

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

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STATE OF WISCONSIN,

Plaintiff,

v.

ORDER

06-C-0582-C

AMGEN INC., ABBOTT LABORATORIES
ASTRAZENECA PHARMACEUTICALS, LP,
ASTRAZENECA, LP, AVENTIS PHARMACEUTICALS, INC.,
BAXTER HEALTHCARE CORPORATION,
BEN VENUE LABORATORIES, INC.,
BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.,
BOEHRINGER INGELHEIM ROXANE, INC.,
BRISTOL-MYERS SQUIBB COMPANY, DEY, INC.,
IMMUNEX CORPORATION, IVAX CORPORATION,
IVAX PHARMACEUTICALS, INC.,
JANSSEN PHARMACEUTICAL PRODUCTS, LP,
JOHNSON & JOHNSON, INC., MCNEIL-PPC, INC.,
MERCK & COMPANY, INC., MYLAN LABORATORIES, INC.,
MYLAN PHARMACEUTICALS, INC.,
NOVARTIS PHARMACEUTICALS CORPORATION,
ORTHO BIOTECH PRODUCTS, LP,
ORTHO-MCNEIL PHARMACEUTICAL, INC.,
PHARMACIA, PFIZER, INC., ROXANE LABORATORIES, INC.,
SANDOZ, WC. f/k/a GENEVA PHARMACEUTICALS, INC.,
SCHERING-PLOUGH CORPORATION, SICOR INC,
SMITHKLINE BEECHAM CORPORATION
d/b/a GLAXO SMITHKLINE,
TAP PHARMACEUTICAL PRODUCTS, INC.,
TEVA PHARMACEUTICALS USA, INC.,
WARRICK PHARMACEUTICALS CORPORATION,

WATSON PHARMA, INC., f/k/a SCHEIN PHARMACEUTICALS,
WATSON PHARMACEUTICALS, INC.,
ZLB BEHRING, f/k/a AVENTIS BEHRING, LLC,,

Defendants,

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This civil suit for money damages is before the court for a determination of the fees and costs to be awarded to plaintiff State of Wisconsin after it prevailed on its motion for remand. In an order entered on January 16, 2007, I found that plaintiff was entitled to such an award on the ground that defendant Dey, Inc's removal of the case was improper. In addition, plaintiff has moved for leave to file a reply brief. That motion is granted.

Plaintiff has advised the court that it is seeking an award of actual expenses including costs and attorney fees of \$13,135.50 for Miner, Barnhill & Galland's work on the motion for remand and actual expenses for the Wisconsin Department of Justice in the amount of \$1,072.50. The request is supported by the affidavit of Charles Barnhill.

In opposition to the amount sought by plaintiff, defendant Dey has attacked both the amount of the fees and the itemization provided by counsel for plaintiff. I agree with defendant that the itemization is sparse. In light of the limited nature of the work performed, however, the itemization is not so sparse as to be unreviewable. The question is whether 38 hours was an unreasonable amount of time to spend responding to the removal of the case to federal court and pursuing plaintiff's motion to remand. (Defendant

does not object to the hourly rates charged by the lawyers representing the state.)

Barnhill represents that he and his co-counsel reviewed the court's two previous decisions on removal of this same case; researched and wrote a motion for remand, together with a 19-page brief in support of the motion; reviewed and responded to defendant's brief in opposition; reviewed new decisions in similar actions brought by other states against these same defendants; gathered information to support the fee award; and filed a motion for fees. He asserts that counsel have not billed for time spent benefiting any state other than Wisconsin. From my review of the case file and counsel's itemization of fees, I am persuaded that the amount sought is moderate and necessitated by defendant Dey's actions. Accordingly, I will grant plaintiff State of Wisconsin's fee request.

ORDER

IT IS ORDERED that plaintiff State of Wisconsin is awarded fees to be paid by defendant Dey, Inc. in the amount of \$13,135.50 for the time spent by Miner, Barnhill & Galland and \$1072.50 for the time spent by lawyers at the Wisconsin Department of

Justice, for a total award of \$14,208.00.

Entered this 29th day of March, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge