

In the
UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AFG COMPANIES, INC., }
Plaintiff, }
v. } Civil Action No. 4:25-CV-01272-O
GENUINE LIFETIME, LLC, *et. al.*, }
Defendants. }
}

SECOND SUPPLEMENTAL DECLARATION OF MAURICE FITZPATRICK

TO THE HONORABLE JUDGE REED O'CONNOR:

1. I, Maurice Fitzpatrick, pursuant to 28 U.S.C. § 1746, submit this Second Supplemental Declaration in further support of my prior filings in this case and related proceedings, including Document Nos. 7, 8, and 10. This Declaration is also submitted in opposition to:
 - a. Defendants' Opposition to Motion to Remand (Doc. No. 11);
 - b. Plaintiffs' Reply in Support of Their Motion for Remand (Doc. No. 12); and
 - c. Defendants' Motion to Transfer Venue (Doc. No. 13)
2. This Declaration provides factual context, establishes relevance of newly introduced exhibits (A-R), and rebuts inaccurate characterizations made in these recent filings of plaintiffs, defendants and their counsel.

3. As a directly affected individual with first-hand knowledge of the underlying conduct and facts, a targeted party to both retaliation and suppression, and whistleblower regarding the events central to this dispute, I submit this Declaration in furtherance of my intervention rights and legal interest in ensuring that materially relevant facts and evidence are before the Court.

A. SEC Whistleblower Submission and Relatedness to Transaction

4. In 2024 and in connection with matters relevant to this action, I submitted a confidential whistleblower complaint to the SEC Office of the Whistleblower, Submission No. 17308-423-379-625 (hereinafter the “SEC Submission” or “Whistleblower Submission”). That SEC submission concerned alleged violations of federal laws and federal securities laws arising from conduct connected to, and preceding, a business combination, initial public offering (IPO), and subsequent public listing of different classes of securities on the NASDAQ Securities Exchange, completed on or about March 15, 2024 (hereinafter, the “Transaction”).
5. At a high level, my whistleblower submission reported alleged material misstatements and omissions concerning the nature, structure, and legitimacy of the Transaction and related commercial arrangements, including representations regarding operational readiness, technical capabilities, financial condition, and compliance with contractual and regulatory obligations. The allegations included that these representations were made or disseminated to the public, investors, market participants, and regulators in connection with the Transaction and the resulting public company’s securities (Brand Engagement Network, Inc. (“BEN”), NASDAQ symbols BNAI/BNAIW).
6. The SEC submission further alleged that senior executives and affiliated individuals and entities participated in, or had knowledge of, conduct that materially affected how the Transaction was presented to the market, and that internal objections or disclosures concerning the accuracy and legality of those representations were met with adverse employment actions. These allegations implicate federal laws, federal securities laws, market integrity, and regulatory disclosure obligations, rather than a mere post-closing contractual disagreement between private parties.

7. I am informed and believe that the parties to the Transaction have overwhelmingly sought to characterize their disputes under a private “contract dispute” label and/or classification, while avoiding any challenge to the legitimacy, validity, or regulatory compliance of the Transaction from which the Transaction parties benefited and continue to benefit, including the public listing of securities on a national securities exchange. My whistleblower submission directly concerns conduct that bears on those avoided issues and on the integrity and legitimacy of the Transaction itself.
8. I do not disclose the specific contents, factual detail, or evidentiary materials of my SEC whistleblower submission in this Declaration in order to preserve the confidentiality protections afforded under federal law. This summary is provided solely to explain, at a high level:
 - a. Why the issues reported to federal regulators are relevant to jurisdiction;
 - b. Why the issues plead by the Transaction parties in this case¹ are **not** truly confined to private contractual matters; and
 - c. Why I believe my continued whistleblowing effort(s) and attempt(s) at asserting my lawful intervention and legal rights under Texas state and federal law, in light of my exposure of active and ongoing fraud on the court², have been met with overwhelming force, retaliation, abuse of process, and obstruction from Transaction parties, their associates, affiliates and in several instances³, their legal counsel for greater than a year.

¹ Referring to Transaction plaintiffs, defendants and one or more proxy Transaction parties in a plethora of related cases in the N.D. Tex, S.D.N.Y, Dist. of WY.

² The fraud on the court, as alleged, dates to the originating, so-called “contract dispute” in Tarrant County Case No. 017-352358-24 (filed on April 30, 2024, a lawsuit hidden and not disclosed to hired employees until discovered in late October 2024, months later), has had the effect of indirect preservation of the Transaction’s integrity, legality, validity and legitimacy by the very parties continuing to reap mutual benefit from the Transaction. Upon information and belief, litigation of the so-called “contract disputes” appear to be manufactured by purported adverse parties as a distraction to the numerous frauds occurring prior to and throughout the Transaction that brought the Transaction to fruition and a public company, BEN, into existence on or about March 15, 2024.

