City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 4th Floor, Chicago, IL 60654
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

IN THE MATTER OF:	
Evans Marshall **Complainant,** **v.**	**Case No.:** 15-P-26
Feed Restaurant **Respondent.**	**Date of Ruling:** February 9, 2017

FINAL RULING ON ATTORNEY FEES AND COSTS

I. INTRODUCTION

On July 14, 2016, the Chicago Commission on Human Relations ruled in favor of Complainant Evans Marshall in his complaint against Respondent Feed Restaurant for discrimination based on disability in the use of a place of public accommodation; the ruling was mailed to the parties on August 1, 2016. Specifically, the Commission found that Respondent's restaurant was not accessible to individuals with disabilities. Prior to travelling to Respondent's restaurant, Respondent's employees had assured Complainant that the restaurant was accessible, but the entrance was not, in fact, accessible and Complainant was required to remain in the street waiting for his return ride. The Commission found for Complainant, ordered actual damages of $3,006, punitive damages of $500, and a fine of $1,000. The Commission also found that Respondent was liable for Complainant's attorney fees and costs in the amount to be determined pursuant to the procedures outlined in CCHR Reg. 240.630 and further orders of the Commission. *Marshall v. Feed Restaurant*, CCHR No. 15-P-26 (July 14, 2016).

On August 29, 2016, Complainant filed a petition seeking $30,830 in attorney fees, $38.90 in costs and prejudgment interest on such fees and costs. On September 12, 2016, Respondent filed objections to Complainant's petition with the Commission. Respondent then filed amended objections on September 19, 2016; no motion for an extension was filed by Respondent to amend its objections. Complainant filed no objections to Respondent's amending its objections. After review, the hearing officer recommended that the amended objections be allowed as the filing within 5 days of the original objections did not prejudice Complainant in any significant way. The hearing officer issued a recommended ruling on the petition on November 18, 2016. No objections were filed.

II. APPLICABLE LEGAL STANDARDS

Section 2-120-510(1) of the Chicago Municipal Code authorizes the Commission to order "reasonable attorney fees, expert witness fees, witness fees and duplicating costs, incurred in pursuing the complaint before the commission or at any stage of judicial review." CCHR Reg. 240.630 (a)(1) requires the petitioner to file:

A statement showing the number of hours for which compensation is sought in segments of no more than one-quarter hour, itemized according to the date performed, the work performed, and the individual who performed the work.

CCHR Reg. 240.630 (a)(2) requires the petitioner to file:

A statement of the hourly rate customarily charged by each individual for whom compensation is sought, or in the case of a public or non-profit law office which does not charge fees or which charges fees at less than market rates, documentation of the rates prevalent in the practice of law for attorneys in the same locale with comparable experience and expertise.

CCHR Reg. 240.630 (a)(3) requires the petitioner to file:

Documentation of costs for which reimbursement is sought.

Decisions of the Commission have established the standards for determining whether the fees are reasonable. The Commission uses the lodestar method of determining whether attorney fees are reasonable. *Suggs v. Montessori Academy Infant-Toddler Center, Inc.*, CCHR No. 13-E-56 (Aug. 13, 2015). Using that method, the Commission determines whether the hours spent on individual tasks were reasonable, then multiplies the hours by the hourly rate customarily charged by the attorneys. *Jones v. Lagniappe–A Creole Cajun Joynt, LLC, et al.*, CCHR No. 10-E-40 (May 15, 2013) and cases cited therein.

As noted in CCHR Reg. 240.630 (a)(2), the Commission's regulations recognize that public interest attorneys may not charge any rates or may charge reduced rates, so public interest attorneys may file affidavits that support their proposed hourly billable rate as the customary rates for attorneys of comparable experience and expertise in the community. *Hamilton v. Café Descartes Acquisitions LLC d/b/a Café Descartes*, CCHR No. 13-P-05/06 (Dec. 17, 2014); *Flores v. A Taste of Heaven, et al.*, CCHR No. 06-E-32 (Jan. 19, 2011). The party seeking fees has the burden of presenting sufficient evidence from which the Commission can determine the fees are reasonable both in terms of hourly rates and time expended. *Brooks v. Hyde Park Realty Co.*, CCHR No. 02-E-116 (June 16, 2004).

