CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS
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In the Matter of

COMMISSION ON HUMAN RIGHTS
ex rel. BREHSHIEK MARQUEZ,

Complaint No. M-E-S-17-1034994-E

Petitioner,

-against-

OATH Index No. 434/22

FRESH & CO.,

Respondent.
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DECISION AND ORDER

I. BACKGROUND

On October 30, 2025, the Office of the Chair of the New York City Commission on Human Rights ("Commission") issued a Decision and Order finding Respondent Fresh & Co. ("Respondent") liable for gender-based employment discrimination in violation of Chapter 1 of the New York City Human Rights Law ("NYCHRL"), N.Y.C. Admin. Code § 8-107(1)(a). *See generally Comm'n on Hum. Rts. ex rel. Brehshiek Marquez v. Fresh & Co.*, OATH Index No. 434/22, Comm'n Dec. & Order, 2025 WL 3085471 (Oct. 30, 2025) [hereinafter D&O]. Knowledge of the procedural history and facts of this matter is presumed.

Presently before the Commission is Complainant Brehshiek Marquez's ("Complainant") November 10, 2025 application for attorney's fees ("Application"). After the presiding Administrative Law Judge of the New York City Office of Administrative Trials and Hearings ("OATH") issued a Report and Recommendation, Complainant informed the Commission of her intent to seek attorney's fees, as required by Section 1-66(d) of Title 47 of the Rules of the City of New York ("Commission Rules"). The Application is timely, and it includes the Affirmation of Rita A. Sethi ("Sethi Aff."), a Memorandum of Law ("Mem."), a retainer agreement ("Ex. 1"), and contemporaneous time records ("Ex. 2"). *See* 47 RCNY § 1-81. Complainant properly served the Application on the Commission, the Law Enforcement Bureau of the New York City Commission on Human Rights ("Bureau"), and counsel for Respondent. (*See* Sethi Aff. at 6-7; Mem. at 8). Respondent filed and properly served its opposition to the Application ("Fee Opp'n"), and the Bureau did not submit a response to the Application. *See* 47 RCNY §§ 1-81,

83. Complainant later submitted a timely and properly served reply to Respondent's opposition, in further support of her Application ("Reply").[1] *See id.* § 1-81.

The Application seeks an award of $65,520.00 in attorney's fees. (Sethi Aff. ¶ 1; Mem. at 7). For the reasons set forth herein, the Commission grants the request in part, denies the request in part, and orders Respondent to pay Complainant a total of $45,864.00 in attorney's fees.

II. DISCUSSION

When the Commission finds that a respondent has contravened the New York City Human Rights Law, the Commission may order a respondent to pay a complainant's "reasonable attorney's fees, expert fees[,] and other costs[,]" among other forms of relief. N.Y.C. Admin. Code § 8-120(a)(10). Specifically, the Commission may award fees and costs to a complainant where the Commission has issued a "decision holding a respondent liable for an unlawful discriminatory practice, act of discriminatory harassment, or act of bias-based profiling[,]" and the complainant timely applies to the Commission for an award. 47 RCNY § 1-81. An application must be made within fourteen days of service of a Commission decision as to liability, and it must "include a memorandum and copies of time records, accompanied by an affidavit or affirmation." *Id.* The Commission then issues a supplemental decision and order. *Id.* The Commission has broad discretion in setting fee awards. *See*, *e.g.*, *Lisnitzer v. Shah*, No. 11-CV-4641 (JMA) (ARL), 2022 WL 3931388, at *3 n.2 (E.D.N.Y. July 6, 2022) (stating that although a court "exercises broad discretion in setting the amount of a fee award, it is important . . . to provide a concise but clear explanation of its reasons" (internal citation and quotation marks omitted)); *Guang Ping Zhu v. Salaam Bombay, Inc.*, No. 16-CV-4091 (JPO), 2019 WL 76706, at *1 (S.D.N.Y. Jan. 2, 2019).

A. Legal Standard

Pursuant to the NYCHRL and Commission Rules, the Commission utilizes the lodestar method to determine attorney's fees by "multiplying the number of hours reasonably expended on the case by a reasonable hourly rate." 47 RCNY § 1-82. The Commission is also authorized to "consider matter-specific factors when determining the complainant's attorney's fee award[.]" N.Y.C. Admin. Code § 8-120(a)(10). *See also Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany*, 522 F.3d 182, 186 n.3, 190 (2d Cir. 2008) (setting forth several case-specific variables that courts can consider when determining a reasonable fee award including, but not limited to, "the novelty and difficulty of the questions; . . . whether the fee is fixed or contingent; . . . the amount involved in the case and results obtained; . . . [and] the experience, reputation, and ability of the attorneys" (internal citation omitted)).

[1] When Complainant submitted the Reply, she also submitted a reformatted version of her attorney's time records, which includes the same substance but fixes an issue with column width. (*See* Reply, Ex. 2.1). The Commission relies on the reformatted time records only to the extent that they make the information therein more legible.

