

FILED
05-03-2022
CIRCUIT COURT
DANE COUNTY, WI
2021CV003007

STATE OF
WISCONSIN

CIRCUIT COURT
BRANCH 8

DANE COUNTY

AMERICAN OVERSIGHT,

Petitioner,

v.

Case No. 21-CV-3007

Petition for Writ of Mandamus

Case Code: 30952

ASSEMBLY OFFICE OF SPECIAL COUNSEL,
ROBIN VOS, in his official capacity,
EDWARD BLAZEL, in his official capacity,
and WISCONSIN STATE ASSEMBLY,

Respondents.

**NOTICE OF MOTION AND MOTION TO DETERMINE
AND ORDER COSTS, FEES, AND DAMAGES**

TO: Assembly Office of Special Counsel
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Robin Vos,
Edward Blazel, and
Wisconsin State Assembly,
c/o Attorney Ronald Stadler
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PLEASE TAKE NOTICE that the Petitioner, American Oversight, moves the Court for its costs, fees, and statutory damages in this matter, pursuant to Wis. Stat. § 19.37(2) and the Court's Amended Scheduling Order (Doc. 209). This motion will be heard, as necessary, at a date and time to be decided by the Court. The grounds for the motion are more fully set forth in the Petitioner's Brief in Support of Motion to Determine and Order Costs, Fees, and Damages, and its supporting Affidavits, which are filed herewith.

WHEREFORE, Petitioner requests that the Court award \$88,764.22 in attorneys fees and costs related to the Court's merits determination, and require Respondents Assembly Office of Special Counsel, Robin Vos, and the Wisconsin State Assembly to each pay \$100 in damages pursuant to Wis. Stat. § 19.37(2).

Respectfully submitted this 3rd day of May, 2022.

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Counsel for Petitioner American Oversight

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STATE OF WISCONSIN CIRCUIT COURT
BRANCH 8

DANE COUNTY

AMERICAN OVERSIGHT,

Petitioner,

v.

Case No.: 21-CV-3007
Petition for Writ of Mandamus
Case Code: 30952

ASSEMBLY OFFICE OF SPECIAL COUNSEL,
ROBIN VOS, in his official capacity,
EDWARD BLAZEL, in his official capacity,
and WISCONSIN STATE ASSEMBLY,

Respondents.

**BRIEF IN SUPPORT OF MOTION TO DETERMINE
AND ORDER COSTS, FEES, AND DAMAGES**

Pursuant to the Amended Scheduling Order entered in this case (Doc. 209),
Petitioner American Oversight has moved this Court to determine and order the amount of
Petitioner's fees and costs to be paid by Respondents Assembly Office of Special Counsel
("OSC"), Robin Vos ("Vos"), and the Wisconsin State Assembly ("Assembly"),
collectively, "Respondents." For the reasons set forth below, the Court should award
\$88,764.22 in attorneys fees and costs related to the Court's merits determination,¹ and
require the Respondents each to pay \$100 in damages.

¹ Per the Court's direction at the April 26, 2022, status conference, Petitioner only seeks at this time its costs and fees leading up and related to the Court's March 2, 2022, order on the merits and the March 8, 2022, order denying the stay pending appeal. Petitioner understands it may seek costs and fees related to its Motion to Modify the Court's Order (Doc. 194) and its Motion for Temporary Injunction (Doc. 195), and Respondents' non-compliance with prior Court orders at a future time.

BACKGROUND

American Oversight filed a petition for writ of mandamus against Respondents and Assembly Chief Clerk Edward Blazel (“Blazel”) on December 20, 2021, to obtain records regarding the Assembly’s investigation of the 2020 election. (Doc. 5.) Petitioner also sought and obtained an alternative writ of mandamus, which the Court signed the next day. (Doc. 42.) Respondents subsequently moved to quash the writ, and the Court denied their motions, except as to Blazel, after a hearing and in camera review of the records. (Docs. 165, 177.) The Court also determined that Petitioner prevailed against Respondents and accordingly was entitled to costs, fees, and damages pursuant to Wis. Stat. § 19.37(2). (Doc. 165 at 46-51.)

ARGUMENT

Petitioner asks the Court to determine its reasonable attorneys costs and fees in the amount of \$87,584.00 and other actual costs of \$1180.22 and award such costs and fees in the total amount of **\$88,764.22**, along with \$100.00 in statutory damages per Respondent.

I. The Court Should Award Petitioner’s Full Fees and Costs.

A. The Court Should Rely on the Lodestar for a Reasonable Fee.

The Wisconsin Open Records law provides that prevailing parties shall receive “reasonable attorney fees, damages of not less than \$100, and other actual costs to the requester.” Wis. Stat. § 19.37(2)(a). Under fee-shifting statutes like the Open Records law, Wisconsin courts typically employ the lodestar method—multiplying an attorney’s reasonable hourly rate by a reasonable number of hours worked—to calculate a fee award. *Meinecke v. Thyges*, 2021 WI App 58, ¶ 23, 399 Wis. 2d 1, 963 N.W.2d 816; *see also State ex rel. Buswell v. Tomah Area Sch. Dist.*, 2007 WI 71, ¶¶ 53-54 & n.13, 301 Wis. 2d 178, 732

N.W.2d 804 (stating, in Open Meetings law case, that “[t]he appropriate award of attorney fees is determined by the ‘lodestar’ methodology”) (citing *Anderson v. MSI Preferred Ins. Co.*, 2005 WI 62, ¶ 39, 281 Wis. 2d 66, 697 N.W.2d 73).

Under the lodestar, the circuit court must first multiply the reasonable hours expended by a reasonable rate. *Anderson v. MSI Preferred Ins. Co.*, 2005 WI 62, ¶ 39, 281 Wis. 2d 66, 697 N.W.2d 73. Second, the circuit court may adjust the fee awarded up or down using the fifteen factors in Wis. Stat. § 814.045(1). *Id.*; see also *McConley v. T.C. Visions, Inc.*, 2016 WI App 74, ¶ 5 & n.2, 371 Wis. 2d 658, 885 N.W.2d 816. Wis. Stat. § 814.045(1) incorporates the factors for charging a reasonable fee in SCR 20:1.5. *Stanley Walter Septic Tank Cleaning, LLC v. Mack Trucks Inc.*, Case No. 12-CV-0317, 2015 WL 1932059, *1, Slip Op. at 3 (E.D.Wis. April 28, 2015) (applying Wis. Stat. § 814.045 to fee award under Wisconsin law).² Other cases have looked to the eight factors in SCR 20:1.5 for guidance in adjusting a fee award. *Kolupar v. Wilde Pontiac Cadillac, Inc.*, 2004 WI 112, ¶ 24, 275 Wis. 2d 1, 683 N.W.2d 58 (hereinafter, “*Kolupar I*”); see also *Meinecke*, 399 Wis. 2d 1, ¶ 23 & n.9. Utilizing these factors “reinforces the circuit court’s discretion to set an award within a range of reasonableness and at the same time injects the exercise of that discretion with objectivity and uniformity.” *Kolupar I*, 275 Wis. 2d 1, ¶ 30.

There is a “strong presumption that the lodestar is sufficient” because it “includes most, if not all, of the relevant factors.” *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 553-54, 120 S.Ct. 1662, 1673 (2010). “[I]f an hourly rate or the number of hours worked is reduced, a clear explanation must be provided”; the court should avoid “eyeballing” a fee request and arbitrarily reducing it without evidence to support the reduction.” *Crawford*

² A copy of this decision is attached hereto as **Attachment A**.

County v. Masel, 2000 WI App 172, ¶ 16, 238 Wis. 2d 380, 617 N.W.2d 188 (rejecting circuit court's reduction of attorney billing rate) (internal quotation marks and citations omitted).

B. Petitioner's Lodestar Amount is Documented and Reasonable

The attorneys fees and cost sought in this case are reasonable, constitute the actual and necessary costs of prosecuting this case under Wis. Stat. § 19.37(2), and should be awarded in full, if not increased.

Beginning with the lodestar, Petitioner has documented its attorneys' hourly rate and time expended, as well as their costs. *Kolupar I*, 275 Wis. 2d 1, ¶ 31 (stating that attorneys seeking fee awards should submit evidence supporting the hours worked and rates claimed). (Affidavit of Christa O. Westerberg in Support of Motion to Determine Costs, Fees, and Damages ("Westerberg Aff."), ¶¶ 7-9, Ex. A; Affidavit of Sarah M. Colombo ("Colombo Aff."), ¶¶ 4, 6, Ex. A.)

Petitioner's Wisconsin counsel has predominantly billed this matter at a market or below-market market hourly rate. Rates charged have ranged from \$200/hour for associates to \$500/hour for partners, with most time incurred at rates of \$325 and \$275/hour, as well as \$150/hour for paralegals. These rates are well within and somewhat below what they have received in settlements and judgments in similar cases. (Westerberg Aff., ¶¶ 14, 15.) These rates are also comparable to those charged by other attorneys doing similar work. (*Id.*; Affidavit of James A. Friedman ("Friedman Aff."), ¶¶ 11, 12.)

Wisconsin counsel's time was recorded as the case has progressed using normal billing procedures and is attached in invoice format to the Westerberg Affidavit. (Westerberg Aff., ¶¶ 7-9, Ex. A.) Pines Bach has exercised billing judgment, excluding time from the invoices that could be potentially construed as duplicative, excessive, or unrelated,

in the amount of at least \$1,600. (*Id.* ¶ 8.) The invoice has also been modified for clarity and to exclude potentially privileged material. (*Id.*)

American Oversight's in-house counsel have also performed substantial work on this case. For example, American Oversight's attorneys have in many cases done the majority of the research for and drafting of the briefs and other written submissions. (*Compare* *Westerberg Aff., Ex. A, with Colombo Aff., Ex. A.*) Thus, while multiple attorneys worked on this case, attorneys did not perform duplicative tasks. American Oversight's attorney time was recorded as the case has progressed using normal billing procedures and is attached in PDF spreadsheet format to the Colombo Affidavit. (*Colombo Aff., ¶ 4, Ex. A.*) American Oversight has exercised billing judgment, excluding time that could be potentially construed as duplicative, excessive, or unrelated, as well as time for its supervising attorneys. (*Id.* ¶¶ 4, 5.)

