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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 **REPLY IN SUPPORT OF 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 Spencer Cornelia, Cornelia Media LLC, and Cornelia Education LLC (collectively, "Defendants") file this Reply in support of their Renewed Motion for Costs and Attorneys' Fees (ECF No. 293).

MEMORANDUM OF POINTS AND AUTHORITIES

1.0 INTRODUCTION

Plaintiffs brought an unsupportable claim because they wanted to punish and silence someone who criticized them. This was a classic SLAPP suit, and Defendants prevailed not only in defending the objectively unreasonable Lanham Act claim, but in defending the state law claims with the Nevada Anti-SLAPP law. The Ninth Circuit granted the Anti-SLAPP motion, triggering mandatory defense fees and costs. There is no room for Plaintiffs to maneuver. They pay now.

In opposing the Motion, Plaintiffs expend inexplicable effort discussing communications between John Mulvehill and Spencer Cornelia in an act of wasteful mud-slinging. These communications were obtained in discovery in a *Wyoming* case to which neither John Mulvehill nor Spencer Cornelia were parties. Plaintiffs bring up these communications for no other reason than an apparent attempt to somehow muddy the waters, but one does not even need to squint to see this for what it is. These communications were irrelevant to this proceeding, but Plaintiffs seem to think that since they were not produced in *this case* that it made their Wyoming case against Optimized Lifestyle more difficult. They *were* subject to discovery requests in this case, Cornelia objected, Mulvehill claimed privilege, and Plaintiffs did not seek to compel their production over these objections. But they now want to dig an irrelevant and ancient discovery dispute out of the fossil record of this case as a defense to an award of *mandatory* fees and costs? Their theory being that Cornelia and Mulvehill created more work for *Plaintiffs* in a separate case is a concern unrelated to the reasonableness of Plaintiffs' claims in this case, or whether the requested fees are reasonable in this case.

Plaintiffs conclude that no fees should be awarded at all. They do not explain how the Court can avoid awarding fees when they are statutorily *mandatory*. Plaintiffs largely fail to address Defendants' arguments or evidence and do not address any of the reasonableness factors

under Nevada law or this Court's local rules. They simply try to sling mud and refuse to engage with the law or the facts relevant to this case. The Court should award Defendants the entirety of their requested fees, as the majority are not discretionary at this point. They are required.

2.0 ARGUMENT

2.1 Fees are Mandatory Under the Anti-SLAPP Law, and the Anti-SLAPP Was Granted by the Ninth Circuit

Plaintiffs argue, without explanation, that the Court should deny the fee motion in its entirety, meaning a fee award of $0. ECF No. 294 at 3, 23. This is an impossibility, as NRS 41.670(1)(a) provides for a mandatory award of costs and fees when a court grants an Anti-SLAPP motion. *See Smith v. Zilverberg*, 481 P.3d 1222, 1231 (Nev. 2021). Plaintiffs even acknowledge that the Ninth Circuit's reversal of this Court's order denying Defendants' Anti-SLAPP motion "trigger[s] NRS 41.670(1)(a)'s mandatory fee award." ECF No. 294 at 4. This Court thus *cannot* deny the instant Motion in its entirety; it *must* award Defendants' Anti-SLAPP fees.

2.2 This is an "Exceptional Case" Under the Lanham Act

In addition to awarding fees under the Anti-SLAPP law, Lanham Act "exceptional case" fees are also appropriate. The Motion explains when a case is "exceptional" under 15 U.S.C. § 1117(a). In their Opposition, Plaintiffs cite cases outside the Ninth Circuit to support their argument that exceptional case fees should be granted only rarely. ECF No. 294 at 18. This is not in line with Ninth Circuit precedent that has adopted *Octane Fitness*. Plaintiffs also, in setting out the standards for what makes a case exceptional, cite cases that either pre-date *Octane Fitness* or fail to apply the *Octane Fitness* standard, meaning they are of no value, post *Octane Fitness*, in determining whether this is an exceptional case. *See* ECF No. 294 at 2, 18-19. The law is *Octane Fitness*, and Plaintiffs have no privilege to turn back the clock to pre-*Octane Fitness* in order to avoid responsibility for paying for Defendants' defense. They brought a frivolous case. It was exceptional in its weakness and in how wastefully they litigated it. They should pay.

2.2.1 The Weakness of Plaintiffs' Litigation Position

Plaintiffs start with a legal misrepresentation, claiming that a claim is only exceptionally weak if it is "objectively unreasonable." While this case meets that standard, Defendants do not need to meet that high of a standard. In the Ninth Circuit, the weakness of the case must only stand out from other cases. Even if "objectively unreasonable" were the standard, Plaintiffs' Lanham Act claim was always objectively unreasonable because Defendants' videos did not even come *close to* being "commercial speech." Plaintiffs insist they had a "colorable theory" of commercial speech because of incidental monetization outside the videos themselves (ECF No. 294 at 19), but they do not explain this position and both this Court and the Ninth Circuit rejected their theory without difficulty. Nor do they attempt to explain how they had a colorable argument as to any other element of their Lanham Act false advertising claim.[1]

Rather than try to justify their Lanham Act claim, Plaintiffs instead seem to believe that mud-slinging substitutes for legal and factual analysis. They refer to communications between Mulvehill and Cornelia in which Cornelia provided his lay opinion about Plaintiffs' "commercial-competition theory," which is not a false advertising element in the Ninth Circuit and has no bearing on the commercial speech element. ECF No. 294 at 20. Plaintiffs fail to explain how a non-lawyer chatting with another non-lawyer about a legal contention can be relevant to whether that contention is legally meritorious. Cornelia also had many conversations about how the claims were ridiculous and frivolous. If we are to rely on Cornelia's thoughts about the weakness of this case, then the sanctions in this case would be subject to a 10x multiplier.

Plaintiffs also claim they "rely" on post-publication communications involving Cornelia as they relate to his state of mind (ECF No. 294 at 20-21), but a defendant's subjective state of mind has nothing to do with a Lanham Act claim. The attempts to evade responsibility for fees here are even more unreasonable than the case itself.

[1] Plaintiffs also claim that Defendants "left a contested element unbriefed and then relied on appellate elaboration to manufacture exceptionality after the fact" (ECF No. 294), but do not explain themselves. They just make it up out of thin air. Commercial competition was never a contested issue and did not play a role in this Court or the Ninth Circuit's Lanham Act decision.

2.2.2 Plaintiffs' Unreasonable Litigation Makes this Case Exceptional

Instead of responding to the arguments in the Motion, Plaintiffs refer to their deliberate lies and meritless litigation positions as "discovery friction." ECF No. 294 at 21. The Court should construe this factor as uncontested and find this case exceptional. Communications between Mulvehill and Cornelia have no bearing on *Plaintiffs'* conduct, and in any event, Plaintiffs made no effort to bring the Court's attention to an alleged discovery dispute, despite Defendants consistently objecting to requests for these communications. ECF No. 295-6 at 6; ECF No. 295-7 at 4.[2] Even now, at this stage, Plaintiffs are being unreasonable. They lost an Anti-SLAPP motion and resoundingly lost a frivolous Lanham Act claim, yet they argue that the fee award should be zero and that the key issue in the case at this point is a belated discovery dispute. The unreasonable litigation conduct element was already established, but Plaintiffs continue down that path.

2.3 The Requested Fees are Reasonable

2.3.1 Lanham Act Claim is Inextricably Intertwined with State Law Claims

Plaintiffs complain there is not a clear apportionment of hours dedicated to the Lanham Act claim and state law claims. Of course there isn't. The Lanham Act claim is "so inextricably intertwined" with the other claims "that even an estimated adjustment [to apportion fees claim by claim] would be meaningless." *Gracie v. Gracie*, 217 F.3d 1060, 1070 (9th Cir. 2000). As this

[2] Plaintiffs claim that these messages were improperly withheld, citing an order on a discovery dispute in a District of Wyoming case between Plaintiffs and a different Defendant. But the Wyoming court's decision between other parties has no bearing on whether such communications would have been discoverable in *this* case. In finding the common-interest privilege did not apply in *that case*, the Wyoming court applied Wyoming law, rather than Nevada law; focused on Optimized Lifestyle, which was not a party to communications with Cornelia; and placed significant emphasis on the fact that Cornelia was not a defendant in the *Wyoming* case, thus undermining any argument that there was an identity of interests. ECF No. 295-11 at 11, 13-18 n.2. Obviously, that conclusion would be different here, where Cornelia and Mulvehill were both Defendants, and prior to being sued, Mulvehill subjectively knew there was a high likelihood of being sued in Nevada. The Wyoming court's ruling was inconsistent with Nevada law, and this Court should not seek to adopt Wyoming law about different parties in a different posture. And in any event, it is far too late to complain *now* – after summary judgment – about discovery debates that, if they thought were important, they should have brought a motion to compel. Had they done so, it would have failed, but at least they would have brought it at the right time. After judgment, after appeal, on a fee motion, is the wrong time to raise a discovery dispute.

very Court correctly observed in *Century Sur. Co. v. Prince*, 2018 U.S. Dist. LEXIS 51382, at *12 (D. Nev. Mar. 28, 2018) when an Anti-SLAPP motion is granted, all fees in the case are compensable under the Anti-SLAPP law – even those not directed to the Anti-SLAPP issues:

> Here, the court holds that Ranalli is entitled to recover all reasonable attorney's fees incurred in defending this action, even those not directly related to the anti-SLAPP motion… [T]he defendants in this case would not need to litigate this suit whatsoever but for plaintiff's baseless allegations.

Similarly, here, the entire case would not have needed to be litigated at all but for Plaintiffs' baseless allegations. Plaintiffs crammed their unsupportable allegations into every theory they could think of, with no real extra elements. When claims are premised on the same facts and arise from the same incident, they are inextricably intertwined. This is not a novel view, but the overwhelming state of the law. *Las Vegas Skydiving Adventures LLC v. Groupon, Inc.*, 2022 U.S. Dist. LEXIS 121612, *8-9 (D. Nev. July 11, 2022) (finding that state law claims premised on same facts as Lanham Act were inextricably intertwined, and that "any further attempt to apportion the fees beyond a 10% reduction would be meaningless"); *Elem. Indian Colony of Pomo Indians of the Sulphur Bank Rancheria v. Ceiba Legal, LLP*, 230 F. Supp. 3d 1146, 1155 (N.D. Cal. 2017) (in Anti-SLAPP mixed with a Lanham Act case, finding "*Defendants' voluminous detailed invoices confirmed that meaningful line-by-line apportionment of the requested fees between work related to Lanham Act claims and work related to non-Lanham Act claims is impossible. This is unsurprising given that plaintiff's multitude of claims shared a concise nucleus of common facts, and much of the work done on this case would reasonably have been directed at the litigation as a whole*"). This is how courts evaluate these mixed-claim cases, not requiring granular extraction of every second, apportioning it to one claim or another.

Plaintiffs' Lanham Act claim and state law claims were the same claims based on the same facts. They are all premised on Cornelia allegedly saying things about Buczkowski that Buczkowski wanted suppressed. The most significant issue in this case, shared among all Plaintiffs' claims, is whether Defendants' videos contained false statements of fact, as opposed to statements of opinion. This was the primary issue at summary judgment, and it applies to all claims

