

COURTROOM MINUTES

JUDGE Hittner \_\_\_\_\_ PRESIDING

COURTROOM CLERK E. Alexander \_\_\_\_\_

COURT REPORTER Kathy Miller \_\_\_\_\_

LAW CLERK Brittainie Zinsmeyer \_\_\_\_\_

MORNING \_\_\_\_\_ AFTERNOON \_\_\_\_\_  
SESSION 10:10 - 12:20 SESSION \_\_\_\_\_ DATE: 4/16/21 \_\_\_\_\_

DOCKET ENTRY

(DH ) 4:16-1149 \_\_\_\_\_ (Rptr- Kathy Miller \_\_\_\_\_ )  
(PROCEEDING: Final Pretrial Conference \_\_\_\_\_ )

John Doe, et al. \_\_\_\_\_ V. Leslie Hippensteel, et al \_\_\_\_\_

Appearances: For Plaintiff: David Bateman & Hannah Warren \_\_\_\_\_

For Defendants: Keith Pardue \_\_\_\_\_

Final Pretrial Conference held. Rulings made as stated on the record. \_\_\_\_\_

Witnesses: \_\_\_\_\_

COURTROOM MINUTES

JUDGE Hittner \_\_\_\_\_ PRESIDING

COURTROOM CLERK E. Alexander \_\_\_\_\_

COURT REPORTER Kathy Miller \_\_\_\_\_

LAW CLERK Brittainie Zinsmeyer \_\_\_\_\_

MORNING SESSION \_\_\_\_\_ AFTERNOON SESSION 1:00 - 5:45 DATE: 4/20/21

DOCKET ENTRY

(DH) 4:16-1149 (Rptr- Kathy Miller)  
(PROCEEDING: Jury Selection and Trial )

John Doe, et al. V. Leslie Hippensteel, et al

Appearances: For Plaintiff: David Bateman & Hannah Warren & Andrew Knop

For Defendants: Keith Pardue

Jury Selection held. Jury trial held and continued to Wednesday, April 21, 2021 at 10:00 a.m.

Testimony taken.

Witnesses: Bridget Ousley

**ENTERED**

April 22, 2021

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

John Doe, et al,	§	
	§	
	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION: 4:16-1149
	§	
Leslie Hippensteel, et al,	§	
	§	
	§	
Defendants.	§	

ORDER

The jury in the above captioned case was ordered to appear at 10:00 a.m. on Wednesday, April 21, 2021 and everyday thereafter until the conclusion of the trial. Due to the Covid-19 protocols the Court is required to provide breakfast and lunch for the jury. Therefore, the Clerk is hereby

ORDERED to provide the jury with their breakfast and lunch meals each day until the conclusion of the trial.

This Order shall be directed to the Financial Section for reimbursement to the Phenix Café who is providing the meals.

Signed this 21 day of April, 2021.

  
 \_\_\_\_\_  
 David Hittner  
 United States District Judge

COURTROOM MINUTES

JUDGE Hittner \_\_\_\_\_ PRESIDING

COURTROOM CLERK E. Alexander \_\_\_\_\_

COURT REPORTER Kathy Miller \_\_\_\_\_

LAW CLERK Brittainie Zinsmeyer \_\_\_\_\_

MORNING \_\_\_\_\_ AFTERNOON \_\_\_\_\_  
SESSION 10:25 - 1:05 \_\_\_\_\_ SESSION 2:00 - 6:00 \_\_\_\_\_ DATE: 4/21/21 \_\_\_\_\_

DOCKET ENTRY

(DH) 4:16-1149 \_\_\_\_\_ (Rptr- Kathy Miller \_\_\_\_\_ )  
(PROCEEDING: 2<sup>nd</sup> day Jury Trial \_\_\_\_\_ )

John Doe, et al. \_\_\_\_\_ V. Leslie Hippensteel, et al \_\_\_\_\_

Appearances: For Plaintiff: David Bateman & Hannah Warren & Andrew Knop \_\_\_\_\_

For Defendants: Keith Pardue \_\_\_\_\_

Second day of jury trial held. Testimony taken. Plaintiff's rest their case. Defendants begin presentation of their case. Jury trial continued to Thursday, April 22, 2021 at 10:00 a.m. \_\_\_\_\_

Witnesses: Bridget Ousley \_\_\_\_\_ Wes Linnenbank \_\_\_\_\_ Scott Barrett \_\_\_\_\_

John Ousley \_\_\_\_\_ Owen Brown by Deposition \_\_\_\_\_

Cary Faden \_\_\_\_\_ Saul Eisenberg \_\_\_\_\_

COURTROOM MINUTES

JUDGE Hittner \_\_\_\_\_ PRESIDING

COURTROOM CLERK E. Alexander \_\_\_\_\_

COURT REPORTER Kathy Miller \_\_\_\_\_

LAW CLERK Brittainie Zinsmeyer \_\_\_\_\_

MORNING AFTERNOON  
SESSION 10:00 - 1:00 SESSION 2:25 - 3:30 DATE: 4/22/21

DOCKET ENTRY

(DH ) 4:16-1149 \_\_\_\_\_ (Rptr- Kathy Miller \_\_\_\_\_ )  
(PROCEEDING: 3<sup>rd</sup> day Jury Trial \_\_\_\_\_ )

John Doe, et al, \_\_\_\_\_ V. Leslie Hippensteel, et al \_\_\_\_\_

Appearances: For Plaintiff: David Bateman & Hannah Warren & Andrew Knop \_\_\_\_\_

For Defendants: Keith Pardue \_\_\_\_\_

Third day of jury trial held. Testimony taken. Defendant's rest their case. Closing \_\_\_\_\_  
arguments set for Friday, April 23, 2021 at 10:00 a.m. \_\_\_\_\_

Witnesses: Dr. Joseph Livingston Randy Swartz \_\_\_\_\_

Chandler Pardue Nick Emmite by Zoom \_\_\_\_\_

Ty Hepworth \_\_\_\_\_

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

John Doe, et al,

V.

Saul Eisenberg,

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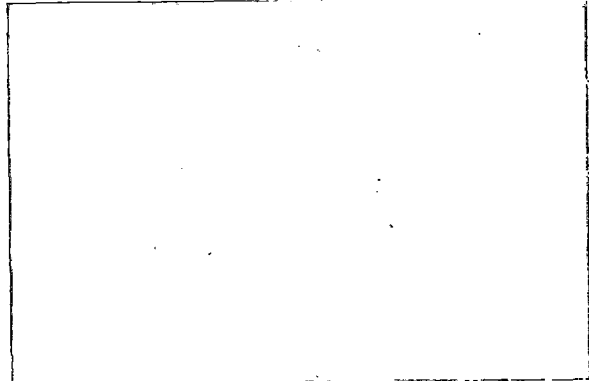
CIVIL ACTION H-16-1149

JURY NOTE # 1

Is the Invasion of Privacy the discovery of  
Information or Is Obtaining the information  
from the original discoverer (Leslie) also Invasion?

Please refer to the definition of  
Claim Two ~~at~~ the bottom of page  
10 and top of page 11.

David Hittner 4/23/21



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

John Doe, et al,

V.

Saul Eisenberg,

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§

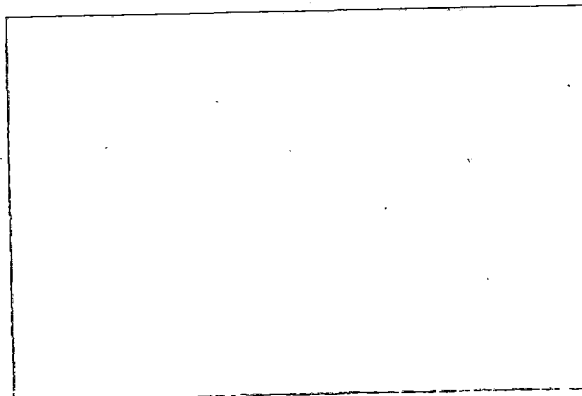
CIVIL ACTION H-16-1149

JURY NOTE # 2

Do We have the Defendant's Exhibits?

Two defense exhibits were used during trial.  
They are submitted now to the jury

Paul Hether 4/23/21



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

John Doe, et al,

V.

Saul Eisenberg,

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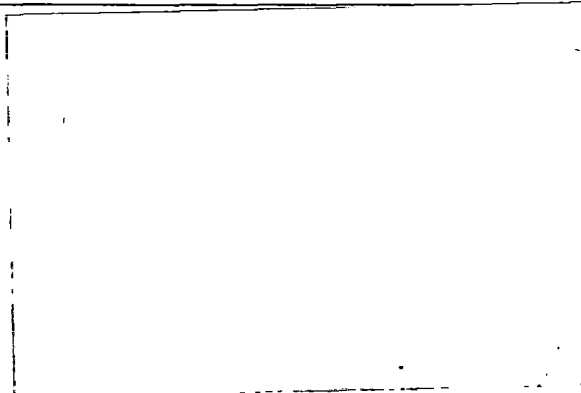
CIVIL ACTION H-16-1149

JURY NOTE # 3

Looking for Leslie Steel Facebook  
message. Should be Defendant's Exhibit.

The document in question was  
not formally entered into evidence  
during the trial.

David Hiltner 4/23/21





COURTROOM MINUTES

JUDGE Hittner PRESIDING

COURTROOM CLERK E. Alexander

COURT REPORTER Kathy Miller

LAW CLERK Brittainie Zinsmeyer

MORNING AFTERNOON  
SESSION 10:00 - 12:30 SESSION 4:25 - 4:35 DATE: 4/23/21

DOCKET ENTRY

(DH) 4:16-1149 (Rptr- Kathy Miller)  
(PROCEEDING: 4<sup>th</sup> day Jury Trial)

John Doe, et al. V. Leslie Hippensteel, et al

Appearances: For Plaintiff: David Bateman & Hannah Warren & Andrew Knop

For Defendants: Keith Pardue

Fourth day of jury trial held. Closing arguments held. Jury deliberations held and concluded.

Jury Verdict in favor of the Plaintiffs in the amount of \$15,000.00. Final Judgment to issue.

Defendant's to file a Motion for Attorney Fees by May 3, 2021. Defendants to respond by

May 10, 2021.

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

**JOHN DOE and JANE DOE,**

*Plaintiffs,*

v.

**SAUL MATTHEW EISENBERG,**

*Defendant.*

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**CIVIL ACTION NO. 4:16-CV-01149**

**The Honorable David Hittner**

**JURY INSTRUCTIONS AND JURY INTERROGATORIES**

**I. General Instructions**

**MEMBERS OF THE JURY:**

**A. Introduction**

You have heard the evidence in this case. I will now instruct you on the law that you must apply. It is your duty to follow the law as I give it to you. On the other hand, you, the jury, are the judges of the facts. Do not consider any statement that I have made in the course of trial or make in these instructions as an indication that I have any opinion about the facts of this case.

After I instruct you on the law, the attorneys will have an opportunity to make their closing arguments. Statements and arguments of the attorneys are not evidence and are not instructions on the law. They are intended only to assist the jury in understanding the evidence and the parties' contentions.

Do not let bias, prejudice, or sympathy play any part in your deliberations. All persons are equal before the law and must be treated as equals in a court of justice.

Answer each question from the facts as you find them. Do not decide who you think should win and then answer the questions accordingly. Your answers and your verdict must be unanimous.

**B. Burden of Proof**

You must answer all questions from a preponderance of the evidence, meaning the greater weight and degree of credible evidence before you. In other words, a preponderance of the evidence standard just means the amount of evidence that persuades you that a claim is more likely than not. In determining whether any fact has been proved by a preponderance of the evidence in this case, you may, unless otherwise instructed, consider the testimony of all witnesses, regardless of who may have called them, as well as all exhibits received in evidence, regardless of who may have produced them.

**C. Calling Witnesses**

The law does not require any party to call as witnesses all persons who may have been present at any time or place involved in the case or those who may appear to have some knowledge of the matters in issue at this trial, nor does the law require any party to produce as exhibits all papers and things mentioned in evidence in the case.

**D. Witness Testimony**

You alone are to determine the questions of credibility or truthfulness of the witnesses. In weighing the testimony of the witnesses, you may consider a witness's manner and demeanor on the witness stand, any feelings or interest in the case, or any prejudice or bias about the case, that he or she may have, and the consistency or inconsistency of his or her testimony considered in light of the circumstances. Has the witness been contradicted by other credible evidence? Has he or she made statements at other times and places contrary to those made here on the witness stand? You must give the testimony of each witness the credibility you think it deserves.

Even though a witness may be a party to the action and therefore interested in the outcome, the testimony may be accepted if it is not contradicted by direct evidence or by any inference that may be drawn from the evidence, if you believe the testimony.

You are not to decide this case by counting the number of witnesses who have testified on the opposing sides. Witness testimony is weighed; witnesses are not counted. The test is not the relative number of witnesses, but the relative convincing force of the evidence. The testimony of a single witness is sufficient to prove any fact, even if a greater number of witnesses testified to the contrary, if after considering all the other evidence, you believe that witness.

**E. Deposition Testimony**

Certain testimony has been presented to you through a deposition. A deposition is the sworn, recorded answers to questions a witness was asked in advance of the trial. Under some circumstances, if a witness cannot be present to testify from the witness stand, that witness's testimony may be presented, under oath, in the form of a deposition. Some time before this trial, attorneys representing the parties in this case questioned this witness under oath. A court reporter was present and recorded the testimony. The questions and answers have been read and shown to you. This deposition testimony is entitled to the same consideration and is to be judged by you as to credibility and weighed and otherwise considered by you in the same way as if the witness had been present and had testified from the witness stand in court.

**F. Expert Witnesses**

When knowledge of technical subject matter may be helpful to the jury, a person who has special training or experience in that technical field is permitted to state his or her opinion on those technical matters. However, you are not required to accept that opinion. As with any other witness, it is up to you to decide whether to rely on it.

**G. Objections and Rulings of the Court**

During the course of the trial, you may have heard counsel make objections to evidence. It is the duty of an attorney to object when the other side offers testimony or other evidence they believe is not properly admissible. You should not draw any

inference against an attorney or the attorney's client because that attorney has made an objection.

If I overruled an objection and permitted evidence to be admitted over the objection, my ruling on any objection is not and should not be considered by you to be, any indication of an opinion by me regarding the weight, effect, or probative value of such evidence. You are the sole judges of the credibility of all witnesses and the weight and effect of the evidence.

If I sustained an objection to a question or the introduction of other evidence, you must disregard the question entirely and may not draw any inference from the wording of the question nor may you speculate regarding what the witness might have said if the witness had been permitted to answer or the content of any document not admitted.

#### **H. Impeachment by Witness's Inconsistent Statements**

In determining the weight to give to the testimony of a witness, consider whether there was evidence that at some other time the witness said or did something, or failed to say or do something, that was different from the testimony given at trial.

A simple mistake by a witness does not necessarily mean that the witness did not tell the truth as he or she remembers it. People may forget some things or remember other things inaccurately. If a witness made a misstatement, consider whether that misstatement was an intentional falsehood or simply an innocent mistake. The

significance of that may depend on whether it has to do with an important fact or with only an unimportant detail.

### **I. Consideration of the Evidence**

While you should consider only the evidence in this case, you are permitted to draw such reasonable inferences from the testimony, exhibits, and stipulated facts as you feel are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts that have been established by the testimony and evidence in the case.

The testimony of a single witness may be sufficient to prove any fact, even if a greater number of witnesses may have testified to the contrary, if after considering all the other evidence you believe that single witness.

There are two types of evidence that you may consider in properly finding the truth as to the facts in the case. One is direct evidence—such as testimony of an eyewitness. The other is indirect or circumstantial evidence—the proof of a chain of circumstances that indicates the existence or nonexistence of certain other facts. As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that you find the facts from a preponderance of all the evidence, both direct and circumstantial.

## **J. Stipulations**

The parties have stipulated to the following facts. This means both sides agree these stipulations are true. You *must*, therefore, treat these facts as having been proved, even if no evidence may have been specifically offered regarding them.

1. John Ousley and Bridget Spiegel engaged in consensual sex and created intimate visual materials for their own private use with the reasonable expectation that the material would remain private.
2. On Tuesday, February 2, 2016, at Defendant's request (by telephone), Defendant and Ms. Hippensteel met at Lyons Elementary School, 800 Roxella St., Houston, Texas 77076.
3. During this February 2, 2016 meeting, Ms. Hippensteel provided Defendant a thumb/flash drive containing the videos of Plaintiffs that she had acquired from Plaintiff John Ousley's computer.
4. In February of 2016, Defendant was represented by an attorney, Wes Linnenbank, in a family law custody matter regarding Noah Eisenberg.
5. In February of 2016, Wes Linnenbank shared common area office space with attorney Cary Faden. Mr. Faden and Mr. Linnenbank were not law partners at that time. Mr. Faden had a password-protected Wi-Fi network that was accessible from the personal office of Cary Faden. This Wi-Fi network was accessible to guests of Mr. Faden.
6. Stanley Eisenberg introduced his son, Defendant Saul Eisenberg, to Cary Faden. Stanley Eisenberg was Cary Faden's CPA for more than twenty (20) years.
7. On the afternoon of Monday, February 15, 2016, attorney Wes Linnenbank was working at the shared office in Sugar Land, Texas. Mr. Faden did not come to work that day.
8. Defendant provided the videos of Plaintiffs on a thumb drive to his attorney Wes Linnenbank in person at Mr. Linnenbank's office space that he shared with Mr. Faden.



9. Defendant also informed Mr. Linnenbank that the videos were on Pornhub.com.
10. Mr. Linnenbank copied the videos from the thumb drive to his computer's hard drive (also known as a C: drive).
11. At some point in February 2016, at the meeting between Defendant and his attorney, Mr. Linnenbank watched portions of the videos from the thumb drive and the links to the videos on Pornhub.com with Defendant in the room.
12. On Monday, February 15, 2016, the videos of the John Ousley and Bridget Spiegel were uploaded to the pornographic video hosting website, Pornhub.com, in the afternoon. The videos were uploaded from Mr. Faden's Wi-Fi network that was accessible from the office space he shared with Mr. Linnenbank.
13. Neither John Ousley nor Bridget Spiegel consented to the videos being uploaded to pornhub.com.
14. On Monday, February 15, 2016, an email including the videos of Plaintiffs and links to the videos of Plaintiffs on PornHub.com was emailed to the following individuals at Mr. Ousley's employer, Houston Christian High School, from the Gmail account called "[johnousley5@gmail.com](mailto:johnousley5@gmail.com)": the school's Principal, Dr. Daren Price, the Head-of-School, Dr. Stephen Livingston, and the Director of Curriculum Instruction, Christine Metoyer.
15. Neither John Ousley nor Bridget Spiegel consented to the videos being shared with Mr. Ousley's then-employer.
16. Following receipt of the email, Dr. Price and Dr. Livingston conferred and decided that Houston Christian High School needed to terminate its relationship with Mr. Ousley.

## **II. Nature of The Plaintiffs' Claims**

### **A. Claim One: Unlawful Disclosure or Promotion of Intimate Visual Material,**

#### **Tex. Civ. Prac. & Rem. Code § 98B**

Plaintiffs assert a claim for Unlawful Disclosure or Promotion of Intimate Visual

Material, in violation of the Texas Civil Practice and Remedies Code Section 98B, against Defendant Eisenberg. A defendant is liable to a person depicted in intimate visual material for damages arising from the disclosure of the material if:

- 1) The defendant discloses the intimate visual material without the effective consent of the depicted person and with the intent to harm that person;
- 2) At the time of the disclosure, the defendant knows or has reason to believe that the intimate visual material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private;
- 3) The disclosure of the intimate visual material causes harm to the depicted person; and
- 4) The disclosure of the intimate visual material reveals the identity of the depicted persons in any manner, including through either:
  - a) Accompanying or subsequent information or material related to the intimate visual material; or
  - b) Information or material provided by a third party in response to the disclosure of the intimate visual material.

“Intimate parts” means the naked genitals, pubic area, anus, buttocks, or nipple of a person.

“Promote” means to procure, manufacture, issue, sell, give, provide, lend,

mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these actions.

“Sexual conduct” means sexual contact and/or actual or simulated sexual intercourse.

“Visual material” means either: (i) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative or slide; or (ii) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

“Intimate visual material” means visual material that depicts a person either: (i) with the person’s intimate parts exposed; or (ii) engaged in sexual conduct.

**B. Claim Two: Invasion of Privacy – Intrusion to Seclusion**

Plaintiffs assert a claim for Invasion of Privacy – Intrusion to Seclusion against Defendant Eisenberg. A defendant is liable for Invasion of Privacy – Intrusion to Seclusion if the plaintiffs can prove each of the following two elements by a preponderance of the evidence:

- 1) The defendant intentionally intruded on the plaintiffs’ solitude, seclusion, or private affairs; and

2) The intrusion would be highly offensive to a reasonable person.

“Intentional” conduct requires a showing that the defendant desired to cause the consequences of his act or believed the consequences are substantially certain to result from his act.

“Intrusion” means either physically invading the plaintiffs’ property or non-physically invading the plaintiffs’ communications or information.

“Highly offensive” means that the intrusion is substantial enough that an ordinary person would feel severely offended, humiliated, or outraged.

**C. Claim Three: Invasion of Privacy – Public Disclosure of Private Facts**

Plaintiffs assert a claim for Invasion of Privacy – Public Disclosure of Private Facts against Defendant Eisenberg. A defendant is liable for Invasion of Privacy – Disclosure of Private Facts if the plaintiffs can prove each of the following three elements by a preponderance of the evidence:

- 1) The defendant publicized information about the plaintiffs’ private lives;
- 2) The publicity would be highly offensive to a reasonable person of ordinary sensibilities; and
- 3) The matter publicized is not of legitimate public concern.

“Publicize” means a communication to more than a small group of persons; the matter must be communicated to the public at large, such that the matter becomes one of public knowledge.

“Highly offensive” means that the intrusion is substantial enough that an ordinary person would feel severely offended, humiliated, or outraged.

In Texas, there is a general presumption that the public has no legitimate interest in private, embarrassing facts about private citizens. Whether the information is of legitimate public concern is for you to decide, and you should consider the nature of the information and the public’s interest in its disclosure.

**D. Claim Four: Negligence**

Plaintiffs assert a claim for negligence against Defendant Eisenberg. A defendant is liable for negligence if the plaintiffs can prove each of the following three elements by a preponderance of the evidence:

- 1) The defendant owed a duty of ordinary care to the plaintiff;
- 2) The defendant breached the legal duty; and
- 3) The breach proximately caused the plaintiffs’ injury.

“Negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

“Ordinary care” means the degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about

an injury, and without which cause such injury would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the injury, or some similar injury, might reasonably result therefrom. There may be more than one proximate cause of an injury.

### **III. Instructions on Damages**

#### **A. Introduction**

If Plaintiffs John and Bridget Ousley have proved their claims against Defendant Saul Eisenberg by a preponderance of the evidence, you must determine the damages to which Plaintiffs John and Bridget Ousley are entitled. You should not interpret the fact that I am giving instructions about Plaintiffs John and Bridget Ousley's damages as an indication in any way that I believe the Plaintiffs should, or should not, win this case. It is your first task to decide whether Defendant Saul Eisenberg is liable. I am instructing you on the damages only so that you will have guidance in the event you decide Defendant Saul Eisenberg is liable and that Plaintiffs John and Bridget Ousley are entitled to recover money from Defendant Saul Eisenberg.

If you find that Defendant Saul Eisenberg is liable to Plaintiffs John and Bridget Ousley, then you must determine an amount that is fair compensation for all of Plaintiffs John and Bridget Ousley's damages. These damages are called compensatory damages. The purpose of compensatory damages is to make Plaintiffs John and Bridget Ousley whole—that is, to compensate Plaintiffs John and Bridget Ousley for the

damage that they suffered. Compensatory damages are not limited to expenses that Plaintiffs John and Bridget Ousley may have incurred because of their injuries. If Plaintiffs John and Bridget Ousley win, they are entitled to compensatory damages for the physical injury, pain and suffering, and mental anguish that they suffered because of Defendant Saul Eisenberg's wrongful conduct.

You may award compensatory damages only for injuries that Plaintiffs John and Bridget Ousley prove were proximately caused by Defendant Saul Eisenberg's wrongful conduct. The damages that you award must be fair compensation for all of Plaintiffs John and Bridget Ousley's damages, no more and no less. You should not award compensatory damages for speculative injuries, but only for those injuries that Plaintiffs John and Bridget Ousley have actually suffered or that Plaintiffs John and Bridget Ousley are reasonably likely to suffer in the future.

If you decide to award compensatory damages, you should be guided by dispassionate common sense. Computing damages may be difficult, but you must not let that difficulty lead you to engage in arbitrary guesswork. On the other hand, the law does not require that Plaintiffs John and Bridget Ousley prove the amount of their losses with mathematical precision but only with as much definiteness and accuracy as the circumstances permit.

You must use sound discretion in fixing an award of damages, drawing reasonable inferences where you find them appropriate from the facts and

circumstances in evidence.

