

Annual Report on the Award of Attorney Fees



Report Pursuant to Conn. Gen. Stat. § 46a-86(b)

FY 2021

Introduction

The Connecticut Commission on Human Rights and Opportunities (CHRO) is responsible for the enforcement of the state's civil rights laws. Complaints of discrimination filed with the agency are first processed administratively. Complaints that are certified after an investigation as having reasonable cause to have a bona fide belief that the material issues of fact are such that a person of ordinary caution, prudence and judgment could believe the facts alleged in the complaint are sent to the Office of Public Hearings for a *de novo* hearing on the merits. Complaints may also be sent to the Office of Public Hearings following a determination made through the Early Legal Intervention process as outlined in Conn. Gen. Stat. § 46a-83(e).

If, upon all the evidence presented at a hearing before the Office of Public Hearings, the presiding officer finds that a respondent has engaged in any discriminatory practice, the presiding officer shall issue an order requiring the respondent to cease and desist from the discriminatory practice and take such other actions as is necessary. Such further action may include the payment of damages suffered by the complainant as well as reasonable attorney's fees and costs. The amount of attorney fees is not contingent upon the amount of damages requested by or awarded to the complainant.

Pursuant to Conn. Gen. Stat. 46a-86(b), the Commission is required to report to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary on the Commission's award of reasonable attorney's fees and costs. The report shall include but not be limited to: (1) the awards of reasonable attorney's fees and a comparison of such awards to awards of damages; (2) the category of complaint for which damages and attorney's fees are awarded; (3) the Commission's methodology for calculating awards of reasonable attorney's fees and costs; (4) data on the number of employees employed by respondents who were subject to awards of reasonable attorney's fees and costs; and (5) the percentage of complainants and respondents represented by counsel in matters in which awards of reasonable attorney's fees and costs are made.

There have been no decisions awarding attorneys fees in the past fiscal year. Due to the COVID-19 pandemic, no public hearings were held during the past fiscal year.

There have been three cases in the past five years where attorney's fees have been awarded. These cases, CHRO No. 1310478 CHRO ex rel. Shanteema Pallet v. Oral Care Dental Group d/b/a Smiles of Hartford ("Pallet"), CHRO No. 1240254 CHRO ex rel. Germaine Gilbert v. State of CT, Judicial Branch ("Gilbert"), and CHRO No. 1120261 CHRO ex rel. Patricia Lopez v. Subway Stratford LLC ("Lopez"), form the basis of this report.

1. Comparison of the awards of reasonable attorney's fees to awards of damages.

All three complaints are employment complaints with awards of back pay, emotional distress damages, and attorney fees. In addition to these dollar amounts, pre-and post-judgment interest is awarded pursuant to Conn. Gen. Stat. § 46a-86(b). As the total amount of interest that must be paid is not specified in every order but rather ordered as a standardized percentage, this amount is not included for purposes of comparison. The awards are as follows:

Case	Back pay	Emotional Distress	Attorney's Fees	Total
Pallet	\$40,398.00	\$25,000.00	\$41,331.80	\$106,729.80
Gilbert	7 days back pay ¹	\$50,000	\$47,637.00	\$97,637.00 + 7 days back pay
Lopez	\$44,033.00	\$500	\$3,000	\$47,533.00

As a percentage of the total awards, the awards of attorney's fees are as follows: Pallet, 39%; Gilbert, 49%; and Lopez, 6%.

2. The category of complaint for which attorney's fees are awarded.

All three complaints are employment based complaints. Pallet is a complaint based on the protected class status of sex. Gilbert is a complaint based on the protected class status of sex and prior opposition to discrimination. Lopez is a complaint based on the protected classes of race, sex, national origin, and ancestry. Lopez was a hearing in damages pursuant to an order of default. Gilbert and Pallet were full hearings resulting in a finding of discrimination.

3. The methodology for calculating awards of reasonable attorney's fees.

To determine the amount of attorney's fees to be rewarded, the referees in the three complaints all relied on affidavits from the attorneys regarding the number of hours spent working on the complaint and their reasonable rate. This method, known as the Lodestar Method, is widely adopted by Connecticut courts for determining reasonable attorney's fees.

4. Data on the number of employees employed by respondents who were subject to awards of reasonable attorney's fees.

The three decisions do not provide data on the number of employees employed by the respondents in these cases. All three include allegations that there has been a violation of Conn. Gen. Stat. § 46a-58 through a violation of Title VII on the basis of a protected class. For there to be a violation of Title VII, the employer must employ at least 15 employees. As this element is not discussed in the decisions, it can be assumed that it was not disputed that the employers had at least that number of employees.

5. The percentage of complainants and respondents represented by counsel in matters in which awards of reasonable attorney's fees are made.

All three cases had complainants represented by counsel, so 100% of the complainants were represented. The respondents in Pallet and Gilbert were represented by counsel while the respondent in Lopez was not, so 66% of the respondents were represented. It should be noted that Lopez was a hearing in damages after an order of default. The order was issued pursuant to Sections 46a-54-46(a) and 46a-54-57a(c) of the Regulations of Connecticut State Agencies after the respondent failed to submit an Answer to the complaint.

¹ The decision does not specify exactly how much seven days of back pay amounts to.