

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

DEBRA ANN LIVINGSTON
CHIEF JUDGE

Date: February 23, 2022
Docket #: 22-349
Short Title: Horn v. Medical Marijuana, Inc.

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 15-cv-701
DC Court: WDNY (BUFFALO)
DC Judge: Feldman

DOCKETING NOTICE

A notice of appeal filed by Douglas J. Horn in the above referenced case was docketed today as 22-349. This number must appear on all documents related to this case that are filed in this Court. For pro se parties the docket sheet with the caption page, and an Acknowledgment and Notice of Appearance Form are enclosed. In counseled cases the docket sheet is available on PACER. Counsel must access the Acknowledgment and Notice of Appearance Form from this Court's website <http://www.ca2.uscourts.gov>.

The form must be completed and returned within 14 days of the date of this notice. The form requires the following information:

YOUR CORRECT CONTACT INFORMATION: Review the party information on the docket sheet and note any incorrect information in writing on the Acknowledgment and Notice of Appearance Form.

The Court will contact one counsel per party or group of collectively represented parties when serving notice or issuing our order. Counsel must designate on the Acknowledgment and Notice of Appearance a lead attorney to accept all notices from this Court who, in turn will, be responsible for notifying any associated counsel.

CHANGE IN CONTACT INFORMATION: An attorney or pro se party who does not immediately notify the Court when contact information changes will not receive notices, documents and orders filed in the case.

An attorney and any pro se party who is permitted to file documents electronically in CM/ECF must notify the Court of a change to the user's mailing address, business address, telephone number, or e-mail. To update contact information, a Filing User must access PACER's Manage

My Appellate Filer Account, <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-login.pl>. The Court's records will be updated within 1 business day of a user entering the change in PACER.

A pro se party who is not permitted to file documents electronically must notify the Court of a change in mailing address or telephone number by filing a letter with the Clerk of Court.

CAPTION: In an appeal, the Court uses the district court caption pursuant to FRAP 12(a), 32(a). For a petition for review or original proceeding the Court uses a caption pursuant to FRAP 15(a) or 21(a), respectively. Please review the caption carefully and promptly advise this Court of any improper or inaccurate designations in writing on the Acknowledgment and Notice of Appearance form. If a party has been terminated from the case the caption may reflect that change only if the district court judge ordered that the caption be amended.

APPELLATE DESIGNATIONS: Please review whether appellant is listed correctly on the party listing page of the docket sheet and in the caption. If there is an error, please note on the Acknowledgment and Notice of Appearance Form. Timely submission of the Acknowledgment and Notice of Appearance Form will constitute compliance with the requirement to file a Representation Statement required by FRAP 12(b).

For additional information consult the Court's instructions posted on the website.

Inquiries regarding this case may be directed to 212-857-8512.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Civil Action No. 15-cv-701

DOUGLAS J. HORN, et al.,

Plaintiff(s),

-against-

Notice of Appeal

MEDICAL MARIJUANA, INC., et al.,

Defendant(s).

NOTICE IS HEREBY GIVEN that DOUGLAS J. HORN, hereby appeal(s) to the United States Court of Appeals for the Second Circuit from the Interim Judgment docketed on January 25, 2022 (ECF Document No. 218) and its underlying decision docketed on January 24, 2022 (ECF Document No. 217) in this action.

Dated: February 16, 2022

Yours, etc.

/s/ Jeffrey Benjamin

THE LINDEN LAW GROUP P.C.

By: Jeffrey Benjamin, Esq.

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(212) 835-1532

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To all counsel via ECF

APPEAL,CASREF,CONSENT,MEDIATION

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CIVIL DOCKET FOR CASE #: 1:15-cv-00701-JWF
Internal Use Only

Horn, et al v. Medical Marijuana, Inc., et al
Assigned to: Magistrate Judge Jonathan W. Feldman
Cause: 18:1962 Racketeering (RICO) Act

Date Filed: 08/06/2015
Jury Demand: Plaintiff
Nature of Suit: 470 Racketeer/Corrupt
Organization
Jurisdiction: Federal Question

Plaintiff

Douglas J. Horn

represented by **Jeffrey M. Benjamin**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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TERMINATED: 06/26/2017

Plaintiff

Cindy Harp-Horn

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ATTORNEY TO BE NOTICED

Frank T. Housh
(See above for address)
TERMINATED: 06/26/2017

V.

Defendant

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TERMINATED: 05/16/2018

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Defendant

Dixie Holdings, LLC
also known as
Dixie Elixirs

represented by **Jean-Claude Mazzola**
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Defendant**Red Dice Holdings, LLC.**

represented by **Roy A. Mura**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Daniel Solomon Gvertz
(See above for address)
TERMINATED: 01/08/2021

Eric T. Boron
(See above for address)
TERMINATED: 05/16/2018

Scott David Mancuso
(See above for address)
ATTORNEY TO BE NOTICED

Defendant**Dixie Botanicals**

Date Filed	#	Docket Text
08/06/2015	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0209-2334467.), filed by Douglas Horn, Cindy Harp-Horn. (Attachments: # <u>1</u> Exhibit Advertisement)(Benjamin, Jeffrey) (Entered: 08/06/2015)
08/06/2015	<u>2</u>	RICO STATEMENT by Cindy Harp-Horn, Douglas Horn. (Benjamin, Jeffrey) (Entered: 08/06/2015)
08/06/2015	<u>3</u>	Original Summons Filed. (Benjamin, Jeffrey) (Entered: 08/06/2015)
08/06/2015	<u>4</u>	Original Summons Filed. (Benjamin, Jeffrey) (Entered: 08/06/2015)
08/06/2015	<u>5</u>	Original Summons Filed. (Benjamin, Jeffrey) (Entered: 08/06/2015)
08/07/2015		E-Filing Notification: Attorney is directed to e-file a civil cover sheet using the continuation of exhibits event found under responses and replies re <u>1</u> COMPLAINT (Benjamin, Jeffrey) (SG) (Entered: 08/07/2015)
08/07/2015	<u>6</u>	CONTINUATION OF EXHIBITS by Cindy Harp-Horn, Douglas Horn. to <u>1</u> Complaint <i>Civil Action Sheet</i> filed by Cindy Harp-Horn, Douglas Horn. (Benjamin, Jeffrey) (Entered: 08/07/2015)
08/11/2015		Case Assigned to Hon. Frank P. Geraci, Jr.. (DLC) (Entered: 08/11/2015)
08/11/2015		Notice of Availability of Magistrate Judge: A United States Magistrate of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form (AO-85) is available for download at http://www.uscourts.gov/services-forms/forms . (DLC) (Entered: 08/11/2015)
08/11/2015		AUTOMATIC REFERRAL to Mediation The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution (DLC) (Entered: 08/11/2015)

		08/11/2015)
08/11/2015	<u>7</u>	Summons Issued as to Dixie Elixirs and Edibles, Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: #(1) Summon II, #(2) Summon III.)(DLC) (Entered: 08/11/2015)
08/11/2015		E-Filing Notification: No summon submitted for Dixie Botanicals. (DLC) (Entered: 08/11/2015)
09/25/2015	<u>8</u>	STIPULATION <i>To Extend Time to Respond</i> by Dixie Elixirs and Edibles. (Lindstrom, Wendy) (Entered: 09/25/2015)
09/29/2015		ATTENTION CORPORATION PLAINTIFFS/DEFENDANTS: All Corporate Disclosure Statements pursuant to Fed. R. Civ. P. 7.1 (b) are to be filed within seven (7) days of this notice. (KLH) (Entered: 09/29/2015)
10/23/2015	<u>9</u>	ANSWER to <u>1</u> Complaint by Dixie Elixirs and Edibles.(Lindstrom, Wendy) (Entered: 10/23/2015)
10/23/2015	<u>10</u>	Corporate Disclosure Statement by Dixie Elixirs and Edibles. (Lindstrom, Wendy) (Entered: 10/23/2015)
02/19/2016	<u>11</u>	ANSWER to <u>1</u> Complaint by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Certificate of Service)(Mura, Roy) (Entered: 02/19/2016)
02/19/2016	<u>12</u>	Corporate Disclosure Statement by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 02/19/2016)
02/22/2016		ADR Plan electronically forwarded to attorneys. The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution (SG) (Entered: 02/22/2016)
02/25/2016	13	ORDER REFERRING CASE to Hon. Hugh B. Scott, United States Magistrate Judge, for all pretrial matters excluding dispositive motions. The parties are encouraged to consider consenting to jurisdiction by the Magistrate Judge pursuant to 28 U.S.C. § 636(c). Consent forms are available from the chambers of the Magistrate Judge or the office of the Clerk of the Court. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 2/25/2016. (MC) (Entered: 02/25/2016)
02/25/2016	<u>14</u>	ORDER TO SHOW CAUSE: Plaintiff is hereby Ordered to Show Cause, in writing and before March 4, 2016, why this case should not be dismissed as against Defendant Dixie Botanicals under Fed. R. Civ. P. 4(m) for failure to effect service within 120 days. Failure to comply with this Order will result in the dismissal of this action as against Dixie Botanicals. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 2/25/16. (SCE) (Entered: 02/25/2016)
02/26/2016	15	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>This case has been referred to the undersigned for pretrial proceedings. A scheduling conference will be held on 4/13/2016 at 10:30 AM, in the courtroom of the undersigned at 2 Niagara Square, Buffalo, New York.</p> <p>PRIOR TO THE SCHEDULING CONFERENCE, THE PARTIES ARE DIRECTED TO COMPLY WITH THE REQUIREMENTS OF RULE 26 OF THE FEDERAL RULES OF CIVIL PROCEDURE. This means that, at a minimum,</p> <p>(1) the parties are to have exchanged initial disclosures as required by Rule 26(a)(1);</p> <p>(2) the parties are to have met or conferred as required under Rule 26(f); and</p> <p>(3) the parties are to have filed a proposed discovery plan at least seven (7) days prior to the scheduling conference as also required by Rule 26(f).</p> <p>Under 28 U.S.C. § 636(c), the Magistrate Judge is available to conduct any or all proceedings in this case, including a jury or non-jury trial and entry of final judgment. (<i>See also</i> Fed. R. Civ. P. 73.) The parties are encouraged to consider potential benefits</p>

		<p>of a Rule 73 consent; however, there will be no adverse consequences at all should the parties decline.</p> <p>SO ORDERED. Issued by Hon. Hugh B. Scott on 2/26/2016. (GAI) (Entered: 02/26/2016)</p>
03/04/2016	<u>16</u>	RESPONSE TO ORDER TO SHOW CAUSE by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 03/04/2016)
03/08/2016	<u>17</u>	AFFIDAVIT of Service for Summ & Comp, RICO, CACC served on Dixie Botanicals on March 1, 2016, filed by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 03/08/2016)
04/01/2016		***CALENDAR NOTICE: Due to the Court's calendar, the Scheduling Conference set for 4/13/2016 will be delayed to 02:00 PM that day. Issued by Hon. Hugh B. Scott on 4/1/2016. (GAI) (Entered: 04/01/2016)
04/05/2016	<u>19</u>	NOTICE of Appearance by Eric T. Boron on behalf of Medical Marijuana, Inc., Red Dice Holdings, LLC. (Boron, Eric) (Entered: 04/05/2016)
04/13/2016	20	<p>Minute Entry for proceedings held before Hon. Hugh B. Scott: Scheduling Conference held on 4/13/2016.</p> <p>Court will adjust deadlines to fit expert discovery within overall discovery deadline, but proposed timeframe is generally acceptable. Scheduling order will issue shortly.</p> <p>APPEAR: Jeffrey M. Benjamin (Pltf) (by phone); Wendy J. Lindstrom (Deft Dixie Elixirs and Edibles) (by phone); Eric T. Boron (other defts). (Court Reporter FTR Gold.) (GAI) (Entered: 04/14/2016)</p>
04/14/2016	<u>21</u>	<p>SCHEDULING/CASE MANAGEMENT ORDER (Please Note: This docket text does <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.)</p> <p>Discovery completed by 9/15/2017. Dispositive Motions due by 11/17/2017.</p> <p>Signed by Hon. Hugh B. Scott on 4/14/2016. (GAI) (Entered: 04/14/2016)</p>
04/18/2016	<u>22</u>	REQUEST FOR CLERK'S ENTRY OF DEFAULT against Dixie Botanicals by Douglas J. Horn, Cindy Harp–Horn.(Benjamin, Jeffrey) Modified on 8/5/2016 to correct title and terminate as a motion(SG). (Entered: 04/18/2016)
05/18/2016	<u>23</u>	Stipulation–Selection of Mediator by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 05/18/2016)
08/03/2016	<u>24</u>	NOTICE by Cindy Harp–Horn, Douglas J. Horn <i>Consent Order Granting Substitution of Attorney</i> (Housh, Frank) (Entered: 08/03/2016)
08/03/2016	<u>25</u>	NOTICE of Appearance by Frank T. Housh on behalf of All Plaintiffs (Housh, Frank) (Entered: 08/03/2016)
08/04/2016	26	<p>–CLERK TO FOLLOW UP–</p> <p>TEXT ORDER RE: <u>25</u> Notice of Appearance filed by Cindy Harp–Horn, Douglas J. Horn.</p> <p>The Court recuses itself from this case and asks the Clerk of the Court to arrange for referral to another Magistrate Judge.</p> <p>SO ORDERED. Issued by Hon. Hugh B. Scott on 8/4/2016. (GAI) (Entered: 08/04/2016)</p>
08/04/2016	27	TEXT ORDER REFERRING CASE: In light of Judge Scott's recusal, this case is now referred to Hon. Michael J. Roemer, United States Magistrate Judge, for all pretrial matters excluding dispositive motions. The parties are encouraged to consider consenting to jurisdiction by the Magistrate Judge pursuant to 28 U.S.C. § 636(c). Consent forms are available from the chambers of the Magistrate Judge or the office of

