

**New Jersey Commissioner of Education****Final Decision**

Michael Skowronski,

Petitioner,

v.

Board of Education of the Township of  
East Greenwich, Gloucester County,

Respondent.

**Synopsis**

Following a decision from the Appellate Division upholding the Commissioner's prior determination that petitioner was entitled to indemnification pursuant to *N.J.S.A. 18A:12-20* for costs and fees incurred while defending against an ethics complaint stemming from petitioner's service on the East Greenwich Township Board of Education (Board), this matter was remanded to the OAL for calculation of reasonable attorney fees and costs owed to petitioner. Petitioner filed a motion for summary decision, and petitioner's counsel submitted a certification of fees and costs with invoices attached. The Board opposed the motion for summary decision, challenging the reasonableness of the hourly rate and the hours reasonably expended in petitioner's defense over the multi-year pendency of this matter.

The ALJ found, *inter alia*, that: in 2019, petitioner retained the law firm of Dilworth Paxon to represent him in this matter, at the reasonable reduced hourly rate of \$240.00; as per detailed and itemized invoices, the time reasonably expended by petitioner's counsel in his defense was 285.3 hours through June 2024; Dilworth Paxon incurred expenses on petitioner's behalf totaling \$674.93; the total requested award of attorney fees in the amount of \$68,472 and costs in the amount of \$674.93 was reasonable; the Board's arguments that the hourly rate should have been reduced from \$240 to \$165 per hour because that is the rate at which the Board pays its general counsel for legal services is without merit; and the Board had numerous opportunities over the long pendency of this case to cut its losses but chose instead to move forward with the litigation. The ALJ concluded that the fees and costs sought are reasonable and petitioner is entitled to indemnification for counsel fees in the amount of \$68,472, plus expenses in the amount of \$674.93, for a total amount of \$69,146.93.

Upon review, the Commissioner, *inter alia*, concurred with the ALJ's findings and conclusions and adopted the Initial Decision of the OAL as the final decision in this matter. In so doing, the Commissioner found the Board's exceptions to be without merit and disagreed with the Board's newly raised contention that an evidentiary hearing was required to establish the reasonableness of petitioner's attorney fees. Accordingly, petitioner's appeal was granted, and the Board was ordered to pay petitioner's reasonable attorney fees and costs in the total amount of \$69,146.93.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

379-24

OAL Dkt. No. EDU 02418-24 (EDU 05603-21 on remand)

Agency Dkt. No. 92-6/21

**New Jersey Commissioner of Education**

**Final Decision**

Michael Skowronski,

Petitioner,

v.

Board of Education of the Township of  
East Greenwich, Gloucester County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by respondent Board of Education of the Township of East Greenwich (Board) pursuant to *N.J.A.C. 1:1-18.4*, and petitioner's reply thereto, have been reviewed and considered.

Following the Appellate Division's decision in *Skowronski v. Board of Education of the Township of East Greenwich*, Dkt. No. A-3602-21, 2024 *N.J. Super. Unpub. LEXIS 69* \* (App. Div. Jan. 16, 2024), the Commissioner remanded this matter to the OAL for calculation of the reasonable attorney fees and costs owed to petitioner, pursuant to *N.J.S.A. 18A:12-20*, incurred while defending an ethics complaint initiated by the Board's former superintendent. Petitioner moved for summary decision, and petitioner's counsel submitted a certification of fees and costs with invoices attached. The Board filed a certification in opposition to summary decision challenging the reasonableness of the hourly rate and the hours reasonably expended on the matter.

The Administrative Law Judge (ALJ) found and concluded that: (1) as an accommodation to petitioner, the law firm of Dilworth Paxson (retained in 2019) reduced its hourly rate for legal services from \$490 to \$240 per hour, a reasonable hourly rate; (2) no portion of the fee was contingent upon the matter's outcome; (3) the time reasonably expended by petitioner's counsel was 285.3 hours through June 2024, as per detailed, itemized invoices contained in the record for the work billed; (4) Dilworth Paxson incurred expenses on petitioner's behalf totaling \$674.93, as per an itemized, detailed list contained in the record; and (5) the requested award of attorney fees in the amount of \$68,472 and costs in the amount of \$674.93 is reasonable.

The ALJ rejected the Board's arguments that the hourly rate should have been reduced from \$240 per hour to \$165 per hour because that is the rate at which the Board pays its general counsel for legal services, the district is relatively small, and the district has a fiduciary duty to taxpayers to minimize legal fees and expenses per *N.J.A.C. 6A:23A-5.2*. The ALJ was unpersuaded, reasoning that petitioner's counsel was not representing the Board but was retained by a private client in a matter that lasted almost five years, and finding that Dilworth Paxson charged petitioner less than its standard government hourly rate of \$250. Moreover, the ALJ noted the Board had numerous opportunities to calculate the risk it undertook and to cut its losses; however, it decided to move forward with the litigation. The ALJ also rejected as speculative the Board's contention that petitioner's counsel could have achieved the same results in 177 hours versus 285.3 hours.

In its exceptions, the Board reiterates the arguments that were considered and rejected by the ALJ, including that the hours billed should be reduced to 177 because "it seems likely that the same result could have been achieved in fewer hours" and "since examining each entry" on

the invoices “would be tedious and time-consuming.” Exceptions, at 3. The Board also contends again that the hourly rate should be reduced to \$165 because of the district’s small size and its fiduciary duty to minimize legal expenses. Additionally, for the first time, the Board asserts that “an evidentiary hearing as to reasonableness should have been granted” if the fee “application was to be granted in full.” *Id.* at 4.

In reply, petitioner argues that the Board’s exceptions simply repeat the arguments it previously made that were properly rejected by the ALJ. He contends that the Board failed to dispute any of the underlying facts and failed to identify any sufficient reason for the Commissioner to reject the ALJ’s legal conclusions. Because the ALJ’s determination was rendered pursuant to the correct legal standard and supported by sufficient, undisputed evidence, petitioner requests that the Commissioner adopt the ALJ’s Initial Decision.

When analyzing a fee application, it is necessary to begin with the calculation of the “lodestar,” which is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. *Rendine v. Pantzer*, 141 N.J. 292, 334-35 (1995). “[T]he focus must be on ‘the amount of time *reasonably* expended’ rather than merely an acceptance of ‘the amount of time *actually* expended.’” *Walker v. Giuffre*, 209 N.J. 124, 131 (2012) (quoting *Rendine*, 141 N.J. at 335). To complete the calculation, the reasonable hourly rate must be evaluated according to prevailing market rates in the relevant community. *Rendine*, 141 N.J. at 337. Although the determination “need not be unnecessarily complex or protracted,” the court must ensure that the hourly rate is “fair, realistic, and accurate.” *Ibid.*

Upon review, the Commissioner concurs with the ALJ’s determination that Dilworth Paxton reasonably expended 285.3 hours on petitioner’s case. The hours logged are not

excessive. The record contains detailed and itemized invoices reflecting the time petitioner's counsel spent representing his interests for approximately five years. The representation included, but was not limited to, motion practice, discovery, hearings at the OAL, settlement discussions, and an appeal before the Appellate Division. The Board's contention that petitioner's counsel could have achieved the same results in 177 hours versus 285.3 hours is speculative, arbitrary, and unsupported by the record. Notably, the Board's objection is not based upon an analysis of the invoices' content, as their exceptions state that examining each entry on the invoices would take too much time. In sum, the Board has failed to establish that the 285.3 hours expended in this case were unreasonable.

The Commissioner also concurs with the ALJ that the hourly rate of \$240 is reasonable. Contrary to the Board's contentions, "the hourly rate charged by the Board's attorney is not dispositive in determining whether [petitioner's counsel's] hourly rate was reasonable" in this matter. *Castriotta v. Bd. of Educ. of Twp. of Roxbury*, Commissioner Decision No. 108-13, at 4 (Mar. 21, 2013). That is because "board of education attorneys bill differently than private attorneys because they represent a public entity and benefit from a long-term contract and consistent billing." *Ibid.* The record in this matter lacks any evidence to establish that the \$240 hourly rate—which is more than 50% less than what petitioner's attorney typically charges private clients—was unreasonable. It was only established that the Board attorney's hourly rate was \$165, and that other school districts in Southern New Jersey paid similar rates to their general counsel. Moreover, the record does indicate that hourly rates charged by law firm partners at Dilworth Paxon to New Jersey governmental entities are typically \$250 or higher. For

these reasons, the Commissioner agrees with the ALJ that the fees should be calculated using \$240 as the reasonable hourly rate.

