



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 4/03/02.

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)
)
KAMLESH VIJ and PARVEEN VIJ)
Complainant,)
)
and)Charge No: 1999 CP 1273
)Charge No: 1999 CP 1274
SIX FLAGS THEME PARK, INC.,) Consolidated ALS # 11106
D/B/A SIX FLAGS GREAT AMERICA)
Respondent.)

RECOMMENDED ORDER AND DECISION

This matter is before me following a Recommended Liability Determination (RLD) issued on December 18, 2001, incorporated by reference herein. Complainant filed a written motion for attorney’s fees as a part of the post-hearing brief. Complainant filed a supplementary affidavit for additional attorney time spent primarily preparing the post-hearing rebuttal brief. Pursuant to the RLD, Respondent filed a written objection to those fees. This matter is ready for decision.

CONTENTIONS OF THE PARTIES

Complainant requests \$44,117.50 in attorney and paralegal fees for 154.50 hours of services. Of that request, 9.25 hours at \$65.00 hour are attributable to paralegal fees and 145.25 hours at \$300.00 hour are attributable to attorney’s fees. Respondent objects to the attorney’s requested hourly rate and the number of hours requested.

Respondent argues that Complainant’s fee petition is inadequately supported in that Complainant’s fee petition is not in accordance with the guidelines as set forth in *Clark v. Champaign National Bank*, 4 Ill. HRC Rep. 193 (1982), Complainant provided no documentation of professional legal experience and educational background, and Complainant listed the names of the attorneys by initials only and not by names.

FINDINGS OF FACT

1. Complainant’s chief counsel, Edwin L. Sisam, is an attorney at Sisam & Watje, P.A. and is licensed to practice law in Minnesota.
2. Complainant’s co-counsel, Tammy P. Friederichs, is an attorney at Sisam & Watje, P.A.
3. Edwin L. Sisam and Tammy P. Friederichs are co-counsels of record.
4. The entries in Complainant’s fee petition related to initials ELS and TPF are presumed to be for Edwin L. Sisam and Tammy P. Friederichs.
5. DJB is an attorney listed in the itemization who is not specifically identified.

6. AMF and DA are paralegals who provided services and who were not specifically identified.
7. Complainant is requesting \$300.00 per hour for services performed by Attorneys Edwin L. Sisam, Tammy P. Friederichs and DJB.
8. A fee of 300.00 per hour is not supported by the documentation and should be reduced to 200.00 per hour.
9. Complainant requests \$65.00 per hour for paralegal work.
10. \$65.00 per hour is not supported by the documentation and should be reduced to \$50.00 per hour.
11. Worked performed by DJB is not compensable, as this attorney is not specifically identified.
12. The number of hours of attorney services should be reduced by those attributable to DJB – 5 hours.
13. The 24.5 hours of attorney time and 2.5 hours of paralegal time requested for preparation of the post hearing rebuttal brief is not sufficiently detailed or supported.
14. This post-hearing rebuttal brief preparation time should be reduced by 12.0 hours for attorney time only; the 2.5 hours for paralegal services is reasonable.

CONCLUSIONS OF LAW

1. The requested hourly rate of \$300.00 for attorney's fees is not supported and is not reasonable.
2. \$200.00 per hour is a more reasonable rate for attorney's fees.
3. Hours attributable to unidentified attorneys are not compensable.
4. Attorneys' hours should be reduced by 17 for a total of 128.25.
5. \$65.00 hour for paralegal fees is excessive and is not supported.
6. Paralegal fees should be reduced to \$50.00 hour.
7. 9.25 hours for paralegal services are reasonable.

DETERMINATION

Complainant should be awarded 128.25 hours at \$200.00 per hour for attorney's fees or \$25,650.00, and 9.25 hours at \$50.00 per hour for paralegal fees or \$462.50 for a total of \$26,112.50.

