

IN THE COURT OF APPEALS OF MARYLAND

JANE AND JOHN DOE, *et al.*,

Appellants,

v.

ALTERNATIVE MEDICINE
MARYLAND, LLC, *et al.*,

Appellees.

No. 98

Sept. Term ~~2017~~ 2016

Filed

JUL 06 2017

Bessie M. Decker, Clerk
Court of Appeals
of Maryland

OPPOSITION TO AMM's JULY 3, 2017, MOTION

Appellants, Jane and John Doe, Curio Wellness, LLC, Doctor's Orders Maryland, LLC, Green Leaf Medical, LLC, Kind Therapeutics, USA, LLC, SunMed Growers, LLC, Maryland Wholesale Medical Cannabis Trade Association, and, the Coalition for Patient Medicinal Access, LLC ("**Intervenors**"), by the undersigned counsel, oppose Appellee, Alternative Medicine Maryland, LLC's ("**AMM**"), July 3, 2017, Motion,¹ and state:

ForwardGro, LLC, Holistic Industries, LLC, and Temescal Wellness of Maryland, LLC, have authorized the undersigned to represent that they join in this Opposition.

Just as AMM's *untimely* lawsuit threatens to plunge the medical cannabis program into chaos,² AMM's *belated* request to substantially alter this Court's June 9, 2017, briefing

¹ AMM titled its motion: "Motion to Require Respondent Natalie M. LaPrade Maryland Medical Cannabis Commission to Argue With Petitioners [sic - Appellants], or in the Alternative, Motion for Additional Argument Time and Motion to Allow Respondent [sic - Appellee] to File a Responsive Brief to Any Brief Filed by Respondent Natalie M. LaPrade Maryland Medical Cannabis Commission."

² See Intervenors' Opening Brief at 43 (laches).

order threatens to disrupt the orderly processes established by this Court. AMM's motion is substantively and procedurally defective, void of authority, and should be denied.

The briefing order of June 9, 2017, established controlling milestone dates. The Court provided for *Appellants'* briefs to be filed on June 23rd, "*Appellees'* brief(s)" on July 7th, replies on July 17th, and oral argument on July 27th. (Emphasis added). If this motion had merit, and it does not, AMM should have filed it weeks ago. At this late juncture, it is prejudicial.

I. AMM'S REQUESTS TO FILE TWO BRIEFS, REALIGN THE PARTIES, AND EXPAND ORAL ARGUMENT SHOULD BE DENIED

AMM's July 3rd motion contains three requests. First, AMM belatedly asks to realign the Natalie M. LaPrade Maryland Medical Cannabis Commission ("Commission") from an appellee to an appellant, and thereby decrease appellant *Intervenors'* oral argument by ten minutes. Second, although AMM is an appellee, AMM requests permission to file a *second* appellee's brief in response to a *co-appellee's* brief. Third, AMM appears to argue that, if the Commission receives ten minutes to argue as an appellee, AMM's time for oral argument should be correspondingly enlarged. Notably, AMM does not even allege that twenty minutes is *insufficient* for AMM's oral argument, nor does it assert any prejudice.

A. The Commission Should Not Be Re-designated as an Appellant

AMM takes the "position that, for purpose of the briefing schedule and oral argument, the Commission should have been designated as a Petitioner [sic – Appellant³]."

³ "When no prior appellate decision has been rendered, the party first appealing the decision

AMM's Motion at ¶2. AMM then bootstraps that assertion to argue that the Commission should share *Intervenors'* time for oral argument.

AMM profoundly misunderstands the appellate process. The Commission is not an appellee under some "designation." It is an appellee under the precise rubric of Rule 8-111(a)(1). If AMM disagreed with the Commission's status under the Rules, it should have filed a timely motion to address the perceived (but nonexistent) problem. It failed to do so.

Nor would the Commission properly be an appellant. *First*, the Commission *did not appeal*. *Second*, as fully explained in *Intervenors'* opening brief at §I.A.2, the Commission and appellant *Intervenors* have different interests.⁴ *Third*, designating the Commission as an appellant would have substantive implications that could be detrimental to the Commission. It would be entirely unfair and factually unsupported to grant AMM's request.

