

UNITED STATES DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In the Matter of

**Schedules of Controlled Substances:
Proposed Rescheduling of Marijuana**

**DEA Docket No. 1362
Hearing Docket No. 24-44**

**ORDER REGARDING HEMP FOR VICTORY'S MOTION FOR RELIEF RELATED
TO WITNESS PRESENTATION AND PROPOSED EXHIBITS**

On December 23, 2024, Hemp for Victory (HFV) filed a motion (Motion or Mot.) petitioning for the following relief: (1) inclusion of additional proposed documentary exhibits; (2) qualification of its noticed witness as an expert witness; (3) authorization of its noticed witness to observe the Government's case; and (4) allocation of time toward redirect examination. Mot. at 1-3.

Hemp for Victory's request to file additional proposed documentary exhibits was timely filed in compliance with the directives set forth in a prehearing ruling (PHR). PHR at 3-5, 8. Accordingly, that portion of HFV's Motion seeking the filing of additional proposed exhibits is herein **GRANTED**.

The Motion also petitions for the preemptive summary admission and qualification of its noticed witness as an expert witness authorized to provide opinion testimony. Mot. at 2-3; 21 C.F.R. § 1316.59. Hemp for Victory seeks the qualification of its noticed witness as an expert witness in advance of the hearing on the merits and alternatively requests that any foundation-laying regarding this portion of his testimony be excluded from the ninety (90) minutes allocated to HFV's presentation. Mot. at 2. HFV avers that this requested relief is justified inasmuch as it will streamline its witness's testimonial presentation. *Id.* Qualification and recognition of an expert witness is an issue properly reserved for the hearing on the merits. Accordingly, that portion of the Motion which seeks to summarily and preemptively designate Hemp for Victory's noticed witness as an expert witness or bifurcate HFV's laying of a foundation for such

qualification is herein **DENIED**.¹

The remainder of the Motion petitions for the reservation of fifteen (15) minutes of the witness's testimonial presentation for redirect examination as well as the ability of HFV's witness to observe the Government's case. *Id.* at 3. At the outset of their testimonial presentation, Hemp for Victory or any other Designated Participant may reserve ten (10) minutes for redirect *at the discretion of the Judge*.² 5 U.S.C. § 556; 21 C.F.R. § 1316.52. Accordingly, that portion of HFV's Motion which requests the allocation of time from its witness's testimonial presentation for redirect examination is **GRANTED TO THE EXTENT** that time does not exceed ten (10) minutes. Finally, the Motion's request that the witness be able to observe the Government's presentation is herein **GRANTED TO THE EXTENT** that its proposed witness will not be subject to sequestration from *the content* of the hearing.³

Dated: December 31, 2024

JOHN J. MULROONEY, II
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

This is to certify that the undersigned, on December 31, 2024, caused a copy of the foregoing to be delivered to the following recipients: (1) Julie L. Hamilton, Esq., Counsel for the Government, via email at julie.l.hamilton@dea.gov; James J. Schwartz, Esq., Counsel for the Government, via email at james.j.schwartz@dea.gov; Jarrett T. Lonich, Esq., Counsel for the Government, via email at jarrett.t.lonich@dea.gov; and S. Taylor Johnston, Esq., Counsel for the Government, via email at stephen.t.johnston@dea.gov; (2) the DEA Government Mailbox, via email at dea.registration.litigation@dea.gov; (3) Shane Pennington, Esq., Counsel for Village Farms International, via email at spennington@porterwright.com; and Tristan Cavanaugh, Esq., Counsel for Village Farms International, via email at tcavanaugh@porterwright.com; (4) Nikolas S. Komyati, Esq., Counsel for National Cannabis Industry Association, via email at nkomyati@foxrothschild.com; William Bogot, Esq., Counsel for National Cannabis Industry Association, via email at wbogot@foxrothschild.com; and Khurshid Khoja, Esq., Counsel for National Cannabis Industry Association, via email at khurshid@greenbridgelaw.com; (5) Dante Picazo for Cannabis Bioscience International Holdings, via email at ir@cbih.net; (6) Andrew J.

¹ A contrary result would curtail the ability of the tribunal and/or any other Designated Participant from the opportunity to challenge or even conduct limited *voir dire* on a witness's status as an expert witness.

² These are hearing proceedings, not a series of appellate arguments. No period of time is etched in stone, and accordingly, my authority to regulate the course of the hearing (5 U.S.C. § 556(c)(5)) stands unaltered by this order.

³ The hearing on the merits in this case will be available via livestream for HFV's proposed expert witness to observe.

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Tayonna Eubanks
Secretary (CTR)
Office of Administrative Law Judges