

**IN THE SUPREME COURT OF THE STATE  
OF NEVADA**

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

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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

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**Supreme Court Case No. 86151**

Electronically Filed  
Jan 10 2024 11:21 AM

Elizabeth A. Brown

Clerk of Supreme Court

District Court Case No. A787004

**APPELLANTS' APPENDIX: VOLUME 5**

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DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

CASE NO. A-19-787004-B  
DEPT NO. XI

**TRANSCRIPT OF  
PROCEEDINGS**

**ALL PENDING MOTIONS**

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 INYO FINE CANNABIS  
AND THE NUVEDA ENTITIES:

CRAIG D. SLATER, ESQ.

FOR HERBAL CHOICE:

SIGAL CHATTAH, ESQ.

FOR DEPARTMENT OF TAXATION  
AND CCB:

CRAIG A. NEWBY, ESQ.  
Deputy Solicitor General

FOR INTEGRAL ASSOCIATES  
AND THE ESSENCE ENTITIES:

JORDAN T. SMITH, ESQ.

FOR CLEAR RIVER:

J. RUSTY GRAF, ESQ.

FOR WELLNESS CONNECTION  
OF NEVADA:

CHRISTOPHER L. ROSE, ESQ.

FOR LONE MOUNTAIN PARTNERS:

JOEL Z. SCHWARZ, ESQ.

FOR CPCM HOLDINGS:

JEAN-PAUL HENDRICKS, 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.

FOR HELPING HANDS  
WELLNESS CENTER:

JARED B. KAHN, ESQ.

FOR NEVADA ORGANIC REMEDIES:

DAVID R. KOCH, ESQ.

FOR JORGE PUPO:

DANIEL C. TETREAUULT, ESQ.

1 **LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 19, 2022, 9:00 A.M.**

2 \* \* \* \* \*

3 THE COURT: Okay. So good morning on this Monday  
4 morning at 9:00 a.m. Calling Case 787004. In re: D.O.T.  
5 Litigation, pages 1 through 26.

6 Since we seem to have some new individuals or  
7 individuals don't show up on some of our listing, what I'm  
8 going to do is I'm going to first have the appearances here in  
9 court, and then I'm going to go through who is done on the  
10 chat. And if you haven't done on the chat, quickly do it so I  
11 can get to you at the end.

12 And then what we're going to do is I need to confirm  
13 something regarding Nevada Wellness before we get to your  
14 motions. And thank you for the three letters of the 13th and  
15 the status report of the 12th.

16 So without further ado, appearances first here in  
17 court. Counsel, go ahead, please.

18 MR. RULIS: Good morning, Your Honor. Nate Rulis on  
19 behalf of plaintiffs MM Development Company and LivFree  
20 Wellness. Bar Number 11259.

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

23 THE COURT: Okay. So would you go to the top of the  
24 chat. I'm just going to do it in order, however --

25 THE COURT RECORDER: I'm trying. I'm just -- I can't



1 get there. There.

2 THE COURT: Okay. So I'm going to do it in the order  
3 of the chat, and then we'll go for anybody who's not.

4 Okay. So top of the chat shows Mr. Puzey. Would you  
5 like to do -- you just say notice of appearance, but you don't  
6 say who on behalf of. So, remember, we need you to state who  
7 on behalf of, please. Go ahead and your name.

8 MR. PUZEY: Thank you. Jim -- Jim Puzey on behalf of  
9 High Sierra Holistics, State Bar 5745.

10 THE COURT: Oh, there we go.

11 THE COURT RECORDER: Sorry. When somebody logs in,  
12 it takes me to the bottom.

13 THE COURT: Oh, I'm sorry. When some -- okay.

14 Well, we're going to try this, but you just heard  
15 what my court recorder says. We're going to do our best to try  
16 and keep it from the top, but as new people are logging in, it  
17 keeps popping us to the bottom. So we're going to have to keep  
18 going back to the top.

19 Okay. Do you mind seeing if we can go back to the  
20 top again?

21 THE COURT RECORDER: Oh, yeah. There we go.

22 THE COURT: Yes. Let's -- (indiscernible) best laid  
23 plan.

24 Okay. Mr. Williamson.

25 MR. WILLIAMSON: Good morning, Your Honor. Richard

1 Williamson, on behalf of Deep Roots Harvest, Inc.

2 THE COURT: Mr. Dzarnoski.

3 And whoever's rattling papers, please, and we can see  
4 you typing and rattling papers. Please, till we call you,  
5 please keep yourselves on mute and because otherwise everyone  
6 has to hear that. Thank you so very much.

7 Sorry. Mr. Dzarnoski, did you start your appearance?

8 MR. DZARNOSKI: Yes. Good morning.

9 THE COURT: Go ahead, please.

10 MR. DZARNOSKI: Yes, good morning, Your Honor. Mark  
11 Dzarnoski on behalf of the TGIG plaintiffs. We filed our  
12 notice of appearance via video on 12/5.

13 THE COURT: Thank you.

14 Ms. Smith, please.

15 MS. SMITH: Good morning, Your Honor. Stephanie  
16 Smith, Bar Number 11280, on behalf of National Medicine. And  
17 we filed our notice of audiovisual appearance --

18 (Video interference.)

19 THE COURT: I'm not going to call you out by name,  
20 but there is a particular person who just logged in. You need  
21 to put yourself on mute. We'll get to you in just a second.  
22 Okay? It would be a party that was involved in the settlement  
23 conference on the 16th. Please make sure you're on mute, and  
24 we'll call you in a few -- in a moment or two because I'm doing  
25 it in order of how people logged into the chat. Okay.

1 And there's also a phone number, and so I'll have to  
2 address that because the Court sure didn't approve anyone for  
3 phones on this.

4 But let's continue on. Please put yourselves on  
5 mute. Those individuals who have not yet, there's two -- three  
6 actually. Please, Counsel, so I can continue, and we have -- I  
7 have all the noises in the background.

8 There's a phone number, a 314 phone number. Please  
9 put yourself on mute. Thank you so very much.

10 Okay. Let's try again. Ms. Smith, I think I heard  
11 you. Would you mind repeating it, and you were cutting in and  
12 out with people talking and not on mute. Sorry. Would you  
13 mind going again?

14 MS. SMITH: Good morning, Your Honor. Stephanie  
15 Smith on behalf of Natural Medicine, Bar Number 11280. And  
16 notice of audiovisual appearance was filed on December 8th,  
17 2022.

18 THE COURT: Mr. Beckstrom.

19 MR. BECKSTROM: Good morning, Your Honor. James  
20 Beckstrom on behalf of the ETW plaintiffs. Notice of  
21 appearance was filed on 12/5 as well.

22 THE COURT: Thank you.

23 Mr. Smith.

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

1 Entities, and we filed our notice of appearance on 12/5.

2 THE COURT: Ms. DelCarmen.

3 MS. DELCARMEN: Good morning, Your Honor. Jennifer  
4 DelCarmen on behalf of Nevada Wellness Center.

5 THE COURT: Thank you. Do you have a co-counsel I  
6 see as well that would like to make his appearance?

7 MS. DELCARMEN: Yes. Teddy Parker is here as well.  
8 I believe he checked in through the chat.

9 THE COURT: Thank you so much.

10 Okay. Mr. Slater.

11 MR. SLATER: Good morning, Your Honor. Craig Slater  
12 on behalf of the Inyo Fine Cannabis and the NuVeda entities.

13 THE COURT: Okay. I'm not going back to Mr.  
14 (indiscernible) and Mr. Dzarnoski. Thank you. You just put in  
15 your notice of appearance. Appreciate that.

16 Mr. Rose.

17 MR. ROSE: Good morning. Christopher Rose for  
18 Wellness Connection of Nevada, 7500. We filed our notice of  
19 intent to appear also on December 5th.

20 THE COURT: Thank you.

21 Madam Court Recorder, can you scroll down under  
22 Mr. Rose. Okay. Okay. Mr. Puzey.

23 Mr. Kahn.

24 MR. KAHN: Good morning, Your Honor. Jared Kahn for  
25 Helping Hands Wellness Center.

1 THE COURT: Mr. Hendricks.

2 MR. HENDRICKS: Good morning, Your Honor. JP  
3 Hendricks for CPCM Holdings dba Thrive, Bar Number 10079. I  
4 filed a notice of appearance on 12/5.

5 THE COURT: Mr. Newby.

6 MR. NEWBY: Good morning, Your Honor. Craig Newby,  
7 8591, on behalf of State defendants. Notice of remote  
8 appearance was filed on December 5th.

9 THE COURT: Thank you.

10 Mr. Koch.

11 MR. KOCH: Yeah, David Koch for Nevada Organic  
12 Remedies.

13 THE COURT: I apologize for mispronouncing your name.  
14 I've done that in the --

15 MR. KOCH: That's all right. I get it all the time.  
16 No worries.

17 THE COURT: Yeah, I do too. People had an R to my  
18 name in the middle of it.

19 Okay. Ms. Chattah.

20 MS. CHATTAH: Good morning, Your Honor. Sigal  
21 Chattah, Bar Number 8264, on behalf of Herbal Choice, and we  
22 filed our notice on December 5th as well.

23 THE COURT: Appreciate it. Thank you so very much.  
24 Oh, I am mispronouncing it. Sorry. It's an early Monday  
25 morning, although it was a long weekend on preparing for

1 everything.

2 Okay. Mr. Graf.

3 MR. GRAF: Good morning, Your Honor. Rusty Graf for  
4 Clear River, LLC. Bar Number 6322. We filed our notice on  
5 December 5th.

6 THE COURT: Thank you. I show that as the last --  
7 that's the last one. Did anybody not put their names in the  
8 chat? Pretty much meshes up with my boxes.

9 Okay. Mr. Schwarz, did you put your --

10 MR. SCHWARZ: Good morning, Your Honor.

11 THE COURT: Did you put your name in the chat,  
12 Mr. Schwarz? I don't see it.

13 MR. SCHWARZ: Did just a couple minutes ago, Your  
14 Honor.

15 THE COURT: Well, maybe it didn't pop up yet. Oh,  
16 there you go. Okay. Would you like to make your appearance?

17 MR. SCHWARZ: Yes. Thank you, Your Honor. Joel  
18 Schwarz, Bar Number 9181, on behalf of Lone Mountain Partners,  
19 LLC. And we filed our notice of intent to appear today by  
20 audiovisual means on the 14th of December. And I apologize,  
21 that's a little late in the game, but, unfortunately, I've -- I  
22 was diagnosed with COVID last week, and so it necessitated a  
23 remote (indiscernible).

24 THE COURT: Okay. No worries. No one needs to  
25 disclose medical, private information, but thank you. I hope

1 you're feeling better.

2           Okay. We've now taken everyone for their  
3 appearances. Okay. It looks like I have.

4           We've got, obviously, we've got some In re: D.O.T.,  
5 Department of Taxation, we have some motions for taxing fees  
6 and costs in just a moment, but let's get through two other  
7 matters briefly. The first is I understand from minutes and  
8 being notified that there was a resolution that impacts the  
9 trial at least for -- I don't -- wait.

10           Is there anyone on Pupo? I don't -- I didn't see  
11 anyone for Pupo. They're still in the case until there's a  
12 stip. Sending an email on Friday does not excuse you from  
13 today's hearing.

14           Is someone subtly texting or emailing them so that I  
15 can move forward with this?

16           Well, I'll go to the one that doesn't necessarily --  
17 well indirectly impacts them, but I'll go to the other issue so  
18 we're not wasting people's time because I need them on the  
19 line, and I'm sure a couple of parties know that, right.

20           So anyway, with regards to the trial that is still  
21 currently on, and the reason why the trial is still currently  
22 on is, remember, I do not have a stipulation that says takes  
23 care of everyone. I understand that there's minutes on the  
24 record between Nevada Wellness and the State of Nevada. We're  
25 going to go to that in just a second. I'm waiting until I get

1 Pupo's counsel to go to that portion of it.

2 But for everybody else, I appreciate there was that  
3 oral request. But, as you know, since that hearing was not --  
4 it was on only certain matters and I said didn't have everybody  
5 present potentially that we did need a stipulation because this  
6 Court needs to know by agreement of all the parties because  
7 right now, despite there being over 3,500-plus entries in these  
8 various cases, the Court doesn't see that there's steps to  
9 dismiss various people and/or corporate entities and/or LLCs  
10 and/or anything. So, as you can appreciate, right now  
11 everything is ripe for trial.

12 So please, as you probably also know, the calendar  
13 call for this -- oh, let's go to the calendar call since I  
14 don't have it immediately handy. Calendar call 12/20. That  
15 means tomorrow. So unless you all are appearing here tomorrow  
16 with all your documentations, 2.67 through 2.69, there better  
17 be a stip; right? It's not even a judicial day, folks, today.

18 THE COURT RECORDER: Judge, they've logged on for  
19 Pupo as well.

20 THE COURT: We have someone who came, decided to  
21 appear late.

22 Who just appeared late?

23 MR. TETREAULT: Dan Tetreault on behalf of Mr. Pupo.  
24 Your Honor, I'm sorry. I had the wrong BlueJeans information.  
25 My apologies.



1 THE COURT: Okay. So, folks, as you know, please  
2 feel free to read the EDCR about whether or not a hearing can  
3 be changed less than one judicial day.

4 So right now I'm planning on seeing each and every  
5 one of you all in person with all exhibits and all everything,  
6 right, unless, because I have no stipulation that says if  
7 anyone is going to.

8 UNIDENTIFIED SPEAKER: Your Honor.

9 THE COURT: The short answer is I don't have a  
10 stipulation. I really don't want to hear a discussion, okay.  
11 You all, I gave you warnings last week, gave you warnings last  
12 month, gave you warnings months ago. Nobody wishes to give me  
13 a stipulation. Feel free to show where there's -- and  
14 appreciate some people have certain things under EDCR 7.50, but  
15 right now that's not the way the captions read. That's not the  
16 way all the various cases read.

17 So as you can appreciate, there will be order to show  
18 causes tomorrow, and I don't really want to go there, but  
19 realistically, folks, come on, it's a simple stipulation that  
20 should have been done and provided to the Court so we can get  
21 you all taken care of, or you can tell your clients that you  
22 chose not to do a few-minute stipulation, okay. So that's that  
23 part.

24 Now let's go to some specifics. Nevada Wellness,  
25 Pupo and the State of Nevada, I understand and I saw minutes to

1 the effect, but since it was just the State of Nevada and  
2 Nevada Wellness for those minutes in front of Judge Bell, soon  
3 to be Justice Bell, on 12/16, I understand that was an  
4 EDCR 7.50 memorialization on the record that there was a full  
5 and complete resolution between the State of Nevada, Pupo and  
6 Nevada Wellness. Is that -- and the terms, material terms were  
7 placed on the record as set forth in the minutes.

8 Is that correct, Nevada Wellness?

9 MR. PARKER: Good morning, Your Honor. Theodore  
10 Parker on behalf of Nevada Wellness. That is correct, Your  
11 Honor.

12 THE COURT: Okay. So was there any issues from  
13 Nevada Wellness's perception that need to go forward for trial  
14 in January or at all?

15 MR. PARKER: Nothing. Nothing on behalf of Nevada  
16 Wellness Center, Your Honor.

17 THE COURT: State of Nevada, is it your understanding  
18 there's a full and final resolution between Nevada Wellness,  
19 Pupo and the State of Nevada? And is there anything that you  
20 assert needs to move forward for trial, January or any time in  
21 the future?

22 MR. NEWBY: Your Honor, again, Craig Newby for the  
23 State of Nevada. Yes, there is a settlement of all issues  
24 involving the State, Mr. Pupo, and Nevada Wellness Center. And  
25 I do not believe there are any remaining issues to be tried

1 regarding the State of Nevada for the upcoming January 9th  
2 trial.

3 THE COURT: Okay. Counsel for Pupo, you can  
4 appreciate you were not there on the 16th, at least the minutes  
5 do not reflect that you were there. I do appreciate that there  
6 was an email sent, but I need, right, under EDCR 7.50, is there  
7 a full and final resolution so that there are no issues  
8 involving your client for the trial set for January or any  
9 future time?

10 MR. TETREAULT: Good morning, Your Honor. Dan  
11 Tetreault on behalf of defendant Jorge Pupo. I was -- we were  
12 not present on the December 16th. Nevertheless, from  
13 Mr. Pupo's perspective, there was no -- all material terms have  
14 been agreed to. There were no remaining issues to be litigated  
15 as to Mr. Pupo, and he understands that there is a full and  
16 complete settlement which fully releases him as a result of  
17 that resolution between Nevada Wellness and the State of  
18 Nevada.

19 THE COURT: Okay. And is that an agreement, since I  
20 don't have your magic words under EDCR 7.50 placed on the  
21 record as if it were memorialized in writing?

22 MR. TETREAULT: Yes, Your Honor. Mr. Pupo absolutely  
23 agrees.

24 THE COURT: Thank you.

25 State of Nevada, with regards to Mr. Pupo -- I'm just

1 doing that since he was not part of those minutes on the  
2 16th -- is that correct what counsel for Pupo said, and is that  
3 an EDCR 7.5 placed on the record as if it were memorialized in  
4 writing?

5 MR. NEWBY: Yes, Your Honor.

6 THE COURT: Mr. Parker, on behalf of Nevada Wellness,  
7 is that correct with regards to --

8 MR. PARKER: That is correct, Your Honor.

9 THE COURT: -- Mr. Pupo under 7.50? Thank you. Go  
10 ahead, please.

11 MR. PARKER: That is correct, Your Honor.

12 THE COURT: Thank you.

13 Okay. So now at this juncture the Court is going to  
14 vacate the trial with regards to Pupo, the State of Nevada for  
15 purposes of Nevada Wellness Center.

16 As you know, I can't do anything with all the rest of  
17 you all until I have a stipulation.

18 So I'm going to vacate the calendar call with regards  
19 to Pupo, Nevada Wellness and the State of Nevada with regards  
20 to State of Nevada regarding Nevada Wellness and Pupo, but I  
21 can't do anything else about all the rest without a  
22 stipulation. Do realize I don't get a stipulation by noon, I  
23 mean, I'll waive the one day till noon, but if I don't have a  
24 stip signed by everyone by noon, I will be seeing everybody  
25 else here tomorrow. Everybody understands that. I'm sure you

1 do.

2 Please do not not show up fully prepared under  
3 EDCR 2.69 or send the Court something that shows that there  
4 actually is this dismiss -- stipulation to dismiss if you're a  
5 party because you can appreciate the Court is not going to go  
6 back looking through over 3,500 entries to try and find what  
7 somebody may be considering that. Okay? So feel free to do  
8 that.

9 I appreciate I've got some letters from the 13th. I  
10 appreciate I've got a status report from the 12th. But I don't  
11 have anyone providing me any documentation. So please get that  
12 cleared up. As much as we would love to see you, I'm sure you  
13 might want to be doing something else tomorrow rather than  
14 addressing this case. So there, that takes care of that part.

15 The next part is, and Ms. Chattah, I do happen to  
16 notice a withdrawal of counsel that's not set till the 30th.  
17 The Court's inclination was to complete potentially the hearing  
18 today and then see if parties were amenable that that could be  
19 advanced and potentially granted or not.

20 But I need counsel for the 30th, is there a reason  
21 you would like to remain through the rest of these hearings, or  
22 they have no impact on your client? What I just don't want to  
23 do is ask parties if they want to advance and grant something  
24 if it matters the order by which I hear things today. So...

25 MS. CHATTAH: There's -- Judge, are (video

1 interference) addressing (video interference) or the rest of  
2 the attorneys (video interference)?

3 THE COURT: Counsel, I am addressing your motion to  
4 withdraw for 12/30/2022 that's currently set, but as much as I  
5 know who's speaking, our record doesn't unless you, right,  
6 state your name again, please, and the party you represent.

7 So my question really is I can address this  
8 administratively. I can today if the parties are all wishing  
9 me to do so. I can do it before the substantive motions unless  
10 it makes an impact that I should do it after the substantive  
11 motions.

12 So I'm really just asking you if you are requesting  
13 under EDCR 2.23 since the time has passed and I do not see any  
14 opposition; and then the timing, if you are requesting that it  
15 be advanced to today. If you want it stayed on the 30th, I'll  
16 stay it on the 30th -- keep it on the 30th.

17 But so, Counsel, would you like to set forth your  
18 position?

19 MS. CHATTAH: Sure. Sigal Chattah here, again on  
20 behalf of Herbal Choice. I would appreciate the Court address  
21 this today. There's really (video interference) on these  
22 hearings at this juncture.

23 THE COURT: Okay. Is your client impacted at all by  
24 any of these hearings?

25 MS. CHATTAH: No, Your Honor.

1           THE COURT: Okay. And you understand I just didn't  
2 want to advance some -- address something in advance if it made  
3 an impact, right. So, okay. So is that a request that you  
4 wish me to advance the hearing from 12/30, the motion to  
5 withdraw as counsel, your motion to withdraw as counsel to  
6 advance it to today and grant it as unopposed? Or are you  
7 requesting something different?

8           MS. CHATTAH: I'm requesting that the Court grants  
9 (video interference) 2.23 as unopposed.

10          THE COURT: Okay. Since I have all the other parties  
11 here, does anybody object to it being advanced under EDCR 2.23?  
12 If so, speak now.

13           I'm going to ask first here in Court, if you are,  
14 standing up, stand up. I don't see anyone standing up.

15           Anyone remotely? Unmute yourself so we'll see a  
16 green box.

17          MR. SCHWARZ: Your Honor.

18          THE COURT: Go ahead, Your Honor.

19          MR. SCHWARZ: Joel Schwarz on behalf of Lone Mountain  
20 Partners, LLC. We don't oppose Ms. Chattah withdrawing on  
21 behalf of her client. The only issue I would note is that  
22 there are -- at least my client is one of the parties seeking  
23 costs as to this party, and I want to make sure that we're not  
24 going forward and awarding costs against an unrepresented party  
25 that's a corporate entity that should have counsel for that.

1 And I don't want that to delay the proceedings. And as such, I  
2 would suggest that it might make sense to wait until after  
3 there's been a substantive decision with regard to any costs  
4 being awarded as to that entity before she is allowed to  
5 withdraw.

6 THE COURT: So in light of Mr. Schwarz's comments,  
7 would you like me to defer that till the end of the hearing  
8 today?

9 MS. CHATTAH: That's -- that's fine, Your Honor. We  
10 can defer until the end of this hearing.

11 THE COURT: Okay. Then we'll do that.

12 And now we'll just move to substance hearings. Okay.  
13 I do appreciate I got the 12/12 status report regarding Lone  
14 Mountain, TGIG.

15 I have letters from 12/12 as well, although they show  
16 up on the record -- they're dated 12/12; they show up on  
17 Odyssey as 12/13, so whichever date you want to utilize with  
18 regards to outstanding matters from the Robertson Johnson firm,  
19 the Kemp Jones firm and Maier Gutierrez firm. So those are  
20 what I have as background for what is currently pending.

21 While I'm appreciative of this, I do not see that the  
22 parties have agreed to any particular order that you want  
23 things. So it seems to me I'm going to address the substantive  
24 motions and then do the finalization on some of the, shall we  
25 say, amounts, the math-type aspects or the reasonableness-type



1 aspects, do that at the end because after you hear the oral  
2 argument and the other matters that may impact people's  
3 viewpoints. It seems to me that's probably the cleanest way to  
4 do that unless there is some other document that I am not aware  
5 of other than those four that has some agreement of the order.  
6 So I will see if there is.

7 Mr. Rulis, you're standing up. So...

8 MR. RULIS: Yes, Your Honor. Nate Rulis for the  
9 record, on behalf of MM and LivFree. While we didn't have a  
10 stipulation or agreement, I did have -- we included a  
11 suggestion on order in our letter, starting with -- considering  
12 we left off I think at the last hearing with Wellness  
13 Connection, our suggestion was we pick up there and complete  
14 the adjudication of the motions to retax Wellness Connection's  
15 costs and then address Clear River and Deep Roots.

16 THE COURT: Right. I did read that at the end, but  
17 that's the reason -- realistically, it seemed to me it made the  
18 most sense to go through the other one substantively because  
19 just in case somebody's going to try and trigger something or  
20 then say, wait a second, I didn't think about that because then  
21 it came up afterwards. In light of you all's overlapping in  
22 discussions, it seemed to me I should get through that.

23 I understand where you're going. Finish off the  
24 numbers before I go to the new ones, but it seems to me you all  
25 have referenced other things in some of these prior hearings,

1 so it seemed to me I would get to the substance, get far as  
2 there and then clean off the numbers.

3 MR. RULIS: Understood.

4 THE COURT: So, yeah, I did see your last paragraph  
5 of your letter, but, okay.

6 So the substantive motions, realistically, it looks  
7 to me like I was going to start with Deep Harvest. Any reason  
8 not to start with Deep Harvest? Deep Roots Harvest. I  
9 misspoke the title.

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

11 THE COURT: Okay. So motion to retax and settle  
12 costs regarding Deep Roots Harvest, Memorandum 2922, on August  
13 11, [indiscernible], reply 3082. And then obviously the memo  
14 of costs was back to August 8th.

15 So the first question is with regards to Deep Roots  
16 Harvest, Inc., always hopeful, I'll ask if there was any  
17 resolution or if it needs to be heard? Since I'm seeing  
18 counsel stand up, I'm assuming it needs to be heard.

19 So, Counsel for Deep Roots Harvest, motion to retax.

20 MR. WILLIAMSON: Good morning, Your Honor. Richard  
21 Williamson on behalf of Deep Roots Harvest. Yeah, I think  
22 there are motions to retax our cost memorandum, so I'm happy to  
23 speak to our cost memorandum briefly if the Court would prefer  
24 that we start.

25 THE COURT: Well, realistically, we would do it for

1 the motion first, right, because motion and then you get  
2 opposition, and we have a reply unless there's agreement  
3 differently from the parties. So I would go to the movant on  
4 the motion first, right, since they would have the burden to  
5 retax.

6 So, Counsel for the movant on the motion to retax for  
7 Deep Roots Harvest memorandum of costs.

8 MR. RULIS: Thank you, Your Honor. Nate Rulis on  
9 behalf of MM and LivFree. We filed, as you said, our motion to  
10 retax was filed on August 11th, 2022. And that's Document  
11 ID 2922. And I'll try to shorten this up.

12 Obviously, we have spent a lot of time discussing  
13 various concepts, but, you know, specifically, last time we  
14 were here we were talking about figuring out the triggering  
15 date for when costs could be requested. Obviously, we have  
16 submitted supplemental briefing on that issue. Your Honor,  
17 that certainly applies to Deep Roots Harvest as it did to  
18 Wellness Connection.

19 And so I would say as to MM and LivFree, Deep Roots  
20 had filed its first answer in response to claims made by MM and  
21 LivFree on February 12th, 2020. So that would be a triggering  
22 date, and I believe that's document ID Number 356 is Deep Roots  
23 Harvest's first answer.

24 Now, that would mean that when going through Deep  
25 Roots's verified memorandum of costs that there would be a

1 total of \$9,143.74 that were incurred prior to February 12th,  
2 2020. So we would specifically be requesting that the Court  
3 retax that amount as incurred prior to becoming a party to the  
4 litigation and for all the reasons that we discussed at the  
5 last hearing dealing with Wellness Connection.

6 Now, there are additional costs and categories of  
7 costs that Deep Roots Harvest has included as part of its memo  
8 that should be -- it should be retaxed under Nevada law. And  
9 on that I will try to list those out specifically for Your  
10 Honor.

11 And that is in Deep Roots's verified memorandum, they  
12 have included photocopies totaling \$4,718 where only the date  
13 and cost of each copy were provided. I do not believe that  
14 that complies with the Nevada law, *Berosini* and *Cadle* and  
15 those, that they have not submitted sufficient evidence and  
16 supporting documentation to be entitled to those costs.

17 Additionally, we have -- they have asked for \$292.43  
18 in long distance phone calls. We discussed that issue. As far  
19 as Essence goes, I believe that as we talked about at that  
20 point that with access to cell phone and, frankly, the fact  
21 that I don't know that many people actually charge for long  
22 distance anymore I would not call those a necessary charge.

23 Additionally, Deep Roots has included the total  
24 amount of \$13,355.24 for travel and lodging. While I commend  
25 Mr. Williamson for including lots of receipts, there's -- it

1 is -- that's it. There are receipts. It's no -- there's no  
2 connection to why they were -- those amounts of charges were  
3 reasonable, necessary or how they were incurred and why.

4 Additionally, they have included --

5 THE COURT: Can I stop you there for one quick  
6 second?

7 MR. RULIS: Yes.

8 THE COURT: When you say they weren't -- and I saw it  
9 in your briefing -- reasonable, necessary, or why, are you  
10 saying there wasn't like a depo out of state? I just need a  
11 little bit more of a clarification of what you mean, why they  
12 were --

13 MR. RULIS: Sure. So there were -- I don't believe  
14 that there were any depositions that were taken out of state,  
15 and, frankly, I believe most of the -- you know, I have it  
16 here.

17 THE COURT: Most of yours were by Zoom, but that's  
18 why I'm trying to figure out --

19 MR. RULIS: They were, and I think, if I recall  
20 correctly, most of the travel and lodging that Deep Roots has  
21 included as part of its costs are for time that they spent in  
22 Southern Nevada. Now, Mr. Williamson can certainly correct me  
23 if I'm wrong, but I believe his firm is primarily based out of  
24 Reno. And so to the extent they traveled down here, they have  
25 included the -- it's the costs as far as travel coming down to

1 Las Vegas from Reno and related to that.

2 But it's the dates and the receipts that were  
3 presented, it's unclear as to what those are tied to, if they  
4 were specific to hearings. It's essentially a mass of receipts  
5 that just says, Here's our travel and lodging.

6 So as far as -- that's the -- I don't believe that  
7 there's sufficient documentation as to the why each of those  
8 was incurred under Nevada law.

9  
10  
11 THE COURT: Okay.

12 MR. RULIS: They've asked for \$1,339.28 for  
13 mediation. I would say that that's a -- a mediation is a  
14 charge to each party for the, to the extent that they were  
15 involved in it, and it's not a recoverable cost.

16 They've also included \$1,472.93 for computerized  
17 legal research. Again, there is no descriptions of what was  
18 researched or why. It is simply put in the description in the  
19 memo of costs as, quote, computerized online research through  
20 Westlaw and LexisNexis, and that does not comply with Nevada  
21 law under *Berosini, Cadle, Fairway Chevrolet*, as we have  
22 previously talked about.

23 They've also included about \$5,000 in trial. It's  
24 \$5,075 for trial services that Your Honor I think has  
25 previously addressed that in other motions. So I'm not going

1 to go through that, just as that's -- we have an objection to  
2 that as a -- as not a reasonable and necessary cost but as one  
3 that should be borne by them.

4 So essentially, there is a total of \$26,252.88 that  
5 MM and LivFree is saying should be retaxed.

6 THE COURT: Okay.

7 MR. RULIS: And I guess just to clarify, that is  
8 separate from the time frame cutoff there. There is admittedly  
9 some overlap.

10 THE COURT: So wait. Does the \$9,143.74, is that  
11 included in the 26,252.88 or not?

12 MR. RULIS: It is not.

13 THE COURT: Okay. That's what I needed.

14 MR. RULIS: Yeah. And it may be that if Your Honor  
15 is willing to rule on the categories of costs that are  
16 recoverable, then I could have a discussion, or the parties  
17 could have a discussion because we'll have to go through and  
18 try to figure out if there are categories, such as computerized  
19 legal research, what the overlap is between that and what was  
20 incurred prior to February 12th, 2020.

21 THE COURT: Okay. Counsel, you have a different  
22 perspective. Go ahead, please.

23 MR. WILLIAMSON: Thank you, Your Honor. And should  
24 I -- was that the only moving party we're going to hear from?  
25 I just didn't know if there were other moving parties (video

1 interference) prior to.

2 THE COURT: Well, I can circle around to all the  
3 joinders. Which way would you prefer it?

4 MR. WILLIAMSON: I'm happy to do one at a time. It  
5 might make it easier. I just want -- I didn't want to  
6 foreclose anyone. I'm happy to respond to Mr. Rulis's  
7 argument --

8 THE COURT: Because the joint -- most of the joinders  
9 I received were joinders to the arguments for the topic -- for  
10 the categories. So...

11 MR. WILLIAMSON: Very good.

12 UNIDENTIFIED SPEAKER: You know what --

13 THE COURT: So I'm going to do it one by one. Let me  
14 just have you do it one by one, and then we'll just get it  
15 clean for each one because that way I can give a category  
16 comment, and then we'll see what's left for anybody else.

17 Go ahead, please.

18 MR. WILLIAMSON: Okay. Thank you, Your Honor.  
19 Richard Williamson on behalf of defendant Deeps Roots Harvest.  
20 Certainly I won't, yeah, I won't belabor the Court reviewing  
21 everything that the Court has already heard and all the other  
22 (video interference). So I just want to get down to the points  
23 of the costs that Mr. Rulis (video interference).

24 First, with respect to the date on which costs should  
25 begin to be accrued, I understand the Court expressed its



1 inclination earlier. I think it's important in this to  
2 remember a couple things. Number one, as soon as a lawsuit is  
3 filed affecting a party's rights, that party then is on notice  
4 that their rights may be adjudicated and needs to do certain  
5 things. That becomes then all the more important.

6           When, for instance, on August 23rd, 2019, my client  
7 was expressly referenced in the preliminary injunction order  
8 that Judge Gonzalez issued. It was referenced to say we did  
9 everything right, but nonetheless it became more of, you know,  
10 it went from being an amorphous concern we were watching to my  
11 client's name has been invoked in this litigation. Our  
12 documents, our applications have been requested. And so our  
13 rights are being directly affected, so we need to actively  
14 participate even if we haven't yet filed an answer.

15           Going forward, then there was a mediation in this  
16 case with Judge Togliatti and certainly a proceeding in this  
17 case that was October 11th, 2019. But, yes, we hadn't yet  
18 filed an answer, but we are asked to participate. I would say  
19 a mediation expense is a reasonable and necessary expense, and  
20 so once we are asked to help participate in the resolution of  
21 this case, we are a party. Unfortunately, that mediation was  
22 unsuccessful, but so certainly we should not be retaxed just  
23 because our answer was in February when we'd been named in an  
24 order before that, we had been participating in a mediation  
25 before that, and then certainly we were named as a defendant

1 even prior to being served and filing an answer. Certainly  
2 once you're named as a defendant and absolutely once you've  
3 been served, a party starts incurring costs. So I just, I  
4 think it's really important to focus on that.

5 Yes, our answer was not until February, but we were  
6 actively participating in the case, actively being asked to  
7 participate in the case, and in fact had been named, expressly  
8 named in this case. So I don't think February is the right  
9 date. Again, I would say the clear date is when the complaints  
10 were filed, but at the very least, once we were named in  
11 Judge Gonzalez's order in August of 2019, any costs incurred  
12 after that, we were a party.

13 Moving on to the specific items, I won't, obviously,  
14 I won't belabor the issue on photocopies. I disagree but  
15 understand certainly what the Supreme Court's ruling is in that  
16 regard. We don't just have a bulk photocopy. We have  
17 individual month by month photocopy allocations that coincide  
18 with events in this case, but I acknowledge we don't and I  
19 don't think it was cost effective for and it's not reasonable  
20 and necessary for a party to expressly say these two pages are  
21 for this letter; these five pages are for that motion --

22 THE COURT: But doesn't Supreme Court --

23 MR. WILLIAMSON: -- I think then that would undercut  
24 the purpose.

25 THE COURT: -- in *Cadle* say you have to?

1           MR. WILLIAMSON: Yeah, it does, Your Honor. No, it  
2 absolutely does, and that's why --

3           THE COURT: And don't I, as a District Court judge,  
4 have to follow Supreme Court precedent?

5           MR. WILLIAMSON: We'll see. Maybe this case will  
6 provide that opportunity. But again, I don't know that it's  
7 cost effective to do that.

8           On the long distance charges, however, those are  
9 expressly required under 18.005. There is no Supreme Court  
10 order saying a lawyer has to use their personal cell phone in a  
11 case. And so that actually would be groundbreaking precedent  
12 to say despite what NRS 18.005 states, that a party in fact  
13 must use their personal cell phone and cannot charge for long  
14 distance calls despite that being provided under Subsection 13  
15 of the rule. So I would say the long distance charges are  
16 appropriate.

17           The travel expenses, and this is probably the largest  
18 of all the items, Your Honor, Mr. Rulis is correct. Some of  
19 those were for depositions down in Las Vegas. The bulk of that  
20 expense was for trial, and the dates correspond with trial.  
21 And, in fact, our memorandum of costs expressly states that  
22 it's for discovery and trial is what is in our memorandum of  
23 costs.

24           THE COURT: Is it trial predating settlement with the  
25 settling parties, or is it trial after the date of the settling

1 parties, or is it a combination thereof?

2 MR. WILLIAMSON: I guess it is a combination thereof,  
3 but the bulk of trial was before the effective date of the  
4 settlements, Your Honor. The trial -- trial began in July, I  
5 want to say July 10th if my memory serves correctly, or July  
6 11th. And those settlements I think were effective July -- the  
7 first one was maybe effective July 30th or 31st. So we were in  
8 the middle of trial. I was down there. I was at the lovely  
9 Residence Inn across from the Convention Center.