		the Clerk of the Court. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/4/16.(SCE) (Entered: 08/04/2016)
08/05/2016		E-Filing Notification: Incorrect event used to electronically file document. For future reference, use (Request for Clerk's Entry of Default) event. No action required. <u>22</u> REQUEST FOR CLERK'S ENTRY OF DEFAULT against Dixie Botanicals (SG) (Entered: 08/05/2016)
08/29/2016	<u>28</u>	Clerk's ENTRY OF DEFAULT as to Dixie Botanicals (SG) (Entered: 08/29/2016)
09/12/2016		SCHEDULING NOTICE. Status Conference set for 9/21/2016 11:00 AM before Hon. Michael J. Roemer. Local counsel shall appear in person. Out of town counsel for defendant Dixie Elixirs & Edibles may participate by teleconference and shall supply the Court with a telephone number as the Court will initiate the call. (RAZ) (Entered: 09/12/2016)
09/19/2016		SCHEDULING NOTICE. Status Conference set for 9/21/2016 at 11:00 AM has been RESCHEDULED to 9/26/2016 02:30 PM before Hon. Michael J. Roemer. Out of town counsel for defendant Dixie Elixirs & Edibles may participate by teleconference and shall supply the Court with a telephone number as the Court will initiate the call. (RAZ) (Entered: 09/19/2016)
09/26/2016	29	Minute Entry for proceedings held before Hon. Michael J. Roemer: Status Conference held on 9/26/2016. Mr. Housh recently entered his appearance in place of Mr. Benjamin. Parties previously selected a mediator, however, no mediation has been conducted. Court to issue a new case management order. Parties to confer and submit joint proposed case management deadlines within one week. APPEARANCES: Frank Housh, Esq. for plaintiffs; Eric Boron, Esq. for defendants Medical Marijuana, Inc and Red Dice Holdings, LLC; Wendy Lindstrom, Esq. and Hanoch Sheps, Esq. (via telephone) for defendant Dixie Elixirs and Edibles. (Court Reporter FTR Gold.) (JDK) (Entered: 09/26/2016)
10/05/2016	<u>30</u>	Proposed Pretrial Order <i>Amended Case Management Order</i> by Cindy Harp-Horn, Douglas J. Horn. (Attachments: # <u>1</u> Certificate of Service)(Housh, Frank) (Entered: 10/05/2016)
10/07/2016	<u>31</u>	CASE MANAGEMENT ORDER (Please Note: This docket text does <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.) First Mediation Session due by 1/30/2017. Motions to Join Parties/Amend Pleadings due by 3/21/2017. Motions to Compel Discovery due by 5/1/2017. Discovery completed by 6/1/2017. Plaintiff Expert Witness ID due by 9/1/2017. Defendant Expert Witness ID due by 10/2/2017. Dispositive Motions due by 5/1/2018. Mediation To End by 5/1/2018. Signed by Hon. Michael J. Roemer on 10/7/2016. (RAZ) (Entered: 10/07/2016)
12/13/2016	<u>32</u>	NOTICE of Appearance by Hanoch Sheps on behalf of Dixie Elixirs and Edibles (Sheps, Hanoch) (Entered: 12/13/2016)
12/14/2016		ADR Plan electronically forwarded to attorneys. The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution .(NRE) (Entered: 12/14/2016)
12/29/2016		SCHEDULING NOTICE. Discovery Hearing set for 1/9/2017 02:00 PM before Hon. Michael J. Roemer. (RAZ) (Entered: 12/29/2016)
01/09/2017	33	Minute Entry for proceedings held before Hon. Michael J. Roemer. Discovery Hearing held on 1/9/2017. Pltf to respond to discovery demands by 1/22/2017. As requested by the parties, First Mediation Session due by 2/28/2017. Appearances: Frank T. Housh, Esq. on behalf of pltf; Eric T. Boron, Esq. on behalf of defts Medical Marijuana, Inc., Red Dice Holdings, LLC; Hanoch Sheps, Esq. via teleconference on behalf of deft Dixie Elixirs and Edibles. (Court Reporter FTR Gold.) (RAZ) (Entered: 01/10/2017)
02/14/2017	<u>34</u>	Mediation Certification by Michael Menard(Menard, Michael) (Entered: 02/14/2017)

05/15/2017	<u>35</u>	MOTION to appear pro hac vice for Jean E. Smith–Gonnell (\$150 fee paid; receipt number BUF055382) by Dixie Elixirs and Edibles. (Attachments: # <u>1</u> Sponsoring Affidavit, # <u>2</u> Petition, # <u>3</u> Attorney's Oath, # <u>4</u> Civility Oath, # <u>5</u> Attorney Database, # <u>6</u> CM/ECF Registration)(NRE) (Entered: 05/17/2017)
05/17/2017		Verified admission to the Colorado State Bar for Attorney Jean E. Smith–Gonnell. (NRE) (Entered: 05/17/2017)
05/19/2017	36	TEXT ORDER granting <u>35</u> Motion for Jean E. Smith–Gonnell to appear pro hac vice on behalf of Dixie Elixirs and Edibles. SO ORDERED. Issued by Hon. Michael J. Roemer on 5/19/2017. (RAZ) –CLERK TO FOLLOW UP– (Entered: 05/19/2017)
06/21/2017	<u>37</u>	MOTION to Substitute Attorney <i>Frank Housh, Esq.</i> by Cindy Harp–Horn, Douglas J. Horn.(Housh, Frank) (Entered: 06/21/2017)
06/22/2017	<u>38</u>	First MOTION for Extension of Time to Complete Discovery by Cindy Harp–Horn, Douglas J. Horn. (Attachments: # <u>1</u> Affidavit Declaration of Counsel)(Benjamin, Jeffrey) (Entered: 06/22/2017)
06/23/2017	39	TEXT ORDER granting <u>37</u> Motion to Substitute Attorney. SO ORDERED. Issued by Hon. Michael J. Roemer on 6/23/2017. (RAZ) –CLERK TO FOLLOW UP– (Entered: 06/23/2017)
06/23/2017		SCHEDULING NOTICE as to <u>38</u> First Motion for Extension of Time to Complete Discovery . Responses due by 7/5/2017. Motion Hearing set for 7/10/2017 11:00 AM before Hon. Michael J. Roemer. (RAZ) (Entered: 06/23/2017)
07/05/2017	<u>40</u>	DECLARATION re <u>38</u> First MOTION for Extension of Time to Complete Discovery filed by Medical Marijuana, Inc. and Red Dice Holdings, Inc. . (Attachments: # <u>1</u> Memorandum of Law in Opposition to Plaintiffs' Motion for Extension of Deadline Dates in Case Management Order, # <u>2</u> Certificate of Service)(Boron, Eric) Modified on 7/6/2017 to add filer (SG). (Entered: 07/05/2017)
07/06/2017		E–Filing Notification: Red Dice Holdings, Inc. added as filer re <u>40</u> DECLARATION re <u>38</u> First MOTION for Extension of Time to Complete Discovery (SG) (Entered: 07/06/2017)
07/10/2017	41	Minute Entry for proceedings held before Hon. Michael J. Roemer. Motion Hearing held on 7/10/2017 re <u>38</u> First Motion for Extension of Time to Complete Discovery filed by Cindy Harp–Horn, Douglas J. Horn. Court denied pltf's motion for reasons stated on the record. Parties to follow the current <u>31</u> Case Management Order. Appearances: No appearance on behalf of pltf's; Eric T. Boron, Esq. on behalf of defts Medical Marijuana, Inc., Red Dice Holdings, LLC; Wendy J. Lindstrom, Esq. on behalf of deft Dixie Elixirs and Edibles. (Court Reporter FTR Gold.) (RAZ) (Entered: 07/10/2017)
07/13/2017	<u>42</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 7/10/2017, before Judge Michael J. Roemer. Court Reporter/Transcriber Michelle McLaughlin, Telephone number 716–332–3560. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 8/3/2017. Redacted Transcript Deadline set for 8/14/2017. Release of Transcript Restriction set for 10/11/2017. (KM) (Entered: 07/13/2017)
08/31/2017	<u>43</u>	Mediation Certification by Michael Menard(AGB) (Main Document 43 replaced on 10/26/2017) (AGB). (Entered: 08/31/2017)
11/28/2017	<u>44</u>	Mediation Certification by Michael Menard(AGB) (Entered: 11/28/2017)
12/07/2017	<u>45</u>	Second MOTION for Extension of Time to Complete Discovery <i>Letter of Counsel</i> by Cindy Harp–Horn, Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 12/07/2017)

