



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:

Cheryl Hutchison
Complainant,
v.

Mohammed Iftekaruddin
Respondent.

Case No.: 08-H-21

Date of Ruling: June 16, 2010

Date Mailed: June 30, 2010

TO:

Matthew P. Weems
Law Office of Matthew P. Weems
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FINAL ORDER ON ATTORNEY FEES AND COSTS

YOU ARE HEREBY NOTIFIED that on June 16, 2010, 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 \$8114.06 and costs in the total amount of \$30.00, for a total award of \$8,144.06. The findings and specific terms of the ruling are enclosed.

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 February 17, 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.

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(312) 744-4111 [Voice], (312) 744-1081 [Facsimile], (312) 744-1088 [TTY]

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FINAL RULING ON ATTORNEY FEES AND COSTS

I. PROCEDURAL HISTORY

On February 17, 2010, the Commission on Human Relations issued a Final Order on Liability and Relief in favor of Complainant, Cheryl Hutchison, on her source of income discrimination claim under the Chicago Fair Housing Ordinance. The Commission ordered Respondent to pay Complainant \$2,500 for compensatory damages, plus interest; \$1,500 for punitive damages, plus interest; and her attorney fees and costs in an amount to be determined by further proceedings. The Commission also imposed a \$500 fine payable to the City of Chicago.

On March 4, 2010, pursuant to the Commission's Final Order and CCHR Reg. 240.630, Complainant's attorney, Matthew P. Weems, submitted a fee petition with an affidavit and a time log detailing his work on the case. (Weems Affidavit 1). He later submitted a Supplemental Affidavit for Attorney Fees arising from additional briefing in response to objections raised by Respondent. (Weems Affidavit 2). Complainant's attorney seeks \$10,818.75 in fees (48.75 hours at a rate of \$125 per hour and 33.75 hours at a rate of \$140 per hour) plus \$158.02 in costs for a total of \$10,976.77.¹

On March 16, 2010, Respondent filed a response raising several objections: (1) that the fees sought are disproportionate to the amount of damages awarded, (2) that the petition has duplicative entries and/or lacks detail, (3) that the petition includes work that was unnecessary to the case, (4) that the amount of hours spent was unreasonable, and (5) that entries for travel time to and from the Commission and the Daley Center should be disallowed. (Respondent's Reply to Fee Petition). Complainant filed a reply to these objections on March 30, 2010, which has been considered. (Complainant's Reply). The parties' arguments are addressed below.

II. DISCUSSION

The Commission uses the lodestar method of calculating attorney fees. *Leadership Council for Metropolitan Communities v. Souchet*, CCHR No. 98-H-107 (May 17, 2001). Under this method, the Commission determines whether the hours spent on a matter were reasonable and then multiplies that number by the hourly rate customarily charged by attorneys with the level of experience of complainant's attorney. *Nash & Demby v. Sallas Realty et al.*, CCHR No. 92-H-128 (Dec. 7, 2000). The party seeking recovery of attorney fees has the burden of

¹ Complainant increased his fees from \$125 to \$140 per hour in December 2009. (Weems Affidavit 1). The costs include \$128.02 in mileage for travel to and from the Commission and \$30 in parking expenses.

presenting evidence from which the Commission can determine whether the fee requested is reasonable. *Brooks v. Hyde Park Realty Company, Inc.*, CCHR No. 02-E-116 (June 16, 2004).

A. RESPONDENT'S RESPONSE TO THE PETITION

Contrary to Respondent's primary objection to Complainant's petition, it is well settled that the Commission is not required to award attorney fees in an amount proportional to the amount of damages received. *Lapa v. Polish Army Veterans Assn. et al.*, CCHR No. 02-PA-27 (Feb. 20, 2008); *Wright v. Mims*, CCHR No. 93-H-12 (Sept. 17, 1997). This principle has been recently reaffirmed in *Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Jan. 20, 2010) and *Cotten v. CCI Industries, Inc.*, CCHR No. 07-P-109 (May 19, 2010).

