IN THE SUPREME COURT OF THE STATE OF NEVADA

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

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

Appellants/Cross-Respondents,

v.

THE STATE OF NEVADA DEPARTMENT OF TAXATION; CANNABIS COMPLIANCE BOARD; AND INTEGRAL ASSOCIATES LLC D/B/A ESSENES CANNABIS DISPENSARIES, ESSENCE TROPICANA LLC, ESSENCE HENDERSON, LLC

Respondents,

Supreme Court Case No. 86276

District Court Case No. A787004

APPELLANTS' APPENDIX
VOLUME 4

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CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX

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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA
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IN RE: D.O.T. LITIGATION	CASE NO. A-19-787004-B DEPT NO. XXXI
	TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

FRIDAY, OCTOBER 21, 2022

TRANSCRIPT OF HEARING RE:

SEE PAGES 4 THROUGH 8 FOR MATTERS

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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:	PETER S. CHRISTIANSEN, ESQ.
FOR HIGH SIERRA HOLISTICS:	JAMES W. PUZEY, ESQ.
FOR GREEN THERAPEUTICS, GREEN LEAF FARMS HOLDINGS, NevCANN, AND RED EARTH:	NICOLAS R. DONATH, ESQ.
FOR THC NEVADA:	AMY L. SUGDEN, ESQ.
FOR INYO FINE CANNABIS AND THE NUVEDA ENTITIES:	CRAIG D. SLATER, ESQ.
FOR DEPARTMENT OF TAXATION AND CCB:	CRAIG A. NEWBY, ESQ. Deputy Soliciter General
FOR INTEGRAL ASSOCIATES AND THE ESSENCE ENTITIES:	TODD L. BICE, ESQ. JORDAN T. SMITH, ESQ.
FOR CLEAR RIVER:	J. RUSTY GRAF, ESQ. BRIGID M. HIGGINS, ESQ.
FOR WELLNESS CONNECTION OF NEVADA:	CHRISTOPHER L. ROSE, ESQ.
FOR LONE MOUNTAIN PARTNERS:	JOEL Z. SCHWARZ, ESQ. ERIC D. HONE, ESQ.

FOR CPCM HOLDINGS, CHEYENNE MEDICAL, AND COMMERCE PARK MEDICAL:	JOSEPH A. GUTIERREZ, ESQ.
FOR NATURAL MEDICINE:	STEPHANIE J. SMITH, ESQ.
FOR NEVADA WELLNESS CENTER:	THEODORE PARKER, III, ESQ.
FOR DEEP ROOTS HARVEST:	RICHARD D. WILLIAMSON, ESQ.
FOR HELPING HANDS WELLNESS CENTER:	JARED B. KAHN, ESQ.
FOR NEVADA ORGANIC REMEDIES:	STEVEN B. SCOW, ESQ.
FOR GREENMART OF NEVADA NLV:	LEO WOLPERT, ESQ.
FOR JORGE PUPO:	JONATHAN A. RICH, ESQ.
FOR RURAL REMEDIES:	CLARENCE E. GAMBLE, ESQ.

M A T T E R S

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

LAS VEGAS, CLARK COUNTY, NEVADA, OCTOBER 21, 2022, 9:05 A.M.

*** * * * ***

THE COURT: So, Counsel in D.O.T., what we're going to do, if you don't mind, what we're going to do is we're going to ask you to come one by one to the podium to make your appearances. For those of you who used to do CD or other cases, this shouldn't be a new process. That way we can hear your appearances clearly, and then we can argue the motions.

And as you know, we're going to do, if you all agreed upon the order of the motions, then we'll do your order. If not, the Court's going to pick an order. So if you don't mind, since people are...

So would you all like to begin with doing your appearances, please. But let me call the case number first if you don't mind. Thank you so very much.

In Re: D.O.T. --

Counsel, I need to start to have them make appearances. So if you don't mind, please no chatting right now. Thank you so very much. So we can get you taken care of. Do appreciate it.

In Re: D.O.T. Litigation, Case 787004, pages 3 through 30.

Counsel, if you don't mind just doing your appearances, appreciate it.

MR. SCHWARZ: Good morning, Your Honor. Joel Schwarz

and Eric Hone on behalf of defendant Lone Mountain Partners.

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

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

MR. GUTIERREZ: Good morning, Your Honor. Joseph Gutierrez on behalf of CPCM Holdings, LLC, Cheyenne Medical, LLC, and Commerce Park Medical, LLC.

THE COURT: Counsel. Counsel. I've got to ask you again, please they're making appearances, and then you're talking and laughing. You can appreciate we can't hear the appearances. Second time. Please. Thank you.

Would you mind --

THE COURT RECORDER: I got it. Mr. Gutierrez.

THE COURT: You heard it. Okay.

MR. GUTIERREZ: You got it. Thank you.

THE COURT RECORDER: Thank you.

THE COURT: Go ahead, please.

MS. SMITH: Good morning, Your Honor. Stephanie Smith on behalf of Natural Medicine.

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

THE CLERK: And, sir, what is your bar number?

MR. RULIS: 11259.

THE CLERK: He's on here. Okay. Thank you.

THE COURT: Thank you. We have a wonderful clerk helping us out today. So bar numbers are also helpful just in case if you don't mind.

MR. PARKER: No worries, Your Honor. Teddy Parker on behalf of Nevada Wellness Center.

THE CLERK: We have you. Thank you.

MR. PARKER: Perfect. Thank you.

MR. CHRISTIANSEN: Good morning, Your Honor. Pete Christiansen on behalf of Qualcan. You have my Bar Number 5254.

THE COURT: Yeah. If they don't have it, they just may need to ask you all. Thank you so much. Go ahead, please.

MR. BECKSTROM: Good morning, Your Honor. James Beckstrom, 14032 on behalf of ETW Management, Global Harmony, Just Quality, Libra River (as said) Center, Rombough Real Estate and Zion Gardens.

THE COURT: Thank you. Go ahead, please.

MR. GRAF: Good morning, Your Honor. Rusty Graf on behalf of Clear River. 6322.

MS. HIGGINS: Good morning, Your Honor. Brigid Higgins, also on behalf of Clear River, LLC, Bar Number 5910.

THE CLERK: 59- ?

MS. HIGGINS: One zero.

THE COURT: Thank you. Okay. So remotely.

Madam Court Recorder, can you go to the top of the chat. What I'm going to do is I'm just going to say their name and ask them to make their appearances on behalf of their name and their parties, okay, straight from the chat.

THE COURT RECORDER: Yep.

THE COURT: That way we've got it in the same order. That should be helpful. Okay.

So Mr. Dzarnoski, I'm just doing it in the order that you checked in the chat. So if you all put your chats on on your end, right, and remember, everyone's got to be audiovisual. This Court only approved for audiovisual. Please feel free to read the order. If you're not audiovisual, you don't exist unless you're a member of the public, and then you're more than welcome.

MR. DZARNOSKI: Yes. Good morning, Your Honor. Mark Dzarnoski, Bar Number 3398 on behalf of the TGIG plaintiffs.

THE COURT: Thank you.

Mr. Rich.

MR. RICH: Good morning, Your Honor. Jonathan Rich, Bar Number 15312 on behalf of defendant Jorge Pupo.

THE COURT: Thank you.

Williamson.

MR. WILLIAMSON: Good morning, Your Honor. Richard Williamson on behalf of defendant Deep Roots Harvest, Inc., Bar Number 9932.

THE COURT: Appreciate it.

Madam Court Recorder, can you move up the chat a little bit so I can see the next series of names. Thank you so much.

Hold on a second.

(Pause in the proceedings.)

THE COURT: Mr. Newby.

MR. NEWBY: Good morning, Your Honor. Craig Newby on behalf of the Department of Taxation and its Cannabis Compliance Board. 8591 is my bar number.

THE COURT: Thank you.

And then we get to Mr. Slater.

MR. SLATER: Good morning. Craig Slater, Bar Number 8667, on behalf of Clark Natural Medicinal Solutions, Nye Natural Medicinal Solutions, Clark NMSD and Inyo Fine Cannabis Dispensary.

THE COURT: Thank you.

(Pause in the proceedings.)

THE COURT: Ms. Sugden and then Mr. --

Go ahead.

MS. SUGDEN: Good morning, Your Honor. Amy Sugden, Bar Number 9983, on behalf of THC Nevada, LLC.

THE COURT: Thank you.

Mr. Donath, please.

(No audible response.)

THE COURT: Mr. Donath, I see your name in the chat, but I do not hear anybody --

THE COURT RECORDER: He's up there in the far left. He's muted.

THE COURT: Maybe did you meet yourself, Counsel?

MR. KAHN: I'm sorry. Was that Mr. Khan?

THE COURT: We're going to go to Mr. Kahn, and then we'll go back to Mr. Donath.

Mr. Kahn, please.

MR. KAHN: Thank you. Jared Kahn on behalf of Helping Hands Wellness Center, 12603.

THE COURT: Okay. Mr. Gamble.

MR. GAMBLE: Yes, Your Honor. Clarence Gamble on behalf of Rural Remedies, Bar Number 4268.

THE COURT: Mr. Puzey.

MR. PUZEY: This is Jim Puzey on behalf of High Sierra Holistics, LLC, State Bar 5745.

Mr. Scow.

MR. SCOW: Good morning, Your Honor. Steven Scow, 9906 for Nevada Organic Remedies.

THE COURT: Okay. Mr. Donath, were you able to get that fixed? Can we do you, or should I keep going?

(No audible response.)

THE COURT: It looks like he needs another minute. So then we can keep going down.

THE COURT RECORDER: That's the end of it.

THE COURT: That's the end of it.

Okay. Mr. Donath, do want to put your appearance -- are you having --

THE COURT RECORDER: He is in the chat.

THE COURT: You're in the chat. Well, if you're planning on speaking today, you need to get your audio fixed, but --

MR. DONATH: Your Honor, can you hear me?

THE COURT: There we go. Would you like to make your appearance?

MR. DONATH: Your Honor, this is Nick Donath. Can you hear me?

THE COURT: We can now. Thank you.

MR. DONATH: I'm so sorry. My unmute button froze.

Nick Donath, 13106, on behalf of Green Leaf Farms Holdings, LLC, Green Therapeutics, LLC, NevCANN, LLC, and Red Earth, LLC. Thank you very much.

THE COURT: Thank you.

Mr. Bice, you just popped up in the chat. Go ahead, please.

MR. BICE: Yes, Your Honor. I apologize for not being in the chat. Todd Bice on behalf of the Essence parties, and also on is Jordan Smith on behalf of the Essence parties.

MR. J. SMITH: Good morning, Your Honor.

THE COURT: Thank you.

Has everyone else had an opportunity? We went through everyone in the chat. So anybody else who did not put their name in the chat?

(No audible response.)

THE COURT: Okay. So we're moving on.

So I do appreciate, like I said, sorry we would have liked to have gotten you started. I should've started you around 8:40. Calendar calls usually take about 10 minutes to get the docs and move on.

Friendly reminder, if anyone might have upcoming trials this is supposed to be easy things. Please read the trial orders in 2.673 and 2.69. It's actually easy.

In any event, that being said, do you all have a request on who's going next? Because I know we got started, but we did not obviously get to everyone. Remember I asked you that last time; if you all had a particular order, we would do it.

MR. ROSE: Your Honor, Chris Rose, for the record. I haven't spoken to anyone. As the Court knows from the first hearing, it ruled on the motion to retax as to the Essence parties.

THE COURT: Correct.

MR. ROSE: It seems to make sense to me, since Essence is a nonsettling defendant --

THE COURT: Right.

MR. ROSE: -- it would seem to make sense --

THE COURT: Do you want to go next?

MR. ROSE: Yeah. I think it makes sense to proceed with the nonsettling defendants and those costs.

THE COURT: Okay. I mean, that seems to make the most practical sense to the Court as well, because you all have some similarity potentially of arguments and responses.

Any reason not to, Mr. Rulis?

MR. RULIS: Hang on.

THE COURT: Oh, sorry.

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

I generally agree with what Mr. Rose proposed. I would go a step further and actually say, as far as parties go, I would propose we go Wellness Connection, Deep Roots --

THE COURT: Okay. Hold on a second. Remember I can write so fast, but go ahead. Wellness Connection, Deep Roots, and then what?

MR. RULIS: Clear River.

THE COURT: Okay. Anyone dis -- let me just do a --

MR. RULIS: And then there are other ones after that, but I then don't have an interest in. I think it's Lone Mountain, Thrive --

THE COURT: Well, let's get through the first three, and then we'll --

Anyone disagree with that order? Silence is acquiescence.

(No audible response.)

THE COURT: Okay. Mr. Rose, you're up. And remember, particularly since we have this very large number of people -- welcome, of course -- please do restate your name and your parties right before you argue.

MR. RULIS: And, Your Honor, sorry, before Mr. Rose starts, I just want to make sure -- it is our motion to retax. So I want to make sure we get the last word.

THE COURT: Well, that's what -- but the way you had wanted it before --

MR. RULIS: Understood.

THE COURT: I'm sorry. But good point. The Court was basing it on at the hearing in which the arguments went on for Essence that you kind of wanted them to go first and then be able to respond. If you want it in the standard motion to retax format so that you would go first, then they would go, and then you would go last in light of you already have the benefit of hearing some of the arguments, and the Court is fine with that as well, because I want to make sure you get your proper format.

If you wish Mr. Rose to go first, he's standing at the podium. It's really up to you all. What do you want?

MR. RULIS: We can shortcut. And that's -- we can

continue with the same pattern. I just wanted to make sure we were on the same page, that as the moving party we got the last word.

THE COURT: You do. And you can have the first and last word if you want it because you're the moving party. Do want to first and last? Do you want Mr. Rose to go first?

MR. PARKER: Your Honor, we're fine with him going first, and we'll take -- we'll bat clean up.

THE COURT: Sounds good. Just don't be the Dodgers this year. Go ahead. That would be postseason, not (indiscernible) regular season.

But go ahead, Counsel.

MR. ROSE: Thank you, Your Honor.

THE COURT: Oh, and thank you. Since we have a wonderful clerk helping us out today, in fairness to her, can you also state the name of your motion when you speak so we just get it clearly for your record.

MR. ROSE: Yes.

THE COURT: It's not your motion. It's technically your motion -- you know what, Luisa just raised a very good point. You know what, sorry, Mr. Rose. I have to have Mr. Rulis first because we have to have the, quote, the motion first in order for your record, in order to get these clarified because of the number.

MR. ROSE: Your Honor, I'm fine with however the

Court would prefer to proceed.

THE COURT: You can stay a podium. Mr. Rulis is staying near counsel table. Or if he wants to bump you from the podium...

MR. RULIS: That works.

MR. ROSE: I'll take a seat.

MR. RULIS: Thank you.

MR. ROSE: You can stand were you are.

MR. RULIS: I'm hemmed in a little bit anyway.

THE COURT: Okay. You can sit down, stand up, whatever makes you comfortable. Because remember people remotely are sitting down. So feel free to sit down, stand up, whatever makes you comfortable.

Go ahead, Counsel.

MR. RULIS: Appreciate that, Your Honor. Nate Rulis on behalf of MM and LivFree, and it is the nonsettling -- or excuse me, the settling plaintiff's motion to retax and settle costs regarding Wellness Connection of Nevada, LLC, that was filed on August 12th at 8:14 p.m.

THE COURT: Thank you so much for all of that. Appreciate it. Go ahead.

MR. RULIS: And I think -- so Wellness Connection has a specific issue that I think needs to be addressed.

THE COURT: He would have no idea what document numbers are.

UNIDENTIFIED SPEAKER: Oh, okay.

MR. RULIS: Sorry. I had them at one point. I don't have that specifically in front of me, and I apologize.

But there is one specific issue that we do need to address with Wellness Connection I think before we get into the meat of the costs that are being requested, and that is Wellness Connection has also separately filed a notice of appeal in the interim after filing their memo of costs. And the reason that I think that becomes an issue is because in their notice of appeal, which was filed on September 2nd at 1:56 p.m., they specifically appeal the prior orders of the Court relating to motions for fees, but also the order granting motions to retax, including prior motions to retax as it relates to Wellness's costs. And so we had --

THE COURT: So that appeal, contrary to the general rule of fees and costs, separate appealable order that still can be done by a District Court, even pending appeal, you're saying interrelates here because of the overlap with other fees and costs? Is that what --

MR. RULIS: I believe that is an issue, Your Honor, yes, because they have specifically appealed motions to retax, and that's what we're here to deal with, and I believe that they had -- and Mr. Rose can correct me if I'm wrong. I believe they filed, or at least they've conveyed to the settlement Judge at the Supreme Court that they'd like to get

this resolved first, but there is an issue, and it may be that --

THE COURT: Which this? Which this? I'm sorry, which this is this?

MR. RULIS: Fair, Your Honor. The Wellness Connection costs is that Wellness Connection would like to proceed with a decision on their costs here before moving forward on anything on their specific appeal. I think just as far as jurisdictional issues, if Your Honor is going to move forward on a decision on Wellness Connection's costs, then it may be that we are also required to go through the *Huneycutt* procedure, which wasn't previously addressed in part because the notice of appeal wasn't filed until after the motion was filed.

THE COURT: All right. *Huneycutt* and its progeny were what the Court has -- Nevada Supreme Court has modified and given some clarification with regards to *Huneycutt*, and then you've got the -- okay.

So let me at least give you a minute or two to discuss that so we don't get side railed with everybody else on what you are requesting the Court to rule on today and how that -- if you think that does or does not impact your pending appeal, but the shorter version versus the substantive if you don't mind. Thanks.

MR. ROSE: Yes, Your Honor. Chris Rose, 7500 for

Wellness Connection.

Clearly, what the Court has before it today, clearly does not affect our appeal. I understand why Mr. Rulis is mentioning these issues; none of them have been briefed. But here's the issue, and Mr. Bice in the original argument really cleaned this issue up.

After the trial two years ago, we were -- there might have been another party, I'm not sure, but I think we were one of if not the only party in 2020 to file a memorandum of costs. We also filed a motion for attorneys' fees.

What we are appealing is the denial -- or actually the grant of those motions to retax. And, as Mr. Bice already explained to the Court, Mr. Bice presented you a copy of the order. I've got another copy if the Court would like it.

Here's what the Court did back in 2020. It said the award of costs is premature because there's not a final judgment. I'm paraphrasing. Final judgment will be issued. This decision -- and so it granted the motion to retax, and we were not allowed to recover costs in 2020. And I quote, "This decision is without prejudice to seek recovery of costs at the time of the final judgment." I just read from the order filed August 30th, 2021 at 9:39 a.m.

So, Your Honor, we appealed that order because we didn't want to lose our rights to appeal it, but because there have been new memorandums of costs filed and new motions to

retax, the Court's free to proceed and rule on these issues to grant us our costs, to deny the motions to retax, and it would render this moot.

And, as Judge Gonzalez ordered, we are allowed to do exactly what we did, which was to file -- to refile our memorandum of costs after the final judgment was issued.

There's no *Huneycutt* issue here, Your Honor. So I believe the Court -- I understand Mr. Rulis raised the issue. There's no issue for us as far as what we're asking for. We think we're entitled to our costs. Judge Gonzalez in her 2020 order ordered that we could seek costs at a later date, which we did. They are now trying to retax, and that's the issue before the Court. There's nothing, including our appeal, there's nothing that prevents the Court from going forward.

And, as the Court knows, when a final judgment has been entered, it can make rulings about costs and attorneys' fees, and that's what's before the Court. So if they don't --

THE COURT: Unless it's otherwise already before the appellate court, but, yeah. Unless it's already before the appellate court.

MR. ROSE: Well, what's before the appellate court is the appeal of the prior order, not any appeal regarding any of the issues relating to our memorandum of costs just filed recently. So completely separate issues.

THE COURT: Then from a pure chronological

standpoint, the Court's going to have a real quick question. Is chronology -- you don't disagree; right? August 12th was the motion to retax against your client, and then the appeal is September. Is that correct or incorrect?

MR. ROSE: I would have to double check the date that we filed the appeal, but if Mr. Rulis is representing those dates, I don't have any dispute.

THE COURT: And you said September 2nd; did you not?

MR. RULIS: Your Honor, Nate Rulis for the record. Yeah, September 2nd, at 1:56 p.m.

THE COURT: Okay.

MR. ROSE: So it would have been a timely appeal based on when the final judgment was entered.

