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21 **State of Nevada**

22 **UNITED STATES DISTRICT COURT**  
23 **DISTRICT OF NEVADA**

24 **Federal Trade Commission, and**

25 **State of Nevada,**

26 Plaintiffs,

27 v.

28 **American Tax Service LLC, et al.,**

Defendants.

No. 2:25-cv-1894-GMN-EJY

**Plaintiffs' Opposition to the  
Individual Defendants' Emergency Motion  
to Modify Temporary Restraining Order  
or, Alternatively, Motion for  
Withdrawal of Counsel**

Defendant Terrance Selb sent the five text messages appearing below to his business partner, Defendant Tyler Bennett, on June 9, 2024. GX 615 (FTC-ATS-3224–25).

I was just thinking that the company pays out approximately \$475,000 a year just for house payments and rent for us

Basically between the two of us it could be fairly stated that we spend \$1.100,000 a year in personal stuff

1 Plus personal total. annual income to  
2 ourselves of another 1,000,000 ( at a  
3 minimum)

I am not complaining

I am just considering how. Much money  
we throw at ourselves a year

4 Where did the money come from that Selb and Bennett so generously threw at  
5 themselves every year? It came from consumers who Defendants’ telemarketers enticed to pay  
6 huge sums through false promises of tax debt relief. Jeanette Alarid-Cusick and her husband  
7 paid \$45,500, got nothing, and “are still in heavy debt.” GX 375 ¶¶ 15–16 (1250–51). Terri and  
8 Grady Avery borrowed \$10,000 to cover the price, didn’t get their tax debt resolved, had their  
9 tax returns botched, and are “still paying off the people who stole from [them]” under the loan.  
10 GX 376 ¶¶ 3–4, 7–10, 17 (1261–63). Curtis Hunter paid \$5,000 on the promise that Defendants  
11 would resolve his tax delinquency for “pennies on the dollar”; he received no services and felt  
12 “desperation” because he is retired and on a fixed income. GX 383 ¶¶ 2–6, 10–12 (1506–07).  
13 Kim Larson wired \$182,774 in response to a telemarketer telling him it would go to the IRS to  
14 settle supposed tax debts; an arbitrator later awarded him treble damages for fraud. GX 385  
15 ¶¶ 24, 27–29, 56 (1562–63, 1568–71). Diana Moore paid \$11,000, including \$5,500 because  
16 Defendants were supposedly “going to court the next day, and they could get [her] taxes  
17 handled”; but she received no services throughout this “traumatizing and financially draining”  
18 experience. GX 389 ¶¶ 4–6, 11 (1818–19). These are just a few stories of how Selb and  
19 Bennett’s enterprise converted the limited funds of vulnerable people facing tax debt for their  
20 own enrichment.

21 To preserve the status quo and help ensure some money is left for consumers such as  
22 those discussed above at the conclusion of this matter, the Court has frozen Defendants’ assets,  
23 including Selb’s and Bennett’s personal assets. ECF No. 9, Part III.

24 Understandably, the asset freeze imposes a hardship on Selb and Bennett. Plaintiffs  
25 agreed to release \$5,000 to each for urgent living expenses, in hopes it could buy them a little  
26 time to secure legitimate employment, borrow funds, or otherwise arrange to use clean money to  
27 pay their bills and legal fees. *See* ECF No. 56.

1 For Selb and Bennett, however—who have grown accustomed to lavish lifestyles<sup>1</sup> funded  
2 by “throw[ing]” ill-gotten consumer money at themselves—\$5,000 each was not enough. Not  
3 nearly. Instead, they have asked the Court to unfreeze a combined \$101,875 every month for  
4 living expenses and attorneys’ fees (\$30,195 for Bennett and \$26,680 for Selb, with the  
5 remainder for attorneys’ fees). ECF No. 57, p. 8. Selb and Bennett’s telemarketers squeezed  
6 consumers including Jeanette Alarid-Cusick, Terri and Grady Avery, Curtis Hunter, Kim Larson,  
7 and Diana Moore for every penny they could get through illegal deception—and now Selb and  
8 Bennett have the audacity to ask the Court to let them keep spending that money at an  
9 exorbitant rate. Fortunately for their victims, the law is not in Selb and Bennett’s favor.  
10 Unfortunately for their victims, the currently frozen assets are not nearly enough to make  
11 consumers whole again. The Court should not unfreeze any more of the proceeds of Selb and  
12 Bennett’s fraud—Selb and Bennett should seek out other sources of funds and consider  
13 seriously curtailing their extraordinary monthly expenses.

#### 14 **I. Procedural History**

15 On November 11, 2025, Plaintiffs stipulated to the release of \$5,000 for each individual  
16 defendant to pay living expenses. ECF 56. The very next day, November 12, Selb and Bennett  
17 filed an emergency motion seeking the release of a combined \$101,875 every month for living  
18 expenses and attorney fees, as well as a one-time payment of \$92,818.01 to Selb and Bennett’s  
19 counsel. *See* Individual Defendants’ Emergency Motion to Modify Temporary Restraining Order  
20 Or, Alternatively, Motion for Withdrawal of Counsel (ECF No. 57, “Motion”). The Motion was  
21 accompanied by a declaration from counsel (ECF No. 57–1, “Declaration”), and proposed  
22 monthly budgets for Bennett (ECF No. 57–2, “Bennett’s Budget”) and Selb (ECF 57–3, “Selb’s  
23 Budget”). Although counsel attested that Selb and Bennett “have incurred \$131,263.01 in  
24 attorneys’ fees and costs related to their defense of this matter,” no invoices were provided to  
25 shed light on the number hours worked or billing rates charged. Declaration ¶ 15, p. 4 (ECF No.  
26 57–1). Notably, neither Selb nor Bennett attested to their living expenses or lack of access to  
27 alternative sources of income or support.

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28 <sup>1</sup> *See, e.g.*, GX 620 ¶¶ 3–6, 13 (3273–78).

1 **II. Argument: Bennett and Selb Are Not Entitled to Use the Frozen Funds for Living**  
 2 **Expenses or Legal Fees**

3 Continuing a complete freeze of Selb and Bennett’s personal assets is necessary and  
 4 appropriate. *See* Plaintiffs’ Sur-Reply in Support of a Preliminary Injunction (ECF No. 61, p. 3–  
 5 6); Plaintiffs’ Supplemental Memorandum in Support of a Preliminary Injunction (ECF No. 46,  
 6 “PI Memo,” p. 19–24); Plaintiffs’ *Ex Parte* Motion for a Temporary Restraining Order (ECF  
 7 No. 4, p. 19–21).

8 “The Ninth Circuit has repeatedly held that whether to allow the payment of attorney’s  
 9 fees out of frozen assets lies within the district court’s discretion.” *FTC v. Revmountain, LLC*, No.  
 10 2:17-cv-2000, 2017 WL 4532196, at \*1 (D. Nev. 2017) (citing *CFTC v. Noble Metals Int’l, Inc.*, 67  
 11 F.3d 766, 775 (9th Cir. 1995), *Fed. Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372, 374 (9th Cir.  
 12 1990), and *FTC v. World Wide Factors, Ltd.*, 882 F.2d 344, 347 (9th Cir. 1989)). The Ninth Circuit  
 13 has also “recognized the importance of preserving the integrity of disputed assets to ensure that  
 14 such assets are not squandered by one party to the potential detriment of another.” *Ferm*, 909  
 15 F.2d 372, 374.

16 In considering a defendant’s request to release funds for living expenses and legal fees,  
 17 this Court considers:

- 18 (1) the likelihood that plaintiff will prevail on the merits;  
 19 (2) whether defense counsel was aware of the possibility that the  
 20 court might deny or limit attorney fees; (3) the availability of assets  
 21 for consumer redress; (4) a defendant’s access to alternative assets;  
 and (5) the reasonableness of the funds requested for legal fees  
 and living expenses.

22 *FTC v. Johnson*, No.: 2:10-cv-02203, 2011 WL 13249477, at \*2 (D. Nev. June 17, 2011); *see also*  
 23 *FTC v. Elegant Solutions, Inc.*, No. 19-cv-1333, 2019 WL 9358567, at \*1 (C.D. Cal. Dec. 10, 2019).

24 All five of these factors favor denial of the Individual Defendants’ requests.

25 **A. Plaintiffs Will Prevail on the Merits**

26 In its October 7, 2025 Temporary Restraining Order, this Court determined “that  
 27 Plaintiffs are ... likely to prevail on the merits of this action.” ECF No. 9, p. 2. Since then, the  
 28 evidence supporting the Complaint has only grown more overwhelming. *See generally* PI Memo.

