

017-352358-24

CAUSE NO. 017-352358-24

AFG COMPANIES, INC.,

Plaintiff,

V.

**GENUINE LIFETIME, LLC, AND
TYLER J. LUCK**

Defendants.

¶ ¶ ¶ ¶ ¶ ¶ ¶ ¶

IN THE DISTRICT COURT

17th JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

AGREED MOTION TO STRIKE INTERVENTION OF MAURICE FITZPATRICK

COMES NOW, Plaintiff AFG Companies, Inc. (“Plaintiff” or “AFG”) and Defendants Genuine Lifetime, LLC, and Tyler J. Luck (“Defendants,” collectively the “Parties”) and files this Joint Motion to Strike Intervention of Maurice Fitzpatrick (“Fitzpatrick”). In support, the Parties respectfully show the Court the following:

I. SUMMARY OF MOTION

1. The actions of *pro se* Intervenor Fitzpatrick, a disgruntled former employee of Plaintiff AFG, have caused several months of procedural delay. With mediation and trial looming, it is in the best interest of justice to strike Intervenor's motion/pleading and permit the original parties to proceed to trial after a reasonable time to conduct discovery.

II. INTRODUCTION & PROCEDURAL HISTORY

2. Plaintiff filed its Original Petition on April 30, 2024, asserting basic claims to recover an indebtedness owed by Defendants to Plaintiff under that certain Loan Agreement and Security Agreement dated October 17, 2023. Defendants filed Answers, including affirmative defenses by

Genuine Lifetime.

3. Over six months later, on or about November 11, 2024, Maurice Fitzpatrick, a former employee of AFG, moved this Court to intervene, *pro se*, upon serving a notice and a Motion to Intervene (**Exhibit A**, the “Motion to Intervene”). Then, on or about January 6, 2025, Fitzpatrick alleged that he was prejudiced by the Court’s “failure to rule” on his Motion to Intervene, so he filed a Notice of Appeal in this matter (**Exhibit B**), though he had no final judgment or ripe issue for appeal.

4. When the Second Court of Appeals gave letter notice on January 14, 2025, that they would dismiss the appeal for want of jurisdiction absent a response from Fitzpatrick demonstrating grounds to continue¹, Fitzpatrick then filed a Notice of Removal in this action on or about February 11, 2025, instead seeking to remove the case to the Northern District of Texas federal court. (**Exhibit C**, Notice of Removal). The Northern District, too, saw no merit in Fitzpatrick’s procedure and ordered remand to this Court on April 28, 2025. (**Exhibit D**, Remand Order).

5. Now, with the case fully established back in the trial court after months of unnecessary delay, which stayed necessary discovery, this Court entered an Agreed Scheduling Order on May 30, 2025, setting this matter for an August 2025 trial. (**Exhibit E**, Scheduling Order). Because Fitzpatrick still lacks a justiciable interest in the litigation, as required for intervention as a matter of right, the Parties seek to strike Fitzpatrick’s claims in this matter, to permit Plaintiff and Defendant’s original action to be tried in full without further delay or interruption. Tex. R. Civ. P. 60. Mediation is scheduled for July 30, 2025, with Christopher Nolland, and striking this Intervention may also aid in mediation.²

III. ARGUMENT AND AUTHORITIES

¹ The Second Court of Appeals dismissed the Fitzpatrick appeal by memorandum opinion on February 27, 2025.

² Presently, until Intervenor is struck, it is unclear whether the case can settle fully, if Intervenor does not participate.

A. FITZPATRICK IS AN IMPROPER INTERVENOR LACKING A JUSTICIABLE INTEREST.

5. The Texas Rules of Civil Procedure allow an intervention to be “stricken out by the court for sufficient cause on the motion of any party.” Tex. R. Civ. P. 60. Grounds for striking an intervention include: (1) the failure to meet the requirements of Rule 60³; (2) that the intervention will delay trial; (3) excessive complication of the issues caused by the intervention; (4) that the intervention will work an injury to the parties in the preparation and presentation of their cases; and (5) a lack of direct legal or equitable (“justiciable”) interest by the intervenor in the litigation.

6. “Because intervention is allowed as a matter of right, the ‘justiciable interest’ requirement is of paramount importance: it defines the category of non-parties who may, without consultation with or permission from the original parties or the court, interject their interests into a pending suit to which the intervenors have not been invited. … If any party to the pending suit moves to strike the intervention, the intervenors have the burden to show a justiciable interest in the pending suit. [¶] To constitute a justiciable interest, ‘[t]he intervenor’s interest must be such that if the original action had never been commenced, and [intervenor] had first brought it as the sole plaintiff, he would have been entitled to recover in his own name to the extent at least of a part of the relief sought’ in the original suit.” *In re Union Carbide Corp.*, 273 S.W.3d 152, 154-55 (Tex. 2008) (emphasis added). Thus, in determining whether an intervention is proper, the trial court considers its jurisdiction as limited to the injuries originally at issue in the pending suit. *Id.* Any interest affected may not be contingent or remote; it must be such that the interest itself supports the party itself maintaining or defending the action. *Williamson v. Howard*, 554 S.W.3d 59, 66 (Tex. App.—

³ In an abundance of caution and construing the Motion in the manner most favorable to Fitzpatrick due to his *pro se* status, Plaintiff treats the Motion to Intervene as an Original Petition in Intervention for purposes of this Motion to Strike only. Fitzpatrick undoubtedly did not follow the requirement of Rule 60 to file a pleading. Plaintiff objects to and reserves the right to further contest the improper form and procedure associated with the Motion to Intervene, if needed.

El Paso 2018, no pet.). A trial court’s discretion to strike an intervention is broad, and the ruling is reviewed under an abuse of discretion standard. *Farmers Grp., Inc. v. Geter*, 620 S.W.3d 702, 713 (Tex. 2021).

7. Here, Fitzpatrick’s purported claims are wholly different than those brought in the original suit. Plaintiff’s Original Petition, the only pleading seeking affirmative relief, is for breach of contract suit, related to three specific contracts between Plaintiff and Defendant:

- **Loan Agreement** between AFG and Genuine Lifetime, dated 10/17/23;
- **Security Agreement** between AFG and Genuine Lifetime, dated 10/17/23; and
- **Personal Guaranty** of Tyler Luck to AFG, dated 10/17/23.

Breach of Contract is the only cause of action alleged, and the relief sought is contract damages, foreclosure of Defendants’ assets and interests, attorney’s fees and costs, and interest. (**Exhibit F**, Pl. Orig. Pet.). Defendant Luck filed only a General Denial in Answer. (**Exhibit G**, Def. Luck Orig. Answer). Defendant Genuine Lifetime filed a General Denial and affirmative defenses related, *inter alia*, to fraud, impossibility of performance, and issues of contract formation. (**Exhibit H**, Def. Genuine Lifetime Orig. Answer).

8. Fitzpatrick, who in no universe could have been a party to or in privity with the contracts being sued upon by Plaintiffs, cannot recover contract damages in the original suit.⁴ *See, e.g., First Bank v. Brumitt*, 519 S.W.3d 95, 102 (Tex. 2017) (discussing third party beneficiary status and the general rule that the benefits and burdens of a contract belong solely to the contracting parties). Instead, Fitzpatrick attempts to muddy the water with claims related to an allegedly wrongful employment termination and completely different SEC filings by AFG:

- **Business Combination Agreement and Plan of Reorganization** between

⁴ Fitzpatrick makes no legal or factual showing of being a third party beneficiary to Plaintiff and Defendant’s contracts. Equally, the contract parties demonstrably had no such intent to benefit a single software engineer in Plaintiff’s future employ; Fitzpatrick was not hired until March 2024. To create a third-party beneficiary, the contracting parties must have intended to grant the third party the right to be a “claimant” in the event of a breach. *Corpus Christi Bank & Tr. v. Smith*, 525 S.W.2d 501, 505 (Tex. 1975).

- AFG and a third-party entity, BEN, Inc., dated 9/7/23;
- **Exclusive Reseller Agreement** between AFG and BEN, Inc., dated 8/19/23; and
- **Subscription Agreements for Common and Private Stock**, dated 9/7 and 9/29/23.

(Ex. A, at 2). The agreements Fitzpatrick raises related to a separate stock purchase transaction, and they pre-date the occurrences discussed in AFG's dispute with Genuine Lifetime. Generously interpreting Fitzpatrick's interests as possible causes of action, Fitzpatrick nonetheless makes no claim that his controversy will be resolved by resolution of the breach of contract dispute at issue in the present case, or that he could possibly recover damages on the breach of contract claims. As such, Fitzpatrick is not entitled to intervene and has no justiciable controversy.

B. INTERVENTION PREJUDICES THE PARTIES AND IS UNNECESSARY FOR PROTECTION.

8. Additionally, permitting Fitzpatrick's intervention complicates the issues for trial and will ultimately delay trial in this matter. At the time of this filing, there is less than 60 days to trial. As stated above, Fitzpatrick's intervention raises unrelated – and AFG asserts baseless - fraud claims related to Fitzpatrick's own employment and an unrelated stock transaction. This would inject new issues into the case completely unrelated to the contract formation, breach, and damage issues germane to the resolution of Plaintiff and Defendant's claims. Those would require reopening discovery, permitting additional deposition(s) if already completed between Plaintiff and Defendant to include Intervenor, and a myriad of other logistical delays, forcing another continuance and entry of yet another scheduling order. Allowing intervention here injures Plaintiff in preparation and presentation of its case, injecting additional delay into a case that has already been procedurally stalled for months with misguided intervention efforts in appellate and federal courts.

9. Finally, the intervention is not necessary here. A court should strike a petition in intervention if the intervention is not essential to protect the intervenor's interest. *See Guar. Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 657 (Tex. 1990); *Law Offices of Windle*

Turley, P.C. v. Ghiasinejad, 109 S.W.3d 68, 70 (Tex. App.— Fort Worth 2003, no pet.).

Intervenor's interests, to the extent they exist and/or are not barred by limitations, could be effectively protected by his bringing his claims in the separate lawsuit filed by Plaintiff against Fitzpatrick in December 2024, and currently pending in Denton County, Texas, Cause No. 24-11876-442. In sum, Intervention is not properly brought, cannot give the relief Fitzpatrick wants, creates unnecessary delay, and is unnecessary. The Court must strike Fitzpatrick's Motion in Intervention.

IV. PRAYER

For these reasons, the Parties jointly request the Court grant this Motion to Strike Intervention of Fitzpatrick, and upon hearing, the Court should enter an Order to effectuate the removal of Fitzpatrick from this matter.

Respectfully submitted,

By: /s/ Mark L Hill _____

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CERTIFICATE OF SERVICE

I certify that on July 17, 2025, a true and correct copy of the foregoing was sent to all parties who have made an appearance or their attorney of record in accordance with Texas Rules of Civil Procedure.

/s/ Mark L. Hill

MARK L. HILL

EXHIBIT A

AFG COMPANIES, INC., }
Plaintiff, } IN THE DISTRICT COURT
v. } 17th JUDICIAL DISTRICT
GENUINE LIFETIME, LLC, AND } TARRANT COUNTY, TEXAS
TYLER J. LUCK, }
Defendants. }

MOTION TO INTERVENE

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, **Maurice Fitzpatrick** (hereinafter “Movant”), respectfully moves this honorable Court for leave to intervene in the above-captioned action pursuant to **Texas Rule of Civil Procedure 60**, and in support thereof states as follows:

I. INTERESTS OF THE MOVANT

1. Movant was employed by **AFG Companies, Inc. (AFG)** from **March 18, 2024**, until his abrupt and wrongful termination on **October 30, 2024**. During his employment, Movant was **fraudulently induced** to serve as **Software Engineer and Lead Integration Developer** for AFG without being informed of the **Exclusive Reseller Agreement (ERA)** between AFG and **Brand Engagement Network, Inc. (BEN)**. The ERA, which Movant now knows binds AFG to

refrain from marketing and developing competing artificial intelligence (AI) products and solutions against BEN, was breached by AFG, and Movant was unwittingly involved in these competing initiatives without his knowledge or consent. Movant's subsequent **wrongful termination** resulted from his raising questions and concerns about these unethical and fraudulent practices.

2. The claims presented in the current action are derived from the same set of agreements and transactions described in the S-4 Registration Statement¹ filed with the United States Securities and Exchange Commission (SEC) on February 5, 2024. Specifically:

- a. The Business Combination Agreement and Plan of Reorganization, dated September 7, 2023 (Annex A of the S-4 Registration)², which forms the basis of the ongoing relationship between AFG and BEN, including between AFG and Genuine Lifetime, LLC (GL) and Defendant Tyler J. Luck.
- b. The Exclusive Reseller Agreement (ERA), signed and dated August 19, 2023 (Annex F of the S-4 Registration)³, binding AFG not to market against BEN or develop competing AI solutions.
- c. The Subscription Agreements for Common Stock, dated September 7 and 29, 2023 (Annex G)⁴, and the Private Subscription Agreement, dated September 29, 2023 (Annex H)⁵, detailing the financial interests of the parties involved.

3. Movant's employment was intentionally misstated and grossly misrepresented by AFG prior to and leading up to his hiring. Movant was fraudulently induced into accepting

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² https://www.sec.gov/Archives/edgar/data/1838163/000119312524023535/d566788ds4a.htm#i566788_anxa

³ https://www.sec.gov/Archives/edgar/data/1838163/000119312524023535/d566788ds4a.htm#i566788_anxf

⁴ https://www.sec.gov/Archives/edgar/data/1838163/000119312524023535/d566788ds4a.htm#i566788_anxg

⁵ https://www.sec.gov/Archives/edgar/data/1838163/000119312524023535/d566788ds4a.htm#i566788_anxh

employment under false pretenses and through material misrepresentations by AFG. Movant was abruptly terminated via email in retaliation for attempting to understand and reconcile the true nature of his employment.

4. Movant suffered immediate and substantial financial harm, damage to his professional reputation, and emotional distress as a direct and/or proximate result of the conduct of AFG and other present parties. None of the existing parties represent Movant's rights, interests, or his unique position in this matter.

II. GROUNDS FOR INTERVENTION

5. Movant's employment was used by AFG to carry out activities that directly contravened the ERA , as evidenced by statements made by David Duggan (CTO of AFG) during a meeting on October 11, 2024, wherein Mr. Duggan explicitly acknowledged the ERA and AFG's efforts to circumvent it (see Exhibit A), as well as agreements described in the S-4 Registration Statement, to which Defendant Tyler J. Luck is also a party. Movant's claims arise from the same business dealings and the same set of facts, and he possesses unique evidence of fraudulent inducement, misrepresentation, and breaches of contractual obligations by AFG, which are critical to determining the true nature of the business activities in question.