10 And this was a lawsuit not just challenging licenses  
11 issued in Clark County, Your Honor. As the Court knows, this  
12 was challenging the entire licensing regime that the State put  
13 in place statewide affecting all 17 counties. And so it is  
14 entirely reasonable and necessary. When you sue parties that  
15 have operations in other counties, when you sue parties that  
16 have officers and attorneys in other counties, and when you are  
17 affecting business outside of Clark County, it is both expected  
18 and anticipated that you will be drawing people in from other  
19 parts of the state. And it's reasonable and necessary  
20 certainly to travel and appear at trial, which is what those  
21 travel were.

22 So any in-person depositions are expressly covered  
23 under NRS 18.005. And likewise, any trial expenses are also  
24 reasonable and necessary and covered under 18.005. So all of  
25 those travel expenses are necessary and appropriate for both

1 discovery and travel.

2 Mr. Rulis is correct. I think some of the experts,  
3 as I recall, may have been located out of state, but all those  
4 were by Zoom. All of our travel expenses were solely to -- for  
5 depositions in Las Vegas and for trial that was in (video  
6 interference).

7 The mediation I spoke about a little earlier. Again,  
8 that was the October 11th, 2019, mediation with Judge Togliatti  
9 in Las Vegas. A mediation expense is a reasonable, necessary  
10 and recoverable expense. So that should be covered.

11 And then legal research, again, legal research is a  
12 known and anticipated part of the case. It's a reasonable and  
13 necessary cost under subsection 17 of NRS 18.005, and it's  
14 appropriate to be recovered as well, Your Honor.

15 And unless the Court has any other questions, those  
16 would be my responses on all (video interference).

17 THE COURT: Okay. The Court does. Your computer  
18 legal research, is that articulated for this particular case  
19 versus a specific allocation? Just like I don't want to call  
20 it bulk billing, but I can't really think of something more  
21 precise to call it. But is it percentage allocation or is this  
22 actually a fee charged for each of the research items for this  
23 particular case that was not readily available in the public  
24 domain?

25 MR. WILLIAMSON: Very good question, Your Honor, and

1 the answer is yes. If you look at our -- it's pages Stamp 262  
2 and 263 in our memorandum of costs. They are legal research  
3 charges expressly billed to this client, so not just divvying  
4 up my firm's, generally speaking. It is cost to this client  
5 for this case, and in fact it states it is broken out by month  
6 rather than by specific date, but it shows every month in which  
7 we incur legal research charges in this case and some months  
8 when we didn't. Obviously, there was some months where the  
9 work on this case didn't require us to conduct legal research  
10 into cases, into rulings on other things, and maybe we can just  
11 review the NRS that's freely available online.

12 But all of those legal research charges were  
13 necessarily incurred in this action and directly billed to my  
14 client.

15 THE COURT: Okay. You started to give me, you said  
16 263, 264, and that would be your -- is that August 8th?

17 MR. WILLIAMSON: Yes, Your Honor. So the -- and I  
18 want to point out this was no -- no party raised this issue.  
19 We filed our verified memorandum of costs on August 8th. We  
20 realized we did not comply with the appendix rule, and then so  
21 filed an errata on August 18th that has all those page numbers,  
22 if that helps, Your Honor.

23 MR. RULIS: Your Honor, if I might, I have Exhibit 9,  
24 which is their computerized legal research of their memo of  
25 costs.

1 THE COURT: Which is attached to their errata to  
2 verify memorandum, Document 2995, from 8/18.

3 MR. RULIS: Correct.

4 THE COURT: Yeah, if you have it. Yeah, I'm just  
5 going to take a quick look at it.

6 Marshal, thank you so much.

7 Okay. Counsel, did you complete --

8 MR. WILLIAMSON: Thank you, Your Honor.

9 And thank you, Mr. Rulis, for that. And I just want  
10 to --

11 MR. RULIS: Your Honor, it's double sided, just so  
12 you know.

13 MR. WILLIAMSON: -- and I just want to, Your Honor,  
14 for the record, this exhibit was also attached to our verified  
15 memorandum of costs --

16 THE COURT: Right. Right.

17 MR. WILLIAMSON: -- but --

18 THE COURT: No, I understand that. But when I was  
19 looking at this, and that's why I was asking the question, I  
20 just was trying to get it, is you have pay to explanation,  
21 computerized legal research charges, and then you have a client  
22 name, and you have a reference, and you have computer.

23 But what I was -- what it did not seem to have is --  
24 let's go -- now I'm going to say something very 1990s, folks,  
25 okay, but some of you may not have been practicing then. The

1 very first beginning is you used to do like a per search  
2 charge; right? You had to put in a client number. You spent a  
3 per search charge or a per hour charge or a per whatever.  
4 Okay.

5 Then things got to global charges for like a month  
6 for unlimited resources. Some people did that, some people  
7 still kept it on a per client basis. Some then got a, not even  
8 like a per month charge, they just basically have a generalized  
9 access charge, and if [indiscernible] you access certain levels  
10 of other types of resources, you may get charged a premium  
11 charge.

12 I didn't see an explanation. How did you come up  
13 with, take for example, the entry -- well, you've got some  
14 1/20/19. So I'm going to have the argument of before and after  
15 the time period, but let's take April 1, 2020, right. There's  
16 a charge for \$313.20, and these are monthly charges. So how is  
17 it -- break that down for me. How is it done in your --

18 MR. WILLIAMSON: Sure. Yeah. Happy to, Your Honor.  
19 Good question. Yeah. When we are charged by -- I think when  
20 this case started, our contract was with Lexis, and then we  
21 switched over to Westlaw part way through. But I believe under  
22 both, yes, we are charged a flat fee per month. And then based  
23 on how much research is done per client in that given month,  
24 the cost is allocated amongst those clients.

25 So rather than just us passing through our entire



1 charge, it is divided up based on usage among the clients that  
2 incurred legal research that month if that answers the  
3 question.

4 THE COURT: So do you then, hypothetically -- and  
5 let's make my math real easy. You've spent a hundred minutes  
6 totally for the month of, this is just a hypothetical, April  
7 2020, and on the Deep Roots case, you checked to see if you  
8 spent 10 percent of those hundred minutes, so -- or is it.

9 MR. WILLIAMSON: That's my --

10 THE COURT: -- client billed or --

11 MR. WILLIAMSON: I have to admit, Your Honor, this is  
12 a part of my business that I'm not intimately involved with.  
13 We have administrative folks that break this out amongst  
14 parties each month.

15 But, yeah, I believe that's why, for instance, one  
16 month there's only say 90 cents charged is because probably  
17 there was a whole lot of legal research on a whole lot of  
18 different client files that month. And so my client's  
19 proportion, Deep Roots's proportionate share was much smaller  
20 that month and likewise probably required less legal research  
21 that month as I think the case was basically we were just  
22 waiting for the rulings. And so, yeah. So if that answers it,  
23 correct, it is divided up amongst the clients that incurred  
24 legal research in a given month.

25 But if a client didn't -- if say there was a month

1 where Deep Roots in this case didn't require any legal  
2 research, we would obviously not attribute any portion of that  
3 bill to Deep Roots in that month if that (video interference).

4 THE COURT: Okay. And the fact that I -- there's two  
5 reasons I asked that question, and thanks for the quick short.  
6 Because when I first read through this, if you look on the last  
7 page, it says page 1, it's the Robertson Johnson Client Cost  
8 Journal, January 4th, 2022, to July 18th, 2022, right. And the  
9 last section has the report selections, client cost journals.  
10 Okay. And it says:

11 Include accounts payable entries. Yes.

12 Include expense recoveries. Yes.

13 Include general check allocations. Yes.

14 Show user name. No.

15 Summary by responsible lawyer. No.

16 And particularly, when I saw Summary by Responsible  
17 Lawyer, it raised in this Court's mind how that could be  
18 allocated to this particular case, right.

19 MR. WILLIAMSON: It's the client matter number, Your  
20 Honor. So, yeah. Good -- that is the -- those questions are  
21 not, that's not like a Westlaw report, for instance. That's  
22 our firm's just internal billing system, so -- is what those  
23 questions you were just referencing, but if you look at Matter  
24 Number 1794-19, Client Name Deep Roots Harvest, so that's like  
25 the middle column.

1           THE COURT: Right. Is that inputted every time you  
2 do a research for the case?

3           MR. WILLIAMSON: For this case, correct. As opposed  
4 to say there might be another Deep Roots file that has a  
5 different matter number other than 1794.

6           THE COURT: So it may be Client Number 1794, matter  
7 number is 19. It could be 20 for a different Deep Roots or  
8 something like that.

9           MR. WILLIAMSON: Well, yeah, no, it's -- 1794 is the  
10 specific matter number for Deep Roots. That, dash, 19  
11 signifies that we opened the file in 2019.

12           THE COURT: Oh, okay. And hate to ask you this, but  
13 I didn't -- I'm hearing what you're saying now and explaining  
14 at the time of the hearing, but was that before the Court in  
15 your memorandum of costs through any declaration or anything  
16 that the Court can take into account versus questions I'm  
17 asking at the time of the hearing?

18           MR. WILLIAMSON: Sure. Yeah. Good question. I  
19 mean, so, yes. If you look at page 262, that's included in the  
20 verified memorandum of costs, right. This is a document I  
21 signed under oath with a notary, and it includes my statement  
22 of computerized legal research. These costs were incurred  
23 primarily for research conducted online through LexisNexis and  
24 Westlaw.

25           THE COURT: Okay.

1 MR. WILLIAMSON: So that is me saying, yeah, I did  
2 this in this file. These incurred these charges.

3 THE COURT: Okay. Thank you so much.

4 So, Counsel, I don't know if you need your Exhibit 9  
5 back for your response, but feel free.

6 Marshal, I guess, whoever is feeding me -- whoever is  
7 wanting to come forward. Whoever is good.

8 Okay. So I'm going to give you a brief last word.

9 And you appreciate I've asked some of these more  
10 generalized questions because I'm going to be asking them for  
11 the others, and realistically I think it's helpful for everyone  
12 if I ask them so I don't have to keep repeating, and you all  
13 can probably include part of your summaries when we get to  
14 yours.

15 Go ahead, Counsel. Your final words on these.

16 MR. RULIS: Thank you, Your Honor. Nate Rulis for MM  
17 Development and LivFree for the record.

18 On the time frame, one other thing that I, just going  
19 back to that, that let me mention before I forget it, which is  
20 so the answer was filed February 12th, 2020. Mr. Williamson  
21 talked about the settlement date. Just for the record, Your  
22 Honor, as was previously in the briefs, the settlement was  
23 July -- we believe the correct date for that's July 29th, 2020.  
24 So anything after that.

25 And then as far as -- I'm not going to rehash all the

1 categories. Let me just talk about the legalized or  
2 computerized legal research. And on that one I would just  
3 refer back to the *Fairway Chevrolet versus Kelley*. That's 484  
4 P.3d 276, which specifically rejected legal research costs  
5 because internal ledger provided did not document what research  
6 was conducted and how long it was last -- how long it lasted,  
7 thereby making it impossible to determine whether each  
8 incidence of research was reasonable and necessary, as is  
9 required under Nevada law. And so I would say this internal  
10 ledger does not comply. And so those fees -- or costs would  
11 not be recoverable under Nevada law.

12 THE COURT: Okay. So here's Court's ruling. The  
13 Court's ruling is going to be, there is a series of Nevada  
14 Supreme Court cases in a plethora of different areas that do  
15 talk about when there is, quote, an action, right, and when a  
16 party becomes part of an action. The Court really finds that  
17 those cases have been clear, right. In fact, there has been a  
18 recent, right, reversal of certain fees that were pre-action  
19 provided. So I think the law is clear in the area that the  
20 starting date for the cost has to be the date of the answer.

21 There's been nothing prevent -- provided to this  
22 Court that somehow the party was not able to provide an answer  
23 earlier. If you're aware of a case and you want to all of a  
24 sudden do an answer or accept service, you could have done it  
25 earlier if you want to start triggering different things,

1 different costs and things like that.

2           So in this, February 12th, 2020, is the agreed-upon  
3 date in which the answer was filed. That is when costs can be  
4 triggered specifically because that's when you're part of the  
5 case.

6           To the extent you're monitoring things, I mean, gosh,  
7 oh, golly, we have people in here all the time sitting in  
8 court, right. They don't make, quote, formal appearances  
9 because they're not in a case yet. They want to monitor.  
10 There's nothing you could keep any track of anything, nor is  
11 there any case law that says monitoring somehow would trigger  
12 something different.

13           And if there was an objection to participating in the  
14 mediation for not being a part of the case, obviously that  
15 could have been raised by the then trial judge. I did not see  
16 anybody who was asserting that that happened. So can't say  
17 it's pursuant to some court order. And so therefore you've got  
18 the date of the answer in this case.

19           So I'm going to be referring a lot for my analysis,  
20 so I might as well say some cases and I'm going to just repeat  
21 them. So it's going to be, obviously, looking at some of the  
22 analysis, there's top four, well, not only the NRS, right, but  
23 we are going to be looking at *Cadle versus Woods & Erickson, In*  
24 *re Dish Network, Bobby Berosini* -- these aren't in any date  
25 order -- *Fairway Chevrolet* as well as there's some even more

1 recent ones.

2 And of course, if anybody's asking for anything with  
3 regards to experts in travel, you all know that there is a  
4 whole analysis that needs to be done with that expert.

5 So I've given you the date.

6 Now let's go to copies. Copies. That's a pure  
7 *Cadle*, okay. And other case law says if they are not fully  
8 articulated you don't get them. So that needs to be reduced.

9 Now let's go to long distance calls. Now, let's be  
10 clear. The Court is not saying something is not recoverable.  
11 The Court has to analyze each of these and is analyzing these,  
12 right. Is it reasonable, necessarily and -- reasonable,  
13 necessary and actually incurred.

14 With regards to the charge for \$292, there is nothing  
15 that's been provided to this Court that that was reasonable in  
16 this case, that it was necessary in this case. Even to the  
17 extent that it could be viewed as, quote, actually incurred,  
18 but even actually incurred has its own issues with regards to  
19 how that billing was done with long distance calls in kind of  
20 just a generic manner. So therefore, that item cannot be  
21 included and that is retaxed.

22 We then go to travel and lodging. This one, the  
23 Court actually is going to need -- you all are going to need to  
24 discuss some math here, okay. To the extent there is travel  
25 and lodging that predates the answer, obviously that is

1 excluded. It would be retaxed.

2 To the extent that there is any travel or lodging  
3 that postdates the date of the settlement, July 29th, 2020, is  
4 what the Court's been utilizing consistently, so after that  
5 would be retaxed and excluded.

6 Now, to the extent that there was for purposes of  
7 trial, here the Court has to look at because counsel has  
8 offices by their choice in Reno with a trial here, and the  
9 client determined to select counsel up in Reno, would the  
10 attorney get their actual charges to come here when there could  
11 have been other counsel retained in the area? Nothing  
12 negative, and I appreciate this is all a State of Nevada case,  
13 and that's really where I get a carveout here.

14 Because this involved licenses with the entire State  
15 of Nevada, with just a location of a trial, I can't say the  
16 fact that a firm has chosen to reside in Reno and the client  
17 has chosen to reside in Reno that somehow that globally would  
18 preclude it because the nature of this case is unique with a  
19 whole bunch of different cases combined, a whole bunch of cases  
20 that involved a licensing procedure that was a statewide  
21 licensing procedure. So I do see a carveout there.

22 The challenge I then have with that caveat is that  
23 the Court really would find is how narrowly, and since these  
24 were not done in the alternative, I've got certain dates that  
25 the Court would find that they are reasonable, necessary, and



1 actually incurred for certain trial dates. But I don't have  
2 somebody who's done that math for this Court to have that  
3 alternative. So I'm going to say that is a carveout blank.

4           You all figure out the math. If you think you have  
5 two different dates and your reasoning in a proposed order,  
6 you're going to put a red line, right, that's going to submit  
7 to the Court. Although, given your billable rates and  
8 everything, you might be able to agree upon that when you look  
9 at what the underlying math is, right, okay.

10           But so the Court is going to find trial dates that  
11 were -- and this is trial dates. I'm about to give you a  
12 different with regards to depositions. With regards to the trial  
13 dates, trial dates because of a state and unique aspect of this  
14 being multiple cases combined with a statewide nature of case,  
15 the Court would find it's appropriate to give reasonable costs.

16           And given where you stayed and given you, well,  
17 [indiscernible] first class, the actual airfare, not change  
18 fees, not upgrading to, you know, 1 to 15 boarding, et cetera,  
19 right, those would be granted, okay, with one little, small  
20 little issue.

21           To the extent that the flight, and I'd have to double  
22 check this in the breadth of all the documentation, I do not  
23 think this applies, but might as well say it now, is I saw  
24 there was a series of flights to and from, and they really  
25 don't have an issue where you came before the 29th and then

1 flew back after the 29th, but the Court still would find even  
2 if a flight itself was after the 29th, you've got to get back  
3 to where you were. And I don't really think that that's an  
4 issue. I would find that reasonable and necessary for that  
5 one, right, return flight up to Reno.

6           So now let's go to depositions. Realistically, I don't see  
7 how any of those depositions it was necessary to travel in this light  
8 these were done partly by Zoom. People had a full opportunity  
9 by Zoom. I don't see that there was [indiscernible] hasn't  
10 been provided that there was specific questioning that was done  
11 versus really an observation capacity. So I'm going to give  
12 you each two minutes to walk through the depositions because you're  
13 saying depositions.

14           I look through this appendices, and I really can't  
15 specifically carve it out. So point the Court to where you say  
16 that there is a deposition that is reasonable and necessary.

17           MR. RULIS: And, Your Honor, if I might, Nate Rulis  
18 for the record. I don't -- I'll leave it to Mr. Williamson.  
19 I'm not aware if he even traveled for depositions or not. So...

20           THE COURT: In his oral argument he said he  
21 [indiscernible], which is why I was saying I didn't see it in  
22 the appendix --

23           MR. RULIS: Right.

24           THE COURT: -- in all the documentation. So that's  
25 why I was asking.

1           Mr. Williamson, can you point me to something that  
2 shows a charge for where you traveled for a depo so I can  
3 address that specifically.

4           MR. WILLIAMSON: Yes, Your Honor, I can actually.

5           THE COURT: Okay. Sure.

6           MR. WILLIAMSON: So if you look in page --

7           THE COURT: On your 274-page errata.

8           MR. WILLIAMSON: -- 231 --

9           THE COURT: So which page of that, please?

10          MR. WILLIAMSON: (Video interference). So our  
11 errata, Your Honor, Richard Williamson for Deep Roots.  
12 Bates -- or not Bates number, but you know, bottom-right  
13 corner, page 231 --

14          THE COURT: Sure. Just one second.

15          MR. WILLIAMSON: -- was a flight in on February 7th.  
16 Well, I guess this then goes to the pre-answer issue, but we  
17 attended a deposition --

18          THE COURT: No, that's --

19          MR. WILLIAMSON: -- on February 7th --

20          THE COURT: That doesn't count to the extent you  
21 chose to observe something before you were in the case for your  
22 own strategic reasons, you're not part of the action, that  
23 cannot be included.

24          Is there anything after?

25          MR. WILLIAMSON: Next date, Your Honor,

1 February 28th.

2 THE COURT: Okay. Hold on a second. Can you please  
3 give me a page number.

4 MR. WILLIAMSON: 232.

5 THE COURT: 232. Just one second. I [indiscernible]  
6 page by page. Let me find it, please.

7 MR. WILLIAMSON: I'm not sure if we even charged for  
8 it.

9 THE COURT: One second. I'm clicking page, scrolling  
10 page by page.

11 Okay. 232. The top it says Gmail. Richard  
12 [indiscernible]. The one that says 2/28 Las Vegas trip. Is  
13 that the one you're referencing, Counsel?

14 MR. WILLIAMSON: That, yep, that's the one, Your  
15 Honor. And it reflects the flight was on February 28th, which  
16 would've been after our answer.

17 THE COURT: And we know this is a --

18 MR. WILLIAMSON: I'm not -- I'll be perfectly honest  
19 with, Your Honor. It may have been a hearing with  
20 Judge Gonzalez. It may have been a deposition. As I'm sitting  
21 here, I can't -- I just wanted to point out that was  
22 pretrial/post-answer. Again, I'm happy to meet and confer with  
23 Mr. Rulis and pin down specifically what occurred on that date.

24 THE COURT: Okay. Because you --

25 MR. WILLIAMSON: I could probably look at it in my

1 time entries, in fact, right now, Your Honor.

2 THE COURT: Because page 233 is different than  
3 page 233, as you know, because page 233, do you see that has a  
4 1/13/2020 on your receipt from the top?

5 MR. WILLIAMSON: Yeah. That was the -- that was a  
6 prior thing, 233.

7 THE COURT: Okay. Well, I'm sure between -- you all  
8 don't need me to hold up everybody else for that one airplane  
9 receipt that doesn't actually have an amount. It just has date  
10 on it, right. You all can work that --

11 MR. WILLIAMSON: We will sort it out, and if I don't  
12 have a receipt for that date, for that flight, then  
13 obviously -- in my appendix, it will be excluded.

14 THE COURT: Okay. Is that -- okay. So that is the  
15 travel component. So I've gone through the date component.  
16 I've gone through the copying components. I've gone through  
17 long distance. I've gone through travel and lodging.

18 So now we go to mediation costs. The mediation at  
19 issue here predated February answer date. So that would be  
20 retaxed and excluded. See analysis that I just said a few  
21 moments ago, okay, and I do not see that somebody has stated  
22 that -- this is where I was talking about I don't see that  
23 somebody was ordered to go, anything in the record that  
24 somebody was ordered to go to a mediation before they were a  
25 party. And even if that were the case, I don't see where

1 anybody has objected to that and saying that the Court couldn't  
2 do anything. So whether you chose to observe or you  
3 voluntarily went because you wanted to do it in your own best  
4 interest -- a lot of people do preresolution mediations --  
5 can't find that would be a taxable charge under the statute for  
6 which you're seeking costs. So that's retaxed.

7 Now let's get to computer research. Okay. Computer  
8 research. Counsel's got the direct analysis under *Fairway*  
9 *Chevrolet*. I mean, he's reading straight from the case. I  
10 don't see how you get that. Because while I appreciate that  
11 that may be your process of doing it and I appreciate your  
12 explanation therein, and that's why I went to some further  
13 detail there because it really was comparing the language in  
14 *Fairway Chevrolet* and also came up in *In re Dish Network*, but  
15 *Fairway Chevrolet* is newer, is I wanted to see if it could  
16 comply or didn't comply.

17 The plain language of *Fairway Chevrolet* says it  
18 doesn't, so it has to be retaxed and deleted. So therefore, I  
19 can't give the exact amounts at this juncture because I  
20 appreciate counsel said that there's some overlap between the  
21 9,143.74 with the 26,252.88, and since you all are going to  
22 figure out some of the travel costs, that would be trial travel  
23 costs, post-answer/pre-settlement, and then if the Court needs  
24 to address that minor issue, then the Court will.

25 But I really think the more prudent way to do that is

1 if you can't come to an agreement you provide the Court, in  
2 addition to the proposed order, a redline of what the two  
3 alternatives are and a reference to whereas the appendix that  
4 is supported or the brief where it is opposed, and if the Court  
5 needs -- and leave it as a blank. And if I have to address a  
6 few hundred dollars, at best what it seems to be it may be,  
7 I'll be glad to do so.

8 Anything else with regards to Deep Roots Harvest,  
9 Counsel for movant?

10 MR. RULIS: Your Honor, the only other thing that  
11 I've raised -- sorry. Nate Rulis for the record -- was the  
12 trial services.

13 THE COURT: Ah, yes.

14 MR. RULIS: The \$5,000 -- \$5,075.

15 THE COURT: Okay. The Court is inclined for trial  
16 services, because that is a charge that you need to do for  
17 purposes of the trial, did not know it was going to resolve,  
18 did not -- it is a post-answer date, and realistically that is  
19 what's shown is a set charge, so it couldn't, quote, all of a  
20 sudden just stop, I don't see like there's realtime something  
21 that's happened after July 29th, so I really see it's  
22 articulated, is a necessary tool, particularly in a complex  
23 case such as this, that you would need trial services.

24 If any of you would like to tell me that for your  
25 firm never in the future would you ever ask me for trial

1 services costs, please let me know now.

2 Counsel, I offer that, you know what I mean? But  
3 everyone in today's day and age, with multi-party litigation,  
4 trial services are anticipated [indiscernible] statute. There  
5 is case law where they have fully been supported in a lot  
6 larger numbers.

7 Here, in this particular case, I do see the  
8 complexity of the case, the nature of the case, this was not  
9 something that could easily just be done by a single counsel  
10 without some trial services because the nature, realize that  
11 the volume of documentation that you all were utilizing and the  
12 volume of the multi-party components, et cetera.

13 So I do find that that portion of the motion to retax  
14 should be denied, and that amount is an allowable cost against  
15 your clients, okay, in its proportion to everybody else. So  
16 you don't get the lump total of it, your proportional, which  
17 it's going to be interesting.

18 But, okay. So now let's deal with joinder parties.  
19 Okay. So joinder parties on the motion to retax, who would  
20 like to go next?

21 MR. BECKSTROM: Your Honor, on behalf of the ETW  
22 plaintiffs, this is Mr. Beckstrom. I think this one is fairly  
23 quick for the Court. We have the identical arguments as  
24 Mr. Rulis, and we have the same date of answer, which I hope  
25 makes it easy for the Court, as the Deep Roots.



1 THE COURT: Right. Counsel, before I --

2 MR. BECKSTROM: So I don't have anything additional.

3 THE COURT: Yours is its own motion though, not a  
4 joinder to Deep Roots, correct, by my little chart?

5 MR. BECKSTROM: No. It was the same argument. It  
6 was a joinder to the motion to retax and then the joint reply,  
7 Your Honor.

8 THE COURT: But your joint reply covered a variety of  
9 different things.

10 Okay. So adopting -- what is left differently from  
11 your position with regards to your client because you do have  
12 the same date of answer? Do you wish to be heard with regards  
13 to your joinder separate and apart from the Court's ruling thus  
14 far on behalf of Mr. Rulis's clients?

15 MR. BECKSTROM: No, Your Honor. The date of the  
16 answer is the same. So I think the Court's analysis has been  
17 properly stated. We objected to the same reasonableness  
18 factor. So I don't have anything additional to add.

19 THE COURT: Okay. Counsel, Mr. Williamson, do you  
20 wish to respond?

21 MR. WILLIAMSON: Thank you, Your Honor. No. I would  
22 just readopt all my same arguments for Mr. (video  
23 interference). That's fine.

24 THE COURT: Okay. The Court is going to find that it  
25 is appropriate with the same analysis. And what I did not see

1 in the joinder, slash, joint reply is that there was some  
2 additional specific argument that has been presented to the  
3 Court that would be in addition to what the Court has already  
4 ruled upon.

5 And can you all work together on your math so that  
6 you're coming to? Because you're going to be having to do the  
7 same math; right?

8 MR. BECKSTROM: Correct, Your Honor.

9 THE COURT: Is anybody requesting the Court rule  
10 today or -- and hold up everybody else, or are you okay working  
11 with yourselves on the math?

12 MR. BECKSTROM: We're happy to work together.

13 THE COURT: Mr. Williamson, are you okay working --

14 MR. PARKER: Your Honor -- oh, I'm sorry. I'm sorry,  
15 Your Honor.

16 MR. WILLIAMSON: Your Honor, in answer your question,  
17 Richard Williamson, yes, I'm more than happy to work with  
18 Mr. Beckstrom and Mr. Rulis.

19 THE COURT: Okay. So now let's go to the next  
20 joinder party.

21 MR. PARKER: Your Honor, this is Teddy Parker on  
22 behalf of Nevada Wellness Center.

23 THE COURT: And I have a question. Yeah, go ahead,  
24 Mr. Parker.

25 MR. PARKER: We did a supplement pursuant to the

1 Court's request, which was filed on November 4th, 2022, when  
2 the Court asked us to do so in an abbreviated brief, and we  
3 attached to it as Exhibit 1 a chart of the costs and those  
4 costs that would come between February 12th, 2020, and  
5 July 29th, 2020. I don't have to go over it because I believe  
6 the Court's addressed 99 percent of it.

7           The only thing that we found that was not addressed  
8 were there -- there were some charges in travel and lodging  
9 that looks like groceries and deodorant and maybe even beer or  
10 something like that, and I don't think those charges should be  
11 allowed and should be retaxed.

12           I think everything else is about the same.

13           THE COURT: Okay.

14           MR. PARKER: And the only other thing I recall, Your  
15 Honor, unfortunately, during the trial, I was in contact with  
16 someone with COVID. Fortunately, I didn't have it, but I had  
17 to participate in the trial for the first two or three days by  
18 Zoom. And so I don't know how many days Mr. Williamson  
19 actually questioned the witness or participated in the trial  
20 than simply being there, but we were also allowed to  
21 participate by Zoom at trial. So that's the only comment that  
22 I don't believe anyone addressed thus far, Your Honor.

23           THE COURT: Right.

24           MR. PARKER: That may warrant a reduction. But to do  
25 so, we'd have to look through and see again, what days he

1 actually participated in trial in the form of questioning  
2 witnesses or presenting witnesses. But I don't -- I know that  
3 I had to do two or three days by Zoom during the trial.

4 THE COURT: Okay. All right.

5 MR. PARKER: And that's the only other thing I would  
6 mention, Your Honor.

7 THE COURT: Okay. So let me just address that. And  
8 I -- sorry. I thought I did it by inference.

9 My distinction when I was giving my analysis with  
10 regards to deposition versus trial, the Court is fully  
11 appreciative, for purposes of trial, trial counsel often want  
12 to be there in person unless there's a reason that they can't  
13 be. That is why the Court would find that the travel would be  
14 appropriate. Well, everything I said about the statewide, et  
15 cetera.

16 So while somebody may have an option to appear by  
17 Zoom, the Court can't find that it wouldn't be reasonable for  
18 an attorney to wish to be present in person. There's a variety  
19 of different reasons, and you all know that. In fact, the  
20 reason why you were probably here in person for different  
21 things and why I have certain counsel here in person today  
22 right. There's certain things that can be brought forward.  
23 There's certain things that sometimes come up that are easier  
24 to address in person versus remotely.

25 And, remember, remote is something that you have to

1 specifically request and then approved by the Court. The  
2 default viewpoint is in person with a carveout during a  
3 particular time that you all might be saying applies, right,  
4 for this particular case. But even with that carveout, people  
5 had the opportunity to come in person. There was no preclusion  
6 from people wanting to do so. There was no preclusion that did  
7 that. This is not a case where it was required that it be all  
8 by Zoom, and someone was saying they were traveling here  
9 anyway. And so the Court doesn't find that that's appropriate.

10 When the Court was giving the travel and the hotel,  
11 it was travel and hotel. It's not chips, beer, antiperspirant  
12 or anything like that. To the extent the Court wasn't directly  
13 clear on that, I was Residence Inn for overnight, right, for  
14 example, and the Southwest flight. So that's why the Court did  
15 the carveout. It's not for the inclusion up to business class  
16 or doing up to 1 through 15 or anything like that. It is the  
17 actual charge would be reasonable and necessary, not the, you  
18 know, on a short flight to Reno, and the actual hotel.

19 So to the extent that if they were living in Las  
20 Vegas they could go to Target and have to buy their own chips,  
21 antiperspirant, et cetera, you can't tax it to the other  
22 parties. So to the extent that wasn't clear on the prior one,  
23 it's clear here.

24 Mr. Parker, does that address your additional issues?

25 MR. PARKER: Yes, it does, Your Honor. Thank you.

1 Yes, Your -- yes, it does, Your Honor. Thank you so much.

2 THE COURT: Okay.

3 MR. WILLIAMSON: Your Honor, Richard Williamson. May  
4 I be heard since that was a new -- I just want to clarify the  
5 Court's ruling.

6 THE COURT: Sure. Go ahead, Counsel. Yes.

7 MR. WILLIAMSON: Thank you, Your Honor. Richard  
8 Williamson for Deep Roots.

9 So is the Court's ruling that no meals at all during  
10 deposition and trial are recoverable? I (video  
11 interference) --

12 THE COURT: I have not found that -- sure.

13 MR. WILLIAMSON: -- I don't even know if there's  
14 antiperspirant. I'll take Mr. Parker's word for it. But what  
15 about the food?

16 THE COURT: Okay. Well, meals. Okay. This is my  
17 Nacho Daddy example. Sorry, that's from another case, right.  
18 Nacho Daddy, craft steak -- I've gotten some -- Carversteak. I  
19 have gotten some amazing bills for food.

20 Realistically, no one -- you have not demonstrated in  
21 your memorandum of costs that those meals were reasonable,  
22 necessarily -- and necessary. Different than why you couldn't  
23 have, if you were living here, packed your own lunch or dinner  
24 or that you're not eating, if you were. There's nothing that  
25 is shown that either, A, a trial day was such that it precluded

1 parties from bringing their own food, the same cost they would  
2 incur if they were not in trial.

3           If you choose to eat three meals a day, five meals a  
4 day, two meals a day, or zero meals a day, those will all be  
5 appropriate, right, that you'd have to incur that cost anyway.  
6 So I don't see how it falls within the NRS or any of the case  
7 law because this is not a situation that has been presented to  
8 this Court in this specific case.

9           And this is only an example that I'm giving, is that,  
10 for example, that there was some type of hearing that you all  
11 decided to go straight through lunch, and maybe, like we've had  
12 a case where the parties and everyone decided and the jury  
13 likely took a half hour instead of the hour and maybe bought  
14 the jury lunch and all decided that everyone was staying in  
15 there because you were dealing with Court business. None of  
16 that has been presented in this type of case. So this is a  
17 generalized situation where you have to eat. And if you want  
18 to eat, as you would on any other day, and so there's not any  
19 reasonableness or necessity to have any other party absorb  
20 those food costs.

21           If you can point me to something that shows that  
22 there is some day in which there was a specific requirement  
23 that precluded from getting normal food, as you would, and eat  
24 as you wish to, then please let the Court know. But I did look  
25 through all of that because meals, okay.

1           So does that address your issue, Mr. Williamson? Is  
2 there anything?

3           MR. WILLIAMSON: That does, Your Honor. I mean, I,  
4 again, yeah, no, that -- that's fine, Your Honor. I understand  
5 the Court's ruling.

6           THE COURT: No. Okay. Because this, like I said...  
7 Okay. So have I -- any other joinder parties or  
8 we're moving on?

9           MR. SLATER: Your Honor, this is Craig Slater. We  
10 had filed a joinder, and I, again, I brought this issue up a  
11 few times. It's a very specific issue. My clients only  
12 asserted judicial review claims. All of the costs that were  
13 incurred were primarily related to the trial, which we  
14 attended, but we did not participate in. I just want that made  
15 clear for the record, Your Honor.

16          THE COURT: Okay. And herein lies the same  
17 challenge. If you recall, last time you presented that, right,  
18 it's been a few months, had a few matters in the intervening  
19 time, there was a difference of opinion about the level of  
20 participation with regards to your client in the non-judicial  
21 review proceeding.

22          So I'll give you a few moments if you wish to  
23 articulate your position, and then I will give Mr. Williamson  
24 an opportunity to respond. Okay?

25          MR. SLATER: Yes. So again, Craig Slater. Your



1 Honor, I was there at the Convention Center. I sat in the very  
2 last row. I observed the trial. At no point and during the  
3 trial did I ever question a witness, did I ever speak, did I  
4 ever address the court during trial. I was there merely  
5 observing.

6 Quite honestly, I don't think I would've been allowed  
7 to participate in the trial because I -- my clients did not  
8 assert any of the claims that were being tried in that matter.  
9 You know, it -- it would be very unusual for the Court to allow  
10 a non-party to come participate in the trial, and that's what  
11 we were in that phase of the trial.

12 THE COURT: So, Counsel --

13 MR. SLATER: -- as I have made clear --

14 THE COURT: Okay. Are you not -- are you saying that  
15 you are not listed as a defendant and you never filed any  
16 pre-trial memorandum, either directly or joined to any?

17 MR. SLATER: That is accurate, Your Honor. We did  
18 not participate in the trial. We filed motions in the case  
19 because our claims, the judicial review claims, were  
20 consolidated with all of the other claims. But we did not  
21 participate in the trial. There was no -- I believe it was a  
22 joint pretrial memo filed on behalf of all the parties that  
23 participated. I do not believe I was a signator to that. But  
24 it -- there is no dispute or doubt that we did not participate  
25 in the trial. We could not have.

1 THE COURT: Hold on one second. Let's get the date  
2 of the joint pretrial memo then, Counsel. Do you have that  
3 date?

4 MR. SLATER: I don't, Your Honor. I'm frantically  
5 looking through my files because I'm at my computer for that.

6 THE COURT: Does anyone else have it handy?

7 Okay. Well, Mr. Williamson, while I'm looking up  
8 that, do you want to address Mr. Slater's response on behalf of  
9 his client?

10 MR. WILLIAMSON: Yeah. Yes, Your Honor. Yeah.

11 THE COURT: Go ahead, please.

12 MR. WILLIAMSON: I do want to, and I'm actually glad  
13 because I was the one in the prior hearing that pointed out  
14 Mr. Slater had entered an appearance. Not to put him on the  
15 spot, but just to clarify the record, and I think Mr. Slater  
16 was doing the appropriate and prudent thing by doing that.  
17 And the reason is all these claims between Phase 1 and Phase 2  
18 and all the discovery that led up to it and all the motion  
19 practice that led up to it were entirely intertwined. And so  
20 Mr. Slater rightly to represent his client made an appearance  
21 at trial as a party plaintiff. And so Phase 1 and Phase 2  
22 cannot just be easily severed.

