

Marc J. Randazza, NV Bar No. 12265
Alex J. Shepard, NV Bar No. 13582
RANDAZZA LEGAL GROUP, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
Telephone: 702-420-2001
ecf@randazza.com

Attorneys for Defendants
Spencer Cornelia, Cornelia Media LLC,
and Cornelia Education LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WEALTHY INC., and DALE BUCZKOWSKI,

Plaintiffs,

SPENCER CORNELIA, CORNELIA
MEDIA LLC, and CORNELIA
EDUCATION LLC,

Defendants.

Case No. 2:21-cv-01173-JCM-EJY

**DEFENDANTS SPENCER CORNELIA,
CORNELIA MEDIA LLC, AND
CORNELIA EDUCATION LLC'S
RENEWED MOTION FOR COSTS
AND ATTORNEYS' FEES**

WEALTHY INC., and DALE BUCZKOWSKI,

Plaintiffs,

v.

JOHN MULVEHILL, JOHN ANTHONY
LIFESTYLE, LLC, and OPTIMIZED
LIFESTYLE LLC,

Defendants.

Consolidated With:
Case No. 2:22-cv-00740-JCM-EJY

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DEFENDANTS RENEWED MOTION FOR COSTS AND ATTORNEYS' FEES

Defendants Spencer Cornelia, Cornelia Media LLC, and Cornelia Education LLC (collectively, "Defendants") file this renewed motion¹ for an award of costs and fees incurred in defending against Plaintiffs Wealthy Inc. and Dale Buczkowski's lawsuit, under 15 U.S.C. § 1117(a) and NRS 41.670(1)(a), as well as an additional award of \$30,000 under NRS 41.670(1)(b).

MEMORANDUM OF POINTS AND AUTHORITIES

1.0 INTRODUCTION

Plaintiffs Dale Buczkowski and Wealthy Inc. filed this suit against Defendants and then, for unexplained and unjustified reasons, waited nearly a year to sue Mulvehill, the person who actually made the statements. Plaintiffs then resisted consolidation of these actions, resisted discovery into Buczkowski's state of residence after Defendants learned he lied about his address, and necessitated multiple motions to compel due to their lack of cooperation in scheduling depositions and making frivolous claims of extreme confidentiality. They then went on to make waived and unfounded arguments on appeal, along with meritless motions to draw out the case even further once they lost on appeal. While fees are mandatory because of the Anti-SLAPP law, additional sanctions are proper because of the vexatious litigation conduct.

All of Plaintiffs' claims are inextricably intertwined, since they are all premised on the same statements. As the Court found in its order granting Defendants' Motion for Summary Judgment, and as the Ninth Circuit affirmed, none of Plaintiffs' claims had merit, and their claim under the Lanham Act was particularly weak because the statements did not amount to commercial speech. Indeed, none of the videos at issue provided anything other than an incidental reference to any of the services Defendants provide. Due to both the weakness of their Lanham Act claim and the unreasonable manner in which Plaintiffs litigated, this is an exceptional case entitling Defendants to an award of attorneys' fees under 15 U.S.C. § 1117(a). And now that the Ninth

¹ The Court denied without prejudice Defendants' prior motion for attorneys' fees in light of how the then-pending appeal could have affected entitlement to attorneys' fees, with leave to re-file 14 days after issuance of the mandate. ECF No. 280. The Ninth Circuit issued its mandate on April 16, 2026. Appeal ECF No. 91.

1 Circuit has reversed with instructions to grant Defendants’ special motion to dismiss under
2 Nevada’s Anti-SLAPP statute, Defendants are entitled to a mandatory award of attorneys’ fees
3 incurred in defending themselves against Plaintiffs’ state law claims, as well as an additional award
4 of \$10,000 per Defendant.

5 **2.0 FACTUAL BACKGROUND**

6 The Court is already familiar with the factual background of this case as it relates to the
7 merits of the parties’ claims and defenses. For purposes of this Motion, however, it is necessary
8 both to go over Plaintiffs’ unreasonable litigation conduct and address Plaintiff Dale Buczkowski’s
9 continued pattern of censorious behavior.

10 **2.1 Plaintiffs’ Litigation Conduct**

11 Prior to Buczkowski’s first deposition, Plaintiffs provided a number of documents
12 responsive to Defendants’ discovery requests asking for documents considered by their expert
13 witness on the subject of damages, including documents that provided information about their
14 customers, such as customer names and amounts spent. ECF No. 45-1 at ¶¶ 12-13. Defendants
15 deposed Buczkowski on August 13, 2022, and during that deposition asked questions about
16 Plaintiffs’ highest paying customers. ECF No. 45-2 at 134:13-136:10, 137:24-139:13, 149:18-
17 150:1, & 154:10-160:21. Buczkowski refused to answer these questions, claiming this information
18 was so sensitive that he could not provide it, even on an attorneys’ eyes only basis, which
19 necessitated suspending the deposition. *Id.* at 154:10-160:21.

20 This baseless refusal to provide such information necessitated Defendants filing a motion
21 to compel, asking for Buczkowski to attend a second deposition. ECF No. 45. Plaintiffs opposed
22 the motion to compel, making the *non-sequitur* argument that they had already made this objection
23 in response to discovery requests asking for completely different categories of information. ECF
24 No. 54. Defendants were thus required to file a reply in support of the motion, ECF No. 58. The
25 Court granted the motion to compel on October 4, 2022, and ordered Buczkowski to provide 4
26 dates in October for which he was available to be deposed. ECF No. 63. Plaintiffs continued to
27 play games even after this order, however, by providing two such dates that fell on a weekend and

1 refusing to provide additional dates when Defendants asked for them. ECF No. 64. This refusal
2 necessitated *another* motion to compel reasonable deposition dates (ECF No. 64), which Plaintiffs
3 opposed (ECF No. 73), necessitating another reply (ECF No. 74). The Court granted the second
4 motion to compel in part on October 24, 2022, and Defendants finally deposed Buczkowski again
5 on December 9, 2022. ECF No. 76.

6 Defendants also learned shortly after Buczkowski's deposition that there was reason to
7 believe Buczkowski had been dishonest about his state of residence, which had significant
8 implications for this Court's continued jurisdiction over the matter, and so they requested an
9 extension of discovery to explore this. Plaintiffs did not consent to the extension, necessitating a
10 motion to extend discovery (ECF No. 44), which Plaintiffs opposed (ECF No. 50), further
11 necessitating a reply (ECF No. 55). The Court granted the motion for extension of discovery to
12 allow for exploration of Buczkowski's place of residence. ECF No. 63. When the owner of the
13 house Buczkowski claimed to live in, Carlos Huerta, was deposed, it became clear that
14 Buczkowski committed perjury when asked about his place of residence. ECF No. 69 at 3-4; ECF
15 No. 69-3 at 21:16-23:10, 24:1-26:8, 26:23-27:25, 28:1-10, 29:15-32:10, 34:19-35:12, 38:4-39:25,
16 41:2-7, 41:22-44:8, & 46:8-11. In granting the Mulvehill Defendants' motions to dismiss, the
17 Court found that Buczkowski was not a Nevada resident. ECF No. 232 at 6.

18 Separately, on May 9, 2022, Plaintiffs filed an identical Complaint against John Mulvehill
19 and his entities. *Compare* ECF Nos. 43-1 & 43-2. Defendants filed a motion to consolidate the two
20 cases because they were based on identical factual allegations and should have been one case to
21 begin with. ECF No. 43. Rather than agreeing with this obvious conclusion, Plaintiffs opposed the
22 motion to consolidate (ECF No. 47), necessitating a reply from Defendants (ECF No. 48). The
23 Court granted the motion to consolidate, finding that "[t]hese two actions are largely identical"
24 and giving "little weight" to Plaintiffs' main argument in their opposition. ECF No. 94.