6. Movant's interests will be impaired if not allowed to intervene, as the outcome of the current litigation directly affects his rights and ability to seek redress for fraudulent employment practices and wrongful termination. Furthermore, no existing party adequately represents Movant's interests, as none are positioned to present evidence of AFG's misrepresentations and fraudulent inducement of employees or its unethical conduct aimed at undermining BEN,

defrauding investors, stakeholders, the public-at-large, and manipulating publicly traded securities.

III. LEGAL STANDARDS FOR INTERVENTION

7. Pursuant to **Texas Rule of Civil Procedure 60**, Movant may intervene as long as he has a **justiciable interest** in the subject matter of the lawsuit. The Texas Supreme Court has held that a party has a justiciable interest if they could have brought the action themselves, or if their interests will be affected by the litigation's outcome. Movant's interest in exposing the fraudulent practices by AFG and others, which include the breach of agreements central to this case, satisfies the requirements for intervention.

8. Movant's claims are **directly linked** to the contractual breaches and fraudulent conduct alleged in this case. Movant's **right to redress** will be significantly affected by the outcome of this litigation, and his unique position is essential to fully elucidate the wrongful acts committed by **AFG**.

9. Additionally, under Texas law, intervention is appropriate where the intervenor's interests are **not adequately represented** by the current parties. Movant has unique knowledge and evidence regarding AFG's actions that have not been presented by any of the existing parties. Therefore, Movant's participation is essential to ensure all relevant facts are brought before the Court.

IV. RESPONSE TO POTENTIAL MOTION TO STRIKE

10. Movant anticipates that Plaintiff or Defendants may file a **motion to strike** this intervention. Movant asserts that such a motion should be denied for the following reasons:

1. **Direct and Substantial Interest:** Movant's claims are directly connected to the agreements and actions forming the basis of this lawsuit. Specifically, the fraudulent employment practices and subsequent wrongful termination are inextricably linked to AFG's business dealings with BEN and Defendant Tyler J. Luck.
2. **No Prejudice to Existing Parties:** Movant's intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. Rather, Movant's claims and evidence will contribute to a more complete understanding of the facts and will support the Court's determination of whether AFG and/or Defendants GL and Mr. Tyler Luck acted in breach of its contractual obligations and engaged in fraudulent practices.
3. **Unique Perspective:** Movant provides a unique perspective and evidence regarding the **ERA** and AFG's internal actions, which are crucial for determining the legitimacy of AFG's claims against Defendants and assessing the full extent of the misconduct at issue.

V. PRAYER FOR RELIEF

WHEREFORE, Movant respectfully requests that this Court grant this Motion to Intervene, allowing Movant to participate as an injured intervening party in this action, and for such other and further relief as the Court deems just and proper. Movant further requests that the

Court grant adequate leave to prepare and file his initial complaint against one and/or more of the present parties, supported by oath and/or affidavit where necessary, and to allow the submission of additional evidence, deposition rights, or participation in pretrial discovery as needed to fully present Movant's claims.

Respectfully submitted,

Maurice Fitzpatrick
2300 Timberline Drive, A138
Grapevine, Texas 76051
Phone: (214) 694-1551
Email: afglawsuit@yahoo.com

VI. EXHIBITS

EXHIBIT A

Transcript of conversation with Dave Duggan (CTO) and Jason De LaPorte (President) of AFG,
dated **October 11, 2024**, which includes discussions on AFG's efforts to circumvent the
Exclusive Reseller Agreement (ERA) between AFG and **Brand Engagement Network, Inc. (BEN)**.

The following is a verbatim, transcribed portion of a recent conversation I personally had with Dave Duggan (CTO) and Jason De LaPorte (President) of Automotive Financial Group, Inc. at 1900 Champagne, Grapevine, TX 76051 (AFG), October 11, 2024 @ approx. 2:30 PM CST. Yesterday morning, Wednesday, October 30, 2024, I was retaliated against and wrongfully terminated (by email) from AFG because I was asking certain questions of executive leadership about the true nature of the Software Engineering work, that without full disclosure and under false pretenses, I (and several others) was hired to do. I found out for the first time during this particular conversation on October 11, 2024 (transcribed below) of the existence of an "Exclusive Reseller Agreement" (ERA) that apparently legally binds AFG to a non-compete forbidding the direct or indirect development or engagement in competing solutions. The below words of Dave Duggan will show the existence of a wider conspiracy amongst AFG leadership and others, including Mr. Wright Brewer, to clandestinely circumvent the ERA between AFG and Brand Engagement Network, Inc. (BEN, BenAI, etc.) of which Mr. Tyler J. Luck is the Chief Product Officer.

Start of Transcription:

"Those guys ended up turning out to be crooks.

We have a meeting on Monday with the Chairman of that company and another Board Member of that company to walk them thru all the criminal activities that their primary owner and investor are involved in.

So, what happened, is, we built our team, they were supposed to build a team. They didn't build a team. They were supposed to bring AI solutions that worked. Their AI solutions didn't work. So, we had to figure out, how do we protect Wright Brewer and AFG and this investment that he's making in modernizing the automotive industry with artificial intelligence solutions when we don't know if we're going to have an AI company available. Oh, by the way, Wright Brewer has an Exclusive Reseller Agreement that is a bi-directional agreement between AFG and BenAI where BenAI is the Artificial Intelligence Company. And in that Agreement, we (AFG) cannot build, develop competing solutions against BenAI. We can't do it.

However, they also have obligations on their side which they have not fulfilled. So, we've had to create an environment where we focus on getting the data, automating the data solutions, building the framework,

the platform, laying the foundation for where we're going to take this business over the next five (5) years. Develop the five (5) year plan that takes this company to a billion dollars deploying AI solutions thru our Symphainy platform across the automotive industry. He (Jason De LaPorte) and I have been going out and meeting with OEMs, the Distributor Groups, Dealer Groups and Dealers, talking about this solution. And they're all in, they're ready to go. We're not going to deploy a solution that doesn't work. AI.

So now let's talk about AI. Uhmm. The BenAI solution didn't work because they couldn't do Oddo. Meaning, they could not go into a database, grab data, and spit out a right answer. They couldn't do that. They could not provide graphs or charts or anything. They did not have a base of technology that translated conversational AI into an answer, into data, from an automotive dealer's data. It didn't work so we had to go do research and find a Plan B. So, we did a systems engineering trade study on what other packages were available off the shelf. We can't go develop it because that would be us developing competing solutions. And go find what alternatives were available off the shelf that we can integrate with to solve that problem, creating an environment where if we solve that problem, if we need to apply, if if the relationship between AFG and Ben BenAI works out and we still we're still under the Reseller Agreement we can use their avatars we can use their automated speech recognition, we can use all this stuff.

The amount of crap that we have been dealing with behind the scenes would make you eyeballs fall out. The reason you don't see me in there. The reason you rarely see him (Jason De LaPorte) in there is because we are dealing with all of that for Wright Brewer. We're trying to help Wright Brewer not lose \$32 Million Dollars. We're just trying to help Wright Brewer not lose the ten and a half (\$10.5) Million Dollars he's already invested in all these technologies in dealing with these criminals, right. Uhh, and we're trying to help Wright Brewer have a technology company that can go start delivering AI solutions to the AI market when all this shit gets worked-out. Okay."

End of Transcription:

EXHIBIT B

AFG COMPANIES, INC., }
Plaintiff, } IN THE DISTRICT COURT
v. } 17th JUDICIAL DISTRICT
GENUINE LIFETIME, LLC, AND } TARRANT COUNTY, TEXAS
TYLER J. LUCK, }
Defendants. }

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, Maurice Fitzpatrick, (hereinafter “Movant”), files this **Notice of Appeal** pursuant to the Texas Rules of Appellate Procedure. Movant appeals this Court’s failure to rule on his **Motion to Intervene**, filed on November 11, 2024 (attached hereto as Exhibit A). Movant asserts that at this juncture and following related questions to Court staff since filing of the motion, the Court’s failure to set a hearing and/or issue a ruling on his Motion to Intervene constitutes a de facto denial of the motion and since, has significantly and severely prejudiced Movant’s rights and interests, has subjected Movant to a continuation of retaliatory conducts on the part of AFG and it’s counsel Scheef and Stone, LLP, exacerbating Movant’s financial and other damages.

I. BASIS FOR APPEAL

1. Movant filed a Motion to Intervene in this action on November 11, 2024, seeking leave of the Court to protect his rights and substantial interest in the claims and defenses at issue and to bring additional related claims to breach of contract and other claims already at issue.

2. Despite the passage of nearly two months, this Court has not issued a ruling on Movant's Motion to Intervene. This inaction has effectively denied Movant's right to participate in the litigation, exacerbating his damages, and depriving him of due process and the opportunity to assert his claims and defenses.

3. Under Texas law, a denial of a Motion to Intervene is a final and appealable order. Movant contends that the lack of a ruling is equivalent to a denial, justifying appellate review.

4. Movant intends to seek appellate review of this Court's failure to rule on his Motion to Intervene and he reserves all rights, particularly the right to amend this appeal if and when the Court schedules a hearing and/or issues a ruling on his Motion to Intervene.

II. PROTECTIVE FILING

5. This Notice of Appeal is filed protectively to preserve Movant's rights and to ensure that any appealable issues are not waived by inaction.

6. Movant acknowledges that the appellate process may remain pending until the resolution of the underlying case involving the existing parties, and Movant agrees to comply with all procedural requirements to facilitate appellate review.

III. PRAYER FOR RELIEF

WHEREFORE, Movant respectfully provides notice of his intent to appeal to the appropriate appellate court. Movant seeks appellate review of this Court's failure to rule on his Motion to Intervene and any related matters, and requests all relief to which he may be entitled:

Respectfully submitted,

Maurice Fitzpatrick
Phone: (214) 694-1551
Email: afglawsuit@yahoo.com

IV. EXHIBITS

EXHIBIT A

A Copy of Movant's **Motion to Intervene** filed in Tarrant County on November 11, 2024.

CAUSE NO. 017-352358-24

AFG COMPANIES, INC., }
Plaintiff, } IN THE DISTRICT COURT
v. } 17th JUDICIAL DISTRICT
GENUINE LIFETIME, LLC, AND } TARRANT COUNTY, TEXAS
TYLER J. LUCK, }
Defendants. }

MOTION TO INTERVENE

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, **Maurice Fitzpatrick** (hereinafter “Movant”), respectfully moves this honorable Court for leave to intervene in the above-captioned action pursuant to **Texas Rule of Civil Procedure 60**, and in support thereof states as follows:

I. INTERESTS OF THE MOVANT

1. Movant was employed by **AFG Companies, Inc. (AFG)** from **March 18, 2024**, until his abrupt and wrongful termination on **October 30, 2024**. During his employment, Movant was **fraudulently induced** to serve as **Software Engineer and Lead Integration Developer** for AFG without being informed of the **Exclusive Reseller Agreement (ERA)** between AFG and **Brand Engagement Network, Inc. (BEN)**. The ERA, which Movant now knows binds AFG to

refrain from marketing and developing competing artificial intelligence (AI) products and solutions against BEN, was breached by AFG, and Movant was unwittingly involved in these competing initiatives without his knowledge or consent. Movant's subsequent **wrongful termination** resulted from his raising questions and concerns about these unethical and fraudulent practices.

2. The claims presented in the current action are derived from the same set of agreements and transactions described in the S-4 Registration Statement¹ filed with the United States Securities and Exchange Commission (SEC) on February 5, 2024. Specifically:

- a. The Business Combination Agreement and Plan of Reorganization, dated September 7, 2023 (Annex A of the S-4 Registration)², which forms the basis of the ongoing relationship between AFG and BEN, including between AFG and Genuine Lifetime, LLC (GL) and Defendant Tyler J. Luck.
- b. The Exclusive Reseller Agreement (ERA), signed and dated August 19, 2023 (Annex F of the S-4 Registration)³, binding AFG not to market against BEN or develop competing AI solutions.
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3. Movant's employment was intentionally misstated and grossly misrepresented by AFG prior to and leading up to his hiring. Movant was fraudulently induced into accepting

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⁵ https://www.sec.gov/Archives/edgar/data/1838163/000119312524023535/d566788ds4a.htm#i566788_anxh

employment under false pretenses and through material misrepresentations by AFG. Movant was abruptly terminated via email in retaliation for attempting to understand and reconcile the true nature of his employment.

4. Movant suffered immediate and substantial financial harm, damage to his professional reputation, and emotional distress as a direct and/or proximate result of the conduct of AFG and other present parties. None of the existing parties represent Movant's rights, interests, or his unique position in this matter.

II. GROUNDS FOR INTERVENTION

5. Movant's employment was used by AFG to carry out activities that directly contravened the ERA , as evidenced by statements made by David Duggan (CTO of AFG) during a meeting on October 11, 2024, wherein Mr. Duggan explicitly acknowledged the ERA and AFG's efforts to circumvent it (see Exhibit A), as well as agreements described in the S-4 Registration Statement, to which Defendant Tyler J. Luck is also a party. Movant's claims arise from the same business dealings and the same set of facts, and he possesses unique evidence of fraudulent inducement, misrepresentation, and breaches of contractual obligations by AFG, which are critical to determining the true nature of the business activities in question.

6. Movant's interests will be impaired if not allowed to intervene, as the outcome of the current litigation directly affects his rights and ability to seek redress for fraudulent employment practices and wrongful termination. Furthermore, no existing party adequately represents Movant's interests, as none are positioned to present evidence of AFG's misrepresentations and fraudulent inducement of employees or its unethical conduct aimed at undermining BEN,

defrauding investors, stakeholders, the public-at-large, and manipulating publicly traded securities.

III. LEGAL STANDARDS FOR INTERVENTION

7. Pursuant to **Texas Rule of Civil Procedure 60**, Movant may intervene as long as he has a **justiciable interest** in the subject matter of the lawsuit. The Texas Supreme Court has held that a party has a justiciable interest if they could have brought the action themselves, or if their interests will be affected by the litigation's outcome. Movant's interest in exposing the fraudulent practices by AFG and others, which include the breach of agreements central to this case, satisfies the requirements for intervention.