1 Defendants’ own documents show that Selb and Bennett have known that their business  
2 practices are illegal for years, *id.* Part I.A.1, p. 8–12, and they even anticipated this enforcement  
3 action by the FTC, GX 584 (3063) (in a March 2023 email to Bennett and others, Selb wrote: “It  
4 is absolutely imperative that [ATS] immediately launch a series of test mailers that shall not  
5 violate the FTC Rules ... We have exactly 4 months to segway [sic] into lawful mailers.”). But the  
6 Defendants continued sending government-impersonating mailers and making false promises to  
7 desperate consumers in exchange for exorbitant fees. PI Memo, Part I.A, p. 8–14 (ECF No. 46).

8 In a supplemental declaration submitted after his team spoke with hundreds affected  
9 consumers, the Receiver reported:

10 Based on my staff’s and my review of consumer reports to date,  
11 the prevailing theme is consumer dissatisfaction: many consumers  
12 report paying for services that were not performed or were not  
13 completed, many felt threatened or coerced into paying more  
money for services to avoid dire consequences and a substantial  
number state that they believe they were victims of a scam.

14 Supplemental Declaration of Receiver, Stephen J. Donell ¶ 6, p. 4 (ECF No. 45). Additional  
15 consumer declarations filed after Plaintiffs’ initial filing further substantiate these complaints.  
16 GX 608 (3204–14) (Joshua H. Habetz); GX 616 (3233–40) (Gregory Coront); GX 617 (3241–  
17 48) (Lisa Polak-Dean); GX 618 (3249–56) (Bagdasar Tergevorkyan); GX 619 (3257– 73)  
18 (Kendrick Davis).

19 Moreover, in communications between Selb, Bennett, and their employees, the nature of  
20 Defendants’ fraud was openly discussed. For example, on August 26, 2025, Winston Parker, who  
21 worked in customer retention at ATS, emailed Selb and Bennett:

22 Here is a [pr]ime example of failure. The case is 2 months old and  
23 no tax prep assignment has been made, but we did attempt to  
24 upsell which created the anger. deliverables first would be  
refreshing. I hope you all are aware we have an overabundance of  
case that have not been assigned[.]

25 GX 611 (3218); *see* GX 620 ¶ 16 (3279). On July 28, 2025, Parker emailed Selb and Bennett  
26 regarding a consumer who paid ATS \$272,000, of which Defendants were refunding \$200,000:  
27 “PS we keep 72 k for no work done and an[] interest free 200k for years[.]” GX 577 (3039). A  
28

1 printed email attached to the purchase order for one of the customer’s refund payments, which  
 2 was signed by Selb and Bennett, stated: “A wire MUST be sent no later than tomorrow or the  
 3 client will be going to the Department of Justice.” GX 445 (2343, 2345).

4 On July 25, 2025, Selb and Bennett argued via text message, apparently about a  
 5 substantial payment extracted from a consumer by telemarketer Keith Hamilton that Bennett  
 6 thought went too far. GX 615 (3226–32); *see* GX 620 ¶ 17 (3279). Bennett wrote to Selb:

7 Im not going to be left holding the bag as you [emojis indicating  
 8 *ride off into the sunset.*] ... Im not buying a jail sentence[.] ... What  
 9 am i gunna do when this biz gets hit by the feds? For my son? ... I  
 10 am a business owner that iwants to keep his business ... Not a  
 f---ing indefensible scam[.] ... Tell me how you defend this  
 insanity[.]

11 GX 615 (3226–29). Later Bennett added this observation: “Upselling is - **stealing money from**  
 12 **rubes** is ... to a point[.]” *Id.* at 3232 (emphasis added; ellipsis in original).

13 In a text chain involving Selb, Bennett, and the ATS Los Angeles sales managers on July  
 14 22, 2025, Selb named a new “closer” telemarketer starting soon, to which sales manager William  
 15 Andrews responded, “I thought that man was a criminal”; Selb retorted, “No more than you[.]”  
 16 GX 613 (3221); *see* GX 620 ¶ 17 (3279). On October 11, 2024, Winston Parker, the retention  
 17 manager, texted Bennett: “I am done with the criminality going on[.] ... I am filing criminal  
 18 complaints. Ripping off elderly for 1.3 million [i]s a good starting point.” GX 614 (3222–23); *see*  
 19 GX 620 ¶ 17 (3279). (It does not appear that he actually alerted any criminal authorities.)

