

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	ORDER FIXING COSTS
GERHARD WITTE, M.D.,	:	Order0000258
RESPONDENT.	:	DHA Case No. DRL-09-0030

On June 16, 2010, the Medical 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 June 22, 2010, the Medical Examining Board received the Affidavit of Costs in the amount of \$6,490.33, filed by Attorney Arthur Thexton. On or about June 24, 2010, the Medical Examining Board received the Affidavit of Costs of the Division of Hearings and Appeals in the amount of \$817.40, filed by Administrative Law Judge Amanda Tollefsen. The Medical Examining Board considered the Affidavits of Costs on August 18, 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 \$7,307.73, set forth in the Affidavits of Costs of Attorney Arthur Thexton and Administrative Law Judge Amanda Tollefsen, 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 September 17, 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 18th day of August, 2010.

MEDICAL EXAMINING BOARD

By: _____


Member of the Board



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

In the Matter of the Disciplinary Proceedings
Against **GERHARD WITTE, M.D.**, Respondent

AFFIDAVIT OF COSTS
Case No. DRL-09-0030

Division of Enforcement Case No. 05 MED 341

Amanda Tollefsen, 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 hearing.

8/5/09	Scheduled PHC and reviewed file (DAS)	12 minutes
8/27	File review, PHC (DAS)	30 minutes
9/3	PHC report (DAS)	12 minutes
1/7/10	Notice of Reassignment	6 minutes
1/11/10	File review, Aces tickler re. criminal trial	6 minutes
3/25/10- 3/26/10	e-mails regarding trial	12 minutes
4/26/10	File review	18 minutes
5/3/10	Research, Drafted Proposed Decision	4 hours
5/4/10	Research, Drafted Proposed Decision	6 hours
5/5/10	Completed Proposed Decision, etc.	1 hour, 48 minutes

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

A. Administrative Law Judge: 13.4 hours at \$61.00 per hour =
\$ 817.40.

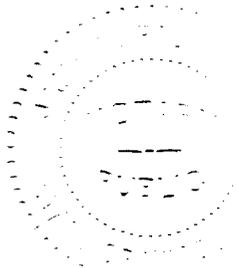
Dated this 24 day of June, 2010.

By: *Amanda Tully*
Amanda Tollefsen
Administrative Law Judge
Division of Hearings and Appeals

Subscribed and sworn to before me this
24th day of June, 2010

Jane L. Richard
NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES ON June 26, 2011

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

AFFIDAVIT OF COSTS

GERHARD WITTE

05 MED 341

RESPONDENT

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 --- Michelle Schram

DATE		HOURS	MINUTES
03/24/2010	discuss with attorney/watch outcome of trial	0	20
10/01/2009	check status and ccap for criminal case	0	10
08/25/2009	check status of criminal case	0	20
08/26/2008	check status of civil actions	0	10
05/27/2008	review news articles/review past legal issues/discuss with AKT	2	0
04/23/2008	check status of case	0	5
05/16/2007	check status	0	5
02/12/2007	check status/check CCAP	0	10
01/22/2007	check status	0	5
10/30/2006	review info from AKT	0	20
10/17/2006	obtain notice for AKT	0	10
10/16/2006	locate renewals notice discuss obtaining this document with L.Forrer	0	20
10/06/2005	pick up records/review e-mails and records	1	0
10/05/2005	meet with Atty Anderson/AKT & Dr. Burnett at DOC	1	30
10/04/2005	discussion with AKT re meeting/itinerary for tomorrow	0	12
10/03/2005	review information/discuss briefly with attorney Thexton	0	24

TOTAL INVESTIGATOR EXPENSE --- 7 HOURS AND 21 MINUTES
(Based on their average salary and benefits at the Division of Enforcement)

	HOURS	MINUTES
TOTALS	7	21

AT \$29.00 PER HOUR = \$213.15

MISCELLANEOUS EXPENSE --- Cortney Keo

DATE		COST
08/05/2008	Expert Costs - Kenneth Robbins (7/2/08)	\$1,500.00
07/10/2007	Expert Costs - Robert Factor, MD (5/31/07)	\$300.00

MISCELLANEOUS EXPENSE --- Jane Brischke

DATE		COST
09/21/2006	Verbatim Reporting, Limited (depo of Witte on 8/25/06)	\$221.85
04/17/2006	copy charge - Milwaukee County Mental Health	\$150.25