8. Movant's claims are **directly linked** to the contractual breaches and fraudulent conduct alleged in this case. Movant's **right to redress** will be significantly affected by the outcome of this litigation, and his unique position is essential to fully elucidate the wrongful acts committed by **AFG**.

9. Additionally, under Texas law, intervention is appropriate where the intervenor's interests are **not adequately represented** by the current parties. Movant has unique knowledge and evidence regarding AFG's actions that have not been presented by any of the existing parties. Therefore, Movant's participation is essential to ensure all relevant facts are brought before the Court.

IV. RESPONSE TO POTENTIAL MOTION TO STRIKE

10. Movant anticipates that Plaintiff or Defendants may file a **motion to strike** this intervention. Movant asserts that such a motion should be denied for the following reasons:

1. **Direct and Substantial Interest:** Movant's claims are directly connected to the agreements and actions forming the basis of this lawsuit. Specifically, the fraudulent employment practices and subsequent wrongful termination are inextricably linked to AFG's business dealings with BEN and Defendant Tyler J. Luck.
2. **No Prejudice to Existing Parties:** Movant's intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. Rather, Movant's claims and evidence will contribute to a more complete understanding of the facts and will support the Court's determination of whether AFG and/or Defendants GL and Mr. Tyler Luck acted in breach of its contractual obligations and engaged in fraudulent practices.
3. **Unique Perspective:** Movant provides a unique perspective and evidence regarding the **ERA** and AFG's internal actions, which are crucial for determining the legitimacy of AFG's claims against Defendants and assessing the full extent of the misconduct at issue.

V. PRAYER FOR RELIEF

WHEREFORE, Movant respectfully requests that this Court grant this Motion to Intervene, allowing Movant to participate as an injured intervening party in this action, and for such other and further relief as the Court deems just and proper. Movant further requests that the

Court grant adequate leave to prepare and file his initial complaint against one and/or more of the present parties, supported by oath and/or affidavit where necessary, and to allow the submission of additional evidence, deposition rights, or participation in pretrial discovery as needed to fully present Movant's claims.

Respectfully submitted,

Maurice Fitzpatrick
2300 Timberline Drive, A138
Grapevine, Texas 76051
Phone: (214) 694-1551
Email: afglawsuit@yahoo.com

VI. EXHIBITS

EXHIBIT A

Transcript of conversation with Dave Duggan (CTO) and Jason De LaPorte (President) of AFG,
dated **October 11, 2024**, which includes discussions on AFG's efforts to circumvent the
Exclusive Reseller Agreement (ERA) between AFG and **Brand Engagement Network, Inc. (BEN)**.

The following is a verbatim, transcribed portion of a recent conversation I personally had with Dave Duggan (CTO) and Jason De LaPorte (President) of Automotive Financial Group, Inc. at 1900 Champagne, Grapevine, TX 76051 (AFG), October 11, 2024 @ approx. 2:30 PM CST. Yesterday morning, Wednesday, October 30, 2024, I was retaliated against and wrongfully terminated (by email) from AFG because I was asking certain questions of executive leadership about the true nature of the Software Engineering work, that without full disclosure and under false pretenses, I (and several others) was hired to do. I found out for the first time during this particular conversation on October 11, 2024 (transcribed below) of the existence of an "Exclusive Reseller Agreement" (ERA) that apparently legally binds AFG to a non-compete forbidding the direct or indirect development or engagement in competing solutions. The below words of Dave Duggan will show the existence of a wider conspiracy amongst AFG leadership and others, including Mr. Wright Brewer, to clandestinely circumvent the ERA between AFG and Brand Engagement Network, Inc. (BEN, BenAI, etc.) of which Mr. Tyler J. Luck is the Chief Product Officer.

Start of Transcription:

"Those guys ended up turning out to be crooks.

We have a meeting on Monday with the Chairman of that company and another Board Member of that company to walk them thru all the criminal activities that their primary owner and investor are involved in.

So, what happened, is, we built our team, they were supposed to build a team. They didn't build a team. They were supposed to bring AI solutions that worked. Their AI solutions didn't work. So, we had to figure out, how do we protect Wright Brewer and AFG and this investment that he's making in modernizing the automotive industry with artificial intelligence solutions when we don't know if we're going to have an AI company available. Oh, by the way, Wright Brewer has an Exclusive Reseller Agreement that is a bi-directional agreement between AFG and BenAI where BenAI is the Artificial Intelligence Company. And in that Agreement, we (AFG) cannot build, develop competing solutions against BenAI. We can't do it.

However, they also have obligations on their side which they have not fulfilled. So, we've had to create an environment where we focus on getting the data, automating the data solutions, building the framework,

the platform, laying the foundation for where we're going to take this business over the next five (5) years. Develop the five (5) year plan that takes this company to a billion dollars deploying AI solutions thru our Symphainy platform across the automotive industry. He (Jason De LaPorte) and I have been going out and meeting with OEMs, the Distributor Groups, Dealer Groups and Dealers, talking about this solution. And they're all in, they're ready to go. We're not going to deploy a solution that doesn't work. AI.

So now let's talk about AI. Uhmm. The BenAI solution didn't work because they couldn't do Oddo. Meaning, they could not go into a database, grab data, and spit out a right answer. They couldn't do that. They could not provide graphs or charts or anything. They did not have a base of technology that translated conversational AI into an answer, into data, from an automotive dealer's data. It didn't work so we had to go do research and find a Plan B. So, we did a systems engineering trade study on what other packages were available off the shelf. We can't go develop it because that would be us developing competing solutions. And go find what alternatives were available off the shelf that we can integrate with to solve that problem, creating an environment where if we solve that problem, if we need to apply, if if the relationship between AFG and Ben BenAI works out and we still we're still under the Reseller Agreement we can use their avatars we can use their automated speech recognition, we can use all this stuff.

The amount of crap that we have been dealing with behind the scenes would make you eyeballs fall out. The reason you don't see me in there. The reason you rarely see him (Jason De LaPorte) in there is because we are dealing with all of that for Wright Brewer. We're trying to help Wright Brewer not lose \$32 Million Dollars. We're just trying to help Wright Brewer not lose the ten and a half (\$10.5) Million Dollars he's already invested in all these technologies in dealing with these criminals, right. Uhh, and we're trying to help Wright Brewer have a technology company that can go start delivering AI solutions to the AI market when all this shit gets worked-out. Okay."

End of Transcription:

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
McCathern Receptionist		receptionist@mccathernlaw.com	11/12/2024 12:09:48 PM	SENT
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Celeste Salas		csalas@mccathernlaw.com	11/12/2024 12:09:48 PM	SENT
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Mark Hill		mark.hill@solidcounsel.com	11/12/2024 12:09:48 PM	SENT
Maurice Fitzpatrick		afglawsuit@yahoo.com	11/12/2024 12:09:48 PM	SENT

CAUSE NO. 017-352358-24

AFG COMPANIES, INC.,

Plaintiff,

v.

GENUINE LIFETIME, LLC, AND
TYLER J. LUCK,

Defendants.

} IN THE DISTRICT COURT

} 17th JUDICIAL DISTRICT

} TARRANT COUNTY, TEXAS

ORDER GRANTING MOTION TO INTERVENE

On this day, the Court considered the **Motion to Intervene** filed by **Maurice Fitzpatrick** (“**Intervenor**” or “**Movant**”) in the above-referenced cause. The Court, having considered the motion, any responses thereto, and the applicable law, finds that the motion is well-taken and should be **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the **Motion to Intervene** filed by **Maurice Fitzpatrick** is hereby **GRANTED**.

IT IS FURTHER ORDERED that:

1. Maurice Fitzpatrick is permitted to intervene in this action as a party under Texas Rule of Civil Procedure 60, having demonstrated a direct, substantial, and legally protectable interest in the outcome of this case. Alternatively, Movant is permitted to intervene under Texas Rule of Civil Procedure 60 as his claims share common questions of law and fact with those of the existing parties.
2. Maurice Fitzpatrick shall be designated as Intervenor in this action and is granted leave to file his Initial Complaint against one or more of the current parties.

ORDER GRANTING MOTION TO INTERVENE
MAURICE FITZPATRICK

3. Maurice Fitzpatrick shall be permitted to participate fully in all phases of this litigation, including but not limited to, discovery, depositions, motions, hearings, and trial.
4. Maurice Fitzpatrick shall adhere to all previously scheduled deadlines and dates, set forth in the **Order Setting Trial**, dated June 14, 2024, unless otherwise ordered by the Court.

SIGNED on this the ____ day of _____, 2024.

Melody Wilkinson, Judge Presiding

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Mark Hill		mark.hill@solidcounsel.com	11/12/2024 12:09:48 PM	SENT
Maurice Fitzpatrick		afglawsuit@yahoo.com	11/12/2024 12:09:48 PM	SENT

CAUSE NO. 017-352358-24

AFG COMPANIES, INC.,

Plaintiff,

v.

GENUINE LIFETIME, LLC, AND
TYLER J. LUCK,

Defendants.

IN THE DISTRICT COURT

17th JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

CERTIFICATE OF SERVICE

TO THE HONORABLE JUDGE OF THE COURT:

I, Maurice Fitzpatrick (“Movant”), hereby certify that on the 12th day of November 2024, a true and correct copy of the *Movant’s Motion to Intervene and Exhibit A* was served via email upon on all counsel of record, for and on behalf of all present parties of record in this cause, in accordance with the Texas Rules of Civil Procedure. All attorneys listed have previously agreed to electronic service via email in accordance with Rule 21a of the Texas Rules of Civil Procedure via the following methods:

Associated Case Party (Defendant): GENUINE LIFETIME, LLC

Name	Bar No.	Email	Submitted Timestamp	Status
Levi McCathern		lmccathern@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Shahin Eghbal		seghbal@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Elizabeth Criswell		ecriswell@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Celeste Salas		csalas@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Asher K. Miller		amiller@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
McCathern Receptionist		receptionist@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Tiffany Gonzalez		tgonzalez@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Crystal Dabdub		cdabdub@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT

Associated Case Party (Defendant): TYLER J. LUCK

Name	Bar No.	Email	Submitted Timestamp	Status
Levi McCathern	00787990	lmccathern@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
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Celeste Salas		csalas@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Asher K. Miller	24131512	amiller@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
McCathern Receptionist		receptionist@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Tiffany Gonzalez		tgonzalez@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT
Crystal Dabdub		cdabdub@mccathernlaw.com	11/12/2024 12:15:00 PM	SENT

Associated Case Party (Plaintiff): AUTOMOTIVE FINANCE GROUP, INC.

Name	Bar No.	Email	Submitted Timestamp	Status
Mark Hill	24034868	mark.hill@solidcounsel.com	11/12/2024 12:15:00 PM	SENT
Steven Ovando		steven.ovando@solidcounsel.com	11/12/2024 12:15:00 PM	SENT
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Melissa Diaz		melissa.diaz@solidcounsel.com	11/12/2024 12:15:00 PM	SENT

Case Contact (Movant - Intervenor): MAURICE FITZPATRICK

Name	Bar No.	Email	Submitted Timestamp	Status
Maurice Fitzpatrick	--	afglawsuit@yahoo.com	11/12/2024 12:15:00 PM	SENT

Respectfully submitted,

/s/ Maurice Fitzpatrick

Mr. Maurice Fitzpatrick

Intervenor

Phone: (214) 694-1551

Email: afglawsuit@yahoo.com

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Mark Hill		mark.hill@solidcounsel.com	11/12/2024 12:09:48 PM	SENT
Maurice Fitzpatrick		afglawsuit@yahoo.com	11/12/2024 12:09:48 PM	SENT

EXHIBIT C

In the
UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AUTOMOTIVE FINANCIAL GROUP, INC, } Civil Action No. _____
Plaintiff, }
v. } (Removed from the
GENUINE LIFETIME, LLC, AND } 17th District Court, Tarrant County, Texas;
TYLER J. LUCK, } Case No. 017-352358-24)
Defendants. } JURY TRIAL DEMANDED

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS:

COMES NOW, Intervenor Maurice Fitzpatrick ("Intervenor") in the above-captioned matter, and hereby removes this action from the 17th Judicial District Court of Tarrant County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1443. This removal is necessary and based on the presence of substantial federal questions, violations of constitutionally protected rights, and federal statutory claims that fall within exclusive federal jurisdiction and in support thereof, Intervenor states as follows:

I. INTRODUCTION AND STATEMENT OF REMOVAL

1. On or about April 30, 2025, Plaintiff AFG Companies, Inc. (“Plaintiff”) filed a civil lawsuit against Defendants Genuine Lifetime, LLC, and Tyler J. Luck in the 17th Judicial District Court of Tarrant County, Texas, under Cause No. 017-352358-24.

2. Plaintiff, together with its associated and subsidiary companies by and through its Chief Executive Officer, Ralph Wright Brewer III (“Brewer”) and their legal counsel of Scheef and Stone, LLP, improperly brought this Tarrant County action against Defendants seeking judgment and for the recovery of \$4,000,000 in unlawful loan proceeds and interest where Plaintiff companies and Brewer provided Defendants the \$4,000,000 of financial aid to:

- a. Affect interstate commerce, defraud unsuspecting investors, regulators, the public, and Intervenor by carrying out a pump-and-dump scheme in furtherance of a wider conspiracy to reap millions in pecuniary gains through the manipulations of public (retail) and private Class A and B common stock and Warrants (the “securities”) listed and traded, at relevant times, on the Nasdaq Stock Market LLC (“Nasdaq”) Securities Exchange under the ticker symbols “DHCAU”, “DHCA”, “DHCAW”, “BNAI” and “BNAIW”.
- b. Secure a fraudulent business combination (“merger”), together with the listing and trading of related post-merger securities on the Nasdaq Securities Exchange on or about March 15, 2024, such that ongoing manipulations and frauds of co-conspirators and wrongdoers could continue, for and on behalf of the business combination’s principal entities and individuals of DHC Acquisition Corp. (“DHCAC”) and Brand Engagement Network, Inc. (“BEN”), Genuine Lifetime, LLC (“GL”), October 3rd Holdings, LLC (“O3H”), Automotive Financial Group,

Inc. (“AFG”) and other supporting entities and individuals (including executives, board members, founders, co-founders, attorneys, auditors, financial advisors, stockbrokers and others), a business combination premised almost entirely on a myriad of frauds, a litany of deceptively false and misleading material public misrepresentations, and other “*predicate act*” violations and/or “*prohibited activities*” as these terms are used throughout the Racketeer Influenced and Corrupt Organizations (“RICO”) Act, set out at 18 USC §§ 1961-1968 *et. seq.*

- c. Coordinate the purchase of pre and/or post-merger publicly traded securities at or about the time just prior to or soon thereafter the fraudulently obtained business combination between DHCAC and BEN on or about March 15, 2024.
- d. Manipulate the publicly traded securities in some cases without the disclosures required under federal securities laws and in all cases in violation of federal racketeering and other laws.

