

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

**DANIEL HUMAN**, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

**FISHER INVESTMENTS, INC., AND  
SMART ASSET ADVISORS, LLC,**

Defendants.

**Case No. 4:24-cv-01177-MTS**

**JURY TRIAL DEMANDED**

**FISHER'S PETITION FOR FEES SOUGHT IN ITS  
MOTION TO COMPEL AND RELATED DISCOVERY SANCTIONS**

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## **I. Introduction**

At the March 28 hearing, the Court granted Fisher’s motion to compel (ECF No. 65) and impose related sanctions on Mr. Human for his misconduct in this case, with a written order to follow. At the hearing, Mr. Human confirmed on the stand that he destroyed a computer by throwing it “in the trash” less than two days before the court-ordered device inspection deadline. He also admitted he produced a laptop that he knew was irrelevant and twice attempted to dismiss his case at the last minute before the device inspection even though he knew Fisher was incurring substantial expenses to prepare for it. As additional court-ordered deadlines approached, Mr. Human then filed a frivolous notice of appeal to divest this Court of jurisdiction and prevent Fisher from immediately presenting certain issues to the Court. The Court rightly described this conduct, and more, as outrageous.

Per the Court’s order, Fisher files this petition for fees sought in connection with its motion to compel: (1) the cost of preparing for and attending the January 27 meet and confer where Mr. Human’s counsel promised to make a full production by February 3, only to break that promise one week later; (2) the expense of the January 27 device inspection; and; (3) the expense of preparing the motion to compel and supporting papers (ECF Nos. 65, 66), its reply (ECF No. 70), and attending the March 28 in-person hearing on Fisher’s motion.

As explained in its supporting memorandum, the Court should award these fees to Fisher under Rule 37, its inherent authority, and 28 U.S.C. § 1927. ECF No. 66 at 12, 18–19. Each of these three sources constitutes an independent basis to justify Fisher’s request for full fees and expenses incurred. As such, Fisher’s request for fees and expenses should be granted in full.

## **II. The Egregious Circumstances Here Warrant a Blanket Award of Fees to Fisher**

Fisher has incurred tremendous fees and expenses from Mr. Human and his counsel’s conduct in this litigation. Their egregious conduct warrants a blanket award that will make Fisher’s

whole. “If a plaintiff initiates a case in complete bad faith, so that every cost of defense is attributable only to sanctioned behavior, the court” may “make a blanket award.” *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 110 (2017). A blanket fee award to the prevailing party is appropriate where “a party to litigation seeks to intentionally deceive the court and its adversary.” *Stenson v. Edmonds*, 86 F.4th 870, 873 (10th Cir. 2023) (affirming dismissal, awarding \$398,636.77 in post-judgment attorney fees as sanction for plaintiff’s misrepresentations and awarding \$81,113.78 in attorney fees for defendants’ expenses preparing a sanctions motion).

That is exactly what happened here. Mr. Human destroyed a computer right before the court-ordered device inspection. He and his counsel tried to dismiss his case twice at the last minute. They timed the dismissals to impose maximum expense on Fisher before a pre-scheduled device inspection and court-ordered deadlines. And when all of those tactics failed, he produced a decoy laptop. Mr. Human’s counsel also falsely promised Mr. Human would fully respond to Fisher’s document requests and interrogatories. Then they filed a frivolous notice of appeal, again at the last minute to impose maximum expense on Fisher, this time right before Mr. Human was supposed to produce documents that would expose his fraud. And Mr. Human still hasn’t responded to the most basic discovery. There is no cell bill or account statement showing who owns the account for his cell number. No answer to an interrogatory asking who his ISP is. Not one email from the many other targets of his fraudulent scheme that would expose his pattern of suing companies that received consent to call Mr. Human’s number. Mr. Human and his counsel instead have produced and re-produced hundreds of pages of irrelevant documents meant to distract from their misconduct—just like the decoy laptop.

“‘Bad faith’ fails to capture the extent of Plaintiff’s misconduct.” *Stenson*, 86 F.4th at 876. That merits a blanket fee award that will make Fisher whole. *See, e.g., Hoover v. Armco, Inc.*, 915

F.2d 355, 357 (8th Cir. 1990) (affirming attorneys' fee award for defending frivolous retaliation claim brought in bad faith); *Akers v. Auto-Owners (Mut.) Ins.*, 2015 WL 3714595, at \*6 (W.D. Mo. June 15, 2015) (awarding defendant \$146,919.21 in reasonable attorneys' fees and costs incurred in defending fraudulent claim brought in bad faith and prosecuting counterclaim); *Depositors Ins. Co. v. Hall's Rest., Inc.*, 2014 WL 2968687, at \*2 (E.D. Mo. July 1, 2014) ("the intentional misconduct on behalf of the insured directly caused plaintiff to incur the claimed attorney's fees" and thus "constitute special circumstances justifying an award of attorney's fees," warranting \$109,049.50 fee award).

Like these other cases, Fisher seeks the substantial fees it incurred from Mr. Human and his counsel's discovery misconduct. As explained in detail below, the total amount is \$100,256.61. Fisher is entitled to a full award of these fees. Anything less will reward Mr. Human for his misdeeds at Fisher's expense.

### **III. The Hours and Rates Fisher Seeks Are Reasonable Regardless**

The hours and rates Fisher seeks are reasonable under the circumstances regardless, confirming that the Court should award Fisher its fees in full.

Courts generally award reasonable hours and reasonable rates when assessing attorneys' fees. "The starting point in determining attorney fees is the lodestar, which is calculated by multiplying the number of hours reasonably expended by the reasonable hourly rates." *Fish v. St. Cloud State Univ.*, 295 F.3d 849, 851 (8th Cir. 2022) (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)). The product of this calculation is "presumed to be the reasonable fee to which counsel is entitled" upon a sufficient showing of reasonableness. *Pennsylvania v. Del. Valley Citizens' Counsel for Clean Air*, 478 U.S. 546, 564 (1986) (internal quotations and citation omitted). District courts have "great latitude" to determine a reasonable hourly rate. *Childress v. Fox Assocs., LLC*, 932 F.3d 1165, 1172 (8th Cir. 2019) (quotation omitted).

Fisher seeks to recover \$100,256.61, comprising of \$94,268.38 in attorneys' fees, \$4,900 in device inspection fees, and \$1,088.23 in costs. Fisher submits detailed billing records showing every hour from January 24, 2025 through March 28, 2025 relating to the fees Fisher seeks in its motion to compel.<sup>1</sup> *See* Ex. A, Terepka Decl., Ex. 1–3. These exhibits include billing records for Fisher's primary counsel, Watstein Terepka LLP ("WT") (Terepka Decl., Ex. 1), and billing records for Fisher's local counsel, Thompson Coburn LLP (Terepka Decl., Ex. 2). Fisher also submits billing records for its forensic examiner for costs associated with the data collection and forensic examination of a decoy laptop Mr. Human submitted. (Terepka Decl., Ex. 3).

**A. The Hours Are Reasonable**

The hours Fisher's outside counsel and forensic examiner incurred to respond to Mr. Human and his counsel's discovery misconduct are reasonable. Fisher's professionals incurred substantial time in January and March on the following:

**January 2025**

- Raise with Court that Mr. Human and his counsel's refused to meet and confer per the Court's requirements and failed to meet discovery obligations. ECF No. 66-1 at 631.
- Respond to communications from Plaintiff's counsel attempting to impose improper restrictions on the device inspection. ECF No. 66-1 at 593–95.
- Attend with opposing counsel court-ordered meet-and-confer on January 27, where Mr. Human's counsel falsely promised that Mr. Human would fully produce documents and interrogatory responses by February 3. *See* ECF No. 66-2 at 33–35.

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<sup>1</sup> Fisher redacted billing records to exclude either privileged communications or time entries that are not relevant to the fee petition for the motion to compel (*i.e.*, entries unrelated to Fisher's motion to compel).

