



City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

IN THE MATTER OF:

Maria Flores
Complainant,
v.

A Taste of Heaven and Dan McCauley
Respondent.

Case No.: 06-E-32

Date of Ruling: January 19, 2011

Date Mailed: January 21, 2011

TO COMPLAINANT:

Katherine Minarik, Elizabeth Thompson
Bartlit Beck Herman Palenchar & Scott LLP
54 W. Hubbard Street, Suite 300
Chicago, IL 60654

Laurie Wardell
Chicago Lawyers Committee for Civil Rights
Under Law
100 N. LaSalle St., Suite 600
Chicago, IL 60602

TO RESPONDENT:

Robert Habib, Peter C. Nabahni
Law Office of Robert Habib
77 W. Washington #411
Chicago, IL 60602

FINAL ORDER ON ATTORNEY FEES AND COSTS

YOU ARE HEREBY NOTIFIED that on January 19, 2011, the Chicago Commission on Human Relations issued a Final Ruling on Attorney Fees and Costs in favor of Complainant in the above-captioned matter. The Commission orders Respondent to pay attorney fees in the total amount of \$67,511.00 and costs in the total amount of \$2,262.27, for a total award of \$69,773.27. The findings and specific terms of the ruling are enclosed.

Based on the documentation in Complainant's Petition for Attorneys' Fees and Costs, Respondents are ordered to allocate payment as follows:

1. To Chicago Lawyers Committee for Civil Rights Under Law: \$23,256.00
2. To Bartlit Beck Herman Palenchar & Scott LLP: \$46,517.27

Pursuant to Commission Regulations 100(15) and 250.150, a party may obtain review of this order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law at this time. Compliance with this Final Order and the Final Order on Liability and Relief entered on August 18, 2010, shall occur no later than 28 days from the date of mailing of this order.¹ Reg. 250.210.

CHICAGO COMMISSION ON HUMAN RELATIONS
Dana V. Starks, Chair and Commissioner

¹ **COMPLIANCE INFORMATION:** Parties must comply with a final order after administrative hearing no later than 28 days from the date of mailing of the later of a Board of Commissioners' final order on liability or any final order on attorney fees and costs, unless another date is specified. CCHR Reg. 250.210. Enforcement procedures for failure to comply are stated in Reg. 250.220.

Payments of attorney fees and costs are to be made to Complainant's attorney of record.

City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 3rd Floor, Chicago, IL 60610
(312) 744-4111 [Voice], (312) 744-1081 [Facsimile], (312) 744-1088 [TTY]

IN THE MATTER OF:

Maria Flores
Complainant,
v.
A Taste of Heaven and Dan McCauley
Respondent.

Case No.: 06-E-32

Date of Ruling: January 19, 2011

FINAL RULING ON ATTORNEY FEES AND COSTS

I. INTRODUCTION

On August 18, 2010, the Commission on Human Relations issued a Final Ruling in favor of Complainant Maria Flores on her claim that she was harassed and terminated because of her age, national origin, and sex in violation of Chapter 2-160 of the Chicago Municipal Code. The Commission awarded Flores damages in the total amount of \$51,750, plus interest on the compensatory damages, and ordered fines paid to the City of Chicago in the amount of \$250 per Respondent for a total of \$500 in fines. The Commission also awarded Flores her reasonable attorney fees and costs, assessed jointly and severally against both Respondents. *Flores v. A Taste of Heaven et al.*, CCHR No. 06-E-32 (Aug. 18, 2010).

Following that Final Ruling, in a timely petition dated October 8, 2010, Complainant requested a total of \$67,511 in attorney fees and \$2,262.27 in costs. Respondents filed an Objection to Complainant's Fee Petition on October 22, 2010, stating only that they objected "to the award of Attorney fees as respondents were denied a fair trial as set forth in Respondents Objection to Proposed Order."

