

**THE NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS**  
**Patricia Gould v. Dartmouth Hitchcock Medical Center**  
**16D – 2010 – 00041**  
**ED(R) 0059 – 10**

**Order on Plaintiff's Motion for Reasonable Attorney Fees and Costs**

1. As part of its Decision on the Merits After Public Hearing Held April 11 & April 12, 2012, signed by the Chair on June 21, 2012, petitioner Patricia Gould was awarded reasonable attorney fees and costs. Counsel for Ms. Gould was directed to submit a detailed outline to the Commission. Respondent was allowed ten days to object following the submission. See, page 6, Conclusion.
2. The Motion was filed with the commission on July 31, 2012. An affidavit of costs signed by the complainant for \$8609.05 and an itemized account of attorney fees from counsel's law firm were presented in the amount of \$20,592.50.
3. The commission received a timely Objection to the motion from respondent counsel on August 9, 2012. Respondent first asserts, without authority, that its appeal of the decision to the superior court stays any award of attorney fees and costs. Respondent further objects to the attorney fees in that descriptions of time in the entries are allegedly insufficiently described for the commission to determine reasonableness.
4. Respondent also objects that secretarial work should not be billed at all, including copying and typing. Further objections are raised regarding subpoenas issued for witnesses which had to be re-issued and served.
5. An objection for the fees of the expert economist were raised because the commission ruled at hearing that no front pay claims were asserted, although the economist had calculated front pay as part of his analysis.
6. Respondent raised questions about personnel noted on the itemized attorney fee invoice and asserted, without proof, that these individuals' time had been billed to the wrong file.
7. Finally, respondent asserted there was no verification "... that Gould's Motion...included costs..." incurred in the matter, were allowable costs and were reasonably necessary to litigate the

matter, again without citation to the commission's statute, rules or precedent decisions.

8. A Reply filed by complainant counsel on August 31, 2012 argued the commission should decide the issue of attorney fees and costs since the superior court can review that part of the case as well. The commission reads RSA 354-A:22 (III) to agree with this interpretation as the court is at liberty to make de novo findings and rulings as well as an award of damages including attorney fees and costs.
9. Complainant argues the costs incurred and fees charged are reasonable, including the services of support staff and paralegals including "JET" or Janine E. Teeter. Complainant argues the economist performed the work, including calculations of front pay, which was excluded by ruling of the commission, but that he still performed the work and traveled from Rutland, VT to provide testimony at hearing. Finally, the complainant argues the specification of costs by affidavit is reasonable and no verification is required by law.
10. On September 11, 2012 respondent filed a Response to its Objection. It raises many of the same issues put forward in the objection, but cites to court rules and rules of professional conduct, not commission rules, statute or decisions for authority. It asks this commission to order complainant to produce a copy of her attorney-client fee agreement. We decline to do so. The Response more forcefully argues that the commission should not rule on the motion for attorney fees and costs because the case has been appealed and any award would be "premature" since the superior court can make independent findings. The commission disagrees. The commission has authority under its statute and rules to issue a final order following a Public Hearing, including an award of attorney fees and costs. As part of its Order on the Merits, complainant's counsel was instructed to submit itemized costs and attorney fees. Notwithstanding respondent's appeal, and wholly separate from it, the commission has the authority to finalize its administrative order by ruling on the submitted Motion.
11. The commission finds the costs associated with the Public Hearing to be reasonable. Although the parties are encouraged at every Pre-Hearing Conference to agree on a witness list and cooperate in producing necessary witnesses, if that cooperation does not occur, the issuance of subpoenas, may, in the judgment of counsel, be necessary. The economist's fees are reasonable. At hearing, both parties stipulated to Lawrence Copp's expertise and appearance at

numerous trials throughout the State of New Hampshire. His work, including calculations regarding front pay is allowed, and shall not be prorated based on an unanticipated evidentiary ruling. The affidavit of costs signed by complainant, cross-referenced with the advances in the attorney fee invoice (p. 7) satisfies the commission that these costs were, in fact incurred for litigating this matter.

12. The commission also finds the attorney fees reasonable. Counsel's representation occurred over a four month time span. He charges an hourly rate of \$230.00. He has practiced law for 29 years. Paralegal staff is billed at \$105.00 per hour. The larger billings cluster around depositions, the Pre-Hearing Conference at commission headquarters and preparation for and attendance at two days of public hearing. The Motion for Attorney Fees and Costs is allowed in the total amount of \$29,201.55.

**SO ORDERED.**

9/24/2012

Date



William Brennan, Esq. Chair