Fees do not have to be proportional to the amount of damages awarded. *Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Jan. 20, 2010). Thus, the fact that Complainant was awarded $3,506 in actual and punitive damages does not limit the amount of attorney fees to any particular amount. Rather, the fee petition must be reviewed to determine if the fees requested were reasonable in terms of the amount of hours for tasks completed and, in the case of public interest attorneys, were within the range of the usual hourly rate for attorneys of similar experience and expertise.

In addition to responding to Respondent's objections, the Commission has an independent duty to review the petition to assure that the petition conforms to the Commission's regulations and that the request is reasonable. *Warren v. Lofton & Lofton Mgmt. d/b/a McDonald's,* CCHR No. 07-P-62/63/92 (May 19, 2010).

III. APPROPRIATE HOURLY RATES

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., *Ordon v. Al-Rahman Animal Hospital*, CCHR No. 92-E-139 (Nov. 17, 1993), and *Barnes v. Page*, CCHR No. 92-E-1 (Jan. 24, 1994). In determining an attorney's appropriate hourly rate for fee award purposes, the Commission has been guided by decisions of the U.S. Court of Appeals for the Seventh Circuit regarding a fee applicant's burden and the evidentiary requirements to prove the appropriate hourly rate. For example, *Sellers v. Outland*, CCHR No. 02-H-73 (Mar. 17, 2004 and Apr. 15, 2009), followed the reasoning of the Seventh Circuit as set forth in *Small v. Richard Wolf Medical Instruments Corp.*, 264 F.3d 702, 707 (7th Cir. 2001), the Commission stated:

> The fee applicant bears the burden of proving the market rate. The attorney's actual billing rate for comparable work is considered to be the presumptive market rate. If, however, the court cannot determine the attorney's true billing rate—such as when the attorney maintains a contingent fee or public interest practice—the applicant can meet his or her burden by submitting affidavits from similarly experienced attorneys attesting to the rates they charge paying clients for similar work, or by submitting evidence of fee awards that the applicant has received in similar cases. Once the fee applicant has met his or her burden, the burden shifts to the defendants to demonstrate why a lower rate should be awarded.

According to Complainant's fee petition, three attorneys from Equip for Equality provided legal counsel to Complainant. Equip for Equality is a private non-profit federally mandated Protection & Advocacy System for Illinois which provides legal services to children and adults with disabilities.

In fee petitions where a public interest attorney's rate is in question, the petitioner may file "documentation of the rates prevalent in the practice of law for attorneys in the same locale with comparable experience and expertise." CCHR Reg. 240.630(a)(2). Complainant did not file any such documentation, which is often in the form of affidavits, in support of his attorneys' billing rates. Therefore, the reasonableness of the proposed rates must be determined by a review of similar cases decided by the Commission.

Megan Sorey has been a licensed attorney in the State of Illinois since 2012; she is admitted to the U.S. District Court of the Northern District of Illinois. She has represented civil rights plaintiffs for two of those four years. In the affidavit filed with the fee petition, Sorey requests a billing rate of $275. She cites several cases in support of her proposed $275 billing rate. In *Pierce and Parker v. New Jerusalem Christian Development Corp.*, CCHR No. 07-H-12 and 07-H-13 (May 16, 2012), the Commission found that $300 was a reasonable rate for attorney with five years' experience in civil rights cases; Ms. Sorey has only four years' experience in total and only two in civil rights cases. In *Flores v. A Taste of Heaven, et al.*, CCHR No. 06-E-32 (Jan. 19, 2011), the Commission found that $300 per hour for an attorney with five years' experience was reasonable; four of the five years' experience was as a civil rights litigator. In *Hamilton v. Café Descartes Acquisitions LLC d/b/a Café Descartes*, CCHR 13-P-05/06 (Dec. 17, 2014), the Commission approved a billing rate of $275 for an attorney with five years' experience.