- Arrange for and supervise in-person device inspection that Mr. Human and his counsel attempted to evade with last-minute dismissal attempts.

**March 2025**

- Analyze device inspection results, which revealed Mr. Human produced an irrelevant decoy laptop he likely had not used in years. ECF No. 66-3 at ¶¶ 8–10.
- Correspond with Court regarding outstanding discovery issues and need for motion to compel.
- Analyze evidence that Mr. Human destroyed a computer immediately before device inspection deadline.
- Prepare, finalize, and file motion to compel and supporting memorandum. ECF Nos. 65–66.
  - Supporting research.
  - Supporting evidence, including 3 declarations with 672 pages of supporting exhibits.
- Respond to Plaintiff’s continued vexatious tactics that impose unnecessary expense, including improper correspondence with the Court. ECF No. 66-1 at 645.
- Review and analyze Plaintiff’s
- eleventh-hour supplemental document production, which re-produced hundreds of pages of irrelevant documents and did not contain simple, crucial documents Fisher has been seeking for months.
- Prepare, finalize, and file reply in support of motion to compel. ECF 66.
  - Supporting research.

- Prepare for and attend in-person hearing on Fisher’s motion to compel, including cross-examination of Mr. Human.

Terepka Decl., Ex. 4.

In total, Fisher’s outside counsel spent 157.9 hours on these tasks. Its forensic computer expert spent 14 hours. Fisher submits detailed time records explaining the various tasks its professionals performed and the time spent on them. Terepka Decl., Exs. 1–3. The following summarizes the time each professional spent:

<b>TIMEKEEPER</b>	<b>NUMBER OF HOURS BILLED</b>
Alex Terepka (partner)	48.9
James Ruley (associate)	5.6
Melanie Ng (associate)	87.3
Jennipher Borey (paralegal)	2.5
Lindsay Ballard (paralegal)	4.3
Matt Guletz (partner, local counsel)	9.3
Nick Herfordt (forensic expert)	14
<b>TOTAL</b>	<b>171.9</b>

One partner, Mr. Terepka, and one associate, Ms. Ng, incurred nearly 90% of the overall attorney time on the matter, underscoring that Fisher’s counsel efficiently handled the case with two timekeepers who were the most familiar with the matter. The time records filed with this motion similarly confirm that the hours Fisher’s professionals spent are reasonable and should be awarded in full.

The hours Fisher’s professionals spent are reasonable for the additional reason that Fisher repeatedly sought to avoid needless expense. Mr. Human rejected every one of Fisher’s efforts. He chose to impose maximum expense.

For example, Fisher asked Mr. Human to mail his devices to avoid the added expense of an in-person device inspection. ECF No. 66-1 at 590. He refused. *Id.* at 594–95. Mr. Human then

made the in-person inspection more expensive than it needed to be. Fisher and Mr. Human's counsel scheduled the device inspection for 10:00 a.m. on January 27. *Id.* at 593. Mr. Human didn't show. ECF No. 66-3 at ¶ 6. He filed improper last-minute notices of dismissal. So the device inspection occurred five hours after the scheduled time, *id.*, at significant additional expense to Fisher. Even then, Mr. Human produced an irrelevant decoy laptop that Fisher's professionals wasted time analyzing. *Id.* at ¶¶ 8–10. The story is similar with written discovery. Mr. Human refused throughout this matter to provide even the most basic responses to Fisher's interrogatories or document requests. *See, e.g.*, ECF No. 66-1 at 69–130, 557–58, 621–22. Fisher met and conferred with Mr. Human's counsel and emailed him repeatedly seeking Mr. Human's compliance. *See, e.g., id.* at 65, 574–77; ECF No. 66-2 at 10, 33–34. Mr. Human and his counsel refused. They instead produced and re-produced irrelevant documents. They thus forced Fisher to proceed with a motion to compel and resulting in-person hearing.

Fisher's hours are reasonable and should be awarded in full. *See, e.g., Escano v. Innovative Fin. Partners, LLC*, 2024 WL 243558, at \*17 (D.N.M. Jan. 23, 2024) (awarding fees for 405.3 hours to WT's client in TCPA case), *R. & R. adopted*, 2024 WL 943958 (D.N.M. Mar. 5, 2024); *D'Ottavio v. Slack Techs.*, 2022 WL 17976822 (D.N.J. Dec. 28, 2022) (awarding fees for 296.6 billed hours in TCPA case).

#### **B. The Rates Are Reasonable**

The method for determining the reasonableness of hourly attorney rates is well established within this District and the Eighth Circuit. “When determining reasonable hourly rates, district courts may rely on their own experience and knowledge of prevailing market rates.” *Hanig v. Lee*, 415 F.3d 822, 825 (8th Cir. 2005) (citing *Warnock v. Archer*, 397 F.3d 1024, 1027 (8th Cir. 2005)).

Fisher's lead counsel's (Watstein Terepka LLP or WT) hourly rates are reasonable. WT's hourly rates range from \$807.50 for partners to \$275.00 for junior paralegals, and courts in this

district have found similar rates to be reasonable. *See, e.g., Jo Ann Howard & Assocs., P.C. v. Cassity*, 2020 WL 870987, at \*6 (E.D. Mo. Feb. 21, 2020) (awarding \$7,005,337 in attorneys' fees under special circumstances exception for plaintiffs' intentional misconduct and approving of hourly attorney rates ranging from \$425 to \$712.69), *aff'd sub nom. Jo Ann Howard & Assocs., P.C. v. Nat'l City Bank*, 11 F.4th 876 (8th Cir. 2021); *Axiom Prod. Admin, Inc. v. O'Brien*, 2024 WL 1655389, at \*5 (E.D. Mo. Apr. 17, 2024) (finding rates of \$375, \$600, and \$695 per hour reasonable) (Schelp, J.), *appeal dismissed*, 2024 WL 4784634 (8th Cir. Sept. 13, 2024).

Another federal court recently held that WT's rates for TCPA defense are reasonable. "[E]ach of the principal timekeepers, indeed all the timekeepers [including Mr. Terepka and Ms. Ng], have considerable experience defending companies against TCPA claims, class actions, and litigation in federal court. Their expertise well supports the rates charged, which are commensurate with their years of experience." *Reisman v. Northeastern Power & Gas*, 720 F. Supp. 3d 279, 294 (S.D.N.Y. 2024) (finding WT's rates reasonable and awarding \$93,152.00 in attorneys' fees to WT's client).

This District and this Court's decisions likewise confirm that WT and Thompson Coburn LLP's rates are reasonable. For example, Mr. Terepka's hourly rate is \$712.50, which is similar to other rates that this district has found to be reasonable over the past few years. *See, e.g., Howard*, 2020 WL 870987, at \*6 (approving of \$712.69 billing rate for partner); *Axiom*, 2024 WL 1655389, at \*5 (approving of \$695 hourly rate for partner in St. Louis office). Mr. Guletz, a partner based in St. Louis, charges a similar hourly rate. *See Terepka Decl., Ex. 2* (\$680 hourly rate for Mr. Guletz).

TCPA litigation typically commands higher rates than general commercial defense, confirming the rates are reasonable here. *See generally D'Ottavio v. Slack Techs.*, 2022 WL 17976822 (D.N.J. Dec. 28, 2022) (awarding fees to prevailing party in TCPA litigation at \$837 for

partner rate); *see also* Eric J. Troutman, Power Rankings: The Top 10 Best TCPA Defense Lawyers/Firms That YOU Should Be Talking to Right Now, TCPAWorld (Mar. 12, 2025), at <https://tcpaworld.com/2025/03/12/power-rankings-the-top-10-best-tcpa-defense-lawyers-firms-that-you-should-be-talking-to-right-now/> (last visited Apr. 2, 2025) (explaining challenges of TCPA defense litigation—including high exposure cases, complex and novel issues, and constantly-changing law—and ranking WT as one of the top four TCPA firms in the nation).

Finally, Fisher’s lead counsel rates are reasonable considering WT’s extensive, nationally recognized experience in TCPA defense. WT is a nationally top-ranked class action defense firm. WT attorneys have defended hundreds of TCPA cases, including hundreds of TCPA class actions, without ever having a class certified, even for settlement purposes. WT has achieved numerous first-in-the nation rulings disposing of putative TCPA class actions. Chambers and Partners has recognized WT’s achievements in TCPA defense by ranking the firm Band 1 (the highest ranking). The forensic professional Fisher retained is likewise deeply experienced and qualified in his field. ECF No. 66-3 at 1–2.

### **C. The Award Fisher Seeks Is Reasonable Overall**

The \$100,256.61 award requested by Fisher is reasonable overall. Courts consider the following factors when assessing overall reasonableness:

- (1) the time and labor required;
- (2) the novelty and difficulty of the questions;
- (3) the skill requisite to perform the legal service properly;
- (4) the preclusion of employment by the attorney due to acceptance of the case;
- (5) the customary fee;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or the circumstances;
- (8) the amount involved and the results obtained;
- (9) the experience, reputation, and ability of the attorneys;
- (10) the “undesirability” of the case;
- (11) the nature and length of the professional relationship with the client; and
- (12) awards in similar cases.

*Hensley v. Eckerhart*, 461 U.S. 424, 430 n.3 (1983). These factors confirm overall reasonableness here, including the following.

***Time and labor.*** All the tasks Fisher’s professionals undertook required substantial time and labor over multiple months, as described in detail above and in the time records filed with this motion.

***Novelty and difficulty.*** This case involved difficult and novel issues, as Mr. Human’s many other cases show. He is a serial TCPA litigant who has filed approximately 70 cases in the last two years alone. Mr. Human has intentionally abused the judicial process to leverage nuisance value settlements regardless of how fraudulent his claims are. Exposing fraud is difficult, and no other defendant has stood up to Mr. Human as Fisher has done. This factor strongly confirms that the fees requested are reasonable.

***Skill required to perform.*** TCPA defense is a specialized field that requires considerable skill. This case added substantially more than usual complexity, including because it involved exposing a fraud and asserting counterclaims.

***Results obtained.*** The results obtained speak for themselves. Fisher obtained an involuntary dismissal of Mr. Human’s claim and an order striking his response to the counterclaim, which means Fisher will obtain a judgment of fraud against him.

***Experience, reputation, and ability.*** As discussed above, Fisher’s counsel’s experience and results in this area are unmatched.

***Undesirability of the case.*** Litigating this case to conclusion would be extremely undesirable to any defendant, as the fees Fisher has incurred show. That is why in the more than 70 cases Mr. Human has filed; none have stood up to him as Fisher has. Instead, many have

understandably paid him nuisance value settlements to avoid litigation expenses regardless of whether his claims are a fraud.

*Awards in similar cases.* As discussed above, awards to defendants in TCPA cases and awards in this District generally confirm that the fees Fisher seeks here are reasonable. *See, e.g., Reisman*, 720 F. Supp. 3d at 294 (awarding \$93,152.00 in fees to WT’s client in TCPA case); *Escano*, 2024 WL 243558, at \*17 (awarding \$144,605.43 in fees to WT’s client in TCPA case); *D’Ottavio*, 2022 WL 17976822 (awarding \$160,602.37 in fees in TCPA case); *see also Howard*, 2020 WL 870987, at \*6 (awarding \$7,005,337 in attorneys’ fees); *Axiom*, 2024 WL 1655389, at \*6 (awarding \$1,004,724.30 in attorneys’ fees and expenses).

In sum, the fees Fisher seeks are reasonable and should be awarded in full.

#### **IV. Mr. Human and His Counsel Should Be Jointly and Severally Liable for the Fee Award**

Rule 37 expressly provides that if a motion to compel “is granted,” the “court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant’s reasonable expenses incurred in making the motion, including attorney’s fees.” Fed. R. Civ. P. 37(a)(5)(A) (emphasis added).

Applying this rule, when a party and its counsel engage in a “persistent pattern of delay and failure to comply with the district court’s orders,” the court should impose joint and several sanctions on that party *and* counsel. *Arnold v. ADT Security Servs.*, 627 F.3d 716, 718, 722 (8th Cir. 2010) (affirming joint and several award under Rule 37(a)); *Willy v. Coastal Corp.*, 503 U.S. 131, 133 (1992) (affirming attorneys’ fee award against plaintiff and his attorney, jointly and severally).

Mr. Human's counsel repeatedly flouted the Court's orders and signed frivolous filings. *See, e.g.*, ECF No. 78 (ordering Mr. Human's counsel to show cause why he should not be sanctioned under Rule 11(c)(3)). At the March 28 hearing, Mr. Human's counsel effectively conceded on the record that he knew filings he signed were wrong. He further effectively conceded that he disagreed with his client's conduct but did nothing to rectify it. And Mr. Human's counsel did not express any desire to withdraw from the case until he imminently faced consequences for his actions.

Because the Court "granted" Fisher's motion, it should award fees against both "the party or attorney advising" the "conduct" that forced Fisher to file that motion. Fed. R. Civ. P. 37(a)(5)(A). The Eighth Circuit affirmed such a result in a case that involved a "persistent pattern of delay and failure to comply with the district court's orders." Except that pattern was far less egregious than here. *Arnold*, 627 F.3d at 722. To take a few examples, the party and lawyer jointly and severally sanctioned in *Arnold* did not improperly seek to dismiss the case last minute to evade a court-ordered device inspection, like Mr. Human and his counsel did here. They also didn't file a frivolous notice of appeal, again calculated to impose maximum expense on their adversary and evade document discovery obligations, like Mr. Human and his counsel did here.

In sum, the Court should award Fisher its fees jointly and severally against Mr. Human and his counsel.

**V. Fisher is Entitled to Fees on Numerous Independent Grounds that Fisher Will Assert at the Appropriate Time**

This fee petition seeks Fisher's fees for expense incurred in connection with its motion to compel and related sanctions. These fees are only some of the fees Fisher has incurred in this matter. Fisher is entitled to its fees incurred as a result of this entire litigation on numerous

independent grounds. Fisher will seek those fees and any fees not awarded for this motion at the appropriate time.

For example, district courts “may award attorney’s fees to a prevailing defendant under the bad faith exception to the American Rule.” *Hoover v. Armco, Inc.*, 915 F.2d 355, 357 (8th Cir. 1990). Under this exception, a district court may award attorneys’ fees to the prevailing party when it finds “the losing party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.” *Alyeska Pipeline Serv. Co. v. Wilderness Soc’y*, 421 U.S. 240, 258–59 (1975) (internal quotation marks and citation omitted); *see also Haeger*, 581 U.S. at 110. And if “a plaintiff is found to have brought or continued such a claim in *bad faith*, there [is] an even stronger basis for charging [the plaintiff] with the attorney’s fees incurred by the defense.” *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 422 (1978) (emphasis in original); *see also Stenson*, 86 F.4th at 876; *Depositors Ins. Co.*, 2014 WL 2968687, at \*2; *Ackers*, 2015 WL 3714595, at \*6.

There are still more additional grounds, including the Court’s inherent authority, Federal Rule of Civil Procedure 11, and 28 U.S.C. § 1927, for awarding Fisher all of its fees incurred in this case. And because the Court struck Mr. Human’s pleadings in response to the counterclaim, Fisher will seek a judgment of fraud that will entitle Fisher to its fees on still another independent ground: As damages for Mr. Human’s fraud. Fisher thus intends to seek any fees that are not awarded in connection with this motion in subsequent proceedings at the appropriate time, including the fees it does not seek here, the fees for this petition, and any fees or expenses not awarded in connection with this petition.

## **VI. Conclusion**

In sum, the Court should award Fisher the fees and costs it seeks here in full.

Dated: April 4, 2025

Respectfully submitted,

/s/ Alexander D. Terepka

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**CERTIFICATE OF SERVICE**

I hereby certify that on this April 4, 2025, I caused to be electronically filed the foregoing document in the United States District Court for the Eastern District of Missouri, with notice of same being electronically served via email to Plaintiff's counsel.

*/s/ Alexander D. Terepka* \_\_\_\_\_  
Alexander D. Terepka

# EXHIBIT A

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

**DANIEL HUMAN**, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

**FISHER INVESTMENTS, INC., AND  
SMART ASSET ADVISORS, LLC,**

Defendants.

**Case No. 4:24-cv-01177-MTS**

**JURY TRIAL DEMANDED**

**DECLARATION OF ALEXANDER D. TEREPKA  
IN SUPPORT OF ATTORNEYS' FEES AND COSTS  
DEFENDANT FISHER SEEKS FOR ITS MOTION TO COMPEL**

I, Alexander D. Terepka, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney at the law firm of Watstein Terepka, LLP, and lead counsel for Fisher Investments, Inc.

2. The information contained herein is based upon my personal knowledge and my law firm's records of regularly conducted business. I make this declaration in support of attorneys' fees and costs sought by Fisher under its motion to compel (ECF No. 65).

3. On March 19, 2025, Fisher filed a motion to compel. Plaintiff filed a response in opposition on March 24, 2025 (ECF No. 69), and Fisher filed a reply on March 26, 2025 (ECF No. 70).

4. On March 28, 2025, the Court held an in-person hearing on Fisher's motion to compel. I attended that hearing. The Court orally granted Fisher's requested relief, including involuntary dismissal of the Amended Complaint and striking Plaintiff's response to Fisher's counterclaim.

5. As explained below, Fisher has expended a total of \$94,268.38 in attorneys' fees, \$4,900 in device inspection fees, and \$1,088.23 in costs associated with bringing its motion to compel and related work in discovery in this matter.

**Attorneys' Fees and Costs Expended**

6. My firm has represented Fisher in this action since at least August 2024.

7. Throughout this action, we have kept contemporaneous records of the time expended, including the dates and descriptions of services performed.

8. I have also instructed, supervised, and/or ensured that all other members and employees of my firm keep contemporaneous time records of the hours they have expended in this matter, including the dates and descriptions of services performed.

9. Attached hereto as Composite **Exhibit 1** are the billing records for expenses Fisher incurred on the Motion and related items by Watstein Terepka LLP attorneys. *See* Comp. Ex. 1. These records describe in detail the work that WT's professionals have performed on this matter and how much time they spent on that work. Composite Exhibit 1 is redacted to exclude either privileged communications or time entries that are not relevant to the fee petition for the motion to compel (*i.e.*, entries unrelated to Fisher's motion to compel).

10. Attached hereto as Composite **Exhibit 2** are the billing records for expenses Fisher incurred for the Motion and related items by Thompson Coburn LLP attorneys. *See* Comp. Ex. 2. These records describe in detail the work that Thompson Coburn's professionals have performed

on this matter and how much time they spent on that work. Composite Exhibit 2 is redacted to exclude either privileged communications or time entries that are not relevant to the fee petition for the motion to compel (*i.e.*, entries unrelated to Fisher’s motion to compel).

11. Attached hereto as Composite **Exhibit 3** are the billing records for the expenses Fisher incurred on the device inspection by the forensic examiner Fisher retained in this matter. *See* Comp. Ex. 3. These records describe in detail the work that the professional Fisher retained performed on this matter and how much time he spent on that work. Exhibit 3 is redacted to exclude either privileged communications or time entries (*i.e.*, entries unrelated to Fisher’s motion to compel, such as the inspection of Plaintiff’s cell phone).

12. Attached hereto as **Exhibit 4** is a summary of the expenses Fisher incurred in connection with the Motion and related items.

**Experience of Attorneys and Staff**

13. Plaintiff’s claims arose under the TCPA, which is a highly specialized area due to the high exposure and strict liability contained in a complicated federal statute. Courts “recognize[] that the TCPA is a complex statute,” *Rosenberg v. LoanDepot.com*, 435 F. Supp. 3d 308, 322 (D. Mass. 2020), and “[c]ases involving alleged violations of the TCPA” involve “complex questions of law and difficulty of proof.” *Williams v. Bluestem Brands, Inc.*, 2019 WL 1450090, at \*3 (M.D. Fla. Apr. 2, 2019). Even the current Supreme Court Chief Justice acknowledged that the TCPA “is the strangest statute I’ve ever seen.” Tr. of Oral Argument at 51:19-20, *Mims v. Arrow Fin. Servs.*, 565 U.S. 368 (2012) (No. 10-1195). That is especially true because Plaintiff brought this case as a putative class action.

14. Watstein Terepka LLP is a top-ranked class action defense practice. WT attorneys have defended over hundreds of TCPA cases, including hundreds of TCPA class actions, without ever having a class certified, even for settlement purposes. I am aware of no other firm with that depth of experience and track record in this area. Chambers and Partners, one of the most prestigious law firm ranking companies, has recognized WT's achievements in TCPA defense by ranking the firm Band 1 (the highest ranking).

15. I am a founding partner at Watstein Terepka LLP and a nationally recognized litigator. I have successfully defended companies as lead counsel in a variety of litigation matters across the country, including dozens of putative nationwide class actions. I have substantial experience litigating dozens of types of consumer class action claims, including many dozens of TCPA claims. Since January 2025, I charge an hourly rate of \$712.50 for this matter, which reflects a 5% discount from my standard rate. A summary of my background and some of my professional accomplishments is available here: <https://wtlaw.com/our-team/alexander-terepka/>.

16. James M. Ruley (2017 graduate) is a highly skilled litigator who has successfully defended companies in many complex commercial matters, including class actions filed under federal statutes. Mr. Ruley has specifically litigated dozens of TCPA actions. Since January 2025, he charged an hourly rate of \$617.50 for this matter, a 5% discount from his standard rate. A summary of his background and some of his professional accomplishments is available here: <https://wtlaw.com/our-team/james-ruley/>.

17. Melanie G. Ng (2021 graduate) is a highly skilled litigator who has successfully defended companies in many complex commercial matters, including class actions filed under federal statutes. Ms. Ng has specifically litigated dozens of TCPA actions. Since January 2025, she charged an hourly rate of \$546.25 for this matter, a 5% discount from her standard rate. A summary

of her background and some of her professional accomplishments is available here:

<https://wtlaw.com/our-team/melanie-ng/>.

18. Jennifer Borey is a highly experienced paralegal at Watstein Terepka, LLP who has extensive experience serving as a paralegal in complex litigation matters. Since January 2025, she charged an hourly rate of \$310.00 for this matter, in line with her typical rates.

19. Lindsay Ballard is a highly skilled paralegal at Watstein Terepka, LLP who has experience serving as a paralegal in complex litigation matters. Since January 2025, she charged an hourly rate of \$275.00 for this matter, in line with her typical rates.

20. My firm's rates remain substantially lower than many other firms that litigate TCPA actions. *See, e.g., D'Ottavio v. Slack Techs.*, 2022 WL 17976822 (D.N.J. Dec. 28, 2022) (awarding fees to prevailing party in TCPA litigation at \$837 for partner rate more than two years ago). Courts have specifically found that the hourly rates charged by my firm are reasonable given our subject matter expertise and experience. For example, in another recent TCPA lawsuit captioned *Reisman v. Northeastern Power & Gas, LLC*, the court held "each of the principal timekeepers, indeed all the timekeepers [including myself and Ms. Ng], have considerable experience defending companies against TCPA claims, class action, and litigation in federal court. Their expertise well supports the rates charged, which are commensurate with their years of experience." *See* 720 F. Supp. 3d 279, 294 (S.D.N.Y. 2024).

Pursuant to 28 U.S.C. § 1746, I declare, under the penalty of perjury, that the foregoing is true and correct.

Executed this 4th day of April in Atlanta, Georgia.