THE COURT: I'm not -- my question was more from a chronological standpoint. Here, if costs are raised in your appeal, and they postdate the date of the motion to retax costs, and the intervening order from Judge Gonzalez, which was August 30th, that still would predate your appeal. So if you're the master of your appeal, are you saying the appeal does not address costs at all? I mean, the chronology I understood, right, is August 12th motion -- well, memorandum of costs. You did one in 2020. You did another one in 2022; correct?

MR. ROSE: Correct.

THE COURT: That's what I show.

MR. ROSE: Correct.

THE COURT: And then I show August 12th is the motion to retax. The motion to retax pretty much addressing the most recent -- but then you have, in the interim time period, you have the pending motion before Judge Gonzalez that she ruled on August 30th that -- wait. August 30th of 2021, what's the date of that order, 2021 or '19?

MR. ROSE: August 30th of 2021.

THE COURT: 2021.

MR. ROSE: That the rulings were made, I believe in 2020, and the plaintiffs entered the orders later on in 2021, but the rulings, Your Honor, on appeal pertain to the memorandum of costs filed in 2020.

THE COURT: Before you had the -- but you had it after you had already the order saying that it was without prejudice; correct?

Okay. I'm sorry. What's the year of the appeal? Was it 2021 or 2020?

MR. ROSE: No. Your Honor, let me give the Court the chronology.

THE COURT: Yeah. Because your dates aren't making sense as I'm -- okay. Go ahead.

MR. ROSE: Here's the chronology, and I won't give specific month or dates, but in 2020, we filed our memorandum

of costs.

THE COURT: Right.

MR. ROSE: In 2020, certain plaintiffs also filed motions to retax those costs.

THE COURT: Correct. That's the order for August 30, 2021; correct?

MR. ROSE: The order granting the motion to recosts, (as said) was filed August 30th, 2021, saying that we could refile our costs, memorandum of costs at a letter date.

THE COURT: Right.

MR. ROSE: After the final judgment was entered in this case, just a few months ago, we filed our memorandum of costs. That was filed August 9th, 2022, completely different memorandum of costs. It's not the memorandum of costs that was at issue in the prior ruling and the prior motions.

And then the plaintiffs filed their motion to retax.

THE COURT: August 12th.

MR. ROSE: Correct.

THE COURT: And then September 2nd, you filed your appeal 2022.

MR. ROSE: Yeah. And again, I don't have the specific date, but we filed our appeal within 30 days, but that appeal is at the denial of costs and attorneys' fees that we sought in 2020. They're unrelated to what's pending before the Court.

THE COURT: The denial, slash, it wasn't yet ripe ruling?

MR. ROSE: That's exactly right.

THE COURT: So it's not to any substantive costs. It was just to the fact that it wasn't ripe? That's the structure -- that's what I'm trying to get, because the bottom line is I can appreciate your costs may be different, but there's going to be an overlap because you don't have new dollars, trial -- I'll say new discovery dollars. Make my life easy; right? You don't have new discovery dollars that all of a sudden pop up between August 30th, 2021, and today; right? Or August 12th, 2022, in the motion to retax. So those aren't new discovery dollars. So there's no overlap.

But you're saying your appeal is to the decision that it was not ripe and it has nothing to do with the underlying dollars and the costs that would overlap with what's before the Court today. That's really -- that's where I'm seeing a distinction between what you may be arguing, Mr. Rulis is arguing because if it's an overlap of the dollars, right, if your appeal is not only that Judge Gonzalez said that her denial was by saying it's not ripe also denied you somehow the dollars, discovery dollars, make my life easy, right, discovery dollars substantively, then there's a *Huneycutt* analysis.

If your appeal doesn't, it always disagrees with the decision that it is not yet ripe, and there, quote, therefore

was no -- nothing on the merits and doesn't impact discovery dollars. Again, once again, that's my easy example, then there isn't likely a *Huneycutt* analysis.

So that's where I'm trying to get the framework correct on what you each are asserting.

MR. ROSE: Understood. And I can tell you the appeal is only of the Court's order that our memorandum of costs was premature. It's a procedural issue. It never took --

THE COURT: Procedure, no substance. Okay.

MR. ROSE: Yeah, the Court never reached whether we were entitled to costs, what the costs were, whether they were reasonable. All the Court did was say this should not have been filed at this point. You can refile later. So it's purely a procedural issue, and for that reason doesn't affect anything the Court --

THE COURT: Mr. Rulis, do you agree that the -- the master of the appeal says that their appeal only covers that procedural determination. Basically it's a not ripe yet decision, or it's a denied without prejudice because there's no final judgment. It's procedural; it's not substance. So if there's not an overlap with what's before the Court today, so therefore there's no *Huneycutt* analysis, or do you have a different opinion?

MR. RULIS: Well, Your Honor -- Nate Rulis for the record.

I guess I appreciate Mr. Rose is saying that. From what I've seen of the appellate documents, I can't make that determination. I just -- what I have is the notice of appeal that specifically says they're appealing the order granting motions to retax that includes the granting of TGIG plaintiff's motion to retax Wellness's memorandum of costs, and ETW plaintiff's motion to retax Wellness's memorandum of costs entered on August 30, 2021, which is attached.

THE COURT: Okay. Circle back to that order. Does that grant the motion to retax, or does that just say procedurally it grants it because procedurally it's not ripe before it? Okay?

MR. RULIS: Yes.

THE COURT: Okay. Well, here's what the Court is going to do. The Court is going to do -- I've got a representation --

MR. DZARNOSKI: Your Honor --

THE COURT: Sorry. Who wants to speak that's trying to speak? Go ahead.

MR. DZARNOSKI: Yes. This is Mark Dzarnoski, Your Honor. We also filed a motion to retax Wellness Connection, and I would like to be addressed on this one issue.

THE COURT: Sure. Go ahead, please.

MR. DZARNOSKI: Thank you, Your Honor.

Unfortunately or the counsel is only referring or so

far have only referred to one of the orders that is subject to the notice of appeal. The notice of appeal specifically references several orders, one of which was in connection with a Wellness Connection of Nevada filing a motion for attorney fees wherein they are -- and this was on October 13th of 2020, and therein they argue that they were entitled to their attorney fees in part because they were a prevailing party. And so the issue of prevailing party was presented not only in the motion to retax that they are discussing now, but it was also presented in the motion for attorney fees and costs.

The Judge Gonzalez, by order dated August 27th of 2021, issued an order denying the motion for attorney fees. And in that order there was a substantive determination.

And I will read directly from the order of 8/27/2021:

Quote, Plaintiff's claims were brought with reasonable basis. Other applicants like Wellness Connection of Nevada, LLC, were joined as a result of motion practice brought related to joinder issues on the petition for judicial review claim. Wellness Connection of Nevada, LLC, does not satisfy the analysis for a prevailing party under these circumstances.

The notice of appeal filed on September 2nd appeals directly that order which substantively has entered a ruling not only that is applicable to Wellness Connection, but it's also by implication and by the words used by Judge Gonzalez applicable to the other applicants who would join solely for

purposes of the judicial review claim.

So what we've got is a situation where as of September 2nd, after we filed our motion to retax, the appeal occurred, which in our opinion, divested the Court of jurisdiction to consider matters that were related to the issues that are presented in the current motion, that the rule as set forth in *Bongiovi vs. Bongiovi*, 94 NEV 321 (1978), is that unless the issue before the District Court is entirely collateral to and independent from that part of the case taken up by appeal, then subject matter jurisdiction no longer lies.

And I would suggest to the Court that not only does the issue of prevailing party, as ruled upon by Judge Gonzalez and is now on appeal, not only does it bar or take away jurisdiction for Wellness Connection's claims here until the appeal is resolved, but it also does as to all others similarly situated applicants, and so there is a substantive order, and I think you need to look at the notice of appeal as to the orders for both the motion for attorney fees and the motion for retaxing.

And if you look at them both together, I believe that you do have a *Huneycutt* issue.

Thank you.

MR. ROSE: Your Honor, may I address this?

THE COURT: Okay. You get two minutes because I've got everyone else that's got to get taken care of; right?

MR. ROSE: Well, you can see why the plaintiffs don't want to get the issue -- to the issue of costs. This has already been addressed. As Mr. Bice pointed out last time, they raised this argument about Judge Gonzalez's order. They don't want to talk about the cost. They want to talk about our request for attorneys' fees, which is completely unrelated to what we're here to talk about.

THE COURT: I'm going to tell you where the Court's going. The short answer is that order on 8/27, Document 2750, is attorneys' fees. It doesn't say cost by its nature. The motion before the Court for that order was attorneys' fees only. The analysis was on a PJR for attorneys' fees only. This is not a situation where you have an overlap with a 68 or an old seventeen, one, one, five, et cetera, whatever; however, you'd like to go.

The Court is not going to take a determination solely on an attorneys' fees motion based on that attorneys' fee motion being the sole issue before the Court, which is now this Court -- because first it was 11. Just add 20. Now it's 31, okay. That it applies to the cost, because as you all know, there's different sources for costs versus attorneys' fees. There' are different case law: *Cadle vs. Woods and Erickson*, *In Re Dish Network*, *Bobby Berosini*, hypothetically on costs, *Brunzell* on attorneys' fees. I'm not saying that those are exhaustive.

But this -- are separate case law. So the statutory basis on costs versus on attorneys' fees, this is not an issue that's been presented to this Court that is one of those overlap situations. The order on its face is clear. Motion for attorneys' fees and that that ruling was on regards to the motion for attorneys' fees.

Interestingly enough, a couple days later, there's a motion on costs. If they were interrelated, it would have been a crossover, cross-reference or wouldn't -- it said one has a substantive ruling on a prevailing party. The cost, however, is just opposite. The cost says it's not yet ripe. It doesn't say because you're not a prevailing party, see the 8/30 -- (indiscernible) sake of my court reporters and everyone, I'm going to delve into the 8/30 order granting motion to retax is 2752. Different document, different notice of entries of order. Different orders under *Division of Family Services*. Of course, the orders, as memorialized, right, are the official orders of the Court, *Rust versus Clark County* as well. So no *Huneycutt*.

Let's move to substance, folks.

MR. ROSE: Thank you, Your Honor. I'll sit down and let Mr. Rulis proceed.

THE COURT: And Mr. Dzarnoski, to the extent that he's on this part of it as well.

Go ahead.

MR. RULIS: Thank you. Your Honor, Nate Rulis for the record. Thank you for it least addressing that first and foremost so we could go forward.

THE COURT: At least -- I gave you case law.

Go ahead.

MR. RULIS: No, you certainly did, and that's --

THE COURT: I give you citation. I'm kidding you. I'm kidding.

MR. RULIS: -- I just wanted to make sure --

THE COURT: Sorry. You can tell it's already been a long morning. Do you want to provide me a foot of stuff too to --

Go ahead.

MR. RULIS: I'm just trying to make sure we have a clear record moving forward.

THE COURT: Clear record. I've dealt with saying there's not a *Huneycutt* issue. Now, you're going to go to the substance of your actual motion to retax. Go ahead, please.

MR. RULIS: So, Your Honor, and I don't want to belabor the same issues that we have previously argued. I will simply state that obviously from our briefs we believe that as far as the settling plaintiffs go we are considered a prevailing party. I know we had that discussion last time, but, you know, one of the issues is, and one of the examples that I wanted to come back to that I touched on last time, but

I don't know that we got into is take, for example, Planet 13.

They were asking for, as part of this litigation, a license at a location that they had specifically disclosed in their application. That's what the appeal that got, you know, a writ of mandamus allowing our appeal to go forward in front of the D.O.T. was about was that we had a location of where the application had required a location, and we were scored less because we had an actual location versus those that had a hypothetical, mythical plan that never actually got put in place.

We got a license, we being Planet 13, got a license out of this litigation and opened that very store that we were asking to get a license to open. So as far as the -- I know that when we're talking about a prevailing party analysis, it's what did we -- did we get what we tried to out of this litigation, and it is, as I'm using Planet 13 as an example, they got the location they were trying to get.

So, you know, it wasn't like -- and this is the same thing that we were talking about before, but it's we weren't asking to take somebody's specific license. We were asking for a license that we could open up that store, which they got, and they did, and that's why, as far as a prevailing party analysis goes, we believe that we should be considered a prevailing party, and costs should not be awarded against us.

Now, you know, that's one of the examples that I just

wanted to clarify because we were talking about last time, but --

THE COURT: So that's a bit of a different framing than Mr. Bice's framing, right, the last time, on licenses. You're talking about licenses and specific location versus licenses overall; right?

MR. RULIS: Yeah. And that's why I guess, and I apologize if I wasn't clear enough on that, but that's what the -- when I was talking about last time, we had the motion for summary judgment that was granted in my client's favor, allowing their appeals to go forward in front of the Department of Taxation. It was related to the scoring issues, and for Planet 13 it was specific. It was location specific, and it was we have a location that we have presented that we're asking for a license for, and we got scored lower than we believe we should have because we should've gotten a license for that location. That's what they've got then as part of the settlement, is a license that they went and opened that very location.

THE COURT: Okay.

MR. RULIS: Now, LivFree had the same sort of thing where they had a scoring issue. We got a writ of mandamus allowing them to go forward with their appeal. Their appeal was then rendered moot because they got a license that they were able then to go open their store. That's, you know -- and

the other thing that came up is I know -- I don't think that Wellness Connection is necessarily one that intervened, but some of the, you know, Essence was one. I know Clear River is one of the parties. It wasn't that they were brought in after subsequent motion practice. It was they intervened. As a matter of fact, Essence did it over our opposition.

THE COURT: We're not -- the Court's (indiscernible) --

MR. RULIS: I know. I'm not --

THE COURT: I appreciate it, but I think we have enough other parties that want to be heard today. Let's not go back to the other time period. Thank you so much.

MR. RULIS: So as far as Wellness Connection, they were brought in when it related to it, you know, via the long I think motion practice in front of Judge Gonzalez that said for purposes of a petition of judicial review, you have to include the applicants.

So they were then brought in as it relates to the petition for judicial review, which by the way I think is an important point to remember when we're talking about the costs that were incurred. They were brought in because they were supposed to be named as a party to the petition for judicial review, which is, by the way, that's the argument that Clear River, which we'll get to, was making in front of Judge Gonzalez.

I know. I know, but that's just some context for how this came up and how Wellness Connection ended up getting in here is because their codefendant said they need to be included as part of this litigation. And Judge Gonzalez said for petitions for judicial review, which Your Honor has said was essentially one day, it's limited to the record, that's what they were brought in for.

So, you know, again, when it comes to the costs that are being requested for what they were brought in for, not only do we think that they shouldn't be allowed any of them because they're not a prevailing party, but they're unreasonable and excessive, and I think specifically to Wellness Connection, the motion and the reply address specific issues that again, I think all of them probably are not allowable as the party to the judicial review, but specifically you have legal research, runner services, photocopies, trial services and outside copies, which do not have sufficient supporting documentation under Nevada law, that's *Berosini*, *Fairway Chevy*, Villa Builders (phonetic), that says Your Honor can award those costs to them, and so those costs, at a minimum, again, you know, we believe that they shouldn't be awarded any costs against settling plaintiffs, but at a minimum, those costs that I've enumerated should not be allowed.

THE COURT: Okay. Thank you.

UNIDENTIFIED SPEAKER: Your Honor --

THE COURT: Let me --

MR. ROSE: Yeah. You're going to have --

THE COURT: Mr. Dzarnoski, are you in this? Do you need to be heard on this portion or not? I didn't --

MR. PARKER: Yes. I mean, I'm one of the settling plaintiffs, Your Honor.

THE COURT: No. No, Mr. Dzarnoski had asked --

MR. PARKER: Oh, he's jumping in.

THE COURT: I wasn't sure.

MR. PARKER: Oh, that's fine, Your Honor. Whatever order you want to take it in.

THE COURT: You get to jump in in two seconds, but go ahead. Just --

MR. PARKER: Go right ahead. Let Mr. Dzarnoski jump in.

MR. DZARNOSKI: This is Mark Dzarnoski, and basically the only thing I'd add, I concur with what Mr. Rulis said, but the thing I would add is and emphasize is that the sole reason other applicants are involved in terms of you getting and making an analysis as to who is a prevailing party is because they needed to be brought in pursuant to the District Court's order to deal with the judicial review.

So to the extent that they prevailed in judicial review, okay, look at their costs. However, costs aren't recoverable in a judicial review proceeding. So I agree with

what Mr. Rulis said, and I'll leave it at that.

THE COURT: Okay. Thank you.

Mr. Parker, would you like to --

MR. PUZEY: Your Honor. This is Jim --

THE COURT: Wait just a second. I'm letting Mr. Parker next. Wait a second. You don't get to just please talk. Mr. Parker, I said he would be next. So he gets to be next. We'll get you in just a second, Counsel.

MR. PARKER: Thank you. Thank you, Your Honor, and I guess I'm going to use the podium.

THE COURT: Sure. Go ahead, please.

MR. PARKER: Your Honor, getting to the substance, and I'll start there in terms of costs, and then I'll work back to some of my concerns regarding whether or not costs are reliable in these types of cases and whether or not your review of *Golightly*, the *Golightly Vannah* case and then your case, Your Honor, the *Torres* case that came a few years later in 2018 applied to this, and hopefully the Court remembers your decision you made in the *Torres* case.

THE COURT: In a very different situation in which Judge Gonzalez set a separate petition for judicial review. I had a different case. There was rulings in there. Yeah, I'm a little familiar with it. Go ahead.

MR. PARKER: Good enough. Good enough.

THE COURT: Top of the head recollection. Go ahead,

please.

MR. PARKER: I like it. I like it, Your Honor.

So looking -- starting at the actual memorandum, Your Honor, if you look at this document, it includes costs quite often without dates. Some, the more expensive ones, the video deposition, transcript fees, you don't see dates there. And, of course, you would need dates to be able to make a decision on these costs.

Now, what Mr. Rulis said earlier regarding the circumstances that brought Wellness Connection into this case, he's repeating or paraphrasing from paragraph 4 of our Second Amended Complaint. The Second Amended Complaint in the petition for judicial review or writ of mandamus filed on behalf of Nevada Wellness Center is dated March 26, 2020, and paragraph 4 reads verbatim,

> The following defendants are applied -- are all applied for recreational marijuana licenses and are being named in accordance with Nevada Administrative Procedure Act.

That's exactly the reason why they were brought in. We didn't identify them originally as defendants, and it was over a year before they were named as defendants in our complaint, similar to the majority of the settling plaintiffs.

So the reason I bring this up, is if you look at all of the costs prior to March 26, 2020, they weren't a defendant

in our case. Fees should not be awarded to them.

So and I believe that's similar to all of the settling plaintiffs. So I wanted to make sure from looking at the cost, because Mr.-- and I think this is where Mr. Rulis left off. We are running away from the costs themselves. Well, we're not. I want to address that upfront so that there's no confusion that we're not afraid to address the costs.

But the Court has to be aware of the timing of the incurrence of these costs.

So in terms of his memorandum, everything prior to March 26, 2020, shouldn't be considered, and everything after we settled, July 29th, 2020 should not be considered.

THE COURT: Okay. Repeat those dates again, please.

MR. PARKER: Sure. March 26, 2020, and I brought a copy of the complaint for the Court's ease of reference if you want it, Your Honor, just so you could have paragraph 4 in front of you.

THE COURT: Sure. So you're telling me I don't have to go keep looking back and forth on it.

MR. PARKER: You don't have to. I brought it for you.

THE COURT: I appreciate it. Thank you.

MR. PARKER: Of course. Any time.

THE COURT: Please continue. Go ahead.

MR. PARKER: Yes, Your Honor.

THE COURT: You said March 26, 2020.

MR. PARKER: Yes, it's right on the front page.

THE COURT: Or before, and then afterwards.

MR. PARKER: After we settled, I believe July 29th, 2020, Your Honor. So anything before and anything after shouldn't be considered as to the settling plaintiffs. They may have a different argument with the nonsettling plaintiffs, but certainly in terms of the settling plaintiffs.

Now, Your Honor, I thoroughly, probably more often than I wanted to, read through the *Golightly & Vannah PLLC versus TJ Allen* case. You've probably read it more than you wanted to, and it's referenced in the Supreme Court's affirmance of your second ruling in this case, and in this case, they found that through the interpleader action, and *Golightly* was an interpleader action, the *Torres* case was a -- started out as a PI case seeking benefits under an insurance policy and then later turned into a declaratory relief action. That it was brought under 483, and eventually they got it.

