefore they should be denied, right, or B, that they were excessive.

The issue with Mr. Rulis's client, he's contesting the number of copies, and he's got the total amount, okay. So the Court was looking at that total amount. The Court's not saying per copy meaning X dollars versus Y dollars. He has parsed out the difference between the expedited fees with regards to, like, some of the messengers and some of the depos, and he's parsed out between having a video deposition and a single copy of a deposition.

So I appreciate you're all excellent attorneys. If anybody else had wanted to make such breakdown, they had the same time period that he did. And even under your more generalized view, by taking supplements to joinders, some other people even had whatever they did with those supplements to joinders.

So the Court is taking the broadest breadth here, and the only one I saw -- I'm giving everyone an opportunity if they think there wasn't something else who filed a motion just

point it to me. Mr. Slater's was two pages. Yours was seven pages. So, okay. I looked at it. It's not there. You can't bring anything up for the first time in oral argument because this is not a new issue. This is an issue that was fully presented to people at the time the memorandum of costs were filed, and anyone could have raised whatever arguments they wish with regards to the memorandum of costs when they filed either A, their motions; or B, their joinders, particularly since the Court is also taking into account the supplements to joinders.

That being said, the Court's ruling is, and you're going to have it -- it looks like Mr. Bice and Mr. Rulis are going to be talking about potentially a second topic, right, because he has raised -- I cannot give you -- I can say that the number -- the only person who's contested your numbers is Mr. Rulis's client.

So you get your costs as to everybody else, subject to two things; one, you previously agreed upon whether there's, you know, the five-page in the 10 days, okay. That's already been talked about.

Two, to the extent Mr. Rulis or somebody has specifically joined because nobody has told me specifically that they join Mr. Rulis's motion with regards to the argument of the dollars, that dollars is open as to Mr. Rulis's clients. And if somebody else can show that they actually did a joinder,

timely joinder, right, that specifically addressed that they were doing that as well, that argument as well, then it would be to them as well.

But right now nobody is being able to point it to me, but I'm giving you all the benefit of the doubt that within 3,000 plus entries, if somebody says that they did it and nobody can tell me that they didn't do it, I think that is a fair carve out. So the ruling is --

MR. PUZEY: Your Honor, before you make the ruling, I'm sorry to interrupt. This is Jim Puzey with High Sierra Holistics.

THE COURT: I really was in the middle of my ruling. I did go around multiple times and ask if anybody else wished to be heard.

MR. PUZEY: I don't know if you asked if there was a joinder. We most certainly filed a joinder, and we spoke about it earlier. That was my argument during the Essence portion of this. And it was based upon my joinder. So I do join in Mr. Rulis's arguments concerning dollars.

THE COURT: Well, we need to be clear. Date of the joinder, and that's two Rulis's -- to the motion to retax and to the arguments in that motion to retax. So please give me the date you filed your specific joinder to his motion to retax and then address that argument, please.

MR. PUZEY: Yes. It was on -- the joinder was filed

on August 9th.

THE COURT: I need some part of the day so that I have a concept of what part of the day we're talking about since, like I said, there's a whole number of --

MR. PUZEY: Your Honor, my apologies. I don't have it. I have the substantive pleading. I don't have the time stamp.

THE COURT: The pleading should be in the upper right-hand corner. The stamp should be in the upper right-hand corner.

MR. PUZEY: It's not on this particular document, Your Honor, my apologies.

THE COURT: Folks, it's -- High Sierra Holistics. Is that what you said, Counsel?

MR. PUZEY: Yes, it is, Your Honor.

THE COURT: Okay. So you, for purposes of the dollars argument, High Sierra as set forth, lines, on the first page of your motion, which isn't numbered, the first page 1 isn't numbered, but I assume it's page 1, this is page 2.

Okay. So they -- you get that carve out for them as well for the dollars because they had joined that to address the dollars in the same concept as it is with regards to Mr. Rulis's clients. Nothing added there because there's no additional argument as to that.

Their additional argument, which I had gotten to my

ruling yet on their carve out for the other argument, okay, is their assertion, it's the consolidation argument, okay.

Consolidation argument the Court does not find that because of the way that this trial was done that the initial case numbering would preclude Essence from being a prevailing party vis-à-vis High Sierra Holistics because High Sierra Holistics, while they join in the argument of, I'm just going o say Mr. Rulis's clients, they do not articulate a specific additional argument on how those memorandum of costs should be further broken down because of when the intervention date was granted.

