

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-53-00

LINCOLN COUNTY EDUCATION)
ASSOCIATION,)

Complainant,)

v.)

LINCOLN COUNTY SCHOOL DISTRICT,)

Respondent.)
_____)

FINDINGS AND ORDER
ON COMPLAINANT'S PETITION
FOR ATTORNEY FEES
ON APPEAL

This Board issued an Order in this matter on February 22, 2002, and a Supplemental Order on May 13, 2002. Respondent filed a petition for judicial review. The Court of Appeals affirmed the Order on March 20, 2003. (87 Or App 92 (2003).) Complainant filed this petition for attorney fees on appeal on April 9, 2003. Respondent filed objections to the petition on April 30, 2003. An appellate judgment was issued by the court on May 14, 2003. Pursuant to Board Rule 115-35-057, this Board makes the following findings:

1. The appellate judgment names Complainant the prevailing party.
2. Complainant filed a timely petition for attorney fees.¹ Respondent filed timely objections.
3. Complainant requests an award of \$3,500, the maximum allowed in most circumstances. The request is based on 34 3 hours of legal services billed at \$135, \$125, \$90, and \$65 a hour. The total amount billed for services was \$4,206.

¹Complainant's petition was technically premature. However, we accept such filings where there is no evidence that the opposing party was prejudiced by the premature filing.

4. The appeal required Complainant to brief the case and make argument to the court. Complainant was also required to respond to Respondent's petition for a stay of the Order. The number of hours claimed and the hourly rates are reasonable.

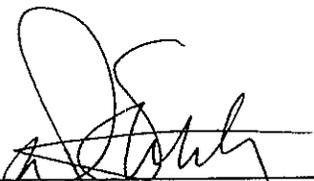
5. The issue was whether Respondent unilaterally changed student contact time for certain bargaining unit members. We concluded that it had, and the Court of Appeals affirmed. We find nothing in the circumstances of the case that would support anything other than an average award.

Having considered the policies and purposes of the Public Employee Collective Bargaining Act, the appropriate charges for services, and our awards in similar cases, this Board awards Complainant attorney fees of \$1,400.

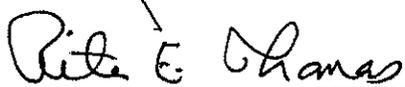
ORDER

Respondent will remit \$1,400 to Complainant within 30 days of the date of this Order.

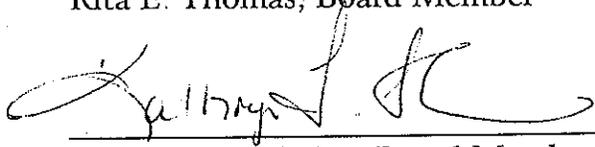
DATED this 20th day of May 2003.



David W. Stiteler, Chair



Rita E. Thomas, Board Member



Kathryn T. Whalen, Board Member

This Order may be appealed pursuant to ORS 183.482.