Further, the request is untimely and prejudicial. Nowhere does AMM explain why it delayed from June 9th until July 3rd to make its realignment request. It should surprise no one that the Commission is an appellee.

of the trial court shall be designated the appellant and the adverse party shall be designated the appellee." Rule 8-111(a)(1).

⁴ In brief summary: "Intervenors and the State do not have identical interests at stake in this litigation. The Commission is a government entity interested in implementing public health policy, while grower *Intervenors* are market participants. Jane and John Doe's interests lie in their civil right to this critically-important and promised medical treatment." Br., 3.

- Rule 8-111(a)(1) provides: “[T]he party first appealing the decision of the trial court shall be designated the appellant and the adverse party shall be designated the appellee.” AMM was fully aware of the fact that the Commission did not file an appeal.
- In the Court’s June 9th briefing order, “Appellees” is plural possessive and the word “brief(s)” was used by the Court. That implies that some party other than AMM is an appellee and it, alone, should have notified AMM that it was not the sole party on its side of the “v.”

AMM’s untimely, prejudicial, and factually and legally unsupported request to realign the Commission as an appellant should be denied.

B. AMM Should Not Be Permitted a Second Brief

Appellees like AMM never get the last written word. Rule 8-502(a) provides for an appellant’s brief, followed by an appellee’s brief, followed by appellant’s reply. AMM is not prejudiced by the current schedule.

AMM’s request lacks merit; however, if it had been *timely* raised, the perceived (but nonexistent) problem of briefing *seriatim* could have been avoided. The briefing order was issued on June 9, 2017. If AMM had timely objected, the Commission could have been ordered to file its brief simultaneously with appellants. However, AMM did not file this motion until July 3rd, after Intervenors’ opening brief was long-filed. The request, like AMM’s entire lawsuit, is untimely.

AMM wants two bites at the apple. *Appellee* AMM should not be permitted to create an endless and chaotic cycle of briefing by filing a surreply to *co-appellee*, the

Commission. For example, if AMM, as appellee, gets a second brief, then Intervenors, as appellants should be permitted to respond in writing. *See* Rule 8-502(a). AMM's request for briefing *seriatim* would either prejudice appellants or create another cycle of briefing.

C. There is No Need to Extend Oral Argument

AMM will have twenty minutes to argue, if the Commission takes ten minutes. AMM asserts that the issue on appeal is "limited to the trial court's denials of Petitioners' [sic] Motions to Intervene...." AMM's Motion at ¶2.

Notably missing from AMM's motion is even a bald allegation of prejudice or an allegation that AMM cannot present its position on that single issue in twenty minutes. AMM has failed to meet its burden.⁵

II. AMM'S PROCEDURALLY-DEFECTIVE MOTION SHOULD NOT BE CONSIDERED

From beginning to end, AMM's unsupported motion demonstrates a wholesale disregard of this Court's orders and processes. AMM begins its motion with an erroneous caption as *Petition* Docket No. 148. By order dated June 9, 2017, this Court "ORDERED, that this case shall be transferred to the regular docket as No. 98...."

AMM's procedural errors continue to the end of its motion. Because there are no authorities supporting AMM's request, it has failed to provide any Rule 8-431(d) statement of grounds and authorities. AMM has omitted counsel for Holistic Industries, LLC, from

⁵ "A party who believes that *additional time is necessary for the adequate presentation of oral argument*, may request, by letter addressed to the Court, the additional time deemed necessary." Rule 8-522(a) (Emphasis added).

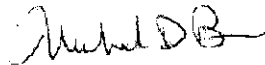
its certificate of service.⁶ AMM has also failed to provide the proposed order required by Rule 8-431(a).

STATEMENT OF GROUNDS AND AUTHORITIES

The Rules cited above constitute Intervenors' Statement of Grounds and Authorities.

Wherefore, Appellants request that this Court deny AMM's July 3, 2017, Motion, and for such other relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,



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⁶ Intervenors sent Holistic a copy of AMM's motion on July 5, 2017. After AMM was notified of its omission, it corrected the error on July 5th, with a response being due on July 6th.

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July 6, 2017

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CERTIFICATE OF SERVICE

I HEREBY certify that on this 6th day of July, 2017, a copy of the foregoing was served, by first-class mail, postage prepaid, and via email, on:

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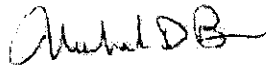
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