

City of Chicago
COMMISSION ON HUMAN RELATIONS
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IN THE MATTER OF:

Victoria Jones
Complainant,
v.
Lagniappe–A Creole Cajun Joynt, LLC, and
Mary Madison
Respondents.

Case No.: 10-E-40

Date of Ruling: May 15, 2013

FINAL RULING ON ATTORNEY FEES AND COSTS

I. INTRODUCTION

On December 19, 2012, the Commission on Human Relations issued a Final Ruling on Liability and Relief in favor of Complainant Victoria Jones on her claim that she was sexually harassed and constructively discharged in violation of Chapter 2-160 of the Chicago Municipal Code. The Commission awarded Jones damages in the total amount of \$19,550, plus interest, and ordered fines paid to the City of Chicago of \$500 per Respondent for a total of \$1,000 in fines. The Commission also awarded Jones her reasonable attorney's fees and costs, assessed jointly and severally against both Respondents. *Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al.*, CCHR No. 10-E-40 (Dec. 19, 2012).

Following that Final Ruling, in a timely petition dated January 24, 2013, Complainant requested a total of \$26,100 in attorney fees and \$455 in costs. Respondents did not submit a response to Complainant's fee petition. The hearing officer issued a recommended ruling on the petition on February 27, 2013. No objections were filed.

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*, CCHR No. 92-E-139 (Nov. 17, 1993), and *Barnes v. Page*, CCHR No. 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, *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 (7th Cir. 2001), the Commission stated:

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.

In the fee petition, Complainant seeks the hourly rate of \$375 for Matthew J. Monahan of the Legal Assistance Foundation ("LAF"), who represented Complainant throughout the litigation of this matter. However, the petition did not seek fees to be awarded in connection with Monahan's colleague, Sarah Baum, who appeared on his behalf at a pre-hearing conference.

Monahan provided an affidavit that he has approximately 28 years of legal experience representing clients in civil matters. Since 2011, Monahan has handled many cases in both state and federal court involving employment law matters.¹

In support of the fee petition, Monahan submitted a summary of a recent survey conducted by LAF of the hourly market rates for Chicago attorneys in law firms performing litigation work. (Monahan Affidavit, ¶15). Monahan's request for \$375 per hour is based on the chart showing average hourly rates for such work, based on years of service.

¹ The hearing officer noted that since 1985 Monahan has worked as an associate with Kenneth Geman and Barry Morgen representing clients in civil matters; worked as an Assistant Public Guardian in the Office of the Cook County Public Guardian; and worked as a staff attorney at the Cook County Legal Assistance Foundation ("CCLAF"). After LAF merged with CCLAF, Monahan represented low-income clients in civil matters related to employment and unemployment benefits. In 2011, Monahan became a part of LAF's Employment Law Group, specializing in employment law matters.

Respondents have not objected to the requested hourly rates. The Commission adopts the hearing officer's finding that the rates requested are reasonable and should be approved. 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 HOURS

Complainant seeks compensation for a total of 69.6 hours performed by her attorney in furtherance of her claims. Counsel in this case has represented the Complainant for more than one year during the hearing and post-hearing processes. This, coupled with a detailed review of the time records submitted, reveals that all of the time spent was reasonable.

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

Given 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 69.6 hours is reasonable.

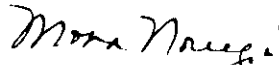
V. COSTS

Complainant seeks compensation for \$455 in costs for the transcript of the hearing. The Commission has previously awarded costs for transcripts. *Griffiths v. DePaul University*, CCHR No. 95-E-224 (Oct. 18, 2000); *Nash and Demby, supra.* Because Respondents have 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 \$455 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 \$26,100 and costs of \$455, for a total of \$26,555.

CHICAGO COMMISSION ON HUMAN RELATIONS



By: Mona Noriega, Chair and Commissioner
Entered: May 15, 2013