II. METHOD OF CALCULATION

Commission Regulation 240.630(a) requires that an attorney fee petition establish the number of hours for which compensation is sought in segments of no more than one-quarter hour itemized according to the date performed, work performed, and individual who performed the work. It also must establish the rate customarily charged by each individual for whom compensation is sought, or in the case of a public or not-for-profit law office which does not charge market rate fees, documentation of the rates prevalent in the practice of law for attorneys in the same locale with comparable experience and expertise.

The Commission has long utilized a lodestar method of calculating attorney fees. See, e.g., *Leadership Council for Metropolitan Open Communities v. Souchet*, CCHR No. 98-H-107 (May 17, 2001). That is, the Commission determines whether the hours spent on a matter were reasonable, then multiplies the number of hours by the hourly rate customarily charged by attorneys with the level of experience of Complainant's attorney. See *Nash and Demby v. Sallas Realty et al.*, CCHR No. 92-H-128 (Dec. 7, 2000). The Commission is not required to award attorney fees in an amount proportional to the amount of damages awarded. *Id.*; see also *Wright v. Mims*, CCHR No. 93-H-12 (Sept. 17, 1997) and *Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Jan. 20, 2010). The party seeking attorney fees has the

burden of presenting evidence from which the Commission can determine whether the fees requested are reasonable. *Brooks v. Hyde Park Realty Co.*, CCHR No. 02-E-116 (June 16, 2004).

III. APPROPRIATE HOURLY RATES

The Commission bases its awarded rates on a number of factors, including experience, expertise in the subject matter at issue, and the reasonable market rates typically charged by the attorney. See, e.g., *Ordon v. Al-Rahman Animal Hospital*, 92-E-139 (Nov. 17, 1993), and *Barnes v. Page*, 92-E-1 (Jan. 24, 1994). In determining an attorney's appropriate hourly rate for fee award purposes, the Commission has been guided by decisions of the U.S. Court of Appeals for the Seventh Circuit regarding a fee applicant's burden and the evidentiary requirements to prove the appropriate hourly rate. For example, in *Sellers v. Outland*, CCHR No. 02-H-73 (Mar. 17, 2004 and Apr. 15, 2009), followed the reasoning of the Seventh Circuit as set forth in *Small v. Richard Wolf Medical Instruments Corp.*, 264 F.3d 702, 707 (7 Cir 2001):

The fee applicant bears the burden of proving the market rate. The attorney's actual billing rate for comparable work is considered to be the presumptive market rate. If, however, the court cannot determine the attorney's true billing rate—such as when the attorney maintains a contingent fee or public interest practice—the applicant can meet his or her burden by submitting affidavits from similarly experienced attorneys attesting to the rates they charge paying clients for similar work, or by submitting evidence of fee awards that the applicant has received in similar cases. Once the fee applicant has met his or her burden, the burden shifts to the defendants to demonstrate why a lower rate should be awarded.

Here, Complainant seeks fees for the services of five attorneys throughout the four year history of this case. Beginning in February 2006, Flores was represented by Matthew Ginsburg and Laurie Wardell, attorneys at the Chicago Lawyers Committee for Civil Rights Under Law ("Lawyers Committee"). In late 2009, following Ginsburg's departure from the Lawyers Committee, Katherine Minarik, Elizabeth Thompson, and Andrew Polovin, attorneys at the law firm of Bartlit, Beck, Herman, Palenchar & Scott LLP ("Bartlit Beck") were retained as counsel for Flores. Flores requests an awarded rate of \$380 per hour for the senior attorneys (Wardell, Thompson, and Polovin) and \$300 per hour for the junior attorneys (Ginsburg and Minarik). Although the attorneys at Bartlit Beck worked *pro bono*, the Commission has held that counsel who work on a *pro bono* basis are entitled to reasonable attorneys' fees, if they prevail, based upon market rates. See, e.g., *Hussian v. Decker*, CCHR No. 93-H-13 (May 15, 1996)

With respect to the senior attorneys, Wardell provided an affidavit that she has approximately 24 years of legal experience, has published extensively in the field of civil rights law, and, as Director of the Lawyers Committee's Employment Opportunity Project, she was responsible for litigating and supervising others in litigating civil rights cases. Thompson has approximately 21 years of legal experience and is a partner at her law firm. Polovin has approximately nine years of legal experience and is also a partner at his law firm.