Signed by:  
  
44B19B7E9CBF463...  
Alexander Terepka

# **EXHIBIT 1**

# WATSTEIN TEREPKA <sup>LLP</sup>

## INVOICE

Invoice # 3982  
Date: 03/21/2025  
Due On: 04/20/2025

1055 Howell Mill Rd, 8th Floor  
Atlanta, GA 30318  
Phone: (404) 600-1415  
Email: admin@wtlaw.com  
<https://www.wtlaw.com>

Fisher Investments, Inc.

### Human Fisher TCPA lawsuit- 00336

### Human Fisher TCPA lawsuit

Type	Date	Notes	Attorney	Quantity	Rate	Discount	Total
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

















strategize with N. Herfordt regarding device inspection and preparation for same; strategize with L. Ballard about research into Plaintiff's case history and next steps, including for information that may be relevant to device inspection.

Service	01/25/2025	Review and revise correspondence to opposing counsel regarding discovery and device inspection issues.	AT	0.30	\$712.50	-	\$213.75
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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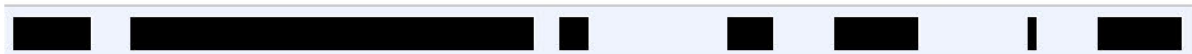
Service	01/27/2025	Strategy call regarding meet and confer with opposing counsel; review key documents related to discovery disputes in connection with meet and confer; meet and confer with opposing counsel and take notes regarding the same; prepare and revise correspondence to opposing counsel regarding various written discovery issues and device inspection issues.	JR	4.10	\$617.50	-	\$2,531.75
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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Service	01/27/2025	Manage discovery strategy, device inspection, and meet and confer issues; analyze court orders regarding Mr. Human's attempts to	AT	2.60	\$712.50	-	\$1,852.50
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evade device inspection and discovery with dismissals; analyze results of meet and confer and device inspection process and confer with team regarding the same.

Service	01/27/2025	Strategize with team concerning next steps regarding device inspection; coordinate device inspection at later time than scheduled with expert in light of Mr. Human's refusal to attend at scheduled time; correspond with opposing counsel regarding device inspection and discovery issues; prepare and revise client update regarding device inspection issues; review/analyze case law discussing voluntary dismissal without prejudice before answer of amended complaint and prepare comment on same; attend meet and confer with opposing counsel on discovery issues and prepare email comment memorializing conversation; analyze device inspection issues in light of court orders striking voluntary dismissal; strategize with M. Guletz regarding device inspection issues, including in light of court orders and Mr. Human's attempts to evade the inspection.	MN	8.30	\$546.25	-	\$4,533.88
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[REDACTED]

[REDACTED]

[REDACTED]

# WATSTEIN TEREPKA <sup>LLP</sup>

## INVOICE

Invoice # 4192  
Date: 04/03/2025  
Due On: 05/03/2025

1055 Howell Mill Rd, 8th Floor  
Atlanta, GA 30318  
Phone: (404) 600-1415  
Email: admin@wtlaw.com  
<https://www.wtlaw.com>

Fisher Investments, Inc.

### Human Fisher TCPA lawsuit- 00336

### Human Fisher TCPA lawsuit

Type	Date	Notes	Attorney	Quantity	Rate	Discount	Total
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Service	03/14/2025	Review and revise communication to Court regarding discovery issues, including to obtain hearing for motion to compel; review and revise outline regarding motion to compel issues and next steps; review and analyze court order setting briefing schedule and hearing on motion to compel; provide guidance to team regarding the same; review and analyze research results regarding potential discovery sanctions for motion to compel.	AT	2.90	\$712.50	-	\$2,066.25
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Service	03/15/2025	Prepare and revise legal standard and argument section of motion to compel and related discovery sanctions, including involuntary dismissal; review/analyze and incorporate relevant case law into same; strategize with A. Terepka and J. Ruley regarding same; prepare/revise supporting A. Terepka declaration; begin identifying and preparing exhibits for A. Terepka declaration and analyze the same.	MN	7.10	\$546.25	-	\$3,878.38
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Service	03/16/2025	Review, revise, and comment on draft motion to compel per court order setting briefing schedule	AT	3.80	\$712.50	-	\$2,707.50
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on motion; analyze and comment on key authorities supporting motion to compel; prepare and revise outline of introduction and background sections for motion to compel; comment on declarations required to support motion to compel.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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Service	03/16/2025	Prepare and revise motion to compel and strategize with A. Terepka regarding same; revise argument portion of motion to compel to incorporate team feedback; revise introduction and background of motion to compel; incorporate overall A. Terepka feedback and relevant case law into motion to compel; strategize with team regarding next steps and attention to correspondence with client.	MN	8.60	\$546.25	-	\$4,697.75
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Prepare and revise motion to compel and strategize with A. Terepka regarding same; revise argument portion of motion to compel to incorporate team feedback; revise introduction and background of motion to compel; incorporate overall A. Terepka feedback and relevant case law into motion to compel; strategize with team regarding next steps and attention to correspondence with client.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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compel to A. Terepka for review; incorporate relevant case law from 8th Circuit and Missouri federal courts into motion to compel; prepare and revise background section of draft motion to compel; review/analyze instances of potential fraudulent lead contact on Plaintiff's cell phone and strategize with team regarding same in connection with developing additional points for Herfordt declaration in support of motion to compel.

[Redacted]

[Redacted]

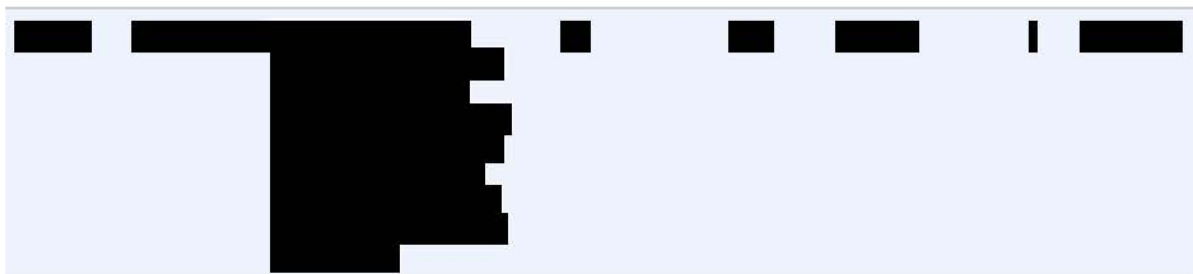
[Redacted]

[Redacted]

[Redacted]

[Redacted]

Service	03/18/2025	Prepare/revise Herfordt, Ruley, and Terepka declarations supporting motion to compel and related discovery sanctions; strategize with A. Terepka regarding substantive edits to sanctions and motion to compel briefing and incorporate same; compile list of inadequate responses to written discovery requests for motion to compel; compile list of court violations by opposing counsel and citations as support for sanctions request in motion to compel; review/analyze and incorporate relevant case law into briefing regarding motion to compel; strategize with A. Terepka regarding opposing counsel's improper email to the Court regarding discovery disputes and next steps.	MN	6.70	\$546.25	-	\$3,659.88
Service	03/18/2025	Review, revise, and comment on motion to compel and for related discovery sanctions; analyze key authorities supporting motion to compel, including cases from presiding judge, in connection with reviewing and revising the same; manage preparation of supporting declarations; analyze correspondence from opposing counsel regarding motion to compel to court and response to same.	AT	5.60	\$712.50	-	\$3,990.00



Service	03/19/2025	Prepare/revise, finalize, and coordinate filing of motion to compel and associated exhibits; strategize with A. Terepka regarding comments to motion to compel and incorporate same; strategize with N. Herfordt regarding declaration and revise the same; draft/revise and finalize Herfordt, Ruley, and Terepka declarations and exhibits; manage filing issues; strategize with M. Guletz regarding comments and implement same into briefs; prepare and revise cover motion for memorandum in support of motion to compel and related discovery sanctions.	MN	9.80	\$546.25	-	\$5,353.25


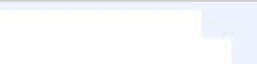
Service	03/19/2025	Review, revise, and comment on motion to compel and discovery sanctions in connection with finalizing the same; review, revise, and comment on declarations supporting motion (including two attorney declarations and computer expert declaration); analyze key case law supporting motion in connection with revising the same; manage finalization and filing of motion.	AT	5.90	\$712.50	-	\$4,203.75
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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Service	03/24/2025	Analyze issues related to upcoming hearing on motion to compel and related sanctions and manage preparation of hearing materials in connection with the same; attend call with local counsel regarding hearing issues.	AT	0.70	\$712.50	-	\$498.75
Service	03/24/2025	Begin preparing for upcoming hearing and strategize with A. Terepka regarding same; strategize with J. Borey regarding hearing binder and outline documents to include; draft/revise (begin) chronology outlining Human and his counsel's conduct supporting motion to compel and sanctions, including missed discovery deadlines and violated court orders.	MN	4.80	\$546.25	-	\$2,622.00
Service	03/25/2025	Update Plaintiff's document production with supplemental document production; confer with M. Ng regarding same; prepare pleadings and other pertinent documents for hearing on Motion to Compel and for Sanctions; confer with A. Terepka and M. Ng regarding same.	JB	1.50	\$310.00	-	\$465.00
							
Service	03/25/2025	In connection with motion to compel issues, review and analyze prior Human cases for attorney team in connection with identifying additional information regarding prior settlement	LB	3.40	\$275.00	-	\$935.00

agreements that Mr. Human failed to produce; prepare summary of Human TCPA cases that a notice of settlement, stipulation of dismissals, motion for dismissal, and notice of dismissals that were filed from 2024 to present; and communicate with M. Ng about the same.

Service	03/25/2025	Review/analyze Mr. Human's supplemental document production and response; prepare comment for team containing points to raise in reply in support of motion to compel; strategize with A. Terepka regarding reply; prepare outline for reply; review/analyze and incorporate A. Terepka comments into reply outline; conduct research to support arguments contained in reply outline; research and analyze key authorities to support reply brief, including key authorities regarding requested relief in 8th Circuit and authorities refuting opposition arguments; strategize with L. Ballard regarding cites of Human's TCPA cases to incorporate in reply; begin preparing and revising reply in support of motion to compel and related discovery sanctions.	MN	14.80	\$546.25	-	\$8,084.50
Service	03/25/2025	Review, analyze, and comment on summary of Plaintiff's opposition to motion to compel and related sanctions in connection with managing preparation of reply to the	AT	1.90	\$712.50	-	\$1,353.75

		same; analyze and comment on motion to compel strategy and next steps; analyze key authorities cited in Plaintiff's opposition.					
Service	03/26/2025	Revise/finalize Defendant's Reply in Support of its Motion to Compel; confer with A. Terepka and M. Ng regarding same.	JB	1.00	\$310.00	-	\$310.00
Service	03/26/2025	Prepare/revise reply brief and circulate draft to A. Terepka for review; revise reply to incorporate A. Terepka and M. Guletz's comments; finalize reply for filing; prepare and revise chronology of discovery issues related to motion to compel for A. Terepka in connection with preparing for hearing on motion to compel; analyze Human's additional production of documents and key points regarding the same for motion to compel reply; review and analyze key materials relevant to chronology, including exhibits to motion to compel; further research and analyze case law regarding spoliation and device inspections in connection with preparing summary for A. Terepka for hearing.	MN	11.60	\$546.25	-	\$6,336.50
Service	03/26/2025	Review and revise reply in support of motion to compel and related discovery sanctions; analyze key authorities supporting reply; analyze Plaintiff's opposition and supporting documents and take notes regarding the same in connection	AT	5.80	\$712.50	-	\$4,132.50

with revising reply; prepare for hearing on motion to compel and related sanctions, including by preparing high level outline of key points for hearing.

[REDACTED]

[REDACTED]

Service	03/27/2025	Manage additional documents and update the binder index for A. Terepka's binder for hearing on Defendant's Motion to Compel; communicate with M. Ng, J. Borey, and A. Terepka about the same.	LB	0.90	\$275.00	-	\$247.50
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[REDACTED]

[REDACTED]

Service	03/27/2025	Prepare for hearing regarding motion to compel and related sanctions, including by	AT	8.60	\$712.50	-	\$6,127.50
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analyzing all briefing and supporting papers and declarations filed in connection with motion; review and analyze key 8th Circuit and Missouri district court case law supporting motion and requested relief, including involuntary dismissal, and prepare notes regarding the same; prepare and revise outline for hearing; analyze briefing on motion to compel and related sanctions.

Expense	03/27/2025	E111 Meals: A. Terepka Meals related to travel for hearing on motion to compel and related discovery sanctions.	CD	1.00	\$77.98	-	\$77.98
Expense	03/27/2025	E110 Out-of-town travel: A. Terepka hotel bill at Westin for hearing on motion to compel and related discovery sanctions.	CD	1.00	\$347.29	-	\$347.29
Service	03/28/2025	Prepare for and attend hearing regarding motion to compel and related discovery sanctions;	AT	10.80	\$712.50	-	\$7,695.00

prepare and revise outline for hearing; analyze key documents supporting motion, including declarations, and take notes regarding the same; analyze key authorities supporting requested relief for hearing, including involuntary dismissal and striking pleadings responding to counterclaim; prepare and revise outline regarding results of hearing and next steps, including court ordered additional submissions regarding sanctions, and research required to support the same.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



[Redacted text block]

Westin St. Louis  
 811 Spruce Street  
 Saint Louis, MO 63102  
 United States  
 Tel: 314-621-2000 Fax: 314-552-5700



ALEXANDER TEREPKA

Page Number : 1 Invoice Nbr : 1000241911  
 Guest Number : 1150213  
 Folio ID : A  
 Arrive Date : 27-MAR-25 18:45  
 Depart Date : 28-MAR-25 14:00  
 No. Of Guest : 1  
 Room Number : 543  
 Marriott Bonvoy Number : [REDACTED]

Tax ID : [REDACTED]

Westin St Loui STLWI MAR-28-2025 04:20 9999

Date	Reference	Description	Charges (USD)	Credits (USD)
27-MAR-25	RT543	Room Chrg - Special Corp	297.00	
27-MAR-25	RT543	State Tax	28.75	
27-MAR-25	RT543	Tourism Tax	11.14	
27-MAR-25	RT543	Occupancy Tax	10.40	
MAR-28-2025AX		American Express		-347.29

Approve EMV Receipt for [REDACTED] Signature Captured  
 [REDACTED]  
 [REDACTED]

\*\* Total 347.29 -347.29  
 \*\*\* Balance -0.00

Westin St. Louis  
811 Spruce Street  
Saint Louis, MO 63102  
United States  
Tel: 314-621-2000 Fax: 314-552-5700



ALEXANDER TEREPKA

Page Number : 2 Invoice Nbr : 1000241911  
Guest Number : 1150213  
Folio ID : A  
Arrive Date : 27-MAR-25 18:45  
Depart Date : 28-MAR-25 14:00  
No. Of Guest : 1

I agreed to pay all room & incidental charges.



For your convenience, we have prepared this zero-balance folio indicating a \$0 balance on your account. Please be advised that any charges not reflected on this folio will be charged to the credit card on file with the hotel. While this folio reflects a \$0 balance, your credit card may not be charged until after your departure. You are ultimately responsible for paying all of your folio charges in full.

Stay well, no matter where you travel. Reconnect with your well-being and find your next destination at westin.com.

Tell us about your stay. [www.westin.com/reviews](http://www.westin.com/reviews)

Bring the Westin experience home. Shop [WestinStore.com](http://WestinStore.com).