You should consider the following elements of damages, to the extent you find them proved by a preponderance of the evidence:

- 1) Nominal Damages – Nominal damages are an inconsequential or trifling sum awarded to a plaintiff when a technical violation of his or her rights have occurred but where the plaintiff has suffered no actual loss or injury. If you find from a preponderance of the evidence that Plaintiffs John and Bridget Ousley sustained a technical violation of (i) Invasion of Privacy—Intrusion to Seclusion; (ii) Invasion of Privacy—Public Disclosure of Private Facts, or (iii) Negligence, but that Plaintiffs John and Bridget Ousley suffered no actual loss as a result of these violations, then you may award Plaintiffs John and Bridget Ousley nominal damages. If you find that Plaintiffs John and Bridget Ousley suffered actual loss as a result of Defendant Saul Eisenberg’s actions, you should not award nominal damages; instead, you should award compensatory damages.
- 2) Compensatory Damages – You may award compensatory damages for any bodily injury that Plaintiffs John and Bridget Ousley sustained, including the pain and suffering and/or mental anguish that Plaintiffs John and Bridget Ousley experienced in the past or will experience in the future as a result of the bodily injury. No evidence of the value of intangible things, such as



mental or physical pain and suffering, has been or needs to be introduced. You are not trying to determine value but rather an amount that will fairly compensate Plaintiffs John and Bridget Ousley for the damages they suffered. There is no exact standard for fixing the compensation to be awarded for these elements of damages. Any award that you make must be fair in light of the evidence.

- 3) Punitive Damages – If you find that Defendant Saul Eisenberg is liable for Plaintiffs John and Bridget Ousley’s injuries, you must award Plaintiffs John and Bridget Ousley the compensatory damages that they have proved. You may, in addition, award punitive damages if you find that Defendant Saul Eisenberg acted with malice or with reckless indifference to the rights of others. One acts with malice when one purposefully or knowingly violates another’s rights or safety. One acts with reckless indifference to the rights of others when one’s conduct, under the circumstances, manifests a complete lack of concern for the rights or safety of another. Plaintiffs John and Bridget Ousley have the burden of proving that punitive damages should be awarded by clear and convincing evidence. Clear and convincing evidence means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established. Only punitive damages must be proven by clear and convincing evidence.

The purpose of punitive damages is to punish and deter, not to compensate. Punitive damages serve to punish a defendant for malicious or reckless conduct and, by doing so, to deter others from engaging in similar conduct in the future. You are not required to award punitive damages. If you do decide to award punitive damages, you must use sound reason in setting the amount. Your award of punitive damages must not reflect bias, prejudice, or sympathy toward any party. It should be presumed that Plaintiffs John and Bridget Ousley have been made whole by compensatory damages, so punitive damages should be awarded only if Defendant Saul Eisenberg's misconduct is so reprehensible as to warrant the imposition of further sanctions to achieve punishment or deterrence.

If you decide to award punitive damages, the following factors should guide you in fixing the proper amount:

- a. The reprehensibility of Defendant Saul Eisenberg's conduct, including but not limited to whether there was deceit, cover-up, insult, intended or reckless injury; or
- b. The ratio between the punitive damages you are considering awarding and the amount of harm that was suffered by the victim or with which the victim was threatened.

**B. Cautionary Instruction on Damages**

You should not interpret the fact that I have given instructions about the plaintiffs' damages as an indication in any way that I believe that the plaintiffs should, or should not, win this case. It is your task first to decide whether the defendant is liable. I am instructing you on damages only so that you will have guidance in the event you decide that the defendant is liable and that the plaintiffs are entitled to recover money from the defendant.

**IV. Instructions on Deliberations**

It will soon be your duty to deliberate and to consult with one another in an effort to reach a verdict. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to re-examine your opinions and change your mind if you are convinced that you were wrong. But do not give up your honest beliefs because other jurors think differently, or just to finish the case.

Remember at all times, you are the judges of the facts. You have been allowed to take notes during this trial. Any notes that you took during this trial are only aids to memory. If your memory differs from your notes, you should rely on your memory and not on the notes. The notes are not evidence. If you did not take notes, rely on your independent recollection of the evidence and do not be unduly influenced by the notes of other jurors. Notes are not entitled to greater weight than the recollection or

impression of each juror about the testimony.

When you go into the jury room to deliberate, you may take with you a copy of this charge, the exhibits that I have admitted into evidence, and your notes. You must select a presiding juror to guide you in your deliberations and to speak for you here in the courtroom.

Your verdict must be unanimous. After you have reached a unanimous verdict, your presiding juror must fill out the answers to the written questions on the verdict form and sign and date it. After you have concluded your service and I have discharged the jury, you are not required to talk with anyone about the case.

If you need to communicate with me during your deliberations, the presiding juror should write the inquiry and give it to the court security officer. After consulting with the attorneys, I will respond either in writing or by meeting with you in the courtroom. Keep in mind, however, that you must never disclose to anyone, not even me, your numerical division on any question.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

**JOHN DOE and JANE DOE,**

*Plaintiffs,*

v.

**SAUL MATTHEW EISENBERG,**

*Defendant.*

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**CIVIL ACTION NO. 4:16-CV-01149**

**\*\*\*SEALED\*\*\***

**The Honorable David Hittner**

**JURY INTERROGATORIES**

**QUESTION NO. 1**

Is Defendant Saul Eisenberg liable for Claim One, Unlawful Disclosure or Promotion of Intimate Visual Material, Tex. Civ. Prac. & Rem. Code § 98B?

Answer "Yes" or "No."

Answer: yes

**QUESTION NO. 2**

Is Defendant Saul Eisenberg liable for Claim Two, Invasion of Privacy – Intrusion to Seclusion?

Answer "Yes" or "No."

Answer: YES

**QUESTION NO. 3**

Is Defendant Saul Eisenberg liable for Claim Three, Invasion of Privacy – Public Disclosure of Private Facts?

Answer “Yes” or “No.”

Answer: Yes

**QUESTION NO. 4**

Is Defendant Saul Eisenberg liable for Claim Four, Negligence?

Answer “Yes” or “No.”

Answer: Yes

If you answered “Yes” to any or all of Questions 1–4, then answer the following two (2) questions. If you answered “No” to all of Question 1-4, do not answer the following two (2) questions.

**QUESTION NO. 5**

What sums of money, if paid now in cash, would fairly and reasonably compensate Plaintiff **John Ousley** for his harms and losses, including economic and non-economic, if any, that resulted from Defendant Saul Eisenberg’s actions?

Answer in dollars and cents, for damages, if any. Do not reduce the amounts, if any, in your answer because of the negligence, if any, of any of Plaintiffs.

COMPENSATORY DAMAGES      \$ 10,000.00

**QUESTION NO. 6**

What sums of money, if paid now in cash, would fairly and reasonably compensate Plaintiff **Bridget Ousley** for her harms and losses, including economic and non-economic, if any, that resulted from Defendant Saul Eisenberg's actions?

Answer in dollars and cents, for damages, if any. Do not reduce the amounts, if any, in your answers because of the negligence, if any, of any of Plaintiffs.

**COMPENSATORY DAMAGES** \$ 5,000.00

If you answered "Yes" to any or all of Questions 5–6, then answer the following two (2) questions. If you answered "No" to all of Question 5–6, do not answer the following two (2) questions.

**QUESTION NO. 7**

Do you find by clear and convincing evidence that the harm Defendant Saul Eisenberg caused to Plaintiffs John and Bridget Ousley was conducted with malice or with reckless indifference to the rights of others?

Answer "Yes" or "No."

Answer: NO

If you answered "Yes" to Question 7, then answer the following question. If you answered "No" to Question 7, do not answer the following question.

**QUESTION NO. 8**

What sums of money, if paid now in cash, should be assessed against Defendant Saul Eisenberg and awarded to Plaintiffs John and Bridget Ousley as punitive damages, if any, for the conduct found in response to Question 7?

Answer in dollars and cents, for punitive damages, if any. Do not reduce the amounts, if any, in your answers because of the negligence, if any, of any of Plaintiffs.

Your answer to the question regarding the amount of punitive damages must be unanimous.

**PUNITIVE DAMAGES** \$ Ø

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

JOHN DOE and JANE DOE,

*Plaintiffs,*

v.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149

\*\*\*SEALED\*\*\*

The Honorable David Hittner

CERTIFICATE

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our unanimous verdict.

\_\_\_\_\_  
ing Juror

4/23/2021  
Date



IN THE UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF TEXAS

JOHN DOE and JANE DOE,

*Plaintiffs,*

v.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149  
 \*\*\*SEALED\*\*\*

The Honorable David Hittner

PLAINTIFFS' EXHIBIT LIST

PX No.	Description	Offer	Object	Date	
				Admit	N/Admit
1.	2/3/2016 OFW Message re: Continuing Threats			4/14/21	
2.	2/7/2016 OFW Message re: Harassing Behavior During Pick Up				
3.	2/7/2016 Wal-Mart Dropoff Audio				
4.	Voided Car Title for Black Buick LeSabre				
5.	2/23/2016 Email from Bridger to Family Law Atty re Saul's Car				
6.	2/2016 iMessage from Saul to Bridget				
7.	2/15/2016 Email from ousleyjohn5@gmail.com to HCHS re: The Real John Ousley				
8.	CFISD 2015-2016 Academic Calendar				
9.	2/14/2016 CFISD Facebook Reminder				
10.	Saul Eisenberg Call History				
11.	Saul Eisenberg Text History				
12.	Houston Public Library - Affidavit of No Records				
13.	Harris County Public Library - Email re No Record of Library Card				
14.	February 2016 IP Address History				
15.	Stanley Eisenberg 2016 Toll History				
16.	Harris County Toll Road Authority Map				
17.	Google Map of Saul's Route to Linnenbank Office			✓	

18.	Office Depo, Sugarland, Map			4/16/21	
19.	Google Map Directions - Linnenbank Office to Office Depo, Sugarland				
20.	Google.- Certificate of Authenticity re: Copy of Records for OUSLEYJOHN5@GMAIL.COM				
21.	Google Subscriber Information for OUSLEYJOHN5@GMAIL.COM				
22.	Email from Pornhub Legal re: Upload IP Dates and Addresses				
23.	Subpoena Response Letter from Windstream				
24.	2/15/2016 Email from Linnenbank to Oehl re: Noah Eisenberg (PDF)				
25.	2/15/2016 Email from Linnenbank to Oehl re: Noah Eisenberg (Email)				
26.	2/15/2016 Family Court Requests for Admissions (Word)				
27.	Metadata of 2/15/2016 of Family Court Requests for Admissions				
28.	2/15/2016 Family Court Requests for Admissions (PDF)				
29.	Metadata of 2/15/2016 of Family Court Requests for Admissions				
30.	Family Court Verified Amended Answered to Interrogatories, signed by Saul Eisenberg on 2/16/2016				
31.	Family Court Saul Eisenberg Deposition				
32.	Federal Court Saul Eisenberg's Answers to Plaintiffs' Requests for Admission			✓	

Dated: April 5, 2021

Respectfully submitted,

/s/ David A. Bateman

David A. Bateman, Esq.

**K&L Gates LLP**

925 Fourth Avenue, Suite 2900

Seattle, WA 98104-1158

WA Bar No. 14262

*Pro Hac Vice* (December 18, 2018)

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[david.bateman@klgates.com](mailto:david.bateman@klgates.com)

Hannah T. Warren, Esq.

**K&L Gates LLP**

1000 Main Street, Suite 2550

Houston, Texas 77002

TX Bar No. 24106525

Federal I.D. No. 3313920

Telephone: (713) 815-7300

Facsimile: (713) 815-7301

[hannah.warren@klgates.com](mailto:hannah.warren@klgates.com)

**ATTORNEYS FOR PLAINTIFFS  
JOHN DOE AND JANE DOE**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5th day of April, 2021, a true and correct copy of the foregoing Plaintiffs' Exhibit List was served in accordance with the Federal Rules of Civil Procedure on the following:

Keith Pardue, Esq.  
Law Office of Pardue & Associates, PLLC  
2802 Flintrock Trace, Suite 260  
Austin, TX 78738  
Texas Bar No. 15458500  
T: 512-266-8135  
F: 512-371-4145  
keith@keithparduelaw.com

*Attorney for Defendant*

By: /s/ David A. Bateman  
David A. Bateman

IN THE UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF TEXAS

JOHN DOE and JANE DOE,

*Plaintiffs,*

v.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149  
 \*\*\*SEALED\*\*\*

The Honorable David Pittner  
 United States Courts  
 Southern District of Texas  
 FILED

APR 12 2021

Nathan Ochsner, Clerk of Court

PLAINTIFFS' OBJECTIONS TO DEFENDANT'S EXHIBIT LIST

Plaintiffs John Doe and Jane Doe (collectively, "Plaintiffs") hereby submit their objections to Defendant's Exhibit List, as indicated in the "Object" column in the below table. By these objections, Plaintiffs do not intend to waive their right to further object to any exhibit introduced by Defendant, including any objections not specifically mentioned herein or any objections that may be made before, during, or after trial.

DX No.	Description	Offer	Object	Date	
				Admit	N/Admit
50	4/3/2016 OFW Message re: Bridget Request to move to Oklahoma			4/12/21	
51	2/7/2016 OFW Message re: Harassing Behavior During Pick Up			4/12/21	
52	Deposition of Mr. Wes Linnenbank	✓	FRE 801	use for impeachment only	
53	2/5/2016 Text messages between Saul and Leslie Hippensteel	✓	FRE 801	W/D	
54	1/30/2016 Facebook messages between Leslie Hippensteel and Saul Eisenberg	✓	FRE 401 FRE 403 FRE 801	W/D	
55	3/06/2018 312th district family court transcript showing Bridget Spiegel claiming to reside in Houston, Texas		FRE 401 FRE 608(b)	W/D	may be used in rebuttal

Subject to impeachment

56	2/15/2016 Email from ousleyjohn5@gmail.com to HCHS re: The Real John Ousley			4/16/21	
57	Family Court Bridget Spiegel Deposition			4/16/21	
58	3/06/2018 Family Court Docket Sheet 312th District Court		FRE 401 FRE 608 FRE 801	W/D	maybe used in rebuttal
59	8/7/2018 Family Court Docket Sheet 312th District Court		FRE 401 FRE 608 FRE 801	W/D	maybe used in rebuttal
60	Video Deposition of Ty Hepworth			4/16/21	
61	Deposition of Bridget Ousley				
62	Deposition of John Ousley				
63	February 2016 IP Address History				
64	Stanley Eisenberg 2016 Toll History				
65	Harris County Toll Road Authority Map				
66	Google Map of Saul Eisenberg's Route to Linnenbank Office			↓	
67	Deposition of Dr. Stephen Livingston		FRE 801	W/D	
68	Deposition of Mr. Carey Faden		FRE 801	W/D	
69	Google - Certificate of Authenticity re: Copy of Records for OUSLEYJOHN5@GMAIL.COM			4/16/21	
70	Google Subscriber Information for OUSLEYJOHN5@GMAIL.COM				
71	Email from Pornhub Legal re: Upload IP Dates and Addresses				
72	Subpoena Response Letter from Windstream				
73	2/15/2016 Email from Mr. Wes Linnenbank to Ms. Susan Oehl re: Noah Eisenberg (PDF)			↓	

74	2/15/2016 Email from Mr. Wes Linnenbank to Ms. Susan Oehl re: Noah Eisenberg (Email)			4/16/21	
75	2/15/2016 Family Court Requests for Admissions (Word)				
76	Metadata of 2/15/2016 of Family Court Requests for Admissions				
77	2/15/2016 Family Court Requests for Admissions (PDF)				
78	Metadata of 2/15/2016 of Family Court Requests for Admissions			✓	
79	Family Court Saul Eisenberg Deposition		FRE 801	WID	
80	Federal Court John and Bridget Ousley Answers to Defendants' Requests for Admission			4/16/21	

Dated: April 12, 2021

Respectfully submitted,

**K&L GATES LLP**

/s/ David A. Bateman

David A. Bateman, Esq.

**K&L Gates LLP**

WA Bar No. 14262

*Pro Hac Vice* (December 18, 2018)

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Houston, Texas 77002  
(713) 815-7300 Telephone  
(713) 815-7301 Facsimile

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was hand filed with the Court and served via email to all counsel of record registered to receive a Notice of Electronic Filing for this case on the 12th day of April, 2021.

By: /s/ David A. Bateman

David A. Bateman



**ENTERED**

April 26, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

John Doe and Jane Doe,

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Plaintiff,

§

§

v.

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Civil Action No.: H-16-1149

Saul Matthew Eisenberg,

§

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Defendants.

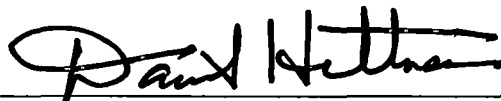
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FINAL JUDGMENT

As the jury has returned its verdict in favor of the Plaintiffs, the Court hereby  
ORDERS that final judgment be entered in favor of the Plaintiffs. Plaintiff  
John Doe is awarded \$10,000.00 and Plaintiff Jane Doe is awarded \$5,000.00. This  
final judgment is subject to the Plaintiffs filing of a motion for costs and attorneys  
fees. This is a FINAL JUDGMENT.

Signed at Houston, TX on the 26 day of April, 2021.



DAVID HITTNER  
United States District Judge

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

*Plaintiffs,*

vs.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149

The Honorable David Hittner

**PLAINTIFFS’ MOTION FOR AWARD OF ATTORNEYS’ FEES**

Plaintiffs John and Bridget Ousley (“Plaintiffs”) respectfully request the Court award \$300,000 in attorneys’ fees pursuant to Texas Civil Practice and Remedies Code § 98B.003, which provides:

- (a) A claimant who prevails in a suit under this chapter shall be awarded:
  - (1) actual damages, including damages for mental anguish;
  - (2) court costs; and
  - (3) reasonable attorney's fees.

Tex. Civ. Prac. & Rem. Code § 98B.003. The requested award is fraction of the actual fees and costs accrued in this matter and is approximately 55% of the lodestar calculated below.

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## I. CASE BACKGROUND

This case was commenced in April 2016, just months after the Defendant Saul Eisenberg (“Defendant” or “Eisenberg”) publicly posted and distributed intimate videos of Plaintiffs. For five years, through administrative delays and a global pandemic, Plaintiffs have fought to prove the truth. Defendant, on the other hand, repeatedly lied under oath — in family court, in his depositions in this case, and in his testimony to the jury. Proving the truth required sophisticated forensic analysis, collection of circumstantial evidence, and perseverance.

This case was first stayed on January 6, 2017, pending resolution of the Defendant’s criminal case. The stay was lifted on May 1, 2018, and the parties proceeded with discovery. The case was ready for trial in March 2020, but sat idle for the following year during the pandemic.

Due to the extraordinary length of the pretrial proceedings, several primary attorneys who worked on the case (attorneys Matava, Komo, Rudloff, and Brennan) departed K&L Gates, the law firm representing Plaintiffs. For purposes of this motion, the efforts and fees of those departed attorneys are not requested and have been removed from all supporting documentation. Likewise, Plaintiffs do not seek the fees for the time of several paralegals who assisted throughout the case. Instead, Plaintiffs limit their request to the efforts of the three attorneys who appeared at trial: Hannah Warren, Andrew Knop, and David Bateman.

Similarly, Plaintiffs do not seek recovery of out-of-pocket costs, including but not limited to deposition reporting and transcription costs, expert witness fees, or travel expenses.

## **II. ATTORNEY BACKGROUNDS AND QUALIFICATIONS**

### **A. David Bateman**

David Bateman is a trial lawyer who focuses on Internet law, technology law, and intellectual property litigation. A product of New York City public schools, he obtained his B.A. in Mathematics and Economics from Yale University in 1980, graduating summa cum laude. He received his J.D. degree from Yale Law School in 1984 and has practiced law in Seattle since that time.

He has been lead counsel in hundreds of lawsuits against spammers, software pirates, phishers, cybersquatters, and Internet trolls. He has worked cooperatively with major internet service providers (“ISPs”), social media platforms, tech industry participants, and state and federal government agencies in the battle against online consumer deception, fraud, and privacy invasions. In addition, he routinely defends technology companies, online retailers, affiliate programs, and ad platforms in class action litigation, government investigations, and enforcement actions.

Mr. Bateman is a co-founder of the Cyber Civil Rights Legal Project (“CCRLP”), a global K&L Gates pro bono project providing legal services to victims of nonconsensual pornography (i.e., “revenge porn”), whose sexually



explicit images are distributed and displayed online without consent. The CCRLP utilizes the firm's cybersecurity and cyber forensics practices, allowing volunteers to deliver quality pro bono services to victims. News articles about Mr. Bateman's practice may be accessed at these links:

- <https://www.geekwire.com/2020/meet-attorneys-fighting-criminals-inflict-pain-posting-sexual-images-victims/>
- <https://www.seattlepi.com/local/crime/article/King-County-couple-awarded-8-9M-revenge-porn-11133330.php>
- <https://dealbook.nytimes.com/2015/01/29/law-firm-founds-project-to-fight-revenge-porn/>
- <https://www.nytimes.com/2016/04/02/business/dealbook/in-revenge-porn-case-criminal-court-decision-may-affect-lawsuit.html>

Mr. Bateman's bio is attached as Exhibit 1 to the Declaration of David A. Bateman in Support of Plaintiffs' Fee Motion and may be accessed at <https://www.klgates.com/David-A-Bateman>.

**B. Hannah Warren**

Hannah Warren is a litigation associate who received her B.A. from the University of Texas at Austin in 2014, and her J.D. degree from the University of Houston Law Center in 2017. She was the Chief Casenotes & Comments Editor of the Houston Journal of International Law and received the John R. Brown Admiralty Moot Court Best Brief Writer Award in 2017. Ms. Warren served as a law clerk for the Honorable David Alan Ezra of the United States District Court for the District of Hawaii, sitting by designation in the Western District of Texas.

Ms. Warren's bio is attached as Exhibit 2 to the Declaration of David A. Bateman in Support of Plaintiffs' Fee Motion and may be accessed at <https://www.klgates.com/Hannah-T-Warren>.

**C. Andrew Knop**

Andrew Knop is an associate at the K&L Gates Fort Worth and Houston offices. He received his B.A. from the University of Houston, graduating magna cum laude in 2013, and his J.D. from the University of Houston Law Center in 2017 graduating magna cum laude and with honors from the Order of the Coif. Mr. Knop is a member of the firm's oil, gas, and resources practice group. He works on various energy litigation matters, including eminent domain and upstream oil and gas litigation issues involving lease disputes and real property rights.

Mr. Knop's bio is attached as Exhibit 3 to the Declaration of David A. Bateman in Support of Plaintiffs' Fee Motion and may be accessed at <https://www.klgates.com/Andrew-R-Knop>.

**III. LEGAL STANDARDS FOR AWARD OF ATTORNEYS' FEES**

The determination of reasonable attorneys' fees involves a two-step procedure. *La. Power & Light Co. v. Kellstrom*, 50 F.3d 319, 324 (5th Cir. 1995). Initially, the district court must determine the reasonable number of hours expended on the litigation and the reasonable hourly rates for the participating lawyers. *Id.* Then, the district court must multiply the reasonable hours by the reasonable

hourly rates. *Id.* See also *Blum v. Stenson*, 465 U.S. 886, 888 (1984) (defining base fee to be product of reasonable hours and reasonable rate); *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (defining product of hours reasonably expended and reasonable hourly rates as “[t]he most useful starting point”); *Brantley v. Surles*, 804 F.2d 321, 325 (5th Cir.1986) (stating hours multiplied by rate to be normal basis for fee).

Under Texas law, the “party applying for an award of attorney’s fees under the lodestar method bears the burden of documenting the hours expended on the litigation and the value of those hours.” *El Apple I, Ltd. v. Olivas*, 370 S.W.3d 757, 761 (Tex. 2012). Parties typically submit an affidavit, time records, and evidence of prevailing market rates for similar services by similarly qualified lawyers in the relevant legal community. See, e.g., *Kellstrom*, 50 F.3d at 324; *Szjijarto v. McCarrell*, No. CIV.A. H-11-4226, 2014 WL 555122, at \*2 (S.D. Tex. Feb. 12, 2014).

The product of this multiplication is the lodestar, which the district court then either accepts or adjusts upward or downward, depending on the circumstances of the case. *Brantley*, 804 F.2d at 325. “The lodestar [amount], however, is presumptively reasonable and should be modified only in exceptional cases.” *Watkins v. Fordice*, 7 F.3d 453, 457 (5th Cir. 1993).

Determinations of hours and rates are questions of fact. See *Bode v. United States*, 919 F.2d 1044, 1047 (5th Cir. 1990) (reviewing hours for clear error).

Accordingly, a district court's determination of reasonable hours and reasonable rates is reviewed for clear error. *See Blanchard v. Bergeron*, 893 F.2d 87, 89 (5th Cir. 1990) (reviewing underlying factual determinations for clear error).

#### IV. HOURS EXPENDED

The first step in determining reasonable attorneys' fees is an evaluation of the number of hours reasonably expended. *Kellstrom*, 50 F.3d at 324. The district court must determine whether the hours claimed were "reasonably expended on the litigation." *Alberti v. Klevenhagen*, 896 F.2d 927, 933–34 (5th Cir.), *vacated on other grounds*, 903 F.2d 352 (5th Cir. 1990); *see also Hensley*, 461 U.S. at 434 ("The district court also should exclude from this initial fee calculation hours that were not 'reasonably expended.'").