25 In an attempt to be economical in seeking fees in the event of an appeal of this Court's
26 summary judgment order, Defendants' counsel called Plaintiffs' counsel to inquire as to whether
27 (1) they planned to appeal the order, (2) whether they would agree to pay an agreed amount of

1 Defendants' Lanham Act fees to avoid unnecessary motion practice, and (3) whether they would
2 stipulate to extending the deadline to file a fee motion until after that appeal had concluded. ECF
3 No. 251-1 at ¶ 5. Plaintiffs' counsel laughed at the second suggestion, mentioned several days after
4 the phone call that Plaintiffs planned to appeal the order, and refused to consider staying the
5 deadline to file a fee motion. *Id.* at ¶ 6. Plaintiffs eventually filed their unsuccessful appeal, though
6 not until after requiring Defendants to undergo the expense of preparing their prior fee motion
7 (ECF No. 251) so as not to blow the deadline. At every juncture, Plaintiffs have done everything
8 they could to draw out these proceedings and to multiply the billing.

9 Plaintiffs continued this intransigence in the appeal. In their briefing, they repeated baseless
10 evidentiary objections with no explanation or support that were clearly contradicted by the record.
11 *See* Appeal ECF No. 39.1 at 25-26; Appeal ECF No. 52.1 at 8-16. They repeated their frivolous
12 argument that the Anti-SLAPP motion was untimely, despite having waived it previously and with
13 the benefit of Defendants explaining how the argument was frivolous. *See* Appeal ECF No. 39.1
14 at 65 n.6; Appeal ECF No. 52.1 at 18-19. After losing their appeal, they filed a petition for
15 rehearing as to their state-law claims which the Ninth Circuit denied without requiring a response.
16 *See* Appeal ECF Nos. 76.1 & 81. When Defendants petitioned for rehearing regarding the Ninth
17 Circuit's decision on the Anti-SLAPP appeal, Plaintiffs responded with a brief full of completely
18 new (and completely meritless) arguments, all of which they had waived by not bringing them in
19 this Court or in their merits briefing. Appeal ECF Nos. 74, 77, & 80. They continued to make new
20 and waived arguments in their motion to stay the mandate (Appeal ECF Nos. 84 & 85) and their
21 motion for leave to file a petition for rehearing (after the Ninth Circuit had told them they would
22 not entertain such a petition) (Appeal ECF No. 86). These successive meritless motions and
23 petitions racked up more attorneys' fees and delayed the fee award that Plaintiffs now face.

24 **2.2 Buczkowski's More Recent Scams and Attempts at Censorship**

25 As already briefed, Plaintiffs nominally filed suit over videos calling them scammers, even
26 though they never even attempted to demonstrate there was anything false about calling them
27 scammers. Since filing his notice of appeal, Buczkowski moved on to a different scam: falsely

1 calling himself a black belt in Brazilian Jiu Jitsu (“BJJ”). This is relevant because the end result of
 2 this scam is, as predicted, more baseless threats of defamation litigation, because Plaintiffs have
 3 not yet been held accountable for engaging in bad faith litigation to try and stifle criticism.

4 As this litigation progressed, Buczkowski had been spending months cozying up to high-
 5 profile martial artists and creating content about how he was training to become proficient in BJJ.
 6 See Derek Moneyberg Instagram posts, attached as **Exhibit 1**; List of “Latest” videos on Derek
 7 Moneyberg YouTube channel, attached as **Exhibit 2**.² He then made the outrageous claim that he
 8 had become a black belt in BJJ after 3 and a half years of training, whereas even prodigies in the
 9 martial art would typically take significantly longer to develop such proficiency. Derek Moneyberg
 10 “BJJ Black Belt Earned” Instagram post, attached as **Exhibit 3**.³ It did not take the mixed martial
 11 arts (“MMA”) community long to discover that Buczkowski did not earn his black belt through
 12 skill, but rather buying it from a well-regarded fighter with flexible ethics. Numerous personalities
 13 within that community lambasted Buczkowski for this lie. See, e.g., Napoleon Blownapart, “THE
 14 FANTASTICAL GRIFTING OF A FAKE GURU,” YOUTUBE (Aug. 15, 2025);⁴ Bulletproof For
 15 BJJ, “How Moneyberg Got His Black Belt In 3.5 Years,” YOUTUBE (Jul. 21, 2025);⁵ Nathaniel
 16 Cho, “How A Fraud Became A Black Belt,” YOUTUBE (Sept. 2, 2025);⁶ TheMacLife, “Sean
 17 Strickland meets Derek Moneyberg: ‘You’re the scumbag!’”, YOUTUBE (Sept. 11, 2025);⁷ Mark
 18 Fighting, “The Fake Guru Who Lied His Way Into MMA,” YOUTUBE (Oct. 21, 2025);⁸ “Is Derek
 19 Moneyberg’s Black Belt Legit?”, Goldbjj.com, attached as **Exhibit 4**.⁹

20 Buczkowski then, in typical form for a SLAPP plaintiff, threatened one of these critics,
 21 Sean Strickland, with a defamation lawsuit. The Ariel Helwani Show, “Derek Moneyberg TELLS
 22

23 ² Available at: <https://www.youtube.com/@DerekMoneyberg/videos>.

24 ³ Available at: <https://www.instagram.com/p/DLtc0mkRW09/>.

25 ⁴ Available at: <https://www.youtube.com/watch?v=19OaCHOLoxI>.

26 ⁵ Available at: <https://www.youtube.com/watch?v=T0bBhr7teRc>.

27 ⁶ Available at: <https://www.youtube.com/watch?v=UZW70f9j6u8>.

⁷ Available at: <https://www.youtube.com/watch?v=m2JRx8pgEVE>.

⁸ Available at: <https://www.youtube.com/watch?v=eZ-Pmcy8phw>.

⁹ Available at: <https://goldbjj.com/blogs/roll/derek-moneyberg-bjj>.

1 ALL, Addresses Black Belt Controversy, Reveals Sean Strickland Lawsuit,” YOUTUBE (Oct. 20,
2 2025);¹⁰ Fight Society, “Derek Moneyberg Takes ANOTHER HUGE L... This Time in Court,”
3 YOUTUBE (Feb. 9, 2026).¹¹ It is evident that Buczkowski has not yet learned his lesson. This Court
4 has an opportunity to impart the lesson, via a maximally deterrent fee and sanctions award under
5 Nevada’s Anti-SLAPP statute, that censoring critics through litigation and threats of litigation is
6 not a viable strategy.

7 **3.0 LEGAL STANDARD**

8 **3.1 Anti-SLAPP Fees**

9 NRS 41.670(1)(a) provides that a court “*shall* award reasonable costs and attorney’s fees
10 to the person against whom the action was brought” (emphasis added). Whether to award fees
11 is not discretionary; only the amount of the award is. A prevailing defendant is entitled to all fees
12 incurred in their defense, even if not directly related to the Anti-SLAPP motion. *Smith v.*
13 *Zilverberg*, 137 Nev. 65, 73, 481 P.3d 1222, 1231 (Nev. 2021).

