

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

Maureen Sketch  
**Complainant,**

**v.**

Scott, Halsted & Babetch, P.C. and  
Robert Kelly Scott  
**Respondents.**

**Case No.:** 13-E-69

**Date of Ruling:** April 13, 2017

**FINAL RULING ON ATTORNEY FEES AND COSTS**

**I. INTRODUCTION**

On October 13, 2016, the Commission issued a Final Ruling in favor of Complainant Maureen Sketch on her claim that Respondents failed to hire her as a full-time employee and ultimately discharged her because of her pregnancy in violation of Chapter 2-160 of the Chicago Municipal Code. The Commission awarded Complainant damages in the total amount of \$67,200, plus interest on the compensatory damages, and ordered fines paid to the City of Chicago in the amount of 1,000. The Commission also awarded reasonable attorney fees and costs. *Sketch v. Scott, Halsted & Babetch, P.C., et al.*, CCHR No.13-E-69 (Oct. 13, 2016).

Pursuant to the Commission's ruling, Complainant filed a timely petition for attorney fees and costs on November 28, 2016, requesting \$41,584.08 in attorney fees and costs. Respondents filed an Objection to Complainant's Fee Petition on December 9, 2016, and raised the following arguments: 1) Complainant is not entitled to attorney fees and costs because she failed to prove her case; 2) Complainant cannot recover attorneys' fees related to her pursuit of punitive damages against Respondents; 3) \$2,420 in fees for Attorney Dean Farley would not have been incurred had Complainant's first attorney not abandoned her case; 4) Respondents are not responsible for attorney fees incurred to pursue claims against former Respondents Redline Resources and Steven Ropka; and 5) Complainant is not entitled to recover costs that were billed to her, rather than her former attorney, Anthony Hind.

The hearing officer issued a recommended ruling on the petition on January 23, 2017. Respondents filed similar objections to the recommended ruling which were considered in this ruling.

**II. APPLICABLE LEGAL STANDARDS**

Section 2-120-510(1) of the Chicago Municipal Code authorizes the Commission to order "reasonable attorney fees, expert witness fees, witness fees and duplicating costs, incurred in

pursuing the complaint before the Commission or at any stage of judicial review.” CCHR Reg. 240.630 (a)(1) requires the petitioner to file:

A statement 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.

CCHR Reg. 240.630 (a)(2) requires the petitioner to file:

A statement of the hourly rate customarily charged by each individual for whom compensation is sought, or in the case of a public or non-profit law office which does not charge fees or which charges fees at less than market rates, documentation of the rates prevalent in the practice of law for attorneys in the same locale with comparable experience and expertise.

Finally, CCHR Reg. 240.630 (a)(3) requires the petitioner to file:

Documentation of costs for which reimbursement is sought.

Thus, a prevailing complainant is entitled to payment of attorney fees. *Nash/Demby v. Sallas Realty & Sallas*, CCHR No. 92-H-128 (Apr. 19, 2000). However, a complainant must produce evidence supporting the reasonableness of those fees. The Commission uses the lodestar method of determining whether attorney fees are reasonable. See, e.g., *Leadership Council for Metropolitan Open Communities v. Souchet*, CCHR No. 98-H-107 (May 17, 2001). Using that method, the Commission determines whether the hours spent on individual tasks were reasonable, then multiplies the hours by the hourly rate customarily charged by the attorneys. See, e.g., *Jones v. Lagniappe—A Creole Cajun Joynt, LLC, and Mary Madison*, CCHR No. 10-E-40 (May 15, 2013) and cases cited therein. This process also applies when a complainant seeks fees for law clerks and paralegals. *Leadership Council for Metropolitan Open Communities v. Souchet, supra*. Additionally, fees do not have to be proportional to the amount of damages awarded. *Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Jan. 20, 2010). The party seeking fees has the burden of presenting sufficient evidence from which the Commission can determine the fees are reasonable. *Brooks v. Hyde Park Realty Co.*, CCHR No. 02-E-116 (June 16, 2004).

### **III. APPROPRIATE HOURLY RATES AND REASONABLE NUMBER OF HOURS**

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 (7<sup>th</sup> 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.

Complainant seeks compensation for a total of 139.9 hours performed by Attorney Anthony Hind at a rate of \$250 per hour. Hind states in his affidavit that he received his J.D. from Loyola University Chicago Law School in 1999. He has approximately 15 years of experience as a litigator in Chicago. During his career, he has handled many complex litigation matters including cases in the area of employment, intellectual property, zoning and constitutional challenges, and other commercial matters. Complainant is also seeking compensation for 7.4 hours performed by her second attorney, Dean Farley, at a rate of \$300 per hour, and for 1.6 hours incurred by Attorney Farley's paralegal at a rate of \$125 per hour. The fee petition states that the requested rates are at or lower than the normal market rate for litigation and appeal work.

Based on the experience of these attorneys and prevailing market rates, the hearing officer found the hourly rates charged here to be reasonable. Further, the amount of time billed, with the exception of the hours carved out for time spent to settle with prior respondents as discussed below, is reasonable given the length of this proceeding and the zealous representation by both parties. Accordingly, the Commission adopts the hearing officer's finding that the rates requested are reasonable and should be approved.