Respondent's next argument, that the entries on counsel's time sheets are duplicative and lack detail, similarly fails.² For example, multiple entries stating that Complainant's attorney "reviewed case file" or prepared for trial are not duplicative. Rather, it appears that Complainant has attempted (although inartfully) to avoid block billing and to adhere literally to the Commission's guideline that he set forth the number of hours in segments no greater than one-quarter of an hour. See CCHR Reg. 240.630(a)(1) and *Richardson v. Chicago Area Council of Boy Scouts of America*, CCHR No. 92-E-80 (Nov. 20, 1996), reducing fees where entries were "block-billed" with several activities in one time entry.

Moreover, Complainant's attorney is not required to set forth the names of the specific cases he researched and reviewed, how they related to the case, or why he reviewed the Commission's files and what information he gleaned from that review, as Respondent suggests. (Rp Reply at 1-2). The fee petition must simply set forth the date of the activity, the time spent, and a description of the work performed in a manner sufficient to allow a determination of reasonableness. CCHR Reg. 240.630(a)(1) and *Ordon v. Al-Rahman Animal Hospital*, CCHR No. 92-E-139 (May 28, 1993). Upon review of the initial and supplemental petitions, the entries satisfy these minimal requirements. In fact, a fee petition should be crafted to avoid revealing privileged information or attorney work product.

Respondent's position that Complainant's attorney should not be reimbursed for travel time associated with his representation in this case is also unpersuasive. Here, Complainant's counsel billed for time incurred to travel to the Commission, the Daley Center,³ and the Chicago Housing Authority to conduct research, review file materials, or appear for the hearing. All of these entries related specifically to counsel's work on this case and are, therefore, recoverable. See *Hall v. Becovic*, CCHR No. 94-H-39 (Jan. 10, 1996), allowing recovery of fees for travel time.⁴ Accordingly, the Commission agrees with the hearing officer that the attorney fees for travel time are not improper.

² Notably, Respondent did not cite any Commission case law to support any of the arguments raised in his Response. See Reg. 270.510 on applicable precedent in Commission cases.

³ Although Respondent argues there is no basis for trips to the Daley Center, it appears from the context of these charges that travel to the Daley Center was for the purpose of legal research. The Commission routinely recommends use of the Cook County Law Library at the Daley Center as the single best place to research the Commission's precedential decisions, as that library maintains the Commission's current *Subject Matter Index* and copies of the decisions cited in the *Index* in paper form. See the Commission's *Board Rulings Digest* at 2 and the publication *Researching Commission Law*, available on the Commission's website or on request.

⁴ The hearing officer was of the view that Complainant's counsel over-reached in seeking compensation for his travel time as well as mileage and parking as costs, characterizing these as incidentals which should be absorbed within his hourly rate. The issue of costs is further discussed below.

B. REASONABLE RATES

Respondent made no objection to the hourly rates stated in the petition. See *Fulgern v. Pence*, CCHR No. 91-FHO-65 (Nov. 18, 1992). Complainant's counsel seeks \$125 per hour for work performed before December 6, 2009, and \$140 per hour thereafter. 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., *Brooks, supra* at 2 and *Souchet, supra* at 7-8. See also the review of the standards for determining appropriate hourly rates in *Lockwood, supra*. Complainant's counsel states that he is now a "second year associate" with "significant experience in this area of the law." (Weems Affidavit 1). He states further that his typical hourly rate for matters similar to this case is between \$125 and \$140 per hour. *Id.* These rates are not atypical or unreasonable given market rates in the city of Chicago. See, e.g., *Nuspl v. Marchetti*, CCHR No. 98-E-207 (March 27, 2003), awarding an attorney with two and one-half years of experience \$125 per hour in 1993. More recently in *Lockwood, supra*, and in *Warren et al. v. Lofton & Lofton Management et al.*, CCHR No. 07-P-62/63/92 (May 19, 2010), the Commission awarded fees at \$150 per hour to 2006 and 2007 bar admittees.