12/11/2017	<u>46</u>	RESPONSE to Motion re <u>45</u> Second MOTION for Extension of Time to Complete Discovery <i>Letter of Counsel</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Boron, Eric) (Entered: 12/11/2017)
12/11/2017		SCHEDULING NOTICE as to <u>45</u> Second Motion for Extension of Time to Complete Discovery <i>Letter of Counsel</i> . Oral Argument set for 12/18/2017 11:00 AM before Hon. Michael J. Roemer. (RAZ) (Entered: 12/11/2017)
12/13/2017	<u>47</u>	Second MOTION for Extension of Time to Complete Discovery <i>Plaintiffs' Reply</i> by Cindy Harp–Horn, Douglas J. Horn. (Attachments: # <u>1</u> Exhibit 10/19 Email, # <u>2</u> Exhibit 11/7 Email, # <u>3</u> Exhibit 11/15 Email)(Benjamin, Jeffrey) (Entered: 12/13/2017)
12/14/2017	<u>48</u>	RESPONSE to Motion re <u>45</u> Second MOTION for Extension of Time to Complete Discovery <i>Letter of Counsel</i> filed by Dixie Elixirs and Edibles. (Sheps, Hanoch) (Entered: 12/14/2017)
12/18/2017	<u>49</u>	Minute Entry for proceedings held before Hon. Michael J. Roemer. Oral Argument re <u>45</u> Second Motion for Extension of Time to Complete Discovery held on 12/18/2017. Court granted said motion and directed that the expert deposition be completed by the end of February 2018. Pltf shall turn over all outstanding discovery records to defts no later than 1/5/2018. Appearances: Jeffrey M. Benjamin, Esq. on behalf of pltf's via teleconference; Eric T. Boron, Esq. on behalf of deft Medical Marijuana and Red Dice Holdings; Hanoch Sheps, Esq. on behalf of deft Dixie Elixirs via teleconference. (Court Reporter FTR Gold.) (RAZ) (Entered: 12/18/2017)
02/13/2018	<u>50</u>	Mediation Certification by Michael Menard(AGB) (Entered: 02/13/2018)
04/10/2018	<u>51</u>	Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. as to Dixie Botanicals, Dixie Elixirs and Edibles, Medical Marijuana, Inc., Red Dice Holdings, LLC. . (Boron, Eric) (Entered: 04/10/2018)
04/11/2018	<u>52</u>	TEXT ORDER: Defendants' motion for an extension of time is granted. Dispositive motions shall be filed on or before June 15, 2018. If no dispositive motions are filed, counsel shall contact Judge Geraci's chambers by June 17, 2018 to schedule a trial date. Issued by Hon. Michael J. Roemer on April 11, 2018. (MLM) (Entered: 04/11/2018)
06/07/2018	<u>53</u>	Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. as to Dixie Botanicals, Dixie Elixirs and Edibles, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>Letter of Counsel</i> . (Mura, Roy) (Entered: 06/07/2018)
06/08/2018	<u>54</u>	TEXT ORDER re <u>53</u> Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. Defendants' request for an extension of time to file dispositive motion is granted. Dispositive motions shall be filed on or before 7/30/2018. If no dispositive motions are filed, counsel shall contact Judge Geraci's chambers by 8/3/2018 to schedule a trial date. SO ORDERED. Issued by Hon. Michael J. Roemer on 6/8/2018. (RAZ) (Entered: 06/08/2018)
06/25/2018	<u>55</u>	NOTICE of Appearance by Hanoch Sheps on behalf of Dixie Elixirs and Edibles (Sheps, Hanoch) (Entered: 06/25/2018)
06/25/2018	<u>56</u>	NOTICE of Appearance by Jean–Claude Mazzola on behalf of Dixie Elixirs and Edibles (Mazzola, Jean–Claude) (Entered: 06/25/2018)
06/28/2018	<u>57</u>	Letter filed by Dixie Elixirs and Edibles as to Dixie Botanicals, Dixie Elixirs and Edibles, Medical Marijuana, Inc., Red Dice Holdings, LLC. . (Sheps, Hanoch) (Entered: 06/28/2018)
07/06/2018	<u>58</u>	TEXT ORDER re <u>57</u> Letter filed by Dixie Elixirs and Edibles. Defendants' request for an extension of time to file dispositive motions is granted. Dispositive motions shall be filed on or before 8/30/2018. If no dispositive motions are filed, counsel shall contact Judge Geraci's chambers by 9/4/2018 to schedule a trial date. SO ORDERED. Issued by Hon. Michael J. Roemer on 7/6/2018. (RAZ) (Entered: 07/06/2018)
08/08/2018	<u>59</u>	Mediation Certification by Michael Menard(AGW) (Entered: 08/08/2018)

08/30/2018	<u>60</u>	MOTION for Summary Judgment <i>by Plaintiffs</i> by Cindy Harp–Horn, Douglas J. Horn. (Attachments: # <u>1</u> Statement of Undisputed Facts L.R. 56(a)(1), # <u>2</u> Declaration, # <u>3</u> Exhibit A, # <u>4</u> Exhibit B, # <u>5</u> Exhibit C, # <u>6</u> Affidavit Plaintiffs, # <u>7</u> Exhibit 1, # <u>8</u> Exhibit 2, # <u>9</u> Exhibit 3, # <u>10</u> Exhibit 4, # <u>11</u> Exhibit 5, # <u>12</u> Exhibit 6, # <u>13</u> Exhibit 7, # <u>14</u> Exhibit 8, # <u>15</u> Exhibit 9, # <u>16</u> Exhibit 10, # <u>17</u> Exhibit 11, # <u>18</u> Exhibit 12, # <u>19</u> Exhibit 13, # <u>20</u> Exhibit 14, # <u>21</u> Affidavit Expert, # <u>22</u> Exhibit I, # <u>23</u> Exhibit II, # <u>24</u> Exhibit III, # <u>25</u> Memorandum in Support)(Benjamin, Jeffrey) (Entered: 08/30/2018)
08/30/2018	<u>61</u>	MOTION for Summary Judgment <i>and/or for Judgment on the Pleadings</i> by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Statement of Undisputed Facts, # <u>2</u> Declaration Declaration of Roy A. Mura, Esq., # <u>3</u> Exhibit Exhibit A to Declaration of Roy A. Mura — Complaint, # <u>4</u> Exhibit Exhibit B to Declaration of Roy A. Mura — Answer of MMI and RDH, # <u>5</u> Exhibit Exhibit C to Declaration of Roy A. Mura — EBT of Douglas Horn, # <u>6</u> Exhibit Exhibit D to Declaration of Roy A. Mura — EBT of Cindy Harp–Horn, # <u>7</u> Exhibit Exhibit E to Declaration of Roy A. Mura — Fall 2012 High Times Medical Marijuana Magazine, # <u>8</u> Exhibit Exhibit F to Declaration of Roy A. Mura — EBT of Dr. Cindy Orser, # <u>9</u> Exhibit Exhibit G to Declaration of Roy A. Mura — Expert Report of Dr. Cindy Orser, # <u>10</u> Exhibit Exhibit H to Declaration of Roy A. Mura — CannLabs Testing Certificates, # <u>11</u> Declaration Declaration of Stuart W. Titus, PhD, # <u>12</u> Declaration Declaration of Michelle L. Sides, Esq., # <u>13</u> Exhibit Exhibit A to Declaration of Michelle L. Sides, # <u>14</u> Memorandum in Support)(Mura, Roy) (Attachment 8 replaced on 12/29/2020) (CGJ). (Entered: 08/30/2018)
08/30/2018	<u>62</u>	MOTION for Summary Judgment by Dixie Elixirs and Edibles. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Affidavit, # <u>3</u> Affidavit, # <u>4</u> Statement of Undisputed Facts, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit, # <u>13</u> Exhibit, # <u>14</u> Exhibit, # <u>15</u> Exhibit, # <u>16</u> Exhibit)(Mazzola, Jean–Claude) (Entered: 08/30/2018)
09/03/2018	63	TEXT ORDER: On 8/30/18, all parties filed motions for summary judgment. Responses to these motions are due by 9/28/18, and replies may be filed by 10/12/18. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/3/18. (JO) (Entered: 09/03/2018)
09/20/2018	<u>64</u>	First MOTION for Extension of Time to File Response/Reply as to 63 Text Order <i>re Defs' Motions for Summ Judg</i> by Cindy Harp–Horn, Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 09/20/2018)
09/21/2018	65	TEXT ORDER GRANTING <u>64</u> Motion for Extension of Time to File Response/Reply. All responses are now due 11/2/18, and parties may reply by 11/16/18. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/21/18. (JO) (Entered: 09/21/2018)
10/30/2018	<u>66</u>	Second MOTION for Extension of Time to File Response/Reply as to <u>62</u> MOTION for Summary Judgment , <u>61</u> MOTION for Summary Judgment <i>and/or for Judgment on the Pleadings Plaintiffs</i> by Cindy Harp–Horn, Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 10/30/2018)
10/31/2018	67	TEXT ORDER GRANTING <u>66</u> Second Motion for Extension of Time to File Response/Reply. All responses are now due November 16, 2018, and parties may reply by November 30, 2018. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 10/31/2018. (SFR) Modified on 10/31/2018 (SFR). (Entered: 10/31/2018)
11/16/2018	<u>68</u>	MOTION to Amend/Correct <i>Proposed First Amended Complaint</i> by Cindy Harp–Horn, Douglas J. Horn. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit Operating Agreement, # <u>3</u> Exhibit Proposed Amended Complaint)(Benjamin, Jeffrey) (Entered: 11/16/2018)
11/16/2018	<u>69</u>	RESPONSE in Opposition re <u>61</u> MOTION for Summary Judgment <i>and/or for Judgment on the Pleadings</i> filed by Cindy Harp–Horn, Douglas J. Horn. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit Op Agr, # <u>3</u> Exhibit Dixie v. MMI, # <u>4</u> Exhibit SEC Filing, # <u>5</u> Exhibit Magazine, # <u>6</u> Exhibit First FAQ, # <u>7</u> Exhibit Second FAQ, # <u>8</u> Exhibit Invoice, # <u>9</u> Exhibit CRL Test, # <u>10</u> Exhibit Lab Test, # <u>11</u> Exhibit Email, # <u>12</u> Exhibit Cert of Analysis, # <u>13</u> Exhibit Bottle Label, # <u>14</u> Exhibit Launch, # <u>15</u> Exhibit Tamar Wise, # <u>16</u> Exhibit Deft Expert Dep, # <u>17</u> Exhibit Pltf Econ CV, # <u>18</u> Exhibit Expert Econ Report, # <u>19</u> Affidavit Plaintiffs' Affid, # <u>20</u> Affidavit

		Plaintiffs' Suppl Affid, # <u>21</u> Affidavit Affid Ellen Voie, # <u>22</u> Affidavit Affid Dr. Graham, # <u>23</u> Exhibit Graham CV, # <u>24</u> Exhibit Graham Report, # <u>25</u> Exhibit Graham Report 2, # <u>26</u> Memorandum in Support MOL – MMI)(Benjamin, Jeffrey) (Entered: 11/16/2018)
11/16/2018	<u>70</u>	RESPONSE in Opposition re <u>62</u> MOTION for Summary Judgment filed by Cindy Harp–Horn, Douglas J. Horn. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit Magazine, # <u>3</u> Exhibit First FAQ, # <u>4</u> Exhibit Second FAQ, # <u>5</u> Exhibit Invoice, # <u>6</u> Exhibit CRL Test, # <u>7</u> Exhibit Lab Test, # <u>8</u> Exhibit Email, # <u>9</u> Exhibit Cert of Analysis, # <u>10</u> Exhibit Bottle Label, # <u>11</u> Exhibit Launch, # <u>12</u> Exhibit Tamar Wise, # <u>13</u> Exhibit Deft Expert Dep, # <u>14</u> Exhibit Pltf Expert CV, # <u>15</u> Exhibit Pltf Expert Econ Report, # <u>16</u> Affidavit Pltf Affidavit, # <u>17</u> Affidavit Pltf Suppl Affid, # <u>18</u> Affidavit Affid Ellen Voie, # <u>19</u> Affidavit Affid Dr Graham, # <u>20</u> Exhibit Graham CV, # <u>21</u> Exhibit Graham Report, # <u>22</u> Exhibit Graham Report 2, # <u>23</u> Memorandum in Support MOL Dixie)(Benjamin, Jeffrey) (Entered: 11/16/2018)
11/16/2018	<u>71</u>	MOTION to Strike <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> by Dixie Elixirs and Edibles.(Sheps, Hanoch) (Entered: 11/16/2018)
11/16/2018	<u>72</u>	MEMORANDUM OF LAW in Support of <u>71</u> MOTION to Strike <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> by Dixie Elixirs and Edibles. (Attachments: # <u>1</u> Declaration JC Declaration, # <u>2</u> Exhibit Dr. Orser excerpts, # <u>3</u> Exhibit Doug Horn excerpts)(Sheps, Hanoch) Modified on 11/19/2018 to correct event and add correct link (NRE). (Entered: 11/16/2018)
11/16/2018	<u>73</u>	MEMORANDUM in Opposition re <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> filed by Dixie Elixirs and Edibles. (Attachments: # <u>1</u> Declaration JC Declaration, # <u>2</u> Exhibit Counterstatement of Facts)(Sheps, Hanoch) (Entered: 11/16/2018)
11/16/2018	<u>74</u>	First MOTION to Strike <i>Plaintiffs' Summary Judgment Evidence</i> by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Declaration Declaration of Daniel S. Gvertz, Esq., # <u>2</u> Exhibit Exhibit A, # <u>3</u> Exhibit Exhibit B, # <u>4</u> Exhibit Exhibit C, # <u>5</u> Exhibit Exhibit D, # <u>6</u> Memorandum in Support Memorandum in Support)(Gvertz, Daniel) (Entered: 11/16/2018)
11/16/2018	<u>75</u>	RESPONSE in Opposition re <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Memorandum in Support Memorandum in opposition, # <u>3</u> Statement of Undisputed Facts Response to plaintiffs' statement of facts)(Gvertz, Daniel) (Entered: 11/16/2018)
11/17/2018	76	TEXT SCHEDULING ORDER: On 11/16/18, the Court received three motions: two motions to strike by Defendants, ECF Nos. <u>71</u> , <u>72</u> , and <u>74</u> (the motions at ECF Nos. <u>71</u> and <u>72</u> are documents in support of a single motion to strike), and a motion to amend the Complaint by Plaintiffs, ECF No. <u>68</u> . Responses from the parties opposing these motions are due by 11/30/18, and the moving parties may reply by 12/7/18. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 11/17/18. (JO) (Entered: 11/17/2018)
11/19/2018		E–Filing Notification: regarding <u>72</u> MOTION to Strike <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> . Document filed improperly as a motion. Court terminated motion and modified docket text to correctly reflect filing event. No action required. (NRE) (Entered: 11/19/2018)
11/27/2018	<u>77</u>	First MOTION for Extension of Time to File Response/Reply as to <u>71</u> MOTION to Strike <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> , 76 Text Order, <u>74</u> First MOTION to Strike <i>Plaintiffs' Summary Judgment Evidence and for Replies as to MSJs</i> by Cindy Harp–Horn, Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 11/27/2018)
11/28/2018	<u>78</u>	Mediation Certification by Michael Menard(AGW) (Entered: 11/28/2018)
11/28/2018	79	TEXT ORDER GRANTING Plaintiffs' unopposed <u>77</u> Motion for Extension of Time to File Response/Reply. Responses from the parties opposing motions at ECF Nos. <u>68</u> , <u>71</u> , and <u>74</u> are now due by 12/7/18, and the moving parties may reply by 12/14/18. Replies for the pending motions for summary judgment, ECF Nos. <u>60</u> , <u>61</u> , and <u>62</u> , are now also due by 12/7/18. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 11/28/18. Modified on 11/28/2018 to include new deadline for motions for summary

		judgment. (JO) (Entered: 11/28/2018)
12/07/2018	<u>80</u>	MEMORANDUM in Opposition re <u>72</u> MOTION to Strike <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs</i> filed by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 12/07/2018)
12/07/2018	<u>81</u>	MEMORANDUM in Opposition re <u>74</u> First MOTION to Strike <i>Plaintiffs' Summary Judgment Evidence</i> filed by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 12/07/2018)
12/07/2018	<u>82</u>	MEMORANDUM in Opposition re <u>68</u> MOTION to Amend/Correct <i>Proposed First Amended Complaint</i> filed by Dixie Elixirs and Edibles. (Sheps, Hanoch) (Entered: 12/07/2018)
12/07/2018	<u>83</u>	REPLY to Response to Motion re <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs Reply to Dixie Opposition</i> filed by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 12/07/2018)
12/07/2018	<u>84</u>	REPLY to Response to Motion re <u>60</u> MOTION for Summary Judgment <i>by Plaintiffs Reply to MMI/RDH Opposition</i> filed by Cindy Harp–Horn, Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 12/07/2018)
12/07/2018	<u>85</u>	REPLY/RESPONSE to re <u>70</u> Response in Opposition to Motion,, filed by Dixie Elixirs and Edibles. (Sheps, Hanoch) (Entered: 12/07/2018)
12/07/2018	<u>86</u>	MEMORANDUM in Support re <u>61</u> MOTION for Summary Judgment <i>and/or for Judgment on the Pleadings</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Gvertz, Daniel) (Entered: 12/07/2018)
12/07/2018	<u>87</u>	RESPONSE in Opposition re <u>68</u> MOTION to Amend/Correct <i>Proposed First Amended Complaint</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Exhibit Scheduling Order)(Gvertz, Daniel) (Entered: 12/07/2018)
04/17/2019	<u>88</u>	DECISION AND ORDER: Plaintiffs' motion to amend <u>68</u> is GRANTED IN PART and DENIED IN PART. Defendants' motions to strike [71, 74] are DENIED. Plaintiffs' motion for partial summary judgment <u>60</u> is DENIED. Defendants' motions for summary judgment <u>61</u> <u>62</u> are GRANTED IN PART and DENIED IN PART. As a result of these rulings, the only surviving claims are Douglas's claims for fraudulent inducement and civil RICO. All other claims against Defendants are dismissed. The Clerk of Court is directed to amend the name of Defendant "Dixie Elixirs and Edibles" to "Dixie Holdings, LLC a/k/a Dixie Elixirs." By separate order, the Court will schedule a status conference to hear from the parties on the progress of this action. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 4/17/2019. (MFM) –CLERK TO FOLLOW UP– (Entered: 04/17/2019)
04/19/2019	89	TEXT ORDER Status Conference set for 5/16/2019 10:00 AM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202–3350 before Hon. Frank P. Geraci, Jr. IT IS SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 4/19/19. (PR) (Entered: 04/19/2019)
04/25/2019	<u>90</u>	Letter MOTION to change the Status Conference date filed by Dixie Holdings, LLC as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. . (Mazzola, Jean–Claude) Modified on 4/26/2019 to correct event(KLH). (Entered: 04/25/2019)
04/26/2019		E–Filing Notification regarding <u>90</u> Letter: This document contains a request for relief and should be filed as a motion. No action required – Clerk corrected entry. (KLH) (Entered: 04/26/2019)
05/02/2019	91	TEXT ORDER granting defendant Dixie Elixirs's <u>90</u> Letter request to adjourn the 5/16 status conference. The case is adjourned to 6/20/2019 at 09:30 AM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202–3350 before Hon. Frank P. Geraci, Jr. The parties shall notify the Court if they intend to mediate the case and wish to have the status conference rescheduled for a later date. IT IS SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 5/2/19. (PR) (Entered: 05/02/2019)

05/16/2019	<u>92</u>	NOTICE OF APPEAL as to <u>88</u> Order on Motion for Summary Judgment,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,, by Cindy Harp–Horn, Douglas J. Horn. Filing fee \$ 505, receipt number 0209–3454145. Appeal Record due by 9/13/2019. (Benjamin, Jeffrey) (Entered: 05/16/2019)
06/17/2019	<u>93</u>	First MOTION for Leave to Appear by Phone <i>for Conf 6/20/19</i> by Cindy Harp–Horn, Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 06/17/2019)
06/18/2019	94	TEXT ORDER granting <u>93</u> Motion for Leave to Appear by telephone. The Court will supply counsel in advance with the Court's conference center instructions. IT IS SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 6/18/19. (PR) (Entered: 06/18/2019)
06/20/2019	95	Minute Entry for proceedings held before Hon. Frank P. Geraci, Jr.: Status Conference held on 6/20/2019. Plaintiff's filed <u>92</u> Interlocutory Appeal of <u>88</u> Decision and Order. Second Circuit argument scheduled next month. A further mediation session has been scheduled. Status Conference is scheduled for 8/15/2019 at 2:30 PM before Hon. Frank P. Geraci, Jr., to be held in US Courthouse, 2 Niagara Square, Buffalo, NY 14202. Counsel may appear by telephone. Appearances: For Plt's – Jeffrey Benjamin, Esq., (by telephone); For Deft's – Roy Mura, Esq., (Medical Marijuana, Inc., Red Dice Holdings, LLC); Jean–Claude Mazzola, Esq., and Hanoch Sheps, Esq., (by telephone) (Dixie Holdings, LLC). (Court Reporter Christi Macri.) (JDK) (Entered: 06/21/2019)
06/25/2019	<u>96</u>	NOTICE of Appearance by Scott David Mancuso on behalf of Medical Marijuana, Inc., Red Dice Holdings, LLC. (Mancuso, Scott) (Entered: 06/25/2019)
07/17/2019	<u>97</u>	MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,, by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Declaration Declaration of Roy A. Mura, Esq., # <u>2</u> Declaration Declaration of Stuart W. Titus, PhD, # <u>3</u> Memorandum in Support Memorandum of Law in Support)(Mura, Roy) (Entered: 07/17/2019)
07/18/2019	98	TEXT SCHEDULING ORDER: On July 17, 2019, Defendants Medical Marijuana, Inc. and Red Dice Holdings, LLC filed a motion for reconsideration <u>97</u> . Plaintiffs and Defendant Dixie Holdings, LLC shall file responses by August 16, 2019, and the moving defendants shall file a reply within fifteen days of the responses. To the extent the parties intend to challenge the moving defendants' factual assertions, they must do so in the manner contemplated by Federal Rule of Civil Procedure 56(c)(1). In addition to the merits, the parties shall address whether this court has jurisdiction to consider the motion given the pending appeal. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 7/18/2019. (MFM) (Entered: 07/18/2019)
08/06/2019		TEXT SCHEDULING ORDER: In light of the ongoing briefing of Defendants' motion <u>97</u> , the Court reschedules the Status Conference set for 8/15/2019 to a future date. Specifically, the Status Conference is now set for 9/20/2019 at 02:00 PM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202–3350 before Hon. Frank P. Geraci, Jr. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/6/2019. (MFM) (Entered: 08/06/2019)
08/07/2019	<u>99</u>	DESIGNATION of Record on Appeal by Douglas J. Horn re <u>92</u> Notice of Appeal, CLERK TO FOLLOW UP (Benjamin, Jeffrey) (Entered: 08/07/2019)
08/08/2019	<u>100</u>	CLERKS CERTIFICATE filed and electronically sent to Court of Appeals. <u>99</u> Index to Record on Appeal. (KM) (Entered: 08/08/2019)
08/08/2019	101	TEXT ORDER: Consistent with the Court's prior order, counsel may appear by telephone at the 9/20/2019 status conference. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/8/2019. (MFM) (Entered: 08/08/2019)
08/09/2019	<u>102</u>	MOTION for Certificate of Appealability <i>by Plaintiffs</i> by Douglas J. Horn. (Attachments: # <u>1</u> Declaration of Plaintiff's Counsel, # <u>2</u> Exhibit A – Voie Affidavit, # <u>3</u> Exhibit B – Notice of Appeal)(Benjamin, Jeffrey) (Entered: 08/09/2019)
08/12/2019	103	TEXT SCHEDULING ORDER: On 8/9/2019, Plaintiffs filed a motion under FRCP 54(b) as to Cindy Horn's claims. Defendants shall file responses to the motion by 9/2/2019, and Plaintiffs may file a reply by 9/16/2019. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/12/2019. (MFM) (Entered: 08/12/2019)

08/14/2019	<u>104</u>	Supplemental MOTION for Certificate of Appealability <i>Decl as to Douglas Claims</i> by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 08/14/2019)
08/15/2019	<u>105</u>	First MOTION for Extension of Time to File Response/Reply as to 98 Text Order,, <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,, by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 08/15/2019)
08/15/2019	<u>106</u>	MEMORANDUM in Support re <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,, filed by Dixie Holdings, LLC. (Mazzola, Jean-Claude) (Entered: 08/15/2019)
08/16/2019	<u>107</u>	TEXT ORDER granting <u>105</u> Plaintiffs' Motion for Extension of Time. Plaintiffs' response to the Motion for Reconsideration is now due 9/13/2019, and the moving defendants may file a reply within 15 days thereafter. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/16/2019. (MFM) (Entered: 08/16/2019)
08/30/2019	<u>108</u>	MEMORANDUM in Opposition re <u>104</u> Supplemental MOTION for Certificate of Appealability <i>Decl as to Douglas Claims</i> , <u>102</u> MOTION for Certificate of Appealability <i>by Plaintiffs</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 08/30/2019)
09/02/2019	<u>109</u>	MEMORANDUM in Opposition re <u>104</u> Supplemental MOTION for Certificate of Appealability <i>Decl as to Douglas Claims</i> , <u>102</u> MOTION for Certificate of Appealability <i>by Plaintiffs</i> filed by Dixie Holdings, LLC. (Sheps, Hanoch) (Entered: 09/02/2019)
09/03/2019	<u>110</u>	Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>requesting leave to appear at 9/20/2019 status conference by telephone.</i> (Mura, Roy) (Entered: 09/03/2019)
09/03/2019		TEXT SCHEDULING ORDER: Because briefing on the pending motions remains ongoing, the status conference set for 9/20/19 is CANCELLED. Rather than rescheduling it at the present time, the Court will schedule a status conference once the pending motions are resolved. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/3/2019. (MFM) (Entered: 09/03/2019)
09/03/2019	<u>111</u>	TEXT ORDER: Defendants' letter request to appear by telephone <u>110</u> is DENIED AS MOOT. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/3/2019. (MFM) (Entered: 09/03/2019)
09/13/2019	<u>112</u>	Cross MOTION for Reconsideration re <u>106</u> Memorandum in Support of Motion, <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,, <i>for Revision of Decision</i> by Douglas J. Horn. (Attachments: # <u>1</u> Affidavit Graham Affidavit, # <u>2</u> Declaration Declaration of Counsel, # <u>3</u> Memorandum in Support MOL in Opp and Supp of Cross)(Benjamin, Jeffrey) (Entered: 09/13/2019)
09/16/2019	<u>113</u>	TEXT ORDER: On September 13, 2019, Plaintiffs filed an omnibus Opposition to Defendants' Motion for Reconsideration and Cross-Motion for Reconsideration <u>112</u> . Defendants may file a reply/response by 10/7/2019. No further briefing on the motions for reconsideration will be permitted without prior leave of court. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/16/2019. (MFM) (Entered: 09/16/2019)
09/16/2019	<u>114</u>	DECLARATION re <u>109</u> Memorandum in Opposition to Motion, <u>104</u> Supplemental MOTION for Certificate of Appealability <i>Decl as to Douglas Claims</i> , <u>102</u> MOTION for Certificate of Appealability <i>by Plaintiffs</i> , <u>108</u> Memorandum in Opposition to Motion, filed by Douglas J. Horn <i>Omnibus Reply</i> filed by Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 09/16/2019)
10/03/2019	<u>115</u>	DECISION AND ORDER denying <u>102</u> <u>104</u> Plaintiffs' Motions for Partial Judgment under Rule 54(b). SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 10/2/2019. (MFM) (Entered: 10/03/2019)
10/07/2019	<u>116</u>	MEMORANDUM in Opposition re <u>112</u> Cross MOTION for Reconsideration re <u>106</u> Memorandum in Support of Motion, <u>97</u> MOTION for Reconsideration re <u>88</u> Order on

