

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James and Lorie Jensen, as parents, guardians,
and next friends of Bradley J. Jensen; James
Brinker and Darren Allen, as parents,
guardians, and next friends of Thomas M.
Allbrink; Elizabeth Jacobs, as parent, guardian,
and next friend of Jason R. Jacobs; and others
similarly situated,

Civil No. 09-1775 (DWF/BRT)

Plaintiffs,

v.

ORDER

Minnesota Department of Human Services,
an agency of the State of Minnesota; Director,
Minnesota Extended Treatment Options, a
program of the Minnesota Department of
Human Services, an agency of the State of
Minnesota; Clinical Director, the Minnesota
Extended Treatment Options, a program of
the Minnesota Department of Human Services,
an agency of the State of Minnesota; Douglas
Bratvold, individually and as Director of the
Minnesota Extended Treatment Options, a
program of the Minnesota Department of Human
Services, an agency of the State of Minnesota;
Scott TenNapel, individually and as Clinical
Director of the Minnesota Extended Treatment
Options, a program of the Minnesota Department
of Human Services, an agency of the State of
Minnesota; and the State of Minnesota,

Defendants.

Shamus P. O'Meara, Esq., and Mark R. Azman, Esq., O'Meara Leer Wagner & Kohl,
PA, counsel for Plaintiffs.

Scott H. Ikeda, Aaron Winter, Anthony R. Noss, and Michael N. Leonard Assistant
Attorneys General, Minnesota Attorney General's Office, counsel for State Defendants.

The Court is in receipt of Defendants' response (Doc. No. 862 ("Response")) to Dr. Gary LaVigna's ("LaVigna") revised May 2020 Invoice in the amount of \$20,375 (Doc. No. 857 ("Revised May Invoice")), and his June 2020 Invoice in the amount of \$26,500 (Doc. No. 858 ("June Invoice")) regarding his external review of the Forensic Mental Health Program and Anoka Metro Regional Treatment Center.

Dr. LaVigna initially submitted his May 2020 Invoice on June 4, 2020. (Doc. No. 845 ("Initial May Invoice").) On June 15, 2020, Defendants expressed concern that the Initial May Invoice lacked sufficient detail. (Doc. No. 849.) On June 16, 2020, the Court ordered LaVigna to resubmit his May invoice identifying specific services, the date on which those services were performed, and the amount of time spent on each service each day.¹ (Doc. No. 851 ("June Order").) LaVigna submitted his Revised May Invoice on July 16, 2020. (Revised May Invoice). He submitted his June Invoice on the same day. (June Invoice.) Both invoices included the total number of hours worked each day, a general description of completed activities, and a handwritten log of the hours he worked each day.² (*See* Revised May Invoice; *see also* June Invoice.)

Defendants filed their Response to the Revised May Invoice and June Invoice on July 27, 2020. (Response.) Defendants assert that while the most recent invoices "list

¹ This Order reiterated the Court's directive in its May 28, 2020 Order. (June Order at 2 (citing Doc. No. 842.) The Court also provided a proposed template that LaVigna could use to ensure adequate specificity. (*Id.*)

² Unlike previous invoices, the Revised May Invoice and the June Invoices contained additional detail on the completed activities and a handwritten log. The invoices did not break down the activities by day.

the amount of hours spent on each day and then contain a description of the work Dr. LaVigna completed in the applicable month generally,” they do not provide information about what particular work was done on each day. (Response at 1-2.) Defendants further assert that they “leave it to the Court to decide whether it has enough information to justify the expenditures in light of the invoices’ obvious noncompliance with the Court’s order.” (*Id.* at 2.)

On August 4, 2020, LaVigna submitted a letter clarifying his invoices. (Doc. No. 864.) LaVigna asserts that he “provided significant details, including the days on which [he] worked on the report, not just the number of hours but the specific hours he worked on the report, and a list of the various activities [he] carried out during those periods of time.” (Doc. No. 864 (“LaVigna Letter”) at 1.). LaVigna acknowledges that while “he did not maintain a diary of what [he] specifically read or down[-]loaded, or discussed or reviewed each day, who [he] talked to each day, specifically what [he] wrote each day, etc, etc [sic], as [he] didn’t know [he] would have to provide that level of detailed information on [his] monthly invoice.” (*Id.* at 1.) He states that “[he has] never been asked to provide that level of detail in [his] invoices before, including for the multiple reports [he has] previously provided for the State of Minnesota.” (*Id.*)

While the Revised May Invoice and the June Invoice do not reflect the template the Court provided, nor do they clearly delineate what particular services were provided on each day, the Court finds that LaVigna made an adequate attempt to comply with its June Order. Recognizing that LaVigna relied on previous experience to interpret the Court’s June Order, and satisfied that his current invoices reflect minimally sufficient

detail to justify his expenditures the Court authorizes payment in the amount of \$20,375 to LaVigna for his work during May 2020, and \$26,500 for his work during June.

Notwithstanding, in the event it is necessary that LaVigna submit additional invoices, the Court strongly encourages him to use the template it provided, and to err on the side of too much detail as opposed to too little.

ORDER

Based upon the presentations and submissions before the Court, and the Court being otherwise duly advised in the premises, **IT IS HEREBY ORDERED** that:

1. The Court approves and authorizes payment of Dr. Gary LaVigna's Revised May Invoice (Doc. No. [857]) in the amount of \$20,375.
2. The Court approves and authorizes payment of Dr. Gary LaVigna's June Invoice \$26,500 (Doc. No. [858]) in the amount of \$26,500;
3. Pursuant to and under the terms of its Order of March 4, 2020, the Clerk of Court shall forthwith issue a check to Dr. Gary LaVigna in the amount of \$46,875 reflecting the total amount owed pursuant to his Revised May Invoice and his June Invoice.

Dated: August 13, 2020

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge