

closed
11/30/79

Public Hearing, November 30, 1979

This Hearing is being held pursuant to RS354-A:9, II, and will be conducted under the Rules of Practice and Procedure of the New Hampshire Commission for Human Rights.

Sitting Commissioners: Gail F. Paine, Chair
Robert J. Normandeau
Ivory Cobb
Romeo J. Rejimbal

Presenting the Complaint: Berel Firestone

Complainants: Isabelle Blanchette
George F. Roy

Respondent: The Alpine Club

For purposes of this Hearing, the complaints, filed separately by Isabelle Blanchette and George Roy, have been joined as one and will be considered as PAC-1722.

Pursuant to Rule 3 of the Commission's Rules of Practice and Procedure, an Answer from respondent's attorney, Thomas J. Tessier of Christy and Tessier, Manchester, New Hampshire, has been forthcoming and is uncontested. Presented for the Commissioners' consideration are Motions for Attorneys Fees from the attorney for the complainants, Stephen E. Borofsky of The Legal Clinics, Manchester, New Hampshire; and a Motion objecting to the fees submitted by Attorney Tessier.

Isabel Blanchette)
George F. Roy)
New Hampshire Commission for)
Human Rights)
)
.and)
)
The Alpine Club)
)

ORDER

Sitting Commissioners: Gail F. Paine, Chairperson
Commissioner Romeo J. Rejimbai
Commissioner Robert J. Normandeau

On 9/12/1978 Complainants Blanchette and Roy entered The Alpine Club for an annual Christmas party conducted by Complainant Blanchette's husband's employer. They were served dinner and subsequently went upstairs to listen to music played by the band. Complainant Blanchette is black and was told by an agent of the establishment she could not attend and that the bylaws of the Club refused admittance to "colored people."

In his answer to the complaint, Attorney Thomas J. Tessier, representing the Club, states "--- the two isolated instances have been corrected --- and a formal apology has been issued."

Therefore, the Commissioners unanimously Order that The Alpine Club Cease and Desist all practices which contravene RS354-A.

It is further Ordered that The Alpine Club shall post in two prominent places the notices marked Attachment A to this Order.

So Ordered.

s/ Gail F. Paine, Chairperson

s/ Romeo J. Rejimbai

s/ Robert J. Normandeau

Additionally, by decision of 2 to 1, the Commission denies payment of attorney fees in the amount of \$577.80 to Stephen E. Borofsky, Esquire, representing the Complainants. Deciding for the Motion to Object as issued by Attorney Thomas J. Tessier: Commissioner Romeo J. Rejimbai and Commissioner Robert J. Normandeau.

Voting against the Motion to Object and for the payment of attorney fees: Commissioner Gail F. Paine.

So Ordered.

s/ Gail F. Paine, Chairperson

s/ Romeo J. Rejimbai

s/ Robert J. Normandeau

RECEIVED
NOV 16 1979
N. H. COMMISSION
FOR HUMAN RIGHTS

* * * * *
 Isabelle Blanchette *
 v. * #PAC-1722-43-67
 The Alpine Club *
 * * * * *
 George F. Roy *
 v. * #PAC-1723-44-68
 The Alpine Club *
 * * * * *

MOTION FOR ATTORNEYS' FEES
PURSUANT TO N.H. RSA 345-A

NOW COME the Plaintiffs by their attorneys, The Legal Clinics, and Stephen E. Borofsky, Esquire, and move this Court as follows:

1. The above-entitled action was brought by the Plaintiffs to enjoin the Defendants from depriving them of their Constitutional rights under the New Hampshire and United States Constitutions and N.H. RSA 354-A.
2. Pursuant to N.H. RSA 354-A, this Commission in its discretion may award reasonable attorneys' fees and costs to a successful litigant in an action to enforce N.H. RSA 354-A rights.
3. On October 22, 1979, Defendant, The Alpine Club, admitted the truth of the allegations in Plaintiffs' Complaints.
4. The prosecution of this case was important to vindicate Plaintiffs' constitutional and human rights. Plaintiffs' counsel estimates conservatively that over ten attorney hours were spent in the preparation and presecution of this case.
5. Plaintiffs are the "prevailing party" in this action and are entitled to reasonable attorneys' fees.