		Motion for Summary Judgment,,,,,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,,,,, filed by Dixie Holdings, LLC. (Sheps, Hanoch) (Entered: 10/07/2019)
10/07/2019	<u>117</u>	REPLY to Response to Motion re <u>112</u> Cross MOTION for Reconsideration re <u>106</u> Memorandum in Support of Motion, <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,,,,, , <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,,,,, and <i>Opposition to Plaintiffs' Cross Motion</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Memorandum in Support)(Mura, Roy) (Entered: 10/07/2019)
10/17/2019	<u>118</u>	MOTION for Extension of Time to File Response/Reply as to <u>117</u> Reply to Response to Motion,, <u>116</u> Memorandum in Opposition to Motion, <i>on Pltf's Cross-Motion FRCP 54(b)</i> by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 10/17/2019)
10/18/2019	<u>119</u>	TEXT ORDER granting <u>118</u> Plaintiffs' Motion for Extension of Time. Plaintiffs may file their reply re: cross-motion for reconsideration by November 1, 2019. No further briefing is permitted absent prior leave of Court. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 10/18/2019. (MFM) (Entered: 10/18/2019)
10/31/2019	<u>120</u>	AFFIDAVIT in Support re <u>112</u> Cross MOTION for Reconsideration re <u>106</u> Memorandum in Support of Motion, <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,,,,, <i>Reply Affid on Pltf Cross-Motion</i> filed by Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 10/31/2019)
11/01/2019	<u>121</u>	Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>requesting leave to file sur-reply memorandum of law.</i> (Mura, Roy) (Entered: 11/01/2019)
11/04/2019	<u>122</u>	TEXT ORDER granting <u>121</u> Defendants MMI and RDH's Letter Request to File Response to Plaintiffs' Reply <u>120</u> . Defendants may file a response by 11/8/2019. No further briefing is permitted absent prior leave of Court. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 11/4/2019. (MFM) (Entered: 11/04/2019)
11/08/2019	<u>123</u>	MEMORANDUM in Support re <u>97</u> MOTION for Reconsideration re <u>88</u> Order on Motion for Summary Judgment,,,,,,,,,,,,, Order on Motion to Amend/Correct,,, Order on Motion to Strike,,,,,,,,, <i>Sur-Reply Memorandum of Law in Further Support of Motion for Reconsideration</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 11/08/2019)
11/22/2019	<u>124</u>	DECISION AND ORDER: Defendants' motions for reconsideration <u>97</u> <u>106</u> are GRANTED IN PART and DENIED IN PART, and Plaintiffs' cross-motion for reconsideration <u>112</u> is DENIED. The Court's prior order is modified insofar as Douglas Horn may now proceed with his RICO claim only to the extent it is premised on predicate acts of wire and mail fraud. He may not proceed with his claim on the theory that Dixie X is a controlled substance. By separate order, the Court will schedule a status conference to hear from the parties on the progress of this action. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 11/21/2019. (MFM) (Entered: 11/22/2019)
11/22/2019		TEXT SCHEDULING ORDER: Status Conference set for 12/13/2019 at 10:00 AM in US Courthouse, 100 State Street, Rochester NY 14614 before Hon. Frank P. Geraci, Jr. The parties may appear by phone. Prior to the hearing, the parties should contact chambers to receive instructions on how to call in to the hearing. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 11/22/2019. (MFM) (Entered: 11/22/2019)
12/13/2019	<u>125</u>	SCHEDULING ORDER: Final Pretrial Conference set for 9/3/2020 at 10:00 AM in US Courthouse, 100 State Street, Rochester NY 14614 before Hon. Frank P. Geraci, Jr. Jury Trial rescheduled for 10/19/2020 at 08:30 AM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202-3350 before Hon. Frank P. Geraci, Jr. See Order for further details and deadlines regarding submissions. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 12/13/2019. (MFM) (Entered: 12/13/2019)

12/13/2019	<u>126</u>	Minute Entry for proceedings held before Hon. Frank P. Geraci, Jr.: Status Conference held on 12/13/2019. The Court sets a trial date of 9/21/20 at 8:30 a.m. The Court will issue its pretrial order setting the pretrial conference date. By telephone: Jeffrey Benjamin, Esq.; Jean Claude Mazzola, Esq.; Hanoch Sheps, Esq.; Scott Mancuso, Esq. (Court Reporter Christi Macri.) (PR) (Entered: 12/16/2019)
12/30/2019	<u>127</u>	MANDATE of USCA as to <u>92</u> Notice of Appeal. It is hereby ordered that pursuant to Local Rule 31.2(a)(1)(A), Appellant's brief must be filed on or before October 22, 2019. The appeal will be dismissed effective October 22, 2019 if brief is not filed by the date. (KM) (Entered: 12/30/2019)
08/18/2020	<u>128</u>	TEXT ORDER: the parties' joint stipulation for an extension of the pretrial-order deadlines is GRANTED. The Final Pretrial Conference is now scheduled for 10/2/2020 at 10:00 AM in US Courthouse, 100 State Street, Rochester NY 14614 before Hon. Frank P. Geraci, Jr. All submission deadlines are adjourned to the same extent, except that the parties need not submit voir dire information and jury instructions until 30 days prior to the new trial date. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/18/2020. (MFM) (Entered: 08/18/2020)
09/15/2020	<u>129</u>	First MOTION to Vacate <u>124</u> Order on Motion for Reconsideration,,,,, and in Limine by Douglas J. Horn. (Attachments: # <u>1</u> Declaration Counsel Declaration, # <u>2</u> Supplement CSA Decision Tree, # <u>3</u> Exhibit Williams Case, # <u>4</u> Exhibit DEA Drug Code, # <u>5</u> Exhibit DOT Compliance Notice, # <u>6</u> Exhibit Subject Order, # <u>7</u> Exhibit Prior Order on MSJ, # <u>8</u> Affidavit Affidavit, # <u>9</u> Memorandum in Support MOL in Support)(Benjamin, Jeffrey) (Entered: 09/15/2020)
09/15/2020	<u>130</u>	Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. . (Mura, Roy) (Entered: 09/15/2020)
09/16/2020	<u>131</u>	REPLY/RESPONSE to re <u>130</u> Letter to Deft Letter of 9/15/20 filed by Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 09/16/2020)
09/17/2020	<u>132</u>	DECISION AND ORDER: Plaintiffs' Rule 60(b) motion (ECF No. <u>129</u>) is DENIED. The pretrial conference will go forward as scheduled, and all associated deadlines remain in place. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/16/2020. (MFM) (Entered: 09/17/2020)
09/17/2020	<u>133</u>	Exhibit List by Douglas J. Horn.. (Benjamin, Jeffrey) (Main Document 133 replaced on 12/16/2020) (CGJ). (Entered: 09/17/2020)
09/17/2020	<u>134</u>	Witness List by Douglas J. Horn. (Benjamin, Jeffrey) (Main Document 134 replaced on 12/16/2020) (CGJ). (Entered: 09/17/2020)
09/17/2020	<u>135</u>	Trial Document by Douglas J. Horn as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>Combined Pre-Trial Statement</i> . (Benjamin, Jeffrey) (Entered: 09/17/2020)
09/18/2020	<u>136</u>	PRETRIAL STATEMENT by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 09/18/2020)
09/18/2020	<u>137</u>	PRETRIAL STATEMENT by Dixie Botanicals and Dixie Elixirs and Edibles. (Attachments: # <u>1</u> Exhibit)(Mazzola, Jean-Claude) Modified on 9/21/2020 (TF). (Entered: 09/18/2020)
09/21/2020		E-Filing Notification: RE <u>137</u> PRETRIAL STATEMENT, refiled amended/corrected Pretrial Statement as <u>138</u> Amended/Corrected Pretrial Statement. Modified entries on 9/21/2020 and 9/22/2020 (TF). (Entered: 09/21/2020)
09/21/2020	<u>138</u>	AMENDED/CORRECTED PRETRIAL STATEMENT by Dixie Holdings, LLC. (Attachments: # <u>1</u> Exhibit Pretrial Exhibits)(Sheps, Hanoch) Modified on 9/22/2020 (TF). (Entered: 09/21/2020)
09/23/2020	<u>139</u>	MOTION for Leave to Appear Video or Phone for PT Conf by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 09/23/2020)
09/23/2020	<u>140</u>	TEXT ORDER granting Plaintiff's request for leave to appear by phone or video. The Court will prepare a Zoom videoconference for the pretrial conference. All of the parties are free to attend the pretrial conference in person or by video. Chambers will

		send instructions via email prior to the pretrial conference. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/23/2020. (MFM) (Entered: 09/23/2020)
09/25/2020	<u>141</u>	First MOTION in Limine by Dixie Holdings, LLC. (Attachments: # <u>1</u> Declaration of Jean-Claude Mazzola, # <u>2</u> Exhibit Dixie Request for Production, # <u>3</u> Exhibit Graham Depo Excerpts, # <u>4</u> Exhibit Declaration of Dr. Cindy Orser, # <u>5</u> Memorandum in Support)(Sheps, Hanoch) (Entered: 09/25/2020)
09/25/2020	<u>142</u>	MOTION in Limine by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Memorandum in Support)(Mura, Roy) (Entered: 09/25/2020)
09/29/2020	<u>143</u>	First MOTION for Extension of Time to File Response/Reply as to <u>141</u> First MOTION in Limine , <u>142</u> MOTION in Limine of <i>Defendants</i> by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 09/29/2020)
09/29/2020	<u>144</u>	RESPONSE to Motion re <u>143</u> First MOTION for Extension of Time to File Response/Reply as to <u>141</u> First MOTION in Limine , <u>142</u> MOTION in Limine of <i>Defendants</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 09/29/2020)
09/30/2020	145	<p>TEXT ORDER: Plaintiffs request an extension of time – to October 23, 2020 – to respond to Defendants' motions in limine. ECF No. <u>143</u> . Defendants, in turn, ask that they be given an opportunity to reply if Plaintiffs' request is granted, and they also argue that the final pretrial conference should be rescheduled in light of the briefing.</p> <p>Plaintiffs' request for an extension of time is GRANTED, in that they may respond to the motions in limine by October 23, 2020. Likewise, all of the defendants may file replies by November 30, 2020. The Court will then take the motions under advisement.</p> <p>Nevertheless, the Court will not reschedule the final pretrial conference. The primary purpose of the pretrial conference is to determine the date, length, and schedule for the trial. Defendants' motions in limine may alter the extent of the evidence and therefore change the length of the trial, but the Court is confident the parties will be able to select a trial date and reasonably estimate the length of the trial in either scenario. Moreover, insofar as the Court will allow the parties to fully brief the issues presented in the motions in limine, it will not be necessary to conduct oral argument on the motions at the conference.</p> <p>SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/30/2020. (MFM) (Entered: 09/30/2020)</p>
10/02/2020	146	Minute Entry for proceedings held before Hon. Frank P. Geraci, Jr.: Appearances via Zoomgov.com: Jeffrey Benjamin, Esq./pl.; Roy Mura, Esq/def Medical Marijuana and Red Dice Holdings LLC; Jean-Claude Mazzola, Esq./def. Dixie Holdings, LLC; Hanoch Sheps, Esq./Dixie Holdings, LLC. Matter on for Final Pretrial Conference. Final Pretrial Conference not held. Trial Date Status Conference held on 10/2/2020. Jury Trial reset from 10/19/2020 to 5/10/2021 in 2 Niagara Square, Buffalo, NY 14202 before Hon. Frank P. Geraci, Jr. A new pretrial order will be issued with the new trial date. (Court Reporter Christi Macri.) (LMD) (Entered: 10/02/2020)
10/05/2020	<u>147</u>	<p>AMENDED PRETRIAL ORDER: The Final Pretrial Conference is now set for 4/2/2021 at 03:00 PM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202–3350 before Hon. Frank P. Geraci, Jr. The conference will be conducted by Zoom videoconference, and all parties are to appear by videoconference. The Jury Trial is set to begin on 5/10/2021 at 08:30 AM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202–3350.</p> <p>As discussed at the pretrial conference held on 10/2/2020, it may be possible to reschedule the trial for an earlier date if the parties consent to magistrate judge jurisdiction. The Court will notify the parties in the coming weeks if this option will be available, and, if so, the parties are encouraged to consider it. In addition, given the lengthy period before trial, the parties are encouraged to reconnect with the mediator and continue settlement discussions.</p>