The Court did direct that Petitioner's bill of costs exclude "any costs incurred with respect to Edward Blazel" (Doc. 165 at 51) but American Oversight did not incur any specific costs related to this respondent and did not, for practical reasons, track time on a per-respondent basis. (*See* *Westerberg Aff., ¶ 10; Colombo Aff., ¶ 7.*) The allegations related to Blazel were the same as those made with respect to Vos and the Wisconsin Assembly. (*See* Doc. 5, ¶¶ 71-82.) Vos, the Assembly, and Blazel appear to have acknowledged this fact as they responded to Petitioner's claims collectively. (*See generally* Doc. 111.)³

³ The only argument in Vos, the Assembly, and Blazel's amended motion to quash that relates to an individual Respondent is related to Vos. (*See* Doc. 111 at 15.) In their reply, Respondents added a footnote arguing that "Vos and Blazel are not parties to the contract" (Doc. 151 at 4 n.1 (emphasis added)) but Petitioner had already submitted its briefing on the Respondents' motion to quash and did not spend any time responding to that argument as it specifically related to Blazel.

Moreover, in evaluating appropriate fee awards in situations such as this, courts recognize that it is not practical to divide counsel's time on a claim-by-claim basis. *See Hensley v. Eckerhart*, 461 U.S. 424, 435, 103 S. Ct. 1933, 1941 (1938) (recognizing that "claims for relief will involve a common core of facts or will be based on related legal theories. Much of counsel's time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis. Such a lawsuit cannot be viewed as a series of discrete claims."); *see also, e.g., Elec. Privacy Info. Ctr. v. U.S. Dep't of Homeland Sec.*, 999 F. Supp. 2d 61, 76 (D.D.C. 2013) ("limited defeats" are not sufficient to reduce fee award). Instead, in considering cases with intertwined or overlapping claims, courts "should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation." *Hensley*, 461 U.S. at 435, 103 S. Ct. at 1941.

As explained below, the results achieved in this litigation were "excellent" and as such American Oversight's attorneys "should recover a fully compensatory fee." *Id.*; *see also Racine Unified Sch. Dist. v. Lab. & Indus. Rev. Comm'n*, 164 Wis. 2d 567, 609, 476 N.W.2d 707, 724 (Ct. App. 1991) (quoting *Hensley*). In these circumstances—and in particular because the time spent on work related specifically to Blazel was negligible—"the fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit." *Hensley*, 461 U.S. at 435; *see also Elec. Privacy Info. Ctr.*, 999 F. Supp. 2d at 76 (explaining that the court will not perform "judicial microsurgery" even if possible, where it ruled against the plaintiff with respect to one of the seven documents sought and the controversy over each document was "entirely overlapping"); *Judicial Watch, Inc. v. U.S.*

Dep't of Justice, 774 F. Supp. 2d 225, 234 (D.D.C. 2011) (refusing to reduce lodestar fee amount even where plaintiff obtained less than a quarter of the documents sought).

With these adjustments and considerations, the lodestar analysis produces total fees and costs to date of \$88,764.22. (Westerberg Aff., ¶ 9, Ex. A; Colombo Aff., ¶ 6, Ex. A.)

This amount is reasonable given the case, outcome, and nature of the litigation.

(Westerberg Aff., ¶¶ 8-16; Friedman Aff., ¶¶ 12-15.) Some of the time incurred was for preparing this brief and accompanying documents, activities for which fees and costs may be collected. *Bettendorf v. Microsoft Corp.*, 2015 WI App 13, ¶ 28, 323 Wis. 2d 137, 779 N.W.2d 34 (recognizing plaintiffs may collect “fees on fees,” or fees necessary to prosecute a fee claim). Petitioner reserves the right to supplement this fee petition with additional time required to prepare this motion, and review and reply to Respondents’ filings.

C. The Factors in Wis. Stat. § 814.045(1) Support Petitioner’s Lodestar Request

The factors in Wis. Stat. § 814.045(1)⁴ support a full award of Petitioner’s fees and costs as reflected in the lodestar. Petitioner discusses these factors in turn.

⁴ The factors are:

- (a) The time and labor required by the attorney.
- (b) The novelty and difficulty of the questions involved in the action.
- (c) The skill requisite to perform the legal service properly.
- (d) The likelihood that the acceptance of the particular case precluded other employment by the attorney.
- (e) The fee customarily charged in the locality for similar legal services.
- (f) The amount of damages involved in the action.
- (g) The results obtained in the action.
- (h) The time limitations imposed by the client or by the circumstances of the action.
- (i) The nature and length of the attorney's professional relationship with his or her client.
- (j) The experience, reputation, and ability of the attorney.
- (k) Whether the fee is fixed or contingent.
- (L) The complexity of the case.
- (m) Awards of costs and fees in similar cases.
- (n) The legitimacy or strength of any defenses or affirmative defenses asserted in the action.

The time and labor required by the attorney. As discussed above, Petitioner's time and labor have been documented and are provided herewith, with any potentially excessive time already removed. (Westerberg Aff., ¶¶ 7-9, Ex. A; Colombo Aff., ¶¶ 4-6, Ex. A.). The time expended is reasonable for a case of this duration and nature, where time was front-loaded due to the nature of the case as a petition for writ of mandamus, which Respondents moved to quash. Multiple motions were filed by all parties, particularly OSC, which all required time to prepare and respond to. (*E.g.*, Westerberg Aff., ¶¶ 11-12.) This factor supports Petitioner.

The novelty and difficulty of the questions involved in the action. The case involved some novel issues related to the Open Records law, particularly OSC's arguments regarding legislative authority and contractors. While easily dismissed (*e.g.*, Doc. 165 at 15-21), they and more straightforward arguments were fact-intensive and required substantial briefing. This factor supports Petitioner.

The skill requisite to perform the legal service properly. The skill requisite to perform the legal services properly is essentially reflected in the lodestar. Litigation under the Open Records law benefits from experienced practitioners who are familiar with the body of case law interpreting Wis. Stat. §§ 19.31-37. Wisconsin counsel for Petitioner is experienced in Open Records and Open Meetings law litigation (Westerberg Aff. ¶¶ 4-6), while American Oversight's counsel has substantial experience under analogous laws like the U.S. Freedom of Information Act ("FOIA") and other states' open records laws

(p) Other factors the court deems important or necessary to consider under the circumstances of the case.

(Colombo Aff., ¶¶ 3, 10-13). Less experienced practitioners may bill at a lower rate, but they would have likely expended considerably more time researching the law to generate a product less helpful to the Court. This factor supports Petitioner.

The likelihood that the acceptance of the particular case precluded other employment by the attorney. Counsel's work on this case necessarily precluded other work for the same number of hours indicated in the attachments to the Westerberg and Colombo affidavits. This factor supports Petitioner.

The fee customarily charged in the locality for similar legal services. The fees incurred by Petitioner are highly reasonable in light of fees customarily charged for similar services, both in Dane County, in the statewide market for Open Records enforcement litigation, and in the nationwide market for open records and FOIA litigation. (Westerberg Aff., ¶¶ 14-16; Friedman Aff., ¶¶ 11-15; Colombo Aff., ¶¶ 8-9.) This factor supports Petitioner.

The amount of damages involved in the action. The amount of damages is inapplicable here, because the Open Records law does not provide for substantial individual damages. Wis. Stat. § 19.37. But fee shifting statutes are meant to encourage plaintiffs to assert their rights under the law "even when the costs of litigation exceed the value of the action." *Kolupar II*, 303 Wis. 2d 258, ¶ 55. Suits under the Open Records law confer a non-monetary benefit by providing an "incentive to others to protect the public's right to open meetings and [deterring] governmental bodies from skirting the law." *See Buswell*, 301 Wis. 2d 178, ¶¶ 53 & n.13; *see also WTMJ, Inc. v. Sullivan*, 204 Wis. 2d 452, 462, 555 N.W.2d 140, 144 (Ct. App. 1996) (citing policy reasons for fee-shifting under Open Records law). This factor supports Petitioner.

The results obtained in the action. The results obtained support Petitioner, who brought two Open Records claims—one against the OSC, and one against Vos, the Wisconsin Assembly, and Blazel—and prevailed on both. (Doc. 5, ¶¶ 60-82; Doc. 165.) While the Court did quash the writ as to Edward Blazel, this was a negligible part of the case. The Court’s orders led to Vos (finally) responding to Plaintiff’s Open Records requests, a finding of liability against the Assembly for failing to produce the records of its non-authority contractors, and an order to OSC to produce records, in response to which it provided over 700 pages of records in the first-ever Assembly investigation of a presidential election. (Doc. 110; Doc. 165 at 50-51; Doc. 177.) The results obtained in this case have promoted the “greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them” and this factor supports Petitioner. Wis. Stat. § 19.31.

The time limitations imposed by the client or by the circumstances of the action. As noted above, this case was front-loaded in terms of the amount of labor involved, as the Court quickly signed, and the Respondents quickly opposed, the alternative writ of mandamus. The time between the case filing and the Court’s March 8, 2022, final order was less than three months, with several motions and hearings occurring in the interim. (Westerberg Aff., ¶¶ 11-13.) This factor supports Petitioner.

The nature and length of the attorney’s professional relationship with his or her Client. Pines Bach has been representing American Oversight since last year on three open records cases involving the election investigation. (Westerberg Aff., ¶ 7; *see also* Dane County Case Nos. 21-CV-2440, 21-CV-2521.) It would be difficult for a different firm to

educate itself on the related facts of these cases and represent American Oversight without significant additional cost. This factor supports Petitioner.

The experience, reputation, and ability of the attorney. The experience, reputation, and ability of Petitioner's legal counsel is discussed in the affidavits filed herewith and again supports Petitioner. (*See* Westerberg Aff., ¶¶ 2-6; Colombo Aff., ¶¶ 10-13.)

Whether the fee is fixed or contingent. This case was litigated neither on a fixed nor contingent fee basis, and this factor is therefore neutral. (Westerberg Aff., ¶ 11.)

The complexity of the case. This case was substantively complex based on the sheer number of issues raised by Respondents, and was factually intensive and intensively litigated, requiring extensive briefing that supports the fee award. (*See* Westerberg Aff., ¶¶ 11-13.)

Awards of costs and fees in similar cases. Petitioners' lodestar calculation is comparable to awards of costs and fees in similar cases. (*See* Westerberg Aff., ¶ 16; Friedman Aff., ¶ 15, Colombo Aff., ¶ 9.)