14 **3.2 Lanham Act “Exceptional Case” Fees**

15 While the Anti-SLAPP law’s mandatory fee award should cover nearly all of the fees, there
16 is an independent and alternative basis for fees under the Lanham Act. Cornelia does not seek
17 double recovery, but it would be helpful for this Court to grant the fee motion on the alternative
18 and independent ground to dissuade misuse of the Lanham Act as a back door into federal court
19 when there is a SLAPP suit in play. This half-clever idea percolates to the surface every so often,
20 and it is a good idea for a federal court to issue an opinion that it is not proper.

21 Under 15 U.S.C. § 1117(a), “[t]he court in exceptional cases may award reasonable
22 attorney fees to the prevailing party.” Until relatively recently, a case was deemed “exceptional”
23 if “a plaintiff’s case is groundless, unreasonable, vexatious, or pursued in bad faith.” *Interstellar*
24 *Starship Servs., Ltd. v. Epix Inc.*, 184 F.3d 1107, 1112 (9th Cir. 1999). This case was all of the
25 above, but Defendants need not show all of this because *Octane Fitness, LLC v. Icon Health &*

26 _____
27 ¹⁰ Available at: <https://www.youtube.com/watch?v=B7O8yAB9awY>.

¹¹ Available at: <https://www.youtube.com/watch?v=eDw7Q4s884w&t=65s>.

1 *Fitness* lowered the standard. 134 S. Ct. 1749 (2014). In analyzing the Patent Act’s analogous fee
 2 provision,³ the Supreme Court created a holistic standard for exceptionality. It stated that:

3 an ‘exceptional’ case is simply one that stands out from the others with respect to
 4 the substantive strength of a party’s litigating position (considering both the
 5 governing law and the facts of the case) or the unreasonable manner in which the
 6 case was litigated. District courts may determine whether a case is ‘exceptional’ in
 the case-by-case exercise of their discretion, considering the totality of the
 circumstances.

7 *Id.* at 1756.¹² The Court cited a “‘nonexclusive list of ‘factors,’ including ‘frivolousness,
 8 motivation, objective unreasonableness (both in the factual and legal components of the case) and
 9 the need in particular circumstances to advance considerations of compensation and deterrence.’”

10 *Id.* at 1756 n.6 (quoting *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 534 (1994)). The Ninth Circuit has
 11 found that the *Octane Fitness* standard applies to Lanham Act cases, and that a district court must
 12 consider the “‘totality of the circumstances’ to determine if the case was exceptional, exercising
 13 equitable discretion in light of the nonexclusive factors identified in *Octane Fitness* and *Fogerty*,
 14 and using a preponderance of the evidence standard.” *Sunearth, Inc. v. Sun Earth Solar Power*
 15 *Co.*, 839 F.3d 1179, 1181 (9th Cir. 2016).

16 3.3 Standards for Assessing Reasonableness of Fees

17 When applying federal law, courts in this District use the “lodestar” method to calculate
 18 reasonable fees, *i.e.*, multiplying the hours reasonably expended on litigation by a reasonable
 19 hourly rate. *See U.S.A. Dawgs, Inc. v. Crocs, Inc.*, No. 2:16-cv-1694 JCM (PAL), 2017 U.S. Dist.
 20 LEXIS 121857, *11 (D. Nev. Aug. 2, 2017) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433
 21 (1983)). “There is a strong presumption that the lodestar figure represents a reasonable fee.”
 22 *Jordan v. Multnomah County*, 815 F.2d 1258, 1262 (9th Cir. 1987).

23 Regarding Anti-SLAPP fees, “[i]f state substantive law governs a case, then an award of
 24 attorney fees is also governed by state law.” *Muniz v. United Parcel Serv., Inc.*, 738 F.3d 214, 218
 25 (9th Cir. 2013). Defendants’ Anti-SLAPP motion only applied to Plaintiffs’ state-law claims, and

26 _____
 27 ¹² The Supreme Court also specified that the standard of proof for exceptionality is by a
 preponderance of the evidence, rather than clear and convincing evidence. *See id.* at 1758.

1 so Nevada state law governs the standards for assessing a reasonable fee as to fees incurred in
 2 defending against those claims. Under Nevada law, a court should consider the following factors
 3 when determining whether a litigant’s claimed fees are reasonable:

- 4 • The quality of the advocate; his ability, training, education, experience, professional standing, and skill;
- 5 • The character of the work done; its difficulty, intricacy, importance, the time and skill required, the responsibility imposed and the prominence and character of the parties and the importance of the litigation;
- 6 • The work actually performed by the lawyer; the skill, time and attention given to the work; and;
- 7 • The result; whether the attorney was successful and what benefits were derived.

8
 9 *Schouweiler v. Yancy Co*, 101 Nev. 827, 833-34 (1985) (citing *Brunzell v. Golden Gate Nat’l Bank*,
 10 85 Nev. 345, 349 (1969) (known as the *Brunzell* factors). Nevada courts also typically use the
 11 lodestar method in determining a reasonable fee award. *Shuette v. Beazer Homes Holdings Corp.*,
 12 121 Nev. 837, 864 (Nev. 2005).

13 LR 54-14 identifies several factors¹³ for a court to consider in assessing an application for
 14 fees. These factors are:

- 15 (A) The results obtained and the amount involved;
- 16 (B) The time and labor required;
- 17 (C) The novelty and difficulty of the questions involved;
- 18 (D) The skill requisite to perform the legal service properly;
- 19 (E) The preclusion of other employment by the attorney due to acceptance of the case;
- 20 (F) The customary fee;
- 21 (G) Whether the fee is fixed or contingent;
- 22 (H) The time limitations imposed by the client or the circumstances;
- 23 (I) The experience, reputation, and ability of the attorney(s);
- 24 (J) The undesirability of the case, if any;
- 25 (K) The nature and length of the professional relationship with the client;
- 26 (L) Awards in similar cases; and
- 27 (M) Any other information the court may request.

23 Given the significant overlap between the *Brunzell* factors and LR 54-14, there is no need to
 24 provide separate analyses for reasonableness under federal and state law.

26 ¹³ These are, in essence, a codification of the factors set forth in *Kerr v. Screen Extras Guild, Inc.*,
 27 526 F2d 67, 70 (9th Cir. 1975). See *Nat’l Council of La Raza v. Cegavske*, No. 3:12-cv-00316-
 MMD-VPC, 2017 U.S. Dist. LEXIS 95414, *4-5 (D. Nev. June 21, 2017).

1 **4.0 ARGUMENT**

2 **4.1 This is an “Exceptional Case” Under the Lanham Act**

3 The Court granted Defendants’ Motion for Summary Judgment and dismissed all of
4 Plaintiffs’ claims against them. The Ninth Circuit affirmed. Defendants are thus prevailing parties
5 entitled to attorneys’ fees if the Court finds this case is “exceptional” under 15 U.S.C. § 1117(a).¹⁴
6 The *Octane Fitness* standard provides for a holistic test to determine exceptionality, with the bases
7 for a finding of exceptionality generally falling into two categories: (1) the substantive strength of
8 the parties’ litigation positions; and (2) whether a party unreasonably litigated the case. *See* 134 S.
9 Ct. at 1756. This is an exceptional case in both categories.

10 **4.1.1 The Weakness of Plaintiffs’ Litigation Position**

11 A claim is objectively unreasonable where the party advancing it “should have known from
12 the outset that its chances of success in th[e] case were slim to none.” *SOFA v. Entm’t v. Dodger*
13 *Prods., Inc.*, 709 F.3d 1273, 1280 (9th Cir. 2013). From its inception, this case, and particularly
14 the Lanham Act claim, was dead on arrival. Rather than sue the person who actually made the
15 statements at issue, Plaintiffs chose to sue Defendants, who produced the YouTube videos in which
16 the statements were made. The claims here were always objectively unreasonable, and the Court
17 should find that this case is exceptional.

