

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## **Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions**

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### **Please read this agreement prior to viewing the Decision:**

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JACK ELDER, D.D.S.,  
RESPONDENT.

:  
:  
:  
:  
:

ORDER FIXING COSTS  
LS0807301DEN  
DHA Case No. DRL-09-0004

On June 30, 2010, the Dentistry Examining Board filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Admin. Code, on or about July 21, 2010, the Dentistry Examining Board received the Affidavit of Costs in the amount of \$26,297.68, filed by Attorney James E. Polewski. On or about August 9, 2010, the Dentistry Examining Board received the Affidavit of Costs in the amount of \$3,260.45, filed by Administrative Law Judge Robert G. Pultz. The Dentistry Examining Board considered the Affidavits of Costs on November 3, 2010, and orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$29,558.13, set forth in the Affidavits of Costs of Attorney James E. Polewski and Administrative Law Judge Robert G. Pultz, which are attached hereto and made a part hereof, are hereby assessed against respondent, and shall be payable by respondent to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before December 3, 2010, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline.** *Under sec. 440.22 (3), Wis. Stats., the Department of Regulation and Licensing may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.*

Payment shall be made payable to the Wisconsin Department of Regulation and Licensing and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

Dated this 3<sup>rd</sup> day of November, 2010.

DENTISTRY EXAMINING BOARD

By: \_\_\_\_\_

*Joi R. Barbeau, DDS*

Member of the Board

STATE OF WISCONSIN  
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

JACK ELDER

RESPONDENT

AFFIDAVIT OF COSTS

05 DEN 159

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

Being duly on affirmation, the undersigned employee of the Department of Regulation and Licensing, upon information and belief, deposes and states as follows:

That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

INVESTIGATOR EXPENSE -- Dawn Kalles

| DATE       |  | HOURS | MINUTES |
|------------|--|-------|---------|
| 11/18/2009 | discuss hearing testimony w/ atty JP   | 1     | 0       |
| 11/17/2009 | read deposition; hearing assistance; hearing prep; testimony at hearing                | 4     | 30      |
| 11/16/2009 | read depositions & review interview reports; hearing prep                              | 2     | 0       |
| 11/16/2009 | discuss hearing, testimony & assistance  | 0     | 20      |
| 10/23/2009 | hearing prep: review CD file & notate  | 0     | 20      |
| 10/23/2009 | hearing prep: review KJ file & notate  | 0     | 20      |
| 10/23/2009 | hearing prep: review SR file & notate  | 0     | 20      |
| 10/23/2009 | hearing prep: review GH file & notate  | 0     | 30      |
| 10/23/2009 | hearing prep: review ML file   | 0     | 25      |
| 10/23/2009 | hearing prep: review TG file & notate  | 0     | 30      |
| 10/22/2009 | hearing prep: review Elder files to refresh memory; review JF files                    | 2     | 0       |
| 10/15/2009 | discuss prep for hearing testimony w/ atty JP  | 0     | 15      |
| 10/09/2009 | discuss witness prep w/ atty JP; further web print-outs frm R's web sites              | 0     | 30      |
| 10/09/2009 | phone call frm atty JP from field; print-out two web sites; email to IT Department     | 0     | 30      |
| 06/25/2009 | follow-up phone call to LJ & memo & email  | 0     | 30      |
| 06/25/2009 | memo of SA interview; email & discuss w/ atty JP                                       | 1     | 15      |
| 06/24/2009 | phone interview of witness SA  | 0     | 30      |
| 06/24/2009 | memo of LJ interview   | 1     | 30      |
| 06/23/2009 | phone interview of witness LJ  | 0     | 30      |
| 06/23/2009 | review case summary; prep for interviews; phone messages left for 2 witnesses          | 1     | 0       |
| 03/17/2009 | read Rspndnt's deposition  | 1     | 30      |
| 09/18/2008 | update & discuss w/ atty JP  | 0     | 10      |
| 07/30/2008 | review & sign Complaint; discuss w/ atty JP  | 0     | 30      |
| 07/28/2008 | review Complaint   | 2     | 15      |
| 07/11/2008 | phone call frm Great West inquiring about status (Julie 1-800-537-2033 ext 2684)       | 0     | 5       |
| 05/14/2008 | review & file records; email to atty JP  | 0     | 5       |
| 05/13/2008 | recs rec'd frm MetLife on StAndrew   | 0     | 5       |
| 05/13/2008 | discuss w/ atty JP   | 0     | 10      |
| 05/13/2008 | StAndrew recs rec'd frm Rspndnt's atty; reviewed recs                                  | 0     | 20      |
| 05/06/2008 | phone call w/ Met Life re: StAndrew records; will be sent as soon as possible but late | 0     | 5       |
| 04/21/2008 | recs rec'd & reviewed  | 0     | 10      |
| 04/17/2008 | phone call frm Kris that recs being sent out today                                     | 0     | 5       |
| 04/10/2008 | phone call frm JY; check files; email to atty JP; faxing; follow-up                    | 0     | 45      |
| 02/12/2008 | discuss w/ atty JP   | 0     | 15      |
| 02/12/2008 | review Complaint draft   | 0     | 20      |
| 10/16/2007 | discuss w/ atty JP   | 0     | 30      |
| 09/11/2007 | email frm atty JP & discussion w/ atty JP  | 0     | 15      |
| 08/23/2007 | discuss w/ att JP  | 0     | 45      |
| 08/08/2007 | discuss w/ atty JP   | 0     | 10      |
| 07/26/2007 | recs received frm FiServe (Wausau Benefits); review & file                             | 0     | 10      |
| 07/24/2007 | phone call & fax re: patient DM  | 0     | 5       |

