



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 8/01/01.

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
HENRY ROMANSKI,	)	
	)	
Complainant,	)	
	)	Charge No.: 1992CA3531
and	)	EEOC No.: 21B922458
	)	ALS No.: 7858R
HYATT LEGAL SERVICES,	)	
	)	
	)	
Respondent.	)	

**RECOMMENDED ORDER AND DECISION**

A Recommended Liability Determination (RLD) was entered in this matter on December 27, 2000. Pursuant to the RLD, Complainant, Henry Romanski, filed a written motion for attorney's fees. Respondent, Hyatt Legal Services, filed a written response to that motion. The matter is ready for decision.

**FINDINGS OF FACT**

1. Complainant has requested compensation for the work of attorney Dennis Hesser at the rate of \$175.00 per hour for 221 hours.
2. Complainant has requested reimbursement for \$147.50 in costs incurred in the prosecution of this matter.
3. The requested hourly rate is reasonable and should be accepted.
4. The number of requested hours is unreasonably high.

The number of hours should be reduced to 209.95.

5. Some of the requested costs are not compensable. The compensable costs total \$50.00.

#### CONCLUSIONS OF LAW

1. The requested number of hours needs to be reduced because clerical duties are not compensable.

2. No hearing is necessary to determine a reasonable attorney's fee award.

#### DISCUSSION

Complainant, Henry Romanski, has requested an award of \$38,675.00 in attorney's fees and \$147.50 in costs. Respondent, Hyatt Legal Services, has objected to the size of the requested award. Respondent's written response specifically objects to both the requested hourly rate and the requested number of hours. In addition, Respondent has suggested a hearing on the matter of fees.

The first order of business is the suggestion that a hearing be held on Complainant's fee petition. Under the Commission's procedural rules, an administrative law judge "may" hold a hearing in order to address a claim for attorney's fees. 56 Ill. Adm. Code, section 5300.765(e). It is a matter of the judge's discretion whether such a hearing is necessary. ***Raintree Health Care Ctr. v. Illinois Human Rights Commission***, 173 Ill. 2d 469, 672 N.E.2d 1136 (1996).

In practice, such hearings are exceedingly rare, and

Respondent has offered nothing to require a change from normal procedure. Respondent offers arguments that Complainant's evidence is insufficient, but offers no evidence to rebut the documentation provided. In the absence of legitimate evidentiary conflicts, it is difficult to see any advantage in holding a hearing. Therefore, there will be no hearing on fees. The fee request will be decided on the basis of the existing record.

The next issue to address is Respondent's argument that the fee request should be denied in its entirety, or at least significantly reduced, because of the relatively small recommended relief. The Recommended Liability Determination recommends that Complainant receive a net award of only about \$9,000.00. Respondent argues that a \$9,000.00 award is too small to justify a \$38,000.00 fee.

Respondent's argument places too much emphasis on the size of the money award. A cease and desist order alone was held to justify a fully compensatory attorney's fee award in **Brewington v. Illinois Dep't of Corrections**, 161 Ill. App. 3d 54, 513 N.E.2d 1056 (1st Dist. 1987). It is not necessarily significant that a prevailing complainant not receive everything he sought as long as the result justifies the time spent. **Hensley v. Eckerhart**, 461 U.S. 424 (1983). In the instant case, it is recommended that Complainant prevail on all four of his claims. Moreover, part of the reason for the relatively small award is

an earlier sanction. That sanction has nothing to do with the merits of the case. On balance, the requested fee award is not unreasonable when compared to the recommended relief. Therefore, there should be no deduction based upon that argument.

The proper approach to a motion for attorney's fees is set forth in *Clark and Champaign National Bank*, 4 Ill. HRC Rep. 193 (1982). Under the *Clark* approach, the first thing to do is to determine the appropriate hourly rate for the attorney's work. The next step is the determination of the number of hours reasonably expended on the case. Finally, it is necessary to decide if any additional adjustments should be made to the award.