## 20 **B. Defense Counsel Assumed the Risk of Nonpayment**

21 Courts “may presume that attorneys who are aware of a defendant’s asset freeze will also  
 22 know that the court has discretion to approve or deny a release of frozen assets to pay attorney  
 23 fees.” *Johnson*, 2011 WL 13249477, at \*2 (citing *FTC v. Sharp*, No. 89-cv-870, 1991 WL 214076, at  
 24 \*1 (D. Nev. Jul. 23, 1991)). Selb and Bennett have been subject to an asset freeze since October  
 25 10, 2025, when Plaintiffs served the TRO on their financial institutions. GX 594 ¶ 3 (3103). Selb  
 26 and Bennett’s counsel entered their appearance on October 17, 2025 (ECF 35). Accordingly,  
 27 counsel knew or should have known when they took the case that Selb and Bennett were subject  
 28 to an asset freeze and, therefore, have accepted the known risk of nonpayment. *See Johnson*, 2011

1 WL 13249477, at \*3 (finding that defense counsel who entered appearances after the court  
2 entered a temporary restraining order with an asset freeze “assumed the risk of not getting  
3 paid”).

#### 4 **C. The Frozen Assets Should Remain Available for Consumer Redress**

5 The assets frozen pale in comparison to the consumer harm in this case. This alone  
6 would justify denying Bennett’s and Selb’s requests. *See Noble Metals Int’l*, 67 F.3d at 775 (“[T]he  
7 frozen assets fell far short of the amount needed to compensate [defendants’] customers. This  
8 was reason enough in the circumstances of this case for the district court, in the exercise of its  
9 discretion, to deny the attorney fee application.”). Records from payment processors and  
10 consumer financing companies show that, since February 2022, Defendants have taken in more  
11 than \$77.7 million. GX 434 ¶ 10 (2171–72). A “Company Plan” prepared in early 2025 and  
12 found on Selb’s desktop computer, however, includes an estimate that Defendants have taken in  
13 at least \$153,683,015.66 from consumers since 2018. GX 610 (3216–17); *see* GX 620 ¶ 16 (3279).  
14 Under the TRO, the Court has frozen approximately \$10.5 million in assets held at financial  
15 institutions, which is less than 7% of Defendants’ own estimate of their ill-gotten revenue. GX  
16 594 ¶ 3 (3103).

#### 17 **D. Defendants Have Access to Alternative Assets**

18 This Court should also deny the Motion because Selb and Bennett have access to  
19 alternative assets and can seek legitimate employment. *See Elegant Solutions, Inc.*, No. 19-cv-1333,  
20 2019 WL 9358567, at \*2 (“The Court finds that Defendants have not demonstrated that the  
21 funds currently frozen are the only funds available to them to pay for living expenses.”); *FTC v.*  
22 *Health Formulas, LLC*, 2:14-cv-1649, 2015 WL 4623126 (D. Nev. Aug. 3, 2015) (“[T]he Court  
23 denies the Defendants’ request for a third release of funds because it is not persuaded that other  
24 funds are not available to them.”). Neither Selb nor Bennett has attested that they have no  
25 alternative means to pay their living expenses and attorney’s fees, and their Motion suggests that  
26 they do. Counsel’s Declaration states that “[t]he Individual Defendants also submitted \$50,000 in  
27 retainer,” but did not disclose the source of this substantial payment. ECF No. 57–1, p. 4.  
28 Although Counsel’s Declaration did not provide the date of the retainer payment, it was likely

1 made on or around October 17, the day counsel entered their appearance in this matter. *See* ECF  
2 No. 35. Selb and Bennett’s payment of a \$50,000 retainer, even after their known assets were  
3 frozen by the TRO, suggests that they have access to funds from other sources. Neither  
4 individual defendant has attested that these other funding sources have run dry, so Plaintiffs can  
5 only assume they have not.