PARALEGAL EXPENSE --- Steven Engelbrecht

DATE		HOURS	MINUTES
05/29/2007	Copy documents for Dr. Robbins.	1	0
03/13/2007	Make copies of Amended Complaint. Mail copy of Amended Complaint to Atty. Harlowe.	0	30
08/25/2006	Reserve conference room for depo. Assist at, attend depo of Respondent. Make copies of Depo Exhibits for Atty. Harlowe.	2	15
07/26/2006	TC Waukesha state office building re: cancel reservation of conference room for July 28 depo.	0	15
07/12/2006	Telephone contact w/ Waukesha state office building reserved conference room for depo. Draft, send email to Atty. Thexton.	0	15

05/18/2006	Received signed, Certified Mail Return Receipt. Draft memo. Hand deliver memo and original, signed certified mail return receipt to ALJ, copy to Atty. Thexton.	0	30
04/25/2006	Have Affidavits of Service notarized. Draft memo. Hand deliver memo, and original notarized Affidavits of Service to ALJ, copy to Atty. Thexton.	0	30
04/24/2006	File complaint. Make copies of filed complaint. Make Pleadings file. Draft Affidavits of Service. Travel to post office, mail complaint to Respondent via Cert Mail Return Receipt Restrictred Delivery (N Wilshire Rd) and reg US Mail to 3 addresses.	2	0
04/13/2006	Copy documents. Attempt to locate PCF ltr to Respondent Dr. Witte. Make copies of complaint for Board. Add complaint to the agenda for MED Board's April 19 meeting.	0	30
10/19/2005	Review case file.	1	0
10/14/2005	Review case file.	2	30
10/13/2005	Review case file.	2	0
10/10/2005	Review case file.	1	0
10/07/2005	Review case file.	1	30
10/05/2005	Rec, reviewed email from Atty. Thexton. Assigned case. TC Milwaukee State Office Building re: reserve conference room. Review case file.	1	0

TOTAL PARALEGAL EXPENSE --- (Based on their average salary and benefits at the Division of Enforcement)	16 HOURS AND 45 MINUTES	HOURS	MINUTES
		TOTALS	16 45
AT \$29.00 PER HOUR = \$485.75			

PROSECUTING ATTORNEY EXPENSE --- Arthur Thexton

DATE		HOURS	MINUTES
06/22/2010	Rcv notice of MEB adoption of ALJ RDO, prep statement of costs and submit.	0	20
06/03/2010	Review tickler, e-mail Tom Ryan re: putting ALJ's RDO on Bd agenda.	0	10
05/14/2010	Rcv, review and reply to ltr from Respondent.	0	20
05/06/2010	Rcv, review and file ALJ RDO; tickle for objection deadline.	0	20
04/14/2010	Receive certified judgment of conviction. Ltr to ALJ enclosing same, with criminal complaint and deposition of Respondent (& exhibits). cc: Respondent.	0	30
04/05/2010	Rcv current address from DoC, finalize and send new surrender stip to Respondent.	0	20
04/02/2010	Prep to send surrender stip to Respondent; e-mail DoC for address.	0	20
03/24/2010	Monitor trial outcome, inform ALJ. E-mail ADA Shomin for certified copy of judgment.	0	20
01/05/2010	Review CCAP information, report to ALJ re: rescheduled criminal trial. Retickle for 3/22/10.	0	20
08/27/2009	Status conf with ALJ and Atty Boyle.	0	10
08/04/2009	Review press article re: competency determination; e-mail request for p/t to ALJ, cc Atty Boyle.	0	20
08/03/2009	Rcv notice of reassignment of ALJ; research status of criminal case on CCAP. E-mail ALJ Schwarz and Atty Boyle-Saxton.	0	20
04/30/2009	Status conf with ALJ and Atty Boyle.	0	10
04/22/2009	Review calendar and CCAP, e-mail ALJ and Atty Boyle re: status conf scheduling.	0	20
02/06/2009	Review Answer, defense witness list. Start marked pleadings.	1	0
02/06/2009	Status conf with ALJ and Atty Boyle.	0	10
01/22/2009	Status conf with ALJ and Atty Boyle.	0	20
12/05/2008	Review file, prep witness list and send.	0	40
11/17/2008	TC with Atty Boyle.	0	10
11/17/2008	Prehearing Conf with ALJ and Atty Boyle.	0	10
11/12/2008	Email from ALJ requesting times/dates for prehearing conf; consult schedule and respond. Rcv e-mail from Atty Boyle.	0	20
08/21/2008	Prepare discovery for Atty Boyle; cover ltr.	0	40
08/19/2008	Rcv and review releases and e-mail from Atty Boyle; e-mail Atty Berndt.	0	20
08/13/2008	TC w/ Atty Boyle.	0	20
07/31/2008	Review tickler, e-mail Atty Boyle.	0	10
07/09/2008	Rcv reply from Atty Boyle; update surrender stip and send to her.	0	40
07/08/2008	E-mail Atty Boyle re: representation issue.	0	10
06/02/2008	Rcv and review Criminal Complaint.	0	20
05/27/2008	Review news reports and CCAP; amend complaint and file. Forward news report to expert Dr. Robbins.	1	0
05/21/2008	Prep for TC with DoC Gen Counsel Anderson; conduct same.	1	30
05/13/2008	Rcv and review e-mails from Respondent. Review statutes, rules, OAG. Detailed reply. Notify Berndt. Notify DoC Counsel K. Anderson.	1	20
04/29/2008	Review and update stip; send to Dr. Witte.	0	30
04/29/2008	TC with Atty Harlowe re: withdrawal process.	0	10
04/29/2008	Status conf with ALJ and Atty Harlowe.	0	30
03/14/2008	Review tickler and file; e-mail ALJ and Atty Harlowe re: status conference.	0	20
02/13/2008	TC with Atty Harlowe and ALJ Black. Rcv e-mail from Atty Harlowe with ltr from Dr.; consent to hearing postponement	0	30
02/08/2008	TC with Atty Harlowe and Dr. Robbins re; hearing postponement.	0	10