Additionally, the Commissioner finds that the Board's reliance upon *N.J.A.C. 6A:23A-5.2* is misplaced. While *N.J.A.C. 6A:23A-5.2* requires boards of education to establish policies to minimize legal costs,<sup>1</sup> it does not address indemnification claims made pursuant to *N.J.S.A. 18A:12-20*. In fact, "[t]he only restriction the rule places on the type of legal service of which a district may avail itself involves any affirmative cause of action on behalf of individual board members in which damages would benefit the individual rather than the district." *Princeton Int'l Acad. Charter Sch., Inc. v. Princeton Reg'l Schs. Bd. of Educ.*, OAL Dkt. No. EDU 9657-11, Initial Decision at 17 (Nov. 16, 2011), *adopted*, Commissioner Decision No. 124-12 (Apr. 2, 2012). Consequently, *N.J.A.C. 6A:23A-5.2* does not affect the Board's responsibility to pay reasonable attorney fees and costs for indemnification claims made pursuant to *N.J.S.A. 18A:12-20*.

Finally, the Commissioner finds that the Board's newly raised contention that an evidentiary hearing should have been held regarding the reasonableness of the fees lacks merit. In most cases, a court can determine the lodestar and rule upon a request for legal fees "by a review of detailed certifications and argument by counsel, without the need to hear from witnesses." *Furst v. Einstein Moomjy, Inc.*, 182 N.J. 1, 24 (2004). "[A] plenary hearing should be conducted only when the certifications of counsel raise material factual disputes that can be resolved solely by the taking of testimony." *Ibid*. The Supreme Court of New Jersey has "strongly

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<sup>1</sup> "*N.J.A.C. 6A:23A-5.2* was promulgated to ensure accountability in districts when drafting cost effective policies . . . ." *Nelson v. Elizabeth Bd. of Educ.*, 466 N.J. Super. 325, 342 (App. Div. 2021).

discourage[d] the use of an attorney-fee application as an invitation to become mired in a second round of litigation.” *Ibid.* Here, nothing in the Board’s certification in opposition to summary decision raises a material factual dispute regarding petitioner’s counsel’s certification of fees and costs that can only be resolved via the taking of testimony. Therefore, the ALJ did not need to hold an evidentiary hearing prior to ruling upon the fee application.

Accordingly, the Initial Decision is adopted as the final decision in this matter. The petition of appeal is hereby granted. The Board is ordered to pay petitioner’s reasonable attorney fees in the amount of \$68,472 and costs in the amount of \$674.93 for a total of \$69,146.93.

IT IS SO ORDERED.<sup>2</sup>



ACTING COMMISSIONER OF EDUCATION

Date of Decision:      October 10, 2024  
Date of Mailing:      October 11, 2024

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<sup>2</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. EDU 02418-24

AGENCY DKT. NO. 92-6/21

(ON REMAND EDU 05603-21)

**MICHAEL SKOWRONSKI,**

Petitioner,

v.

**BOARD OF EDUCATION OF EAST  
GREENWICH, GLOUCESTER COUNTY,**

Respondent.

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**Benjamin W. Spang**, Esq., for petitioner (Dilworth Paxson, LLP, attorneys)

**Steven J. Edelstein**, Esq., for respondent (Weiner Law Group, LLP, attorneys)

Record Closed: August 2, 2024

Decided: August 28, 2024

BEFORE **MARY ANN BOGAN**, ALJ:

**STATEMENT OF THE CASE**

This matter comes before the Office of Administrative Law (OAL) by way of remand from the Appellate Division, for a determination as to the amount due petitioner, Michael Skowronski (Skowronski), for indemnification for legal fees and costs from respondent,

the East Greenwich Board of Education (Board), under N.J.S.A. 18A:12-20. For the reasons set forth below, the costs and fees are awarded in its entirety.