6 Selb’s and Bennett’s financial disclosures also suggest they have alternative means of  
7 support that would warrant denial of their request for living expenses and attorney fees. In  
8 “Exhibit D” to his financial disclosure, Bennett disclosed transferring \$83,333 to his girlfriend,  
9 Alexandria Weltman (with whom he resides), as “prepayment of child support” on September  
10 30, 2025. GX 620 ¶ 8(e) (3278). In the past year, Bennett also transferred \$32,000 to Weltman  
11 for “pregnancy support,” “support,” and “gifts.” GX 620 ¶ 8(b)–(c) (3278). And, in April 2025,  
12 Bennett gifted Weltman jewelry that he valued at \$80,000. GX 620 ¶ 8(d) (3278). Although Selb  
13 and Bennett’s Motion notes there is a “significant financial need for baby supplies, diapers,  
14 formula, and other childcare expenses,” Motion at 4 (ECF No. 57), it does not address why  
15 Bennett and Weltman cannot use the ample means Bennett has transferred to Weltman in the  
16 last year for these purposes. Similarly, in his financial disclosures, Selb disclosed he receives  
17 \$2,100 per month in Social Security payments and has transferred approximately \$950,000 to his  
18 son, Justin Selb, over the past two years. GX 620 ¶¶ 10-11 (3278). The Motion does not address  
19 why Selb cannot supplement his Social Security income with support from his son or another  
20 source.

21 Moreover, Selb and Bennett may obtain lawful employment, provided that they obey the  
22 conduct provisions of the TRO. The Motion does not include any indication that either Selb or  
23 Bennett has taken steps to obtain legitimate employment since the Court entered the TRO.  
24 Bennett and Selb’s unwillingness to seek lawful employment or to rely on their alternative  
25 sources of income entirely undercuts their request to unfreeze funds. *FTC v. LAB Marketing*  
26 *Associates, LP*, 972 F. Supp. 2d 1307, 1314 (S.D. Fla. Sept. 18, 2013) (“Absent persuasive evidence  
27 to the contrary, the Court can conclude only that [Defendants] are capable of working to  
28 support their basic necessities.”).

1           **E.     Selb’s and Bennett’s Requests Are Unreasonable**

2           Although courts have the discretion to modify asset freezes to permit the release of  
3 funds for living expenses, they routinely deny requests where “defendants were found to have  
4 other sources of income or were requesting funds for luxuries, not necessities.” *SEC v. Private*  
5 *Equity Mgmt. Grp., Inc.*, 2009 WL 2058247, at \*3 (C.D. Cal. July 9, 2009). As discussed above,  
6 Selb and Bennett have access to other sources of income, and their proposed budgets include  
7 luxuries, not necessities. Selb proposes to spend \$26,680 per month, or \$320,160 annually, while  
8 Bennett seeks \$30,165 per month, or \$362,340 annually. *See* ECF No. 57-2 (005) and ECF No.  
9 57-3 (006). These requests are facially unreasonable and should be denied. *See Private Equity*  
10 *Mgmt. Grp.*, 2009 WL 2058247 at \*4 (“Now while [Defendant] may have become accustomed to  
11 living such a posh life over the years, the fact of the matter is \$27,000 a month is a tremendously  
12 high overhead, an overhead that by no stretch of the imagination can be considered  
13 reasonable.”).

14           Although neither Selb nor Bennett even attested to their monthly expenses in a sworn  
15 declaration, it is worth highlighting a few examples of luxury spending requests. According to  
16 his financial disclosures, Bennett owns his 2022 Mercedes-Benz G class SUV outright, GX 620  
17 ¶ 9 (3278), but his budget request includes \$2,000 per month for a “car lease,” ECF No. 57-2  
18 (005). This suggests that Bennett seeks to maintain a second car, which is not a necessity, and  
19 likely contributes to his enormous monthly car insurance payment (\$1,500) and significant  
20 monthly fuel costs (\$450). *Id.* Bennett also seeks \$2,855 for his monthly water bill. *Id.* Plaintiffs  
21 posit that the source of this astronomical bill is likely his home’s private pool with a waterfall,  
22 which is also not a necessity. GX 620 ¶ 3(a) (3274).

23           In his budget, Selb seeks \$1,233 for a car payment. ECF No. 57-3 (006). Selb’s financial  
24 disclosures showed that Selb owns three Teslas outright but has a \$50,000 loan on his fourth  
25 Tesla. GX 620 ¶ 13 (3278-79). As stated above, a second car is not a necessity, let alone a fourth.  
26 Selb’s Budget also requests \$13,497 to maintain his home in the Hollywood Hills neighborhood.  
27 ECF No. 57-3 (006). This request is patently unreasonable, particularly when Selb also rents an  
28 apartment on Fountain Avenue in West Hollywood, California, which is a more affordable

1 accommodation. GX 620 ¶ 12 (3278). Defendant American Tax Solutions LLC has paid the rent  
2 on Selb’s Fountain Avenue apartment for years, and the rent was \$1,880.99 in 2022 and 2023.  
3 GX 612 (3219–20); *see* GX 620 ¶ 16 (3279). The rent on the Fountain Avenue apartment now  
4 appears to be \$1,984.63. GX 620 ¶ 18 (3279). Selb and Bennett may wish to continue living in  
5 their multimillion-dollar homes in Henderson, Nevada, and the Hollywood Hills, which no  
6 doubt were purchased with millions stolen from consumers, but they are not entitled to do so to  
7 the further detriment of their victims.<sup>2</sup>

8 Selb’s Budget also proposes \$4,000 for “[e]lderly care and housekeeping,” which is also  
9 unreasonable. ECF No. 57-3 (006). Although Selb provided no documentation for this line item  
10 to the Court, the purported invoice Selb provided to the FTC was suspect. The “weekly invoice”  
11 that Selb produced appears to have been drafted by Selb himself. GX 620 ¶ 19 (3279-80). The  
12 purported invoice also states, “I have been in this position for the past 5 years,” and lists a Los  
13 Angeles address for the housekeeper. *Id.* Selb’s financial disclosures reveal that—in addition to  
14 the Hollywood Hills home—he rents apartments in both Los Angeles and Las Vegas, suggesting  
15 that he splits his time between the two cities. *Id.* at ¶ 12 (3278). It strains credulity that Selb  
16 would require such expensive “elderly care” in Los Angeles, particularly when he has only lived  
17 there part-time. There is also nothing substantiating the “[e]lderly care” description of the  
18 request—the person Selb employs does not appear to have any healthcare qualifications. This  
19 request is likely more properly described as just “housekeeping,” for a house occupied only part-  
20 time.

21 Finally, Selb and Bennett’s request for attorney’s fees is so bare that it is inscrutable. Selb  
22 and Bennett request \$92,818.01 for outstanding amounts due and a monthly recurring payment  
23 of \$45,000 for possible future expenses. ECF No. 57, p. 8. Counsel’s Declaration includes no  
24 detail regarding either the outstanding invoices or the anticipated ongoing monthly legal fees and  
25 costs. The failure to describe any of the costs incurred, hours worked, or rates charged prevents  
26

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27 <sup>2</sup> Funding their real estate purchases with fraudulently obtained funds also merits setting aside  
28 any potentially-applicable homestead exemption over these properties. *See* Plaintiffs’ Sur-Reply in  
Support of a Preliminary Injunction (ECF No. 61, p. 5 n.1 & accompanying text).

1 Plaintiffs and the Court from assessing whether the request is reasonable. Therefore, the request  
2 should be denied.

3 \* \* \*

4 Though Selb and Bennett would undoubtedly prefer to keep their pool’s waterfall  
5 flowing, housekeeper cleaning, and the like, this Court should not permit them to do so with  
6 money they took from consumers through deception. As Bennett admitted: “Upselling is -  
7 stealing money from rubes is ... to a point[.]” GX 615 (3232). If ATS’s customers—who are *not*  
8 *rubes*, but rather *victims of fraud*—could be made whole with less than the full amount of  
9 frozen funds, things would be different. But the amount needed for full refunds here dwarfs the  
10 amount available in frozen funds. Because Plaintiffs are likely to prevail on the merits, Counsel  
11 assumed the risk of nonpayment, the frozen assets will be needed for consumer redress, Selb  
12 and Bennett appear to have access to alternative funding sources and could seek legitimate  
13 employment, and their requests are unreasonable and unsupported, the Court should deny the  
14 Motion.

15  
16 Respectfully submitted,

17 Dated: November 21, 2025

/s/ Simon Barth

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