The legitimacy or strength of any defenses or affirmative defenses asserted in the action. Respondents did not litigate any affirmative defenses in this case except for OSC's initial service objection, which it eventually abandoned on January 26, 2022 (Doc. 116)—though not before Petitioner spent significant time preparing for an evidentiary scheduled on the issue the next day (Westerberg Aff., ¶ 12). Most of Respondents' so-called affirmative defenses were really merits objections, which the parties fully litigated. (*See* Doc. 140 at 8.) This factor supports Petitioner.

Other factors the court deems important or necessary to consider under the circumstances of the case. While not explicitly noted as a factor under Wis. Stat. § 814.025, the Court should consider the purpose of the Open Records law in setting a fee award. *See Buswell*, 301 Wis. 2d 178, ¶ 53 & n.13 (“Awarding attorney fees to Buswell will provide an incentive to others to protect the public’s right to open meetings and to deter governmental bodies from skirting the open meetings law.”); *see also WTMJ*, 204 Wis. 2d at 462 (citing policy reasons for fee-shifting under Open Records law).

Based on the lodestar, the factors in Wis. Stat. § 814.045(1), and the objectives of the Open Records law, Petitioner should be awarded its full requested costs of prosecution and reasonable attorneys fees.

II. The Court Should Award \$100 in Statutory Damages Against Each Respondent.

In addition to attorneys fees and costs, the Open Records law commands that a prevailing requester must receive “damages of not less than \$100,” Wis. Stat. § 19.37(2)(a). Such damages are mandatory. *Meinecke*, 399 Wis. 2d 1, ¶ 10. This is in addition to the \$1,000 in punitive damages that the Court has already awarded against Respondents (Doc. 165 at 51), and which remains outstanding.

Here, the Petitioner does not seek damages above the \$100 in statutory damages, and thus asks the Court to assess \$100 in damages against each Respondent, for a total of \$300.00.

CONCLUSION

For the reasons stated above, Petitioner requests that the Court award it attorneys fees and costs in the amount of \$88,764.22 and damages in the aggregate amount of \$300.00.

Dated this 3rd day of May, 2022.

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**Appearing Pro Hac Vice*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STANLEY WALTER SEPTIC
TANK CLEANING, LLC,

Plaintiff,

v.

Case No. 12-C-0317

MACK TRUCKS INC.,

Defendant.

DECISION AND ORDER GRANTING IN PART AND DENYING IN PART MOTION
FOR JUDGMENT, COSTS, AND ATTORNEY'S FEES (DOC. 84)

In this case, the jury found that Mack Trucks Inc. violated Wis. Stat. § 218.171 and it was not impossible for Mack to have supplied a replacement vehicle for Stanley Walter Septic Tank Cleaning, LLC's lemon within the statutory thirty-day deadline. Prior to trial, the parties stipulated that if the jury found in Stanley Walter's favor, its damages would equal \$113,193.00 (the vehicle's purchase price) plus collateral costs of \$293.64 and "[r]easonable attorney's fees and costs to be determined by the court." (Doc. 15, ¶ 7.) Stanley Walter now moves for an award of those additional costs and attorney's fees, plus prejudgment interest.

Mack does not object to Stanley Walter's costs or contend that some of its attorney's fees are warranted. Instead, it opposes an award for prejudgment interest and contends that the court should award attorney's fees in an amount that is substantially lower than requested.

A. Statutory Costs

In its brief, Stanley Walter lists certain statutory costs it is seeking under Wis. Stat. § 814.01, such as the filing fee, service fees, witness fees, and deposition transcript costs. Mack does not object to these amounts which the court finds reimbursable. Therefore, \$3,760.45 in statutory costs will be awarded as requested.

B. Litigation Costs

Citing Wisconsin case law, Stanley Walter seeks additional costs such as a witness search fee, mileage, and parking charges, contending payment of these expenses will make it whole. Again, Mack does not object. Therefore, the court will award \$1,907.74 to Stanley Walter in litigation costs as requested.

C. Attorney's Fees

As required by Wis. Stat. § 218.0171(7) and as agreed by Mack, Stanley Walter, as the prevailing party, is entitled to reasonable attorney's fees. However, the parties disagree as to what constitutes "reasonable" fees in this case.

The attorney's fees issue in this case is determined by Wisconsin law; neither party suggests otherwise. In Wisconsin, a reasonable fee award is determined using the lodestar methodology, i.e., beginning by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate. *Stuart v. Weisflog's Showroom Gallery, Inc.*, 2008 WI 22, ¶ 45, 308 Wis. 2d 103, ¶ 45, 746 N.W.2d 762, ¶ 45; *Kolupar v. Wilde Pontiac Cadillac, Inc.*, 2004 WI 112, ¶¶ 24–30, 275 Wis. 2d 1, ¶¶ 24–30, 683 N.W.2d 776, ¶¶ 24–30. The court may adjust the numbers upward or downward based on Wisconsin Supreme Court Rule 20:1.5(a). *Stuart*, 2008 WI 22, ¶ 45; *Kolupar*, 2004 WI 112, ¶¶ 24–30. In 2001, the Wisconsin legislature enacted Wis. Stat. § 814.045 to provide

guidelines for determining reasonableness of attorney's fees under fee-shifting statutes like the Wisconsin Lemon Law. The factors set forth in § 814.045(1) include those set forth in Wisconsin Supreme Court Rule 20:1.5(a), *compare* Wis. Stat. § 814.045(1) *with* Wis. S. Ct. Rule 20:1.5(a), which have been used by prior courts in determining reasonableness of fees. Those factors include, among others, the time and labor required, the novelty and difficulty of the questions involved, the skill necessary to perform the legal service properly, the likelihood that this particular employment precluded other employment by the lawyer, the fee customarily charged in the locality for similar services, the amount involved, the results obtained, the experience of the lawyer, whether the fee was fixed or contingent, and the fee awards in similar cases. The goal is to "determine what the lawyer would receive if he were selling his services in the market rather than being paid by court order." *In re Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 568 (7th Cir. 1992); *James Michael Leasing Co. v. PACCAR, Inc.*, No. 110C-0747, slip op. at 5-6 (E.D. Wis. Oct. 24, 2013) (Adelman, J.). And because of the delay in payment, counsel should be compensated at the present rate rather than the rate when the work was performed. *See Missouri v. Jenkins*, 491 U.S. 274, 282–84, 109 S. Ct. 2463 (1989). Hence, the court has discretion in fashioning a reasonable attorney's fee award. *Kolupar*, 2004 WI 112, ¶ 22.

In the initial motion documents, Stanley Walter asks for an award of the following fees:

Attorney/Paralegal	Hours	Rate	Total
Vincent Megna	123.10	\$395.00	\$48,624.50
Vincent Megna (trial)	19.50	\$415.00	\$8,092.50
Timothy Aiken	12.75	\$490.00	\$6,247.50
Susan Grzeskowiak	363.75	\$345.00	\$125,493.75
Susan Grzeskowiak (trial)	20.45	\$365.00	\$7,464.25
Erin Kandziora	43.80	\$155.00	\$6,789.00
TOTAL	583.35		\$202,711.50

In its reply brief, Stanley Walter seeks payment of additional fees for work conducted subsequent to the initial fee application:

Attorney/Paralegal	Hours	Rate	Total
Vincent Megna	1.30	\$395.00	\$513.50
Timothy Aiken	0.75	\$490.00	\$367.50
Susan Grzeskowiak	17.85	\$345.00	\$6,158.25
Erin Kandziora	0.95	\$155.00	\$147.25

Mack objects regarding both parts of the lodestar calculation contending that the hourly rates of all individuals are unreasonably high and that the number of hours claimed for various tasks are unreasonably excessive. Additionally, Mack maintains that Stanley Walter's attorneys overstaffed the case and billed for tasks that could have been assigned to administrative assistants.

The court has reviewed both parties' briefs and affidavits and concludes that the non-trial rates of Stanley Walter's attorneys are reasonable. Stanley Walter's counsel indicates that those rates are his firm's standard hourly billing rates for automobile warranty

enforcement cases.¹ (Doc. 86, ¶ 9.) And in light of Wis. Stat. § 814.045(1), no downward adjustment will be made. Stanley Walter's attorneys are experienced Lemon-Law litigators, with the skill and ability necessary to litigate and try such cases and with prior knowledge that may have saved time. This case involved novel issues respecting an impossibility defense, a specialty made-to-order vehicle, the time frame for delivering a replacement vehicle when the manufacturer could not possibly provide a replacement within thirty days, and possible frustration or interference with replacement by the consumer. (As noted by this court in its summary judgment decision, no Wisconsin cases had dealt specifically with the theory of impossibility in providing a comparable replacement vehicle within the statutory period.) Damages recoverable for a Mack Truck exceeded those recoverable for an average consumer's vehicle (such as a mass-produced sedan). Stanley Walter's attorneys obtained a good result for their client. And, importantly, they say they took the case on a contingency basis, meaning that they bore not only a risk of no recovery but also the burden of a significant delay in any payment.

Also, importantly, these attorneys' fees are in line with fees customarily charged in this locality for similar services by comparable attorneys, as exhibited by the affidavits and cases submitted by Stanley Walter. Megna has been licensed to practice since 1973 and has been representing consumers in automobile litigation since 1990. (Doc. 86, ¶¶ 11, 12.) Grzeskowiak has been licensed since 1998 and has concentrated her practice in automobile litigation since 2000. (*Id.*) Attorney Lawrence Alan Towers, who has practiced for over twenty years and whose practice in the Milwaukee area is largely concentrated in

¹Mack contends that Stanley Walter should have to present a fee agreement with some client to meet its burden of proof as to its rates (see Doc. 96 at 8), but the court does not find that more than Megna's affidavit is required.

Lemon Law and automobile warranty litigation indicates that his hourly billing rate is \$350 per hour, comparable to Grzeskowiak's rate. (See Doc. 88.) Attorney Todd Gadtke, who is licensed to practice in Minnesota and Wisconsin and has handled numerous Lemon Law cases since 1998, charges \$375 per hour, a rate between Grzeskowiak's and Megna's rates. (See Doc. 89.) Attorney Gadtke's paralegal for Lemon Law cases bills at a rate of \$165 per hour. (See Doc. 89, ¶ 7.)

In 2010, Judge Michael Bohren of the Waukesha County Circuit Court approved non-trial rates of Megna and Grzeskowiak at \$340 and \$295, respectively, \$450 per hour for Aiken, and \$105 for a paralegal at their firm. Five years of inflation have occurred since that award. (Doc. 86 Ex. F.) In 2011, Judge Foust in Dane County Circuit Court approved hourly non-trial rates of \$355 for Megna, \$310 for Grzeskowiak, and \$400 for Aiken, and trial rates of \$345 for Grzeskowiak and \$500 for Aiken. (Doc. 86 Ex. I.) In October 2013, Judge Adelman approved hourly fees of \$375 for Megna, \$340 for Grzeskowiak, and \$125 for their paralegal. (Doc. 86 Ex. G.) And in September 2014, Judge Raymond Huber of the Waupaca County Circuit Court approved hourly rates of \$395 for Megna, \$345 for Grzeskowiak, and \$155 for paralegal Kandziora—the same as sought in this case—and \$400 per hour for Aiken. (Doc. 86 Ex. H.) Though Aiken's sought-after rate in this case is \$90 per hour higher than that approved by Judge Huber, he is a named partner at his firm; has over thirty years of experience as an attorney in the Milwaukee area, concentrating on plaintiff's litigation; and defendants in at least two prior cases stipulated to non-trial rates of \$450 (in 2008) and \$475 (in 2010). Judge Bohren approved \$450 per hour (in 2010). Consequently, this court finds Aiken's sought-after rate is in line with prior awards and with the rates of other senior partner attorneys in Milwaukee.

Mack contends that its attorney charged only \$200 per hour. But Mack's attorney did not face the risk of no payment if he lost the case, and did not necessarily endure a delay in payment for over three years. In *James Michael Leasing Co.*, slip op. at 8 n.5, Judge Adelman rejected a similar argument by Mack's counsel when his rate was \$225 per hour—higher than in this case. Further, it may well be that Lemon-Law defense attorneys charge lower than a market rate to persuade vehicle manufacturers to use their firm again, whereas Lemon-Law plaintiffs may not be repeat clients for their attorneys.

With due regard for the discussion set forth above, the court finds that the non-trial rates of Stanley Walter's attorneys and paralegal are reasonable. However, the court has not been provided any information that supports payment of a higher fee for trial work. Therefore, the court will award fees based on the lower rate.

Next, Mack contends that the hours billed are excessive, in particular that attorneys duplicated work, spent an "astounding" amount of time on the case (Doc. 96 at 9), and billed for work that could have been assigned to non-billable staff. According to Mack, two attorneys at trial were unnecessary. Also, says Mack, Aiken's hours should not be paid at all, as Megna and Grzeskowiak could have handled the case themselves.

The court rejects the bulk of Mack's arguments. Staffing trial with two attorneys was reasonable. Such staffing is common in cases that have been tried in this court. Also, because Megna and Grzeskowiak were trying the case, their joint attendance at pretrial conferences or mediation was not unreasonable. Moreover, Stanley Walter's attorneys may have presented a better case together (through prepping and focusing on particular witnesses, for instance) than if only one attorney staffed the trial. The issues in the summary judgment motions were novel, and more time spent in editing the briefs likely

meant a better brief for the court to consider. Having the viewpoint of more than one attorney may have improved oral arguments as well.

As for Aiken's input, the court is persuaded that his assistance and expertise were beneficial for Stanley Walter, and his hours of input (about thirteen) were modest over three years of litigation. The court is mindful that Judge Adelman awarded no fees for Aiken's work in *James Michael Leasing*, finding that the case was "slightly overstaffed" and that it was unreasonable to bring in Aiken at a premium rate when Megna and Grzeskowiak were experienced litigators and experts in this area of law. *James Michael Leasing*, slip op. at 8. However, that assessment is not applicable here.

Mack submits that Stanley Walter's attorneys spent an excessive time responding to Mack's motion for summary judgment and in preparing their own summary judgment motion and brief. But under the local rules each motion required its own briefing, proposed statements of material fact, etc., and the impossibility defense raised by Mack in its motion required substantial attention. And considering the work required to issue a decision on the summary judgment motions, the time spent by Stanley Walter's counsel was not unreasonably large.

Further, Mack contends that Stanley Walter's time entries show duplication of effort in many ways, such as in drafting the lemon law notice and complaint, communicating with defense counsel, and reviewing materials for trial. For instance, Megna presented witness Allen Walter at trial and cross-examined witness Martin Zens, but there are entries for Grzeskowiak related to reviewing materials related to Walter and Zens and entries from Kandziora regarding Walter. (See Doc. 96 at 14–15.) However, the court is persuaded that attorneys may share trial preparation work, and the entries plausibly indicate that

Grzeskowiak and Kandziora prepared Megna for his trial examinations. For instance, Kandziora's entries reflect work on Walter's testimony then a conference with Megna regarding a "timeline/opening statement/chart" and assisting Megna in preparing for trial. (Doc. 86 Ex. E at 27.) Similarly, Grzeskowiak's entries indicate that she worked on potential questions for Zens (Doc. 86 Ex. E at 26). Thus, she apparently helped prepare Megna for that cross-examination. Hence, the court finds such collaboration for trial acceptable.

Finally, as to whether Stanley Walter's attorneys billed for activities that non-billable staff may have been able to do, the court is for the most part unpersuaded by Mack's arguments. In particular, the court believes it reasonable for attorneys to e-file their own documents in the court's CM/ECF system. While some attorneys may delegate that task to secretaries or paralegals, the ultimate responsibility for those filings falls on the attorney. The attorney is entitled to make sure that e-filing is done on time, that the correct documents are filed, that correct docket entries are made, and that the court's e-filing rules are followed. A similar responsibility exists for calendaring deadlines. And a paralegal's time billed for assembling hard copies as required by the court and drafting transmittal letters is not unreasonable, either. The paralegal may know the case better than a secretary, have greater familiarity with court requirements, and have placed on her a greater responsibility for meeting those requirements.

However, on one small billing entry, the court agrees with Mack. Attorney Grzeskowiak billed 0.5 hours on June 3, 2013, for printing certain Mack documents from the CM/ECF system. *That* task more properly falls within the duties of non-billable staff. Therefore, the court will reduce her hours by 0.5.

Therefore, the court will award the following fees regarding the time originally sought:

Attorney/Paralegal	Hours	Rate	Total
Vincent Megna	142.60	\$395.00	\$56,327.00
Timothy Aiken	12.75	\$490.00	\$6,247.50
Susan Grzeskowiak	383.70	\$345.00	\$132,376.50
Erin Kandziora	43.80	\$155.00	\$6,789.00
TOTAL	582.85		\$201,740.00

Adding to that time the amounts expended post-application, the totals become:

Attorney/Paralegal	Hours	Rate	Total
Vincent Megna	143.90	\$395.00	\$56,840.50
Timothy Aiken	13.50	\$490.00	\$6,615.00
Susan Grzeskowiak	401.55	\$345.00	\$138,534.75
Erin Kandziora	44.75	\$155.00	\$6,936.25
TOTAL	603.70		\$208,926.50

D. Prejudgment Interest

Stanley Walter seeks prejudgment interest at the rate of five percent from the date the case was filed, March 12, 2012, or, alternatively, from the date of the stipulation of damages, January 8, 2013. Mack opposes the request on the ground that through the parties' stipulation of January 8, 2013, Stanley Walter waived any right to prejudgment interest. However, Mack adds that in the event the court awards prejudgment interest, the applicable start date would be the date of the stipulation rather than the filing of the case.

Under Wisconsin common law, prejudgment interest at the rate of five percent is recoverable when there is a "reasonably certain standard of measurement by the correct

application of which one can ascertain the amount he owes.” *Olguin v. Allstate Ins. Co.*, 71 Wis. 2d 160, 168, 237 N.W.2d 694 (1976) (quoting *Laycock v. Parker*, 103 Wis. 161, 186, 79 N.W. 327, 335 (1899)). Stated otherwise, prejudgment interest is awarded when the amount owed is readily liquidated, liquidable, or determinable. *Johnson v. Pearson Agri-Sys., Inc.*, 119 Wis. 2d 766, 771, 350 N.W.2d 127 (1984); *Erickson by Wightman v. Gunderson*, 183 Wis. 2d 106, 121, 515 N.W.2d 293 (Ct. App. 1994). The main rationales for the rule are the time-value of money and that if the amount is liquidated or determinable by reference to some objective standard, the defendant can avoid accrual of interest by simply tendering to the plaintiff a sum equal to the amount of damages. *Johnson*, 119 Wis. 2d at 771–72.

However, where parties stipulate to damages, any claim to prejudgment interest must be expressly reserved or clearly excluded from the stipulation.

In the absence of a stipulation that is clearly limited to settling the dispute only as to the principal amount due or absent some other express reservation of the claim for pre-verdict interest in the face of a stipulation which purports to resolve the entire damage question, the interest claim is disposed of by the stipulation.

Wyandotte Chems. Corp. v. Royal Elec. Mfg. Co., 66 Wis. 2d 577, 591, 225 N.W.2d 648, 656 (1975). Prejudgment interest is considered an item of compensatory damages rather than a separate penalty. *Id.* at 590. *Wyandotte Chemicals* involved a stipulation that was not limited to specific items of damage, but instead “by its terms purported to resolve the entire issue of compensatory damages.” *Id.* The Supreme Court of Wisconsin held that the claim for prejudgment interest was properly denied, notwithstanding that the plaintiff had demanded prejudgment interest in the complaint. *Id.* at 588–92.

Here, the pertinent portions of the parties’ stipulation reads:

7. That this action shall continue regarding the plaintiff's claims that the defendant violated the provisions of §218.0171, Wis. Stats. In the event that the plaintiff prevails in establishing that the defendant violated §218.0171, Wis. Stats., the plaintiff's damages will be limited to the following:

- a. Agreed purchase price of \$113,193.00.
- b. Collateral costs of \$293.64.
- c. Reasonable attorney's fees and costs to be determined by the court.

8. The parties agree that by entering into this Stipulation neither party waives any of their respective claims, arguments or affirmative defenses regarding compliance with any obligations under the Wisconsin Lemon Law. Any allegations, claims, denials and/or affirmative defenses are hereby preserved.

(Doc. 15, ¶¶ 7, 8.) Stanley Walter argues that it reserved its claim for prejudgment interest through paragraph 8's preservation of allegations and claims. According to Stanley Walter, the allegations and claims in the complaint included a demand for prejudgment interest on all liquidated sums, which paragraph 8 preserves.