WHEREFORE, Plaintiffs respectfully request that this Commission award them reasonable attorneys' fees and costs against the Defendant and order such other and further relief as may be equitable and just.

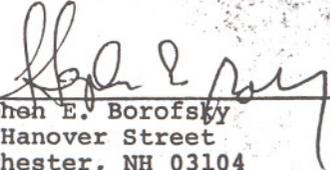
Respectfully submitted,

ISABELLE BLANCHETTE
GEORGE F. ROY

By their attorneys,

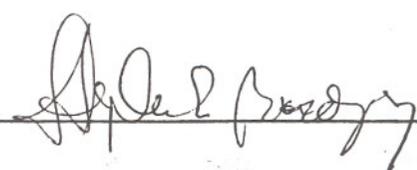
The Legal Clinics

November 13, 1979

By: 

Stephen E. Borofsky
221 Hanover Street
Manchester, NH 03104

I hereby certify that on this 13 day of November, 1979, a copy of the within Motion was forwarded to Thomas J. Tessier, opposing counsel.



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N. H. COMMISSION
FOR HUMAN RIGHTS

NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS

 Isabelle Blanchette
 v.
 The Alpine Club

 George F. Roy
 v.
 The Alpine Club

#PAC-1722-43-67

#PAC-1723-44-68

AFFIDAVIT IN SUPPORT OF MOTION FOR ATTORNEYS' FEES

I, Stephen E. Borofsky, on oath depose and say as follows:

1. The statements of time and services submitted by me are true and accurate to the best of my ability. I keep a daily time log for each day that I work. These daily time logs are then transferred onto a client ledger card.

2. After personally reviewing my daily time log sheets, it is my opinion that, if anything, I have understated the time I have spent on this case.

3. The preparation and prosecution of this case did preclude my attention to other fee generating matters.

4. I clerked for the year 1973-74 for then District Court Judge Bownes. During my tenure, I worked on many civil rights cases. As a private attorney, I have been involved in a number of Section 1983 or quasi Section 1983 civil rights cases including the Timberlane Teachers Strike Cases (Section 1983 action against County and State officials for unlawful arrest); Littlefield v. New Hampshire Inter-scholastic Athletic Association (action against NHIAA for unconstitutional discrimination against high school athletes, successful in Merrimack County, dismissed as moot in New Hampshire Supreme Court); Mendoza v. AVCO (minor role in negotiated Truth-in-Lending action); minor involvement

in the Seabrook protesters claim of illegal conditions of detention; Daigle v. Helgemoe (federal Section 1983 action against New Hampshire State Prison Warden and others resulting in the sodomization of my client. This case, taken at the request of the Court, resulted in a negotiated settlement); Salvail v. Nashua Board of Education (action against Nashua Board of Education for unconstitutionally removing Ms. magazine from library shelves).

5. While in law school, I took a year-long seminar which dealt with the constitutional claims surrounding the inequality of state funding to public schools dealt with by the United States Supreme Court (Rodriguez), the California Supreme Court (Serrano), the New Jersey Supreme Court and other courts. During the seminar, I researched and prepared a complaint against the New York Board of Regents together with another student and the New York City firm of Paul, Weiss, et als. I also took a course in Advanced Constitutional Litigation Strategy.

6. This case is an important case not only for the Plaintiffs themselves, but for all blacks and minority group members in the State of New Hampshire as well. Although the legal issues involved were not complex, important human rights were involved.

7. My usual and customary hourly rate for litigation is \$50 per hour.

8. Attached hereto is an itemized statement of my time and services and costs in connection with this case.

Respectfully submitted,

November 13, 1979



Stephen E. Borofsky

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

November 13, 1979

Subscribed and sworn to before me.



Notary Public/Justice of the Peace