They note that there was an intervention date, but they do not argue that somehow that would further reduce the actual costs being awarded. So they get the benefit of one but not the other. So costs would still be awarded for all the analysis the Court said previously with regards to prevailing party with regards to High Sierra Holistics, really taking into account that joinder on 8/9, 3:24, including the supplement.

Okay. So --

MR. PARKER: Your Honor, this is Teddy Parker -- or I'm sorry, Your Honor. I didn't mean to interrupt.

THE COURT: Okay. Yes, Mr. Parker.

MR. PARKER: Your Honor, my document, our joinder was filed two days after MM filed its motion, and it was Document Number 2911.

I appreciate what Mr. Bice has said as well as what Mr. Rulis has said in terms of our joinders and substantive joinders. I agree with what Mr. Rulis said, and we, of course, questioned as well the figures presented in Mr. Bice's cost memorandum. So that's the only thing I wanted to point out, but I didn't know if we needed to resay that in the five pages that we were given to prepare in the next 10 days, Your Honor. So I just wanted to make a (video interference), Your Honor.

MR. BECKSTROM: And, Your Honor, that's the same for the ETW plaintiffs. So there was joint replies, first so it's easier for the Court, that Mr. Parker, ETW plaintiffs and Mr. Rulis's plaintiffs were altogether on the joint replies. I want to make sure our records are clear.

THE COURT: I have to look though at your, quote, joint reply from a timeliness standpoint.

MR. BECKSTROM: And it's on 8/15 was our joinder. So if the Court is going to find it untimely, I want to make sure it's --

THE COURT: That's where I -- that's why I have to look at dates. That's why I'm doing one by one and the different subarguments.

Okay. So 8/15 would be untimely. There has been no request by -- to this Court to extend the time to raise anything with regards to that. There has been no good cause presented or anything. So while it may not be jurisdictional,

based on Essence's prior arguments, they were objecting to anything that was filed untimely.

Is that correct?

MR. BICE: Yes, Judge.

THE COURT: Since you brought it up initially to the Court today.

MR. BICE: Yes, Your Honor.

THE COURT: Okay. So since I have an objection, and there was no request, and this could have easily been done through a request for relief if there was any good cause to file something at a different date -- I'm not saying what the Court would have ruled one way or another, but there just wasn't any motion or anything, okay, or any stipulation. The Court wouldn't find that there's, in looking at the actual documentation, it doesn't set forth any good cause for the additional time being needed, okay. I don't have any -- well, there's not any statement on good cause. So that's the easy part of it.

So therefore, things in the 8/15 document, the Court cannot take into consideration over the objection of Essence in the absence that there wasn't any request to this Court.

That answers part of your question, but not the full part of your question. I understand that.

So let's get to the second part. Let me finish with Mr. Parker first before I go to ETW so that we're being clear

on what we're saying for each subsection. I appreciate there's lots of you and there's one of me. So let's go back.

Mr. Parker, other than the 8/15 argument, you wanted me to look at your 8/10 document, which is your 8/10 document that was filed at 10:54 that you referenced a few moments ago. And that document, page 1, has the same thing it says, joins the arguments in the law set forth by plaintiffs MM Development, et al, i.e., (Indiscernible.) been calling Mr. Rulis's clients. So yes, you get the same (indiscernible). That's what I was saying you have a specific joinder.

The second part, the second part is you have no substantive argument that there is any further reduction of costs other than your resolution argument and the prevailing party argument. And, of course you say it was strict construction of 18.005 and was actually incurred and necessary.

I do see you have the law cited for Barosini, Cadle, et cetera, but what I did not see other than runner services -- oh, wait. I'm sorry. I'm wrong. Runner services and legal research, yes. So you do have those substantively as well as the global joinder as Mr. Rulis's, so you have those same arguments for potential reduction. Now --

MR. BICE: I just want to be clear on something, for the record --

MS. DELCARMEN: And, Your Honor, if I may, Jennifer (video interference).

THE COURT: Hold on a second. Hold on a second. I've got multiple people talking.

MR. BICE: An 8/10 joinder is also untimely.

THE COURT: What was the date of your memo of costs again?

MR. BICE: A memo of costs would have been due on the 9th believe -- or 8/5, sorry.

THE COURT: The motion to test --

MR. RULIS: So, Mr. Bice -- Essence filed their memo of costs. I think it was the evening of 8/5, which was a Friday.

THE COURT: It was after -- it was Friday though, right?

MR. RULIS: Yes.

THE COURT: With the first court date being Monday.

MR. RULIS: So then the motion to retax was filed on Monday.

THE COURT: Right, which is fine.

MR. RULIS: Right. Which is the 8th?

MR. BICE: What you did.

MR. RULIS: Yes.

