



**STATE OF NEW JERSEY**

In the Matter of Betty Ramos,  
Irvington Township

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-865

Request for Enforcement

**ISSUED: APRIL 26, 2019** (JET)

Betty Ramos, a Police Officer with Irvington Township, represented by Peter B. Paris, Esq., seeks enforcement of the attached Civil Service Commission (Commission) decision rendered on July 18, 2018, awarding counsel fees.

By way of background, the petitioner appealed her 40 working day suspension (20 days held in abeyance) to the Civil Service Commission (Commission) and the matter was transmitted to the Office of Administrative Law (OAL) as a contested case. Following a hearing, the Administrative Law Judge (ALJ) recommended that the 40 working day suspension be reversed. Upon its *de novo* review of the record, the Commission in its July 18, 2018 decision, adopted the ALJ's initial decision and reversed the 40 working day suspension, and awarded back pay, benefits and counsel fees in accordance with *N.J.A.C.* 4A:2-2.10 and *N.J.A.C.* 4A:2-2.12.

In her petition for enforcement, counsel for the petitioner filed an application for counsel fees and provided a certification of services in support on October 10, 2018, requesting \$15,964 for 122.8 hours of work at a rate of \$130 an hour, plus \$390 for three hours of work in pursuit of counsel fees in this matter at a rate of \$130 an hour; and \$898.96 for costs (courier service; OAL transcripts), for a total of \$17,252.96.<sup>1</sup>

<sup>1</sup> Counsel for petitioner states that he changed firms in October 2017, and as such, he provides two invoices from separate firms. He explains that the hourly rates were the same for both firms.

Counsel for petitioner explains that he is an approved attorney with the New Jersey State Policeman's Benevolent Association (PBA) Legal Protection Plan (LPP).<sup>2</sup> As such, he does not have a retainer agreement with the petitioner, but he has signed an agreement with the LPP. Counsel for the petitioner states that the LPP agreement establishes an hourly billing rate of \$130 an hour. Further, counsel for the petitioner states that the appointing authority has not provided an objection to his request for counsel fees.

Despite being provided with the opportunity, the appointing authority did not provide a response.

## CONCLUSION

*N.J.A.C.* 4A:2-2.12(c) provides as follows: an associate in a law firm is to be awarded an hourly rate between \$100 and \$150; a partner in a law firm with fewer than 15 years of experience in the practice of law is to be awarded an hourly rate between \$150 and \$175; and a partner in a law firm with 15 or more years of experience practicing law, or notwithstanding the number of years of experience, with practice concentrated in employment or labor law, is to be awarded an hourly rate between \$175 and \$200. *N.J.A.C.* 4A:2-2.12(d) provides that, if an attorney has signed a specific fee agreement with the employee or the employee's negotiations representative, the fee ranges set forth above may be adjusted. *N.J.A.C.* 4A:2-2.12(e) provides a fee amount may also be determined or the fee ranges in (c) above adjusted based on the circumstances of a particular matter, in which case the following factors shall be considered: the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; the fee customarily charged in the locality for similar legal services, applicable at the time the fee is calculated; the nature and length of the professional relationship with the employee; and the experience, reputation and ability of the attorney performing the services. *N.J.A.C.* 4A:2-2.12(g) provides that reasonable out-of-pocket costs, such as costs associated with expert witnesses, subpoena fees and out-of-state travel, shall be awarded. However, costs associated with normal office overhead shall not be awarded.

---

<sup>2</sup> Counsel provides a copy of the LPP plan that he signed on May 19, 2016, which indicates he is to be reimbursed at \$130 an hour for legal services. It is noted that the LPP Program provides reimbursement for "Legal Defense Costs" which arise from a matter occurring while the member is enrolled in the LPP Program, and only applies to claims that are first made during the Policy Period. It is an excess plan only. Participating attorneys are free to seek reimbursement of their customary rates from the employers in appropriate cases. However, if they are unable to do so, they agree to accept reimbursement in accordance with the rates established by the plan. The action or proceeding resulting in "Legal Defense Costs" must have occurred on or after the member's Retroactive Date, if any, and must arise out of the performance of the participant's law enforcement duties during the term of the member's policy period. See *In the Matter of Thalia Mendoza, Hudson County* (CSC, decided June 3, 2015).

In this matter, counsel explains that an attempt was made to settle the request for counsel fees, and the appointing authority does not provide any substantive information to refute that the petitioner's attorney attempted to settle the matter pertaining to the request for counsel fees prior to filing the request in the instant matter. When settlement cannot be reached, the Commission can review the matter. In addition, the record is clear that the petitioner did not sit on her rights with regard to her request for counsel fees in this matter and filed the request within a reasonable amount of time.

In this matter, counsel for petitioner asserts that the petitioner is a member of the aforementioned LPP plan. The provision from the plan states that participating attorneys agree to accept reimbursement in accordance with the rates established by this plan. The Commission has consistently determined that participation in a legal protection plan constitutes a specific fee agreement. *See In the Matter of Francesco Grupico and Roy McLeod* (CSC, decided September 16, 2009) (Commission determined that attorney who agreed to participate in the New Jersey State PBA LPP constituted a specific fee agreement and he was only entitled to the hourly rate agreed to in the LPP). In this regard, the Commission has found in prior matters that if an attorney for an appellant agrees to accept a specific hourly rate identified in the legal protection plan, the attorney is not entitled to a higher hourly rate than specified in the plan if he or she ultimately prevails in their appeal. *See In the Matter of Scott Seliga* (CSC, decided March 4, 2015). Additionally, counsel for petitioner states that he has submitted the LPP to the appointing authority for review in accordance with *N.J.A.C.* 4A:2-2.12(d). Moreover, the underlying disciplinary matter was clearly not novel in any way and was no more complex than any of the thousands of disciplinary appeals involving suspensions decided over the years by the Commission. In this regard, an appeal of a 40 working day suspension inherently lacks the legal complexity necessary to justify a higher hourly rate. Based on the hourly rate agreed to by counsel and as outlined in the LPP, the Commission, therefore, will award counsel fees of \$130.00 an hour, which is rate counsel for petitioner requested in this matter. *See Grupico, supra.*

With respect to the request for counsel fees for pursuing this matter before the Commission, generally, an appellant is entitled to counsel fees regarding her enforcement request for her counsel fee award since New Jersey courts have recognized that attorneys should be reimbursed for the work performed in support of a fee application. *See H.I.P. (Heightened Independence and Progress, Inc.) v. K. Hovnanian at Mahwah VI, Inc.*, 291 *N.J. Super.* 144, 163 (Law Div. 1996) [quoting *Robb v. Ridgewood Board of Education*, 269 *N.J. Super.* 394, 411 (Ch. Div. 1993)]. As such, counsel is also entitled to fees for the three hours of work he performed in the current matter.

Therefore, counsel fees are awarded as follows:

Mr. Paris : 122.8 hours of work x 130 = \$ 15,964  
 3 hours of work x 130 = \$ 390

Total : \$16,354

In addition, counsel requests \$898.96 in costs for use of a courier service and for obtaining OAL transcripts. As indicated above, the costs that represent normal office overhead will not be awarded. *See N.J.A.C. 4A:2-2.12(g)*. These costs include photocopying expenses and expenses associated with the transmittal of documents through use of Federal Express or a messenger service. *See e.g., In the Matter of Monica Malone*, 381 N.J. Super. 344 (App. Div. 2005). As such, counsel's request for \$222.01 in costs for the courier service is denied. The remaining expenses requested for OAL transcripts are reimbursable expenses pursuant to *N.J.A.C. 4A:2-2.12(g)*. *See In the Matter of Tracey Andino* (MSB, decided August 21, 2003); *In the Matter of Gail Murray* (MSB, decided June 25, 2003). As such, petitioner is entitled to \$676.95 in costs for the OAL transcripts.

### ORDER

Therefore, it is ordered that the appointing authority pay counsel fees in the amount of \$16,354 and costs in the amount of \$676.95 within 30 days of receipt of this decision.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
 CIVIL SERVICE COMMISSION ON  
 THE 24<sup>th</sup> DAY OF APRIL, 2019



Deirdre L. Webster Cobb  
 Chairperson  
 Civil Service Commission

Inquiries  
and  
Correspondence

Christopher Myers  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Betty Ramos  
Peter B. Paris, Esq.  
Ramon Rivera, Esq.  
Tony Vauss  
Kelly Glenn