Appropriate Hourly Rate

When considering a fee petition, it is first necessary to establish a reasonable hourly rate. An appropriate hourly rate is generally dependent upon the actual hourly rate the attorney charges, the experience of the attorney, and previous awards of attorney's fees to counsel. *Clark and Champaign National Bank*, 4 Ill.HRC Rep. 193 (1982).

The fee petition and affidavits of Attorney Edwin L. Sisam (Sisam) do not provide sufficient documentation regarding his experience or educational background, nor is there any information regarding the experience of co-counsel, Tammy P. Friederichs. Sisam indicates that his law firm's normal hourly rate for representation of this type of action is \$300.00 per hour and \$65.00 per hour for paralegals. Respondent contends that this

amount is excessive and a reasonable attorney's fee for this case should be \$150.00 per hour for Sisam; \$100.00 per hour for others and \$50.00 per hour for travel time.

Although it is difficult to determine the appropriate hourly fee with such limited information regarding the experience and qualifications of Complainant's counsels, and without the benefit of representation by counsels of their previous awards, I observed Mr. Sisam's presentation throughout the hearing and my impression is that he appeared to have more than a few years of litigation experience; however, I agree with Respondent that \$300.00 per hour is excessive in light of recent Commission awards. This limited documentation, taken along with Sisam's affidavit, support an award somewhere in between Respondent's suggested \$150.00 per hour and Sisam's averment in his affidavit that this firm charges \$300.00 per hour. Therefore, \$200.00 per hour is a more reasonable award for attorney services.

Complainant further requests \$65.00 per hour for paralegal services. Complainant lists services performed by two paralegals, AMF and DA. Although the names are not specifically listed, I do not find omission of paralegal support staff names as critical to an analysis of an appropriate paralegal fee as I do omission of an attorney's identity to an analysis of an appropriate attorney's fee. However, I find \$65.00 per hour unreasonable for a paralegal fee. In *Nancy and Arthur E. Wild Communications*, ___ Ill. HRC Rep. ___, (1993 CF 0447, March 13, 2001), work completed by law students was awarded at the rate of \$50.00 per hour. I find that award helpful to a reasonable fee determination here, where paralegals performed such services as "edit interrogatory answers," "hearing preparation," and "review trial exhibits."

Appropriate Number of Hours Expended

Once the hourly rate is decided upon, the next step is to determine whether the hours claimed are justified. On March 9, 2001, Complainant filed an affidavit and an itemized list of work performed by the attorneys and paralegals from December 15, 1999 until March 8, 2001, including dates and time devoted to each activity and the cost; however, the supplementary affidavit filed April 2, 2001, as to services performed relating to the post - hearing rebuttal brief, included no itemized list of work performed. Therefore, only the first fee petition is in accord with *Clark* guidelines and sufficient to allow the Respondent to scrutinize it.

Respondent takes issue with the time allocations contending they are excessive. As the burden is on Complainant to justify the amount of hours requested, I have carefully reviewed the fee petition and find that, although the first 127 hours of time allocated to professional services are sufficiently detailed, the supplementary affidavit is not detailed and merely indicates that 24.5 hours were spent for attorney time and 2.5 hours were spent for paralegal time.

Although not supported by documentation, 2.5 hours for paralegal time is reasonable; however, the 24.5 hours in attorney time is neither supported nor reasonable. Since a rebuttal brief was necessary, counsel should be compensated for reasonable time spent in preparing it. Counsel spent approximately 47 hours in preparing the initial post-hearing

brief. It is reasonable to conclude that significantly less time should have been required to prepare the rebuttal brief; therefore, the hours should be reduced by 12 hours to 12.5 hours for time spent on the post-hearing rebuttal brief.

RECOMMENDATION

Based on the foregoing, it is recommended that the Commission order that:

- A. Respondent cease and desist from further discrimination on the basis of race;
- B. Respondent pay Complainant \$26,112.50 for attorney's fees and paralegal fees;
- D. Complainant receive all other relief recommended in the RLD entered December 18, 2001.

HUMAN RIGHTS COMMISSION

By: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: February 20, 2002