THE COURT: Two different departments, two different rulings, two different aspects depending on participation. Two different aspects under the minimal insurance statute provision.

MR. PARKER: That's correct.

THE COURT: If my recollection is correct.

MR. PARKER: That's correct. And in that case, eventually the plaintiff received a judgment below 20,000 and then fees and costs afterwards.

Looking at this case, Your Honor, I'm not sure that Wellness Connection ever answered our complaint. And the reason I bring that to the Court's attention is in *Golightly*, in the *Golightly* case, there were several, several people, medical providers that had an interest in the case, and that's a perfection of an attorney lien case, but only two of the potential creditors answered the complaint. There were no fees or costs given to those who didn't answer the complaint.

And in this case, we named a lot of defendants, but not all of them answered, and as a result, not all of them are here before you asking for fees or costs.

Now, I can also tell you that certainly, if they did answer, they would be entitled to costs or fees until after that point. So when you look at March 26, 2020, that's the earliest date. If they didn't answer at all, I would say they're not entitled to any fees and costs against any of the settling plaintiffs. Because if you simply apply *Golightly*, that's what happens.

Now, one other thing I want to point out, Your Honor, and this is not -- this is something that we're going to support in our competing orders when it comes to Essence, but it's applicable here. We're going to provide the Court the

dates of when we filed the complaint, which the Court knows, the dates where their costs may have actually been incurred after they answered and then when those costs should be cut off based upon our settlement.

And by way of example, Essence didn't answer our complaint. So I'll give them credit for answering it, but they didn't answer it until July 8th, 2020. So when the Court sees the competing orders for the cost, you'll have an understanding because we're going to do the same thing when it comes to Wellness Connection, and they may not have answered because there were several that did nothing.

In fact, we have no answer, you'll find this out, and I'll wait. I don't want to go beyond what I'm -- right now.

THE COURT: Yeah, please, because, realistically, I've got two hours and 10 minutes. We're going to have to take a 10-minute break at some point for my team, to get you all taken care of, and, you know what I mean, so --

MR. PARKER: Of course. Of course, Your Honor. I'm putting this in front of Your Honor because when you strictly review these cases, Wellness Connection is not a prevailing party. Nevada Wellness received a Clark County license. When we filed our motion for settlement, the same way all the other plaintiffs did, settling plaintiffs did, there was no opposition from any of these defendants, and they received the benefit of our settlement because we didn't continue

cross-examining the witnesses. We didn't bring any further witnesses. We didn't do a closing argument.

Now, if you look at the *Torres* case and the *Golightly* case, at the end of these cases, the Supreme Court says that -- and they determine whether the prevailing -- who the prevailing party is based upon the recovery. And if you want to really boil it down to the essential holding, it says, we conclude that *Torres* succeeded on a significant issue at trial.

Now, my client filed a motion for summary judgment as to a portion of this case, and we succeeded on that summary judgment in that the original process violated the statute, and we won on that issue. We also received, like I said, our Clark County license, which is worth millions given what we've been told by the defendants in their oral arguments because they said that they are maintaining their licenses 'cause they're worth millions. So certainly gaining licenses worth millions is also significant.

Reading the *Golightly* case and the *Torres* case.

Additionally, the Court granted our preliminary injunction and a permanent injunction. My first -- the first cause of action in the complaint we had is for declaratory relief. We also have a cause of action for permanent injunction. Granted.

There's no way in this world this Court can say that in terms of Wellness Connection the settling plaintiffs did not

prevail, or not the prevailing parties because we all received licenses. In fact, I believe Qualcan received two licenses. So we all received licenses. We all had motions granted in our favor. We all got the benefit of a temporary and permanent injunction, Your Honor, and the Court found numerous irregularities in the process.

So to say we didn't win using these cases, Your Honor, I believe is simply inviting error into a determination that Wellness Connection could be the prevailing party.

THE COURT: Okay. Thank you so very much.

MR. PARKER: Thank you, Your Honor.

THE COURT: Appreciate it.

Now, is counsel remotely, I don't know exactly who that was because there's so many boxes, but if you wish to speak, go ahead next, please. Please just identify yourself first, please.

MR. PUZEY: Thank you, Your Honor. This is Jim Puzey on behalf of High Sierra Holistics, and as it pertains to Wellness Connection, I would just like to draw the Court's attention when it ultimately made its decision to the Wellness Connection of Nevada, LLC's, Omnibus opposition to moving parties motion to retax and settle costs and all joinders, and they identify the High Sierra Holistics motion to retax and settle costs in that. And on page 2 of 14 of footnote 3, it says to the extent that HSH moving parties did not allege

claims against Wellness or name Wellness as a defendant, then Wellness is not seeking to recover its costs against HSH moving parties. I just want to make sure I bring that to the Court's attention.

Wellness Connection obviously saw what High Sierra was doing. They've agreed not to bring costs there, and I think that Wellness's logic applies to the balance of the people who have moved for costs, including Essence and Clear River and the balance of everyone, but specifically Wellness has said they're not recovering costs from High Sierra, and I just wanted to make sure the Court was aware of that.

THE COURT: Okay.

MR. PARKER: Your Honor did he give you the document number? I apologize.

THE COURT: I was about to ask for that.

MR. PARKER: Thank you.

THE COURT: Counsel, doc number? Date at least if you don't have a document number.

MR. PUZEY: Absolutely.

THE COURT: And, Counsel, just to let you know, it's --

MR. PUZEY: Your Honor, I don't have document numbers, but the opposition was filed on August 25th at -- 2022 at 10:16 a.m.

THE COURT: Okay. Can you repeat that date, please.

MR. RULIS: Your Honor, this -- sorry, Nate Rulis for the record. I have a copy if you would like me to --

MR. PUZEY: August --

THE COURT: Oh, just a second. Mr. Rulis says he has a copy he can hand me.

So did Mr. Parker need to see that? Because you were the one that asked. Who is --

MR. PARKER: I just needed the document number, Your Honor, but it doesn't have it on here.

THE COURT: Okay. Well, I can find it by date, folks. I still was looking for --

Marshal, I do appreciate it. Thank you so much.

MR. ROSE: And, Your Honor, he's referencing page 2, Footnote 3 of our brief.

THE COURT: Right. Right. I'm just trying real quickly.

Remember, there's 3,000 entries here. It means I have to click through all of them, but you have to understand, if I click too many times, it then phases out, and so it's not responding. So I have to wait.

(Pause in the proceedings.)

THE COURT: Well, Counsel, I can't find the document. Realistically, I'm still in 2020.

MR. PARKER: No worries, Your Honor.

THE COURT: And it would take me way too much time

to --

MR. PARKER: No worries.

THE COURT: -- to try and find that. So page 2, Footnote.

MR. PARKER: 3.

THE COURT: 3.

(Court reading out loud.)

MR. ROSE: Or named Wellness as a defendant.

THE COURT: Okay. So, Counsel, Mr. Rose, did you answer the complaint of Mr. Parker's clients?

MR. ROSE: Yes, Your Honor, I believe we did. Absolutely.

THE COURT: Can you give me a date?

MR. ROSE: We answered a number of complaints from the various plaintiffs. I believe we answered all of the complaints by all of the plaintiffs. I don't have the date, Your Honor, because this is an argument that he's raising now that was not raised in any of the briefing --

THE COURT: But wouldn't it have been your obligation when you were seeking your costs to set forth who you were seeking the costs against and to have had a basis to seek the cost -- I appreciate your Footnote 3, but --

MR. ROSE: No, Your Honor, the statute says you file your memorandum of costs. When you have multiple plaintiffs, the statute doesn't say you have to pick and choose or specify

the dates. You're hearing a lot of arguments that were not raise in any of the briefing.

THE COURT: Well, I'm hearing a lot of arguments that weren't raised in a variety of different things, appreciating that I've got lots of entries on these.

Okay. So.

MR. ROSE: Understood, Your Honor.

THE COURT: Okay. So, well, Mr. Last word, go ahead.

MR. ROSE: Are we going to have --

THE COURT: I have a couple more.

MR. ROSE: Oh, whoever is next. I know Mr. Dzarnoski also is going to go.

THE COURT: Well, Mr. Dzarnoski just got to go, but I haven't heard Mr. Christiansen. I think you want to speak and you haven't had a chance. Go ahead, please.

MR. CHRISTIANSEN: Super brief, Your Honor. I join in all the other arguments. I'd point out that my client Qualcan -- again, Pete Christiansen for the record on behalf of Qualcan -- started -- was not part of the initial preliminary injunction. Motion work was not part -- was not even -- didn't even have a complaint for any of that. So costs, as I point out, as Mr. Parker did, associated with that, my client wasn't even in the case.

So with that being said, Qualcan came out, started with zero licenses, came out with two licenses worth multiple

millions of dollars each. So they're a prevailing party, not the moving parties.

And secondly, I'd point out, just as a particular matter, they're seeking costs, like, by way of example, Judge, for video and depo transcripts for all depositions. I mean, isn't that double dipping by definition?

THE COURT: Just to let you know, there are significant issues with the costs under *Cadle versus Woods & Erickson*, *In Re Dish Network* and *Bobby Berosini*, okay. Realistically, where the Court, I have to focus on the first step --

MR. CHRISTIANSEN: Understood.

THE COURT: -- in light of each of you all's unique arguments on, A, are you in this? I'll use the term rubric; right, are in this multifamily dwelling, okay, of various parties? And if you are, how long have you lived in the dwelling; right? Or how -- when did you come in and out of the rubric.

MR. CHRISTIANSEN: Correct. And I want to give the Court that information for my client. Qualcan's complaint following the administrative order directing Qualcan to name all the applicants was filed February 11th, 2020. I do not believe it was answered by this moving party, nor Clear River, and the settlement is the same day that everybody else settled in July.

Thank you, Judge.

THE COURT: Okay. Anybody else need to be heard? If not come I'm going to ask Mr. Rose a question.

(Multiple parties talking, indiscernible speech.)

THE COURT: Okay. Anybody else is probably not my best choice of words.

The challenge with remote aspect is we have to do this in some type of order. So before people speak, let's turn on your little green lights, and let's see who's about to speak, and then we'll call one at a time.

We know one counsel is not speaking because they're on the phone with another case it looks like or maybe somebody else.

Okay. Who else -- and remember, folks, when the Court's ruling specifically says that you have to be audiovisually, that really does mean that, particularly if you want to be heard; right?

Well, that eliminates a lot of people. Don't get to be heard, right, because they don't care to be audiovisually. It sounds like I've just shortened this.

So anybody who is on audiovisually still need to be heard who has not had a chance to be heard?

MR. SLATER: Your Honor, Craig Slater. I would like to be heard on one point just very briefly.

THE COURT: Sure. And you're on audiovisually so you

can be because anybody who chooses not to comply with a Court order, I'm not seeing how you can speak, unless -- because no one has given us any good cause or any request differently.

Go ahead, Counsel.

MR. SLATER: Your Honor, my clients filed a joinder in this action to a point that was raised by several of the moving parties who filed motions to retax. That point is -- the argument that's been made repeatedly with the judicial review action, costs are not awarded to the prevailing party. That is relevant to my clients because they only filed the judicial review claim. We did not participate in the trial. I know Mr. Williamson last hearing cited to the transcript where I was present at the trial, but being present and observing is not participating.

THE COURT: But did you make an appearance, Counsel?

MR. SLATER: I would just ask that this Court make a declaration on that issue as to whether she's awarding costs pursuant to all of the causes of action or only the nonjudicial review causes of action because it impacts my client specifically. Thank you, Your Honor.

THE COURT: Okay. Well, here's the question, Counsel. Remember, it was represented to this Court, and it was not -- nobody brought anything forward on the opposite side that you actually made an appearance, that it was on the record that you made an appearance versus observation; right?

Appearance is participating and being there as part of a case. Observation is, you know, observation. Any member of the public can observe whatever they'd like to observe.

So are you stating that you did not make an appearance on the record, that the representation to the Court that you made an appearance on the record was not a correct representation?

MR. SLATER: That is correct, Your Honor. I never made an appearance at the trial. I never once spoke.

THE COURT: Well, I'm not talking about speaking.

MR. SLATER: I believe what happened --

THE COURT: I'm talking about, like, for today, when you all make an appearance, remember, the distinction between making an appearance, right, as an attorney on behalf of a party, you may choose not to speak. You do lots of CD cases. You know in CD cases, sometimes I have a courtroom of 40 people, and only two people speak. Sometimes only one. Usually it's two or three.

So speaking is not the issue; right? It's whether or not actually making an appearance on behalf of parties. So that's why the Court was asking that question. I thought someone quoted me from a transcript that it was an appearance.

Now, granted that's been a little bit of time. I have a few matters that I've taken care of in the intervening time. So are you saying you never made an appearance?

MR. SLATER: Well, Your Honor, we appeared in this case because all of these cases were consolidated together, but at the time of trial, I never formally made an appearance. I was there every day. I observed -- or pretty much every day. I observed, and I know you weren't there, but --

THE COURT: I wasn't.

MR. SLATER: If you recall, the set up, I was in the very back row with all of the other clients, the client representatives for the very reason that I was not participating. I was back there with a couple of other attorneys, and we were placed there because we were not participating. There was a seating -- this trial occurred during the height of COVID. So there was a seating chart that we had to strictly adhere to, and the people who were not participating were put in the very back, and that included myself.

THE COURT: As you stated, I wasn't there, and as you heard me say earlier this morning, I neither have a crystal ball, nor am I a fly on the wall. I'm only where I'm at where you can, you know, see me. I wasn't at that. I had other things going on during that time in my own docket. So -- which was my own docket at the time. Different than my docket now.

So I've heard what you said.

Anybody else remotely need to be heard who's on audiovisually?

MR. GAMBLE: Clarence Gamble.

THE COURT: And that means audiovisually the whole time, folks. That doesn't mean that you can flip it on and off; right? I mean, folks, we need to know who's participating in this hearing, which is why this order was clear. Please feel free to read the Supreme Court order. Feel free to read the administrative order, and please feel free to let me address this case instead of have to keep on reminding people about appearances, please. You guys have limited time.

MR. GAMBLE: Yes, Your Honor. I did file a notice of appearance consistent with the Court's order, consistent with the statute, well in advance of this hearing, certainly well in advance of the five days that is required.

Again, my name is Clarence Gamble. I represent Rural Remedies, and my bar number is 4268.

THE COURT: Okay.

MR. GAMBLE: And I do want to --

THE COURT: And what was the date you filed your joinder or your motion, Counsel, with relationship to the current motion at issue?

MR. GAMBLE: Your Honor, I don't have that in front of me, but as the motions were filed for retaxation, I joined in them within a day of them being filed or the same day, but I don't have those in front of me right now. I can certainly get those for the Court.

I just want to bring a couple of points to the Court's consideration because while we did settle our case with the Department of Taxation and with Jorge Pupo, our posture is a bit different than those who actually proceeded to trial on Phases 2 and 3.

On June 30th, 2021, Judge Gonzalez granted Rural Remedies' motion to sever them from that trial; it's pages 2 and 3.

I had a situation in which I couldn't participate in the trial. Certainly the Court was going to move the trial, under the circumstances. So the Court granted a motion to sever Rural Remedies' actions against D.O.T. and Jorge Pupo.

On July 20th, 2022, before this Court certified as a final judgment the Phase 2 and Phase 3 of the trial and before Rural Remedies ever had an opportunity to go to trial against D.O.T. and Jorge Pupo, Rural Remedies went into a settlement agreement with Department of Taxation, Jorge Pupo, and also Lone Mountain Partners, to resolve Rural Remedies' claims.

And on July 21st, 2022, Rural Remedies and the Department of Taxation, Jorge Pupo, entered a stipulation and order which was signed by this Court and entered on July 21st to dismiss with prejudice Rural Remedies' operative complaint in this consolidated action with each party bearing their own attorneys' fees and costs.

And why I emphasize the language of Rural Remedies' operative complaint is because Rural Remedies' operative complaint is not before the Court because it's dismissed before a final award was entered certifying Phases 2 and 3 of the trial, before a final -- excuse me, before a certification of any manner has been entered.

So there's no -- at the time that Rural Remedies' operative complaint was dismissed, there was no final judgment and no applications for costs had been filed or sought by any party.

So as far as I'm concerned, Rural Remedies is out of this action. Rural Remedies is out of this action with a stipulation and order was entered, and this Court entered its order dismissing the operative complaint with each party bearing their attorneys' fees and costs. And by extension, the actions against the defendants, applicants, both successful applicants and unsuccessful applicants, they're -- they were dismissed out of this action as well as it relates to Rural Remedies' operative complaint because Rural Remedies --

THE COURT: Counsel. Counsel. I need you to point me to where in your joinder, the date of your joinder was filed and where this is presented to the Court versus new information provided at the time of the hearing. Because remember, Counsel, the Court realistically didn't need to have a hearing, EDCR, right, 2.23. It can do things on the papers, but you

have to have it in your joinder.

Nonsubstantive joinder does not give me an opportunity at the time of the hearing for the first time to raise arguments not in your pleadings. That's why I was asking each party, as you notice, they've either handed me in court if they're here in court, a reference document, or they're citing the day of their joinder.

So, please, just so I can go back because I'm hearing you, and I'm stopping you because I don't recall -- now, granted, I read a lot, but all of these arguments were in your joinder -- in your pleadings. So, please. You got to tell me the date you filed it so I can take a look to see if these are new arguments or not, Counsel, please.

MR. GAMBLE: Your Honor, you know, I, certainly with candor to the Court, these arguments are somewhat new because I, quite frankly did not know whether or not I was the subject of these motions or these bills and costs or not because my complaint was dismissed before they were filed.

THE COURT: Right. But, Counsel, you can appreciate you can't bring up something for the first time in oral argument. So that's why I let you go on for a bit, but --

MR. GAMBLE: All right.

THE COURT: -- that's why I need you to tell me the date of your joinder. If you don't have the document number, at least the date.

MR. GAMBLE: Your Honor, I will -- I won't hold up the matter. I'm going to look through all of my dates, and then I will come back to the Court if you just give me a minute while (indiscernible).

THE COURT: We're going to move on, because remember there's over 3,063 entries in this case.

While I appreciate this is limited to about 50 some odd ones and 60, which are cross-referencing other ones, so realistically, folks, we're going to need to, before you argue, tell me which one so we can keep it to where the actual issues are.

So at this juncture, I have had the movant. I've had the movements. I think I've taken care of the joinder parties.

Is there any joinder party that filed a substantive joinder other than just saying they joined in arguments that has something they wish to say?

No. Okay.

Mr. Rose, you had an opportunity to speak, have you not, and addressed all your issues; correct?

MR. ROSE: No, I have not, Your Honor. These are -- we have not been able to. I think the plaintiffs have now gone. And we have not had a chance to respond.

THE COURT: On this topic, on the substance, yes. So go ahead.

MR. ROSE: Thank you.

THE COURT: You get five minutes, because realistically this is --

MR. ROSE: Well, I'll try my best, Your Honor.

THE COURT: You guys had to preempt two other Judges. You could and preempt me on this case? Really? I'm just -- you understand I'm kidding. I'm more than glad to do this. It's just --

MR. ROSE: I do understand, Your Honor.

Chris Rose, 7500 for Wellness Connection.

90 percent of what you just heard in oral argument was not in any of the motions.

THE COURT: That's why I keep asking.

MR. ROSE: And we didn't have a chance to respond to it, and so I'm very surprised, and it's challenging for us and we think it's highly improper for these arguments to be raised.

The prevailing party issue, that ship has sailed. This Court ruled on that. There's a piece of the pie as far as the number of licenses. We owned a piece of the pie. As a result of the litigation, none of the plaintiffs got any licenses. They did not get any licenses as a result of the trial or the Court's rulings.

You've heard several plaintiffs say, but we ended up with a license. We ended up with two licenses. That was outside the litigation due to a private settlement. So that argument, Your Honor, is a completely -- a red herring. They

did not get anything from us based on this Court's reasoning before.

THE COURT: Would you like me to shorten to where the questions are from the Court realistically? It's the PJR question, okay. PJR, it's the dates of the litigation with regards to each of the respective parties, and then we've got challenges under *Cadle versus Woods & Erickson*, *In Re Dish Network*, *Bobby Berosini*, and there's a fourth case whose name is escaping me at this particular moment. The Chevy case.