equally. *See* ECF No. 62, Defendants' summary judgment motion, at 12-20, 14 n.17, 31-34; ECF No. 162, Defendants' opposition to Plaintiffs' summary judgment motion, at 5-20;[3] ECF No. 182, Defendants' reply in support of summary judgment motion, at 6-7, 13-16. The issue of Plaintiffs' alleged damages, which required retention of a rebuttal expert and which was briefed at summary judgment, was also equally applicable to the Lanham Act and state law claims. And finally, all the time spent in responding to Plaintiffs' material misrepresentations and evasiveness during discovery coupled with unreasonable litigation conduct discussed in the Motion[4] cannot be granularly extracted and attributed to only one particular claim. Because these claims are inextricably intertwined, any meaningful apportionment is impossible and also unnecessary. The Court should base a lodestar figure on the number of hours stated in the Motion. It is not Defendants' fault that Plaintiffs decided to bring a frivolous Lanham Act claim based on the same statements as their other claims, for no reason other than to avoid quick dismissal in state court.

[3] Plaintiffs only sought summary judgment as to their defamation claim, but the majority of the discussion related to that motion was on the issues of the alleged falsity of the statements and whether they were statements of fact, which overlap entirely with the Lanham Act claim.

[4] As a reminder, Plaintiffs:

- Refused to answer questions about customer information they had already provided, claiming it could not be provided even on an attorneys' eyes only basis, requiring Defendants to move to compel (granted in ECF No. 63).
- Refused to provide reasonable dates for Buczkowski's continued deposition despite the Court ordering them to do so, requiring another motion to compel Buczkowski's continued deposition (granted in ECF No. 76).
- Opposed an extension of discovery (granted in ECF No. 63) once Defendants learned that Buczkowski was likely lying about his state of residence.
- Continued to lie about Buczkowski's state of residence, requiring the deposition of Carlos Huerta (ECF No. 69), which confirmed Buczkowski was not a Nevada resident and that Larson Consulting had no connection to the address of its alleged headquarters.
- Opposed consolidation with the Mulvehill case (granted in ECF No. 94), despite the two Complaints being nearly identical.
- Hid their intent to appeal the Court's grant of summary judgment for the purpose of requiring Defendants to incur additional fees to brief the prior fee motion (ECF No. 251-1 at ¶¶ 5-6).
- Filed multiple post-decision motions and petitions on appeal, none of which were granted, raising new and waived arguments that required significant briefing in response (Appeal ECF Nos. 74, 76.1, 77, 80, 81, 84–86).

Plaintiffs do not explain how the Lanham Act claim was distinct from their state-law claims such that an apportionment would be possible or even proper. Rather, they falsely and vexatiously accuse Defendants of dishonesty, noting that a prior fee motion claimed over 600 hours were compensable under the Lanham Act, but in the instant Motion claim that 27.5 hours are specifically attributable to the Lanham Act claim. There is no inconsistency here. Plaintiffs instead make a material misrepresentation to the Court. The prior, now moot, fee motion stated that hours compensable under the Lanham Act consisted of hours specifically attributable to the Lanham Act claim *and hours that were inextricably intertwined between all claims*. ECF No. 251 at 15-16. That is the same argument made today – hours that are apportioned to all of the claims mixed together.[5]

2.3.2 Plaintiffs' Objections to the Requested Fees are Groundless

Plaintiffs first object to billing entries for "purely clerical or secretarial tasks," citing *Missouri v. Jenkins*, 491 U.S. 274, 288 n.10 (1989). ECF No. 294 at 14-15. They ignore, however, that cases in this Circuit applying *Jenkins* have found that law from *this Circuit* establishes that "paralegal or other staff fees that 'contribute[] to the work product' are recoverable in a motion for attorney's fees . . . ." *Yates v. Vishal Corp.*, 2014 U.S. Dist. LEXIS 13894, *16-17 (N.D. Cal. Feb. 4, 2014) (quoting *D'Emanuele v. Montgomery Ward & Co., Inc.*, 904 F.2d 1379, 1387 (9th Cir. 1990)). Plaintiffs provide some examples of these allegedly objectionable entries, but they do not provide a list of all such entries they find objectionable or the amount by which the fee request should be reduced. Nor is there any explanation of how these time entries are allegedly clerical or secretarial tasks. For example, some of the complained-of billing entries include calendaring deadlines, one of the most fundamental tasks of case management, and some of the entries related to preparing discovery documents and filings, which unquestionably "contribute[] to the work product" of attorneys. Plaintiffs' general objections and failure to identify all such allegedly non-compensable time entries are inadequate under L.R. 54-14(d), which requires an opposition to "set