23 I, in fact, although there are no claims pending  
24 against my client for the Phase 3 trial, and no one has  
25 asserted any claims against my client for the Phase 3 trial, I

1 understand the Court's ruling that the Court needs a  
2 stipulation to avoid Phase 3 as to all parties. And so I would  
3 say the corollary of defendants not being able to incur costs  
4 until they have answered and appeared in the case also applies  
5 to a plaintiff.

6           If you have appeared in the case, if you have made an  
7 appearance at trial and you are maintaining an adverse position  
8 from the ultimately prevailing parties, you're a plaintiff.

9 And so, so, yeah. I think the fact that the bulk of  
10 Mr. Slater's clients, their claims were to be heard in Phase 1,  
11 which was the second thing we did, the second part of trial,  
12 doesn't change the analysis because all the testimony is the  
13 same, all the exhibits are the same, all the legal research is  
14 the same, all the depositions are the same.

15           And really the ruling in Phase 1 was an outgrowth of  
16 the more substantial evidentiary trial that occurred in Phase 2  
17 that was heard first. So they are just too intertwined, and  
18 certainly anyone -- so I think that would apply regardless of  
19 whether someone appeared. But certainly if you appeared in the  
20 Phase 2 trial, even if most of your claims were for Phase 1,  
21 you were an adverse party in the Phase 2 trial.

22           THE COURT: Okay. So, Counsel, cite me to where you  
23 show Mr. Slater. See, here's part of the challenge, right.  
24 The Court is appreciative, I mean, if you look at  
25 September 16th, 2020, right, the permanent injunction signed by

1 Judge Gonzalez, 9/22/2020, 9:20 a.m., electronically filed  
2 right, that was the notice of entry of judgment with regards to  
3 the judgment from the 16th day of September, right.

4 There, Mr. Williamson. You're there. Mr. Slater is  
5 there. You're all there, okay.

6 In fact, Mr. Slater, you're on page 2 of 12, okay, so  
7 on behalf of your clients.

8 Then there is looking at the -- well, even take as of  
9 today, right, and the clerk -- and that's, remember how many  
10 times this Court has asked you all, if you don't think you're  
11 part of this case, get the caption cleared up; right? Get  
12 yourself taken off through Odyssey. So far none of y'all have  
13 done that. So you still show in this case under the  
14 Consolidated Case Number 787004.

15 So, Mr. Slater, the challenge this Court is having  
16 with what your statement is is -- I don't want to go to it  
17 looks like a duck analogy, right, but is if you look at the  
18 Odyssey record, your name appears all the time on behalf of  
19 your clients, including up until today where you still show in  
20 part of In re: D.O.T. Litigation, Case 787004.

21 I do not see any motions for carve out, bifurcation,  
22 anything that says your client should not be treated as a party  
23 to, as you're saying, the litigation versus the judicial review  
24 and that there's any distinction therein. I've yet to have  
25 that be pointed out to the Court even in your opposition. I

1 have you making an assertion that you were there observing, not  
2 doing witnesses. Remember, just not doing witnesses doesn't  
3 mean that you're not still a party. That happens all the time  
4 even in, you know, people -- let's give the easy example.

5 In an automobile situation, sometimes the party  
6 representing a driver, if they even have separate counsel  
7 versus if they have separate counsel for the insurance company,  
8 right, a Cumis counsel situation out of California adopted by  
9 Nevada in its own case law, but in any event, they may not say  
10 anything, right, but they're still in the case and in as a  
11 defendant.

12 So here, I am not seeing anything that shows your  
13 client being treated in any capacity or being requested to be  
14 treated in any capacity to only be part of the judicial review  
15 concept versus all of these being consolidated under one case  
16 number, 787004.

17 So, Mr. Slater, if you can point me to something.  
18 That's why I was trying to go for the joint pretrial memo. I  
19 was trying to see if there was anything since I didn't see it  
20 in the pleadings whether I can take it into account or not,  
21 even going for the broader scope that it may be a pleading.  
22 Can you point me to anything, Mr. Slater?

23 MR. SLATER: I can, Your Honor. And, unfortunately,  
24 I'm looking for it as we speak, but Judge Gonzalez -- and I  
25 recognize this is prior to your involvement. You inherited

1 this massive case.

2 Judge Gonzalez entered an order setting forth the  
3 trial protocol. In Judge Gonzalez's order, she specifically  
4 understood that this case involved numerous cases that were all  
5 consolidated and not all of the parties in each of the -- not  
6 all of the parties that were in this consolidated matter had  
7 asserted the same claims. Very much like Mr. Parker's clients  
8 are asserting the civil rights violations that would've been  
9 heard subject I believe January 9th, my clients only asserted  
10 certain claims. So in recognition of that, Judge Gonzalez  
11 entered an order setting the trial protocol.

12 And in that trial protocol, she specifically  
13 addressed the dec -- the judicial review claims that my clients  
14 asserted and determined that those would be heard as part of  
15 Phase 1, which timewise were heard second after the major  
16 trial. So that would be the authority that I would point this  
17 Court to.

18 And as I'm talking, I'm scanning, trying to find  
19 that --

20 THE COURT: Well, let's go to your brief.

21 MR. SLATER: -- and I'm unable to --

22 THE COURT: Right. But, right. But, Mr. Slater,  
23 let's go to the brief before the Court for purposes of today,  
24 right. Is it in that brief? Is it attached as an exhibit? Is  
25 there something that is actually before the Court; right?

1 Motion? Joinder?

2 MR. SLATER: My joinder specifically says that:

3 The operative complaint asserted the  
4 following claim for relief: Petition for  
5 judicial review, petition for writ of cert,  
6 petition for writ of mandamus, and petition for  
7 writ of prohibition. None of these claims were  
8 heard during the five-week trial conducted in  
9 this matter as Phase 2.

10 I recognize that's slightly different than what  
11 you're asking me, but --

12 THE COURT: Yeah.

13 MR. SLATER: But I made it abundantly clear at all  
14 times that my clients did not participate in the trial because  
15 they asserted no claims that were heard during that trial.

16 THE COURT: And, Counsel, I'm hearing what you're  
17 saying. What I'm -- you are correct. Your answer, and I  
18 appreciate as a good lawyer you're answering it the way you'd  
19 like -- your clients would like you to answer it, but it  
20 doesn't really address is how does the actual, right, because  
21 these were consolidated cases, and I did not see, okay, you're  
22 saying there's a trial protocol that specifically articulates  
23 that you're not part of it. I would've presumed that that  
24 would've been part of your joinder referencing that specific  
25 document. Because as you can appreciate, the Court doesn't --

1 can't go fish, particularly 3,500-plus entries and say, eh,  
2 this may be someone's argument, right. Can't advocate on  
3 behalf of anyone. Doesn't -- do not advocate on behalf of  
4 anyone and never would, right. I'm the fair and neutral judge.

5 So if you're saying it's part of your joinder, please  
6 point me to the page where it references that you were -- I  
7 appreciate what you referenced on the complaint, but I'm  
8 talking the complaint predates the consolidation.

9 MR. SLATER: Craig Slater. To answer your question,  
10 Your Honor, no, I did not cite to that specific trial protocol  
11 order issued by Judge Gonzalez.

12 THE COURT: Okay. Even taking the benefit of the  
13 doubt that it's part of the record, I'm not saying I can take  
14 it into account, I'm going to let Mr. Williamson respond, but  
15 can you at least point me to what date you're referencing that  
16 that took place.

17 MR. SLATER: I am frantically scanning for that as we  
18 speak, and just because of the sheer number of filings in this  
19 case --

20 THE COURT: Really?

21 MR. SLATER: -- I'm having a difficult time finding  
22 it, but I'm looking.

23 THE COURT: So you can appreciate the Court wouldn't  
24 have the liberty to have any idea what you didn't put in a  
25 brief, right, that I somehow -- you know, I've looked at a lot



1 of different things to try and address different things and  
2 looked at all the orders to see if anything, but I don't see  
3 anything in any of the orders.

4 In fact, I see there's a whole bunch of joinders,  
5 right, and motion practice that overlaps with the litigation.

6 If somebody else knows the date of the pretrial memo  
7 and wants to point it out to the Court, you can. And if you  
8 don't, I'm going to have to wait a moment to give counsel an  
9 opportunity.

10 MR. SLATER: Your Honor, if you're waiting for me, I  
11 do not want to hold this up. It's a very minor issue. At the  
12 very least, I just -- I believe that if Mr. Williamson and I  
13 discuss this issue, maybe we can reach an agreement on it. I  
14 think it's a fairly straightforward issue, but I certainly  
15 don't want to hold up the proceedings.

16 THE COURT: Okay. Well, then you can appreciate I  
17 need to make a ruling, right. So I have to make a ruling based  
18 on what is actually in the pleadings before the Court in this  
19 matter in reference to the pleadings.

20 Based on the pleadings, I would find what is  
21 presented, and I say the pleadings, the pleadings before the  
22 Court and specifically mentioned, right, and not being  
23 provided, and given a chance to say, look, if there's something  
24 else you say that's in here, then you -- your joinder would be  
25 subject to the Court's ruling with the retaxing components and

1 the denial of the retaxing components and subject to the math  
2 analysis to see realistically what you're getting to anyway.  
3 Okay. So that's going to be the Court's --

4 MR. SLATER: Your Honor, the trial protocol order was  
5 entered on March 13th, 2020, at 2:19 p.m.

6 THE COURT: March. Let's go back to that, okay. And  
7 wasn't there amendments thereto though?

8 MR. SLATER: Perhaps, but --

9 THE COURT: There was.

10 MR. SLATER: There's an amended protocol filed on  
11 June 23rd, 2020.

12 THE COURT: Wasn't there some more? Because wasn't  
13 there OSTs and things on protocols?

14 MR. SLATER: Those are the only two protocols that  
15 I'm seeing signed by the Court.

16 THE COURT: Okay. You said June 23rd. Excuse me. I  
17 have to click back through.

18 And, Mr. Williamson, I'm going to give you a moment  
19 or two to respond about whether I can even consider this  
20 document, but let's at least get to the document and see what  
21 it says first since it's coming up for the first time at the  
22 time of the hearing.

23 MR. SLATER: And the import of the protocol for my  
24 purposes --

25 THE COURT: Hold on a sec, Counsel. Counsel --

1 MR. SLATER: -- the conduct of trial, the phasing.

2 THE COURT: Okay. So you're talking 6/20- 6/23/2020.  
3 Is it Document 672? Because, as you know, there's also  
4 exhibits to that amended protocol. There's -- there is also  
5 OSTs and things after that, at least I saw one. Okay.

6 And actually just FYI, Mr. Parker, Subparagraph F on  
7 page 2 also addresses your kind of Zoom argument; right?  
8 Counsel may approach a witness. You can't do that if you're on  
9 remote. So it's -- right. It says, K, Counsel may appear by  
10 alternate means upon request. And so that's generally the way  
11 it is with trial, but here it is actually in the protocol. So  
12 more of a reason that people would've had to appear in person  
13 because nobody pointed out there was requests.

14 Counsel, where am I referencing? Please go to the  
15 page you want me on this protocol to look at, Mr. Slater.

16 MR. SLATER: Okay.

17 THE COURT: Because I can't guess what --

18 MR. SLATER: Section 6 on page 9, the conduct of  
19 trial. The trial will be conducted in phases where  
20 Judge Gonzalez explains the phases.

21 THE COURT: Right. And where does it show any  
22 carveout for your client anywhere in here? I see terms  
23 parties, right. Parties can do this. Parties can do that. I  
24 don't see any.

25 MR. SLATER: Well, Your Honor if the phases, as

1 discussed also on page 12 through 13, the first phase, petition  
2 for judicial reviews, that would be the phase that involved my  
3 clients.

4 So the second phase, which is discussed on page 14,  
5 the legality of the 2018 recreational marijuana application  
6 process, claims for equal protection, due process, declaratory  
7 relief, and intentional interference, if my clients didn't  
8 assert those claims, why would we be involved in the second  
9 phase?

10 THE COURT: But, Counsel --

11 MR. SLATER: Which is the phase that went to trial.

12 THE COURT: But, Counsel, did you ever object to any  
13 of this? I did not see anything on any objection. Because, as  
14 you can appreciate, this protocol uses the global term each  
15 party, right. Parties. In fact, parties --

16 MR. SLATER: Correct.

17 THE COURT: -- utilize the JAVS court recording  
18 system, which will be the official record, right. The parties  
19 equally split, and it's not done by Phase 1 or Phase 2 about  
20 equally splitting the JAVS cost or anything like that that I'm  
21 seeing.

22 And once again, you can appreciate, in fact, 16  
23 pages, I'm quickly looking at this because you brought up for  
24 the first time in oral argument, but while I'm seeing what  
25 you're saying about certain phasings, I'm not seeing where

1 there's any carveout that only certain parties will be viewed  
2 as being -- I mean, in a bifurcated case, you still would have  
3 costs and things like that. And so I'm really not --

4 Mr. Williamson, let me let you respond, and then the  
5 Court's going to make a determination.

6 MR. WILLIAMSON: Thank you, Your Honor. Yeah. I  
7 want to make a few points. First, the Court is exactly right.  
8 Neither this specific amended trial protocol nor any of the  
9 prior iterations have been expressly attached to or included in  
10 the prior briefing. So I'd object on that basis.

11 But there's a couple other important points. First,  
12 in fact, the conduct of trial discusses both the group of  
13 parties seeking affirmative relief and limitations on the group  
14 of parties not seeking affirmative relief in any given phase.  
15 So it contemplates that there are parties that may not be  
16 particularly active in a phase, but they are still part of the  
17 overall trial.

18 One other important thing, just to clarify, and  
19 Mr. Slater can correct me if I'm wrong, but when there is  
20 reference to the D.H. Flamingo parties at various times, I  
21 believe that includes Mr. Slater's clients. They had  
22 originally been part of D.H. Flamingo's complaint. That,  
23 again, expressly named Deep Roots.

24 In fact, Deep Roots's answer to the D.H. Flamingo  
25 complaint was in -- was on November 12th, 2019, so three, four

1 months prior to -- I guess three months, Your Honor, prior to  
2 the answer to the settling parties. And so affirm -- there  
3 were affirmative claims that NuVeda and Mr. Slater's other  
4 clients made against my client. Again, those were all  
5 intertwined in this case.

6 And, in fact, Judge Gonzalez even acknowledged at the  
7 bottom of 15 that testimony from one phase could be used in  
8 another phase. And I think that's sort of a critical point.  
9 It goes to Your Honor's I think correct argument that these  
10 things were so intertwined it's not feasible to say, hey, you  
11 can, you know, you can sort of tap out of the trial on this  
12 date, and nothing will be held against you. Because every day  
13 in trial something was happening that was affecting other parts  
14 of the trial, and every pretrial hearing leading up to the  
15 trial discussed all three phases, discussed what was happening  
16 on any given day.

17 And so it was all truly inextricably intertwined,  
18 which is why I think Mr. Slater was doing his job, and it was  
19 wise for him and every other party plaintiff to be there  
20 throughout both Phase 1 and Phase 2 because it was really all  
21 one trial.

22 THE COURT: Okay. Counsel, given all the other  
23 parties I still need to address and we've already been an hour  
24 and 35 minutes with you all, we're moving on. The Court is  
25 going to make a ruling.

1           Mr. Slater, to the -- the Court -- your joinder is  
2 going to be treated the same as -- well, your joinder on behalf  
3 of your client, the Court gives you the same analysis on what  
4 will or will not be retaxed. And the Court will give you the  
5 same opportunity to work out the math.

6           With regards to your additional argument that you  
7 should not be -- have any responsibility whatsoever, the Court  
8 makes two rulings. First, since it was objected to by  
9 Mr. Williamson on behalf of his client to bring up a new issue,  
10 albeit even if you're saying it's a pleading, at the time of  
11 oral argument and actually at the end of oral argument because  
12 the Court had already given rulings on certain things, and now  
13 I was dealing with the joinders, the Court would find that is  
14 untimely and can't consider it.

15           Second alternative, even the Court fully considering  
16 the trial protocol for its alternative ruling, the Court  
17 doesn't find the trial protocol that you have referenced  
18 supports your position because in the language itself, it says,  
19 even page 12, slash, 13, the last sentence of that paragraph:

20                   Each phase may begin with an opening  
21                   statement restricted the issues to be litigated  
22                   in that phase. It may end with the closing  
23                   statement. If all issues related to a  
24                   particular phase have been resolved, the parties  
25                   will proceed to the next phase with the

1 remaining issues.

2 And then it even -- it contemplates, as you know, in  
3 this one, judicial review goes first and then the Phase 2,  
4 right, and then it talks about it will deliberate with regards  
5 to each of these phases. Then it goes to the third phase,  
6 which by the way, this re-supports part of the Court's analysis  
7 from last week.

8 And for the parties, that would be Mr. Parker, the  
9 State, and Pupo. Feel free to take a look at C and who the  
10 parties were, and it does include the State for the Phase 3,  
11 but you all know.

12 And the duplication of testimony can be utilized.  
13 And it also, the term "defendants" is used consistently  
14 throughout here, and I do not see any carveout for your  
15 clients.

16 Plus, it also offers the opportunity in miscellaneous  
17 issues, subparagraph 9, right, Roman Numeral IX:

18 The Court may amend this order upon good  
19 cause shown. Any party upon application of the  
20 Court for showing good cause may seek relief  
21 from the Court from any provision of this order.

22 There is nothing that shows, Mr. Slater, on behalf of  
23 your clients there was any request to either amend the order on  
24 behalf of your clients to show that there's any carveout that  
25 they're not part of anything; or, B, that there's any



1 application showing good cause, may seek relief from any  
2 provision of the order. So you're bound to the totality of the  
3 order, which does not make a distinction for your client as  
4 you're articulating in the oral argument.

5 And so therefore the Court does not find that there  
6 is support even taking into account the protocol from  
7 June 23rd, 2020, that you referenced the Court to. And so  
8 therefore any portions of the joinder not consistent with the  
9 Court's prior ruling would be denied with regards to your  
10 clients.

11 Anybody else in their joinders? I think I've taken  
12 care of everyone, but I'm just making sure. Anybody else?

13 MR. PUZEY: Your Honor.

14 THE COURT: Go ahead.

15 MR. PUZEY: Your Honor, this is Jim Puzey. High  
16 Sierra Holistics. I do not -- I'm not joinder to this. I do  
17 have a separate motion to retax and settle costs. I just want  
18 to make sure that will be able to be heard as well.

19 THE COURT: We're getting there. I'm just giving, as  
20 you notice.

21 MR. PUZEY: I just want to make sure.

22 THE COURT: We're on day whatever we are on this,  
23 making sure everyone gets fully heard on every penny that  
24 they're wanting to be heard on.

25 Okay. So the next one we're going to --

1           So that has taken care of the motion to retax and  
2 settle costs regarding Deep Roots Harvest memorandum of costs,  
3 and the joinders thereto. The Court has granted in part,  
4 denied in part, and the only part that the Court is considering  
5 a deferral is to some of the actual mathematical calculations  
6 in light of the Court's ruling for the parties to agree upon.  
7 And if the parties do not agree upon, then the Court has stated  
8 that the proposed order, we need to have a redline on the two  
9 amounts, and the reference to each of those.

10           So you still would submit, Movants, since I've  
11 granted in part, you still would submit your traditional order  
12 to the order inbox. Either, A, it's going to be signed by all  
13 parties with their authorization; or, B, you're going to make a  
14 note that a competing order and redline is going to be  
15 submitted. And that would go still to the DC -- well, that  
16 would then go, that competing order still gets submitted to the  
17 DC 31 inbox in a nonredline form, but the redline form would be  
18 sent to my JEA but a CC to all parties specifically stating  
19 that it's the redline based on the hearing from today.

20           And if I need to resolve, like I said, we're talking  
21 appears possibly a few hundred dollars, then the Court will do  
22 so. Okay? It's not any time for any new argument, but that  
23 should take care of everything.

24           And that goes for all of the joinders since, and  
25 remember, this is joinders are with relationships to the

1 ruling. The Court is not giving anyone double, triple,  
2 quadruple recovery or charging anyone double, triple, or  
3 quadruple for their portion.

4 Now, the next motion, motion to retax and settle  
5 costs regarding Clear River LLC's memorandum of costs, which is  
6 Document 2923, filed on August 11th, 2022; corresponding reply,  
7 Document 3084. And that memorandum of costs was also filed on  
8 August 8th, 2022, 2876 and 2877.

9 Counsel, yes, you can tell I'm going from your letter  
10 first because you articulated an order. So we're just doing  
11 those first, and then we'll go through anything else.

12 Go ahead, your motion with regards to Clear River.

13 MR. RULIS: Appreciate that, Your Honor. Nate --

14 MR. PUZEY: Your Honor.

15 I apologize, Mr. Rulis for interrupting, but this is  
16 Jim Puzey with High Sierra Holistics. Are we then going to  
17 revisit High Sierra's motion to retax against Mr. Williamson's  
18 clients?

19 THE COURT: Since you filed a separate motion, you're  
20 asking to be heard for your motion before I move on to a  
21 different party. Is that right, Mr. Puzey?

22 MR. PUZEY: Correct. Against Deep Roots, and it's a  
23 very, very short argument, Your Honor.

24 THE COURT: Okay. You actually are correct. I  
25 should have done yours next. My apologies. Sorry. Go ahead.

1 MR. PUZEY: Thank you. The only thing I wanted to  
2 do, and we've heard all the arguments, and we've heard what's  
3 the Court's position has been as far as things, I just wanted  
4 it to be reflected on the record that within my motion to to  
5 retax at page 9 there is -- was never an intervention by Deep  
6 Roots. There was never an answer filed. So the discussions  
7 concerning of when the starting dates start for this particular  
8 matter, they never intervened, they never made an appearance.

9 They did after the order granting a joint motion to  
10 consolidate on December 6th of 2019, they did file an answer to  
11 ETW's plaintiff's third complaint, MM Development Company and  
12 LivFree Wellness's Second Amended Complaint. They answered  
13 Nevada Wellness's amended complaint. They answered Rural  
14 Remedies' complaint in intervention, and they answered Serenity  
15 plaintiff's second amended complaint.

16 But there was not an amended complaint filed by High  
17 Sierra Holistics to which they could appear. They never  
18 appeared in High Sierra's case and High Sierra took no position  
19 throughout any of this against Mr. Williamson's clients or any  
20 of the other defendants who were alleging costs of this case.  
21 And the reason for it is mentioned in my briefing; is High  
22 Sierra Holistics also had pending cases in Lyon County and  
23 Washoe County, where there was not any attempt to intervene by  
24 any party. And for that reason, those particular cases, we  
25 could address what needed to be done solely in the situation of

1 dealing High Sierra versus Department of Transportation [sic].  
2 And that is what we kept -- High Sierra chose to keep this  
3 particular matter was was High Sierra versus Department of  
4 Taxation. So there was never an amended complaint that anyone  
5 could answer in the High Sierra situation.

6 Thank you, Your Honor.

7 THE COURT: Okay. Mr. Williamson.

8 MR. WILLIAMSON: Thank you, Your Honor. Richard  
9 Williamson on behalf of defendant Deep Roots. Mr. Puzey is  
10 right that his client never directly sued my clients, never  
11 served my clients, and we've never attempted to intervene.

12 I guess the only thing I'd say in response with  
13 respect to High Sierra Holistics only is again these were  
14 consolidated cases intertwined. Mr. Puzey participated in both  
15 Phase 1 and Phase 2, appeared, and the relief he was seeking  
16 certainly could have affected my client's license.

17 THE COURT: Could have or did.

18 MR. WILLIAMSON: Well, the relief he was seeking did  
19 or was aimed to, but -- there was no relief obtained against my  
20 client.

21 THE COURT: But -- okay. Are you telling this Court  
22 that there's any discovery between the two respective sets of  
23 clients? Any anything between the respective sets of clients?

24 MR. WILLIAMSON: I don't --

25 MR. PUZEY: Your Honor, this is --

1 THE COURT: Sorry. Mr. Williamson.

2 MR. PUZEY: Your Honor, this is Jim Puzey.

3 THE COURT: No. It's Mr. Williamson. It's  
4 Mr. Williamson's question, please.

5 MR. PUZEY: I'm sorry.

6 MR. WILLIAMSON: Thank you, Your Honor. Richard  
7 Williamson. I don't believe so, Your Honor.

8 THE COURT: Okay. So then how would they be  
9 responsible; right? Once again, how would they -- albeit the  
10 party analysis, right, and consistent with the Court's prior  
11 ruling, right, you had to have filed an answer, right, to be in  
12 an action with them, even if it's a consolidated action. So  
13 how would they be under the Supreme Court's analysis with  
14 regards to an action vis-a-vis your client in that scenario?

15 MR. WILLIAMSON: Yeah. We did not file an answer.  
16 It would just be the consolidated nature, I think, is the only  
17 point the Court would need to decide as vis-a-vis High Sierra  
18 and Deep Roots.

19 THE COURT: But in order to even get here, right,  
20 under NRS 18, which was where the Court went, and your like  
21 first hearing, right, was the prevailing party analysis, I'm  
22 not seeing how you -- how there's any prevailing party?

23 Motion to retax granted. You're not a party. You're  
24 not a prevailing party. You're not an NRS 18 for them to seek  
25 their memorandum of costs against you. There is not part of an

1 action under Supreme Court case law with regards to your  
2 client. So at this juncture, since you're never part of the  
3 HSH case, the mere consolidation of that, let's give my Pupo  
4 example.

5 Pupo is not involved in many other cases, the Court  
6 takes no position on anything Pupo could have potentially have  
7 said, right, because the matter's been fully resolved. But  
8 Pupo was not named in other parts, and so Pupo was being  
9 treated with regards to things that Mr. Pupo was involved in.

10 So your motion is granted. Provide me an order. Got  
11 it.

12 MR. PUZEY: Thank you, Your Honor.

13 THE COURT: You're giving the detailed analysis.

14 Okay. So --

15 MR. DZARNOSKI: Your Honor, excuse me. This is Mark  
16 Dzarnoski for TGIG. We also filed a separate motion to retax  
17 for Deep River [sic]. My argument is even shorter than Mr.  
18 Puzey's if you want to entertain mine and try and finish up  
19 Deep Roots.

20 THE COURT: Sure. Since I've done two, we'll do a  
21 third. Go ahead, please. I just -- sorry.

22 MR. DZARNOSKI: Yes, Your Honor. We filed our motion  
23 to retax on August 11th, 2022. The basis for our motion was  
24 that we felt we were the prevailing party. The other side was  
25 not. We also argued therein that no costs should be awarded

1 for judicial review. I do not -- I don't recall specifically  
2 if you've ruled on that in another matter or not, whether any  
3 costs --

4 THE COURT: I did. Just Mr. -- remember Mr. Slater's  
5 arguments a few moments ago.

6 MR. DZARNOSKI: Okay. Very -- then up until today,  
7 you hadn't.

8 And the final point I wanted to make or the second to  
9 final is that the answer to our complaint was filed on  
10 February 12th of 2020. So we don't believe that any costs  
11 prior to that should be assessed against us.

12 And as to every other argument, I'm willing to rest  
13 on the record.

14 THE COURT: Okay. So with regards to TGIG, right,  
15 and Deep Roots, how would that be different than the Court's  
16 prior ruling on your prevailing party analysis?

17 MR. DZARNOSKI: Oh, I don't think it is. I don't  
18 think it is. I'm not here to argue with you.

19 THE COURT: Okay. No, I'm not asking. I'm just, I  
20 did not see anything. Here's the way -- I appreciate I need to  
21 rule motion by motion, but I was being -- making sure that you  
22 were not asserting that there was some issue that the Court had  
23 not addressed in the prior prevailing party analysis that you  
24 need the Court to address today. I'm just walking through your  
25 arguments.



1 MR. DZARNOSKI: Yes. No, Your Honor, there is not.  
2 I understand what you said before. I'm not arguing or  
3 quibbling with you. Nothing new.

4 THE COURT: Okay. Mr. Williamson, would you like to  
5 respond to TGIG's motion to retax, which is Document 2918.

6 MR. WILLIAMSON: Yes, Your Honor. Thank you.  
7 Richard Williamson on behalf of defendant Deep Roots. I agree.  
8 I don't think we -- I think we can -- I would incorporate my  
9 arguments in the prior motions.

10 The only point I just want to make sure is clear with  
11 respect to TGIG is since they are not a settling party there  
12 would be no end date as there was with the settling parties.

13 THE COURT: Okay. Mr. Dzarnoski, would you like to  
14 address the end date issue raised by Mr. Williamson or anything  
15 else because you get final word? It's your motion to retax.

16 MR. DZARNOSKI: Thank you, Your Honor. No. Mr. -- I  
17 agree with Mr. Williamson. Nothing further.

18 THE COURT: Okay. So with regards to TGIG's motion  
19 to retax, I believe that's Document 2918, filed 8/11/2022. The  
20 Court's ruling on the prevailing party analysis, please see the  
21 Court's prior analysis with regards to the prevailing party.  
22 The Court is incorporating that for purposes of today's ruling  
23 and rules the same

24 With regards to the judicial review argument set  
25 forth, the Court is adopting what I stated previously on

1 judicial review and also what I stated today with regards to  
2 judicial review and even referencing on the two-prong analysis  
3 that, one, this Court doesn't see that it was -- that there was  
4 evidence raised that that judicial review should be taken  
5 separately. Even giving you the same benefit of the doubt that  
6 I gave Mr. Slater on behalf of his clients and looking at the  
7 trial protocol, the Court doesn't see that that would support  
8 it. So those two analyses that I gave with Mr. Slater on  
9 behalf of his clients would equally apply to your clients. And  
10 so I'm adopting it for that regards.

11 With regards to the end date concepts, and since your  
12 client is not a settling party, the Court would adopt its  
13 analysis on the distinction between the settling parties and  
14 the nonsettling parties and incorporate your agreement that  
15 there is a distinction there and so therefore would not have  
16 the July 26th, 2020, end date.

17 So now let's walk through the actual reasonable,  
18 customary and necessity. Everything that the Court has  
19 analyzed with regards to the costs that go through the  
20 July 26th is going to equally apply here. The same analysis  
21 with the date of the answer February 12th, 2020, is going to  
22 equally apply.

23 Mr. Dzarnoski, is there anything else from after  
24 July 26th, 2020, that's in your pleading that you think the  
25 Court has not addressed on the reasonable, necessity, or

1 actually incurred aspect of the charges asserted in the  
2 memorandum of costs as applies to your client, TGIG?

3 MR. DZARNOSKI: No, Your Honor.

4 THE COURT: Okay. Mr. Williamson, I'll let you  
5 address to the extent of the post July 26th, 2020, anything you  
6 need to address with regards to those costs that have occurred  
7 after that date?

8 MR. WILLIAMSON: No, nothing further other than just  
9 to state, as expressed in our verified memorandum, Your Honor,  
10 I believe they were all necessarily (video interference).

11 THE COURT: Okay. Let me go back. I'm going to  
12 double check one thing with regards to Document 2918. Give me  
13 one second, please.

14 Okay. 2918 was the reference document.

15 Okay. Mr. Dzarnoski, I do not see in your seven-page  
16 document that there is any specific numbers that show that  
17 you're seeking to be retaxed after July 26th, 2020. Are you  
18 contending that there is something that the Court may have  
19 missed?

20 MR. DZARNOSKI: No, Your Honor.

21 THE COURT: Okay. Then I will -- Court will have to  
22 view it waived if there's not anything specific with regards,  
23 so just would follow with regards to that was not raised in the  
24 motion to retax [indiscernible] memo of the costs from  
25 July 26th, 2020, consistent therewith.

1 (Pause in the proceedings.)

2 THE COURT: Okay. High Sierra Holistics, we've dealt  
3 with yours.

4 Okay. Now I think I have completed Deep Roots. Does  
5 anyone think I have not completed all the Deep Roots?

6 (No audible response.)

7 THE COURT: Okay. So consistent, we're now going to  
8 go to Clear River, and then what we'll do is, since Mr. Rulis  
9 is here in Court and [indiscernible] first, we're going to take  
10 care of his first, and then we're going to do similar to what I  
11 do with Deep Roots. I will go to joinders to finish all of the  
12 Clear River.

13 Go ahead, Counsel. And we're going to have be a  
14 little bit more efficient on this if we want to get you taken  
15 care of and everyone else be heard this morning. We're almost  
16 at the two-hour mark, and we are going to take a break in about  
17 10 minutes just to let you know for my team to get a break.  
18 Okay?

19 MR. RULIS: Thank you, Your Honor. Nate Rulis on  
20 behalf of MM and LivFree for the record. I'll try to be quick  
21 on this one.

22 I believe the same analysis that we have just spent  
23 plenty of time going through on Deep Roots applies to Clear  
24 River I would say that. As to MM and LivFree, Clear River  
25 filed its first answer in response to claims by MM and LivFree

1 on April 21st, 2020. That's Document ID Number 1145. And so  
2 we would -- we believe that your -- the costs that have been  
3 included in memo of costs prior to April 21st, 2020, should be  
4 retaxed.

5 That amount totals \$29,294.84. So in addition to the  
6 pre April 21st, 2020, costs I just want to go through a few  
7 categories that we've provided objections to and think that  
8 under Nevada law should be retaxed.

9 And that's the photocopies. Clear River has included  
10 photocopies, but the only --

11 THE COURT: Counsel, can I -- I'm going to stop you  
12 one quick second.

13 MR. RULIS: Yes, Your Honor.

14 THE COURT: Because, and I appreciate you didn't do  
15 the original memo on this one, right, because I'm looking at  
16 page 5 of 10.

17 MR. RULIS: The original motion?

18 THE COURT: The original motion.

19 MR. RULIS: I think that's correct, Your Honor. I  
20 think it was we were part of the joint motion.

21 THE COURT: Yeah. Okay. The reason why I'm asking  
22 is because you put in the motion, page 5, as soon as you said  
23 that 29 was going back to the document, because I had written  
24 down you put 37,194.47. So is the 29- going to be part of that  
25 37-, or are we dealing with different numbers?

1 MR. RULIS: So, yes. I think thirty-seven, one,  
2 nine, ninety-four, I think is the total amount of costs that  
3 they have actually requested. And I can be a little bit more  
4 specific today after having the advantage of some of your  
5 client -- some of Your Honor's inclinations.

6 THE COURT: Okay. Because I'm paralleling what you  
7 put in your motion pages, right, 5 and 6 to what you're arguing  
8 today.

9 Go ahead, please.

10 MR. RULIS: So specifically, of the total amount of  
11 costs requested, they've requested photocopies. Again, as we  
12 talked about earlier with Deep Roots under *Berosini, Cadle*,  
13 host of Nevada law, the only thing they've provided are dates  
14 and costs. And that's not sufficient. So the total amount of  
15 photocopies requested in the memo of costs is \$10,588.80. That  
16 entire amount should be retaxed.

17 They've included Westlaw research fees. Again, the  
18 only description being that it's Westlaw online research and  
19 the date it was done. Under *Fairway Chevrolet, Berosini,*  
20 *Cadle, et al.*, the total of \$6,291.37 should be retaxed.

21 So essentially there are also parking fees,  
22 mediation, and trial services that have been included.  
23 Granted, all of those, almost all of those amounts are pre  
24 April 21st, 2020. And so, Your Honor, I did the math as I was  
25 sitting here. And in Clear River's memo of costs, taking out

1 photocopies and Westlaw research fees, there are a total of  
2 \$195.13 in post April 21st, 2020, costs that are included that  
3 are, I guess, not specifically being objected to.

4 That would be filing fees totaling \$136.50, parking  
5 fees of \$39, and postage of \$19.63.

6 THE COURT: That are or are not?

7 MR. RULIS: Are not objected to. That I -- that it  
8 arguably could be recoverable as post.

9 THE COURT: Then I have to look at -- okay. Because  
10 the numbers you're saying overlap.

11 MR. RULIS: Yes.

12 THE COURT: But aren't the same as what's in the  
13 motion. So I need to know, are you waiving the other items in  
14 the motion? I hate to put you on the spot. I can read them.

15 MR. RULIS: I guess --

16 THE COURT: Let me read through them. You want me to  
17 read through them?

18 MR. RULIS: Sure. No, I'm not waiving it, and I  
19 guess -- so let me be clear. I think the parking fees, even  
20 though they're \$39, arguably are not sufficiently documented.  
21 Same with postage and filing fees, but...

22 THE COURT: I was actually going -- okay. You have  
23 page 5 of your motion.

24 MR. RULIS: Excuse me, Your Honor.

25 THE COURT: It says 10,588 in photocopies, which I

1 just heard you say, okay. You were objecting in the motion to  
2 \$3,074.18 in various Court filing fees. And I'm not suggesting  
3 that I -- if I didn't hear you say -- the challenge the Court  
4 has is, right, it's in a pleading, but it's not addressed in  
5 oral argument. That's the reason why I'm asking if it's  
6 waived. And I appreciate that you may be taking some of my  
7 inclinations and maybe only arguing certain things. I don't --  
8 I can't read people's minds. So I don't know for sure, but I  
9 don't want to not address something is where I'm going.

10 So 3,074.18 in various Court filing fees.

11 MR. RULIS: Yes. I see where you're talking about,  
12 Your Honor.

13 THE COURT: See what I'm talking about?

14 MR. RULIS: Yes.

15 THE COURT: Pages 5 and 6. I'm going those item by  
16 items.

17 MR. RULIS: So sorry, I'm just --

18 THE COURT: If they're waived, I'm moving on.

19 MR. RULIS: If I can, I just want to cross-reference  
20 to their memo so I make sure that I get it correct because --  
21 so right. \$3,074.18 is the total amount of filing fees that  
22 were included in their memo of costs. We objected. Those are  
23 not properly documented.