Respondent cited several cases in which the Commission awarded rates of $275 for attorneys with far greater experience, but the opinions were issued from 1993 to 2012 and that lapse of time must be taken into account.

The hearing officer found that the rate of $275 for Ms. Sorey is reasonable. The *Hamilton* case, in which an attorney with five years of experience was awarded a billing rate of $275, is now nearly three years old. A rate of $275 would take into account the passage of time from the *Hamilton* opinion; the experience of Sorey and the attorney in *Hamilton* is comparable.

Per her affidavit, Rachel Arfa has been licensed to practice law since 2007; she has been licensed to practice in Illinois since 2012. She is admitted to practice in the U.S. District Court for the Northern District of Illinois, the U.S. District Court for the Eastern District of Wisconsin, and the United States Supreme Court. For five of the nine years she has practiced she has represented clients in civil rights cases. Arfa seeks approval of a billing rate of $325. In 2014, the Commission approved the same billing rate for Arfa in the *Hamilton* case; therefore, the requested rate is reasonable.

Per her affidavit, Laura Miller has been a licensed attorney in the State of Illinois since 1989; she was licensed in the State of New York in 1983. She is admitted to practice in the U.S. District Court for the Northern District of Illinois and is a member of that Court's Federal Trial Bar. She is admitted to the U.S. Court of Appeals for the Seventh Circuit. She has extensive civil rights experience. She is seeking approval of a billing rate of $425. In 2014, the Commission approved the same billing rate for Miller in the *Hamilton* case; therefore, the requested rate is reasonable.

The Commission adopts the hearing officer's finding that the rates requested are reasonable and should be approved. They are consistent with rates previously approved in similar cases before the Commission.

IV. RELATIONSHIP OF FEES TO DAMAGES AWARDED

As noted above, fees do not have to be proportional to the amount of damages awarded. *Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Jan. 20, 2010). Respondent argued that the fees should be reduced because other cases cited in its brief had much lower fees compared to the damages awarded.

The only relevant inquiry when fees appear substantial is whether or not Complainant's counsel were reasonable in the amount of time devoted to their representation. That will be accounted for in the discussion of the individual entries. Reviewing other cases and comparing the awards of damages and fees those cases to the instant case is mostly irrelevant because this case may have required additional activities by the attorneys to fully and reasonably represent the client. The hearing officer noted that there were many instances in this matter where either Respondent or its attorney, through actions such as failure to appear at hearings or to respond to orders of the hearing officer, required additional and reasonable actions by Complainant's counsel.

In *Gilbert and Gray v. 7355 South Shore Condominium Assn., et al.*, CCHR No. 01-H-18/27 (June 20, 2012), the Commission addressed the issue of proportionality of fees to the damage award. In *Gilbert and Gray*, the Commission awarded $100 and $2,000 in damages to the complainants and $61,535.66 in fees. In rejecting the respondent's argument that fees should not be awarded at all due to

complainants' "minimal success," the Commission noted that it had previously found that the award of damages does not have to be proportional to the fees awarded, citing *Lockwood v. Professional Neurological Services, Ltd.*, supra; *Cotton v. Addiction Sports Bar and Lounge*, CCHR No. 08-P-68 (Feb. 17, 2010); and *Cotten v. CGI Industries, Inc.*, CCHR No. 07-P-109 (May 9, 2010). Citing *City of Riverside v. Rivera*, 477 U.S. 561, 574, 106 S.Ct. 2686 (1986) the Commission noted: "Regardless of the form of relief he actually obtains, a successful civil rights plaintiff often secures important social benefits that are not reflected in the nominal or relatively small damage awards."

V. RESPONDENT'S ABITLITY TO PAY FEES

Respondent argues, without citing precedent, that its inability to pay the attorney fees should require the Commission to reduce the award of fees. In support of this argument, Respondent refers to tax returns filed with its Opposition to the Recommended Ruling on Liability and Relief. As noted in the Final Order on Liability and Relief, Respondent submitted tax returns with its Opposition to the Recommended Ruling in support of its argument that damages should be reduced because the damages would impose undue financial distress. The Commission rejected the tax returns, noting that none of the tax returns had been proffered at the hearing or admitted into evidence. The Commission rejected this late attempt to bolster the record, noting that respondents are not allowed to introduce new evidence in objections to recommended rulings, citing *Pryor v. Carbonara*, CCHR No. 93-H-29 (May 17, 1995). Therefore, tax returns will not be considered here.

In addition, the Commission has long been clear that the amount of fees awarded to a prevailing complainant is not based on the respondent's ability to pay. *Blacher v. Eugene Washington Youth & Family Svcs.*, CCHR No. 95-E-261 (Feb. 24, 1999); *Williams v. Banks*, CCHR No. 92-H-169 (Mar. 15, 1995); and *Rushing v. Jasniowski, et al.*, CCHR No. 92-H-127 (Jan. 18, 1995).

VI. DETEMINATION OF REASONABLE FEES

Complainant's counsel submitted a timesheet detailing the number of attorney hours expended in their prosecution of this case. The timesheet meets the criteria of CCHR Reg. 240.630 (a)(1), in that the timesheet details the date, the number of hours, the rate, the total fees, the attorney expending the time and a description of the services. Complainant's counsel "no charged" some entries prior to submission.

Complainant's attorneys seek compensation for 73.7 hours at $275 for Sorey (or $20,267.50)[1], 28.8 hours at $325 for Arfa (or $9,360)[2] and 3.5 hours at $425 for Miller (or $1,487.50)[3]. This would result in a total amount of fees sought of $31,115. However, Complainant's fee petition at page 7 states the total sought as $30,839 in fees. In addition, Exhibit 2 to the petition, which lists all entries, shows a total of $19,982.50, not $20,267.50, for Sorey. Adding the $19,982.50 figure, plus the amounts listed for Arfa and Miller (which are correct on Exhibit A) results in a total figure requested in Exhibit A of $30,830. It is unclear if further reductions were made to Exhibit A that were not included in the final petition or if these were mathematical errors.[4] However, because the total (using the Sorey figure of

1 Par. 28 of Complainant's Petition for Fees.
2 Par. 31 of Complainant's Petition for Fees.
3 Par. 34 of Complainant's Petition for Fees.
4 A thorough review of Sorey's individual entries by the hearing officer reached a different number.

$19,982.50) of $30,830 is the figure sought by Complainant in both the petition and Exhibit A, the hearing officer used the $19,982.50 number for Sorey in all calculations.

Reviewing the timesheet activities, it is clear that Miller had a small supervisory role as managing attorney for the organization's civil rights team, Arfa supervised Sorey, and Sorey was the person in charge of the day-to-day activities of the litigation. Attorney fees may be awarded to multiple attorneys where the activities completed are not unnecessarily duplicative; supervision is a necessary role in any law firm or organization. *Hamilton v. Café Descartes Acquisitions LLC d/b/a Café Descartes,* supra. The hearing officer's review of the time sheets submitted did not find the hours as a whole unnecessarily duplicative.

The hearing officer recommended, however, that certain entries merit some reductions. Respondent also filed objections in two separate filings to specific entries on the timesheet and to the cumulative amount of hours devoted to certain tasks. The hearing officer addressed the objections that were raised by Respondent or by the hearing officer individually and in chronological order; if the entry is not addressed, neither Respondent nor the hearing officer raised an issue with regard to that entry.

January 5, 2015 through February 3, 2015: Respondent argues that Complainant's counsel expended 10.7 hours to draft a complaint, an unnecessary and lengthy amount of time for a civil rights organization; Respondent does not specify which entries result in that number of hours. The hearing officer's review indicated that 5.1 hours were specifically spent on drafting the complaint (1/21/15, 1.0 Sorey "research for CCHR complaint and review of prior CCHR decisions"; 2/2/15, 2.0 Sorey "worked on draft of CCHR complaint"; 2/3/15, .1 and .5, Sorey "revisions to CCHR complaint based on revisions from R. Arfa"; 2/3/15, .3 Arfa "reviewed and edited M. Sorey CCHR complaint draft"; 2/4/15, .8 and .4, Sorey "revisions to CCHR complaint draft based on feedback from R. Arfa"). The hearing officer found that 5.1 hours are not an unreasonable number of hours to expend on researching for and drafting the complaint.

January 22, 2015, February 3, 2015, and February 4, 2015: Respondent also argues that some entries during this period are duplicative. Two entries on January 22, 2015, have identical entries from Sorey: "Phone call with E. Marshall to schedule in-person meeting." It is unclear if these entries were two phone calls or merely an administrative mistake. The Commission has long held that a fee petition must be sufficiently detailed to allow determination whether the amount of time spent on tasks was reasonable or excessive. *Gray v. Scott*, CCHR No. 06-H-10 (Nov. 16, 2011), citing *Shontz v. Milosavljevic,* CCHR No. 94-H-1 (May 20, 1998); *Starrett v. Duda and Sorice,* CCHR No. 94-H-6 (May 15, 1998). With the lack of clarity with these two entries, the hearing officer recommended that .1 hour be disallowed.

The Sorey entries for February 3, 2015, (.1 and .5) also have identical descriptions: "Revisions to CCHR complaint based on feedback from R. Arfa." The entries do not indicate if the second entry was further or continuing revisions. With the differences in the amount of time, it is more likely than not that these were two individual entries and not an administrative mistake. The hearing officer recommended no deductions to this entry.

The Sorey entries for February 4, 2015, (.4 and .8) also have identical descriptions: "Revisions to CCHR complaint based on feedback from R. Arfa." The entries do not indicate if the second entry was further or continuing revisions. With the differences in the amount of time, it is more likely than

not that these were two individual entries and not an administrative mistake. The hearing officer recommended no deductions to this entry.

February 5, 2015: Respondent argues that the entries from Sorey ("meeting with R. Arfa to prepare for meeting with E. Marshall", .3 hour) and Arfa ("reviewed M. Sorey CCHR complaint drafts and retainer; meeting with M. Sorey before client arrived", .2 hour) are duplicative. The hearing officer did not find them duplicative, but found that it is not possible that the meeting between the two individuals could take longer for Sorey (who only claimed the time for the meeting) than for Arfa (who said she both met with Sorey and reviewed documents). As such, the hearing officer recommended reducing Sorey's entries by .1 hour.

February 5, 2015: Both Sorey and Arfa had entries for a meeting with Complainant that day. Sorey's entry was for 1.4 hours; Arfa's entry was for 1.2 hours. I do not find this discrepancy unusual, as one attorney could easily spend more time with the client. The hearing officer recommend no reduction of hours for these entries.

April 29, 2015: Sorey's entry for .4 hour was "emailed draft of CCHR complaint to L. Miller for her review." There was no indication of other activity other than emailing the complaint. An entry of .4 hour (24 minutes) is excessive for this activity. Compare this entry to the entry of April 30, 2015, where Sorey "no charged" an entry for "email to R. Arfa to discuss L. Miller edits to CCHR complaint." The hearing officer recommended a reduction of .3 hour.

May 1, 2015: There are three entries on this date from Sorey, one from Arfa and one from Miller regarding emails between the attorneys and meetings with the attorneys to discuss the final revisions prior to filing the complaint on May 20, 2015. One of the entries on this date is from Arfa: "reviewed L. Miller complaint edits, discussion with M. Sorey about strategy," .4 hour. Respondent argues that one supervisory attorney should not review the edits from another. Reviewing the managing director of litigation's edits and then discussing the strategy with the junior attorney is precisely what a supervising attorney should be doing. The hearing officer recommended no reduction in hours for this entry.

May 6, 2015: Respondent argues that the entry from Sorey ("emailed revised version of CCHR complaint draft to L. Miller," .3 hour) on this date should be reduced to .1 hour. There is no indication in the entry that the task was anything other than the mechanical act of emailing the complaint. The hearing officer recommended reducing the entry by .2 hour.

May 7, 2015: Respondent argues that the Sorey entries for May 7, 2015, (.3 and .1) are duplicative. Both are for: "Phone call with L. Miller about CCHR complaint revisions." The entries do not indicate if the second entry was an additional phone call. It is unclear whether these were two individual entries or an administrative mistake. With the lack of clarity with these two entries, the hearing officer recommended disallowing .1 hour.

