



City of Chicago  
**COMMISSION ON HUMAN RELATIONS**  
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654  
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

**IN THE MATTER OF:**

Anthony Cotten  
**Complainant,**  
v.

Addiction Sports Bar and Lounge  
**Respondent.**

**Case No.:** 08-P-68

**Date of Ruling:** February 17, 2010  
**Date Mailed:** February 25, 2010

**TO:**

Matthew P. Weems  
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Chicago, IL 60612

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Brodsky and Odeh  
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**FINAL ORDER ON ATTORNEY FEES AND COSTS**

YOU ARE HEREBY NOTIFIED that on February 17, 2010, the Chicago Commission on Human Relations issued a Final Ruling on Attorney Fees and Costs in favor of Complainant in the above-captioned matter. The Commission orders Respondent to pay attorney fees in the total amount of \$2,156.25 and costs in the total amount of \$52.58, for a total award of \$2208.83. The findings and specific terms of the ruling are enclosed.

Pursuant to Commission Regulations 100(15) and 250.150, a party may obtain review of this order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law at this time. Compliance with this Final Order and the Final Order on Liability and Relief entered on October 21, 2009, shall occur no later than 28 days from the date of mailing of this order.<sup>1</sup> Reg. 250.210.

CHICAGO COMMISSION ON HUMAN RELATIONS  
Dana V. Starks, Chair and Commissioner

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<sup>1</sup> **COMPLIANCE INFORMATION:** Parties must comply with a final order after administrative hearing no later than 28 days from the date of mailing of the later of a Board of Commissioners' final order on liability or any final order on attorney fees and costs, unless another date is specified. CCHR Reg. 250.210. Enforcement procedures for failure to comply are stated in Reg. 250.220.

**Payments of attorney fees and costs are to be made to Complainant's attorney of record.**

**City of Chicago**  
**COMMISSION ON HUMAN RELATIONS**  
740 N. Sedgwick, 3rd Floor, Chicago, IL 60610  
(312) 744-4111 [Voice], (312) 744-1081 [Facsimile], (312) 744-1088 [TTY]

**IN THE MATTER OF:**

Anthony Cotten  
**Complainant,**  
v.  
Addiction Sports Bar and Lounge  
(Formisono, Inc.)  
**Respondent.**

**Case No.:** 08-P-68

**Date of Ruling:** February 17, 2010

## **FINAL RULING ON ATTORNEY FEES AND COSTS**

### **I. INTRODUCTION**

On October 21, 2009, the Commission on Human Relations entered its Final Ruling on Liability and Relief in this matter, finding that Respondent had violated the Chicago Human Rights Ordinance and ordering relief including reasonable attorney fees and costs pursuant to Section 2-120-510(1), Chicago Municipal Code, and Commission Regulation 240.630. Complainant filed and served a timely Petition for Attorney's Fees on December 2, 2009, seeking attorney fees and costs in the total amount of \$2,640.08. Respondent did not respond. On December 30, 2009, the hearing officer issued his Recommended Decision on Attorney's Fees and Costs. Neither Complainant nor Respondent submitted objections. Having considered Complainant's petition and the hearing officer's recommendations, the Board of Commissioners now rules as follows:

### **II. APPLICABLE LEGAL STANDARDS**

The Commission follows the lodestar method of calculating reasonable attorney fees. That is, the Commission determines the number of hours reasonably expended on the case and multiplies that number by the customary hourly rate for attorneys with the level of experience of the complainant's attorney. *Barnes v. Page*, CCHR No. 92-E-1 (Jan. 20, 1994); *Nash and Demby v. Sallas Realty et al*, CCHR No. 92-H-128 (Dec. 6, 2000).

### **III. APPROPRIATE HOURLY RATE**

In determining an attorney's appropriate hourly rate for fee award purposes, the Commission in *Sellers v. Outland*, CCHR No. 02-H-73 (Mar. 17, 2004), followed the reasoning of the U.S. Court of Appeals for the Seventh Circuit as set forth in *Small v. Richard Wolf Medical Instruments Corp.*, 264 F.3d 702, 707 (7 Cir. 2001):

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.

Complainant's counsel, Matthew P. Weems, is seeking fees at the rate of \$150 per hour. He has submitted an affidavit attesting that "this is his usual hourly rate for this type of matter." In a fee petition filed in *Cotten v. Eppy's Deli*, CCHR No. 08-P-35 (Dec. 16, 2009), Weems attested that his usual hourly rate for this type of matter, during a similar time period, was \$125 per hour. The two affidavits are irreconcilable. There was no indication in the current affidavit that Weems has raised his rates or that he has a basis for charging different rates to different respondents in proceedings before this Commission on behalf of the same client.

Therefore, Complainant's counsel is awarded attorney fees at the rate of \$125 per hour for all reasonable time spent on this case.

#### **IV. REASONABLE TIME AND COSTS**

Atty. Weems submitted time sheets seeking compensation for 17.25 hours of attorney time and \$52.58 in associated out-of-pocket expenses. He recorded his time in fifteen-minute increments, so that one our of work researching an issue, for example, results in four individual time entries, each of which shows the same date and identifies the same task.

In the absence of any objections and based on the review and recommendation of the hearing officer, the Commission finds that the time and expenses claimed for this case are reasonable.

#### **V. CONCLUSION**

Therefore, recalculating attorney fees based on the \$125 per hour rate, Complainant is awarded attorney fees in the amount of \$2,156.25 plus costs in the amount of \$52.58, for a total award of \$2,208.83.

CHICAGO COMMISSION ON HUMAN RELATIONS



By: Dana V. Starks, Chair and Commissioner  
Entered: February 17, 2010