3. Intervenor removes this case to the United States District Court based on:

- a. Federal Question Jurisdiction (28 U.S.C. § 1331) due to Constitutional challenges to the state court delay severely impairing Intervenor’s rights and interests when he was subjected to a retaliatory termination on October 20, 2024, and continued to suffer sustained and unexplained delays of the 17th District Court of Tarrant County in setting the matter on for a hearing following the filing of Intervenor’s “*Motion to Intervene*”, filed on November 12, 2024 (attached hereto as Exhibit O), and Constitutional claims under the First and Fourteenth Amendments, and federal civil rights law (42 U.S.C. §§ 1983 and 1985).

b. Civil Rights Removal Jurisdiction (28 U.S.C. § 1443) because the state court's inaction and delay has deprived Intervenor of federally protected rights, including free speech, due process, and whistleblower protections under Sarbanes-Oxley (18 U.S.C. § 1514A) and Dodd-Frank (15 U.S.C. § 78u-6), both of which protect employees from retaliation for reporting securities violations, fraud and other misconduct.

II. GROUNDS FOR REMOVAL

4. Removal is proper because Plaintiff's claims and the nature and purpose of the loan proceeds directly implicate federal law, including Intervenor's First and Fourteenth Amendment rights under the Bill of Rights and the United States Constitution, as well as protections under the Sarbanes-Oxley Act (SOX), the Dodd-Frank Act, SEC regulations, and other federal law.

5. Upon finalization of removal and ultimate consolidation with the case 3:25-CV-00114-S, Intervenor intends by leave of the Court to file a forthcoming Initial Complaint which will include claims seeking: (1) Declaratory Judgement under 42 USC §§ 1983, 1985(2) and 1985(3), challenging the Constitutionality of extraordinary delay Intervenor continues to experience in the Tarrant County case with no meaningful path towards redress of Intervenor's claims, and (2) other Preliminary, Temporary and/or Permanent Injunctions as necessary.

A. Federal Question Jurisdiction (28 U.S.C. § 1331)

6. This case presents a federal question because it arises under the First and Fourteenth Amendments to the U.S. Constitution and involves claims enforceable through 42 U.S.C. §§ 1983, 1985(2) and 1985(3).

7. 42 U.S.C. § 1983 states in relevant part:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.”

8. 42 U.S.C. § 1985(2) states in relevant part:

*“(2) Obstructing justice; intimidating party, witness, or juror
If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.”*

9. 42 U.S.C. § 1985(3) states in relevant part:

*“(3) Depriving persons of rights or privileges
If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or*

property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

10. The state court’s extraordinary delay is an infringement and obstruction of Intervenor’s rights and interests as well as an unconstitutional restraint on Intervenor’s speech, aimed at restricting his ability to bring legitimate claims against the wrongdoers that have caused him immeasurable and immediate harm in his person, business, and property, and chilling his speech in matters of public concern.

11. Under *New York Times Co. v. United States*, 403 U.S. 713 (1971), prior restraints on speech are presumptively unconstitutional. The state court’s delay fails to meet strict scrutiny and is an overbroad attempt and/or has the effect of chilling speech and silencing a whistleblower who was personally harmed and continues to suffer harm.

B. Civil Rights Removal Jurisdiction (28 U.S.C. § 1443)

12. Removal is proper under 28 U.S.C. § 1443(1) because Intervenor is being deprived of rights under federal law, specifically:

- a. First Amendment violations (unconstitutional delay in court proceedings and restraint on speech).
- b. Due process violations (unexplained state court delays without proper procedural safeguards).
- c. Denial of whistleblower protection and protection for legitimate disclosures contemplated by an Act of Congress under the SOX and Dodd-Frank Acts.

13. Removal under § 1443 applies when state court proceedings deny or are likely to deny federally protected rights, and where state law does not afford an opportunity for redress.

14. The Intervenor has no adequate state remedy to prevent the ongoing constitutional violations occurring in Tarrant County court.

III. CHALLENGE TO THE STATE COURT DELAYS ON CONSTITUTIONAL GROUNDS

15. On November 12, 2024, Intervenor filed “*Motion to Intervene*” in the 17th District Court of Tarrant County (attached hereto as Exhibit O). This filing, Exhibit O, is incorporated by reference as if set forth fully herein.

16. On January 8, 2025, after nearly 60 days of delay since the filing of the Motion to Intervene and following other ongoing retaliations occurring against Intervenor in Denton County, Intervenor filed “*Motion For Expedited Hearing, Request For Remote Hearing, Motion To Intervene, Motion To Consolidate Related Cases, and Motion To Stay Pending Consolidation*” in the 17th District Court of Tarrant County (attached hereto as Exhibit T). This filing, Exhibit T, is incorporated by reference as if set forth fully herein.

17. The now 90 day delay in the District Court of Tarrant County, with no end in sight, violates Intervenor’s free speech rights under the First and Fourteenth Amendments because it usurps Intervenor of his fundamental right to free speech individually and on matters of public concern; deprives Intervenor of his rightful access to the court to seek redress for grievances and resolution to the harm caused him by the parties.

18. The delay of the District Court of Tarrant County fails to meet strict scrutiny or show a compelling governmental interest.

19. The delay of the District Court of Tarrant County deprives Intervenor of procedural due process and fundamental fairness, as Intervenor has no meaningful opportunity to be heard, seek redress and bring claims against those who have caused Intervenor economic and non-economic harm.

20. The U.S. Supreme Court has held that prior restraints on speech are among the most serious constitutional violations and must be subject to immediate judicial scrutiny.

21. Intervenor requests an expedited hearing and a mechanism where related state court and the federal case is consolidated in this Court to dissolve the TRO and prevent further violations of federal law.

IV. REFERENCE TO STATE COURT FILINGS

22. On Thursday, February 6, 2025, 16:15 PM CST, Intervenor received an email from Ms. Rebecca Moss, Deputy Clerk III, of the Tarrant County District Clerk's Office (rebecca.moss@dentoncounty.gov) pursuant to his request. This email shows the correspondence and the Deputy Clerk's inventory of the 14 pleadings and documents filed in the 17th District Court of Tarrant County (017-352358-24) case. The email of the Deputy Clerk is attached hereto as Exhibit A.

23. Intervenor attaches the following 19 pleadings and filings from the Tarrant County case as part of this removal:

- a. Exhibit B - 017352358242025010826INTVSCERTSVC
- b. Exhibit C - 017352358242025010827LTR(CTAPPEALS)02-25-006JURISDICTION
- c. Exhibit D - 017352358242025011428LTR(CTAPPEALS)RESPONSEDUE
- d. Exhibit E - 01735235824202404301PLTFSORIGPET

- e. Exhibit F - 01735235824202404304SVCREQFORM(FWDTODPAS)
- f. Exhibit G - 01735235824202404305CIT-ISSUEDONGENUINELIFETIME LLC-ON05022024
- g. Exhibit H - 01735235824202404306CIT-ISSUEDONTYLERJLUCK-On05022024
- h. Exhibit I -
017352358242024051410CITTr#5RETEXEC(GENUINELIFETIME LLC)On0502
- i. Exhibit J -
017352358242024052312CITTr#6RETEXEC(TYLERJLUCK)On05152024
- j. Exhibit K - 017352358242024052813DEFNSORIGANS-GENUINELIFETIME LLC
- k. Exhibit L - 017352358242024061314DEFNSORIGANS-TYLERJLUCK
- l. Exhibit M - 017352358242024061415ORDSETTINGTRIAL(WKOF4-28-25)
- m. Exhibit N - 017352358242024062016VACATIONLTRFROMATTYHILL
- n. Exhibit O - 017352358242024111217PREFSMOTINTERVENE
- o. Exhibit P -
017352358242024111218(PROPOSED)ORDGRNTNGMOTINTERVENE
- p. Exhibit Q - 017352358242024111219PREFSCERTSVCTOMOTINTERVENE
- q. Exhibit R - 017352358242025010620PREFSNOTAPPEAL(JURISDICTION)
- r. Exhibit S - 017352358242025010622PREFCERTSVC
- s. Exhibit T -
017352358242025010823INTVSMOTEXPEDITEDHRGREQREMOTEHRGMOTI
NTV

V. PROCEDURAL REQUIREMENTS FOR REMOVAL

- 24. This Notice of Removal is timely under the circumstances.

25. A copy of this Notice will be filed in the Tarrant County state court and served on all parties.

26. Intervenor attaches true and correct copies of all state court pleadings, orders, and related documents as required by 28 U.S.C. § 1446(a).

VI. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Intervenor respectfully requests that this Court:

1. Allow Intervenor to be heard, orally, on his Motion to Intervene and Notices of Removal and Consolidation of state cases with the present case (3:25-CV-00114-S), and that Intervenor can be heard at scheduled hearing on February 13, 2025, at 10:00 AM CST.
2. Accept jurisdiction over this removed case and enter an order recognizing its removal.
3. Enter an Order staying state court proceedings pending finalization of removal.
4. Consolidate this removed action with the case pending in the Northern District of Texas, Dallas Division, Cause No 3:25-CV-00114-S, having the same events and/or occurrences, facts, parties, evidence, and witnesses.
5. Grant Intervenor the relief sought in his original state court motions, to the extent such relief is not already rendered moot.
6. Grant any further relief to which Intervenor is justly entitled.

Dated: February 11, 2025

Respectfully submitted,

/s/ Maurice Fitzpatrick

Maurice Fitzpatrick, pro se
General Delivery
Dallas, TX 75260-9999
(214) 694-1551 Telephone
Email: afglawsuit@yahoo.com

EXHIBIT D

United States District Court
Northern District of Texas

Karen Mitchell
Clerk of Court

Dallas Division

4/17/2025

17th District Court
Tom Vandergriff Civil Courts Building
100 North Calhoun Street, 3rd Floor
Fort Worth, TX, 76196

FILED
TARRANT COUNTY
2025 APR 28 PM 4:22
THOMAS A. WILDER
DISTRICT CLERK

RE: 3:25-cv-00114-S-BN

Style: Brand Engagement Network Inc v. Brewer, III et al

Dear Clerk:

Enclosed is a certified copy of an Order and/or Judgment remanding the above captioned case back to the 17th District Court, Tarrant County, Texas, 017-352358-24 along with a copy of the docket sheet.

If you have any questions regarding this matter, I may be reached at 214-753-2633.

Sincerely,
Karen Mitchell, Clerk

By: s/A.Christo
Deputy Clerk

Enclosure

cc: Counsel of Record
Case file (public entry)

United States District Court
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRAND ENGAGEMENT NETWORK,
INC.

v.

RALPH WRIGHT BREWER, III, et al.

§
§
§
§
§

CIVIL ACTION NO. 3:25-CV-0114-S-BN

CERTIFIED A TRUE COPY
KAREN MITCHELL, CLERK
By s/*ANTHONYCHRISTO
DEPUTY CLERK
U.S. DISTRICT COURT, NORTHERN
DISTRICT OF TEXAS

April 17, 2025

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Objections were filed. The Court reviewed de novo those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

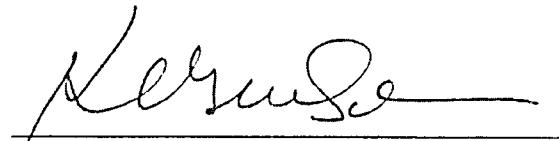
The Court therefore **DENIES** Nonparty Maurice Fitzpatrick's Motion to Intervene [ECF No. 21]; **GRANTS** Defendant AFG Companies, Inc.'s Motions to Remand [ECF Nos. 40 & 41]; **ORDERS** that the state-court actions that Fitzpatrick purportedly removed through his unsuccessful Motion to Intervene are hereby remanded to the state courts from which they were removed; and **DIRECTS** the Clerk of the Court to **STRIKE** and **UN-FILE** all filings that Fitzpatrick has made in this proceeding except for his Motion to Intervene and his Response and Objections to Magistrate Judge's Findings, Conclusions, and Recommendation [ECF No. 58].

To the extent that Fitzpatrick has sought intervention as of right, "[a]n order denying intervention as of right is a final order that [the United States Court of Appeals for the Fifth Circuit

has] jurisdiction to review under 28 U.S.C. § 1291.” *Rotstain v. Mendez*, 986 F.3d 931, 936 (5th Cir. 2021) (citing *Sommers v. Bank of Am., N.A.*, 835 F.3d 509, 512 (5th Cir. 2016)).

SO ORDERED.

SIGNED April 17, 2025.



UNITED STATES DISTRICT JUDGE

U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 3:25-cv-00114-S-BN

Brand Engagement Network Inc v. Brewer, III et al
Assigned to: Judge Karen Gren Scholer
Referred to: Magistrate Judge David L. Horan
Cause: 28:1331 Fed. Question

Date Filed: 01/16/2025
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other Contract
Jurisdiction: Federal Question

Plaintiff

Brand Engagement Network Inc

represented by **Matthew Elliott Yarbrough**
Yarbrough Blackstone
100 Crescent Court, Suite 700
Dallas, TX 75201
214-263-7500
Fax: 713-650-9701
Email: Matthew@ybfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

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Baker Donelson Bearman Caldwell &
Berkowitz PC
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Dallas, TX 75225
214-827-0864
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ATTORNEY TO BE NOTICED

*Bar Status: Admitted/In Good Standing***Stephen E Fox**

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 2200 Ross Avenue, 20th Floor
 Dallas, TX 75201
 469-391-7403

Fax: 469-391-7551
 Email: Sfox@Sheppardmullin.com

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing*

V.