24 But also \$2,937.68 of those filing fees were  
25 pre-answer date.



1 THE COURT: Okay. We went through the Westlaw.

2 MR. RULIS: So the total of Westlaw being \$6,291.37  
3 for which descriptions are Westlaw online research with a date  
4 for charge, and that's it.

5 THE COURT: Okay. Your parking costs, I thought I  
6 heard you say 155, but I see in the memo it says 1,555. And if  
7 I misspoke, I apologize.

8 MR. RULIS: Yes, Your Honor. The total is -- the  
9 total requested parking fees is \$1,555. Again, \$1,516 of those  
10 would be pre-answer costs. Hold on a second. And where would  
11 that be in your -- I'm going to your motion because the only  
12 one I see --

13 THE COURT: Do you have that broken down in your  
14 motion, Counsel?

15 MR. RULIS: I have that broken down. Pre-answer  
16 costs were not broken down in the motion. Those were broken  
17 down in the supplemental brief regarding time frame for  
18 allowable costs, which is Docket Number 3149.

19 THE COURT: That's where I'm going. Okay.

20 Okay. Counsel, Clear River, go ahead, please.

21 MR. GRAF: Yes, Your Honor. Obviously, we should  
22 address the date and timing of the costs first, I guess.

23 THE COURT: Can we start -- Mr. Graf, can we start  
24 with your name, please, on behalf of Clear River.

25 MR. GRAF: Oh, sorry, Your Honor. Rusty Graf

1 appearing on behalf of Clear River, LLC.

2 First and foremost, we need to talk about the date  
3 and timing of the appearance in the case. Our first appearance  
4 in this case officially as Her Honor is addressing it, it  
5 appears, was when we filed the motion to intervene on  
6 April 29th, 2019. Thereafter -- and that motion sought the  
7 intervention as -- as the reason being that the State could not  
8 properly represent our interest in the case.

9 Thereafter, we filed the first answer in this case, I  
10 believe, on May 16th, 2019. And thereafter, all of those cases  
11 were consolidated in December of 2019.

12 THE COURT: Okay. Counsel, the reason why I'm going  
13 to stop you for a quick second --

14 MR. GRAF: So, Your Honor --

15 THE COURT: Counsel.

16 MR. GRAF: Yes.

17 THE COURT: The reason why I'm just stopping you,  
18 sorry, I thought I heard counsel say it was April 21, 2020. So  
19 I just need you all to at least agree the date --

20 MR. GRAF: That's for MM --

21 THE COURT: -- the date of an answer, please,  
22 whichever date it is.

23 MR. GRAF: Your Honor, that is the answer that was  
24 filed as to MM and his other client. April 21st, 2020, was the  
25 first time that we filed an answer to that matter.

1 THE COURT: Okay?

2 MR. GRAF: Our first answer in the consolidated cases  
3 was filed in May of 2019 -- May 16th, 2019.

4 Our motion to intervene was filed on April 29th,  
5 2019. And we participated in the preliminary injunction  
6 hearing where they sought to enjoin the issuance of the final  
7 licenses for my client who had received three licenses. So  
8 that is the start of our -- that's the argument is to our start  
9 into these cases.

10 I understand what Her Honor is going to say, but  
11 then, Your Honor, then you're going to be doing an analysis on  
12 each and every answer that we filed in the case because we  
13 filed multiple answers in the case. So it's going to be a  
14 different timing analysis as to each one of those. So then if  
15 we're only getting fees and costs as to the first answer or the  
16 second answer or the third answer or the fourth or the fifth  
17 that we filed in the case, then that analysis has to be done.

18 THE COURT: Yes, it does.

19 MR. GRAF: So we believe that our substantial  
20 involvement in the case occurred when we filed the motion to  
21 intervene on an order shortening time that was then heard on  
22 May 6th, and the answers that were filed after that.  
23 Mr. Rulis's law firm argued against our motion to intervene.  
24 So if there was an interaction between counsel and the parties  
25 at that point in time, I don't know what is.

1           So, Your Honor, I don't think that there is in this  
2 case a yes or no black or white answer as to the timing or the  
3 involvement of the parties in the case as a whole because the  
4 parties and -- or, excuse me, the case was conducted as one,  
5 one case from early on, and there were multiple motions for  
6 injunctive relief. There were multiple motions for summary  
7 judgment. And there were multiple complaints and answers that  
8 were filed in the case.

9           And if Her Honor wants us to analyze that on a  
10 case-by-case answer-by-answer basis, then that hasn't been done  
11 yet by any of the parties in this case. But it is our opinion,  
12 it is Clear River's opinion that we started to participate in  
13 the case as a whole on April 29th, 2019, when our order  
14 shortening time was filed. And then it was heard on May 6th,  
15 2019.

16           And, Your Honor, I can address each of the costs.

17           THE COURT: Yeah, go ahead.

18           MR. GRAF: The categories that were discussed by  
19 counsel.

20           THE COURT: Sure. Go ahead, please.

21           MR. GRAF: Your Honor. Same argument as  
22 Mr. Williamson as to the photocopies. Our photocopying system  
23 allows us to, when there's copies that are conducted on the  
24 case, it is recorded by date, and you can then determine the  
25 number of copies because all you do is have to divide by

1 30 cents. Those copies are then entered on a matter number.  
2 So they are specifically referenced as to this case. And we  
3 think that meets the requirements of *Berosini* and the other  
4 matters that talk about the specificity of the costs.

5 As to Westlaw, Your Honor, same analysis as  
6 Mr. Williamson. Our Westlaw costs are monitored by matter.  
7 When you do the research, you have to enter a matter number.  
8 That matter number is then categorized in our billing system,  
9 which is Cleo (phonetic), and it is tracked according to that.  
10 The information that was searched and that sort of thing, if it  
11 is required by this Court, then that has not been provided.

12 The parking fees and everything else, again, Your  
13 Honor, goes to a timing instance. Those are all for Court  
14 appearances, every single one of them. And they are related,  
15 and they're recoverable by both counsel. As Mr. Rulis has  
16 his -- Mr. Kemp was attending most of these hearings prior, as  
17 was our office with Ms. Higgins. So the parking fees are  
18 reasonable and should be awarded in the amount of \$1,555.

19 The mediation and trial costs or trial fees, Your  
20 Honor, are recoverable. Those are, I believe what Mr. Rulis is  
21 arguing is that the timing of the answer is what is the cutoff.  
22 And again, we don't believe that that is the cutoff or the  
23 initiation date for incurring costs in a matter.

24 Then, Your Honor, as to the court filings, the -- I  
25 don't necessarily understand the argument by Mr. Rulis. Court

1 filings are all tracked by the court. You can go into Odyssey  
2 and look at the court filings and see those, and that's  
3 directly where we printed those from and where they're  
4 represented, and that's the documentation that was attached to  
5 our memo of costs. So I don't know what else, other  
6 information to provide to Her Honor regarding that.

7 THE COURT: His -- I believe his argument there was  
8 the timing, that he said it was a timing issue --

9 MR. GRAF: Yeah.

10 THE COURT: -- is that it pre-answer. They should  
11 not -- he's not arguing on behalf of anybody else, but as to  
12 their statement, you were not a party vis-a-vis them until the  
13 time you filed your answer is what I understood the issue is,  
14 not the fact that he was challenging the fees charged by the  
15 court because the Court could take judicial notice of what the  
16 fee amounts are. They are what they are.

17 MR. GRAF: Yep. And, Your Honor, I just going back  
18 to the timing issue because it appears that that's going to be  
19 the major issue here, unless Her Honor does a separate analysis  
20 as to each case, that there's a separate date and a separate  
21 cutoff, then I guess that's what we do. And then we would have  
22 separate orders and separate findings as to each individual  
23 case.

24 But here's the thing, Your Honor. Every single one  
25 of these parties was in the same courtroom arguing the same set

1 of facts on their side and on our side during the time of the  
2 preliminary injunction hearing, which was held the summer of --  
3 or, excuse me, the spring and the summer of 2019. And it seems  
4 a little form over substance, let's call it, to say that we're  
5 not entitled to our costs after we prevailed after a  
6 preliminary injunction hearing, then after a trial that was  
7 held a year later, and that Her Honor's going to cut that off  
8 prior to that time. I don't think that was the intent of any  
9 of these rulings that Her Honor has discussed this morning.

10 The intent of those rulings was to say in a case  
11 where it's one -- one party versus another party or maybe one  
12 versus two that there should be a cutoff as to when the answers  
13 are. But procedurally, the interaction between these parties  
14 started April 29th, 2019, when the OST on the motion to  
15 intervene was filed, and those parties all participated in that  
16 process from that point forward.

17 So if Her Honor is awarding costs, those are the  
18 costs we should be awarded, is from that point.

19 THE COURT: Counsel, I do have a question for you,  
20 and it's going to be plain language of NRS, right, 18.020. How  
21 were you an adverse party as to Mr. Rulis's clients, right,  
22 prior to filing an answer? And where I was -- I'm looking at  
23 this as, okay, they wanted something from your clients; right?

24 MR. GRAF: Yes.

25 THE COURT: Could they have collected anything from

1 you until --

2 THE WITNESS: Yes.

3 THE COURT: -- you were actually adverse to them?

4 MR. GRAF: Your Honor, adversity is determined by the  
5 words that are spoken in Court. Mr. Rulis is not going to get  
6 up and say that he wasn't adverse to Clear River in the  
7 preliminary injunction hearing. Quite the opposite. They  
8 tried to present evidence and testimony that the board that was  
9 presented and identified in our application process was  
10 improper and that our licenses should be then not finalized.

11 Your Honor, on that basis alone, they were adverse to  
12 us. That was argued at the hearings going well before  
13 April 21st, 2020, Your Honor.

14 And, Your Honor, Clear River was one of the parties  
15 that was arguing that in their PJR cause of action it was  
16 improper to go forward in a PJR cause of action without naming  
17 all of the parties. That order didn't happen until, and I  
18 [indiscernible] to be corrected, Your Honor, sometime in  
19 December of 2019 or January of 2020, where the Court then said,  
20 yes, that's correct, all of the applicants have to be made a  
21 party to the PJR if you're attacking the process.

22 THE COURT: But is --

23 MR. GRAF: And then slowly but surely --

24 THE COURT: Counsel. Counsel. Counsel. Counsel.  
25 Counsel.



1 MR. GRAF: -- each of those parties then amended  
2 their complaints to address that issue and started naming all  
3 of the parties. So, Your Honor, we were fighting well months  
4 before that to say that they had improperly pled their claims  
5 and needed to bring in all of the parties to the application  
6 process to have that fully addressed. Because if they got  
7 their injunction and said, hey, Clear River, you can't go get a  
8 final license, that's potentially a taking. And I understand a  
9 [indiscernible], Your Honor, and everything else.

10 But the issue becomes whether or not and when Clear  
11 River started fighting for their licenses. We started fighting  
12 for our licenses with all of these plaintiffs participating in  
13 every single one of these hearings. They all got up in April  
14 2019, in May 2019 and said, Clear River did bad things.

15 And I see Ms. Barrett shaking her head. I know  
16 Qualcan wasn't.

17 But, and there's -- there is a certain amount of that  
18 type of analysis, but as to MM, as to Serenity, as to ETW, as  
19 to all of those initial lead plaintiffs, Your Honor, that  
20 happened. I'm not misremembering anything. I know that  
21 happened. And what was going on was an argument and a contest  
22 and a fight over those three licenses that Clear River got.

23 So if Her Honor is asking me when did the fight  
24 start, the fight started even before April of 2019, but  
25 officially upon the filing by Clear River, April 29th, 2019.

1 THE COURT: Okay. Counsel, I've got to stop you and  
2 ask you a quick question.

3 MR. GRAF: Sure.

4 THE COURT: Did you cite anything in your pleading --  
5 did you cite anything in any of your pleadings where there's  
6 ever been a Nevada Supreme Court case where they have awarded  
7 costs, right, as you are seeking them under NRS 18.020 prior to  
8 a party filing an answer? Because there's a whole plethora of  
9 cases, including recently, right, where they say you can't do  
10 things until you're actually a party to the case.

11 MR. GRAF: Understood, Your Honor. And I circle back  
12 to the fact that we did file an answer in May of 2019 as to I  
13 believe it's the ETW case. But, Your Honor, I'm sorry, I don't  
14 have that at my fingertips right now.

15 THE COURT: No worries. I'm talking about --

16 MR. GRAF: It's TGIG.

17 THE COURT: -- this movant. I haven't gotten to ETW.  
18 I'm talking about this movant. And as you realize --

19 MR. GRAF: It was TGIG, Your Honor, that we filed the  
20 answer to in May of 2019, and they were one of the main  
21 plaintiffs leading this case.

22 And, Your Honor, I get where you're coming from. I  
23 understand the fact that you want to have a date and a time  
24 that says after this date and time you can do whatever. But in  
25 all reality, Your Honor, this case was a fight for 63 different

1 licenses by those parties that got awarded them. And all of  
2 those parties save and except some settlements where they  
3 voluntarily gave them up, we all kept those licenses. So the  
4 fight was begun by us on April 29th, 2019. And our answer that  
5 was filed May, I think it's May 16th, 2019, as to TGIG.

6 So that, if Her Honor wants to start it at that point  
7 in time, then fine. We get all of our costs from May of 2019  
8 against TGIG going forward. And all of these other parties can  
9 argue and present that only the costs after such a date are  
10 they jointly and severally liable for those other costs. Okay.  
11 But, Your Honor --

12 THE COURT: Counsel, I've got to stop you. I've got  
13 multiple people, right. I've got to give people sufficient  
14 time. So I'll give you one minute to wrap up, please.

15 MR. GRAF: I'm wrapped, Your Honor.

16 THE COURT: Okay. Counsel, you get last word.

17 MR. RULIS: Thank you, Your Honor. So let me start  
18 with as far as Mr. Graf said, you know, the parties have to  
19 brief when the time frames are, I believe we did that. That's  
20 what the supplemental brief on the time frame was for. I  
21 referenced Your Honor to it. It's document ID number, I think  
22 it's 3149 as far as MM and LivFree goes where we laid out for  
23 Your Honor the dates of filings of answers that makes them a  
24 party to at least the litigation as to our clients.

25 And one other thing that Mr. Graf started referring

1 to that I think Your Honor was about to ask him about was, you  
2 know, the Rule 18.020, you mentioned talks about being a party  
3 to the litigation. And as you heard Mr. Graf say, they  
4 admittedly weren't parties to the litigation and were filing  
5 motions saying that they needed to be made a party to the  
6 litigation; otherwise, you couldn't get any sort of relief  
7 against them. And that's where we get to the analysis of when  
8 did they become a party to the litigation, when they answered  
9 the claims filed by MM and LivFree.

10 And as far as MM and LivFree goes, Clear River for  
11 the first time answered their claims on April 21st, 2020. They  
12 didn't -- you know what they did, you heard they filed a motion  
13 to intervene but not in MM and LivFree's case. Because at, by  
14 the way, at that point, they were not consolidated.

15 THE COURT: Right.

16 MR. RULIS: So they were separate cases. They could  
17 have. They clearly knew they could have and didn't, and then  
18 argued that they weren't a party and that we couldn't get  
19 relief because they weren't a party. So I would again go back  
20 to the analysis as we talked about in our supplemental brief,  
21 which is they became a party when they filed the answer on  
22 April 21st, 2020.

23 As far as some of the other specific costs that  
24 Mr. Graf talked about, I just reference, as far as photocopies  
25 go, I think *Berosini* is very clear that specifically rejecting

1 photocopies because only the date and cost of each copy was  
2 provided. That's all we have here.

3 *Fairway Chevrolet*, I think, is specific on the legal  
4 research costs.

5 And then as far as mediation goes, not only is it  
6 prior to them becoming a party, but as Your Honor talked about  
7 with Deep Roots, there was nothing mandatory about it. They  
8 were not ordered to appear. They did so voluntarily, and I  
9 believe that those costs are not recoverable.

10 And unless Your Honor has any other questions, I'll  
11 sit down.

12 THE COURT: Clarification on your filing fees issue.  
13 I just want to make sure --

14 MR. RULIS: Yes. Your --

15 THE COURT: -- that you and Mr. Graf are on the same  
16 page. Although you did have different opinions, just make sure  
17 you're on the same page.

18 MR. RULIS: Yes. Your Honor is correct in that as  
19 far as filing fees go that is a date issue, which is we do not  
20 believe that we are -- excuse me, let me rephrase that. The  
21 pre-answer filing fees should be retaxed as they were not a  
22 party to the MM and LivFree litigation prior to April 21st,  
23 2020.

24 THE COURT: Thank you. Okay. [indiscernible] on one  
25 sec. I am...

1 MR. GRAF: And, Your Honor, I think that there were  
2 separate motions to retax that were filed.

3 THE COURT: There are. There are. Remember, I'm  
4 doing this one by one. So give me just a second. I have to  
5 look up one thing real quickly. Just one moment.

6 Okay. So --

7 MR. GRAF: Your Honor, I wanted to respond to Her  
8 Honor's comment about 18.020 if possible.

9 THE COURT: But you can't. You can't, Counsel.  
10 Counsel. Counsel. You had your, right, motion, opposition,  
11 reply. So the Court, in fairness to everybody else who's  
12 patient waiting for their motions, their joinders, et cetera,  
13 we can't do that. Otherwise, it's back and forth, back and  
14 forth, back and forth.

15 The Court is just pausing for one quick second  
16 because I'm double checking one case and my understanding of  
17 what it said, and I just want to make sure I am correct. Just  
18 one second please.

19 Okay. One second, please. Hold on a second. Please  
20 don't speak. I'm just looking at one thing real quickly,  
21 please.

22 Okay. I -- correct. I thought I was.

23 Okay. So going to the first the macro issues, then  
24 the micro issues. With regards to the motion to retax costs,  
25 based on the date of the answer filed by Clear River component,

1 the Court is going to grant that component.

2           The Court is also going to refer you all to  
3 *Schouweiler versus Yancey*, 101 Nevada 827, which was the case I  
4 was double checking. I was also checking a subsequent case,  
5 *Semenza versus Caughlin Crafted Homes*, 901 P.2d 684 (1995).  
6 And the reason why the *Schouweiler* case, because they're,  
7 albeit a construction defect, but, right, prevailed against  
8 three of the defendants and not the other three, and so the  
9 Court there does look at this -- the Supreme Court looks at  
10 this on an individualized basis. It doesn't, okay, look at  
11 it -- and by the way, that was a class action, right, but  
12 anyway, looks at it individualized basis. So the Court, this  
13 Court has to do it, and that's the plain language of the NRS.

14           Okay. The NRS does talk about an adverse party and a  
15 prevailing party against an adverse party because you can win  
16 against some and lose against others, and you only get to get  
17 things from certain portions of that. And I'm not getting into  
18 the third-party claims and fourth-party claims issues, which  
19 aren't at issue here.

20           So the Court has to take the date by which, and  
21 that's why this Court has analyzed these on answer date by  
22 answer date because I have to see who the parties are, what the  
23 action is to see whether or not there's the triggering of NRS,  
24 right, 18.010. And those cases I utilized are for example  
25 purposes, right, because they're factually a little bit

1 distinct.

2 But in any event, so the Court does have to go with  
3 April 21, 2020, the agreed-upon date by which the answer was  
4 filed with regards to the two parties for this particular  
5 motion. I'm going to get to your other motions and your  
6 joinders in just a second. Therefore, things before that date,  
7 and remember once again, Clear River could have gotten into  
8 this case earlier. They could have filed. They could have  
9 sought something to become a party. They also could have tried  
10 to amend. If you want to go back to the trial protocol, et  
11 cetera, they could have amended what they wanted to, and it  
12 didn't.

13 So anything before April 21, 2020, is retaxed and  
14 denied. With regards to anything after April -- and I'm saying  
15 on or after April 21, 2020. Let me be clear. When I'm saying  
16 the dates of answers, I'm taking it from midnight. So if  
17 there's some charge on that actual date, it is included.  
18 Court's not taking a distinction between if something was filed  
19 at 2:00 p.m. and the answer may have been filed at 2:15 because  
20 once again, we -- there's some time delay between the answers  
21 actually showing up on the record, and I think that is the  
22 appropriate analysis. Okay. So April 21, 2020, going forward  
23 is the date.

24 Now, we have to get to the specifics. Specifics with  
25 regards to the photocopies, while I appreciate law firms may



1 have systems in place, if your systems don't comply with the  
2 case law which your systems need to comply with in order to get  
3 the costs, realistically, you can evaluate whether you want to  
4 change your system. This Court has to look at what the case  
5 law says. The case law says certain things need to be there.  
6 It is not photocopies. Motion to retax granted with regards to  
7 the photocopies.

8 Court, similarly with the mediation, the mediation is  
9 granted, the motion to retax, and so that cost will be denied  
10 for two independent bases. One, it's prior to the April 21,  
11 2020; so you were not an adverse party to be even a potential  
12 prevailing party until after April 21, 2020. And so therefore  
13 that would be inappropriate. And it doesn't even see that  
14 there's a basis specifically for that mediation, how it's  
15 reasonable and necessary under the language.

16 So let's go to --

17 MR. GRAF: Your Honor, before we leave the mediation  
18 issue real quick, are --

19 THE COURT: No, Counsel. Counsel, can I please  
20 finish with my ruling. Okay. If you keep interrupting --

21 MR. GRAF: Yes, Your Honor.

22 THE COURT: -- you know, I can't get through these,  
23 and we're not going to have a nice clear record. So please  
24 give me the courtesy of letting me at least finish, okay.  
25 Thank you so very much.

1           Okay. So now, okay, going back to, I have to go back  
2 to 2149. One second please.

3           So trial services denied for the same analysis the  
4 Court gave previously with regards to the trial services,  
5 mediation [indiscernible] for trial services.

6           So now we get to parking. Parking is going to be the  
7 date contingent because if you're not an adverse party you  
8 can't assess parking against the movant in this case.

9           So then we look at travel fees, and the Court has got  
10 to double check with it. I didn't see travel fees in there,  
11 but I got a notation for travel fees. So to the extent travel  
12 fees is articulating with regards to parking, I've already  
13 analyzed it.

14           So then we get to, and this is where we have runner  
15 fees. Runner fees, the Court was not -- it was addressed in  
16 the motion but was not addressed in oral argument. Runner  
17 fees, four, ninety-five, page 5 and 6, of the motion.

18           MR. RULIS: Yes.

19           THE COURT: So with regards to the runner fees, it's  
20 denied with regards to the runner fees because it'd be  
21 appropriate during -- we are talking COVID-type things. Things  
22 had to be done on certain equipment. Reasonable, necessary,  
23 actually incurred consistent with applicable case law and  
24 doesn't find that those are overcharged.

25           I need to get back to -- one second, please.

1 I've addressed that. I've addressed the photocopies.  
2 I've addressed --

3 Westlaw charges, consistent with the Court's prior  
4 ruling with regards to Westlaw charges, once again that's  
5 pure -- that's pure case law. If it doesn't comply with the  
6 case law, the pure language of *Fairway Chevrolet, In re Dish*  
7 *Network* address those specifically. If you don't comply with  
8 it, it may be your company's system, but if it doesn't comply  
9 with the four corners of those cases -- *In re Dish network* is  
10 an older case. *Fairway Chevrolet* is not brand, brand new. So  
11 the Court has to grant the motion to retax and deny the Westlaw  
12 charges as not being consistent with applicable case law of the  
13 appropriate documentation that is necessary.

14 And the Court -- I'm missing one item. Counsel,  
15 Mr. Rulis, go ahead.

16 MR. RULIS: So, Your Honor, there's a couple things.  
17 So I think the only thing that you haven't addressed yet is  
18 transcripts, although I believe the only requested costs for  
19 transcripts in here are pre-answer date.

20 THE COURT: The Court is going to deny it on  
21 transcripts because realistically those transcripts were  
22 utilized throughout the litigation. The Court really sees with  
23 regards to where you're going to the actual trial component,  
24 those needed to be ordered. Even though they're pre-trial  
25 transcripts, they were utilized as asserted for purposes of the

1 actual trial and for the aspects that would've happened  
2 post-answer. So the Court would deny the motion to retax with  
3 regards to those because they were actually utilized as  
4 [indiscernible]. I don't see anything that shows that they  
5 weren't, that they were -- didn't come into play once they were  
6 into the case.

7           It'd be similar as like you demand for prior  
8 pleadings when you come into a case. You demand for prior  
9 pleadings, there may be a copying cost associated with those  
10 demand for prior pleadings. That would be a recoverable cost  
11 potentially. That's no advance ruling, but, okay.

12           MR. RULIS: Okay. So I guess I do have one quick or  
13 question on two of items.

14           THE COURT: Well, first -- okay. The Court has made  
15 its ruling. My only question is, do either party feel that I  
16 have not addressed one of the subcategories? That's -- we're  
17 not going back on my ruling right now. I will give both you  
18 and Mr. Graf an opportunity if you have questions at the end,  
19 but I just want to make sure I've covered all of the categories  
20 to be retaxed. If you think that there's not a category that  
21 the Court's addressed, just please tell me that category.

22           MR. RULIS: I believe you've addressed all of the  
23 categories, Your Honor.

24           THE COURT: Okay. So then in fairness, Mr. Graf had  
25 a question first. So I'm going to let him ask his question

1 first, and then I'll ask -- let you ask your question.

2 Mr. Graf, you said you had a question?

3 MR. GRAF: Yes, Your Honor. In the mediation fees,  
4 you had said that there were two reasons. One was  
5 reasonableness and necessity was the second reason. The  
6 timing, I understand, Your Honor; I'm not going to beat that  
7 horse. But the reasonableness and necessity, you're not making  
8 that ruling as to other parties that we had filed answers with  
9 prior to the mediation --

10 THE COURT: No.

11 MR. GRAF: -- that is a fair statement or no?

12 THE COURT: That is a correct statement. The Court,  
13 that's why the Court said it was dealing first with the macro  
14 issues, right, the broader issues and then to the micro  
15 specific for this party as to what they have asserted. To the  
16 extent another party is asserting it on their joinder, I'm  
17 going to have to first analyze the macro issue before I get to  
18 the specific actual dollars for retaxing. Okay.

19 MR. GRAF: Yes.

20 THE COURT: Same way I've been doing with the other  
21 parties.

22 Okay. Does that answer your question, Mr. Graf?

23 MR. GRAF: It does.

24 THE COURT: Okay. Thank you.

25 Mr. Rulis, you had a question. Go ahead, please.

1 MR. RULIS: So, Your Honor, you had said as far as  
2 trial services and runner services that it was denied. But I  
3 just wanted to clarify because the entirety of both of those  
4 categories, both runner services and trial services, are  
5 pre-filing of the answer.

6 THE COURT: Okay. Please point me to the page in  
7 your motion where it articulates that or in your supplemental  
8 brief since all parties were allowed to provide a supplemental  
9 brief on that.

10 MR. RULIS: Sure. So, Your Honor, as far as our  
11 supplemental brief goes again, it's Document Number 3149.

12 THE COURT: Let me go to it. Give me one second  
13 because remember, since, to my knowledge, I don't have the  
14 benefit of any courtesy copies. So I'm having to click  
15 document number by document number --

16 MR. RULIS: I have a copy if Your Honor would like me  
17 to approach.

18 THE COURT: Okay. Let [indiscernible]. Now, that  
19 was my subtle, not so subtle hint of how many times do I have  
20 to say please [indiscernible] the EDCR and provide courtesy  
21 copies. That's why part of this is taking so long because I'm  
22 having to click through over 3,500 entries.

23 Okay. Counsel, you're referring the Court to?

24 MR. RULIS: To the bottom of page 3 and top of page 4  
25 of Document ID 3149 --

1 THE COURT: Just one second. Here --

2 MR. RULIS: -- and specifically on the top of 4, we  
3 list out the categories that are included as part of the costs  
4 that are pre-answer, which include runner services and trial  
5 services.

6 THE COURT: Right. I saw this. I didn't see it --  
7 okay. Let me look for your broken down. I didn't see that it  
8 was -- [indiscernible] requested include. See, I didn't see if  
9 it was broken down or if it was an overlap between dates, et  
10 cetera. So Jury to Verdict Trial Services, how would that be a  
11 pre?

12 MR. RULIS: So it --

13 THE COURT: Because once again, the Court  
14 appreciates, in anticipation of trial, even if you may not have  
15 a party yet in it, right, because parties can come in right  
16 before [indiscernible] trials, you may have paid all your  
17 experts, right. So the Court, I mean, by general analysis, not  
18 specific to this type of this case, you kind of have like a  
19 *Capanna versus Orth*. You can partition. *Schouweiler*, you can  
20 carve out partition, right.

21 But how would jury trial services not be applicable  
22 to your client even if they had to prepaid earlier but now your  
23 client is part of that trial?

24 MR. RULIS: Because they're not prepaid. They -- I  
25 believe what they were incurred for is they were incurred for

1 the injunction hearing prior to them becoming a party to our  
2 case. That's, if you go to their memo of costs, which is  
3 Document Number 2876, and specifically I'm referring to --

4 THE COURT: Hold on second. As you know, I have to  
5 click entry by entry. Repeat that number please.

6 MR. RULIS: 2876, Your Honor.

7 THE COURT: Okay. Just a second. Takes a second.  
8 Okay. What page please?

9 MR. RULIS: 15. It's the bottom of 15 and top of 16.

10 THE COURT: Okay. Let me ask Mr. Graf. Is the Jury  
11 to Verdict Trial Services entry amounts on the bottom of 15 to  
12 16 for the -- for the trial portion or for some preliminary  
13 injunction hearing, et cetera? Was it utilized after you filed  
14 an answer in this case?

15 MR. GRAF: Your Honor, I don't have that in front of  
16 me right now. Our memo of costs has the dates as to each one  
17 of the entries. So if it is in the summer of 2020, I think  
18 it's for the trial. If it was for the summer or spring of  
19 2019, it was for the preliminary injunction hearing.

20 THE COURT: Since everyone had the same --

21 MR. GRAF: There's a date on each one of our entries.

22 THE COURT: Okay. Thank you.

23 These are from 6/6/2019 to 8/28/2019. Are the dates  
24 on your entries on pages 15 and 16 .

25 MR. GRAF: So that's for the preliminary injunction



1 hearing then.

2 THE COURT: Okay. Was there anything in any  
3 supplemental briefs that you're contending that you provided  
4 that addresses that this would've gone to something after you  
5 were a, with respect to only the parties I'm addressing now in  
6 their specific motion, after you were an adverse party to this  
7 party that these were utilized?

8 MR. GRAF: Your Honor, that -- you -- that was my  
9 argument previously, Your Honor, is the fact that those are  
10 costs that were incurred where we were in the same courtroom  
11 arguing against the preliminary injunction that Mr. Rulis's  
12 clients were seeking, and we were opposing it.

13 THE COURT: Okay.

14 MR. GRAF: Her honor has said that is not a cost that  
15 was incurred after an answer that was filed as to this party.  
16 I get that response, but I'm trying to be as accurate as I can.

17 THE COURT: Sure.

18 MR. GRAF: That's why I had argued that we were  
19 adverse to them because we were in that preliminary injunction  
20 hearing that they argued for.

21 THE COURT: Okay.

22 MR. GRAF: So --

23 THE COURT: And I appreciate that, but realize, at  
24 that juncture, they were not an adverse party under the plain  
25 language of the statute. Your interest, I appreciate you may

1 say your interest, but I'm looking plain statutory language. So  
2 then the Court is going to have to revise its inclination and  
3 grant the motion to retax as to the entries listed at lines 24  
4 through 27 on page 15, and line 1 on page 16, where it shows a  
5 total amount of \$3,212.50 for items between June 6th, 2019, and  
6 August 28th, 2019.

7 Counsel, Mr. Rulis, you have a second part of your  
8 question. Go ahead, please.

9 MR. RULIS: And then -- yes. So starting on line 18  
10 of page 13 and going to line 3 of page 15 is the runner  
11 services that Your Honor previously denied. But again, those  
12 dates are between May 7th of 2019, and February 13th of 2020,  
13 which would all be pre-answer.

14 THE COURT: So you gave the court back in 2019  
15 courtesy copies, but not me courtesy copies, huh? Oh, okay.

16 Wait, counsel, I'm -- okay. Mr. Graf, I've got to  
17 ask you a question. 5/8/2019, runner service, courtesy copy,  
18 answer to complaint. What complaint? Is that the complaint in  
19 intervention?

20 MR. GRAF: That's the TGIG answer to the complaint,  
21 Your Honor.

22 THE COURT: Okay. Counsel for movant, were you part  
23 of that motion for summary judgment on 6/20/2019? I mean, were  
24 you -- for this party, was the summary judgment directed to you  
25 and did you respond? I'm only -- I'm looking at this

1 captioning. That's why I'm asking that question.

2 MR. RULIS: Understood. I do not -- I don't know,  
3 honestly, as I sit here today, Your Honor. They were not,  
4 again, they were not a party to my suit at that point. At that  
5 point, so in July of 2019, they had not -- the cases had not  
6 yet been consolidated. They had not intervened nor answered in  
7 my case. And so, procedurally, I don't believe that they could  
8 have filed a motion for summary judgment against --

9 THE COURT: Yeah, I just -- and -- this is purely  
10 procedure. When I look at if you're not a party, you don't  
11 have to respond to a motion for -- some small caveats. I'm  
12 taking in [indiscernible]. I'm not taking petitions and  
13 certain other special exceptions. I'm not going to antiSLAPP  
14 or anything like that. And I'm talking about this type of  
15 case.

16 Those -- I do have to grant the motion to retax for  
17 those 2019 entries. The Court has looked at them, confirmed it  
18 wasn't the complaint with regards to this movant. And this is  
19 only for these movements, right, these two movements. It was  
20 not the summary judgment. You can't get summary judgment  
21 against somebody because you're not adverse to them yet because  
22 you're not -- while you can intervene into a case,  
23 realistically, that case it intervening was the Department of  
24 Taxation's conduct with regards to the licensing rather than  
25 the individual who -- two entities that are the movant in this

1 case, MM and LivFree. So those also would be granted for the  
2 retax, and they would be deducted from the cost with regards to  
3 MM and LivFree.

4 Okay. That's taken care of every MM and LivFree. We  
5 need to move on, folks. I told you we were going to take a  
6 break --

7 UNIDENTIFIED SPEAKER: Your Honor.

8 UNIDENTIFIED SPEAKER: Your Honor.

9 THE COURT: I'm taking a ten-minute break.

10 UNIDENTIFIED SPEAKER: Your Honor --

11 THE COURT: My team needs --

12 MR. GRAF: I get that, Your Honor, but I want to make  
13 sure that the record is clear. In that motion for summary  
14 judgment, it was directed at Mr. Rulis's clients, and they did,  
15 in fact, respond to the motion for summary judgment. And  
16 that's why I believe we were adverse to them at that time.

17 So I understand Her Honor's ruling, but I want to  
18 make sure at this juncture when somebody's looking at this  
19 transcript that they have that bit of information --

20 THE COURT: Where was it in the pleadings?

21 MR. GRAF: -- and that they can go back and take a  
22 look at the pleadings in the case.

23 THE COURT: Okay. Mr. Graf, where in your opposition  
24 to the motion to retax did you raise that issue? Because  
25 remember, the Court is confined by the pleadings that was

1 presented to the Court. Where either in your opposition or the  
2 opportunity to provide a supplement did you raise that issue  
3 rather than when the Court asked that question after I'd  
4 already made my ruling, but I was asked -- I was asked for a  
5 clarification on two issues.

6 MR. GRAF: So, Your Honor, in our supplemental brief,  
7 we provided the timeline that we provided in our motion for  
8 fees. And then in our reply to our motion for fees, all of  
9 these timelines were provided. The argument as to the motion  
10 for summary judgment was made, and the timing as to the motion  
11 for summary judgment was raised.

12 THE COURT: Okay. Counsel. Counsel, I'm going to  
13 need dates and document numbers. If you're saying it's in your  
14 supplement --

15 MR. GRAF: I don't have those at my fingertips, Your  
16 Honor.

17 THE COURT: Right.

18 MR. GRAF: And I can provide them if Her Honor wants  
19 them.

20 THE COURT: Well, if you're saying that you --

21 MR. GRAF: But I don't have them at my fingertips.

22 THE COURT: Right. But, Counsel, if you're saying  
23 that you provided it to the Court in a pleading, I need to know  
24 the pleading and the page number, right, to cross-reference  
25 that. Similarly [indiscernible] I asked Mr. Rulis when he said

1 he did it, and he showed me it was in it. That's --

2 MR. GRAF: Your Honor, I'll try and find that  
3 information before the end of the hearing today, and I'll  
4 supply it to Her Honor.

5 THE COURT: Well, I'm moving on. I've got to make my  
6 ruling and close it up, Counsel. I gave you each an  
7 opportunity --

8 MR. GRAF: Your Honor, I'm making a representation as  
9 an officer of this Court that those arguments were made.  
10 Mr. Rulis, he can either get up and say that what I'm saying is  
11 inaccurate, but they're not. And those are pleadings that are  
12 in this case that previous judge ruled upon. And the fact that  
13 we were adverse to them in May of 2019 is not only a part of  
14 this record, but it is -- was readily apparent at the time. So  
15 I --

16 THE COURT: Counsel. Counsel.

17 MR. GRAF: So I get what Her Honor is saying --

18 THE COURT: Counsel. Counsel. Counsel.

19 MR. GRAF: -- and I will find those reference --

20 THE COURT: Counsel. You're doing additional.

21 Counsel, you're doing additional argument after the Court has  
22 ruled, and I'm sure you can appreciate everyone had a full  
23 opportunity, been doing it for, I guess I said it was -- well,  
24 had significant opportunity. Even gave the opportunity for  
25 supplemental briefing.

1           If you don't have the benefit of having that document  
2 in front of you you can reference to the Court, you can  
3 appreciate you can't tell the Court go fish right in the middle  
4 of a hearing with over 3,600 entries over multi-year span and  
5 try and find what you're articulating. Right? You would have  
6 to be able to show when the Court asks a question if it was in  
7 the pleadings that it was in the pleadings and be able to point  
8 to the pleadings, Counsel. That's what you'd have to have in  
9 front of you, or if you've got it remotely or however you have  
10 it. So you can appreciate.

11           So the Court's ruling is going to stand based on what  
12 is in the pleadings and including the supplemental pleadings  
13 and including the opportunity through oral argument to be able  
14 to present and point out where something is in a pleading and  
15 taking that all into account. The Court has made its ruling.

16           It's 11:45. So, Counsel, we have two choices. We  
17 can break for lunch now, or I'm going to have to take at least  
18 a ten-minute break, and then I'm going to have to see how long  
19 everybody else wants because we're trying to give everyone  
20 their time. But you can appreciate, because people have taken  
21 significant amount of times in trying to answer and make sure  
22 everyone gets a full opportunity to be fully heard over and  
23 over and over again, we still have other matters, and I have to  
24 do the joinders, and I have to do the other cases. Then we  
25 have to deal with some of the other things that were not

1 stipulated to.

2           So, you all, we can break for lunch now. You can  
3 come back at 12:45, and we can continue; or we're going to have  
4 to pick another day because I'll open up this afternoon cause  
5 our COA moved, okay. So we can do at 12:45.

6           Do you all want to come back at 12:45? We'll get  
7 this done with the other people that are not done. I said we'd  
8 get through this with everyone. So we're here to get you taken  
9 care of.

10           The next date I have available is the 29th of  
11 December, which I can take care of you then if not today, but  
12 realistically, this is middle of a hearing. I'll see you back  
13 at 12:45, folks. Thank you.

14           We're going off the record. See you back at 12:45.  
15 Appreciate it. And we do need people to clear the courtroom.

16           (Proceedings recessed at 11:45 a.m., until 12:52 a.m.)

17           THE COURT: Okay. So the continuation of the  
18 hearing, folks. We left right before the lunch hour where we  
19 had LivFree's, et cetera, motion. So now let's address the  
20 joinders. With regards to Clear River, who wants to be heard  
21 first on a joinder?

22           MS. BARRETT: May I, Your Honor?

23           THE COURT: You're here in court, you get to go  
24 first. Go ahead, please.

25           MS. BARRETT: Thank you. Whitney Barrett on behalf



1 of Qualcan. I'll be very brief. I was part of the joint  
2 motion filed on behalf of the settling plaintiffs.

3 THE COURT: Uh-huh.

4 MS. BARRETT: I just wanted for the record to note  
5 that Clear River did not file an answer to Qualcan's complaint  
6 which was filed on February 11th, 2020, and Qualcan did not  
7 participate in the preliminary injunction hearing, as Mr. Graf  
8 noted earlier today. And that's it. Do you have any questions  
9 for me?

10 THE COURT: Qualcan. Your client did not  
11 participate?

12 MS. BARRETT: Qualcan did not participate.

13 THE COURT: Yeah. Did not.

14 MS. BARRETT: Correct.

15 THE COURT: Okay.

16 MS. BARRETT: Thank you.

17 THE COURT: And there was no answer.

18 MS. SMITH: Your Honor.

19 THE COURT: So let me hear from in response to that,  
20 Mr. Graf, do you want to respond as to Qualcan?

21 MR. GRAF: We did not file an answer to Qualcan's  
22 complaint, Your Honor.

23 THE COURT: Okay. Are you contending that there was  
24 any trial in which there was any ruling between your client and  
25 Qualcan?

1 MR. GRAF: Yes, Your Honor, we are. We're saying  
2 that the ruling applied to them and that the other arguments  
3 that we made previously as to the motion to intervene, the  
4 motion for summary judgment, all of the interaction between and  
5 amongst the counsel. But Qualcan has the unique difference,  
6 being that they weren't involved in the preliminary injunction  
7 hearing, they weren't involved in the previous motions for  
8 summary judgment.

9 THE COURT: Uh-huh.

10 MR. GRAF: So given Her Honor's previous rulings, I  
11 don't think we have the same types of arguments, so we did not  
12 file an opposition -- or, excuse me, file an answer to their  
13 complaint. So I think I know how Her Honor is going to rule,  
14 but those are the facts.

15 THE COURT: Okay. Well, maybe you have a crystal  
16 ball. I don't. Okay. So you get last word, it's your motion.

17 MS. BARRETT: I would just Your Honor to rule  
18 consistently with your order previously as to MM and LivFree,  
19 that costs are assessed after the date of filing an answer.  
20 Because there was no answer filed by Clear River, I'd ask that  
21 no costs be assessed against Qualcan.

22 THE COURT: Is there anything in any way that you all  
23 accepted service, did anything that somehow put you and Clear  
24 River as adverse parties from your position?

25 MS. BARRETT: No, Your Honor; other than filing the

1 complaint naming Clear River on February 11th, 2020, which  
2 Clear River did not answer, so no.

3 THE COURT: Did not answer. Any default issued?

4 MS. BARRETT: No.

5 THE COURT: I didn't see that there was any.

6 MS. BARRETT: There was not.

7 THE COURT: It looked like it was filed, but was it  
8 even served?

9 MS. BARRETT: Yes, it was served, Your Honor. And  
10 answered by -- if you'll note the supplemental brief --

11 THE COURT: Right.

12 MS. BARRETT: -- which is Document 3152, answered by  
13 a number of other defendants but not Clear River.

14 THE COURT: And you never moved forward with anything  
15 with regards to Clear River; correct?

16 MS. BARRETT: Just the trial has been discussed.

17 THE COURT: Okay. As discussed. But did the  
18 trial -- in your parties that you were saying were part of the  
19 trial, is there any document where there is a judicial  
20 admission that Clear River is a defendant; that you were  
21 asserting that they were part of your claims after you filed  
22 your complaint, which was February 11th, 2020?

23 MS. BARRETT: No, Your Honor.

24 THE COURT: Okay. Mr. Graf, do you concur with that?  
25 After February 11, 2020, is there anything that you're

1 asserting that they filed that said that your client was part  
2 of what relief they were seeking? I didn't see anything in  
3 your opposition that addressed that or the supplemental.

4 MR. GRAF: Nothing that was filed, Your Honor.

5 THE COURT: Okay.

6 MR. GRAF: Nothing that was filed.

7 THE COURT: Okay. Well, then the plain language of  
8 the statute says you need to be an adverse party, right, in  
9 order to be a prevailing party. So you can't be a prevailing  
10 party when you're not a party. So consistent with everything  
11 the Court has said, and realistically you go more towards the  
12 arguments of other counsel, there being no answer, there being  
13 no document, no judicial admission that you all are parties, no  
14 agreement that you're parties, under the plain language of the  
15 statute Clear River cannot be an adverse party and cannot be a  
16 prevailing party under NRS, and so therefore the Court would  
17 have to grant your motion to retax in its entirety.

18 Its alternative ruling is even with that caveat there  
19 is nothing to even show that they were in the case. And then  
20 all the calculations that I've done on the micro-analysis would  
21 apply for you as an alternative secondary ruling. Okay?

22 MS. BARRETT: Understood. Thank you, Your Honor.

23 THE COURT: Thank you. Okay. Next joinder.  
24 Somebody wanted to be heard. Go ahead.

25 MR. BECKSTROM: Your Honor, on behalf of ETW --

1 MS. SMITH: Your Honor, Stephanie Smith appearing for  
2 Natural Medicine.

3 THE COURT: Whoa, whoa, whoa. Hold on a second.  
4 I've got multiples. I probably should not have opened it up  
5 like that. Okay. The short thing is, is there anybody else --  
6 well, I should do these in date order. Okay. Who says that  
7 they -- I mean, without -- I can look it up. MM -- let's see.

8 Wellness Connection, you're -- well, no, these aren't  
9 in order. Hold on.

10 MR. SCHWARZ: Your Honor, before we broke -- this is  
11 Joel Schwarz. Before we broke I had asked as a courtesy from  
12 some of my colleagues if I could go shortly after the break  
13 because I have a deposition this afternoon.

14 THE COURT: Oh, okay. That's fine.

15 MR. SCHWARZ: This is for Lone Mountain.

16 THE COURT: That's fine, Mr. Schwarz. Go ahead.

17 COURT RECORDER: I'm struggling to hear him.

18 THE COURT: Once again, you have to realize once I  
19 said that the hearing was over, I left the bench. Things were  
20 gone. I have no idea what you all might have discussed. But,  
21 Mr. Schwarz, if you've got something and you need to go and  
22 needed priority, go ahead, please.

23 MR. SCHWARZ: Thank you, Your Honor. And I  
24 appreciate the other counsel for allowing this as well. So,  
25 Lone Mountain has a memorandum of costs. The TGIG plaintiffs

1 have a motion to retax that and there were a couple of joinders  
2 to that as well. So I think we can address that in relatively  
3 quick order, considering -- [inaudible].

4 THE COURT: Oh, wait. Mr. Schwarz, do you want me to  
5 go out of order without finishing up the Clear -- okay, Clear  
6 River. Okay. I've got to get -- I've got --

7 MR. SCHWARZ: Your Honor, you can finish up the Clear  
8 River. I apologize. I thought Clear River was done.

9 THE COURT: Hold on a second. Mr. Schwarz, you're  
10 cutting in and out so much that I really am having difficulty  
11 hearing you, which is why I was asking that question. Okay.  
12 So you're talking Lone Mountain -- the motion to retax TGIG,  
13 which is you, Deep Roots, et cetera. Is that what you're  
14 asking, Counsel?

15 MR. SCHWARZ: It would be the TGIG motion to retax  
16 Lone Mountain so that we can handle Lone Mountain's costs. But  
17 if there are some matters, if Clear River can be done quickly,  
18 I'll get back in line and I apologize. I thought that Clear  
19 River was done.

20 THE COURT: Okay, hold on a second. Remember, this  
21 is coming as news to me, so I've got to get different documents  
22 in front of me. Hold on one second. So this -- okay, so I've  
23 got you, I've got High Sierra's, Lone Mountain, TGIG and MM and  
24 LivFree with some other joinders, High Sierra, Green Leaf and  
25 THC. Okay. Go ahead, counsel. Set forth, just so we have a

1 clear record, your party, and go ahead, please. You want --  
2 but you're Lone Mountain, so you want me to do -- whose do you  
3 want me to do first?

4 MR. SCHWARZ: The TGIG motion to retax as to Lone  
5 Mountain and -- [inaudible].

6 THE COURT: Okay. That's Document 2919. TGIG's  
7 motion to retax Lone Mountain, Document 2919, filed on 8/11/22.  
8 They asked to retax the \$71,431.72. Go ahead, please. TGIG,  
9 go ahead. If somebody thinks they're speaking, we cannot hear  
10 you.

11 MR. DZARNOSKI: Yes. I'm sorry, Your Honor. This is  
12 Mark Dzarnoski. I needed to unmute.

13 THE COURT: Uh-huh.

14 MR. DZARNOSKI: Our motion regarding Lone Mountain is  
15 similar to every other one that we filed, which is that we  
16 argued we were the prevailing party, they were not. There's  
17 nothing unique in the pleading as to Lone Mountain. I have  
18 nothing to direct you to to consider additional, other than  
19 what you've heard. We also raised the argument again that  
20 there was no judicial review or there shouldn't be award of  
21 costs for judicial review. You've already spoken as to that.

22 According to my records, I believe -- maybe  
23 Mr. Schwarz can clear it up, but I think their answer was filed  
24 in or around May of 2019. I was just searching for it but  
25 couldn't find it. And since I have nothing additional to add

1 to any of the arguments that have been briefed, I'm willing to  
2 submit.

3 THE COURT: Okay. Mr. Schwarz, on behalf of Lone  
4 Mountain. Mr. Schwarz, did you wish to be heard? You just  
5 went off. We lost your video.

6 MR. SCHWARZ: Sorry, Your Honor. I think I meant to  
7 mute -- or unmute my audio and I muted both instead. My  
8 apologies.

9 THE COURT: No worries. Go ahead, please.  
10 Mr. Schwarz, you're up.

11 MR. SCHWARZ: Okay. With respect -- sure. Thank  
12 you, Your Honor. With respect to the TGIG motion to retax,  
13 there were joinders to that filed by THC Nevada, Herbal Choice  
14 and what we're calling the Green Leaf plaintiffs, and I'll  
15 address all of those. We attempted to --

16 THE COURT: I've got plaintiff -- wait, wait. To be  
17 clear, what I show is plaintiff Green Leaf Farms, Document  
18 2927, Rural Remedies, Document 2929, THC and Herbal Choice,  
19 Document 2932, Clark Medicinal Solutions, Nye Natural Medicine,  
20 Clark NMSD, Inyo Fine Cannabis, 2934. And those were all filed  
21 on either 8/1 or 8 -- sorry, 8/11 or 8/12/2022.

22 MR. SCHWARZ: Correct, Your Honor. And to be clear  
23 for the record, of those -- of the movant and the joining  
24 parties, the parties that we are seeking costs against are the  
25 TGIG plaintiffs, THC Nevada, Herbal Choice, Inc. and the Green



1 Leaf plaintiffs. So as to the other parties that filed  
2 joinders, we are not seeking costs as to those parties.

3 THE COURT: So you're not seeking as to Rural  
4 Remedies, Document 2929; 8/12/2022.

5 MR. SCHWARZ: Correct.

6 THE COURT: Is that correct?

7 MR. SCHWARZ: Correct, Your Honor.

8 THE COURT: And you're not seeking any costs against  
9 Clark Medicinal Solutions, LLC, Nye Natural Medicine, LLC,  
10 Clark NMSD, LLC and Inyo Fine Cannabis, Document 2934, filed on  
11 8/12?

12 MR. SCHWARZ: That's correct. We're not.

13 THE COURT: Filed on 8/12/2022. Oh, and High Sierra  
14 Holistics, Document 2957, filed on 8/12?

15 MR. SCHWARZ: The same. We are not seeking costs as  
16 to High Sierra, either.

17 THE COURT: Okay, then go ahead.

18 MR. SCHWARZ: Okay. And so with that in mind, Your  
19 Honor, factually, based upon the rulings that the Court has  
20 previously made, Lone Mountain Partners filed its answer to the  
21 TGIG plaintiffs' complaint in Case A-19-786962-B on June 5th,  
22 2019.

23 As to the remaining parties that Lone Mountain seeks  
24 costs against, that would be the Green Leaf plaintiffs, THC  
25 Nevada and Herbal Choice, Inc. Lone Mountain Partners filed

1 its answer to their second amended complaint in Case  
2 A-19-787004-B on June 7th, 2019.

3           There has not been a substantive challenge to any  
4 item of Lone Mountain's costs in any of the motions to retax or  
5 joinders. The arguments were specifically that Lone Mountain  
6 is not a prevailing party as to the non-settling plaintiffs,  
7 which we've gone through ad nauseam with other parties. And I  
8 would respectfully submit that Lone Mountain, based upon the  
9 Court's prior rulings, is most definitely a prevailing party as  
10 to those non-settling plaintiffs.

11           And the amounts of the costs that were incurred by  
12 Lone Mountain from the date of its answer are -- with respect  
13 to the TGIG plaintiffs is \$65,787.83. With respect to the  
14 other three plaintiffs, because the answer on that one was  
15 filed two days later, the cost is \$65,321.45. We had  
16 circulated a proposed order to try to circumvent the need for a  
17 hearing on this today, since we're all in agreement on the  
18 principle of what the Court would rule on this.

19           I received word from counsel from THC Nevada last  
20 week, that's Amy Sugden, that confirmed that she approved the  
21 proposed form of order that we had attached to our status  
22 report that we filed on the 12th.

23           I received word from Mr. Donath on behalf of the  
24 Green Leaf plaintiffs on Friday, this past Friday. He also  
25 approved the proposed form of the order.

1           And so really the only parties that haven't weighed  
2 in on the proposed form of the order that sets all this forth  
3 were Mr. Dzarnoski on behalf of the TGIG plaintiffs, but I  
4 think we agree in principle that we are a prevailing party as  
5 to his clients and we've provided the date that the answer was  
6 filed. We've cross-referenced that against the amount set  
7 forth in a memorandum of costs and given a number.

8           THE COURT: Uh-huh.

9           MR. SCHWARZ: And then I haven't heard anything from  
10 Ms. Chattah on behalf of Herbal Choice. But there's not a  
11 single challenge to an actual cost item in our cost memorandum  
12 and we've provided the Court now the math as to from the date  
13 of our answer.

14           The only other issue that was raised in the briefing  
15 was that perhaps we weren't seeking any costs from Phase I, as  
16 opposed to the Phase II trial, but our original memorandum of  
17 costs was filed before there was a Phase I trial. It did not  
18 contain any of those items. The memorandum of costs that we  
19 have resubmitted is the same. There are no Phase I costs in  
20 the memorandum of costs. It is all from the Phase II  
21 proceedings.

22           THE COURT: Okay. So I'm going to let Mr. Dzarnoski  
23 finish in response and then I'm going to go to the other  
24 parties. And, Ms. Chattah, I'm going to ask you, in light of  
25 your motion to withdraw but you're still counsel on -- well,

1 what you can say when I get to you.

2 So, Mr. Dzarnoski, you get last word since it's your  
3 motion. Go ahead, please.

4 MR. DZARNOSKI: The last word is I have nothing  
5 further to offer, Your Honor.

6 THE COURT: Okay. I did have an opportunity to  
7 review the order denying TGIG plaintiffs' motion to retax and  
8 settle costs and awarding costs to Lone Mountain Partners, LLC  
9 that was attached to the status report. Now, you can  
10 appreciate the Court is not going to look at that because I  
11 don't have all agreement of all the parties, so I can't view it  
12 as a stipulation. Obviously it wasn't on the record, so I  
13 don't have an EDCR 7.50, but it does exist and it's actually up  
14 on my screen right now.

15 So, Mr. Dzarnoski, do you have -- while you may or  
16 may not agree with the Court's ruling, is there anything in  
17 that order that you need to bring to the Court's attention?  
18 Now, the Court hasn't yet made a ruling. *Division of Family*  
19 *Services, Rust v. Clark County*. But is there anything you need  
20 to bring to my attention with regards to that? If not, I'm  
21 moving on.

22 MR. DZARNOSKI: Your Honor, no. And, in fact, I  
23 guess I need to apologize to Mr. Schwarz. I've been working on  
24 several different orders and I agreed to one with Mr. Schwarz.  
25 Obviously it is not the one that he's bringing up now. I

1 believe he had circulated two and I consented to one of the  
2 orders, but it's on a different matter. It's more of an  
3 oversight than having a challenge to anything in the order that  
4 Mr. Schwarz is speaking of.

5 THE COURT: Okay. So as I circle around to everyone  
6 else, can you take a look at that just to see if there's  
7 something else I should be looking at with regards to that?  
8 Because it's a unique situation where I have a proposed order  
9 here. And I'll circle around to everyone else on their  
10 substantive viewpoints and circle back to you before I go back.

11 MR. DZARNOSKI: Sure. Thank you for giving me a  
12 moment and I'll take a quick look and I'll be prepared to  
13 respond.

14 THE COURT: Sure. No worries.

15 Okay. Ms. Chattah, on behalf of your client. And I  
16 am appreciative that you are seeking to withdraw, but you're  
17 still counsel today. So your viewpoint on the motion. Go  
18 ahead, please. I don't see that she's back. Now, once again,  
19 it's kind of hard because I don't have faces. I have initials  
20 on certain people. I'm looking at the names underneath.

21 THE CLERK: She's not back up.

22 THE COURT: I don't see that she's back. Can someone  
23 reach out to her while I circle to other counsel and then we'll  
24 do this. I'm just trying to get you all taken care of folks.  
25 Okay? Okay. So that means Green Leaf; right?

1 (No audible response)

2 THE CLERK: Okay. Anybody else want to be heard from  
3 the joinder parties? I've already heard from Mr. Dzarnoski.  
4 Ms. Sugden, do you want to be heard for THC? Is she back? I  
5 don't see her, either.

6 Well, I'm not sure how the parties feel that they can  
7 not show up to a continued court hearing. That's an issue  
8 that's concerning. So I've given the opportunity for oral  
9 argument. You chose not to be here. Did not have any approval  
10 by the Court. So that one is waived for oral argument.

11 Green Leaf. Anybody on behalf of Green Leaf?  
12 Mr. Donath or somebody? Nobody? Basically I'm looking at the  
13 signature block in the proposed order and going through that  
14 and cross-referencing it with the other document.

15 Ms. Chattah? No?

16 Well, that means, Mr. Dzarnoski, I have to go back to  
17 you. Did I give you enough chance or do you still need a  
18 moment?

19 MR. DZARNOSKI: Your Honor, I think I'm through about  
20 three-quarters of it. Could I just have like two more minutes?

21 THE COURT: Sure. Of course. And if your position  
22 is that the Court should not be addressing the order right now  
23 during the hearing, you can feel free to say that as well.  
24 Once again, I'm just trying to see if that helps you all by  
25 taking a look at that to see if there was any other outstanding

1 issues that somebody is saying is maybe incorporated in a  
2 proposed order that's not part of what the motion before the  
3 Court is.

4 But while you're looking at that, we'll pause for a  
5 moment. And if I have the other parties, Ms. Sugden or an  
6 attorney from Nick Donath's office, please speak. No.

7 MR. DZARNOSKI: This is Mr. Dzarnoski back with you,  
8 Your Honor. I appreciate the opportunity to review this. I'm  
9 sure you're aware it's probably costing more in attorney fees  
10 than the amount that we're arguing over on a lot of these  
11 things.

12 I've had the opportunity to review the proposed order  
13 from Mr. Schwarz that he referred to, and obviously while we  
14 disagree with the Court's findings, the order is Mr. Schwarz'  
15 usual fine work and I don't have an objection to it.

16 THE COURT: Okay. So here's what the Court -- the  
17 Court is actually going to do its ruling now. The only reason  
18 I was looking at the order, because if some -- I was giving you  
19 all the chance that if somehow you felt there was something in  
20 there that was outside the scope than what was being addressed  
21 at any of the hearings.

22 The Court does find that I have heard arguments from  
23 counsel September 16th, October 21, November 16th and today, so  
24 we can add December 19th. Okay. So the Court does find,  
25 because I already addressed the memorandum of costs was timely

1 filed by filing it beforehand. The Court is appreciative that  
2 this was filed -- refiled in accordance with certain rulings  
3 and statements. The Court does find that under NRS 18.110 it  
4 was timely filed. It does find that we had timely joinders.

5 We do find -- now, here the Court is doing it a  
6 little bit different. I am taking into account all the other  
7 joinders that were filed because, realistically, with the  
8 various time frames from the hearing and giving the opportunity  
9 of supplemental briefing, I think the fair thing to do is the  
10 Court is taking into account all the joinders that were filed.

11 So, Green Leaf, 2927, filed on 8/11.

12 Rural Remedies, 2929, filed on 8/12.

13 THC, 2932, filed 8/12.

14 Clark Natural, NMSD, Inyo Fine Cannabis, 2934, 8/12.

15 High Sierra, 2957, 8/12.

16 To the extent that with regards to some of those  
17 parties there is not any costs being sought against them, the  
18 Court need not address that because there is no costs so  
19 therefore there's nothing for the Court to resolve, there is  
20 nothing ripe. And any proposed order should include that.  
21 With regards to the entities to which there was a joinder filed  
22 and which there is a claim for, the Court has had an  
23 opportunity -- everyone had an opportunity to provide their  
24 oral argument.

25 This was a continued hearing. There was no request



1 while we were on the record that this Court is aware of,  
2 anybody saying that they could not return, other than  
3 Mr. Schwarz, I guess, after the record told parties that he had  
4 a depo or something and so asked to be expedient, so we're  
5 trying to get him taken care of.

6 But we gave the parties an opportunity. I called  
7 around a couple of times to see if anybody has appeared even  
8 late for our continued hearing at 12:45, that being it. So  
9 therefore the Court has the benefit only of the pleadings with  
10 regards to those counsel who chose not to appear on their  
11 parties.

12 So the Court's ruling is there was prevailing  
13 parties. See the Court's analysis at the prior hearings for  
14 all the reasons stated and the Court is incorporating that.  
15 The Court finds it appropriate to incorporate that because that  
16 analysis does apply for each of those in accordance with  
17 everything that's been cited before for the global concept of  
18 prevailing party.

19 So then we walk into the timeliness. The Court has  
20 already found the timeliness is appropriate, in light of the  
21 circumstances and in light of when it was filed and how it was  
22 filed with regards to the parties. With regards to the parties  
23 in which the costs are being sought, the Court does note with  
24 regards to any of those parties there is not a breakdown as to  
25 any specific categories of costs that are being retaxed. In

1 that absence, the Court really finds under EDCR 2.20 to be  
2 waived because it is not addressed specifically, other than the  
3 carveout which I already did separately for counsel who was  
4 already here in court, which was on Clear River anyway, so it  
5 wasn't even on this one. Sorry, the problem of combining these  
6 two.

7           So then we go to the fact that since there is no  
8 specification as to any of those underlying costs, the Court  
9 has to grant it consistent with the fact that you only become  
10 an adverse party under the NRS in this particular case when you  
11 actually are in one of the cases. The Court cannot take a  
12 global statement that just because there was a generalized case  
13 involving the Department of Taxation and which were not  
14 consolidated at certain junctures, et cetera, the Court does  
15 have to take when these parties actually became adverse because  
16 the only way you could become adverse -- in order to be adverse  
17 it's a prerequisite, obviously, to be the prevailing party.  
18 And so therefore in this case we had the dates which is not  
19 contested of June 5th and June 7th, and so those will be the  
20 triggering dates.

21           Since no one is disagreeing with the math, the  
22 \$65,787.83 for the January 5th answer, TGIG. The other  
23 parties, January -- sorry, I said January. I meant to say  
24 June. My apologies. June 5th, 2019, \$65,787.83. June 7th,  
25 \$65,321.45.

1           The proposed order will need to be submitted to the  
2 Court. It is so ordered granted consistent with the Court's  
3 rulings therein. That takes care of some of those motions.  
4 However, Lone Mountain, we've got other motions that are still  
5 against you.

6           I have a separate one by High Sierra, and I have a  
7 separate one from MM Development, LivFree, Qualcan, Natural, et  
8 cetera.

9           So since Mr. Rulis is standing up, we'll take his  
10 next. Go ahead.

11           MR. RULIS: Your Honor, I think those can be fairly  
12 quickly dealt with. Mr. Schwarz' office had filed a notice of  
13 nonopposition or at least an acknowledgment that they were not,  
14 in fact, seeking costs against settling plaintiffs and High  
15 Sierra. So based on that representation, I guess it could  
16 either be granted or denied as moot. Either one I think is  
17 effective.

18           THE COURT: Okay. Let me find out first if it's  
19 withdrawn. But, yes, that would apply to MM Development,  
20 LivFree, Qualcan, Natural Medicine, Nevada Wellness Center,  
21 correct, and High Sierra?

22           MR. RULIS: I believe those are the correct parties,  
23 Your Honor.

24           THE COURT: Okay. Mr. Schwarz, are you viewing this  
25 as you're withdrawing the motion, it's moot, or you wish the

1 Court to make a ruling? Where are you going with that?

2 MR. SCHWARZ: And, Your Honor, right. Those other  
3 parties did file motions. And as we noted in our notice of  
4 nonopposition to those motions, we deemed them to be settling  
5 parties, against whom we are not entitled to be seeking or  
6 requesting any costs pursuant to the terms of the settlements.  
7 And therefore we noted that for the record and I agree with  
8 Mr. Rulis. I think either the motions can be denied as moot or  
9 they can be granted. Either way, the effect is the same  
10 because we agree on the record that we are not seeking costs as  
11 to those other parties.

12 THE COURT: Any of those other parties present wish  
13 to be heard?

14 (No audible response)

15 THE CLERK: Okay. What the Court is going to do is  
16 the Court is going to deny them as moot, okay, because  
17 realistically there's nothing that I'm granting. So I just  
18 have to, realistically, deny them as moot because since they  
19 are unopposed and there was nothing that was set forth in the  
20 memorandum of costs, really which is the predicate to go to a  
21 motion to retax that was intended to apply to those parties,  
22 that's why I have to deem this as moot. So you can view it as  
23 denied as moot, but I'm not finding that the denial of them as  
24 being moot in any way entitles anybody else to any costs or  
25 fees for said motions.

1 I find it's appropriate that the motions could have  
2 been filed and appreciate that they just needed a clarification  
3 that the cost issue which came out in the opposition as being  
4 unopposed.

5 Have I now taken care of all of Lone Mountain?

6 MR. SCHWARZ: I believe you have, Your Honor.

7 THE COURT: Okay. So only if Ms. Chattah reappears,  
8 then I need to deal with the motion to withdraw. I now need to  
9 get back to Clear River and finish up Clear River, please.

10 MR. SCHWARZ: Thank you, Your Honor.

11 THE COURT: Thank you so very much. Okay. If you  
12 need to go, go for it, whatever you need.

13 MR. SCHWARZ: Thank you.

14 THE COURT: Okay. So I only need the parties who are  
15 here on any other matters. If all of your matters have been  
16 taken care of, you don't need to stay onto this unless you are  
17 telling me that there is some stipulation, because I can't do  
18 an EDCR 7.50 if I don't have all my parties again. So let's  
19 walk through Clear River, the joinder parties. I've still got  
20 a couple more joinder parties. While I'm going back and  
21 grabbing that information, can we see who wants to be heard  
22 next on Clear River, please.

23 MR. PARKER: Your Honor. Your Honor, this is Teddy  
24 Parker. If I could step in on behalf of Nevada Wellness  
25 Center.

1           THE COURT: Sure, go ahead. Nevada Wellness Center.  
2 And hold on, let me -- I just was trying to find your document  
3 number. Do you have your document number handy by chance?

4           MR. PARKER: You know, Your Honor, I wish I did. I  
5 don't have it in hand, but I don't think it's going to take  
6 very long in terms of my position on this, Your Honor.

7           THE COURT: Okay. Go ahead, please.

8           MR. PARKER: I believe Mr. Graf has already conceded  
9 this when we were arguing about his motion for fees. Clear  
10 River never answered -- I'm sorry, never filed an answer to  
11 Nevada Wellness Center's complaint. So I don't believe that  
12 any costs would be due against Nevada Wellness Center since  
13 they never filed an answer.

14           THE COURT: Okay. So yours was part of the joint  
15 motion to retax and settle costs, Clear River, Document 2923;  
16 8/11/2023 (sic) with regards -- and I also have MM Development,  
17 LivFree, Qualcan, Natural Medicine and Nevada Wellness Center,  
18 so just so we have a reference for doc number. Okay. So your  
19 position is they never filed an answer; therefore, it doesn't  
20 apply to you because -- is that correct, counsel? Then I'm  
21 moving on to the next --

22           MR. PARKER: That is correct, Your Honor. And if for  
23 some reason Mr. Graf wants to argue it, we've attached to our  
24 supplemental papers, which was filed on November 4, 2022, a  
25 chart, which is Exhibit 2 to our supplemental brief, a chart

1 related to Clear River's charges. I think for the most part  
2 Mr. Rulis went through this already.

3 And during the operative period of time that Mr.  
4 Graf's client would have been involved between May of 2020 and  
5 June 29, 2020, we show fees -- I mean costs of roughly \$7,800.  
6 But again, the arguments that have come subsequent to the  
7 briefing included a concession by Mr. Graf that an answer was  
8 never filed to Nevada Wellness' complaint, and I have not found  
9 one in the system as well.

10 THE COURT: Okay. Thank you.

11 Okay. Mr. Graf, I'm going to have you be heard if  
12 you wish to. Go ahead, please.

13 MR. GRAF: Your Honor, the same argument as to  
14 Qualcan. Those statements by Mr. Parker were correct.  
15 However, on March 13th, 2020, NWC, Nevada Wellness, filed a  
16 motion for partial summary judgment. At Footnote 16 it stated  
17 that it was adverse to Clear River. And in a supplemental  
18 brief dated March 27, 2020, they also included argument as to  
19 being adverse to Clear River.

20 THE COURT: Okay. Was there ever an order --

21 MR. GRAF: So at a bare minimum --

22 THE COURT: I'm sorry, Counsel. I should have let  
23 you finish. My apology. I thought you had finished. Go  
24 ahead, please.

25 MR. GRAF: That's it, Your Honor. As a bare minimum

1 we would say that from those dates forward that fees and  
2 costs -- or, excuse me, costs should be awarded.

3 THE COURT: Are you saying -- was there a specific  
4 order that mentioned Clear River by name with regards to those  
5 documents that you referenced with the Footnote 16?

6 MR. GRAF: Your Honor, I don't have the order in  
7 front of me. I looked at the pleadings and what they alleged.  
8 There was a very extensive order as to the motion for summary  
9 judgment. I don't know if it specifically references Clear  
10 River, Your Honor.

11 THE COURT: Okay. I haven't seen it and I don't see  
12 how it can. And they're not a party unless there's some  
13 waiver. Okay. Sorry, counsel, go ahead, please.

14 MR. GRAF: Nothing further, Your Honor.

15 THE COURT: Okay. I appreciate it. Well, the  
16 Court's ruling is going to have to be that because under the  
17 statute the statute does -- I'm paraphrasing what I said  
18 previously and obviously I've incorporated my rulings  
19 previously because it's the same conceptual analysis of the  
20 statutory plain language of the statute. And I've cited some  
21 cases that talk about how it parsed out to different parties it  
22 needs to be adverse.

23 And then you need to be a prevailing party. You  
24 can't be a prevailing party as to somebody who's not, quote, a  
25 party against you. To the extent that there are dates that



1 predate the consolidation, that would not have been appropriate  
2 to have included. To the extent that the answers have not been  
3 filed, then you can't be adverse in this type of case.

4 Obviously that's not a global ruling on other types of cases.

5 And there's nothing that anyone has provided to this  
6 Court that shows that there's any order that somehow the Court  
7 prior to this judge taking over, or I know I didn't do it, has  
8 somehow assumed jurisdiction over an entity that was not a  
9 party to the case and coming into the case through an answer or  
10 other pleading, or there was some type of agreement that they  
11 could be viewed as a party under NRS 18.010. And so therefore  
12 the Court would have to grant the motion to retax with regards  
13 to Clear River as far as the parties that moved for saying that  
14 they did not file -- Clear River did not file an answer against  
15 those parties in the underlying case numbers, even to the  
16 extent that they were consolidated in the present case number.  
17 It is so ordered.

18 Who else do I have left on Clear River?

19 MR. PUZEY: Your Honor, this is Jim Puzey on behalf  
20 of High Sierra Holistics.

21 THE COURT: High Sierra Holistics and Clear River?

22 MR. PUZEY: High Sierra Holistics filed --  
23 [inaudible].

24 MS. SMITH: Your Honor, Stephanie Smith on behalf of  
25 [inaudible].

1 THE COURT: Whoa, whoa, whoa. Folks, folks, folks, I  
2 cannot have two people talking. If High Sierra was talking,  
3 please let High Sierra speak. If it's High Sierra Holistics, I  
4 will hear you. If it's not High Sierra/Clear River, then I'm  
5 going to have to finish up Clear River before I go anywhere  
6 else.

7 MR. PUZEY: Your Honor, I apologize. I think  
8 Stephanie Smith was part of the joinder to the joint matter  
9 that was going on with Clear River. So if she wants to finish,  
10 I'm more than happy to allow her to go.

11 THE COURT: As I was saying, folks, we can't keep  
12 switching around to different ones. I did one to accommodate  
13 somebody for a depo, but let's finish up Clear River. Counsel,  
14 you're on Clear River. Go ahead, please.

15 MR. PUZEY: Thank you, Your Honor. This is Jim Puzey  
16 on behalf of High Sierra concerning Clear River. We filed a  
17 separate motion to retax and settle costs. It has the exact  
18 same structural components as what we just did earlier with  
19 Deep Roots. There was never an amended complaint; therefore it  
20 would be impossible for Clear River or anybody else to go ahead  
21 and answer because there was no amended complaint to answer.

22 THE COURT: Okay. Let me just make sure. Hold on a  
23 second. I know High Sierra, I haven't gotten to you yet  
24 because you're 2915 filed.

25 MR. PUZEY: Correct.

1           THE COURT: Okay. So I'm going to get to your  
2 document in one second. Let me just make sure because there  
3 were multiple parties on that joinder and I just wanted to make  
4 sure that all of them were taken care of. So let me clear that  
5 up first before I go back to you, Mr. Puzey. I did hear what  
6 you said and I'll let Mr. Graf respond in just one second. We  
7 just want to make sure -- anybody else on the joinder?

8           MS. SMITH: Your Honor --

9           MR. BECKSTROM: Your Honor, James Beckstrom on behalf  
10 of the ETW plaintiffs. And Ms. Smith is also part of the  
11 joinder, so she can go first and I'll follow if that's okay  
12 with the Court.

13          THE COURT: Sure. Ms. Smith, anything you need or  
14 you're fine with the Court's ruling? Do you want to change my  
15 mind?