|            |  |   |    |
|------------|--|---|----|
| 07/20/2007 | discuss w/ atty JP   | 0 | 5  |
| 07/16/2007 | recs in frm Met Life; review & file  | 0 | 15 |
| 07/13/2007 | California recs rec'd & reviewed   | 0 | 10 |
| 07/12/2007 | phone message & call frm FiServe (Wausau Benefits) re: claims                    | 0 | 10 |
| 07/10/2007 | phone call; email to atty JP;  | 0 | 15 |
| 07/10/2007 | discuss Calif w/ atty JP; phone call & fax to California Dental Brd              | 0 | 45 |
| 07/02/2007 | lexis-nexis search for California license  | 0 | 15 |
| 07/02/2007 | update case summary  | 2 | 0  |
| 07/02/2007 | discuss w/ atty JP; draft case summary to atty JP                                | 0 | 10 |
| 06/28/2007 | discuss with atty JP   | 0 | 20 |
| 06/28/2007 | two phone calls re: patient claims   | 0 | 10 |
| 06/27/2007 | review & finalize file Marvin Leitzke  | 0 | 20 |
| 06/27/2007 | review & finalize file Gary Hill   | 0 | 30 |
| 06/27/2007 | review & finalize file Steven Ruud   | 1 | 0  |
| 06/27/2007 | review file of Jospheh Francois  | 0 | 15 |
| 06/27/2007 | review & finalize file Terrence Grimm  | 0 | 20 |
| 06/27/2007 | review & organize Kevin Johnson file   | 0 | 20 |
| 06/27/2007 | letter frm insur re: Catherine DeBauche file; update chart; prep file            | 0 | 30 |
| 06/22/2007 | phone call frm Wausau Ins Cindy Corazalla referring my fax & letter to MN office | 0 | 5  |
| 06/21/2007 | filing   | 0 | 15 |
| 06/21/2007 | phone calls, file checking, & letter to Wausau Benefits                          | 3 | 0  |
| 06/21/2007 | emails with AmeriHealth about Steve Ruud claims                                  | 1 | 0  |
| 06/20/2007 | work on Steve Ruud file; email to insurance co re: 3rd claim                     | 1 | 30 |
| 06/20/2007 | rec'd & reviewed info frm Insurance  | 0 | 15 |
| 06/19/2007 | review recs & update Steven Ruud chart   | 1 | 0  |
| 06/19/2007 | review recs & update Gary Hill chart   | 0 | 30 |
| 06/19/2007 | review recs & update J Francois chart  | 0 | 15 |
| 06/19/2007 | review M Leitzke recs & update chart   | 0 | 30 |
| 06/14/2007 | review & correct Terrance Grimm chart  | 0 | 30 |
| 06/14/2007 | review Cathy DeBauche file; updatechart; letter to Delta Dental of WI            | 2 | 0  |
| 06/14/2007 | letter to AmeriHealth re: Steven Ruud  | 1 | 0  |
| 06/13/2007 | letter to CBA re: Kevin Johnson file   | 0 | 30 |
| 06/13/2007 | Met Life letter  | 1 | 0  |
| 06/12/2007 | double check J Francois file; update chart                                       | 0 | 30 |
| 06/12/2007 | review Leitzke file - make chart   | 2 | 30 |
| 06/11/2007 | review Grimm file - make chart   | 2 | 30 |
| 06/11/2007 | organizing records - making file folders   | 2 | 0  |
| 05/10/2007 | phone call frm Met Life  | 0 | 5  |
| 04/05/2007 | review DeBauche file make chart  | 1 | 0  |
| 04/05/2007 | review Francois file - make chart  | 1 | 0  |
| 04/03/2007 | update atty JP   | 0 | 10 |
| 04/03/2007 | review Gary Hill file  | 1 | 0  |
| 03/20/2007 | discuss w/ atty JP   | 0 | 10 |
| 03/13/2007 | review & plan  | 0 | 15 |
| 03/07/2007 | phone call frm Corporate Services re: recrd reqst                                | 0 | 5  |
| 03/05/2007 | phone call frm Gundersen re: rec reqst   | 0 | 5  |
| 03/02/2007 | phone calls frm 4 insurers re: rec request deadline extensions                   | 0 | 15 |
| 03/01/2007 | phone call frm Great West re: address info                                       | 0 | 5  |
| 02/20/2007 | phone call frm Delta Dental Pennsylvania for extension to end of March           | 0 | 5  |
| 02/16/2007 | phone call frm Midwest Security re: clarification on 1 patient                   | 0 | 5  |
| 02/16/2007 | discussion w/ atty JP  | 0 | 15 |
| 02/14/2007 | review docs; send letters to insurance companies                                 | 1 | 0  |
| 02/14/2007 | merge billing info w/ patient recs which were rec'd on same day of 11-20-06      | 0 | 30 |
| 02/14/2007 | review docs; draft letters to ins companies                                      | 1 | 0  |
| 02/13/2007 | review docs; draft letters to ins. companies                                     | 7 | 0  |
| 02/12/2007 | review docs; draft letters to insurance companies                                | 7 | 0  |
| 02/09/2007 | review docs; draft letters to Gndrsn Lthrn; Wausau Bnfts; WEA Trst               | 6 | 0  |
| 02/08/2007 | draft letter; review patient recs  | 1 | 30 |
| 02/08/2007 | discuss case w/ atty JP  | 0 | 15 |
| 02/01/2007 | update frm atty JP   | 0 | 10 |
| 12/04/2006 | email to atty JP; review memo  | 0 | 10 |
| 11/30/2006 | phone call and memo re: witness KV   | 4 | 0  |
| 11/27/2006 | review file  | 0 | 10 |
| 11/20/2006 | discuss w/ atty JP   | 0 | 5  |
| 11/20/2006 | read R's atty letter   | 0 | 5  |
| 11/09/2006 | update frm & discuss w/ atty JP  | 0 | 15 |
| 11/03/2006 | email frm and discuss w/ atty JP   | 0 | 10 |