³ Referring to adoption of Transaction parties’ legal strategy that includes alleged obstruction of my legal rights, deprivations of civil rights, other interferences including obstruction of my claims for injuries caused by Transaction parties, associate and affiliate individuals and entities, and their legal counsel.

B. Purpose and Clarification of Timeline

9. In contrast to assertions by Defendants, Plaintiffs and their counsel in this and related cases and/or filings that my presence and/or intervention is unrelated, irrelevant or even frivolous is disingenuous, couldn't be further from the truth, and misrepresents the facts. The timeline reflected in Exhibits A–R makes clear that I was hired under false pretenses, lied to for months before certain material facts began to be revealed by executives, which I then investigated independently to only discover more lies including an undisclosed Tarrant County lawsuit (017-352358-24), one of two lawsuits in existence at the time, in October 2024. actively involved in key meetings, phone calls, and correspondence as early as October 2024, and continuing through January 2025.

C. Summary of Key Exhibits

10. Exhibits A-G (October 11, 2024):

These audio and transcripts capture a meeting I attended with Dave Duggan (AFG CTO) and Jason DeLaPorte (AFG President) in which they admit the AI solution by BenAI did not work, that they engaged in a cover-up to protect investor Wright Brewer, and that AFG could not legally build a new solution under the terms of what was, as Dave Duggan and Jason DeLaPorte described, an Exclusive Reseller Agreement⁴, without breaching their obligations to BenAI. The conversation reveals widespread acknowledgment of fraudulent and unethical practices by key executives.

11. Exhibit H (October 16, 2024):

In an in-person engineering team meeting, when directly asked a very specific question from another engineering team member (J.A.), Dave Duggan denies any legal conflict with BenAI, contradicting earlier admissions of violations of exclusivity agreements and failed technology representations.

Notably, even when executives at AFG finally did disclose the existence of an Exclusive

⁴ Knowledge of this Exclusive Reseller Agreement was only now disclosed for the first time outside the executive ranks on October 11, 2024, seven months after being hired.

Reseller Agreement for the first time on October 11, 2024, no executive provided the text of this Exclusive Reseller Agreement – through independent research, where I then discovered additional undisclosed material, namely a Tarrant County lawsuit (017-352358-24), filed by my employer months prior alleging “contract dispute,” directly relevant to the true nature of my employment and the events that followed.

12. Exhibits I-Q (January 12, 2025):

Attorney Matthew Yarbrough, while purporting to represent parties sued by AFG, contacts me unsolicited and discusses the merits of my claims. He reveals knowledge of AFG's internal conduct, confirms collusion between parties (at the very least, through silence), and appears to attempt to coerce me into allowing him to “represent” me, and dissuade or redirect my legal strategy and claims for the benefit of Genuine Lifetime, LLC and its founders (Michael Todd Lucas, Tyler J. Luck and possibly others) and for the ultimate and undisclosed benefit of Brand Engagement Network, Inc. (“BEN”), a public entity brought into existence and propped-up on the NASDAQ Securities Exchange through the Transaction described above, and upon information and belief, is effectively controlled by:

- a. Michael Todd Lucas, a federally convicted financial felon, on active supervised release, carrying a \$4.9M restitution order at or about the time of the Transaction;
- b. Tyler J. Luck, purported husband, long-time business partner and business proxy of Michael Todd Lucas; and
- c. Several other insider entities and individuals including those owned, operated and controlled by Michael Todd Lucas, Tyler J. Luck, and other friends, family members and associates.

13. Exhibit R (January 12-17, 2025):

Includes direct text messages from Yarbrough offering, on behalf of parties adverse to me, to “cover my legal fees,” represent me in the Denton case (24-11876-442, which a fraudulent default judgement was obtained against me in retaliation for whistleblowing), and help me from being further harmed in the job market. I declined those offers and expressed concern about collusion, securities fraud, and ongoing obstruction. The exhibit also highlights how my disclosures prompted efforts to control or silence me.