Although, in a recent decision, the Commission approved another hearing officer's recommendation not to allow Atty. Weems an increased rate to \$140 per hour, that was based on a determination that Weems' level of performance in the particular case did not demonstrate that an increased rate based on his becoming a second-year lawyer was warranted. *Cotten v. CCI Industries, Inc., supra*. As further discussed below, the hearing officer in this case took a different approach and accepted the increase to \$140 based on her knowledge of market rates for relatively new lawyers in similar matters in Chicago, but recommended a percentage reduction of the total amount based on a determination that the overall number of hours billed was excessive for the type of work performed. Given the instant hearing officer's different approach, the Commission approves her acceptance of a \$140 per hour billing rate.⁵

C. REASONABLE NUMBER OF HOURS

The hearing officer found excessive the number of hours Complainant's counsel has claimed he incurred to handle the case. Counsel states that he spent a total of 82.5 hours on this matter. However, Complainant initially appeared *pro se* and handled most pre-hearing matters herself. She prepared the Complaint; represented herself during the Commission's investigation; appeared *pro se* for the pre-hearing conference; served and responded to discovery; prepared her own motion to compel, and prepared a pre-hearing memorandum. Indeed Complainant's counsel did not file an appearance in this matter until July 14, 2009 – five months after the Commission issued its Order Appointing Hearing Officer and Commencing the Hearing Process on February 11, 2009, and only one month before the hearing commenced.

The hearing officer determined that the amount of time purportedly spent to research and review cases and draft various motions, response briefs, and objections appears excessive and unreasonable. For example, on July 31, 2009, Complainant's counsel entered an hour and forty-five minutes of time for reviewing the file for this case. (Weems Affidavit 1 at 2). On August 5, 2009, he recorded another hour and forty-five minutes for "reviewing documents." *Id.* at 3. On August 13, 2009, he recorded five hours for drafting a short response to a Motion to Bar. *Id.* at 3-4. On August 16, 2009, he recorded another two and one-half hours for researching discovery

issues. *Id.* at 4-5. Finally, Complainant's recorded 13 hours and 15 minutes to prepare a seven-page reply brief. (Complainant's Reply to Respondent's Response to Fee Petition)

The hearing officer found that 82.5 hours of total time handling this straightforward housing discrimination case was excessive and unreasonable. She recommended that the total amount requested for attorney fees be reduced by twenty-five percent. The Commission agrees that this amount of time is unwarranted for the type of case—a direct-evidence source of income discrimination claim based on a single instance of refusal to rent to a Section 8 voucher recipient, with no legal or factual issues of unusual complexity and no extensive evidence to be managed.

The Commission has regularly awarded lower attorney fees where requested hours are found excessive for the work performed. See, e.g., *Edwards v. Larkin*, CCHR No. 01-H-35 (Nov. 16, 2005), a housing discrimination case; *Richardson, supra.*, reducing the requested fee by 25%; *Soria v. Kern*, CCHR No. 95-H-13 (Nov. 20, 1996); and *White v. Ison*, CCHR No. 91-FHO-126-5711 (July 22, 1993). A reduction is similarly warranted here.

D. COMPLAINANT'S OBJECTIONS

Complainant submitted objections to the recommended ruling on the fee petition. His primary objection is that the hearing officer should have performed a line-by-line review of the attorney time sheets rather than recommending an across-the-board percentage reduction.

Commission precedents reflect that both methods have been utilized by hearing officers and approved by the Board of Commissioners. Recently, for example, the Board approved a hearing officer's line-by-line analysis of a fee petition of Atty. Weems which resulted in a reduction totaling 19.4% for both excessive time entries and an excessive hourly rate. *Cotten v. CCI Industries, Inc., supra.*

However, in another housing discrimination case, *Sullivan-Lackey v. Godinez*, CCHR No. 99-H-89 (Sept. 21, 2005), the Commission utilized a combination of line-by-line reductions and percentage reductions ranging from 15% to 50% for excessive and duplicative costs, noting that percentage reductions are appropriate where more precise reductions cannot be determined from the time records submitted. As noted in *Sullivan-Lackey*, when determining the amount of time reasonably spent on a case, the Commission considers the specific facts of the case. *Huezo v. St. James Properties/JANCO Realty*, CCHR No. 90-E-44 at 7 (Oct. 9, 1991). Further, the hearing officer may use his or her own experience, knowledge, and expertise to determine the amount of time reasonably required for particular types of work. See *Bonner v. Coughlin*, 657 F.2d 931, 934 (7th Cir. 1981). While each case is factually different, it can be helpful to look at the range of fee awards in comparable cases.