## AFFIDAVIT OF COSTS

PAGE # 3

|            |  |   |    |
|------------|--|---|----|
| 11/02/2006 | review letter frm R's atty; discuss w/ atty JP                               | 0 | 15 |
| 10/23/2006 | review recs frm Dr. Elder office   | 0 | 15 |
| 10/23/2006 | case summary   | 2 | 30 |
| 10/20/2006 | review file; case summary; review dental coding                              | 4 | 0  |
| 10/20/2006 | discuss file with & email atty JP  | 0 | 30 |
| 10/19/2006 | email to atty JP   | 0 | 10 |
| 10/16/2006 | work on chart; begin case summary  | 6 | 0  |
| 10/13/2006 | review records; work on chart  | 6 | 0  |
| 10/12/2006 | review records; work on chart  | 3 | 30 |
| 10/10/2006 | review records; work on chart  | 5 | 30 |
| 10/09/2006 | review records; work on chart  | 6 | 0  |
| 10/06/2006 | review records; work on chart  | 6 | 30 |
| 10/05/2006 | review records; begin chart  | 2 | 0  |
| 10/05/2006 | photocopy records  | 1 | 0  |
| 10/05/2006 | discuss w/ atty JP   | 0 | 15 |
| 10/04/2006 | review patient files   | 2 | 0  |
| 10/04/2006 | attempt to locate phone # pt K Johnson; letter to Johnson                    | 1 | 0  |
| 10/03/2006 | discuss w/ atty JP; email  | 0 | 30 |
| 10/03/2006 | review file; focus on patient K Johnson                                      | 2 | 45 |
| 10/02/2006 | review file  | 4 | 0  |
| 10/02/2006 | discuss w/ and email to atty JP  | 0 | 15 |
| 09/25/2006 | email frm R's atty   | 0 | 10 |
| 09/22/2006 | phone call frm R's atty - docs will be mailed Mon 9-25-06                    | 0 | 5  |
| 09/20/2006 | update frm atty JP   | 0 | 5  |
| 08/07/2006 | another phone call frm atty Tom Taylor; extension to reply to Friday 8-11-06 | 0 | 5  |
| 07/31/2006 | phone call frm atty Tom Taylor for R; extension for records to 8-7-06        | 0 | 5  |
| 07/06/2006 | recs rec'd & reviewed  | 0 | 5  |
| 06/26/2006 | file review  | 0 | 30 |
| 05/31/2006 | discuss w/ atty JP   | 0 | 5  |
| 02/23/2006 | fax & confirmation phone call  | 0 | 6  |
| 02/15/2006 | discuss w/ atty JP   | 0 | 42 |
| 02/15/2006 | phone call w/ Complainant  | 0 | 12 |
| 02/15/2006 | phone call & fax to C's atty; atty also reps Kris Vetsch                     | 0 | 6  |
| 02/15/2006 | memo   | 2 | 30 |
| 02/15/2006 | call to KV for clarifications; prep for phone call                           | 0 | 20 |
| 02/14/2006 | memo   | 2 | 30 |
| 02/14/2006 | interview KV & prep for interview  | 2 | 0  |
| 02/14/2006 | memo   | 1 | 30 |
| 02/14/2006 | letter   | 1 | 0  |
| 02/13/2006 | review file; prep for phone interview  | 0 | 45 |
| 02/13/2006 | memo   | 2 | 30 |
| 02/13/2006 | interview Complainant  | 1 | 0  |
| 02/13/2006 | discuss interview w/ atty JP   | 0 | 30 |
| 02/13/2006 | discuss & written direction frm atty JP                                      | 0 | 12 |
| 02/09/2006 | discuss w/ atty JP   | 0 | 12 |
| 02/09/2006 | phone call frm R's atty; photocopy records                                   | 0 | 12 |
| 02/03/2006 | phone call frm R's atty  | 0 | 6  |
| 02/03/2006 | discuss w/ atty JP   | 0 | 12 |
| 01/17/2006 | review file & adm/log it in to files   | 0 | 6  |

