COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION
AGAINST DISCRIMINATION and
ANDY NOM,
Complainants,

v. DOCKET NO. 18WEM02229

ACTON AUTO BODY, INC., SONIA TRINH,
and JOSE MOURATO,
Respondents.

DECISION OF THE FULL COMMISSION

This matter comes before us following a decision by Hearing Officer Simone Liebman partially in favor of Complainant Andy Nom ("Complainant" or "Nom") and partially in favor of Respondents Acton Auto Body, Sonia Trinh, and Jose Mourato. Complainant was awarded $478.20 in lost wages and $7,500 in damages for emotional distress for his claims of retaliatory suspension and transfer in violation of M.G.L. c. 151B § 4(4). Claims for individual liability against Sonia Trinh and Jose Mourato were dismissed by the Hearing Officer, and only Respondent Acton Auto Body ("Respondent" or "AAB") appeals from the hearing decision on the grounds that: (1) AAB's transfer and suspension of Nom was not unlawful retaliation; (2) Nom's claim of retaliatory suspension was untimely; and (3) there was insufficient evidence to support the $7,500 emotional distress award. On February 10, 2025, the Hearing Officer granted a reduced fee award to Nom's counsel in the amount of $52,426.47 in attorney's fees and $2,405.55 in costs. For the reasons below, we affirm the Hearing Officer's decision.

STANDARD OF REVIEW

The responsibilities of the Full Commission are outlined by statute, the Commission's Rules of Procedure (804 CMR 1.00 (2020)), and relevant case law. It is the duty of the Full Commission to review the record of proceedings before the Hearing Officer. M.G.L. c. 151B, §§ 3 (6), 5. The Hearing Officer's findings of fact must be supported by substantial evidence, which is defined as "such evidence as a reasonable mind might accept as adequate to support a finding…." Katz v. MCAD, 365 Mass. 357, 365 (1974); M.G.L. c. 30A, § 1 (6).

It is the Hearing Officer's responsibility to evaluate the credibility of witnesses and to weigh the evidence when deciding disputed issues of fact. The Full Commission defers to these determinations of the Hearing Officer. See, e.g., School Committee of Chicopee v. MCAD, 361 Mass. 352 (1972); MCAD & Bowen v. Colonnade Hotel, 4 MDLR 1007, 1011 (1982). Fact-finding determinations are within the sole province of the Hearing Officer who is in the best position to judge the credibility of witnesses. See MCAD & Quinn v. Response Electric Services, Inc., 27 MDLR 42 (2005); MCAD & Garrison v. Lahey Clinic Medical Center, 39 MDLR 12, 14 (2017) (because the Hearing Officer sees and hears witnesses, her findings are entitled to deference). It is nevertheless the Full Commission's role to determine whether the decision under appeal was supported by substantial evidence, among other considerations, including whether the decision was arbitrary or capricious or an abuse of discretion. 804 CMR 1.23(10) (2020).

LEGAL DISCUSSION

As a threshold matter, AAB claims the Hearing Officer did not have the authority to interpret M.G.L. c. 151B in order to reach her conclusions. The Commission is empowered to interpret M.G.L. c. 151B and to develop policies to effectuate the broad remedial purpose of the statute. See M.G.L. c. 151B, §§ 2, 9; Dahill v. Police Dep't of Boston, 434 Mass. 233, 239

(2001) (the MCAD's interpretation of a statute it is charged with enforcing should be given "substantial deference"). In her decision, the Hearing Officer examined relevant sections of the statute, specifically analyzed the plain language of M.G.L. c. 151B § 4(4), summarized the landscape of retaliation claims pursuant to that section, and declined to add requirements that were not expressly included by the Massachusetts Legislature, all of which was squarely within her authority.

I. Liability for Retaliation

To succeed on a claim of retaliation under M.G.L. c. 151B, § 4(4), an employee must prove that: (1) they reasonably and in good faith believed that their employer was engaged in wrongful discrimination; (2) they acted reasonably in response to that belief through acts meant to protest or oppose such discrimination (i.e., engaged in protected activity); (3) an employer or other person took adverse action against them; and (4) the adverse action was in response to the protected conduct (i.e., causation). Verdrager v. Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C., 474 Mass. 382, 405-406 (2016). AAB disputes whether the third and fourth elements were sufficiently proved in this case.