16          MS. SMITH: Your Honor, no. I just wanted to clarify  
17 that I was in a similar position to Qualcan and also Nevada  
18 Wellness, Mr. Parker's client. Clear River did not file an  
19 answer to Natural Medicine's complaint in intervention which  
20 was filed on February 7th of 2020. I don't know if Rusty is  
21 asserting that he did file an answer or not. We also did not  
22 participate in the preliminary injunction or any mediation. I  
23 mean, the only involvement that my client had with Clear River  
24 was naming them in February of 2020 after the Court had ruled  
25 that all parties needed to be named and after the consolidation

1 had taken place.

2 THE COURT: But at that time did Clear River ever  
3 answer your complaint?

4 MS. SMITH: No, Your Honor. I believe we were served  
5 one, but no complaint was actually ever filed.

6 THE COURT: Wait. You were served one, but a  
7 complaint was not filed? Can you -- I might have misheard you.

8 MS. SMITH: I believe that they e-served some  
9 answers. You know, I don't know to what end. But there was no  
10 actually electronically-filed answer that we received from  
11 Clear River.

12 THE COURT: Okay, wait a second. There's -- okay.  
13 Clear River, can you clarify what Ms. Smith is saying, please?

14 MR. GRAF: Answers were e-served. They were not  
15 e-filed.

16 THE COURT: As to whom?

17 MR. GRAF: NWC -- not High Sierra -- Natural Medicine  
18 and Qualcan.

19 THE COURT: Okay. Was there any acceptance of  
20 service or anything to those e-served documents? Was there any  
21 discovery responded to from those entities that were e-served?  
22 I'm just trying to see if you all treated it as if they were  
23 properly filed and served or it was just being e-served?

24 MR. GRAF: Yes. There were motions to compel. They  
25 took my client's deposition.

1 THE COURT: Who's the "they"?

2 MR. GRAF: They took actually three depositions of my  
3 clients.

4 THE COURT: Okay, wait. Hold on a second. Let's  
5 focus here on which party is the "they" in your statement,  
6 okay.

7 MR. GRAF: NWC and all of those parties were present  
8 during the deposition of my client.

9 THE COURT: Okay. There's a difference between being  
10 present versus like noticing a deposition. That's why this  
11 Court is really trying to -- was there any statement --

12 MR. GRAF: I think it was NWC that noticed the  
13 deposition. And there was a motion to compel. There were two  
14 or three motions to compel on various discovery issues.

15 THE COURT: By whom?

16 MR. GRAF: NWC.

17 THE COURT: Okay. Any other party that you're  
18 contending acted as if they had accepted your answer, even  
19 though it was not filed, it was just e-served, or just NWC?

20 MR. GRAF: Your Honor, I would just incorporate all  
21 those other arguments we made previously. I know Her Honor's  
22 decision on that. But I don't want to go through all of the  
23 what we think happened and the fact that everybody was adverse  
24 or the plaintiffs were adverse to Clear River. So if we can  
25 just incorporate those, Your Honor.

1           THE COURT: Sure. Counsel, my question was a little  
2 bit more specific. For the first time I'm hearing in the last  
3 few moments that there was an e-served answer; right? So what  
4 the Court was trying to get an understanding, because it's not  
5 just the actual -- if somebody is contending that it's not the  
6 physical, proper filing but it was treated as if it were  
7 properly filed and waiving a Rule 4 or something issue, which I  
8 don't know if you are or not, that's why the Court asked the  
9 question.

10           If a party was acting as if they were fully a part of  
11 the case, then the Court has to evaluate that. But that is  
12 something new that's been brought up in the last few moments  
13 and no other party has brought that up in any of the Court's  
14 rulings thus far in the multiple hearings.

15           Now, I appreciate that's a distinct issue from,  
16 quote, participating in preliminary injunction hearings,  
17 showing up at mediations. What I'm saying is somebody who  
18 actually did in the litigation took advantage in a neutral  
19 sense. Take advantage is not to be negatively viewed, but just  
20 who utilized the litigation resources, such as a motion to  
21 compel, such as noticing a deposition as if they were a party.  
22 If that is being contended, this Court needs to know if you're  
23 saying that I should be addressing an argument to a particular  
24 party, because this is party by party by party by party by  
25 party; right? So if you're contending that I should be

1 treating a party in a particular way because how they acted as  
2 if they were part of the litigation, right, then I need to know  
3 that.

4 Mr. Graf, are you saying that or are you not saying  
5 that? Or are you saying that they should all be treated the  
6 same, such as the earlier parties?

7 MR. GRAF: Your Honor, the answers didn't get filed,  
8 so I understood Her Honor's ruling as it would be from the date  
9 of filing forward. If Her Honor is considering the fact that  
10 there were answers that were served but not filed, those are  
11 different. I can supply those dates to Her Honor.

12 But to be intellectually honest, Your Honor, I would  
13 probably fall back on the fact that they weren't filed, so I  
14 would prefer to argue that we were involved from the inception  
15 of our motion to intervene and the first answer in the case, as  
16 opposed to trying to argue that it's from the date of some  
17 service of an answer that wasn't filed.

18 THE COURT: Okay. And that's why I need to ask you.  
19 I mean, if it's not an argument that the Court need not  
20 address, then the Court is not going to address something  
21 that's not before it, okay.

22 MR. GRAF: I wouldn't address it, Your Honor.

23 THE COURT: Okay.

24 MR. GRAF: I would rest on our previous arguments.  
25 And if we go anywhere from here, that's what I would prefer to

1 argue.

2 THE COURT: Okay, that's fine. I just want to make  
3 sure. Okay. So, Ms. Smith, are you asserting from your  
4 position that the Court should be addressing the e-service but  
5 not filed issue, or are you fine with Mr. Graf's position? I'm  
6 just making sure everyone is literally on the same page of what  
7 I'm ruling on, folks. Ms. Smith, you may have disappeared.  
8 Ms. Smith?

9 MS. SMITH: I apologize, Your Honor. My Internet cut  
10 out.

11 THE COURT: Okay. Did you hear the Court's question?

12 MS. SMITH: I did not. I'm sorry.

13 THE COURT: No worries. Did you hear Mr. Graf's  
14 response? Mr. Graf -- to paraphrase what I understand, is  
15 Mr. Graf said he was not trying to make an additional argument  
16 or try and contend the fact that certain parties received an  
17 e-service but not a filing as a distinction that the Court  
18 should be considering in its ruling. Is that a correct  
19 paraphrasing, Mr. Graf?

20 MR. GRAF: Yes, Your Honor.

21 THE COURT: Okay. So, Ms. Smith, I was just checking  
22 from your end. Do you for some reason think that the Court  
23 should be taking the additional contention, even though  
24 Mr. Graf says I shouldn't, of the e-service versus the filing?  
25 If you don't, I'm moving on.



1 MS. SMITH: I don't believe so, Your Honor. I  
2 believe that Mr. Graf already conceded that he didn't file an  
3 answer, so.

4 THE COURT: Okay. So there was one other counsel who  
5 wanted to be heard. Go ahead, please.

6 MR. BECKSTROM: Your Honor, James Beckstrom on behalf  
7 of the ETW plaintiffs. I followed the same timeline as  
8 Mr. Rulis, so I incorporate the same arguments there. The date  
9 of the answer filed in my case was 4/21/20 as well. I don't  
10 have anything additional to add. I just wanted to make a  
11 record of that.

12 THE COURT: Wait. Mr. Rulis with regards to --

13 MR. BECKSTROM: Clear River. We were all -- it was a  
14 joint brief motion to retax.

15 THE COURT: Okay, 4/21/20.

16 MR. BECKSTROM: Correct.

17 THE COURT: Same date. You were a part of the joint  
18 motion that went into the particular specifics of the  
19 underlying reasonable, necessary and actually incurred.  
20 Correct or incorrect?

21 MR. BECKSTROM: Correct, Your Honor.

22 THE COURT: Okay. So it was a joint motion, was it  
23 not, including your client?

24 MR. BECKSTROM: It included my client. Correct. But  
25 you said we were parsing out all the different parties.

1 THE COURT: Right, right.

2 MR. BECKSTROM: So I want to make clear what the  
3 answer date was.

4 THE COURT: Okay. I'm just -- without going back to  
5 the specific caption, okay, I'm making sure that those  
6 statements were correct because then you would get the same  
7 ruling because you were part of the same joint motion. You  
8 addressed all the underlying issues. As you know, some of the  
9 parties in some of the various cases -- again, some of the  
10 other parties or non-parties have asserted that they haven't  
11 broken it down by the reasonable, necessary and actually  
12 incurred. So those would be different.

13 But you were part of the joint motion that did, so  
14 you get the benefit of the same ruling as Mr. Rulis in your  
15 joint motion. It is so ordered.

16 Ms. Smith, I need a point for clarification for you.  
17 You're also part of that joint motion, correct, for Clear  
18 River?

19 MS. SMITH: Yes, Your Honor.

20 THE COURT: All right. So a joint movant would get  
21 the same benefit because you have the same date, the same  
22 information. You've addressed the same breaking it down with  
23 regards to the underlying costs as well, so you'd get that as  
24 to Clear River. Now, NWC, do you need to be heard?

25 MR. PARKER: Your Honor, I believe you've already

1 addressed our motion to retax -- [inaudible].

2 THE COURT: Okay. I thought I had as well, but since  
3 I was hearing some more, I was just making sure.

4 MR. PARKER: Thank you very much, Your Honor.

5 THE COURT: Thank you. Did any -- the couple of  
6 parties who were not on previously, did they come back on? No.  
7 Okay. So now I should have addressed -- we should have already  
8 addressed Clear River, including the supplemental briefs, 3147,  
9 including the --

10 MR. GRAF: Your Honor, I believe TGIG had a motion to  
11 retax Clear River, also.

12 THE COURT: Give me one moment, please. I'm walking  
13 through each of these. High Sierra's we've dealt with, 2915.

14 We have dealt with the joinders of Green Leaf, 2927.

15 One second, please. Joinders to High Sierra, which  
16 included Green Leaf Farms, 2927; Rural Remedies, 2929; THC,  
17 2932; Clark, 2934; and Natural Medicine, 2961.

18 Those would all be taken care of because the ruling  
19 would be consistent with the joinder parties, to the extent  
20 that they were joinder parties with regards to the underlying  
21 motion and addressing all those underlying issues. That all  
22 takes care of that.

23 TGIG's motion to retax Clear River is 2916, filed on  
24 8/11/2022. Now, here they say \$37,194.47. So TGIG, what do  
25 you need to address?

1 MR. DZARNOSKI: Yes, Your Honor -- [inaudible].  
2 Similar to the other motions we filed, as I've already said we  
3 argued about being a prevailing party, no judicial review. And  
4 I repeat those but I don't need to reargue them. There is  
5 nothing new in the motion for you to consider.

6 There is one quirk with respect to Clear River that  
7 does occur to me and I would like to be part of the record, and  
8 that is that in the early stages of the litigation, and this  
9 was slightly before I got involved so I don't have personal  
10 knowledge of this, maybe Mr. Graf can correct me if I'm in  
11 error, but it appears to me that it was May 7th of 2019 that  
12 Clear River filed what is styled a defendant in intervention's  
13 answer to the initial complaint that was filed by the TGIG  
14 plaintiffs.

15 And as you are aware, that initial complaint  
16 contained no allegations against Clear River and made no claims  
17 against Clear River. And it was the Court -- the Court must  
18 have granted a motion to intervene and permitted the filing of  
19 the answer by Clear River on May 7th of 2019. However, the  
20 Court, as you know, then directed us to amend our complaint to  
21 name the parties and it wasn't until we filed our second  
22 amended complaint on November 26th of 2019 that we named Clear  
23 River as an opposing party.

24 And it wasn't until April 21 of 2020 that Clear River  
25 filed an answer to our second amended complaint, which would

1 have been the first time that we named Clear River as a party  
2 to create the adversity that I think maybe you're looking for.

3 Now, I would argue that since we had no adverse  
4 allegations in the initial complaint that was filed against the  
5 D.O.T., that it wasn't until the second amended complaint was  
6 filed that we could be deemed adversarial to Clear River, and  
7 it wouldn't be until 4/21/2020 when they filed their answer to  
8 that second amended complaint that the costs should accrue.

9 That's the only additional information that I would  
10 supply.

11 THE COURT: Okay. The Court is going to have to ask  
12 a follow-up question. My understanding of the chronology is at  
13 that time in 2019 when you filed your complaint in  
14 intervention, these cases were not consolidated. Is that  
15 correct or not correct? Consolidation didn't happen until like  
16 December of 2019?

17 MR. DZARNOSKI: I'm sorry. Was that for Mr. Graf or  
18 was that for me?

19 THE COURT: That was for you. Sorry. Mr. Dzarnoski,  
20 the Court's understanding, May 7th, 2019, the cases were not  
21 consolidated at that juncture. Is that correct or incorrect?

22 MR. DZARNOSKI: That is my understanding. Yes.

23 THE COURT: Okay. So at the time that they were not  
24 consolidated, was there a case in which your client asserted  
25 that it had something adverse to Clear River versus did a

1 complaint in intervention in the underlying one against the  
2 State of Nevada with regards to licensing? I'm trying to get a  
3 distinction about whether you -- when the time you would be  
4 adverse under the statutory definition. I'm going -- really,  
5 this is pure statutory language, so.

6 MR. DZARNOSKI: Yes. Yes, I think I understand your  
7 question. And if I do understand your question, our initial  
8 complaint named only the Department of Taxation. It didn't  
9 name Clear River or anybody else. So it wasn't until the  
10 filing of the second amended complaint that we named Clear  
11 River or any of the other intervening parties.

12 THE COURT: Okay. That was the Court's -- that was  
13 the Court's understanding.

14 MR. DZARNOSKI: So it would be 11/26 of 2019 where I  
15 think that we created a case against Clear River through the  
16 filing of the second amended complaint. And it wouldn't be  
17 until they filed an answer that they could accrue their costs,  
18 which would be on April 21st of 2020.

19 THE COURT: Okay. Between November 2019 and April  
20 2020, was there any acceptance of service, any agreement that  
21 you had things that were adverse or any waivers or anything the  
22 Court needs to take into account?

23 MR. DZARNOSKI: Not that I'm aware of, Your Honor.

24 THE COURT: Okay, thank you. Mr. Graf, would you  
25 like to respond to TGIG?

1           MR. GRAF: Yes, Your Honor. The answer to TGIG was  
2 in response to the opposition that Clear River received to its  
3 motion to intervene. The answer, again, was filed on May 7th,  
4 2019 to their complaint. There was no motion to dismiss that  
5 answer. There was no motion to strike that answer. It is  
6 still of record and valid.

7           THE COURT: Okay, wait, wait. Circle back. Circle  
8 back.

9           MR. GRAF: If this Court is basing --

10          THE COURT: Counsel, you cut out a little bit when  
11 you were starting to say your answer to an opposition. Go  
12 ahead, please.

13          MR. GRAF: I apologize, Your Honor. Our answer to  
14 the TGIG complaint was filed May 7th, 2019. There was no  
15 motion to strike it, there was no motion to dismiss it. In  
16 fact, again, Your Honor, there were a series of motion that  
17 were filed by Clear River seeking the fact the PJR required all  
18 of the applicants to be a party. That was our contention.  
19 That's why it was on file. It was filed and served against  
20 TGIG. There was no pleading, no objection, no procedural  
21 document that was done to remove that answer and that  
22 complaint. We were adverse to them on that date. And you will  
23 note that all of our costs were incurred after that date.

24          THE COURT: Okay.

25          MR. GRAF: So, Your Honor, we -- as to that macro

1 issue that Her Honor addressed previously, that doesn't apply  
2 to TGIG, that any cost award should be granted.

3 THE COURT: Okay. With regards to TGIG --

4 MR. GRAF: Correct.

5 THE COURT: -- and the underlying complaint, the  
6 Court's got another question. You're saying you were named in  
7 the complaint in intervention and you answered the complaint in  
8 intervention. Was that -- at that stage are you contending  
9 that was just a petition for judicial review, or was there a  
10 litigation matter separate from the petition for judicial  
11 review that was the subject of that motion to intervene and  
12 which you responded to?

13 MR. GRAF: Your Honor, they had several causes of  
14 action in addition to the petition for judicial review.

15 THE COURT: Okay.

16 MR. GRAF: The answer was filed as to all of them.

17 THE COURT: Okay. So let me circle back. Did you  
18 finish? Because I'm going to ask Mr. Dzarnoski to respond.

19 MR. GRAF: I did finish, Your Honor.

20 THE COURT: Okay. So, Mr. Dzarnoski, with regards to  
21 TGIG, if they answered and nothing has been stricken as an  
22 improper answer, and if it includes not only the PJR but other  
23 affirmative claims for relief, why would it not be that their  
24 costs should start in that 2019 date from their answer, as  
25 distinguished from what's been raised by other parties?



1           MR. DZARNOSKI: Yes. To be clear, Your Honor, the  
2 first complaint, the operative complaint in the case was for  
3 judicial review and it was for other claims, and it named only  
4 the Department of Taxation as a defendant. No other person --  
5 there were no claims against any other party.

6           Now, I mean, I've got to confess this stretches me  
7 all the way back into law school and I've lost a lot over time,  
8 but when somebody asks to respond or files a motion to  
9 intervene in a case like this and they initially file their  
10 motion to intervene, it doesn't mean -- what they're asking for  
11 is they're asking the Court for permission to defend the  
12 charges that were against the State of Nevada as an intervenor.

13           The basis of it, of course, would have been that they  
14 have some rights that would be impacted. But the adversarial  
15 party at the time of intervention was still the D.O.T. We had  
16 no grounds after the Court allowed the filing of the answer in  
17 intervention by the defendant Clear River, we didn't have a  
18 basis to say that -- to file some kind of a motion challenging  
19 that. We challenged it at the stage of the intervention. But  
20 I don't think that makes them a party subject to an adverse  
21 claim at the point of intervention. It makes them not even a  
22 co-defendant because we can't get any relief against them by  
23 them filing this answer.

24           The only thing we can get relief against is the  
25 Department of Taxation. So they filed an answer to support the

1 defense by the Department of Taxation. And it wasn't until the  
2 Court ordered us to make them a party and we filed the second  
3 amended complaint that they were directly a party that had a  
4 claim made against them to which relief could be granted to us.

5 And so that would be the distinction that I am making  
6 between them getting the okay to file an answer to support the  
7 D.O.T. versus us having an adversarial relationship with them  
8 once we filed the second amended complaint.

9 Thank you, Your Honor.

10 THE COURT: All right. And remember, the Court is  
11 taking the term straight out of the statute. So to the extent  
12 that other people are using the term adversarial or adversary  
13 different than as stated in 18.010, this Court is taking it  
14 straight out of that and how that language is being utilized.

15 Okay. So, I'm going straight to the statutory  
16 interpretation. I'm trying to find -- and once again, you're  
17 now referencing something -- I'm having to click through --  
18 well, I'm back to the 1900's. I'm not even at 2019 yet. Does  
19 anyone have a document number you're referencing, Mr. Graf, on  
20 the date of your filing?

21 MR. GRAF: I don't, Your Honor, but it's May 7th,  
22 2019 that it was filed.

23 THE COURT: Well, I'm in June of 2020, because with  
24 no courtesy copies you all are making this incredibly  
25 challenging. I'm back to the declarations of service. You can

1 appreciate I'm not even in -- I'm not even in 2019 yet.

2 Mr. Rulis, do you by chance have the May --

3 MR. RULIS: I don't have it. I'm going to try to  
4 help, Your Honor. I want to be clear from what I heard is it  
5 was also filed under the TGIG matter, which is a different --  
6 which is probably under a different case number. And that  
7 would be -- I believe that's the A-19-786962-B matter.

8 THE COURT: Pre-consolidation. So you're saying it's  
9 not going to show up in the 787004. So my clicking through is  
10 not going to be of any help.

11 MR. RULIS: I don't believe so.

12 THE COURT: Gotcha. No, I appreciate it. Okay.

13 MR. RULIS: As far as things that were filed --

14 MR. GRAF: What is that case number again, Nate?

15 MR. RULIS: I think the TGIG was 786962-B. That's  
16 A-19.

17 THE COURT: I just froze up my system. Okay.  
18 Mr. Graf, Mr. Dzarnoski, do you agree it was in the other case?

19 MR. GRAF: It is, Your Honor. It's Document  
20 Number 52 in that case number.

21 THE COURT: One moment, please. It's trying to let  
22 me in. By the way, there's still filing fees due, folks. Make  
23 sure you get those taken care of; right?

24 And yes, I did get the stipulation at 12:01 with a  
25 couple signatures missing, so I'm going to have to -- if

1 anybody did not sign off on the stipulation and you're here,  
2 which some of the names I don't see, put in the chat whether  
3 you concur with the stipulation. I'm going to have to circle  
4 around with that as well, folks, in a few moments.

5 May 17th you said, Mr. Graf; correct? Did you say  
6 May 7th or May 17th?

7 MR. GRAF: 7th, Your Honor. And it's Document  
8 Number 52 in that case.

9 THE COURT: Thank you. There we go, Document 52.  
10 Okay. Black & LoBello. Clear River's answer to plaintiff's  
11 complaint. Okay. Mr. Graf, quick clarification. On page 1 of  
12 18, under defendant you show applicant for intervention. See  
13 the caption, page 1?

14 MR. GRAF: Your Honor, I don't have the document in  
15 front of me. I was going off of the website.

16 THE COURT: Oh. If you click on it, doesn't it --  
17 okay. I clicked on it and it pops up. The title says, Clear  
18 River, LLC's Answer to Plaintiff's Complaint. In the  
19 captioning, Serenity Wellness Center, et cetera, et cetera, et  
20 cetera, with not having Clear River in there but it does have  
21 Tryke, Paradise, Fidelis, Gravitas, Nevada Pure, Medifarm, et  
22 cetera. That says plaintiffs, okay. State of Nevada,  
23 defendant. And then the next line says, Clear River, LLC, a  
24 Nevada Limited Liability Company, Applicant in Intervention.

25 MR. GRAF: Yes, Your Honor, because on 4/29 in that

1 case, also, we filed the motion to intervene. We filed it in  
2 both cases.

3 THE COURT: But where I was trying to go is I was  
4 looking for your name on this. I'm not saying you didn't file  
5 an answer, I'm looking for seeing if you're part of the case.  
6 When I'm looking in the caption, the only place I saw your  
7 client's name was, like I said, at the bottom of the  
8 captioning; right?

9 And under the EDCR you've got to put the full, entire  
10 caption. The only thing I see Clear River, it says Applicant  
11 in Intervention. So while I see you filed a document called  
12 Clear River LLC's Answer to Plaintiff's Complaint, I don't see  
13 why you would be answering that if you're only an applicant in  
14 intervention at that stage.

15 So my question was, why are you answering it?

16 MR. GRAF: Because on May 6th, Your Honor, our motion  
17 to intervene was granted by the Court. And thereafter, if you  
18 look in the rest of the docket, we start objecting to documents  
19 and participating in the litigation, including on May --

20 THE COURT: Hold on a second. Okay, wait. Your  
21 motion to intervene was granted on 5/8. The order, this  
22 Document 55 --

23 MR. GRAF: Actually, it was granted on 5/2 in the  
24 minute order, Your Honor.

25 THE COURT: Right. Not valid, as you know. Division

1 of Family Services; Rust v. Clark County, until memorialized in  
2 writing with notice of entry thereof. So I don't even have a  
3 memorializing in writing until 5/8. That says -- and it's a  
4 handwritten May 8th signature, just to let you know. Motion to  
5 intervene, no opposition, good cause, is granted and Clear  
6 River shall intervene as a defendant real party in interest in  
7 the above-captioned case as a necessary -- oh, party to the  
8 action.

9           Mr. Dzarnoski. Mr. Graf. Okay. I've got an order  
10 here, unless somebody is going to tell me there's not an NEO  
11 and I'm not going to go fishing for one, okay. The order does  
12 say, Applicant's motion to intervene is granted and Clear  
13 River, LLC shall intervene as a defendant real party in  
14 interest in the above-captioned case as a necessary party to  
15 the action pursuant to NRCP 24 and NRS 12.130. So why, for  
16 purposes of this, since there is a clear order calling it a  
17 defendant real party in interest, and is a necessary party to  
18 that case and action, would their costs not start on or about  
19 May 8th?

20           I'd have to -- you would have to tell me when your  
21 NEO is, folks, in order for that. I'm not going to keep  
22 looking through all of these while I have other matters I've  
23 got to take care of. The motion to consolidate was 5/9, the  
24 following day anyway. That's was when it was filed, not when  
25 it was granted.

1           So, Mr. Dzarnoski, why would Clear River for TGIG  
2 only, right, in Case Number 786962, why would their memo of  
3 costs, because that case was then consolidated, so under the  
4 analysis that they're a prevailing party, why would their costs  
5 not start -- you all are going to have to figure out when the  
6 NEO is. I'm going to say on or about May 8th because that's  
7 the order, right, making them a defendant in that action. And  
8 even though they filed their answer the day before, we do have  
9 the order memorializing the written pronouncement on May 8th,  
10 subject to the NEO.

11           MR. DZARNOSKI: Yes. Your Honor, the answer that I  
12 have or the only answer I have for you right now is that  
13 despite the language that you just cited, there are still no  
14 allegations against Clear River in the complaint. And so there  
15 was nothing for them to answer regarding allegations that were  
16 made by the TGIG plaintiffs at that point. And again, it gets  
17 back to my long understanding or belief, right or wrong, and  
18 faded memory that the intervention is granted to allow a  
19 non-party to become an intervenor, however you want to call  
20 that, in order to do something. And in this case the something  
21 was to intervene on the side of the Department of Taxation --

22           THE COURT: Uh-huh.

23           MR. DZARNOSKI: -- because they were a necessary  
24 party in Judge Gonzalez' opinion. I don't disagree with it.  
25 They were a necessary party because the case against the

1 Department of Taxation could have a negative impact on their  
2 interest.

3 But the question is, does that make them an adverse  
4 party to us to that complaint, or does it make them a  
5 participant in defending the claims we made against the D.O.T?  
6 Now, I'm suggesting to you that it's the latter and that they  
7 don't become an adverse party until we named them with the  
8 second amended complaint, which was the product of the Court  
9 ultimately having said that all these people are necessary  
10 parties because their interests are affected. That's my  
11 answer.

12 THE COURT: Sure. Counsel, TGIG --

13 MR. DZARNOSKI: I mean, it may not be the greatest  
14 one for you.

15 THE COURT: Did TGIG come in as a plaintiff or a  
16 defendant in intervention. Can you just refresh the Court's  
17 recollection? Because Clear River says you're a plaintiff.

18 MR. DZARNOSKI: We didn't come in -- we were an  
19 original plaintiff. We never did anything in intervention. We  
20 thought the D.O.T. did something wrong in giving the licenses  
21 so we sued them. And Clear River said to the Court, hey,  
22 listen, if you grant relief against the D.O.T., then our  
23 interests will suffer, so we would like to intervene on the  
24 defense side. Now, does that make them an adverse party to  
25 TGIG within the meaning of the allocation of costs? I'm



1 suggesting it doesn't.

2           What makes -- it still makes the D.O.T. the adverse  
3 party at that time, and not until there is a second amended  
4 complaint filed and an answer to that does Clear River become  
5 an adverse party for the purpose of awarding costs.

6           THE COURT: And your citation to that would be what,  
7 counsel?

8           MR. DZARNOSKI: I don't have a case to cite to. Just  
9 interpreting the language of the statute. It seems to me  
10 you've been trying to find out when somebody becomes an adverse  
11 party in the case, and I am suggesting to you that they're not  
12 an adverse party until we name them. I mean, this case is for  
13 the history books, Your Honor, from start to finish.

14           THE COURT: Right. But I disagree with you,  
15 Mr. Dzarnoski. I've got to look at the plain language of Judge  
16 Gonzalez' order and the plain language of her order is law of  
17 the case. So I'm just -- you know, when I look at the plain  
18 language of that order and I look at how Clear River came into  
19 this case in a defendant role because it wanted to protect its  
20 three conditional licenses, as it says in its motion, Clear  
21 River was awarded three conditional licenses; right? It says  
22 that on page 9 of 13 of its motion. And Judge Gonzalez agrees.

23           So when your client was saying it wants the  
24 conditional licenses, it is under the statute adverse to Clear  
25 River in the unique circumstance in this case as to these

1 specific parties.

2           So, yes, Mr. Graf, I am doing these party-by-party,  
3 as I said. So for purposes of TGIG and Clear River only, the  
4 date of the cost memorandum would be the date of the answer of  
5 May 7th, you agree, 2019, in Case 786962. And the Court's  
6 reasoning is you would be adverse. Who wants the license? Who  
7 gets the license? From the intervention there was an answer.  
8 That answer, clearly by the order, says it came in the  
9 defendant as a necessary party, as a real party in interest in  
10 a defendant's role. Other side of the V. The issues  
11 underlying it was who was going to get the conditional  
12 licenses.

13           The fact that then Case Number 786962 was  
14 consolidated into the main case number that I'm saying now  
15 doesn't negatively impact that related to that because those  
16 issues as far as determination of the licenses would start for  
17 specifically TGIG and Clear River for this unique intervention  
18 concept back on May 7th, 2019; there being a notice of entry of  
19 order, I think it was on the 13th. So realistically, though, I  
20 just said May 7th.

21           Realistically, I don't see how you come in until May  
22 13th, but you all can fuss about -- decide whether it's May 7th  
23 or May 13th. But I'm going to say no later than May 13th. The  
24 reason why the Court really sees it's May 13th, not May 7th, is  
25 because the NEO on the motion for intervention which clearly

1 articulated exactly what your role was really was on the 13th.  
2 But there was no issue ever raised throughout this case to the  
3 present day that -- and you all have given me a stipulation  
4 that says there's no outstanding issues; right? And you have  
5 settlements, et cetera. So I don't see that there's any  
6 objection to you filing your answer before the technical notice  
7 of entry of order.

8           You all can agree or disagree whether or not there's  
9 any monies that are at issue between 5/7 and 5/13, submit a  
10 proposed order. But this motion to retax will be denied as to  
11 TGIG and Clear River only because -- denied in part and granted  
12 in part.

13           Granted for anything prior -- and I'm going to say  
14 you all get to decide between May 7th and May 13th. If the  
15 Court still needs -- do I really need to resolve between  
16 May 7th and May 13th, or can you two agree on one of those two  
17 dates, Counsel?

18           MR. GRAF: Your Honor, I'll talk to Mr. Dzarnoski.  
19 We'll agree on a date.

20           THE COURT: Okay. And if it involves \$200 --

21           MR. DZARNOSKI: Your Honor, this is Mark Dzarnoski.  
22 I'll be happy to speak with Mr. Graf and hopefully we can agree  
23 on a date.

24           THE COURT: Okay. If you can't agree upon a date,  
25 then you tell me what the number is for May 13th and you tell

1 me what the number is for May 7th, okay, and the Court will --

2 MR. DZARNOSKI: Thank you.

3 THE COURT: -- will address that, okay. So the Court  
4 finds that that is really a minimal issue that can be evaluated  
5 without taking everyone's time at this juncture. And  
6 realistically, I think the parties can come to an agreement  
7 rather than having the Court do that. If not, the Court will  
8 do it.

9 Okay. So, granted in part, denied in part in  
10 accordance with the Court's ruling set forth herein.

11 Have I now taken care of all of Clear River? I'm not  
12 hearing anybody else saying anything on Clear River.

13 MR. PUZEY: Your Honor, this is Jim Puzey with High  
14 Sierra Holistics. I just volunteered to go ahead, like I did  
15 with Deep Roots, and prepare the order. I don't think that we  
16 heard that from the Court, but I'll be happy to give one to  
17 Mr. Graf.

18 THE COURT: Okay. That's fine. I really was going  
19 to do the preparing of the order at the end, but if you all are  
20 taking care of these in the intervening times, realistically  
21 folks, we need to get you for substance rather than, okay. So  
22 we've now done Clear River.

23 We're now moving to Wellness Connection of Nevada,  
24 starting with MM, et cetera, because it's Document 2966 and  
25 applies 3085 and supplements. So, motion to retax and settle

1 costs regarding Wellness Connection of Nevada. Mr. Rulis, go  
2 ahead, please.

3 MR. RULIS: Thank you, Your Honor. Nate Rulis on  
4 behalf of MM and LivFree, for the record. And we were here I  
5 think -- pardon me.

6 THE COURT: Which of the many times? You've been  
7 here a lot.

8 MR. RULIS: Right. So we started to address Wellness  
9 Connections -- or, excuse me, our motion to retax Wellness  
10 Connections' costs --

11 THE COURT: Correct.

12 MR. RULIS: -- last time we were here on  
13 November 16th. I think Your Honor at that point had made the  
14 decision as far as the triggering date, that being the date  
15 that the answer was filed. And then the parties were to go and  
16 have a discussion about the specific numbers.

17 THE COURT: The cost entries and whether there can be  
18 a stipulation with regards to the cost entries --

19 MR. RULIS: Right.

20 THE COURT: -- in the very hopeful rosy-colored  
21 glasses, which you notice I do not have on today my  
22 rosy-colored glasses, in the hope that you all could get that  
23 taken care of but you didn't. Go ahead, please.

24 MR. RULIS: And we did have some conversations.  
25 Unfortunately, we weren't able to reduce that to a stipulation.

1 So I'm -- unless Your Honor is asking me to go back and address  
2 the triggering date, I'm just going to try to focus on the  
3 numbers of the specific costs that were addressed in the  
4 motion.

5 THE COURT: Okay.

6 MR. RULIS: So as far as legal research goes, they  
7 have included \$12,856.35 for online research, dash, Westlaw.  
8 As we've addressed multiple times now today, that does not  
9 comply with *Berosini*, *Cadle*, *Fairway Chevrolet*, et al., and so  
10 the entire amount as far as legal research should be retaxed.  
11 There are messenger services for \$179. I believe those don't  
12 have the backup documentation.

13 And then there are two sets of photocopies that also  
14 don't comply with *Berosini* and *Cadle*. There's photocopies  
15 which appear to be internal photocopies in which any sort of  
16 description on what the photocopies would be is entirely  
17 redacted. And then there's also in --

18 THE COURT: Are you referencing your Document 2966?

19 MR. RULIS: No. I want to bring up 2868. Excuse me,  
20 I'm sorry. 2900, which is specifically Wellness Connection's  
21 memo of costs.

22 THE COURT: Okay.

23 MR. RULIS: There is on page 3 of 8 --

24 THE COURT: Give me a second to --

25 MR. RULIS: Yep.

1 THE COURT: You can appreciate it's loading all those  
2 entries because I had to switch over from the other case.

3 Okay. So 2900, Counsel. Is that correct?

4 MR. RULIS: Yes, Your Honor, 2900.

5 THE COURT: Give me a ballpark date so I can --

6 MR. RULIS: It was filed on August 9th, 2022.

7 THE COURT: Okay. Just one second, it's opening up,  
8 and then you can reference me the page that you want me to look  
9 at. Go ahead, please.

10 MR. RULIS: Okay. So I'm starting on page 2 at  
11 line 10. There is a list for photocopies.

12 THE COURT: With a Footnote 3 to see Exhibit 3.

13 MR. RULIS: Right. And Exhibit 3 has dates and  
14 numbers and costs, but then it appears there should be a  
15 description, which is redacted. And as far as internal  
16 photocopies, that does not -- I would say that does not comply  
17 with *Berosini* and *Cadle*. That \$312 should be retaxed. Then if  
18 you go over to page 3 of 8 and specifically line 6, there's a  
19 separate entry for 7/9/20, copies, binders, \$986.92. There is  
20 not any backup documentation for that and that also does not  
21 comply with Nevada law and should be retaxed.

22 THE COURT: That was a confirmed date for trial; was  
23 it not?

24 MR. RULIS: I believe that's -- it's right around the  
25 beginning of trial. Yes, Your Honor.

1           THE COURT: Okay. Go ahead. But it doesn't say that  
2 in the affidavit or any of the exhibits that I saw. Is that  
3 correct?

4           MR. RULIS: I did not --

5           THE COURT: I'll ask Mr. Rose.

6           MR. RULIS: I did not see that anywhere.

7           THE COURT: Okay. So you have two sets of copies and  
8 you have the legal research. Go ahead.

9           MR. RULIS: And then as I said, I think the only  
10 other thing specifically to address was -- excuse me, Your  
11 Honor. I had -- I think that addresses the specific costs  
12 beyond -- at least that I have beyond the triggering date of  
13 the answer being filed.

14          THE COURT: Okay. So Westlaw, legal research, you're  
15 contesting the entire \$12,856.35, \$312 for internal copies and  
16 \$786.92 for the --

17          MR. RULIS: \$986.92 for the outside copies.

18          THE COURT: Nine. Okay. Mr. Rose, go ahead, please.

19          MR. ROSE: Yes. Thank you, Your Honor. Christopher  
20 Rose, for the record, representing Wellness Connection of  
21 Nevada. Just a few items to back up. As Mr. Rulis mentioned,  
22 we were here on November 16th and Your Honor had made a few  
23 rulings. One was that Wellness Connection was a prevailing  
24 party, and then the other one, the Court did make a ruling as  
25 to trigger dates.



1           The Court [inaudible] and analogized with or  
2           referenced NRCP 41A [video interference]. The Court had  
3           mentioned at that time that [inaudible] an answer or a motion  
4           [inaudible]. Then the Court referenced Rule 41.

5           THE COURT: Mr. Rose, just to let you know, you are  
6           cutting in and out. I'm not sure if you realize that.