Counsel, Mr. Rulis.

MR. RULIS: *Fairway Chevrolet* and Villa Builders.

THE COURT: *Fairway Chevrolet*, (indiscernible) Chevrolet cases, okay, because you don't have documentation. You don't have things like that.

So realistically, where the Court's going, I mean, I'm going to be consistent with my ruling last time --

MR. ROSE: Yep, Your Honor, I appreciate --

THE COURT: -- okay, but there is some nuances here. And if parties were not in the case, right, if you didn't answer to them, then you can't prevail against somebody that you're not a party to if that's accurate, but once again, I don't have the information there to make that determination. If the parties were only in a case for a particular short period of time, then their pieces of pie that they're going to have to pay is going to have to be smaller. The PJR versus the

litigation is it, you know, potentially different piece of the pie, and then get to the substance of where the dollars are.

Realistically, that's where the Court's inclined to go. Of course, I want to fully hear everything you say, but I got that from the pleadings.

Go ahead.

MR. ROSE: Well, a number of issues they just raised as far as not answering and different dates, that was not in the pleadings.

THE COURT: In some of the pleadings with regards -- in some of the pleadings with regards, I have it in some, yes. I may not have it with everyone who decided to chime in today. That's correct.

But the issues were enough there, and since you're the one seeking costs, you have to show, right, as you're initial burden to get the costs, who you get it against. So that's why the Court can take that part into consideration.

MR. ROSE: Sure.

THE COURT: But go ahead, Counsel, please.

MR. ROSE: Well, and I appreciate the Court's clarification. Let me start with the PJR issues.

THE COURT: Okay.

MR. ROSE: If you look at our memorandum of costs, you'll see that none of the costs we are seeking have anything to do with the PJR. So it was interesting that the main

argument that the plaintiffs raise in their motions and the replies is that you can't recover costs for PJR. Not a single cost pertains to the PJR.

You know what the PJR was? It was a two-hour hearing with arguments, and we didn't even participate in it. We listened to it, but we didn't incur any costs for that. We didn't file a brief in the PJR matter. There was no, as the Court knows, there's no discovery or depositions. We didn't sit through a month-long trial related to the PJR. matter. That's completely separate.

THE COURT: I've done a few.

MR. ROSE: Exactly. So, Your Honor, there was zero costs related to the PJR. We don't think their argument's properly founded anyway, but it's irrelevant. That's not what we're seeking costs for.

Number two, the dates, there's an order, and I don't have it with me, but I believe the order was filed December 31st.

First of all, I want to mention we were not parties at the time of the injunction proceedings either in 2019. It was later after that that the plaintiff said, you know, we think we want to name everyone. D.H. Flamingo was the first party to name us as a defendant.

And then there was an order coincidentally by Nevada Wellness, Mr. Parker's client, who had filed a motion for

summary judgment. This order is December 31st, 2019, I believe, and the Court held a hearing, and even though it was a summary judgment motion, all the plaintiff said, we want to name all of the other parties who received a license as well. That was December 31st, 2019. We had already been in the case at that point, but that's when they got permission and leave to file and bring us in.

So as far as the dates, Your Honor, I haven't seen, because this is a new argument that wasn't presented, I haven't seen any authority that says I'm only responsible for costs on the day we filed the answer. We answered the complaints that were filed against us, Your Honor. And because of the extensive pleadings, as the Court knows, and because this issue was just raised right now, I haven't been able to provide the dates of all the answers, but they're in the record.

But there's no authority that says if I filed the complaint and they answered on January 31st, 2020, they can only get costs against me from that day forward. I'm not aware of the case law that provides for that. That's not what the statute provides.

These plaintiffs all decided that they wanted to name everyone under the sun, and now they want to try and pick and choose and dice the costs up based on these arguments that don't have any support under the case law. There's no legal authority. That's certainly not in the statute, and the

statute is what we have to follow.

The Nevada Legislature, if they wanted to say you only get costs from the date you're named, and you answer, then they would put that in the statute. There's no case law; there's no statute that supports that.

So that's as to their arguments about when they filed their complaint and when they got an answer, and some of them are saying they didn't get an answer who did file our answers.

Let me move to the closing date, because they're saying, well, and then we settled in the end of July of 2020. No one settled with us. No one settled with the Essence parties, and this is exactly the same as the Essence parties.

THE COURT: You're saying you had to go through the trial.

MR. ROSE: We sat through dozens of depositions. We had to sit through a month-long trial, and, Your Honor, I want to point out, I don't think this really is a determining factor whether a defendant intervened in the case or whether they were just involuntarily named.

But I will point out we did not choose to be here. We were involuntarily brought into this case. We did not intervene, and so to say you can't recover any costs against me because I've settled with other parties who have nothing to do with you, again, there's no case law for that. You named us as a party. You named -- brought claims against us, and you did

not settle with us, and the Court entered a judgment and ruling that is binding on you as to the claims that you alleged against everyone, including us. There's no cutoff date based on their settlement with other parties, which is completely irrelevant to us, no case law that supports that. They haven't presented you with anything.

So, Your Honor, we've been named as a party. I think I've addressed the periods.

Have I addressed all of the Court's questions except for the --

THE COURT: The substance of the dollars, yeah.

MR. ROSE: Okay.

THE COURT: Yes.

MR. ROSE: Your Honor, you're going to see, in our memorandum of costs, I do things a little bit differently. I not only put the memorandum of costs, I present an extensive declaration that supports why the costs were incurred and why they were necessary, and that complies with the case law. Remember, the case law says you can't just state that a cost was incurred and necessary. You have to explain why. And we do that in our memorandum.

THE COURT: But you also have to have the receipts. Remember with *Cadle versus Woods & Erickson*, I think it was less than $50 worth of copies. I think it was less than 20, but I'll just say 50 to make it easy. Remember the fact that

they just had an attorney declaration saying that those copies were necessary it wasn't sufficient. You actually had to show that you had some kind of, like, tracking system; right? Or you had a system where you have to type in maybe a case number, and then you get -- sorry, typing with my fingers; right? Okay. So those type of issues.

So there are for different ones, right, and if you want a video dep in addition to a hard copy transcript, you have to show the reason why you wanted a video depo, it was necessary, if you wanted expedited, you have to show why it's expedited. So it blends. I don't see that you have all of that.

MR. ROSE: So, Your Honor, we didn't notice these. We didn't choose to do a video deposition. We put video deposition not because we chose to have a video deposition, but because someone else noticed it and did a video deposition.

THE COURT: But did you have to buy both? Did you have to buy the video deposition and the transcript?

MR. ROSE: I don't think we're -- we're not seeking costs for videos. We're not -- we didn't include any video -- video costs here.

And, Your Honor, again, this is the disadvantage I'm at. If you look at their motion --

THE COURT: That's a disadvantage I'm at. I don't have a courtesy copy of your actual --

MR. ROSE: Of our --

THE COURT: So remember, each time anyone of you all are speaking, right, I have to go and click with one exception that doesn't apply here because I do have Mr. Bice's binders. Remember, I have to keep going back to the document electronically other than the couple that were handed to me here in court.

MR. ROSE: Yes, Your Honor.

THE COURT: I don't have courtesy copies. Please see the EDCR. So while you're referencing different things, I then have to go back and try and find each page you're talking about other than my memory or my notes.

MR. ROSE: Yes. Yes. So our memorandum of costs was filed August 9th.

THE COURT: Right, which is why you got the August 12th on the other one.

MR. ROSE: Yes. At 2:44 p.m.

But we did not seek costs for the -- it's called a video deposition because someone else noticed it for a video and took a video.

And when we get an invoice, that's the invoice we get, but that's not what we asked for. And all the invoices that we -- all the costs that we're seeking are supported by the invoices.

And, Your Honor, if you look at their motions, and

we -- I've got the notice of this, if you look at page 7 of MM, Qualcan, Natural Medicine, Nevada Wellness motions, page 7 of their opposition filed August 12th, 2022, 8:14 p.m., that's the only point where they talk about our costs, and they don't challenge a specific item at all. They don't. They don't point out what costs should not be granted because of the lack of documentation. All they say is --

THE COURT: Mr. Rulis's clients, he does in his; right?

MR. ROSE: No. His -- that's part of his brief. He's a part of that brief.

THE COURT: Hold on.

MR. ROSE: So if you go to that brief, all they say is, well, the costs are not reasonable and you didn't provide documentation. They don't explain how or why, and so if you look at our memorandum of costs, Your Honor, we've attached the supporting document as exhibits. We have seven exhibits that includes all of the support --

THE COURT: That you say comply with EDCR 2.27.

MR. ROSE: Am I claiming it complies?

THE COURT: Yeah.

MR. ROSE: I -- yes, I believe it does.

THE COURT: Hold on a second. We're talking about Document 2900 filed on 8/9/2022.

Remember, the challenge also that your transcript is

going to have, right, with multiple parties having the word Wellness in the middle of their name. If you call yourselves just Wellness and don't distinguish which Wellness entity you are, you're going to have fun reading the transcript. I'm just saying, I've got Wellness Center. I've got Wellness, you know what I mean, on opposite sides.

MR. ROSE: Too many Wellnesses, Your Honor.

THE COURT: So there's Wellness and Wellness.

MR. ROSE: I understand.

THE COURT: No. I'm not taking anything negative on the names. I'm just saying, please, you all might want to be clear on --

MR. ROSE: I understand.

THE COURT: -- stating your parties' names.

MR. ROSE: Thank you, Your Honor.

THE COURT: We are looking --

MR. ROSE: We've got supporting documentation for each category of costs that we're seeking.

THE COURT: And the answer is it doesn't comply with EDCR 2.27, but that's --

MR. ROSE: I believe it does.

THE COURT: Your 64-page document complies with EDCR 2.27? It has numbering in the lower right-hand corner of each of your exhibits? It does?

MR. ROSE: I thought that was over 100 pages.

THE COURT: Over 100 pages there has to be an appendices; right? That's a separate sentence of EDCR 2.27. It has to be a separate appendices filed on a different day with a table of contents; right?

MR. ROSE: Okay.

THE COURT: Feel free to chuckle. I see the chuckles. Nicely turning your head down.

MR. PARKER: You can see me through Mr. Rulis, or is that someone else?

THE COURT: I'm not saying who I'm referring to.

MR. PARKER: Okay.

THE COURT: I'm just saying I have a decent line of vision and decent hearing.

But, Counsel, I'm still taking it into consideration. I mean, honestly, you all have had to come back more than one time, okay, and nobody raised that in their briefs, but, no, it doesn't comply.

MR. ROSE: Okay.

THE COURT: With that being said, where do you show -- okay. I'm in your 64-page document. You have a couple of (indiscernible), and I appreciate you put the documentation -- you put your stamp on some of those aspects, but you're telling me the copies are articulated in here?

MR. ROSE: Copies would be supported by -- there's $312 worth of copies that they're raising, and if we referred

to Exhibit 3, Your Honor, I believe that is --

THE COURT: And where would I find that in the 64 pages?

MR. ROSE: I don't have the PDF page, Your Honor, specifically.

THE COURT: Yeah. (Indiscernible.)

You understand it's blocked out with all of the billed and paid and stuff like that; right? It's redacted without any agreement or order by the Court on sealing and redacting under Supreme Court Rule 3. Sorry I have to keep naming these, but --

MR. ROSE: Some of the invoices, if it was privileged information, we would have redacted it.

THE COURT: The discounts and billed amount and paid amount is privileged information with relationship to electronic prints?

MR. ROSE: Well, if it's for costs that we're seeking, it would not have been redacted.

(Pause in the proceedings.)

MR. RULIS: Chris, I brought it. You can look at mine if you want, but it is redacted. The Court is correct.

THE COURT: Amazing that the Court is correct; right? I'm looking at something, and --

MR. PARKER: No, I just wanted (indiscernible) from the copy that we brought.

THE COURT: Yeah. Do you see it? You see the whole big box?

MR. ROSE: Oh, correct.

THE COURT: Right? But then you've got a total of $312, which you just referenced. That's the reason why the Court went to the redaction. I listened to what you said and the amount that you were saying, and then I looked and saw there was the redactions, and we don't know what was actually billed to the client.

MR. ROSE: Well, Your Honor, I can represent what would've been billed would've been the 312, but I understand the Court's questions about the $312, Your Honor.

THE COURT: *Cadle versus Woods & Erickson* is a lot less than that on copies, folks. I mean, it's not that I'm going into the weeds, it's that the Supreme Court does it; right?

MR. ROSE: Understood. And out of our costs, I think that's -- well, there is a smaller item for the witness fee.

I understand the question -- the questions the Court has on that. $312 (indiscernible).

THE COURT: Do you understand also are contesting --

MR. ROSE: And, Your Honor, can I just add, if they were --

THE COURT: -- to the extent it's not just copies thereto; right? You got copies also under your Exhibit 2 on

what's called a recap of cost detail; right? Whereas timekeepers and codes and things like that. There's $986.92 on 7/9, 9/11/2020. Well, I'm not sure, size of binders.

And there's -- and they did mention the online research; right? The online research isn't broken down to whether or not that online research is particularly for this case, whether that's a monthly bill charged for online research, and if you potentially allocate a certain portion to a particular client or a particular case or whether or not that online research could also be done free and whether or not --

MR. ROSE: Well --

THE COURT: It's those challenges. It was raised in the box. It didn't say the specific amount and say it should be X instead of the Y that was charged, but the global concepts were presented in the motions to retax.

MR. ROSE: Your Honor, I don't -- I don't believe they were. Otherwise, we could have addressed it. If you look, we put in our declaration you have a -- this is not just a memorandum of costs that has a number out there that's out in oblivion. It's supported by my declaration that addresses the Westlaw research showing that that was performed for this case and that it was necessary.

So between the documents that show the cost that was incurred and my declaration, that specifically addresses that.

THE COURT: Okay. I'm just -- go ahead. Finish. Go

ahead, please.

MR. ROSE: We think we've complied with that, and again, if these are issues that they would have specified in their brief, we could have addressed it, but they weren't. They weren't brought up, and I think the documentation we provided is similar to -- or more detailed than documentation in other memorandums as well.

THE COURT: Well, that doesn't -- okay. Anything else? Go ahead, Counsel. I didn't mean to stop you. Go ahead, please.

MR. ROSE: And, Your Honor, did I address the Court's questions that it had raised so far?

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

Okay. And I'm just --

MR. GAMBLE: Your Honor, this is Clarence Gamble again. I apologize for interrupting the Court, and I know the Court wanted to know when I filed these joiners. I --

THE COURT: The joinder with Wellness Connection, yeah. Wellness Connection is the only one we're on. So the joinder regarding against Wellness Connection was filed on what date, please, Counsel?

MR. GAMBLE: My first substantive points and authorities regarding costs was filed on -- Court's indulgence.

THE COURT: Sure. And remember, we're only

addressing Wellness Connection, if you don't mind, Counsel, because that's the only --

MR. GAMBLE: I understand, but this -- my substantive points and authorities addressed all efforts to tax costs against Rural Remedies, and that was filed on or about --

THE COURT: They have a stamp on the upper right-hand corner.

MR. GAMBLE: Yes, Judge. It was filed on or about September 23rd, 2020. Why it was filed in 2020, because, as was previously mentioned by Mr. Dzarnoski and others, there was an effort to seek tax -- to tax costs after the Court had entered its order on Phase 1 and 2.

THE COURT: Right, but did --

MR. GAMBLE: Just one moment, Your Honor.

And in that particular substantive points and authorities, I raised to the Court at that time that Rural Remedies' action had been severed and --

THE COURT: Counsel, the reason why I'm stopping you is that's already subject to a ruling back in 2021 by Judge Gonzalez. The --

MR. GAMBLE: Right, Your Honor.

THE COURT: The motion to retax under the rules has to be filed after a memorandum of costs. If you already had a motion to retax that was granted, right, and says that it's without prejudice for them to file a new memorandum of costs,

then the operative memorandum of costs was the one filed in August of 2022, and I'm dealing only with Wellness Connection. I'm really trying to get to the rest of your cases, but --

MR. GAMBLE: Right, Your Honor.

THE COURT: But realize --

MR. GAMBLE: And I joined on --

THE COURT: -- so that's why the Court was asking with regards to Wellness Connection, please give the Court the date of your joinder to Wellness Connection after it filed its memorandum of costs on August 9th, 2022, which would then trigger any motions to retax before the Court.

MR. GAMBLE: Well, we filed joinders and motions to retax filed by TGIG, High Sierra, Holistics and Deep Roots, and Clear River. We filed those motions on August 11th, 2022.

We also filed motions -- joinders and motions to retax on August 9th, 2022.

THE COURT: Okay.

MR. GAMBLE: And also, Your Honor, on August 17th, 2022, I filed a motion -- I filed a notice with the Court because I wasn't present, I was out of the country on the hearing on September 16th, 2022. I filed a motion with the Court or actually the points and authorities with the Court indicating that I was submitting my matter on the record and for the Court to consider all my joinders for retax and also those separate points and authorities previously filed on the

issue of the bill of costs which was filed on September 23rd, 2020. So your original --

THE COURT: But you can't do that, Counsel.

MR. GAMBLE: -- comment to me was where did you substantially raise the issue of the fact that your case had been severed and the fact that you didn't go to trial when everybody else went to trial, and your case got settled before you went to trial. That was raised in my points and authorities --

THE COURT: Okay. Mr. Gamble -- Mr. Gamble. We need to move on. The Court can only consider what it can consider under the rules on timely filed memorandum of costs, timely filed motions to retax costs, timely filed joinders to motions to retax costs.

The Court can't have parties say, go back in the 3,000 plus pleadings, and I'm incorporating things in those 3,000 plus pleadings; right? Remember, the Court has to rule on what the Court can take into consideration under the applicable statutes, case law, et cetera. So that's the only thing the Court can look at. That's the only thing the Court does look at because this is not a situation where there's an independent stipulation of the parties where they've agreed to something different as far as the scope of what the Court can look at in the pending motions.

So thank you so very much, Mr. Gamble. Thanks for

pointing out those document numbers. I do appreciate it.

Mr. Rose, have you had an opportunity to finish your argument? If so, I need to move to the people --

MR. ROSE: Yes, Your Honor. I'll just say that whether someone severed their case, whether they settled with other parties, they did not do that with us, and we're entitled to the costs that we're seeking.

THE COURT: I do appreciate it. Thank you so very much for your argument.

MR. ROSE: Thank you.

THE COURT: Okay.

MR. RULIS: Thank you, Your Honor. Nate Rulis, for the record, Your Honor. A couple of quick points that I want to address.

First, I'm going to go to, Mr. Rose said that things were not mentioned in the pleadings. I want to direct and be clear, especially when we're talking about spending time talking about Westlaw research. It's the -- and Mr. Rose actually cited to the exact page of our motion where it talks about it, which is the motion to retax and settle costs regarding Wellness Connection and Nevada filed by Qualcan on August 12th, at 8:14 p.m., and I apologize. I don't have the docket number, Your Honor.

THE COURT: It's okay.

MR. RULIS: But on page 7 of that document, at lines,

let's see here, 12 through 16, one of the things that is very specifically addressed is the fact that their legal research does not have supporting -- the necessary and supporting documentation for them to be entitled to that.

Additionally, I think in the reply that was then filed on September 9th at 5:47 p.m., on page 11, there are additional -- the categories that I previously mentioned that are talked about, which are that Mr. Rose's memorandum of costs and the supporting documentation do not meet the requirements for them to be awarded those costs. And that's in accordance with the case law that Your Honor has already cited that's simply stating that this is online research, and an attorney declaration saying it was done for the case is not sufficient.

They have to show was that the research actually was done, what it was done for, why, and I don't believe that what they've provided meets the necessary requirements. I think as Your Honor had already alluded to, photocopies, we have no idea what those photocopies were. They're completely redacted, but that also goes to, as I mentioned before, the runner services, the trial services, the outside copies, and I will say that in looking back at the memo of costs as it relates to deposition and transcript fees, while I believe many of them are for transcripts, they do include in at least one occasion, video and the transcript of deponents. So they are, in fact, asking to essentially double dip on some of these costs.

And, you know, the problem with being able to say they should only be allowed X costs is when you can't tell what the costs were incurred for. All I can do is say we don't have the information to challenge specific cost, and therefore the whole category should not be allowed.

So that's on substantive costs.

