

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

JAMES D. AZZAR,

Plaintiff,

vs.

UPRR SECURITIES, LLC; and UNCLAIMED
PROPERTY RECOVERY & REPORTING, LLC,

Defendants.

Case No. 14-03515-NZB

HON. CHRISTOPHER P. YATES

OPINION AND ORDER AWARDING ATTORNEY FEES,
COSTS, AND INTEREST TO PLAINTIFF JAMES AZZAR

Plaintiff James Azzar accused Defendants UPRR Securities, LLC, and Unclaimed Property Recovery & Reporting, LLC (collectively, “UPRR”) of common-law and statutory conversion. On March 3, 2016, a jury agreed, finding that Azzar had established UPRR’s liability for common-law and statutory conversion, awarding actual damages of \$64,391.34, and augmenting that award with \$32,195.67 in “treble damages” under MCL 600.2919a(1).¹ After trial, Azzar moved for an award of attorney fees under that same provision, asserting that the Court is obligated to provide such relief as a response to the defendants’ statutory conversion. Although an award of attorney fees is purely discretionary, rather than mandatory, under MCL 600.2919a(1), the Court shall provide Azzar with \$172,710.25 as a reasonable attorney fee. Beyond that, the Court shall furnish Azzar with his costs of \$422.20, and the Court shall additionally permit Azzar to recover judgment interest pursuant to MCL 600.6013(8) on the Court’s aggregate award of reasonable attorney fees and costs.

¹ By statute, the trier of fact can award the prevailing plaintiff in a statutory-conversion action “3 times the amount of actual damages sustained[.]” See MCL 600.2919a(1). Here, the jury chose to render a verdict of 150 percent, rather than 300 percent, of Plaintiff Azzar’s actual damages.

I. Factual Background

From the outset of this case, the parties agreed that Defendant UPRR sent Plaintiff Azzar an offer to exchange Azzar's shares of stock in JDS Uniphase Corporation ("JDSU") for an eight-to-one reverse stock split that JDSU had approved. Azzar did not fully understand UPRR's solicitation, but he nonetheless filled out and sent in the authorization form to complete the exchange, albeit with one crossed-out signature. As a result, UPRR exchanged Azzar's 247,000 shares in JDSU to complete the reverse stock split, but UPRR also sold a sizable portion of Azzar's JDSU stock to cover all of its processing fees and a surety bond. When Azzar realized that UPRR had charged him more than \$60,000 to effect the exchange, he filed suit alleging common-law and statutory conversion as well as other claims. On October 23, 2014, the Court rendered an opinion awarding summary disposition to UPRR on all of Azzar's theories except common-law and statutory conversion. Thus, the parties tried those two remaining claims to a jury in March of 2016.

On March 3, 2016, the jury rendered a verdict in favor of the plaintiff and against Defendant UPRR. Specifically, the jury found UPRR liable on both conversion claims, awarded Plaintiff Azzar damages of \$64,391.34, and added "treble damages" of \$32,195.67. Having prevailed at trial on his statutory-conversion claim, Azzar filed a post-trial motion for attorney fees, taxable costs pursuant to MCR 2.625, and interest under MCL 600.6013(8). After hearing oral arguments and receiving a round of supplemental briefs, the Court must rule on Azzar's motion. First, the Court must decide whether Azzar is entitled to his attorney fees. If he is, the Court must determine the reasonable fees to which he is entitled. Second, the Court must establish the appropriate amount of taxable costs that Azzar should receive. Finally, the Court must consider whether Azzar is entitled to receive interest under MCL 600.6013(8) on his award of attorney fees and costs.

II. Reasonable Attorney Fees

Under Michigan law, “attorney fees are not recoverable as an element of costs or damages unless expressly allowed by statute, court rule, common-law exception, or contract.” See Marilyn Froling Revocable Living Trust v Bloomfield Hills Country Club, 283 Mich App 264, 297 (2009). Plaintiff Azzar has cited a statutory basis for an award of “reasonable” attorney fees. That is, Azzar contends that MCL 600.2919a(1) gives him the right to recover attorney fees from Defendant UPRR. The pertinent language of that statute provides that “[a] person damaged as a result of either or both of the following [provisions defining statutory conversion] may recover 3 times the amount of actual damages sustained, plus costs and reasonable attorney fees[.]” See MCL 600.2919a(1). In Azzar’s view, the Court must award “reasonable attorney fees” to him under that statute, but as our Court of Appeals has explained: “The term ‘may’ is permissive and indicates discretionary activity.” Aroma Wines & Equipment, Inc v Columbian Distribution Services, Inc, 303 Mich App 441, 449 (2013), aff’d, 497 Mich 337 (2015). “Thus, under the language of MCL 600.2919a(1), treble damages and attorney fees are discretionary.” Id. Accordingly, the Court must determine in its discretion whether to award attorney fees to Azzar under MCL 600.2919a(1).²

The Court readily concludes, in its discretion, that Plaintiff Azzar should be awarded all of his “reasonable attorney fees” under MCL 600.2919a(1). Defendant UPRR not only charged Azzar an exorbitant fee for a routine transaction, but also refused to acknowledge any problem when Azzar contested UPRR’s actions based upon his lack of assent. The jury found that UPRR’s actions were

² At times, Plaintiff Azzar has suggested that the jury, not the Court, should decide whether to award attorney fees under MCL 600.2919a(1). But our Court of Appeals has explained that, in providing relief for statutory conversion under MCL 600.2919a(1), “it is the trial court’s obligation to determine the reasonableness of requested attorney fees. See Poly Bond, Inc v Jen-Tech Corp, No 290429, slip op at 8 (Mich App July 27, 2010) (unpublished decision).

so egregious as to require UPRR to pay Azzar treble damages. The Court likewise finds that UPRR acted in a manner so egregious as to justify an award of reasonable attorney fees to Azzar pursuant to MCL 600.2919a(1).

To establish the “reasonable attorney fee” award in this dispute, the Court must engage in the three-step analysis prescribed by our Supreme Court in Smith v Khouri, 481 Mich 519, 533 (2008), and recently refined in Pirgu v United Services Automobile Ass’n, 499 Mich 269, 281-282 (2016). Therefore, the Court “must begin its analysis by determining the reasonable hourly rate customarily charged in the locality for similar services.” Pirgu, 499 Mich at 281. The Court “must then multiply that rate by the reasonable number of hours expended in the case to arrive at a baseline figure.” Id. Finally, “the Court must consider *all* of the remaining Wood [v DAIIE, 413 Mich 573 (1982)] and MRPC 1.5(a) factors to determine whether an up or down adjustment is appropriate.” Id. The Court shall address each of these issues in turn.

A. Reasonable Hourly Rates.

The Court must begin by establishing a reasonable hourly billing rate for each attorney who worked on behalf of Plaintiff Azzar. Attorney Patrick Drueke, who conducted most of the work for Azzar, has requested an hourly rate of \$370 based upon his status as an equity shareholder at the law firm of Rhoades McKee. Another equity shareholder at Rhoades McKee, Gregory Timmer, billed at an hourly rate of \$369. Finally, Attorney Timothy Dudley, an associate at Rhoades McKee, billed at an hourly rate of \$250. Defendant UPRR has offered no opposition to those billing rates,³ which the Court finds to be eminently reasonable. In reaching that conclusion with respect to the billing

³ In a response to Plaintiff Azzar’s motion, Defendant UPRR states that it “does not disagree that Mr. Azzar’s attorneys’ rates are reasonable[.]” See Defendants’ Response at 8.

rate for each of Azzar’s attorneys, the Court consulted the 2014 Economics of Law Practice Attorney Income and Billing Rate Summary Report published by the State Bar of Michigan, which is attached as Exhibit 2 to Azzar’s Brief in Support of Plaintiff’s Motion for Attorney Fees. Indeed, the hourly rates requested by Attorneys Drueke and Timmer fall between the mean rate and the 75th-percentile rate for equity shareholders,⁴ and the hourly rate for Attorney Dudley is precisely the same as the rate for 75th-percentile junior associates. See Brief in Support of Plaintiff’s Motion for Attorney Fees, Exhibit 2 (2014 Economics of Law Practice Attorney Income and Billing Rate Summary Report at 4 – 2013 Attorney Hourly Billing Rates for “Associate”). Accordingly, the Court shall approve the hourly billing rates of Azzar’s three attorneys as reasonable. See Smith, 481 Mich at 530-532.

B. Reasonable Number of Hours.

The most painstaking step in the analysis requires the Court to review detailed billing records from Rhoades McKee to determine the number of hours reasonably devoted to this case.⁵ See Smith, 481 Mich at 532. The billing records reveal that Attorneys Timmer and Dudley performed most of the pretrial work, and then they handed off the case to Attorney Drueke, who carried the laboring oar at trial. From November 4, 2015, through March 30, 2016, Attorney Drueke spent 190.5 hours on the case,⁶ but the Court must deduct 4.5 hours to account for two post-trial entries about a complaint

⁴ The State Bar of Michigan’s 2014 survey establishes a mean hourly billing rate of \$333 and a 75th-percentile rate of \$417. See Brief in Support of Plaintiff’s Motion for Attorney Fees, Exhibit 2 (2014 Economics of Law Practice Attorney Income and Billing Rate Summary Report at 4 – 2013 Attorney Hourly Billing Rates for “Equity Partner/Shareholder”).