Defendant**Ralph Wright Brewer, III**represented by **Kelly E Kleist**

Scheef & Stone LLP
 2600 Network Blvd
 Suite 400
 Frisco, TX 75034
 214-472-2100
 Email: kelly.kleist@solidcounsel.com

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Mark L Hill**

Scheef & Stone LLP
 2600 Network Boulevard, Suite 400
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 214-472-2126
 Fax: 214-472-2150
 Email: mark.hill@solidcounsel.com

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Michael C Smith**

Scheef & Stone, LLP
 113 East Austin Street
 Marshall, TX 75670
 903-938-8900
 Email: michael.smith@solidcounsel.com

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Defendant****AFG Companies Inc**represented by **Kelly E Kleist**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Mark L Hill**

(See above for address)

ATTORNEY TO BE NOTICED

*Bar Status: Admitted/In Good Standing***Michael C Smith**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Defendant****Automotive Financial Group Inc**represented by **Kelly E Kleist**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Mark L Hill**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Michael C Smith**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Defendant****AFG Technologies LLC***also known as*

Tronix

represented by **Kelly E Kleist**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Mark L Hill**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Michael C Smith**

(See above for address)

*ATTORNEY TO BE NOTICED**Bar Status: Admitted/In Good Standing***Defendant**

CareGard Warranty Services Inc

represented by **Kelly E Kleist**
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Mark L Hill
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Michael C Smith
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Defendant**Southwest Colonial Reinsurance Ltd**

represented by **Kelly E Kleist**
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Mark L Hill
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Michael C Smith
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Defendant**Delaporte Learning Inc**

represented by **Kelly E Kleist**
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Mark L Hill
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Michael C Smith
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Defendant**Prime Reserve Plus Inc**

represented by **Kelly E Kleist**
(See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Mark L Hill
 (See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Michael C Smith
 (See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Defendant

DaidaX Inc
formerly known as
Pathwai Inc
formerly known as
Ben Automotive Inc

represented by **Kelly E Kleist**
 (See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Mark L Hill
 (See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Michael C Smith
 (See above for address)
ATTORNEY TO BE NOTICED
Bar Status: Admitted/In Good Standing

Defendant

Maurice Fitzpatrick, Jr

represented by **Maurice Fitzpatrick, Jr**
 General Delivery
 Dallas 75260-9999
 214-694-1551
 Email: afglawsuit@yahoo.com
 PRO SE

Date Filed	#	Docket Text
01/16/2025	1	COMPLAINT WITH JURY DEMAND against All Defendants filed by Brand Engagement Network, Inc.. (Filing fee \$405; Receipt number ATXNDC-15192820) Clerk to issue summons(es). In each Notice of Electronic Filing, the judge assignment is indicated, and a link to the <u>Judges Copy Requirements</u> and <u>Judge Specific Requirements</u> is provided. The court reminds the filer that any required copy of this and future documents must be delivered to the judge, in the manner prescribed, within three business days of filing. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms, instructions, and exemption information may be found at www.txnd.uscourts.gov , or by clicking here: <u>Attorney Information - Bar Membership</u> . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Attachments: # <u>1</u> Exhibit(s) A - Recorded Conversation, # <u>2</u> Exhibit(s) B - Exclusive Reseller Agreement, # <u>3</u> Exhibit(s) C - Automotive News Article, # <u>4</u> Exhibit(s) D - March 1, 2022 Agreement, # <u>5</u> Exhibit(s) E - June 1, 2022 Agreement) (Yarbrough, Matthew) (Entered: 01/16/2025)

01/16/2025	<u>2</u>	New Case Notes: A filing fee has been paid. Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge (Judge Horan). Clerk to provide copy to plaintiff if not received electronically. (knb) (Entered: 01/16/2025)
01/16/2025	<u>3</u>	Summons Issued as to AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, Ralph Wright Brewer, III, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc, Southwest Colonial Reinsurance Ltd. (knb) (Entered: 01/16/2025)
01/16/2025	<u>4</u>	ELECTRONIC STANDING ORDER: Counsel are required to review and comply with the Court's Judge Specific Requirements, which can be found here: Judge Requirements . The Court updates its Requirements periodically. Also, counsel are required to review and comply with the Northern District of Texas's Local Civil Rules, which can be found here: Civil Rules . In particular, the Court directs counsel to review Rules 3.1, 7.4, and 81.2, regarding certificates of interested persons, and Rule 83.10, regarding local counsel. Counsel are expected to review the Requirements and Local Rules before contacting the Court with questions. (Ordered by Judge Karen Gren Scholer on 1/16/2025) (knb) (Entered: 01/16/2025)
01/23/2025	<u>5</u>	SUMMONS Returned Executed as to AFG Companies Inc; served on 1/21/2025. (axm) (Entered: 01/24/2025)
01/23/2025	<u>6</u>	SUMMONS Returned Executed as to CareGard Warranty Services Inc; served on 1/21/2025. (axm) (Entered: 01/24/2025)
01/23/2025	<u>7</u>	SUMMONS Returned Executed as to Prime Reserve Plus Inc; served on 1/21/2025. (axm) (Entered: 01/24/2025)
01/23/2025	<u>8</u>	SUMMONS Returned Executed as to Automotive Financial Group Inc; served on 1/21/2025. (axm) (Entered: 01/24/2025)
01/30/2025	<u>9</u>	SUMMONS Returned Executed as to AFG Technologies LLC ; served on 1/24/2025. (ndt) (Entered: 01/30/2025)
01/30/2025	<u>10</u>	SUMMONS Returned Executed as to DaidaX Inc ; served on 1/24/2025. (ndt) (Entered: 01/30/2025)
01/30/2025	<u>11</u>	SUMMONS Returned Executed as to Delaporte Learning Inc ; served on 1/24/2025. (ndt) (Entered: 01/30/2025)
02/06/2025	<u>12</u>	Emergency MOTION for Temporary Restraining Order filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, Ralph Wright Brewer, III, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc, Southwest Colonial Reinsurance Ltd with Brief/Memorandum in Support. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Exhibit(s), # <u>3</u> Declaration(s), # <u>4</u> Declaration(s), # <u>5</u> Proposed Order) Attorney Kelly E Kleist added to party AFG Companies Inc(pty:dft), Attorney Kelly E Kleist added to party AFG Technologies LLC(pty:dft), Attorney Kelly E Kleist added to party Automotive Financial Group Inc(pty:dft), Attorney Kelly E Kleist added to party Ralph Wright Brewer, III(pty:dft), Attorney Kelly E Kleist added to party CareGard Warranty Services Inc(pty:dft), Attorney Kelly E Kleist added to party DaidaX Inc(pty:dft), Attorney Kelly E Kleist added to party Delaporte Learning Inc(pty:dft), Attorney Kelly E Kleist added to party Prime Reserve Plus Inc(pty:dft), Attorney Kelly E Kleist added to party Southwest Colonial Reinsurance Ltd(pty:dft) (Kleist, Kelly) (Entered: 02/06/2025)
02/06/2025	<u>13</u>	Emergency MOTION for Discovery filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, Ralph Wright Brewer, III, CareGard Warranty

		Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc, Southwest Colonial Reinsurance Ltd with Brief/Memorandum in Support. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Proposed Order) (Kleist, Kelly) (Entered: 02/06/2025)
02/06/2025	<u>14</u>	NOTICE of Attorney Appearance by Michael C Smith on behalf of AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, Ralph Wright Brewer, III, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc, Southwest Colonial Reinsurance Ltd. (Filer confirms contact info in ECF is current.) (Smith, Michael) (Entered: 02/06/2025)
02/07/2025	<u>15</u>	ORDER re: <u>12</u> Emergency MOTION for Temporary Restraining Order , <u>13</u> Emergency MOTION for Discovery. Responses due by 2/10/2025. Replies due by 2/11/2025. Motion Hearing set for 2/13/2025 10:00 AM in US Courthouse, Courtroom 1627, 1100 Commerce St., Dallas, TX 75242-1310 before Judge Karen Gren Scholer. (Ordered by Judge Karen Gren Scholer on 2/7/2025) (kcr) (Entered: 02/07/2025)
02/10/2025	<u>16</u>	NOTICE of Attorney Appearance by Stephen E Fox on behalf of Brand Engagement Network Inc. (Filer confirms contact info in ECF is current.) (Fox, Stephen) (Entered: 02/10/2025)
02/10/2025	<u>17</u>	RESPONSE filed by Brand Engagement Network Inc re: <u>13</u> Emergency MOTION for Discovery (Fox, Stephen) (Entered: 02/10/2025)
02/10/2025	<u>18</u>	RESPONSE filed by Brand Engagement Network Inc re: <u>12</u> Emergency MOTION for Temporary Restraining Order (Attachments: # <u>1</u> Exhibit(s) 1 - Henderson Declaration, # <u>2</u> Exhibit(s) 2 - Yarborough Declaration, # <u>3</u> Exhibit(s) 3 - Petition, # <u>4</u> Exhibit(s) 4 - Amended Petition, # <u>5</u> Exhibit(s) 5 - Motion to Dismiss) (Clark, Jonathan) (Entered: 02/10/2025)
02/11/2025	<u>19</u>	Motion to Dismiss for Failure to State a Claim filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc with Brief/Memorandum in Support. (Hill, Mark) (Entered: 02/11/2025)
02/11/2025	<u>20</u>	REPLY filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc re: <u>13</u> Emergency MOTION for Discovery (Hill, Mark) (Entered: 02/11/2025)
02/11/2025	<u>22</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION for Leave to Proceed in forma pauperis filed by Maurice Fitzpatrick (ykp) Modified text on 4/17/2025 (agc). (Entered: 02/12/2025)
02/12/2025	<u>21</u>	MOTION to Intervene filed by Maurice Fitzpatrick (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Exhibit(s), # <u>3</u> Exhibit(s), # <u>4</u> Exhibit(s), # <u>5</u> Exhibit(s), # <u>6</u> Exhibit(s), # <u>7</u> Exhibit(s)) (ykp) (Entered: 02/12/2025)
02/12/2025	<u>23</u>	ELECTRONIC ORDER: The Court TERMINATES AS MOOT <u>12</u> Defendants' Emergency Application for Temporary Restraining Order and Preliminary Injunction and <u>13</u> Defendants' Motion for Expedited Discovery. Additionally, the Court CANCELS the February 13, 2025, Motion Hearing. (Ordered by Judge Karen Gren Scholer on 2/12/2025) (chmb) (Entered: 02/12/2025)
02/19/2025	<u>24</u>	ELECTRONIC ORDER: The Court refers the <u>21</u> Motion to Intervene and <u>22</u> Application to Proceed in District Court Without Prepaying Fees or Costs to Magistrate Judge David L. Horan. (Ordered by Judge Karen Gren Scholer on 2/19/2025) (chmb) (Entered: 02/19/2025)

03/04/2025		***Clerk's Notice of delivery: (see NEF for details) Docket No.: NEF of document #23, 24 Tue Mar 4 08:19:12 CST 2025 (crt) Modified on 3/4/2025 (axm). (Entered: 03/04/2025)
03/04/2025	<u>25</u>	RESPONSE filed by Brand Engagement Network Inc re: <u>21</u> MOTION to Intervene (Fox, Stephen) (Entered: 03/04/2025)
03/04/2025	<u>26</u>	RESPONSE filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Maurice Fitzpatrick, Jr, Prime Reserve Plus Inc re: <u>21</u> MOTION to Intervene (Kleist, Kelly) (Entered: 03/04/2025)
03/04/2025	<u>27</u>	AMENDED COMPLAINT WITH JURY DEMAND <i>PLAINTIFF'S FIRST AMENDED COMPLAINT</i> against All Defendants filed by Brand Engagement Network Inc. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms, instructions, and exemption information may be found at www.txnd.uscourts.gov , or by clicking here: Attorney Information - Bar Membership . If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge. (Clark, Jonathan) (Entered: 03/04/2025)
03/04/2025	<u>28</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** REPLY filed by Maurice Fitzpatrick, Jr re: <u>25</u> Response/Objection, <u>26</u> Response/Objection, (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/04/2025)
03/04/2025	<u>29</u>	RESPONSE filed by Brand Engagement Network Inc re: <u>19</u> Motion to Dismiss for Failure to State a Claim (Clark, Jonathan) (Entered: 03/04/2025)
03/05/2025	<u>30</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** RESPONSE AND OBJECTION filed by Maurice Fitzpatrick, Jr re: <u>19</u> Motion to Dismiss for Failure to State a Claim (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/05/2025)
03/05/2025	<u>31</u>	ELECTRONIC ORDER: As a result of <u>27</u> Plaintiff's First Amended Complaint, the Court TERMINATES AS MOOT <u>19</u> Defendants' Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6). (Ordered by Judge Karen Gren Scholer on 3/5/2025) (chmb) (Entered: 03/05/2025)
03/05/2025	<u>32</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** Brief/Memorandum in Support filed by Maurice Fitzpatrick, Jr re <u>21</u> MOTION to Intervene, <u>28</u> Reply (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/05/2025)
03/08/2025	<u>33</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** CERTIFICATE OF SERVICE by Maurice Fitzpatrick, Jr re <u>28</u> Reply (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/08/2025)
03/08/2025	<u>34</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** CERTIFICATE OF SERVICE by Maurice Fitzpatrick, Jr re <u>30</u> Response/Objection (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/08/2025)
03/08/2025	<u>35</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION for Judicial Notice of SEC Filings filed by Maurice Fitzpatrick, Jr (Attachments: # <u>1</u> Exhibit(s) SEC Filings) (Fitzpatrick, Maurice) Modified text on 3/10/2025 (knb). Modified text on 4/17/2025 (agc). (Entered: 03/08/2025)
03/09/2025	<u>36</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION for Judicial Notice of Criminal Case filed by Maurice Fitzpatrick, Jr (Attachments: # <u>1</u> Court records from USA v. Lucas (3:21-cr-00851-AJB), # <u>2</u> Court records from Mark