D. Relevance to Jurisdiction and Venue

14. These exhibits demonstrate that:

- a. My induced employment, knowledge of material and central facts, and the injuries and harm I have suffered and sustain as a direct and/or proximate cause, preceded the onslaught of cases, spawned in collaboration by plaintiffs and defendants in various jurisdictions since my original Motion to Intervene in Tarrant County on November 12, 2024, that remains unadjudicated to date;
- b. Evidence exists that myself, and other software and data engineers, were hired under false and fraudulent pretenses, without full or even meaningful disclosure of true facts known to executives at all relevant times;
- c. Present and prior Attorneys for both sides, now including Shauna Wright (for AFG) and Matthew Yarbrough (for Genuine Lifetime, LLC, et al), had prior knowledge of my assertions and claims and deliberately excluded or manipulated proceedings to circumvent my rights;
- d. The attempted transfer to Wyoming (Doc. No. 13) is transparently tactical and not in the interest of justice, given my residency, lack of permanent housing, and the events of plaintiffs, defendants and others yet unnamed have overwhelmingly occurred in this Northern District of Texas;
- e. The remand attempt by Plaintiffs (Doc. No. 12) ignores the underlying federal civil rights and RICO issues raised in my earlier removal and other filings, and my constitutional right to intervene which has been obstructed and continued for at least the last year and include attorneys like Mark L. Hill, Mary W. Baker and others of the law firms of Scheef & Stone LLP and Henry Hill PLLC, McCathern Law, and law firms for which attorney Matthew E. Yarbrough is either employed or affiliated.

15. I have raised a valid jurisdictional challenge (personal and subject-matter) and I believe the evidence already on the records of related cases, evidence provided here in the form of exhibits, additional evidence yet to be provided, coupled with fraud on the court, manipulated procedural history in the underlying and related cases, longstanding unadjudicated threshold intervention, civil rights removal adjudication, Constitutional matters, integrity of the underlying and related cases, and the conduct of the parties and many counsel, will show that

this Court lacks subject-matter jurisdiction to hear the claims, counter-claims, and/or cross-claims of original plaintiff and defendants and that, as a sanction, the Court should dismiss all such claims of Plaintiff and Defendants, AFG Companies, Inc, Genuine Lifetime, LLC and Tyler J. Luck, with prejudice.

E. Conclusion

16. I respectfully submit this Declaration to clarify the timeline, preserve my legal rights, and assist the Court in evaluating the full context of underlying facts before ruling on Doc. Nos. 11, 12, or 13, which come long after the still unadjudicated threshold issues I raised as early as last year.
17. The conduct of both Plaintiffs and Defendants has largely occurred in the Northern District of Texas. Permitting transfer without addressing my jurisdictional challenge, unadjudicated intervention and civil rights removals, and constitutional rights would further prejudice my rights and allow actors and wrongdoers engaged in coordinated misconduct to avoid accountability and benefit from evasion. Furthermore, Plaintiffs and Defendants themselves independently and/or collectively decided to file a plethora of lawsuits in this Northern District of Texas.
18. Exhibits A through R are true and correct copies of communications in my possession, and I have maintained all original audio recordings referenced therein.
19. I request that the Court consider this submission in evaluating the entirety of the record before ruling on Doc. Nos. 11, 12, or 13, without addressing my jurisdictional challenge, the procedural history, and the unadjudicated threshold issues dating back some thirteen months.

I, Maurice Fitzpatrick, Jr., declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on: December 25, 2025

/s/ Maurice Fitzpatrick, Jr.

Maurice Fitzpatrick, Jr.
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Exhibits

Transcripts of Audio and/or Text Messaging

#	Description	Type
A	Dave Duggan (CTO), Friday, October 11, 2024	Audio/Transcript
B	Dave Duggan, Friday, October 11, 2024	Audio/Transcript
C	Dave Duggan (CTO) and Jason DeLaPorte (President), Friday, October 11, 2024	Audio/Transcript
D	Jason DeLaPorte (President), Friday, October 11, 2024	Audio/Transcript
E	Dave Duggan (CTO), Jason DeLaPorte (President), Friday, October 11, 2024	Audio/Transcript
F	Dave Duggan (CTO), Friday, October 11, 2024	Audio/Transcript
G	Jason DeLaPorte (President), Friday, October 11, 2024	Audio/Transcript
H	Dave Duggan (CTO), (J.A. – Engineering Team), Wednesday, October 16, 2024	Audio/Transcript
I	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
J	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
K	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
L	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
M	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
N	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
O	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
P	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
Q	Matthew Elliot Yarbrough (Attorney), Sunday, January 12, 2025	Audio/Transcript
R	Matthew Elliot Yarbrough (Attorney), January 12 - 17, 2025	Text Messages

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Second Supplemental Declaration of Maurice Fitzpatrick*, including all referenced Exhibits, has been served on all counsel of record via electronic service through the CM/ECF e-file system on December 25, 2025.

Respectfully submitted,

/s/ Maurice Fitzpatrick, Jr.
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