Date	Description	Cost	Page
12/17/2007	Status conf with ALJ and Atty Harlowe; schedule hearing.	0	20
12/14/2007	Reschedule status conference; several e-mails over 2 days.	0	20
10/30/2007	Prep for and attend meeting with Atty Harlowe and Dr. Robbins. Revise and send stip draft to Atty Harlowe.	1	30
10/25/2007	Finalize meeting schedule w/ Atty Harlowe, Dr. Robbins.	0	10
10/23/2007	exchange scheduling e-mails with Dr. Robbins and Atty Harlowe.	0	10
10/19/2007	TC with Atty Harlowe; lv msg and e-mail for Dr. Robbins.	0	10
10/19/2007	Status conf with ALJ and Atty Harlowe.	0	20
10/12/2007	TC with Atty Harlowe.	0	10
08/16/2007	Status conf, mot. hearing, with ALJ and Atty Harlowe (includes waiting time).	0	40
08/01/2007	Memo re: bill above cap from expert Robbins.	0	20
07/30/2007	Rcv CA approval for stip. Finalize and send stip to Atty Harlowe.	0	30
07/30/2007	Rcv e-mail from CA. Assemble and send other materials to CA.	0	30
07/27/2007	Confer with Berndt; e-mail Atty Harlowe re: discovery disclosure to third persons. Assign new CA, and e-mail, Dr. Harter. Work on stip proposal.	1	0
07/25/2007	Exchange e-mails with Atty Harlowe.	0	20
07/24/2007	Rcv and review report. Consider options. Sent to Dr. Factor for review. Query Atty Harlowe re: bill from Dr. Robbins. Revise stip draft.	1	30
06/11/2007	Exchange e-mails with Dr. Robbins re: collateral infor from Dr. Burnett @ DoC.	0	10
05/25/2007	Prep for, meet with, follow up on meeting with Dr. Robbins.	0	50
05/23/2007	Arrange for expert Dr. Robbins to view documents and receive contract.	0	20
05/08/2007	Exchange several e-mails with ALJ and Atty Harlowe re: scheduling status conference.	0	10
04/26/2007	E-mail Atty Harlowe. Do expert memo, submit to Berndt.	0	40
04/24/2007	TC with Dr. Robbins.	0	20
04/23/2007	e-mail Atty Harlowe. Confer with Atty Zwieng.	0	20
04/22/2007	TC with expert Dr. Factor.	0	20
04/20/2007	P/T with ALJ and Atty Harlowe.	0	30
03/26/2007	Review and file Answer. E-mail Atty Harlowe re: 05 Med 323 complaint, send portion of file.	0	20
03/14/2007	Exchange e-mails with expert Dr. Factor re: exam of Respondent.	0	10
03/13/2007	Do and file Amended Complaint. Conduct p/t with ALJ and Atty Harlowe.	1	0
03/08/2007	Exchange several e-mails, schedule P/T with ALJ and Atty Harlowe.	0	20
02/26/2007	E-mail Dr. Factor re: proceeding with evaluation.	0	10
02/15/2007	TC with Atty Harlowe. Request 05Med323 from D. Petersen.	0	20
02/12/2007	Consider and draft surrender stip.	0	40
01/30/2007	Review CCAP. E-mail Atty Harlowe.	1	0
01/29/2007	Meet with Dr. Factor, review records.	2	0
01/09/2007	Exchange msgs/e-mail with Dr. Factor re: time to review charts.	0	10
12/06/2006	Rcv and review termination letter from DoC. Forward same to Atty Harlowe. rcv reply from Dr. Spiegel re: eval.	0	10
12/05/2006	Rcv and review reply from Dr. Factor. Confer with Atty Zwieng. Do expert memo, submit to Berndt. Confer with DoC Atty Anderson.	1	0
12/04/2006	TC with Atty Harlowe. E-mail Dr. Spiegel, e-mail Dr. Factor, re: evaluation processes.	0	20
11/27/2006	Review tickler, e-mail Atty Harlowe.	0	10
10/30/2006	Rcv CA approval, finalize and send stip to Atty Harlowe.	0	30
10/17/2006	Rcv and review renewal form signed by Respondent, revise stip accordingly.	0	20
10/16/2006	Review file; first draft of stip, request Inv. Schram to obtain CME statement from renewal form. Send stip draft for supervisory review.	2	0
08/25/2006	Prep and conduct depo of Respondent.	3	0
08/10/2006	Exchange series of e-mails w/ Atty Harlowe re: deposition scheduling.	0	20
07/26/2006	Rcv, review and file documents from DoC. TC with Atty Harlowe; reschedule depo, notify Ct. Rprtr. E-mail file documents to Atty Harlowe.	1	0
07/25/2006	Rcv notice that Atty Pitz will NOT represent Respondent.	0	10
07/21/2006	REview file, scan selected documents, e-mail to Atty Pitz with note.	0	20
07/21/2006	Rcv fax from Respondent, rcv msg from Atty Pitz. E-mail Atty Pitz with documents.	0	20
07/18/2006	Rcv, review and file faxes from Respondent. E-mail caption to deposition stenographer.	0	20
07/12/2006	Finalze and send Notice of Depo, obtain stenographer.	0	20
06/30/2006	Review file. Draft Notice of Depo, and arrange for same. Research CCAP.	1	0
05/23/2006	Rcv and review fax re: CME. Ltr in reply.	0	30
04/25/2006	Review Respondent's writings in MCBHD chart. Review affidavits of service, file. Send Complaint/NoH to Attys Lasker and Norman.	2	0
04/24/2006	Rcv. telephone msg from Respondent. Rcv approval from ALJ to use TBD language in Notice of Hearing. Finalize and sign, issue formal Complaint. Ltr to divorce attys re: CME records. E-mail DoC Atty Anderson.	1	0
04/19/2006	Request ALJ.	0	10
04/13/2006	Finalize Complaint and process for late addition to MEB agenda; obtain new copy of PCF letter and prep memo re: probable cause.	1	0

