

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
)	
JESSE MANSKER,)	
Complainant,)	
)	
and)	CHARGE NO: 1999SF0356
)	EEOC NO: 21B990715
PINNACLE LIMITED PARTNERSHIP)	ALS NO: S-11202
d/b/a SPRINGFIELD HILTON and)	
MICHAEL MONTGOMERY)	
)	
Respondents.)	

RECOMMENDED ORDER AND DECISION

This matter comes to me on a petition filed by Complainant requesting an award of \$14,762 in attorney and paralegal fees, as well as \$169.11 in costs associated with the prosecution of this matter. On January 28, 2003, a Recommended Liability Decision was entered in favor of Complainant against Respondent Montgomery on Complainant's claim for same-sex, sexual harassment. The Order gave Complainant twenty-one days in which to file a petition requesting attorney fees and costs and gave Respondent Montgomery twenty-one days in which to file a response. Complainant filed his petition for attorney fees on February 14, 2003. Respondent Montgomery has not filed a response, although he was given twenty-one days in which to file a response.

Findings of Fact

Based upon the record in this matter, I make the following findings of fact:

1. At all times pertinent to this case, Complainant has been represented by Mary Lee Leahy of the Leahy Law Offices.
2. Attorney Mary Lee Leahy received her law degree from the University of Chicago in 1966 and was admitted to practice that same year. Ms. Leahy has practiced law in both the

private and public sector, and has extensive experience in the field of civil rights in both federal and state courts, as well as before the Illinois Department of Human Rights and Illinois Human Rights Commission. Ms. Leahy has also received awards from several legal organizations recognizing her scholarship in the areas of civil rights.

3. During the time that Ms. Leahy has represented Complainant, the United States District Court for the Central District of Illinois has awarded Ms. Leahy legal fees at the rate of \$225.00 per hour in three separate cases.

4. The reasonable hourly rate for Ms. Leahy legal services in this action is \$225.00 per hour.

5. Patricia Hunt is employed as a paralegal at the Leahy Law Office. At all times pertinent to this case, the Leahy Law Office billed clients \$50.00 per hour for paralegal services.

6. The reasonable hourly rate for Ms. Hunt's paralegal services is \$50.00 per hour.

7. Ms. Leahy expended a total of 53.75 hours in prosecuting this case on Complainant's behalf. The reasonable number of hours spent by Ms. Leahy in pursuing this matter is 53.75. This translates into an award of attorney fees of \$12,093.75

8. Ms. Hunt expended a total of 52.50 hours in assisting Ms. Leahy in the prosecution of this case. The reasonable number of hours spent by Ms. Hunt is 52.50. This translates into an award of paralegal fees of \$2,625.00.

9. The reasonable amount of costs in this action is \$169.11.

Conclusions of Law

1. All previous conclusions of law in the Recommended Liability Decision are incorporated by reference.

2. A prevailing complainant may recover reasonable attorney fees and costs to maintain his action.

Discussion

In Clark and The Champaign National Bank, 4 Ill. HRC Rep. 193 (1981) the Commission identified various guidelines to adjudicate requests for attorney fee awards. Under the Clark standard, the burden of proof is the same burden that is applied to anyone seeking a claim for a money judgment. Specifically, an attorney requesting fees on behalf of her client must provide evidence of the prevailing rate for the type of work for which she seeks an award. This can be done in a number of ways, including, among others, the submission of affidavits reciting the precise fees that attorneys with similar qualifications have received from paying clients in comparable cases, or affidavits showing evidence of the actual billing practice during the relevant time period. Indeed, as the Commission in Clark observed, the actual rate that a complainant's attorney can command in the market place is highly relevant proof of prevailing community standards.

However, Ms. Leahy does not state in her fee petition that the \$225 per hour figure is what she actually charges her clients for services rendered on similar discrimination cases. Moreover, although Ms. Leahy attached to her petition a blank contingency fee agreement containing the \$225 per hour figure, there is no evidence in the record that Complainant actually agreed to such an arrangement. Nevertheless, Ms. Leahy argues that \$225 per hour is her "going" rate because she received that figure in fee petition requests from three different federal district court rulings. Additionally, she asserts that the \$225 figure is justified given her extensive experience prosecuting discrimination claims, and given the fact that she has not received any fees in this case since 1999.

In resolving this petition, I find that any lack of evidence as to what Ms. Leahy actually charged Complainant for her services is immaterial since Respondent Montgomery has forfeited any right to challenge either Ms. Leahy's hourly rate or the number of hours she expended in this case due to his failure to file a response to her fee petition. Accordingly, because Respondent Montgomery has not objected to any aspect of Leahy's fee petition, and because the over-all amount being requested appears to be reasonable given the nature and complexity

of the case, I will grant the portion of fee petition, i.e., \$12,093.75, that is attributable to Ms. Leahy's efforts in this case.

As to the portion of the petition seeking paralegal fees, I note that Ms. Leahy asserted that she actually bills her clients \$50.00 for paralegal services rendered on behalf of the client. Given this evidence, as well as the lack of an objection by Respondent Montgomery, I will grant the paralegal portion of the fee petition as well. The petition, though, seeks a total of \$2,668.75 for paralegal expenses based on 52.50 hours of time spent on the case. However, 52.50 hours multiplied by \$50.00 is \$2,625.00, and thus that figure will be used in this award. Finally, Ms. Leahy seeks \$169.11 in costs actually expended by Complainant in this case. After reviewing these costs, I find them to be reasonable, and thus will grant this portion of the fee petition as well.

Recommendation

In view of the above, I recommend that the Commission enter an Order which:

1. Sustains the Order of January 28, 2003, which held that Respondent Montgomery violated the Human Rights Act by sexually harassing Complainant, but found that Respondent Hilton did not violate the Human Rights Act.
2. Sustains the monetary and non-monetary relief given to Complainant in the January 28, 2003 Order.
3. Requires Respondent Montgomery to pay Complainant's attorney and paralegal fees totaling \$14,718.75, as well as costs of \$169.11.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 20TH DAY OF MARCH, 2003