The court disagrees. *Wyandotte Chemicals* requires an *express* reservation or a clear limitation of the stipulation to specific items of compensatory damages. But the language in paragraph 7 is broader and purports to resolve the entire issue of compensatory damages: "In the event that the plaintiff prevails . . . the plaintiff's damages will be limited to the following" The parties did not merely agree that the purchase price was \$113,193.00. Instead, they agreed that the plaintiff's total damages would be limited to the specified amounts. And the language in paragraph 8 contains no express reservation of a right to prejudgment interest. Concluding that a claim to prejudgment interest is included would require reference to the complaint. Moreover, paragraph 8 states that neither party waived any claims "regarding compliance with any obligations under the Wisconsin Lemon Law." A right to prejudgment interest based in Wisconsin common law,

see *Johnson*, 119 Wis. 2d at 771; *Erickson by Wightman*, 183 Wis. 2d at 121, is distinct from any rights regarding Mack's obligations under the statutory Lemon Law. Therefore, the request for prejudgment interest will be denied.

CONCLUSION

For the reasons set forth above, the judgment will provide for payment by Mack to Stanley Walter of the following amounts, totaling \$119,154.83:

- \$113,193.00 in damages
- \$293.64 in collateral costs
- \$3,760.45 in statutory costs
- \$1,907.74 in litigation costs

plus attorney's fees in the amount of \$208,926.50. No prejudgment interest will be awarded. Thus,

IT IS ORDERED that Stanley Walter's motion for judgment, costs and attorney's fees (Doc. 84) is granted in part and denied in part as described above.

Dated at Milwaukee, Wisconsin, this 28th day of April, 2015.

BY THE COURT

/s/ C.N. Clevert, Jr.

C.N. CLEVERT, JR.
U.S. DISTRICT JUDGE

FILED
05-03-2022
CIRCUIT COURT
DANE COUNTY, WI
2021CV003007

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 8

DANE COUNTY

AMERICAN OVERSIGHT,

Petitioner,

v.

Case No. 21-CV-3007
Petition for Writ of Mandamus
Case Code: 30952

ASSEMBLY OFFICE OF SPECIAL COUNSEL,
ROBIN VOS, in his official capacity, EDWARD
BLAZEL, in his official capacity, and WISCONSIN
STATE ASSEMBLY,

Respondents.

AFFIDAVIT OF JAMES A. FRIEDMAN

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

James A. Friedman, being first duly sworn on oath, deposes and states as follows:

1. I make this affidavit based on personal knowledge in support of the Plaintiff's request for an award of reasonable attorney fees and actual costs under Wis. Stat. § 19.37(2).

2. I am a member and former Team Leader of the Litigation Practice Group and the Chair of the Media Law Team in the Madison office of Godfrey & Kahn, S.C.

3. I received my Bachelor of Science degree from the Georgia Institute of Technology, with high honors, my Master's degree in Public Affairs from the University of Wisconsin-Madison, and my law degree from the University of Wisconsin Law School, with honors. As a law student, I was a member of Moot Court and the International Law Journal. I also served as a teaching assistant for the undergraduate course, Law in Action, and as a research assistant for Professors William Clune and Peter Carstensen.

4. Before joining Godfrey & Kahn (formerly LaFollette Sinykin) in 1994, I clerked for the Honorable Donald W. Steinmetz of the Wisconsin Supreme Court.

5. I am admitted to practice law before the United States Supreme Court; United States Court of Appeals for the Seventh Circuit; and the United States District Courts for the Eastern and Western Districts of Wisconsin.

6. Media and First Amendment Law is one of my primary practice areas, along with Appellate Litigation; Contract and Commercial Litigation; and Insurance and Reinsurance Law. I have been recognized as a *Wisconsin Super Lawyer* (2006-present; Top 25 Lawyers in Madison 2022); a Benchmark Litigation Star (2012-present); and by Best Lawyers in America (2008-present; First Amendment Lawyer of the Year, Madison, 4 times; Appellate Practice Lawyer of the Year, Madison, 2 times).

7. I am a co-author of the Wisconsin chapter in the 50-State Open Government Compendium of the Reporter's Committee for Freedom of the Press. I have taught numerous classes on Open Records and related topics to attorneys, students, and members of the news media through the State Bar, the University of Wisconsin, and the state news media associations. The Governor appointed me to the State Public Records Board in 2019. I was a member of the Joint Legislative Council Study Committee on the Use of Police Body Cameras, including the related public records issues.

8. I have litigated Open Records cases in Wisconsin circuit courts, the Court of Appeals, and the Wisconsin Supreme Court. In many of those actions, I have been awarded or was voluntarily paid my attorney fees, pursuant to Wis. Stat. §19.37(2), for prevailing in whole or substantial part. Most recently, I represented a number of news media and open government entities, as amicus curiae, before the Supreme Court, in *Friends of Frame Park, U.A. v. City of Waukesha*, Appeal No. 2019AP96.

9. I am familiar with the law firm of Pines Bach LLP and Attorney Christa Westerberg, including through reported cases, publications, through the local bar generally, and our mutual participation in the Wisconsin Freedom of Information Council.

10. I am also familiar with American Oversight as an organization that seeks records in various states and makes those records available online. I understand that Attorneys Sarah Colombo and Katherine Anthony have nine or more years of experience as attorneys, Emma Lewis has six or more years, and Rachel Baron is a legal fellow who is also a recent graduate.

11. I am familiar with the rates charged for open records law litigation work by lawyers with skills and qualifications comparable to Attorney Westerberg. I am also familiar with rates charged for litigation in Dane County, Wisconsin, circuit courts. My familiarity is based on my relationships with attorneys practicing civil litigation, knowledge of rates that my firm charges, knowledge of rates that my colleagues and I have received both through court awards and settlements, and my knowledge of fees awarded to others in open records and open meetings law cases.

12. Based on my knowledge of prevailing market rates for litigators conducting open government-related litigation, I can attest that the \$325/hour rate that Attorney Westerberg seeks in this case is reasonable and commensurate with current market rates for such services. The rate sought by Attorney Westerberg is also commensurate with rates in Dane County for similar work by similarly-qualified attorneys. In fact, Attorney Westerberg's hourly rate in this action is substantially lower than the hourly rate I charge in similar matters. Additionally, the \$275/hour for associate Aaron Dumas, a senior associate with experience litigating open records cases, is also reasonable, as are the associated rates for other attorneys reflected in the billing invoices.

13. In my experience, it is not uncommon for national groups like American Oversight to charge higher rates, based on their location in markets with higher overhead and their nationwide practice focus. For these reasons, the \$375/hour sought by Attorneys Colombo and Anthony in this matter, \$300/hour for Attorney Lewis, and \$175/hour for legal fellow Baron are reasonable.

14. I have reviewed the billing records submitted in this matter by Attorney Westerberg and American Oversight, and I am generally familiar with the procedural history of this case. Given the nature of the litigation, the motions filed, and the character of the case, the amount of time the Petitioner's counsel spent and incurred in fees and costs on this matter is reasonable.

15. In my experience, open records fee awards are seldom litigated, because defendants usually settle remedy issues upon either producing records or being directed by a court to do so. But to the extent such cases generate fee awards, the amount sought by American Oversight is within the range of such awards. For example, our firm litigated the case *New Richmond News v. City of New Richmond*, St. Croix County Circuit Court Case No. 13-CV-163,

and obtained an award of \$63,682.51 for time expended and costs incurred in the circuit court. *See also Baraboo News Republic v. The Office of Corporation Counsel of Sauk County*, Sauk County Cir. Ct. Case No. 17-CV-489 (award of \$45,000 following settlement and release of records).



James A. Friedman

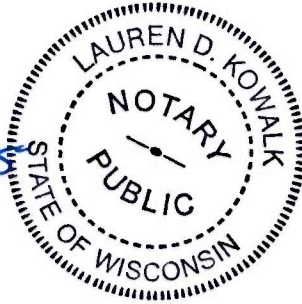
Subscribed and sworn to before me
this 3rd day of May, 2022.



Notary Public, State of Wisconsin

My Commission expires: 2/5/2025

27145000.1



4. Attached hereto as **Exhibit A** is an itemized statement reflecting some, but not all, of the attorneys' fees incurred by American Oversight in this matter and that do not relate to American Oversight's pending requests for sanctions and a temporary injunction (see Docs. 194, 195). Exhibit A was generated from the business records maintained digitally by American Oversight attorneys for the purpose of contemporaneous tracking of legal work performed. Exhibit A states the date on which services were rendered, a detailed description of those services, the initials of the attorney who performed the services, and the time that the attorney recorded for performing those services. I have reviewed Exhibit A and the records from which it was produced. Exhibit A does not include amounts for time that could be construed as duplicative, excessive, or unrelated.

5. The amount of attorneys' fees actually incurred by American Oversight exceeds the amount of fees sought here. American Oversight Senior Advisor Melanie Sloan and American Oversight Chief Counsel Daniel Schwager, both highly experienced litigators and former federal prosecutors, have engaged in significant work in relation to this case, including in the case of Ms. Sloan as *pro hac vice* counsel. In an exercise of billing judgment, American Oversight is not seeking fees for their time in this petition. Likewise, American Oversight is not seeking fees for paralegal time or various other administrative tasks.

6. Exhibit A was generated on May 2, 2022, and supplemented on May 3, 2022, to include time for preparing the instant fee motion. Exhibit A shows that the total amount of attorneys' fees from American Oversight for which Petitioner is seeking reimbursement is \$51,955.00.

7. American Oversight has not generally tracked time on a per-respondent basis. Doing so would be unusual for cases involving multiple defendants, and unworkable under the circumstances of the case, where the claims related to the same common core of facts.

8. American Oversight typically determines its attorneys' rates based off of the rates proposed for comparable attorneys in the LSI-Laffey Matrix, a schedule of fees based on years of attorney experience compiled for "complex federal litigation" in the District of Columbia and updated for inflation using the Legal Services Index ("LSI") of the National Consumer Price Index. American Oversight has received attorneys' fees at rates based on the LSI-Laffey Matrix in connection with federal Freedom of Information Act litigation reflecting issues of similar complexity to those at issue in this matter. As detailed below, and based on consultation with Wisconsin counsel, the rates assessed for American Oversight attorneys have been reduced for purposes of this petition to be more in line with fees based on years of attorney experience in Wisconsin.

9. American Oversight has previously sought and received fees in state open records litigation based on similarly adjusted rates. Recently, in *American Oversight v. Fann et al.* (Az. Ct. App. Oct. 29, 2021), the Arizona Court of Appeals, Division One, awarded American Oversight \$43,040 in part based on American Oversight's application for fees, which used locally adjusted Laffey-LSI rates for American Oversight attorneys.