		Yousef v. Caregard Warranty Services, Inc. (2:22-cv-03673-KES), # <u>3</u> Wyoming Secretary of State filings (C1 through C8)) (Fitzpatrick, Maurice) Modified text on 3/10/2025 (knb). Modified text on 4/17/2025 (agc). (Entered: 03/09/2025)
03/11/2025	<u>37</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION For Judicial Notice filed by Maurice Fitzpatrick, Jr (Attachments: # <u>1</u> Order dated January 7, 2025 (Dkt. 122), # <u>2</u> Amended Complaint, filed January 10, 2025 (Dkt. 126)) (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/11/2025)
03/11/2025	<u>38</u>	ELECTRONIC ORDER: The Court refers <u>35</u> Defendant Fitzpatrick's Motion for Judicial Notice of Securities and Exchange Commission (SEC) Filings, <u>36</u> Defendant Fitzpatrick's Motion for Judicial Notice of Criminal Case of Michael Todd Lucas and Government Records, and <u>37</u> Defendant Fitzpatrick's Motion for Judicial Notice of Public Court Records Relating to Patrick Nunally's Recent Addition as Defendant in State of Washington v. Landmark Technology A LLC to Magistrate Judge David L. Horan. (Ordered by Judge Karen Gren Scholer on 3/11/2025) (chmb) (Entered: 03/11/2025)
03/11/2025	<u>39</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION For Judicial Notice filed by Maurice Fitzpatrick, Jr (Attachments: # <u>1</u> USPTO Exhibit Summary, # <u>2</u> Exhibit A1 to A10, # <u>3</u> Exhibit A11 to A20, # <u>4</u> Exhibit A21 to A30, # <u>5</u> Exhibit A31 to A34) (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/11/2025)
03/13/2025	<u>40</u>	MOTION to Remand filed by AFG Companies Inc with Brief/Memorandum in Support. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Exhibit(s)) (Hill, Mark) (Entered: 03/13/2025)
03/13/2025	<u>41</u>	MOTION to Remand filed by AFG Companies Inc with Brief/Memorandum in Support. (Attachments: # <u>1</u> Exhibit(s), # <u>2</u> Exhibit(s)) (Hill, Mark) (Entered: 03/13/2025)
03/14/2025	<u>42</u>	ELECTRONIC ORDER REFERRING CASE to Magistrate Judge David L. Horan for pretrial management. (Ordered by Judge Karen Gren Scholer on 3/14/2025) (chmb) (Entered: 03/14/2025)
03/14/2025	<u>43</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** RESPONSE AND OBJECTION filed by Maurice Fitzpatrick, Jr re: <u>40</u> MOTION to Remand , <u>41</u> MOTION to Remand (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/14/2025)
03/14/2025	<u>44</u>	MOTION to Strike and Response in Opposition filed by Brand Engagement Network Inc re: <u>39</u> MOTION For Judicial Notice, <u>37</u> MOTION For Judicial Notice, <u>36</u> MOTION for Judicial Notice of Criminal Case (Attachments: # <u>1</u> Exhibit(s) 1, # <u>2</u> Proposed Order) (Fox, Stephen) Modified event/text on 3/18/2025 (cfk). (Entered: 03/14/2025)
03/14/2025	<u>45</u>	AMENDED DOCUMENT by Brand Engagement Network Inc. Amendment to <u>44</u> Response/Objection. <i>Amended Certificate of Conference.</i> (Fox, Stephen) (Entered: 03/14/2025)
03/15/2025	<u>46</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** Amended MOTION For Judicial Notice re: <u>37</u> Motion for Judicial Notice. (Attachments: # <u>1</u> Order dated January 7, 2025 (Dkt. 122), # <u>2</u> Amended Complaint, filed January 10, 2025 (Dkt. 126)) (Fitzpatrick, Maurice) Modified text on 3/17/2025 (cfk). Modified text on 4/17/2025 (agc). (Entered: 03/15/2025)

03/16/2025	<u>47</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION To Disqualify Attorneys Matthew Yarbrough, Levi Mccathern, and Mark Hill filed by Maurice Fitzpatrick, Jr (Fitzpatrick, Maurice) Modified text/linkage on 3/17/2025 (cfk). Modified text on 4/17/2025 (agc). (Entered: 03/16/2025)
03/16/2025	<u>48</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION for Limited Discovery Regarding Ex Parte Communications, Collusion, and Attorney Conflicts of Interest filed by Maurice Fitzpatrick, Jr (Fitzpatrick, Maurice) Modified text/linkage on 3/17/2025 (cfk). Modified text on 4/17/2025 (agc). (Entered: 03/16/2025)
03/17/2025	<u>49</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** RESPONSE AND OBJECTION filed by Maurice Fitzpatrick, Jr re: <u>44</u> Motion to Strike (Fitzpatrick, Maurice) Modified text on 3/18/2025 (cfk). Modified text on 4/17/2025 (agc). (Entered: 03/17/2025)
03/18/2025	<u>50</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION Expedite Motion To Intervene; Notices of Removal; Consolidation of Removals; Grant Leave to File Complaint; Sanctions; and Other Relief filed by Maurice Fitzpatrick, Jr (Attachments: # <u>1</u> Exhibit(s) Juducual Notice - State Bar Association) (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/18/2025)
03/19/2025	<u>51</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** Supplemental Document by Maurice Fitzpatrick, Jr as to <u>50</u> MOTION Expedite Motion To Intervene; Notices of Removal; Consolidation of Removals; Grant Leave to File Complaint; Sanctions; and Other Relief . (Attachments: # <u>1</u> Due Figlie, LLC & Shawn Lucas v. Brewer & AFG (Casc No. 3:25-CV-00629-N)) (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 03/19/2025)
03/20/2025	<u>52</u>	FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE: The Court should deny Nonparty Maurice Fitzpatrick's <u>21</u> motion to intervene, grant the <u>40</u> & <u>41</u> motions to remand, and strike and unfile the remaining filings made by Fitzpatrick in this lawsuit. (Ordered by Magistrate Judge David L. Horan on 3/20/2025) (twd) (Entered: 03/20/2025)
03/21/2025	<u>53</u>	MOTION to Dismiss <i>Amended Complaint</i> filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, Ralph Wright Brewer, III, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc with Brief/Memorandum in Support. (Kleist, Kelly) (Entered: 03/21/2025)
03/25/2025	<u>54</u>	ORDER SETTING BRIEFING SCHEDULE re: <u>53</u> MOTION to Dismiss <i>Amended Complaint</i> . Responses due by 4/23/2025. Replies due by 5/8/2025. (Ordered by Magistrate Judge David L. Horan on 3/25/2025) (kcr) (Entered: 03/25/2025)
03/27/2025	<u>55</u>	Request for Clerk to issue Default filed by Brand Engagement Network Inc. (Attachments: # <u>1</u> Declaration(s), # <u>2</u> Proposed Order) (Blackstone, Jason) (Entered: 03/27/2025)
03/28/2025	<u>56</u>	RESPONSE AND OBJECTION filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc re: <u>55</u> Request for Clerk to Issue Document (Kleist, Kelly) (Entered: 03/28/2025)
03/28/2025	<u>57</u>	MEMORANDUM OPINION AND ORDER: There is no basis to enter default against Defendants. It is the Court's expectation that this action will be prosecuted and defended in a manner that does not unduly burden the Court, the other parties or participants, or their counsel. (Ordered by Magistrate Judge David L. Horan on 3/28/2025) (kcr) (Entered: 03/28/2025)

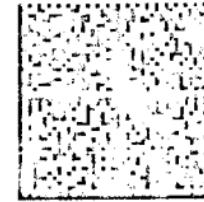
04/01/2025	<u>58</u>	RESPONSE AND OBJECTION filed by Maurice Fitzpatrick, Jr re: <u>52</u> Findings and Recommendations on Motion (Attachments: # <u>1</u> Exhibit A - BNAI Stock Activity Data 03122024-03252024, # <u>2</u> Exhibit B - Re-Submission of true, correct, and non-fragmented digital copy of Notice of Removal originally filed on February 11, 2025, with Motion To Intervene, concerning the Tarrant County (Cause No. 017-352358-24) action., # <u>3</u> Exhibit C - Re-Submission of true, correct, and non-fragmented digital copy of Notice of Removal originally filed on February 11, 2025, with Motion To Intervene, concerning the Denton County (Cause No. 24-11876-442) action., # <u>4</u> Exhibit D - October 29, 2024, receipt for records obtained from Tarrant County District Court (Cause No. 017-352358-24), showing date of discovery and acquisition by Fitzpatrick) (Fitzpatrick, Maurice) Modified event text on 4/2/2025 (kcr). (Entered: 04/01/2025)
04/07/2025	<u>59</u>	OBJECTION filed by AFG Companies Inc, AFG Technologies LLC, Automotive Financial Group Inc, Ralph Wright Brewer, III, CareGard Warranty Services Inc, DaidaX Inc, Delaporte Learning Inc, Prime Reserve Plus Inc re: <u>47</u> MOTION Motion To Disqualify Attorneys Matthew Yarbrough, Levi McCathern, <u>48</u> Motion for Limited Discovery. (Kleist, Kelly) Modified text on 4/7/2025 (rekc). (Entered: 04/07/2025)
04/11/2025	<u>60</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** MOTION for Leave to File CIVIL RICO COMPLAINT AND RICO CASE STATEMENT(<i>UNDER SEAL</i>) filed by Maurice Fitzpatrick, Jr (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 04/11/2025)
04/11/2025	<u>61</u>	*** STRICKEN AND UNFILED PER <u>62</u> ORDER. *** NOTICE of <i>Supplemental Authority</i> filed by Maurice Fitzpatrick, Jr (Attachments: # <u>1</u> Medical Marijuana, Inc. v. Horn, 604 U.S. ____ (2025)) (Fitzpatrick, Maurice) Modified text on 4/17/2025 (agc). (Entered: 04/11/2025)
04/17/2025	<u>62</u>	ORDER ACCEPTING <u>52</u> FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE. The Court DENIES Nonparty Maurice Fitzpatrick's <u>21</u> Motion to Intervene; GRANTS Defendant AFG Companies, Inc.'s <u>40</u> , <u>41</u> Motions to Remand; ORDERS that the state court actions that Fitzpatrick purportedly removed through his unsuccessful Motion to Intervene are hereby remanded to the state courts from which they were removed; and DIRECTS the Clerk of the Court to STRIKE and UN-FILE all filings that Fitzpatrick has made in this proceeding except for his <u>21</u> Motion to Intervene and his Response and <u>58</u> Objections to Magistrate Judge's Findings, Conclusions, and Recommendation. (Ordered by Judge Karen Gren Scholer on 4/17/2025) (agc) Modified text on 4/17/2025 (agc). (Additional attachment(s) added on 4/17/2025: # <u>1</u> Remand Letter, # <u>2</u> Remand) (agc). (Entered: 04/17/2025)
04/17/2025	<u>63</u>	NOTICE OF INTERLOCUTORY APPEAL as to <u>62</u> Order Accepting/Adopting Findings and Recommendations to the Fifth Circuit by Maurice Fitzpatrick, Jr. T.O. form to appellant electronically at <u>Transcript Order Form</u> or US Mail as appropriate. Copy of NOA to be sent US Mail to parties not electronically noticed. IMPORTANT ACTION REQUIRED: Provide an electronic copy of any exhibit you offered during a hearing or trial that was admitted into evidence to the clerk of the district court within 14 days of the date of this notice. Copies must be transmitted as PDF attachments through ECF by all ECF Users or delivered to the clerk on a CD by all non-ECF Users. See detailed instructions <u>here</u> . (Exception: This requirement does not apply to a pro se prisoner litigant.) Please note that if original exhibits are in your possession, you must maintain them through final disposition of the case. (Fitzpatrick, Maurice) (Entered: 04/17/2025)

04/18/2025	 <u>64</u>	Emergency MOTION to Stay <i>Effect of DKT. No. 62 Pending Appeal</i> filed by Maurice Fitzpatrick, Jr re <u>62</u> Order Accepting/Accpting Findings and Recommendations. (Attachments: # <u>1</u> Exhibit(s) Remand Letter, Denton County, # <u>2</u> Exhibit(s) Remand Letter, Tarrant County) (Fitzpatrick, Maurice) Modified text and linkage on 4/18/2025 (axm). (Entered: 04/18/2025)
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UNITED STATES DISTRICT COURT
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NORTHERN DISTRICT OF TEXAS
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EXHIBIT E

CAUSE NO. 017-352358-24

AFG COMPANIES, INC.,

IN THE DISTRICT COURT

Plaintiff,

§
§
§
§ 17th JUDICIAL DISTRICTv.
GENUINE LIFETIME, LLC, AND
TYLER J. LUCK,§
§
§
§

Defendants.

TARRANT COUNTY, TEXAS

AGREED SCHEDULING ORDER

In accordance with Rules 166, 190 and 192 of the Texas Rules of Civil Procedure, the Court makes the following order to control the schedule of this cause.

August 18

1. This case will be ready and is set for **jury trial on the week of November 13, 2025 (the "Trial")**.
2. The Court will conduct a PRETRIAL HEARING at 2:30 p.m. on the Thursday preceding the Trial (*August 14, 2025 at 2:30 p.m.*)
3. By noon on *August 8, 2025*, each party shall file with the clerk of the court an exhibit list, witness list, motions in limine, and a proposed charge of the court or proposed findings of fact/conclusions of law. A courtesy copy of the proposed charge should also be sent in Word format via e-mail to pjmaples@tarrantcountytexas.gov.
4. Pretrial matters will be complete by the following dates:

a. 120 days before Trial **JOINDER.** All parties must be added and served, whether by amendment or third-party practice. The party causing the joinder must provide a copy of this Scheduling Order at the time of service to the joined party.

b. See below **EXPERT WITNESS DESIGNATION.** Parties must designate expert witnesses and furnish the information set forth under Rule 194.2(b) as follows:

(i) 120 days before Trial Experts for parties seeking affirmative relief.

(ii) 90 days before Trial All other experts.

OK This order is being granted on the condition the parties and their attorneys submit to mediation with Christopher Nellanel *on July 30, 2025.*

c. **14 days before Trial** **MEDIATION.** Parties must complete mediation on *July 30, 2025.* ~~before this date.~~ The parties' failure to mediate will not be grounds for continuance of trial. *at 9:00 am*

14 *OK*

d. **20 days before Trial** **DISCOVERY.** Parties must complete all discovery on or before this date. Parties seeking discovery must serve requests sufficiently far in advance of the end of the discovery period so that the deadline for responding will be within the discovery period.

e. *See below* **DISPOSITIVE MOTIONS.** Parties must set for hearing all motions or pleas, that if granted by the Court would dispose of all or part of the case, as follows:

(i) **60 days before Trial** No evidence motions for summary judgment may only be *heard* on or *after* this date.

(ii) **21 days before Trial** All dispositive motions or pleas must be *heard* on or *before* this date.

f. **14 days before Trial** **CHALLENGES TO EXPERT TESTIMONY.** All motions to exclude expert testimony must be heard. This Order does not include exclusion based on Rule 193.6.

g. **90 days before Trial** **PLEADINGS.** All amendments and supplements to pleadings that add any new causes of action or affirmative defenses must be filed on or before this date. This Order does not preclude the prompt filing of pleadings directly responsive to any timely filed pleadings.

OK The Court expects the parties to be familiar with the Court's Policies and Procedures on the Court's website. Failure to follow the Court's policies and procedures may result in appropriate sanctions. The Court's policies and Procedures may be found on the Court's website.

IT IS SO ORDERED this 30th day of May, 2025.

Melody Wilkinson
JUDGE PRESIDING

AGREED AND APPROVED:

/s/ Mark L. Hill

Mark L. Hill
State Bar No. 24043868
~~mark.hill@solidcounsel.com~~ *mhill@henry*
~~Steve Ovando~~ *hilltx*
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ATTORNEYS FOR PLAINTIFF

/s/ Asher K. Miller

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ATTORNEYS FOR DEFENDANTS

Automated Certificate of eService

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Filing Description: ***Agrd sched ord***

Status as of 6/2/2025 9:17 AM CST

Associated Case Party: THEAFG COMPANIES INC

Name	BarNumber	Email	TimestampSubmitted	Status
Mark Hill		mark.hill@solidcounsel.com	6/2/2025 8:29:31 AM	SENT
Mark Hill		mhill@henryhilltx.com	6/2/2025 8:29:31 AM	SENT

Associated Case Party: THEGENUINE LIFETIME LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Levi McCathern		lmccathern@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Shahin Eghbal		seghbal@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Elizabeth Criswell		ecriswell@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Celeste Salas		csalas@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Crystal Dabdub		cdabdub@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Asher K. Miller		amiller@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Tiffany Gonzalez		tgonzalez@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
McCathern Receptionist		receptionist@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT

Associated Case Party: TYLERJLUCK

Name	BarNumber	Email	TimestampSubmitted	Status
Levi McCathern		lmccathern@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Shahin Eghbal		seghbal@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Elizabeth Criswell		ecriswell@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
McCathern Receptionist		receptionist@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Tiffany Gonzalez		tgonzalez@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT

Automated Certificate of eService

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Filing Description: ***Agrd sched ord***

Status as of 6/2/2025 9:17 AM CST

Associated Case Party: TYLERJLUCK

Tiffany Gonzalez		tgonzalez@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Asher K.Miller		amiller@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Crystal Dabdub		cdabdub@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT
Celeste Salas		csalas@mccathernlaw.com	6/2/2025 8:29:31 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Steven Ovando		steven.ovando@solidcounsel.com	6/2/2025 8:29:31 AM	SENT
Barbara Blaylock		barbara.blaylock@solidcounsel.com	6/2/2025 8:29:31 AM	SENT
Barbara Blaylock		bblaylock@henryhilltx.com	6/2/2025 8:29:31 AM	SENT

Associated Case Party: MAURICEFITZPATRICK

Name	BarNumber	Email	TimestampSubmitted	Status
Maurice Fitzpatrick		afglawsuit@yahoo.com	6/2/2025 8:29:31 AM	SENT

EXHIBIT F

AFG COMPANIES, INC.

Plaintiff,

V.

**GENUINE LIFETIME, LLC, AND
TYLER J. LUCK**

Defendants.

IN THE DISTRICT COURT

JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

COMES NOW, Plaintiff AFG Companies, Inc. (“Plaintiff” or “AFG”) and files this Original Petition against Defendants Genuine Lifetime, LLC, and Tyler J. Luck (“Defendants”) and respectfully shows the Court the following:

I. DISCOVERY LEVEL AND RULE 47 STATEMENT

1. Plaintiff pleads for discovery under Level 3, pursuant to Texas Rule of Civil Procedure 190.4. Plaintiff seeks monetary relief over \$1,000,000 and non-monetary relief.

II. PARTIES

2. Plaintiff is a domestic for-profit corporation, incorporated in the State of Texas

3. Defendant **Genuine Lifetime, LLC** ("Genuine Lifetime") is a foreign limited
company that may be served with process through its registered agent, **Company Agent**,
at 125 S King Street Ste 2A, PO Box 1045, Jackson, Wyoming 83001, or wherever it may
be served.

4. Defendant **Tyler J. Luck** (“Tyler Luck”) is an individual who may be served at
145 E. Snow King, Jackson, WY 83001, or wherever he may be found.

III. JURISDICTION AND VENUE

5. This Court has jurisdiction over the parties and subject matter herein as the amount in controversy is within the jurisdictional limits of the Court. Venue is proper in Tarrant County, Texas pursuant to Chapter 15 of the Texas Civil Practices & Remedies Code, as well as the subject Loan Agreement.

IV. STATEMENT OF FACTS

6. On October 17, 2023, Genuine Lifetime and AFG entered into a loan agreement (“Loan Agreement”), wherein AFG agreed to loan Genuine Lifetime the principal sum of \$4 million (“Loan”). The Loan Agreement included several material terms and conditions. This included, but was not limited to, Genuine Lifetime agreeing to pay an interest rate of ten percent (10%) per annum. The Loan Agreement also specified that Genuine Lifetime could use the proceeds of the Loan for only one purpose: to purchase shares of Brand Engagement Network, Inc. (“BEN Inc.”).

7. Under Section I of the Loan Agreement, interest on the Loan would be due and payable on a yearly basis, with the first interest payment due within thirty (30) days of the date from when BEN Inc. shares traded on the NASDAQ stock market. Similarly, the outstanding principal and all unpaid accrued interest on the Loan would be due and payable on or before the earlier of (i) the one-year anniversary of the date of the Loan Agreement or (ii) the thirtieth (30th) day following the date as of which the BEN Inc. shares traded on the NASDAQ stock market (“Maturity Date”).

8. Genuine Lifetime also agreed to pay a loan fee of (10%) of the \$4 million principal, or \$400,000. The fee was likewise due within thirty (30) days from the date as of which the BEN Inc. shares traded on the NASDAQ stock market.

9. If a subsequent Event of Default occurred, as defined in the Loan Agreement, the Loan Agreement provided that AFG may declare all amounts immediately due and payable.

10. In addition to all principal and interest due on the Loan, Genuine Lifetime further agreed to pay all reasonable costs and expenses incurred by AFG in collecting the payment obligations through any proceeding, as well as all reasonable attorney's fees and expenses incurred by AFG related to the enforcement of the Loan Agreement.

11. Moreover, Section II of the Loan Agreement titled "Collateral and Guaranty" further detailed that AFG and Genuine Lifetime would enter into a security agreement ("Security Agreement"), which they did the same day they entered into the Loan Agreement. To secure full and complete payment of the Loan, Genuine Lifetime executed and delivered the Security Agreement, granting AFG a lien on all Genuine Lifetime's assets.

12. The Security Agreement, dated October 17, 2023, named Genuine Lifetime, LLC as "Grantor" and AFG as "Secured Party." The Security Agreement also detailed that Grantor entered into a Loan Agreement in favor of Secured Party and that Grantor granted a lien and security interest on the following assets ("Collateral"): (a) all assets of Grantor; and (b) any and all proceeds and products of the foregoing, and any other tangible or intangible property received upon the sale or disposition of the foregoing.

13. As required under Section 3 of the Security Agreement, a UCC-1 financing statement was filed with the Wyoming Secretary of State, perfecting a security interest in the above Collateral shortly after the signing of the Security Agreement.

14. Section 9 of the Security Agreement also granted AFG certain "Remedies" in the Event of Default as defined by the Loan Agreement. In particular, Section 9 of the Security Agreement specified that upon the occurrence of an Event of Default, the Secured Party may (i)

reduce its claim to judgment, foreclose, or otherwise enforce its security interest, or (ii) after notification, sell or otherwise dispose of all or any part of the Collateral.

15. Further yet, the Loan Agreement also contemplated the signing of a personal guaranty. That is, the Loan Agreement specified that AFG and Defendant Tyler Luck enter into a Personal Guaranty of Payment to AFG Companies, Inc. (“Personal Guaranty”), wherein Tyler Luck acknowledged that he, as a member of October 3rd and director of Genuine Lifetime, would receive a direct benefit of the Loan and performance of the terms of the Loan Agreement by executing a Personal Guaranty of “Payment” to AFG—i.e., the \$4 million principal plus interest payable to AFG as detailed in the Loan Agreement.

16. AFG and Tyler Luck—in his individual capacity and on behalf of himself—executed the Personal Guaranty on October 17, 2023.

17. Section 1.02 of the Personal Guaranty defines the “Guaranteed Debt” as the outstanding principal amount of the Loan Agreement and all accrued but unpaid interest thereon, and all costs, expenses, and fees, including but not limited to court costs and attorneys’ fees, owed under the Loan Agreement.

18. Sections 1.01 and 1.03 of the Loan Personal Guaranty further clarify that if any part of the obligations under the Loan Agreement are not paid when due, Tyler Luck would be unconditionally liable for the Guaranteed Debt and would immediately, upon demand by AFG, pay the amount due on the Guaranteed Debt to AFG.

19. The Loan Agreement specifies scenarios considered an “Event of Default.” Three relevant scenarios addressed herein, are: (i) when Genuine Lifetime failed to pay any principal of the Loan when it became due and payable, (ii) when Genuine Lifetime failed to pay any interest on the Loan payable under the Loan Agreement, and/or (iii) when Tyler Luck failed to observe or perform any covenant, condition, or agreement laid out in the Personal Guaranty.

20. Genuine Lifetime purchased its BEN Inc. shares with the proceeds of the Loan on March 14, 2024. The following day, the shares began trading on the NASDAQ Stock Market. Accordingly, the Maturity Date under the Loan Agreement was April 14, 2024, or thirty (30) days from March 15, 2024, when BEN Inc. shares traded for the first time on the NASDAQ stock market. In any event, AFG received no payment from Genuine Lifetime nor Tyler Luck—Guarantor—on or before the Maturity Date.

21. Still, to date, neither Genuine Lifetime nor Tyler Luck has made payment to AFG, even though it has been over two weeks since the entire Guaranteed Debt became due and payable, including the principal, the loan fee, and all unpaid interest.

22. The refusal to pay pursuant to the terms of the Loan Agreement is clearly an Event of Default under the Loan Agreement. This breach, in turn, has triggered the remedies available under Section 9 of the Security Agreement, which gives AFG the right to reduce its claim to judgment on the Loan and to enforce its security interest on all Collateral. Similarly, Tyler Luck has also breached the Personal Guaranty, which required that the Guarantor—in the event the obligations due under the Loan Agreement were not satisfied by Genuine Lifetime—“immediately upon demand by AFG . . . pay in lawful money. . . the amount due on the Guaranteed Debt to AFG.”

23. Accordingly, Plaintiff files this lawsuit against Defendants for breach of contract on all three agreements related to the October 17, 2023 Loan: the Loan Agreement, the Security Agreement, and the Personal Guaranty.

24. As a final point, Genuine Lifetime is also bound to a Lock-Up Agreement, pursuant to which Genuine Lifetime along with any of its affiliates or related entities—including October 3rd Holdings, LLC, specifically named in the Lock-Up Agreement—have agreed to not offer, sell,

contract to sell, lend, hypothecate, pledge or otherwise dispose of their BEN Inc. shares until the Loan, the loan fee, and any unpaid interest has been paid to AFG.

V. CAUSES OF ACTION

COUNT 1 – BREACH OF CONTRACT (LOAN AGREEMENT)

25. AFG incorporates by reference each of the allegations in the preceding paragraphs of the Petition as if they were set forth in their entirety herein.

26. Genuine Lifetime and AFG entered into a valid, enforceable contract in the form of the October 17, 2023 Loan Agreement. As part of the Loan Agreement, AFG agreed to loan Genuine Lifetime \$4 million, the principal, at an agreed interest rate of ten percent (10%) per annum.

27. As part of the Loan Agreement, Genuine Lifetime agreed to pay back the Loan in full within thirty (30) days from the date as of which BEN Inc. shares began trading on the NASDAQ Market. Genuine Lifetime purchased its BEN Inc. shares on March 14, 2024. The following day, the shares began trading on the NASDAQ Stock Market. Accordingly, the Maturity Date under the Loan Agreement became April 14, 2024, or thirty (30) days from March 15, 2024, when BEN Inc. shares traded for the first time on the NASDAQ stock market. In any event, AFG received no payment from Genuine Lifetime nor Tyler Luck—Guarantor—on the Maturity Date.

28. Genuine Lifetime also agreed to pay a loan fee of (10%) of the entire \$4 million principal, or \$400,000. The fee was likewise due within thirty (30) days from the date as of which the BEN Inc. shares first traded on the NASDAQ stock market.

29. Although payment to AFG is past due under the Loan Agreement, neither Genuine Lifetime nor Tyler Luck made payment, despite their contractual obligation to do so. Genuine Lifetime thus breached the Loan Agreement: It failed to do precisely what it had promised to do under the Loan Agreement. It did not pay the \$4 million principal, the loan fee, or the interest

due. In these respects, Genuine Lifetime wholly breached the Loan Agreement, which caused AFG damages.

COUNT 2 – BREACH OF CONTRACT (SECURITY AGREEMENT)

30. AFG incorporates by reference each of the allegations in the preceding paragraphs of the Petition as if they were set forth in their entirety herein.

31. Genuine Lifetime and AFG entered into a valid, enforceable contract in the form of the October 17, 2023 Loan Agreement. As part of the Loan Agreement, AFG agreed to loan Genuine Lifetime \$4 million, the loan fee, and the principal, at an agreed interest rate of ten percent (10%) per annum.

32. As part of the Loan Agreement, Genuine Lifetime agreed to pay back the Loan in full within thirty (30) days from the date as of which the BEN Inc. shares began trading on the NASDAQ Market. Genuine Lifetime purchased its BEN Inc. shares on March 14, 2024. The following day, the shares began trading on the NASDAQ Stock Market. Accordingly, the Maturity Date under the Loan Agreement became April 14, 2024, or thirty (30) days from March 15, 2024, when BEN Inc. shares traded for the first time on the NASDAQ stock market. In any event, AFG received no payment from Genuine Lifetime nor Tyler Luck—Guarantor—on the Maturity Date.

33. Genuine Lifetime also agreed to pay a loan fee of (10%) of the entire \$4 million principal, or \$400,000. The fee was likewise due within thirty (30) days from the date which BEN Inc. shares traded on the NASDAQ stock market.

34. Section II of the Loan Agreement titled “Collateral and Guaranty” specifies that AFG and Genuine Lifetime also entered into a Security Agreement on October 17, 2023.

35. The Security Agreement, dated October 17, 2023, named Genuine Lifetime as “Grantor” and AFG as “Secured Party.” The Security Agreement further specified that Grantor entered into a Loan Agreement in favor of Secured Party and that Grantor granted a lien and

security interest on the following assets (“Collateral”): (a) all assets of Grantor; and (b) any and all proceeds and products of the foregoing, and any other tangible or intangible property received upon the sale or disposition of the foregoing.

36. Section 9 of the Security Agreement granted AFG certain “Remedies” in the Event of Default as defined by the Loan Agreement. Namely, under Section 9 of the Security Agreement, upon the occurrence of an Event of Default, the Secured Party would have the right to reduce its claim for the amount due and owing to judgment or to otherwise enforce its security interest.

37. Although payment to AFG is past due under the Loan Agreement, neither Genuine Lifetime nor Tyler Luck made payment despite their contractual obligation to do so. Because Genuine Lifetime wholly defaulted on the Loan Agreement, AFG files this suit to collect judgment against Genuine Lifetime in light of the remedies afforded to AFG under the Security Agreement.

COUNT 3 – BREACH OF CONTRACT (PERSONAL GUARANTY)

38. AFG incorporates by reference each of the allegations in the preceding paragraphs of the Petition as if they were set forth in their entirety herein.

39. Genuine Lifetime and AFG entered into a valid, enforceable contract in the form of the October 17, 2023 Loan Agreement. As part of the Loan Agreement, AFG agreed to loan Genuine Lifetime \$4 million, at an agreed interest rate of ten percent (10%) per annum plus a loan fee.

40. Tyler Luck, a member of October 3rd Holdings, LLC and a director of Genuine Lifetime, personally and unconditionally guaranteed Genuine Lifetime’s obligations to AFG under the Loan Agreement, meaning AFG could collect against Tyler Luck alone for the total amount of the Loan Agreement and all unpaid interest thereon in the Event of Default as defined under the Loan Agreement. Indeed, Tyler Luck, in his individual capacity and on behalf of himself alone, entered into a Personal Guaranty agreement with AFG, guaranteeing the Loan.

41. As part of the Loan Agreement, Genuine Lifetime agreed to pay back the Loan in full within thirty (30) days from the date as of which the BEN Inc. shares began trading on the NASDAQ Market. Genuine Lifetime purchased its BEN Inc. shares on March 14, 2024. The following day, the shares began trading on the NASDAQ Stock Market. Accordingly, the Maturity Date under the Loan Agreement became April 14, 2024, or thirty (30) days from March 15, 2024, when BEN Inc. shares traded for the first time on the NASDAQ stock market. In any event, AFG received no payment from Genuine Lifetime nor Tyler Luck—Guarantor—on the Maturity Date.

42. Genuine Lifetime also agreed to pay a loan fee of (10%) of the entire \$4 million principal, or \$400,000. The fee was likewise due within thirty (30) days from the date as of which the BEN Inc. shares traded on the NASDAQ stock market.

43. Although payment to AFG is past due under the Loan Agreement, neither Genuine Lifetime nor Tyler Luck made payment, despite their contractual obligation to do so under the Loan Agreement and the Personal Guaranty, respectively. Genuine Lifetime and Tyler Luck thus breached both Agreements, which caused AFG Damages.

VI. CONDITIONS PRECEDENT

44. All conditions precedent to AFG's right to bring the above causes of action, and for recovery requested herein, have been performed or otherwise already occurred.

VII. ATTORNEYS FEES

45. AFG seeks the recovery its reasonable attorney's fees pursuant to the subject Loan Agreement, Guaranty and/or Texas Civil Practice and Remedies Code § 38.001(b)(8).

VIII. CONCLUSION

46. **WHEREFORE, PREMISES CONSIDERED**, Plaintiff AFG Companies, Inc. requests Defendants Genuine Lifetime, LLC and Tyler J. Luck, be cited to appear and answer, and further pray that it be awarded judgment against Defendants, jointly and severally, for all of the following:

- (1) Compensatory and actual damages in an amount to be determined at trial;
- (2) Foreclosure of Defendants' assets and interests, as requested herein;
- (3) Attorneys' fees of Plaintiff incurred in this action;
- (4) The costs of Plaintiff incurred in this action;
- (5) Prejudgment and post-judgment interest to the extent permitted by law; and
- (6) All other relief, at law or in equity, to which AFG proves itself justly entitled.

Respectfully submitted,

SCHEEF & STONE, LLP

By: /s/ Mark L. Hill
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ATTORNEYS FOR PLAINTIFF

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Melissa Diaz on behalf of Mark Hill
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melissa.diaz@solidcounsel.com
Envelope ID: 87228741
Filing Code Description: Petition
Filing Description: Plaintiff's Original Petition
Status as of 4/30/2024 4:15 PM CST

Associated Case Party: AFG COMPANIES, INC.

Name	BarNumber	Email	TimestampSubmitted	Status
Melissa Diaz		melissa.diaz@solidcounsel.com	4/30/2024 4:02:24 PM	SENT
Mark Hill		mark.hill@solidcounsel.com	4/30/2024 4:02:24 PM	SENT
Steven Ovando		steven.ovando@solidcounsel.com	4/30/2024 4:02:24 PM	SENT

EXHIBIT G

CAUSE NO. 017-352358-24

AFG COMPANIES, INC.,	§	IN THE DISTRICT COURT
Plaintiff	§	
	§	
v.	§	17 th JUDICIAL DISTRICT
	§	
GENUINE LIFETIME, LLC and	§	
TYLER J. LUCK,	§	
Defendants	§	TARRANT COUNTY, TEXAS

DEFENDANT TYLER J. LUCK'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF THE COURT:

Defendant Tyler J. Luck ("Defendant Luck") files his Original Answer in response to Plaintiff's Original Petition. In support thereof, Defendant Luck would show the Court the following:

I.
GENERAL DENIAL

1.01 Pursuant to Rule 92 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant Luck exercises his rights under the law whereby he may file a general denial and require Plaintiff to prove its causes of action by a preponderance of the evidence. Defendant Luck therefore denies generally each and every, all and singular, of the material allegations contained in Plaintiff's Original Petition, and all subsequent petitions, and inasmuch as said allegations are questions of fact, Defendant Luck demands strict proof thereof by a preponderance of the evidence, if Plaintiff can do so. Defendant Luck requires Plaintiff to prove its causes of action to a fair and impartial trier of fact, if it can do so.

II.
RULE 193.7 NOTICE

2.01 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendant Luck hereby gives notice to all parties that he intends to use all documents produced in response to written discovery in any pre-trial hearing and at trial.

RELIEF REQUESTED

WHEREFORE, PREMISES CONSIDERED, Defendant Tyler J. Luck respectfully requests that, upon final hearing herein, Plaintiff recover nothing from him; that he shall have judgment in his favor; that all costs be taxed against Plaintiff; and for such other and further relief, at law or in equity, to which he may be justly entitled.

Respectfully submitted,

/s/ Levi McCathern
Levi G. McCathern
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Shane Eghbal
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MCCATHERN PLLC
3710 Rawlins St., Suite 1600
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214-741-4717 Facsimile

ATTORNEYS FOR DEFENDANT
GENUINE LIFETIME, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of *Defendant Tyler J. Luck's Original Answer* was e-served on all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Levi McCathern
Levi G. McCathern, II

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Elizabeth Criswell on behalf of Levi McCathern

Bar No. 00787990

ecriswell@mccathernlaw.com

Envelope ID: 88778189

Filing Code Description: Answer/Response

Filing Description: Defendant Tyler J. Luck's Original Answer

Status as of 6/13/2024 2:15 PM CST

Associated Case Party: THEGENUINE LIFETIME LLC

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Elizabeth Criswell		ecriswell@mccathernlaw.com	6/13/2024 2:09:07 PM	SENT
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Asher K. Miller		amiller@mccathernlaw.com	6/13/2024 2:09:07 PM	SENT
Celeste Salas		csalas@mccathernlaw.com	6/13/2024 2:09:07 PM	SENT
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Tiffany Gonzalez		tgonzalez@mccathernlaw.com	6/13/2024 2:09:07 PM	SENT
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Name	BarNumber	Email	TimestampSubmitted	Status
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Steven Ovando		steven.ovando@solidcounsel.com	6/13/2024 2:09:07 PM	SENT

Associated Case Party: TYLERJLUCK

Name	BarNumber	Email	TimestampSubmitted	Status
Crystal Dabdub		cdabdub@mccathernlaw.com	6/13/2024 2:09:07 PM	SENT

EXHIBIT H

CAUSE NO. 017-352358-24

AFG COMPANIES, INC.,

§ IN THE DISTRICT COURT

Plaintiff,

§

V.

17th JUDICIAL DISTRICT

**GENUINE LIFETIME, LLC, AND
TYLER J. LUCK,**

§
§

Defendants.

§

TARRANT COUNTY, TEXAS

**DEFENDANT GENUINE LIFETIME, LLC'S
ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF THE COURT:

Defendant Genuine Lifetime, LLC (hereinafter “Genuine Lifetime”) files its *Original Answer* in response to Plaintiff’s Original Petition. In support thereof, Genuine Lifetime would show the Court the following:

I. **GENERAL DENIAL**

1.01 Pursuant to Rule 92 of the TEXAS RULES OF CIVIL PROCEDURE, Genuine Lifetime exercises its rights under the law whereby it may file a general denial and require Plaintiff to prove its causes of action by a preponderance of the evidence. Genuine Lifetime therefore denies generally each and every, all and singular, of the material allegations contained in Plaintiff's Original Petition, and all subsequent petitions, and inasmuch as said allegations are questions of fact, Genuine Lifetime demands strict proof thereof by a preponderance of the evidence, if Plaintiff can do so. Genuine Lifetime requires Plaintiff to prove its causes of action to a fair and impartial trier of fact, if it can do so.

II.
ADDITIONAL MATTERS

2.01 Without assuming any burden of proof the law places upon the parties in this lawsuit bringing claims against it, and reserving all rights to amend or supplement as this action proceeds, Genuine Lifetime alleges the following additional and affirmative defenses.

2.02 Genuine Lifetime asserts it is not liable to Plaintiff because the Loan Agreement and other agreements described in Plaintiff's Original Petition were the product of fraud.

2.03 Genuine Lifetime asserts that its performance is excused because performance was impossible or impracticable.

2.04 Genuine Lifetime asserts it was discharged from performance under the Loan Agreement because the Plaintiff materially breached the agreement's terms.

2.05 Genuine Lifetime asserts that it is not liable to Plaintiff because enforcement of the agreement would be unconscionable.

2.06 Genuine Lifetime is not liable to Plaintiff because the Loan Agreement and other agreements described in Plaintiff's Original Petition are void as against public policy.

2.07 Genuine Lifetime alleges that Plaintiff failed to mitigate its damages.

2.08 Genuine Lifetime asserts the defenses of contribution and comparative fault set forth in Chapters 32 and 33 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE.

2.09 Genuine Lifetime affirmatively pleads that Plaintiff's claims are barred by the Economic Loss Doctrine.

2.10 Genuine Lifetime would show that it is entitled to a credit or offset for all monies or consideration paid to Plaintiff by virtue of any type of form of settlement agreement, if any, entered into by and between the Parties and any party herein, or any other person or entity not a party to this litigation. Furthermore, Genuine Lifetime would assert the affirmative defenses of

offset, credit, payment, release and accord and satisfaction as provided in Rule 94 of the TEXAS RULES OF CIVIL PROCEDURE and Chapter 33.012 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE.

2.11 Genuine Lifetime denies that all conditions precedent to Plaintiff's right to recovery have occurred.

2.12 Genuine Lifetime affirmatively pleads waiver.

2.13 Genuine Lifetime affirmatively pleads estoppel.

2.14 Plaintiff's claims are barred, in whole or in part, by its ratification.

2.15 Genuine Lifetime reserves the right to amend, supplement, and add additional affirmative defenses.

III.
RULE 193.7 NOTICE

4.01 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Genuine Lifetime hereby gives notice to all parties that it intends to use all documents produced in response to written discovery in any pre-trial hearing and at trial.

RELIEF REQUESTED

WHEREFORE, PREMISES CONSIDERED, Genuine Lifetime, LLC respectfully requests that, upon final hearing herein, Plaintiff recover nothing from Genuine Lifetime, Genuine Lifetime shall have judgment in its favor, and that all costs be taxed against Plaintiff; and for such other and further relief, at law or in equity, to which Genuine Lifetime may be justly entitled.

Respectfully submitted,

McCATHERN, PLLC

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(214) 741-4717 Facsimile

**ATTORNEYS FOR DEFENDANT
GENUINE LIFETIME, LLC**

CERTIFICATE OF SERVICE

The undersigned certifies that on May 28, 2024, before 10:00 a.m., a true and correct copy of the above and foregoing document was served upon the parties in accordance with the Texas Rules of Civil Procedure.

/s/ Levi G. McCathern
Levi G. McCathern

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Tiffany Gonzalez on behalf of Levi McCathern

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tgonzalez@mccathernlaw.com

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Filing Code Description: Answer/Response

Filing Description: Defendant Genuine Lifetime, LLC's Original Answer

Status as of 5/28/2024 10:31 AM CST

Case Contacts

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Steven Ovando		steven.ovando@solidcounsel.com	5/28/2024 9:58:30 AM	SENT

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Barbara Blaylock on behalf of Mark Hill

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Envelope ID: 103278340

Filing Code Description: Motion (No Fee)

Filing Description: 2025.07.17 Agrd Mot to Strike Intervention of M.

Fitzpatrick

Status as of 7/17/2025 4:12 PM CST

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Associated Case Party: THEGENUINE LIFETIME LLC

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Associated Case Party: TYLERJLUCK

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Levi McCathern		lmccathern@mccathernlaw.com	7/17/2025 3:53:19 PM	SENT
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Crystal Dabdub		cdabdub@mccathernlaw.com	7/17/2025 3:53:19 PM	SENT
Tiffany Gonzalez		tgonzalez@mccathernlaw.com	7/17/2025 3:53:19 PM	SENT
McCathern Receptionist		receptionist@mccathernlaw.com	7/17/2025 3:53:19 PM	SENT

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Barbara Blaylock on behalf of Mark Hill

Bar No. 24034868

bblaylock@henryhilltx.com

Envelope ID: 103278340

Filing Code Description: Motion (No Fee)

Filing Description: 2025.07.17 Agrd Mot to Strike Intervention of M.

Fitzpatrick

Status as of 7/17/2025 4:12 PM CST

Case Contacts

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Barbara Blaylock		bblaylock@henryhilltx.com	7/17/2025 3:53:19 PM	SENT

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