

FILED

MAY 30 2008

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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of)	Case No. 04-C-10213-LMA
)	
RICHARD M. OZOWSKI,)	
)	
Member No. 219226,)	ORDER RE DISCIPLINARY COSTS
)	
A Member of the State Bar.)	

TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:

On April 18, 2008, respondent **Richard M. Ozowski** filed a motion (1) to remit disciplinary costs to a total no greater than \$8,755.51; and (2) for an order to pay those costs in five annual installments. Respondent argues that the Office of the Chief Trial Counsel of the State Bar (State Bar) should have assessed the disciplinary costs based on the State Bar Board of Governors' 2003 cost formula for conviction referral matters where the trial exceeded one day, which is assessed at \$8,479. But instead, respondent contends, the State Bar improperly applied the cost formula for conviction referral matters that proceeded to the Review Department, which is assessed at \$12,398.

On May 8, 2008, Deputy Trial Counsel Tammy M. Albertsen-Murray of the State Bar opposed respondent's motion on the grounds that the motion was untimely and that respondent



State Bar Court and thus filed this motion on April 18, which was within 30 days of the filing of the costs certificate.

In light of this unusual procedural history, the court finds that respondent's motion filed within 30 days of the filing of the costs certificate was timely. (Rules Proc. of State Bar, rule 282(b).)

2. The Cost Formula Should Be Based On Multi-Day Trial And Not On Review

Respondent argues that because the Review Department dismissed the matter for want of jurisdiction, the State Bar could not seek to recover the costs for its failed attempts to appeal the matter and thus could not assess the costs based on the cost formula for Level Six (Review Department case). The correct costs assessment must be based on Level Five for multi-day trial.

The court agrees. (See *In the Matter of Respondent J* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273.)

GOOD CAUSE HAVING BEEN SHOWN, the court determines that the State Bar's base charge should have been in accordance with the 2003 cost formula for multi-day trial (Level Five) and not with the 2003 cost formula for review (Level Six). Thus, the base charge of \$12,398 is rejected. Moreover, the State Bar's request for \$915 for reporters transcript is also denied. And respondent's payment of \$228.75 for a copy of the transcript stands.

ACCORDINGLY, the disciplinary costs are itemized as follows:

1.	Witness fees pursuant to Government Code	\$ 348.28 ¹
2.	Base charge -- Level Five: Multi-day trial	\$8,479.00
3.	Cost for certifying court documents	<u>\$ 156.98</u>
	TOTAL OF ALL COSTS	\$8,984.26²

¹ Witness fees (\$348.28) and certification costs (\$156.98) are based on the State Bar's Certificate of Costs.

² Respondent's request to remit costs to \$8,755.51 (\$8,984.26 - \$228.75) is denied.

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on May 30, 2008, I deposited a true copy of the following document(s):

ORDER RE DISCIPLINARY COSTS

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

RICHARD M. OZOWSKI
MARANGA * MORGENSTERN
88 KEARNY ST STE 1475
SAN FRANCISCO, CA 94108

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

TAMMY ALBERTSEN-MURRAY, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **May 30, 2008**.



Bernadette C. O. Molina
Case Administrator
State Bar Court