

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GERALD PETERS,

Plaintiff,

v.

**JOSEPH FRONTIERE, NICHOLAS
FRONTIERE, MICHAEL GHISELLI,
JOSEPH CELLURA, and TARSIN MOBILE, INC.,**

Defendants.

and

No. 1:21-cv-0564 WJ/JHR

JOSEPH FRONTIERE,

Cross-Claimant,

v.

**MICHAEL GHISELLI, JOSEPH CELLURA,
and TARSIN MOBILE, INC.,**

Crossclaim Defendants.

ORDER AWARDING ATTORNEYS' FEES AND COSTS TO PLAINTIFF

This matter is before the Court on Plaintiff Gerald Peters's ("Plaintiff") Affidavit of Benjamin Allison in Support of Plaintiff Gerald Peters' Award of Attorneys Fees and Costs Associated with Plaintiff's Motion to Compel Discovery from the Tarsin Defendants ("Affidavit") filed on December 23, 2022. [Doc. 226]. The Affidavit follows this Court's Memorandum Order and Opinion ("Order") issued on December 16, 2022, granting in part Plaintiff's Motion to Compel

Discovery Responses from Tarsin Defendants (“Motion to Compel”) [Doc. 58]. [Doc. 225].

In the Order, the Court found that “Plaintiff is entitled to attorney fees and costs associated with bringing the Motion to Compel.”¹ *Id.* at 10. The Court further instructed Plaintiff to submit an affidavit memorializing its fees and expenses and allowed the Defendants to object to the requested fees and expenses within fourteen days of being served with the Affidavit. *Id.* Defendants filed no objections.

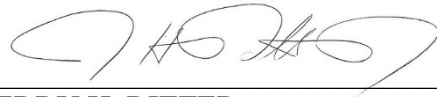
The Affidavit requests a total amount of \$11,236.34. [Doc. 226] at 2, 4. This figure includes \$10,374.00 in attorneys’ fees and \$862.34 in gross tax receipts. *Id.* The Affidavit provided a detailed, itemized account of the total 36.3 hours billed by lawyers and paralegals to reach the \$10,374 in attorneys’ fees. *Id.* at 2-4. Plaintiff included the hourly rates for attorneys and paralegals who worked on the Motion to Compel. *Id.* at 2. The Court does not find any reason to reduce the requested fees and expenses.

Having considered the parties’ submissions and the relevant law, and there being no objections from Defendants, the Court finds that Plaintiff’s fees and expenses requested in the Affidavit are reasonable and necessary under the circumstances.

IT IS THEREFORE ORDERED, AJUDGED, AND DECREED that Defendants must remit payment to Plaintiff in the amount of **\$11,236.24** within **thirty (30) days** of entry of this Order.

¹ Rule 37(a)(5) provides in relevant part that “If the Motion is granted . . . the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant’s reasonable expenses incurred in making the motion, including attorney’s fees.” Fed. R. Civ. P. 37(a)(5). The Court did not find that any exceptions under this rule applied. *See id.*

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "J H Ritter", is positioned above a horizontal line.

JERRY H. RITTER
UNITED STATES MAGISTRATE JUDGE