**TOTAL INVESTIGATOR EXPENSE --- 162 HOURS AND 51 MINUTES**  
**(Based on their average salary and benefits at the Division of Enforcement)**

|               | HOURS      | MINUTES   |
|---------------|------------|-----------|
| <b>TOTALS</b> | <b>162</b> | <b>51</b> |

**AT \$29.00 PER HOUR = \$4,722.65**

**MISCELLANEOUS EXPENSE --- Jane Brischke**

| DATE       | COST  |
|------------|---|
| 12/02/2009 | Verbatim Reporting, Limited (transcript of proceedings 11/17/09)  |
| 12/02/2009 | Verbatim Reporting, Limited                                       |
| 12/02/2009 | Affidavit for Witness Fee and Travel - Leah Jorgensen             |
| 08/31/2009 | LaCrosse County Sheriffs Dept - additional fee                    |
| 08/10/2009 | LaCrosse County Sheriff   |
| 07/06/2009 | Court Reporter - Dawn Haun  |
| 06/18/2009 | Nancy Johnson Court Reporter                                      |
| 03/23/2009 | Karen Theis Manningt Reporting Services (depo of Elder on 3/2/09) |
| 06/28/2007 | copy charge - Custom Benefit Administrators                       |
| 04/19/2007 | copy charge - Gunersen Lutheran Health Plan                       |

03/15/2007 copy charge Ameritas Life Insurance Corp  
 10/19/2006 LaCrosse County Sheriff service

\$19.50  
 \$80.00

**PARALEGAL EXPENSE --- Steven Engelbrecht**

| DATE       |   | HOURS | MINUTES |
|------------|---|-------|---------|
| 11/17/2009 | Fill out Affidavit for Witness Fee and Travel for witness L. Jorgensen.   | 0     | 15      |
| 11/05/2009 | Make 3 copies of pt med recs. Compare copies to originals.  | 2     | 30      |
| 11/04/2009 | Make 3 copies of pt med recs.   | 2     | 30      |
| 11/03/2009 | Sort, organize pt med recs. Make 3 copies of pt med recs.   | 3     | 0       |
| 08/07/2008 | Rec signed Cert Mail Return Receipt. Draft memo. Hand deliver memo and original signed Cert Mail Return Rec to ALJ, copy to Atty. Polewski.             | 0     | 15      |
| 07/31/2008 | Have Affidavit of Service notarized. Draft memo. Hand deliver memo and original, notarized Affidavit to ALJ, copy to Atty. Polewski.                    | 0     | 15      |
| 07/30/2008 | File complaint. Mail copy of complaint to Respondent via Certified Mail Return Rec Req w/ restrict Del and via reg US mail. Draft affidavit of service. | 0     | 45      |

**TOTAL PARALEGAL EXPENSE --- 9 HOURS AND 30 MINUTES**  
 (Based on their average salary and benefits at the Division of Enforcement)

|               | HOURS    | MINUTES   |
|---------------|----------|-----------|
| <b>TOTALS</b> | <b>9</b> | <b>30</b> |