### **PROCEDURAL HISTORY**

The underlying case in which petitioner seeks indemnification began when Dr. James J. Lynch, the Board superintendent, filed a three-count complaint (the Ethics Complaint) on behalf of the Board with the School Ethics Commission (Commission) alleging that Skowronski violated provisions of the School Ethics Code, as well as the New Jersey Open Public Meetings Act. On March 14, 2019, Skowronski filed a motion with the Commission to dismiss the Ethics Complaint filed by the Board in lieu of an answer. When Skowronski demanded indemnification from the Board, the Board advised Skowronski that it would not consider his claim for indemnification until the conclusion of the Ethics Complaint. In a decision dated June 20, 2019, the Commission granted Skowronski's motion in part, dismissing Counts 1 and 2 of the Ethics Complaint, but denied Skowronski's motion with respect to Count 3, which alleges a violation of the State Ethics Code, N.J.S.A. 18A:12-24.1(g), for sending an email on January 22, 2019, to fellow members of the Board and copying a non-Board member. N.J.S.A. 18A:12-24.1(g) pertains to the duty of the Board member to hold matters confidential that if disclosed would needlessly injure individuals or the schools. The remaining count of Skowronski's complaint was transmitted to the OAL, where it was filed on July 25, 2019, under docket number EEC 10213-19. In an initial decision dated February 2, 2020, the Administrative Law Judge (ALJ) concluded that Dr. Lynch failed to prove that Skowronski had violated N.J.S.A. 18A:12-24.1(g). In its May 19, 2020, decision, the Commission adopted the ALJ's factual findings but found that Skowronski had violated N.J.S.A. 18A:12-24.1(g) and recommended a penalty of reprimand. The New Jersey Commissioner of Education determined that the Commission's decision was supported by sufficient credible evidence and that Skowronski had failed to establish that the decision was arbitrary, capricious, or contrary to law. Lynch v. Skowronski, East Greenwich Twp. Bd. of Educ., Gloucester Cnty., #284-20SEC, Comm'r Decision (December 15, 2020), <https://www.nj.gov/education/legal/>; N.J.A.C. 6A:4-1.1. Skowronski's request for reconsideration was denied by the Commissioner. Skowronski did not appeal the Commissioner's decision.

Thereafter, after the conclusion of the Ethics Complaint and subsequent appeals, Skowronski again demanded indemnification on February 25, 2021. On March 22, 2021, counsel for the Board advised that the demand for indemnification was denied.

On May 27, 2021, Skowronski filed a petition with the Commissioner of Education seeking indemnification pursuant to N.J.S.A. 18A:12-20. The matter was transmitted to the OAL, where it was received on July 2, 2021, and filed for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. A prehearing conference was conducted, after which the parties agreed to and requested time to file motions for summary decision on the issue of whether the Board should indemnify petitioner for legal fees and costs incurred in defending this action. An initial decision for summary disposition was issued on May 5, 2022, granting summary decision in favor of Skowronski and finding the Board was required to indemnify him pursuant to N.J.S.A. 18A:12-20. On June 16, 2022, the Commissioner of Education issued a final decision affirming the decision and ordered the Board to pay Skowronski for reasonable legal fees and costs in connection with this matter.

On July 26, 2022, the Board filed a notice of appeal of the Commissioner's decision to the Appellate Division. The parties were directed to participate in the Civil Appeals Settlement Program and attend a settlement conference. No settlement was reached, and the appeal process continued after submission of written briefs, appendixes, and oral argument. On January 16, 2024, the Appellate Division issued a decision affirming the Commissioner of Education's decision to order indemnification of fees and costs. On the same day, Skowronski wrote to the Board seeking payment of the costs and fees. After the Board did not respond, Skowronski sent correspondence to the Commissioner of Education requesting a determination of the fees and costs owed, and the matter was transmitted on remand to the OAL for a determination regarding the amount of fees and costs following the Appellate Division decision.

### **FINDINGS OF FACT**

The facts relevant to the legal fees charged by Skowronski's counsel, Dilworth Paxson, LLP, are not in dispute, and I **FIND**:

Skowronski initially retained Benjamin W. Spang, Esq. (Spang) with the firm of Dilworth Paxson, LLP (Dilworth Paxson) to represent him in connection with the Ethics Complaint brought against him by Dr. James Lynch before the Commission, and additionally for the indemnification claim against the Board. Spang has represented Skowronski on various matters since 2016. He is a partner with the firm and practices general litigation. (Exhibit P-A.) Spang has experience representing governmental entities and has knowledge of its billing practices. Spang previously charged governmental rates when he served as litigation counsel for the County of Cumberland, and pursuant to the agreement with the county, Dilworth Paxson charged \$250 per hour for all attorneys working on those matters. Dilworth Paxson is currently retained by other governmental entities and charges \$250 per hour for all attorneys working on those matters.