#### **IV. RESPONDENTS OBJECTIONS TO ATTORNEY FEES AND COSTS**

Respondents have raised several objections to Complainant's fee petition, which were restated in their objections to the recommended ruling of the hearing officer. Their first two arguments – that Complainant is not entitled to attorney fees because she failed to prove her case and cannot claim fees for pursuing punitive damages – are misplaced. Respondents raised these issues in their objections to the Recommended Ruling on Liability and the Commission rejected them outright. Not only do these arguments lack merit, the fee petition process is not the appropriate forum to raise these issues a second time.

Next, Respondents argue Complainant is not entitled to \$2,420 in fees sought by Attorney Farley because they would not have been incurred but for the "abandonment" of the case by her first attorney, Anthony Hind. Yet, Complainant cannot be penalized for Attorney Hind's handling of this case in its later stages. Her actions to seek alternative representation were reasonable. That Attorney Farley incurred fees to take over the case is also reasonable.

Importantly, the hearing officer determined that none of the fees detailed by Farley in Complainant's fee petition are duplicative of those sought by Attorney Hind. They relate

primarily to a review of the Final Order on Liability and Relief, phone calls, review of the notice of dismissal, and preparation of the fee petition. See Fee Petition Exhibits B and C; see also *Hamilton v. Café Descartes Acquisitions LLC d/b/a Café Descartes*, CCHR 13-P-05/06 (Dec. 17, 2014) (attorney fees awarded for multiple attorneys where their activities were not excessively duplicative). Additionally, there are several time entries for which Attorney Farley sought no fees at all. Accordingly, this objection is overruled.

Respondents argue further that they should not have to pay for attorneys' fees incurred to pursue claims against former respondents Redline Resources Inc., and Steven Ropka. Complainant settled her claims against them prior to the administrative hearing. The hearing officer determined that Respondents prevail, in part. The Commission has previously held "[w]here a complainant settles with one respondent or a group of respondents, work performed related to the respondent or group may not be charged to the remaining respondent." See *McCutchen v. Robinson*, CCHR No. 95-H-84 (Oct. 21, 1998) citing *Johnson v. City Realty and Devel. Co.*, CCHR No. 91-FHO-165-5750 (July 22, 1993).

In *McCutchen*, the Commission carved out attorney fees related solely to settling the matter with a prior respondent and reduced the fee petition accordingly. The Commission reached a similar result in the *Johnson* case – specifically, reducing the fee petition for time entries related to the settlement. However, the Commission allowed the reimbursement of attorney fees for non-settlement related activities involving the prior respondent.

Here, Respondents object to 12 hours billed by Attorney Hind for a total of \$3,000. The hearing officer found that only 4.5 of these hours are specifically related to the Redline/Ropka settlement, for a total of \$1,125. (Rp. Obj., Ex. 1, p. 6). Therefore, the hearing officer recommended a reduction of Attorney Hind's fees by that amount. The Commission agrees with the hearing officer's approach and adopts the recommendation.

## V. COSTS

Complainant submitted appropriate documents supporting her request for compensation for costs incurred in the amount of \$11,088.33, which include attorney fees paid to Attorney Hind, transcripts, and parking costs. Respondents object to "all costs submitted by Complainant that were billed to Attorney Hind, rather than to Complainant, including parking, copying and transcript fees." Respondents appear to argue that these costs are not recoverable because they were reimbursed to Attorney Hind by Complainant, rather than incurred and billed exclusively by him. The hearing officer found that Respondents' argument lacks merit. Complainant is entitled to recover costs incurred to pursue this case – whether billed directly to Hind or reimbursed by her. The sequence of payment is irrelevant. See *Huezo v. James Properties*, CCHR No. 90-E-44 (Oct. 9, 1991) (photo copying costs awarded); *Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., supra* (hearing transcripts are compensable expenses by the Commission); *Hamilton v. Café Descartes Acquisitions LLC d/b/a Café Descartes, supra* (transportation costs have been found to be compensable expenses by the Commission). The hearing officer's recommendation is adopted and \$11,088.33 is awarded in costs.

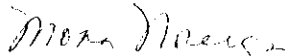
## VI. CONCLUSION

In conclusion, the Commission approves and adopts the hearing officer's recommended analysis for determining the reasonable attorney fees and costs in this matter as follows:

Attorney Anthony Hind	\$26,950.75 <sup>1</sup>
Attorney Dean Farley	\$2,420.00
Costs Awarded	\$11,088.33 <sup>2</sup>
TOTAL AWARDED	\$40,459.08

Accordingly, Respondents are ordered to pay Complainant's reasonable attorney fees of \$29,370.75, and associated costs of \$11,088.33, for a total of \$40,459.08.

CHICAGO COMMISSION ON HUMAN RELATIONS



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By: Mona Noriega, Chair and Commissioner  
Entered: April 13, 2017

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<sup>1</sup> The awarded amount includes the balance of \$28,075.75 in fees still owed to Hind which was reduced by \$1,125 associated with the settlement former respondents Redline and Ropka.

<sup>2</sup> This amount includes \$6,900 in attorney fees paid to Attorney Hind, \$4,120.30 for transcript costs, and \$68.03 for parking costs.