[5] Plaintiffs also complain of time entries for conferring with Mulvehill's counsel (ECF No. 294 at 17-18), but this time is compensable because coordination with the Mulvehill defendants was important to the Cornelia Defendants' successful defense as to all claims.

forth the *specific* charges that are disputed and state with reasonable *particularity* the basis for the opposition." (emphasis added).

Plaintiffs object to a time entry regarding "Factual research re: Julien Blanc controversy." ECF No. 294 at 15. Plaintiffs know full well that this work was related to this case, as Plaintiffs brought it up in their complaint. ECF No. 1-10. Defendants later brought up the Julien Blanc controversy in their motion for discovery under Fed. R. Civ. P. 56(d), as a further example of how Buczkowski was lying during his deposition about the extent of his connection with Real Social Dynamics and why he wanted to downplay this connection. *See* ECF No. 69 at 5-6. Plaintiffs also object to one time entry for client payment entries, but they fail to explain how this is unrelated to the case.

Plaintiffs identify two time entries that they claim are "vague" and thus unreasonable, without any explanation as to how this is so. ECF No. 294 at 15. This is not a proper objection and fails to satisfy the requirements of L.R. 54-14(d).

Plaintiffs argue that time spent traveling and planning for travel is not compensable. ECF No. 294 at 15. Their only support for this proposition is two out-of-circuit cases. Courts in the Ninth Circuit allow recovery of reasonable attorney travel time. *See Johnson v. Credit Int'l*, 257 Fed. Appx. 8, 10 (9th Cir. 2007); *11333, Inc. v. Certain Underwriters at Lloyd's, London*, 2018 U.S. Dist. LEXIS 85737, *7 (D. Ariz. May 22, 2018) (awarding $56,820 for attorney fees for air travel time); *Smith v. Gen. Info. Servs.*, 2019 U.S. Dist. LEXIS 81332, *15-16 (E.D. Cal. May 14, 2019) (collecting cases establishing that travel time is compensable). Plaintiffs do not argue there is anything unreasonable about these time entries, but instead claim they are categorically unrecoverable, which is not the case in this Circuit.

Plaintiffs vaguely refer to "redundant billing, such as when two attorneys bill for the same task," but do not identify a single billing entry to which this objection applies. ECF No. 294 at 16. This objection is insufficient under L.R. 54-14(d) and should be disregarded.

Plaintiffs claim that any recovery must be based on the discounted rates actually charged to Defendants, not the customary rates of counsel. ECF No. 294 at 18. They are wrong and cite

nothing in support of this proposition. It is well established that the lodestar rate used as the basis for a fee award is concerned with the reasonable value of the attorneys' services, not what was actually charged. *See, e.g., Barjon v. Dalton*, 132 F.3d 496, 500 (9th Cir. 1997) (finding attorney's fees are to be calculated using the prevailing market rate, regardless of fee actually charged). The lodestar figure should thus be based on the customary rates of Defendants' counsel, not the discounted rate actually charged. In fact, any discount that Defendants received was contingent upon payment being made within a short period of time after the bill was rendered. This discount is not offered to Plaintiffs. Even if it were, they have missed the deadline for a discount to apply. To find otherwise would reward plaintiffs bringing frivolous claims against defendants less capable of bearing the expense of litigation for defense counsel's decision to make litigation more affordable. Defendants' counsel chose to provide a contingent courtesy discount to Defendants due to the First Amendment issues in this case; they are not willing to provide such a discount to Plaintiffs – who sought to do violence to the First Amendment.