An adverse employment action is one that effects "'working terms, conditions, or privileges that are material…' and is 'substantial enough to have materially disadvantaged an employee.'" Yee v. Massachusetts State Police, 481 Mass. 290, 296 (2019), quoting King v. City of Boston, 71 Mass. App. Ct. 460, 468 (2008) and Psy-Ed Corp. v. Klein, 459 Mass 697,707-708 (2011). Conduct that would discourage a reasonable person in the employee's circumstances from pursuing or assisting in a complaint of discrimination constitutes unlawful retaliation. Burlington Northern & Santa Fe Railway v. White, 548 U.S. 53, 59-70 (2006) (actionable retaliatory conduct must be materially adverse such that the conduct might have

"dissuaded a reasonable employee in the plaintiff's circumstances from making or supporting a charge of discrimination"); Massachusetts Commission Against Discrimination Guidelines on Harassment, VIII.A. (2024).

The retaliatory actions alleged in this case were a suspension and a transfer. First, there is no question that the suspension was adverse to Nom. See Booker v. Mass. Dep't of Public Health, 527 F.Supp.2d 216, 225 (D.Mass.2007) (a suspension without pay is an adverse employment action). There was also substantial evidence showing that Nom's transfer to the Arlington location was adverse to him. Nom's transfer happened immediately after he returned from his three-day unpaid suspension. Though temporary, Nom also endured a longer commute and increased expenses because of the transfer. Alone, an increased cost or time spent commuting may not be sufficient to be considered "materially" adverse, but in light of the surrounding circumstances, the combined negative consequences of the suspension and temporary transfer caused Nom real harm. See King v. City of Boston, 71 Mass. App. Ct. 460, 468 (2008), quoting MacCormack v. Boston Edison Co., 423 Mass. 652, 664 (1996) ("There must be 'real harm'; 'subjective feelings of disappointment and disillusionment' will not suffice"). As the Hearing Officer noted, Nom's average weekly wages were low, so the loss of three days' pay and increased costs during the period of Nom's transfer were material to him.

AAB unpersuasively contends that the transfer could not have been adverse to Nom because he wanted to be transferred, but there is no evidence in the record to support that point. AAB argues that the Harassment Prevention Order ("HPO") Nom got from the Lowell District Court is proof that the transfer was not adverse because in getting the HPO, Nom wanted his harasser to stay away from AAB's place of business.[1] AAB suggests that the Hearing Officer

[1] Nom testified that the court did not grant his request for the harasser to stay away from AAB but instead ordered him to stay away from Nom's residence.

should have made a specific factual finding that Nom requested the HPO include an order for his harasser to stay away from AAB, and by failing to do so, she failed to consider Nom's own request to be separated from his harasser. AAB thus contends that Nom's request for his harasser to be kept away from AAB was proof of Nom requesting a transfer for himself that the Hearing Officer unfairly ignored. AAB's argument is not well taken because Nom's HPO request more likely indicates that Nom wanted his harasser to be transferred, not himself. More importantly, while it is not unusual that a person claiming harassment at work wants to be separated from their harasser, an employer should not presume that an employee wants to be transferred.

To further justify the decision to transfer Nom, AAB also asserts that it could not have transferred Nom's alleged harasser because his job duties were exclusively needed at his current location. However, when an employer decides to separate employees from one another in response to a complaint of harassment, an employer cannot prioritize the difficulty in transferring an alleged harasser over the effects of transferring the victim of harassment. See MCAD & Rizzi v. College Town, Inc., 6 MDLR 1011, 1031-1032 (1984) (Rizzi), aff'd, 6 MDLR 1511 (1984), aff'd sub. nom, College-Town, Div. of Interco, Inc. v. MCAD, 400 Mass. 156, 168-169 (1987) (transfer of employee who complained of discrimination and not the alleged harasser, a supervisory employee who was considered "essential," was unlawful retaliation). In Rizzi, the Commission rejected the employer's argument that it "could not afford" to transfer a supervisory employee and therefore transferring the employee victim of harassment was necessary to relieve tension in the department where the employee and the supervisor both worked. 6 MDLR at 1031. Similarly, AAB argued that it could not transfer Nom's alleged harasser because he was the only frame technician for its Acton location and the Arlington location already had a frame

technician. In Rizzi, the Hearing Officer warned that if they accepted respondent's rationalization, "employers could transfer…with impunity individuals who complain of harassment…[t]his, of course, is just the opposite of what the statute intended and would undercut any deterrent effect the law... might have." Id. at 1031-1032. A reasonable person would likely be discouraged from engaging in protected conduct, including reporting harassment, if they were penalized with a transfer while their harasser was allowed to remain in their position. Here, just as in Rizzi, the transfer of Nom, the victim of harassment, was an adverse action, and the action cannot be excused by the difficulty in transferring the alleged harasser.

Turning to causation, AAB contends that ill will or hostility are required to prove that an adverse action was taken in response to protected activity, and its decisions to suspend and transfer Nom were born of good intentions. AAB argues that the Hearing Officer erroneously "eliminated all questions of intent and motive" concerning the reasons for Nom's suspension and transfer in finding AAB liable for retaliation. The Hearing Officer did not, however, eliminate or disregard the issue of forbidden motive to prove retaliation but rather clarified that when an employer takes an adverse employment action because an employee engaged in protected activity, it has acted with a forbidden motive. As illustrated by the Hearing Officer's detailed analysis, substantial evidence of retaliation does not require animosity or ill will from a decisionmaker, and even though evidence of intent to punish or desire to cause harm may be present in many retaliation cases, such intent is only one of many ways a complainant can prove causation. The Hearing Officer correctly noted that in Verdrager, despite citation to Ruffino v. State Street Bank and Trust Co., 908 F. Supp. 1019, 1040 (D. Mass. 1995), the Supreme Judicial Court excluded the Ruffino court's "distinct intent to punish" language from its causation

analysis. Verdrager, 474 Mass at 405-406. Indeed, in the absence of hostility or intent to punish, a causal connection can also be proven by evidence of temporal proximity between protected conduct and the adverse action, id. at 407, and ongoing patterns of retaliatory conduct. Mole v. University of Massachusetts, 442 Mass. 582, 596 (2004). Further, differential treatment, comparator or statistical evidence, and comments by the employer can be used to prove causation, see Mesnick v. General Elec. Co., 950 F.2d 816, 828 (1st Cir. 1991), cert. denied, 504 U.S. 985 (1992), none of which inherently require proof of hostile intent. Accordingly, and in keeping with the plain language of M.G.L. c. 151B § 4(4) (retaliation occurs when discriminatory actions are merely "because of" protected activity), the Hearing Officer correctly concluded that causation can be proved where an adverse action is well intended but taken in response to protected activity. In short, there was substantial evidence that Nom's complaint about harassment was the reason AAB suspended and subsequently transferred him to another location, which constituted unlawful retaliation in violation of M.G.L. c. 151B, § 4(4) regardless of its intent.

II. Timeliness of Retaliatory Suspension Claim

We will not address AAB's argument that the claim for retaliatory suspension was untimely because the suspension spanning October 2, 2017, through October 5, 2017, was a "complete and final act" on October 2, 2017. AAB failed to raise this argument prior to or during public hearing, and therefore it is waived. See MCAD & Medeiros and Dow v. Penske Truck Leasing, 26 MDLR 229, 230 (2004). Additionally, AAB's argument is without citation to any legal authority. See 804 CMR 1.23(1)(b)(4) (2020) (listing the requirements for an appellant's petition for review, "including citations to the authorities, statutes and parts of the record relied on").

III. Damages

AAB argues that Nom's evidence concerning emotional distress was insufficient to support the award of $7,500 in damages for emotional distress. We disagree. The Hearing Officer has broad discretion to fashion remedies to effectuate the goals of M.G.L. c. 151B. Conway v. Electro Switch Corp., 402 Mass. 385, 387 (1988). Upon a finding of unlawful discrimination, the Commission is authorized, where appropriate, to award damages for the emotional distress suffered as a direct result of respondent's discrimination. See Stonehill College v. MCAD, 441 Mass. 549, 576 (2004). As AAB acknowledged in its Petition, a complainant's entitlement to an award of monetary damages for emotional distress can be based on their own testimony regarding the cause of the distress. Id.