MR. BICE: On that note, Mr. Rulis's and Mr. Dzarnoski's were the timely motions to retax. If I was suggesting otherwise, I --

THE COURT: No. No. No. I didn't see it. No, I

heard you only addressing Mr. Parker, saying Mr. Parker's joinder to Mr. Rulis's motion was untimely because it was filed on the 10th is what I thought you were saying.

MR. BICE: Yes.

THE COURT: Okay.

MR. PARKER: We are in disagreement, of course, Your Honor, because under 22 -- under EDCR 2.20, we're simply joining in the arguments made by the other settling plaintiff, which is MM and LivFree as well, Your Honor.

MR. BECKSTROM: And that's ETW's position. No substantive additions were there. We just filed the joinder. We accepted everything Mr. Rulis set forth his motion to retax.

THE COURT: Okay. My wonderful court recorder is going to give me a look in just a moment, and she'll be well-deserved to give me said look to remind you all to please state your names each time you speak.

THE COURT RECORDER: And, Mr. Beckstrom, I don't believe that microphone is -- it's, yeah.

MR. BECKSTROM: Sorry. I turned it off.

THE COURT RECORDER: You turned off, yeah.

THE COURT: You turned it off. Okay.

So did you get Mr. Parker's viewpoint.

THE COURT RECORDER: Yes.

THE COURT: And then you got Mr. Beckstrom's?

THE COURT RECORDER: Yeah.

THE COURT: Okay. So just, please, friendly reminder so that, unless you all just want to be a jumbled jumble.

Okay. So let's go back to Mr. Parker's question or statement on the 8/10 joinder --

MR. BICE: Yes.

THE COURT: -- whether it is or is not timely. Mr. Parker, your reliance on 8/10 being timely, let's circle back to a joinder on a motion, right.

MR. PARKER: Yes, Your Honor.

(Pause in the proceedings.)

THE COURT: Okay. So --

MR. PARKER: We filed it within two days, Your Honor. I'm sorry. For the record, this is Teddy Parker again on behalf of Nevada Wellness Center, Your Honor.

And we filed it within two days of the motion by MM and LivFree.

THE COURT: Okay. So then you have the -- do you go to the five days after a memo of costs, or do you go to a joinder to a memo of costs, and you get the extra benefit of the EDCR 2.20(d)?

MR. PARKER: And the way we're looking at it, Your Honor, we may be even within the five. I'm trying to pull it up and see.

MR. J. SMITH: And, Your Honor, Jordan Smith.

Just so we're clear, the deadline to file the motion

to retax is three days, not five days, by statute.

THE COURT: I'm sorry. I -- you are correct. It is three days by statute. The Court did inadvertently say five days or --

MR. J. SMITH: Mr. Bice led you astray. He said five days.

MR. BICE: I did that --

MR. J. SMITH: That was not your fault, Your Honor.

MR. BICE: It was my mistake.

THE COURT: It's a long morning. It's a long morning. It doesn't really matter. I should have said the right one anyway, no matter what other people say.

MR. PARKER: All right, Your Honor. This is again Teddy Parker. It's a long morning for everyone, Your Honor.

Yeah. We filed it within two days of the MM filing in accordance with EDCR 2.20.

THE COURT: But not within the statutory time frame to respond to a memo of costs. So what Mr. Bice had asserted --

MR. PARKER: If we were adding new argument, I would probably agree with Mr. Bice to the extent there are new arguments not included in the original motion, but in terms of the same arguments, I would disagree with Mr. Bice because we have joined in the same arguments relative to the costs.

MR. BICE: Your Honor, this is Todd Bice for the

record.

The only thing I would note on that is Mr. Rulis's motion to retax is eight pages long, and Mr. Parker's joinder, untimely joinder is also eight pages long with a bunch of exhibits. So this isn't somebody who just, you know, I'm filing a one page joinder as I join in Mr. Rulis's arguments. This is everybody is using that joinder rule to start making new and additional arguments, and that's what I object to.

THE COURT: Right. That's why this Court --

MR. PARKER: And, Your Honor --

THE COURT: Okay. Wait. Wait. Wait.

MR. PARKER: I'm sorry.

THE COURT: Folks, folks, folks. The Court really was trying to do a ruling, I don't know 25 minutes ago. I'm glad to provide entertainment.

So, okay. Let's go --

MR. PARKER: I'm sorry, Your Honor.

THE COURT: Let's go clear, okay.

MR. BICE: Okay.