⁵ Plaintiff Azzar has supplied the detailed billing records contemplated by our Supreme Court in Smith, 481 Mich at 532, and the Court has attached those detailed billing records as Appendix A.

⁶ The Court has identified each billing entry for Attorney Drueke with a yellow highlighting mark on the billing sheets attached to this opinion as Appendix A.

to FINRA, *i.e.*, the Financial Industry Regulatory Authority, which results in a total of 186 hours for Attorney Drueke. Attorney Timmer billed a total of 62.25 hours,⁷ which the Court approves in full. Finally, Attorney Dudley billed by far the most hours on the case, accumulating 320.25 hours.⁸ The Court, however, must reduce Attorney Dudley's hours to account the redundancy when he performed a task for which one of the partners simultaneously billed. See Van Elslander v Thomas Sebold & Associates, Inc., 297 Mich App 204, 231 (2012) (“excessive, redundant or otherwise unnecessary” hours regardless of the attorneys’ skill, reputation or experience should be excluded”). For example, Attorney Dudley billed for his attendance at trial, as did Attorney Drueke, so the Court must reduce Attorney Dudley’s billing figure by 11 hours on March 2, 2016, and 9.75 hours on March 3, 2016. Additionally, the Court must strike the billings for FINRA research on March 17, 18, and 28, 2016, thereby reducing the billing figure by 3.25 hours. As a result of these reductions, the Court approves 296.25 hours for Attorney Dudley.

Conducting the simple arithmetic necessary to compute “reasonable” billing by each of the three attorneys for Plaintiff Azzar, the Court arrives at the following figures: \$68,820 for Attorney Drueke, *i.e.*, \$370 per hour times 186 hours; \$22,970.25 for Attorney Timmer, *i.e.*, \$369 per hour times 62.25 hours; and \$74,062.50 for Attorney Dudley, *i.e.*, \$250 per hour times 296.25 hours. The total computation of reasonable attorney fees, therefore, yields an aggregate of \$165,852.75. To be sure, Defendant UPRR has advocated for further reductions in the total billable hours to account for additional redundancy and work unrelated to the statutory-conversion claim. The Court concludes

⁷ The Court has identified each billing entry for Attorney Timmer with a pink highlighting mark on the billing sheets attached to this opinion as Appendix A.

⁸ The Court has identified each billing entry for Attorney Dudley with an orange highlighting mark on the billing sheets attached to this opinion as Appendix A.

that further reductions are unnecessary, especially in light of the fact that other attorneys at Rhoades McKee – Paul McCarthy, Robert Shaver, and Patrick Sweeney – worked on the case and recorded their time, but did not include their billings in Plaintiff Azzar’s claim for attorney fees. Accordingly, the Court need not engage in any further reduction of Rhoades McKee’s billing to set a “reasonable” attorney fee for the plaintiff.

Beyond actual attorney fees, Plaintiff Azzar has requested compensation for the work of one paralegal, Kimberly Connor, who assisted with the case. Under MCR 2.626, an “award of attorney fees may include an award for the time and labor of any legal assistant who contributed nonclerical, legal support under the supervision of an attorney, provided the legal assistant meets the criteria set forth in Article 1, § 6 of the Bylaws of the State Bar of Michigan.” Plaintiff Azzar has furnished all of the evidence necessary to establish that Ms. Connor meets the requirements of MCR 2.626. See Brief in Support of Plaintiff’s Motion for Attorneys’ Fees, Exhibit 7. The affidavit from Ms. Connor demonstrates that she performed 52.75 hours of legal work on the matter, see id., so the Court shall augment the attorney-fee award by \$6,857.50 to account for her time.⁹ The Court’s computation of Azzar’s “reasonable” attorney fee, therefore, is \$172,710.25, *i.e.*, \$165,852.75 in fees attributable to the attorneys at Rhoades McKee plus \$6,857.50 in fees for the paralegal at Rhoades McKee.

C. Consideration of Adjustments.

The Court’s computation of a reasonable attorney fee is subject to modification, either up or down, based upon eight factors. See Pirgu, 499 Mich at 282. The Court concludes, however, that none of those factors warrants an adjustment of the \$172,710.25 figure yielded by the first two steps

⁹ Plaintiff Azzar has requested compensation for Kimberly Connor’s time at the reasonable rate of \$130 per hour. The Court formally approves that hourly rate for her services.

of the analysis prescribed in Smith, 481 Mich at 522. That is, the parties presented a run-of-the-mill case, Plaintiff Azzar’s attorneys performed very well but not well beyond expectations, the case did not require Azzar’s attorneys to turn down other employment, and the case went to trial at a normal pace. Pirgu, 499 Mich at 282. In sum, the Court finds nothing in the record to justify a modification of the \$172,710.25 award that the Court calculated by multiplying the approved billable hours by the approved billing rates.

Our Supreme Court has explained that the eight considerations at the third step of the analysis should be regarded as illustrative, rather than exhaustive. See Pirgu, 499 Mich at 282. Indeed, our Supreme Court has noted that “the trial court may consider any additional relevant factors,” id., and Defendant UPRR has emphasized that the jury awarded Plaintiff Azzar “only *a quarter* of the treble damages that it could have awarded him under MCL 600.2919a(1).” See Defendants’ Response at 4. As it turns out, however, the Court and the parties misunderstood the jury’s role in establishing treble damages. The verdict form prepared by the Court and approved by the parties not only asked the jurors whether they chose to award treble damages, but also asked them: “How much additional money do you award in treble damages?” See Verdict Form (March 3, 2016). The jurors chose to award treble damages of \$32,195.67, which amounted to one-half of Azzar’s actual damages. But in writing this opinion, the Court discovered an unpublished decision from our Court of Appeals that holds that if the jury finds that treble damages are warranted on a statutory-conversion claim, the jury cannot “award an amount less than three times the actual damages suffered.” Poly Bond, Inc v Jen-Tech Corp, No 290429, slip op at 7 (Mich App July 27, 2010) (unpublished decision). Accordingly, the reduced amount of treble damages awarded by the jury – which deprived Azzar of \$96,587.01 that he should have received as additional treble damages – constitutes a huge windfall for UPRR,

rather than a justification for denying or reducing Azzar's request for reasonable attorney fees. As a result, the Court firmly concludes that no downward adjustment should be made in the reasonable attorney-fee figure resulting from the first two steps of the analysis prescribed by our Supreme Court in Smith, 481 Mich at 522, and Pirgu, 499 Mich at 281.

III. Taxable Costs

According to MCL 600.2919a(1), Plaintiff Azzar is entitled to recover his costs because he prevailed on his statutory-conversion claim. Moreover, MCR 2.625(A)(1) provides that “[c]osts will be allowed to the prevailing party in an action” in most instances. Because “[t]he taxation of costs is neither a reward granted to the prevailing party nor a punishment imposed on the losing party, but rather a component of the burden of litigation presumed to be known by the affected party,” Mason v City of Menominee, 282 Mich App 525, 530 (2009), the Court “is not required to justify awarding costs to a prevailing party; rather, the court must justify the failure to award costs.” Blue Cross and Blue Shield of Michigan v Eaton Rapids Community Hospital, 221 Mich App 301, 308 (1997). In this case, the plaintiff has merely requested \$422.20 in taxable costs, and Defendant UPRR likewise has noted without objection that “Azzar’s costs totaled only \$422.20.” See Defendant’s Response at 11. The Court shall treat UPRR’s comment as a tacit admission that Azzar is entitled to \$422.20 in costs, which the Court regards as entirely appropriate under Michigan law.