Plaintiffs claim that certain time entries are not sufficiently specific. ECF No. 294 at 16. They refer to a single entry they claim constitutes "block billing" because it refers to two briefs, but the actual work performed was "[r]eview of additional depo transcripts. Notation of portions to cite" in those briefs, which was equally attributable to both. There is no mystery as to the time spent on each task. Plaintiffs identify no other instances of alleged block billing, but instead claim that a few entries are not sufficiently specific because they are redacted for privilege purposes. *Id*. Redactions in billing entries to preserve privilege is not a basis for reducing a fee award.

Plaintiffs also object based on communications between Mulvehill and Cornelia, claiming that time entries related to various tasks are not compensable (ECF No. 294 at 4-9), but they do not object to any specific time entries and do not suggest an amount by which the Court should reduce a fee award, thus failing to fulfill their obligations under L.R. 54-14(d). Most of these are obviously inapposite, as they consist of complaints about how Cornelia created more work for *Plaintiffs* in another case, an issue unrelated to whether Defendants' fees are reasonable, but a few points are worth addressing.

Plaintiffs claim that discovery related to Buczkowski repeatedly lying about his state of residence is not compensable because the Ninth Circuit reversed this Court's dismissal of the Mulvehill Defendants' personal jurisdiction challenge. ECF No. 294 at 11-12. This makes no sense at all. Discovery related to Buczkowski's residence was essential to Defendants' arguments in that it helped show that Larson Consulting, allegedly headquartered in Carlos Huerta's living room (without his knowledge), was not a legitimate business, and also called Buczkowski's credibility into question. The fact that the Court dismissed the case before a jury needed to make credibility determinations does not render this work meaningless. In fact, just the opposite.

Plaintiffs also mudsling regarding arguments made to the Court relating to difficulties in serving Mulvehill with a deposition subpoena in compliance with the Hague Convention. ECF No. 294 at 8-9. They argue that since Cornelia and his counsel could communicate with Mulvehill, that serving a subpoena was unnecessary. But being able to talk to Mulvehill has nothing to do with serving a legally enforceable deposition subpoena on him to force him to do something he did not want to do. It is not an unusual situation to be able to speak to someone who still does not want to testify or appear for a deposition. To compel Mulvehill to do so, as a Brazil resident, it would have to be done in compliance with international law. Plaintiffs' position on this is unreasonable and vexatious.

Plaintiffs do not dispute *any* of the L.R. 54-14 or *Brunzell* factors. They do not dispute counsel's experience, the results obtained, the complexity of the case and the work needed for it, or any other consideration that guides the determination of whether a fee award is reasonable. The Court should thus grant the instant Motion as largely unopposed. They have waived any objection to the hourly rates, which were well justified in the motion.[6]

[6] The closest Plaintiffs come to stating an objection to the hourly rates is claiming that Defendants' counsel's rates "exceed the prevailing Las Vegas market" (ECF No. 294 at 18), but they do not attempt to identify the prevailing Las Vegas market rate, nor do they address counsel's reputation or experience that would justify an hourly rate above the norm.

2.4 Rick Hoffman's Expert Fees are Compensable

In opposing Defendants' prior bill of costs, Plaintiffs argued that recovery of expert witness fees as taxable costs is prohibited by L.R. 54-11(h). ECF No. 253 at 3-4. Rick Hoffman's expert witness costs were thus excluded from the order on taxable costs. ECF No. 265 at 2. Now that they prevailed in that, they simply take the opposite stance in their Opposition here, claiming that expert fees must be recovered as taxable costs, not as costs awardable by the Anti-SLAPP Act. ECF No. 294 at 22. As explained in the response to Plaintiffs' objection to the bill of costs, expert fees are recoverable under the Lanham Act. ECF No. 257 at 4 (citing *Dropbox, Inc. v. Thru Inc.*, 2017 U.S. Dist. LEXIS 33325, *18 (N.D. Cal. Mar. 8, 2017) (awarding $162,936 in expert fees under the Lanham Act)). Even if Plaintiffs did support their position, whether the Lanham Act considers expert fees as recoverable "costs" is irrelevant because fees and costs are *mandatory* under the Anti-SLAPP statute. NRS 41.670(1)(a).

Plaintiffs also claim that Hoffman's expert fees are not compensable because the Mulvehill Defendants benefited from Hoffman's expert report. They provide no authority for that either. It is hardly surprising that Mulvehill *benefited* from the report. Defendants filed the report in this action, and his report and testimony were relevant to Plaintiffs' lack of damages, an issue common to all parties' defenses. Should Mulvehill have been estopped from using something on the docket to his benefit? Of course not. Even if Mulvehill benefited from the expert report, it is Defendants who shouldered this financial burden, and they should be compensated. Certainly, if Mulvehill prevails separately, and seeks to be compensated for this expert report, that would be improper. But here, Cornelia paid for it. He had to pay for it to defend himself properly. And as his win both at summary judgment and on appeal shows, he should never have had to defend himself in the first place. Plaintiffs are required to bear the costs and fees that Cornelia had to incur.

2.5 The Court Should Award an Additional $30,000 Under NRS 41.670(1)(b)

Plaintiffs do not address the arguments in the Motion about how an additional award under NRS 41.670(1)(b) is justified. The purpose of this is to both compensate defendant and to deter plaintiffs from filing meritless lawsuits in the future. In the Motion, Defendants demonstrated that

such deterrence is necessary, as Plaintiffs have learned nothing from their loss here. Defendants provide evidence of Buczkowski's continued censorious modus operandi,[7] thereby making it clear that he continues to use the threat of litigation to censor critics. The litigation itself was vexatious and wasteful. Plaintiffs' litigation conduct was vexatious and wasteful. And even here in the last gasp of the litigation, they remain on that same track of vexatiousness, with a lack of candor and lack of consistency, seeking to scorch the earth with no appreciable benefit.

This is exactly the kind of behavior the Anti-SLAPP law is meant to deter, and this Court should impose the most stringent deterrence available to it. It is unfortunate that the Court can do no more than award costs, fees, and a mere $30,000[8] to deter this kind of conduct.

3.0 CONCLUSION

For the foregoing reasons, the Court should award Defendants Spencer Cornelia, Cornelia Media LLC, and Cornelia Education LLC a total of $15,995.00 in attorneys' fees under 15 U.S.C. § 1117(a), $71,147.50 in attorneys' fees under NRS 41.670(1)(a), $521,502.50 in attorneys' fees for work inextricably intertwined with Anti-SLAPP and Lanham Act work,[9] $26,007.50 in non-taxable costs for the fees charged by expert witness Richard Hoffman, and $30,000 under NRS 41.670(1)(b), for a total award of **$664,652.50**.

[7] Plaintiffs object to this as unauthenticated (ignoring the authenticating declaration of Alex J. Shepard) and "improper character evidence," but they do not explain or substantiate these objections. The authentication objection is especially puzzling, given that Plaintiffs do not authenticate any of the exhibits to their Opposition.

[8] Plaintiffs argue the Court should not award additional amounts for each Defendant because all Defendants had common representation and filed motions jointly. ECF No. 294 at 21. This is irrelevant; NRS 41.670(1)(b) permits an award of up to $10,000 per defendants regardless of joint representation. *Zilverberg*, 481 P.3d at 1232.

[9] This is comprised of the $502,762.50 in fees mentioned in the instant Motion plus $18,740.00 in fees incurred since the filing of that Motion.

Dated: May 18, 2026.

Respectfully Submitted,
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Case No. 2:21-cv-01173-JCM-EJY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 18, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document being served via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Marc J. Randazza
Marc J. Randazza