I do want to address the PJR, and I think Mr. Rose seems to have a fundamental misunderstanding of what's being -- of what was addressed in the pleadings and what's being argued, and that's -- you heard him say that none of their costs were incurred in relation to the PJR claims, and that's fascinating, and I think that's important because the only reason Wellness Connection was named is because, as Mr. Parker was reading in his amended complaint, is in relation to the PJR claims. And so what they've said to you here today is --

THE COURT: And Mr. Parker on behalf of Nevada Wellness Center.

MR. RULIS: Correct.

MR. PARKER: Correct, Your Honor.

THE COURT: Go ahead.

MR. RULIS: Is that the only -- that all of the costs that they incurred and are asking for were incurred in relation to claims that they were not a party to and not part of this litigation for. They were brought into the litigation as parties to the PJR claim. Under the Nevada Administrative Act,

and I apologize, Mr. Parker can address that more fully, but that's what they were brought in for, and they said that they don't -- they're not asking to recover any costs related to the reason they rebutted the lawsuit.

THE COURT: Wait. But if you look at the dates in their memorandum of costs, right, the dates, they say that they -- by the way, they did say they filed a business court answer in this case on 2/12/2020.

MR. PARKER: Yes, Your Honor.

THE COURT: Just to let you know in their memorandum of costs, right. So the Court was going to have a question about how there was filings predating filing an answer that they're seeking costs for, but since this was not a -- I had to double check it wasn't a motion to dismiss, but once again, so if you look at their dates, other than the two motion -- other than $7, okay, looking at page 1 of 8, the very first page; right?

MR. RULIS: Yep.

THE COURT: The rest of their costs start, that's what I was -- part of the reason I was trying to get their chronology here, folks, right, because chronologies matter -- starts in February of 2020 and then goes on from there. I shouldn't say that. There was a couple of hearings in 2019, that there's some parking charges for.

MR. RULIS: Right.

THE COURT: But it's --

MR. RULIS: And, Your Honor --

THE COURT: So I'm trying to reconcile what you're saying with these dates.

MR. RULIS: Well, so let me answer on the answer.

I believe Wellness Connection filed an answer to D.H. Flamingo's complaint.

THE COURT: Oh.

MR. RULIS: But they're not here, not to my complaint, not to MM and LivFree's complaint. Not to Nevada Wellness Centers complaint. They filed an answer to D.H. Flamingo, who then, I believe dismissed their claims, and that's, you know, that's, if you go back to the notice of appeal, I believe D.H. Flamingo's voluntary dismissal of their claims is one of the things that Wellness Connection is appealing, but that's the answer that they filed is to the D.H. Flamingo complaint.

THE COURT: Wait a second.

What I'm looking at is I'm trying to reconcile what you're saying with regards to the receipt for $1,483 with a Case Number of 787004-B, which is the case number here; right? Which is -- and then it's not one of the -- are you saying that yours is one of the consolidated cases?

MR. RULIS: Yes. My --

THE COURT: And so that your case wasn't yet existing

at the time of the complaint? I mean, do you mind just clarifying what you mean.

MR. RULIS: No, no. My case was certainly existing. The MM case was the first one filed. Our case is I think 18.

THE COURT: You're one of the 18s.

MR. RULIS: Yes. We are one of the 18s.

And I guess I haven't -- admittedly, I haven't gone back and looked at that exact answer, but as I recall, that is the answer to D.H. Flamingo's complaint.

THE COURT: Now, granted, the answer is not until July 28th, 2020, interestingly enough, which is a question I was going to see if somebody brought up to the Court.

MR. RULIS: And that also brings up the date of settlement, which, you know, I don't want to rehash, but we did address that in the supplemental briefing that we filed related to Essence's motion, and so I have that brief. I don't have that document number, and I apologize, but the date of settlement for the settling parties was, we believe was July 29th, at which time it was announced to the Court, and the Court excused the settling parties from any further participation in the trial.

THE COURT: Okay. Do you want to address Mr. Rulis's statement with regards to didn't necessarily need to be a party in order to get some of the costs that he's seeking, and answering party? I'm just asking if you want to address it.

MR. RULIS: Sure. I mean --

THE COURT: If you don't, that's fine, but it was brought up, that question came up today. I had an opportunity for one side. So I'm going to give the opportunity to the other side if you want to.

If not, I'm moving on. I've got more than enough other parties that want to get taken care of.

MR. RULIS: I would -- I'll leave that to Mr. Parker, and I would simply join and agree with what he said previously, which is under the cases, *Golightly*, if you don't answer, you're not a party, and you're not entitled to costs and fees.

THE COURT: Okay. Let's walk the circle through with everybody else on the motions to retax with regards to the current pending. I'm going to give you two minutes most, each side.

I gave Mr. Rulis actually -- you got two minutes and eight seconds.

So, Mr. Parker, you can have your two minutes and eight seconds as final words, and go circle around with other people just so I can get everyone taken care of, folks.

MR. PARKER: Your Honor, I wanted to add -- to actually address something that Mr. Rose said regarding the dates being brought up and how important those dates are to the Court's consideration of costs.

In the -- in Mr. Rose's opposition, the Omnibus

opposition to the motion to retax, he indicates in a footnote, the dates of the Second Amended Complaint.

My point is it's not -- it shouldn't be new or unexpected that these dates would play an important part in the Court's consideration of what costs are awardable against certain plaintiffs.

Your Honor, I gave you a copy of our complaint so you wouldn't have to take my word for it, and that paragraph specifically says that they're being brought in because of the PJR, and that's why they were brought in. We were forced to. We didn't want to. My initial complaint did not identify anyone other than the D.O.T.

Mr. Rulis's complaint only identified the D.O.T.

The Judge said we had to name them, and that we had to name them and get them served. We didn't want to do any of it.

THE COURT: But, Counsel, and the reason I'm going to interrupt you, because in addition to the whole analysis I did on *Golightly*, right --

MR. PARKER: Sure.

THE COURT: Think about it in the intervening time as, well.

MR. PARKER: Yes.

THE COURT: Let's think about, right, there is other cases where you mandatorily, right, have to include parties to

a case; right, or if the law requires it. So I'm hearing the argument, but the wanting to include people if there's a requirement in order to get the relief you're potentially requesting you have to include certain people, right, just like you've got to sue the AG's office right, if you want to test contest constitutionality; right, to give them a chance -- the opportunity to respond; right?

MR. PARKER: Certainly.

THE COURT: There's compulsory counterclaims. There are certain parties that use as few or as necessary parties. If you don't include them, then you can't move forward with your cases. There's a whole slew of things I could cite, which I really don't want to take the time doing.

MR. PARKER: Absolutely.

THE COURT: So how is this different that you're saying? I appreciate you didn't want to, but isn't that the case in a lot of things?

MR. PARKER: Absolutely, Your Honor, and that's why I, again, read *Golightly* more than I wanted to. And the way you differentiate the position that Mr. Rose finds himself in today versus in that case, the interpleader action requires you to identify everyone who may have a stake in that claim. That's what eventually Mr. Vannah did, and unfortunately he submitted his --

THE COURT: Didn't do it the way he needed to, yeah.

MR. PARKER: -- his lien too late.

THE COURT: Yeah.

MR. PARKER: And that's what happened with him, and as a result, he had to take a pro rata share of that $15,000 --

THE COURT: Didn't get his prayer.

MR. PARKER: Didn't get his -- exactly.

The difference here, Your Honor, is that Mr. Rose didn't have to answer the complaint if he chose not to. He could've stayed on the sidelines the entire time because the --

THE COURT: Didn't you all -- just -- the reason I'm going to stop you.

MR. PARKER: Go right ahead.

THE COURT: There's a whole bunch of three day notices, intent to take default, and since there are prechanges of 2019, changes to the NRCP, they would get three days, not seven days, but there's a whole bunch of those; right? If they didn't, wouldn't they be defaulted, and couldn't they have lost --

MR. PARKER: They wouldn't have lost their licenses. How would they have lost their licenses?

THE COURT: Well, that's why I stopped at lost. I didn't say what they could have lost. I said lost.

MR. PARKER: Okay. Good enough.

THE COURT: I said lost.

MR. PARKER: Good point. No different than -- no

different than an interpleader action. If you choose not to be a part of it --

THE COURT: Right. You don't get a piece of the pie.

MR. PARKER: Right. And in this case, they already had their piece of the pie, and the point was, and this was raised in one of the briefs, the reason why they joined is because they felt that the D.O.T. may have been -- may not have adequately represented their positions. That's what they say, and I believe that will come up in one of the briefs that was submitted, Your Honor, and they chose to come in and get involved in this case.

So my complaint is very clear as to why we brought them in, and if that's the case, then certainly the comments made by Mr. Rulis should resonate with the Court, because he is now saying that he didn't -- he being Mr. Rose from Wellness Connection, did not incur any costs related to the PJR. The only reason they're in this case.

When you look at their memorandum of costs, Your Honor, the largest single item is the deposition transcripts and fees for $31,000, and I'm sure you see that in front of you, Your Honor.

THE COURT: Starting what dates though?

MR. PARKER: This is page 2 of 8.

THE COURT: No, I'm sorry.

MR. PARKER: It doesn't say. It doesn't say what

phase. It says deposition and transcript fees, 31,885.17.

THE COURT: You all are -- you had highlighted over and over again why it's so necessary to have courtesy copies in something like this.

MR. PARKER: I can bring you a copy of it, Your Honor.

THE COURT: No. No. You gave me -- I'm just --

MR. PARKER: Right.

THE COURT: I mean, I'm clicking back and forth. You noted your -- I was circling back because remember, I have to click thing by thing by thing.

Going back, there is at least 15 more, three-day notices of intent to take defaults against a variety of different entities, okay. At least one of them has a Wellness in it. I didn't click on it to see which Wellness entity it was, okay.

So if they didn't participate --

MR. PARKER: They didn't -- if they didn't participate.

THE COURT: You're saying there's no risk for a default standpoint?

MR. PARKER: Unless they felt that the D.O.T. didn't adequately represent their interests, but the D.O.T. was representing the interests of the Department of Taxation and its process. This was a process issue.

My complaint, Mr. Rulis's complaint, Mr. Christiansen's complaint, none of them said I want Essence's license. I want Wellness Connection's license, and I want Clear River's license. We said the process was flawed. That's what we said, and in part, the Court upheld --

THE COURT: By the way, you filed several of those three-day notices of intent to default.

MR. PARKER: I had to. I appreciate you whispering it, Your Honor. No one else heard.

But, yes.

THE COURT: That's why I brought up previously.

MR. RULIS: No, where it -- we had -- Your Honor, we were instructed on what we had to do. You will notice for the first year our complaint didn't have them as defendants. That's not what we wanted to do, but we did it because of the PBR (sic) requirement, and that's exactly why Mr. Rose's client was made a defendant, and so for him to say that his client didn't incur these costs as a part of the PBR seems disingenuous, Your Honor.

And when I look at the deposition of transcript fees, again, the largest -- the bulk of his costs, there's not a single date for which the Court can analyze whether or not he's entitled to that. And it is his burden. He would turn this process on his head by saying it's our burden to say -- or to save him from himself, to indicate which transcripts are from

what date and what part or what cause of action it applied to. This Court is left to the -- is left to the exhibits and this memorandum.

The Court's only conclusion could be that his client Wellness Connection and several of the other defendants were brought in as a result of the PBR, and based upon Rule 30, they're not entitled under Rule 233 B. They're not entitled to any costs, period. And then the Court's analysis stops there. But Mr. Rulis is correct. He does mention that in terms of the deposition of Robert Porter (phonetic), he asked for the video and the transcript. It doesn't matter if someone asked for the video deposition. You can just simply just get the transcript, Your Honor. You know you don't have to request the video. Certainly that exercise before you, starting this morning at 8:30 demonstrates the problems of trying to use a video versus a transcript.

So, Your Honor, and then if you look at the parking, all of these parking dates are ahead of my Second Amended Complaint. I'm just giving the Court examples of why this memorandum does not comply with the rules. It doesn't comply with *Brunzell*, and I don't know how you've been offered sufficient information and backup material to clarify what goes with what cause of action, and so I would suggest that it's all related to the PPR, Your Honor.

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

much.

MR. PARKER: Thank you.

THE COURT: Before I go on to anybody else, I do need to ask Mr. Rose, I do need to ask you a question.

MR. RULIS: Your Honor, if I could make one clarification.

THE COURT: No. I'm going to ask Mr. Rose a question. Like I said I was going to. And then I will give you the same.

MR. RULIS: Apologies. I just want to make one clarification before we go too far.

THE COURT: The receipt for the answer, the $1,483 that's attached, okay, says 7/28/2020. Is that the day you answered one of the underlying consolidated cases, or is there an earlier one?

MR. ROSE: There's definitely earlier answers, Your Honor. I just don't have the dates with me. I would have to go back.

THE COURT: Maybe Mr. Rulis, that's the point maybe that he wants to make. Let's hear it.

MR. ROSE: Yeah, and I'd have to go back and check. That's my belief, Your Honor.

THE COURT: Okay. Someone was on their phone. Go ahead. Did you get an answer?

MR. RULIS: It is, Your Honor, that's a -- I don't

want it to be a misrepresentation to this Court. I had my office look. I will admit that Mr. Rose's clients did, in fact, file an answer to the MM and LivFree Wellness Second Amended Complaint, and that was -- the answer was filed on June 29th of 2020. So I would say they it could request costs between June 29th, 2020, and July 29th, 2022, to the extent that they complied with the rules, are determined to be a prevailing party and have provided Your Honor sufficient documentation.

MR. CHRISTIANSEN: Same clarification for Qualcan. Mr. Rose answered on the 30th of June, 2020, Your Honor, and I had somebody send it to me.

THE COURT: Somehow I thought with all these wonderful attorneys in here somehow that clarification would magically appear.

Okay. Mr. Rose, do you have a different viewpoint than other than what's been stated that in the late June time period the answers occurred with regards to some of the parties that had filed the motions to retax?

MR. ROSE: No. For those, I don't. I'd have to go back and check. I do believe there were some earlier answers, but I just, because this was an issue that wasn't raised in the briefing, I'm just not prepared to talk about that today.

THE COURT: I was trying to cross-reference your memorandum of costs, right, and what I saw in your memorandum

of costs was only the 7/28/2020 for a filing fee; correct?

MR. ROSE: Correct. Correct.

THE COURT: I didn't see multiple filing fee receipts. I only saw that one, and so, correct me if I'm wrong, but that was your Exhibit 1.

MR. ROSE: Correct, Your Honor. And I'm not sure exactly why. Obviously we filed multiple answers. I'm not sure why in our system only that one cost was shown. So I don't have an answer for that.

THE COURT: Were you in this case in 2019?

MR. ROSE: We were named as a defendant in 2019. The first plaintiff to name us was D.H. Flamingo. I don't believe we had answered, but we did start attending hearings, Your Honor. In fact, I believe we were at the hearing in December of 2019 when all the plaintiffs asked for leave, and they were not ordered. It was not mandatory for them to bring us in. It was leave. They were given leave so...

THE COURT: Okay. Appreciate it. Thank you so very much. Thank you for answering that question. Thank you for the points of clarification.

MR. PARKER: I got a date.

THE COURT: Mr. Parker.

MR. PARKER: I got a date for you, Your Honor. That's the only reason I stood up. I didn't want to take much more of --

THE COURT: No worries. Go ahead.

MR. PARKER: I got a text from my associate as well. 6/29/20 for Mr.--

THE COURT: That's why I'm saying the end of June time period.

MR. PARKER: You're right. I just wanted to make sure. I was trying to save Mr. Rose some time as well.

MR. ROSE: And, Your Honor, they've raised some new issues even in their reply arguments.

THE COURT: Yeah, I know. But, okay. I -- that's something we get a lot of lawyers together; right? Okay. A lot of experienced lawyers. You all like to speak, and so much for two minutes, and now it's 11:00 o'clock.

So here's what we're going to do. We're going to take a 10-minute break. We're going to see you back at 11:10. Thank you so very much. Have a good one.

(Proceedings recessed at 10:59 a.m., until 11:11 a.m.)

THE COURT: Okay. So we are back on the record, same case, same parties. Nobody needs to do introductions again. We were just --

I see Mr. Rose standing. Was there something that you need to say real briefly?

MR. ROSE: I do want to provide the Court some dates if I could, to give some context --

THE COURT: Of course.

MR. ROSE: -- Court's question.

So the Court asked whether we were in the case in 2019. I had a call to an associate in our office. On January 4th, 2019, D.H. Flamingo named us in its complaint.

On September --

THE COURT: Did you answer that complaint?

MR. ROSE: Not --

THE COURT: That's why I was asking, yeah, when you were in the case. Go ahead, please.

MR. ROSE: Right. On September 6, 2019, D.H. Flamingo filed its First Amended Complaint. They had given us an extension to answer. So we hadn't answered at that point.

We filed our answer to D.H. Flamingo's First Amended Complaint on February 12th, 2020.

So that's the context, Your Honor, of how we did get involved in 2019, and it kind of snowballed from there.

I will say, Your Honor, again the statute doesn't provide for it. I haven't seen the case law that says you're only liable for court costs for certain time frames and dates.

We were on all of the deposition notices that they -- when they were conducting depositions in January, in February and March, they noticed us on everything, Your Honor, and Judge Gonzalez required us to be at every hearing.

THE COURT: Starting when?

MR. ROSE: In December. So we were at the hearings --

THE COURT: You're saying that there's a specific order --

MR. ROSE: No, there --

THE COURT: I looked through every single hearing, and I --

MR. ROSE: No, there's not an order, Your Honor, but I do recall in 2019 telling the Judge that we hadn't been served and had to answer. And she said you knew about the case. You need to be here. You need to be involved, and so that was verbally. It's not a written order, Your Honor, but the parties who were named -- that's because we were named, and even though D.H. Flamingo hadn't required us to answer, we were involved in this, and so the plaintiffs included us on the service of all of their deposition notices that they're now complaining about, and all of the other pleadings as well.

So in addition to there being no case law and no statute that allows them to cut and pick and choose what costs they should be liable for based on when they filed the complaint and when they answered, that's not how they conducted themselves. That's not how they acted in this case. And then --

THE COURT: Well, I think you all just presented this Court a question; right? And the reason why I'm stopping you

is because I'm hearing what you're saying.

Folks, I would like to try and get as many of you taken care of today as possible because I think, in fairness of to you all who keep coming, you would like to get this taken care of; however, you do realize this issue has come up, and I do not want anyone after the fact saying that they did not have an opportunity to brief the issue of whether or not someone can seek costs before they officially are in a case, okay.

I was not the Judge back, as you all know, in '19, '20, '21 until September of 2021 when this case -- it was either September or October. The reason why I say that is once the docket went over in September, you all had a couple of preempts. I don't remember. I got this in September or October. Close enough, right, of 2021, after things had all been done other than these pending issues for costs and fees type issues, mostly costs.

What the Court's trying to contemplate is resolution so that you all can get resolution here. I think that I can rule based on my knowledge of the law, my knowledge of statutes, my knowledge of plain interpretation; however, I am also appreciative this issue of when is an entity a party for purposes of seeking costs? If that's going to be an overarching issue that I have some number, we'll see, of people that are going to ask me to do a supplemental brief just on that specific topic, then I'm going to determine whether I

should rule today or should not rule today, taking nothing into account. I've already ruled on Essence. They are done. They are taken care of. It was not issued -- the Court doesn't -- everything that was presented to the Court at that time --

Mr. Bice, your client, I ruled on.

Did I just say the wrong name?

MR. PARKER: Not on the amount, Your Honor, you ruled on --

THE COURT: No. I ruled on the ruling, but not on the --

MR. PARKER: Amount, right.

THE COURT: -- dollars. Yes.

MR. PARKER: Right. So I -- that's the only thing I've looked physical for.

THE COURT: I'm just saying, I'm not taking back -- this is not a *sua sponte* reconsideration of my analysis and my ruling from the prior hearing to the extent that what I ruled on with regards to what I've already ruled on is where I was going, okay. I wasn't -- you all were given a chance first to try and agree upon dollars, but that being said --

MR. PARKER: That is part of the subsequent briefing; however, with -- even with Essence, Your Honor.

THE COURT: Right.

MR. PARKER: So that's out there.

