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:

Patricia Gilbert and Vernita Gray
Complainant,
v.

7355 South Shore Condominium and Shelley Norton
Respondent.

Case No.: 01-H-18/27

Date of Ruling: June 20, 2012
Date Mailed: June 27, 2012

TO:

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FINAL ORDER ON ATTORNEY FEES AND COSTS

YOU ARE HEREBY NOTIFIED that on June 20, 2012, the Chicago Commission on Human Relations issued a Final Ruling on Attorney Fees and Costs in favor of Complainants in the above-captioned matter. The Commission orders Respondent to pay attorney fees in the total amount of $61,535.66 and costs in the total amount of $6,653.39, for a total award of $68,189.05. The findings and specific terms of the ruling are enclosed. Respondents are ordered to pay the total amount in two allocated payments as follows:

1. To Chicago Lawyers Committee for Civil Rights Under Law, Inc.: $44,564.50
2. To Foley & Lardner LLP: $23,624.55

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

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[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 Complainants' attorneys of record at noted above.

City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, , Chicago, IL 60604
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IN THE MATTER OF:	
Patricia Gilbert and Vernita Gray **Complainants** **v.**	**Case No.:** 01-H-18/27 **Date of Ruling:** June 20, 2012
7355 South Shore Condominium and Shelley Norton **Respondents.**	

FINAL RULING ON ATTORNEY FEES AND COSTS

On July 20, 2011, the Chicago Commission on Human Relations issued its Final Order on Liability and Relief, which found for Complainants and ordered relief including reasonable attorney fees and costs pursuant to Section 2-120-510(l) of the Chicago Municipal Code. On September 2, 2011, Complainants filed a timely petition for attorney fees and costs. Respondents filed objections and Complainants filed a reply. On March 6, 2012, the hearing officer issued his First Recommended Decision on Attorney Fees. Neither party has filed objections. On May 21, 2012, the hearing officer issued his Final Recommended Decision on Attorney Fees. The Board of Commissioners hereby approves and adopts the recommendations of the hearing officer as its Final Ruling on Attorney Fees and Costs in this matter.

Standards for Awarding Attorney Fees

Section 2-120-510(l) of the Commission on Human Relations Enabling Ordinance provides that a successful complainant may be awarded "reasonable attorney fees . . . incurred in pursuing the complaint before the commission." Commission Regulation 240.630(a)(1) requires that a fee petition be supported by affidavit and argument, and that it reflect the number of hours for which compensation is sought, in quarter-hour increments or less, itemized by date and including a description of the work performed and the individual who performed it. Reg. 240.630(a)(2) allows fees at the rates "customarily charged" by a complainant's attorneys. The Commission uses the lodestar method of calculating reasonable attorney fees, determining the number of hours reasonably expended on the case and multiplying by the customary hourly rate for attorneys with the level of experience of the complainant's attorney. *Barnes v. Page,* CCHR No. 92-E-1 (Jan. 20, 1994); *Nash and Demby v. Sallas Realty et al.*, CCHR No. 92-H-128 (Dec. 7, 2000); see also the more recent cases *Cotten v. Addiction Sports Bar and Lounge*, CCHR No. 08-P-68 (Feb. 17, 2010); *Cotten v. Eat-A-Pita*, CCHR No. 07-P-108 (Sept. 16, 2009).

Appropriate Hourly Rate

Complainants seek the following hourly rates for the following attorneys who represented Complainants:

Elyssa Winslow	$330
Rachel Marks	$300

Betsy Shuman-Moore	$425
Daniel Cordis	$275.44
Alyssa Berman-Cutler	$260.30

The Commission summarized its approach to determining the appropriate hourly rate in *Flores v. A Taste of Heaven*, CCHR No. 06-E-32 (Jan. 19, 2011):

> 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 applicant has met his or her burden, the burden shifts to the defendants to demonstrate why a lower rate should be awarded.

Id. at 2, quoting *Small v. Richard Wolf Medical Instruments Corp.*, 264 F.3d 702, 707 (7th Cir. 2001). "Once an attorney provides evidence of his/her billing rate, the burden is on the respondent to present evidence establishing a good reason why a lower rate is essential. A respondent's failure to do so is essentially a concession that the attorney's billing rate is reasonable and should be awarded." *Warren v. Lofton & Lofton Mgmt. d/b/a McDonald's*, CCHR No. 07-P-62/63/92 at 3 (May 19, 2010), quoting *Richardson v. Chicago Area Council of Boy Scouts*, CCHR No. 92-E-80 (Nov. 20, 1996), *rev'd on other grounds* 322 Ill. App. 3d 17 (2d Dist. 2001). However, even where a respondent files no objections to the attorney fee petition, the Commission has an independent duty to review the petition for reasonableness and conformance to the Commission's Regulations. *Warren, supra* at 2.