IV. Interest

The final issue presented by the parties concerns Plaintiff Azzar’s ability to obtain interest under MCL 600.6013(8) on the Court’s award of reasonable attorney fees and costs. The statute not only provides that “interest on a money judgment recovered in a civil action is calculated at 6-month

intervals from the date of filing the complaint[.]” but also states that “[i]nterest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs.” See MCL 600.6013(8). Not surprisingly, our Supreme Court has concluded that “the statute makes no exception for attorney fees and costs” because “the statute expressly applies to ‘attorney fees and other costs.’”¹⁰ Ayar v Foodland Distributors, 472 Mich 713, 717 (2005). Thus, a denial of interest on the award of reasonable attorney fees and costs would not only contravene the clear language of MCL 600.6013(8), but also fly in the face of a binding decision from our Supreme Court interpreting that statute. Consequently, the Court shall permit Azzar to include his reasonable attorney fees and costs in the damage award on which interest is computed under MCL 600.6013(8).¹¹

V. Conclusion

For the reasons stated in this opinion, the Court concludes that Plaintiff Azzar is entitled to recover from Defendant UPRR reasonable attorney fees of \$172,710.25 and costs of \$422.20 as part of his damages for statutory conversion under MCL 600.2919a(1). That yields an aggregate award

¹⁰ The Court recognizes that the Supreme Court’s analysis addressed “mediation sanctions under MCR 2.403(O)[.]” Ayar v Foodland Distributors, 472 Mich 713, 717 (2005), as opposed to reasonable attorney fees and costs obtained as damages under MCL 600.2919a(1). But mediation sanctions, which arise from a process undertaken long after the filing of the complaint, offer a *more* compelling argument for an exception to the calculation of interest under MCL 600.6013(8). Despite that fact, our Supreme Court held that mediation sanctions fall within the general rule of the statute. Thus, *a fortiori*, reasonable attorney fees and costs awarded as damages under MCL 600.2919a(1) fall within the ambit of MCL 600.6013(8) insofar as computation of interest is concerned.

¹¹ Defendant UPRR insists that the recent ruling of our Court of Appeals in Lech v Huntmore Estates Condominium Ass’n, No 320028 (Mich App April 26, 2016), requires a different result. The Lech decision, however, is readily distinguishable from the instant case on two grounds. First, the attorney fees and costs in the instant case are a part of the damages under MCL 600.2919a(1); the costs in Lech were awarded as offer-of-judgment sanctions. Id. at 1. Second, the *plaintiff* obtained attorney fees and costs as part of the judgment in the instant case; the *defendants* that “did not file a complaint” or counterclaim received the offer-of-judgment sanctions in Lech. See id. at 3.

of \$173,132.45. Additionally, Azzar may obtain interest on that aggregate amount pursuant to MCL 600.6013(8). The Court invites Azzar to submit a proposed judgment under the so-called seven-day rule, see MCR 2.602(B)(3), which memorializes the verdict of \$64,391.34 in actual damages as well as \$32,195.67 in treble damages, adds the Court's award of attorney fees and costs in the aggregate amount of \$173,132.45, computes interest on that entire award under MCL 600.6013(8), and closes the case.

IT IS SO ORDERED.

Dated: November 1, 2016



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge

Appendix A: Rhoades McKee Billing Sheets

TIME CARD LISTING AS OF 4-13-16

| <u>Work Date</u> | <u>Timekeeper Name</u> | <u>Work Hours</u> | <u>Narrative</u> |
|------------------|------------------------|-------------------|---|
| 3/3/2014 | Timothy R. Dudley | 2.75 | Phone conversation with Eusebia Griffiths of American Stock Transfer & Trust Co.; begin draft of complaint against UPRR Securities, LLC; e-mail to Bob Shaver. |
| 3/4/2014 | Timothy R. Dudley | 2.00 | Phone conversation with Violet Collins of American Stock Transfer and Trust regarding exchange of JDSU shares; continue draft complaint against UPRR; phone conversation with Phil Fitzsimmons of UPRR; phone conversation with James Azzar regarding offer from UPRR. |
| 3/6/2014 | Gregory G. Timmer | 0.75 | Review draft complaint. Conference with Tim Dudley regarding legal issues and draft complaint. |
| 3/6/2014 | Timothy R. Dudley | 3.00 | Complete research regarding potential securities fraud claim; complete draft complaint; conference with Greg Timmer. |
| 3/10/2014 | Timothy R. Dudley | 2.75 | Complete draft letter to UPRR; continue draft complaint; additional research regarding private cause of action for securities fraud. |
| 3/11/2014 | Timothy R. Dudley | 0.75 | Complete draft of complaint. |
| 3/24/2014 | Timothy R. Dudley | 1.75 | Revise draft complaint. |
| 4/14/2014 | Timothy R. Dudley | 1.00 | Conference with Bob Shaver regarding complaint against UPRR; revise complaint. |
| 4/21/2014 | Timothy R. Dudley | 1.50 | Final review of Summons and Complaint; confirm research regarding proper parties for federal securities law claim; file Complaint. |
| 4/24/2014 | Timothy R. Dudley | 0.25 | File Complaint. |
| 5/8/2014 | Timothy R. Dudley | 2.25 | Draft Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant UPRR Securities, LLC. |
| 5/9/2014 | Timothy R. Dudley | 0.75 | Complete draft of Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant. |
| 6/10/2014 | Timothy R. Dudley | 1.00 | Review Defendants' Answer; conference with Bob Shaver; conference with Greg Timmer; research Defendants' Michigan Consumer Protection Act affirmative defense. |
| 7/14/2014 | Timothy R. Dudley | 0.50 | Conference with Bob Shaver regarding interrogatories. |
| 7/15/2014 | Timothy R. Dudley | 2.75 | Revise Plaintiff's First Set of Interrogatories and Requests for Production of Documents. |
| 7/17/2014 | Timothy R. Dudley | 0.50 | File Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant UPRR Securities, LLC and Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Unclaimed Property Recovery & Reporting, LLC. |
| 7/23/2014 | Timothy R. Dudley | 0.50 | Phone conversation with Scott Mandel regarding potential settlement; email to Bob Shaver outlining potential settlement amount. |
| 7/24/2014 | Timothy R. Dudley | 4.00 | Prepare for Initial Case Conference; attend Initial Case Conference; research regarding subject matter jurisdiction for 10(b)-5 federal securities fraud claim, Michigan Consumer Protection Act applicability with regard to securities. |
| 8/11/2014 | Timothy R. Dudley | 0.25 | Conference with Jim Azzar, Bob Shaver. |
| 8/13/2014 | Timothy R. Dudley | 0.25 | Phone conversation with Scott Mandel, counsel for UPRR, regarding settlement proposal. |
| 8/14/2014 | Timothy R. Dudley | 0.25 | Phone conversation with Scott Mandel. |
| 8/20/2014 | Gregory G. Timmer | 0.50 | Review and analysis of settlement offer. Conference with R Shaver. |
| 8/20/2014 | Timothy R. Dudley | 0.25 | Conference with Bob Shaver. |

Attorney Timmer: 1.25 hours
Attorney Dudley: 29.0 hours

| | | |
|------------------------------|------|---|
| 8/26/2014 Timothy R. Dudley | 3.00 | Review Defendants' Brief in Support of Motion for Summary Disposition; research regarding Michigan Consumer Protection Act for Plaintiff's Brief in Response to Defendants' Motion for Summary Disposition. |
| 8/27/2014 Timothy R. Dudley | 6.25 | Research regarding statutory and common law conversion; continue drafting Plaintiff's Response to Defendants' Motion for Summary Disposition. |
| 8/28/2014 Timothy R. Dudley | 5.25 | Research regarding jurisdiction for federal securities fraud claim; continue drafting Brief in Response to Defendants' Motion for Summary Disposition. |
| 9/2/2014 Timothy R. Dudley | 5.25 | Continue drafting Plaintiff's Response to Defendants' Motion for Summary Disposition. |
| 9/4/2014 Timothy R. Dudley | 0.75 | Continue draft Brief in Response to Defendants' Motion for Summary Disposition. |
| 9/8/2014 Timothy R. Dudley | 0.75 | Continue drafting Plaintiff's Brief in Response to Defendants' Motion for Summary Disposition. |
| 9/12/2014 Timothy R. Dudley | 0.25 | Complete draft Brief in Response to Defendants' Motion for Summary Disposition. |
| 9/18/2014 Timothy R. Dudley | 0.50 | Phone conference with Jim Azzar. |
| 9/19/2014 Timothy R. Dudley | 1.25 | Continue draft Brief in Response to Defendants' Motion for Summary Disposition. |
| 10/1/2014 Gregory G. Timmer | 2.75 | Examine defendant's motion for summary disposition and brief in support. Review and revise brief in opposition to motion for summary disposition. Analysis of consumer protection act. Analysis of whether there is jurisdiction for the securities act violation. |
| 10/1/2014 Timothy R. Dudley | 0.25 | Phone conversation with Jim Azzar regarding settlement offer. |
| 10/2/2014 Gregory G. Timmer | 3.25 | Continue analysis of consumer protection act claim. |
| 10/2/2014 Gregory G. Timmer | 0.25 | Conference with T Dudley regarding brief and arguments. |
| 10/2/2014 Timothy R. Dudley | 0.25 | Conference with Greg Timmer. |
| 10/3/2014 Gregory G. Timmer | 0.50 | Review settlement offer and counter-offer. Conference with T Dudley regarding counter-offer. |
| 10/3/2014 Gregory G. Timmer | 0.75 | Conference with T Dudley regarding revisions to response brief and regarding arguments. |
| 10/3/2014 Gregory G. Timmer | 0.50 | Conference with R Shaver and J Azzar regarding UPRR. |
| 10/3/2014 Timothy R. Dudley | 2.25 | Phone conference with Bob Shaver, Greg Timmer, Jim Azzar; revise Plaintiff's Brief in Response to Defendants' Motion for Summary Disposition; draft letter to Scott Mandel. |
| 10/6/2014 Gregory G. Timmer | 0.50 | Review and revise correspondence to S Mandel regarding settlement. |
| 10/6/2014 Timothy R. Dudley | 0.25 | Review and revise letter to Scott Mandel. |
| 10/7/2014 Timothy R. Dudley | 0.75 | Research regarding mitigation of conversion damages. |
| 10/8/2014 Timothy R. Dudley | 1.25 | Prepare for summary disposition hearing; research regarding caselaw discussing personal, household and family use relative to Michigan Consumer Protection Act. |
| 10/9/2014 Timothy R. Dudley | 4.75 | Prepare for summary disposition hearing. |
| 10/10/2014 Gregory G. Timmer | 0.50 | Conference with T Dudley regarding oral argument, the questions asked by Judge Yates and the comments made by Judge Yates from the bench. |
| 10/10/2014 Timothy R. Dudley | 5.00 | Continue preparing for summary disposition motion; summary disposition motion; conference with Bob Shaver, Greg Timmer. |
| 10/16/2014 Timothy R. Dudley | 0.25 | Review discovery requests. |
| 10/23/2014 Gregory G. Timmer | 1.25 | Meeting with T Dudley regarding opinion of the court and analysis of whether reconsideration should be sought on the consumer protection act claim where judge granted summary disposition on a ground not advanced by defendant and where unpublished cases suggest that the ground may be waived. Review Opinion. |
| 10/23/2014 Timothy R. Dudley | 1.50 | Review Opinion and Order Granting, in Part, and Denying, in Part, Defendants' Motion for Summary Disposition; research regarding MCL 445.904 as affirmative defense, waiver of affirmative defenses; conference with Greg Timmer. |
| 10/24/2014 Timothy R. Dudley | 0.25 | Conference with Bob Shaver. |
| 10/27/2014 Timothy R. Dudley | 0.25 | Research regarding motions for reconsideration. |