		See Order for further details and deadlines. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 10/5/2020. (MFM) (Entered: 10/05/2020)
10/06/2020	<u>148</u>	First MOTION to Adjourn Trial by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 10/06/2020)
10/06/2020	<u>149</u>	RESPONSE in Opposition re <u>148</u> First MOTION to Adjourn Trial filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 10/06/2020)
10/07/2020	<u>150</u>	TEXT ORDER resolving <u>148</u> Plaintiffs' Motion to Adjourn. The parties shall meet and confer to determine mutually agreeable dates to schedule the trial, except that the trial will not be scheduled beyond August 2021. Once the parties have decided on such dates, they shall file a joint report identifying any mutually agreeable dates. At that time, the Court will determine whether and when to adjourn the trial. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 10/7/2020. (MFM) (Entered: 10/07/2020)
10/23/2020	<u>151</u>	DECLARATION re <u>141</u> First MOTION in Limine , <u>142</u> MOTION in Limine filed by Douglas J. Horn <i>Plaintiff's Opposition</i> filed by Douglas J. Horn. (Attachments: # <u>1</u> Affidavit Plaintiff's Affidavit, # <u>2</u> Affidavit Wayback Affidavit, # <u>3</u> Affidavit Berryhill Affidavit, # <u>4</u> Affidavit Graham Affidavit, # <u>5</u> Affidavit WMSL Affidavit, # <u>6</u> Memorandum in Support Memo of Law in Opp)(Benjamin, Jeffrey) (Entered: 10/23/2020)
11/25/2020	<u>152</u>	First MOTION for Extension of Time to File Response/Reply as to <u>141</u> First MOTION in Limine by Dixie Holdings, LLC.(Sheps, Hanoch) (Entered: 11/25/2020)
11/25/2020	<u>153</u>	TEXT ORDER granting <u>152</u> First MOTION for Extension of Time. Defendant Dixie Elixirs may file a reply by 12/14/2020. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 11/25/2020. (MFM) (Entered: 11/25/2020)
12/14/2020	<u>154</u>	REPLY/RESPONSE to re <u>144</u> Response to Motion, <u>142</u> MOTION in Limine filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 12/14/2020)
12/14/2020	<u>155</u>	First MOTION for Leave to File <i>Sur-Reply</i> by Douglas J. Horn.(Benjamin, Jeffrey) (Entered: 12/14/2020)
12/14/2020	<u>156</u>	REPLY to Response to Motion re <u>141</u> First MOTION in Limine filed by Dixie Holdings, LLC. (Attachments: # <u>1</u> Declaration of Jean-Claude Mazzola)(Sheps, Hanoch) (Entered: 12/14/2020)
12/15/2020	<u>157</u>	<p>TEXT ORDER resolving <u>155</u> Motion for Relief filed by Plaintiffs.</p> <p>The Court grants Plaintiffs' request to file a sur-reply. The sur-reply is due by 1/15/2021.</p> <p>Plaintiffs also seek further guidance on trial/mediation. The Court concludes that a short status conference on trial/mediation is appropriate. The status conference is set for 1/22/2021 01:30 PM in US Courthouse, 100 State Street, Rochester NY 14614. The conference will be conducted by Zoom videoconference, and all parties are to appear by videoconference. Instructions will be sent to counsel prior to the conference. If the public wishes to participate (by telephone only), the particulars can be obtained by contacting chambers at 585-613-4090.</p> <p>In order to ensure that there will be no scheduling conflicts, and consistent with the Court's prior order (ECF No. 150), the parties are hereby ordered to meet and confer regarding possible trial dates no later than one week before the status conference.</p> <p>SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 12/15/2020. (MFM) (Entered: 12/15/2020)</p>
12/15/2020		Set/Reset Hearings: Status Conference set for 1/22/2021 01:30 PM in US Courthouse, 100 State Street, Rochester NY 14614 before Hon. Frank P. Geraci, Jr. via Zoom. (MFM) (Entered: 12/15/2020)
12/15/2020	<u>158</u>	NOTICE of Appearance by Richard E. Lerner on behalf of Dixie Holdings, LLC (Lerner, Richard) (Entered: 12/15/2020)

01/15/2021	<u>159</u>	REPLY/RESPONSE to re <u>154</u> Reply/Response, <u>156</u> Reply to Response to Motion <i>Combined Sur–Reply of Plaintiff</i> filed by Douglas J. Horn. (Attachments: # <u>1</u> Exhibit Exh 1 – Google Response)(Benjamin, Jeffrey) (Entered: 01/15/2021)
01/22/2021	160	Minute Entry for proceedings held before Hon. Frank P. Geraci, Jr.: Status Conference held on 1/22/2021. The Court may be required to move the present trial date to October and requests that the parties discuss consenting to try the case before a magistrate judge if they want a trial sooner than October. The Court sets a further Status Conference on 2/5/2021 03:00 PM before Hon. Frank P. Geraci, Jr. Jeffrey Benjamin, Esq., Roy Mura, Esq.; Jean Claude Mazzola, Esq.; Hanoch Sheps, Esq., by Zoom (Court Reporter Christi Macri.) (PR) (Entered: 01/24/2021)
01/26/2021	161	TEXT ORDER: On January 24, 2021, the Court received a letter from MMI and RDH, indicating that Attorney Daniel Gvertz no longer practices at counsel's firm and does not represent those defendants. Accordingly, the Clerk of Court is directed to terminate Attorney Gvertz's appearance. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 1/26/2021. (MFM)– CLERK TO FOLLOW UP – (Entered: 01/26/2021)
02/03/2021	162	TEXT ORDER: The parties have notified the Court that they intend to consent to magistrate–judge jurisdiction before Judge Feldman. In accordance with Local Rule 73, the parties are directed to submit the required paperwork to the Clerk of Court by February 5, 2021, after which Judge Feldman will set a status conference. The status conference scheduled for February 5, 2021 before this Court is CANCELLED. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 2/3/2021. (MFM) (Entered: 02/03/2021)
02/04/2021	163	Disregard as filed in Error – STIPULATION to Magistrate Judge by Dixie Holdings, LLC. (Sheps, Hanoch) Modified on 2/5/2021 (TF). (Entered: 02/04/2021)
02/04/2021	164	TEXT ORDER REFERRING CASE to Magistrate Judge Jonathan W. Feldman pursuant to 28 U.S.C. Section 636(b)(1)(A) and (B). IT IS SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 2/4/2021. (MFM) (Entered: 02/04/2021)
02/04/2021	<u>165</u>	CONSENT to Jurisdiction by US Magistrate Judge by Dixie Botanicals, Dixie Holdings, LLC, Cindy Harp–Horn, Douglas J. Horn, Medical Marijuana, Inc., Red Dice Holdings, LLC. Case reassigned to Magistrate Judge Jonathan W. Feldman. Signed by Hon. Frank P. Geraci, Jr. on 2/4/2021. (CGJ) (Entered: 02/04/2021)
02/05/2021		E–Filing Notification: 163 STIPULATION to Magistrate Judge, should not be efiled, document removed, No action required. (TF) (Entered: 02/05/2021)
02/08/2021	166	<p>TEXT ORDER: The Court would like to hold a virtual status conference on Tuesday February 16, 2021 at 11:00 a.m. The Court requests that lead counsel be present and prepared to discuss the following:</p> <ol style="list-style-type: none"> 1. Scheduling oral argument on the pending motions in limine. 2. Establishing a day certain trial date. 3. Scheduling a Final Pretrial Conference. 4. Status report on any settlement efforts engaged in by the parties. <p>The Court requests that any communication with the Court be conducted through or facilitated by Matthew Meyers, Esq., the law clerk who will be assisting this Court in the trial management of this case. Status Conference set for 2/16/2021 11:00 AM before Magistrate Judge Jonathan W. Feldman via Zoom for Government. Parties will be emailed the Zoom for Government link for this conference. Signed by Magistrate Judge Jonathan W. Feldman on 2/8/2021. (LMD) (Entered: 02/08/2021)</p>
02/10/2021	167	TEXT ORDER. The Status Conference set for 2/16/2021 is reset to 2/11/2021 03:00 PM before Magistrate Judge Jonathan W. Feldman. The Parties will receive a cancellation of the 2/16/2021 Zoom for Government invite and new invite for 2/11/2021 at 3:00 PM. The conference is to discuss the issues as mentioned in the 166 Text Order. Signed by Magistrate Judge Jonathan W. Feldman on 2/10/2021. (LMD) (Entered: 02/10/2021)

02/11/2021	168	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Status Conference held via zoomgov.com on 2/11/2021. Appearances via video conference: Jeffrey Benjamin, Esq./plaintiffs, Roy Mura, Esq. for Def. Medical Marijuana, Inc.; Jean Claude-Mazzola, Esq. for Def. Dixie Holdings and Hanoch Sheps, Esq. for Def. Dixie Holdings and Hon. Jonathan w. Feldman. Jury trial date set for 7/26/2021 for 2 weeks at 2 Niagara Square, Buffalo, NY 14202 for 2 weeks. Final Pretrial Conference set for 6/29/2021 at 10 AM at 100 State Street, Rochester, NY 14614. Motion Hearing re: Motions in Limine set for 3/4/2021 10:00 AM via Zoomgov.com before Magistrate Judge Jonathan W. Feldman. Pretrial Order to be issued. Zoom invites will be sent for the argument on the in limine motions. (Court Reporter Zoomgov.com recording.) (LMD) (Entered: 02/12/2021)
03/04/2021	169	TEXT ORDER: The supplemental briefing as ordered by the Court at the March 4, 2021 hearing is due by March 18, 2021 . SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 3/4/2021. (MFM) (Entered: 03/04/2021)
03/04/2021	170	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances via Zoom for government: Jeffrey Benjamin, Esq./plaintiff; Roy Mura, Esq. for Medical Marijuana, Inc. and Red Dice Holdings; Scott Mancuso, Esq./Medical Marijuana Inc. and Red Dice Holdings; Jean Claude Mazzola, Esq./Dixie Defendants; Hanoch Sheps, Esq./Dixie Defendants: Motion Hearing held on 3/4/2021 re <u>141</u> First MOTION in Limine filed by Dixie Holdings, LLC, <u>142</u> MOTION in Limine filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. Court Reserves decision and supplemental letter briefs due 3/18/2021. (Court Reporter Zoom for Government Recording.) (LMD) (Entered: 03/10/2021)
03/18/2021	<u>171</u>	Letter filed by Dixie Holdings, LLC as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>Supplemental Letter Brief</i> . (Sheps, Hanoch) (Entered: 03/18/2021)
03/18/2021	<u>172</u>	RESPONSE in Opposition re <u>141</u> First MOTION in Limine , <u>142</u> MOTION in Limine <i>Supplemental Letter Brief</i> filed by Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 03/18/2021)
03/18/2021	<u>173</u>	Letter filed by Medical Marijuana, Inc., Red Dice Holdings, LLC. as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>Supplemental Letter Brief in Further Support of Defendants' Motion in Limine</i> . (Mura, Roy) (Entered: 03/18/2021)
04/29/2021	<u>174</u>	FINAL PRETRIAL ORDER & DECISION AND ORDER granting in part and denying in part Defendants' Motions in Limine. For the reasons stated herein, the Court grants in part and denies in part Defendants' motions in limine. Docket ## 141, 142. In addition, this Order contains the Court's Final Pretrial Order, which sets forth the relevant dates, deadlines, and responsibilities of the parties related to the upcoming jury trial. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 4/29/2021. (MFM) (Entered: 04/29/2021)
05/13/2021		SCHEDULING ORDER *TIME CHANGE ONLY*: The Final Pretrial Conference is now set for 6/29/2021 at 1:30 PM in US Courthouse, 100 State Street, Rochester NY 14614 before Magistrate Judge Jonathan W. Feldman. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 5/13/2021. (MFM) (Entered: 05/13/2021)
06/15/2021	175	TEXT ORDER: The parties have contacted chambers, jointly requesting a brief extension to the June 15, 2021 deadline for the submission of pretrial materials. That request is GRANTED, and all such materials are now due by June 18, 2021 at 5:00 p.m. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 6/15/2021. (MFM) (Entered: 06/15/2021)
06/18/2021	<u>176</u>	Proposed Voir Dire by Dixie Holdings, LLC. (Sheps, Hanoch) (Entered: 06/18/2021)
06/18/2021	<u>177</u>	Trial Document by Douglas J. Horn as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>Pre-Trial Stmt.</i> (Benjamin, Jeffrey) (Entered: 06/18/2021)
06/18/2021	<u>178</u>	Proposed Voir Dire by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mura, Roy) (Entered: 06/18/2021)