**AT \$29.00 PER HOUR = \$275.50**

**PROSECUTING ATTORNEY EXPENSE --- James Polewski**

| DATE       |   | HOURS | MINUTES |
|------------|---|-------|---------|
| 03/08/2010 | response to objections  | 5     | 15      |
| 03/01/2010 | Final revision, email, mail objections                            | 1     | 15      |
| 02/26/2010 | TC R atty, revise Objections                                      | 1     | 15      |
| 02/25/2010 | objections  | 3     | 0       |
| 02/24/2010 | objections  | 4     | 30      |
| 02/16/2010 | objections  | 2     | 0       |
| 02/12/2010 | objections  | 2     | 30      |
| 02/11/2010 | Read PDO, start objections, TC Sullivan, copies Mgmt              | 1     | 15      |
| 02/10/2010 | review PDO  | 0     | 10      |
| 01/04/2010 | Finish closing, Findings, Mail                                    | 2     | 20      |
| 12/31/2009 | Closing   | 7     | 45      |
| 12/30/2009 | Closing   | 4     | 30      |
| 12/30/2009 | Drafting Findings of Fact, closing revisions                      | 4     | 30      |
| 12/22/2009 | Closing   | 4     | 0       |
| 12/18/2009 | Drafting closing brief  | 1     | 30      |
| 12/17/2009 | Drafting closing brief  | 6     | 0       |
| 12/16/2009 | closing   | 0     | 20      |
| 12/15/2009 | closing, findings of fact   | 6     | 0       |
| 12/08/2009 | closing   | 6     | 0       |
| 11/30/2009 | file organization   | 1     | 15      |
| 11/18/2009 | hearing prep, hearing, clean up                                   | 8     | 0       |
| 11/17/2009 | hearing prep, hearing   | 8     | 0       |
| 11/16/2009 | hearing prep  | 9     | 0       |
| 11/15/2009 | hearing prep  | 2     | 0       |
| 11/14/2009 | hearing prep  | 2     | 45      |
| 11/13/2009 | TC Vetsch, TC Sullivan, new documents                             | 0     | 40      |
| 11/12/2009 | TC, e mail from Sullivan  | 0     | 20      |
| 11/11/2009 | Research Takacs, hearing prep                                     | 2     | 30      |
| 11/06/2009 | PHNG, exhibit, hearing prep                                       | 5     | 0       |
| 11/05/2009 | exhibit, hearing prep; TCs Sullivan                               | 6     | 30      |
| 11/04/2009 | exhibit prep, wait, present order to close to DEB                 | 2     | 30      |
| 11/03/2009 | exhibit prep, assign SE1  | 0     | 25      |
| 11/02/2009 | TC Sullivan re order to close, drafting                           | 0     | 25      |
| 10/30/2009 | e mail x 2, tc R atty re motion to close hearing                  | 0     | 30      |
| 10/23/2009 | TC Sullivan, e mail Taylor excusing subpoena                      | 0     | 15      |
| 10/19/2009 | e mail from ALJ, TC/VM to, from Sullivan                          | 0     | 20      |
| 10/15/2009 | TC R atty, e mail ALJ, C DMK re schedule, exhibits; prep exhibits | 0     | 40      |
| 10/14/2009 | motion to close hearing, agenda request to DEB office             | 2     | 30      |
| 10/09/2009 | travel, witness prep, hearing prep                                | 8     | 0       |
| 10/08/2009 | prepare for Vetsch interview, witness prep                        | 4     | 0       |
| 09/09/2009 | emails Taylor, Sullivan reschedule                                | 0     | 20      |
| 08/24/2009 | read reply to motion in limine response                           | 0     | 15      |
| 08/18/2009 | TC Vetsch, TC Jorgensen   | 0     | 45      |
| 08/12/2009 | PHNG, TC sullivan calendar room changes                           | 0     | 45      |