Attorney Timmer: 10-25 hours

Attorney Dudley: 40-25 hours

| | | |
|------------------------------|------|--|
| 10/31/2014 Timothy R. Dudley | 1.25 | Begin drafting Motion for Reconsideration, Brief in Support of Motion for Reconsideration; email to Scott Mandel regarding discovery requests. |
| 11/5/2014 Timothy R. Dudley | 2.75 | Continue drafting Brief in Support of Motion for Reconsideration. |
| 11/6/2014 Gregory G. Timmer | 0.50 | Meet with T Dudley regarding motion for reconsideration of Judge Yates opinion. |
| 11/6/2014 Timothy R. Dudley | 0.50 | Conference with Greg Timmer; conference with Bob Shaver. |
| 11/7/2014 Timothy R. Dudley | 3.25 | Complete draft Brief in Support of Motion for Reconsideration; draft First Amended Complaint. |
| 11/12/2014 Gregory G. Timmer | 1.50 | Examine opinion of Judge Yates together with draft motion for reconsideration. Examine cases relied on by the court and in our motion for reconsideration. |
| 11/13/2014 Gregory G. Timmer | 3.75 | Prepare final draft of motion for reconsideration. Analysis of request for amending complaint and impact it may have on allowing amendment of defendant's affirmative defenses. |
| 11/13/2014 Gregory G. Timmer | 0.50 | Meet with T Dudley regarding proposed amended complaint and strategy considerations in connection with the reconsideration motion as revised. |
| 11/13/2014 Timothy R. Dudley | 1.25 | Assemble exhibits for Brief in Support of Motion for Reconsideration; conference with Greg Timmer; amend and file Brief in Support of Motion for Reconsideration. |
| 11/18/2014 Timothy R. Dudley | 1.50 | Draft Motion to Compel; review Defendants' Answers to Plaintiff's First Set of Discovery Requests. |
| 11/20/2014 Timothy R. Dudley | 0.25 | Research regarding Massachusetts Attorney General's case against UPRR in 2010. |
| 12/1/2014 Timothy R. Dudley | 0.25 | Review Order Denying Motion for Reconsideration. |
| 12/3/2014 Timothy R. Dudley | 0.50 | Initial Case Conference; phone call with Scott Mandel. |
| 12/4/2014 Timothy R. Dudley | 0.25 | Email to Bob Shaver regarding settlement negotiations, discovery. |
| 12/10/2014 Timothy R. Dudley | 1.00 | Research regarding sale of "lost" certificated securities; conference with Bob Shaver and phone conference with Bob Shaver and broker regarding JDSU certificates. |
| 12/12/2014 Timothy R. Dudley | 0.25 | Conference with Bob Shaver; email to Scott Mandel. |
| 12/17/2014 Timothy R. Dudley | 1.25 | Develop discovery questions; research regarding mail fraud. |
| 12/18/2014 Timothy R. Dudley | 0.50 | Draft Plaintiff's Second Set of Interrogatories and Requests for Production of Documents. |
| 12/29/2014 Timothy R. Dudley | 1.25 | Phone conversation with Jim Azzar regarding deposition dates and potential settlement; email to Scott Mandel; revise draft Plaintiff's Second Set of Interrogatories and Requests for Production of Documents. |
| 1/5/2015 Timothy R. Dudley | 0.50 | Revise Plaintiff's Second Set of Interrogatories and Requests for Production of Documents. |
| 1/6/2015 Gregory G. Timmer | 0.25 | Review draft discovery requests. |
| 1/8/2015 Gregory G. Timmer | 1.00 | Meet with R Shaver and T Dudley regarding discovery requests and strategy. |
| 1/8/2015 Timothy R. Dudley | 1.25 | Conference with Greg Timmer, Bob Shaver regarding potential expert witnesses, discovery requests, stock certificates, and case strategy. |
| 1/13/2015 Timothy R. Dudley | 0.75 | Draft Plaintiff's Witness List. |
| 1/15/2015 Timothy R. Dudley | 0.25 | Complete Plaintiff's Witness Disclosure; phone call to Scott Mandel regarding deposition dates. |
| 1/16/2015 Timothy R. Dudley | 0.25 | Phone conversation with Scott Mandel regarding deposition dates; review Defendant's Witness List. |
| 1/23/2015 Timothy R. Dudley | 0.25 | Phone conversation with Scott Mandel regarding deposition dates. |
| 1/30/2015 Timothy R. Dudley | 0.25 | Conference with Bob Shaver regarding depositions; phone call to Wendy Paul regarding deposition dates. |
| 2/3/2015 Timothy R. Dudley | 0.75 | Prepare for Azzar deposition. |
| 2/4/2015 Timothy R. Dudley | 0.25 | Phone conversation with Scott Mandel regarding deposition dates. |
| 2/6/2015 Gregory G. Timmer | 0.50 | Review letter regarding sale of assets of UPRR. Conference with T Dudley regarding response correspondence and request for information regarding the alleged asset sale. |