06/28/2021	<u>179</u>	Trial Document by Douglas J. Horn as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>Pltf Amended PT Stmt.</i> (Benjamin, Jeffrey) (Entered: 06/28/2021)
06/29/2021	180	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances in person: Jeffrey Benjamin, Esq. and Frank Housh, Esq./plaintiffs, Roy Mura, Esq. and Scott David Manucso for Def. Medical Marijuana, Inc. and Def. Red Dice Holdings LLC, Richard Lerner, Esq., Jean-Claude Mazzola, Esq. and Hanoch Sheps, Esq. for Def. Dixie Holdings. Final Pretrial Conference held on 6/29/2021. (LMD) Modified on 6/30/2021 (LMD). (Entered: 06/30/2021)
06/30/2021		E-Filing Notification: The following minute entry was modified to correct the appearances: 180 Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances in person: Jeffrey Benjamin, Esq. and Frank Housh, Esq./plaintiffs, Roy Mura, Esq. and Scott David Manucso for Def. Medical Marijuana, Inc. and Def. Red Dice Holdings LLC, Richard Lerner, Esq., Jean-Claude Mazzola, Esq. and Hanoch Sheps, Esq. for Def. Dixie Holdings. Final Pretrial Conference held on 6/29/2021. (LMD) Modified on 6/30/2021 (LMD). (LMD) (Entered: 06/30/2021)
07/05/2021	<u>181</u>	MOTION Trial Testimony by Video of <i>Party Officers</i> by Douglas J. Horn. (Attachments: # <u>1</u> Declaration Decl of Pltf Counsel, # <u>2</u> Exhibit A – Subp Keber, # <u>3</u> Exhibit B – Subp Smith, # <u>4</u> Exhibit C – Subp Sides, # <u>5</u> Exhibit D – Affidavit of Smith, # <u>6</u> Exhibit E – Affidavit of Sides)(Benjamin, Jeffrey) (Entered: 07/05/2021)
07/06/2021	182	TEXT ORDER: Plaintiff has filed a Motion for Trial Testimony by Video and Service of Subpoenas by Other Means. Docket # <u>181</u> . Expedited briefing is required due to the upcoming trial date. Therefore, responses are due by 5:00 p.m. on July 12, 2021. Reply papers are due by 5:00 p.m. on July 13, 2021. Oral Argument is set for July 14, 2021 at 11:00 AM in Courtroom 2 before Magistrate Judge Jonathan W. Feldman. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/6/21. (BJJ) (Entered: 07/06/2021)
07/08/2021	<u>183</u>	MOTION to Quash <i>Plaintiff's Subpoena of Michelle Sides, Esq.</i> by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Attachments: # <u>1</u> Declaration of Roy A. Mura, Esq. in Support of Motion to Quash Subpoena, # <u>2</u> Exhibit A to Declaration of Roy A. Mura, Esq.)(Mura, Roy) (Entered: 07/08/2021)
07/09/2021	184	TEXT ORDER: Defendants have filed a Motion to Quash Plaintiff's Subpoena of Michelle Sides, Esq. Docket # <u>183</u> . Expedited briefing is required due to the upcoming trial date. Therefore, Plaintiff's response is due by 5:00 p.m. on July 13, 2021. Oral Argument for this Motion and the Motion for Trial Testimony and Subpoenas, Docket # <u>181</u> , is set for July 14, 2021 at 11:00 AM in Courtroom 2 before Magistrate Judge Jonathan W. Feldman. If any party wishes to appear at the oral argument by Zoom, it shall request the Zoom link by emailing feldman@nywd.uscourts.gov no later than Monday, July 12, 2021 at noon. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/9/21. (BJJ) (Entered: 07/09/2021)
07/12/2021	185	TEXT ORDER re 184 : Oral Argument on motions rescheduled for 7/14/2021 03:00 PM before Magistrate Judge Jonathan W. Feldman. The Zoom link has been sent to the parties. <u>Note the time change only.</u> SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/12/21. (BJJ) (Entered: 07/12/2021)
07/12/2021	<u>186</u>	RESPONSE to Motion re <u>181</u> MOTION Trial Testimony by Video of <i>Party Officers</i> filed by Dixie Holdings, LLC. (Attachments: # <u>1</u> Exhibit Dixie Rule 26)(Sheps, Hanoch) (Entered: 07/12/2021)
07/12/2021	<u>187</u>	OBJECTIONS filed by Defendant Dixie Holdings, LLC.. (Sheps, Hanoch) (Entered: 07/12/2021)
07/12/2021	<u>188</u>	OBJECTIONS to <i>Plaintiff's Proposed Substantive Jury Instructions</i> filed by Defendants Medical Marijuana, Inc., Red Dice Holdings, LLC... (Mura, Roy) (Entered: 07/12/2021)

07/13/2021	<u>189</u>	LETTER MOTION submitted by Plaintiffs to chambers via email on July 12, 2021. (Attachments: # <u>1</u> Rosenberg Affidavit) (MFM) (Entered: 07/13/2021)
07/13/2021	<u>190</u>	DECLARATION re <u>183</u> MOTION to Quash <i>Plaintiff's Subpoena of Michelle Sides, Esq.</i> , <u>181</u> MOTION Trial Testimony by Video of <i>Party Officers</i> filed by Douglas J. Horn <i>In Opp and Reply</i> filed by Douglas J. Horn. (Attachments: # <u>1</u> Exhibit Keber POS, # <u>2</u> Exhibit Sides POS, # <u>3</u> Exhibit Keber POS2, # <u>4</u> Exhibit Smith POS)(Benjamin, Jeffrey) (Entered: 07/13/2021)
07/14/2021	191	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances via Zoom for Government: Jeffrey Benjamin, Esq./pls; Roy A. Mura, Esq. and Scott Mancuso, Esq./def. Medical Marijuana Inc. and Red Dice Holdings, LLC, Jean-Claude Mazzola, Esq., Hanoch Sheps, Esq. and Richard Lerner, Esq./def. Dixie Holdings LLC. Motion Hearing held on 7/14/2021 re <u>189</u> LETTER MOTION submitted by Plaintiffs to chambers via email on July 12, 2021, re <u>183</u> MOTION to Quash <i>Plaintiff's Subpoena of Michelle Sides, Esq.</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC., <u>181</u> MOTION Trial Testimony by Video of <i>Party Officers</i> filed by Douglas J. Horn. Judge Feldman resolved the parties' motions as stated on the record. (Court Reporter Diane Martens.) (LMD) Modified on 7/15/2021 (LMD). (Entered: 07/15/2021)
07/15/2021		E-Filing Notification: The following entry was modified to include the letter motion <u>189</u> in the entry. 191 Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances via Zoom for Government: Jeffrey Benjamin, Esq./pls; Roy A. Mura, Esq. and Scott Mancuso, Esq./def. Medical Marijuana Inc. and Red Dice Holdings, LLC, Jean-Claude Mazzola, Esq., Hanoch Sheps, Esq. and Richard Lerner, Esq./def. Dixie Holdings LLC. Motion Hearing held on 7/14/2021 re <u>189</u> LETTER MOTION submitted by Plaintiffs to chambers via email on July 12, 2021, re <u>183</u> MOTION to Quash <i>Plaintiff's Subpoena of Michelle Sides, Esq.</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC., <u>181</u> MOTION Trial Testimony by Video of <i>Party Officers</i> filed by Douglas J. Horn. Judge Feldman resolved the parties' motions as stated on the record. (Court Reporter Diane Martens.) (LMD) Modified on 7/15/2021 (LMD). (Entered: 07/15/2021)
07/20/2021	192	TEXT ORDER: Counsel for the three defendants have notified the Court that they will stipulate that the August 23, 2012 audio recording of Mr. Keber meets the authentication requirements of authenticating the exhibit under Federal Rule of Evidence 901. Accordingly, the recording will be deemed to satisfy the requirement of authentication without additional proof by plaintiff. Defendants' Stipulation as to authentication is without prejudice to all other evidentiary objections, including relevance. In light of the stipulation, the Court agrees with defendants that the telephonic deposition of Mr. Keber is no longer necessary, and the Court's previous oral ruling is hereby VACATED in that respect. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/20/2021. (MFM) (Entered: 07/20/2021)
07/22/2021	<u>193</u>	Proposed Jury Instructions submitted by Cindy Harp-Horn, Douglas J. Horn at the final pretrial conference.(MFM) (Entered: 07/22/2021)
07/22/2021	<u>194</u>	MOTION in Limine to <i>Preclude Testimony of Mark P. Zaporowski, Ph.D.</i> by Dixie Holdings, LLC. (Attachments: # <u>1</u> Exhibit Plaintiffs Final Pre-Trial Order Compliance)(Sheps, Hanoch) (Entered: 07/22/2021)
07/23/2021	195	TEXT SCHEDULING ORDER: As discussed at today's hearing, Plaintiffs may respond to Dixie Holdings, LLC's motion in limine (Docket # 194) by 5 P.M. on July 29, 2021. Plaintiffs may file any cross-motions for relief by that same date. Defendants may file a reply to the motion in limine by 5 P.M. on August 2, 2021, and may also respond to any cross-motion by that same date. Oral argument on all motions is presently scheduled for 10:30 A.M. on August 5, 2021, to be held via videoconference. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/23/2021. (MFM) (Entered: 07/23/2021)
07/23/2021	196	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Status Conference held on 7/23/2021. Appearances via Zoom for Government: Jeffrey Benjamin, Esq./pls; Roy A. Mura, Esq. and Scott Mancuso, Esq./def. Medical Marijuana Inc. and Red Dice Holdings, LLC, Jean-Claude Mazzola, Esq., Hanoch Sheps, Esq. and Richard Lerner, Esq./def. Dixie Holdings LLC. Status Conference held. Trial date adjourned. Text Scheduling Order issued. (Court Reporter Zoom for

		Government Recording.) (LMD) (Entered: 07/25/2021)
07/26/2021		TEXT SCHEDULING ORDER *TIME CHANGE ONLY*: Oral Argument reset for August 5, 2021 at 2:30 PM before Magistrate Judge Jonathan W. Feldman via videoconference. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/26/2021. (MFM) (Entered: 07/26/2021)
07/26/2021	<u>197</u>	Letter filed by Douglas J. Horn as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>re: Trial Scheduling</i> . (Benjamin, Jeffrey) (Entered: 07/26/2021)
07/29/2021	<u>198</u>	MEMORANDUM in Opposition re <u>194</u> MOTION in Limine to <i>Preclude Testimony of Mark P. Zaporowski, Ph.D.</i> filed by Douglas J. Horn. (Attachments: # <u>1</u> Exhibit Zap Report)(Benjamin, Jeffrey) (Entered: 07/29/2021)
07/29/2021	<u>199</u>	<p>TEXT ORDER: All counsel have communicated with the Court about setting a new trial date. The Court will try to accommodate counsel's schedules, recognizing that all counsel have various dates when they are and are not available. Defendant Dixie has moved to dismiss plaintiff's entire case, but, if it is unsuccessful, represents that it is ready to proceed to trial immediately. Defendants MMI/RDH take no position with respect to the dismissal motion, but request that the trial not occur between August 11 and August 18. Plaintiff opposes the dismissal motion and requests that the trial not commence on August 9th or any time prior to October 11.</p> <p>Based on the foregoing, the trial will not be proceeding on August 9. The Court will discuss with counsel possible trial dates at the conclusion of the hearing on Dixie's dispositive motion on August 5, 2021. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 7/29/2021. (MFM) (Entered: 07/29/2021)</p>
08/02/2021	<u>200</u>	REPLY to Response to Motion re <u>194</u> MOTION in Limine to <i>Preclude Testimony of Mark P. Zaporowski, Ph.D.</i> filed by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mancuso, Scott) (Entered: 08/02/2021)
08/02/2021	<u>201</u>	REPLY/RESPONSE to re <u>194</u> MOTION in Limine to <i>Preclude Testimony of Mark P. Zaporowski, Ph.D.</i> filed by Dixie Holdings, LLC. (Sheps, Hanoch) (Entered: 08/02/2021)
08/03/2021	<u>202</u>	<p>TEXT ORDER: The Court has reviewed (1) Plaintiff's Memorandum of Law in Opposition to Defendant Dixie's Motion in Limine to Preclude the Testimony of Expert Mark P. Zaporowski (Docket # 198); (2) Defendants MMI and RDH's Memorandum of Law in Reply to Defendant Dixie's Motion in Limine (Docket #200); and (3) Defendant Dixie's Reply Memorandum in Response to Plaintiff's Opposition to Motion to Preclude (Docket #201).</p> <p>After careful consideration of these thorough submissions and the arguments made therein, the Court does not believe additional oral argument is necessary for the Court to resolve the motion. Based on the briefing, the Court has determined that plaintiff's Civil RICO claim must be dismissed as a matter of law. <i>See Fed. R. Civ. P. 56(f)(1)–(3)</i>. The Court will issue a Decision and Order setting forth the legal and factual basis for this determination. Before doing so, however, the Court directs the parties to brief the issue of whether the Court should exercise supplemental jurisdiction over Plaintiff's sole remaining cause of action: a state law claim for fraudulent inducement. <i>See Catzin v. Thank You and Good Luck Corp.</i>, 899 F.3d 77 (2d Cir. 2018).</p> <p>The Court directs that the parties simultaneously file briefs on the supplemental jurisdiction question on or before August 10, 2021. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 8/3/2021. (MFM) (Entered: 08/03/2021)</p>
08/10/2021	<u>203</u>	MEMORANDUM/BRIEF re 202 Text Order,,,,, by Medical Marijuana, Inc., Red Dice Holdings, LLC.. (Mancuso, Scott) (Entered: 08/10/2021)
08/10/2021	<u>204</u>	MEMORANDUM/BRIEF re 202 Text Order,,,,, by Dixie Holdings, LLC. (Sheps, Hanoch) (Entered: 08/10/2021)
08/10/2021	<u>205</u>	Letter filed by Douglas J. Horn as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. <i>re: jurisdiction and certification</i> .

		(Benjamin, Jeffrey) (Entered: 08/10/2021)
09/14/2021	<u>206</u>	DECISION AND ORDER: Defendants' motion in limine (Docket ## 194, 200) is GRANTED IN PART and DENIED IN PART. The civil RICO claim is dismissed pursuant to the Court's authority under Rule 56(f), but the motion is otherwise denied. By separate order, the Court will set a status conference for the purpose of rescheduling the trial. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 9/14/2021. (MFM) (Entered: 09/14/2021)
09/15/2021		TEXT SCHEDULING ORDER: A status conference to set a trial date is scheduled for 9/21/2021 at 3:30 PM via videoconference before Magistrate Judge Jonathan W. Feldman. Invites will be sent by email to the parties. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 9/15/2021. (MFM) (Entered: 09/15/2021)
09/16/2021		TEXT SCHEDULING ORDER *DATE & TIME CHANGE*: Status Conference reset for 9/24/2021 at 11:30 AM via videoconference before Magistrate Judge Jonathan W. Feldman. Invites to be sent by email. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 9/16/2021. (MFM) (Entered: 09/16/2021)
09/24/2021	207	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances: Appearances via Zoom for Government: Jeffrey Benjamin, Esq./pls; Roy A. Mura, Esq. and Scott Mancuso, Esq./def. Medical Marijuana Inc. and Red Dice Holdings, LLC, Jean-Claude Mazzola, Esq., Hanoch Sheps, Esq. and Richard Lerner, Esq./def. Dixie Holdings. Status Conference held on 9/24/2021. Proposed trial dates discussed. Plaintiff's counsel will check with his clients and let the court and counsel know which dates are selected. (Zoom for Government Recording.) (LMD) (Entered: 09/24/2021)
10/12/2021		TEXT SCHEDULING ORDER: The Jury Trial is now set to begin on 1/18/2022 at 09:00 AM in US Courthouse, 2 Niagara Square, Buffalo, NY 14202-3350, for one week. The Final Pretrial Conference is now set for 12/2/2021 at 11:00 AM, to be held by videoconference. No more than one week before the pretrial conference, the parties <i>shall</i> submit revised proposed jury instructions and revised witness/exhibit lists, and <i>may</i> submit any other materials listed in the Court's Final Pretrial Order. Docket # 174. All submissions should conform to the Court's Final Pretrial Order. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 10/12/2021. (MFM) (Entered: 10/12/2021)
11/19/2021	<u>208</u>	MOTION for Certificate of Appealability <i>by Plaintiff</i> by Douglas J. Horn. (Attachments: # <u>1</u> Memorandum in Support Memo of Law)(Benjamin, Jeffrey) (Entered: 11/19/2021)
11/19/2021	209	TEXT ORDER: On 11/19/2021, Plaintiff filed <u>208</u> MOTION for Certificate of Appealability. Defendants shall respond to the motion by 11/29/2021, and Plaintiff may file a reply by 12/1/2021. Notwithstanding Plaintiff's motion, the parties shall submit their trial materials in accordance with the Court's prior scheduling order dated 10/12/2021. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 11/19/2021. (MFM) (Entered: 11/19/2021)
11/25/2021	<u>210</u>	Proposed Jury Instructions by Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 11/25/2021)
11/25/2021	<u>211</u>	Witness List by Douglas J. Horn. (Benjamin, Jeffrey) (Entered: 11/25/2021)
11/25/2021	<u>212</u>	Exhibit List <i>Plaintiff</i> by Douglas J. Horn.. (Benjamin, Jeffrey) (Entered: 11/25/2021)
11/29/2021	<u>213</u>	RESPONSE to Motion re <u>208</u> MOTION for Certificate of Appealability <i>by Plaintiff memorandum of law in response to Plaintiffs two-part motion</i> filed by Medical Marijuana, Inc.. (Mancuso, Scott) (Entered: 11/29/2021)
11/29/2021	<u>214</u>	Letter filed by Dixie Holdings, LLC as to Dixie Botanicals, Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. . (Attachments: # <u>1</u> Exhibit Dkt 137, Exhibit C, Defense exhibit list, # <u>2</u> Exhibit Dkt 176, Defense Witness List, # <u>3</u> Exhibit Dkt 187, Opposition to Jury Instructions)(Sheps, Hanoch) (Entered: 11/29/2021)
11/29/2021	<u>215</u>	OBJECTIONS <i>to Plaintiff's Proposed Substantive Jury Instructions</i> filed by Defendants Medical Marijuana, Inc., Red Dice Holdings, LLC... (Mura, Roy)

		(Entered: 11/29/2021)
12/02/2021	216	Minute Entry for proceedings held before Magistrate Judge Jonathan W. Feldman: Appearances via Zoom for Government: : Jeffrey Benjamin, Esq./pl; Roy Mura, Esq. and Scott Mancuso, Esq./defs Medical Marijuana, Inc. and Red Dice Holdings, LLC, Jean-Claude Mazzola, Esq., Hanoch Sheps, Esq.; and Richard Lerner, Esq for Defendant Dixie Holdings, LLC. Matter on for Final Pretrial Conference. Final Pretrial Conference not held. Motion Hearing held on 12/2/2021 re <u>208</u> MOTION for Certificate of Appealability by <i>Plaintiff</i> filed by Douglas J. Horn to be granted with consent of defendants, except that court will decide whether it will request additional briefing. Jury Trial set for 1/18/2022 in Buffalo is cancelled. (Court Reporter Diane Martens.) (LMD) (Entered: 12/03/2021)
01/24/2022	<u>217</u>	DECISION AND ORDER granting <u>208</u> Motion for Certificate of Appealability. The Clerk of Court is directed to enter partial final judgment on Douglas J. Horn's civil RICO claim predicated on mail and wire fraud, which the Court dismissed in its September 14, 2021 Decision & Order. <i>See</i> Docket # 206. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 1/20/2022. (MFM) -CLERK TO FOLLOW UP- (Entered: 01/24/2022)
01/25/2022	<u>218</u>	INTERIM JUDGMENT in favor of Dixie Holdings, LLC, Medical Marijuana, Inc., Red Dice Holdings, LLC. against Cindy Harp-Horn, Douglas J. Horn. Signed by Mary C. Loewenguth, Clerk of Court on 1/25/2022. (CGJ) (Entered: 01/25/2022)
02/15/2022	<u>219</u>	Letter filed by Plaintiffs Cindy Harp-Horn, Douglas J. Horn. (submitted to chambers via email on 2/15/2022) (MFM) (Entered: 02/15/2022)
02/15/2022	220	TEXT ORDER: On 2/15/2022, Plaintiffs filed a letter requesting that the Court modify its January 20, 2022 Decision & Order so as to allow immediate appeal of "those other narrow and dispositive issues previously dismissed [and denied certification as final] by Judge Geraci," specifically, "Plaintiffs primary claims under RICO predicated on Controlled Substances, and under NY GBL §§349 and 350." Docket # 219 at 1. Plaintiffs' request is DENIED. The Court engaged in a careful balancing of the judicial administrative interests and equities involved before deciding to grant partial final judgment pursuant to Federal Rule of Civil Procedure 54(b). The Court's analysis was in part premised on the discreteness of the issue to be appealed and the unusual circumstances surrounding the dismissal of Plaintiffs' last remaining civil RICO theory. <i>See</i> Docket # 217 at 5-7, 8-12. While there is some intuitive appeal to Plaintiffs' request for a single, "unified appeal on all issues," Docket # 219 at 1, permitting a massively expanded appeal would not only be inconsistent with District Judge Geraci's prior order on the matter, <i>see</i> Docket # 115, it would also undermine the very reasons the Court articulated for granting Rule 54(b) relief. Accordingly, the Court denies Plaintiffs' letter request. SO ORDERED. Signed by Magistrate Judge Jonathan W. Feldman on 2/15/2022. (MFM) (Entered: 02/15/2022)
02/16/2022	<u>221</u>	NOTICE OF APPEAL as to <u>217</u> Order on Motion for Certificate of Appealability, <u>206</u> Order on Motion in Limine, <u>218</u> Judgment by Douglas J. Horn. Filing fee \$ 505, receipt number ANYWDC-4504453. Appeal Record due by 5/17/2022. (Benjamin, Jeffrey) (Entered: 02/16/2022)
02/17/2022		Pursuant to Local Rule 12.1 of the US Court of Appeals for the Second Circuit, Forms C and D must be completed within 14 days after the filing of a notice of appeal. Forms C and D can be obtained at www.ca2.uscourts.gov . (CGJ) (Entered: 02/17/2022)
02/17/2022		Within 14 days of filing the Notice of Appeal, the appellant is required to electronically file with the District Court an index of filed documents it wishes the Court of Appeals to consider, called Designation of Record on Appeal. After receipt, the Clerks Office will certify and transmit the index to the Circuit. (CGJ) (Entered: 02/17/2022)