## AFFIDAVIT OF COSTS

PAGE # 5

|            |  |   |    |
|------------|--|---|----|
| 08/11/2009 | TC R atty, confirm extension by e mail                                     | 0 | 15 |
| 08/06/2009 | TC R atty re stip of facts   | 0 | 10 |
| 08/04/2009 | motion in limine response, filing  | 3 | 0  |
| 08/03/2009 | email ALJ, draft subpoenas   | 1 | 0  |
| 08/03/2009 | motion in limine response; emails re: scheduling to ALJ, R atty; subpoenas | 6 | 30 |
| 07/31/2009 | motion in limine response  | 2 | 15 |
| 07/30/2009 | motion in limine response  | 2 | 0  |
| 07/30/2009 | TC R atty re stip of facts   | 0 | 20 |
| 07/28/2009 | ID New ALJ, Fin Wit List, L, TC R atty                                     | 1 | 0  |
| 07/24/2009 | hearing prep   | 1 | 0  |
| 07/23/2009 | hearing prep   | 4 | 30 |
| 07/20/2009 | TC R atty; C DMK; finish stip of facts; e mail to R atty                   | 4 | 20 |
| 07/17/2009 | hearing prep, stip of facts draft  | 6 | 15 |
| 06/29/2009 | hearing prep   | 2 | 0  |
| 06/25/2009 | C DMK, read interview memos, L to R atty, filing                           | 1 | 30 |
| 05/29/2009 | depos, drive to DRL  | 9 | 0  |
| 05/28/2009 | drive to LaCrosse  | 2 | 45 |
| 05/22/2009 | Yahnke, Vetsch interview MMs to their atty, M. Gill                        | 0 | 35 |
| 05/12/2009 | Outlook calendaring  | 0 | 15 |
| 05/05/2009 | L to Koby re valium allegation not charged                                 | 0 | 40 |
| 04/22/2009 | TC from R atty, reschedule to 5/28; no.                                    | 0 | 5  |
| 04/21/2009 | C DMK, TC/VM from Yahnke, TC Yahnke, status rept                           | 0 | 10 |
| 04/20/2009 | hearing prep; e mail Kiefer the pleadings                                  | 1 | 15 |
| 04/17/2009 | Cancel reservation in Caledonia/via DLP                                    | 0 | 10 |
| 04/16/2009 | PHNG   | 0 | 30 |
| 04/01/2009 | Depo, travel prep for Vetsch, Yahnke                                       | 0 | 45 |
| 03/18/2009 | TC from, L to R atty; nolle pros on Valium inventory                       | 0 | 40 |
| 03/05/2009 | consider alternative charging/resolution possibilities                     | 0 | 15 |
| 03/02/2009 | depo, travel   | 6 | 30 |
| 03/01/2009 | travel, depo prep  | 3 | 0  |
| 02/27/2009 | TC Verbatim Reporting, depo prep   | 0 | 40 |
| 02/26/2009 | hrng and depo prep, PHNG   | 2 | 30 |
| 02/25/2009 | depo prep, exhibit prep  | 2 | 0  |
| 02/16/2009 | Email from, to DLP, confirm reporter; e mail to R paralegal, same          | 0 | 10 |
| 02/12/2009 | request court reporter   | 0 | 5  |
| 02/09/2009 | depo scheduling  | 0 | 20 |
| 02/02/2009 | TC Sullivan re R depo, dates needed  | 0 | 5  |
| 01/15/2009 | depo prep for R depo   | 2 | 15 |
| 01/15/2009 | PHNG   | 0 | 15 |
| 01/14/2009 | scheduling with ALJ, R atty  | 0 | 10 |
| 01/07/2009 | ALJ substitution notice  | 0 | 5  |
| 10/10/2008 | disco response, L to Sullivan  | 1 | 0  |
| 10/09/2008 | disco response, file maintenance   | 0 | 25 |
| 10/03/2008 | disco production w Elder and Sullivan                                      | 1 | 0  |
| 09/19/2008 | e mail R atty  | 0 | 10 |
| 09/18/2008 | TC R atty; C DMK   | 0 | 30 |
| 09/03/2008 | Copy pleadings for Cramton for R insurance co request                      | 0 | 10 |
| 08/29/2008 | Answer review, research agency law   | 3 | 0  |
| 08/18/2008 | TC R atty, 1 week ext. for answer  | 0 | 10 |
| 07/30/2008 | Complaint, notice of hearing, L to R atty                                  | 1 | 15 |
| 07/29/2008 | Complaint  | 1 | 0  |
| 07/25/2008 | Complaint revisions to DMK   | 0 | 30 |
| 07/24/2008 | Complaint, to MJB for OK   | 0 | 40 |
| 07/23/2008 | Complaint  | 0 | 45 |
| 06/10/2008 | L from R atty re: recent repayments by R                                   | 0 | 10 |
| 06/09/2008 | L from FISERV re no payment or contacts from R                             | 0 | 5  |
| 06/04/2008 | TC from R atty, reasons for R late payment to Gundersen et al              | 0 | 10 |
| 05/27/2008 | complaint  | 0 | 30 |
| 05/27/2008 | e mail insurer re: Ruud/Elder billings                                     | 0 | 10 |
| 05/27/2008 | TC Connie Petras, Gundersen Lutheran; payment from Elder; MM               | 0 | 20 |
| 05/14/2008 | e mail Laidlaw; TC Delta Dental; L to Fiserv finish                        | 0 | 30 |
| 05/13/2008 | Complaint, L to Fiserv draft   | 3 | 25 |
| 05/12/2008 | complaint  | 1 | 45 |
| 05/09/2008 | complaint  | 1 | 45 |
| 05/08/2008 | Complaint draft; C R atty in reception area                                | 5 | 0  |
| 05/07/2008 | complaint prep   | 2 | 30 |
| 03/31/2008 | TC R atty, C DMK   | 0 | 20 |

|            |  |   |    |
|------------|--|---|----|
| 02/12/2008 | C DMK, file review   | 0 | 30 |
| 02/11/2008 | complaint  | 1 | 15 |
| 01/21/2008 | TC Sullivan; status?   | 0 | 6  |
| 11/20/2007 | TC Sullivan, C DMK   | 0 | 25 |
| 10/22/2007 | TC R atty; please hurry; L tor R for insurance clearance?          | 0 | 12 |
| 10/17/2007 | file review  | 2 | 0  |
| 10/16/2007 | Review packet from R atty; schedule appointment with Yahnke; C DMK | 4 | 30 |
| 09/11/2007 | e mail from, to R atty; C DMK                                      | 0 | 20 |
| 08/23/2007 | C DMK  | 0 | 45 |
| 08/22/2007 | meet with R, R atty; travel  | 6 | 15 |
| 08/21/2007 | drive to LAX   | 2 | 45 |
| 08/20/2007 | meeting prep   | 1 | 0  |
| 08/15/2007 | E mail, TC R atty  | 0 | 20 |
| 08/14/2007 | L, FDO to R atty; e mail   | 1 | 0  |
| 08/08/2007 | C DMK, Revise FDO  | 1 | 15 |
| 08/07/2007 | Draft FDO, C DMK   | 3 | 0  |
| 07/20/2007 | C DMK, prep for L to Calif. DEB                                    | 0 | 15 |
| 07/18/2007 | e mails R atty, sked meeting                                       | 0 | 30 |
| 07/13/2007 | C DMK; L to R atty with Calif. license app                         | 0 | 40 |
| 07/12/2007 | e mail R atty re Calif app   | 0 | 5  |
| 07/11/2007 | C DMK re Calif app by R  | 0 | 10 |
| 07/10/2007 | Research Calif DDS app form  | 0 | 25 |
| 07/09/2007 | L from, e mail to R atty   | 1 | 30 |
| 07/02/2007 | C DMK  | 0 | 15 |
| 06/28/2007 | C DMK  | 0 | 15 |
| 06/26/2007 | TC to Sullivan, MM   | 0 | 15 |
| 06/21/2007 | C DMK; limits discussed  | 0 | 15 |
| 04/13/2007 | TC from R atty, MM   | 0 | 15 |
| 04/03/2007 | C DMK  | 0 | 10 |
| 03/20/2007 | C DMK  | 0 | 10 |
| 02/16/2007 | C DMK re strategy; status report                                   | 0 | 12 |
| 02/08/2007 | C DMK, focus   | 0 | 25 |
| 02/01/2007 | TC from R atty, MM, C DMK  | 0 | 40 |
| 01/31/2007 | TC R atty  | 0 | 15 |
| 12/06/2006 | TC R atty, MM  | 0 | 20 |
| 11/21/2006 | Filing, e mail DMK   | 0 | 10 |
| 11/20/2006 | inventory, brief review Box 2 of production                        | 3 | 0  |
| 11/17/2006 | MM DMK with L from R atty; TC R atty                               | 0 | 36 |
| 11/16/2006 | TC R atty, C DMK, MM   | 1 | 0  |
| 11/10/2006 | TC R atty; C DMK, MM   | 0 | 40 |
| 11/09/2006 | TC R atty; C DMK   | 0 | 40 |
| 11/03/2006 | E mails R atty, C DMK  | 1 | 0  |
| 11/02/2006 | L from R atty, C DMK, C Info Tech (JD Uhler), L R atty             | 1 | 0  |
| 10/27/2006 | TC R atty, C DMK   | 0 | 40 |
| 10/23/2006 | L from R atty  | 0 | 15 |
| 10/20/2006 | L to R atty, Cs DMK  | 3 | 30 |
| 10/17/2006 | e mail to DMK  | 0 | 5  |
| 10/16/2006 | E mail from DMK  | 0 | 20 |
| 10/12/2006 | General investigation prep   | 0 | 10 |
| 10/11/2006 | TC, MM TC R atty   | 2 | 0  |
| 10/10/2006 | e mails DMK  | 0 | 15 |
| 10/05/2006 | C DMK, C MJB   | 0 | 20 |
| 10/04/2006 | Subpoena prep, C DMK, room reservation                             | 1 | 10 |
| 10/02/2006 | Subpoena prep, C DMK   | 3 | 40 |
| 10/02/2006 | C DMK; e mails, L review   | 0 | 40 |
| 09/21/2006 | TC R atty  | 0 | 5  |
| 09/20/2006 | C DMK  | 0 | 6  |
| 09/15/2006 | Phone call from Elder, e mail Taylor                               | 0 | 10 |
| 08/30/2006 | TC R atty  | 0 | 15 |
| 05/31/2006 | TC R atty, mm, brief C DMK   | 0 | 20 |
| 05/03/2006 | L from R atty with affidavits; to DMK                              | 0 | 20 |
| 03/31/2006 | TC R atty, e mail Cs DMK   | 0 | 55 |
| 02/15/2006 | Cs DMK, direction and reports                                      | 0 | 33 |
| 02/13/2006 | File review; C DMK; TC, L and Fax Sullivan                         | 1 | 14 |
| 02/10/2006 | C DMK, planning  | 0 | 6  |
| 02/09/2006 | C DMK; file review; TC R atty, L R atty                            | 1 | 52 |
| 02/03/2006 | C DMK, plan and directions   | 0 | 15 |