7           MR. ROSE: Your Honor, I'm sorry. I did not realize  
8           that. So I'm not -- [inaudible].

9           THE COURT: Sorry. You're having issues?

10          COURT RECORDER: Yeah. I barely got five words of  
11          that.

12          THE COURT: Okay. My wonderful court recorder said  
13          she barely got five words of what you just said.

14          COURT RECORDER: Sorry.

15          THE COURT: And that's because it's coming -- we  
16          could hear a few words, then we hear a uh-uh-uh and then it  
17          pauses for a second and then we can hear a few more words. So  
18          what I have an understanding is you wanted me to look at  
19          Exhibit 2 to have the \$986.92, which was one of the coping  
20          costs. Go ahead, please.

21          MR. ROSE: Well, Your Honor, do I need to -- if you  
22          can't hear me, maybe I need to try to dial back in?

23          THE COURT: Wait. All of a sudden, as soon as you  
24          said that, we can now hear you. You were starting to say the  
25          Court already made certain rulings. I could hear parts of

1 that. But let's try again. Go ahead. It sounds like we can  
2 hear you. As soon as I said we can't hear you, now we can hear  
3 you. Go ahead, please.

4 MR. ROSE: All right. I appreciate it. If at any  
5 time there's a problem, please let me know. So, on  
6 November 16th the Court had ruled that Wellness Connection was  
7 a prevailing party and ruled that the costs would begin from  
8 the date of the filing of an answer or the filing of a motion  
9 for summary judgment. The Court referenced NRCP 41A regarding  
10 that ruling. So, Your Honor, based on that, let me just  
11 mention a few additional items. We are not a party that  
12 intervened. We were named and brought into this by various  
13 plaintiffs. We did not choose to be here. We did not  
14 intervene.

15 Your Honor, a couple of other points. One is I want  
16 to mention, and I know we're dealing with -- well, I'll save  
17 TGIG for later. TGIG did not challenge any specific costs. I  
18 know we're dealing with MM and LivFree's motion, but I did want  
19 to mention that. As to the --

20 THE COURT: Counsel, you'll have a chance. Right now  
21 I'm dealing with MM Development, LivFree Wellness, Qualcan,  
22 Natural Medicine and Nevada Wellness Center's joint motion to  
23 retax and settle costs, which was Document 2966. But I'm  
24 dealing right now only with MM Development and LivFree because  
25 I haven't asked the other parties in the joint motion.

1           So right now, as you know, there's three entries that  
2 Mr. Rulis is saying are outstanding: legal research,  
3 \$12,856.35; two entries with regards to photocopies, internal  
4 ones \$312 and a vendor at \$986.92 on 7/9/20.

5           MR. ROSE: Yes, Your Honor. And I did want to go  
6 back because there was some argument earlier, and I didn't get  
7 a chance to weigh in on those since it was not my motion,  
8 regarding the start date if the Court would allow me. There's  
9 case law -- the Court had asked earlier about whether there was  
10 any case law that a party can recover costs prior to filing an  
11 answer.

12           And, Your Honor, as you recall from the supplemental  
13 briefing that the parties were ordered to do, there was no case  
14 law presented by any party that dealt with that issue that  
15 either allowed or that disallowed costs to a party based on  
16 when they filed an answer. Your Honor, we cited the case --  
17 this is in our November 4th brief, 2022 -- we cited a case.  
18 It's the *LVMPD v. Blackjack* case that defines what a prevailing  
19 party is, and that's a party that prevails on any significant  
20 issue and achieves some benefit.

21           So, Your Honor, based on that we would submit -- and  
22 I know the Court has made its ruling on this, but I just want  
23 for the record to state this, we would submit that costs are  
24 awarded to a prevailing party based on them being named in the  
25 case. There's no case law that says a party only gets costs

1 after they file a answer. They become a party when they're  
2 named.

3 And if you think about it, Your Honor, think what  
4 happens. Once a party is named as a defendant in the case,  
5 they are automatically a party in that case because what  
6 happens? If they're served with a complaint and they don't do  
7 anything, they can have a default judgment entered against  
8 them. They can have a judgment entered against them if they  
9 don't respond to the complaint. Obviously, someone who is not  
10 a party cannot end up with a judgment against them. So, Your  
11 Honor, we submit that someone is a party for purposes of being  
12 an adverse party or a prevailing party once they are named as a  
13 defendant in the case.

14 But, Your Honor, I want to mention that. I know,  
15 again, there's been no case law cited that shows that costs are  
16 only awardable after someone files an answer. There was a case  
17 cited by MM and LivFree that they cited in their brief called  
18 the Goolsby case from 1994 in Pennsylvania. That did not deal  
19 with costs, didn't deal with an award of costs. Did not say  
20 that someone is only a party after they file an answer. That  
21 case dealt with a denial of a motion to amend the complaint.

22 So, Your Honor, I just want to point that out that we  
23 believe we're a party because we've been named in this case and  
24 that we became a party and therefore a prevailing party from  
25 the time that the various plaintiffs named Wellness Connection.

1           And, Your Honor, going back to our November 4th  
2 brief, you can see from our briefing and the evidence we  
3 submitted we were treated as a party dating back to November of  
4 2019 when we got an email from Judge Gonzalez' law clerk  
5 directing us to participate in a telephone call and to appear  
6 at the next hearing. That was November 18th and that hearing  
7 is when all the plaintiffs were granted leave to amend. So,  
8 Your Honor, I just wanted to mention that for the record.

9           Going to the costs directly, as to the research, Your  
10 Honor, the *Fairway Chevrolet* case says [inaudible] did not  
11 document that research was conducted and how long it lasted.

12           THE COURT: Counsel, you're turning sideways and now  
13 we've lost you again. Counsel, when you turned sideways we  
14 lost you.

15           MR. ROSE: Okay. Can you hear me now, Your Honor?

16           THE COURT: We can hear you now, just like the  
17 commercial.

18           MR. ROSE: So, Your Honor, the problem with that is  
19 our research is not billed by length of time. It's search  
20 specific. And so when you have a case here that says your  
21 legal research support has to state how long your research was  
22 conducted, that overlooks when research is billed per search.  
23 And, Your Honor, our billing system and the legal research  
24 charges that we have, that's by search, that's not by time  
25 frame. So we would submit that we've submitted the

1 documentation.

2           If you look at our memorandum of costs that was filed  
3 August 9th, 2022 at 2:44 p.m., if you look at Exhibit 2, the  
4 first page, it's got the matter number at the very top. That's  
5 the matter number for this client and this case. That's  
6 118880.00003. And then the documentation shows the date of the  
7 research, the cost of the research. And then I submitted an  
8 affidavit, Your Honor, or a declaration with our memorandum  
9 talking about the necessity of the research. So that's the  
10 response on the legal research.

11           As to the messenger, Your Honor, for \$179, as many  
12 times as we've been here I'm not going to dispute a charge of  
13 \$179. For the photocopy costs, Your Honor, on Exhibit 3 there  
14 is the backup for the costs. I understand there are some  
15 portions that are redacted. So, Your Honor, that's what we  
16 submitted for that.

17           I do want to point out for the next cost that counsel  
18 challenges, the \$986.92, there is backup for that. If you look  
19 at our Exhibit 5, it's the last page of Exhibit 5 right before  
20 you get to Exhibit 6. There's an invoice from Legal Copycats  
21 that talks about the copies, the binders, the tabs, and it has  
22 a total cost of \$986.92. So contrary to representations, I  
23 know it was inadvertent, there is backup for that. That was in  
24 preparation for trial. That is adequately supported and  
25 certainly necessary for this case.

1           So, Your Honor, we believe we're entitled to the  
2 costs that we've submitted in our memorandum, either all the  
3 costs that we've sought or alternatively from the date we filed  
4 the answer or a motion for summary judgment.

5           THE COURT: Okay. Thank you.

6           Counsel, you get the last word. But the Court is  
7 just going to make a quick clarification of the record. I  
8 believe a few minutes ago I inadvertently said 18.010 when I  
9 meant to say -- because that's attorney's fees -- when I really  
10 meant to say costs, 18.020. So to the extent in the record  
11 previously when I inadvertently used 18.010, I really meant to  
12 say 18.020.

13           Go ahead. I think I said that probably a couple  
14 times inadvertently.

15           MR. RULIS: Thank you, Your Honor. Nate Rulis again,  
16 for the record. You know, I'll just -- I understand Mr. Rose  
17 is trying to reargue the same things we talked about last time  
18 when we were here as far as the triggering date. I guess if  
19 Your Honor has questions I can answer that, but the fact of the  
20 matter is I believe Wellness Connection didn't file an answer  
21 to MM and LivFree's action until June 29th, 2020, and so it  
22 would be -- that would be the triggering date for -- on or  
23 after that allowable costs could be incurred.

24           On the online research, you know, essentially under  
25 Exhibit 2 Mr. Rose's office hasn't provided any more

1 information than what was provided by Deep Roots and Clear  
2 River. While they say it's on a by-search basis, frankly, I  
3 would imagine that that would mean that it would be easier to  
4 then provide what was being researched, which is also part of  
5 the *Fairway Chevrolet*. It's not just the amount of time but  
6 the amount of time and what was being researched is what is  
7 supposed to be provided in order to recover those costs.

8           And on the -- again, on the photocopies, even the  
9 last page of the external -- of Exhibit 5, and I appreciate I  
10 hadn't noticed that before, but it doesn't provide anything  
11 more than the number of copies and when they were made, which I  
12 think both *Berosini* and *Cadle* specifically say that is not  
13 sufficient documentation to recover those costs. Same for the  
14 internal copy costs. And so I think those should be retaxed.

15           And while Mr. Rose is saying today that those were  
16 for trial, it has not been part of the briefing previously.  
17 And as far as the time frame and case law, you know, he did  
18 reference what was in our supplemental brief. Again, I believe  
19 our supplemental brief was -- I think it was -- excuse me, Your  
20 Honor, 3194. I'll rely on what's in the brief as far as case  
21 law addressing the time frame and when costs are allowable.  
22 But that case did address when you become a party. The *Goolsby*  
23 case did address when you become a party. And that's what  
24 we're talking about, which is in order to recover costs you  
25 need to be a party.



1           THE COURT: Okay. Here's the Court's ruling. The  
2 Court's ruling is, consistent with the Court's prior ruling the  
3 Court really finds that the -- yes, prevailing party, yes, it's  
4 triggered when there actually is under 18.020 you have the  
5 actual -- and the Court will say it right:

6                       Costs must be allowed of course to the  
7                       prevailing party against any adverse party  
8                       against whom judgment is rendered in the  
9                       following cases.

10           And then it goes to the following cases.

11           Realistically, as the Court said previously, that's  
12 pure statutory interpretation. You have to be a prevailing  
13 party. In order to be a prevailing party, it has to be against  
14 any adverse party against whom judgment is rendered. The Court  
15 has already stated with regards to the judgment is rendered.  
16 But in order for a person to be adverse and to be an adverse  
17 party, they actually have to be in the case.

18           How do they get in the case? Well, for these issues,  
19 subject to the little TGIG carveout, it is the answer. And so  
20 because at that juncture while people can be observing, people  
21 may be taking precautionary things, maybe looking into things,  
22 but they are not something in which you can get a judgment  
23 against. You can't -- just because you file a complaint, you  
24 can't just go and get a judgment; right? That's the whole  
25 process of a default and a default judgment prove-up if the

1 person doesn't respond, or a trial on the merits or a summary  
2 judgment motion, you know, all sorts of different pleading  
3 practice or other aspects or determinations that they are  
4 viewed as being prevailing parties, including the facts in this  
5 particular case. So the Court disagrees with the concept that  
6 just because you file a complaint somehow that makes a time  
7 frame.

8           You really have to be a part of the case because you  
9 may never become a part of the case; right? If you never get  
10 served, you can get dismissed under 41, failing to prosecute,  
11 EDCR, right, 1.90, if you don't do it that way; all sorts of  
12 things. So, realistically, you have to do that. So that is  
13 the time frame.

14           So then what you have to look at is now look at the  
15 individualized costs. Realistically, *Fairway Chevrolet* is  
16 clear. While I appreciate there might be a little bit of a  
17 different process, feel free to read *Fairway Chevrolet*. It  
18 tells you the information the Court must have. The Court has  
19 to follow precedent. Precedent says what it needs to have. It  
20 does not have it, so therefore the Court grants the motion to  
21 retax the \$12,856.35.

22           The next part is the internal. The internal is  
23 redacted. The Court cannot make a determination on the  
24 redacted cost of the entries. Please see in regards to that,  
25 with regards to photocopies that's more *Cadle v. Woods &*

1 *Erickson*, but I will cite all four, *Cadle*, *In re Dish Network*,  
2 *Fairway Chevrolet* and *Bobby Berosini*, the first of the  
3 grouping, okay.

4 And the statutory provision itself and some other  
5 case law. I think it's [indiscernible], there's another one  
6 that came up. So then the Court goes to the 7/9/20  
7 documentation for binders and \$986.92. The Court denies the  
8 motion to retax on that.

9 The Court finds that the documentation is sufficient  
10 both in the exhibits attached and the declaration. And  
11 realistically, I have to take judicial notice of when the trial  
12 time frame is and this is right in the heart of the trial time  
13 frame. It says it's trial binders. It really is sufficient.  
14 It meets it under those particular standards. So therefore the  
15 Court denies the \$986, but grants the \$312 and grants the  
16 \$12,856.35.

17 Have I now addressed with regards to MM and LivFree  
18 and Wellness Connection?

19 MR. RULIS: Yes, Your Honor.

20 THE COURT: Mr. Rose?

21 MR. ROSE: I believe you have, Your Honor.

22 THE COURT: Okay? Thank you.

23 So now we're moving on. So I'm going to make it a  
24 little bit easier. I'm going to go first to the other joinder  
25 parties to that joint motion to retax with regards to Wellness

1 Connection before I go to the ones that filed their own  
2 independent. So with regards to those joint --

3 Counsel, it looks like I've got you standing up, so  
4 go ahead. I was going to name the parties. This is MM  
5 Development, LivFree Wellness, Qualcan, Natural Medicine and  
6 Nevada Wellness Center's joint motion to retax Wellness  
7 Connection. So those are the ones I'm going to next.

8 Go ahead.

9 MS. BARRETT: Nothing to add to Mr. Rulis' argument,  
10 Your Honor.

11 THE COURT: On behalf of?

12 MS. BARRETT: On behalf of Qualcan. Whitney Barrett.  
13 Thank you.

14 THE COURT: Thank you.

15 Mr. Rose, do you wish to respond to that nothing to  
16 add?

17 MR. ROSE: I'll just say nothing to respond to.

18 THE COURT: Okay. Thank you.

19 Then the Court's ruling is going to be the same for  
20 the same analysis because it was a joint motion, same issues  
21 brought up specifically.

22 Okay. Does anyone else in that grouping from  
23 Document 2966 wish to be heard?

24 MR. PARKER: Your Honor, this is Teddy Parker, if I  
25 may, representing Nevada Wellness Center.

1 THE COURT: Go ahead.

2 MR. PARKER: I attached as Exhibit 3 to our  
3 supplemental brief a chart outlining Wellness Connection's  
4 costs. It's my belief, based on when Wellness Connection  
5 answered Nevada Wellness's complaints that the amount during  
6 that time period would be roughly \$16,868.07, reduced by some  
7 of the comments the Court has already made, \$5,305.64. That's  
8 the time period between the time of the answer and the time  
9 Nevada Wellness Center settled and I believe that reflects what  
10 the appropriate amount should be, Your Honor.

11 I don't want to add any more. I think the Court has  
12 heard all of the arguments.

13 THE COURT: Okay. So let me get your top number  
14 because what I just need to know is, Mr. Parker, are you  
15 asserting that you added any other reductions other than the  
16 specific reductions that were set forth in the joint motion?

17 MR. PARKER: No, I think they're all the same. I  
18 just wanted to make sure the top period was reflected because  
19 I'm not sure that Wellness Connection filed its answer to  
20 Nevada Wellness Center's complaint the same time it filed an  
21 answer to MM and LivFree's complaint.

22 THE COURT: What date are you asserting?

23 MR. PARKER: And that's the only difference.

24 THE COURT: Are you saying it's different than  
25 June 29th, 2020?

1 MR. PARKER: June 29th. Yes, that's my -- it's  
2 June 29th, 2020, Your Honor.

3 THE COURT: Which is the same as LivFree and MM. And  
4 I didn't hear that --

5 MR. PARKER: Okay. So then --

6 THE COURT: I didn't hear that Qualcan was telling me  
7 it was a different date.

8 MR. PARKER: So then this record is the same.

9 THE COURT: Pardon?

10 MR. PARKER: Then I think the [indiscernible] are the  
11 same, Your Honor.

12 THE COURT: Okay. Mr. Rose, do you wish to respond  
13 to Mr. Parker on behalf of his client, Nevada Wellness?

14 MR. ROSE: Yes, Your Honor. So just to clarify, is  
15 the Court's ruling that it's from the answer or is it from the  
16 answer or the motion for summary judgment? Because I think  
17 those are two different dates.

18 THE COURT: Well, you did not -- in this case you did  
19 not establish that there was a motion for summary judgment.  
20 And I didn't rule with regards -- you're referencing what a  
21 concept was in part of the Court's analysis when you do a  
22 voluntary dismissal. The Court was not saying for purposes of  
23 triggering dates here is a motion for summary judgment, unless  
24 a party can specifically provide this Court that that motion  
25 for summary judgment impacted the direct same plaintiff and

1 defendant as to the substance as to what is being contended  
2 with regards to the costs.

3 Here, it really has been focused on the answers  
4 because the answers have predated any motions for summary  
5 judgment because the summary judgments have taken place with  
6 regards to issues that were not when -- subject to TGIG -- not  
7 when various parties were actually under 18.020 a party to the  
8 case in adverse context.

9 So, yes, if your simple question is, is this Court  
10 going from June 29th, 2020, because that's the date so far all  
11 three of the parties have said that the answer was filed, yes,  
12 the Court is going from June 29th, 2020.

13 But because you have not established that there is  
14 any summary judgment in which you were already adverse to the  
15 party to the case, which is so far MM, LivFree and Qualcan, and  
16 I hadn't yet heard your answer on Nevada Wellness.

17 MR. ROSE: Okay. Your Honor, I'm sorry, I need to  
18 clarify that. So, yes, there were prior summary judgment  
19 motions that my client joined that applied to all of the  
20 plaintiffs, and I'm referencing our joinder that was filed on  
21 April 2nd, 2020, where we joined a number of dispositive  
22 motions that were filed.

23 THE COURT: How could you have filed a dispositive  
24 motion; right? We're going back to that issue. How -- that's  
25 why I asked, right, Mr. Graf and others to show me any order of

1 Judge Gonzalez where she specifically set forth it was against  
2 a party that had not yet answered in the case. Thus far nobody  
3 has been able to provide me said order.

4 Now, whether or not you choose to do something versus  
5 it actually being viewed as what is being done may be two  
6 different things. But in the absence of an order saying, look,  
7 there's an order against MM, LivFree, Nevada Wellness or  
8 Qualcan, the ones I've heard from so far, that they are bound  
9 by a summary judgment before they've even answered in a case,  
10 then you can appreciate from the Court's position I can't see  
11 how any earlier date than an answer date would be for an  
12 adverse party.

13 But if you think that there's an order, please tell  
14 me the order date.

15 MR. ROSE: Well, Your Honor, it's not an order. It's  
16 the rule that under 56 a party can file a motion for summary  
17 judgment at any time, even prior to filing an answer, and  
18 that's what we did. And so if we're going to go with the  
19 trigger dates, and as the Court mentioned the concepts or the  
20 principles that the Court discussed at the prior hearing --

21 THE COURT: Okay. So let's go to the order on the  
22 summary judgment.

23 MR. ROSE: -- that costs would start --

24 THE COURT: Counsel, let's go to the order on the  
25 summary judgment, right, because that's going to give me the



1 scope. Please give me the document number or the date of the  
2 order on the summary judgment that you're referencing that you  
3 joined.

4 MR. ROSE: Your Honor, I didn't pull the -- I can go  
5 through the docket to pull it. I focused on pulling the date  
6 that we had joined the motion.

7 THE COURT: Okay. Give me the date. Sure. Give me  
8 the date of the order. I can look at the date of the order as  
9 well by clicking through.

10 MR. ROSE: I'm sorry, Your Honor. It will take me a  
11 moment to pull up the date of the order.

12 THE COURT: Because you can appreciate we get all the  
13 time where people add all sorts of parties and different  
14 things, right, which may or may not apply. So that's why this  
15 Court has to look at the order that takes those entities into  
16 account as being parties subject to the order, or whether or  
17 not they're parties subject to the order, because I haven't  
18 seen that actually they were served and all that other kind of  
19 good stuff.

20 MR. ROSE: Your Honor, I hate to -- as long as the  
21 Court -- I'm happy to go through the docket right now to locate  
22 that order. I hate to chew up the Court's time doing that  
23 right now.

24 THE COURT: Are you saying it's the order on Nevada  
25 Wellness' motion for summary judgment or alternative motion --

1 MR. ROSE: No. It would -- so, Your Honor, there's a  
2 number of motions that our client joined and I think the most  
3 pertinent here is we joined the Essence entities' motion for  
4 summary judgment against all plaintiffs. That motion was filed  
5 on March 27, 2020. Our joinder was April 2nd, 2020.

6 THE COURT: Which is why I have to look at an order  
7 because how were they plaintiffs if they're not answered in the  
8 case; right?

9 MR. ROSE: Well, they're plaintiffs --

10 THE COURT: I don't even know if it says that they're  
11 served, okay. That's why I'm going to the order.

12 MR. ROSE: They're plaintiffs because they filed  
13 their complaint.

14 THE COURT: Okay. Excuse me.

15 MR. ROSE: And they named us as defendants.

16 THE COURT: Okay. So you can file a motion for  
17 summary judgment before an answer. So walk me through to the  
18 order; right? Because if you're saying you conceded you were a  
19 part of the case and so you joined the motion, let's walk  
20 through where that order is.

21 MR. ROSE: And, Your Honor, that's -- I will mention,  
22 given the Court's comment right there, we conceded we were part  
23 of the case much earlier than that because we appeared prior to  
24 that time. We served our Rule 16 production -- and again, this  
25 is set forth in our supplemental -- [inaudible].

1 THE COURT: Right. Right.

2 MR. ROSE: We served our first disclosures pursuant  
3 to Rule 16.1, we served those on December 16th, 2019. And it's  
4 attached as Exhibit B to our supplemental brief filed on  
5 November 4th. No one came in and said why are you serving  
6 these supplemental disclosures, you're not a party. We served  
7 that on all of the plaintiffs.

8 And so I just wanted to address the Court's -- we're  
9 not contending that we only admitted we were a party after we  
10 joined the summary judgment motion. We became a party to this  
11 back in 2019 when we were directed by the Court to attend the  
12 hearings, to appear at the hearings and we had to serve our  
13 disclosures. So I understand that's not directly answering the  
14 Court's question, but I did want to clarify our participation  
15 and acknowledgment that we were in the case goes back to 2019  
16 because we were sued originally in January 2019 and then in  
17 September 2019 by D.H. Flamingo.

18 But, Your Honor --

19 THE COURT: But, see, I've got to look at these  
20 parties; right? Remember, these parties, because --

21 MR. ROSE: Understood.

22 THE COURT: So that's why I'm asking. If you're  
23 saying it goes to all plaintiffs, the order goes to all  
24 plaintiffs, then I'd have to look to see if it includes these  
25 parties to address the issue of motion for summary judgment

1 before an answer; right?

2 MR. ROSE: Understood.

3 THE COURT: But that's why I'm looking for the order.  
4 There's an internal audit order on 8/17/2020, but you're saying  
5 it's earlier.

6 MR. ROSE: Yeah. I don't believe it was that late.

7 THE COURT: Who was the movant?

8 MR. ROSE: It was the Essence entities. I believe --  
9 I believe the hearings took place on May 15th, 2020, but I'm  
10 not finding an order.

11 THE COURT: You can appreciate I can't -- okay.  
12 There's a motion to dismiss on May 8th. Pending motions  
13 May 8th. There's lots on May 8th. There's May 12th.

14 MR. ROSE: We joined the motions by the State of  
15 Nevada, by Lone Mountain Partners and by the Essence entities.

16 THE COURT: Counsel, I'm hearing what you're saying,  
17 but I can't -- there's no word search in the 3500-plus entries.  
18 It's entry by entry by entry --

19 MR. ROSE: I understand.

20 THE COURT: -- with no courtesy copies at all of any  
21 of these documents, folks, okay, and you're referencing them.  
22 There were certain motions for summary judgment that were  
23 denied on 5/15. But once again, I don't know when you  
24 submitted the order, folks. This is intent to participate.

25 Folks, it keeps on crashing my system every time I

1 try and click in and out of this and it goes, as you can  
2 appreciate, goes back.

3 Now, is it even in this case number or was it in a  
4 prior case number?

5 MR. ROSE: I'm looking at the consolidated case, Your  
6 Honor, that we're in.

7 THE COURT: Understand you all had the benefit of  
8 doing this, which is why I gave you a briefing schedule to do  
9 this argument and you all could reference whatever exhibits,  
10 right, pleadings and attach them. I'm not bringing up --

11 MR. ROSE: Your Honor, I understand that, and I have  
12 to apologize. After we submitted our supplemental brief on  
13 November 4th, that was when we became aware of the Court's  
14 ruling that costs would begin from the answer or a motion for  
15 summary judgment. So we didn't get a chance to supplement that  
16 into another brief since briefing was closed. But I understand  
17 the Court's frustration with the many pleadings in this.

18 THE COURT: No, I just -- my bigger concern is why  
19 absolutely no one gave me any courtesy copies under the EDCR.  
20 It's a huge issue because it means I'm having to click through  
21 every single one of these instead of looking like at tabs and  
22 documents and pages. The fact that this is the fourth hearing  
23 on this, at least the fourth hearing, and still I don't know  
24 how many times I've mentioned no courtesy copies, but still no  
25 courtesy copies. And still people are bringing up at the time

1 of hearing, the fourth hearing, new matters that aren't in any  
2 of the pleadings. So you are lucky the other matter this  
3 afternoon had to be continued, otherwise I would not --

4 If you all think that there's an order that applies  
5 to it, you've got to tell me. I mean, I've got attempted  
6 service galore on 6/19.

7 MR. ROSE: Yeah, I'm not locating the order yet, Your  
8 Honor. I do see -- obviously there was the motion and then our  
9 joinder, and then I believe it was ruled on on May 15th.

10 THE COURT: But that's -- right. But you understand  
11 that's argument. I've got to look at rulings. It's not Pure  
12 Tonic Concentrate's order; right?

13 MR. ROSE: I'd have to --

14 THE COURT: I have D.H. Flamingo's and Surterra's.  
15 That's against you and MM. That's not the right one. These  
16 are going to be -- [indiscernible] is pending on all these.

17 MR. ROSE: I don't know if there are minutes from  
18 May 15th for the denial. It does say it was denied without  
19 prejudice on May 15th. That's, of course --

20 THE COURT: Counsel, I'm sure you can appreciate  
21 *Division of Family Services, Rust v. Clark County*; right?  
22 Minutes or pronouncements of the Court to memorialize in  
23 writing with a notice of entry of order thereof are not  
24 effective. Minutes are absolutely wonderful, but minutes done  
25 by our absolutely phenomenal clerks, and I am so fortunate to

1 work with the clerk that I do, are not intended to be complete  
2 analyses of everything that happened in court. It's supposed  
3 to be just a quick little snapshot of certain things, so.

4 MR. ROSE: Understood, Your Honor. And I think --

5 THE COURT: And it would be unlikely that a minutes  
6 would say who are the parties; right? They just say the  
7 parties that are present in a generalized ruling.

8 MR. ROSE: Right. I believe that the motion that was  
9 filed would address the scope of who it was aimed at.

10 THE COURT: But motions -- no. Motions are  
11 arguments; right? All the time I get motions where people want  
12 rulings at the beginning of cases, right, before they've had  
13 discovery or anything like that. Sure, people -- maybe you're  
14 not surprised at the orders I get, proposed orders I get,  
15 including individuals that aren't part of cases. It might not  
16 even be the right case number. It might not even be the right  
17 caption, okay. It may include spouses and other things that  
18 aren't even part of a case. So I have to look at orders.  
19 Orders are actually written orders with notice of entry  
20 thereof.

21 MR. ROSE: Understood, Your Honor. I don't see the  
22 order right now. I think based on --

23 THE COURT: Does anyone say that there is an order  
24 that includes the parties?

25 Folks, if you all are aware of something and people

1 are just being silent, I mean, come on, let's get it correct.  
2 Just give me the order number or the date. See, I don't even  
3 know if you all submitted an order.

4 MR. ROSE: And I don't know that, either, Your Honor.  
5 We joined.

6 THE COURT: Well, then it's an oral pronouncement  
7 from the bench; right?

8 MR. ROSE: Well, but if the triggering date is the  
9 filing of a motion, I would submit, Your Honor, that --

10 THE COURT: But it's not --

11 MR. ROSE: -- what the Court ruled --

12 THE COURT: Counsel, where is -- counsel.

13 MR. ROSE: How the Court ruled on it -- I'm sorry.

14 THE COURT: Where is it by the filing of a motion?  
15 You can file a motion, right, and it could have nothing to do  
16 with what the facts of the case are. Gosh, oh, golly, could I  
17 show you motions that people have filed or documents that they  
18 call motions. And I know sophisticated counsel such as  
19 yourself would not be doing things potentially like that, but  
20 you may want to include people but that doesn't make them as  
21 included.

22 That's why I have to look at an order. The order  
23 says who it has impacted. A well-written order should detail  
24 who it includes and who it doesn't include, similar to  
25 Mr. Schwarz' order; right? His proposed order had certain



1 things in it.

2 Well, Counsel on this, we've now had at least, what,  
3 12 minutes. I'm trying to give you a chance that if you think  
4 that there is some order that's not in your pleadings, not in  
5 your -- and can't point me to it, I've got to move on to deal  
6 with everybody else in fairness; right? So --

7 MR. ROSE: I'm just stating based on the Court's  
8 rulings at the November 16th hearing that it was the date of  
9 the answer or a motion for summary judgment, and we did join in  
10 a motion that -- the motion for summary judgment that was filed  
11 as to all plaintiffs.

12 THE COURT: Feel free to look at the written order.  
13 Remember, the Court is not -- I haven't even been provided  
14 certain orders as to that hearing. Some I have and I've got  
15 competing orders. So there is no written order of the Court  
16 memorializing; right? That's why this Court has been very  
17 clear when it's been making its rulings when I say I'm  
18 incorporating my analysis and the statements made at prior  
19 hearings; right?

20 I'm not referencing an order with a notice of entry  
21 thereof because they don't exist yet, some of which I haven't  
22 even gotten, folks, okay. I think I've gotten one with a  
23 competing order if my recollection is correct.

24 Do double check on that for those of you who are in  
25 violation of EDCR 7.21, but that's not where I'm going today.

1           MR. ROSE: Very good, Your Honor. I don't have  
2 anything else to respond to as far as Nevada Wellness. Oh,  
3 other than their summary that they attached to their  
4 November 4th supplemental brief, that's not consistent with  
5 this Court's ruling.

6           If the Court is making its ruling as to what costs  
7 are recoverable and the dates that we're able to recover those  
8 costs, the costs need to be calculated based on that, not based  
9 on what Nevada Wellness came up with in its supplemental brief  
10 a month and a half ago or a couple of months ago.

11          THE COURT: Okay. Counsel, can you explain what you  
12 mean by that? And let's go back to what that one is so that  
13 we're clear because the Court allowed supplemental briefing for  
14 a trigger date because that was not an issue that was fully  
15 fleshed out in the first series of days; right? Because you  
16 each have different dates with different issues, as we've gone  
17 over for the various hours.

18          So, Mr. Rose, if you wouldn't mind clarifying what  
19 you mean, and let's go to Mr. Parker's document on behalf of  
20 his client, which now I have to click through the next 2,000  
21 plus entries. Give me a second to get there.

22          Mr. Rose, by the way, are you contending that that  
23 motion for summary judgment granted anything or it was a pure  
24 denial and you're just using it as a trigger time frame?

25          MR. ROSE: I'm just using it as a trigger time frame,

1 Your Honor. If the trigger is the answer or a motion for  
2 summary judgment, then it's the filing of that that triggers  
3 the costs, it's not the ruling.

4 THE COURT: Well, it could --

5 MR. ROSE: So I understand the Court's -- I'm sorry.

6 THE COURT: The Court isn't -- okay. I think you're  
7 misstating in a more generalized sense what the Court was  
8 looking at; right? You would need to have had a motion --  
9 motions for summary judgment in some cases, yes, potentially  
10 could be filed in some cases, could potentially be filed before  
11 an answer. The Court would then have to have looked at said  
12 motion for summary judgment to see who actually the ruling on  
13 said motion for summary judgment was directed to.

14 That's the reason why I need to look at the order.  
15 It's not a global statement if you filed a motion for summary  
16 judgment because as Mr. Graf noted earlier, there were motions  
17 for partial summary judgment back in 2019, et cetera, with  
18 regards to certain aspects of the PJR and different entities,  
19 et cetera. So it was not a broad statement about a motion for  
20 summary judgment. And in the absence of showing this Court  
21 that there was something that a party actually was in the case  
22 under 18.020 -- which is really what I'm just looking at. When  
23 did 18.020 trigger for each and every party for each and every  
24 pending issue? And then an analysis based on that as to what  
25 would be the appropriate costs to be awarded.

1           So let's go to -- you want me to look at Mr. Parker's  
2 11/4 supplement on behalf of his client; correct?

3           MR. ROSE: Your Honor, to your --

4           THE COURT: I'm not there yet because I have to click  
5 through each one of these documents.

6           MR. ROSE: To your point that you just mentioned a  
7 moment ago when a party is in the case, I would submit that  
8 it's even before that. If we're looking at when a party files  
9 something and takes an adverse position, whether it's an  
10 answer, whether it's a motion for summary judgment, whether  
11 it's a motion to dismiss --

12           THE COURT: Counsel, the Court has already ruled on  
13 that. We need to move it forward. If you couldn't show me an  
14 order that somehow put in -- Nevada Wellness is what you're  
15 responding to, but even the others, that somehow put them in  
16 earlier in the case, that Judge Gonzalez said that they were an  
17 adverse party in the case. So in the absence of anybody  
18 showing me anything else, I have to go to the answer date.

19           If you all showed me something else in your  
20 supplementals, right, briefings, when you had all that time to  
21 do it, I would have looked at it. But no one did and no one  
22 gave me any case law that said it was anything different. So  
23 you have to take what would be the appropriate date because  
24 here we don't have, right -- you have to do when they're doing  
25 some kind of appearance when they're adverse because there's

1 nothing that anybody has shown me that it is any earlier date.

2           So now we're going to your second statement, which  
3 was that counsel for Nevada Wellness Center, Mr. Parker, put  
4 something different in his supplement, so I'm going to take a  
5 look at that.

6           Mr. Parker, do you recall the exact document? I'm  
7 looking at all these on 11/4. I'm just trying to parse through  
8 each of these because not everyone titled them the same way.

9           MR. PARKER: No worries, Your Honor. What I was  
10 referring to was Exhibit 3 to our supplemental brief, and it  
11 was again filed on November 4, 2022 at 4:28 p.m. That's the  
12 document I was referring to.

13           THE COURT: Right. But you can appreciate there's a  
14 multitude of 11/4s.

15           Okay, I found yours finally. Okay.

16           MR. PARKER: No worries, Your Honor.

17           THE COURT: So, Mr. Rose, to your statement, what are  
18 you disagreeing with? The Court has made the ruling on the  
19 retaxing from MM's -- their joint -- reducing the \$12,856.35,  
20 reducing the \$312 for all the reasons stated, and denying it to  
21 \$986.92. So what position are you saying that's different that  
22 Nevada Wellness Center articulated that the Court needs to look  
23 at?

24           Go ahead, please.

25           MR. ROSE: So what I'm saying is that ruling that the

1 Court made for MM, that should apply to Nevada Wellness as  
2 well. And what Nevada Wellness has included is costs such as  
3 jury to verdict trial [inaudible]. Those costs are clearly  
4 recoverable. That was not part of this Court's ruling as to MM  
5 and LivFree. There might be some other transcript costs. I  
6 don't have a calculator to crunch the numbers right now about  
7 how they would turn out.

8 But the Court's ruling that you just made as to MM  
9 and LivFree, that should be consistent and apply to Nevada  
10 Wellness as well. So I understand they submitted this summary,  
11 I understand why Mr. Parker referred to it, but this should not  
12 apply. The calculations could be done based on the rulings  
13 this Court has already made.

14 THE COURT: Okay. There's a two-prong aspect to the  
15 ruling. Without going into all my analyses, the two prongs  
16 were, one, since nobody has provided this Court any information  
17 that there's any earlier date in which the parties became  
18 adverse under NRS 18.020, the Court had to use the answer date,  
19 okay. No one has shown me any order or anything that would  
20 show any prior date in order to be adverse, restating the  
21 language directly from 18.020.

22 The Court's understanding is with regards to all  
23 parties who filed with regards to that joint document 2966  
24 filed on 8/12/2022, all of them say that the answers were filed  
25 on June 29th, 2020, which would mean anything before June 29th,

1 2020, would be out because they were not adverse under 18.020.  
2 Anything June 29, 2020, moving forward to the resolution date  
3 for the settling parties and not having a cutoff date for the  
4 non-settling parties would be subject to the reasonable,  
5 necessary and actually incurred analysis under *Cadle*, *In re*  
6 *Dish Network*, *Bobby Berosini*, *Fairway Chevrolet* and the other  
7 citations thereto, in addition to NRS 18.020. To that portion,  
8 there were only three items that were sought to be reduced.