18 Plaintiffs’ unfair competition claim rested on YouTube videos posted by Defendants which
19 made no more than an incidental reference to any of Defendants’ services. They did not discuss
20 anything that Defendants sold or offered, they bore none of the indicia of an advertisement, and
21 Plaintiffs never provided any evidence of an economic motivation, thus failing to show the videos
22 constituted commercial speech. *See Hunt v. City of L.A.*, 683 F.3d 703, 715 (9th Cir. 2011) (citing
23 *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 66-67 (1983)); *see also Ariix, LLC v.*
24 *NutriSearch Corp.*, 985 F.3d 1107, 1115-16 (9th Cir. 2021). Commercial speech is the most basic
25 threshold requirement for a Lanham Act claim; none of these characteristics alone are enough to

26 _____
27 ¹⁴ Defendants may also recover attorneys’ fees under Nevada’s Anti-SLAPP law. That entitlement
is automatic, however, and need not be briefed.

1 show commercial speech, and Plaintiffs provided no evidence as to *any* of them. As the Court
2 found, the “fatal flaw” in Plaintiffs’ argument is that none of the videos themselves contained any
3 form of promotion of Defendants’ services. ECF 247 at 8-9. And while the Court did not discuss
4 the other elements of an unfair competition claim, this finding as to lack of commercial speech
5 necessarily establishes that none of the other elements were satisfied. The videos could not
6 influence consumers to purchase Defendants’ services, because his services were not even
7 mentioned in them, and Plaintiffs provided no evidence that Defendants engaged in any form of
8 advertising campaign to reach the relevant purchasing public. *Ariix*, 985 F.3d at 1115. Even a
9 cursory review of Defendants’ videos would have informed Plaintiffs and their counsel that the
10 unfair competition claim was meritless from the outset. Certainly, by the time of Mr. Cornelia’s
11 deposition on May 11, 2022, where he made it clear there was nothing commercial about the videos
12 and that he had no reason to believe any of the statements were false, Plaintiffs should have known
13 their claims were baseless. Plaintiffs made little effort to improve their arguments on appeal, as
14 they principally repeated the same arguments that this Court rejected or made new arguments that
15 they waived by not raising them below. *See* Appeal ECF Nos. 16.1 at 48-52; 39.1 at 27-42.

16 “An award of attorney’s fees may enable parties to pursue successful defenses by ensuring
17 that the litigation cost of vindication does not exceed the prevailing party’s private benefits.” *Int’l*
18 *Inst. of Mgmt. v. Org. for Econ. Cooperation & Dev.*, No. 2:18-cv-01748-JCM-GWF, 2019 U.S.
19 Dist. LEXIS 186907, *10 (D. Nev. Oct. 29, 2019). This Court in *Org. for Econ. Cooperation* found
20 that a prevailing defendant in a copyright infringement case, applying the same “exceptional case”
21 standard, was entitled to attorneys’ fees because “IIM’s suit was objectively unreasonable. An
22 award of attorney’s fees will thus serve the interest of deterring such suits. Moreover, nothing in
23 the record indicates that defendants have received any financial benefit from successfully
24 defending this suit,” and so “an award of attorney’s fees in this case furthers the goals of the
25 Copyright Act.” *Id.* Defendants engaged in First Amendment protected speech, and Plaintiffs tried
26 to abuse federal trademark law to silence criticism. An exceptional case fee award would serve the
27 important function of notifying other would-be unfair competition plaintiffs that they cannot target

1 expressive speech by abusing the Lanham Act and get away without consequence.

2 **4.1.2 Plaintiffs’ Unreasonable Litigation Makes this Case Exceptional**

3 As outlined in Section 2.1, *supra*, Plaintiffs litigated this case in an unreasonable manner.
4 First, they began their campaign of litigation by suing the publisher, rather than the speaker, of the
5 allegedly actionable statements, placing the brunt of initial litigation on parties with only a
6 tangential relationship to Plaintiffs’ actual dispute. They then waited until discovery was about to
7 close in this matter, nearly a year after filing the complaint, to sue Mulvehill, the speaker of the
8 statements. When Defendants took the obvious step of attempting to consolidate these identical
9 actions, Plaintiffs opposed it, claiming that consolidation would “needlessly delay” resolution of
10 this case because they waited so long to sue Mulvehill. ECF 47 at 8-9.

11 Plaintiffs then made groundless objections to providing information about their customers,
12 even though they had already provided the categories of information requested. This necessitated
13 a motion to compel, which the Court granted. After being ordered to provide dates for a continued
14 deposition, Buczkowski provided weekends and refused to provide reasonable deposition dates,
15 requiring a second motion to compel that the Court granted. Upon learning that Buczkowski lied
16 about his place of residence, Defendants had to file a motion to extend discovery to explore this
17 issue, which Plaintiffs opposed and the Court granted. When Defendants attempted to compromise
18 on the amount of Lanham Act fees Plaintiffs would be required to pay and otherwise tried to limit
19 the costs of litigation pending an anticipated appeal, Plaintiffs were either silent or laughed at
20 Defendants, causing Defendants to undergo the expense of filing a fee motion despite Plaintiffs
21 fully intending on appealing. In the course of the appeal, Plaintiffs were just as unreasonable. They
22 frequently made arguments that were either frivolous or that they had waived, and they attempted
23 to drag out the appellate process for as long as possible once they realized they had lost.

24 Plaintiffs’ unreasonable litigation conduct caused Defendants to incur significant
25 additional fees that would have been unnecessary had Plaintiffs simply sued the correct person at
26 the outset, not lied about Buczkowski’s residence, and not taken frivolous positions in discovery
27 disputes. Other courts have found that such litigation conduct can make a case exceptional under

1 the Lanham Act. *See Yuga Labs, Inc. v. Ripps*, No. CV 22-4355, JFW (JEMx), 2023 U.S. Dist.
 2 LEXIS 192487, *59 (C.D. Cal. Oct. 25, 2023) (finding a case was exceptional under Lanham Act
 3 because “Defendants were obstructive and evasive throughout their deposition and during their
 4 trial testimony, which unnecessarily complicated these proceedings”); *Jackson v. Gaspar*, No.
 5 2:19-cv-10450-DOC-E, 2022 U.S. Dist. LEXIS 110670, *14 (C.D. Cal. Feb. 24, 2022) (finding
 6 case was exceptional due to “antagonistic discovery conduct” that was “improperly motivated and
 7 sought to drag out or obfuscate proceedings,” such as deposition conduct where the defendant’s
 8 “preparation, recollection and candor appear to have been marginal at best”). Plaintiffs’ conduct
 9 warrants a finding that this case is exceptional under the Lanham Act.

10 **4.2 The Fees Requested are Reasonable**

11 **4.2.1 Hours Worked**

12 There are three categories of time spent on this matter: (1) hours attributable solely to
 13 defending against Plaintiffs’ state law claims and the Anti-SLAPP Motion (AS); (2) hours
 14 attributable solely to defending against Plaintiffs’ Lanham Act claim (LA); and (3) hours that are
 15 inextricably connected to and intertwined with all claims (INTW). Declaration of Marc J.
 16 Randazza (“Randazza Decl.”), attached as **Exhibit 5**, at ¶ 5. Hours in the third category are
 17 compensable under both statutes.¹⁵ The Supreme Court in *Hensley v. Eckerhart*, 461 U.S. 424, 435
 18 (1983) (superseded by statute on unrelated grounds), found that when all claims for relief:

19 Involve a common core of facts ... [m]uch of counsel’s time will be devoted
 20 generally to the litigation as a whole, making it difficult to divide the hours
 21 expended on a claim-by-claim basis. Such a lawsuit cannot be viewed as a series of
 22 discrete claims. Instead, the district court should focus on the significance of the
 overall relief obtained by the plaintiff in relation to the hours reasonably expended
 on the litigation.

23 There is no question that Plaintiffs’ state-law claims all shared a common core of facts with
 24 Plaintiff’s Lanham Act claims. All claims were premised on the exact same statements, and

25 _____
 26 ¹⁵ There are numerous billing entries referring to work in connection with Defendants’ Anti-
 27 SLAPP Motion. While Defendants filed two separate documents for the Anti-SLAPP Motion and
 Motion for Summary Judgment to comply with LR IC 2-2(b), these documents are identical and
 these time entries refer to work on both motions. Randazza Decl. at ¶ 6.

1 Plaintiffs' Lanham Act claims were premised upon the alleged falsity of those statements.
 2 Moreover, no discovery or motion practice was specifically attributable to Plaintiffs' Lanham Act
 3 claims. All discovery into the falsity of the statements and both Plaintiffs' and Defendants'
 4 respective businesses was equally relevant to the Lanham Act claims, the state law claims, and
 5 Plaintiffs' alleged damages.

6 Five attorneys worked compensable hours: Marc J. Randazza, Ronald D. Green, Jay M.
 7 Wolman, Alex J. Shepard, and Trey A. Rothell. Randazza Decl. at ¶ 7. Additionally, 6 support
 8 staff worked compensable hours: Brittani Holt, Cassidy Flavin, Suzanne Levenson, Leora
 9 Dumanlang, Rachel Sinclair, and Casey Spring. Randazza Decl. at ¶ 8.

10 The compensable hours and fees recorded by RLG are as follows:

Timekeeper	Lanham Act	Anti-SLAPP	Intertwined	Total Hours/Fees
Marc J. Randazza	0	16.4 / \$15,660	170.2 / \$150,340	186.6 / \$166,000
Ronald D. Green	0	0.9 / \$650	39.3 / \$27,590	40.2 / \$28,240
Jay M. Wolman	0	3.2 / \$2,395	9 / \$6,545	12.2 / \$8,940
Alex J. Shepard	27.3 / \$15,960	90 / \$49,625	447.8 / \$242,605	565.1 / \$308,190
Trey A. Rothell	0	.4 / \$180	71.8 / \$30,295	72.2 / \$30,475
Brittani Holt	0.2 / \$35	7.3 / \$1,277.5	184.1 / \$32,217.50	191.6 / \$33,530
Cassidy Flavin	0	1.9 / \$380	29.9 / \$5,467.50	31.8 / \$5,847.50
Suzanne Levenson	0	0	19.1 / \$3,342.50	19.1 / \$3,342.50
Leora Dumanlang	0	4.9 / \$980	13.2 / \$2,640	18.1 / \$3,620
Rachel Sinclair	0	0	4.7 / \$940	4.7 / \$940
Casey Spring	0	0	3.9 / \$780	3.9 / \$780
Totals:	27.5 / \$15,995	125 / \$71,147.50	993 / \$502,762.50	1145.50 / \$589,905

19 Spreadsheet of billing entries, attached as Exhibit 6; Randazza Decl. at ¶¶ 9, 12. The hours and
 20 fees shown in this table only reflect the hours for which Defendants seek compensation; they do
 21 not include discounts and reductions provided as a matter of billing discipline and the decision to
 22 remove multiple timekeepers who provided relatively minor amounts of work on this case.
 23 Randazza Decl. at ¶ 10. In addition to this attorney work, Defendants incurred \$26,007.50 in non-
 24 taxable costs for the fees charged by expert witness Rick Hoffman. *Id.* at ¶ 11; ECF 252 at 3-10.

25 4.2.2 Hourly Rates

26 RLG's hourly rates have increased over the life of this case. Attorney Marc J. Randazza's
 27 customary hourly rate ranges from \$800 to \$1,000 per hour, Attorneys Ronald D. Green and Jay

1 M. Wolman's rates range from \$600 to \$750 per hour, Attorney Alex J. Shepard's rate ranges from
 2 \$450 to \$750¹⁶ per hour, and Attorney Trey A. Rothell's rate ranged from \$325 to \$450¹⁷ per hour.
 3 Randazza Decl. at ¶ 13. Paralegals Brittani Holt, Cassidy Curran, and Suzanne Levenson's hourly
 4 rates were \$175 to \$200 per hour. Randazza Decl. at ¶ 13.¹⁸

5 Accordingly, Defendants are entitled to a total fee award of \$589,905.00, representing
 6 \$71,147.50 attributable specifically to Anti-SLAPP, \$15,995.00 specifically attributable to
 7 Lanham Act work, and \$502,762.50 for work inextricably intertwined with Anti-SLAPP and
 8 Lanham Act work. *Id.* at ¶ 15. This is in addition to the \$26,007.50 in expert witness fees.

9 **4.2.3 The Results Obtained and the Amount Involved**

10 While Plaintiffs never had any chance of prevailing on their claims, their Complaint sought
 11 an award of \$2 million in "compensatory, consequential, and/or incidental damages,"
 12 disgorgement of income received as a result of the complained-of statements, an award of punitive
 13 damages, the costs of corrective advertising, and an award of attorneys' fees. ECF 1 at 23. During
 14 the course of litigation, Plaintiffs specified that they were seeking compensatory damages of \$5
 15 million as of January 6, 2022, presumably with the expectation of seeking damages allegedly
 16 suffered after this date as well. *See* Plaintiffs' Fourth Supplement to Initial Disclosures, attached
 17 as **Exhibit 7**, at 10. According to Plaintiffs, millions of dollars were at stake.

18 Despite the extremely high dollar value Plaintiffs placed on this case, they received nothing
 19 from Defendants. Instead, all their claims were dismissed with prejudice when the Court granted

20
 21 ¹⁶ Attorney Shepard was promoted from associate to partner in March 2023, hence the significant
 difference in hourly rate over the course of this litigation.

22 ¹⁷ Over the course of this litigation, Mr. Rothell was promoted from law clerk to associate attorney,
 which is why his rate increased.

23 ¹⁸ RLG extended a 25% discount to Defendants on all fees in connection with District Court work,
 24 with the understanding that RLG would seek recovery of Defendants' lodestar fees at RLG's
 customary rates. Thus, to ensure that the Defendants had access to justice, they were entitled to
 25 discounts on their bills if they paid within a specified period. Defendants adhered to that
 commitment and received discounts. *See* Randazza Decl. at ¶ 41. There was no such discount
 26 system as to appellate work, as RLG provided that work on an attorneys' fees contingency basis
 27 for all fees beyond \$35,000. Randazza Decl. at ¶ 42. Because this Motion is brought based upon
 lodestar rates, the total, undiscounted fee is sought based upon RLG's customary rates.

1 summary judgment in Defendants' favor. Defendants' position only improved on appeal, as they
 2 enjoyed a complete victory and further entitlement to fees and additional amounts under Nevada's
 3 Anti-SLAPP statute. Considering the outcome of this case and the considerable potential liability
 4 for Defendants, this factor weighs in Defendants' favor.

