

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-51-02

LINCOLN COUNTY EMPLOYEES)
ASSOCIATION,)

Complainant,)

v.)

LINCOLN COUNTY,)

Respondent.)
_____)

FINDINGS AND ORDER
ON RESPONDENT'S PETITION
FOR REPRESENTATION COSTS

This Board issued an Order in this case on May 22¹. Respondent filed a petition for representation costs on May 28. Complainant filed objections to the petition on June 3. Respondent submitted a reply to the objections on June 9. Pursuant to Board Rule 115-35-055, this Board makes the following findings:

1. Respondent is the prevailing party.
2. Respondent filed a timely petition for representation costs, and Complainant filed timely objections to the petition.
3. Respondent seeks an award of \$2,565. The amount sought is based on 28.5 hours of legal services valued at \$90 an hour.
4. This case required a one-day hearing and post-hearing briefs. No objections were filed to the administrative law judge's recommended decision. Both the number of hours claimed and the hourly rate are below the average in similar cases.

Complainant objects to the petition for two reasons. First, Complainant asserts that the petition does not comply with the requirement that the request be " * * * supported by an affidavit that describes in detail the * * * basis for the amount of costs

¹All dates are 2003.

requested." OAR 115-35-055(2)(b). We reviewed Respondent's affidavit and find that the basis for the claim, though brief, is adequate.

Complainant's second grounds for objection is that the petition includes a claim for costs not " * * * directly connected with * * * defending against the unfair labor practice charge." OAR 115-35-055(1)(c)(A). The petition does claim about eight hours of legal services that were provided before the complaint was filed. We will take this into account in calculating the award.

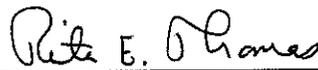
5. The complaint alleged that Respondent violated ORS 243.672(1)(a) by threatening a bargaining unit member with discipline if she insisted on representation in a meeting with her supervisor and denying her request for representation in the meeting. We concluded that there was no credible evidence to support the allegation of a threat of discipline. We also concluded that, under the facts presented, Respondent's refusal to allow the unit member to have a representative present for the meeting was not unlawful. The complaint was not frivolous, however, and we used the case to further explain our application of *Weingarten* principles under the Public Employee Collective Bargaining Act (PECBA). Under the circumstances, an average award of representation costs is appropriate.

Having considered the purposes and policies of the PECBA, our awards in similar cases, and the appropriate charges for services rendered, this Board awards Respondent representation costs of \$750.

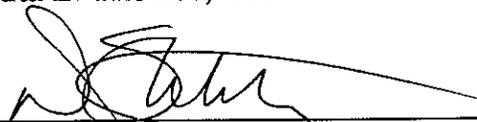
ORDER

Complainant shall remit \$750 to Respondent within 30 days of the date of this Order.

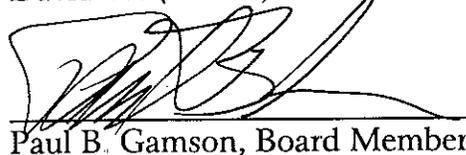
DATED this 31st day of July 2003.



Rita E. Thomas, Chair



David W. Stiteler, Board Member



Paul B. Gamson, Board Member

This Order may be appealed pursuant to ORS 183.482.