During the time they were involved in this case, Cordis and Berman-Cutler were associates at the law firm Foley & Lardner. Cordis' affidavit (Ex. G to Complainants' petition) establishes that he has been licensed to practice law in Illinois since 2005, having graduated from DePaul University College of Law in May 2005. Berman-Cutler's resume (Ex. H to Complainants' petition) establishes that she graduated from the University of Chicago Law School in June 2006 and was an associate at Foley & Lardner since September 2006. An affidavit of Michael Conway (Ex. F to Complainants' petition) avers that he was the Foley & Lardner partner assigned to this case and supervised the work of Cordis and Berman-Cutler. Conway averred that during the firm's fiscal year 2007, which ran February 1, 2006, to January 31, 2007, the firm's standard billing rate was $260 per hour for Cordis and $240 per hour for Berman-Cutler; and during the firm's fiscal year 2008 which ran February 1, 2007, to January 31, 2008, the firm's standard billing rate was $300 per hour for Cordis and $280 per hour for Berman-Cutler. The rates requested in the fee petition appear to be a reasonable amalgamation of the attorneys' billing rates for the two fiscal years during which they worked on this case.

Winslow, Marks, and Shuman-Moore were attorneys with the Lawyers' Committee for Civil Rights Under Law, Inc. (Lawyers' Committee), a public interest law firm. An affidavit of Marks (Ex. C to Complainants' petition) establishes that she graduated from Vermont Law School in 2001, has been licensed to practice in Massachusetts since 2002, in the District of Columbia since 2004, and in Illinois since 2005. Since May 2006, she has been a staff attorney with the Lawyers' Committee. An affidavit of Shuman-Moore (Ex. D to Complainants' petition) establishes that Winslow graduated from Chicago-Kent College of Law in 1998, worked for

several Chicago law firms from 1998 to 2005, and was lead attorney for the Lawyers' Committee on the instant case from May 2006 to September 2007. Shuman-Moore's affidavit also establishes that she graduated from Indiana University-Bloomington College of Law in 1982, has been licensed to practice law in Illinois since 1982, and has been director of the Lawyers' Committee's Fair Housing Project since September 2007.

Marks' affidavit averred that $300 per hour "is a conservative hourly market rate in Chicago for an attorney given my experience level, based on research on attorney hourly rates that my organization has conducted." Shuman-Moore averred, in her affidavit:

> I have recently surveyed the hourly market rates for Chicago attorneys and propose the following conservative rates for Chicago Lawyers' Committee attorneys on this case. For attorneys admitted in 1982, as I was, the range was $365-550. I propose an hourly rate for myself of $425. For attorneys admitted in 1998, as Elyssa Balingit Winslow was, the range was $310-425. I propose an hourly rate for her of $330. For attorneys admitted in 2002, as Rachel Marks was, the range was $300-350. I propose an hourly rate for her of $300.

Complainants also submitted a copy of the administrative law judge's decision in *HUD v. Godlewski*, HUDALJ No. 07-034-FH (Feb. 1, 2008), which awarded attorney fees based on hourly rates of $400 for Shuman-Moore and $330 for Winslow; and pleadings and a ruling from *Rodriguez v. Marrone*, No. 09 L 3194 (Circuit Ct. Cook Co. Oct. 27, 2009), which awarded attorney fees for Shuman-Moore based on an hourly rate of $400.

Shuman-Moore's recent survey is not a reliable method for proving an appropriate hourly rate for Winslow, whose work on this case took place in 2006, or for Marks, whose work on this case took place predominantly in 2007 and 2008. Market rates in 2011 do not equate to market rates in 2006-2008. On the other hand, the rate approved in *HUD v. Godlewski* for Winslow is closer in time to the time the work for which compensation in the instant case is sought. The decision in *Godlewski* supports the award of a rate of $330 for work performed by Winslow. With respect to Marks, her experience is greater than that of Cordis, whose time was billed in 2007-08 at $300 per hour. Accordingly, the requested rate of $300 per hour for Marks' time is reasonable. The time expended by Shuman-Moore for which Complainants seek compensation was expended in 2011. For this time, Shuman-Moore's survey provides a valid indicator of market rates. Furthermore, the $425 per hour rate requested for work performed in 2011 is in keeping with the $400 per hour rate awarded in the *Godlewski* and *Rodriguez* cases several years earlier.

The Fee Petition and Respondent's Objections

Complainants have sought $45,464.50 for work performed by Lawyers' Committee attorneys and $19,935.20 for work performed by Foley & Lardner attorneys. For the Lawyers' Committee attorneys, Complainants claim 59.3 hours of work by Winslow, 215.2 hours of work by Marks, and 16 hours of work by Shuman-Moore. Complainants calculate lodestar amounts for the three Lawyers' Committee attorneys of $19,569, $64,560, and $6,800 respectively. Complainants seek an award of 50% of the total lodestar, which they calculate to be $45,464.50. For the Foley & Lardner attorneys, Complainants claim 230.6 hours worked by Cordis for a lodestar amount of $63,516, and 100.5 hours worked by Berman-Cutler for a lodestar amount of

$26,160. Complainants seek an award of 20% of the total lodestar.[1] Complainants also seek an award of costs of $6,653.39.

Respondents have objected that Complainants did not distinguish between time spent on Gilbert's claims and time spent on Gray's claims. Respondents maintain that in light of the combined fee petition, half of the time should be apportioned to Gilbert's claims and half to Gray's.

Respondents contend that in light of Complainants' limited success – Gilbert was awarded $100 in emotional distress damages and Gray was awarded $2,000 in emotional distress damages – they should receive no attorney fees. Respondents urge the Commission to follow and apply the Supreme Court's decision in *Farrar v. Hobby*, 506 U.S. 103 (1992), which held that under 42 U.S.C. § 1988, a plaintiff who was awarded nominal damages was a prevailing plaintiff but was not entitled to attorney fees because a fee award would not be reasonable. Even if the Commission does not deny attorney fees entirely, Respondents argue, citing *Shepard v. Hanley*, 274 Ill. App. 3d 442, 654 N.E.2d 1079 (3d Dist. 1995), that the amounts claimed should be greatly reduced. In particular, Respondents contend that, in light of Gray's lack of success on her second amended complaint, her half of the fee claim should be reduced in half.

Determination of Reasonable Fees

To assess Respondents' arguments, it is necessary to recount the Commission's findings with respect to liability. With respect to Gray's claims, the Commission found that Complainant proved her claim that Respondents created a hostile and offensive housing environment through negative and derogatory comments about Gray's sexual orientation. The Commission further found that Gray proved that Respondents' eviction of Complainant was motivated in part by Complainant's sexual orientation but that Respondent proved it would have evicted Complainant even if she had been heterosexual. The Commission made a similar finding with respect to Complainant's claim that she was held up to ridicule because of a misdirection of the Respondent Condominium's gas bill. Accordingly, the Commission excluded from its damages calculation damages attributable solely to the eviction and gas bill incidents. The Commission further found that Gray failed to prove her claims that Respondent did not invite her to join the building's fitness center and that Respondent replaced Gray's door with an inferior door. The Commission awarded Gray $2,000 for emotional distress stemming from Respondent's creation of a hostile housing environment. The Commission also found for Respondents with respect to Gray's second amended complaint, which alleged that Respondents had continued the hostile environment in retaliation against Gray's prosecuting this action before the Commission by calling a special association meeting on January 27, 2007.

With respect to Gilbert's claims, the Commission found that Complainant failed to prove that Respondents discriminated against her because of her race. The Commission further found that Complainant failed to prove that Respondents blocked her purchase of a unit in the building in April 2000 because of her sexual orientation, but that Complainant proved that Respondents blocked Gilbert's purchase in September 2000 in part because of Complainant's sexual orientation, although Respondents would have blocked the purchase even if Gilbert had been heterosexual. The Commission awarded Gilbert nominal emotional distress damages of $100. With respect to both Complainants, the Commission ordered the Respondent Condominium to pay

1 Although stated in the fee petition as $19,935.20, the correct calculation of 20% of the lodestar is $17,935.20, as further discussed below.

fines of $500 each (for a total of $1,000) and Respondent Norton to pay fines of $100 each (for a total of $200).

Respondents' objection to an award of attorney fees to Complainants ignores a well-established line of Commission precedent that "makes it clear that a fee award need not be proportional to a damage award." *Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89, at 4 (Jan. 20, 2010), and cases cited therein. In *Cotten v. Addiction Sports Bar and Lounge*, *supra,* the Commission awarded $2,156.25 in attorney fees and $52.58 in costs, even though it awarded Complainant damages of only $1.00. Similarly, in *Cotten v. CCI Industries, Inc.*, CCHR No. 07-P-109 (May 19, 2010), the Commission awarded $4,541.25 in attorney fees and $7.36 in costs, even though it awarded Complainant damages of only $1.00.

The Commission agrees with the hearing officer's view that Respondents' reliance on *Farrar v. Hobby*, *supra*, is misplaced. This authority is not binding on the Commission and the Commission has never relied on it to deny attorney fees to a prevailing party. There are significant differences between the federal statutes to which *Farrar* applies (Title VII of the 1964 Civil Rights Act, Title II of the Americans with Disabilities Act, and 42 U.S.C. §1988) and the Fair Housing Ordinance and Human Rights Ordinance which this Commission administers. For example, the City's ordinances provide for the Commission to impose fines on respondents found to have committed violations. No such public remedy is available under the federal statutes. The hearing officer recommended that the Commission expressly state what has been implied in its prior rulings, i.e., that *Farrar's* holding does not apply to Commission proceedings. Regardless of whether the Commission should choose to expressly address *Farrar*, the hearing officer recommended that the Commission overrule Respondents' objection to any award of attorney fees, pointing out that even under 42 U.S.C. §1988, a denial of attorney fees where a prevailing plaintiff is awarded only nominal damages is not automatic, as illustrated by *Shepard v. Hanley, supra*, a case relied on by Respondents.

The Commission has been able to identify only one prior decision discussing *Farrar*. In *Hall v. Becovic*, CCHR No. 94-H-39 (Jan. 10, 1996), the Commission rejected the argument that the complainant was entitled only to a nominal attorney fee because he recovered only $2,500 in emotional distress damages. The respondents in *Hall v. Becovic* had cited *Farrar* along with two Seventh Circuit Cases in which a prevailing party was denied an attorney fee after winning a judgment of only $1.00: *Cartwright v. Stamper*, 7 F.3d 106 (7th Cir. 1993) and *Willis v. City of Chicago*, 999 F.2d 284 (7th Cir. 1993). The Commission acknowledged that the U.S. Supreme Court in *Farrar* had ruled that a prevailing party in a civil rights case may not be entitled to any attorney fees if the victory was purely technical or *de minimis*. Nevertheless, the Commission rejected the argument that the issue on which the complainant prevailed in *Hall v. Becovic* was "really of no legal significance" or merely a technical victory because the respondents had acknowledged that their no-pet rule had to be changed to reasonably accommodate the complainant's disability. The Commission explained that a significant public purpose was served by the litigation because it made clear that it was illegal not to waive a no-pet rule for a blind person with a service dog to enable him to rent an apartment. The Commission pointed out that *Farrar* itself made clear that a prevailing party must only "succeed on any significant issue in the litigation which achieves some of the benefits the parties sought in bringing suit" and the resolution of the suit must affect the behavior of the party sued towards the complaining party. *Farrar* at 572, quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

Thus the Commission has previously acknowledged *Farrar* but has never applied it to deny attorney fees where a respondent has been found to have violated the Human Rights

Ordinance or the Fair Housing Ordinance. As stated in *Hall v. Becovic*, "Respondents misconstrue the case law when they suggest that there is any requirement that there be any proportionality between the amount recovered and the amount the prevailing party is awarded as a reasonable attorney fee, " going on to quote from *City of Riverside v. Rivera*, 477 U.S. 651, 574, 106 S.Ct. 2686 (1986): "Regardless of the form of relief he actually obtains, a successful civil rights plaintiff often secures important social benefits that are not reflected in nominal or relatively small damage awards."

In the instant case, Complainant Gilbert prevailed in that the Commission found that her sexual orientation was a motivating factor in Respondents' blocking her purchase of a condominium unit. Although the hearing officer had recommended only nominal damages of $1.00, the Board of Commissioners increased the emotional distress damages to $100 in light of the direct statement of the condominium president to another unit owner that she was motivated in part by her discriminatory intent to keep the "gay lifestyle" out of the building. The Commission stated that at least some emotional distress must flow from this discrimination itself, including Gilbert's knowledge that this type of preclusive statement was made. Moreover, the Commission imposed two fines totaling $600 to punish the violation. Thus Gilbert achieved at least some of the benefits she sought in bringing suit. The discrimination finding itself, along with the penalties imposed including the award of attorney fees,[2] serve the important public purpose of condemning and punishing housing discrimination based on sexual orientation, deterring similar discriminatory conduct by condominiums and their officials, and encouraging other discrimination victims to pursue their claims.

The Commission has been unable to identify any prior Commission decision disallowing attorney fees where damages were considered "nominal." The *Cotten* cases, cited *supra*, are directly to the contrary. Indeed, the Commission has noted in many decision that it routinely awards attorney fees to prevailing complainants. See, e.g., *White v. Ison*, CCHR No. 91-FHO-126-5711 (July 22, 1993), and *Jenkins v. Artists' Restaurant*, CCHR No. 90-PA-14 (Aug. 14, 1991). Thus the Commission has not followed *Farrar* and does not elect to do so going forward given consistent Commission precedent to the contrary and the different statutory framework including authority to impose fines for violations. The Commission has awarded and will continue to award reasonable attorney fees to prevailing complainants.

Respondents have not challenged any of the specific time entries presented by Complainants but, as indicated above, they do seek substantial reductions in the fees requested because of Complainants' relative lack of success. As discussed above, the Commission has repeatedly held that the amount of attorney fees awarded need not be proportional to the amount of damages awarded. Accordingly, Respondents calls for reductions in the attorney fees to be awarded to Complainants based on their relatively modest damage awards must be rejected.

However, Complainants did not prevail with respect to some of their claims. In this regard, the Commission has recently stated:

> Complainant is entitled to attorneys' fees for both the claims on which she prevailed, and those that share a common core of fact. The interrelated nature of the lawsuit means that

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2 In the Final Order on Liability and Relief, the Commission took into account that it had awarded attorney fees in declining to award punitive damages as sought by Complainants, noting that Respondents were sufficiently punished and deterred from future discrimination by the damages, fines, and attorney fees imposed against them, in addition to the resources they expended litigating the case for over a decade.

even if some time may have been spent on the unsuccessful claim, the claimant may recover fees if development of that legal theory was necessary to the claims on which she did prevail.

Alexander v. 1212 Restaurant Group LLC, CCHR No. 09-E-110 at 3 (Apr. 15, 2009).

Apportioning the hours worked between those for which Complainants are entitled to attorney fees and those for which they are not can be challenging. In some instances, it may be possible to identify time devoted to distinct claims on which Complainants did not prevail. In such instances, the time must be excluded from the calculation of the lodestar amount. However, in most instances this will not be possible. For example, it is not reasonable to expect counsel to maintain claim-by-claim time records for researching and drafting a brief. In such cases an across-the-board percentage reduction may be in order. In an analogous area, reduction in billable time because the amount claimed is excessive, the Commission has indicated that line-by-line reductions and across-the-board percentage reductions, or even a combination of the two, may be appropriate depending on the particular facts and circumstances. *See, e.g., Hutchison v. Iftekaruddin*, CCHR No. 08-H-21 at 4 (June 16, 2010), as well as *Pierce and Parker v. New Jerusalem Christian Development Corp.*, CCHR No. 07-H-12/13 (May 16, 2012).

In the instant case, some time spent on a claim on which Complainant Gray did not prevail may be isolated. Specifically, Gray did not prevail on her second amended complaint. The second amended complaint was completely independent of the other claims advanced in this case and nothing connected to the second amended complaint advanced any of the claims on which Complainants prevailed. A significant portion of the last day of hearing, March 26, 2007, was devoted exclusively to the second amended complaint. Complainants appear to recognize that time spent on the second amended complaint may not be awarded, as they deliberately omitted requesting compensation for time spent drafting the second amended complaint. Just as time spent drafting the second amended complaint must be omitted from the fee petition, so too must hearing time devoted exclusively to the second amended complaint.

The transcript from March 26, 2007, begins on page 522 and concludes on page 792, for a total of 270 pages. The day's hearing began with conclusion of the testimony on the first amended complaint, reflecting testimony from Gray, Norton, Diane Butler, and Leda Walker. Proceedings with respect to the second amended complaint begin on page 666 and conclude on page 765, covering testimony from Gray, Norton, Emil Jackson, Stanton Robinson, and Chester Hardy. In other words, about 100 pages of the 270 pages of transcript for March 26, 2007, were devoted to the second amended complaint, which is approximately 37%. Complainants seek compensation for 9.4 hours of Cordis' time in connection with the final day of hearing (8.9 hours for preparation and attendance at the March 26, 2007 hearing and 0.5 hours for a conference with other Foley & Lardner attorneys regarding the March 26 hearing on March 27) and for 8.2 hours for Marks' travel to and attendance at the March 26, 2007 hearing. These amounts must be reduced by 37%, or 3.5 hours for Cordis and 3.0 hours for Marks.

Beyond the above reductions, other time spent on the second amended complaint (such as time spent on that portion of the post-hearing briefs) cannot be isolated. Similarly, time spent on other claims on which Complainants did not prevail and which are not part of a core of common facts with respect to claims on which they did prevail cannot be isolated. To account for such time, it is appropriate to apply an across-the board percentage reduction.

Complainants' fee petition reduces the hours spent by Foley & Lardner attorneys by 80%

and the hours spent by Lawyers' Committee attorneys by 50%. A substantial amount of time at the hearing was spent on the eviction claim, on which Gray was a prevailing party. Significant amounts of time were also spent on Gray's hostile environment claim, on which she prevailed, and on her claim related to the door, on which she did not prevail. Lesser amounts of time were spent on the gas bill claim, on which Gray prevailed, and on the fitness club claim, on which she did not prevail. With respect to Gilbert's claim, significant amounts of hearing time were spent on the claims (race and sexual orientation) relating to the alleged blocking of her purchase in April 2000, on which she did not prevail, and on the claims related to the blocking of her purchase in September 2000. Although Gilbert prevailed only on the sexual orientation claim arising out of the events of September 2000, almost all of the evidence that might be relevant to the race claim arose out of a core of common facts with the sexual orientation claim. Indeed, there was virtually no evidence presented specifically related to the race claim at all, resulting in the finding that there was no evidence of probative value to substantiate the claim of racial discrimination.

Considering the relationships among the claims, Complainants' proposed significant reductions of 80% for Foley & Lardner attorneys and 50% for Lawyers' Committee attorneys are reasonable and the Commission agrees with the hearing officer's recommendation to adopt them. Respondents have made no line-by-line objections that any of the amounts of time claimed are unreasonable or excessive.[3] Thus the only reductions are those discussed above: 3.5 hours of Cordis' time related to the March 26, 2007 hearing and 3.0 hours of Marks' time related to the same hearing. This amounts to 3.5 x $275.44 = $964.04 for Cordis and 3.0 x $300.00 = $900.00 for Marks. Thus the attorney fees as requested are reduced by $1,864.04.

Costs

Complainants also seek $6,653.39 for expenses, all for Foley & Lardner. Respondents have not objected to any of the claimed expenses, of which $5,431.89 was incurred for deposition transcript fees. The remaining expenses for photocopying, filing fees, and witness fees are all matters for which the Commission has regularly awarded costs pursuant to is authority under Section 2-120-510(l) of the Chicago Municipal Code. The Commission awards the full amount of costs requested.

Calculations and 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. However, the Commission finds one mathematical or typographical error in the fee petition which affects the calculation of the final fee award compared to the amount recommended by the hearing officer.

The fee petition stated the resulting fee request for Foley & Lardner, after the proposed 80% reduction of the lodestar calculation, as $19,935.20. By the Commission's calculation, this figure should be $17,935.20. With the request of $45,464.50 for the Lawyers' Committee, total requested fees are $63,399.70. With the $6,653.39 in costs, the requested award remains correctly stated at $70,053.09.

After the hearing officer's recommended reductions of $1,864.04, the recommended award

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3 The Commission also views the proposed percentage reductions as sufficient to account for any duplication in connection with the participation of multiple attorneys on Complainants' behalf, and in that regard notes the billing discretion exercised by Foley & Lardner in not seeking compensation for Conway's supervisory oversight.

should be restated as $61,535.66 in attorney fees and $6,653.39 in costs, for a total recommended award of $68,189.05. These are the amounts the Commission approves and orders Respondents, jointly and severally, to pay.

Respondents are to pay the total amount of $68,189.05 in two allocated payments as follows:

(1) $44,564.50 to Chicago Lawyers' Committee for Civil Rights Under Law. This reflects the $900 reduction for Marks from the $45,464.50 requested.

(2) $23,624.55 to Foley & Lardner LLP. This reflects the $964.04 reduction for Cordis from the corrected amount of $17,935.20 as attorney fees (leaving $16,971.16 in attorney fees), plus the $6,653.39 as costs.

CHICAGO COMMISSION ON HUMAN RELATIONS

By: _____

Kenneth Gunn, First Deputy Commissioner
Entered: June 20, 2012