9           The Court gave its analysis. I agreed with two of  
10 them to be reduced, i.e., eliminated with regards to the motion  
11 to retax, and not the third. If there is an additional item  
12 that was brought up for the first time in the supplement and it  
13 is after June 29th, 2020, then the motion to retax would be  
14 denied because you can't bring up something in a supplement  
15 which is only to address the time frame component as a new item  
16 that you want to be retaxed. To the extent that the item  
17 predates June 29th, 2020, then it would be precluded from being  
18 included in a memo of costs by the first prong of the Court's  
19 ruling as to when there would be the adverse party under  
20 18.020. That's where the Court's ruling is. You all figure  
21 the math.

22           If there's a lack of clarity, like I said, give me a  
23 red line of what somebody is saying, the date and the point in  
24 your actual underlying briefing, not anything added for the  
25 first time in the supplement or during oral argument.

1           The Court has taken the opportunity to provide  
2 anybody the opportunity to provide me the documents in the  
3 3,500, almost 3,600 documents if you think that there's  
4 something that does a different date for the answer. So far  
5 nobody has shown me anything, other than the one carveout with  
6 the TGIG which the Court has already addressed.

7           The Court has now concluded with regards to those  
8 parties and with regards to motion to retax Nevada Wellness  
9 Connection. I've got a couple other motions on Nevada Wellness  
10 Connection that has not yet been dealt with, but I want to make  
11 sure because I've heard from MM; I've heard from LivFree; I've  
12 heard from Qualcan; I've heard from Nevada Wellness Center. I  
13 have not heard yet from Natural Medicine.

14           Natural Medicine, do you have anything you wish to  
15 say?

16           Silence means no. Okay. We're moving on.

17           MS. SMITH: No, Your Honor, I don't have anything to  
18 add.

19           THE COURT: Pardon?

20           MR. ROSE: So, Your Honor --

21           THE COURT: Wait. Wait. I asked a specific question  
22 of Natural Medicine. Yes or no?

23           MS. SMITH: No, Your Honor. I don't have anything  
24 else to add.

25           THE COURT: And that's Ms. Smith; correct?



1 MS. SMITH: Yes.

2 THE COURT: Counsel, I just need you to state your  
3 name, please.

4 MS. SMITH: I'm sorry, Your Honor. Stephanie Smith  
5 for Natural Medicine. No, I don't have anything further to  
6 add.

7 THE COURT: Okay. That's why I said that's  
8 Ms. Smith; correct? Okay. So that is one motion which was  
9 2966, and all the parties in that joint motion.

10 So now we're going to go to the other motions. I  
11 still have TGIG's motion. So now we're going to go to --

12 MR. ROSE: Your Honor --

13 THE COURT: Who keeps interrupting me?

14 MR. ROSE: Your Honor, I'm sorry. This is Chris  
15 Rose. As to Natural Medicine's motion, I assume the differing  
16 answer dates apply; right? For example, we answered Natural  
17 Medicine on June 16th.

18 THE COURT: Correct.

19 MR. ROSE: The different answer dates, even though  
20 they filed a joint motion those can be adjusted, correct, based  
21 on the date we answered?

22 THE COURT: You are correct because you have not  
23 shown me that there's any prior, earlier date that would view  
24 as an adverse party under 18.020. So, yes, I have to take the  
25 answer dates. Yes, if you answered earlier than that date.

1           So with regards to Natural Medicine, do you disagree  
2 with the June 16th stated by Mr. Rose?

3           MS. SMITH: No, Your Honor.

4           THE COURT: Okay.

5           MS. SMITH: I mean, I'll take Mr. Rose's  
6 representation. I don't have it right in front of me.

7           THE COURT: It's the issue before the Court today.  
8 Okay. So, Document 2966 and the responses thereto and the  
9 supplements thereto is addressed.

10           We are now moving on to TGIG's motion to retax  
11 Wellness Connection, 2921. TGIG, Mr. Dzarnoski, you're back up  
12 again. Go ahead, please.

13           MR. DZARNOSKI: Thank you, Your Honor. Good  
14 afternoon. The only thing again, to repeat, you do know that  
15 we're argued prevailing party. I have nothing further to add.  
16 No judicial review costs. I have nothing further to add.

17           The only thing I would like to say is that this is --  
18 this case is distinguishable from the one that we immediately  
19 did previously, you and I, anyway, with Clear River. As I  
20 understand the situation with Wellness Connection, is they were  
21 not an intervenor. They did not file a motion to intervene.  
22 They did not file any kind of answer in intervention. And as a  
23 result, as to them we filed our second amended complaint on  
24 November 26th of 2019.

25           And having reviewed the docket, it appears to me that

1 their answer to the second amended complaint where we named  
2 them was filed on February 14th of 2020 at 5:28 p.m. So that  
3 would be the date that I would suggest would be the date for  
4 rendering costs.

5 Unless you have any questions, that's all I have,  
6 Your Honor.

7 THE COURT: Okay. Thank you so very much. Mr. Rose,  
8 would you like to respond to TGIG's motion? And when I say to  
9 TGIG's motion, just to be clear, the Court is familiar that  
10 there is joinders of plaintiff Green Leaf Farms, Document 2927;  
11 Rural Remedies, 2929; THC, Document 2932; Clark Medicinal,  
12 2934; High Sierra, 2957.

13 And then TGIG did do a reply, 3076, omnibus. But  
14 we're dealing with the initial motion first and then I'm going  
15 to see if any of the joinders.

16 So, Mr. Rose, anything with regards to TGIG's?

17 MR. ROSE: Yes, Your Honor, thank you. I appreciate  
18 the Court carving out TGIG as to the prior rulings because I do  
19 believe that they are not entitled to raise the same arguments  
20 that the settling plaintiffs raised. TGIG did not challenge  
21 costs, any specific costs or generally regarding when the costs  
22 start or when they're triggered. The only arguments they  
23 raised, as Mr. Dzarnoski acknowledged, is they thought they  
24 were the prevailing party and then they believed that costs  
25 should not be awarded as to the petition for judicial review.

1 This Court ruled on both of those issues and none of those  
2 affect the costs that we're seeking. So we believe that we're  
3 entitled to all of the costs that we're seeking as to TGIG.

4 THE COURT: Mr. Dzarnoski, you get the last word. Go  
5 ahead, please.

6 MR. DZARNOSKI: Yes, Your Honor. I believe that you  
7 have not carved TGIG out from the overall scope of your  
8 observations as to when costs are triggered. And I believe you  
9 made rulings that that is a burden that Wellness Connection was  
10 required to sustain. And therefore, there's no reason why the  
11 date of the answer of February 14th, 2020, that that should not  
12 apply to TGIG as well as anyone else. Thank you.

13 THE COURT: Okay. The Court's carveout was specific  
14 for the facts of TGIG and Clear River. The Court, as it keeps  
15 stating, is doing these party by party and when people became a  
16 party to the aspect. Also looking at the date of consolidation  
17 and everything else that I've been saying for the last several  
18 hours at the several different hearings.

19 With regards to TGIG's motion to retax for Wellness  
20 Connection, Document 2921, the Court's ruling is as follows.  
21 Consistent with the Court's prior rulings, adopting its  
22 analysis on prevailing party, yes, it's a prevailing party.  
23 The Court is adopting its analysis with regards to the prior  
24 analysis in regards to preliminary injunction. The Court  
25 really at this juncture sees the outstanding issues are when is

1 the date on when the costs can commence here because nothing  
2 has been, again, presented to the Court that there is any  
3 earlier date which would be an adverse party in order to become  
4 a prevailing party under 18.020 where it has to take the answer  
5 date.

6 So the answer date of TGIG, this is not a situation  
7 anyone is contending there was an intervention. There was a  
8 unique concept between Clear River and TGIG. It was not TGIG,  
9 you have to be treated differently. It was TGIG, Clear River,  
10 because of its unique circumstances. So TGIG, the date of the  
11 answer.

12 TGIG, unlike the joint motion, does not address some  
13 specific reductions for reasonableness, necessity and actually  
14 incurred, so the Court is not giving TGIG the benefit of the  
15 reductions of the legal research or the internal documentation  
16 because that was not brought up in their motion. It's the  
17 movant's role to bring up that they want any specific  
18 reductions. So therefore the date of the answer is the  
19 commencement date of when the costs can be, and you all can  
20 mathematically figure that out.

21 But there's not a reduction of the legal research and  
22 the internal copying costs because that was not sought in the  
23 original motion, nor was it sought in any of the joinders.

24 So the Court's inclination with regards to all the  
25 joinders to TGIG is that the ruling would apply to each of them

1 consistent with that, other than to the extent any of those  
2 joinder parties also were a joint movant in the MM, LivFree,  
3 then they get the benefit because they did specifically go for  
4 those reductions that the Court gave on the retax.

5           So if somebody filed a joinder both to TGIG's and was  
6 part of the joint motion, then obviously they get the benefit  
7 of their joint motion. They don't lose it because they did a  
8 joinder to TGIG for not mentioning it.

9           To the extent any of those parties added new things  
10 in their joinders, they couldn't have done so because that  
11 would have been their own motion, and so the Court can't  
12 address it.

13           Does any of the joinder parties need to be heard for  
14 TGIG?

15           No? Okay. Silence means no one wishes to be heard,  
16 so that's the Court's ruling.

17           So now we're at High Sierra's motion to retax and  
18 settle costs for Wellness Connection, Document 2941.

19           Wellness Connection, do you need to be heard? Go  
20 ahead.

21           MR. PUZEY: Thank you, Your Honor. This is Jim Puzey  
22 on behalf of High Sierra Holistics. We did file a separate  
23 motion to retax and settle costs. And on Document Number 3031,  
24 Wellness Connection of Nevada's omnibus opposition at page 2 in  
25 Footnote 3, it states that to the extent the HSH moving parties

1 did not allege claims against Wellness or name Wellness as a  
2 defendant, then Wellness is not seeking to recover its costs  
3 against the HSH moving parties.

4 I think that, combined with the fact that there was  
5 not like with the parties we've already talked about earlier  
6 today, there was not an amended complaint, therefore there was  
7 no answer to an amended complaint that would have brought them  
8 in, would mean that I would be happy to prepare an order that  
9 says that costs are not recoverable as to HSH.

10 Thank you, Your Honor.

11 THE COURT: Sure. Wellness Connection, were you  
12 seeking costs against HSH?

13 MR. ROSE: Yeah, I don't believe we were, Your Honor.  
14 I understand they filed their motion as a cautionary measure,  
15 but I don't believe they alleged claims against us.

16 THE COURT: Okay. So I'm going to deny the motion as  
17 moot in light of the statement that costs are not being sought.  
18 Does that meet your needs, Mr. Rose?

19 MR. ROSE: Yes, it does, Your Honor.

20 THE COURT: Mr. Puzey, does that meet your needs?

21 MR. PUZEY: Absolutely, Your Honor. Thank you.

22 THE COURT: Prepare an order, Mr. Puzey. Thank you.  
23 That takes care of that one. That means I am -- making sure  
24 I'm not missing one on Wellness Connection. Okay. Does anyone  
25 think I missed one on Wellness Connection? No. Okay. So what

1 I show, I still have Thrive Organic Remedies and TGIG. I have  
2 a motion to retax TGIG. Motion to retax TGIG.

3 Do you still show that is outstanding, Counsel for  
4 TGIG? I thought I dealt with it, but I'm just making sure.  
5 Mr. Dzarnoski, do you think I've already addressed all the  
6 motions to retax against your client? Right or not?

7 MR. DZARNOSKI: I do. But, I mean, I recall this was  
8 one of the stipulations -- or, I'm sorry, one of the orders I  
9 think I signed with Mr. Gutierrez. And I thought an order had  
10 been submitted. I could be wrong.

11 THE COURT: Okay. What I have is a letter from  
12 Mr. Gutierrez, December 12, 2022:

13 Dear Honorable Judge Kishner, Pursuant to  
14 the Court's ruling on the November 16th hearing  
15 on the parties various memorandum of costs and  
16 motions to retax, counsel for Thrive and counsel  
17 for TGIG plaintiffs met and conferred and  
18 reached an agreement on the remaining issues  
19 contained in TGIG's motion to retax and Thrive's  
20 costs that were filed on August 11th at 3:11.

21 And it says the remaining issues. And then a  
22 proposed order regarding TGIG to retax Thrive's costs was  
23 enclosed.

24 And I just was reviewing it because, seriously, I got  
25 this on the 12th, you were coming in anyway in a few days. I



1 wanted to make sure everyone was on the same page. So is that  
2 correct, there's nothing that needs to be done, TGIG, re  
3 Thrive?

4 MR. HENDRICKS: Your Honor, this is J.P. Hendricks.

5 THE COURT: Whoa, whoa, whoa. I've got --

6 MR. HENDRICKS: I just wanted to make an appearance  
7 for Thrive.

8 THE COURT: Okay. There we go.

9 MR. HENDRICKS: Counsel for Thrive is here. That is  
10 my understanding, Your Honor. Mr. Gutierrez did ask that I  
11 come to the hearing and actually shepherd this stipulation  
12 along. So to the extent the Court has any questions, I'm happy  
13 to answer them but, yes, that is the case.

14 THE COURT: Okay. TGIG, do you concur? Is there  
15 anything you need resolved?

16 MR. DZARNOSKI: No, Your Honor. We resolved it.

17 THE COURT: Okay. How about Deep Roots? Deep Roots,  
18 do you still have anything with regards to TGIG?

19 MS. COLLINGS: No, Your Honor. Deep Roots doesn't  
20 have anything.

21 THE COURT: Okay. I don't show that there's -- Lone  
22 Mountain, do you still show that you have anything against  
23 TGIG? I don't show that there's any more TGIGs.

24 I'm just, in an abundance of caution circling through  
25 these because it's easier now while I've got you all than to

1 call you back in, so, as much as it's wonderful to see you each  
2 and every day.

3 Lone Mountain, anything?

4 Silence means you don't have anything.

5 Okay. And plaintiffs withdraw their claims for  
6 Silver Law.

7 Clear River, anything you show for TGIG left  
8 outstanding?

9 MR. GRAF: No, Your Honor. I think you granted our  
10 motion to retax the last time we were here.

11 THE COURT: Right. I think the Court has already  
12 addressed all these. We are just making sure, okay. You can  
13 imagine with the breadth and depth. Okay. I don't show that  
14 there's anything more for TGIG.

15 TGIG, do you think that there's anything else left  
16 vis-a-vis you for any parties?

17 MR. DZARNOSKI: Thankfully, no, Your Honor.

18 THE COURT: Okay. That one is done.

19 Motion to retax Thrive. Motion to retax Thrive. Do  
20 you show that there's anything else on Thrive that needs to be  
21 retaxed and addressed by the Court? Counsel for Thrive?

22 (No audible response)

23 THE CLERK: Okay. We don't have counsel for Thrive,  
24 so I'm presuming they're assuming that there wasn't anything  
25 for them or they'd be here today. I think we've already

1 addressed it.

2 Does anyone else think that there's anything  
3 outstanding for Thrive? If so, speak now.

4 No. Okay. Got that one taken care of.

5 I want to make sure. Motion to retax Nevada Organic  
6 Remedies. Does anyone think that there's still anything left  
7 outstanding on Nevada Organic Remedies? My little letters, I  
8 don't --

9 MR. KOCH: This is David Koch, Your Honor, for Nevada  
10 Organic Remedies. I think TGIG is the only one that filed a  
11 motion with respect to our -- the motion to retax. And the  
12 other parties -- only the settling parties. We're not seeking  
13 costs against the settling parties. And so our costs, we  
14 believe, should be granted.

15 THE COURT: Okay. I got TGIG. I got High Sierra.  
16 And then I have that High Sierra was never a part of the case.  
17 So you weren't seeking against High Sierra; correct?

18 MR. KOCH: No.

19 THE COURT: No, I'm not correct, or no you weren't?

20 MR. KOCH: We were not, Your Honor. You are correct  
21 that we were not.

22 THE COURT: Okay. Were you seeking Green Leaf Farms?

23 MR. KOCH: No.

24 THE COURT: Were you seeking anything against THC?

25 MR. KOCH: I believe all the other parties who were

1 not settling parties, yes, we believe that costs should be  
2 applied to each of them.

3 THE COURT: Hold on a second. The reason why I'm  
4 doing that is I've got joinders here. So that's what I'm  
5 trying to make sure what's left, folks.

6 Okay. So I had joinders by High Sierra. We've  
7 already addressed that. I had joinders by Green Leaf and I  
8 have a joinder by THC Nevada, Herbal Choice, too. And then I  
9 have MM, LivFree, Qualcan, Natural Medicine, Nevada Wellness  
10 Center's motion to retax.

11 MR. KOCH: And, Your Honor, that motion was simply, I  
12 believe, limited to the aspect that those were settling  
13 parties, and so the costs would not be applied to those  
14 settling parties.

15 THE COURT: Okay. So is it correct that everyone in  
16 the joint motion, MM, LivFree, Qualcan, Natural Medicine,  
17 Nevada Wellness, you're not seeking anything against? Is that  
18 correct or incorrect?

19 MR. KOCH: That is correct.

20 THE COURT: Okay. Does anyone think that there's any  
21 issues that I need to address with regards to MM Development,  
22 LivFree, Qualcan, Natural Medicine and Nevada Wellness' motion  
23 to retax and settle costs, Document 2948, because the Court's  
24 inclination to deny that is moot in light of the statement that  
25 nobody is seeking any costs.

1 Does that meet your needs, moving parties?

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

3 I think your inclination is absolutely correct. Thank you.

4 THE COURT: Okay. You're LivFree and MM.

5 Qualcan?

6 MS. BARRETT: That's correct, Your Honor.

7 THE COURT: Once again, Counsel, as much as I know  
8 you said your name lots of times --

9 MS. BARRETT: Oh, I'm sorry. Whitney Barrett for  
10 Qualcan. Thank you.

11 THE COURT: Thank you. Natural Medicine, do you  
12 concur? Well, if you're not here then you have to concur  
13 because there's nothing to be addressed.

14 Nevada Wellness Center. Mr. Parker, are you still  
15 there or someone from your firm?

16 MR. PARKER: No, I'm still here, Your Honor. We do  
17 concur.

18 THE COURT: Okay. So that one is taken care of.

19 That means the only joinder that seems to be  
20 potentially at issue, since this is moot, THC Nevada, Herbal  
21 Choice, Document 3007. Without me having to go back to double  
22 check on 8/19, I believe yours was not a substantive joinder,  
23 so it usually would fall if the underlying motion is.

24 But is anyone from THC, slash, Herbal Choice saying  
25 that they have a motion that can stand on its own to retax

1 against Nevada Organic Remedies?

2 (No audible response)

3 THE CLERK: No. Okay. Then the Court is including  
4 that as being moot.

5 Okay. So then that means that takes care of that  
6 one.

7 That means I do go back to TGIG. Mr. Dzarnoski, you  
8 and Nevada Organic Remedies, what needs to be addressed here?  
9 Your Document 2920.

10 MR. DZARNOSKI: I have nothing further to add to any  
11 of my arguments that I've made to date and submit.

12 THE COURT: Counsel for Organic Remedies, do you wish  
13 to be heard with regards to TGIG's motion to retax?

14 MR. KOCH: We believe that our motion, that the costs  
15 and requests were all timely. We were, frankly, the first  
16 party to intervene and answer in this case. And so -- and I  
17 think our costs are, frankly, the least of anybody's requested.  
18 There's \$22,000 that are related to filing fees, deposition  
19 transcripts and the Litigation Services costs that have been  
20 permitted by the Court. And all of those items were  
21 reasonable, documented, and our appearances and answers in this  
22 case were filed in early 2019. So on that basis we believe  
23 that those costs are appropriate and should be awarded.

24 THE COURT: Okay. You stated that you had  
25 intervened. So the Court is going to have to ask you the

1 analysis. Really, do you fall within the intervention where  
2 you actually are a party to the actual issues in the case  
3 versus coming -- meaning, do I have a Clear River, TGIG, or do  
4 I have the other parties' issue with regards to intervention?  
5 What is your assertion?

6 MR. KOCH: Your Honor, we moved to intervene in  
7 January of 2019. And Mr. Rose will tell you we came in first.  
8 We were admitted as a defendant in intervention. From that  
9 time forward we answered. We moved to consolidate. We filed  
10 an opposition to Serenity Wellness, which became TGIG's motion  
11 for preliminary injunction in May of 2019 as a defendant  
12 intervenor on the caption. And that document was filed  
13 May 9th, 2019, and throughout this we have been a defendant  
14 intervenor. There's no question about that.

15 TGIG, frankly, in its appeal has referenced Nevada  
16 Organic Remedies repeatedly. And the relief that it has sought  
17 directly relates to Nevada Organic Remedies. And for that  
18 reason the costs that we have sought are directly related to  
19 our status as a party in the case and has been from the very  
20 beginning. And again, the reasonableness of them in relation  
21 to the time frame and the amount sought we believe is more than  
22 appropriate in this case.

23 THE COURT: Okay. Counsel for TGIG, even though  
24 normally Organic Remedies would have the last word, since I did  
25 ask the question about the intervention, do you think --

1 anything you wish to address on that? Go ahead.

2 MR. DZARNOSKI: Yes, Your Honor. This is Mark  
3 Dzarnoski. I would disagree with Mr. Koch's representations  
4 regarding anything that might be on the record on appeal. And  
5 it's not important to you. It may have been an aside by him.  
6 But the appellate papers stand on their own.

7 According to my records, the defendants in  
8 intervention filed an answer, including Mr. Koch's client, on  
9 May 7th of 2019. Subject to my argument that you have already  
10 ruled against that the intervention does not make them an  
11 adverse party, that's preserved, I believe.

12 I have nothing further to add. Thank you.

13 THE COURT: Okay. Well, remember, it's case by case,  
14 depending on what the actual order says with regards to the  
15 intervention. With Clear River there's a specific order. Are  
16 you asserting that that same order with regards to Clear River  
17 applied to -- Nevada Organic Remedies, what's the date of the  
18 order that you're asserting that puts you into this case as  
19 adverse under 18.020, please?

20 MR. KOCH: March 22nd, 2019.

21 THE COURT: Do you have it handy? Can you read the  
22 order portion? Because it's going to take me forever to get  
23 there.

24 MR. KOCH: I do. This is March 22nd, 2019:

25 Intervenor's motion to intervene is



1 granted. Nevada Organic Remedies shall  
2 intervene as a defendant in the above-captioned  
3 case as a necessary party.

4 It was signed by Judge Gonzalez.

5 THE COURT: And it was your complaint in  
6 intervention. And were you listed -- you came in as a  
7 defendant. Did you file an answer on a defendant at the time  
8 of that intervention? Similarly like Clear River, as you know,  
9 we had the 5/7 to 5/13 time frame. But, go ahead.

10 MR. KOCH: Yeah. I reference the opposition. That's  
11 the first document I pulled up. Opposition to Serenity  
12 Wellness, then TGIG's motion for preliminary injunction where  
13 we're on the caption as a defendant intervenor. That document  
14 date is May 9th, 2019. And Serenity did respond to that and we  
15 went through the preliminary injunction hearing for the next at  
16 least several weeks, perhaps months at that point.

17 THE COURT: When did you file your answer?

18 MR. KOCH: I do not have the answer. I believe it  
19 was, the reference, May 7th. Just before that.

20 THE COURT: And you agree with Mr. Dzarnoski it was  
21 May 7th? Mr. Dzarnoski, do you agree? Are you all on the same  
22 page it was May 7th, 2019 for their answer?

23 MR. KOCH: I think that's the time frame. I don't  
24 have it in front of me, but that's the time frame and our  
25 opposition was filed two days later with us on the caption.

1 MR. DZARNOSKI: Your Honor, I think I have it  
2 somewhere open here, if you'd just bear with me and I can  
3 verify that.

4 THE COURT: Okay. Because where I'm going to go is  
5 I'm going to say May 7th, unless you all tell me it's a  
6 different date. And really the easier way to do it is to say  
7 it's May 7th, 2019, based on the representations in open court.  
8 However, if the parties agree that it really is a different  
9 date for the answer, then you just need to drop that in a  
10 footnote in your order, right, that the parties agree it was a  
11 different date than the May 7th represented in open court.

12 Would that meet your needs, Mr. Dzarnoski?

13 MR. DZARNOSKI: Yes. Absolutely, Your Honor. Thank  
14 you.

15 THE COURT: Mr. Koch, would that meet you needs?

16 MR. KOCH: Thank you, Your Honor. That's fine.

17 THE COURT: Okay. So then you have it from -- I'm  
18 going to say May 17th -- I mean, sorry, May 7th, 2019. The  
19 Court is going to adopt its ruling with regards to the  
20 prevailing party analysis.

21 The Court adopts its rulings with regards to the  
22 preliminary injunction and permanent injunction, although the  
23 nuance here is the intervention by a specific court order that  
24 would then be adverse because the answer here would be  
25 different because of a specific court ruling that was

1 referenced and then the answer filed on or about May 7th, 2019.

2 That takes care of TGIG.

3 There were joinders to TGIG. Plaintiff Green Leaf  
4 Farms, Rural Remedies, THC, Clark Medicinal, slash, Nye Natural  
5 and High Sierra. Do any of those parties wish to be heard to  
6 the extent that they're not moot because they're not settling  
7 parties? I mean, they are settling parties, not non-settling  
8 parties, is what the Court meant to say.

9 Any of those parties wish to be heard?

10 (No audible response)

11 THE CLERK: Then the Court is going to adopt the  
12 ruling. It's going to be moot as to anybody who it's already  
13 been stated that Nevada Organic Remedies is not seeking  
14 against. And with regards to anybody that they are seeking  
15 against, it's going to be the date of the answer because no  
16 one -- or a date of answer in intervention as set forth in  
17 their specific pleadings because the Court has not been  
18 provided there's any earlier date or any later date.

19 That should take care of TGIG's motion to retax and  
20 all the joinders thereto.

21 So consistent therewith, it's granted in part and  
22 denied in part as moot. There was not underlying analysis of  
23 some specific monetary amount, so therefore the Court is not  
24 going to go into that analysis of reductions of specific  
25 claims.

1           So now we go to High Sierra's. High Sierra, I  
2 believe High Sierra's is moot. Is that correct, counsel for  
3 Nevada Organics and High Sierra?

4           MR. KOCH: Yes. David Koch for Nevada Organic  
5 Remedies. Yes.

6           THE COURT: High Sierra, do you concur it's moot?

7           MR. PUZEY: I concur and I'd be happy to prepare an  
8 order to that effect.

9           THE COURT: And counsel, as much as I know who's  
10 speaking, our system does not have a voice identifier.

11           MR. PUZEY: Apologies, Your Honor. Jim Puzey on  
12 behalf of High Sierra Holistics. I concur with what Mr. Koch  
13 said, and I'd be happy to prepare an order.

14           THE COURT: Okay. So it's going to be denied as moot  
15 because Nevada Organics is not seeking against High Sierra.  
16 And counsel for High Sierra is going to prepare it.

17           So what is left with regards to anybody as to Nevada  
18 Organic Remedies?

19           Nobody. Okay.

20           MR. DZARNOSKI: Your Honor --

21           MR. KOCH: I think that's it.

22           THE COURT: Sorry.

23           MR. DZARNOSKI: Your Honor, this is Mark Dzarnoski.  
24 I did find a reference date for you with regard to Nevada  
25 Organic Remedies' date of filing an answer to TGIG's second

1 amended complaint. July 10th of 2020.

2 THE COURT: Okay. Counsel, do you concur or do you  
3 disagree on July?

4 MR. KOCH: David Koch. I don't -- that's the second  
5 amended complaint. I would have to look back. I think we  
6 can -- I can look back through the record to see if there was  
7 another answer. Or again, to a prior version of the complaint.  
8 I don't have that in front of me. I can work with  
9 Mr. Dzarnoski on that.

10 My position, however, is that the order date of  
11 March 22nd, 2019 ordered by the Court that Nevada Organic  
12 Remedies is a party defendant in intervention. And then we  
13 appeared with an opposition to the preliminary injunction  
14 motion on May 9th, 2019. And Serenity/TGIG responded to that  
15 that we were a party with respect to Serenity's claims at that  
16 time. There's no dispute or challenge to our status as a  
17 defendant intervenor on the caption; as the Court has indicated  
18 is something the Court would look to.

19 THE COURT: TGIG, did you acknowledge that they were  
20 a party prior to their answer, an adverse to you?

21 MR. DZARNOSKI: Your Honor, when I was doing my --  
22 did my search through the index for the supreme court where I  
23 came upon the date, and Mr. Koch is correct, that's the answer  
24 for the second amended complaint. It didn't occur to me at the  
25 time I said that that perhaps they are in the same situation as

1 Clear River.

2 And if they filed an answer after the intervention, I  
3 understand that they would be in the same situation as Clear  
4 River and Mr. Koch and I can work that out.

5 THE COURT: Okay. So what the Court is going to ask  
6 you to do is to please, if you can work it out, submit a  
7 proposed order. If you can't and there's a difference of  
8 opinion, then what I need you to do is since the movant is  
9 going to prepare the order. And then what you're going to do  
10 is you're going to have to say that there is a competing order.

11 Mr. Dzarnoski, you've got to do a competing order.  
12 And then you have to submit it to my JEA, cc'd to all parties,  
13 a redline of what the two differences are in the orders and  
14 give a reference to the document numbers that you're saying  
15 support your date versus the other party's date.

16 And I'm really sure you can get that worked out, but  
17 if not, there's the process.

18 Okay. So that now should take care of -- is there  
19 anybody saying there is any more motions for costs, or are we  
20 done with everybody?

21 I know you all are enjoying this so very, very much  
22 and you want to have more, but I am making sure. Last  
23 go-around. Does anyone think anybody has anything else  
24 outstanding?

25 Until I get to the stip. I'm going to get to the

1 stip in one second.

2 Anybody else? I'm not seeing green lights go on  
3 remotely and I'm not seeing anyone in court standing up. Okay,  
4 we are done with all your motions.

5 Okay. So what I'm going to do is because as much as  
6 I know you all want to spend your next week and a half of the  
7 holidays, the next 14 days getting this order into the Court, I  
8 am going to give everyone 30 days, unless somebody objects to  
9 me giving 30 days, extending the 7.21 by two weeks.

10 Does anyone object to said extension of time? If  
11 anybody objects and you want to do it over the holidays, let me  
12 know right now.

13 Happy Holidays. Anybody not want that time?

14 (No audible response)

15 THE CLERK: Okay. You have an extension. Under 7.21  
16 I find it's appropriate, another 14 days, so you have -- well,  
17 another 16 days, so you have 30 days from today's date to get  
18 all those orders in, okay, or stipulations.

19 Now, and we'll take a look at the couple ones we  
20 already have, but I wanted to make sure everyone had a full  
21 opportunity to be heard in case anything had to be changed.

22 Mr. Schwarz -- I know he's no longer on, but someone  
23 needs to reach out to him because that is going to need to be  
24 modified, including today's date and some of the things stated  
25 today. Okay. Stipulation and order to vacate trial.

1 Thank you so very much, we got it -- 12:01 counts.

2 Okay. I noticed there's a couple names -- is there  
3 anyone -- Mr. Donath's office, anyone from JK Legal &  
4 Consulting that I have by chance on the line? Because that's a  
5 name that was not on this. It was listed as "could not reach  
6 prior to the submission of the stipulation."

7 MR. KAHN: Your Honor, I'm still here.

8 THE COURT: Go ahead, please.

9 MR. KAHN: This is Jared Kahn for Helping Hands  
10 Wellness Center.

11 THE COURT: No, your name is on here, Mr. Kahn. The  
12 name I didn't have is anyone from JK -- Oh, that's you. Sorry.  
13 Yes.

14 MR. KAHN: Yeah.

15 THE COURT: Hold on a second. I misspoke. My  
16 apologies.

17 MR. KAHN: Okay.

18 THE COURT: From Mr. Donath's firm on behalf of Green  
19 Leaf, is what I meant to say.

20 Sorry, Mr. Kahn.

21 Anybody from Nick Donath's for Green Leaf and  
22 NEVCANN?

23 Does anyone have any reason to believe that Green  
24 Leaf and NEVCANN feels that there's any outstanding trial issue  
25 or have any of you had any communications with counsel where



1 they have confirmed that there's nothing that needs to go to  
2 trial?

3 Does anyone wish to be heard there, folks?

4 That's the only name I don't have on this, so I'd  
5 like to get it signed for you. Anybody have any communications  
6 at all that they think anyone from Mr. Donath's firm thinks  
7 that there's anything that needs to go to trial? Anyone  
8 affirmatively who can state that they've had conversations with  
9 Mr. Donath or anyone from his firm that they view that there is  
10 nothing going to trial?

11 MR. RULIS: Your Honor, Nate Rulis, for the record.  
12 I cannot affirmatively state I've had those conversations with  
13 Mr. Donath. I can say, though, that Mr. Donath's clients I  
14 believe were part of the same complaint as the ETW plaintiffs.

15 THE COURT: Okay.

16 MR. RULIS: And would have the same claims, none of  
17 which include claims that are Section 1983 claims that were  
18 part of Phase 3.

19 THE COURT: Remember, Phase 3 wasn't just 1983.  
20 Otherwise, we would not have had the whole state of Nevada.  
21 Feel free to read the trial protocols on the scope of the  
22 Phase 3. But that being said -- okay. Mr. Parker, since you  
23 submitted this, you reached out to Mr. Donath's firm; correct?  
24 Do we still have Mr. Parker?

25 THE CLERK: Yes.

1 THE COURT: I think you're trying to speak. It looks  
2 like we still have you, Mr. Parker, but I can't hear you.

3 MR. PARKER: Here we go. Can you hear me now, Judge?

4 THE COURT: I can hear you now. Counsel, you reached  
5 out to them; right? Do you have any reason to believe that he  
6 thinks anything needs to go forward on behalf of Green Leaf and  
7 NEVCANN?

8 MR. PARKER: My associated, Jennifer DelCarmen, tried  
9 to reach Mr. Donath and was unable. But I didn't believe that  
10 there were any claims remaining for that party. I'm in a  
11 similar position as Mr. Rulis on this.

12 THE COURT: Okay. And that's really where the  
13 Court -- the Court in looking through the almost 3,600, didn't  
14 see -- I see that there's certain things. So the Court is  
15 signing. The only thing I may -- oh, you know what, I need to  
16 put May -- so you need this, Mr. Parker. You need your status  
17 check date in May.

18 MR. PARKER: Yes, Your Honor. Just on the payment of  
19 the settlement funds, Your Honor.

20 THE COURT: Do you want May 10th or May 17th?

21 MR. PARKER: And hopefully a settlement --

22 THE COURT: May 10th or May 17th, you and the State  
23 of Nevada and counsel for Pupo want for your status check? You  
24 can have May 10th or 17th. Which do you want?

25 MR. PARKER: I prefer the 10th, Your Honor.

1           THE COURT: State of Nevada, do you have a  
2 preference?

3           MR. TETREAULT: Your Honor, this is Dan Tetreault on  
4 behalf of Mr. Pupo. Mr. Newby told me that he had to step away  
5 for a deposition at 3:00 p.m., so I don't believe he's on the  
6 call.

7           THE COURT: Okay. Well, then he doesn't get to pick  
8 a date. How about you, Counsel for Mr. Pupo? Does the 10th  
9 work for you or not?

10          MR. TETREAULT: That's absolutely fine, Judge. Thank  
11 you.

12          THE COURT: Okay. The 10th at 8:30 a.m. That's  
13 being put in your order.

14          And if I have picked somebody's anniversary and  
15 they're out of the country or something, let me know,  
16 obviously, a time before then.

17          Okay. So the order is being signed. I've included  
18 that status check date for May 10th at 8:30.

19          Thank you so very much. Accepting -- make sure you  
20 get a notice of entry of order, please, in on this so we can  
21 have the -- I can just wish you happy holidays and say I don't  
22 need to see you tomorrow.

23          As much as I would love to see each and every one of  
24 you tomorrow, you might have other cases.

25          MR. PARKER: Thank you.

1           THE COURT: Okay. Anything else that needs to be  
2 done, other than I'm going to wish you a great rest of your  
3 afternoon. It's been a pleasure again spending the day with  
4 you. And wish you happy holidays.

5           Anything else? I'm not going to circle around to  
6 everyone. I'm just going to say in court first and then I'm  
7 going to go remote.

8           In court, anything else from anyone?

9           I'm seeing negatory nods. Remotely, anybody need  
10 anything?

11           Last chance to put your little green light on and  
12 tell me. I'm seeing some negatory nods.

13           Okay. We're done. Thank you so very much. Have a  
14 great one.

15           MR. PARKER: Thank you, Your Honor. You too, Your  
16 Honor. Thank you.

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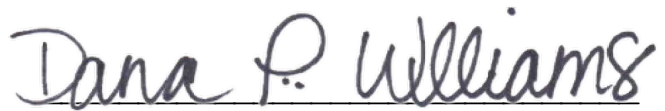
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1 THE COURT: That concludes. We're going off the  
2 record. Appreciate it. Thank you.

3 (Proceedings concluded at 3:38 p.m.)

4 -oOo-

5 ATTEST: I do hereby certify that I have truly and correctly  
6 transcribed the audio/video proceedings in the above-entitled  
7 case to the best of my ability.

8   
9

10 Dana L. Williams  
11 Transcriber

12 ADDITIONAL TRANSCRIBER: Liz Garcia  
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