THE COURT: The global concept of doing a joinder that does not add additional reductions in costs can be taken into consideration, EDCR 2.20(d), and the Supreme Court has recently said with regards to another Eighth Judicial District Court rule, right, to the extent it's being more generous, and since this is not a jurisdictional aspect, to the extent,

Mr. Parker, your pleading on 8/10 adds some category that was not in Mr. Rulis's, that cannot be considered for reduction. To the extent it just emphasizes, restates or your global paragraph on page 1, it is.

MR. PARKER: Thank you, Your Honor.

THE COURT: So the world of monetary reductions is Mr. Rulis's motion to retax, okay.

So ETW, to the extent you -- 8/15 is not going to meet either of those dates. 8/15 is not going to meet either the additional join -- the 15th meets the joinder date --

MR. BECKSTROM: James Beckstrom on --

THE COURT: But it's within -- hold on.

MR. BECKSTROM: The Court's ruling is clear. We agree with that. We added additional. We were timely under the EDCR joinder rule. We had a one page joinder. So that's all we have to say on that issue, Your Honor.

THE COURT: Mr. Rulis, you're carrying a lot of people on your motion.

Okay. So I heard one other voice --

MR. DZARNOWSKI: Your Honor, this is Mark Dzarnowski.

THE COURT: Wait. Wait. We're not -- the Court has already gone there. I have already -- it's very clear.

If you had a timely joinder to MTs [sic] -- Mr. Rulis's clients, right, within the EDCR, you get the scope only of Mr. Rulis's clients' motion to retax to --

MR. DZARNOWSKI: We (indiscernible) this is Mark Dzarnowski --

THE COURT: -- if you did not -- hold on a second. I really -- it's really difficult for both of us to talk to get you a clear record, okay.

If you did not file a joinder to said motion within the EDCR time frame, then you don't get the benefit of any part of it.

If you filed a joinder within the EDCR time frame and you've expanded on anything that was not in the motion to retax by MMT [sic], Mr. Rulis's clients, however you like to say it, those entities, right, then you do not get the benefit of it because then you would go to the de facto motion to retax.

With regards to TGIG, we already went through that TGIG on its own did not have any financial reductions. It had conceptual aspects.

So now the Court should have covered you all both globally. I have addressed you all specifically. I have focused on where the reductions is.

The granting of the motion is in its entirety with two carve outs, which is where we were to trying to start about 45 minutes ago. Okay.

Carve out one, I already said is to the extent with the settling plaintiffs with regards to the brief and the timing of said brief because that was raised in a motion to

retax, and that would be appropriately to be addressed.

The second portion of that is -- and I really think you all can reach an agreement on the actual dollars, right. The second is the dollars that are set forth in Mr. Rulis's clients, the MMT timely motion to retax and any joinders that meted only to the scope of what was in that original motion to retax within the EDCR time frame 2.20(d) can have an argument on the reduction of those amounts.

I realistically think that, Mr. Bice, you're probably going to speak with those parties to see if you can possibly come to an agreement on what that reduction is. If you can't, then that part the Court can't rule on today because --

MR. BICE: We haven't talked.

THE COURT: -- you haven't yet talked to see if it's also impacted by the date qualifier that may or may not exist. So you have a ruling as much as the Court can rule with those two carve outs.

That takes care of Essence, I hope.

MR. BICE: Yes.

THE COURT: It being the noon hour, my team who's gone nonstop for three hours for you all. I really appreciate them. Sorry. I lost track of time.

Realistically, you're not going to do another motion today, but I realistically think that with a couple of those others motions to retax that relates to some of the other

defendant parties who may have similar arguments, you might see if, A, you can reach an agreement with everybody else. If not, B, I'm going to set you for a different hearing date, and I will have to be more conscious of the time frame, to sticking to time frames because it's wonderful to see you all, but I think we need to ensure we get in timing.

Mr. Graf, I'm not going to go substantively with your motion today was the short version.

MR. GRAF: Understood, Your Honor. The only request that I would have in terms of --

THE COURT RECORDER: Mr. Graf, can you --

THE COURT: Can you go to someone's microphone so we can hear you. Thank you so much.

MR. GRAF: Yes. Rusty Graf, Clear River, LLC. The request I would make, Your Honor, is that you put our motion for costs on with our motion for fees. We should have a motion for fees that's hanging out there someplace, and I think it got set a couple of weeks out.

THE CLERK: The 27th.

MR. GRAF: Yep.

MR. RULIS: Your Honor, Nate Rulis for the record.

That's -- I had proposed that to Mr. Graf.

MR. GRAF: He did.

MR. RULIS: I have no opposition to moving that to the same day.

THE COURT: Mr. Rose, does the 27th meet your needs?

MR. ROSE: Your Honor, that would be fine as well.

