

**COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION**

---

MASSACHUSETTS COMMISSION AGAINST  
DISCRIMINATION and ANDREA DASILVA,  
Complainants

v.  
UNITED FISHERMAN CLUB, INC.,  
Respondent

---

DOCKET NO. 20-BEM-00211

**DECISION ON COMPLAINANT’S PETITION FOR AWARD OF ATTORNEYS’ FEES**

This matter comes before me on Andrea DaSilva’s Petition for Award of Attorneys’ Fees after she prevailed on her claim of hostile work environment sexual harassment at a public hearing. Ms. DaSilva filed a Complaint with the Massachusetts Commission Against Discrimination against her former employer, the United Fisherman Club, Inc. (“UFC”), alleging that she was subjected to a sexually hostile work environment, *quid pro quo* sexual harassment and was terminated in retaliation for refusing sexual advances. I held a public hearing. In a decision dated October 15, 2024, I found Ms. DaSilva was subjected to a sexually hostile work environment by her manager for which UFC was liable, and I dismissed the other two claims. I awarded Ms. DaSilva \$25,000 in emotional distress damages and imposed certain obligations upon UFC. Ms. DaSilva is entitled to recover reasonable attorneys’ fees and costs, M.G.L. c. 151B, § 5, and her counsel, Attorney Sonja Deyoe, now petitions for \$3,187.50 in attorneys’ fees - *seeking 7.5 compensable hours at an hourly rate of \$425*. The petition includes an affidavit by Attorney Deyoe, itemized time records and her resume. The petition does not seek costs. Respondent did not file an opposition to the petition.

The Commission has adopted the lodestar methodology for attorneys’ fee computation. Reed and Massachusetts Commission Against Discrimination v. Pipefitters Association of Boston, Local 537 and Fahey, 44 MDLR 22 (2022). “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.” Reed, 44 MDLR at 23.

As a threshold matter, there are two issues to address regarding compensable hours. First, does the fact that Ms. DaSilva was unsuccessful on two of her three claims require a reduction in compensable hours? In general, no fee should be awarded for services performed pursuing an unsuccessful claim, unless I find the unsuccessful claim is sufficiently interconnected with the successful claim. Quarterman v. City of Springfield, 91 Mass. App. Ct. 254, 265 (2017). I decline to reduce compensable hours performed on the unsuccessful *quid pro quo* sexual harassment claim because it was sufficiently interconnected with the successful hostile work environment sexual harassment claim as each had the same focal point - conduct by Ms. DaSilva’s manager expressing that he wanted to have sex with her. In contrast, the focal point of the unsuccessful retaliation claim was an incident with a patron which was not connected to the sexual advances by the manager. Because the retaliation claim was not sufficiently interconnected with the successful claim, a reduction in compensable hours performed on the retaliation claim is warranted. In my discretion, I reduce the total compensable hours by 20% - a reduction of 1.5 hours.

Second, should the time spent by Attorney Deyoe travelling to the public hearing be discounted? “Massachusetts has not established any explicit rules regarding attorney’s travel time or any requirement that this time be discounted.” Drigo and Massachusetts Commission Against Discrimination v. City of Boston, 42 MDLR 25, 27 (2020). I have considered the entries regarding travel time and find them appropriate. In my discretion, I decline to discount compensable hours for travel time in this case.

The “determination of a reasonable hourly rate begins with ‘the average rates in the attorney's community for similar work done by attorneys of the same years' experience.’ (Citation omitted)” Haddad v. Wal-Mart Stores, Inc. (No. 2), 455 Mass. 1024, 1025-26 (2010) (rescript). The petition does not contain benchmarks, whether surveys, case law or otherwise, against which the requested hourly rate can be compared, nor does it contain any affidavit from other attorneys regarding market rates for attorneys in the applicable community and/or the reasonableness of the requested rate. Nevertheless,

based on my experience regarding attorneys' fees,<sup>1</sup> and my review of Commission decisions and Massachusetts court decisions regarding attorneys' fees, I conclude that \$425/hour is a reasonable hourly rate for Attorney Deyoe's<sup>2</sup> services in this case.

The analysis yields a lodestar of \$2,550 (*6 compensable hours multiplied by \$425/hour*). I decline to adjust the lodestar, because by-and-large, this case was a straight-forward sexual harassment case.

### **ORDER**

Based on the authority granted me by M.G.L. c. 151B, § 5, I order UNITED FISHERMAN CLUB, INC., to pay ANDREA DASILVA **\$2,550** in attorneys' fees, with post-judgment interest at a rate of 12% per annum for the period commencing on the date of this decision and ending upon payment of the awarded attorneys' fees.

### **NOTICE OF APPEAL**

Pursuant to 804 CMR 1.12(19) (2020), this decision on the petition for attorneys' fees is a final decision appealable to the Full Commission pursuant to 804 CMR 1.23(1)(a) (2020), regardless of whether a party has appealed the underlying hearing decision to the Full Commission. Any party aggrieved by this decision on the petition for attorneys' fees may appeal this decision to the Full Commission. To do so, a party must file a Notice of Appeal within 10 days of receipt of this decision and file a Petition for Review within 30 days of receipt of this decision. 804 CMR 1.23 (2020). If a party files a Petition for Review, the other party has the right to file a Notice of Intervention within 10 days of receipt of the Petition for Review and shall file a brief in reply to the Petition for Review within 30 days

---

<sup>1</sup> Heller v. Silverbranch Constr. Corp., 376 Mass. 621, 629 (1978) (judge may rely on her "own experience as a judge and expertise as a lawyer" in setting reasonable attorneys' fees); Borne v. Haverhill Golf & Country Club, Inc., 58 Mass. App. Ct. 306, 325 (2003) ("Generally, a judge - and particularly the trial judge - can, from the judge's own experience, determine an award of legal fees").

<sup>2</sup> Deyoe's resume establishes that she has been an attorney since 2004 and has had a specialty in civil rights and employment discrimination since 2013. The reference in her resume to receiving her *juris doctorate* in "2020" is doubtlessly a typographical error.

of receipt of the Petition for Review. 804 CMR 1.23 (2020). All filings referenced in this paragraph shall be made with the Clerk of the Commission with a copy served on the other party.

So ordered, this 15<sup>th</sup> day of November, 2024.



---

Sunila Thomas George  
Hearing Commissioner