10. I have been an attorney since 2012 and have practiced federal and state litigation at the trial and appellate levels since graduating from Columbia Law School as a Harlan Fiske Stone and James Kent Scholar. From 2012 to 2015 and from 2016 to 2018, I worked as an associate at Cravath, Swaine & Moore, LLP in New York City, where my practice focused on antitrust, securities, and complex civil litigation. From 2015 to 2016, I

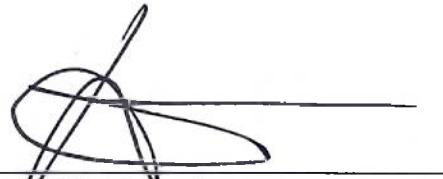
clerked for the Honorable Vernon S. Broderick of the U.S. District Court for the Southern District of New York. From 2018 to 2020, I worked as a senior in-house litigation counsel at a large company. Since joining American Oversight in 2021, I have focused on litigating federal and state public records matters. I am admitted to practice in New York and in the District of Columbia, as well as federal district and courts of appeal. My assessed rate based on the LSI index is \$676, but my reduced rate for this petition is \$375.

11. Katherine Anthony, who is American Oversight's Managing Counsel, has been an attorney since 2012 and has practiced federal and state litigation since graduating with honors from Duke University School of Law, where she was the senior executive editor for the *Duke Forum for Law and Social Change* and a staff editor for the *Journal of Law and Contemporary Problems*. From 2012 to 2018, Ms. Anthony worked as an associate at Goodwin Procter LLP in Boston, Massachusetts, where she practiced primarily securities litigation and complex civil litigation. Since 2018, Ms. Anthony has been employed at American Oversight where her practice has focused on federal and state public records litigation, including trial court and appellate matters. Ms. Anthony is admitted to practice in Massachusetts, the District of Columbia, and multiple federal district courts and courts of appeal. Ms. Anthony's assessed rate based on the LSI index is \$676, but her reduced rate for this Petition is \$375.

12. Emma Lewis has been an attorney since 2015, after graduating from New York University School of Law. From 2015 to 2017, Ms. Lewis worked at Hunton & Williams, LLP (now Hunton Andrews Kurth, LLP) in Washington, D.C, practicing civil litigation and antitrust law. From 2017 to 2019, Ms. Lewis worked as an associate at Caplin & Drysdale, practicing political law and counseling clients on election and ethics-related

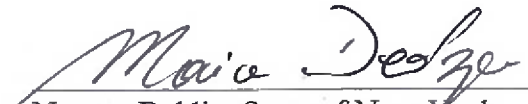
matters. Since joining American Oversight in 2019, Ms. Lewis has focused on litigating federal and state public records matters. Ms. Lewis is admitted to practice in Maryland and the District of Columbia, as well as multiple federal district courts and courts of appeal. Ms. Lewis’s assessed rate based on the LSI index is \$468, but her reduced rate for this Petition is \$300.

13. Rachel Baron graduated from the New York University School of Law in 2021. Since August of 2021, Ms. Baron has worked as a Legal Fellow at American Oversight, focusing on federal and state public records litigation. Ms. Baron was admitted to practice in New York in April 2022. Ms. Baron’s assessed rate based on the LSI index is \$381, but her reduced rate for this Petition is \$175.



Sarah M. Colombo

Subscribed and sworn to before me this 3 day of May, 2022.


Notary Public, State of New York
My commission expires: _____

MARIA DEDZA
Notary Public, State of New York
No. 01DE6073625
Qualified in Kings County
Commission Expires April 22, 2026



EXHIBIT A

American Oversight v. Assembly Office of Special Counsel, 21-cv-3007

Date	Time-keeper	Hours	Amount	Notes
11/19/21	SC	1.9	\$ 712.50	Drafted complaint.
11/22/21	SC	1	\$ 375.00	Drafted complaint.
11/24/21	SC	3.2	\$ 1,200.00	Legal research for and drafted complaint.
11/29/21	SC	0.6	\$ 225.00	Reviewed M. Sloan comments and revised complaint.
12/13/21	SC	1.8	\$ 675.00	Research for and revised complaint.
12/15/21	SC	0.7	\$ 262.50	Call w C. Westerberg re: draft complaint.
12/17/21	SC	2.8	\$ 1,050.00	Reviewed C. Westerberg's comments to, and further revised, draft complaint.
12/17/21	SC	0.9	\$ 337.50	Wrote and exchanged emails w C. Westerberg re: draft complaint.
12/18/21	SC	0.7	\$ 262.50	Revised draft complaint and alternative writ.
12/19/21	SC	0.4	\$ 150.00	Reviewed and revised application for alternative writ.
12/19/21	SC	0.6	\$ 225.00	Revised draft complaint.
12/20/21	SC	1.1	\$ 412.50	Reviewed and revised application for alternative writ and associated affidavit.
12/20/21	SC	1.6	\$ 600.00	Reviewed and revised complaint and finalized exhibits for same.
12/20/21	EL	0.75	\$ 225.00	Review petition for summons
1/18/22	SC	1.5	\$ 562.50	Emails with C. Westerberg regarding service objection and research re: same.
1/19/22	RB	1.5	\$ 262.50	Prep for 1/21 Hearing (compilation of documents missing from productions).
1/19/22	SC	0.93	\$ 348.75	Reviewed and analyzed OSC motion for a continuance and began drafting response.
1/19/22	SC	1.1	\$ 412.50	Research for preparation for show cause hearing.
1/20/22	RB	0.75	\$ 131.25	Gathering documents to be used as exhibits in 1/21 hearing.
1/20/22	SC	0.6	\$ 225.00	Reviewed and analyzed Vos/Assembly/Blazel motion to quash and strike.
1/21/22	RB	0.55	\$ 96.25	Researching cases cited in OSC brief for 1/21 hearing.
1/21/22	SC	3.2	\$ 1,200.00	Preparation for and attendance at show cause hearing.
1/21/22	SC	1.3	\$ 487.50	Reviewed and analyzed OSC motion to quash/dismiss.
1/21/22	EL	1	\$ 300.00	Research Wis. Stat. 12.13.
1/23/22	EL	1.5	\$ 450.00	Call with AO and Pines Bach to plan next steps.
1/24/22	RB	1	\$ 175.00	Drafting records retention section for reply to OSC motion to quash.
1/25/22	RB	2	\$ 350.00	Drafting statutory exemptions section of reply to OSC's motion to quash.
1/25/22	SC	2.9	\$ 1,087.50	Preparation for evidentiary hearing on service; drafted outline for motion to dismiss opposition and conferred with E. Lewis re: same.
1/25/22	EL	3.5	\$ 1,050.00	Draft opposition to motion to dismiss for lack of personal jurisdiction.
1/25/22	EL	2.75	\$ 825.00	Review pleadings to prepare for drafting briefs.
1/26/22	RB	1.75	\$ 306.25	Drafting public interest in disclosure section for reply to OSC's motion to quash.
1/26/22	SC	1.8	\$ 675.00	Revised brief regarding motion to dismiss for lack of service (not filed after issue mooted by acceptance of service).
1/26/22	EL	4	\$ 1,200.00	Drafted sections of opposition to OSC's motion to quash.
1/27/22	SC	3.6	\$ 1,350.00	Reviewed and analyzed motion for reconsideration and drafted opposition to same.
1/27/22	RB	0.5	\$ 87.50	Outlining section on multiple authorities for response to legislative respondents' motion to quash/motion to strike.
1/27/22	RB	1.75	\$ 306.25	Drafting section on multiple authorities in response to legislative respondents' motion to quash/motion to strike.
1/27/22	EL	6	\$ 1,800.00	Research and draft brief in response to OSC's motion to quash.
1/28/22	SC	2.2	\$ 825.00	Revised and finalized opposition to motion for reconsideration.
1/28/22	RB	1.5	\$ 262.50	Drafting section on multiple authorities in response to legislative respondents' motion to quash/motion to strike.
1/28/22	EL	4	\$ 1,200.00	Draft response to legislative respondent's motion to quash.
1/29/22	SC	4.2	\$ 1,575.00	Drafted portions of brief in opposition to OSC's motion to quash.

3. My areas of practice focus on environmental, civil rights, administrative, and open government law, as well as general civil litigation.

4. I have significant experience litigating cases under the Wisconsin Open Records and Open Meetings laws, including over two dozen circuit court cases and four reported appellate cases. *See Juneau County Star-Times v. Juneau County*, 2013 WI 4, 337 Wis. 2d 710, 807 N.W.2d 655 (plaintiff prevailing on records issue); *Lueders v. Krug*, 2019 WI App 36, 388 Wis. 2d 147, 931 N.W.2d 898 (same); *Hagen v. Bd. Of Regents of the Univ. of Wis. System*, 2018 WI App 43, 383 Wis. 2d 567, 916 N.W.2d 198 (successfully defended against action to prohibit release of records); *State ex rel. Citizens for Responsible Development v. City of Milton*, 2007 WI App 114, 300 Wis. 649, 731 N.W.2d 640 (plaintiffs prevailing in illegal closed meeting case). I have also authored numerous amicus briefs in appellate cases concerning the Open Records law. My clients in these matters have included non-profit groups, news media, and individuals.

5. I have written and presented extensively on the Open Records and Open Meetings laws. My writings have included “Open Government and Economic Development: Getting the Best of Both Worlds,” *Wisconsin Lawyer*, February 2009, and multiple editions of the monthly “Your Right to Know” column distributed by the Wisconsin Freedom of Information Council (of which I am a member and Vice President) to media for publication statewide, 2006-2021, *available at* <http://wisfoic.org/>. *E.g.*, “Fee recovery is key to transparency” (September 2021), “Let public see COVID-19 data” (August 2020), “Pollution records must be open” (January 2020), “Abrahamson let the sunshine in” (August 2019), “Policies put public health at risk” (April 2018), “Mail ballots are an affront to transparency” (June 2017); “Supreme Court cases key to openness”

(August 2016). I also authored a chapter on access to digital and electronic records in *Ensuring an Informed Public: State Open Records and Meetings Laws*, a book published by the American Bar Association in 2021.

6. My presentations on the Open Records and Open Meetings Law have been made, *inter alia*, to the State Bar of Wisconsin in its annual Public Records and Open Meetings Law update, to the Wisconsin Corporation Counsel Association, to the Wisconsin Counties Association, to the Wisconsin Lakes & Rivers Partnership, and to the Society of Professional Journalists-Madison Pro Chapter.

