EXHIBIT 5

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ALEXANDER HOFF; CRISTA HUNTER; KRIS SOONTHORNSAWAD; ABRAHAM AZUA;

Plaintiffs.

v.

OPTIMUMEDICINE, LLC, a Nevada limited liability company; DEVON EISMA, an individual; DOES 1 through 50, inclusive; and ROES ENTITIES I through L inclusive,

Defendants,

Case No. A-22-861354-B

Dept. No.: XXXI

NOTICE OF ENTRY OF ORDEER GRANTING PLAINTIFFS' MOTION TO RETAX AND GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR ATTORNEY FEES AND COSTS

HUTCHINGS LAW GROUP
400 SOUTH 4TH STREET, SUITE 550
LAS VEGAS, NV 89101

Case Number: A-22-861354-B

PLEASE TAKE NOTICE of Order Granting Plaintiffs' Motion to Retax and Granting in Part and Denying in Part Defendants' Motion for Attorney Fees and Costs was duly entered on the 18th day of July 2024.

A copy of said Order Granting Plaintiffs' Motion to Retax and Granting in Part and Denying in Part Defendants' Motion for Attorney Fees and Costs is attached hereto.

Dated: December 12, 2024

HUTCHINGS LAW GROUP

/s/ Mark H. Hutchings

By: _____

Mark H. Hutchings, Esq.
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CERTIFICATE OF SERVICE

I am employed in the County of Clark, State of Nevada. I am over the age of 18 and not a party to the within action. My business address is 400 South 4th Street, Suite 550Las Vegas, Nevada 89101.

On the date set forth below, I served the document(s) described as:

1. **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFFS' MOTION TO RETAX AND GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR ATTORNEY FEES AND COSTS**

on the person(s) listed below:

Brian Schneider, Esq.
RAICH LAW PLLC
6785 S. Eastern Ave., Suite 5
Las Vegas, NV 89119

X (BY ELECTRONIC SERVICE) Pursuant to the Court's order authorizing electronic service, I caused the document(s) described above to be transmitted electronically to the addressee(s) as set forth above.

X (STATE) I declare under penalty of perjury under the laws of the State of Nevada that the above is true and correct.

Dated: December 12, 2024

/s/ Makayla Rodriguez
An employee of HUTCHINGS LAW GROUP

HUTCHINGS LAW GROUP
400 SOUTH 4TH STREET, SUITE 550
LAS VEGAS, NV 89101

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DECN

DISTRICT COURT

CLARK COUNTY, NEVADA

ALEXANDER HOFF, CRISTA HUNTER, KRIS SOONTHORNSAWAD, ABRAHAM AZUA, PLAINTIFFS, vs. OPTIMUMEDICINE LLC, a Nevada Limited Liability company; DEVON EISMA, an individual; and DOES 1 to 50 and ROE Entities I to L; DEFENDANTS, _____	CASE NO.: A-22-861354-B DEPT.: XXXI **ORDER GRANTING PLAINTIFFS' MOTION TO RETAX** **and** **GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR ATTORNEY FEES AND COSTS**

I. FACTUAL BACKGROUND

On February 20, 2024, the Court Granted Defendants' Motion for Summary Judgment (Doc. 18). The Order Granting Defendants' Motion for Summary Judgment (Doc. 25) was filed on March 6, 2024, which granted Summary Judgment in favor of Defendants on all claims and causes of action brought by Plaintiffs. Defendants filed a Motion for Attorney's Fees and Costs (Doc. 27) and Memorandum of Costs and Authorities (Doc. 28) on March 15, 2024, requesting a total of $70,934.62 in attorney fees and costs. Plaintiffs filed their Opposition (Doc. 32) on March 29, 2024. On April 10, 2024, Defendants filed their Reply (Doc. 35). On March 20, 2024, Plaintiffs filed their Motion to Retax and Settle Costs (Doc. 30). Defendants filed their Opposition (Doc. 33) on

JOANNA S. KISHNER
DISTRICT JUDGE
DEPARTMENT XXXI
LAS VEGAS, NEVADA 89155

April 3, 2024. Plaintiffs filed their Reply (Doc. 37) on April 25, 2024. The Matters came before the Court for hearing on May 2, 2024. Brian Schneider, Esq. appeared on behalf of the Plaintiffs; and John Bowman Lanning, Esq. appeared on behalf of the Defendants.

During the May 2, 2024, hearing, Defendants argued that the claims brought against Defendants were frivolous and without reasonable grounds, while Plaintiffs argued that the claims were not frivolous as the original operating agreement did not specify the managers, and the disclosures were provided post-discovery deadline. Plaintiffs further argued that Defendant's expert witness was not timely disclosed. At the conclusion of the hearing, the Court informed the parties that the matter would be put on its Chamber's calendar for a Decision to be issued.

II. DEFENDANTS' MOTION FOR ATTORNEY FEES

In determining the reasonableness of attorney fees, the Court analyzes the four *Brunzell* factors, which are:

> (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill;
> (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation;
> (3) the work actually performed by the lawyer: the skill, time and attention given to the work;
> (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell v. Golden Gate Nat. Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969)

Defendants requested $55,348.92 in attorney fees. However, the invoices were improperly submitted as they did not comply with EDCR 2.27. The exhibits were in excess of 100 pages, were not filed separately, were not numbered, and

did not have a table of contents. Further, the invoices were heavily redacted and attached sideways. Thus, the Court is unable to properly examine and analyze the invoices because they are illegible. Thus, the Defendants' request for attorney fees is DENIED as the Court is unable to properly analyze the reasonableness of the fees pursuant to the *Brunzell* requirements.

III. DEFENDANT'S REQUEST FOR COSTS AND PLAINTIFFS' MOTION TO RETAX

A request for costs requires a Memorandum of Costs that must demonstrate that costs were reasonable, necessary, and actually incurred. *See Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 345 P.3d 1049 (2015); *see Matter of DISH Network Derivative Litig.*, 133 Nev. 438, 401 P.3d 1081 (2017); *see Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 971 P.2d 383 (1998); *see Fairway Chevrolet Co. v. Kelley*, 137 Nev. 905, 484 P.3d 276 (2021) (unpublished disposition) (finding that "Fairway's internal ledger did not document what research was conducted and how long it lasted, thereby making it impossible for the district court to determine whether each instance of research was reasonable and necessary").

Defendants requested a total of $15,585.70 in costs. The Court re-taxed the Expert Retention Fee of $8,160.00. *See infra* Section III at 4. The remaining costs are for filing fees and depositions. The Court is able to judicially notice the filing fees, but receipts were included for the filing fees in Defendants' Memorandum of Costs and Disbursements (Doc. 28). Having fully evaluated the filing fees, the Court GRANTS the request for the filing fees in the amount of $1,622.50. Further, the receipts for the deposition costs, totaling $5,803.20, were included in the Memorandum of Costs and Disbursements (Doc. 28).

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DISTRICT JUDGE
DEPARTMENT XXXI
LAS VEGAS, NEVADA 89155

Having fully evaluated the receipts for the deposition costs and finding them reasonable, necessary, and actually incurred the Court GRANTS the deposition costs of $5,803.20. Therefore, the Court GRANTS costs in the total amount of $7,425.70.

Plaintiffs sought to retax Defendants' expert witness costs of $8,160.00 for an undisclosed expert that did not testify as the matter was resolved through the Motion for Summary Judgment (Doc. 18). Defendants' expert witness fee request of $8,160.00 is unreasonable as the expert witness was not timely disclosed. The initial expert disclosures were due by September 18, 2023, and Defendant waited for the conclusion of the matter to request a non-disclosed expert fee. *See* Stipulation and Order to Extend Discovery, Doc. 15 at 4. Further, the matter was resolved via Summary Judgment and the expert was not required to testify.[1] Therefore, Plaintiffs' Motion to Retax is GRANTED and Defendants' costs are reduced by $8,160.00.

ORDER

Having reviewed the papers and documents on file herein, fully taking into account all oral argument from the May 2, 2024, hearing, the Court makes the following ruling:

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Plaintiffs' Motion to Retax and Settle Costs (Doc. 30) is GRANTED; thus, Defendants' costs are reduced by $8,160.00.

IT IS FURTHER ORDERED, ADJUGED, and DECREED that Defendants' Motion for Attorney's Fees and Costs (Doc. 27) is GRANTED IN PART and

[1] While experts are not required to testify for the Court to award costs, here, the lack of the disclosure of the expert is what the Court's decision turns on.

DENIED IN PART. The Motion is GRANTED as to costs in the total amount of $7,425.70 for the filing fees and the depositions. The Motion is DENIED as to Defendants' requested $55,348.92 in attorney fees because the Court is unable to properly analyze the reasonableness of the fees pursuant to the *Brunzell* requirements due to the invoices being illegible.

Dated this 18th day of July, 2024.

Dated this 18th day of July, 2024

Joanna S Kishner

07E 31E EEC0 4349
Joanna S. Kishner
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of this Order was electronically submitted for automated Electronic Service by the Court to all counsel/registered parties, pursuant to the Nevada Electronic Filing Rules, unless otherwise noted below.

/s/ Tracy L. Cordoba
TRACY L. CORDOBA-WHEELER
Judicial Executive Assistant

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Alexander Hoff, Plaintiff(s)	CASE NO: A-22-861354-B
vs.	DEPT. NO. Department 31
Devon Eisma, Defendant(s)	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Decision was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 7/18/2024

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