



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:

Anthony Cotten
Complainant,
v.
Eat-A-Pita
Respondent.

Case No.: 07-P-108

Date Mailed: October 2, 2009

TO:

Matthew Weems
Law Office of Matthew Weems
1652 W. Ogden Ave.
Chicago, IL 60612

George Anton and Dean Sampras
Eat-A-Pita
3155 N. Halsted
Chicago, IL 60657

FINAL ORDER ON ATTORNEY FEES AND COSTS

YOU ARE HEREBY NOTIFIED that on September 16, 2009, 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 \$2135 and costs in the total amount of \$52.31, for a total award of \$2187.31. 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 June 4, 2009, 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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FINAL RULING ON ATTORNEY FEES AND COSTS

I. PROCEDURAL HISTORY

On June 4, 2009, the Commission issued a Final Order on Liability and Relief in favor of Complainant Anthony Cotten on his claim that Respondent Eat-a-Pita discriminated against him based on his disability by failing to insure that the restaurant was wheelchair-accessible. The Commission ordered Respondent to pay Complainant \$500 plus interest, a \$500 fine, plus attorney's fees and costs.¹

Based on the Commission's order, on June 17, 2009, Complainant's attorney Matthew Weems submitted a fee petition/affidavit and a summary time-log detailing his work on the case. Weems seeks \$2,562 for fees (17.08 hrs at \$150 per hour) and \$52.31 in costs. Pursuant to the hearing officer's request for additional information, on July 20, 2009, Weems submitted a supplemental affidavit further describing his legal experience and background.²

II. DISCUSSION

The Commission uses a lodestar method of calculating attorney's fees. See *Leadership Council for Metropolitan Communities v. Souchet*, CCHR No. 98-H-107 (May 17, 2001). The Commission determines if the hours spent on a matter were reasonable and then multiples that number by the hourly rate customarily charged by attorneys with the level of experience of Complainant's attorney. See *Nash v. Sallas*, CCHR No. 92-H-128 (Dec. 7, 2000). The Commission is not required to award attorney's fees in an amount proportional to the amount of damages received. *Id.*; see also *Wright v. Mims*, CCHR No. 93-H-012 (Sept. 17, 1997). The party seeking recovery of attorney's fees has the burden of presenting evidence from which the Commission can determine whether the fee requested is reasonable. See *Brooks v. Hyde Park Realty Company, Inc.*, CCHR No. 02-E-116 (June 16, 2004).

¹ The Commission also ordered Respondent to comply with the order for injunctive relief to address the lack of wheelchair accessibility at the restaurant.

² The hearing officer requested that Weems provide additional information detailing the number of years he has practiced law and his experience handling discrimination matters, hearings, and trials. (See July 13, 2009 Order).

A. REASONABLE NUMBER OF HOURS

Weems submitted a time-log showing that he spent 17.08 hours working on this matter from December 12, 2008 through June 16, 2009. His time was incurred for reviewing file materials, ordinances, and Commission case law, participating in the pre-hearing conference, drafting discovery, preparing for and participating in the hearing, preparing a post-hearing brief, and preparing the fee petition. Based on all of this activity, the hearing officer found the number of hours incurred to handle the case to be modest and reasonable.

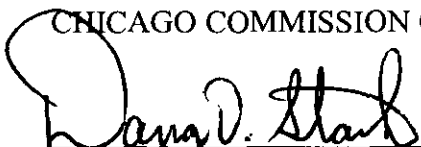
B. APPROPRIATE HOURLY RATES

Weems seeks fees for services at the rate of \$150 per hour. 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* at p. 2 and *Souchet* at pp. 7-8. Weems asserts that his typical hourly rate for matters similar to this case is \$150 per hour. In his supplemental affidavit, Weems states that while he is a first-year attorney, he “has handled several public accommodation discrimination cases and is familiar with this area of law.” He also stated that he has several clients who compensate him between \$150 and \$200 per hour on various matters.

Given the fairly straightforward nature of this case and because counsel was only recently admitted to practice law in the state of Illinois and did not provide detailed information concerning his legal experience, the hearing officer found that his request for \$150 per hour is unreasonable. Indeed, the Commission has typically reserved significant hourly fee awards for attorneys with far more experience than set forth here. See e.g. *Lapa v. Polish Army Veterans Association*, CCHR No. 02-PA-027 (Jan. 14, 2008) (awarding \$200 per hour for an attorney with 15 years of experience) citing *Salwierak v. MRI of Chicago, Inc.*, CCHR No. 99-E-107 (same); *Souchet*, at pp. 7-8 (awarding \$250 per hour to an attorney with 23 years of experience). Accordingly, the hearing officer found that an appropriate rate in this case would be \$125 per hour. See *Nuspl v. Marchetti*, CCHR No. 98-E-207 (March 27, 2003) (awarding \$125 per hour for an attorney with only two and one-half years of experience). The Commission hereby adopts the hearing officer’s recommendation.

III. CONCLUSION

For the reasons discussed above, the Commission awards Complainant’s attorney, Matthew Weems, fees and costs in the total amount of \$2187.31 (\$2135 in attorney’s fees – 17.08 hrs at \$150 per hour – plus \$52.31 in costs).

CHICAGO COMMISSION ON HUMAN RELATIONS


By: Dana V. Starks, Chair and Commissioner
Entered: September 16, 2009