

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JAY J. SCHINDLER, M.D.,

Plaintiff,

v.

MARSHFIELD CLINIC,

Defendant.

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ORDER

05-C-705-C

In a March 26, 2007 order, I shifted costs on a portion of plaintiff's motion to compel discovery, pursuant to Rule 37(a)(4)(B). *See* dkt. 312. Defendant timely submitted a proportionately-reduced itemized billing statement requesting payment of \$9667.36 in attorneys fees and \$1660.91 in Westlaw and Lexis charges for a total claim of \$11,328.27. *See* dkt. 318. Plaintiff filed a timely objection challenging some specific entries, the discount rate employed by defendant, and the use of CALR by defendant at a non-bulk rate. Plaintiff suggests that \$7803.51 is a fairer, more accurate total for attorneys' fees, and argues that the CALR bill should be "far less" than that claimed by defendant's attorneys. *See* dkt. 326.

I will not require plaintiff to pay for work performed preparing a joint report requested by the court (about \$625 of the total claimed, already discounted by 50%). I will not employ the 33% discount rate suggested by plaintiff because the privilege log issue did consume anything close to 17% of the time and effort expended responding to plaintiff's motion. The CALR bill is what it is; arguing that opposing counsel should have negotiated a better rate plan is like arguing that they should charge a lower hourly rate for their own services. In any event, many busy attorneys (and judges) use computer search programs for virtually all of their legal research

because it's actually more time-efficient than hard-copy research in the library. Even so, I will "discount" defendant's claim a mite by rounding it down to \$10,000, which I find to be the amount of expenses reasonably incurred by defendant in opposing plaintiff's motion. Plaintiff and his attorney shall have the usual 30 days within which to pay this amount.

#### ORDER

For the reasons stated above, it is ORDERED that defendant's request for costs on response to plaintiff's motion to compel discovery is GRANTED IN PART. Plaintiff and his attorney are jointly and severally liable to pay \$10,000 to defendant's attorneys not later than May 9, 2007.

Dated: April 9, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge