FILED
TARRANT COUNTY
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THOMAS A. WILDER
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CAUSE NO. 048-352249-24

AUTOMOTIVE FINANCIAL GROUP, INC.,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff,	§	
	§	
v.	§	**48th JUDICIAL DISTRICT**
	§	
TRAVIS GATES	§	
	§	
Defendant.	§	**TARRANT COUNTY, TEXAS**

DEFENDANT'S OBJECTIONS AND BRIEF IN OPPOSITION TO THE MOTION TO CONSOLIDATE FILED BY PLAINTIFF

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant Travis Gates ("Gates"), who files this, his Objections and Brief in Opposition to Plaintiff Automotive Financial Group, Inc.'s ("AFG") Motion to Consolidate this case with a different case that its parent company, AFG Companies, Inc. ("AFG Companies"), concurrently filed in the 17th Judicial District of Tarrant County, Texas. Accordingly, Gates asks this Court to deny AFG's Motion to Consolidate (the "Motion"), and in support thereof, shows the following:

I. INTRODUCTION

1. Rule 174 does not authorize courts to transfer and consolidate cases pending before other courts. AFG is plainly requesting relief to which it is not entitled because it is terrified of going to trial in the *AFG Companies, Inc. v. Genuine Lifetime, LLC and Tyler Luck* case, which is set for trial in January. This motion is just a hail mary attempt by AFG's third law firm in this case. As shown clearly in the opposition brief filed by *Genuine Lifetime, LLC and Tyler Luck*, the request is impermissible under the rules and fails to meet the necessary legal standards and would severely prejudice Travis Gates. He should not bear the burden and expense for legal costs associated with

adding additional parties when the Gates case should be rightly dismissed, as shown in the motion for summary judgment filed earlier by Gates. AFG filed these cases in separate courts over 18 months ago, and the new attempts to link two cases that are fundamentally distinct, involving separate transactions, occurrences, and legal questions are purely delay tactics. AFG's motion should be denied, and fees should be granted for the cost of dealing with it as no argument of judicial economy nor justice raised by AFG have any merit.

II. The Cases

A. Where the Travis Gates Case Stands

2. Since AFG filed the case against Travis Gates, they have failed to provide one scintilla of proof to support their accusations. Along the way, they obstructed discoveryin every manner possible. AFG failed to provide a corporate witness that was adequately educated, becoming obvious when the witness was deposed and famously claimed that one of AFG's trade secrets was the AFG trademark. AFG has only produced just over 300 pages of documents, and quashed every deposition notice served by Gates. AFG further has failed to respond to the Interrogatories and Requests for Admission that were served over a year ago. As a result of these obstructionist discovery tactics, Gates was forced to file a motion to compel. AFG's CEO could not be bothered to appear for a deposition, but did have the time to threaten Gates via a text message. Gates was forced to file for a Protective Order as a result. To top off their lack of respect for the case that AFG filed and this court, AFG has never even responded to either motion. This has been a sham case since the day it was filed, and AFG's poor conduct in connection with this case evidences that fact. AFG has provided no discovery, and has blocked Gates's attempts to obtain essential discovery at every turn. Gates has a pending Motion for Summary Judgment that

should be granted, and this case should be dismissed, not consolidated with another unrelated case that AFG chose to keep separate for 18 months.

B. The Genuine Lifetime Case

3. The brief filed by Genuine Lifetime clearly details the case history so we will not repeat that here and incorporate it specifically by reference. As noted there, The Genuine Lifetime case involves a promissory note that evolved out of a business relationship with which Travis Gates had no interest. The important notes are that the Genuine Lifetime case has nothing to do with Travis Gates, and that AFG recognized fact when AFG sued Gates and Genuine Lifetime in separate courts, 4 days apart. AFG's sole purpose in filing the present motion is to continue its efforts to delay the trial in the Genuine Lifetime case, scheduled to have already started earlier this week until AFG began its stall tactics

III. THE CONTROLLING AUTHORITIES

4. Rule 174 of the Texas Rules of Civil Procedure provides as follows:

> (a) **Consolidation.** When actions involving a common question of law or fact are pending before *the court*, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

Tex. R. Civ. P. 174(a) (emphasis added).). Rule 174 of the Texas Rules of Civil Procedure does not grant trial courts unlimited authority to consolidate cases, discretion is not without limits. *See Womack v. Berry*, 291 S.W.2d 677, 683 (Tex. 1956). In fact, courts do not have the ability to grab cases from another court based upon the mere whims of a vexious litigant acting in bad faith, as AFG is here. There is no discretion if the facts of the case require separate trials to prevent manifest injustice and there are not contrary facts supporting a contrary conclusion. *Id.* Courts have repeatedly held that the discretion is limited by the circumstances of the particular case. *In re Gulf*

Coast Business Development Corp., 247 S.W.3d 787, 794 (Tex. App.—Dallas 2008, no pet.) (quoting Womack). Reiterated throughout the caselaw is the premise that consolidation resulting in prejudice, delay, or confusion should be denied. *In re Van Waters & Rogers, Inc.*, 145 S.W.3d 203, 207 (Tex. 2004) (granting mandamus because consolidation would result in prejudice or confusion).

IV. AFG'S MOTION SHOULD BE DENIED WITHOUT HEARING

5. AFG's motion cannot be granted procedurally, and does not advance the cause of justice for any of the parties or potential parties in the present case.

A. Cases in Different Courts Cannot Be Consolidated under Rule 174

6. As noted by Genuine Lifetime in its brief, *Flores v. Peschel* states that Rule 174(a) by its own language allows consolidation only of actions or cases that are then "pending before the court." 927 S.W.2d 209, 212–13 (Tex. App.—Corpus Christi–Edinburg 1996, no writ). The cases are pending in different courts, so AFG's motion must be denied.

B. AFG's Motion Did Not Point to a Single Common Issue or Fact Among the Cases.

7. AFG identifies no common issue of law or fact between the Gates case and the Genuine Lifetime case. The Gates case concerns whether AFG had protectable trade secrets, whether Gates misappropriated them, whether he breached fiduciary duties or interfered with contracts, and whether AFG suffered damages subject to Gates' defenses.

8. The Genuine Lifetime case, by contrast, turns on whether the Loan Agreement is void for fraud. That case requires evidence of AFG's dealings with Genuine Lifetime and BEN, including allegations of fraudulent inducement, concealment of a data breach, misrepresentations about cybersecurity compliance and competition, and whether performance was rendered impracticable. Gates was not a party to these agreements and played no role in their negotiation.

9. These cases arise from entirely different transactions and legal questions. At most, Gates could serve as a witness in the Genuine Lifetime case, but that does not create a common issue. See *In re Gulf Coast Bus. Dev. Corp.*, 247 S.W.3d 787, 795 (Tex. App.—Dallas 2008, no pet.). Because consolidation would only create prejudice, delay, and confusion, the Court should deny AFG's Motion.

C. The delay, prejudice, and confusion that would result from consolidation outweighs any of AFG's arguments of commonality.

10. The Gates case centers on employment-related claims: whether AFG possessed protectable trade secrets, whether Gates misappropriated them, and whether he breached fiduciary duties or interfered with contracts. These issues are distinct to Gates and his alleged conduct.

11. By contrast, the Genuine Lifetime case is about fraud. It turns on whether AFG induced a $4 million loan through deception, concealed a data breach, and misrepresented its compliance with cybersecurity and AI integration. Gates was not a party to these agreements, and the fact finder in that case will be asked to resolve entirely different contractual and fraud-based questions

12. Consolidating these cases would force a jury to sift through two unrelated sets of facts and legal theories, creating confusion and unfair prejudice to both Gates and Genuine Lifetime. It would also delay the Genuine Lifetime trial already set for January 2026. Because the overriding consideration in consolidation is whether trial will be fair and impartial, these cases must proceed separately. The Court should deny AFG's Motion.

D. 18 Months of Inaction, and Separate Filings by AFG Waived the Right to Consolidate.

13. AFG and AFG Companies have waived any right to try both cases in a single action. Waiver occurs when a party intentionally relinquishes a known right or engages in conduct

inconsistent with asserting that right, and intent may be inferred from the surrounding facts and circumstances. Here, AFG and AFG Companies, undisputed affiliates, had the ability to sue Genuine Lifetime, Luck, and Gates together but, with the advice of counsel, chose instead to file separate lawsuits in Tarrant County. That deliberate choice is a clear manifestation of their intent not to proceed in one action, and the Court should therefore deny the Motion. *See Jernigan v. Langley,* 111 S.W.3d 153, 156 (Tex. 2003). The following 18 months of failing to "correct" the filing error further shows how this motion is pure gamesmanship. The Court should deny AFG's Motion.

PRAYER

14. For these reasons, Travis Gates asks the Court to deny AFG's motion to consolidate this case with the Genuine Lifetime Case in the 17th Court in Tarrant County, Texas.

Respectfully submitted this 7th day of October, 2025.

Buchalter
A Professional Corporation

By: */s/ Matthew E. Yarbrough*

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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2025, a copy of the above and foregoing was filed electronically with the Clerk through the Court's ECF system, which will notify all parties of record.

/s/Matthew E. Yarbrough
Matthew E. Yarbrough

CERTIFICATE OF CONFERENCE

I certify that I have conferred, or made a reasonable attempt to confer, with counsel for the AFG regarding the merits of this motion.

/s/Matthew E. Yarbrough
Matthew E. Yarbrough

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Filing Description: Defendant's Objections and Response in Opposition to Plaintiff's Motion to Consolidate
Status as of 10/7/2025 4:11 PM CST

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