May 8, 2015: Respondent argues that the Sorey entry for May 8, 2015, is administrative and excessive. Complainant seeks .5 hour for "mailed copy of revised CCHR complaint to E. Marshall with signature page and complaint form for his review and approval." A previous entry on that date sought .3 hour for "made final revisions to CCHR complaint; and sent cover letter to E. Marshall with revised complaint for his review." The hearing officer agreed that .5 hour for compiling and mailing a copy of the completed complaint with a signature page and complaint form alone is an administrative task not

justifying 30 minutes of time. The hearing officer recommended reducing the time to .2 hour, a .3 hour reduction.

July 14, 2015: Respondent argues that the entry on this date ("emails to R. Arfa to schedule time to discuss Respondent's answer to CCHR complaint," .2 hour) is calendaring and should be rejected as a noncompensable administrative or clerical activity, citing *Rankin v. 6954 N. Sheridan, Inc., DLG Management, et al.*, CCHR No. 08-H-49 (May 19, 2011). The entries denied in *Rankin*, however, were clearly more administrative: faxing and copying documents. Co-counsel must of course communicate with one another. The hearing officer recommended that no deduction be made for this entry.

July 16, 2015: Respondent argues that the following entry for Sorey is administrative and not compensable: "Email to R. Arfa regarding phone call schedule with E. Marshall and CCHR investigator Steve Salvato," .1 hour. Again, co-counsel must be able to communicate. The hearing officer recommended no deduction for this entry.

July 16, 2015: Respondent argues that the following entry for Sorey is administrative and not compensable: "documented phone conversation with CCHR investigator Steve Salvato," .4 hour. The entry is after the July 16, 2015, call between counsel and the CCHR investigator. Reducing memories of a critical phone conversation to a written document is good practice for an attorney, not merely administrative. The hearing officer recommended no deduction for this entry.

July 17, 2015: Respondent argues that the following entry for Sorey is administrative and not compensable: "documented phone call between E. Marshall and CCHR investigator Steve Salvato," .4 hour. This entry is after the July 17, 2015, call between E. Marshall and the CCHR investigator; Sorey joined the call. Again, reducing memories of a critical phone conversation to a written document is good practice for an attorney, not merely administrative. The hearing officer recommended no deduction for this entry.

August 14, 2015: Respondent argues that the following entry for Sorey is administrative and not compensable: "email from R. Arfa to notify E. Marshall about CCHR order and mail him a copy of the order," .1 hour. Communication and follow-up between co-counsel are important. The hearing officer recommended no deduction for this entry.

October 8, 2015: Both Arfa and Sorey appeared at a CCHR Pre-Hearing Conference on this date. Arfa listed 1.5 hours; Sorey listed 1.2 hours. Both were at the same conference and Arfa does not list any additional activities. The hearing officer recommended reducing Arfa's entry .3 hour.

November 9, 2015: Arfa and Sorey entered time for meeting on this date to discuss Respondent's Motion for Leave and Answer to Notice of Potential Default and review of CCHR regulations. Both Sorey and Arfa billed .6 hour. Respondent argues that two attorneys should not bill for the same activity, but to follow this argument to the extreme would mean that attorneys could never meet to discuss motions filed by opponents or hearing strategy, for example. The hearing officer found that these entries of time are not unreasonable and recommended no deductions. The hearing officer also noted that, but for the actions of Respondent in failing to attend Commission scheduled hearings, the activity would not have been needed at all.

November 10-12, 2015: Between November 10 and 12, 2015, Sorey entered 7 entries regarding drafting and revising the response to Respondent's Motion for Leave and Answer to Notice of Potential Default and meeting with Arfa about the draft and revisions, for a total of 5.3 hours. Arfa entered 2 entries regarding meeting with Sorey about the draft and editing the drafts, for a total of .9 hour. The response filed by Complainant was 5 pages long and in general a recitation of facts and dates readily available from the hearing officer's orders and Respondent's Motion for Leave. Only one Commission regulation and no Commission precedent was cited. Again, although these activities would not be necessary but for the actions of Respondent, the hearing officer found that 5.3 hours for Sorey is somewhat excessive and recommended reducing her hours by 2.5 hours.

