

**COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION**

MASSACHUSETTS COMMISSION
AGAINST DISCRIMINATION,
KAREN CHASE, and
LINDA EASON,
Complainants

v.

DOCKET NO. 12-BEM-02539
12-BEM-02540

CRESCENT YACHT CLUB and
JOHN MCCARTHY¹
Respondents

DECISION OF THE FULL COMMISSION

This matter comes before us following a decision issued on February 6, 2020 by the Full Commission in favor of Complainants, Karen Chase (“Chase”) and Linda Eason (“Eason”). That decision affirmed the decision of Hearing Officer Betty Waxman (“Hearing Officer”), issued on May 19, 2016, finding that the Respondent, Crescent Yacht Club (“the Club”), was liable for sexual harassment and retaliation in violation of M.G.L. c. 151B, § 4(4) and (16A).

On February 20, 2020, the Complainants filed a Petition for Attorneys’ Fees and Costs, along with an affidavit and an invoice. The petition seeks attorneys’ fees and costs for work performed between June 20, 2016 and December 4, 2017 before the Full Commission. For the reasons discussed below, we award the Complainants’ requested attorneys’ fees and costs in the amount of \$9,954.27.

¹ John McCarthy was dismissed as a Respondent because the Hearing Officer determined that the record did not establish that he was properly served with notice of the proceedings.

DISCUSSION

The Complainants' petition requests fees and costs in the total amount of \$9,954.27. Specifically, Complainants seek to recover fees of \$7,840.00 for 19.6 hours of work performed by Attorney Janet E. Dutcher at a rate of \$400, fees of \$2,000.00 for 4 hours of work performed by Attorney Marsha V. Kazarosian at a rate of \$500, and costs in the amount of \$114.27. The Respondent has not submitted any opposition to the fee petition.

M.G.L. c. 151B, § 5 allows prevailing complainants to recover reasonable attorneys' fees, and 804 CMR 1.23(12)(c) (2020) specifically provides for the award of attorneys' fees and costs accrued as an appellee litigating a respondent's appeal to the Full Commission. The determination of whether a fee sought is reasonable is subject to the Commission's discretion and includes such factors as the time and resources required to litigate a claim of discrimination in the administrative forum. Baker v. Winchester School Committee, 14 MDLR 1097 (1992). The Commission has adopted the lodestar methodology for fee computation. Id. By this method, the Commission will first calculate the number of hours reasonably expended to litigate the claim and multiply that number by an hourly rate it deems reasonable. The Commission then examines the resulting figure, known as the "lodestar," and adjusts it either upward or downward or determines that no adjustment is warranted depending on various factors, including complexity of the matter. Id.

Only those hours that are reasonably expended are subject to compensation under M.G.L. c. 151B. In determining whether hours are compensable, the Commission will consider contemporaneous time records maintained by counsel and will review both the hours expended and tasks involved. Id. at 1099. Compensation is not awarded for work that appears to be duplicative, unproductive, excessive, or otherwise unnecessary to the prosecution of the claim.

Hours that are insufficiently documented may also be subtracted from the total. Grendel's Den v. Larkin, 749 F.2d 945, 952 (1st Cir. 1984); Brown v. City of Salem, 14 MDLR 1365 (1992).

The party seeking fees has a duty to submit detailed and contemporaneous time records to document the hours spent on the case. Denton v. Boilermakers Local 29, 673 F. Supp. 37, 53 (D. Mass. 1987); Baker v. Winchester School Committee, 14 MDLR 1097 (1992).

We determine that the hourly rates sought by Complainants' petition are consistent with rates customarily charged by attorneys with comparable experience and expertise. The rates are the same as those we approved in the February 6, 2020 Full Commission decision awarding fees for litigating at the public hearing. The Complainants' fee petition is also supported by contemporaneous detailed time records showing the amount of time spent on tasks and an affidavit from of counsel from Attorney Dutcher. The Respondent did not oppose the petition or dispute the hourly rates.

Based upon our review of Complainants' fee petition, contemporaneous time records, and the affidavit of counsel, we determine that this record represents a fair accounting of the work performed in furtherance of Complainants' case. Complainants also seek costs in the amount of \$114.27 for copies of the official record and transcripts, which was sufficiently documented. Therefore, we grant Complainants' petition and award attorneys' fees in the amount of \$9,840.00 and costs in the amount of \$114.27.

ORDER

For the reasons set forth above, Respondent is hereby ordered to pay Complainants the sum of \$9,954.27 in attorneys' fees and costs with interest thereon at the rate of 12% per annum from the date of the filing of the Complainant's Petition for Attorneys' Fees and Costs, until


paid, or until this order is reduced to a court judgment and post-judgment interest begins to accrue.

This decision on Complainant's Petition for Attorneys' Fees and Costs together with the Full Commission's decision issued pursuant to 804 CMR 1.23(10) (2020) on February 6, 2020 constitutes the Final Decision of the Commission for the purpose of judicial review pursuant to M.G.L. c. 151B, § 6 and M.G.L. c. 30A, § 14(1).

SO ORDERED² this 15th day of June, 2022.



Monserrate Quiñones
Commissioner



Neldy Jean-Francois
Commissioner

² Chairwoman Sunila Thomas George was the Investigating Commissioner in this matter, so did not take part in the Full Commission Decision. See 804 CMR 1.23(6) (2020).