04/10/2006	Rcv and review records from MCBH. Review ch. 655, e-mail PCF. TC with PCF. Draft complaint. Confer with Berndt.	4	0
03/27/2006	Rcv CME ltr, returned by Post Office. Resend to indicated address.	0	10
03/17/2006	Request CME, request MCBH records. e-mail PCF.	0	50
01/24/2006	Exchange e-mails with Atty K. Anderson @ DoC.	0	20
10/05/2005	Meet with Atty Anderson & Dr. Burnett at DoC. Review arbitration decision. Draft Inv. Subp. TC's with Atty Lasker. E-mail S. Engelbrecht re: patient charts to obtain.	3	0
09/30/2005	Rcv file; e-mail Inv. Schram re: mtg with DoC.	0	20
09/28/2005	Rcv and forward complaint; review letter, confer with Berndt. Set up appointment with Atty Anderson @ DoC. [events occurred over 2 days]	1	0

TOTAL PROSECUTING ATTORNEY EXPENSE --- 59 HOURS AND 20 MINUTES

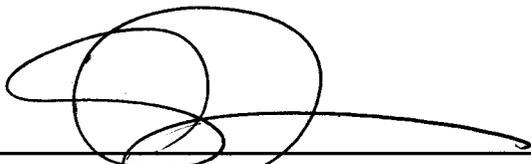
(Based on their average salary and benefits at the Division of Enforcement)

	HOURS	MINUTES
TOTALS	59	20

AT \$61.00 PER HOUR = \$3,619.33

EXPENSE SUMMARY

PARALEGAL EXPENSE	Steven Engelbrecht	\$485.75
INVESTIGATOR EXPENSE	Michelle Schram	\$213.15
MISCELLANEOUS EXPENSE	Jane Brischke	\$372.10
MISCELLANEOUS EXPENSE	Cortney Keo	\$1,800.00
PROSECUTING ATTORNEY EXPENSE	Arthur Thexton	\$3,619.33
TOTAL ASSESSABLE COST >>>		\$6,490.33



Arthur Thexton, Attorney

Subscribed and affirmed to before me this
6/22/2010



Notary Public

My commission is permanent