November 19, 2015: Sorey entered the following on that date: "Discussion with R. Arfa about scheduling meeting with E. Marshall to prepare for hearing," for .3 hour. Respondent argues this activity is administrative and not compensable. Attorneys must be able to discuss client meetings and schedules. The hearing officer recommended no deductions for this entry.

November 20, 2015: Sorey entered .1 hour for "email from CCHR filings confirming electronic receipt of our pre-hearing memorandum." Respondent argues this activity is administrative and not compensable. Attorneys must assure that all necessary filings are complete; this is a minimal amount of time. The hearing officer did not recommend deductions from this entry.

November 24, 2015: Sorey entered three identical entries for this date: "email to R. Arfa to discuss hearing preparation," each for .1 hours. The entries do not indicate if the second or third entries were for continuing matters or different emails. It is unclear whether these were three individual entries or an administrative mistake. With the lack of clarity with these three entries, the hearing officer recommended that .2 hour be disallowed.

November 25, 2015: Sorey entered .4 hours for "discussion with R. Weisberg about preparing for the hearing"; Arfa entered .6 hours for "discussion with M. Sorey about hearing preparations." Respondent objects, stating that when two attorneys discuss the same matter, only one charge should be allowed. Attorneys must be able to discuss their strategies with colleagues. The hearing officer did not recommend any deductions from these entries.

November 30, 2015: Sorey entered .1 hours for "email to CCHR hearing officer regarding length of hearing for client paratransit reservation." Requesting an accommodation for a complainant with a disability is critical to his attendance. The hearing officer recommended no deductions from this entry.

November 30-December 7, 2015: Sorey and Arfa entered 12.3 hours[5] for preparation for the hearing. Included in the 12.3 hours were entries by Sorey for drafting and practicing her opening statement: 12/4/15, .9 hour, "hearing preparation – witness questions; opening and closing statements"; 12/5/15, .7 hour, "practicing opening statement for CCHR hearing and reviewing list of witnesses"; 12/6/15, .5 hour, "practicing CCHR hearing open statement and witness questions"; 12/7/15, 1.1 hours, "preparing for CCHR hearing tomorrow – revising opening statement and practicing it out loud"; and 12/7/15, .2 hour, "practicing CCHR opening statement." Respondent argues that 2.5 hours is too much time to practice the opening statement; this calculation excluded the December 4, 2015, entry for .9 hours. The first two entries listed above combine the opening statement with other pre-hearing

[5] Respondent said the number was 12.7, but the hearing officer found the number limited to hearing preparation was lower.

activities for which Respondent has offered no objections. The entries which can be solely attributed to practicing the opening statement are the two entries from December 7, 2015, for a total of 1.3 hours, but the two other entries have further combined time devoted to practicing the opening statement. Complainant's opening statement was a basic statement of the simple facts of this case and was fully reported in less than one full page in the transcript. Tr., pp. 7-8. The hearing officer recommended reducing the time entry on December 7, 2015, from 1.1 to .5 hours.

December 8, 2015: Both Sorey and Arfa have entries for attending a hearing for 2.5 hours on this date: "attended CCHR hearing (including travel time)." Respondent failed to appear at that hearing; the parties waited no more than an hour for him to appear. Even with transportation included, 2.5 hours is excessive absent some other activity, such as meeting with client, specified in the entry. It is the Complainant's burden to describe the activity with sufficient detail to allow a determination of reasonableness; this was not done in this case. The hearing officer recommended reducing the time entry for both Sorey and Arfa by .5 hour, to 2 hours each for that date.

January 5, 2016: Both Arfa and Sorey have entries which list discussions with one another, but the time is significantly different: .4 hour for Sorey and 1.8 hours for Arfa. Sorey lists no other discussions on that day with Arfa, and Arfa lists no other activities to account for the discrepancy. The hearing officer recommended reducing Arfa's entry for this date by 1.4 hours.