Complainant seeks an hourly rate of \$175.00 per hour for the work of his attorney, Dennis Hesser. Respondent objects to that rate, arguing that the petition does not comply with *Clark*.

According to Complainant's motion, Mr. Hesser's hourly rate has ranged from \$150.00 to \$200.00 per hour during the period from 1999 to the present. According to the accompanying affidavit, the specific rate depends upon the difficulty of the issues, the need for specialized knowledge, and the "immediacy involved." The motion requests that all of Mr. Hesser's time be compensated at the averaged rate of \$175.00 per hour.

In support of its objection to the requested rate, Respondent notes that the motion does not establish that the

\$175.00 rate was actually charged in any specific matter or that it was the rate that Mr. Hesser intended to charge on the instant case. Respondent also notes that the motion does not indicate the rates that Mr. Hesser charged his clients on cases in which he did or did not prevail.

The flaws noted by Respondent are minor, and do not justify a reduction in the hourly rate. Mr. Hesser has been a licensed attorney for over thirty-three years. In the current legal market in this forum, an hourly rate of \$175.00 is quite reasonable for an attorney with such lengthy experience. Moreover, that rate is \$10.00 per hour less than what Respondent was awarded in the instant case for the 1996 work of an attorney who at the time had been licensed only about eleven years, one third of the time Mr. Hesser has been licensed. In short, the requested rate certainly is reasonable, and no adjustment in it is recommended.

With regard to the requested number of hours, Respondent's objections are generally well taken. The submitted time records are somewhat vague. As Respondent notes, there are entries that seem to indicate that clerical work is being billed. Attorneys cannot be compensated for performing basic clerical tasks. ***Altes and Illinois Dep't of Employment Security***, 50 Ill. HRC Rep. 3 (1989).

Moreover, the time entries often list several different activities without any indication as to how much time was spent

on each individual job. In light of the fact that it has been recommended that Complainant prevail on every aspect of his claim, there is no need to apportion time among the several different theories of relief. However, it is difficult to determine if the time spent on a particular task is reasonable if there is no indication how much time is claimed for that task. Finally, there are claims of research without any indication what issues were the subject of that research. There is no way to determine the reasonableness of research into unnamed issues.

The above concerns are not major ones, but they do justify a small adjustment in the requested hours. After all, when considering awards of attorney's fees, doubts are to be resolved in favor of the respondent. *Lieber and Southern Illinois Univ. Bd. of Trustees*, 34 Ill. HRC Rep. 206 (1987). In the instant case, a 5% reduction in the requested hours would appear to address Respondent's concerns while still providing a fully compensatory fee award for Complainant. That reduction reduces the compensable hours to 209.95.

Multiplying the recommended hourly rate by the recommended number of hours results in a total of \$36,741.25. That is the recommended attorney's fee award. There is no reason to adjust that total any further.

Respondent has not objected to reimbursement of the requested costs, but it is clear from the records that some

deductions should be made. The motion requests reimbursement for \$97.50 in copying and faxing charges. However, there is no indication that the copies or faxes were made by someone outside counsel's office or that such costs are routinely billed to counsel's clients. Such matters are generally considered part of a law firm's overhead. ***Kaiser v. MEPC American Properties, Inc.***, 164 Ill. App. 3d 978, 518 N.E.2d 424 (1st Dist. 1987). Deducting those costs leaves a net cost award of \$50.00.

RECOMMENDATION

Based upon the foregoing, it is recommended that an order be entered awarding Complainant the following relief:

A. That Respondent be ordered to pay to Complainant the sum of \$34,807.50 for attorney's fees reasonably incurred in the prosecution of this matter;

B. That Respondent be ordered to pay to Complainant the sum of \$50.00 as reimbursement for costs reasonably incurred in the prosecution of this matter;

C. That Complainant receive all other relief recommended in the Recommended Liability Determination entered in this matter on December 27, 2000.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: March 27, 2001