

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-027-14

(UNFAIR LABOR PRACTICE)

JACKSON COUNTY,)
)
 Complainant,)
)
 v.)
)
 SEIU LOCAL 503, OPEU/JACKSON)
 COUNTY EMPLOYEES ASSOCIATION,)
)
 Respondent.)
 _____)

FINDINGS AND ORDER
ON RESPONDENT’S PETITION
FOR REPRESENTATION COSTS

On August 11, 2015, this Board issued an order that dismissed the complaint filed by Jackson County (the County) against SEIU Local 503, OPEU/Jackson County Employees Association (the Association). *See* 26 PECBR 501 (2015). The Association timely filed a petition for representation costs, and the County timely filed objections to the petition. Pursuant to ORS 243.676(3)(b) and OAR 115-035-0055, this Board finds that:

1. The Association is the prevailing party. *See* OAR 115-035-0055(1)(b).
2. This case required one day of hearing.
3. The Association requests an award of \$4,907.50, based on 24.5 hours of attorney time at \$170 per hour and 4.5 hours of attorney time at \$165 per hour.
4. The Association’s hourly rate is reasonable. *See Oregon School Employees Association v. North Clackamas School District*, Case No. UP-017-13, 26 PECBR 129, 130 (2014) (Rep. Cost Order) (the average rate for representation costs is between \$165 and \$170 per hour).
5. The County objects to the petition on the ground that the time spent by Association counsel on one particular task was excessive. We generally consider the average time spent on a case in its totality, as opposed to looking at the minutiae of how much time was spent on any given activity. Using our general approach, the time claimed by the Association (29 hours) is significantly less than that spent on an average case that requires one day of hearing. *See id.* (cases

generally require an average of 45 to 50 hours per day of hearing). Following that approach, we consider the Association's claimed hours to be reasonable.¹

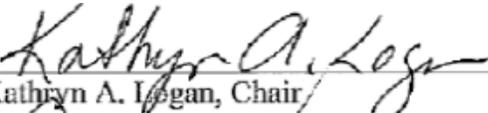
6. An average award is generally one-third of the reasonable representation costs of the prevailing party, subject to the \$5,000 cap in OAR 115-035-0055(1)(a). Reasonable representation costs are costs that are calculated using the Board's criteria of hourly rate and number of hours. As this case meets the applicable criteria, we will award the Association one-third of its claimed representation costs.

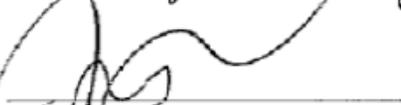
7. Having considered the purposes and policies of the Public Employee Collective Bargaining Act, our awards in prior cases, and the reasonable costs of services rendered in this case, this Board awards representation costs to the Association in the amount of \$1,636.

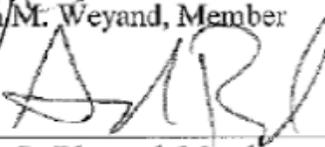
ORDER

The County shall remit \$1,636 to the Association within 30 days of the date of this Order.

DATED this 23 day of October 2015.


Kathryn A. Logan, Chair


Jason M. Weyand, Member


Adam L. Rhynard, Member

This Order may be appealed pursuant to ORS 183.482

¹Under OAR 115-035-0055(3)(b), a party that objects to costs "based on excessive time spent must submit a supporting affidavit describing the amount of time spent on the case by the objecting party." Here, the County submitted such an affidavit, which acknowledged that the County spent 92 hours on the case. Although the County acknowledges that the time spent by its counsel significantly exceeds the time spent by Association counsel, the County asserts that the discrepancy is explained by the Respondent's failure to file an answer, and the ruling that limited the Association to making legal argument. *See* 26 PECBR at 502. However, even taking into consideration that ruling, we conclude that the County's affidavit supports our conclusion that the totality of the time claimed by the Association falls within the range of reasonableness.