5 **4.2.4 The Time and Labor Required**

6 This matter involved significant time and labor due to the complicated issues of fact and
 7 law involved. These complexities were exacerbated by Plaintiffs' unreasonable litigation conduct.
 8 Defendants incorporate by reference Sections 2.1 and 4.1.2 of this Motion, describing at length the
 9 nature of Plaintiffs' unreasonable conduct, which necessarily increased the time that Defendants'
 10 counsel was required to spend litigating this matter both at the District Court and on appeal.

11 Defendants' counsel attempted to work more efficiently on this matter by having lower-
 12 cost attorneys perform work such as research and drafting legal memoranda, while higher-billing
 13 attorneys were largely relegated to making strategic decisions, preparing the final drafts of
 14 motions, and appearing at hearings. Randazza Decl. at ¶ 16.¹⁹ This factor favors Defendants.

15 **4.2.5 The Novelty and Difficulty of the Questions Involved**

16 This case involved the application of defamation law, federal law under the Lanham Act,
 17 and federal rules and procedure to resolve a complex dispute in Defendants' favor. Litigating this
 18 case involved discovery into Plaintiffs' claimed damages, which required the retention of an
 19 economic damages expert. Moreover, complications regarding Plaintiff's residence – which was
 20 caused by Plaintiff's own deceit – and completely avoidable disputes regarding consolidation and
 21 claims of trade secret protection over documents and information added novelty and difficulty of
 22 the questions involved in this case. Once this Court issued its order resolving Plaintiffs' claims, all
 23 parties filed cross-appeals, which involved extensive briefing. And even after Plaintiffs lost on
 24 appeal, Defendants had to spend time researching and briefing Plaintiffs belatedly raised
 25

26 ¹⁹ The bulk of the work on this case was performed by Attorney Shepard. While he is currently a
 27 partner-level attorney, he was an associate when he performed the vast majority of the District
 Court work on the case. *Id.* at ¶ 17.

1 arguments regarding the applicability of Nevada’s Anti-SLAPP law in federal court. Accordingly,
2 this factor weighs in favor of the requested award.

3 **4.2.6 The Skill Requisite to Perform the Legal Services Properly**

4 As described herein, this case not only involved complex issues of law and fact, but it also
5 required Defendants’ attorneys to resolve discovery disputes through complicated motion practice,
6 to prepare for and attend lengthy, technical depositions, including on issues of economic damages.
7 Defendants’ counsel are uniquely situated to handle such cases owing to their niche expertise in
8 complex defamation cases. Accordingly, the skill required favors the requested fee award.

9 **4.2.7 Preclusion of Other Attorney Employment via Case Acceptance**

10 Defendants’ counsel is a small law firm that can only take a limited number of cases.
11 Randazza Decl. at ¶ 18. Taking this case precluded the firm from accepting other work which
12 would have filled the gap, particularly given the length of time this case has gone on. *Id.*

13 **4.2.8 The Customary Fee**

14 This factor looks to the customary fee attorneys in the market where the work was
15 performed and the type of work performed. *See Hohlbeing v. Utah Land Res. LLC*, No. 3:08-cv-
16 00347-RCJ-VPC, 2015 U.S. Dist. LEXIS 39494, *14 (D. Nev. Mar. 27, 2015).

17 The Adjusted Laffey Matrix, attached as **Exhibit 8**,²⁰ provides some guidance as to
18 customary rates for attorneys of comparable experience to Defendants’ counsel. Mr. Randazza’s
19 rates range from \$800 to \$1,000 per hour and he has 24 years of experience as an attorney.

20 _____
21 ²⁰ The Laffey Matrix has been used by courts in this Circuit as a guidepost in determining the
22 reasonableness of attorneys’ fees. *See, e.g., Vasquez v. Libre by Nexus, Inc.*, No. 17-cv-00755 CW,
23 2022 U.S. Dist. LEXIS 180791, at *46 n.11 (N.D. Cal. Oct. 3, 2022) (“The Laffey Matrix is ‘a
24 widely recognized compilation of attorney and paralegal rates based on various levels of
25 experience’ upon which courts, including those in this district, routinely rely to determine the
26 reasonableness of attorney hourly rates.”) (quoting *Theme Promotions, Inc. v. News Am. Mktg.*
27 *FSI, Inc.*, 731 F. Supp. 2d 937, 948 (N.D. Cal. 2010)); *Rivera v. Rivera*, No. 5:10-CV-01345-LHK,
2011 U.S. Dist. LEXIS 93704, at *5-6 (N.D. Cal. Aug. 22, 2011); *Young v. Polo Retail, LLC*, 2007
U.S. Dist. LEXIS 27269, *20 (N.D. Cal. Mar. 28, 2007) (noting that “[o]ne reliable source for rates
that vary by experience levels is the *Laffey* matrix used in the District of Columbia”); *In re HPL
tech., Inc., Secs. Litig.*, 366 F. Supp. 2d 912, 921 (N.D. Cal. 2005) (finding that Laffey Matrix is a
“well-established objective source for rates that vary by experience”); *Recouvreur v. Carreon*, 940
F. Supp. 2d 1063, 1070 (N.D. Cal. 2013).

1 Randazza Decl. at ¶ 19. According to the Adjusted Laffey Matrix, an attorney of Mr. Randazza’s
2 experience is able to bill at a rate of \$914 to \$1,227 per hour over the duration of this case, which
3 is higher than his hourly rate. **Exhibit 8**.

4 Attorney Ronald D. Green’s customary rate ranges from \$600 to \$750 per hour and he has
5 25 years of experience as an attorney. Randazza Decl. at ¶ 29. According to the Adjusted Laffey
6 Matrix, an attorney of Mr. Green’s experience is able to bill at a rate from \$1,057 to \$1,227 per
7 hour, which is significantly higher than his hourly rate. **Exhibit 8**.

8 Attorney Jay M. Wolman’s customary rate ranges from \$600 to \$750 per hour and he has
9 25 years of experience as an attorney. Randazza Decl. at ¶ 30. According to the Adjusted Laffey
10 Matrix, an attorney of Mr. Wolman’s experience is able to bill at a rate from \$1,057 to \$1,227 per
11 hour, which is significantly higher than his hourly rate. **Exhibit 8**.

12 Attorney Alex J. Shepard’s customary rate ranges from \$450 to \$750 per hour and he has
13 12 years of experience as an attorney. Randazza Decl. at ¶ 31. According to the Adjusted Laffey
14 matrix, an attorney of Mr. Shepard’s experience is able to bill at a rate from \$676 to \$1,019 per
15 hour, which is significantly higher than his hourly rate. **Exhibit 8**.

16 Attorney Trey A. Rothell’s customary rate ranges from \$325 to \$450 per hour and he had
17 two years of experience as an attorney. Randazza Decl. at ¶ 32. According to the Adjusted Laffey
18 matrix, an attorney of Mr. Rothell’s experience was able to bill at a rate from \$381 to \$437 per
19 hour, which is in line with his hourly rate. **Exhibit 8**.

20 Other attorneys and support staff also contributed to Defendants’ defense, but due to their
21 limited role in this case, Defendants have written off their time entirely. Randazza Decl. at ¶ 39.

