

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 17-cv-02224-PAB-MEH

JAMI BORGMANN, individually and on behalf of minor children, S.B. and E.B.,
JUSTIN BORGMANN, individually and on behalf of minor children, S.B. and E.B.,
TONY AU YANG,
MARY RITZ,
JAMES RITZ,
ROBBY ORBANOSKY,
JUDITH ORBANOSKY,
HANNAH ORBANOSKY,
PHILIP WINTERLAND,
JOSLYN WINTERLAND,
STEVAN ADJEMIAN,
ASHLEY ADJEMIAN,
KELSY HERRICK, individually and on behalf of minor children, D.H. and M.H. and
JEFFREY HERRICK, individually and on behalf of minor children, D.H. and M.H.,

Plaintiffs,

v.

WEYERHAUSER COMPANY, and
WEYERHAUSER NR COMPANY,

Defendants.

ORDER

Michael E. Hegarty, United States Magistrate Judge.

The parties to this case have a dispute concerning expert witness fees. Specifically, Plaintiffs seek payment to their experts for time the experts used in preparing for their depositions. The experts at issue are an industrial hygienist and four toxicologists. Defendants have paid for some but not all hours requested by the experts. I have been asked to referee the disputed amounts. For each of the experts at issue, I make the following ruling. I recognize that Defendants have already agreed to pay some preparation time; such payments shall be an offset to the following amounts due:

Industrial Hygienist Robert Woellner

Mr. Woellner's hourly rate is \$325.00 (other than travel time). He sought a total of \$8,425.00. This includes seven hours for the actual deposition, two hours travel time (at \$150.00/hour), and nineteen hours for preliminary work including deposition preparation, document disclosures, and administrative tasks in setting up the deposition. At issue is \$5,850.00 for the preliminary work. For Mr. Woellner, as for all experts on either side of the case, some preparation is necessary to ensure complete testimony and, obviously, to avoid creating potential impeachment opportunities for opposing counsel. I will authorize two hours preparation for every hour of deposition. Thus, Mr. Woellner shall be compensated for seven hours of deposition and fourteen hours of preparation, including administrative tasks, for a total of twenty-one hours at \$325.00/hour and two hours travel time at \$150.00/hour.

Toxicologist Dr. Ken Kulig

Dr. Kulig's hourly rate is \$600.00. He sought a total of twenty-nine and one-quarter hours for a bill of \$17,550.00. This includes seven hours for the actual deposition, no travel time, and twenty-two and one-quarter hours for deposition preparation. At issue is \$13,350.00 for preparation. Dr. Kulig shall be compensated for seven hours of deposition, one hour travel, and fourteen hours preparation, for a total of twenty-two hours at \$600.00/hour.

Toxicologist Dr. Benjamin Hatten

Dr. Hatten's hourly rate is \$600.00. He sought a total of thirty-three hours for a bill of \$19,800.00. This includes nine hours for the actual deposition and travel time (combined, not separated; the deposition lasted, according to Defendants, six and one-half hours), and twenty-four hours for deposition preparation (including transcript review). At issue is \$14,400.00 for the preparation. Dr. Hatten shall be compensated for six and one-half hours of deposition, two and

one-half hours travel, and thirteen hours preparation, for a total of twenty-two hours at \$600.00/hour.

Toxicologist Dr. E.W. Cetaruk

Dr. Cetaruk's hourly rate is \$600.00. He sought a total of forty-nine and three-quarters hours for a bill of \$29,850.00. This includes five hours for the actual deposition, one and one-half hours travel time, and forty-three and one-quarter hours for deposition preparation. At issue is \$25,950.00 for the preparation. Dr. Cetaruk shall be compensated for five hours of deposition, one and one-half hours travel, and ten hours preparation, for a total of sixteen and one-half hours at \$600.00/hour.

Toxicologist Dr. William Boroughf

Dr. Boroughf's hourly rate is \$600.00. He sought a total of twenty-two and three-quarters hours for a bill of \$13,650.00. This includes five and one-half hours for the actual deposition, one hour travel time, and sixteen and one-quarter hours for deposition preparation (including transcript review). At issue is \$9,750.00 for the preparation. Dr. Boroughf shall be compensated for five and one-half hours of deposition, one hour travel, and eleven hours preparation, for a total of seventeen and one-half hours at \$600.00/hour.

SO ORDERED.

Dated this 1st day of August, 2019, at Denver, Colorado.

BY THE COURT:



Michael E. Hegarty
United States Magistrate Judge