Although different methods may be used when reducing fee requests deemed excessive, all require the exercise of discretion based on the adjudicator's understanding of factors including the legal subject areas involved and the issues litigated in the particular case.⁶ A reduction by hours rather than rate, for example, may take into account the billing discretion expected of a relatively new attorney or an attorney new to the issues presented in the case. Attorney fees should not be awarded for the time needed to become acquainted with the general principles of law in a particular area; see, e.g. *McCutchen v. Robinson*, CCHR No. 95-H-84 (Oct. 21, 1998), deducting requested time which was merely educational work for law students,

⁶ Commission hearing officers are members of a specialized panel selected by the Commission for their expertise in discrimination law and litigation.

Sullivan-Lackey v. Godinez, supra, also deducting time spent primarily for educational purposes; and *Blacher v. Eugene Washington Youth & Family Svcs.*, CCHR No. 95-E-261 (Feb. 24, 1999), making deductions for general background reading.

Taking these factors into consideration, the Commission accepts the hearing officer's analysis and recommendations as to attorney fees, with the modification as to costs noted below.

E. COSTS

The hearing officer did not recommend any award of costs, taking the position that Complainant's counsel over-reached in seeking compensation for his travel time as well as for mileage and parking, and characterizing these as costs as incidentals which should be absorbed within his hourly rate. Complainant's counsel objected to omitting the requested costs.

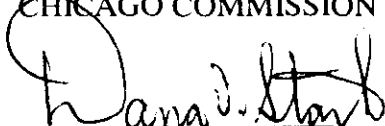
The Commission has allowed transportation costs in prior cases where sufficiently documented. Parking costs were awarded, for example, in *Osswald v. Yvette Winter Garden Restaurant and Grossman*, CCHR No. 93-E-93, (Jan. 10, 1996). Local transportation costs were awarded in *Hall v. Becovic, supra.*; *Soria v. Kern, supra.*; *Hanson v. Association of Volleyball Professionals*, CCHR No. 97-PA-62, (Feb. 24, 1999); *Edwards v. Larkin, supra.*; and *Sullivan-Lackey v. Godinez, supra.* The Commission has not taken an either-or position regarding the award of travel time and travel costs, although it recognizes that many attorneys and law offices treat such costs as overhead and build them into their hourly rates.

The fee petition seeks \$158.02 in transportation costs for five trips to the Commission totaling \$119 and one trip to the Daley Center for \$9.02, both at 55 cents per hour. During the relevant period, Complainant's attorney listed his office address as 1652 W. Ogden Ave. He did not explain the number of miles between his destinations and the amounts appear excessive.⁷ Accordingly, mileage costs are denied as excessive and inadequately documented.

On the other hand, Complainant's attorney did document one parking charge of \$30 while conducting research at the Daley Center. This amount appears reasonable based on the Commission's understanding of parking rates in that area; therefore, this \$30 is awarded and added to the total award in this ruling.

III. CONCLUSION

For the reasons stated above, the Commission awards to Complainant attorney fees in the total amount of \$8,114.06 (\$10,818.75 less \$2,704.69 (25%)) plus \$30 in parking costs for a total of \$8,144.06.

CHICAGO COMMISSION ON HUMAN RELATIONS
By: 
Dana V. Starks, Chair and Commissioner
Entered: June 16, 2010

⁷ See *Cotten v. CCI Industries, Inc., supra.*, where the Commission reduced Atty. Weems' claimed mileage after determining that the distance between his office and the Commission's office is only 2.23 miles. By this measure, a round trip should not exceed 4.46 miles or \$2.45 and five round trips should not exceed 22.3 miles and \$12.26. Similarly, a round trip to the Daley Center from Weems' office should be well under 16.4 miles.