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12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**

14 WEALTHY INC. and DALE  
15 BUCZKOWSKI,

16 Plaintiffs,

17 v.

18 SPENCER CORNELIA, CORNELIA  
19 MEDIA LLC, and CORNELIA  
EDUCATION LLC,

20 Defendants.

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

**PLAINTIFFS WEALTHY INC. AND  
DALE BUCZKOWSKI'S OPPOSITION  
TO DEFENDANTS' MOTION TO STAY  
CASE [ECF NO. 46]**

21 Plaintiffs Wealthy Inc. and Dale Buczkowski (collectively, "Plaintiffs") file this Response  
22 in opposition to Defendants' Motion to Stay Case [ECF No. 46] ("Motion to Stay").

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1 This Response is supported by the following Memorandum of Points and Authorities and  
2 the papers and pleadings on file herein.

3 Respectfully submitted this 9<sup>th</sup> day of September, 2022.

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18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. INTRODUCTION**

20 Defendants Spencer Cornelia, Cornelia Media, LLC, and Cornelia Education, LLC (the  
21 "Defendants") are asking the Court to put a hold on all proceedings until pending motions in a  
22 *separate* action are resolved. However, Defendants provide no authority, no reference to statutes  
23 or cases, and no legal discussion in support of their request. Rather, they simply base their request  
24 on the fact that they have sought consolidation<sup>1</sup> with a separate action that has pending motions to  
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26 \_\_\_\_\_  
27 <sup>1</sup> Defendants have filed a motion to consolidate this action with a separate action styled as  
28 *Wealthy Inc. et al v Mulvehill et al*, Case No. 2:22-cv-00740-JCM-EJY. (*See* Motion to Consolidate  
Cases [ECF No. 43].) Plaintiffs have opposed the Motion to Consolidate Cases. (*See* Plaintiffs  
Wealthy Inc. and Dale Buczkowski's Opposition to Defendants' Motion to Consolidate Cases [ECF  
No. 47].)

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1 dismiss.<sup>2</sup> In fact, Defendants undermine their position that the cases should be consolidated when  
2 they say that "the cases indeed should not (and perhaps cannot) be consolidated if the Court lacks  
3 personal jurisdiction." (Motion to Stay [ECF No. 46], at 2:9-10.) Most importantly, Defendants  
4 do not make a clear case of hardship or inequity that they would suffer if this action were to move  
5 forward, nor do they suggest that a stay would simplify the issues for determination in this case.

6 In fact, asking the Court to consolidate the two actions and then asking the Court to refrain  
7 from making a decision as to consolidation until pending motions in the separate action are resolved  
8 is illogical and creates undue delay<sup>3</sup> that Plaintiffs should not have to endure. This is especially  
9 true when one of the reasons that consolidation is not appropriate is that the two actions are in  
10 different stages of litigation and imposing a stay in these proceedings would allow the other action  
11 to "catch up."

12 Because Defendants' Motion to Stay contains neither legal support nor logical support and  
13 because Defendants would not suffer any hardship if the case were to move forward nor would a  
14 stay simplify the issues, the Court should deny the Motion to Stay.

## 15 II. DISCUSSION

### 16 A. Defendants Failed to Comply with LR 7-2.

17 Pursuant to LR 7-2(a), "[a]ll motions ... must be supported by a memorandum of points and  
18 authorities." "The failure of a moving party to file points and authorities in support of the motion  
19 constitutes a consent to the denial of the motion." LR 7-2(d).

20 Here, Defendants have not provided *any* points or authorities in support of their Motion to  
21 Stay. (*See* Motion to Stay [ECF No. 46].) Most notably, they do not even provide any legal basis  
22 for staying the proceedings in this litigation.

23 Nowhere in their Motion to Stay do the Defendants cite to any statutory or case law  
24 authority for the Court to stay the proceedings in this action. (*See generally* Motion to Stay [ECF

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26 <sup>2</sup> Defendants filed the Motion to Stay over three months after the complaint was filed in  
*Wealthy Inc. et al v. Mulvehill et al*, Case No. 2:22-CV-00740-JCM-EJY and over two months after  
two motions to dismiss were filed in that action.