Attorney Timmer: 8.0 hours

Attorney Dudley: 20.5 hours

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| 2/6/2015 Timothy R. Dudley | 3.25 | Review letter from Scott Mandel regarding sale of UPRR; conference with Bob Shaver regarding same; research and conference with attorney Tony Pearson regarding successor liability; phone conversation with Scott Mandel regarding sale of UPRR, discovery issues; research regarding Subsidiary, LLC; phone conference with Bob Shaver, Jim Azzar regarding sale of UPRR. |
| 2/9/2015 Gregory G. Timmer | 1.75 | Conference with T Dudley. Meet with R Shaver and T Dudley. Strategize additional discovery and alternative strategies in pursuing the case. Analysis of conversion claim with treble damages and absence of conversion claim if existing original shares are presented. |
| 2/9/2015 Timothy R. Dudley | 2.00 | Draft letter to Scott Mandel regarding sale of UPRR assets; conference with Bob Shaver; revise letter; phone conversation with Scott Mandel regarding sale of UPRR assets, deposition dates; strategy conference with Bob Shaver, Greg Timmer. |
| 2/10/2015 Gregory G. Timmer | 0.75 | Meet with R Shaver and T Dudley regarding litigation strategy. |
| 2/10/2015 Timothy R. Dudley | 2.25 | Review Defendants' answers to Plaintiff's Second Set of Interrogatories and Requests for Production of Documents; email exchange with Scott Mandel regarding stock certificates in Plaintiff's possession, deposition dates; phone conversation with Bob Shaver regarding stock certificates, depositions; research regarding treble damages for statutory conversion; begin drafting letter in response to Defendants' discovery objections. |
| 2/11/2015 Gregory G. Timmer | 0.25 | Review information on Keane Financial. |
| 2/11/2015 Timothy R. Dudley | 2.75 | Complete research regarding treble damages for statutory conversion; research objections based on public availability; draft letter to Scott Mandel regarding discovery answers and objections; phone conference with Bob Shaver, Bill Clink regarding deposition. |
| 2/12/2015 Gregory G. Timmer | 0.25 | Conference with T Dudley regarding depositions. |
| 2/12/2015 Gregory G. Timmer | 1.50 | Meet with R Shaver, T Dudley, J Azzar, and B Clink regarding preparation for depositions. |
| 2/12/2015 Timothy R. Dudley | 5.50 | Prepare for depositions of Jim Azzar, Bill Clink; conference with Jim Azzar, Bill Clink, Bob Shaver, Greg Timmer; Depositions of Jim Azzar, Bill Clink; research regarding effect of crossed-out signature. |
| 2/13/2015 Timothy R. Dudley | 0.25 | Revise Plaintiff's Third Set of Interrogatories and Requests for Production of Documents to Defendants. |
| 2/17/2015 Timothy R. Dudley | 0.50 | Email exchange with Scott Mandel regarding discovery; revise and send Plaintiff's Third Set of Interrogatories and Requests for Production of Documents to Defendants. |
| 2/23/2015 Timothy R. Dudley | 0.25 | Email exchange with Scott Mandel regarding Borden, Fitzsimons depositions. |
| 2/24/2015 Timothy R. Dudley | 0.75 | Draft Notice of Deposition of Jennifer Borden; subpoena for deposition of Phil Fitzsimons; research video-conferencing depositions. |
| 2/25/2015 Timothy R. Dudley | 0.25 | Phone call and email exchange with Scott Mandel regarding depositions of Jennifer Borden, Phil Fitzsimons. |
| 3/3/2015 Timothy R. Dudley | 0.25 | Email to Scott Mandel regarding response to discovery objections. |
| 3/5/2015 Timothy R. Dudley | 1.75 | Review materials provided by defendants to supplement responses to Plaintiff's Second Set of Interrogatories and Requests for Production of Documents; research Keane purchase of UPRR; begin research regarding successor liability under New York law. |
| 3/9/2015 Timothy R. Dudley | 0.50 | Email exchange with Scott Mandel regarding discovery objections. |
| 3/10/2015 Timothy R. Dudley | 2.25 | Research regarding Subsidiary, LLC; draft FOIA letter to Massachusetts Attorney General's Office; begin developing deposition questions. |
| 3/11/2015 Timothy R. Dudley | 3.25 | Email exchange with Scott Mandel regarding deposition dates; draft stipulated order to amend caption; revise and send FOIA request to Massachusetts Attorney General's Office; continue preparation for depositions. |
| 3/12/2015 Timothy R. Dudley | 0.50 | Revise Notices of Depositions; phone conversation with Jim Azzar regarding update of case; phone conversation with Scott Mandel regarding potential settlement. |

Attorney Timmer: 4.5 hours

Attorney Dudley: 26.25 hours

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| 3/23/2015 Timothy R. Dudley | 3.25 | Continue preparation for depositions of Phil Fitzsimons, Jennifer Borden; phone conversation with Scott Mandel regarding depositions, potential settlement. |
| 3/24/2015 Timothy R. Dudley | 0.50 | Phone conversations with Scott Mandel, Jim Azzar regarding potential settlement. |
| 3/25/2015 Timothy R. Dudley | 1.50 | Phone conversation with Scott Mandel regarding settlement; review proposed and revise proposed Stipulation and Order to Dismiss and Release; revise Release; conference with Greg Timmer regarding proposed Release; conference with Bob Shaver regarding proposed Release. |
| 3/26/2015 Timothy R. Dudley | 1.00 | Phone conversation with Jim Azzar regarding settlement status; email exchange with Scott Mandel regarding settlement status. |
| 4/6/2015 Gregory G. Timmer | 0.25 | Conference with T Dudley regarding depositions. |
| 4/8/2015 Timothy R. Dudley | 1.75 | Prepare for depositions of Phil Fitzsimons, Jennifer Borden. |
| 4/9/2015 Timothy R. Dudley | 5.75 | Preparation for and depositions of Phil Fitzsimons and Jennifer Borden. |
| 4/15/2015 Timothy R. Dudley | 5.25 | Conference with Bob Shaver regarding strategy; research regarding conversion claim; begin drafting Brief in Support of Motion for Summary Disposition. |
| 4/16/2015 Gregory G. Timmer | 1.25 | Meet with T Dudley regarding arguments in support of summary disposition and in anticipation of arguments to be raised by defendant in its motion for summary disposition. |
| 4/16/2015 Timothy R. Dudley | 6.50 | Continue research regarding conversion cause of action; continue drafting Brief in Support of Motion for Summary Disposition; conference with Bob Shaver, Greg Timmer. |
| 4/17/2015 Timothy R. Dudley | 2.75 | Continue drafting Brief in Support of Motion for Summary Disposition. |
| 4/20/2015 Timothy R. Dudley | 4.50 | Continue drafting Brief in Support of Motion for Summary Disposition; research regarding treble damages for statutory conversion. |
| 4/22/2015 Gregory G. Timmer | 1.50 | Lengthy meeting with T Dudley regarding summary disposition issues and analysis of strength of arguments and focus attention on our perspective. |
| 4/22/2015 Timothy R. Dudley | 4.25 | Complete draft Brief in Support of Motion for Summary Disposition; review Defendants' Brief in Support of Motion for Summary Disposition; conferences with Bob Shaver, Greg Timmer regarding Brief in Support of Motion for Summary Disposition; revise Brief in Support of Motion for Summary Disposition; research regarding authority to sign. |
| 4/23/2015 Timothy R. Dudley | 10.50 | Continue research regarding signature validity; revise Brief in Support of Motion for Summary Disposition. |
| 4/24/2015 Gregory G. Timmer | 2.25 | Review draft brief in support of motion for summary disposition and revise same. Conference with T Dudley regarding key arguments and our perspective of the facts. |
| 4/24/2015 Timothy R. Dudley | 3.25 | Complete revisions to Plaintiff's Brief in Support of Motion for Summary Disposition; draft Plaintiff's Motion in Support of Summary Disposition, Notice of Hearing; conference with Greg Timmer; file Motion and Brief in Support of Motion for Summary Disposition. |
| 5/4/2015 Timothy R. Dudley | 2.50 | Research regarding objective theory of contracts; signature requirements and validity. |
| 5/5/2015 Timothy R. Dudley | 6.50 | Research regarding contract acceptance, consent to conversion, "wrongful conversion", requirements of a signature; begin drafting Brief in Response to Defendants' Motion for Summary Disposition. |
| 5/6/2015 Timothy R. Dudley | 6.75 | Continue drafting Brief in Response to Defendants' Motion for Summary Disposition. |
| 5/7/2015 Timothy R. Dudley | 4.75 | Continue drafting Brief in Response to Defendants' Motion for Summary Disposition. |
| 5/8/2015 Gregory G. Timmer | 1.25 | Review draft response to defendants' motion for summary disposition. Review defendants' motion for summary disposition. |
| 5/8/2015 Timothy R. Dudley | 4.00 | Complete draft Brief in Response to Defendants' Motion for Summary Disposition. |
| 5/18/2015 Gregory G. Timmer | 1.50 | Examine draft opposition brief together with defendant's brief in support of motion for summary disposition. |