Through its various starts and stops, this case required five years of management and commitment. Plaintiffs collected forensic evidence from third-party entities such as Google, Pornhub.com and Windstream, and worked with expert witnesses on a cyberforensic investigation. Plaintiffs collected toll records and other discovery from Defendant, subpoenaed schools and libraries, and took depositions of third parties. In light of substantive alterations to his deposition testimony, Defendant was deposed twice. Plaintiffs also testified in deposition.

Attached as Exhibit 4 to the Declaration of David A. Bateman in Support of Plaintiffs' Fee Motion are contemporaneous billing records for these three attorneys.

Each time entry is accompanied by a brief description of the tasks accomplished.<sup>1</sup> These time entries do not include travel time. The total time devoted by these attorneys over the five year case history is reflected below:

<b>Attorney</b>	<b>Hours</b>
Bateman	380.9
Knop	353.1
Warren	193.7
<b>TOTAL</b>	<b>927.7</b>

The total includes 400 hours of trial preparation and trial time, from late March 2021 through the jury verdict in late April 2021.

## V. RATES

To determine reasonable rates, a court considers the attorneys' regular rates as well as prevailing rates. *Kellstrom*, 50 F.3d at 328; *HJ, Inc. v. Flygt Corp.*, 925 F.2d 257, 260 (8th Cir. 1991) (considering regular rates as well as prevailing rates); *Laffey v. Nw. Airlines, Inc.*, 746 F.2d 4, 23 (D.C. Cir. 1984) (calling for "reference to the customary billing rate followed by comparison

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<sup>1</sup> To the extent that Defendant believes that the time entries should be more detailed, Plaintiffs note the comment by the *Kellstrom* court: "we are mindful that practical considerations of the daily practice of law in this day and age preclude 'writing a book' to describe in excruciating detail the professional services rendered for each hour or fraction of an hour." 50 F.3d at 327.

to the prevailing community rate to ensure that the attorney's customary rate is reasonable"), *cert. denied*, 472 U.S. 1021 (1985).

When an attorney's customary billing rate is the rate at which the attorney requests the lodestar be computed and that rate is within the range of prevailing market rates, the court should consider this rate when fixing the hourly rate to be allowed. *Kellstrom*, 50 F. 3d at 328. When that rate is not contested, it is *prima facie* reasonable. *Id.* When the requested rate of compensation exceeds the attorney's usual charge but remains within the customary range in the community, the district court should consider whether the requested rate is reasonable. *Id.* (citing *Islamic Ctr. v. City of Starkville*, 876 F.2d 465, 469 (5th Cir. 1989)); *see also Powell v. Comm'r*, 891 F.2d 1167, 1175 (5th Cir. 1990) (holding customary billing rate to be *prima facie* reasonable).

A reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation. *McClain v. Lufkin Indus.*, 649 F.3d 374, 381 (5th Cir. 2011). The relevant legal community is the community in which the district court sits. *See Tollett v. City of Kemah*, 285 F.3d 357, 368 (5th Cir. 2002). In addition to evidence provided in support, the court also may use its own expertise and judgment to make an appropriate independent assessment of the hourly rates charged for the

attorneys' services. *See Primrose Operating Co. v. Nat'l Am. Ins. Co.*, 382 F.3d 546, 562 (5th Cir. 2004).

In this instance, Plaintiffs seek recovery of the then-current billing rates of each attorney as of the date each task was performed. Exhibit 4 to the Declaration of David A. Bateman in Support of Plaintiffs' Fee Motion, column titled "Rate," reflects the hourly billing rate of each lawyer at the date each time entry was recorded.

Mr. Bateman's hourly rate was \$590 when this case began in 2016. It increased to \$690 in 2018, \$800 in 2019, and most recently is \$925.

Ms. Warren's hourly rate was \$375 when she first joined the trial team in November 2019. Her rate increased to \$480 in 2020, and \$530 in 2021.

Mr. Knop's hourly rate was \$380 when he first was involved in this case in 2018. His rate changed to \$405 in 2018, \$435 in 2020, and \$490 in 2021.

The following tabulates the hours recorded by each lawyer and the average rate billed:

<b>Attorney</b>	<b>Hours</b>	<b>Average Rate</b>
Bateman	380.9	\$825.00
Knop	353.1	\$443.00
Warren	193.7	\$494.00
<b>TOTAL</b>	<b>927.7</b>	<b>\$611.00</b>

<b><u>LODESTAR</u></b>		<b><u>\$566,980.00</u></b>
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The rates of Ms. Warren and Mr. Knop are based on market conditions and competition in the Houston region. Mr. Bateman’s rate, based on the Seattle market, is at or below prevailing rates in Houston. *See* HOUSTON CHRONICLE, “Texas Legal Rates Soar as National Firms Rush In,” March 24, 2017 at <https://www.houstonchronicle.com/business/article/Texas-legal-rates-soar-as-national-firms-rush-in-11025525.php>.

The rates are within the range approved in other Houston area lawsuits. *See, e.g., ENI US Operating Co., Inc. v Transocean Offshore Deepwater Drilling, Inc.*, No. 4:13-CV-03354 (S.D. Tex. May 16, 2018) (“Rates ranging from \$360 to \$800 per hour are reasonable in comparison to the prevailing market rates in Houston, Texas, for comparable law firms and attorneys.”); *O’Donnell v. Harris County*, No. H-16-1414 (S.D. Tex. Nov. 21, 2019) (“A \$600 hourly rate for lead counsel is within the normal range of hourly fees charged by civil trial lawyers in Harris County prosecuting similar cases.”) *See also BankUnited N.A. v. ASD Kitchen, Inc.*, No. 4:18-CV-00804 (E.D. Tex. May 22, 2020) (finding that partner rates of \$845-\$900, and associate rates of \$560-\$610, were reasonable); *Fessler v. Porcelana Corona De Mexico*, Nos. 4:19-cv-00248, 4:17-CV-00001 (E.D. Tex. May 11, 2020) (approving rates of \$695 and \$675 as reasonable); *Midcap Media Finance, LLC v.*



*Pathway Data, Inc.* No. 1:15-cv-0060 (W.D. Tex. May 11, 2020) (finding \$755 hourly rate reasonable).

## VI. LODESTAR ADJUSTMENTS

Adjustment of the lodestar in this Circuit involves the assessment of a dozen factors identified in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). These factors, known as the *Johnson* factors, include:

- 1) the time and labor required for the litigation;
- 2) the novelty and complication of the issues;
- 3) the skill required to properly litigate the issues;
- 4) whether the attorney had to refuse other work to litigate the case;
- 5) the attorney's customary fee;
- 6) whether the fee is fixed or contingent;
- 7) whether the client or case circumstances imposed any time constraints;
- 8) the amount involved and the results obtained;
- 9) the experience, reputation, and ability of the attorneys;
- 10) whether the case was "undesirable";
- 11) the type of attorney-client relationship and whether that relationship was long-standing; and
- 12) awards made in similar cases.

*Johnson*, 488 F.2d at 717–19.

There is a strong presumption that the lodestar is the amount Plaintiffs should receive as compensation for attorney time. *Pa. v. Delaware Valley Citizens' Council*

*for Clean Air*, 478 U.S. 546, 565 (1986) (“A strong presumption that the lodestar figure – the product of reasonable hours times a reasonable rate – represents a ‘reasonable’ fee is wholly consistent with the rationale behind the usual fee-shifting statute.”)

In this case, the *Johnson* factors universally support an award of the full amount of the lodestar. Factors 2 (novelty and complication), 3 (skill required), and 9 (experience of attorneys) were particularly significant in this case, which required both sophisticated forensic analysis and extensive compilation of other circumstantial evidence. Revenge porn is a relatively new area of the law, requiring an understanding of Internet protocols and technology. Most practitioners are not familiar with Internet protocol address tracing and assignment, TCP handshakes, and Wi-Fi security. Because Defendant repeatedly lied about his participation in the case (even going so far as to blame his actions on his deceased father), significant effort was required to prepare convincing proof of his involvement. To the extent that Defendant is unhappy with the amount of work dedicated to this case, he has only himself to blame.

Factor 8 also supports maintaining the full lodestar. Although the jury awarded only \$15,000, Plaintiffs obtained the one and only thing that they had been seeking — a legal determination that Defendant Saul Eisenberg posted and publicized their intimate videos. The fact of Defendant’s liability, rather than the

amount of the award, is the measure of Plaintiffs' success. The unmasking of Defendant's anonymous and malicious distribution of intimate materials and the repudiation of Defendant's bald faced lies were more valuable to Plaintiffs than any monetary award. As a result, the Court is permitted to recognize the significance of the result despite the modest damages award. *See, e.g., Kellstrom*, 50 F.3d at 329 (quoting the lower court's opinion that "[t]he results obtained, though disappointing to plaintiff in quantum, were nonetheless significant. The amount involved, the \$15–\$17 million sought as opposed to \$500,000 awarded by the jury is not insignificant for inherent therein is the principle of the matter [...] Significant here is the fact that plaintiff exposed the rapacious avarice of educated executives and professionals [...] The Court considers exposure of this [...] activity to be an important and highly significant result obtained."). *See also USFL v. NFL*, 887 F.2d 408 (2nd Cir. 1989), *cert. denied*, 493 U.S. 1071 (1990) (awarding over \$5M in fees when jury verdict was \$1).

Notably, Plaintiffs in this case did not seek any specific financial award. Their goal was to establish liability, not to obtain financial gain. In any event, Plaintiffs are willing to accept a total fee award of \$300,000. This is approximately 55% of the lodestar calculated above.

## VII. FEES ARE APPROPRIATE IN PRO BONO MATTERS

Founded in 2014, the K&L Gates Cyber Civil Rights Legal Project is a pro bono effort to help victims of nonconsensual pornography by providing them legal assistance on a pro bono basis. The CCRLP was founded on the principle that people have a right of privacy in their intimate photographs and videos, and that the public, online dissemination of that media without consent is an invasion of that sexual privacy amounting to a “cyber civil rights” violation.

Recognizing that victims of this type of cybercrime often have limited access to legal counsel and few viable legal options, the CCRLP offers knowledgeable legal representation to victims. Because K&L Gates operates on an international platform, the CCRLP can offer quality pro bono legal services to victims of this cyber epidemic who reside both within the United States and abroad. The project has been recognized with the 2016 Washington State Bar Association APEX Award for Pro Bono service.

The provision of pro bono services is a foundational pillar of the legal practice. The Rules of Professional Conduct for Texas, as well as many other states, encourage pro bono representation. “Each lawyer engaged in the practice of law should render public interest legal service.” Texas Disciplinary Rules of Professional Conduct, 6.01, comment 3. *See also* Washington State RPC 6.1

(“Every lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay.”)

There are no legal barriers to awarding fees in a pro bono matter. The American Bar Association (“ABA”) squarely addresses the issue of attorney fees in pro bono cases in the comments to its Model Rule 6.1. According to the ABA, whether work qualifies as pro bono turns on the lawyer’s intent at the time of undertaking the project. Therefore, the ABA has taken the position that an award of statutory lawyers’ fees in a case originally accepted as pro bono does not disqualify such services from qualifying as pro bono.

Since it was decided in 1984, *Blum v. Stenson*, 465 U.S. 886, has been the prevailing case on market rates for attorneys handling pro bono and/or nonprofit legal work. In the original lawsuit, a private nonprofit legal aid organization brought a case on behalf of a statewide class of Medicaid recipients against the New York State Department of Social Services. After a successful outcome, the plaintiffs sought attorney fees under Section 1988. The defendant argued that all fee awards under Section 1988 should be calculated according to the cost of providing legal services rather than according to prevailing market rates. The Solicitor General, in an amicus brief, argued that market rates reflect the level of compensation necessary to attract profit making attorneys, but that such rates provide excessive fees to nonprofit counsel.

The Supreme Court rejected these arguments, approved the nonprofit attorneys' hourly rates, and awarded them approximately \$80,000.00 in attorneys' fees. According to the Court, fee awards should be governed by the prevailing market rates in the relevant community, regardless of whether the case has been undertaken by private counsel, a nonprofit organization, or on a pro bono basis. *Stenson*, 465 U.S. at 895–96.

Courts across the nation have been using the Supreme Court's analysis in *Stenson* to justify use of the prevailing market rate as the reasonable attorney rate in pro bono and public service cases, even when Section 1988 is not cited as the authority for recovery of such fees. *See e.g., Blanchard v. Bergeron*, 489 U.S. 87, 94 (1989) (“That a nonprofit legal services organization may contractually have agreed not to charge *any* fee of a civil rights plaintiff does not preclude the award of a reasonable fee to a prevailing party[.]”) (emphasis in original); *Cuellar v. Joyce*, 603 F.3d 1142, 1143 (9th Cir. 2010) (“The fact that Cuellar's lawyers provided their services pro bono does not make a fee award inappropriate.”); *Alexander S. By and Through Bowers v. Boyd*, 929 F. Supp. 925, 933 (D.S.C. 1995) (summarizing cases for the general holding that “[a]n award of attorney's fees to a successful plaintiff is not contingent upon an obligation to pay an attorney and is not affected by the fact that no fee was charged.”); *Johnson v. Lafayette Fire Fighters Ass'n Local 472, Int'l Ass'n of Fire Fighters*, 51 F.3d 726, 732 (7th Cir. 1995) (holding “Plaintiffs are

entitled to recover attorney's fees as measured by the prevailing market rate, whether or not their representation was an act of charity from a non-profit legal assistance foundation."); *Heng Chan v. Sung Yue Tung Corp.*, No. 03 Civ. 6048, 2007 WL 1373118, at \*2 (S.D.N.Y. May 8, 2007) (awarding attorney fees to Skadden Arps in a pro bono matter pursuant to the FLSA).

### **VIII. CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully request that the Court award \$300,000 in attorneys' fees in this matter.

Dated: May 3, 2021.

Respectfully submitted,

**K&L GATES LLP**

By: /s/ Hannah T. Warren  
David A. Bateman, Esq.,  
Attorney in Charge  
WA Bar No. 14262  
Pro Hac Vice (December 18, 2018)  
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**ATTORNEYS FOR PLAINTIFFS**



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was electronically filed with the Court and served through the CM-ECF system to all counsel for record registered to receive a Notice of Electronic Filing for this case on the 3rd day of May, 2021.

By: /s/ Hannah Warren  
Hannah Warren

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

*Plaintiffs,*

vs.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:15-CV-01149

The Honorable David Hittner

**DECLARATION OF DAVID A. BATEMAN IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR AWARD OF ATTORNEYS’ FEES**

I am a partner in the law firm K&L Gates, LLP (“KLG”) and make this declaration in support of Plaintiffs’ Motion for Award of Attorneys’ Fees (“Motion”).

I was admitted to practice in Washington State in 1984 and have practiced continuously since then. I am the responsible partner for this lawsuit, and I have represented Plaintiffs in all phases of this litigation. I directed and supervised the work performed by other KLG lawyers throughout this matter. A copy of my biography and qualifications is attached as Exhibit 1.

At the time this case was filed in April 2016, I was supervising two associates working on this case, Michael Komo and Sean Brennan. Both Mr. Komo and Mr. Brennan left their positions as KLG attorneys before this case was set for trial. Mr. Brennan was succeeded by Jason Rudloff, who also left the firm. Plaintiffs are not seeking fees for any work by these departed attorneys.

Hannah Warren, a KLG associate, joined the trial team in 2019. A copy of her biography and qualifications is attached as Exhibit 2.

Andrew Knop, a KLG associate, joined the trial team in 2018. A copy of his biography and qualifications is attached as Exhibit 3.

As the responsible partner, I directed and supervised the work performed by Ms. Warren and Mr. Knop. I consider them both to be highly capable and competent.

I have been responsible for reviewing the time records in this case from its inception to the present. I am familiar with the activities that KLG attorneys and staff have performed in representing the Plaintiffs. I am also familiar with the time and cost of those activities.

Attached as Exhibit 4 to this declaration are true and correct copies of time entries for services rendered in this matter by Ms. Warren, Mr. Knop and myself. These entries represent contemporaneous billing records for this matter. The time entries contain sufficient detail of the task performed to show that the amount of time expended for the work described was reasonable. Moreover, given my role in the case, familiarity with the work performed, and my experience, as further described below, I have personal knowledge that the amount of time expended was reasonable.

Plaintiffs became clients of the KLG Cyber Civil Rights Legal Project (“CCRLP”) in early 2016.

Founded in 2014, the CCRLP is a pro bono effort to help victims of nonconsensual pornography by providing them legal assistance on a pro bono basis. The CCRLP is founded on the principle that people have a right of privacy in their intimate photographs and videos, and that the public, online dissemination of that media without consent is an invasion of that sexual privacy amounting to a “cyber civil rights” violation.

Recognizing that victims of this type of cybercrime often have limited access to legal counsel and few viable legal options, the CCRLP offers knowledgeable legal representation to victims around the globe. The project has been recognized with the 2016 Washington State Bar Association APEX Award for Pro Bono service. Its website is at [cyberrightsproject.com](http://cyberrightsproject.com).

At the time this case was filed in April 2016, a related criminal proceeding was underway, and this civil action was stayed until May 1, 2018. Once the stay was lifted, the parties proceeded with discovery. The case was ready for trial in March 2020, but sat idle for the following year during the pandemic.

As described in detail below, the lodestar for the work of Ms. Warren, Mr. Knop and myself, through trial, is \$566,980. Although this is a reasonable amount for the five years of litigation in this matter, Plaintiffs seek only an award of \$300,000.

Because this case lasted over five years, the hourly billing rates of the KLG lawyers has changed. My hourly billable rate hourly rate was \$590 when this case began in 2016. It increased to \$690 in 2018, \$800 in 2019, and most recently is \$925.

Ms. Warren's hourly rate was \$375 when she first joined the trial team in November 2019. It increased to \$480 in 2020, and \$530 in 2021.

Mr. Knop's hourly rate was \$380 when he first was involved in this case in 2018. His rate changed to \$405 in 2018, \$435 in 2020 and \$490 in 2021.

The following tabulates the hours recorded by each lawyer (as reflected on Exhibit 4) and the average rate billed:

<b>Attorney</b>	<b>Category</b>	<b>Hours Worked</b>	<b>Average Rate</b>	<b>Total</b>
Bateman	Partner	380.9	\$825	
Warren	Associate	193.7	\$494	
Knop	Associate	353.1	\$443	
<b>Total</b>		<b>927.7</b>	<b>\$611</b>	<b>\$566,980</b>

The rates charged by each attorney were the customary and normal rates charged to other KLG clients at the times each of the services was performed. Because our billing rates are based on market conditions, it is my belief that the rates charged by Ms. Warren and Mr. Knop reflected rates for similarly qualified attorneys in the Houston area. Based on my knowledge of what experienced litigation partners

bill in the Houston area, I believe that my rate (based on the Seattle market) are at or below rates normally charged in Houston.

Both the hours spent by KLG attorneys and the rates charged for those hours are reasonable and were necessary for the representation of Plaintiffs in this case. Because the rates and number of hours were reasonable, the total lodestar amount is also reasonable.

Had we not been representing Plaintiffs in this matter, our attorneys would have been fully utilized on other billable client work.

Pursuant to the United States Code, Title 28, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.



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David A. Bateman  
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Email: [david.bateman@klgates.com](mailto:david.bateman@klgates.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was electronically filed with the Court and served through the CM-ECF system to all counsel for record registered to receive a Notice of Electronic Filing for this case on the 3rd day of May, 2021.

By: /s/ Hannah Warren  
Hannah Warren

# EXHIBIT 1





## David A. Bateman

### Partner

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## OVERVIEW

David Bateman is a trial lawyer and focuses on Internet law, technology law, and intellectual property litigation. David represents clients in high profile litigation matters, and provides counseling to clients on privacy, social media, online marketing, data protection and breach response, and other issues in the Internet space.

A nationally recognized leader in Internet, e-commerce, and software litigation, David has been lead counsel in hundreds of lawsuits against spammers, software pirates, phishers, cybersquatters, and Internet trolls. He has worked cooperatively with major ISPs, social media platforms, tech industry participants, and state and federal government agencies in the battle against online consumer deception, fraud, and privacy invasions.

In addition, he routinely defends technology companies, online retailers, affiliate programs, and ad platforms in class action litigation and government investigations and enforcement actions.

David also advises clients about cybersecurity risks, data breach response planning, and corporate governance in the cybersecurity field. He has participated in dozens of data breach incidents, and is a frequent speaker on the protection of computer systems, trade secrets, and intellectual property. David is a leader in the firm's Cyber Law and Cybersecurity practice.

David is a co-founder of the Cyber Civil Rights Legal Project (CCRLP), a global K&L Gates pro bono project providing legal services to victims of nonconsensual pornography (i.e., "revenge porn") whose sexually explicit images are distributed and displayed online without consent. The CCRLP utilizes the firm's elite cybersecurity and cyber forensics practices, allowing volunteers to deliver quality pro bono services to victims across the globe. Since its inception in late 2014, the CCRLP already has helped thousands of victims fight back against cyber harassment and reclaim their online identities.

## ACHIEVEMENTS

- Ranked in *Chambers USA*, Washington for Intellectual Property (2013-2020)
- Pro Bono APEX Award 2016, Washington State Bar Association
- Selected to the Washington Super Lawyers List (2004-2018)

- Listed in *The Best Lawyers in America*®, 2006-2021

## PROFESSIONAL / CIVIC ACTIVITIES

- Member, International Association of Privacy Professionals (IAPP)

## SPEAKING ENGAGEMENTS

- “The Real World of Online Harassment and its Consequences,” Grays Harbor Community College, June 2016
- Data Breaches and Trade Secrets CLE (ABA Annual Meeting 2015)
- “Revenge Porn – a Plaintiff’s Perspective,” Washington Defense Trial Lawyers Association, December 2015
- “The Intersection of Trade Secret Protection and Cyber Security,” Trade Secret Law and Strategies, October 2015
- “After Anthem: Cybersecurity, Data Privacy, and Cyber-Resilience for the Health Care Sector,” May 2015
- “Cyberattacks on IP: Response and Prevention,” IP Chat Channel, February 2015
- “Understanding Cyber Risks and Security Options,” December 2014
- “Using Social Media in Your Practice —Legal Issues and Risks”, ALI Seminar, January 2014
- "Critical Briefing: Cyber Threats, Crimes, and Security," June 2013
- 3rd Annual Domestic Violence Conference, King County Prosecutor's Office, September 2011
- “Intellectual Property Protection in the Cloud / Enforcement,” Cloud Computing Conference, May 2010

## EDUCATION

- J.D., Yale Law School, 1984
- B.A., Yale University, 1980 *summa cum laude*, *Phi Beta Kappa*

## ADMISSIONS

- Bar of Washington
- United States District Court for the Eastern District of Washington
- United States District Court for the Western District of Washington

## THOUGHT LEADERSHIP POWERED BY HUB

- March 2017, A Practical Guide to Representing Victims of Sexual Cyber Harassment Ethically and Effectively (Part 1) (*Webinar*)
- 11 April 2016, Phishing Season Opens for 2016 Tax Filings – Beware of “W-2 Phishing Scams” (*Alerts/Updates*)
- 2015, Understanding Cyber Risks and Security Options (*Presentations*)
- 2015, Data Breaches and Trade Secrets: What to Do When Your Client Gets Hacked (*Presentations*)

## NEWS & EVENTS

- 10 September 2020, K&L Gates Prevails on Summary Judgment in False Advertising Action Against Content Recommendation Platform (*Noteworthy Work*)
- 23 April 2020, K&L Gates, Lawyers Recognized in 2020 Chambers USA Guide (*Rankings & Recognitions*)
- 26 April 2019, Chambers USA 2019 Guide Ranks K&L Gates, Lawyers Among Leaders (*Press Release*)
- 23 June 2016, K&L Gates, Lawyers Recognized as Leaders in Chambers USA 2016 Guide (*Press Release*)
- 20 May 2015, Chambers USA 2015 Guide Recognizes K&L Gates, Lawyers as Industry Leaders (*Press Release*)

## MEDIA MENTIONS

- “Law Firm Founds Project to Fight ‘Revenge Porn,’” *New York Times*, January 29, 2015
- “Amazon Sues More Than 1,000 Does for Writing Fake Reviews,” *Lexis Legal News*, October 20, 2015
- “In ‘Revenge Porn’ Case, Criminal Court Decision May Affect Lawsuit,” *New York Times*, April 1, 2016
- “Copyright Law and the Fight Against Revenge Porn: Q&A With David Bateman of the Cyber Civil Rights Legal Project,” *JD Supra*, February 19, 2015
- “David Bateman Receives Pro Bono Award,” *Washington State Bar Association*, September 30, 2016
- “Seattle Tech Companies Join Lawyers in Fight Against Revenge Porn,” *Puget Sound Business Journal*, August 5, 2016
- “PA Prosecutors Quick to Put ‘Revenge Porn’ Law to Work,” *Triblive*, May 30, 2015
- “Special Report: A Year of Public Service Help for Victims of ‘Revenge Porn,’” *AmericanLawyer.com*, June 27, 2016

## AREAS OF FOCUS

- IP Litigation
- Complex Commercial Litigation and Disputes
- Data Protection, Privacy, and Security
- Fintech Lending
- K&L Gates Trial Academy

## REPRESENTATIVE EXPERIENCE

- Defended affiliate marketing program in FTC enforcement action regarding “fake news” sites, utilizing CDA 230.
- Defended local start-up company in trade secret and non-compete litigation.
- Represented national mobile phone service provider in employee theft litigation.
- Obtained \$8.9 million verdict in jury trial against online cyberstalker.
- Defend online home improvement and repair platform in competitor claims of improper site access and scraping.
- Defended native advertising platform against claims of liability for third-party advertising, utilizing CDA 230.
- Litigation to unmask anonymous on-line leaker of trade secrets.
- Defended local start-up company in trade secret and non-compete litigation.
- Served as lead trial lawyer in Microsoft's nationwide Internet safety and security litigation efforts, heading programmatic litigation in spam, phishing, spyware, click-fraud and malvertising enforcement.
- Led online marketplace effort to identify and pursue fake review generators.
- Defend online marketplace in claims for COVID-19 price gouging.
- Served as lead trial lawyer for major online retailers in domain name protection efforts and cybersquatting litigation.
- Defended medical payment processor in data breach class action litigation.
- Obtained \$3.4 million judgment against spyware distributor.
- Represented major online retailer in program to unmask and pursue online scammers and trademark abusers.
- Represented online marketer in multistate AG investigation of ROSCA and continuity programs.
- Represented software developer in international arbitration regarding design and project implementation.

- Represented software manufacture in claims against Chinese piracy.
- Defended mobile app developer in ownership and project dispute.
- Defended numerous app developers in class action privacy litigation regarding data collection through APIs. privacy; data
- Represented native ad network in FTC investigation of compliance efforts.
- Represented national mobile carrier in Washington AG enforcement action relating to mobile apps.
- Represented app developer in State AG investigation of browser add-ons.
- Represented online music distributor in Washington State AG investigation of continuity programs.
- Represented online ad network in Washington State AG investigation regarding consumer privacy issues.

# EXHIBIT 2



## Hannah T. Warren

### Associate

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Hannah.Warren@kigates.com

### OVERVIEW

Hannah Warren is a litigation associate with a primary focus in the energy, infrastructure and resources practice, specifically regarding complex commercial litigation and international arbitration in the on and offshore oil and gas industry. Hannah maintains a secondary focus in the labor, employment and workplace safety practice where she regularly counsels employers across the United States in the oil and gas, restaurant and hospitality, and construction and manufacturing industries regarding a broad range of workplace issues.

Hannah is also actively involved in pro bono engagements and a member of the firm's global ethical supply chain task force.

### PROFESSIONAL BACKGROUND

Hannah served as a law clerk for the Honorable David Alan Ezra of the United States District Court for the District of Hawaii, sitting by designation in the Western District of Texas. In addition to her district court work, Hannah also prepared bench memoranda and memorandum dispositions for the Ninth Circuit Court of Appeals, where Judge Ezra quarterly sits by designation.

Prior to joining the firm, Hannah was a summer associate in the firm's Houston office.

### PROFESSIONAL / CIVIC ACTIVITIES

- American Bar Association
- Houston Bar Association, Labor & Employment Section
- Christian Legal Society, Houston Chapter
- Houston Young Lawyers Association

## SPEAKING ENGAGEMENTS

- Presenter, “Global Ethical Supply Chain Issues for Offshore Oilfield Service Companies,” U.S./U.K. Comparative Law Seminar (November 2019)
- Presenter, “Case Updates on Leave Issues”, American Petroleum Labor Lawyers Association Annual Seminar (October 2019)
- Presenter, “Indemnities on Both Sides of the Atlantic,” U.S./U.K. Comparative Law Seminar (November 2018)

## EDUCATION

- J.D., University of Houston Law Center, 2017 (*John R. Brown Admiralty Moot Court Best Brief Writer Award 2017; Willem C. Vis International Commercial Arbitration Team (Hong Kong) 2016; Chief Casenotes & Comments Editor, Houston Journal of International Law*)
- B.A., The University of Texas at Austin, 2014

## ADMISSIONS

- Bar of Texas
- United States District Court for the Southern District of Texas
- United States District Court for the Western District of Texas

## THOUGHT LEADERSHIP POWERED BY HUB

- November 2020, Offshore Energy Webinar Series: Damages and the Impact of COVID-19 (*Webinar*)
- 4 March 2019, Eliminating Forced Labor from Your Company's Supply Chains: Lessons Learned from 2018 and the Trends Developing for 2019 (*Alerts/Updates*)
- 06 November 2018, Comparative Law Seminar (*Presentations*)

## OTHER PUBLICATIONS

- Co-Author, “Eliminating Forced Labor from Your Company's Supply Chains: Lessons Learned from 2018 and the Trends Developing for 2019” (February 2019)

## NEWS & EVENTS

- 15 October 2020, K&L Gates Texas Associates, Paralegal Honored with KIND Pro Bono Awards (*Rankings & Recognitions, Practice & Regional News*)
- 17 August 2020, K&L Gates Advises Tokyo Gas America on Two Acquisitions (*Noteworthy Work*)



## **AREAS OF FOCUS**

- Oil and Gas
- Construction and Infrastructure Dispute Resolution
- Employment Disputes and Investigations
- Employment Issues in Business Transactions
- Human Resource Advice and Compliance
- Offshore Construction

## **INDUSTRIES**

- Energy
- Energy Disputes

# EXHIBIT 3



## Andrew R. Knop

### Associate

Fort Worth	Houston
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Andrew.Knop@klgates.com

## OVERVIEW

Andrew Knop is an associate at the firm's Fort Worth and Houston office where he is a member of the oil, gas, and resources practice group. Andrew practices on various energy litigation matters, including eminent domain and upstream oil and gas litigation issues involving lease disputes and real property rights.

## PROFESSIONAL BACKGROUND

Prior to joining the firm Andrew served as a summer associate at the firm's Houston office where he worked on an oil and gas related case, assisted with preparation, and attended mediation to help obtain a settlement for client, and worked on research projects related to oil & gas leases and land purchases.

## PROFESSIONAL / CIVIC ACTIVITIES

- State Bar of Texas, Section on Oil, Gas, and Natural Resources Journal edits and review of articles for publication.
- Member of the Order of the Coif

## EDUCATION

- J.D., University of Houston Law Center, 2017 (*magna cum laude; graduated eighth in class; Order of the Coif*)
- B.A., University of Houston, 2013 (*magna cum laude*)

## ADMISSIONS

- Bar of District of Columbia
- Bar of Texas
- United States District Court for the Southern District of Texas

## NEWS & EVENTS

- 15 October 2020, K&L Gates Texas Associates, Paralegal Honored with KIND Pro Bono Awards (*Rankings & Recognitions, Practice & Regional News*)

## AREAS OF FOCUS

- Oil and Gas

## EMERGING ISSUES

- Hydrogen

## REPRESENTATIVE EXPERIENCE

- Eminent domain representation for a five-county Texas segment of an approximately 125-mile interstate transmission NGL pipeline from the Red River to facilities in Johnson County, Texas, including properties located in Montague, Wise, Parker, Hood and Johnson counties
- Eminent domain representation for a three-county segment of 20-mile NGL pipeline located in Midland, Reagan, Glasscock, and Upton counties
- Eminent domain representation for multi-county segments of 790-mile natural gas liquids (“NGL”) pipeline from Permian Basin to fractionation and storage complex in Mont Belvieu, Texas (representative work includes Ward, Midland, Glasscock, Sterling, Mitchell, Nolan, Taylor, Callahan, Eastland, Erath, Somervell, Hood, and Johnson Counties)

# EXHIBIT 4

Date	Name	Title	Hours	Amount	Rate	Narrative
5/11/2016	Bateman, David A.	Partner	0.40	\$236.00	\$590.00	Update on Ousley case background, job loss and potential evidence of posting
8/22/2016	Bateman, David A.	Partner	1.30	\$767.00	\$590.00	Confer with litigation team regarding case developments
8/24/2016	Bateman, David A.	Partner	0.80	\$472.00	\$590.00	Conference call with legal team; update on case status and planning
8/26/2016	Bateman, David A.	Partner	1.10	\$649.00	\$590.00	Update on Hippensteel divorce settlement and federal court release issues
8/31/2016	Bateman, David A.	Partner	0.70	\$413.00	\$590.00	Review and comment on Rule 16 trial planning schedule
9/27/2016	Bateman, David A.	Partner	0.40	\$236.00	\$590.00	Confer with legal team on subpoena issues
11/4/2016	Bateman, David A.	Partner	0.80	\$472.00	\$590.00	Update on criminal charges and implications; confer with S. Brennan regarding stay of proceedings
8/8/2018	Bateman, David A.	Partner	0.90	\$621.00	\$690.00	Work on third-party subpoenas for forensic information
9/4/2018	Bateman, David A.	Partner	0.70	\$483.00	\$690.00	Update on Pornhub subpoena; confer with Pornhub counsel
9/21/2018	Bateman, David A.	Partner	0.70	\$483.00	\$690.00	Update on third-party discovery service and response
9/26/2018	Bateman, David A.	Partner	1.50	\$1,035.00	\$690.00	Update on discovery; investigate case status and background
10/2/2018	Bateman, David A.	Partner	2.00	\$1,380.00	\$690.00	Review evidence and outline trial preparation issues
10/4/2018	Bateman, David A.	Partner	2.50	\$1,725.00	\$690.00	Extensive file review and case update
10/15/2018	Bateman, David A.	Partner	0.70	\$483.00	\$690.00	Interviews with forensic vendors
10/16/2018	Bateman, David A.	Partner	0.60	\$414.00	\$690.00	Work with forensic expert
10/18/2018	Bateman, David A.	Partner	2.40	\$1,656.00	\$690.00	Review evidence and forensic information; work with potential expert
10/29/2018	Bateman, David A.	Partner	1.70	\$1,173.00	\$690.00	Review client materials; updates with E. Matava; work with forensic expert
10/31/2018	Bateman, David A.	Partner	2.80	\$1,932.00	\$690.00	Work on case planning; confer with forensic expert; conference with clients
11/1/2018	Bateman, David A.	Partner	3.80	\$2,622.00	\$690.00	Conference with forensic experts; work on Windstream subpoena clarification; confer with S. Brennan
11/2/2018	Bateman, David A.	Partner	3.70	\$2,553.00	\$690.00	Work on forensic summary and case development; prepare discovery requests; work on subpoenas
11/5/2018	Bateman, David A.	Partner	2.50	\$1,725.00	\$690.00	Revise discovery requests; work on subpoenas; work with experts
11/7/2018	Bateman, David A.	Partner	1.00	\$690.00	\$690.00	Continue analysis of forensic evidence
11/13/2018	Bateman, David A.	Partner	0.80	\$552.00	\$690.00	Forensic review and investigation of Linnenbank emails
11/14/2018	Bateman, David A.	Partner	2.50	\$1,725.00	\$690.00	Update on action items; review email materials and evidence from client; update on discovery scheduling; team meeting; respond to client emails and ideas
11/26/2018	Bateman, David A.	Partner	0.80	\$552.00	\$690.00	Update on discovery status; work on staffing issues
11/28/2018	Bateman, David A.	Partner	2.20	\$1,518.00	\$690.00	Letter to C. Faden; weekly meeting; revise discovery requests and subpoenas; respond to client inquiry
11/29/2018	Bateman, David A.	Partner	1.50	\$1,035.00	\$690.00	Work on subpoenas and deposition planning; review and revise discovery requests; email to clients
11/30/2018	Bateman, David A.	Partner	2.20	\$1,518.00	\$690.00	Continue work on discovery requests, subpoenas, and planning
12/3/2018	Bateman, David A.	Partner	2.40	\$1,656.00	\$690.00	Revise and finalize discovery requests and subpoenas
12/11/2018	Bateman, David A.	Partner	0.80	\$552.00	\$690.00	Conference with K. Pardue regarding depositions
12/12/2018	Bateman, David A.	Partner	1.00	\$690.00	\$690.00	Updates on discovery plans; team meeting
12/13/2018	Knop, Andrew R.	Associate	1.80	\$684.00	\$380.00	Review and evaluate initial complaint and motion for temporary restraining and evidentiary support; correspondence with E. Matava regarding same
12/19/2018	Bateman, David A.	Partner	2.10	\$1,449.00	\$690.00	Updates on third party subpoenas and deposition logistics. Team meeting.
12/19/2018	Knop, Andrew R.	Associate	0.30	\$114.00	\$380.00	Review compliant and evidentiary support; correspondence with J. Rudloff regarding same
12/20/2018	Bateman, David A.	Partner	1.10	\$759.00	\$690.00	Update on HCHS servicee and representation. Calls to subpoena recipients.
12/21/2018	Knop, Andrew R.	Associate	0.50	\$190.00	\$380.00	Prepare for upcoming weekly status conference call regarding pending litigation; attend conference call to discuss action items with D. Bateman, J. Rudloff, E. Matava, and M. Komo
12/26/2018	Knop, Andrew R.	Associate	1.10	\$418.00	\$380.00	Review correspondences from M. Komo regarding research and analysis of Freedom of Information Act and Public Information Act in Texas; research issues regarding requesting information from the Harris County Sheriff's Office; confer with J. Rudloff regarding same
12/27/2018	Knop, Andrew R.	Associate	0.80	\$304.00	\$380.00	Continue review of Texas law regarding FOIA/PIA requests to the Harris County Sheriff's Office, including confer with J. Rudloff regarding same; review charges against defendants L. Hippensteel and S. Eisenberg
12/28/2018	Knop, Andrew R.	Associate	0.40	\$152.00	\$380.00	Review criminal histories of L. Hippensteel and S. Eisenberg
12/31/2018	Knop, Andrew R.	Associate	1.00	\$380.00	\$380.00	Review and evaluate FOIA/PIA laws in Texas pertaining to the Harris County Sheriffs Office, including confer with J. Rudloff regarding same; prepare memorandum to J. Rudloff regarding same
1/2/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Work on third-party subpoena service and scheduling
1/2/2019	Knop, Andrew R.	Associate	0.20	\$81.00	\$405.00	Conference with J. Rudloff regarding FOIA/PIA request of L. Hippensteel and S. Eisenberg criminal records
1/3/2019	Bateman, David A.	Partner	5.80	\$4,640.00	\$800.00	Updates on discovery and plans; inquiries regarding statutes of limitation; work on third-party discovery planning
1/4/2019	Bateman, David A.	Partner	3.60	\$2,880.00	\$800.00	Continue work on third party discovery; interview and report on C. Faden conversation; work on legal issues; review report on criminal records retrieval
1/4/2019	Knop, Andrew R.	Associate	1.30	\$526.50	\$405.00	Multiple correspondences with J. Rudloff and D. Bateman regarding case updates and FOIA/PIA request to Harris County Sheriff's Office, including multiple phone conferences with J. Rudloff regarding same; review deposition testimony and pleading documents to determine evidence to request in connection with Harris County Sheriff's Office investigations
1/7/2019	Bateman, David A.	Partner	3.00	\$2,400.00	\$800.00	Emails with defense counsel; review client emails; work on deposition scheduling

Date	Name	Title	Hours	Amount	Rate	Narrative
1/7/2019	Knop, Andrew R.	Associate	0.70	\$283.50	\$405.00	Multiple correspondences with M. Komo, E. Matava, and J. Rudloff regarding FOIA/PIA request to Harris County Sheriff's Office, including conference with J. Rudloff regarding same
1/8/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Discovery conference with B. Flynn, counsel for HCHS; work on third-party subpoena responses and deposition scheduling
1/9/2019	Knop, Andrew R.	Associate	1.20	\$486.00	\$405.00	Prepare for and attend weekly status conference call with M. Komo, E. Matava, and J. Rudloff; review timeline of events prepared at the request of counsel, including analyze potential FOIA/PIA request topics for investigative materials from Harris County Sheriffs Office
1/10/2019	Bateman, David A.	Partner	1.30	\$1,040.00	\$800.00	Review discovery responses; outline deficiencies
1/10/2019	Knop, Andrew R.	Associate	3.70	\$1,498.50	\$405.00	Review discovery evidence, including analyze and evaluate S. Eisenberg's responses to plaintiff's request for production and interrogatories; continue evaluation of FOIA/PIA request topics for investigative materials from Harris County Sheriffs Office, including comparing discovery responses to timeline of events
1/11/2019	Knop, Andrew R.	Associate	2.80	\$1,134.00	\$405.00	Continue reviewing discovery evidence and S. Eisenberg's responses to plaintiff's request for production and interrogatories; continue evaluation of FOIA/PIA request topics for investigative materials from Harris County Sheriffs Office; review Harris County Toll Road Authority EZ-Tag charges and evaluate and research requesting toll road history for S. Eisenberg; correspondence with J. Rudloff regarding same
1/16/2019	Knop, Andrew R.	Associate	1.20	\$486.00	\$405.00	Review document production from Houston Christian High School, including evaluate potential deficiencies regarding same; continue review of S. Eisenberg's document production, including evaluate deficiencies regarding same; evaluate federal rules of civil procedure regarding failure to sign responses to requests for admissions and its effect
1/17/2019	Bateman, David A.	Partner	1.70	\$1,360.00	\$800.00	Team meeting; discovery deficiency letter
1/17/2019	Knop, Andrew R.	Associate	1.40	\$567.00	\$405.00	Legal research regarding failure to sign response to request for admission; prepare for upcoming weekly status conference call with D. Bateman, M. Komo, and E. Matava and attend same
1/18/2019	Bateman, David A.	Partner	0.80	\$640.00	\$800.00	Call with K. Donati, Hippensteel attorney, regarding deposition; report to team
1/18/2019	Knop, Andrew R.	Associate	0.50	\$202.50	\$405.00	Conference call with J. Rudloff regarding weekly status update and related discovery matters for S. Eisenberg
1/23/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Communications with W. Linnenbank and K. Pardue
1/23/2019	Knop, Andrew R.	Associate	2.20	\$891.00	\$405.00	Multiple correspondence to D. Bateman, E. Matava, M. Komo, and J. Rudloff regarding status of request for criminal offense reports for L. Hippensteel and S. Eisenberg; conference with J. Rudloff regarding same, including evaluate strategic options for obtaining investigative materials from criminal offense reports; correspondence to D. Bateman regarding same
1/25/2019	Bateman, David A.	Partner	1.80	\$1,440.00	\$800.00	Conference with K. Pardue regarding discovery issues; update with team; review discovery requests
1/25/2019	Knop, Andrew R.	Associate	0.90	\$364.50	\$405.00	Request criminal offense reports for S. Eisenberg and L. Hippensteel, including multiple correspondence with J. Rudloff regarding same
1/26/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Review discovery requests; respond to John O. inquiry; update on action item planning
1/29/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Client update meeting
1/29/2019	Knop, Andrew R.	Associate	0.20	\$81.00	\$405.00	Conference call with J. Rudloff regarding Criminal Offense Reports for L. Hippensteel and S. Eisenberg
1/30/2019	Bateman, David A.	Partner	0.70	\$560.00	\$800.00	Call with forensic expert to update on plans
1/30/2019	Knop, Andrew R.	Associate	0.10	\$40.50	\$405.00	Correspondence to D. Bateman, M. Komo, J. Rudloff, and E. Matava regarding case status update and forensic expert assistance
2/4/2019	Bateman, David A.	Partner	1.10	\$880.00	\$800.00	Work on deposition scheduling. Emails to third-party counsel regarding Steel deposition. Update on discovery responses.
2/4/2019	Knop, Andrew R.	Associate	0.10	\$40.50	\$405.00	Correspondence with D. Bateman regarding forensic expert witness
2/5/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Review defendant's supplemental discovery responses and documents in response to letter regarding discovery issues
2/6/2019	Bateman, David A.	Partner	1.70	\$1,360.00	\$800.00	Team meeting; review supplemental production; confer with client
2/7/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Telephone conference with J. Rudloff regarding case status, including discuss strategy regarding evaluating TX DOT and EZ-Tag records
2/12/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Review and revise discovery responses
2/13/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Conference with defense counsel on discovery extension; team meeting on discovery requests; revise discovery requests
2/13/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Prepare for and attend weekly status call regarding client with A. Bateman, M. Komo, E. Matava, and J. Rudloff regarding responses and objections to defendant's first set of requests for production and interrogatories
2/14/2019	Bateman, David A.	Partner	2.80	\$2,240.00	\$800.00	Conference with K. Pardue; work on forensics and phone inspection; report to clients
2/15/2019	Bateman, David A.	Partner	2.40	\$1,920.00	\$800.00	Work with expert on phone protocol; exchanges with clients; confer with defense counsel on discovery extension
2/15/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Review correspondence between D. Bateman and J. Ousley regarding discovery responses
2/18/2019	Bateman, David A.	Partner	1.40	\$1,120.00	\$800.00	Work on logistics for discovery extension; update on cellphone investigation protocol
2/19/2019	Bateman, David A.	Partner	0.80	\$640.00	\$800.00	Work on discovery responses
2/20/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Work on discovery issues; team meeting
2/20/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Prepare for and attend weekly status conference update with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding discovery responses and communications with client
2/21/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Finalize discovery requests; update from HCHS counsel
2/22/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Work on deposition planning
2/22/2019	Knop, Andrew R.	Associate	0.20	\$81.00	\$405.00	Review multiple correspondences with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding document production
2/25/2019	Bateman, David A.	Partner	0.70	\$560.00	\$800.00	Teleconference with Linnenbank; work on deposition scheduling

Date	Name	Title	Hours	Amount	Rate	Narrative
2/25/2019	Knop, Andrew R.	Associate	0.90	\$364.50	\$405.00	Analyze and evaluate letter from texas attorney general upholding the harris county sheriff's office's denial of our public information request on the grounds that it contains private information and the charge did not result in a conviction; multiple correspondence with J. Rudloff regarding same
2/26/2019	Knop, Andrew R.	Associate	1.50	\$607.50	\$405.00	Multiple telephone conference calls with J. Rudloff regarding Attorney General letter ruling and discuss potential options and strategies moving forward including multiple correspondence with J. Rudloff in connection with same; research appeals process for Attorney General letter ruling under the Texas Government Code and draft email outlining same
2/27/2019	Knop, Andrew R.	Associate	0.10	\$40.50	\$405.00	Telephone call with J. Rudloff regarding letter ruling from Attorney General of Texas, including discuss appeals process and deadlines in connection with same
2/28/2019	Knop, Andrew R.	Associate	0.60	\$243.00	\$405.00	Continue work on research appeal deadlines for writ of mandamus regarding Harris County Sheriff's Office's withholding of Criminal Offense Reports for S. Eisenberg and L. Hippensteel, including correspondence with J. Rudloff regarding same; Telephone conference with J. Rudloff regarding same
3/4/2019	Bateman, David A.	Partner	2.40	\$1,920.00	\$800.00	Work on deposition scheduling; work on document review
3/4/2019	Knop, Andrew R.	Associate	0.20	\$81.00	\$405.00	Multiple correspondence with M. Komo and E. Matava regarding responses to S. Eisenberg's first set of requests for production and interrogatories; telephone conference with J. Rudloff in connection with same
3/5/2019	Bateman, David A.	Partner	1.80	\$1,440.00	\$800.00	Work on deposition scheduling
3/6/2019	Knop, Andrew R.	Associate	3.30	\$1,336.50	\$405.00	Prepare for and attend weekly case status and update conference call with J. Rudloff and M. Komo; continue research on issues regarding appealing the Attorney General's letter ruling upholding the Harris County Sheriff's Office withholding of Criminal Offense Reports of L. Hippensteel and S. Eisenberg; internal correspondence and memoranda to D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding appeal process for writ of mandamus and declaratory judgment action; multiple conference calls with J. Rudloff in connection with same
3/7/2019	Bateman, David A.	Partner	2.60	\$2,080.00	\$800.00	Respond to client regarding scheduling and case plans; confer with K. Pardue regarding iPhone inspection
3/8/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Review document production; confer with team on discovery issues; teleconference with K. Pardue regarding discovery
3/13/2019	Bateman, David A.	Partner	2.80	\$2,240.00	\$800.00	Prepare for Houston depositions; work on document production
3/13/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Prepare for and attend weekly status conference call with D. Bateman, M. Komo, J. Rudloff, and E. Matava regarding discovery responses and action items
3/14/2019	Bateman, David A.	Partner	3.80	\$3,040.00	\$800.00	Deposition preparation; toll road analysis
3/15/2019	Bateman, David A.	Partner	3.30	\$2,640.00	\$800.00	Work on deposition preparation; work on deposition scheduling
3/18/2019	Bateman, David A.	Partner	4.50	\$3,600.00	\$800.00	Deposition preparation; work on scheduling and logistics; investigate soccer program
3/20/2019	Bateman, David A.	Partner	7.50	\$6,000.00	\$800.00	Depositions of Linnenbank, Faden. Planning sessions with clients.
3/22/2019	Bateman, David A.	Partner	1.10	\$880.00	\$800.00	Work on discovery planning and case strategy
3/25/2019	Bateman, David A.	Partner	3.40	\$2,720.00	\$800.00	Confer with K. Pardue on discovery planning; review J. Ousley communications
3/27/2019	Bateman, David A.	Partner	2.40	\$1,920.00	\$800.00	Conference with K. Pardue; team meeting; prepare for T. Hepworth deposition
3/27/2019	Knop, Andrew R.	Associate	1.40	\$567.00	\$405.00	Correspondence with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding action items and issues for upcoming status conference call; prepare for and attend status conference call regarding deposition testimony and case strategy
3/28/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Update on deposition scheduling and plans; respond to J. Ousley inquiry
4/1/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Prepare action item list for client meeting
4/2/2019	Bateman, David A.	Partner	1.80	\$1,440.00	\$800.00	Update conference with client; teleconference with K. Pardue regarding discovery issues
4/2/2019	Knop, Andrew R.	Associate	0.90	\$364.50	\$405.00	Prepare for, attend, and participate in conference call and status update with clients with D. Bateman, J. Rudloff, M. Komo, and E. Matava regarding depositions and case strategy
4/12/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Respond to client inquiry; work on scheduling changes
4/12/2019	Knop, Andrew R.	Associate	1.60	\$648.00	\$405.00	Review deposition transcript of Dr. S. Livingston; correspondence with D. Bateman, M. Komo, E. Matava, and J. Rudloff; review correspondence from clients in connection with style of case and matter; conference call with J. Rudloff regarding case status
4/15/2019	Knop, Andrew R.	Associate	1.40	\$567.00	\$405.00	Review deposition transcripts of W. Linnenbank and C. Faden
4/18/2019	Bateman, David A.	Partner	0.60	\$480.00	\$800.00	Work on discovery scheduling
4/18/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Correspondence with D. Bateman regarding defendant's expert declaration in connection with wifi router access and review of same
4/29/2019	Bateman, David A.	Partner	0.40	\$320.00	\$800.00	Confer with K. Pardue on discovery scheduling
5/2/2019	Bateman, David A.	Partner	1.40	\$1,120.00	\$800.00	Prepare for T. Hepworth deposition
5/3/2019	Bateman, David A.	Partner	2.50	\$2,000.00	\$800.00	Conduct and report on deposition of T. Hepworth
5/8/2019	Bateman, David A.	Partner	0.90	\$720.00	\$800.00	Team meeting; update on mediation possibilities
5/8/2019	Knop, Andrew R.	Associate	1.10	\$445.50	\$405.00	Prepare for and attend weekly conference call status update; multiple correspondence with D. Bateman regarding utilizing Harris County's Dispute Resolution Center and review process and requirements in connection with same
5/9/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Updates on potential mediation; confer with clients regarding school subpoena
5/9/2019	Knop, Andrew R.	Associate	0.60	\$243.00	\$405.00	Telephone call to the Harris County Dispute Resolution Center regarding \$100,000 limit on amount in dispute using mediation services; multiple correspondence with D. Bateman regarding same
5/10/2019	Knop, Andrew R.	Associate	0.90	\$364.50	\$405.00	Begin preliminary research regarding using the assertion of a claim of attorney client privilege to draw an inference from same and its admissibility in court



Date	Name	Title	Hours	Amount	Rate	Narrative
5/14/2019	Knop, Andrew R.	Associate	4.90	\$1,984.50	\$405.00	Multiple correspondence with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding notice of subpoena to Campbell Middle School and multiple telephone conferences with J. Rudloff regarding same; work on preparing notice of subpoena to Campbell Middle School including revise and edit subpoena; research issue regarding service of federal subpoena on Campbell Middle School; correspondence to opposing counsel K. Pardue regarding same
5/15/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Weekly status conference telephone call with J. Rudloff, M. Komo, and E. Matava
5/20/2019	Knop, Andrew R.	Associate	0.70	\$283.50	\$405.00	Multiple correspondence with M. Komo, E. Matava, and J. Rudloff regarding service of subpoena; revise subpoena dates and schedule service of subpoena
5/22/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Multiple correspondence with M. Komo, J. Rudloff, and E. Matava regarding service of subpoena on Campbell Middle School
5/28/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Deposition planning and discussions with clients
5/28/2019	Knop, Andrew R.	Associate	1.60	\$648.00	\$405.00	Multiple correspondence with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding upcoming mediation and mediation deadline; multiple telephone calls with attorney from the Harris County Dispute Resolution Center regarding same; review research in connection with using the assertion of privilege to draw adverse inference at trial, including supplemental research and correspondence in connection with same
5/29/2019	Bateman, David A.	Partner	3.40	\$2,720.00	\$800.00	Work on deposition preparation and case planning
5/29/2019	Knop, Andrew R.	Associate	2.50	\$1,012.50	\$405.00	Review correspondence and attached responsive documents and letter in connection with Campbell Middle School subpoena; review Campbell Middle School website in connection with same; multiple correspondence with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding responsive documents and analysis of same; prepare for and attend client telephone conference call regarding upcoming deposition preparation and potential settlement demands
5/30/2019	Bateman, David A.	Partner	1.50	\$1,200.00	\$800.00	Prepare for S. Eisenberg deposition
5/31/2019	Bateman, David A.	Partner	4.50	\$3,600.00	\$800.00	Collect exhibits for Eisenberg deposition; review historical evidence; continue deposition preparation
6/3/2019	Knop, Andrew R.	Associate	3.00	\$1,215.00	\$405.00	Assist J. Rudloff and conduct deposition preparation for clients in connection with upcoming deposition
6/4/2019	Bateman, David A.	Partner	8.00	\$6,400.00	\$800.00	Defend client depositions
6/5/2019	Bateman, David A.	Partner	4.50	\$3,600.00	\$800.00	Conduct S. Eisenberg deposition
6/5/2019	Knop, Andrew R.	Associate	5.50	\$2,227.50	\$405.00	Prepare for, attend, and participate in the deposition of defendant S. Eisenberg
6/6/2019	Bateman, David A.	Partner	2.50	\$2,000.00	\$800.00	Prepare letter on privilege waiver; work on discovery issues
6/6/2019	Knop, Andrew R.	Associate	1.80	\$729.00	\$405.00	Multiple correspondence with D. Bateman, E. Matava, J. Rudloff, and M. Komo regarding draft email to opposing counsel for supplemental discovery and draft letter to opposing counsel requesting withdrawal of objections in connection with attorney-client privilege assertions during the deposition of W. Linnenbank; work on preparing email requesting supplemental discovery documents and correspondence with D. Bateman regarding same; begin work on editing letter to opposing counsel in connection with withdrawal of objections
6/7/2019	Knop, Andrew R.	Associate	4.20	\$1,470.00	\$350.00	Multiple correspondence with D. Bateman, J. Rudloff, E. Matava, and M. Komo regarding additional discovery requests for S. Eisenberg, subpoena to Houston area public libraries, and deposition materials; review and edit letter to K. Pardue requesting withdrawal of attorney client privilege objection to line of questioning in W. Linnenbank's deposition; research and evaluate phone calls made on February 15, 2016 in light of S. Eisenberg testimony that he had no communications with W. Linnenbank on the day in questions, including correspondence to D. Bateman regarding same; work on preparing subpoena and notice of subpoena to Houston Public Library requesting documents in connection with S. Eisenberg's library card; correspondence with D. Bateman regarding same
6/10/2019	Bateman, David A.	Partner	2.40	\$1,536.00	\$640.00	Work on discovery issues; updates with clients; investigate libraries and work on subpoenas; communications with K. Pardue
6/10/2019	Knop, Andrew R.	Associate	2.80	\$980.00	\$350.00	Continue work on preparing subpoena and notice of subpoena to Houston Public Library; work on preparing subpoena and notice of subpoena to Harris County Public Library; multiple correspondence with D. Bateman regarding same; work on scheduling personal service of same; multiple correspondence with clients regarding phone call records and additional discovery related to deposition testimony of S. Eisenberg; review correspondence with K. Pardue, including review Facebook Messenger conversation between L. Hippensteel and S. Eisenberg
6/11/2019	Bateman, David A.	Partner	1.20	\$960.00	\$800.00	Continue car investigation
6/11/2019	Knop, Andrew R.	Associate	0.60	\$243.00	\$405.00	Multiple conferences with K. Alday regarding federal jurisdiction issues in connection with potential for dismissal of action when the only remaining claims are state law claims; correspondence with D. Bateman regarding action items for upcoming conference call and review same
6/12/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Team meeting; communications with K. Pardue; work on discovery planning; investigate car records
6/12/2019	Knop, Andrew R.	Associate	1.70	\$688.50	\$405.00	Review correspondence from clients regarding S. Eisenberg communications and review information pertaining to vehicle history reports; review federal jurisdiction research from summer associate, K. Alday and correspondence with D. Bateman, M. Komo, J. Rudloff, and E. Matava regarding same; conference call with J. Rudloff regarding same; prepare for and attend weekly status conference call with D. Bateman, M. Komo, J. Rudloff, and E. Matava
6/13/2019	Bateman, David A.	Partner	1.20	\$960.00	\$800.00	Confer with clients on discovery issues; letter to K. Pardue
6/14/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Review and discuss privilege letter; continue fact investigation; confer with client; work on J. Swartz deposition
6/14/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Multiple correspondence and conference calls with J. Rudloff regarding contacting O. Brown, soccer start coordinator; telephone call with J. Rudloff to O. Brown
6/17/2019	Bateman, David A.	Partner	3.50	\$2,800.00	\$800.00	Conference with K. Pardue regarding Eisenberg deposition issues and evidence; work on details for J. Swartz deposition; continue investigation of background issues
6/18/2019	Bateman, David A.	Partner	0.60	\$480.00	\$800.00	Work on Swartz deposition planning
6/18/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Review correspondence from client regarding S. Eisenberg prior discovery responses
6/19/2019	Bateman, David A.	Partner	0.80	\$640.00	\$800.00	Team meeting; work on final discovery issues

Date	Name	Title	Hours	Amount	Rate	Narrative
6/19/2019	Knop, Andrew R.	Associate	2.50	\$1,012.50	\$405.00	Work on preparing subpoena for oral deposition of O. Brown and notice of subpoena of O. Brown to K. Pardue; correspondence with J. Rudloff regarding same; prepare for and attend weekly status conference call with D. Bateman, J. Rudloff, M. Komo, and E. Matava
6/20/2019	Bateman, David A.	Partner	0.80	\$640.00	\$800.00	Confer with expert witness; work on witness location identification
6/24/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Review correspondence from clients regarding additional documentation and statements made by S. Eisenberg; correspondence with support staff regarding returns of service for subpoenas on Houston Public Library and Harris County Public Library and correspondence with D. Bateman regarding same
6/25/2019	Knop, Andrew R.	Associate	1.40	\$567.00	\$405.00	Telephone conference call with J. Rudloff regarding upcoming deposition of O. Brown; work on preparing deposition questions and topics, including review Campbell Middle School document production and client correspondence in connection with same; compile exhibits in connection with same and correspondence with J. Rudloff regarding same
6/26/2019	Bateman, David A.	Partner	4.70	\$3,760.00	\$800.00	Prepare for J. Swartz deposition
6/26/2019	Knop, Andrew R.	Associate	1.20	\$486.00	\$405.00	Review motion to compel the testimony and deposition of W. Linnenbank in light of S. Eisenberg testimony; conference call with J. Rudloff regarding results of deposition with O. Brown; research Cy Fair ISD website and social media feeds for notices pursuant to whether school was in session on February 15, 2016 and correspondence with J. Rudloff regarding same
6/27/2019	Bateman, David A.	Partner	3.00	\$2,400.00	\$800.00	Deposition of J. Swartz; work on motion to compel testimony
6/27/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Correspondence with D. Bateman regarding Facebook posts by Cy-Fair ISD in connection with whether February 15, 2016 was a holiday; review same and correspondence with D. Bateman regarding screen shots demonstrating holiday
6/28/2019	Bateman, David A.	Partner	1.10	\$880.00	\$800.00	Update on testimony changes; update on discovery issues
6/28/2019	Knop, Andrew R.	Associate	1.40	\$567.00	\$405.00	Review correspondence from K. Pardue regarding S. Eisenberg amended answers to deposition and interrogatories and review same; review edits and revisions to motion to compel revocation of attorney-client privilege in W. Linnenbank deposition; multiple correspondence with D. Bateman regarding statutory requirements for filing motion to compel and statutory process for filing same under seal, including research same
7/1/2019	Knop, Andrew R.	Associate	1.30	\$526.50	\$405.00	Multiple correspondence with D. Bateman, M. Komo, E. Matava, and J. Rudloff regarding motion to compel deposition testimony of W. Linnenbank in connection with the assertion of attorney-client privilege; telephone call with J. Rudloff regarding case status and client comments in connection with sealed documents; review multiple correspondence from clients regarding case strategy and fact finding analysis
7/2/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Work on discovery motion
7/3/2019	Knop, Andrew R.	Associate	2.10	\$850.50	\$405.00	Work on reviewing and editing motion to compel discovery regarding improperly asserted privilege objection; multiple telephone calls and correspondence with J. Rudloff and D. Bateman regarding same; coordinate with support staff regarding same and prepare document for filing
7/8/2019	Bateman, David A.	Partner	1.70	\$1,360.00	\$800.00	Work on mediation logistics and plans
7/8/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Multiple correspondence with J. Rudloff regarding motion to compel discovery; review and edit same and coordinate with support staff regarding filing same
7/9/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Work on mediation planning
7/10/2019	Bateman, David A.	Partner	2.80	\$2,240.00	\$800.00	Assist with mediation issues; work on client settlement issues
7/11/2019	Knop, Andrew R.	Associate	1.50	\$607.50	\$405.00	Multiple correspondence with M. Komo and E. Matava regarding certification of compliance with mediation requirements and statement of continuing mediation efforts; work on preparing same
7/12/2019	Bateman, David A.	Partner	2.00	\$1,600.00	\$800.00	Multiple exchanges regarding settlement issues
7/12/2019	Knop, Andrew R.	Associate	1.60	\$648.00	\$405.00	Continue work on preparing certification of compliance with mediation requirements and statement of continuing mediation efforts; multiple correspondence with D. Bateman and M. Komo regarding settlement discussions and strategy; telephone conference with D. Bateman, M. Komo, and J. Rudloff regarding same; communicate with support staff regarding filing certification and correspondence with opposing K. Pardue regarding same
7/15/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Respond to client inquiries regarding settlement
7/15/2019	Knop, Andrew R.	Associate	0.50	\$202.50	\$405.00	Review multiple correspondence with clients regarding settlement discussions and outcome
7/16/2019	Knop, Andrew R.	Associate	2.30	\$931.50	\$405.00	Review and analyze deposition transcript of J. Swartz; multiple correspondence with D. Bateman regarding subpoenas to Harris County and Houston Public Libraries; multiple telephone calls to Harris County and Houston Public Libraries regarding failure to respond to same
7/17/2019	Knop, Andrew R.	Associate	5.20	\$2,106.00	\$405.00	Review correspondence from D. Bateman regarding filing reply response to motion to compel; research local rule deadlines for filing response and correspondence with J. Rudloff regarding same; telephone conference call with J. Rudloff regarding upcoming hearing and filing reply response; draft email correspondence to D. Bateman regarding S. Eisenberg's changed deposition testimony and strategy for responding to same in light of opposing counsel's answer to motion to compel; review deposition transcript of O. Brown and J. Swartz; multiple telephone calls with Houston Public Library and Harris County Public Library regarding responses to subpoena requests for documents; conference call with D. Bateman, M. Komo, J. Rudloff, and clients regarding motion to compel strategy and settlement counter offer
7/18/2019	Knop, Andrew R.	Associate	1.00	\$405.00	\$405.00	Multiple telephone calls with Houston Public Library regarding failure to respond to subpoena requesting documents; coordinate with summer associate regarding research project involving crime-fraud exception to assertion of attorney-client privilege
7/19/2019	Knop, Andrew R.	Associate	3.10	\$1,255.50	\$405.00	Confer with J. Rudloff regarding potential crime-fraud exception to assertion of attorney client privilege for upcoming hearing regarding same; work on preparing analysis of doctrine in federal and state law and confer with summer associate, K. Alday, regarding same; telephone call with J. Middleton of Houston Public Library regarding response to subpoena request; correspondence with clients and opposing counsel regarding Affidavit of No Records from Houston Public Library

Date	Name	Title	Hours	Amount	Rate	Narrative
7/22/2019	Knop, Andrew R.	Associate	2.20	\$891.00	\$405.00	Confer with J. Rudloff regarding upcoming hearing on motion to compel discovery of alleged attorney client privileged communications; work on researching Texas and federal precedent regarding the crime-fraud exception and waivers of attorney-client privilege
7/23/2019	Bateman, David A.	Partner	0.80	\$640.00	\$800.00	Preparation for discovery hearing
7/23/2019	Knop, Andrew R.	Associate	3.90	\$1,579.50	\$405.00	Multiple correspondence and telephone calls with J. Rudloff regarding upcoming hearing on motion to compel; research waiver of attorney-client privilege in federal court based on voluntary communications by defendant at deposition; correspondence with J. Rudloff regarding same
7/24/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Update on discovery hearing results and case planning; confer with clients
7/24/2019	Knop, Andrew R.	Associate	0.50	\$202.50	\$405.00	Weekly status conference call with D. Bateman, J. Rudloff, and M. Komo and discuss motion hearing and upcoming trial dates
7/25/2019	Bateman, David A.	Partner	1.60	\$1,280.00	\$800.00	Work on discovery issues and case planning
7/29/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Strategy call with client
7/29/2019	Knop, Andrew R.	Associate	0.50	\$202.50	\$405.00	Telephone conference call with D. Bateman, J. Rudloff, E. Matava, and clients regarding settlement strategy and upcoming depositions of S. Eisenberg and W. Linnenbank
7/31/2019	Bateman, David A.	Partner	1.30	\$1,040.00	\$800.00	Work on Linnenbank deposition planning and document production; work on expert review of cell phone
8/2/2019	Bateman, David A.	Partner	2.50	\$2,000.00	\$800.00	Conference regarding deposition resumption and logistics. Email exchanges with Linnenbank and Pardue. Emails to client.
8/7/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Weekly status conference call with J. Rudloff and E. Matava
8/12/2019	Bateman, David A.	Partner	1.40	\$1,120.00	\$800.00	Communications with client and W. Linnenbank; email to experts; work on deposition issues
8/13/2019	Bateman, David A.	Partner	2.50	\$2,000.00	\$800.00	Work on deposition scheduling; work with expert on phone and forensic information; send Linnenbank materials to client; respond to client inquiries
8/14/2019	Bateman, David A.	Partner	0.50	\$400.00	\$800.00	Deposition scheduling
8/19/2019	Bateman, David A.	Partner	0.70	\$560.00	\$800.00	Work on deposition scheduling
8/19/2019	Knop, Andrew R.	Associate	0.10	\$40.50	\$405.00	Review correspondence between D. Bateman, K. Pardue, and forensic experts regarding intimate materials on cell phone
8/20/2019	Bateman, David A.	Partner	4.80	\$3,840.00	\$800.00	Respond to K. Pardue regarding Linnenbank documents and depositions; work on deposition arrangements; work with expert on media review plans; emails to clients on metadata and media image disclosure
8/21/2019	Bateman, David A.	Partner	0.70	\$560.00	\$800.00	Respond to client regarding metadata; work on deposition scheduling
8/26/2019	Bateman, David A.	Partner	1.10	\$880.00	\$800.00	Work with expert on video review; email exchanges with K. Pardue
8/28/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Review correspondence regarding upcoming depositions of S. Eisenberg and W. Linnenbank and prepare for weekly status conference call; attend weekly case status conference call
9/3/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Review client correspondence from J. Wesley regarding privacy issues
9/4/2019	Bateman, David A.	Partner	5.50	\$4,400.00	\$800.00	Work with experts on meta data review; work on deposition outline and exhibits
9/4/2019	Knop, Andrew R.	Associate	0.20	\$81.00	\$405.00	Correspondence with M. Komo and D. Bateman regarding conference call, settlement discussions, and upcoming depositions
9/6/2019	Bateman, David A.	Partner	3.00	\$2,400.00	\$800.00	Depositions of S. Eisenberg and W. Linnenbank; report to clients
9/6/2019	Knop, Andrew R.	Associate	1.10	\$445.50	\$405.00	Multiple correspondence and conference calls with D. Bateman and E. Matava regarding defendant S. Eisenberg privileged document production; work on reviewing same for upcoming deposition
9/9/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Confer with clients regarding bankruptcy implications; report on final discovery planning and trial preparation
9/11/2019	Bateman, David A.	Partner	1.20	\$960.00	\$800.00	Weekly conference call; respond to client inquiries
9/11/2019	Knop, Andrew R.	Associate	0.70	\$283.50	\$405.00	Participate in weekly status conference call with D. Bateman regarding case status and litigation strategy; multiple correspondence with D. Bateman, M. Komo, and E. Matava regarding same; review correspondence from client regarding bankruptcy
9/12/2019	Bateman, David A.	Partner	0.40	\$320.00	\$800.00	Discussions regarding bankruptcy
9/18/2019	Knop, Andrew R.	Associate	0.30	\$121.50	\$405.00	Weekly status conference call with E. Matava; multiple correspondence with D. Bateman and J. Rudloff regarding same
9/26/2019	Bateman, David A.	Partner	0.40	\$320.00	\$800.00	Trial date scheduling; correspondence with K. Pardue
9/26/2019	Knop, Andrew R.	Associate	1.50	\$607.50	\$405.00	Review and analyze deposition testimony of S. Eisenberg and W. Linnenbank; confer with J. Rudloff regarding trial dates and upcoming trial matters
10/9/2019	Bateman, David A.	Partner	0.70	\$560.00	\$800.00	Work with team on trial preparation planning
10/9/2019	Knop, Andrew R.	Associate	1.20	\$486.00	\$405.00	Multiple correspondence with D. Bateman, J. Rudloff, and E. Matava regarding upcoming weekly status conference call; participate in status conference call; confer with J. Rudloff regarding trial dates and upcoming trial preparation
10/16/2019	Knop, Andrew R.	Associate	1.30	\$526.50	\$405.00	Participate in weekly status conference call with D. Bateman, J. Rudloff, E. Matava, and M. Komo; work on preparing notice of appearance
10/29/2019	Bateman, David A.	Partner	0.50	\$400.00	\$800.00	Update on protective order and confidentiality issues
11/6/2019	Bateman, David A.	Partner	0.40	\$320.00	\$800.00	Update and planning call; review employment agreement
11/6/2019	Knop, Andrew R.	Associate	0.70	\$283.50	\$405.00	Prepare for and participate in weekly status conference call with D. Bateman, J. Rudloff, and M. Komo to discuss issues for upcoming trial; confer with J. Rudloff regarding same
11/8/2019	Warren, Hannah T.	Associate	1.50	\$562.50	\$375.00	Meet with J. Rudloff and A. Knop to discuss overview of facts of case, further factual gaps that need evidentiary support and task allocation in preparation for trial
11/8/2019	Knop, Andrew R.	Associate	2.00	\$810.00	\$405.00	Prepare for, attend, and participate in trial plan conference meeting with J. Rudloff and H. Warren
11/13/2019	Warren, Hannah T.	Associate	0.50	\$187.50	\$375.00	Attend weekly call to discuss pre-trial order, tasks to accomplish in preparation of upcoming trial

Date	Name	Title	Hours	Amount	Rate	Narrative
11/13/2019	Knop, Andrew R.	Associate	0.70	\$283.50	\$405.00	Work on preparing witness list in connection with upcoming trial on the merits; prepare for and attend case status conference call with J. Rudloff, H. Warren, and M. Komo
11/15/2019	Bateman, David A.	Partner	0.50	\$400.00	\$800.00	Trial planning meeting
11/15/2019	Warren, Hannah T.	Associate	1.00	\$375.00	\$375.00	Call with D. Bateman, J. Rudloff, A. Knop to discuss logistics, tasks in preparation for trial
11/15/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Prepare for and participate in conference call with D. Bateman and J. Rudloff in connection with upcoming trial and trial preparation
11/18/2019	Knop, Andrew R.	Associate	1.40	\$567.00	\$405.00	Work on preparing witness list in connection with upcoming trial; correspondence with D. Bateman, J. Rudloff, M. Komo, and H. Warren regarding same
11/20/2019	Warren, Hannah T.	Associate	2.50	\$937.50	\$375.00	Review operative complaint to determine court's jurisdiction; draft statement describing the same, send to J. Rudloff for review; attend weekly meeting
11/20/2019	Knop, Andrew R.	Associate	0.50	\$202.50	\$405.00	Prepare for and participate in weekly status conference call and trial preparation
11/21/2019	Warren, Hannah T.	Associate	1.00	\$375.00	\$375.00	Review operative complaint, correspond with J. Rudloff regarding dismissed claims and impact on federal question jurisdiction
11/27/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Prepare for and participate in weekly status conference call and trial preparation with J. Rudloff, M. Komo, and H. Warren
12/2/2019	Warren, Hannah T.	Associate	0.60	\$225.00	\$375.00	Discuss trial preparation strategy with J. Rudloff, the benefit of prioritizing the drafting of jury instructions early, and the strategy to stipulated findings of fact and of law
12/3/2019	Warren, Hannah T.	Associate	2.60	\$975.00	\$375.00	Review trial mechanics, such as how to offer evidence, object to evidence and witness testimony, and how to authenticate digital evidence; discuss preparation strategy with J. Rudloff
12/3/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Multiple correspondence with J. Rudloff, D. Bateman, and M. Komo regarding deposition testimony, motions in limine, and related trial preparatory matters; conference call with J. Rudloff regarding same and issues for upcoming trial
12/4/2019	Knop, Andrew R.	Associate	2.40	\$972.00	\$405.00	Multiple correspondence with J. Rudloff and M. Komo regarding expedited request for interrogatories in connection with trial witnesses D. Pardue and R. Schwartz; work on preparing Plaintiffs' Second Set of Requests for Interrogatories in connection with same and correspondence with J. Rudloff regarding same; conference call with J. Rudloff and M. Komo regarding trial preparation and action items
12/5/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Status conference and trial preparation planning
12/5/2019	Warren, Hannah T.	Associate	2.40	\$900.00	\$375.00	Request iManage access to files; coordinate schedules with J. Rudloff; team call to discuss strategy, next steps; prepare subpoenas for W. Linnenbank, O. Brown, C. Faden and respective notice of subpoenas for opposing counsel
12/5/2019	Knop, Andrew R.	Associate	1.20	\$486.00	\$405.00	Multiple conference calls with J. Rudloff, D. Bateman, M. Komo, and H. Warren regarding trial preparation status and action items in connection with same
12/6/2019	Bateman, David A.	Partner	1.00	\$800.00	\$800.00	Client call and trial preparation planning
12/6/2019	Warren, Hannah T.	Associate	2.50	\$937.50	\$375.00	Update signature block of subpoena requests; review case law, requirements for emotional, mental anguish damages under Texas law; call with Plaintiffs to review outstanding questions, trial strategy
12/6/2019	Knop, Andrew R.	Associate	3.10	\$1,255.50	\$405.00	Prepare for and participate in trial preparation and strategy evaluation conference call with J. Rudloff, H. Warren, M. Komo, D. Bateman, and clients; work on reviewing and evaluating video deposition of T. Hepworth in connection with same; conference call with J. Rudloff, M. Komo, and H. Warren in connection with trial preparation action items
12/7/2019	Warren, Hannah T.	Associate	1.50	\$562.50	\$375.00	Review Complaint, Judge Gray Miller's court procedures, and proposed general jury instructions; review Texas Forms and Jury Instructions
12/9/2019	Bateman, David A.	Partner	1.40	\$1,120.00	\$800.00	Work on trial planning issues; work on evidentiary timeline and admissibility questions
12/9/2019	Warren, Hannah T.	Associate	5.90	\$2,212.50	\$375.00	Draft jury instructions for Unlawful Disclosure or Promotion of Intimate Visual Material, negligence, and intentional infliction of emotional distress; review Fifth Circuit Pattern Jury Instructions to include general jury instructions related to impeachment testimony and transcript of a recorded conversation
12/9/2019	Knop, Andrew R.	Associate	2.30	\$931.50	\$405.00	Correspondence with D. Bateman, M. Komo, J. Rudloff, and H. Warren regarding timeline of events and supporting evidence surrounding pertinent events involving uploading of videos; review time stamps of pornhub and windstream responses to requests for production involving same, including research UTC to CST conversions involving same; multiple telephone calls with J. Rudloff regarding same and telephone calls made on the date in question by defendant; review defendant phone log and correspondence with J. Rudloff regarding same
12/10/2019	Warren, Hannah T.	Associate	4.00	\$1,500.00	\$375.00	Research the elements for a private cause of action under the Electronic Communications Privacy Act; discuss jurisdiction with J. Rudloff; continue working on jury instructions and edit joint pretrial order
12/10/2019	Knop, Andrew R.	Associate	0.50	\$202.50	\$405.00	Work on reviewing joint pre-trial order
12/11/2019	Warren, Hannah T.	Associate	1.20	\$450.00	\$375.00	Attend team weekly call; discuss settlement offer, response from opposing counsel with J. Rudloff, outline overall marching orders and progress in jury instructions
12/11/2019	Knop, Andrew R.	Associate	0.80	\$324.00	\$405.00	Prepare for and participate in telephone conference call to discuss pretrial litigation issues and action items in connection with upcoming deadlines
12/12/2019	Warren, Hannah T.	Associate	1.50	\$562.50	\$375.00	Discuss motions in limine with A. Knop, J. Rudloff; discuss S. Eisenberg's response to interrogatories with J. Rudloff, ability of opposing party to put on any affirmative defenses or use character evidence
12/12/2019	Knop, Andrew R.	Associate	1.50	\$607.50	\$405.00	Work on reviewing federal rules of evidence and federal case law in connection with motion in limine; begin work on preparing same and multiple correspondence and telephone calls with J. Rudloff and H. Warren regarding same; review Defendant's responses to second set of interrogatories and evaluate same
12/13/2019	Warren, Hannah T.	Associate	0.60	\$225.00	\$375.00	Review, edit Joint Pretrial Order before sending to opposing counsel for review
12/13/2019	Knop, Andrew R.	Associate	5.90	\$2,389.50	\$405.00	Continue work on preparing motion in limine in connection with upcoming trial on the merits; work on reviewing exhibits and time line of events in connection with same; research case law and federal rules of evidence in connection with same; correspondence with H. Warren regarding same
12/14/2019	Warren, Hannah T.	Associate	4.80	\$1,800.00	\$375.00	Review jury trial prep packet, make list of considerations for trial prep meeting with M. Truong, J. Rudloff; continue working on jury instructions

Date	Name	Title	Hours	Amount	Rate	Narrative
12/14/2019	Warren, Hannah T.	Associate	1.00	\$375.00	\$375.00	Review, edit motions in limine, send edits to A. Knop
12/16/2019	Bateman, David A.	Partner	2.20	\$1,760.00	\$800.00	Trial preparation work; conference with K. Pardue on PTO
12/16/2019	Warren, Hannah T.	Associate	0.50	\$187.50	\$375.00	Discuss trial update with J. Rudloff, proposed send new dates for trial to team
12/16/2019	Knop, Andrew R.	Associate	0.60	\$243.00	\$405.00	Multiple correspondence and telephone calls with J. Rudloff regarding trial reset and transfer to judge Hittner; review calculated damage document from client
12/18/2019	Warren, Hannah T.	Associate	0.20	\$75.00	\$375.00	Weekly call with litigation team
12/18/2019	Knop, Andrew R.	Associate	0.40	\$162.00	\$405.00	Weekly status conference call with D. Bateman, M. Komo, and H. Warren regarding postponement of trial date and related items
1/8/2020	Knop, Andrew R.	Associate	0.20	\$87.00	\$435.00	Prepare for and participate in weekly status conference call with D. Bateman, M. Komo, and H. Warren
1/29/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Weekly call to discuss tasks
1/29/2020	Knop, Andrew R.	Associate	0.20	\$87.00	\$435.00	Multiple correspondence with J. Rudloff, M. Komo, and H. Warren regarding case status update and review action items in connection with upcoming trial preparation
2/5/2020	Warren, Hannah T.	Associate	0.10	\$48.00	\$480.00	Attend team teleconference to touch base regarding progress
2/5/2020	Knop, Andrew R.	Associate	0.20	\$87.00	\$435.00	Participate in weekly status conference call with J. Rudloff, H. Warren, and M. Komo
2/19/2020	Warren, Hannah T.	Associate	0.80	\$384.00	\$480.00	Attend weekly teleconference to discuss status update for trial; review Judge Hittner's procedures to begin organizational process of delegating remaining tasks
2/19/2020	Knop, Andrew R.	Associate	0.10	\$43.50	\$435.00	Participate in weekly status conference call regarding upcoming action items
2/24/2020	Bateman, David A.	Partner	0.70	\$595.00	\$850.00	Review trial preparation assignments
2/24/2020	Warren, Hannah T.	Associate	3.10	\$1,488.00	\$480.00	Review Judge Hittner's pretrial procedures and determine remaining pretrial order tasks that need to be accomplished; draft email for J. Rudloff outlining all tasks and delegating to team; meet with J. Rudloff to discuss same
2/24/2020	Knop, Andrew R.	Associate	0.70	\$304.50	\$435.00	Multiple correspondence and telephone call with H. Warren regarding motion in limine, witness list, and related action items for upcoming trial on the merits; correspondence with J. Rudloff regarding same and list of action items and deadlines regarding same
2/25/2020	Knop, Andrew R.	Associate	0.90	\$391.50	\$435.00	Work on reviewing trial preparation tasks, action items, and trial preparation outline
2/26/2020	Warren, Hannah T.	Associate	0.70	\$336.00	\$480.00	Attend weekly teleconference to discuss tasks for pretrial order, trial preparation
2/26/2020	Knop, Andrew R.	Associate	2.00	\$870.00	\$435.00	Prepare for and participate in weekly status conference call with J. Rudloff, M. Komo, and H. Warren regarding upcoming trials and action items in connection with same; review deposition transcript of O. Brown in connection with same; multiple correspondence with J. Rudloff and M. Komo regarding same; work on reviewing Federal Rules of Evidence and exceptions to hearsay in connection with admissibility of Facebook screen shots for exhibit purposes
2/27/2020	Knop, Andrew R.	Associate	7.50	\$3,262.50	\$435.00	Work on reviewing S. Eisenberg deposition testimonies and evaluating same for inconsistencies for impeachment purposes; work on reviewing evidence in connection with same; prepare chart and legal arguments for impeachment in connection with upcoming trial
2/28/2020	Knop, Andrew R.	Associate	5.50	\$2,392.50	\$435.00	Continue work on reviewing S. Eisenberg deposition testimony for inconsistencies and impeachment points in connection with upcoming trial; work on creating chart regarding same, including list of evidence-exhibits supporting same; correspondence with J. Rudloff, H. Warren, and M. Komo regarding same; telephone call with J. Rudloff regarding additional action items in connection with upcoming trial; work on reviewing evidence, deposition testimony, requests for production, interrogatories, and admissions, including responses to same; begin work on reviewing authenticity and admissibility requirements for same
3/2/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Call with A. Knop to discuss evidentiary issues, idea of creating a demonstrative exhibit
3/2/2020	Knop, Andrew R.	Associate	8.10	\$3,523.50	\$435.00	Continue work on reviewing evidence and client files in connection with determining authenticity and admissibility of same for upcoming trial; continue work on preparing list and chart regarding same and evaluate evidentiary issues regarding same; multiple correspondence with M. Komo in connection with same; work on reviewing and revising motion in limine, including prepare arguments for exclusion of testimony of C. Pardue and R. Swartz in connection with upcoming trial; work on reviewing federal rules of evidence in connection with same
3/3/2020	Knop, Andrew R.	Associate	6.70	\$2,914.50	\$435.00	Continue work on reviewing and revising motion in limine, including work on portion regarding excluding Defendant's proposed testifying expert N. Emmite; work on reviewing Federal Rules of Evidence in connection with same; continue work on reviewing evidence, depositions, and transcripts of same in preparation of title; continue work on preparing evidence chart in connection with same
3/4/2020	Warren, Hannah T.	Associate	0.20	\$96.00	\$480.00	Call to discuss case update, tasks
3/4/2020	Knop, Andrew R.	Associate	2.80	\$1,218.00	\$435.00	Prepare for and participate in weekly status conference call with J. Rudloff, M. Komo, and H. Warren regarding upcoming trial preparation and action items in connection with same; continue work on reviewing and evaluating evidence and client materials for authenticity and admissibility issues and preparations
3/6/2020	Warren, Hannah T.	Associate	2.50	\$1,200.00	\$480.00	Complete jury instructions and interrogatories, outline remaining items needed for pretrial order; send same to J. Rudloff for review
3/13/2020	Warren, Hannah T.	Associate	0.60	\$288.00	\$480.00	Call to discuss status update, organization in light of J. Rudloff's departure
3/13/2020	Knop, Andrew R.	Associate	0.60	\$261.00	\$435.00	Prepare for and participate in weekly status conference call with J. Rudloff, M. Komo, and H. Warren
3/17/2020	Bateman, David A.	Partner	1.00	\$850.00	\$850.00	Trial planning session
3/17/2020	Knop, Andrew R.	Associate	0.50	\$217.50	\$435.00	Prepare for and participate in weekly status conference call with D. Bateman, M. Komo, and H. Warren in connection with action items and upcoming trial on the merits
3/18/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Attend weekly teleconference to discuss trial arrangements, witness assignments
3/18/2020	Knop, Andrew R.	Associate	0.40	\$174.00	\$435.00	Participate in weekly status conference call with H. Warren and M. Komo regarding upcoming trial and related action items
3/25/2020	Warren, Hannah T.	Associate	0.30	\$144.00	\$480.00	Teleconference with client, legal team to discuss status updates as a result of COVID19, J. Rudloff's departure
3/25/2020	Knop, Andrew R.	Associate	0.40	\$174.00	\$435.00	Telephone conference call regarding case status update and action items for upcoming trial with D. Bateman, M. Komo, H. Warren, and clients
4/1/2020	Warren, Hannah T.	Associate	1.00	\$480.00	\$480.00	Review expert witness report to ensure compliance with federal rules of civil procedure; think through proof chart and how to best prepare for trial

Date	Name	Title	Hours	Amount	Rate	Narrative
4/8/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Attend weekly call to discuss progress
4/8/2020	Knop, Andrew R.	Associate	0.70	\$304.50	\$435.00	Prepare for and participate in weekly status conference call with M. Komo and H. Warren, including discuss action items in connection with trial on the merits
4/15/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Attend weekly call to prepare for John O. trial
4/15/2020	Knop, Andrew R.	Associate	0.70	\$304.50	\$435.00	Weekly status conference call with M. Komo and H. Warren regarding upcoming trial on the merits and related action items
4/16/2020	Warren, Hannah T.	Associate	0.70	\$336.00	\$480.00	Review A. Knop's summary of remaining task for pretrial packet
4/16/2020	Knop, Andrew R.	Associate	2.90	\$1,261.50	\$435.00	Work on reviewing and analyzing joint pretrial order; work on reviewing Judge Hittner's courtroom procedures and pretrial obligations in connection with upcoming trial; work on preparing checklist and list of outstanding action items in connection with same and correspondence with H. Warren and M. Komo regarding same; multiple correspondence with H. Warren regarding subpoenas to trial witnesses, including work on researching subpoena requirements in connection with same
4/17/2020	Warren, Hannah T.	Associate	1.20	\$576.00	\$480.00	Draft case update to D. Bateman
4/17/2020	Knop, Andrew R.	Associate	3.70	\$1,609.50	\$435.00	Work on preparing voir dire questions to prospective jury members in connection with upcoming trial; begin work on preparing statement of the case and additional action items in connection with the joint pretrial order; multiple correspondence with H. Warren regarding same
4/20/2020	Warren, Hannah T.	Associate	2.80	\$1,344.00	\$480.00	Draft voir dire questions, send same to A. Knop for review and incorporation into draft pretrial order; review motions in limine; review summary of claim; draft correspondence to M. Truong regarding formatting of pretrial order
4/20/2020	Knop, Andrew R.	Associate	6.60	\$2,871.00	\$435.00	Continue work on preparing voir dire questions to prospective jury members in connection with upcoming trial, including work on reviewing rules and procedures in connection with same; continue work on preparing statement of the case and additional action items in connection with the joint pretrial order; multiple correspondence with H. Warren regarding same; work on revising and editing proposed voir dire questions and statement of the case and correspondence with M. Komo regarding same
4/21/2020	Warren, Hannah T.	Associate	0.30	\$144.00	\$480.00	Update team regarding likely trial continuance
4/21/2020	Knop, Andrew R.	Associate	1.40	\$609.00	\$435.00	Continue work on preparing proposed jury questions and statement of the case in connection with upcoming trial; work on revising and editing same and correspondence with M. Komo and H. Warren regarding same; multiple correspondence with D. Bateman, M. Komo, and H. Warren regarding continuance of trial in connection with COVID-19 pandemic
4/22/2020	Warren, Hannah T.	Associate	0.80	\$384.00	\$480.00	Attend weekly team call to discuss updates, remaining tasks to complete before end of week
4/23/2020	Bateman, David A.	Partner	0.50	\$425.00	\$850.00	Communications regarding trial date
4/23/2020	Knop, Andrew R.	Associate	2.70	\$1,174.50	\$435.00	Continue work on preparing plaintiffs proposed witness list; work on preparing brief statement of testimony in connection with same; multiple correspondence with D. Bateman, M. Komo, and H. Warren regarding new trial dates
4/24/2020	Warren, Hannah T.	Associate	1.50	\$720.00	\$480.00	Review exhibit list and answer comments, questions therein; correspond with M. Komo regarding same; correspond with D. Bateman regarding new trial date and reviewing pretrial order materials
4/24/2020	Knop, Andrew R.	Associate	0.40	\$174.00	\$435.00	Work on reviewing proposed exhibit list; multiple correspondence with H. Warren and M. Komo regarding same
4/27/2020	Warren, Hannah T.	Associate	1.40	\$672.00	\$480.00	Edit pretrial papers for D. Bateman's review; send same to D. Bateman
4/28/2020	Bateman, David A.	Partner	0.50	\$425.00	\$850.00	Work on trial setting
4/29/2020	Bateman, David A.	Partner	2.40	\$2,040.00	\$850.00	Confer with experts; review trial planning materials
4/29/2020	Warren, Hannah T.	Associate	0.70	\$336.00	\$480.00	Correspond with court regarding trial continuance; attend weekly call to discuss case updates
4/29/2020	Knop, Andrew R.	Associate	0.40	\$174.00	\$435.00	Weekly status conference call with H. Warren and M. Komo regarding joint pretrial order and action items in connection with upcoming trial
4/30/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Correspond with Global Service Desk to troubleshoot access to S. Brennan's emails; correspond with M. Komo and A. Knop regarding finding trial exhibits in S. Brennan's emails
4/30/2020	Knop, Andrew R.	Associate	0.30	\$130.50	\$435.00	Work on reviewing S. Brennan emails and correspondence for trial materials and original exhibit copies; correspondence with H. Warren and M. Komo regarding same
5/1/2020	Knop, Andrew R.	Associate	2.50	\$1,087.50	\$435.00	Work on reviewing S. Brennan emails and share folders for responsive documents to subpoena requests and permanent injunction order in connection with compiling exhibits for upcoming trial; multiple correspondence with H. Warren and M. Komo regarding same
5/6/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Team call to discuss upcoming tasks
5/6/2020	Knop, Andrew R.	Associate	0.90	\$391.50	\$435.00	Multiple correspondence with M. Komo and H. Warren regarding upcoming telephone conference call and action items in connection with same; prepare for and participate in weekly status conference call with D. Bateman, M. Komo, and H. Warren regarding joint pretrial order and upcoming trial on the merits
5/11/2020	Knop, Andrew R.	Associate	0.50	\$217.50	\$435.00	Work on reviewing correspondence from clients regarding incident report and related evidentiary issues
5/13/2020	Warren, Hannah T.	Associate	0.80	\$384.00	\$480.00	Weekly call with M. Komo and A. Knop to discuss case updates and potential trial demonstratives
5/20/2020	Knop, Andrew R.	Associate	0.50	\$217.50	\$435.00	Participate in weekly status conference call with M. Komo; multiple correspondence with M. Komo and H. Warren regarding same
6/17/2020	Warren, Hannah T.	Associate	0.30	\$144.00	\$480.00	Status update call with M. Komo and A. Knop
6/17/2020	Knop, Andrew R.	Associate	0.30	\$130.50	\$435.00	Telephone call and weekly status update with M. Komo and H. Warren
6/24/2020	Warren, Hannah T.	Associate	1.00	\$480.00	\$480.00	Review correspondence from D. Bateman regarding statute of limitations for cyber civil rights claims; correspond with A. Knop regarding status of trial; correspond with S. Alli to set up alert to check court closures and updated orders regarding COVID
7/1/2020	Bateman, David A.	Partner	1.30	\$1,105.00	\$850.00	Review evidentiary materials to refresh exhibit list. Conference with litigation team.

Date	Name	Title	Hours	Amount	Rate	Narrative
7/1/2020	Warren, Hannah T.	Associate	0.80	\$384.00	\$480.00	Weekly update call with trial team to discuss scheduling issues; call with M. Komo and A. Knop regarding Texas procedural rules to research how to withdraw from case
7/1/2020	Knop, Andrew R.	Associate	0.80	\$348.00	\$435.00	Telephone conference call with D. Bateman, M. Komo, and H. Warren regarding case status updates and action items in connection with same; work on reviewing case files and related action items in connection with upcoming conference call
7/2/2020	Knop, Andrew R.	Associate	1.30	\$565.50	\$435.00	Continue work on reviewing case files and related action items in connection with upcoming trial and conference call
7/6/2020	Knop, Andrew R.	Associate	2.00	\$870.00	\$435.00	Continue work on reviewing case files and related action items in connection with upcoming trial and conference call
7/7/2020	Warren, Hannah T.	Associate	0.30	\$144.00	\$480.00	Review research from A. Knop
7/7/2020	Knop, Andrew R.	Associate	5.90	\$2,566.50	\$435.00	Continue work on reviewing case files and related action items in connection with upcoming trial and conference call; multiple correspondence with M. Komo, H. Warren, and D. Bateman regarding same
7/8/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Call with trial team regarding update on COVID, standard for withdrawing
7/8/2020	Knop, Andrew R.	Associate	0.60	\$261.00	\$435.00	Prepare for and participate in weekly status conference call with D. Bateman, M. Komo, and H. Warren, including discuss action items in connection with upcoming trial
7/13/2020	Warren, Hannah T.	Associate	0.50	\$240.00	\$480.00	Correspond with D. Bateman, M. Komo, and A. Knop regarding possible continuance
8/11/2020	Knop, Andrew R.	Associate	0.60	\$261.00	\$435.00	Work on reviewing Southern District of Texas emergency order postponing trial through October 1; correspondence with H. Warren, D. Bateman, and M. Komo regarding same
1/19/2021	Warren, Hannah T.	Associate	0.70	\$371.00	\$530.00	Call with A. Knop to discuss case status update; review docket of family court docket and determine impact on case
3/29/2021	Warren, Hannah T.	Associate	3.80	\$2,014.00	\$530.00	Correspond with court, D. Bateman and trial team regarding trial date moved up to April 2021; correspond with client regarding same; review all pretrial filings to understand progress of same; send pretrial filings to D. Bateman for review
3/29/2021	Knop, Andrew R.	Associate	0.60	\$294.00	\$490.00	Work on reviewing amended order of trial setting for the April 2021 term, including multiple correspondence with H. Warren, D. Bateman, and M. Komo regarding same
3/30/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Work on trial preparation
3/30/2021	Warren, Hannah T.	Associate	2.00	\$1,060.00	\$530.00	Review D. Bateman's edits for jury instructions; correspond with D. Bateman regarding various edits to pretrial filings; call with trial team to discuss strategy
3/30/2021	Knop, Andrew R.	Associate	3.20	\$1,568.00	\$490.00	Prepare for and participate in telephone conference call with D. Bateman, H. Warren, and M. Komo regarding April 2021 trial setting and action items in connection with filing joint pretrial order
3/31/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Work on trial preparation
3/31/2021	Warren, Hannah T.	Associate	4.40	\$2,332.00	\$530.00	Call with S. Alli to organize, edit, collate all pretrial filing documents; call with trial team; finalize pretrial documents before sending to opposing counsel for review
3/31/2021	Knop, Andrew R.	Associate	5.70	\$2,793.00	\$490.00	Work on preparing memorandum of law in connection with upcoming deadline to file joint pretrial order, including work on reviewing Texas case law and statutory authority in connection with same; work on reviewing Judge Hittner's pretrial order requirements and compile list of documents to confer with opposing counsel, including multiple correspondence with H. Warren regarding same
4/1/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Continue review of deposition transcripts and evidence. Continue work on exhibit list.
4/1/2021	Warren, Hannah T.	Associate	2.40	\$1,272.00	\$530.00	Correspond with trial team; review all documents; update task list
4/1/2021	Knop, Andrew R.	Associate	1.40	\$686.00	\$490.00	Work on preparing memorandum of law in connection with causes of action and elements for proving same, including work on reviewing and revising jury instructions and interrogatories
4/2/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Continue preparation of PTO. Update on jury instructions. Exchanges with clients. Trial prep. Exchanges with K. Pardue. Emails to prospective witnesses.
4/2/2021	Warren, Hannah T.	Associate	1.00	\$530.00	\$530.00	Call with A. Knop to discuss progress on pretrial filings
4/2/2021	Knop, Andrew R.	Associate	6.90	\$3,381.00	\$490.00	Continue work on reviewing deposition transcript of C. Faden in connection with preparing direct examination outline, including work on preparing outline of same; prepare for and participate in telephone call with H. Warren regarding trial preparation and action items in connection with same; work on reviewing proposed exhibit list, witness list, and revised proposed joint pretrial order
4/3/2021	Warren, Hannah T.	Associate	3.00	\$1,590.00	\$530.00	Draft exhibit list per D. Bateman's proposed list; rename exhibits on Box.com account; correspond with trial team and client regarding same
4/4/2021	Warren, Hannah T.	Associate	1.50	\$795.00	\$530.00	Update exhibit list; send to opposing counsel for his review; call with opposing counsel to discuss trial logistics
4/5/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Finalize witness list, PTO, jury instructions. Conferences with K. Pardue on stipulated facts and contentions.
4/5/2021	Warren, Hannah T.	Associate	8.00	\$4,240.00	\$530.00	Finalize pretrial order, motions in limine and prepare for filing
4/5/2021	Knop, Andrew R.	Associate	8.90	\$4,361.00	\$490.00	Continue work on preparing, revising, editing, and finalizing joint pre-trial order, exhibits lists, witness lists, and related pre-trial filings; work on reviewing deposition of T. Hepworth in connection with designating deposition testimony for optional completeness and use at trial; continue work on revising and editing motion in limine, including work on preparing proposed order in connection with same; begin work on reviewing Federal Rules of Evidence regarding the use of extrinsic evidence to attack a witnesses character for truthfulness, including begin preparing legal analysis regarding same
4/6/2021	Bateman, David A.	Partner	2.70	\$2,497.50	\$925.00	Continue trial preparation
4/6/2021	Warren, Hannah T.	Associate	3.00	\$1,590.00	\$530.00	Correspond with A. Knop and D. Bateman regarding status of outstanding tasks; correspond with S. Alli regarding hand-delivery of filing of pretrial order; correspond with opposing counsel regarding same; review correspondence, draft memos from client regarding defendant's behavior and character

Date	Name	Title	Hours	Amount	Rate	Narrative
4/6/2021	Knop, Andrew R.	Associate	7.70	\$3,773.00	\$490.00	Continue work on reviewing and evaluating federal rules of evidence and case law regarding introduction of intrinsic evidence to substantiate specific acts of conduct on cross examination in connection with upcoming trial, including continue work on preparing legal analysis of same; work on reviewing trial exhibits and related trial documents; continue work on preparing direct examination of C. Faden in connection with same
4/7/2021	Bateman, David A.	Partner	4.70	\$4,347.50	\$925.00	Continue trial prep
4/7/2021	Warren, Hannah T.	Associate	2.00	\$1,060.00	\$530.00	Review correspondence from client; correspond with S. Alli and D. Bateman regarding service of subpoenas; review opposing counsels exhibits
4/7/2021	Knop, Andrew R.	Associate	6.50	\$3,185.00	\$490.00	Work on reviewing impeachment and character for untruthfulness evidence for R. Swartz in connection with introducing same on cross examination; work on reviewing federal rules of evidence in connection with same and prepare analysis of same; continue work on preparing direct examination of C. Faden and O. Brown
4/8/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Work on exhibits and demonstratives. Work on witness outlines. Investigate witness availability. Evidence rule analysis.
4/8/2021	Warren, Hannah T.	Associate	2.00	\$1,060.00	\$530.00	Review correspondence from client; call with A. Knop regarding cross-examination outlines
4/8/2021	Knop, Andrew R.	Associate	7.60	\$3,724.00	\$490.00	Continue work on preparing cross examination outlines for C. Faden and O. Brown, including work on reviewing deposition transcripts in connection with same and correspondence with D. Bateman and H. Warren regarding same; work on reviewing federal rules of evidence and case law regarding use of impeachment evidence on cross examination, including admissibility and authenticity of extrinsic documents in connection with same; confer with D. Bateman and H. Warren regarding same; review Defendant's exhibit list in connection with preparing objections to same
4/9/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	John Ousley trial preparation; witness outlines and exhibit selection.
4/9/2021	Warren, Hannah T.	Associate	1.00	\$530.00	\$530.00	Review client correspondence; correspond with S. Alli regarding PDF-ing exhibits and exhibit sticker; correspond with D. Bateman regarding objections to Defendant's exhibits
4/9/2021	Knop, Andrew R.	Associate	6.90	\$3,381.00	\$490.00	Continue work on preparing direct examination of C. Faden and O. Brown in connection with upcoming trial; work on reviewing and evaluating Federal Rules of Evidence and introduction of court docket as evidence, including admissibility and authenticity concerns regarding same; work on preparing legal analysis of same and correspondence with D. Bateman and H. Warren regarding same; continue work on reviewing and assisting in exhibit compilation, including review Defendant's exhibit list and work on objections in connection with same; continue work on related trial preparation and action items
4/10/2021	Warren, Hannah T.	Associate	3.50	\$1,855.00	\$530.00	Review, analyze all deposition transcripts
4/12/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Trial preparation; cross examination planning and deposition reviews.
4/12/2021	Warren, Hannah T.	Associate	2.90	\$1,537.00	\$530.00	Call with D. Bateman to discuss strategy, logistics; review objections to exhibits; call with clients regarding strategy, logistics
4/12/2021	Knop, Andrew R.	Associate	7.20	\$3,528.00	\$490.00	Continue work on reviewing deposition transcripts, exhibits, and pretrial materials in connection with preparing direct examination of C. Faden and O. Brown, and cross-examinations of S. Livingston, C. Pardue, R. Swartz, and J. Swartz, including confer with H. Warren regarding same; Work on preparing objections to Defendant's exhibit list, including coordinate with support staff for filing of same; work on preparing notice of appearance and coordinate filing same; prepare for and participate in telephone conference call with D. Bateman, H. Warren, and clients in connection with upcoming trial, strategy, and action items in connection with same
4/13/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Trial preparation; witness assignments; assist on opening; objections to exhibits
4/13/2021	Warren, Hannah T.	Associate	8.50	\$4,505.00	\$530.00	Review correspondence between trial team and clients; prepare for pretrial conference; review Livingston cross examination outline from A. Knop and offer comments on same; draft direct examination outline for B. Ousley; start drafting closing statement; correspond with A. Knop and S. Alli regarding subpoenaing O. Brown to testify at trial; work on trial / witness schedule and circulate same to D. Bateman
4/13/2021	Knop, Andrew R.	Associate	6.50	\$3,185.00	\$490.00	Continue work on preparing cross examination and trial objections for C. Pardue, S. Livingston, and R. Swartz in connection with upcoming trial, including review deposition transcripts, impeachment evidence, criminal history reports, and client files in connection with same; multiple correspondence with H. Warren and D. Bateman regarding action items for upcoming trial
4/14/2021	Warren, Hannah T.	Associate	6.10	\$3,233.00	\$530.00	Prepare for jury trial
4/14/2021	Knop, Andrew R.	Associate	5.70	\$2,793.00	\$490.00	Continue work on preparing objections, direct examination, and cross examination outlines for S. Livingston, C. Pardue, R. Swartz, and J. Swartz, including work on reviewing deposition transcripts and evidence in connection with same; multiple correspondence with H. Warren regarding same
4/15/2021	Warren, Hannah T.	Associate	6.80	\$3,604.00	\$530.00	Continue working on pretrial matters
4/15/2021	Knop, Andrew R.	Associate	8.10	\$3,969.00	\$490.00	Continue work on preparing objections and cross examination outlines for S. Livingston, C. Pardue, R. Swartz, and J. Swartz in connection with upcoming trial, including confer with H. Warren and D. Bateman regarding same; work on reviewing audio clip in connection with impeachment evidence against J. Swartz, including work on enhancing audio quality and removing background noise; assist in preparing direct examination of clients, opening and closing statements; work on preparing deposition designations for C. Faden and O. Brown in anticipation of stipulation and unavailability, including correspondence with D. Bateman regarding same; work on reviewing and evaluating Defendant's expert resume and new exhibits, including prepare analysis of same; work on assembling carfax reports for evidentiary support and correspondence with D. Bateman regarding same
4/16/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Pretrial hearing and trial preparation
4/16/2021	Warren, Hannah T.	Associate	4.00	\$2,120.00	\$530.00	Attend pretrial conference
4/16/2021	Knop, Andrew R.	Associate	7.60	\$3,724.00	\$490.00	Continue work on preparing deposition designations, cross examination outlines, and trial materials for upcoming trial; telephone conference call with H. Warren regarding pre-trial conference hearing, including multiple correspondence with D. Bateman and H. Warren regarding same; assist in preparing closing arguments and opening statements in connection with same
4/17/2021	Warren, Hannah T.	Associate	8.50	\$4,505.00	\$530.00	Meet with clients to discuss logistics, direct examination, general prep for trial



Date	Name	Title	Hours	Amount	Rate	Narrative
4/17/2021	Knop, Andrew R.	Associate	1.30	\$637.00	\$490.00	Prepare for and participate in telephone conference call with clients in connection with upcoming trial
4/18/2021	Warren, Hannah T.	Associate	5.00	\$2,650.00	\$530.00	Draft opening statement; incorporate edits into closing statement; review all cross-examination outlines
4/19/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Trial Preparation; demonstrative exhibit development; work with clients on trial preparation; toll record analysis; confer with K. Pardue on schedule and plans.
4/19/2021	Warren, Hannah T.	Associate	9.20	\$4,876.00	\$530.00	Prep for jury trial
4/19/2021	Knop, Andrew R.	Associate	8.10	\$3,969.00	\$490.00	Work on trial preparation, including review trial outlines and time lines in connection with same; assist in preparing war room and courtroom technology at the federal courthouse, including position demonstratives; prepare for and participate in witness preparation of J. and B. Ousley in connection with upcoming trial; work on incorporating defendant's deposition designations of O. Brown and confer with K. Pardue regarding same
4/20/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Trial
4/20/2021	Warren, Hannah T.	Associate	9.00	\$4,770.00	\$530.00	Jury selection, opening argument, and direct examination of witness
4/20/2021	Knop, Andrew R.	Associate	10.20	\$4,998.00	\$490.00	Prepare for and participate in trial on the merits; work on reviewing direct examination of C. Faden and O. Brown
4/21/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Jury trial
4/21/2021	Warren, Hannah T.	Associate	10.20	\$5,406.00	\$530.00	Attend jury trial
4/21/2021	Knop, Andrew R.	Associate	10.20	\$4,998.00	\$490.00	Prepare for and participate in trial on the merits
4/22/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Jury trial
4/22/2021	Warren, Hannah T.	Associate	14.00	\$7,420.00	\$530.00	Attend jury trial; draft jury instructions; draft closing argument
4/22/2021	Knop, Andrew R.	Associate	13.30	\$6,517.00	\$490.00	Prepare for and attend trial on the merits, including finalize jury instructions
4/23/2021	Bateman, David A.	Partner	8.00	\$7,400.00	\$925.00	Jury trial
4/23/2021	Warren, Hannah T.	Associate	9.00	\$4,770.00	\$530.00	Attend jury trial
4/23/2021	Knop, Andrew R.	Associate	8.20	\$4,018.00	\$490.00	Prepare for and participate in trial on the merits

**927.70    \$566,980.00    \$611.17**

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

*Plaintiffs,*

vs.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:15-CV-01149

The Honorable David Hittner

**ORDER GRANTING PLAINTIFFS’ MOTION FOR  
AWARD OF ATTORNEYS’ FEES**

Before the Court is Plaintiffs’ Motion for Award of Attorneys’ Fees (the “Motion”). After review of the Motion, arguments of counsel, and all applicable law, and otherwise being fully advised, the Court, in all things, GRANTS the Motion and orders the following:

**IT IS HEREBY ORDERED** that Plaintiffs’ Motion is, in all things, GRANTED in its entirety, and all other requests or objections made in connection with the Motion not specifically addressed herein are hereby DENIED or OVERRULED.

**IT IS FURTHER ORDERED** that Plaintiffs recover from Defendant \$300,000 in attorneys’ fees.

**IT IS SO ORDERED.**

SIGNED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

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David Hittner  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

JOHN DOE and JANE DOE,

*Plaintiffs,*

v.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149  
\*\*\*SEALED\*\*\*

The Honorable David Hittner

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION  
FOR AWARD OF ATTORNEY FEES**

TO THE HONORABLE JUDGE DAVID HITTNER:

Defendant Saul Eisenberg files this Defendant’s Response to Plaintiff’s Motion For Award Of Attorney Fees and would respectfully show the Court the following:

I.

Plaintiffs were awarded a total of \$15,000.00 in damages from the Jury, which Plaintiff’s attorneys candidly describe in their Motion For Award of Attorney Fees as, “Although the Jury only awarded \$15,000.00”<sup>1</sup>, yet Plaintiff’s attorneys on closing argument acknowledged how seriously the Jury took its responsibilities and thanked the Jury for its service.

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<sup>1</sup> Plaintiff’s Motion For Award of Attorney Fees. Page 17, Last Paragraph, Lines 1-2.

Notwithstanding Plaintiffs counsel's own description that the jury only awarded \$15,000.00 in damages, Plaintiffs are now requesting \$300,000.00, in attorney fees, fees that are twenty times the amount of the award of damages, based on the premise that "Defendant Saul Eisenberg is responsible for the amount of work dedicated to this case."<sup>2</sup>, since Plaintiff's attorneys claim their own attorney's fees were driven so high, because they claim Defendant repeatedly lied about his participation in the case<sup>3</sup>.

Plaintiff's attorneys fail to discuss their own responsibility as attorneys, in due diligence, to adequately review the merits of Plaintiff's claims prior to agreeing to file this lawsuit. Clearly, as the lawsuit progressed, Plaintiff's John and Jane Doe's lack of credibility was obvious and should have been considered by Plaintiff's attorneys prior to generating attorney fees in the amount that was recorded in this case and requested in this case. Just the amount of time Plaintiff's attorneys spent on this case since late March of this year for trial preparation and trial; 400 hours alone,<sup>4</sup> likely would have been greatly minimized, if there had not been lies and inconsistent stories told by Plaintiff's clients, John Doe and Jane Doe during the progression of this case and at trial as well.

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<sup>2</sup> Plaintiff's Motion To Award Attorney Fees. Page. 17, Last Paragraph, Lines 11-12.

<sup>3</sup> Plaintiff's Motion To Award Attorney Fees. Page. 17, Paragraph, 2, Lines 8-9.

<sup>4</sup> Plaintiff's Motion To Award Attorney Fees. Page 12, Paragraph 2, Line 1.

Plaintiff's attorneys agreed to represent John Doe and Jane Doe; and voluntarily did so on a "pro bono" basis. Plaintiff's attorneys cite the case of *Cuellar v. Joyce*, 603 F.3d 1142,1143 (9<sup>th</sup> Cir. 2010), for the proposition that a Pro Bono lawyer who agreed to serve as a Pro Bono, does not make a fee award inappropriate,<sup>5</sup> but it must still be a reasonable fee. If Plaintiff's attorneys had actually represented John Doe and Jane Doe on a standard Texas 40 % contingent basis contract, Plaintiff's attorneys would have earned \$6,000.00 based on the Jury award rather than as "Pro Bono" attorneys; they now apparently feel justified in requesting an enormous \$300,000.00 fee from this court, fees that the Supreme Court has held consistently must be reasonably expended and if not reasonably expended must be excluded. *Hensley V. Eckert*, 461 U.S. 422, 433 (1983).

Plaintiff's attorneys cite the case of *Kellstrom* 50 F. 3d at 329<sup>6</sup> (quoting the lower court's opinion) "See, e.g. *Kellstrom* though disappointing to plaintiff in quantum were none the less significant", to justify an award of attorney fees of **\$300,000.00** in this case, even though Plaintiff's attorneys are well aware that in *Kellstrom*, the

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<sup>5</sup> Plaintiff's Motion to Award Attorney Fees Page 21, Paragraph 2, Lines 7- 9.

<sup>6</sup> Plaintiff's Motion To Award Attorney Fees. Page 18, Paragraph 1, Lines 5-9.

jury awarded **\$500,000.00** in damages as opposed to the **\$15,000.00** in damages awarded by the Jury in this trial.

Plaintiff's attorneys failed to discuss all the rationale for decisions they made regarding time and fees generated in this case, and witnesses Plaintiff's attorneys called to testify, as well as those witnesses Plaintiff's attorneys did not call to testify that lead to issue a Jury award that was "only \$15,000.00". Plaintiff's attorneys failed to present credible witnesses of John Doe and Jane Doe's damages, failed to recognize the actual motivations for John Doe was to dominate Saul Eisenberg by attempting to force Saul to work for John Doe the rest of his life; failed to recognize the motivation of Jane Doe was to use this case to obtain a large verdict as financial leverage that Jane Doe could use to gain back primary custody of her son, Noah Eisenberg.

The Supreme Court of the United States held that a District Court did not properly consider the relationship between the extent of success and the amount of the attorney's fee award. *Hensley v. Eckerhart*, U.S. U. S. 429-44. *Johnson v. Georgia Highway Express Inc.* 488 F.2d 714 (5th Cir. 1974). The extent of a plaintiff's success is a crucial factor in determining the proper amount of an attorney's fee award. In situations where the plaintiff achieved only limited success, the Supreme

Court has held that a District Court should only award that amount of fees that is reasonable in relation to the results obtained. *Id.*

Factor 8 of the lodestar factors that must be considered in awarding attorney fees, specifically provides that “the amount involved and the results obtained” are to be considered even though in Plaintiff’s brief the \$15,000.00 award is accurately described as “only \$15,000.00” and the claim is made that Plaintiff “obtained the one and only thing they were seeking---a legal determination that Defendant Saul Eisenberg posted and publicized the videos”,<sup>7</sup> but now Plaintiffs are seeking with their Motion an enormous amount of money, \$300,000.00 in attorney fees. In fact, contrary to Plaintiff’s Motion To Award Attorney Fees; there was no specific Jury finding that Defendant, Saul Eisenberg, “posted or publicized the videos.” The Jury likely awarded the \$15,000 in damages based on the testimony that Saul admitted at trial he forwarded a link of the videos to his mother, Janet Swartz and his step-father Randy Swartz, and provided a thumb drive of the video to his attorney, Wes Linnenbank.

There is no doubt that Plaintiff’s attorneys have superior legal educations and Mr. Bateman himself has many more years of experience than any of Plaintiffs current

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<sup>7</sup> Plaintiff’s Motion to Award Attorney Fees, Page 17, Paragraph 3, Lines 1-4.



or former lawyers. Mr. Bateman received his J.D. from Yale Law School in 1984 and has 37 years of experience practicing law. Ms. Warren and Mr. Knop both received a J.D. from the University of Houston Law Center in 2017; the same law school that Defendant's attorney received his J.D. from in 1985.

Regardless of their experience, all attorneys have a duty to consider the merits of a potential lawsuit prior to agreeing to represent a client as Plaintiffs counsel; all attorneys should consider the amount of billable time and expense that is reasonably justified by the case; and finally, all Plaintiff's attorneys should consider the witnesses they call to testify to support the merits of their case and the witnesses needed to support their client's damages. Plaintiff's answer regarding why their fees are so high, is that Saul Eisenberg lied on the witness stand repeatedly; yet the only witnesses that actually admitted to lying on the stand was Plaintiff, John Doe, when he admitted that he lied to Dr. Stephen Livingston; when he was asked if he was having a sexual affair with Jane Doe; and when he was asked if he made a sexual video with Jane Doe. Dr. Livingston testified that Plaintiff John Doe actually only admitted to these lies when Dr. Livingston told him that he had the sexual video. John Doe and Jane Doe both lied on the witness stand when they claimed that John Doe was an unbiased independent inspector and they both lied as Chandler Pardue testified, when they said they did not arrive together in the same car at Stanley

Eisenberg's home to inspect it for the custody hearing. John Doe thereafter filed a false inspection report in Judge Farr's Harris County Family Court in order to advantage and benefit Jane Doe in her custody battle for Noah Eisenberg. Plaintiff John Doe was forced to resign from Grand Lakes Presbyterian Church prior to the sexual video ever being uploaded on Pornhub.com or sent to Houston Christian High School. John Doe's forced resignation was due to John Doe having an extra-marital sexual affair with Jane Doe which violated Grand Lakes Presbyterian Church employee policy, not because the video had been uploaded or sent to anyone. Plaintiff's counsel failed to call a single witness other than Plaintiffs to verify any of Plaintiff's damages; failed to provide the jury, a single calculation, chart or expert testimony supporting any of the alleged damages claimed by Plaintiffs.

Plaintiffs' attorneys knew that their fees were high, well before the trial started, yet even with the amount of time they spent on this case, they failed to provide any credible evidence of Plaintiff's damages at the trial, sufficient to support more than a fraction of their requested attorney fees. Plaintiffs' lawyers are clearly responsible for evaluating, preparing and presenting credible evidence on Plaintiff's damages which they admitted to the Court that they left in the hands of the jury to determine, and did so without providing any credible basis for the Jury to consider

on damages. Now, Plaintiff's Counsel ask for an enormous attorney fee award, twenty times the amount of Plaintiff's \$15,000.00 Jury award.

The time spent by Counsel on sophisticated forensic analysis was largely a waste of time and money, since the Harris County DA had already proven where the videos were sent from, and there was a stipulation that the videos had been sent from Attorney Carey Fadens' Office. The time spent on highway toll tickets proved only that the Blue Buick went through the toll road cameras, miles from Cary Fadens' office but those toll tickets did not confirm who was actually driving the Blue Buick and there was no specific jury finding determining whether Saul Eisenberg or Stanley Eisenberg was in the Blue Buick on February 15, 2016.

Plaintiffs John Doe and Jane Doe were not seeking the truth as Plaintiff's attorneys claim, but rather were out to gain an advantage in a rather nasty and long custody battle in Harris County Family Court to take away Saul Eisenberg's primary custody of his son, Noah Eisenberg and move him to Norman, Oklahoma. John Doe was using his Attorneys not to seek the truth, but to win enough money in this lawsuit to force Saul Eisenberg working for him for the rest of his life. Now, Plaintiff's Counsel are asking for attorney fees in an amount that most lower and middle income people would never be able to pay back in many, many years of working, if not a lifetime.

The work performed by K & L Gates on revenge porn cases is honorable, admirable and a worthy calling. Sadly and unfortunately, John Doe and Jane Doe convinced K & L Gates that this lawsuit had nothing to do with the custody battle for Noah Eisenberg; had nothing to do with the desire for John Doe to have Saul work for him for the rest of his life; had nothing to do with the conscious decisions that Jane Doe and John Doe made to have an extra marital affair; had nothing to do with recording themselves on a video; and had nothing to do with leaving it on John Doe's unsecured email where Leslie Hippensteel found it; but conversely convinced K & L Gates that this case had everything to do with their lack of ability to find jobs in the Houston area; but nothing to do with their actual desire to move to Norman, Oklahoma and for Jane Doe to pursue her Masters degree and John Doe to pursue his Doctorate from the University of Oklahoma; which John Doe and Jane Doe are well on their way to achieving.

Sadly and unfortunately, K & L Gates with the enormous amount of time, lawyers and money K & L Gates dedicated to this case, could have helped many, many other people that truly deserved their legal assistance with a legitimate revenge porn case; and if K & L Gates had done their due diligence and discovered the true motivations

of John Doe and Jane Doe, this lawsuit would never have been filed nor taken so much time for Plaintiffs and Defendants and their attorneys.

Respectfully submitted,

/s/ Keith A. Pardue

Keith A. Pardue, Esq.

**Law Office of Pardue and Associates, PLLC**

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SBN 15458500

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keith@keithparduelaw.com

**ATTORNEY FOR DEFENDANT**

**SAUL EISENBERG**

**ENTERED**

July 23, 2021

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JOHN DOE *and* JANE DOE,

Plaintiffs,

v.

SAUL MATTHEW EISENBERG *et*  
*al.*,

Defendants.

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Civil Action No. H-16-1149

ORDER

Pending before the Court is Plaintiffs’ Motion for Award of Attorneys’ Fees (Document No. 95). Having considered the motion, submissions, and applicable law, the Court determines the motion should be granted in part and denied in part.

I. BACKGROUND

This is a revenge porn case. Sometime in 2015, Plaintiffs John Ousley (“Ousley”) and Bridget Spiegel (“Spiegel”) (Ousley and Spiegel, collectively, “Plaintiffs”) began a romantic relationship, though Ousley was married at the time. Since then, Ousley has secured a divorce and Plaintiffs are now married to each other.<sup>1</sup> Ousley’s former wife, Defendant Leslie Hippensteel (“Hippensteel”), found

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<sup>1</sup> As indicated in the heading of the case, Plaintiffs were originally permitted to file the lawsuit under the pseudonyms John Doe and Jane Doe given the nature of the allegations. At the pretrial conference, the Court required the parties to use their real names going forward. At the time the lawsuit was originally filed, Jane Doe’s real name was

two videos of extramarital activities between Plaintiffs on Ousley's computer (the "Videos") while Ousley and Hippensteel were still married. Plaintiffs allege Hippensteel provided the Videos to Spiegel's former fiancé, Defendant Saul Eisenberg ("Eisenberg"). Plaintiffs allege Eisenberg distributed the Videos to his lawyer, mother, and stepfather, to the private Christian high school where Ousley was employed, and posted the Videos on a porn website. Plaintiffs further allege distribution of the Videos resulted in Ousley losing his job and Plaintiffs suffering social and emotional harm.