January 11, 2016: Sorey has an entry of .4 hour for "calculated attorneys fees in request for damages at CCHR hearing." Respondent argues that attorneys should maintain a running total of their fees, citing *Cotten v. La Luce Restaurant*, CCHR No. 08-P-34 (Oct. 20, 2010). In *Cotten v. La Luce*, the Commission did not find that attorneys could never bill for any time gathering fee information (in that case, for a fee petition). Rather, the Commission agreed that .5 hours was sufficient time to complete the record of fees for submission in that case. Even if the fees have been recorded (an admittedly administrative task), the fee record must be reviewed by counsel prior to being utilized as part of the Complainant's requests in a hearing or for a fee petition by counsel. The hearing officer recommended no deductions from this entry.

January 12, 2016: Both Arfa and Sorey have entries for attending the hearing of this matter, but the time is different: 7.5 hours for Sorey and 6.5 hours for Arfa. Sorey's entry includes travel time to and from the hearing, but lists no other activities on that date. Respondent argues that the time for travel in Sorey's entry (presumably one hour) is excessive and the entry should be reduced. The hearing officer found that 30 minutes each way for travel is not excessive and did not recommend deductions from this entry.

April 6, 2016: Respondent objects to an entry of .5 hour by Sorey regarding "reviewed a case that was cited in the hearing officer's recommended ruling for our case." Respondent argues that this is not a "task that needed to be done to further Complainant's case." That is incorrect. Under Commission Regulations, Complainant is given 28 days to file any objections to the Recommended Decison which was issued on March 23, 2016. Reviewing the case law cited within that opinion is an appropriate and reasonable activity for Complainant's counsel. The hearing officer recommended no deductions from this entry.

May 16, 2016: Both Arfa and Sorey have entries for discussions with one another, but the time is different: .2 hour for Sorey and .1 hour for Arfa. Sorey lists no other activity in that entry. The hearing officer recommended reducing Sorey's entry for this date by .1 hour.

June 15, 2016: Respondent objects to an entry by Sorey for .7 hour for "emails with L. Miller and R. Arfa about updating client regarding CCHR timeframes." Respondent argues that this is an excessive amount of time for that activity. While additional information might have forestalled that objection, the hearing officer found emails between counsel and supervisors regarding client information is reasonable and did not recommend any deductions from this entry.

VII. COSTS

Complainant also seeks compensation for $38.90 in costs incurred for taxi expenses; and submitted appropriate documents supporting his request. Travel expenses have been found to be compensable expenses by the Commission. *Hamilton v. Café Descartes Acquisitions LLC d/b/a Café Descartes*, CHR No. 13-P-05/06 (Dec. 17, 2014). The hearing officer has recommended payment; the Commission finds that Complainant's request to be compensated for $38.90 in costs is reasonable.

VIII. INTEREST

Complainant asked for "prejudgment interest on fees and costs." The Commission has awarded post-judgment interest on fees and costs when interest was sought by complainants. *Sleper v. Maduff & Maduff*, supra. The Commission adopts the recommendation of the hearing officer that interest on the award of fees and costs be calculated pursuant to CCHR Reg. 240.700, starting from the date of entry of the Final Order of Liability and Relief, on July 14, 2016.

IX. SUMMARY AND CONCLUSION

In conclusion, the Commission approves and adopts the hearing officer's recommended analysis for determining the reasonable attorney fees and costs in this matter. For the reasons stated above, the Commission orders Respondent to pay attorney fees and associated costs in the total amount of $28, 778.90, plus interest as follows:

1. To Attorney Megan Sorey–attorney fees of $18,607.50.

2. To Attorney Rachel Arfa–attorney fees of $8,645.

3. To Attorney Laura Miller–attorney fees of $1,487.50.

4. To each attorney respectively, interest on the total award to the attorney pursuant to CCHR Reg. 240.700, starting from the date of the Final Order on Liability and Relief on July 14, 2016.

5. Costs awarded in the amount of $38.90.

CHICAGO COMMISSION ON HUMAN RELATIONS

By: _____

Mona Noriega, Chair and Commissioner
Entered: February 9, 2017