THE COURT: It's out there --

MR. BICE: The only --

THE COURT: -- get you all -- I'm not trying to reopen up everything, folks. Really what I'm trying to do is if this is an overarching issue that I have people, I'm not saying how many counsel that's going to take, right, but if it's a single person, single counsel's issue, I'm going to rule today, okay.

If it's an overarching issue that a multitude of the parties feel that needs to be briefed for whatever your reasons it may need to be briefed so that you feel that it's an overarching issue that's going to impact a multitude of parties and/or counsel, then I'm at least -- the only thing I'm going to ask is really simply this. If there's anyone on remotely that is going to ask for supplemental briefing on the issue, the very, very narrow issue of can you see costs before you actually answered in a situation where you have not filed a motion to dismiss, that's not the situation on a motion to dismiss yet, right, can you seek costs prior to the time of answering, okay, then I'm just going to see if that is being requested of the Court.

So for anyone who is on remotely, put it in the chat if you're requesting it, and you've got a minute or two, and I'm just going to say globally here in court, I don't want long discussions by anyone. If anyone is going to request that, please stand up and let me know if you're going to request.

Oh, okay. So let me be clear. This is not reopening up anybody's argument. It's a very simple, yes, I'm requesting supplemental briefing, or no, Your Honor, I am not requesting supplemental briefing on behalf of my client or clients or part of clients if you represent multiple clients.

Okay. I'm starting here in court.

MR. PARKER: This is the yes, I think, standing up, Your Honor.

THE COURT: Pardon?

MR. PARKER: I think these are the yesses standing up currently.

THE COURT: That's what I'm about to find out if these are the yesses standing up. Okay.

MR. GRAF: As to which memorandum, the cause, motion.

THE COURT RECORDER: You guys have to make sure you identify yourselves.

THE COURT: Wait. Wait. Wait.

MR. GRAF: Again, Rusty Graf on behalf of --

THE COURT: Okay. I'm going to rephrase my question issue so that everyone is the same, okay.

The sole question this Court is asking is are there counsel on behalf of their clients that feel before the Court should make a ruling on the pending motions to retax costs, either in their entirety for ones that have not yet had a ruling or as to the dollar amount to the ones that already has

a ruling in part, that --

Whoever is off of mute right now, please put yourself on mute until I at least finish my question because now -- okay.

Is the request supplemental briefing on the topic of when can costs start for purposes of the pending cases in the consolidated cases 787004 under the statute. That is in no way an opportunity for anybody who has not already filed a joinder, substantive joinder, right, or joinder, not anyone who has filed a motion to retax, not anyone who's filed a memorandum of costs, okay, and it's not to open up any other issues, any other questions, any other arguments.

So realistically, it would be like five pages or less, because not including the caption page. So that on this topic that I narrowly tailored.

So it's either I need to know how many people are going to be requesting it, and that's the sole thing that does not open up any other questions on any other topics.

Mr. Schwarz, go ahead.

MR. SCHWARZ: Solely on this topic, just for a purpose of clarification to be able to answer the Court's question, and I'll sit down if the answer is no and I won't say anything further.

Although --

THE COURT RECORDER: Mr. Schwarz, can you --

THE COURT: I don't want to hear any analysis. It's really very simple. Supplemental briefing yes or no?

MR. SCHWARZ: To be able to answer the question, I need to know one thing. Although we are differently situated, although our client Lone Mountain is differently situated in that --

THE COURT: I don't want to hear about different situations or any analysis.

MR. SCHWARZ: It is similarly situated to Essence on one key issue that informs this discussion, which is we intervened at exactly the same time as Essence, in May of 2019, and so --

THE COURT: That's the reason why -- Counsel, I'm going to stop here. I cannot have an analysis because if I give you an opportunity for analysis, every other person is going to ask me, or at least most will or some will. I've got to be fair; right? So that's why said part of the case; right?

MR. SCHWARZ: Sure.

THE COURT: So whether it's intervention, whether it's answering, it's becoming a part of the case.

And since there -- I appreciate there was a TRO. I did not see any motions to dismiss at the early stage, right, so I don't see that that necessarily would apply, but if somebody is arguing that they filed a motion to dismiss, and therefore it should be from motion to dismiss date, if somebody

is saying that they filed an answer, and so it should be the preanswer or answer date, if somebody is saying they intervene, and it should be preintervention or intervention date, it really is that there may be some different topics depending on where somebody's shoes may be, or in this case where their store may be or when they got their store or whatever the case may be, but the very simple thing is the statute has language, right, the rule has language.

So that is where the question is, and it's a simple yes or no. And if somebody doesn't have -- if somebody needs a clarification I'm just going to really ask you yes or no. You can choose a yes, no, yes or no, okay, because I'm going around to everyone. There's not going to be any clarifications because I cannot have further arguments, folks. It's not fair to everybody else.

MR. SCHWARZ: I just think Mr. Bice and I both need to know whether it is being reopened as to his client based on upon --

THE COURT: I was being very clear. I thought to the extent that a portion, anything that the Court's already ruled on, it is done and ruled on.

To the extent that there may be dollars that are impacted, right, that has not been ruled on.

Mr. Bice, do you understand the distinction between what I've ruled on on the merits versus the actual dollars?

MR. BICE: I do, and the problem that I -- I do, Your Honor, and so I object to the plaintiffs trying to relitigate, which is what much of this is, relitigate the Essence motions that you've already resolved. This issue has been resolved.

THE COURT: Okay. I'm -- I thought I was clear about saying that I am not revisiting any of my analysis; right?

MR. PARKER: You were.

MR. BICE: Right.

THE COURT: If we're talking -- okay. So we're not revisiting anything because we've ruled what we've ruled. This did not come up in the first day.

To the extent that somebody may say that their client has a -- I articulated who I did. I have not seen proposed orders. So I'm not saying that there is anything that would apply to that. Because remember, on that we do have the oral ruling of the Court and while not memorialized in writing because I don't have orders yet, folks.

MR. PARKER: That's right.

THE COURT: EDCR 7.21, and I know I gave you some additional time, but you might want to double check when that time frame was up.

That being said, I need to see if people are yeses or nos. So what Mr.--

MR. PARKER: I'm ready to start the ball off, Your Honor. Teddy Parker on behalf of Nevada Wellness Center. Yes.

MR. RULIS: Nate Rulis on behalf of MM Development and LivFree Wellness, yes.

MR. CHRISTIANSEN: Pete Christiansen for Qualcan, yes.

MR. BECKSTROM: James Beckstrom on behalf of ETW and the five related clients, yes.

MS. SMITH: Stephanie Smith on behalf of Natural Medicine, yes.

MR. GRAF: Rusty Graf on behalf of Clear River, yes.

MR. ROSE: Christopher Rose for Wellness Connection of Nevada, yes.

MR. SCHWARZ: Joel Schwarz on behalf of Lone Mountain Partners. Based upon the discussion of Mr. Bice, no. I'm preserving the right to object to what I think will be now an improper attempt to argue reconsideration on already decided issues.

THE COURT: This is a -- okay.

Anybody else in court wish to be heard? Some people have not stood up. If you wish to say your yeses or nos, great. Nobody is forcing you to.

And, no, sir, you're not on this case. So you didn't get --

Sorry. We have our wonderful tech person who was just stretching. I was kidding him.

You were starting to stand up and stretch a little

bit. I was kidding you.

UNIDENTIFIED SPEAKER: Brian, say, yes.

Okay. So nobody else in court wishes to be heard one way or another; is that correct? Because I'm moving on to remote.

Remote, I said I was going to look in the chat because that was my easiest way. A simple yes or no.

Okay. Let's go to the top.

Can we go up a little bit so I can see?

THE COURT RECORDER: Yeah, that's it. It's at the top right there.

THE COURT: Okay. Mr. Smith is the top; is that correct?

THE COURT RECORDER: No, that was two hours ago, Judge. That's him signing in.

THE COURT: Oh, I'm sorry.

THE COURT RECORDER: So Ms. Sugden is.

THE COURT: Ms. Sugden. Okay. So I'm just going to go to the people who put in the chat just so that I can hear it verbally.

Ms. Sugden, your position, yes or no?

MS. SUGDEN: Yes, Your Honor. Thank you.

THE COURT: On behalf of?

MS. SUGDEN: THC Nevada, LLC.

THE COURT: Mr. Dzarnoski.

MR. DZARNOSKI: On behalf of the TGIG plaintiffs, Your Honor, yes.

THE COURT: Mr. Puzey.

MR. PUZEY: On behalf of High Sierra Holistics, yes.

THE COURT: Mr. Williamson.

MR. WILLIAMSON: Your Honor, I object to the timeliness of the plaintiffs' request, but if they are submitting the supplemental briefs on this issue, yes, I would also like to respond to those.

THE COURT: Mr. Gamble.

MR. GAMBLE: On behalf of Rural Remedies, yes.

THE COURT: Mr. Slater.

MR. SLATER: On behalf of my clients Inyo Fine Cannabis and the Nuveda entities, yes.

THE COURT: Mr. Scow.

Can you go scroll down?

MR. SCOW: Your Honor, yes, Your Honor. Steven Scow for Nevada Organic Remedies, and we'd like a chance to respond --

THE COURT RECORDER: That's as far as that goes.

THE COURT: I'm sorry?

THE COURT RECORDER: That's as far as it goes down. That's it.

THE COURT: Okay. So does anybody else wish to say a yes or a no, or they're going to raise an objection? Just say

I'm going to object or, since I have two people doing that even though it was a yes or no, in fairness to anybody else, I don't want them to think that they are complying with what the Court said, yes or no, and somehow didn't have their opportunity to say I object or anybody else wish to be heard?

MR. DONATH: Your Honor, Nick Donath on behalf of Green Leaf Farms Holdings, Green Therapeutics (video interference), Red Earth and NevCANN, yes, we would like to have the opportunity.

THE COURT: Okay. Mr. Bice, I don't think you've taken yourself off of mute. It looks like you might be trying to speak.

MR. BICE: No, Your Honor. I wasn't saying anything.

THE COURT: Okay.

MR. BICE: I've made my position clear along with Mr. Schwarz and Mr. Williamson.

THE COURT: Okay. Anybody else?

(No audible response.)

THE COURT: No. Okay. Well, the yeses have it. So here's what we're going to do.

You realize that means I'm not going to move forward with a ruling today for anything that I have not already ruled on. It in no way is any reconsideration of anything that I have already ruled on, fully appreciating that I made an oral pronouncement from the bench, okay. That means, of course,

that if I get written proposed orders, I may sign a written proposed order or maybe not. I have to review it. I can't take anything anticipatory in between now and when the briefing is done. I may sign an order, or I may not. It depends on, A, I haven't gotten any. So I can't know, but I'm just making clear it clear. It's not as if I'm saying I'm holding up everything. If I made a ruling and I feel it's appropriate to sign in order on something I've already ruled on, then I will do so.

If I don't have any orders, then, of course, I can't. I'm not going to have time to draft my own right now in the next week. So that was not going to happen.

So, Mr. Rose, you're standing up. I'm going to give you the date. Is that what you were about to ask the Court?

MR. ROSE: Just also to clarify that for someone to file the brief they had to have filed a timely motion to retax or a joinder to a motion; correct?

THE COURT: They have to either file -- now remember it's not just impacting you, right, your client. They had to have either filed a memorandum of costs timely. They had to file a motion to retax timely or a joinder, and if they filed a joinder, it's only to -- same thing, on the motions in the joinders, it's only as to the parties that either filed the motions or filed the joinders.

So for a hypothetical circumstance, say somebody

filed a joinder as to two motions, but not to more than two motions, then their supplement's only on behalf of those parties that they timely filed a joinder. This is in no way adding anything to anyone. This is realistically, since the Court has the full discretion on the supplemental issue, and hear (indiscernible) that that was a request.

I'm not even ordering it. This is a voluntary one. I'm going to give people a specific date, and there's not going to be simultaneous back and forth. It would be a specific date and a specific time.

Anybody who files it by that specific date and time will be reviewed. Anybody who does not meet that specific date and time, you all understand it will not be considered. You have waived your right, okay.

So if you have issues with your computers, feel free to come to the courthouse and file it in person. I'm sure you all have sophisticated systems on a multitude of ways or you can get one of your friends, right, to file it on your behalf if that's an issue. And there's lots of tech people and third-party entities that would probably be glad to do it for you as a pay concept.

So in any event, there's multiple ways to get that done.

So realistically, how -- I don't want to open this up. Give me a quick second to look at my schedule. Oh, gosh.

Oh, golly.

Okay. Realistically I'm trying to decide if I should give you all two weeks is where I am leaning to do because I figured you're busy with other things going on, and this is adding to whatever you're doing, but I'm also trying to take into account to get this taken care of for you.

One second. Let me see what that --

Well, this is just a very simple question with no analysis, please. Is there anybody that has any deadline, such -- I'm not saying anybody is appealing, filing writs or anything like that, but is there anybody who has a specific deadline that the Court would not be aware of that's going to impact just the date -- and, please, if you have personal issues, I appreciate you all have personal issues. You all have very busy schedules. I appreciate that.

I'm just trying to make sure that I do not pick a date that somehow would negatively impact somebody's rights if they're thinking they're doing something from a legal process in this case, okay. So that realistically is going to appeals because writs don't really have deadlines, but in general. I'm not taking an affirmative (indiscernible) on anything the appellate courts do. I'm just saying they sometimes have done it a year later. So I'll just phrase it that way.

Is there any appellate deadline that somehow the Court has to be cognizant of in giving you your schedule? This

is purely just to ensure you get enough time and then pick a new date for a hearing.

Anybody have, like, an appellate deadline that I may not be aware of?

MR. ROSE: Chris Rose for Wellness Connection, no, Your Honor.

THE COURT: Anybody have one? Please speak.

You understand what I'm doing. I'm trying to make sure you don't miss a deadline by me picking a date that's going to negatively impact you.

If there's one, let me know. If there's not, I'm going to take silence as being no.

(No audible response.)

THE COURT: Okay. I'm checking remotely. I'm going to double check the chat just to make sure that somebody didn't have an audio issue, that they couldn't speak.

There is nobody putting anything in the chat telling me they have an audio issue and they can't speak.

Okay. So.

Is there something I'm missing that I should be taking into consideration for the three counsel that are kind of talking, which I can hear you, by the way. I have really --

MR. PARKER: I'm sorry, Your Honor.

THE COURT: The audio coming from there to here, just to let you know is --

MR. PARKER: We apologize, Your Honor.

MR. GRAF: Rusty Graf on behalf of Clear River. Just we were assuming that you're going to give us a new date to come back also after this pleading gets filed. They were asking more about my motion for fees, also whether or not we would do something with that today. I would prefer that we argue it all at the same time for Clear River --

THE COURT: You are correctly anticipating that I was going to ask that question at the end on what else you want done.

MR. GRAF: Yes, ma'am. Yes, ma'am, thank you.

MR. PARKER: I don't know where that came from, Your Honor, but, yes, Your Honor.

THE COURT: No worries. Okay.

Mr. Rose, are you standing up because you have a date issue?

MR. ROSE: Your Honor, I was just going to say, without conferring with anyone, as much as the Court has heard as far as argument, and as much briefing as the Court has heard for -- well, it's not our motion, but I'm willing to have the motion as to our costs decided on the papers once the briefs are submitted.

THE COURT: But you asked for a supplemental -- oh, you mean on the brief. Okay. I gotcha.

MR. ROSE: After the briefs are submitted for the

Court to rule on.

THE COURT: Okay. Well, I'll leave that to if you all want to do stipulations to hear things only on briefs; right? After the submission date. I'm going to give you a new date. I'm just going to give you two dates.

Like I said, I'm just trying to make sure we're not making impacting something that I might not be aware of. Maybe somebody has a licensing meeting that all of a sudden they need to have taken care of, right, or an appeal or something that I just --

MR. ROSE: Thank you, Your Honor.

THE COURT: I try and keep abreast of most things, but online is, like I said, I don't have a crystal ball (indiscernible). So I can't know everything and don't know everything.

Today is still the 21st; right?

Okey-dokey.

Next week is Nevada day. So I'm not going to make it due then.

Okay. I normally would not like to push you out, okay; however, here's the question. I'm trying to balance the rest of my schedule here, folks.

The first day, you may have heard me say this this morning when you weren't here, the first day I do not have -- the only couple of days I don't have trial, I've got motions on

the 21st of November. Okay. I'm not trying to push you out necessarily a month, but I can give you two weeks to file all of your whatevers, and then do any stips or agreements because you might revisit certain things and hear what the Court said and maybe you agree to certain dollars or things or maybe you'll agree to certain things. Who knows.

If I gave you all two weeks and then put it on the 21st at 1:00 p.m., I'll give you the 1:00 p.m. to a few minutes before 5:00 p.m. slot, is there any reason not to do that? I'm trying to balance -- I've got back to back to back trials. So I can give you less time before then, but that's the first day I do not have a trial currently.

I'm not saying any of these aren't going to flow over.

Go ahead, Counsel.

MR. ROSE: Teddy Parker on behalf of Nevada Wellness Center, Your Honor. The timing of the brief is fine. I think November 4th will be two weeks.

THE COURT RECORDER: Mr. Parker, I'm really struggling to hear you. Sorry.

MR. PARKER: No worries. Is that better?

(No audible response.)

MR. PARKER: Okay. So November 4th I believe will be two weeks, Your Honor. That would be fine in terms of briefing. I'm in a trial starting on the 14th of November. I

am sure it will go through the 21st. I would much prefer to be here on that date, but it's in front of -- it's in federal court. So it's a firm date. It's not being changed.

THE COURT: I appreciate people might have conflicts.

Okay. I was just going to stop at the one. Okay.

You all understand no matter what date I pick it's going to be problematic and challenging for somebody, okay, which is why people want to do things on the briefs, that would be okay for briefs. If people want to come in, do something coming in.

My other choice, realistically, is to -- I can ask you all to talk with each other and come to a stipulation on a potential day, but the challenge there is it really just took so much administrative time to get you to what was today because you all have very busy schedules, and you're probably less likely to tell me some of your other reasons than you are if you talk among yourselves. I appreciate that in open court you might only give me the trial trials, right, or the arbitrations, whereas if you're among yourselves you might have other dates.

I'm also trying not to give you the Wednesday before Thanksgiving, folks. I'm trying not to give you, you know what I mean. I am appreciative many people, even though Thanksgiving really is on Thursday, that they take Wednesday, and they spend family time. So that's why I was trying to

focus on Monday.

Tuesday, I can push it to Tuesday, the 22nd.

Literally, I'm here on Wednesday, but I don't think anybody else wants to be here Wednesday.

MR. PARKER: I'm here on Wednesday too, Your Honor, and I'm --

THE COURT: I'm not trying to do a who's going to be here. If anybody had family time that they're trying to spend on Wednesday, right, but I'm going to be cognizant of that, and I'm not setting this on Wednesday.

MR. PARKER: You can't do the whole week, Your Honor.

THE COURT: Is that what you were talking about?

MR. PARKER: Mr. Rulis can't --

MR. RULIS: That's what I was standing up to say. I'm out of the jurisdiction that week. I believe we have other plaintiffs counsel that --

THE COURT: Okay. I --

MR. PARKER: So that whole week, unfortunately.

THE COURT: Okey-dokey.

MR. PARKER: Your Honor, one other thing that you mentioned that I thought was something that we were also doing in the future, you gave us supplemental briefing opportunities on the Essence related numbers. The last brief that I saw from Mr. Bice's office was filed on September 26 at 5:55 p.m. I thought when we came back here that that supplemental briefing

would lend itself to our finalization of our oral argument on those briefing topics.

THE COURT: Did you really want me to circle there, or did you want me to finish with this one first?

MR. PARKER: I'm going to sit down and let you finish, Your Honor.

THE COURT: Only because if we start these segues, you each will have a little segues.

MR. PARKER: No, I just thought we could do everything on the same day.

THE COURT: Right. Let's just get to -- well, I'm going to ask Mr. Bice his position too because you -- the parties that were involved in that one, but let me finish with this bigger issue, and then let's go to that one. Okay?

MR. PARKER: All right.

THE COURT: Okay. As well as the fees motion, which I have to ask Mr. Graf on. So I realize there's a couple other. There's lots of -- since it's Halloween and pro bono month --

Remember, it's pro bono month, folks. Okay. But I'm supposed to say it's also Halloween.

Well, I can't tell you that I'm going to have time next week because you'd be thinking, oh, maybe that trial, right, that you heard about. They somehow magically came to some resolutions supposedly that they're going to tell me at

12:45. So I can't --

MR. PARKER: We're excited for you, Your Honor.