Based on the foregoing, on April 27, 2016, Plaintiffs sued Hippensteel and Eisenberg (collectively, "Defendants"). Plaintiffs assert claims against Defendants for: (1) violation of the Electronic Communications Privacy Act (the "ECPA"); (2) conspiracy to violate the ECPA; (3) unlawful disclosure or promotion of intimate visual material; (4) conspiracy to unlawfully disclose or promote intimate visual material; (5) negligence; (6) invasion of privacy by intrusion to seclusion; (7) conspiracy to invade privacy by intrusion to seclusion; (8) invasion of privacy by public disclosure of private facts; (9) conspiracy to invade privacy by public disclosure of private facts; and (10) intentional infliction of emotional distress.

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Bridget Spiegel. She and Ousley (John Doe) have since married and Bridget Spiegel now goes by Bridget Ousley. However, to avoid confusion, the Court refers to her by her maiden name where necessary in this Order.

Plaintiffs also assert claims specifically against Hippensteel for: (1) violation of the Stored Communications Act, 18 U.S.C. §§ 2701 and 2707; and (2) theft under the Texas Theft Liability Act. On September 23, 2016, the parties stipulated to dismissal with prejudice as to the claims against Hippensteel after reaching a settlement.

Prior to trial, Plaintiffs voluntarily dismissed all but the following five claims against Eisenberg: (1) unlawful disclosure or promotion of intimate visual material, Tex. Civ. Prac. & Rem. Code § 98B; (2) negligence; (3) invasion of privacy by intrusion to seclusion; (4) invasion of privacy by public disclosure of private facts; and (5) intentional infliction of emotional distress (“IIED”). On April 20, 2021, the Court commenced a four-day jury trial.<sup>2</sup> On April 23, 2021, the jury returned a verdict finding Eisenberg liable as to all claims except IIED<sup>3</sup> and awarding Plaintiffs a total of \$15,000. On April 26, 2021, the Court entered judgment in favor of Plaintiffs based on the jury verdict. On May 3, 2021, Plaintiffs moved for attorneys’ fees.

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<sup>2</sup> The delay in getting to trial is due to the case having been stayed for over a year between January 2017 until May 2018. The case then continued to proceed and was set to go to trial in early 2020 but was delayed over another year due to the COVID-19 pandemic.

<sup>3</sup> The Court notes, during trial but before the Court read instructions to the jury, Plaintiffs voluntarily withdrew their IIED claim. Therefore, the jury was not instructed, nor received any interrogatories, as to the IIED claim.



## II. LAW & ANALYSIS

Plaintiffs move for attorneys' fees pursuant to Texas Civil Practice and Remedies Code § 98B.003. Specifically, Plaintiffs request \$300,000 in attorneys' fees based on work done by their pro bono counsel. Under § 98B.003, a claimant who prevails on a claim for unlawful disclosure of intimate visual material shall be awarded reasonable attorneys' fees. Tex. Civ. Prac. & Rem. Code § 98B.003(a)(3). On April 23, 2021, a jury found Eisenberg liable for, *inter alia*, a violation of § 98B.<sup>4</sup>

Because the claims that Plaintiffs prevailed on were based on Texas law, the Court looks to Texas law for determining whether to award attorneys' fees. *Mathis v. Exxon Corp.*, 302 F.3d 448, 461 (5th Cir. 2002). Texas courts, like federal courts, apply the lodestar method to calculate attorneys' fees. *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469, 493–96 (Tex. 2019). Under this approach, a court first multiplies the number of hours reasonably expended on the litigation by a reasonable hourly billing rate. *El Apple I, Ltd. v. Olivas*, 370 S.W.3d 757, 760 (Tex. 2012). Once the lodestar figure is initially determined, a court may adjust the figure upward or downward as necessary. *Id.*

The fee claimant bears the burden of establishing the rate charged and reasonableness of the hours expended. *Rohrmoos*, 578 S.W.3d at 498. At a

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<sup>4</sup> *Jury Instructions and Jury Interrogatories*, Document No. 91 at 20.

minimum, the fee claimant should establish evidence of: (1) particular services performed; (2) who performed those services; (3) approximately when the services were performed; (4) the reasonable amount of time required to perform the services; and (5) the reasonable hourly rate for each person performing such services. *Id.* The Court addresses the reasonableness of the hourly rate and the number of hours expended in turn.

*A. Reasonable Hourly Rate*

Plaintiffs request hourly rates of \$825 for David A. Bateman (“Bateman”), \$494 for Hannah T. Warren (“Warren”), and \$443 for Knop (“Knop”) (the “Requested Rates”). To establish the reasonable hourly rate for the movant’s attorney, the Court must consider the attorney’s regular rate as well as the prevailing market rate, which is the rate “prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation.” *Id.* at 499 (quoting *Blum v. Stenson*, 465 U.S. 886, 896 (1984)). Evidence of the reasonableness of a proposed hourly rate must include an affidavit of the attorney performing the work and information about rates billed and paid in similar lawsuits. *Id.* The Court may also use its own expertise and judgment to make an independent determination of the value of an attorney’s services. *Davis v. Bd. of Sch. Comm’rs of Mobile Cty.*, 526 F.2d 865, 868 (5th Cir. 1976).

Here, Plaintiffs produce the declaration of Bateman in support of the Requested Rates.<sup>5</sup> Bateman is the lead attorney and partner on the case for Plaintiffs. In his declaration, Bateman states the Requested Rates are based on the average hourly rates charged for Bateman, Warren, and Knop throughout the years.<sup>6</sup> Bateman states he has been licensed to practice law in the state of Washington since 1984 and is currently a partner at K&L Gates's Seattle office.<sup>7</sup> In addition, the biography to his declaration shows Bateman is the co-founder of the Cyber Civil Rights Legal Project, which provides pro bono legal services to victims of revenge porn globally and has helped thousands of clients in these types of cases.<sup>8</sup> Bateman also states his rate is at or below the rates normally charged in Houston, Texas by experienced litigation partners.<sup>9</sup> Bateman also discusses the credentials of Warren and Knop, associate attorneys in K&L Gates's Houston and Fort Worth offices,

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<sup>5</sup> *Plaintiffs' Motion for Award of Attorneys' Fees*, Document No. 95 at 6, Exhibit 1 (*Declaration of David A. Bateman in Support of Plaintiffs' Motion for Award of Attorneys' Fees*) [hereinafter *Declaration of David A. Bateman*].

<sup>6</sup> *Declaration of David A. Bateman*, *supra* note 5, at 4.

<sup>7</sup> *Declaration of David A. Bateman*, *supra* note 5, at 1 Exhibit 1-1 (*Biography of David A. Bateman*).

<sup>8</sup> *Declaration of David A. Bateman*, *supra* note 5, at 3, Exhibit 1-1 (*Biography of David A. Bateman*).

<sup>9</sup> *Declaration of David A. Bateman*, *supra* note 5, at 4–5.

respectively.<sup>10</sup> Bateman produces evidence showing both Warren and Knop graduated from law school in 2017 and have been practicing law since that time.<sup>11</sup> Bateman states that the rates for Warren and Knop are based on market conditions and that they are comparable to rates charged for similarly qualified attorneys in Houston, Texas.<sup>12</sup> The reasonableness of the Requested Rates are not disputed.

The Court finds the Requested Rates are reasonable hourly rates for Bateman, Warren, and Knop. The Court will therefore apply these rates to determine the appropriate amount for attorneys' fees. The Court next turns to the hours expended.

*B. Reasonable Number of Hours*

Plaintiffs request attorneys' fees based on a total of 927.7 hours expended by Bateman, Warren, and Knop. Eisenberg contends Plaintiffs' request is unreasonable, because Plaintiffs have not provided sufficient justification for the hours expended. To establish the reasonable number of hours expended on the litigation by the movant's attorney, "courts customarily require the [movant] to produce contemporaneous billing records or other sufficient documentation so that the district court can fulfill its duty to examine the application for non-compensable

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<sup>10</sup> *Declaration of David A. Bateman, supra* note 5, at 2, Exhibit 1-2 (*Biography of Hannah Warren*), Exhibit 1-3 (*Biography of Andrew Knop*).

<sup>11</sup> *Declaration of David A. Bateman, supra* note 5, at 3, Exhibit 1-2 (*Biography of Hannah Warren*), Exhibit 1-3 (*Biography of Andrew Knop*).

<sup>12</sup> *Declaration of David A. Bateman, supra* note 5, at 4.

hours.” *Fairmont Specialty Ins. Co. v. Apodaca*, 234 F. Supp. 3d 843, 852 (S.D. Tex. 2017) (Hittner, J.) (citing *Bode v. United States*, 919 F.2d 1044, 1047 (5th Cir. 1990)). The base calculation should reflect hours “reasonably expended for services necessary to the litigation.” *Rohrmoos*, 578 S.W.3d at 498. The movant must produce evidence of billing judgment which is “documentation of the hours charged and of the hours written off as unproductive, excessive or redundant.” *Saizan v. Delta Concrete Prods. Co., Inc.*, 448 F.3d 795, 799 (5th Cir. 2006) (per curiam). Courts are to exclude from the lodestar calculation all time that is “excessive, duplicative, or inadequately documented.” *Watkins v. Fordice*, 7 F.3d 453, 457 (5th Cir. 1993).

Plaintiffs request attorneys’ fees based on a total of 927.7 hours expended, broken down as follows: 380.9 hours by Bateman, 193.7 hours by Warren, and 353.1 hours by Knop.<sup>13</sup> In support, Plaintiffs produce Bateman’s declaration and billing records showing dates, the billing attorneys, hours expended, hourly rates charged, cost for each task, and a short description of the work performed.<sup>14</sup> The billing records accurately reflect the hours requested by Plaintiffs.<sup>15</sup> Bateman states that

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<sup>13</sup> *Declaration of David A. Bateman*, *supra* note 5, at 4.

<sup>14</sup> *Declaration of David A. Bateman*, *supra* note 5; *Plaintiffs’ Motion for Award of Attorneys’ Fees*, Document No. 95, Exhibit 1-4 (*Billing Records*) [hereinafter *Billing Records*].

<sup>15</sup> *See generally Billing Records*, *supra* note 14.

three other attorneys who have since left the firm also billed hours on this case, but Plaintiffs are not requesting any fees for those hours.<sup>16</sup> The hours worked by Bateman, Warren, and Knop were spent litigating this case since 2016.<sup>17</sup>

The billing records do not include any hours worked between December 2017 and July 2018,<sup>18</sup> which reflects the time the case was stayed.<sup>19</sup> The billing records do include 105.3 hours<sup>20</sup> of work done in 2020—a substantial part of which was geared toward trial preparation.<sup>21</sup> The case was set for trial in May 2020, but trial was continued until April 2021 due to the COVID-19 pandemic. The billing records show from March 29, 2021, through the end of trial on April 23, 2021, Bateman, Warren, and Knop expended 400 total hours of work preparing for and attending trial, equaling \$256,651 in attorneys' fees.<sup>22</sup> Considering the billing records and the

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<sup>16</sup> *Declaration of David A. Bateman*, *supra* note 5, at 1.

<sup>17</sup> *Declaration of David A. Bateman*, *supra* note 5, at 2–4; *See generally Billing Records*, *supra* note 14. Warren and Knop began working on the case in 2019 and 2018, respectively. *Declaration of David A. Bateman*, *supra* note 5, at 4.

<sup>18</sup> *Billing Records*, *supra* note 14, at 1.

<sup>19</sup> *Order*, Document No. 40 (staying the case on January 10, 2017, until resolution of the criminal case being brought against Eisenberg for the same underlying conduct as this case); *Order*, Document No. 42 (lifting the stay in this case on May 1, 2018).

<sup>20</sup> This includes 6.4 hours by Bateman, 26.4 hours by Warren, and 72.5 hours by Knop. *Billing Records*, *supra* note 14, at 9–11.

<sup>21</sup> *Billing Records*, *supra* note 14, at 9–11.

<sup>22</sup> *Billing Records*, *supra* note 14, at 11–13.

hours documented during the additional months Plaintiffs had for trial preparation, the Court finds some of the time billed is excessive or duplicative. The Court therefore reduces the hours requested by the 105.3 hours worked in 2020. Accounting for this reduction, the Court finds 374.5 hours by Bateman, 167.3 hours by Warren, and 280.6 hours by Knop are reasonable.<sup>23</sup> The Court turns to calculate the lodestar.

*C. Lodestar Calculation*

The lodestar is calculated by multiplying the reasonable number of hours expended on the litigation by the reasonable hourly rate. *Rohrmoos*, 578 S.W.3d at 496. Having determined the reasonable hourly rate and the reasonable number of hours expended, the Court calculates the lodestar as follows:

<b>Billing Individual</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Total</b>
David A. Bateman	374.5	\$825	\$308,962.50
Hannah T. Warren	167.3	\$494	\$82,646.20
Andrew R. Knop	280.6	\$443	\$124,305.80
<b>Lodestar Amount Total:</b>			<b>\$515,914.50</b>

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<sup>23</sup> To calculate these amounts, the Court subtracted the hours indicated in note 20 from the hours requested for each attorney. *See supra* note 20.

*D. Adjustment of the Lodestar*

Plaintiffs contend the lodestar is presumptively reasonable, but that they are still only seeking \$300,000 in fees. Eisenberg contends Plaintiffs should not be awarded \$300,000 in attorneys' fees, because that amount is significantly greater than the damages awarded and does not align with the type of representation in this case. The lodestar method is a "short hand version" of the *Arthur Andersen* factors and is presumptively reasonable. *Rohrmoos*, 578 S.W.3d at 494–96 (citing *Arthur Andersen & Co. v. Perry Equip. Co.*, 945 S.W.2d 812, 818 (Tex. 1997)). Nevertheless, the lodestar may be adjusted up or down if the presumption is overcome. *Id.* at 496, 500–02. When deciding whether to make an adjustment to the lodestar, courts consider the factors articulated in *Arthur Andersen*, which are as follows: (1) the time and labor required, the novelty and difficulty of the questions, and the skill required to perform the legal services; (2) the likelihood that the acceptance of the case would preclude other work by the attorneys; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the attorneys; and (8) whether



the fee is fixed or contingent. *Id.* at 493–94 (citing *Arthur Andersen*, 945 S.W.2d at 818).<sup>24</sup>

The Court has carefully considered each of the factors as applied to this case and determines that several factors are not accurately reflected in the lodestar. Specifically, the Court finds the amount involved and the results obtained, the nature of the professional relationship with the client, and the type of fee requires additional consideration in this case.

Here, Plaintiffs seek \$300,000 in attorneys’ fees, which is approximately 58% of the lodestar in this case. At the pretrial conference, when the Court asked Plaintiffs how much they were suing for and would put to the jury for damages, Plaintiffs indicated they would not be requesting any specific amount of damages. In accordance with this representation, Plaintiffs did not argue a specific amount of damages to the jury during summation. Rather, as stated in their motion for attorneys’ fees, Plaintiffs’ priority was to obtain “a legal determination that Defendant Saul Eisenberg posted and publicized their intimate videos.”<sup>25</sup> The jury

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<sup>24</sup> The *Arthur Andersen* factors, which are crafted after Texas Disciplinary Rule of Professional Conduct 1.04, are essentially the same as the factors considered by federal courts from *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). See *Rohrmoos*, 578 S.W.3d at 490–94 (discussing and comparing the lodestar calculation analyses used by federal and Texas courts).

<sup>25</sup> *Plaintiffs’ Motion for Award of Attorneys’ Fees*, Document No. 95 at 17.

awarded a total of \$15,000 in damages to Plaintiffs.<sup>26</sup> The requested attorneys' fees are twenty times the amount of damages awarded. It is undisputed Plaintiffs' legal representation was on a pro bono basis.<sup>27</sup> Though attorneys' fees in excess of damages and pro bono representation do not bar recovery of attorneys' fees, the Court finds these factors warrant a downward adjustment to the lodestar in this case. The Court therefore reduces the lodestar by 80%. Thus, the Court finds Plaintiffs are entitled to \$103,182.90 in attorneys' fees.<sup>28</sup> Accordingly, the motion for attorneys' fees is granted as to \$103,182.90.

### III. CONCLUSION

Based on the foregoing, the Court hereby

**ORDERS** that Plaintiffs' Motion for Award of Attorneys' Fees (Document No. 95) is **GRANTED IN PART** and **DENIED IN PART**. The motion is granted

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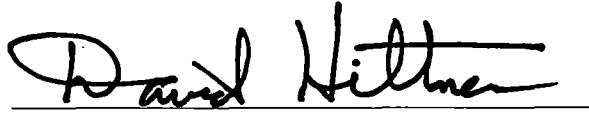
<sup>26</sup> *Jury Instructions and Jury Interrogatories*, Document No. 91 at 21–22 (awarding \$10,000 in damages to Ousley and \$5,000 in damages to Spiegel).

<sup>27</sup> Under Texas law, an award of attorneys' fees is not barred merely because legal representation is provided on a pro bono basis. *See Van Dyke v. Builders West, Inc.*, 565 S.W.3d 336, 345–46 (Tex. App.—Hous. [14th Dist.] 2018, pet. denied) (discussing cases where requested attorneys' fees were not required to be actually incurred by the plaintiffs); *Brown v. Comm'n for Lawyer Discipline*, 980 S.W.2d 675, 683–84 (Tex. App.—San Antonio 1998, no writ) (holding private lawyers representing plaintiffs on a pro bono basis were entitled to recover reasonable attorneys' fees).

<sup>28</sup> The Court calculated this amount by adjusting the lodestar as follows: \$515,914.50 – (\$515,914.50 x 0.80) or alternatively, \$515,914.50 multiplied by 0.20. *See supra* Part II(C) (providing the calculated lodestar).

as to \$103,182.90 in attorneys' fees. The motion is denied as to the remainder of the requested attorneys' fees.

SIGNED at Houston, Texas, on this 23 day of July, 2021.

A handwritten signature in black ink, reading "David Hittner". The signature is written in a cursive style with a horizontal line extending from the end of the name.

DAVID HITTNER

United States District Judge

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

*Plaintiffs,*

vs.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149

The Honorable David Hittner

**PLAINTIFFS’ MOTION TO AMEND THE FINAL JUDGMENT**

Pursuant to Federal Rules of Civil Procedure, Plaintiffs John Ousley and Bridget Ousley (“Plaintiffs”)<sup>1</sup> file this their Motion to Amend the Final Judgment (“Motion”) to include the court-ordered attorneys’ fees and would respectfully show this court as follows:

**I. SUMMARY OF THE MOTION**

On April 26, 2021, this Court entered into a final judgment in favor of Plaintiffs in accordance with the jury’s verdict and award. Said final judgment was subject to Plaintiffs filing their motion for attorneys’ fees. Plaintiffs timely filed a motion for attorneys’ fees, and on July 23, 2021, this Court entered an order awarding Plaintiffs \$103,182.90 in attorneys’ fees. For purposes of clarity and

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<sup>1</sup> Plaintiffs previously proceeded in this cause under the pseudonym John Doe and Jane Doe. However, the Court required the parties to use their real names. Bridget Ousley’s maiden name is Bridget Spiegel, and they are one and the same. Both Plaintiffs are collectively referred to herein as “Plaintiffs.”

efficiency, and with the anticipation of abstracting same, Plaintiffs respectfully request this Court grant Plaintiffs' Motion and enter an amended final judgment reflecting both the jury award and the award of attorneys' fees.

## II. BACKGROUND & ARGUMENT

1. On April 20, 2021, Plaintiffs and Defendant Saul Matthew Eisenberg ("Defendant") commenced a four-day jury trial.

2. On April 23, 2021, the jury returned a verdict finding Defendant liable as to all claims, including Plaintiffs' claim for unlawful disclosure of intimate visual materials under Section 98(B) of the Texas Civil Practice and Remedies Code, and awarded Plaintiffs \$15,000.00 in damages.<sup>2</sup>

3. Under Section 98(B).003(a)(3) of the Texas Civil Practice and Remedies Code, a claimant who prevails on a claim for unlawful disclosure of intimate visual materials shall be awarded reasonable attorneys' fees.

4. On April 26, 2021, this Court entered judgment in favor of Plaintiffs based on the jury verdict.<sup>3</sup> The judgment was subject to Plaintiffs' filing of a motion for costs and attorneys' fees.<sup>4</sup>

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<sup>2</sup> ECF Doc. No. 91.

<sup>3</sup> ECF Doc. No. 94.

<sup>4</sup> *Id.*

5. On May 3, 2021, Plaintiffs timely filed their motion for attorneys' fees in accordance with the instruction provided by this Court,<sup>5</sup> and on July 23, 2021, this Court granted said motion in part, awarding Plaintiffs \$103,182.90 in attorneys' fees.<sup>6</sup>

6. For the purpose of clarity and efficiency in anticipated post-judgment collection efforts, Plaintiffs respectfully request this Court amend the final judgment to include both the jury award and the Court's award of Plaintiffs' attorneys' fees.

7. Accordingly, Plaintiffs respectfully request this Court grant Plaintiffs' Motion and amend the final judgment to include the award of attorneys' fees in the amount of \$103,182.90.

8. A proposed Order Granting the Motion is attached hereto as **Exhibit 1** for the Court's convenience.

9. A proposed Amended Final Judgment is attached hereto as **Exhibit 2** for the Court's convenience.

### III. CONCLUSION & PRAYER

For the foregoing reasons, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion and enter into an Amended Final Judgment to include both the jury award amount of \$10,000 to Plaintiff John Doe (John Ousley) and \$5,000 to

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<sup>5</sup> ECF Doc. No. 95.

<sup>6</sup> ECF Doc. No. 97.

Plaintiff Jane Doe (Bridget Ousley) and the Court's award of Plaintiffs' attorneys' fees in the amount of \$103,182.90.

Dated: July 29, 2021.

Respectfully submitted,

**K&L GATES LLP**

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Pro Hac Vice (December 18, 2018)  
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F: 713-815-7301

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was electronically filed with the Court and served through the CM-ECF system to all counsel for record registered to receive a Notice of Electronic Filing for this case on the 28th day of July, 2021.

By: /s/ Hannah Warren  
Hannah Warren



# **Exhibit 1**

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

*Plaintiffs,*

vs.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149

The Honorable David Hittner

**ORDER GRANTING PLAINTIFFS’ MOTION  
TO AMEND THE FINAL JUDGMENT**

On this day, the Court considered Plaintiffs’ Motion to Amend the Final Judgment (the “Motion”). After reviewing the Motion, the Court finds that the Motion should be **GRANTED**.

Subsequent to this Order, the Court will issue an Amended Final Judgment that includes both the jury award amount of \$10,000 to Plaintiff John Doe (John Ousley), \$5,000 to Plaintiff Jane Doe (Bridget Ousley), and the Court’s award of Plaintiffs’ attorneys’ fees in the amount of \$103,182.90.

Signed on this the \_\_\_\_\_ day of July, 2021, at Houston, Texas.

\_\_\_\_\_  
JUDGE DAVID HITTNER  
UNITED STATES DISTRICT JUDGE

# **Exhibit 2**

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

*Plaintiffs,*

vs.

SAUL MATTHEW EISENBERG,

*Defendant.*

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CIVIL ACTION NO. 4:16-CV-01149

The Honorable David Hittner

**AMENDED FINAL JUDGMENT**

As the jury has returned its verdict in favor of the Plaintiffs and the Court has ruled on Plaintiffs’ Motion for Attorneys’ Fees, the Court hereby **ORDERS** that final judgment be entered in favor of the Plaintiffs.

The Court further **ORDERS** that John Doe (John Ousley) is awarded \$10,000.00 and Plaintiff Jane Doe (Bridget Ousley) is awarded \$5,000.00.

The Court further **ORDERS** that Plaintiffs are awarded \$103,182.90 in attorneys’ fees.

This is a **FINAL JUDGMENT**.

Signed on this the \_\_\_\_\_ day of July, 2021, at Houston, Texas.

\_\_\_\_\_  
JUDGE DAVID HITTNER  
UNITED STATES DISTRICT JUDGE

**ENTERED**  
August 20, 2021  
Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,                   §  
  §  
  §       CIVIL ACTION NO. 4:16-CV-01149  
  §  
vs.   §  
  §  
SAUL MATTHEW EISENBERG,               §       The Honorable David Hittner  
  §  
  §  
  §  
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**AMENDED FINAL JUDGMENT**

As the jury has returned its verdict in favor of the Plaintiffs and the Court has ruled on Plaintiffs' Motion for Attorneys' Fees, the Court hereby **ORDERS** that final judgment be entered in favor of the Plaintiffs.

The Court further **ORDERS** that John Doe (John Ousley) is awarded \$10,000.00 and Plaintiff Jane Doe (Bridget Ousley) is awarded \$5,000.00.

The Court further **ORDERS** that Plaintiffs are awarded \$103,182.90 in attorneys' fees.

This is a **FINAL JUDGMENT**.

Signed on this the 20 day of July, 2021, at Houston, Texas.

  
\_\_\_\_\_  
JUDGE DAVID HITTNER  
UNITED STATES DISTRICT JUDGE