22 Similar rates for Defendants’ counsel have repeatedly been found reasonable by Courts
23 within the State of Nevada and elsewhere. In *Guo v. Cheng*, another defamation case, the Eighth
24 Judicial District Court found hourly rates of \$800, \$550, and \$450 for attorneys Randazza, Green,
25 and Shepard, respectively, to be reasonable, as well as \$200 per hour for Trey Rothell as a law
26 clerk and \$175 per hour for paralegals. *See* order on fee motion in *Guo v. Cheng*, No. A-18-779172-
27 C (Eighth Jud. Dist. Ct., June 5, 2020), attached as **Exhibit 9**, at 2-4 (recognizing Randazza as “a

1 nationally recognized expert on Anti-SLAPP legislation and free speech issues, has assisted the
 2 judiciary committees in both Nevada and Pennsylvania on Anti-SLAPP legislation, has also
 3 published numerous other law review articles on free speech issues,” and has been a commentator
 4 on Fox News and CNN on free speech and First Amendment issues.) The court’s final award in
 5 favor of the moving defendant in that case was \$196,940.39 (\$184,955.55 in fees, \$1,984.84 in
 6 costs, and \$10,000.00 in sanctions), *see id.*, with a subsequent award for post-judgment work in
 7 the amount of \$68,800. ECF No. 251-5. Those same rates were again recognized by the Eighth
 8 Judicial District Court in December 2020. *See* ECF No. 251-6, Decision and Order, *Las Vegas*
 9 *Resort Holdings, LLC v. Roeben*, No. A-20-819171-C (Eighth Jud. Dist. Ct., Dec. 30, 2020).

10 Additionally, the Eighth Judicial District Court previously awarded hourly rates in the
 11 amount of \$650 for Mr. Randazza, \$500 for Mr. Green, \$350 for Mr. Shepard, \$200 for Mr. Rothell,
 12 and \$175 for RLG’s paralegals. *See* ECF No. 251-7, Order on fee motion in *Lazer v. Williams*, No.
 13 A-19-797156-C (Nev. Dist. Ct. Feb. 17, 2022). And a decade ago, the Eighth Judicial District Court
 14 found hourly rates similar to those sought here to be reasonable and awarded \$40,852.58 in
 15 attorneys’ fees to a prevailing party in a case involving much simpler legal and factual issues. *See*
 16 ECF No. 251-8, *iQTAXX, LLC v. Boling*, No. A-15-728426-C, 2016 BL 154334 (Nev. Dist. Ct.
 17 May 10, 2016) (finding hourly rates of \$650 for Mr. Randazza, \$500 for Mr. Green, and \$325 for
 18 Mr. Shepard to be reasonable).

19 Courts in other Districts have also found the hourly rates of Defendants’ counsel to be
 20 reasonable. The court in *Tobinick v. Novella*, 207 F. Supp. 3d 1332 (S.D. Fla. 2016) approved of
 21 hourly rates for attorneys similar to those sought here,²¹ and ultimately awarded \$223,598.75 to
 22 the defendant for fees in connection with the plaintiff’s Lanham Act claims.

23 The billing rates of Defendants’ counsel are thus in line with, if not significantly lower,
 24 than accepted rates for attorneys of similar years of experience and have been recognized as
 25 reasonable by other courts. This factor weighs in favor of the reasonableness of the requested fees.

26 _____
 27 ²¹ The defendant in that matter sought rates of \$650/hour for Mr. Randazza, \$325/hour for Mr. Shepard, and \$180/hour for paralegal time.

4.2.9 Whether the Fee is Fixed or Contingent

For the work Defendants' counsel performed at the District Court, RLG charged a discounted hourly fee. Randazza Decl. at ¶¶ 25-26. However, out of respect for the First Amendment implications of this case and not wishing to allow Plaintiffs to achieve their goal of draining Defendants' resources, RLG provided most of their appeal work on a contingency basis. Randazza Decl. at ¶ 27. Accordingly, for a significant amount of the work performed on this matter, this factor weighs in Defendants' favor.

4.2.10 The Time Limitations Imposed by the Client or the Circumstances

There were no particularly harsh time constraints imposed by Defendants on their counsel, or by the circumstances of this case, and so this factor has little application here.

4.2.11 The Experience, Reputation, and Ability of the Attorneys

Marc Randazza's hourly rate is justified, as he is an experienced attorney who specializes in First Amendment litigation and is licensed to practice in the states of Nevada, California, Arizona, Florida, and Massachusetts. *See* Randazza Decl. at ¶ 20. Mr. Randazza was instrumental in the passage of Nevada's 2013 Anti-SLAPP legislation and played a significant role in shaping the statute's 2015 amendments. *See id.* at ¶ 21; ECF 251-9, Senate Committee on Judiciary Hearing on Nev. SB 286 (May 6, 2013). When Nevada's Anti-SLAPP statute was amended in 2015, Randazza successfully led the lobbying effort to save the statute from repeal and was instrumental in crafting the language in the statute today. *See* Randazza Decl. at ¶ 22; *see also* ECF 251-10, Minutes of Assembly Committee on Judiciary Hearing on SB 444, April 24, 2015, at 35-38.

Mr. Randazza is a nationally recognized expert on Anti-SLAPP legislation, defamation, and free speech issues, and has assisted the legislatures in Nevada, Pennsylvania, Ohio, New York, Massachusetts, New Hampshire, and Wyoming on Anti-SLAPP legislation. *See* Randazza Decl. at ¶ 23; *see also* video of public hearing on Pennsylvania Senate Bill 1095, April 23, 2014, at 32:30-43:47.²² He is the author of Nevada Lawyer articles on the Anti-SLAPP statute. *See* ECF

²²Available at: <<http://judiciary.pasenategop.com/senate-bill-1095-slapp-suits/>> (last visited Nov. 12, 2020).

1 251-11, Marc Randazza, “Nevada’s New Anti-SLAPP Law: The Silver State Sets the Gold
2 Standard,” NEVADA LAWYER (Oct. 2013); ECF 251-12, Marc Randazza, “Nevada’s Anti-SLAPP
3 Law Update,” NEVADA LAWYER (Sept. 2016). He has also published numerous other law review
4 articles on free speech issues. *See curriculum vitae* of Marc Randazza, attached as **Exhibit 10**.

5 Randazza has been a commentator for both Fox News and CNN on Free Speech issues.
6 *See* Randazza Decl. at ¶ 24. Mr. Randazza holds a JD from Georgetown University Law Center, a
7 Master’s in Mass Communications from the University of Florida (with a media law focus), and
8 an international degree in the form of an LL.M. from the University of Turin, Italy, where he wrote
9 and published a thesis on freedom of expression issues. *See Exhibit 10*; *see also* ECF 251-14,
10 Marc J. Randazza, “Freedom of Expression and Morality-Based Impediments to the Enforcement
11 of Intellectual Property Rights,” 16 Nev. L.J., 107 (Jan. 15, 2016). Mr. Randazza has been a
12 practicing attorney for over 24 years. *See* Randazza Decl. at ¶ 26. Mr. Randazza has taught First
13 Amendment law at the law school level. *See* Randazza Dec. at ¶ 27; **Exhibit 10**. And, he gives
14 presentations to attorneys in CLE courses on how to handle Anti-SLAPP litigation. *See id.* Former
15 senator Justin Jones described Mr. Randazza as “one of the preeminent experts on the issue” of
16 Anti-SLAPP litigation. *See* ECF 251-9 at 3.

17 Attorney Ronald D. Green has a JD from University of Pittsburgh School of Law and is a
18 Nevada-licensed attorney with over 25 years of litigation experience. Randazza Decl. at ¶ 29. He
19 has spent most of his career as an intellectual property litigator and has several years of experience
20 with defamation and First Amendment cases. *Id.*

21 Attorney Jay M. Wolman has a JD from Georgetown University Law Center, is licensed in
22 Connecticut, Massachusetts, New York, and D.C., and has 25 years of litigation experience.
23 Randazza Decl. at ¶ 30. He has over a decade of experience with intellectual property and free
24 speech cases. *Id.*

25 Attorney Alex J. Shepard earned his JD from Washington University School of Law, is
26 licensed to practice in Nevada, California, and Washington, and has over 12 years of experience,
27

1 having spent almost his entire career working on free speech and intellectual property cases.
2 Randazza Decl. at ¶ 31.