MR. SCHWARZ: For the record, Your Honor, Joel Schwarz on behalf of Lone Mountain. That's fine as well.

THE COURT: Okay. And those are the other couple of pending ones?

UNIDENTIFIED SPEAKER: Yes.

MR. SHEVORSKI: Your Honor, Steve Shevorski for the --

THE COURT: Plaintiffs TGIG --

Yeah, I'm sorry. Go ahead.

MR. SHEVORSKI: Steve Shevorski for the State. We have a motion to retax as well. And I think there may -- I think he raised also a possibility of a jurisdictional issue. We have no objection to moving it.

In fact, I've got to get on a call with the East Coast on an important matter very quickly. I wonder if I might be able to drop off?

THE COURT: Okay. The 27th for whatever has not been resolved today, but here's -- somebody needs to send us a letter, just articulate which motions and which joinders, folks, so we don't have to keep on scrambling back through all of these to see who asserted they did their joinders, okay.

So whoever is going to take the weathering or, if you're going to do it jointly, the 27th, we're going to have to

give you -- I'm going to give you a time temporarily now because we've got a busy day that day, and I think that's what people are about to tell me on my wonderful team, that that is a busy day.

But, oh, first off, the 27th, is there any religious accommodations that the Court needs to take into account on the 27th? Because I won't schedule something if that impacts somebody for religious accommodation standpoint, i.e., it's the second day of Rosh Hashanah. So if that impacts anyone, we're going to find you a new date. And I moved things because I'm not impacting anyone.

So basically, all I'm going to tell you is by Tuesday at noon I get a letter, A, the 27th works for everyone, nobody needs an accommodation; or, B, somebody needs an accommodation and you don't need to tell me who, and we're going to have to pick a new date, then you're going to propose three new dates;

Two, you're going to tell me how much time you need.

Three, you're going to tell me the motions and the joinders; and in one nice little piece of paper so that we cannot have to go back and forth because the way these are titled it was really, really challenging for today. So I think that would make everyone's life a little quicker and easier.

MR. GRAF: Your Honor, Rusty Graf for Clear River --

THE COURT: And your fees motion can be on either the 27th or the new day if the 27th doesn't work for

accommodations. Does that get you taken care of?

MR. GRAF: Yes, Your Honor. And I'll send the letter on Tuesday if everybody wants to direct an e-mail to my attention or Brigid's attention, and we'll handle that.

THE COURT: Beautiful. Sounds wonderful. Have a great rest of your day. Have a great weekend.

MR. WILLIAMSON: Your Honor. Your Honor. Your Honor.

THE COURT: Wait. Wait. I've got too many Your Honors coming my way.

MR. WILLIAMSON: Sorry. Richard Williamson for Deep Roots Harvest, Your Honor.

THE COURT: Yes.

MR. WILLIAMSON: Just one quick question as it might impact what's happening on the 27th. The five page brief that Mr. Rulis is going to file in 10 days, I assume that is only as to the Essence motion, and it wouldn't have any dispositive, since that kind of allocation argument has been made with respect to other memoranda of costs, such as my clients.

THE COURT: Counsel, we're not getting into the arguments, but as everyone realizes, I only addressed one motion today. I cannot and I do not --

MR. WILLIAMSON: And so we don't need to weigh in on that.

THE COURT: -- give advisory rulings on anything that

I have not specifically addressed. Okay?

MR. WILLIAMSON: Okay. Thank you.

MR. RULIS: Your Honor, sorry. Before Todd goes, Nate Rulis for the record.

Maybe I can have that discussion with Mr. Williamson and Mr. Rose or anybody else and sort that out, and we can include that as part of our letter on the 27th.

THE COURT: When a beautiful stipulation comes my way, life is good. Okay. So --

MR. BICE: Yes. Just because I want the record to be clear, because --

THE COURT: Mr. Bice speaking. Go ahead.

MR. BICE: Oh, Todd Bice on behalf of the Essence parties.

I need the record -- I just want to make sure the record is clear because the Court had said something was denied. I think their motions to retax were denied. So costs are awarded subject to the conditions that you have imposed limitations and the caveats, and the motions to retax are denied based upon those same --

THE COURT: With respect to Essence, consistent with the carve outs --

MR. BICE: Correct.

THE COURT: -- yes.

MR. BICE: Thank you.

THE COURT: Which is the only motion the Court dealt with today.

MR. BICE: Thank you.

THE COURT: It's wonderful to see you all. Have a good rest of your day. Have a great weekend. Thank you so very much.

(Proceedings concluded at 12:07 p.m.)

-oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Dana L. Williams
Transcriber