Atlanta International Airport  
International Park-Ride

Receipt Number: H0042500151535  
Ticket-Nr.: 70549313  
In: 03/27/2025 14:36  
Out: 03/28/2025 20:03  
Duration: 1,05:27

Transient Parker	\$ 28.00
<b>Total:</b>	<b>\$ 28.00</b>
Validations	\$ 0.00
<b>Balance Due:</b>	<b>\$ 28.00</b>
Credit-Card	\$ 28.00
Change:	\$ 0.00

# EXHIBIT 2



Remit To:  
P.O. Box 18379M  
St. Louis, Missouri 63195

February 19, 2025  
Invoice #3719655



Fisher Investments, Inc.  
Attn: Melanie G. Ng  
c/o Watstein Terepka  
1055 Howell Mill Road, 8th Floor  
Atlanta, Georgia 30318

For Wire Transfer Instructions or Other  
Communications Please Contact:  
One US Bank Plaza  
St. Louis, Missouri 63101-1693  
314-552-6000  
AccountsReivable@ThompsonCoburn.com



For Legal Services Rendered in Connection With:  
Human, Daniel  
TC File: 73811 / 239650

[Redacted]

[Redacted]

February 19, 2025  
Invoice #3719655  
Page 2

Fisher Investments, Inc.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
01/23/25	M. Guletz	0.1	Review exchange of email correspondence re court-ordered inspection of plaintiff's devices, respond re same, and telephone conference with A. Terepka, Watstein Terepka, re same
01/24/25	M. Guletz	0.2	Exchange email correspondence with A. Terepka and M. Ng, Watstein Terepka re device inspection issues, and review correspondence to plaintiff's counsel with details re same
01/24/25	M. Guletz	0.1	Telephone conference with M. Ng, Watstein Terepka, re device inspection issues, vendor options, and related issues
01/27/25	M. Guletz	0.1	Review two notices of voluntary dismiss without prejudice and with prejudice filed by Human and follow-up email correspondence from Human's counsel re same
01/27/25	M. Guletz	0.2	Telephone conferences with M. Ng, Watstein Terepka, re impact of filing of plaintiff's filing of dismissals and court's orders, proceeding with device inspection as ordered by the court, and ultimately reporting on results of same
01/27/25	M. Guletz	0.1	Review Judge Schelp's orders striking both dismissals filed by plaintiff
01/27/25	M. Guletz	3.0	Travel to device inspection in St. Charles, Missouri, supervise inspection of plaintiff's laptop and cellular phone as a result of in-person attendance by plaintiff and paralegal from counsel's office, and travel back home

Total Hours 6.30  
Amount For Services [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

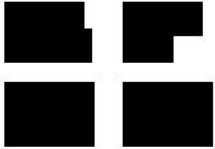
[REDACTED]



February 19, 2025

**Direct Correspondence To:**  
One US Bank Plaza  
St. Louis, Missouri 63101-1693  
314-552-6000  
AccountsReivable@ThompsonCoburn.com

Fisher Investments, Inc.  
Attn: Melanie G. Ng  
c/o Watstein Terepka  
1055 Howell Mill Road, 8th Floor  
Atlanta, Georgia 30318





February 19, 2025

**Direct Correspondence To:**  
One US Bank Plaza  
St. Louis, Missouri 63101-1693  
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Atlanta, Georgia 30318



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**REMITTANCE COPY**

**PAYMENT DUE UPON RECEIPT**

PLEASE REFERENCE INVOICE NUMBER WITH YOUR PAYMENT



**Please remit this copy with your check to:**

Thompson Coburn LLP  
P.O. Box 18379M  
St. Louis, MO 63195

**FOR DOMESTIC/INTERNATIONAL WIRE TRANSFER INSTRUCTIONS**

**PLEASE CONTACT**

**AccountsReivable@ThompsonCoburn.com**





SINGLE MATTER PREBILL

Page -1-  
 April 1, 2025  
 Prebill Number: 2656057  
 Billing Attorney: 3716 - Matthew D. Guletz  
 Billing Attorney Department: CM/CL

Fisher Investments, Inc.  
 c/o Watstein Terepka  
 1055 Howell Mill Road, 8th Floor  
 Atlanta, GA 30318  
 ATTN: Melanie G. Ng

Enter email address for client billing contact below:

Matter Name: Human, Daniel  
 Client/Matter Number: 73811-239650  
 Client Name: Fisher Investments, Inc.

Special Billing Instructions: None  
 Special Client Instructions: Billing Atty emails bills to:  
 mng@wtlaw.com

LEGAL SERVICES

Date	Attorney Name	Hours	Fees	Phase	Task	Activity	Description	
03/14/25	M. Guletz	0.10	68.00	L06	L06.550	A104	Exchange email correspondence with M. Ng, Watstein Terepka, re draft email correspondence to Judge Schelp's chambers re discovery disputes and drafting motion for sanctions Review Judge Schelp's Order setting briefing schedule for Fisher's motion to compel and setting hearing	22433858
03/14/25	M. Guletz	0.10	68.00	L02	L02.500	A107		22433858
03/14/25	M. Guletz	0.10	68.00	L06	L06.550	A104		22433860

FOR INTERNAL USE ONLY







SINGLE MATTER PREBILL

Page -4-  
 April 1, 2025  
 Prebill Number: 2656057  
 Billing Attorney: 3716 - Matthew D. Guletz  
 Billing Attorney Department: CMCL

Matter Name: Human, Daniel  
 Client/Matter Number: 73811-239650  
 Client Name: Fisher Investments, Inc.

BILLING INFORMATION & APPROVALS	GENERAL INFORMATION																				
<p>Signature of Billing Attorney: <table border="1" style="float: right; width: 100px;"><tr><td style="text-align: center;">X</td></tr></table></p> <p>If billed by Associate or Counsel, approving Partner's signature: <table border="1" style="float: right; width: 100px;"><tr><td style="text-align: center;">X</td></tr></table></p> <p>Authorized individual, if bill reduction is greater than \$200: <table border="1" style="float: right; width: 100px;"><tr><td style="text-align: center;">X</td></tr></table></p> <p>Authorized individual, if bill reduction is greater than \$3,000: <table border="1" style="float: right; width: 100px;"><tr><td style="text-align: center;">X</td></tr></table></p> <p>Does bill reduction relate to over-realization on prior invoice? <table border="1" style="float: right; width: 100px;"><tr><td style="text-align: center;"><input type="checkbox"/> YES</td><td style="text-align: center;"><input type="checkbox"/> NO</td></tr></table></p> <p>Is Matter closed after this prebill? <table border="1" style="float: right; width: 100px;"><tr><td style="text-align: center;"><input type="checkbox"/> YES</td><td style="text-align: center;"><input type="checkbox"/> NO</td></tr></table></p> <p style="text-align: center;">CHOOSE ONE</p> <p><input type="checkbox"/> Bill amount as shown on this prebill</p> <p><input type="checkbox"/> Calculate bill amount per edits made on this prebill</p> <p><input type="checkbox"/> Bill as stated below:</p> <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 60%;">FEES:</td> <td style="width: 40%; text-align: right;">\$</td> </tr> <tr> <td>DISBURSEMENTS:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>TOTAL:</td> <td style="text-align: right;">\$</td> </tr> </table>	X	X	X	X	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> NO	FEES:	\$	DISBURSEMENTS:	\$	TOTAL:	\$	<p>Selection Date Range for Fees: 03/03/25 to 04/01/25</p> <p>Selection Date Range for Disbursements: 03/25/25 to 04/01/25</p> <p>Billing Frequency: M-Monthly</p> <p>Bill Group Code: 178679</p> <p>Base Value Calculation: St. Louis New Client Rate</p> <hr style="border: 1px solid gray;"/> <p style="text-align: center;"><b>FOR BUSINESS OFFICE USE ONLY</b></p> <p>BILLING CLERK: <input style="width: 100%;" type="text"/></p> <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 60%;">FEES:</td> <td style="width: 40%; text-align: right;">\$</td> </tr> <tr> <td>DISBURSEMENTS:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>TOTAL:</td> <td style="text-align: right;">\$</td> </tr> </table>	FEES:	\$	DISBURSEMENTS:	\$	TOTAL:	\$
X																					
X																					
X																					
X																					
<input type="checkbox"/> YES	<input type="checkbox"/> NO																				
<input type="checkbox"/> YES	<input type="checkbox"/> NO																				
FEES:	\$																				
DISBURSEMENTS:	\$																				
TOTAL:	\$																				
FEES:	\$																				
DISBURSEMENTS:	\$																				
TOTAL:	\$																				

A write-off to this prebill greater than \$200 in fees or \$50 in disbursements needs an explanation: \_\_\_\_\_

FOR INTERNAL USE ONLY

# EXHIBIT 3



154 Hughes Lane  
 St. Charles, MO 63301  
 636/896-9995

Invoice No. 36946  
 Date 03/19/2025  
 Semke No. 6061.25059

Ms. Melanie G. Ng  
 Watstein Terpka LLP  
 218 Northwest 24th Street, 3rd Floor  
 Miami, FL 33127



Re: Data Forensic Analysis  
 Daniel Human v. Fisher Investments

INVOICE FOR PROFESSIONAL SERVICES RENDERED AND EXPENSES ADVANCED  
 OUR TERMS ARE NET DUE WITHIN 30 DAYS  
 UNPAID ACCOUNTS PAST 60 DAYS ACCRUE FINANCE CHARGES AT A 1.5% MONTHLY RATE  
 REMIT TO: Semke Forensic, 154 Hughes Lane, St. Charles, MO 63301

DATE	SERVICE	STAFF	HOURS	AMOUNT
01/27/2025	Electronic Evidence Collection	NSH	3.50	\$ 1,225.00
01/27/2025	Data Imaging	NSH	2.00	700.00
	-Dwnld Data from Cell Phone & Laptop			
01/31/2025	Electronic Evidence Eval -D. Human Laptop	NSH	2.50	875.00
01/31/2025	Electronic Evidence Processing	NSH	2.00	700.00
	-D. Human Laptop			
02/03/2025	Client Contact	NSH	0.50	175.00
02/03/2025	Electronic Evidence Eval	NSH	1.00	350.00
02/07/2025	Client Contact	NSH	1.00	350.00
02/17/2025	Client Contact	NSH	0.50	175.00
02/20/2025	Client Contact	NSH	0.50	175.00
02/21/2025	Client Contact	NSH	0.25	87.50
			Total For Services	
01/27/2025	Air Fare		\$ 662.96	
			Total For Expenses	662.96
			Total This Invoice	\$



154 Hughes Lane  
St. Charles, MO 63301  
636/896-9995

Invoice No. 36905  
Date 04/01/2025  
Semke No. 6061.25059

Ms. Melanie G. Ng  
Watstein Terpka LLP  
218 Northwest 24th Street, 3rd Floor  
Miami, FL 33127

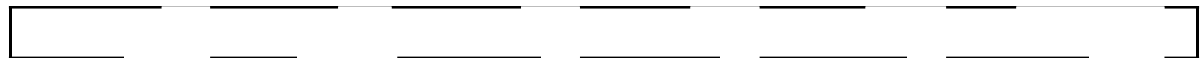
Re: Data Forensic Analysis  
DOL  
Daniel Human v. Fisher Investments

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INVOICE FOR PROFESSIONAL SERVICES RENDERED AND EXPENSES ADVANCED  
OUR TERMS ARE NET DUE WITHIN 30 DAYS  
UNPAID ACCOUNTS PAST 60 DAYS ACCRUE FINANCE CHARGES AT A 1.5% MONTHLY RATE  
REMIT TO: Semke Forensic, 154 Hughes Lane, St. Charles, MO 63301

DATE	SERVICE	STAFF	HOURS	AMOUNT
03/19/2025	Client Contact -Mtg/Affidavit Rvw/Sign/Return	NSH	0.25	\$ <u>87.50</u>
<b>Total This Invoice</b>				\$ <u><b>87.50</b></u>

**TOTAL DUE (Incl. Previous Balance)**



\* Retainer applied to final invoice per terms & conditions.

# EXHIBIT 4

**Fisher’s Summary of Fees Incurred For its Motion to Compel**

MONTH	AMOUNT
<p style="text-align: center;"><b><u>January 2025</u></b></p> <ul style="list-style-type: none"> <li>• Raise with Court that Mr. Human and his counsel’s refused to meet and confer per the Court’s requirements and failed to meet discovery obligations. ECF No. 66-1 at 631.</li> <li>• Respond to communications from Plaintiff’s counsel attempting to impose improper restrictions on the device inspection. ECF No. 66-1 at 593–95.</li> <li>• Attend with opposing counsel court-ordered meet-and-confer on January 27, where Mr. Human’s counsel falsely promised that Mr. Human would fully produce documents and interrogatory responses by February 3. <i>See</i> ECF No. 66-2 at 33–35.</li> <li>• Arrange for and supervise in-person device inspection that Mr. Human and his counsel attempted to evade with last-minute dismissal attempts.</li> </ul>	<p><b>\$19,335.50</b></p>
<p style="text-align: center;"><b><u>March 2025</u></b></p> <ul style="list-style-type: none"> <li>• Analyze device inspection results, which revealed Mr. Human produced an irrelevant decoy laptop he likely had not used in years. ECF No. 66-3 at ¶¶ 8–10.</li> <li>• Correspond with Court regarding outstanding discovery issues and need for motion to compel.</li> <li>• Analyze evidence that Mr. Human destroyed a computer immediately before device inspection deadline.</li> <li>• Prepare, finalize, and file motion to compel and supporting memorandum. ECF Nos. 65–66. <ul style="list-style-type: none"> <li>○ Supporting research.</li> <li>○ Supporting evidence, including 3 declarations with 672 pages of supporting exhibits.</li> </ul> </li> <li>• Respond to Plaintiff’s continued vexatious tactics that impose unnecessary expense, including improper correspondence with the Court. ECF No. 66-1 at 645.</li> <li>• Review and analyze Plaintiff’s eleventh-hour supplemental document production, which re-produced hundreds of pages of irrelevant documents and did not contain simple, crucial documents Fisher has been seeking for months.</li> </ul>	<p><b>\$79,307.88</b></p>

MONTH	AMOUNT
<ul style="list-style-type: none"><li>• Prepare, finalize, and file reply in support of motion to compel. ECF 66.<ul style="list-style-type: none"><li>○ Supporting research.</li></ul></li><li>• Prepare for and attend in-person hearing on Fisher's motion to compel, including cross-examination of Mr. Human.</li><li>• Prepare for and attend in-person hearing on Fisher's motion to compel.</li></ul>	
<b>TOTAL FEES AND EXPENSES:</b>	<b>\$99,168.38</b>

**SUMMARY OF RATES AND HOURS BILLED**

<b>TIMEKEEPER</b>	<b>HOURLY BILLING RATE</b>	<b>NUMBER OF HOURS BILLED</b>	<b>FEES SOUGHT</b>
Alex Terepka	\$712.50	48.9	\$34,841.25
James Ruley	\$617.50	5.6	\$3,458.00
Melanie Ng	\$546.25	87.3	\$47,687.63
Jennipher Borey	\$310.00	2.5	\$775.00
Lindsay Ballard	\$275.00	4.3	\$1,182.50
Matt Guletz	\$680.00	9.3	\$6,324.00
Nick Herfordt	\$350.00	14	\$4,900
<b>TOTAL:</b>		<b>171.9</b>	<b>\$99,168.38</b>

**SUMMARY OF COSTS**

<b>DESCRIPTION</b>	<b>COST</b>
Airfare – Herfordt	\$662.96
Hotel – Terepka	\$347.29
Meals – Terepka	\$77.98
<b>TOTAL:</b>	<b>\$1,088.23</b>