

IN THE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DANIEL HUMAN

Plaintiff,

vs.

FISHER INVESTMENTS, INC.

Defendants.

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Case No. 4:24-cv-01177 MTS

**PLAINTIFF DANIEL HUMAN'S MOTION FOR SUMMARY JUDGMENT ON
DEFENDANT FISHER INVESTMENTS, INC.'S COUNTERCLAIM FOR FRAUD**

COMES NOW Plaintiff Daniel Human, by and through undersigned counsel, and pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, hereby moves this Court for summary judgment on Defendant Fisher Investments, Inc.'s Counterclaim for Fraud (ECF No. 45), herein for the following reasons:

1. There is no genuine issue of material fact in dispute, and Plaintiff is entitled to judgment as a matter of law because Defendant Fisher Investments, Inc. has failed to produce any evidence supporting its counterclaim, despite repeated opportunities and extensions during discovery. Defendant Fisher Investments, Inc. has admitted it possesses no evidence of fraud beyond phone records (which do not evidence fraud), a "Smart Asset" lead (which does not contain Plaintiff's name, address, IP address, or geo-location and originated in Canada from an unknown party), and its counsel's bills exceeding \$150,000.00 (which are not evidence of fraud).

2. Even assuming arguendo an adverse inference from Plaintiff's discard of a broken computer, such inference alone cannot defeat summary judgment without substantial other evidence, which is absent here.

In support, Plaintiff submits the attached Statement of Uncontroverted Material Facts, Affidavit of Daniel Human, and Exhibits A through G, as well as the separate Memorandum of Law in Support.

WHEREFORE, Plaintiff Daniel Human prays this Court enter summary judgment in his favor on Defendant Fisher Investments, Inc.'s Counterclaim for Fraud, award sanctions for Defendant's repeated misrepresentations to the Court regarding possession of evidence of fraud and grant such further relief as the Court deems just and equitable.

Respectfully submitted,

/s/Edwin V. Butler
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Certificate of Service

I hereby certify that the above and foregoing Motion was served electronically on this 2nd day of September 2025, on the Attorneys of record for the Defendants through the Court's ECF/CM filing and notification system.

/s/Edwin V. Butler
Edwin V. Butler