7. I began representing Petitioner in 2021 on an hourly billing basis and have contemporaneously tracked my time on this case using our firm's normal billing procedures and software. Time for other lawyers and professionals at Pines Bach LLP was recorded in the same or similar manner.

8. Attached hereto and incorporated herein by reference as **Exhibit A** is a copy of a statement of fees and costs for time incurred in this matter. The statement was generated from the business records maintained digitally by Pines Bach LLP as described in paragraph 7 of this affidavit, then exported to a Microsoft Excel spreadsheet by our office staff. The invoice states the date on which services were rendered, a detailed description of those services, the initials of the attorney who performed the services, and the time that the attorney spent performing those services in one-tenth of an hour increments. The statement has been modified to exclude amounts for time that could be construed as duplicative, excessive, or unrelated, in the amount of at least \$1,600.00. I have also modified the statement in some locations for clarity, and to exclude any information that may be subject to attorney-client or work product privileges.

9. The statement was generated on May 2, 2022, and supplemented May 3, 2022, to include time for preparing the instant fee motion. It shows that the total amount of attorneys' fees from Pines Bach LLP for which Plaintiff is seeking reimbursement is \$35,629.00, and the total amount of costs is \$1,180.22, for a combined total of \$36,809.22.

10. We at Pines Bach LLP did not track our time on a per-respondent basis, which would be unusual for most or all cases involving multiple defendants, and unworkable under the circumstances of the case, where the claims related to the same common core of facts.

11. The amount of time expended and costs incurred in this case were reasonable and necessary for the results obtained. The case took a substantial amount of time up-front to prepare the initial petition for mandamus relief and application for alternative writ of mandamus, which the Court ultimately signed. (Docs. 1-41.) There were multiple respondents represented by two separate sets of counsel, each who filed different motions that required separate review and/or responses. This included Respondent Vos et al.'s original and amended motion to quash (Docs. 87, 111), Respondent Assembly Office of Special Counsel's ("OSC's") original and amended motions to quash (Docs. 98, 105), OSC's motion for a continuance (Doc. 80), OSC's motion for reconsideration (Doc. 118), OSC's motion for ex parte argument and for stay pending appeal (Doc. 153), OSC's motion for excess pages (Doc. 156), and OSC's motion to seal (Doc. 123).

12. Additionally, this case was aggressively litigated by the Respondents in a way that drove up costs and fees. For example, OSC initially disputed personal jurisdiction based on service of process, which required Petitioner to prepare for an evidentiary hearing on the issue that was called off when OSC admitted service less than 24 hours before the

hearing was to start (Doc. 116). Petitioner also, as a cautionary measure, made additional service attempts, which required additional service of process fees and paralegal time, as reflected on Exhibit A.

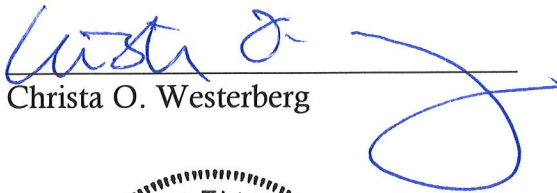
13. Because the original petition and motions were all filed within a short period of time—the time from petition to final decision was December 20, 2021, to March 8, 2022—Pines Bach and American Oversight had to employ multiple attorneys and staff to assist with drafting and preparing the filings. This took a high amount of coordination among attorneys and staff, to ensure the case was efficiently litigated.

14. The rate I have charged Plaintiff in this case, \$325/hour (increased from a rate of \$290/hour as of January 1, 2022) is comparable to or less than rates I have received in prior cases through settlements or judgments under the Open Records laws, including *Lueders v. Krug*, Dane County Case No. 16-CV-2189 (order granting motion for costs, fees, and statutory damages 4/5/18, based on then-market contingent fee rate of \$350/hour). Based on my knowledge of civil litigation rates in the Madison, Wisconsin area, it is also comparable to rates for attorneys of similar experience.

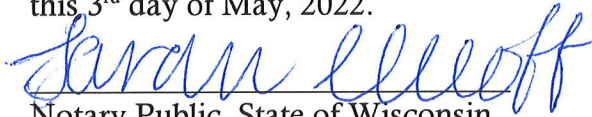
15. Other Pines Bach LLP attorneys and professionals billed time in this case, including Attorneys Lester Pines (partner), Aaron Dumas (associate with six-plus years of experience), Eduardo Castro (associate with 1.5 years of experience) and Genny Gibbs-Benesh and Vicki McDonald (paralegals). These attorneys and professionals have charged at their then-applicable standard hourly rates for organizational clients, which increased for attorneys on January 1, 2022, as part of a firm-wide increase. These rates are of \$500/hour for Attorney Pines (increased from \$400 hour), \$275/hour for Attorney Dumas (increased from \$225/hour), and \$200/hour for Attorney Castro, who joined our firm in mid-

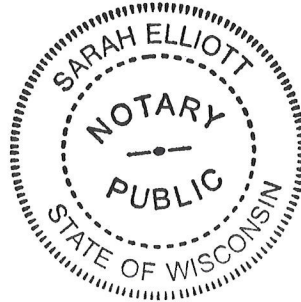
February, 2022. Paralegal rates were \$150/hour throughout the period for which American Oversight seeks its costs and fees. These rates are comparable to those charged by attorneys and paralegals with similar experience and expertise.

16. The total amount sought through this petition is also comparable to fee awards in prior Open Records and Open Meetings law cases in which I participated, e.g., *Lueders v. Krug*, Dane County Case No. 16-CV-2189 (award of \$84,190.78 in Open Records law case for time expended in the circuit court); see also *State ex rel. Wahl v. Wis. Jt. Comm. On Legis. Org.*, Dane County Circuit Court No. 04-CV-1920 (award of \$39,170.12 for Open Meetings law case in 2006).


Christa O. Westerberg

Signed and sworn to before me
this 3rd day of May, 2022.


Notary Public, State of Wisconsin
My Commission expires: June 3, 2024.



Pines Bach LLP

122 West Washington Avenue, Ste. 900
 Madison, WI 53703
 Phone: (608) 251-0101
 Fax: (608) 251-2883
 Tax ID No. 39-1342651

American Oversight
 co Sarah Colombo, Counsel
 1030 15th Street NW, Suite B255
 Washington, DC 20005
 17639 0000 COW

Legal Services Regarding: American Oversight-Open Records Litigation (Email Bills) - 0000

12/1/2021	3007 - Review draft complaint, conf with client re same.	COW	0.3	87.00
12/8/2021	3007 - Review Gabelman docs; conference with client re: same	COW	1.1	319.00
12/9/2021	3007 - Review, edit Vos demand letter	COW	0.5	145.00
12/15/2021	3007 - Review complaint; conf with client re same.	COW	1.1	319.00
12/16/2021	3007 - Complaint revision, drafting.	COW	1.3	377.00
12/16/2021	3007, Confer w/CW re: strategy.	AGD	0.1	22.50
12/16/2021	3007, Further confer w/CW re: strategy.	AGD	0.2	45.00
12/17/2021	3007 - Draft alternative writ; review exhibits; draft proposed alt writ, review revised complaint.	COW	1.5	435.00
12/18/2021	3007 - Revise complaint, alt writ, affidavit; client corresp re same.	COW	2.6	754.00
12/20/2021	3007 - Finalize documents for filing	COW	2.0	580.00
12/21/2021	3007 - Review file-stamped pleadings, email client re same.	COW	0.1	29.00
12/21/2021	3007 - Coordinate with staff re service.	COW	0.1	29.00
12/21/2021	3007 - Email courtesy copies of pleadings to defs.	COW	0.2	58.00
12/21/2021	3007 - Review file-stamped writ, notice of hearing, send same to clients, opp counsel.	COW	0.2	58.00
12/21/2021	3007, CW email re: filings. Confer w/staff re: same.	AGD	0.2	45.00
12/23/2021	3007, Document review; consult re: service; serve papers on Mr. Vos; attempted service on Mr. Blazel for himself and Assembly; revise affidavit of service	VDM	1.0	150.00
12/23/2021	3007, VM/CW emails re: service.	AGD	0.1	22.50
12/28/2021	3007 - Coordinate with staff re service, email client re same.	COW	0.1	29.00
1/6/2022	3007 - Review notice of appearance, research re same, client corresp, call re same.	COW	0.4	130.00
1/7/2022	3007 - Review mot to admit Indiana counsel, email clients re same.	COW	0.1	32.50
1/11/2022	3007 - Prepare motions for pro hac vice admission.	COW	0.1	32.50
1/13/2022	3007 - Call re case status.	COW	0.4	130.00
1/14/2022	3007 - Client correspondence.	COW	0.1	32.50
1/14/2022	3007 - Call with client re planning.	COW	0.1	32.50
1/17/2022	3007 - Emails re service of OSC, call with LAP re same.	COW	0.5	162.50
1/18/2022	3007 - Attempt to serve defendant at Brookfield office; documents to process server.	GGG	5.0	750.00
1/19/2022	3007 - Review motion to continue hearing, set briefing; draft response; conf with client re same.	COW	1.5	487.50
1/20/2022	3007 - Email exchange w/CW re: hearing prep. Confer w/CW re: same.	AGD	0.4	110.00
1/20/2022	3007 - Call with client re show cause hearing.	COW	0.5	162.50
1/20/2022	3007 - Preparation for show cause hearing, draft outline.	COW	3.1	1,007.50
1/21/2022	3007 - Preparation for hearing.	COW	3.8	1,235.00
1/21/2022	3007 - Attend show cause hearing.	COW	2.7	877.50
1/21/2022	3007 - Call with client re show cause hearing, next steps.	COW	0.6	195.00
1/23/2022	3007 - Revise order, client corresp re same.	COW	0.3	97.50
1/23/2022	3007 - Call with client re 1/24 hrg.	COW	0.7	227.50
1/24/2022	3007 - Review extended contract.	COW	0.1	32.50
1/24/2022	3007 - Call with client re filed contract amendment.	COW	0.1	32.50
1/24/2022	3007 - Hearing prep, hearing/travel to courthouse.	AGD	5.4	1,485.00
1/24/2022	3007 - Zoom call w/team re: hearing/next steps.	AGD	0.7	192.50
1/25/2022	3007 - Call/email process server re testimony.	COW	0.1	32.50
1/25/2022	3007 - Review scheduling order, email client re same.	COW	0.2	65.00
1/25/2022	3007 - Corresp with client re witnesses.	COW	0.1	32.50