3 Attorney Trey A. Rothell earned his JD from the Florida State University College of Law
4 and is licensed to practice law in the State of Nevada. Randazza Decl. at ¶ 32. While he was with
5 RLG, Mr. Rothell had been licensed as an attorney for two years; however, his experience includes
6 previously working as a law clerk for three years and a paralegal for over four years before
7 becoming licensed. *Id.* All of Mr. Rothell’s experience as an attorney and as a law clerk included
8 experience with defamation and First Amendment cases. *Id.*

9 Brittani Holt, Cassidy Curran, Suzanne Levenson, Leora Dumanlang, Rachel Sinclair, and
10 Casey Spring are or were paralegals with varying experience. Randazza Decl. at ¶¶ 33-38.

11 Finally, the experience, skill, and ability of Defendants’ counsel directly led to a
12 resounding success for the Defendants – judgment against Plaintiffs on all claims – even despite
13 the unreasonable manner in which Plaintiffs litigated this case. This factor favors Defendants.

14 **4.2.12 The Undesirability of the Case, if Any**

15 There were no particularly undesirable aspects to this case, and so this factor has little
16 application here.

17 **4.2.13 The Nature and Length of the Professional Relationship with the Client**

18 RLG was originally retained by Defendants for the specific purpose of representing them
19 in this matter and that relationship is ongoing.

20 **4.2.14 Awards in Similar Cases**

21 As Defendants noted in their Anti-SLAPP Motion, this case shares a number of similarities
22 with *Tobnick v. Novella*, 142 F. Supp. 3d 1275 (S.D. Fla. 2015), where the plaintiff attempted to
23 use the Lanham Act as a tool of censorship to remove critical speech from the Internet. *Novella*
24 also involved a combination of Lanham Act claims and state law claims that were subjected to a
25 successful Anti-SLAPP motion under California law. The Southern District of Florida awarded
26 the defendant \$223,598.75 in attorneys’ fees in connection with the Lanham Act claims, and
27 \$36,186 in attorneys’ fees in connection with state law claims stricken by the Anti-SLAPP motion.

1 It is important to note that the Lanham Act fee award in *Novella* only included fees incurred
2 after the suit had been heavily litigated for nine months, as the case did not become “exceptional”
3 until after the plaintiff continued to pursue legal theories the court found to be unsupported when
4 deciding a motion for a preliminary injunction. Here, however, Plaintiffs’ claims have been
5 obviously meritless since the outset of this case.

6 Further, other courts within this Circuit have also granted large fee awards under the
7 Lanham Act upon exceptional case findings. *See, e.g., Las Vegas Skydiving Adventures LLC v.*
8 *Groupon, Inc.*, No. 2:18-cv-02342-APG-VCF, 2022 U.S. Dist. LEXIS 121612, at *10 (D. Nev.
9 July 11, 2022) (awarding \$325,000); *Monster Energy Co. v. Integrated Supply Network, LLC*, No.
10 ED CV 17-548-CBM-RAOx, 2019 U.S. Dist. LEXIS 216103, at *11 (C.D. Cal. Oct. 8, 2019)
11 (awarding \$2,740,650.07). Similar fees have been awarded under NRS 18.010(2)(b). *See, e.g.,*
12 *Muney v. Arnould*, 524 P.3d 491 (Nev. 2023) (upholding award of \$199,985). The requested fees
13 are also in-line with Anti-SLAPP fee awards within the Ninth Circuit. *See Six4Three, LLC v.*
14 *Facebook, Inc.*, 109 Cal. App. 5th 635, 660-61 (2025) (affirming award of \$683,417.50 in Anti-
15 SLAPP fees under California statute, which is more restrictive than Nevada’s regarding recovery).

16 The requested award of \$589,905 is thus commensurate with other awards in this Circuit.

17 **4.3 The Court Should Award an Additional \$30,000 Under NRS 41.670(1)(b)**

18 NRS 41.670(1)(b) provides that, in addition to awarding costs and attorneys’ fees after
19 granting an Anti-SLAPP motion, the court may award “an amount of up to \$10,000 to the person
20 against whom the action was brought.” This additional discretionary award may be given to each
21 prevailing movant, even if jointly represented; in other words, multiple defendants file an Anti-
22 SLAPP motion (even if jointly represented and filing only a single motion), each defendant can
23 obtain an additional award of up to \$10,000. *Zilverberg*, 137 Nev. at 75. This provision of the
24 statute is intended to put a price tag on SLAPPs over and above attorneys’ fees, and a court does
25 not need to find that a plaintiff acted in bad faith to award these additional amounts. *Sanson v.*
26 *Lara Kasse Bulen*, No. 82393, 2022 Nev. Unpub. LEXIS 346, *2-3 (Nev. Apr. 29, 2022).

1 Plaintiffs filed this suit in an attempt to censor a critic rather than redress actual harms.
 2 Despite the glaring flaws in their case, they continued to prosecute it, including by dragging out
 3 appellate proceedings with request after unsuccessful request. And it is just as apparent that this
 4 case is not incidentally censorious; Buczkowski’s subsequent actions have shown that censorship
 5 via litigation—or at least the threat of it—is his MO. *See* Section 2.2, *supra*. While an additional
 6 \$30,000 may not matter that much to a self-professed multi-millionaire, “wealth coach,” and BJJ
 7 “black belt,” it is the greatest additional disincentive this Court may impose under the Anti-SLAPP
 8 statute. The Court should not hesitate to impose an additional sanction of \$10,000 per Defendant,
 9 totaling \$30,000, on Plaintiffs.

10 **5.0 CONCLUSION**

11 This case is not about finding a loophole in the American rule to foist Defendants’ litigation
 12 costs upon Plaintiffs as a matter of solely having won this case. Instead, it is about employing
 13 federal and state laws which were written to discourage plaintiffs from bringing frivolous litigation
 14 against defendants in hopes of drowning them in legal bills. The remedy under both the Lanham
 15 Act and Nevada’s Anti-SLAPP statute is to shift the defendants’ costs to the plaintiff, both in order
 16 to punish that particular plaintiff for bringing a frivolous case and to deter future would-be
 17 plaintiffs from bringing frivolous cases in the first place.

18 For these reasons, the Court should award Defendants Spencer Cornelia, Cornelia Media
 19 LLC, and Cornelia Education LLC a total of \$15,995.00 in attorneys’ fees under 15 U.S.C.
 20 § 1117(a), \$71,147.50 in attorneys’ fees under NRS 41.670(1)(a), \$502,762.50 in attorneys’ fees
 21 for work inextricably intertwined with Anti-SLAPP and Lanham Act work, \$26,007.50 in non-
 22 taxable costs for the fees charged by expert witness Richard Hoffman, and \$30,000 under NRS
 23 41.670(1)(b), for a total award of **\$645,912.50**.

1 Dated: April 28, 2026.

Respectfully Submitted,

/s/ Marc J. Randazza

Marc J. Randazza, NV Bar No. 12265

Alex J. Shepard, NV Bar No. 13582

Randazza Legal Group, PLLC

8991 W. Flamingo Rd., Ste. B

Las Vegas, Nevada 89147

Attorneys for Defendants

Spencer Cornelia, Cornelia Media LLC,

and Cornelia Education LLC

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