AAB argues that there is an absence of evidence regarding emotional distress as it relates to Nom's successful claims regarding the retaliatory suspension and transfer. Further, AAB cites a portion of the hearing decision that notes some of the testimony regarding emotional distress was in relation to the dismissed termination claim, not the remaining retaliation claims, which was acknowledged by the Hearing Officer and factored into her analysis. The Commission has granted awards for emotional distress even where there has been limited evidence, and, notably, those awards are proportional to the evidence presented. See, e.g., MCAD & Lammlin v. Seder Foods Corp., 38 MDLR 14 (2016) aff'd 41 MDLR 178 (2019) ($5,000 emotional distress award where complainant gave limited testimony concerning emotional distress resulting from unlawful termination); MCAD & Sandiford v. Roadrunner Auto Services, Inc., 29 MDLR 105 (2007), aff'd 30 MDLR 11 (2008) (Hearing Officer awarded $5,000 in emotional distress damages where complainant's testimony concerning emotional distress was brief). The Hearing Officer recognized that Nom's frustration and feelings of disappointment were evident when he testified

about the suspension and transfer, and that his "testimony and demeanor reflected genuine surprise, hurt and frustration at the sudden changes to his employment after he complained of harassment." In response to AAB's contention that Mr. Nom was "okay" with the transfer, Mr. Nom testified that he felt he had no choice but to accept the transfer. The Hearing Officer made sufficient factual findings based on Mr. Nom's testimony that he was upset by AAB's unlawful retaliation to support the award for emotional distress. We affirm the Hearing Officer's decision.

ATTORNEY'S FEES

Section 5 of M.G.L. c. 151B allows prevailing complainants to recover reasonable attorney's fees. 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. MCAD & 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); MCAD & 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, 14 MDLR at 1099.

AAB filed a separate Petition for Review on the Hearing Officer's February 10, 2025 Decision on Complainant's Petition for the Award of Attorneys' Fees and Costs ("Hearing Decision on Fees"). The Hearing Officer awarded Nom $52,426.47 in attorney's fees and $2,405.55 in costs with postjudgment interest, after reducing the attorney's fees requested by roughly 37%.[2] The Hearing Officer reduced both the hourly rates charged by Attorneys Matthew Fogelman and Adam Rooks[3] and the hours deemed compensable for litigating this case because Nom did not succeed on all of his claims. To account for Nom's lack of success with respect to his claims of race and national origin discrimination and retaliatory termination, the Hearing Officer reduced the fee award by 25%. AAB does not dispute the reduced hourly rates for Attorneys Fogelman and Rooks but does argue that a 25% reduction on fees was not enough under the circumstances. In support of its request for further reduction, AAB argues (1) the Hearing Officer should have disregarded affidavits of other employment counsel submitted in support of Nom's Petition for Attorneys' Fees because they were not independent and biased in favor of Nom's counsel; (2) the Hearing Officer failed to reduce the fee award reasonably in relation to the results obtained; and (3) the amount awarded is disproportionate to the "interests at stake" and the "societal importance" of the rights being vindicated by this case.

[2] Nom's Petition for Attorneys' Fees and Costs originally sought $83,134.00 in attorneys' fees and $2,405.55 in costs for work performed by four attorneys: Attorney Matthew Fogelman ($650/hr. for 39.61 hours), Attorney Adam Rooks ($500/hr. for 106.5 hours), and two associates ($350/hr. ea. For 11.5 hours).

[3] Attorney Fogelman's rate was reduced to $560/hr. and Attorney Rooks' hourly rate was reduced to $410.22/hr. based on data from the 2022 Wolters Kluwer Real Rate Report ("2022 WK Report") and affidavits of other employment law attorneys submitted in support of the fee petition.

AAB's argument concerning the value or sufficiency of other practitioners' affidavits in support of the fee petition is without merit. Affidavits of other experienced counsel in the same area of practice, which attest to the experience, reputation, and success of the attorney petitioning for fees as well as the reasonableness of the hourly rate being requested, are properly submitted in support of an attorney's fee petition. See Haddad v. Wal-Mart Stores, Inc. (No. 2), 455 Mass. 1024, 1026 (2010); MCAD & Coats v. Massachusetts State Police, 46 MDLR 1 (2024) (in support of her fee petition, complainant's counsel submitted affidavits of other employment law practitioners with similar experience and practices, data from discrimination cases awarding similar hourly rates, and other evidence to justify hourly rate of $575/hr. for lead counsel); MCAD & Joseph v. Massachusetts Dep't of Children & Families, 46 MDLR 18 (2024) (two attorneys filing petitions for attorneys' fees each filed supporting affidavits of other lawyers attesting to experience, hourly rate, and reputation).

As to AAB's argument that the Hearing Officer's award was not adequately reduced in light of the degree of success at public hearing, AAB correctly points out that Nom was only partially successful in this case. The Commission may exercise discretion to reduce the overall fees requested by an amount that could reasonably be expended in pursuit of the unsuccessful claims and in making this determination, it may examine the "degree of interconnectedness" between the two claims. MCAD & Blue v. Aramark Corp., 27 MDLR 73 (2005). We agree with the Hearing Officer's conclusion that Nom's claims concerning retaliatory suspension and transfer were sufficiently interconnected to the claims of individual liability against Ms. Trinh and Mr. Mourato. We also agree that Nom's dismissed claims for race and national origin discrimination and retaliatory termination were not interconnected, and reduction of fees was appropriate. We defer to the Hearing Officer's judgment regarding the reduction of fees, as it

was consistent with these principles and based on a detailed and careful analysis. After adjusting the hourly rates, the Hearing Officer reasonably reduced the requested fees by 25%.

Finally, AAB argues that the fee award should be reduced because the amount of the fee award exceeds Nom's recovery in damages and the importance of the case. Although the fee award exceeds Complainant's damages, we are not required to and we decline to make additional reductions beyond those already stated. See, e.g., MCAD & Salmon v. Costco Wholesale Corporation, 23 MDLR 142 (2001); MCAD & Patel v. Everett Industries, 18 MDLR 182 (1996). Reduction based on the importance of the case is also unwarranted. Accordingly, we affirm the award of $52,426.47 in attorneys' fees and $2,405.55 in costs.

ORDER

For the reasons set forth above, we hereby affirm the decision of the Hearing Officer. It is hereby ordered that:

1. Respondent Acton Auto Body shall immediately cease and desist from retaliating against its employees.

2. Respondent Acton Auto Body is ordered to pay to Andy Nom damages in the amount of $478.20 with interest thereon at the rate of 12% per annum from the date the Complaint was filed with the Commission until such time as payment is made or until this Order is reduced to a Court judgment and post-judgment interest begins to accrue.

3. Respondent Acton Auto Body is ordered to pay to Andy Nom emotional distress damages in the amount of $7,500 with interest thereon at the rate of 12% per annum from the date the Complaint was filed with the Commission until such time as payment is made or until this Order is reduced to a Court judgment and postjudgment interest begins to accrue.

4. Respondent Acton Auto Body is ordered to pay $52,426.47 in attorneys' fees and $2,405.55 in costs with post-judgment interest accruing at a rate of 12% per annum for the period commencing on the date of the Hearing Decision on Fees and ending on payment of the awarded fees and costs.

5. If it has not yet been completed, Respondent AAB shall comply with the Hearing Officer's training order within 60 days of receipt of this decision. For purposes of enforcement, the Commission shall retain jurisdiction over training requirements.

In accordance with 804 CMR 1.24(1) (2020) and 804 CMR 1.23(12)(e) (2020), the within Order is not a final decision or order for the purpose of judicial review by the Superior Court in accordance with M.G.L. c. 151B, § 6 and M.G.L. c. 30A. Pursuant to 804 CMR 1.23(12)(c) and (d) (2020), Complainant has fifteen (15) days from receipt of this Order to file a petition for supplemental attorney's fees and costs incurred as a result of litigating the appeal to the Full Commission, and Respondent has fifteen (15) days from receipt of the petition to file an opposition.

