

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-24-11

(UNFAIR LABOR PRACTICE)

JACKSON COUNTY,)	
)	
Complainant,)	
)	
v.)	FINDINGS AND ORDER
)	ON RESPONDENT'S PETITION
)	FOR REPRESENTATION COSTS
JACKSON COUNTY SHERIFF'S)	
EMPLOYEES ASSOCIATION,)	
)	
Respondent.)	
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On April 28, 2011, Jackson County (County) filed an unfair labor practice complaint against the Jackson County Sheriff's Association (Association), alleging that the Association violated ORS 243.672(2)(b). On November 5, 2012, this Board issued an Order dismissing the County's complaint. 25 PECBR 209 (2012). On November 21, 2012, the Association submitted its petition for representation costs. On December 11, 2012, the County filed its objection to the amount of the costs sought by the Association.

Pursuant to ORS 243.676(2)(d) and OAR 115-035-0055, this Board finds:

1. The Association filed a timely petition for representation costs and the County filed timely objections to the petition.
2. The Association is the prevailing party. We dismissed the County's complaint, holding that it had not met its burden of proof that the Association violated ORS 243.672(2)(b).
3. The hearing lasted one day. Attorneys for the Association submitted affidavits showing that 35.8 hours of legal work were performed at \$225 per hour, for a total cost of \$8,055. The Association's petition requests payment of \$3,500 in representation costs, which is the maximum amount that this Board customarily awards in the absence of a civil penalty. *Benton County Deputy Sheriff's Association v. Benton County*, Case No. UP-24-06, 22 PECBR 46, 47 (2007) (Rep. Cost Order); OAR 115-035-0055.

4. The requested hourly rate is higher than average. The average hourly rate for representation costs is between \$165 and \$170 per hour. *Clackamas County Employees Association v. Clackamas County/Clackamas County District Attorney*, Case No. UP-07-08, 24 PECBR 769, 771 (2012) (Rep. Cost Order). However, the number of hours claimed is below average. Cases generally require an average of 45 to 50 hours per day of hearing. *See AFSCME Council 75, Local 3694 v. Josephine County*, Case No. UP-26-06, 24 PECBR 720, 723 (2012) (Rep. Cost Order). We will adjust our award accordingly.

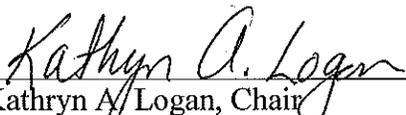
5. The County objected to a number of hours claimed by the Association attorneys, arguing that some of the time claimed might have been related to a separate unfair labor practice that the Association filed against the County. The County requested that we reduce the award accordingly, as it was not clear whether some communications with the ALJ, Board staff and County Counsel were solely related to this case. The County offers no specific proof that the hours are not properly claimed in this matter, and we do not find the County's argument sufficiently convincing to reduce the hours claimed in this matter. Further, as noted above, the number of hours claimed is significantly below average when including the contested hours.

6. An average award is generally one-third of the reasonable representation costs of the prevailing party, subject to the \$3,500 cap contained in OAR-115-035-0055(1)(a). Having considered the purposes and policies of the Public Employee Collective Bargaining Act, our awards in prior cases, and the reasonable cost of services rendered, this Board awards the Association representation costs in the amount of \$2,029.

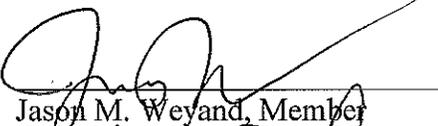
ORDER

The County will remit \$2,029 to the Association within 30 days of the date of this Order.

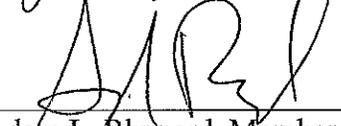
DATED this 30 day of April 2013.



Kathryn A. Logan, Chair



Jason M. Weyand, Member



Adam L. Rhynard, Member

This Order may be appealed pursuant to ORS 183.482.