TOTAL PROSECUTING ATTORNEY EXPENSE --- 290 HOURS AND 17 MINUTES  
(Based on their average salary and benefits at the Division of Enforcement)

HOURS MINUTES

TOTALS 290 17

AT \$61.00 PER HOUR = \$17,707.28

**EXPENSE SUMMARY**

|                              |                    |             |
|------------------------------|--------------------|-------------|
| PARALEGAL EXPENSE            | Steven Engelbrecht | \$275.50    |
| INVESTIGATOR EXPENSE         | Dawn Kalies        | \$4,722.65  |
| MISCELLANEOUS EXPENSE        | Jane Brischke      | \$3,592.25  |
| PROSECUTING ATTORNEY EXPENSE | James Polewski     | \$17,707.28 |
| TOTAL ASSESSABLE COST >>>    |                    | \$26,297.68 |

James E Polewski  
James Polewski, Attorney

Subscribed and affirmed to before me this  
7/23/2010

[Signature]  
Notary Public

My commission is permanent



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

---

In the Matter of Disciplinary Proceedings Against  
**JACK ELDER, D.D.S.**, Respondent

**AFFIDAVIT OF COSTS**  
DHA Case No. DRL-09-0004

---

Division of Enforcement Case No. 05 DEN 020

Robert G. Pultz, affirms the following before a notary public for use in this action, subject to the penalties for perjury in Wis. Stat. § 946.31:

1. I am an administrative law judge/attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Division of Hearings and Appeals. I served as the Administrative Law Judge in the above-captioned matter.

2. This affidavit sets forth the costs and expenses incurred in this matter based upon my contemporaneous time keeping entries in connection with the case.

|          |                        |             |
|----------|------------------------|-------------|
| 04/15/09 | File Review            | 6 Minutes   |
| 04/16/09 | Prehearing             | 30 Minutes  |
| 07/30/09 | Review & Reassign      | 6 Minutes   |
| 08/04/09 | Email                  | 24 Minutes  |
| 08/08/09 | File Review            | 18 Minutes  |
| 08/13/09 | Prehearing             | 30 Minutes  |
| 08/14/09 | File Review            | 60 Minutes  |
| 09/18/09 | File Review            | 30 Minutes  |
| 09/23/09 | File Review & Research | 60 Minutes  |
| 09/25/09 | File Review & Research | 90 Minutes  |
| 10/02/09 | Writing                | 90 Minutes  |
| 10/06/09 | Writing                | 60 Minutes  |
| 10/09/09 | File Review & Draft    | 120 Minutes |
| 10/16/09 | Research & Email       | 90 Minutes  |
| 10/20/09 | Writing                | 45 Minutes  |
| 11/06/09 | Telephone              | 30 Minutes  |
| 11/06/09 | Writing                | 30 Minutes  |
| 11/17/09 | Hearing, File Review   | 480 Minutes |
| 11/18/09 | Hearing, File Review   | 420 Minutes |
| 01/26/10 | Research & Writing     | 426 Minutes |

|          |                    |             |
|----------|--------------------|-------------|
| 01/27/10 | Research & Writing | 510 Minutes |
| 01/28/10 | Writing            | 300 Minutes |
| 01/29/10 | Writing & Editing  | 252 Minutes |

That upon information and belief the total assessable costs for the Division of Hearings and Appeals are as follows:

A. Administrative Law Judge: 53.45 hours at ~~\$61.00~~ per hour = \$3,260.45.

Dated this 9<sup>th</sup> day of August, 2010.

By: \_\_\_\_\_

Robert G. Pultz  
Administrative Law Judge  
Division of Hearings and Appeals

Subscribed and sworn to before me this  
9<sup>th</sup> day of August, 2010

James H. Richards  
NOTARY PUBLIC, STATE OF WISCONSIN  
MY COMMISSION EXPIRES ON \_\_\_\_\_.