The standard hourly rate for services charged by Dilworth Paxson to its clients is currently \$490 per hour. As an accommodation to Skowronski, Dilworth Paxson reduced its hourly rate in this case for charges for services to \$240 since the firm was retained in 2019. No portion of the fee charge is or was contingent upon the outcome of the matter.

The time expended by Dilworth Paxson on behalf of Skowronski totaled 277 hours as of May 31, 2024. Dilworth Paxson has submitted itemized, detailed timesheets that delineate how the time was actually spent. (Exhibit P-B.) In June 2024, Spang also certified that he spent 8.3 hours on this matter to research and prepare for this motion for summary disposition. The total amount of time spent on this matter is 285.3 hours, resulting in fees to Skowronski of \$68,472 (285.3 hours x \$240 per hour). True copies of invoices for this work billed to Skowronski through June 2024 have been submitted and reviewed. Ibid.

The firm of Dilworth Paxson has also incurred expenses on Skowronski's behalf in the amount of \$674.93. Dilworth Paxson has submitted an itemized, and detailed list of expenses in addition to the attorney fees which have also been reviewed. Ibid.

Together, Skowronski requests that he be awarded attorney fees in the amount of \$68,472 and costs in the amount of \$674.93 for a total award of \$69,146.93.

### **LEGAL ANALYSIS AND CONCLUSIONS OF LAW**

The Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, allow a party to "move for summary decision upon all or any of the substantive issues in a contested case." N.J.A.C. 1:1-12.5(a). Such a motion "shall be served with briefs and with or without supporting affidavits." N.J.A.C. 1:1-12.5(b). A judge may grant a motion for summary decision "if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." Ibid. If a motion is "made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding." Ibid.

N.J.S.A. 18A:12-20 provides in pertinent part:

Whenever a civil, administrative, criminal or quasi-criminal action or other legal proceeding has been or shall be brought against any person for any act or omission arising out of and in the course of the performance of his duties as a member of a board of education . . . the board of education shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom . . . .

The amount of fees paid to indemnify Skowronski is based on the criteria set forth in Walker v. Giuffre, 209 N.J. 124; Rendine v. Pantzer, 141 N.J. 292; and R. 4:42-9. The Supreme Court in Walker reconfirmed that a fee award must start with a calculation of the

“lodestar,” derived by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate. Walker, 209 N.J. at 130.

Our Supreme Court has directed that the fees sought should not be accepted “passively,” but rather evaluated carefully and critically for reasonableness. Id. at 131. A fee application must be supported by “fairly definite information as to the hours devoted . . . and the hours spent by various classes of attorneys.” Ibid. Moreover, a reduction may be appropriate if “the hours expended, taking into account the damages prospectively recoverable, the interests to be vindicated, and the underlying statutory objectives, exceed those that competent counsel reasonably would have expended.” Rendine, 141 N.J. at 366.

Relative to the hourly rate charged, it must be calculated “‘according to the prevailing market rate in the relevant community’ and should include an assessment of the ‘experience and skill of the prevailing party’s attorney and [a] compar[ison] . . . to the rates prevailing in the community for similar services’ by comparable attorneys.” Walker, 209 N.J. at 132 (citing Rendine, 141 N.J. at 337). A reasonable hourly rate is one charged by “an adequately experienced attorney possessed of average skill and ordinary competence—not those that would be set by the most successful or highly specialized attorney in the context of private practice.” Walker, 209 N.J. at 132–33 (citing Singer v. State, 95 N.J. 487, 500–01 (1984)).

Finally, the reasonableness of the fee must be informed by the criteria set forth in R.P.C. 1.5(a), which provides that:

A lawyer’s fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) whether the fee is fixed or contingent.

Petitioner asserts that the rate of \$240 per hour is reasonable and almost fifty percent lower than Dilworth Paxson's standard hourly rate charged to private clients for his services and is less than the standard government hourly rate the firm charges when representing various state, county, and local governmental entities that typically begin at \$250 per hour.

