

**COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION**

MASSACHUSETTS COMMISSION AGAINST
DISCRIMINATION and RAPHAELA THOMAS,
Complainants

v.

DOCKET NO. 20BPA02269

STASH'S PIZZA,
Respondent

DECISION OF THE FULL COMMISSION

This matter comes before us following the Full Commission's October 23, 2024 decision in favor of Complainant Raphaela Thomas. The Full Commission affirmed the Hearing Officer's decision finding Respondent Stash's Pizza liable for race discrimination and retaliation in violation of M.G.L. c. 272, § 98. On November 1, 2024, Complainant's counsel, Attorneys Robert Johnson, Jr. and Deborah A Bondzie, jointly filed Petitions for Supplemental Attorney's Fees and Costs (collectively, the "Petitions"), along with affidavits and time records. Attorney Johnson's Petition seeks attorney's fees and costs in the amount of \$22,581.00 for work performed between January 26, 2024 and October 31, 2024, before the Full Commission. Attorney Bondzie's Petition seeks attorney's fees and costs in the amount of \$5,046.00 for work performed between January 26, 2024 and October 31, 2024, before the Full Commission. On November 13, 2024, Respondent submitted an Opposition to the Petitions on the grounds that the time expensed by Attorneys Johnson and Bondzie was duplicative and excessive.

LEGAL DISCUSSION

Complainant's counsel seeks to recover fees of \$22,581.00 for 38.6 hours of work performed by Attorney Johnson at a rate of \$585.00 per hour and \$5,046.00 for 11.5 hours of

work performed by Attorney Bondzie at a rate of \$438.75 per hour for work done in intervention on Respondent's appeal to the Full Commission.

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 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 at 1099.

As noted in the affidavits submitted by Attorneys Johnson and Bondzie, the Hearing Officer found the hourly rates of \$585 (Johnson) and \$438.75 (Bondzie) to be reasonable and Respondent has not objected to them. On March 22, 2024, the Hearing Officer issued a Decision on Complainant's Petition for Reasonable Attorney's Fees and Costs for work performed through the issuance of the Hearing Officer's Decision. Respondent did not file an Opposition to this Petition, nor did Respondent separately appeal the Hearing Officer's March 22, 2024 Order awarding Complainant's counsel attorney's fees and costs. We find the hourly rates requested by Attorneys Johnson and Bondzie consistent with rates customarily charged by attorneys with comparable experience and expertise.

Based on our review of the time records, we have found several entries in both Petitions that are duplicative, not sufficiently specific, and unnecessary to the prosecution of the appeal before the Full Commission. First, we address duplicative entries appearing in both Petitions, specifically, time entries for January 26, 2024, for review of the Hearing Officer's decision which were already submitted for consideration and awarded by the Hearing Officer. In the Petitions, Attorney Johnson seeks 1.75 hours for review of the decision, 1.25 hours for consultation with the Complainant, and .5 hours for consultation with Attorney Bondzie; Attorney Bondzie seeks 1.5 hours for the review of the decision and .5 for consultation with Attorney Johnson. These entries duplicate work performed prior to Respondent's appeal to the Full Commission and already awarded by the Hearing Officer. Therefore, a total of 3.5 hours shall be deducted from Attorney Johnson's Petition and 2.0 hours shall be deducted from Attorney Bondzie's Petition as duplicative.

Next, Respondent opposes entries in both Petitions concerning consultations between Attorneys Bondzie and Johnson, and another attorney, Glenn Wegrzyn. Attorney Wegrzyn does not have an appearance in this case¹ and the time entries related to Attorney Wegrzyn are vague and unspecific as to how this work was in furtherance of the appeal before the Full Commission. Indeed, the time entries in both Petitions related to Attorney Wegrzyn are too vague to determine whether or not they are reasonable. Petitions for attorney’s fees may be discounted where the contemporaneous time records are too vague or generic. See Sun v. University of Massachusetts, Dartmouth, 36 MDLR 85, 89 (2014) citing Walsh v. Boston University, 661 F.Supp.2d 91, 106 -108 (D. Mass. 2009). Specificity in time entries is necessary “to determine whether work performed was excessive, unproductive, duplicative or otherwise unnecessary,” and the entries should include the nature of the work performed. Id. “Entries that simply reflect an email or telephone call with opposing counsel absent an explanation of the nature or subject matter of the task may be deemed insufficient and may be refused.” Id. Here, the entries in both Petitions related to Attorney Wegrzyn are limited to “Review email to Attorney Glenn Wegrzyn,” “Consult Attorney Wegrzyn,” or a similar variation thereof. Attorney Johnson’s Petition contained eight vague entries totaling 3.0 hours, and Attorney Bondzie’s Petition contained 14 vague entries totaling 3.25 hours. We discount these entries related to Attorney Wegrzyn in each Attorney’s respective Petition for lack of specificity.

Similarly, there are numerous entries in both Petitions labeled “Consult with Attorney [Bondzie/Johnson]” without any additional context. For example, Attorney Bondzie’s Petition contains the following entries:

8/28/2024 - Consult Attorney Johnson..... .50
10/7/2024 - Consult Attorney Johnson..... .25

¹ Attorney Wegrzyn has appeared on behalf of Complainant Thomas in a Superior Court action to enforce the Hearing Officer’s award of attorney’s fees related to the public hearing.

“ - Consult client..... .25
 10/8/2024 - Consult client..... 1.0
 10/28/2024 - Consult Attorney Johnson..... .75

Attorney Johnson’s Petition contains similar entries, a few of which were connected to other work performed on the case. These entries lack a sufficient level of detail in some instances to permit the Commission to determine whether it was necessary and if the amount of time expended was reasonable. To the extent those entries were connected to specific work performed in furtherance of the case, such as contacting the Commission or reviewing case documents to advise the Complainant, those entries are compensable. Entries lacking this context are discounted for lack of specificity. Therefore, an additional .75 hours shall be subtracted from Attorney Johnson’s Petition and the 2.75 hours detailed above shall be subtracted from Attorney Bondzie’s Petition.

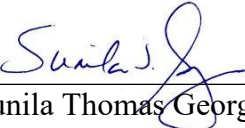
Based on our review of this record, the remaining entries in the Petitions are reasonable, including the time challenged by Respondent for Attorney Johnson conducting research and drafting various documents filed in connection with the Full Commission appeal. Based on the foregoing, Attorney Bondzie’s Petition is discounted by a total of 8.0 hours and Attorney Johnson’s Petition is discounted by 7.25 hours. For these reasons we award Attorney Bondzie \$1,535.62 in attorney’s fees (3.5 hours at \$438.75/hour) and Attorney Johnson \$18,339.75 (31.35 hours at \$585/hour), for a total of \$19,875.37 in fees.

ORDER


For the reasons set forth above, Respondent is hereby ordered to pay Complainant \$19,875.37 in attorney's fees with interest thereon at the rate of 12% per annum from the date of the filing of the Petitions, until paid, or until this order is reduced to a court judgment and post-

judgment interest begins to accrue.² 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 October 23, 2024, constitute 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 6th day of January 2025.



Sunila Thomas George
Chairwoman



Neldy Jean-Francois
Commissioner

² Respondent additionally remains responsible for complying with the Hearing Officer's March 22, 2024 Order awarding Complainant \$231,996.38 in attorney's fees and \$5,641.09 in costs with post-judgment interest.