THE COURT: Welcome to my world. It's a lot, but I enjoy what I do.

Here's what I am going to do. I'm not going to have you all sit here waiting, okay, while I try and look at dates, okay. I'm going to have to hear what they tell me at 12:45 with regards to what their issue is.

I'm also in the midst of another trial that they just told me late yesterday afternoon that they're not going to finish in their allotted additional extra time, and I'm already in back-to-back trials thereafter. So I have a couple of moving parts that I, in order to ensure that everyone is fully and fairly and equitably taken into account and taken care of, so it seems to me I'm going to have to coordinate with my JEA to try and see when we have some time. And some of you are also in another case that I'll be seeing you on the 4th anyway for opioid litigation. So I'm trying not to double balance people who may be in that as well so that they can take care of that.

No, I don't have Real Water cases for a little bit. Those I took (indiscernible). That's my '23 and '24, end of '23 and '24 time years.

So, Counsel, Mr. Rulis.

MR. RULIS: Your Honor, Nate Rulis.

THE COURT: When do you leave the jurisdiction?

MR. RULIS: Nate Rulis for MM, LivFree. I'm just going to offer I'd be happy to try and coordinate on behalf of plaintiffs. If we could have one person on behalf of defendants, we could coordinate with your chambers as finding a new date.

THE COURT: I only have one JEA. I am very appreciative of that offer. I'm also very appreciative to try and get you to today's date, how much time that took on hers. So what we're going to do is we're just going to have to pick a date. I'm appreciative blocking out that week of Thanksgiving is fair because so many people have family obligations, and that's preset. I think any other date I pick may impact someone, but the bottom line is we're going to do it, and people are going to have to make it work because I would love to accommodate each and every one of your schedule and count the number of people you are and do that, but in reality, you all as very busy attorneys are going to have a conflict somewhere.

So as long as I don't pick Thanksgiving, which I think is the fair week, because people would've already made family and holiday plans, okay. I think if I pick another date it's going to be this is it. Find a way to make it work, or you can choose to send somebody else from your office, or you can get everyone on your case to agree to have it be done on

the pleadings.

And remember, only if I have every single joinder, every single movant and the person who filed the memorandum, right, agreeing. That's the only way I will do anything on the pleadings. If I do not have that all, and please do not tell me the day before the hearing, right. That's going to have to be by your -- on your actual pleading for the supplemental. It's going to have to be an additional stipulation from everyone who relates to that particular motion and joinders thereto, okay. That way we just have one pleading date. We don't have different people calling. We don't have different people doing anything.

Everybody understands that for the agreements?

MR. RULIS: Yes, Your Honor.

MR. PARKER: Yes, Your Honor.

MR. ROSE: Yes, Your Honor.

THE COURT: So I'm going to speak with the other counsel on their trial at 12:45 to see if by chance I have opened up any dates then. I will tell you possibly depending on what they say maybe I might have the morning of the 31st, and maybe I'm doing them in the afternoon of the 31st. So maybe your Department 31 on Halloween trick or treat. Who knows, Nevada Day, realistically, 1864; right?

So we're going to need to find you a date. We're going to tell you the date.

The reason why I'm probably not going to pick the 31st is I just told you two weeks. I'm sorry. I'm trying to balance, okay. I just misspoke. So it won't be the 31st. That option won't help you, but maybe they'll get done early. Who knows? I'll find you a date. So you will hear from us by tomorrow on what your new date is. You've got the timing of your brief.

Page limit on the briefs, when I said five pages, not including the caption page, I did mean five pages not including the caption page.

When I -- people think that they're going to attach hundreds of pages of exhibits and other pleadings and incorporate them, no, you're not. At maximum, 10 pages of exhibits.

And if you get to that 10th page, please make sure you read EDCR 2.27.

Thank you so much.

MR. ROSE: Your Honor, is that 5 pages of briefing plus 10 pages of exhibits?

THE COURT: A maximum of 10 pages of exhibits and 5 pages of briefing, maximum.

Now, what I understand -- wait. Don't leave yet because I have to have Mr. Bice and Mr. Graf question; right? I have to ask Mr. Graf --

UNIDENTIFIED SPEAKER: Your Honor, I've got a quick

question on the --

THE COURT: Hold on a second. I'm asking Mr. Bice and Mr. Graf a question.

THE COURT RECORDER: You guys --

THE COURT: This is not an open forum for people to talk, please, okay. There is some other pending motions that were not the cost motions.

Mr. Graf, one of them was yours.

MR. GRAF: Yes, ma'am.

THE COURT: Do you wish this to be continued to the new date, or did you wish to still be heard today in the next 10 to 15 minutes.

MR. GRAF: Yeah, Your Honor, let's continue it to the next day.

THE COURT: Does anyone object for Mr. Graf's motion to be heard on the continued date? If so, speak now.

MR. PARKER: No objection, Your Honor.

THE COURT: Silence is acquiescence. No one is subjecting.

Okay. Mr. Bice, you also had --

MR. BICE: Yes, Your Honor.

THE COURT: -- the dollars. I would call it the dollar portion; right, to be completed.

MR. BICE: Correct. Yes.

THE COURT: Now, I will tell you the Court is not

going to take any different position if you hear it today versus you hear it on the new date as to what impact, if any, any of the supplemental briefing would have. Let me be clear from that. That's not going to impact yours. Yours is where it's at, okay.

MR. BICE: Right.

THE COURT: What do you wish? Go ahead, and then let's hear the other parties on that one.

MR. BICE: Oh, well, Your Honor, if the Court can hear it -- the reason that we don't have an order to you --

THE COURT: Just the dollars.

MR. BICE: -- and this was our prime misunderstanding was the dollars. So if the Court is prepared to address that now, we're prepared to address it now.

THE COURT: Okay. That means you get total of 10 minutes for everyone for oral argument. Everybody understands that?

MR. BICE: Understood.

THE COURT: Okay. Everybody else on that motion?

MR. PARKER: Yep.

THE COURT: Okay. Does anyone disagree? Anyone say that it shouldn't be heard today?

No. Okay. I'm not hearing any disagreement.

So we're just going to be discussing, just so that we have clarity, just, folks, let's make sure because while it's

on our nice listing, what I'm going to reference is back on September 16th is my recollection; is that correct?

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

THE COURT: Okay. So on September 16th, if we go to that date. On September 16th we heard TGIG's motion to retax and settle costs, and related joinders and supplements thereon.

I just misspoke. Sorry. And we had -- so the Essence entities. Let me go back. I've got so many of these motion titles.

Mr. Bice, can you please give me the title of the motion. It's going to be easier than me going back and looking.

MR. BICE: Your Honor, this was the motion -- Mr. Rulis I think -- it was Mr. Rulis's motion to retax.

THE COURT: Right. So was I correct on the titling?

MR. RULIS: That's correct, Your Honor. Nate Rulis on behalf of MM and LivFree.

It was the motion to retax and settle costs filed on August 8th, 2022, at 5:15 p.m., filed by my office.

THE COURT: Right. Okay.

THE COURT RECORDER: Judge, there's a question in the chat. I just wanted to make you aware of that.

THE COURT: There's a question in the chat.

Your Honor, is the time for the briefs due any time

that day?

No. I said end of day, 5:00 p.m. 5:00, p.m. Not in my 5:00 p.m., it does not exist on November 4th. That's 5:00 p.m. Pacific time, not Hawaii time.

MR. ROSE: And, Your Honor, for that brief, could the Court also order that at the -- to facilitate it for the Court, that whoever files a brief they have to state at the beginning the date that they filed their timely memorandum of costs or motion to retax or joinder? That way we know they have the right to file that supplement?

THE COURT: So what you're saying is take a one sentence at the beginning, so-and-so on behalf of blank, the date of the joinder, motion to retax or memorandum was filed on blank timely? I think that's -- actually that would help the Court honestly because then I have a cross reference of where it is, and we don't have somebody raising the issues of the timely, and you all aren't looking back through more than 3,063 entries.

Is there any reason not to just add the date that you filed your original one?

MR. RULIS: Just a clarification. Nate Rulis again.

THE COURT: If you filed on more than one dates on behalf of more than one party, drop it in a footnote.

MR. RULIS: Exactly. To the extent that you're addressing time frames for more than one party, it will address

all of the necessary motions.

THE COURT: Yeah. Timely filed on behalf of blank on X date. Timely filed on behalf of blank and blank on Y date. Timely filed on behalf of blank, blank and blank on Z date. If there's an X Y and Z date, or if it's the same and it's on behalf of blank, blank and blank, blank, blank, all on the same date. It's an easy little footnote; right? Any reason -- it's a good idea.

MR. ROSE: Thank you.

THE COURT: It will help the Court for cross reference.

MR. ROSE: For the record, Mr. Schwarz gets credit for that idea.

THE COURT: Very good idea.

MR. SCHWARZ: Thank you, Your Honor.

THE COURT: Okay. Thank you. Everybody heard that, just drop a footnote so that we have the timeliness issue so that we don't have a long time on people saying people did or did not file things timely.

Okay. Let's get to Mr. Rulis with regards to Essence. The dollars you had, remember, the Court, you got the supplemental. You were given an opportunity to potentially agree.

So please set forth if you have a total number, please set forth where you're at with regards to that pending

motion. Go ahead, Counsel.

MR. RULIS: So, Your Honor, I just want to make sure we do -- that there's -- and again, Nate Rulis for the record.

THE COURT: There's joinders, yes.

MR. RULIS: There were a couple -- there were two issues that we were addressing. It wasn't just numbers. It was also part of it was what impacted the numbers, which was what was the settlement date.

THE COURT: Correct.

MR. RULIS: So as we addressed in the supplement, we believe, and I talked about it earlier that the settlement date, as it was put on the record before the Court was July 29th, 2022, at which time Judge Gonzalez said that those settling -- so those of you who are plaintiffs who have settled are welcome to leave. You're also welcome to stay because this is a public hearing.

And then she proceeded and said we're going forward with whoever is left. She basically excused the settling plaintiffs and didn't participate thereafter.

So I believe that the -- I apologize. The amounts that occurred after that date total -- sorry, Your Honor. I don't think I have it totaled. I have it broken down by per charge on the top of page 3 of that supplement.

THE COURT: Well, I'd offer to loan you a calculator, but the last time I loaned out my calculator the counsel took

it with him. So I don't have it. Somebody I'm sure on their phone or -- okay. So why don't you just set forth your two issues. I'll circle back with you on your final -- with a number, right.

MR. RULIS: Okay.

THE COURT: Because -- or you can break it down, however you want to do it. Go ahead, please.

MR. RULIS: So there's the costs that were incurred postsettlement, and I'll sit down and calculate that and give Your Honor the total amount of costs. But there were also -- that relates then to the -- there were costs that were included for parties that either did not testify at trial or testified after the settlement date. That total was $16,189.61 in costs related to trial subpoenas for those parties. That's addressed on pages 3 and 4 of the supplemental brief. And then there was the discussion of insufficient documentation, which is again I have those broken down per item. So let me sit down and calculate those and give you the total number.

THE COURT: Right. And if you want to walk through your individual items, that's fine so that the various parties can respond as well. That's perfectly fine too.

MR. RULIS: Yes. Let me do that. I would be happy to.

So the specific items that we are addressing that we talked about, presented to Mr. Bice and Mr. Smith by e-mail is

there are video deposition charges and synced DVD copies. That would be in addition to the transcript charges that they've already included. That total is $42,400, and we don't believe that that's allowed under NRS 18.005, sub 5.

THE COURT: Did you say 4200 or 42,000?

MR. RULIS: $42,400.

THE COURT: Thank you.

MR. RULIS: There are photocopy costs of $3,315.52, which is the only documentation is they made copies. There's nothing that says what those copies were or what they were for. So under *Berosini*, I don't believe that those are allowable.

There are AT&T long-distance phone calls in a total of $234.36. Again, there's nothing that provides why they were charging long distance phone calls, much less why we're still charging long distance phone calls in the era of cell phones. But nonetheless, there's nothing that identifies what the call was for or why we're being charged for it.

There are runner fees for $550. Again, nothing that supports that why that was reasonably or necessarily incurred.

Legal research in the total of $9,230.30, nothing that supports what the research was, why it was done and why it was reasonable and necessary other than I believe a declaration by counsel that just said we did it --

THE COURT: -- declaration.

MR. RULIS: -- and it was necessary.

And then there are trial technician fees of $5,075.22 and discovery related, and Mr. Smith clarified that that is for HOLO costs of $8,061.52.

And specific to the HOLO costs, we had a depository in this case that everyone had the availability to use at Lit Services. It was free. What Mr. Smith told me is that they did not like it, and so they chose to pay for and utilize HOLO instead and are seeking to recoup those costs because they didn't want to use the free lit services.

THE COURT: But I did not see anything in the briefs that you all were required to use any particular vendor or not use any vendor; correct?

MR. RULIS: There was no requirement. It was simply -- it was available and free and utilized I think by everybody but them.

THE COURT: Okay. So you've got the DVD, the photocopies, the AT&T, the fees for the 550, the legal research, the discovery and the trial tech; correct?

MR. RULIS: That is correct, Your Honor.

THE COURT: Okay.

MR. PARKER: Your Honor, I added them up if that would make the Court -- if it would be easier for the Court.

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

MR. PARKER: Again, Teddy Parker on behalf of Nevada Wellness Center, Your Honor.

We worked on the supplemental brief together with Mr. Rulis's office, and, of course, the other settling plaintiffs' offices.

The total we have in the form of reduction is $82,896.03 is I believe the number.

THE COURT: Okay.

MR. PARKER: Which reads --

THE COURT: That covers both categories of topics?

MR. PARKER: It covers the e-filing costs of $1,257.10, the video deposition costs --

THE COURT: Wait. Wait.

MR. PARKER: -- of $38,400.

THE COURT: I didn't hear Mr. Rulis's -- I didn't hear you say the e-filing costs, the 1,000.

MR. PARKER: I think it's in here, Your Honor.

THE COURT: No, when he verbally was going through a listing.

MR. PARKER: Okay.

MR. RULIS: Your Honor, I'm sorry. I believe what Mr. Parker -- and Nate Rulis for the record.

I believe what Mr. Parker is talking about is the first category of costs that I was talking about that I said I was going to sit down and calculate, which was costs incurred after the settlement date is --

THE COURT: Okay. So is the 82,896.03, costs

incurred after settlement, or is that the total of all of the costs, both on the --

MR. PARKER: That's total all that we believe would not be recoverable based upon all of our arguments, Your Honor.

THE COURT: Okay.

MR. PARKER: And which leaves, just for the Court's ease of reference, which leaves $98,137.92 by my calculations.

THE COURT: Okay. Thank you.

MR. PARKER: You're welcome, Your Honor.

THE COURT: Okay. Does anybody else on the movant's side need to be addressed? If not, I'm going to go to the opposition side.

Are you also moving? Not seeing a negatory nod here in court.

Anybody? I'm not seeing anybody.

Well, whoever's gone off audiovisual, I can't see you. So I can't do it.

Mr. Bice, do you wish to be heard in opposition?

MR. BICE: Yes, Your Honor, I do. So thank you, Your Honor. So let me --

THE COURT: And remember to state your clients. Mr. Bice, I need you to state your clients. Thank you.

MR. BICE: Todd Bice on behalf of the Essence parties, and I appreciate the Court getting this issue resolved.

So, Your Honor, the first issue that they raise is the fact that they entered into a settlement, but they didn't enter into a settlement with my client, just like they didn't enter into a settlement with a whole host of the parties here. So their settlement where they agreed to waive costs with the parties with whom they settled has nothing to do with my clients.

And I dispute Mr. Rulis's characterization of what Judge Gonzalez -- they were free to proceed with the trial against my client if they had wanted to, or they were free not to. And the fact that they then chose by their own actions to settle with certain of the defendants in order to get licenses, that was in their economic interests, but that doesn't diminish the fact that the trial proceeded against my client, and Judge Gonzalez ruled that that judgment that Essence obtained in its favor applied to all the plaintiffs.

So the settlement that they entered into has nothing to do with Essence. That is a settlement that they chose to enter into with certain defendants and not others.

And so that has nothing -- that date -- the date they entered into a settlement is a complete red hearing. It has nothing to do with Essence. It may have -- if some of the other parties who they settled with had made claims for costs, then their settlement agreement might be relevant, but it doesn't have anything to do with my client.

So then let me deal, Your Honor, with just kind of the order in which they raised some of these issues in their supplemental briefing.

They protest, one of the cost matters that they protest, Your Honor, is they say that we had a whole host --

Your Honor, there's one other point I want to make about the settlement agreement and the date they're trying to use. That settlement agreement is something that actually specifically provides in it that it's only effective upon approval of the cannabis compliance board, and they didn't get approval of that until later.

So again, this attempt to use that settlement agreement has nothing to do with my client, and the fact that they had a tentative resolution and they chose to not continue to appear at the trial, that's up to them. That has nothing to do with my client.

So now turning to the specific expenses. They complain about $16,000, Your Honor, and some change relating to trial subpoenas that we had to try and serve on all the plaintiffs. It was all these plaintiffs that brought us into this action, and the arguments that they want to make about somehow, well, they didn't want to bring us in, I mean, I actually agree with that. They didn't want to bring us in. What they wanted to do was litigate our licenses without us being present to defend ourselves.

And so that's why we were necessary parties, and that's why we were brought into these actions.

So that, number one, has nothing again to do with it. We had to subpoena all these parties. Many of them dodged service, refused to appear. One of the most notable was the TGIG representative, Mr. Ritter. It was extensively discussed at trial. And another one who dodged service repeatedly, and we made multiple attempts to serve him was Frank Hawkins for Nevada Wellness Center, Mr. Parker's client.

So we incurred an awful lot of expense in serving these people because we needed to have them potentially available at trial depending on what the plaintiff put on as a case, Your Honor.

So I don't know how you can object to us serving parties with subpoenas to appear at trial when we're the defendants, and we have to anticipate -- we have to be ready to call any witness depending upon which case the plaintiff sets forward. So those were, as Mr. Smith's affidavit attests, those were incurred in defense of the action, and they are reasonable.

And by the way, they are necessary in order to have people in attendance.

So let me turn then, Your Honor, to the real big one that they are complaining about, which is really the issue about depositions.

And so my client, the Essence parties, Your Honor, took almost all of the depositions on behalf of -- or we noticed them on behalf of the defense side of the case because we tried to do this on the defense side of the case. We tried to coordinate it and have a single sort of party doing it so that we wouldn't run into conflicts, and we tried to coordinate.

So the Essence party, my firm, took on the responsibility of noticing all the depositions and setting up all of the court reporters, which is what we did.

So they argue, Your Honor, that you can't recover on a deposition for both a video and the transcript, and that's just wrong. Under the law, Your Honor, you have to have the transcript because that's the official proceeding, but at the same time, Your Honor, the plaintiffs here are the ones who demanded -- so in other words, Your Honor, the transcript, you actually, if you have motion practice, you file the transcript. That's what the statute already provides for.

But the plaintiffs demanded a trial with live witnesses, with witnesses on the stand, and it is both reasonable, customary and necessary for lawyers to do videotaped deposition, and I daresay that the lawyers on the plaintiff side of this case do that as well, and they did it in this case. They videotaped depositions because they recognized we were going to trial, and the statute doesn't say that you

can't recover for videotaping a deposition.

We are a defendant. We were forced into this case because they were trying to take our licenses away and reallocate them to themselves, and we noticed depos. We have transcripts, as the law requires, and we had video because they were demanding a trial, and it is both -- and they -- you'll notice, Your Honor, neither Mr. Parker nor Mr. Rulis would dare submit a declaration suggesting to the Court that it is not reasonable and customary in this jurisdiction to videotape depositions in a case in which there's going to be a trial because they both do it, and their firms do it, and they did it in this case.

So let me turn next, Your Honor -- so there should be no denying our recovery for the notice of depositions that we did in this case, both for the transcripts as well as the video.

And the same is true, Your Honor, for the syncing because in order to use the depo, the video depo and with the official transcript, which the law requires, those have to be synced together, and that is a reasonable cost. It is a customary cost incurred in this jurisdiction, and it is a necessary cost.

Number two, Your Honor, that they raise, they complain about are the photocopies in this case, Your Honor. The statute specifically provides that you can recover for

photocopies in this case, Your Honor. We, and Mr. Smith has attested, we -- in his declaration, these were reasonable and actually incurred in defense of this case. These actually, Your Honor, fortunately, because everything is so electronic anymore, our photocopying was quite limited, as you can see from the amount.

The statute also allows us to recover for long distance charges, and yes, I actually agree with Mr. Rulis, those are becoming less and less, but in this case, particularly, Your Honor, our client's headquarters was in Chicago, and we had a month long trial, and we had to have extensive conference calls with the client.

THE COURT: And you're telling that cell phones were not covering long distance charges?

MR. BICE: No. We weren't -- we didn't charge, Your Honor -- we didn't charge for use of our cell phones when we had a call with the, you know, just a one-off. These would be charges, Your Honor, that we would incur if we had to set up a conference bridge.

THE COURT: Okay. Go ahead, please.

MR. BICE: So we would have, you know, we would have multiple people on a call.

And then, Your Honor, on the runner issue, again, we, just like everybody else in town, we will use runners from time to time, and we will charge a service for that.

On a legal research, and again, by the way, the defendants side do that as well, and they know that.

On the legal research side, Your Honor, again, this charge is very reasonable. This was a very large matter involving a tremendous amount of money, as they have attested to. They're claiming these licenses were worth millions, and we were trying to protect our share of that multi-, multimillion dollar pie, and we did so successfully.

THE CLERK: Okay.

MR. BICE: And then finally, Your Honor, and again, that's simply a $9,000 charge for the entirety of this case, Your Honor. It was more than reasonable, and the statute expressly allows you to recover that.

I daresay, Your Honor, I would ask the defendants to disclose to the Court what their charges were to their clients for legal research, and I will bet you that ours is eminently reasonable compared to their own.

THE COURT: Okay.

MR. BICE: And then on the trial tech, Your Honor, again, we're a defendant. The plaintiff was the one who wanted a trial and forced this case to go to a trial. It is both reasonable and customary in this jurisdiction to have a trial tech. I believe there is, in fact, one sitting in your courtroom right now because I saw him when the camera turned the other direction.

So that should hardly be a surprise, and they do not -- they provide no affidavit.

THE COURT: Okay. Okay.

MR. BICE: -- saying that that amount is unreasonable --

THE COURT: Counsel. I've got -- remember the deal was you each got less than five minutes if we were doing it. So.

MR. BICE: Sorry. Sorry, Your Honor. All right. So with that, Your Honor --

THE COURT: Because 12:05 --

MR. BICE: -- the HOLO cost, Your Honor, again, no declaration from the defense saying it's unreasonable.

THE COURT: Okay.

MR. BICE: Thank you very much.

THE COURT: Okay. I appreciate it. Thank you.

Counsel, you will get last word, but here's my quick question. What actually are the charges that you are saying are post? It was not clear, post what you were saying the resolution. Were you saying all the subpoenaed witnesses, the bundle? Because you weren't saying the bundle of the 42,400. So just --

MR. RULIS: Nate Rulis for the record.

Postsettlement, the costs total $2,811.99, and those are the -- and I'll list them off because they are on --

THE COURT: Yeah, I need them.

MR. RULIS: -- page 3 of our motion, but it's e-file charges of $436, copy charges of $70.60, long distance telephone charges of $60.37, legal research charges of $432.04, trial technician charges of $650 and discovery related costs of $1,162.98.

THE COURT: Okay. You have a minute if you want to summarize anything else, either of you because I've got to get to -- remember.

MR. PARKER: Your Honor, I think -- I enjoy arguing against Mr. Bice because you can tell a lot by what he does not say. He first starts out with we forced him in. He intervened before we brought him into this case, before we named him, he intervened. It's hilarious to me that he keeps saying we forced them in.

THE COURT: Folks, folks, you're all part of the case, realistically. The case is the case. Go ahead.

MR. PARKER: Thank you. I just -- it just seems somewhat humorous that he would keep raising that issue.

THE COURT: And when I say that, at various times your parts of the case, in no way anybody take my statement as saying that everyone was from start to finish. Go ahead.

MR. PARKER: And I do appreciate that last comment, Your Honor.

THE COURT: Because you're still with this.

MR. PARKER: I'm still with this, Your Honor, and I'll see you January 3rd in addition to these other times.

THE COURT: Okay.

MR. PARKER: Your Honor, he does not differentiate between conference calls and cell phones. So your question hit the nail on the head. Where -- and it's his burden to explain the difference. So if it was a conference call that he had to pay some amount for, it's not explained in his affidavit or declaration. It's not identified or explained in his moving papers. So he shouldn't get the benefit of that.

Your Honor, he also argues about the legal research, but we don't know what the research was a hundred percent related to the PBR. We have no idea. So if it related to the petition for judicial review, then I don't see how that's recoverable, and I don't think he understands -- or I believe he understands, but perhaps he's simply skipping over it. The requirement is necessary and reasonable. If the services for litigation services are being provided for everyone, how reasonable or necessary is it for him to charge $13,000 additionally. Certainly that charge wasn't reasonable because it was already available to him, and it was not necessary.

The other thing I thought was very telling is that Mr. Bice said, I scheduled most of the deposition. I being Mr. Bice and his client scheduling most of the plaintiffs' depositions. They weren't in the defense of the case. He did

it because he believed it was a way, I guess, of simply increasing the cost and making it less desirable for us to be in the case, but I will tell you, Your Honor, he took a lot longer than that, but just give me one more second.

THE COURT: But you had an intro.

MR. PARKER: Thank you, Your Honor. And you've been very fair today.

THE COURT: Every day.

MR. PARKER: But, Your Honor, his arguments, his excuses in terms of what he did not and did provide are not consistent with the Fairway Chevrolet case, and just for the cite, because we talked about it all day, it's 484 Pacific 3d 276 Nevada 2021.

And then just because I know my client, he reads this transcript he'd want me to say this, my client was deposed twice. My client was on the stand twice. To say he was not available, especially since he was listening in and on the phone every day for that trial is completely inconsistent in terms of his availability.

So, Your Honor, I don't believe -- I believe that the numbers we have provided to the Court is consistent with the costs that are allowable under the statue and under the rule, and I'll end with that, Your Honor.

THE COURT: Okay. Thank you so much. Here's the Court's ruling.

Let's go first -- I am sorry. I said on behalf of whoever. You've got -- I mean, I've got to get this -- okay. So here's what we're doing.

With regards to the Court -- we're now looking at the numbers portion with regards to the motion to retax the joinders thereto, the opposition, thereto, the replies, thereto, all the joinders taken fully into account.

With regards to the legal research, the legal research is going to be granted as far as the motion to retax and reduce. Fairway Chevrolet, that's cited in all -- both of the supplemental briefs and other pleadings. It sets forth what was provided, and I appreciate some of this was provided. It's a newer case; right? Fairway Chevrolet is a newer case, but it really is not saying anything new. It's just a newer case.

So the 9,230, reduced.

Then we go to the AT&T charges. Sorry, in today's day and age, the Court cannot find it would be reasonable or necessary to incur long distance charges when people do have cell phones. If you choose to use some other function when you can use a cell phone, then it's not necessary. You can use the cell phones. You can easily do conference calls on cell phones. You can appear on BlueJeans on cell phones. You can do Zoom meetings. They are free, okay. All those options are. So the Court does not find that the $234.36 reasonableness,

sorry, et cetera, so it does not meet the statutory provision. So it is reduced.

Photocopies. Photocopies, straight out of *Cadle versus Woods & Erickson*. Here Woods and Erickson failed to show why copying costs were reasonable and necessary. The affidavit of counsel told the Court that the costs were reasonable and necessary but did not demonstrate how such fees were necessary to and incur the present action, and it cites to PETA, which is the Bobby Berosini that we referenced before, 114 Nevada at 1352 because District Court had no evidence which to judge the reasonable and the necessity of each photocopy charge. It's not the photocopy charged in total. Each photocopy charge we conclude the Court lacked justifying documentation to award photocopy costs. Same here. I don't have it for each photocopy.

I appreciate that people don't necessarily go into the minutia, but the Supreme Court tells me what I've got to do. I've got to follow the Supreme Court. *Cadle versus Woods & Erickson*, that reduces the $3,315.51.

Next, we go to the DVD and the various video depositions and the syncing. The Court is going to reduce the syncing. While I appreciate it is a wonderful trial technology that gets utilized, it is not something that is necessary, okay. People do do video clips without the syncing of all the transcript. I'm not saying it's not helpful. I'm just saying

I have to look at the statute, and what the Supreme Court has interpreted the statute, and that's pretty narrowly. Take a look at the whole plethora of cases that have been cited here today, cited in that briefs, et cetera.

So I don't have a breakdown to the specific syncing charge. So the syncing has to be reduced from the 42,400. The rest is reasonable.

The reason why the Court is going to say it's reasonable here in this particular situation, and this is not obviously the global, sometimes it's just the video deps. Sometimes it's just the hard copy deps. Sometimes it is both, but here the breadth and depth of the nature of this case, the fact that you all really were doing things as video deps, the number of parties, the way that it allowed the case to go forward, I also take into account some of this was done during COVID related times. Realistically, video deps were appropriate in this case. So the Court is going to allow the remainder but reduce the syncing charge from the video deps and DVD.

I didn't see a breakdown of the 42,400 specifically with syncing, Counsel. If you've got that number, then I will give that specifically.

MR. RULIS: I believe that number is $4,000, Your Honor. Mr. Bice or Mr. Smith can correct me, but I believe from their memo that --

THE COURT: Is the syncing 4,000, Counsel?

MR. BICE: Sorry, Your Honor. I'm looking. I have no reason to doubt Mr. Rulis's representation, and if we have a disagreement, we'll work that out in the form of the order, Your Honor.

THE COURT: Sounds good.

MR. BICE: I think he's probably right on that.

THE COURT: So the Court will say 4,000 unless the parties agree it's a different number. So when you all do the math, okay, make that appropriate.

MR. BICE: Understood.

THE COURT: I've given you the analysis with regards to the rest of the charges being appropriate and the 4,000 why it's not appropriate.

So now we get to the $550. That's appropriate. It meets all of the appropriate standards. So does the HOLO, and so does the document retention.

Let me walk through the document retention and the HOLO charges because that would be something you probably want a little bit of analysis on.

Here, realistically, with breadth and depth in this case, the number of parties that you had, remember you also had a unique location where you were doing this, right. You didn't even have the standard courthouse with all of its -- you had some unique aspects. Realistically, having a trial technician

through that proceeding would be appropriate.

While I fully appreciate that some of the parties say, well, guess what, we didn't need that moving forward in the trial because we did different things. All those things really had to be set up, and the Court doesn't see that there is a specific breakdown that there would be a charge that would not have been a charge because of the settling versus those needs for all of those charge that would've realistically been incurred, okay. So that goes to the trial technician. That's why it would be reasonable and necessary. It was actually incurred. They showed the appropriate bills and receipts.

Then we go to the addition of HOLO.

Realistically, if there wasn't an order document retention, there's not a CMO that goes to a document retention, i.e., CD cases, other complex cases where you all agree, and you have something from a stipulation standpoint, if somebody wishes to use something else, it ends up so then you have to look at is it reasonable and is it necessary. The charge is reasonable in and of itself. So the question really becomes is it necessary because you had this other option.

Realistically, the multiple parties, in order to get things the way that they were done, I don't see how it's not necessary to actually have that charge here in this situation from what has been presented in the pleadings and taking fully into account the supplemental pleadings, okay. That's the

basis of where I can actually have that information.

So now we go to those additional charges. The additional charges --

UNIDENTIFIED SPEAKER: Sorry. Sorry.

THE COURT: Okey-doke. The copying charges, that's $71. That was included, was it not, in the total copying charges that are $3,315.51?

MR. RULIS: Yes. Yes, Your Honor.

THE COURT: So I've already taken care of that; right?

Okay. With regards to long-distance, I believe I've taken care of that in the global charge that the Court has already addressed.

I believe with regards to the extra days in which you show for discovery HOLO, I think the Court has taken into account that; correct?

And your 432.04, remind the Court what you -- I wrote that one really --

MR. RULIS: Nate Rulis for the record.

That's legal research chargers, which Your Honor has already taken care of.

THE COURT: Which I already took care of. Okay. I already have checked off as I took care of that in my general analysis.

So what item have I not taken care of from the

retaxing parties' perspective?

MR. RULIS: I believe the only thing that would be left, Your Honor, is the Odyssey e-file charges of $436.

THE COURT: Okay. And I was trying to look through those because generally they would be -- obviously they're reasonable. That's what the Court charges.

The necessary aspect, because they were hard really to try and track down because the argument was on a pure timing standpoint, but I don't know if it relates to anything in between the fact that there was the initial agreement, when it gets approved or anything that really impacted your clients or not.

Can somebody just enlighten me on those e-filing charges you want to break down?

Mr. Bice, do you want to break down the 436?

MR. BICE: Your Honor, I actually can't break those down. Just I need a little clarification from Mr. Rulis. Is he saying that those 436 were charges that were incurred after the date he claims that his clients entered into the settlement agreement?

THE COURT: That's what this Court understood.

Mr. Rulis; is that correct?

MR. RULIS: Yes. Nate Rulis for the record.

That's correct. These are charges that were incurred after July 29th, 2020, and if Mr. Bice wants it, it's

specifically on Essence appendix 13 through 15. That's the verified memorandum at pages 2 to 3.

THE COURT: He took the time -- he took the time and dates of those various e-filings and put them after, and he did the mathematical calculations of the 350 times the number of things saying that his part is -- his client could not have been a part of that because they were no longer participating. So none of those filings would apply to him.

Now, obviously there's going to be a couple of orders that will apply to them, but I didn't see necessarily the breakdown that I could get through each and every one of those filings.

Counsel, what's your position?

MR. BICE: And fair, Your Honor. I understand that. I believe it's 400 and some dollars, Your Honor. We're burning more in attorneys' fees arguing about those. So although I think we're entitled to it, I'll just wait for the Court's ruling.

THE COURT: Okay. Wait or waive? I'm sorry. Did you say w-a-i-v-e or w-a-i-t?

MR. BICE: I'll just ask the Court to rule because I can't break it down in any greater detail.

THE COURT: Well, the movants -- it's the party who's seeking the cost whose obligation is to break it down to the specific detail.

See In Re Bobby -- *In Re Dish Network, Bobby Berosini, Fairway Chevrolet* and *Cadle versus Woods and Erickson*.

In the absence of doing so, then while that is an allowable cost in general, without it being shown that it would apply to the movants that sought the retaxing, the Court has to reduce it by the 432.04, and I was trying to figure out how you really got to the 4 cents because it's generally a straight 350.

MR. RULIS: Your Honor, let me clarify. The 432.04 was legal research charges.

THE COURT: Okay.

MR. RULIS: That's the e-filing is $436 even.

THE COURT: Oh, sorry. There it is. Okay. I had them marked as right next to each other. It was 436, which would be the 350, times the number of entries.

I mean, realistically, you broke it down. I think you probably would have gotten a few of them, but I can't see, and that would've been your obligation.

MR. BICE: Understood, Your Honor.

THE COURT: So 436 is reduced.

So I did not do the math. I have told you the ones that have been reduced. I have granted in part and denied in part. I believe I have taken care of each of --

So, Mr. Parker, go ahead.

MR. PARKER: Did you address the parking fees, Your Honor, of 372?

THE COURT: Oh.

MR. PARKER: Because --

THE COURT: I did not. Thank you so much for bringing that to the Court's attention.

When I looked at the 372, realistically, by cross referencing the dates, parking generally is reasonable. I didn't see that you had parsed out specifically some dates that would have been -- the parties still -- they still needed to come to court. They still needed to know, even though your clients may not have been officially part of the trial, there's still going to be potential rulings. There's going to be a judgment. There's going to be things regarding approvals on the cannabis compliance board that they're so going to need to go to court, which would be an allowable cost. So therefore I was finding it was reasonable, necessary and appropriate, the 372.

Go ahead.

MR. PARKER: Yes. There was no parking charge for parking at the trial, Your Honor. It was at the convention center. It was free parking. So in terms of the trial, there was no parking charge.

And then there was no indication of the parking dates prior to Nevada Wellness Center bringing in Essence as a

defendant.

So I don't know how you can award that since there was no parking charges for the trial whatsoever.

THE COURT: Okay.

MR. BICE: So there were no parking charges at the trial. He's right on that, Your Honor, but the parking charges are for going to court, which we only had the trial itself at the convention center. We had lots of motion practice and lots of hearings at the court. And this argument now trying to slip in at the end that says, well, before they brought Essence in, that argument was never made before, and I object to this new attempt.

THE COURT: The 378 -- the 372 stays in. It's a standard parking charge with regards. The Court doesn't see that it would be excessive. It's appropriate here around the courthouse you do need to. Sorry for the error. I was not thinking on the convention center. So realistically --

MR. PARKER: The problem is, Your Honor, you cannot split the dates because you don't then show the dates. Let me see if I can pull it for you.

THE COURT: But he does show a range of dates which are the dates in which this case occurred, and he shows that those -- look at some of the receipts and things that they have for the various dates of parking.

MR. PARKER: I'm pulling it up right now, Your Honor.

THE COURT: Realistically, that's going to be the Court's ruling, Counsel, from looking at all of this information, okay.

Reasonable, necessary, actually incurred.

MR. PARKER: It doesn't have any dates, Your Honor. It doesn't say anything.

THE COURT: It does have the dates. It has a range of dates with regards to parking, doesn't it?

MR. PARKER: No. I just see --

THE COURT: Okay. Let me go back to --

MR. PARKER: Other reasonable -- parking. It says expenses, parking.

THE COURT: Give me the date.

MR. PARKER: Expenses, parking, 372, no date.

THE COURT: Counsel, give me the date of the pleading again. I just --

MR. PARKER: I can just bring it to you, Your Honor, if you want.

THE COURT: Okay. Sure. I just clicked off this document so.

MR. PARKER: May I approach?

THE COURT: Yes.

(Pause in the proceedings.)

MR. PARKER: There is no date. It's right at the bottom. It says parking.

MR. BICE: Actually, Your Honor, it's on page 9 of our memorandum of costs, Item F that lists every date, and it lists the place where the parking occurred. It's at the Bank of America Plaza on almost all of the locations.

THE COURT: Okay. There. I feel about her. I was like I remember seeing those.

MR. PARKER: I stand corrected, Your Honor. I didn't see --

THE COURT: Yeah. I was, like going, I know he had those because I cross -- okay. 'Cause I was double checking the 2019s and everything when I was looking at those things.

Look at the bottom. See the bottom section, the chart at the bottom, the page, I left it open to the page, and then it goes.

Anyway, that's the Court's ruling.

MR. PARKER: Yes, Your Honor.

THE COURT: All right. So you see it on there. Yeah.

Okay.

MR. PARKER: I think that's all we have, Your Honor. We're going to submit a supplemental brief that remains on that one portion in terms of when they became a party, and our understanding of when all of these --

THE COURT: It does not apply. The Court made its ruling with regards to Essence. Essence is done and taken care

of. The only thing in Essence is proposed orders as to everybody else.

MR. PARKER: Right.

THE COURT: Supplemental briefing, 5:00 p.m. on the 4th. We're going to get you a date.

Also, at the request of the other parties, Mr. Graf is doing the other hearing on the new date.

MR. RULIS: Sorry, Your Honor. Before we -- there was the other issue of the process server fees for those people that either did not testify or testified after. I just -- I didn't discuss.

THE COURT: The Court granted those because, realistically, remember, all of those had to go out. Didn't know what was going to happen, didn't know where things were going to be. And that just is in the same thing is if you decide not to call one of your experts or one of your witnesses during the course of trial, that's still a cost that has been incurred to be reasonable and necessary. The Court finds it that way.

Thank you so very much. Have a nice day.

MR. RULIS: Sorry.

THE COURT: Thank you so very much have a nice day.

MR. RULIS: You said granted. You said granted, and I think Mr. Bice wants to clarify that you're allowing those costs.

THE COURT: You are correct. I am allowing that cost. I find it an appropriate cost under the memorandum of costs. So you are correct. I should have said that portion has been denied. So hence granted in part, denied in part, consistent with what all the Court said today. Thank you for that clarification.

Goodbye, everyone.

(Proceedings concluded at 12:26 p.m.)

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Dana L. Williams
Transcriber