1/26/2022	3007 - Review emails re: service; conference with SB; email to COW	GGG	0.2	30.00
1/26/2022	3007 - Ph call with process server, draft subpoenas, coordinate with client/staff re hearing, review	COW	1.0	325.00
1/27/2022	3007 - Review motion to amend sch order, client corresp re same.	COW	0.3	97.50
1/27/2022	3007 - Email to client re [REDACTED]	COW	0.1	32.50
1/27/2022	3007 - Review, edit response to mot for reconsideration.	COW	0.4	130.00
1/28/2022	3007 - Finalize and file resp to mot for reconsideration.	COW	0.1	32.50
1/29/2022	3007 - Client corresp re mandamus factors.	COW	0.2	32.50
1/30/2022	3007 - Review, edit response to OSC motion to quash.	COW	2.8	910.00
1/30/2022	3007 - Review, edit draft response to Leg Resp motion to quash.	COW	0.9	292.50
1/31/2022	3007 - Client corresp re briefing.	COW	0.1	32.50
1/31/2022	3007 - Draft affidavit/compile attachments.	COW	0.2	65.00
1/31/2022	3007 - Review, edit, research revision to OSC brief.	COW	2.0	650.00
1/31/2022	3007 - Review/edit resp to leg defendants mot to quash.	COW	0.8	260.00
1/31/2022	3007 - Review judge's order, filings.	COW	0.1	32.50
2/1/2022	3007 - Client corresp re filings.	COW	0.1	32.50
2/7/2022	3007 - Review OSC answer, client corresp re same.	AGD	0.1	22.50
2/9/2022	3007 - Email exchange w/CW re: ltr. to counsel re: sealed motions. Prep same.	AGD	0.9	247.50
2/11/2022	3007 - Review filings. Email exchange w/team re: ltr. to counsel. Work w/staff to finalize/send same	AGD	0.5	137.50
2/13/2022	3007 - Review OSC, Vos replies, client corresp re same.	COW	1.0	325.00
2/14/2022	3007 - Prep for client call/review file.	COW	0.4	130.00
2/14/2022	3007 - Client call re next steps, filings.	COW	1.0	325.00
2/14/2022	3007 - Conference with COW re: motion to strike	LAP	0.2	100.00
2/15/2022	3007 - Review Dean email re: sealing issues; email exchanges w/team x5 re: same & MTS.	AGD	0.4	110.00
2/16/2022	3007 - Email exchange w/Dean re: sealed filings.	AGD	0.1	27.50
2/16/2022	3007 - Further email exchange w/Dean re: sealing issue.	AGD	0.1	27.50
2/16/2022	3007 - Research/prep MTS.	AGD	1.7	467.50
2/17/2022	3007 - Email exchange w/Dean re: filings. CW email re: same	AGD	0.2	55.00
2/17/2022	3007 - Draft surreply, review/edit motion to strike.	COW	2.8	910.00
2/17/2022	3007 - Review new OSC filings (mot for ex parte argument, individualized argument).	COW	0.2	65.00
2/17/2022	3007 - Email to client re new OSC filings.	COW	0.1	32.50
2/17/2022	3007 - Research/prep MTS. Email CW re: same. Team email exchanges re: same/new OSC filing.	AGD	3.8	1,045.00
2/17/2022	3007 - Further email exchange w/CW re: authority to contract issue. Review filings. Email exchanges x3 w/team re: in camera/similar motions.	AGD	1.3	357.50
2/18/2022	3007 - Email exchange w/Sarah re: MTS filings.	AGD	0.1	27.50
2/18/2022	3007 - Email client re OSC filings	COW	0.1	32.50
2/21/2022	3007 - Ph call with client re motion to strike, response to OSC motion, motion for stay.	COW	0.2	65.00
2/21/2022	3007 - Client corresp re mot to strike/surreply, research re same.	COW	0.6	195.00
2/22/2022	3007 - Team email exchanges re: planned filings/counsel emails/ next steps.	AGD	0.4	110.00
2/24/2022	3007 - Review, edit response to motion for ex parte relief; client corresp re: same.	COW	1.9	617.50
2/24/2022	3007 - Ph call with client re case planning.	COW	0.2	65.00
2/25/2022	3007 - Review client email re OSC website, respond to same.	COW	0.5	162.50
2/25/2022	3007 - Review email from COW re: statement on Office of Special Counsel website; Email to COW re: same	LAP	0.3	150.00
2/25/2022	3007 - Draft revised brief in opp to ex parte argument.	COW	0.4	130.00
2/28/2022	3007 - Email to/from clients re revised response to motion for ex parte review.	COW	0.2	65.00
2/28/2022	3007 - Review response to motion to strike, review motion to exceed page limit; client corresp re same.	COW	0.2	65.00
2/28/2022	3007 - Revise response to motion for ex parte review; revise affidavit.	COW	1.0	325.00
2/28/2022	3007 - Review filings/confer w/team re: responses. Prep/file affidavit/related filings.	AGD	3.6	990.00
3/1/2022	3007 - Review ct. filings. Email exchange w/CW re: same. TC w/CW re: same.	AGD	0.4	110.00
3/1/2022	3007 - Review recent filings, client corresp re same.	COW	0.6	195.00
3/1/2022	3007 - Further review of team emails/filings, email exchange w/CW re: same.	AGD	0.3	82.50
3/1/2022	3007 - Review Remington decision	LAP	0.3	150.00
3/1/2022	3007 - Email corresp re: decision.	COW	0.3	97.50
3/2/2022	3007 - Ph call with client, draft resp to mot for stay.	COW	0.8	260.00

3/2/2022	3007 - Research re stay, corresp with PB, AO attorneys re same.	COW	0.4	130.00
3/2/2022	3007 - Review ct. decision/order, confer w/team re: same/next steps.	AGD	1.7	467.50
3/2/2022	3007 - Further email exchanges x16 w/team, confer w/CW re: decision/next steps.	AGD	0.6	165.00
3/3/2022	3007 - Review trial court decision and legal research re stay; emails re briefing and petition for attorney fees.	TBP	2.0	700.00
3/3/2022	3007 - Analyze [REDACTED] [REDACTED]	EEC	0.9	180.00
3/3/2022	3007 - Review, edit draft brief in opp to motion for stay; research re same.	COW	4.1	1,332.50
3/3/2022	3007 - Research/draft stay br. Confer w/CW/TBP re: same. Review OSC request filing.	AGD	5.1	1,402.50
3/4/2022	3007 - Revise, edit response to motion for stay, affidavit.	COW	1.3	422.50
3/4/2022	3007 - Team email exchanges re: cost filings/stay brief.	AGD	0.3	82.50
3/4/2022	3007 - Review and propose revisions to stay brief.	TBP	2.4	840.00
3/4/2022	3007 - Call with client re stay motion, prep for hearing.	COW	0.7	227.50
3/4/2022	3007 - Zoom call w/team re: stay brief/next steps.	AGD	0.9	247.50
3/4/2022	3007 - Confer w/CW re: stay brief. Revisions to same. Team emails re: same.	AGD	0.8	220.00
3/7/2022	3007 - Draft hearing outline.	COW	2.1	682.50
3/7/2022	3007 - Review judge correspondence re hearing.	COW	0.1	32.50
3/7/2022	3007 - Ph call with client to prep for hearing.	COW	0.9	292.50
3/7/2022	3007 - Update outline for hearing.	COW	1.5	487.50
3/7/2022	3007 - Team email exchanges x4	AGD	0.2	55.00
3/7/2022	3007 - Analyze Judge Remington's Order and parties's briefing on motion to stay release of records pending appeal; Analyze [REDACTED] [REDACTED]; Attend and prepare session with AO RE [REDACTED]; Attend strategy conference with client to [REDACTED] [REDACTED]	EEC	2.1	420.00
3/8/2022	3007 - Prep for, travel to/from, attend motion to stay hearing.	COW	3.5	1,137.50
3/8/2022	3007 - Call with client, post-hearing, re next steps.	COW	0.4	130.00
3/8/2022	3007 - Prepare for and attend hearing on OSC's Motion to Stay Release of Records Pending Appeal, Judge Remington denied OSC's motion and order release of withheld documents.	EEC	3.8	760.00
3/8/2022	3007 - Confer w/CW re: oral arg, next steps.	AGD	0.2	55.00
3/8/2022	3007 - Review written order denying stay.	COW	0.2	65.00
3/8/2022	3007 - Review new party filings, CW email re: same.	AGD	0.2	55.00
3/15/2022	3007 - Client corresp re fee petition, next steps.	COW	0.1	32.50
3/16/2022	3007 - Notice of entry of judgment.	COW	0.2	65.00
3/21/2022	3007 - Notice of entry of judgment corresp	COW	0.1	32.50
3/21/2022	3007 - Review disclosed docs.	COW	0.2	65.00
3/24/2022	3007 - Email to counsel re fee affidavit.	COW	0.1	32.50
3/31/2022	3007 - Review opp counsel email re extension; email clients re same.	COW	0.1	32.50
3/31/2022	3007 - Draft stip and order to extend deadline.	COW	0.1	32.50
4/1/2022	3007 - Counsel email exchange re: deadline extensions.	AGD	0.1	27.50
4/1/2022	3007 - Draft stip and order, email client, opp counsel re same.	COW	0.6	195.00
4/1/2022	3007 - Email re fee petition.	COW	0.1	32.50
4/4/2022	3007 - Review revised stip and order.	COW	0.1	32.50
4/5/2022	3007 - Corresp re stip and order; review final draft, file same.	COW	0.2	65.00
5/3/2022	3007 - Draft brief ISO costs/fees	COW	1.0	325.00
5/3/2022	3007 - Prepare brief, documents ISO fee petition	COW	5.4	1,755.00
TOTAL FEES			121	\$35,629.00

COSTS AND EXPENSES

12/28/2021	Service Processor fees	45
1/5/2022	Document delivery	37.19
1/18/2022	Travel expense Travel to Waukesha to serve papers	85.96
1/25/2022	Service Processor fees Service-Assembly Office of Special Counsel	45
1/25/2022	Filing Fee	189.57
1/28/2022	Witness Fees	16
1/28/2022	Witness Fees	16
2/11/2022	Court Reporter Fees Case #21CV3007	322.5

3/11/2022

Court Reporter Fees Case No. 21-CV-3007

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TOTAL COSTS AND EXPENSES

\$1,180.22