The Commission will issue a Notice of Entry of Final Decision and Order when either the time for filing a petition for attorney's fees and costs has passed without a filing, or a decision on the petition is rendered. The Commission's Notice of Entry of Final Decision and Order will represent the final action of the Commission for purposes of M.G.L. c. 151B, § 6 and M.G.L. c. 30A § 14(1). The thirty (30) day time period for filing a complaint challenging the Commission's Final Decision and Order commences upon service of such Notice.

SO ORDERED this 14th day of May 2025.

Sunila Thomas George
Chairwoman

Neldy Jean Francois
Commissioner

COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

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ACTON AUTO BODY, INC., SONIA TRINH,
and JOSE MOURATO,
Respondents.

DECISION OF THE FULL COMMISSION

This matter comes before us following the Full Commission's May 14, 2025 decision in favor of Complainant Andy Nom ("Nom"). The Full Commission affirmed the Hearing Officer's decision finding Respondent Acton Auto Body ("AAB") liable for retaliation in violation of M.G.L. c. 151B § 4(4) and upholding the reduced fee award in the amount of $52,426.47 in attorneys' fees and $2,405.55 in costs. On May 23, 2025, Nom's counsel filed a Petition for Supplemental Attorneys' Fees and Costs (the "Supplemental Fee Petition") with contemporaneous time records, seeking $4,214.87 for work performed between November 18, 2024 and May 21, 2025, before the Full Commission. For the reasons set forth below, Nom's Supplemental Fee Petition is granted.

LEGAL DISCUSSION

Nom's counsel seeks to recover fees of $4,214.87 for 1.3 hours of work performed by Attorney Fogelman at a rate of $560.00 per hour and 8.5 hours of work by Attorney Rooks at a rate of $410.22 per hour for work done in intervention on AAB's appeal to the Full

Commission.[1] Section 5 of Chapter 151B allows prevailing complainants to recover reasonable attorney's fees, and 804 CMR 1.23(12)(c) (2020) specifically provides for the award of attorney's fees and costs accrued as an appellee litigating an 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. MCAD & 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); MCAD & 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, 14 MDLR at 1099.

[1] These are the same hourly rates as reduced by the Hearing Officer and affirmed by the Full Commission

AAB filed an Opposition to the Supplemental Fee Petition on the grounds that (a) the hourly rates for Nom's counsel, which were reduced by the Hearing Officer and affirmed by the Full Commission, are unreasonable and should be further reduced, and (b) the fee award should be reduced commensurate with Nom's unsuccessful claims at public hearing. Neither argument is compelling. AAB incorporated by reference its previous filings concerning attorneys' fees and recycled its arguments from the appeal of the Hearing Officer's attorneys' fee award. We have already decided the issue of reasonable hourly rates for Attorneys Fogelman and Rooks and AAB's arguments do not provide a reason to revisit it. AAB's second argument concerning Nom's partial success at public hearing is not applicable here, as the Supplemental Fee Petition only concerns work done on appeal before the Full Commission. Based on our review of the contemporaneous time records of the Supplemental Fee Petition, we conclude that the amount of time Nom's counsel spent on preparation and litigation of this claim with regard to intervening in AAB's appeal is reasonable. The Supplemental Fee Petition does not show work that is duplicative, excessive, unproductive, or otherwise unnecessary to defend the appeal. Therefore, no reduction is warranted.

ORDER

For the reasons set forth above, Respondent is hereby ordered to pay Complainant $4,214.87 in supplemental attorneys' fees with interest thereon at the rate of 12% per annum from the date of the filing of the Supplemental Fee Petition, until paid, or until this order is reduced to a court judgment and post-judgment interest begins to accrue. Pursuant to 804 CMR 1.23(12)(e) (2020), this decision on supplemental attorney's fees together with the Full Commission's decision issued pursuant to 804 CMR 1.23(10) (2020) on May 14, 2025,

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 ORDERED this 30th day of July 2025.

Sunila Thomas George
Chairwoman

Neldy Jean-Francois
Commissioner