



MEMO

To : ADMINISTRATION COMMITTEE
PETER HOFFMAN, CHAIR
RYAN BROOKS, MEMBER

Date: May 28, 2013

From : WILLIAM BRENNAN
ROBIN PARKER

Subject: DISCUSSION AND CONSIDERATION OF REVISED BOARD POLICY CONCERNING THE ALLOCATION OF COURT REPORTER FEES IN LIGHT OF SECTION 551.7 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS

At the March 20, 2012, General Meeting, the members adopted the following policy concerning allocation of court reporter fees:

Pursuant to the authority in Section 551.7¹ of Title 13 of the California Code of Regulations, for all merits hearings and dispositive motions, reporting costs will be allocated as follows:

- For the first hearing day, the Board will be responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs, and the Board's cost of the original plus one copy of the hearing transcript. Counsel will remain responsible for purchasing their own transcript, if desired.
- For each subsequent day, the Board will arrange reporting services and will order the parties, on an equal basis, to reimburse the Board for reporter appearance fees, the delivery fee and any other costs, and the Board's cost of the original plus one copy of the hearing transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

¹ Section 551.7 pertains to the reporting of proceedings as follows:

The board may, at its discretion, assign the cost of reporting any proceedings before the board, including, but not limited to, transcript fees, reporter's per diem costs, exhibits, pleadings, and reproduction of board files as follows:

- (a) Allocated entirely to one of the parties; or apportioned among the various parties at the discretion of the board; or
- (b) Assumed by the board, in whole or in part.

Note: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

- In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of reporter appearance fees, the delivery fee, and any other costs. Counsel can utilize the Board's contracted reporting service but are not required to do so. The requesting party or parties will also be responsible for providing the Board with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

The parties are apprised of the Board's policy concerning the allocation of court reporter fees in the order establishing the date for the telephonic or in-person hearing. A detailed enclosure is sent with all such orders (see attached). For clarity, the above policy is summarized in the chart below:

CIRCUMSTANCES	REPORTER APPEARANCE FEES, DELIVERY FEES AND ANY OTHER COSTS	TRANSCRIPT FEES
Hearings on the merits and dispositive motions ² – First Day	Board	Board (requesting party or parties may order and pay for copies of official transcripts)
Hearings on the merits and dispositive motions – After First Day	Participating parties	Participating parties
Other motions (Venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

The current policy has been in place since March 31, 2012. As of the date of this memo, the three-day merits hearing in *Burbank Kawasaki* was subject to this policy.

Now that the policy has been in place for more than a year, Annette Duke, Chief Executive Officer of DCR Litigation, provided the staff with several suggestions to improve the policy and pattern it more closely to the courts. Where applicable those suggestions have been incorporated into the following revised policy; the changes are identified in underline and strikeout font.

² "Dispositive motions" are those that result in a final determination of the protest or petition before the Board.

Pursuant to the authority in Section 551.7 of Title 13 of the California Code of Regulations, for all merits hearings and dispositive motions, reporting costs including transcript fees, appearance and transcript delivery fees, per diem costs, Realtime set-up fees, expedite rates, and cancellation fees will be allocated as follows:

- For the first hearing day (merits or dispositive motion), the Board will be responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs excluding Realtime set-up fees, and the Board's cost of the ~~original plus one copy~~ of the hearing transcript. Counsel will remain responsible for purchasing their own transcript, if desired.
- For each subsequent day, the Board will arrange reporting services and will order the parties, on an equal basis, to ~~reimburse the Board~~ pay the contracted court reporter service for the reporter's appearance fees, the delivery fee and any other costs including Realtime set-up fees, and the Board's cost of the ~~original plus one copy~~ of the hearing transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.
- In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fees, the delivery fee, and any other costs. Counsel can utilize the Board's contracted reporting service ~~but are not required to do so~~. The requesting party or parties will also be responsible for providing the Board with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

The staff recommends that the revised policy be adopted by the Board and take effect July 1, 2013. If the Board adopts this policy, then the attached Revised Transcript Information Sheet will be sent with the orders setting the date for the telephonic or in-person hearing.

This matter is being agendized for consideration at the June 26, 2013 General Meeting.

If you have any questions or require additional information, please do not hesitate to contact me at (916) 324-6197 or Robin at (916) 323-1536.

Attachments

cc: Bismarck Obando

TRANSCRIPT INFORMATION SHEET

At the March 20, 2012, General Meeting, the New Motor Vehicle Board ("Board") adopted the following policy concerning allocation of court reporter appearance and transcript fees (13 CCR § 551.7):

CIRCUMSTANCES	REPORTER APPEARANCE FEES, DELIVERY FEES AND ANY OTHER COSTS	TRANSCRIPT FEES
Hearings on the merits and dispositive motions ¹ – First Day	Board	Board (requesting party or parties may order and pay for copies of official transcripts)
Hearings on the merits and dispositive motions – After First Day	Participating parties	Participating parties
Other motions (Venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

As indicated above, for the first hearing day (merits or dispositive motion), the Board will be responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs, and the Board's cost of the original plus one copy of the hearing transcript. Counsel will remain responsible for purchasing their own transcript, if desired. For each subsequent day, the Board will arrange reporting services and will order the parties, on an equal basis, to reimburse the Board for reporter appearance fees, the delivery fee and any other costs, and the Board's cost of the original plus one copy of the hearing transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of reporter appearance fees, the delivery fee, and any other costs. Counsel can utilize the Board's contracted reporting service but are not required to do so. The requesting party or parties will also be responsible for providing the Board with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

If you have any questions, please contact the Board legal staff at (916) 445-1888.

Revised May 20, 2013

¹ "Dispositive motions" are those that result in a final determination of the protest or petition before the Board.

REVISED TRANSCRIPT INFORMATION SHEET

At the June 26, 2013, General Meeting, the New Motor Vehicle Board ("Board") adopted the following revised policy concerning allocation of court reporter fees (13 CCR § 551.7):

Circumstances	Reporting Costs including Appearance and Transcript Delivery Fees, Per Diem Costs, Realtime Set-Up Fees, Expedite Rates, Cancellation Fees and any other Costs	Transcript Fees
Hearings on the merits and dispositive motions ¹ - First Day	Board (excluding Realtime set-up fees)	Board (requesting party or parties may order and pay for copies of official transcripts)
Hearings on the merits and dispositive motions - After First Day	Participating parties	Participating parties
Other motions (venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

As indicated above, for the first hearing day (merits or dispositive motion), the Board will be responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs excluding the Realtime set-up fees, and the Board's cost of the hearing transcript. Counsel will remain responsible for purchasing their own transcript, if desired. For each subsequent day, the Board will arrange reporting services and will order the parties, on an equal basis, to pay the contracted court reporter service for the reporter's appearance fee, the delivery fee and any other costs including Realtime set-up fees, and the Board's cost of the hearing transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fee, the delivery fee, and any other costs. Counsel can utilize the Board's contracted reporting service. The requesting party or parties will also be responsible for providing the Board with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

If you have any questions, please contact the Board legal staff at (916) 445-1888.

Revised May 20, 2013

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