Regarding the junior attorneys, Ginsburg has approximately five years of legal experience, of which approximately four years was spent as a staff attorney at the Lawyers Committee. Minarik has approximately four years of legal experience, including time spent in litigation.

In her affidavit supporting the fee petition, Laurie Wardell of the Lawyers Committee stated that she recently surveyed the hourly market rates for Chicago attorneys and found that for

those admitted in 1986 as she was, the range is \$350-\$600; and for those admitted in 2005, as Matthew Ginsburg was, the range is \$250-\$400.

Respondents did not object to the requested hourly rates. Complainant cites *Webb v. CBS Broadcasting* in the United States District Court for the Northern District of Illinois, 2010 U.S. Dist. LEXIS 106647, at *6-7 (Oct. 5, 2010), holding that hourly rates of \$375-435 for partners and \$275 for associates are reasonable. The Commission adopts the hearing officer's finding that the rates requested are reasonable and should be awarded. They are consistent with market rates for attorneys with similar experience levels in Chicago. See, e.g., *Lockwood, supra.*, and decisions cited therein.

IV. REASONABLE NUMBER OF HOURS

Complainant seeks compensation for a total of 206.05 hours performed by her attorneys in furtherance of her claims, as follows: 25.2 hours for Wardell, 45.6 hours for Ginsburg, 89.25 hours for Minarik, 36 hours for Thompson, and 10 hours for Polovin. That number represents the removal of duplicative or non-compensable time entries by the Lawyers Committee and a 20% reduction of time by Bartlit Beck to account for any duplication of work caused by the transfer of case responsibilities from the Lawyers Committee to Bartlit Beck. As required by CCHR Reg. 240.630(b), Complainant has submitted a statement for each attorney showing the number of hours for which compensation is sought in segments of no more than one-quarter hour, itemized according to the date performed, the work performed, and the individual who performed the work.

Despite having the opportunity to review the detailed time entries submitted by Complainant, Respondents have not made any specific objections to the amount of hours claimed by Complainant's attorneys or to any of the specific entries for which Complainant's attorneys seek to be compensated.

Given the over four year time span this case has been pending and the recommendation of the hearing officer who presided over the hearing phase of the case, the Commission finds that Complainant's request to be compensated for a total of 206.05 hours is reasonable.

V. COSTS

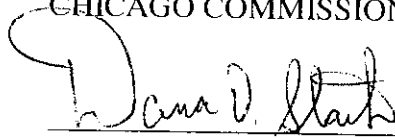
Complainant also seeks compensation for \$2,262.27 in costs incurred for legal research, copying, and ordering the transcript of the hearing. Complainant has submitted a statement setting forth the amount spent on each of these areas of cost. The Commission has previously awarded costs for legal research, copying, and transcripts. *Griffiths v. DePaul University*, CCHR No. 95-E-224 (Oct. 18, 2000); *Nash and Demby, supra.* Because Respondent has not objected to any of these costs and the hearing officer has recommended payment, the Commission finds that Complainant's request to be compensated for \$2,262.27 in costs is reasonable.

VI. CONCLUSION

For the reasons discussed above, the Commission approves and adopts the hearing officer's recommendations and orders Respondents, jointly and severally, to pay to Complainant her reasonable attorney fees of \$67,511 and costs of \$2,262.27, for a total of \$69,773.27. Based on the documentation in Complainant's fee petition, Respondents are ordered to allocate this total payment as follows:

1. To Chicago Lawyers Committee for Civil Rights Under Law: \$23,256
2. To Bartlit Beck Herman Palenchar & Scott LLP: \$46,517.27

CHICAGO COMMISSION ON HUMAN RELATIONS



By: Dana V. Starks, Chair and Commissioner
Entered: January 19, 2011