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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

AFG Companies, Inc.,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	Case No. 25-CV-00104
GENUINE LIFETIME LLC, a Wyoming)	
Limited Liability Company; BRAND)	
ENGAGEMENT NETWORK INC., a Wyoming)	
for Profit Corporation, d/b/a/ BEN AI, d/b/a BEN,)	
f/k/a BLOCKCHAIN EXCHANGE NETWORK)	
INC.; OCTOBER 3 RD HOLDINGS LLC, a)	
Wyoming Limited Liability Company; MICHAEL)	
LUCAS, individually; TYLER LUCK, Individually,)	
DUE FIGLIE, LLC, a Wyoming Limited Liability)	
Company, SHAWN LUCAS, individually,)	
)	
<i>Defendants.</i>)	

MOTION TO DISMISS WITHOUT PREJUDICE

COMES NOW, Plaintiff AFG Companies, Inc. (the “Plaintiff”), by and through its Counsel, Walker Law, and files this Motion to Dismiss Without Prejudice under Federal Rule of

Civil Procedure 41(a)(2). In support of this Motion, Plaintiff states as follows:

STANDARD

The 10th Circuit Court of Appeals has set forth the following standard for voluntary dismissals under F.R.C.P. 41(a)(2):

A district court should normally grant dismissal without prejudice, absent "legal prejudice" to the defendant. As we have acknowledged, The parameters of what constitutes "legal prejudice" are not entirely clear, but relevant factors the district court should consider include: [1] the opposing party's effort and expense in preparing for trial; [2] excessive delay and lack of diligence on the part of the movant; [3] insufficient explanation of the need for a dismissal; and [4] the present stage of litigation.

Mitchell v. Roberts, 43 F.4th 1074, 1083 (10th Cir. 2022). A district court's decision in relation to a Rule 41(a)(2) would be reviewed for an abuse of discretion. *Id.*

ARGUMENT

Plaintiff filed the above-captioned matter in the District Court of the Ninth Judicial District for the State of Wyoming, County of Teton, on January 21, 2025. On April 28, 2024, Defendants filed a Notice of Filing of Notice of Removal, removing the action to this Court.

Next, on or about May 5, 2025, Defendants filed their Motion to Dismiss. Plaintiff filed its Opposition to Defendant's Motion to Dismiss on June 2, 2025 and Defendant filed their Reply Brief in Support of their Motion to Dismiss on June 9, 2025. The Court entered its Order Granting Defendants' Motion to Dismiss on November 14, 2025. As to Plaintiff's remaining claims, Defendants filed their Answer to Complaint on December 15, 2025.

In addition to the foregoing pleadings, many of the above-captioned parties are engaged in parallel litigation, including a case commenced by Defendant Brand Engagement Network Inc. in the United States District Court, Northern District of Texas, Dallas Division, No. 3:25-cv-114-S-BN and another case. Additionally, Defendant Brand Engagement Network Inc. had commenced

another case against Plaintiff in the U.S. District Court for the Southern District of New York, No. 1:2025-cv-02245.

With this related litigation pending in other forums, Plaintiff moves this Court for an order dismissing this action and all claims, including defenses asserted therein, without prejudice, with each party bearing its own attorneys' fees, costs, and expenses. With the overlapping nature of the factual and legal determinations to be reached in the related federal cases, in the interests of judicial economy, and to avoid the potential for conflicting rulings and duplicative discovery procedures, Plaintiff desires to focus its efforts on its parallel claims and defenses already being pursued in other courts outside of the above-captioned proceedings.

The factors to be considered by the Court weigh in favor of granting Plaintiff's request. First, the above-captioned matter is still at the initial pleading stages, and no party has undertaken efforts towards preparing for trial or even advancing the discovery process. Second, there has not been substantial delay in making this request. Defendant filed its Answer approximately one (1) week ago. Third, dismissal without prejudice is justified because the related litigation between the Parties, commenced by Defendant Brand Engagement Network, would necessarily require all the Parties to expend substantial time, efforts, and fees in prosecuting parallel issues and factual claims in multiple jurisdictions, potentially leading to conflicting court orders. The Parties resources and focus would be better utilized in prioritizing the earlier-filed case in Texas. Furthermore, upon information and belief, a majority of the relevant documents, witnesses, and the Parties themselves reside outside of Wyoming, making Texas a more accessible forum for resolution of the disputes between the Parties. Finally, the posture of the above-captioned matter would not weigh against dismissal without prejudice at this stage when neither side has undertaken substantial time or expenses in furtherance of their claims and defenses.

CONCLUSION

Wherefore, Plaintiff respectfully requests the Court dismiss the above-captioned matter and Plaintiff's claims set forth therein without prejudice under F.R.C.P. 41(a)(2).

DATED 26th day of December, 2025.

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