Attorney Timmer: 8.0 hours
Attorney Dudley: 75.25 hours

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| 5/19/2015 Gregory G. Timmer | 1.00 | Meet with T Dudley regarding brief in opposition and strategy in responding to arguments raised by defendant and limiting response to defendant's arguments while reinforce position taken by Azzar in our motion for summary disposition and brief in support. |
| 5/20/2015 Timothy R. Dudley | 3.25 | Conference with Greg Timmer regarding Brief in Response to Defendants' Motion for Summary Disposition; revise brief. |
| 5/21/2015 Gregory G. Timmer | 4.50 | Revise brief in opposition to motion for summary disposition by defendants. |
| 5/21/2015 Gregory G. Timmer | 0.50 | Conference with T Dudley regarding response brief. |
| 5/21/2015 Timothy R. Dudley | 4.25 | Revise Plaintiff's Brief in Response to Defendants' Motion for Summary Disposition; conference with Greg Timmer regarding same; research regarding analogy to false imprisonment and habeas corpus. |
| 5/22/2015 Gregory G. Timmer | 5.50 | Continue revisions to summary disposition opposition brief. Review Massachusetts attorney general's release regarding UPRR. Examine deposition of J Azzar. Transmit brief to T Dudley for filing. |
| 5/22/2015 Timothy R. Dudley | 2.00 | Revise, file and assemble exhibits for Brief in Response to Defendants' Motion for Summary Disposition. |
| 5/29/2015 Timothy R. Dudley | 4.00 | Prepare for summary disposition hearings. |
| 6/1/2015 Timothy R. Dudley | 3.75 | Prepare for summary disposition hearing. |
| 6/2/2015 Timothy R. Dudley | 2.25 | Prepare for Summary Disposition hearing. |
| 6/3/2015 Gregory G. Timmer | 1.00 | Conference with T Dudley regarding what transpired at oral argument and court's ruling. Conference with J Azzar regarding ruling and analysis whether a hand writing expert should be sought. |
| 6/3/2015 Timothy R. Dudley | 5.25 | Prepare for summary disposition hearing; summary disposition hearing; conference with Bob Shaver, Greg Timmer; conference calls with Bob Shaver, Greg Timmer, Jim Azzar. |
| 6/4/2015 Timothy R. Dudley | 0.50 | Locate handwriting expert; phone call with potential handwriting expert Eric Speckin. |
| 6/8/2015 Gregory G. Timmer | 1.00 | Meet with T Dudley regarding handwriting expert and how the expert may assist in the determination of whether the signature was stricken. Analysis of trial court's offer to hear the case if the jury demand were waived and whether the positives outweigh the negatives in light of the court's refusal to rule on summary disposition. Review spoliation of evidence argument. |
| 6/8/2015 Timothy R. Dudley | 0.75 | Conference with Greg Timmer regarding expert witness, jury demand; phone conversation with handwriting expert Eric Speckin; phone conversation with Jim Azzar regarding jury demand, handwriting expert. |
| 6/9/2015 Timothy R. Dudley | 1.00 | Phone conversation with Scott Mandel regarding mediation, settlement conference, jury trial, and settlement offer; phone conversation with Jim Azzar regarding settlement offer, handwriting expert; research regarding spoliation; phone conversation with American Stock Transfer and Trust regarding Letter of Transmittal. |
| 6/10/2015 Timothy R. Dudley | 0.25 | Email exchange with Scott Mandel regarding settlement offer, potential Motion in Limine. |
| 6/15/2015 Timothy R. Dudley | 2.50 | Research regarding spoliation of evidence, burden of proof. |
| 6/16/2015 Timothy R. Dudley | 0.50 | Draft letter to American Stock Transfer & Trust regarding Letter of Transmittal. |
| 6/18/2015 Gregory G. Timmer | 0.50 | Examine decision of the Michigan Supreme Court in Aroma Wines regarding statutory and common law conversion claims. Request T Dudley analyze the decision to assess whether it impacts claims against UPRR. |
| 6/18/2015 Timothy R. Dudley | 0.50 | Review and analyze Aroma Wines & Equipment, Inc v Columbia Distribution Services, Inc opinion of Michigan Supreme Court. |
| 6/24/2015 Gregory G. Timmer | 0.25 | Review memo regarding impact of Aroma Wines decision. |
| 6/24/2015 Timothy R. Dudley | 0.50 | Memo to Greg Timmer, Bob Shaver regarding effect of Aroma Wines decision on UPRR case. |
| 6/25/2015 Timothy R. Dudley | 0.75 | Trial preparation. |
| 7/8/2015 Timothy R. Dudley | 0.50 | Phone conversations with Judge Yates' office, Scott Mandel regarding trial dates and case schedule. |
| 7/9/2015 Timothy R. Dudley | 0.25 | Email exchange with Judge Yates office regarding trial schedule. |
| 7/10/2015 Timothy R. Dudley | 0.75 | Draft letter to handwriting expert Erich Speckin. |
| 7/20/2015 Timothy R. Dudley | 0.50 | Redact confidential information from signature samples; phone conversation with Scott Mandel regarding trial dates. |

Attorney Timmer: 14.25 hours
Attorney Dudley: 34.0 hours

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| 7/24/2015 Timothy R. Dudley | 0.25 | Communication with potential expert witness. |
| 7/27/2015 Timothy R. Dudley | 0.25 | Correspondence with Scott Mandel, Judge Yates office regarding trial date, date for Motion in Limine; correspondence with Mike Sinke of Speckin Forensic Lab. |
| 8/4/2015 Timothy R. Dudley | 0.25 | Phone conversation with handwriting expert Mike Sinke. |
| 8/17/2015 Timothy R. Dudley | 0.25 | Review Defendant's Motion and Brief in Support of Motion in Limine. |
| 8/18/2015 Gregory G. Timmer | 1.00 | Meet with T Dudley regarding handwriting expert, spoliation issue, and motion for leave to amend expert witness list. |
| 8/18/2015 Timothy R. Dudley | 1.75 | Phone conversation with potential expert Mike Sinke; conference with Greg Timmer regarding expert; begin research and drafting Plaintiff's Brief in Response to Defendants' Motion in Limine. |
| 8/19/2015 Timothy R. Dudley | 0.25 | Phone conversation with Jim Azzar regarding expert witness. |
| 8/20/2015 Timothy R. Dudley | 1.75 | Continue research for and drafting Plaintiff's Response to Defendants' Motion in Limine. |
| 8/21/2015 Timothy R. Dudley | 2.25 | Complete and file Plaintiff's Brief in Response to Defendants' Motion in Limine. |
| 9/10/2015 Timothy R. Dudley | 2.25 | Begin drafting brief in support of motion in limine for adverse inference; email to Scott Mandel regarding expert witness. |
| 9/15/2015 Timothy R. Dudley | 0.25 | Continue drafting Brief in Support of Motion for Adverse Inference. |
| 9/16/2015 Timothy R. Dudley | 0.25 | Continue research regarding leave to add expert witness. |
| 9/17/2015 Timothy R. Dudley | 1.25 | Complete draft Motion and Brief in Support of Motion for Leave to Add Expert Witness. |
| 9/29/2015 Timothy R. Dudley | 0.25 | Review Defendants' brief in opposition to Plaintiff's Motion to Add Expert Witness. |
| 9/30/2015 Timothy R. Dudley | 0.75 | Review and analyze case law cited in Defendants' Brief in Opposition to Plaintiff's Motion to Add Expert Witness. |
| 10/1/2015 Timothy R. Dudley | 3.25 | Prepare for hearings on Defendants' Motion in Limine, Plaintiff's Motion to Add Expert Witness. |
| 10/2/2015 Timothy R. Dudley | 2.75 | Prepare for and hearing on Defendants' Motion in Limine, Plaintiff's Motion to Add Expert Witness. |
| 10/12/2015 Timothy R. Dudley | 0.25 | Phone conversation with Jim Azzar regarding October 2 hearing, potential spoliation motion. |
| 10/13/2015 Timothy R. Dudley | 0.25 | Draft letter to American Stock Transfer & Trust for Jim Azzar. |
| 11/4/2015 Patrick R. Drueke | 0.75 | Conference with Bob Shaver regarding the conversion claims and the January trial date. Conference with Tim Dudley regarding the status of the matter. |
| 11/13/2015 Gregory G. Timmer | 0.50 | Conference with P Drueke regarding conversion claim and trial strategy. |
| 11/13/2015 Patrick R. Drueke | 0.50 | Conference with Greg Timmer regarding the conversion claim. Conference with Tim Dudley regarding the trial. |
| 11/24/2015 Patrick R. Drueke | 3.00 | Begin review of pleadings for purposes of preparing for trial. |
| 11/25/2015 Patrick R. Drueke | 3.00 | Review and analysis of the depositions taken in the case in connection with trial preparation. |
| 11/30/2015 Patrick R. Drueke | 0.25 | Conference with attorney Dudley regarding the trial date and trial preparation. |
| 12/1/2015 Timothy R. Dudley | 1.25 | Research regarding spoliation. |
| 12/3/2015 Patrick R. Drueke | 0.25 | Review issues relating to the defense representatives at trial. |
| 12/7/2015 Patrick R. Drueke | 0.25 | Conference with attorney Timmer regarding trial matters. |
| 1/5/2016 Patrick R. Drueke | 0.25 | Conference with Tim Dudley regarding the trial. |
| 1/6/2016 Timothy R. Dudley | 0.50 | Correspondence with Judge Yates' office, Jim Azzar regarding trial date. |
| 1/8/2016 Patrick R. Drueke | 0.25 | Conference with Greg Timmer regarding trial. |
| 1/13/2016 Timothy R. Dudley | 0.75 | Conference call with Scott Mandel, Judge Yates' office regarding trial date; conference call with Scott Mandel, Judge Yates regarding trial date. |
| 1/18/2016 Timothy R. Dudley | 0.25 | Phone call with Jim Azzar, email exchange with Scott Mandel regarding trial date. |
| 2/2/2016 Patrick R. Drueke | 4.75 | Review the pleadings in connection with trial preparation. |
| 2/3/2016 Patrick R. Drueke | 6.50 | Review issues relating to the execution and crossed out signature on the Letter of Transmittal. Review issues for trial. Review and analysis of potential motions in limine. Work on jury instructions. Conference with Bill Clink regarding the trial. |

Attorney Drueke: 19.75 hours

Attorney Timmer: 1.5 hours

Attorney Dudley: 21.25 hours

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| 2/4/2016 Patrick R. Drueke | 6.00 | Conference with Jim Azzar regarding the trial and trial preparation. Work on issues relating to the trial brief. Work on issues for the witnesses. |
| 2/4/2016 Timothy R. Dudley | 0.75 | Draft Trial Brief; email to Patrick Drueke regarding documents for potential trial exhibits. |
| 2/5/2016 Patrick R. Drueke | 3.00 | Continued work on a portion of the proposed jury instructions. Prepare a draft of the verdict form. Review and analysis of issues relating to the burden of proof for treble damages. Review issues relating to witness order. |
| 2/5/2016 Timothy R. Dudley | 1.00 | Assemble documents for potential trial exhibits. |
| 2/6/2016 Patrick R. Drueke | 1.50 | Work on outline for the examination of Jennifer Borden. Work on issues relating to jury selection and opening. |
| 2/8/2016 Gregory G. Timmer | 0.75 | Conference with P Drueke regarding trial preparation, conversion instructions to the jury, strategy in explaining conversion to the jury with analogies, and regarding testimony of witnesses. |
| 2/8/2016 Patrick R. Drueke | 7.50 | Prepare for and conference with Bill Clink regarding trial and his trial testimony. Review and analysis of issues relating to the potential defenses to our conversion claim. |
| 2/8/2016 Timothy R. Dudley | 3.00 | Revise Trial Brief; research regarding duty to inquire, good-faith/mistake defense to conversion, demand and refusal of possession. |
| 2/9/2016 Gregory G. Timmer | 1.25 | Conference with P Drueke. Analysis of treble damages under the statute and whether jury instructions and jury form should mirror the statute. Review case law addressing conversion statute. |
| 2/9/2016 Gregory G. Timmer | 1.00 | Second conference with P Drueke regarding jury instructions and whether motion in limine should be filed. Examine other statutes which provide for treble damages and analysis regarding how the jury is instructed and what are questions of law for the court to decide. |
| 2/9/2016 Patrick R. Drueke | 7.00 | Conference with Jim Azzar regarding the trial and his trial testimony. Work on issues relating to the trial including the necessary standards for conversion and statutory conversion. Conference with defense counsel regarding Phil Fitzsimmons. Receipt and review of correspondence from defense counsel regarding the same. |
| 2/9/2016 Timothy R. Dudley | 2.50 | Continue research, email to Pat Drueke, and assemble cases regarding mistake/knowledge as defense to conversion; refusal of demand; conference with Pat Drueke. |
| 2/10/2016 Gregory G. Timmer | 3.50 | Research regarding conversion and statutory treble damages. Examine cases regarding treble damages and other penalties stating that an element of dishonest conduct is required. Research regarding whether jury decides question of treble damages. |
| 2/10/2016 Gregory G. Timmer | 0.50 | Review and revise verdict form. Analysis of whether fees may be awarded separately from treble damages given the statutory language and the case law stating the treble damages are punitive for dishonest conduct. |
| 2/10/2016 Patrick R. Drueke | 7.00 | Review prior orders of the court in connection with issues for trial. Review prior discovery in connection with same. Prepare outline of matters for opening and closing thees. Review items to include in jury instructions. |
| 2/10/2016 Timothy R. Dudley | 1.75 | Research regarding lack of knowledge as defense to conversion; email to Pat Drueke regarding same; begin drafting Motions in Limine, Briefs in Support of Motions in Limine. |
| 2/10/2016 Patrick E. Sweeney | 2.00 | Review and analyze existing standards applicable to award treble damages and attorney fees on conversion claims. |
| 2/11/2016 Gregory G. Timmer | 1.00 | Meet with P Drueke regarding motion in limine. |
| 2/11/2016 Patrick R. Drueke | 6.50 | Work on evidentiary issues in connection with establishing the damages. Review and analysis of potential motions in limine. Identify issues for witnesses to establish. |
| 2/11/2016 Timothy R. Dudley | 4.00 | Research for and Draft Motion in Limine and Brief in Support of Motion in Limine re Affirmative Defenses; research for and Draft Motion in Limine and Brief in Support of Motion in Limine re Fitzsimons Deposition; revise motions and briefs; review and revise Motion in Limine and Brief in Support re Letter of Transmittal. |
| 2/11/2016 Patrick E. Sweeney | 0.50 | Draft special jury instruction regarding treble damages and attorney fees. |
| 2/12/2016 Gregory G. Timmer | 1.00 | Conference with P Drueke. Review and revise motion in limine. |

Attorney Drueke: 38.5 hours

Attorney Timmer: 9.0 hours

Attorney Dudley: 13.0 hours

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| 2/12/2016 Patrick R. Drueke | 6.50 | Work on motion in limine regarding the letter of transmittal. Review and analysis of issues in connection with the deposition of Phil Fitzsimons. Work on issues with the opening. |
| 2/12/2016 Timothy R. Dudley | 5.75 | Assemble exhibits for Motions in Limine; research stock prices for JDS Uniphase for damages claim; revise Trial Brief regarding damages claim; research regarding MRE 1004. |
| 2/13/2016 Patrick R. Drueke | 2.00 | Preparation of deposition summaries of Jim Azzar and Phil Fitzsimons. |
| 2/13/2016 Timothy R. Dudley | 0.50 | Research regarding MRE 1004, email to Patrick Drueke. |
| 2/14/2016 Patrick R. Drueke | 1.00 | Identify key areas of inquiry from the deposition of UPRR Securities president. |
| 2/15/2016 Patrick R. Drueke | 4.75 | Work on damage calculation issues and evidence necessary to establish damages. Continued review of opponent's depositions for key areas of inquiry. Continued work on motions in limine. |
| 2/15/2016 Timothy R. Dudley | 1.50 | Phone conversation with Mike Pniewski regarding JDS Uniphase values; revise Motion in Limine and Brief in Support re Letter of Transmittal to include MRE 1004 argument; continue research regarding JDSU value for damages claim. |
| 2/16/2016 Patrick R. Drueke | 4.75 | Attention to historical stock prices of JDSU. Continued preparation for the direct testimony of Bill Clink, and the potential cross-examination. Review exhibits for use with Bill Clink. Begin review of exhibits for use on Jim Azzar's direct examination. |
| 2/16/2016 Timothy R. Dudley | 4.50 | Conference with Pat Drueke regarding JDSU stock price; continue research regarding JDSU stock price. |
| 2/17/2016 Patrick R. Drueke | 5.00 | Prepare for and conference with Bill Clink regarding his direct testimony. Conference with Jim Azzar regarding trial. Prepare materials for opening. Work on issues relating to the price of JDSU on March 21, 2014. |
| 2/17/2016 Timothy R. Dudley | 1.25 | Obtain new copies of Standard and Poor's Stock Guide. |
| 2/18/2016 Patrick R. Drueke | 6.00 | Work on motions in limine regarding the affirmative defenses, the letter of transmittal, and the deposition of Phil Fitzsimons. Continued review of potential exhibits for use in Jim Azzar's direct examination. Begin review and identification of portions of Phil Fitzsimons' deposition to be used at trial. Review and analysis of evidentiary issues to be prepared for at trial. |
| 2/19/2016 Gregory G. Timmer | 1.00 | Meet with P Drueke regarding admissibility of settlement agreement and regarding strategy in obtaining treble damages. Analysis of reasons for not exchanging shares and assessment of strategy that defense counsel will employ in light of motion in limine to exclude settlement communications. |
| 2/19/2016 Patrick R. Drueke | 4.75 | Receipt and review of the defendants' motion in limine regarding the fees charged by UPRR and the settlement discussions between the parties. Begin preparation of brief in response regarding the same. Continued review and identification of the testimony from Phil Fitzsimons' deposition to be used at trial. Conference with Greg Timmer regarding strategy to employ at trial. Review and analysis of the Michigan Rules of Evidence in connection with the response to the motion in limine. Continued preparation for items to include in the opening. |
| 2/21/2016 Patrick R. Drueke | 1.50 | Prepare brief in response to the defendants' motion in limine regarding the demand to return the stock and to preclude evidence relating to its fees. |
| 2/22/2016 Patrick R. Drueke | 5.25 | Finalize the motions in limine together with the briefs in support regarding the use of Phil Fitzsimons' deposition, the defendants' affirmative defenses, and the letter of transmittal. Begin work on questions for Jim Azzar on his direct examination. Conference with Attorney Greg Timmer regarding strategy in connection with the use of Phil Fitzsimons' deposition at trial. Review and analysis of evidentiary issues in connection with the exhibits to be used during the examination of Bill Clink and Jim Azzar. |
| 2/23/2016 Gregory G. Timmer | 0.50 | Conference with P Drueke regarding trial strategy and whether to move to exclude deposition testimony of defendant's witness. |

Attorney Drueke: 41.5 hours
Attorney Timmer: 1.5 hours
Attorney Dudley: 13.5 hours

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| 2/23/2016 Patrick R. Druke | 6.00 | Finalize the exhibits in support of our motions in limine. Continue preparing the outline for the direct examination of Jim Azzar. Finalize the testimony from Phil Fitzsimons to be used at trial. Identify and organize the exhibits for trial. Begin preparing notes for the examination of Jennifer Borden. Identify additional evidentiary issues to be prepared for at the time of trial. Finalize the trial brief. Finalize the jury instructions. |
| 2/24/2016 Patrick R. Druke | 6.25 | Finalize the outline for the direct examination of Jim Azzar. Finalize the initial draft of exhibits to be used on direct examination for Jim Azzar. Prepare correspondence to Mr. Azzar attaching the outline. Prepare additional notes for potential evidentiary issues at trial. Prepare additional items for the opening. Begin preparation of items for the closing. Receipt and review of the defendants' trial brief, jury instructions and verdict form. Prepare additional items for the examination of Jennifer Borden. |
| 2/25/2016 Paul A. McCarthy | 0.25 | Review issue regarding whether defendant can use deposition of its representative when defendant has within its control whether to produce representative live at trial. Review MRE 1004. Conference with P. Druke. |
| 2/25/2016 Paul A. McCarthy | 0.75 | Review factual background and work up trial strategy. Review issues and pressure points for purposes of jury selection. Conference with P. Druke regarding same. |
| 2/24/2016 Timothy R. Dudley | 3.25 | Research regarding MRE 403, 408; revise response to Defendants' Motion in Limine; review Defendants' Trial Brief, proposed Jury Instructions. |
| 2/25/2016 Patrick R. Druke | 7.00 | Prepare response to the defendants' motion in limine, and our objection to the defendants' use of hearsay evidence. Continued preparation of the direct examination for Jim Azzar. Prepare the exhibits, and order of exhibits for use in Mr. Azzar's direct examination. Review and analysis of evidentiary issues in connection with the defendants' motion in limine and my ability to use the deposition testimony as an admission of a party opponent. |
| 2/25/2016 Timothy R. Dudley | 0.50 | Review Defendant's Supplemental Jury Instructions. |
| 2/26/2016 Patrick R. Druke | 7.00 | Finalize exhibits for Mr. Azzar's direct testimony. Review and run-thru direct testimony of Mr. Azzar. Review and run-thru the direct testimony of Bill Clink. Review and run-thru the opening. Begin preparation of items for the closing. Receipt and review of the defendants' response to our motions in limine. |
| 2/26/2016 Timothy R. Dudley | 0.75 | Conference with Pat Druke; review Defendants' Response to Plaintiff's Motions in Limine. |
| 2/27/2016 Patrick R. Druke | 3.50 | Prepare for and conference with Jim Azzar regarding trial preparation for his direct examination. |
| 2/27/2016 Timothy R. Dudley | 1.25 | Review and research regarding Defendants' Brief in Response to Plaintiff's Motion in Limine; comments to Pat Druke regarding same. |
| 2/28/2016 Patrick R. Druke | 1.50 | Prepare materials for jury selection. Prepare items for the examination of Jennifer Borden. |
| 2/29/2016 Patrick R. Druke | 7.50 | Prepare for and conference with Bill Clink regarding his direct examination. Conference with Mr. Azzar regarding his examination. Prepare additional items for the jury selection. Prepare additional items for the opening. Review and finalize a more tailored reading of Phil Fitzsimons' deposition for purposes of trial. Identify additional issues for closing. |
| 3/1/2016 Patrick R. Druke | 9.50 | Prepare for trial. |
| 3/1/2016 Timothy R. Dudley | 7.25 | Attend hearing on Plaintiff's and Defendants' Motions in Limine; research and email to Pat Druke regarding attorney fees under MCL 600.2919a; conference with Greg Timmer, research and draft bench memo regarding attorney fees under MCL 600.2919a. |
| 3/1/2016 Gregory G. Timmer | 0.75 | Meet with T Dudley regarding analysis of question of whether the Court or the jury decides the question of attorneys fee. |
| 3/1/2016 Gregory G. Timmer | 2.00 | Meet with P Druke regarding court's rulings on motions in limine. Review statute and federal case law in connection with question of whether the Court or the jury decides the question of attorneys fees. |

Attorney Druke: 48.25 hours
Attorney Timmer: 2.75 hours
Attorney Dudley: 13.00 hours

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| 3/1/2016 Paul A. McCarthy | 1.00 | Review authorization document at center of litigation and identify and brainstorm false and deceptive aspects of same. Brainstorm jury selection with P. Druke. Review strategy issues and ways to hammer on former general counsel to reveal company as bottom feeding scumbag business. |
| 3/2/2016 Patrick R. Druke | 11.50 | Prepare for and attend first day of jury trial. |
| 3/2/2016 Timothy R. Dudley | 11.00 | Trial and trial preparation. |
| 3/2/2016 Robert C. Shaver | 1.00 | Meeting with attorneys Timmer and Druke regarding trial strategy and jury instructions. |
| 3/2/2016 Gregory G. Timmer | 1.00 | Meet with P Druke and R Shaver regarding jury instructions and regarding strategy in assessing treble damages. |
| 3/3/2016 Patrick R. Druke | 14.00 | Prepare and attend second and last day of trial. |
| 3/3/2016 Timothy R. Dudley | 9.75 | Trial and trial preparation. |
| 3/4/2016 Gregory G. Timmer | 0.25 | Conference with T Dudley regarding jury verdict. Conference with J Azzar regarding verdict, strategy in light of appeal and in light of possible collection difficulties, and possibility that defendant will post a bond to stay enforcement pending appeal. |
| 3/4/2016 Patrick R. Druke | 0.50 | Attention to the preparation of the motion for entry of judgment. Review issue relating to the entry of judgment and the damages awarded. |
| 3/4/2016 Timothy R. Dudley | 0.25 | Phone conference with Bob Shaver, Greg Timmer, Jim Azzar. |
| 3/7/2016 Patrick R. Druke | 1.50 | Review and analysis of the ability to obtain attorney fees under the statutory conversion statute. Begin preparation of a portion of the analysis for the brief in support of our motion for entry of judgment. |
| 3/8/2016 Patrick R. Druke | 1.00 | Conference with Mr. Azzar's office regarding the motion for entry of judgment. Attention to the preparation and finalization of our motion for entry of judgment. |
| 3/8/2016 Timothy R. Dudley | 0.50 | Draft Motion for Attorneys' Fees, for Taxable Costs Pursuant to MCR 2.625, for Interest Pursuant to MCL 600.6013(8) and for Entry of Judgment; begin drafting Brief in Support of Motion. |
| 3/9/2016 Timothy R. Dudley | 3.75 | Continue drafting Brief in Support of Attorneys' Fees, Costs, and Entry of Judgment. |
| 3/10/2016 Patrick R. Druke | 1.50 | Review issues in connection with the request for fees as a result of the statutory conversion. Begin preparation of my affidavit in support of the request. |
| 3/10/2016 Timothy R. Dudley | 2.75 | Complete draft Brief in Support of Motion for Attorneys' Fees, Costs, Interest and Entry of Judgment; complete draft affidavits and assemble exhibits for brief. |
| 3/14/2016 Patrick R. Druke | 2.00 | Review and revise our motion and brief for entry of judgment. |
| 3/14/2016 Timothy R. Dudley | 2.25 | Revise Brief in Support of Motion for Attorneys' Fees, Costs and Entry of Judgment, affidavits of Greg Timmer, Timothy Dudley; research regarding taxation of costs. |
| 3/17/2016 Patrick R. Druke | 0.25 | Review and analysis of strategy to obtain full payoff of verdict and related costs. Conference with Mr. Azzar regarding the same. |
| 3/17/2016 Timothy R. Dudley | 0.25 | Research regarding FINRA. |
| 3/18/2016 Timothy R. Dudley | 1.75 | Research regarding FINRA administrative complaints. |
| 3/21/2016 Patrick R. Druke | 1.00 | Review and analysis of potential claims against UPRR under FINRA. |
| 3/21/2016 Timothy R. Dudley | 0.75 | Email to Pat Druke regarding potential FINRA administrative claims. |
| 3/22/2016 Patrick R. Druke | 0.25 | Work on the issues relating to the award of fees in a conversion claim under the statute. |
| 3/23/2016 Patrick R. Druke | 0.25 | Prepare correspondence to attorney Bosch regarding the motion for entry of judgment. |
| 3/28/2016 Patrick R. Druke | 3.25 | Work on exhibits for the brief supporting our motion for attorney fees. |
| 3/28/2016 Timothy R. Dudley | 1.25 | Research regarding successor's duty to report judgment against purchased member to FINRA. Phone conversations with FINRA office of general counsel. |
| 3/29/2016 Patrick R. Druke | 3.50 | Review and analysis of complaint to FINRA relating to the defendant's improper conduct. |
| 3/30/2016 Patrick R. Druke | 2.00 | Prepare additional legal argument regarding the necessity to award attorney fees based on the jury's verdict. |

Attorney Druke: 42.5 hours
Attorney Timmer: 1.25 hours
Attorney Dudley: 34.25 hours