27 <sup>3</sup> It is noteworthy that Defendants did not mention that they also filed a Motion to Extend  
28 Discovery, [ECF No. 44], the day before filing the Motion to Stay, thus compounding the potential  
delays in this litigation.

1 No. 46].) In fact, Defendants' Motion to Stay, [ECF No. 46], is more noteworthy for what elements  
 2 it is lacking. For example, Defendants do not ask for a stay because of the potential for the district  
 3 court to disrupt "state efforts to establish a coherent policy with respect to a matter of substantial  
 4 public concern." *Colorado River Water Conserv. Dist. v. United States*, 424 U.S. 800, 814, 96 S.  
 5 Ct. 1236, 1245, 47 L. Ed. 2d 483 (1976). Neither do Defendants ask for a stay pending appeal. *See*  
 6 *Hilton v. Branskill*, 481 U.S. 770, 776, 107 S.Ct. 2113, 2119 (1987) (discussing factors for a stay  
 7 pending appeal).

8 By failing to file points and authorities in support of the Motion to Stay, Defendants consent  
 9 to the Court denying it pursuant to LR 7-2(d) and the Court should do so.

10 **B. Defendants Fail to Demonstrate Grounds for a Stay.**

11 Although "the power to stay proceedings is incidental to the power inherent in every court  
 12 to control" its docket<sup>4</sup>, *Landis v. North American Co.*, 299 US 248, 254-55, 57 S.Ct. 163, 166  
 13 (1936), Defendants do not point to, much less make out a clear case of, hardship or inequity that  
 14 they would suffer if this case were to move forward as scheduled. As noted in Justice Cardozo's  
 15 opinion, "the suppliant for a stay must make out a clear case of hardship or inequity in being  
 16 required to go forward, if there is even a fair possibility that the stay for which he prays will work  
 17 damage to some one [sic] else." *Id.* How could Defendants point to potential hardship when the  
 18 Court's denial of the Motion to Stay will not affect their ability to defend against Plaintiffs claims  
 19 for relief?

20 Additionally, Defendants have not suggested that resolution of the pending motions in a  
 21 separate case would simplify the issues, proof, or questions of law in this case. *See Lockyer v*  
 22 *Mirant Corp.*, 398 F.3d 1098, 1110 (9<sup>th</sup> Cir. 2005) ("the competing interests which will be affected  
 23 by the granting or refusal to grant a stay must be weighed ... [as] measured in terms of the  
 24 simplifying or complicating of issues, proof, and questions of law which could be expected to result  
 25 from a stay.") (citations omitted). Defendants have not suggested that the determination of personal  
 26 jurisdiction over different defendants in a separate case could simply the issues, proof, or questions

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 28 <sup>4</sup> All within the spirit of NRCP 1 "to secure the just, speedy, and inexpensive determination of every action and proceeding."

1 of law in this case. In fact, they have not suggested that resolution of the pending motions in a  
2 separate case would have any effect, whatsoever, on this case.

3 Because Defendants fail to point to any hardship or inequity they may suffer if the case  
4 moves forward and do not suggest that it would simplify the issues if a stay were granted, the Court  
5 should deny the Motion to Stay.

6 **III. CONCLUSION**

7 Because Defendants did not comply with LR 7-2 by failing to submit points and authorities  
8 in support of their Motion to Stay and because they did not provide cognizable grounds for a stay,  
9 the Court should deny the Motion to Stay.

10 Respectfully submitted this 9<sup>th</sup> day of September, 2022.

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**CERTIFICATE OF SERVICE**

Pursuant to Fed.R.Civ.P.5(b), and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of Peterson Baker, PLLC, and that a true and correct copy of the **PLAINTIFFS WEALTHY INC. AND DALE BUCZKOWSKI'S OPPOSITION TO DEFENDANTS' MOTION TO STAY CASE [ECF NO. 46]** was served via electronic service, via CM/ECF, on this 9<sup>th</sup> day of September, 2022, and to the following:

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