The Board urges that its attorneys bill \$165 per hour for their services as general counsel and urges that a similar rate be applied here.

Rendine and its progeny require a reasonableness determination based on the "prevailing market rates in the relevant community . . . for similar services." Rendine, 141 N.J. at 337 (citation omitted). The Board urges that the relevant community is comprised of general counsel practitioners who focus on the representation of boards of education and bill \$165 per hour. The Board also seeks consideration for the small size of the District, which has fewer students and an annual budget of about \$24,000,000. The Board is seeking a fee from a public entity that pays its attorneys at a reduced rate because it has a fiduciary duty to the taxpayers to minimize legal fees and expenses. That fiduciary duty is memorialized in regulation. N.J.A.C. 6A:23A-5.2.

The Board's argument is unpersuasive. Spang did not represent the entity, does not base his business model on the fees that can be reasonably generated from such representation, and even so, in this matter, charged less than the standard government hourly rate of \$250 that Dilworth Paxson charges for its litigation services when it represents governmental entities, to an individual who would typically pay the firm's \$490 hourly rate. Although government agencies and public entities like the Board generally

pay a lower rate than private individuals for legal services, here, this is a private client who after seeking indemnification from the Board, retained Dilworth Paxson for a lawsuit that lasted five years against a school district. This legal relationship differs from contracted work and consistent billing opportunity between the public entity and the firm it retains for services that undoubtedly are consistent and longer term. Furthermore, even though as the Board argues this client is a smaller school with a smaller budget, there were numerous opportunities to calculate the risk that it undertook that would require the smaller district to be forced to indemnify the Board member even if the petitioner did not win. Instead, even though the Board had many opportunities to cut its losses, it decided to move forward.

Accordingly, I **CONCLUDE** that the rate of \$240 per hour agreed to between Dilworth Paxson and Skowronski is a reasonable hourly rate.

Spang certifies that he spent 285.3 hours in representing Skowronski relative to his claims against the Board. The Board concludes that the same result could have been achieved in fewer hours and seeks a reduction of the number of hours to 177 and points out that the ethics violation was not overturned. The Board maintains that if the award was calculated using the hours reduced to 177 and the rate reduced to \$165, the total amount to be reimbursed would be \$29,205, plus costs. As to the number of hours spent, petitioner submitted detailed, and itemized invoices reflecting the time spent and the costs incurred by the firm in the representation of Skowronski's interests, which have been reviewed, and I am unable to agree with the Board that the hours logged, or costs are excessive. This matter included two plenary hearings before the OAL; the filing of motions; the filing and perfecting of an appeal and representation of his client before the Appellate Division. Counsel needed to research the relevant law and, at each phase of the process, prepare and file briefs and affidavits. The work in question spanned the course of approximately five years.

Here the Board fails to particularize how the results could have been achieved in fewer hours in order to demonstrate that 285.3 hours was unreasonable and should then be reduced to 177 hours.

Indemnification may be granted to school board members regardless of the success of the case result. Petitioner took all appropriate steps to seek the Board's indemnification when the case began and was denied. Had the Board agreed to indemnify the petitioner at the inception of the case, it would likely have reduced the amount of its fees and costs.

Accordingly, I **CONCLUDE** that the firm of Dilworth Paxson reasonably expended 285.3 hours on this matter.

In summary, I **CONCLUDE** that the petitioner has demonstrated that the fees and costs sought are reasonable and petitioner is entitled to be indemnified for counsel fees in the amount of \$68,472, plus expenses in the amount of \$674.93, for a total amount of \$69,146.93.

### **ORDER**

Based on the foregoing, it is **ORDERED** that the Board shall defray the total cost of petitioner's legal fees and expenses in the amount of \$69,146.93

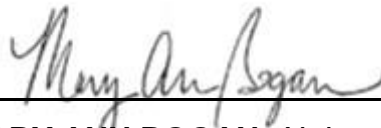
I hereby **FILE** this Initial Decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, P.O. Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

August 28, 2024

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency:

August 28, 2024

Date Mailed to Parties:

August 28, 2024

MAB/sg/nn

**APPENDIX**

**EXHIBITS**

**For petitioner**

P-A Benjamin W. Spang, Esq.'s biography

P-B Dilworth Paxson LLP invoices for work billed through May 31, 2024