The Commission determines a reasonable hourly rate by considering "the skill and experience of the attorney, and the hourly rate typically charged by attorneys of similar skill and experience litigating similar cases in New York county[,]" among other factors. 47 RCNY § 1-82; *see* N.Y.C. Admin. Code § 8-120(a)(10)(ii)-(iii). *See also Arbor Hill*, 522 F.3d at 190-91 (establishing a rebuttable presumption that a reasonable hourly rate is typically determined by the market rates of the judicial district in which the court sits); *Gamero v. Koodo Sushi Corp.*, 328 F. Supp. 3d 165, 173 (S.D.N.Y. 2018) (stating that a court's determination of a reasonable hourly rate "contemplates a case-specific inquiry into the prevailing market rates for counsel of similar experience and skill to the fee applicant's counsel" (quoting *Townsend v. Benjamin Enter., Inc.*, 679 F.3d 41, 59 (2d Cir. 2012))).

The Commission also "assess[es] the amount of time reasonably spent on a matter" by evaluating factors that include "the novelty and difficulty of the issues presented in the case and the degree of success ultimately achieved, including whether the litigation acted as a catalyst to effect policy change on the part of the respondent, regardless of whether that change has been implemented voluntarily." 47 RCNY § 1-82; *see* N.Y.C. Admin. Code § 8-120(a)(10)(i). Time records submitted with a fee application "should be set forth with sufficient particularity to enable an assessment of the accuracy of the records and whether the amount of time expended was reasonable." 47 RCNY § 1-82(b). The Commission has discretion to reduce a fee award "where time records do not adequately describe the nature of the work performed[,]" *id*., and an applicant should "make a good faith effort" to ensure the hours included in their fee application reflect actual legal work performed. *See* 47 RCNY § 1-82(a); *see also Quaratino v. Tiffany & Co.*, 166 F.3d 422, 425 (2d Cir. 1999) (stating that courts should exclude "excessive, redundant[,] or otherwise unnecessary hours" when determining the number of hours reasonably expended). Tasks of a clerical or secretarial nature "should be billed at an administrative rate and tasks which could be performed by a paralegal should be billed as such[,]" regardless of who performs the tasks. 47 RCNY § 1-82(a). *See also Lilly v. City of New York*, 934 F.3d 222, 234 (2d Cir. 2019) (finding that district court did not commit legal error by reducing fee award to account for clerical tasks performed by an attorney).

B. Analysis

In the present Application, Complainant seeks an award of attorney's fees in the amount of $65,520.00. (Mem. at 5-7). The Application seeks a rate of $400.00 per hour for Complainant's attorney (Sethi Aff. ¶ 16), and the submitted time records show that the attorney expended 163.8 hours on Complainant's case (Ex. 2), which results in a lodestar amount of $65,520.00 in attorney's fees. (*See* Sethi Aff. ¶ 1; Mem. at 7). The Commission must therefore decide whether the requested fee award is reasonable under the lodestar method, consistent with general practice in the Second Circuit and Commission Rules. *See* 47 RCNY § 1-82; N.Y.C. Admin. Code § 8-120(a)(10). For the reasons set forth below, the Commission determines that $45,864.00 is a reasonable fee award in this matter.

1. Reasonableness of the Hourly Rate

As set forth above, the Commission will determine a reasonable hourly rate for Complainant's attorney by considering, *inter alia*, the "skill and experience" of the attorney, N.Y.C. Admin. Code § 8-120(a)(10)(ii); 47 RCNY § 1-82, and "the hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county." N.Y.C. Admin. Code § 8-120(a)(10)(iii); 47 RCNY § 1-82. To account for the fact that attorney's fees are typically paid at the end of a case, current market rates are used to assess the reasonableness of the requested hourly rate. *Perdue v. Kenny A.*, 559 U.S. 542, 556 (2010) (stating that "compensation for [the] delay [in payment of fees in federal civil rights cases] is generally made either by basing the award on current rates or by adjusting the fee based on historical rates to reflect its present value" (internal citation and quotation marks omitted)); *Ravina v. Columbia Univ.*, No. 16-CV-2137 (RA), 2020 WL 1080780, at *7 (S.D.N.Y. Mar. 6, 2020) (noting that the Second Circuit has "remanded fee awards in employment discrimination suits where the district court failed to award fees at current rates").

Complainant seeks fees for attorney Rita Sethi ("Sethi") at an hourly rate of $400.00. (*See* Sethi Aff. ¶¶ 1, 16; Mem. at 6). Since 2014, Sethi has been employed as Of Counsel to Stoll, Glickman & Bellina LLP ("Stoll" or "Firm"), a New York City law firm focusing on "civil rights litigation, criminal defense, and predominantly employees' side employment law." (Sethi Aff. ¶¶ 1, 10). Sethi has represented Complainant since Complainant retained the Firm in October 2016. (*Id.* ¶ 8). During her time with the Firm, Sethi has handled "dozens of plaintiff-side employment matters [involving civil rights, wage-and-hour, and whistleblower claims] . . . before administrative agencies and in state and federal court[,]" and she has "specialized in employment and housing discrimination law since 1992." (*Id.* ¶¶ 11, 12). Since 2010, Sethi has been an adjunct professor at the Maurice E. Deane School of Law at Hofstra University, teaching "lawyering skills, employment discrimination law[,] and fair housing law at several New York area law schools." (*Id.* ¶ 12). Sethi regularly lectures on employment law, and she provides mediation services. (*Id.* ¶¶ 13, 14).

Sethi's uncontested[2] hourly rate of $400.00 falls within the range of rates that federal courts in the Southern District of New York have approved for similarly situated attorneys in other employment discrimination cases, which weighs in favor of finding the requested rate reasonable. *See*, *e.g.*, *Ravina*, 2020 WL 1080780, at *5 (awarding hourly rates between $550.00 and $780.00 to partners and rates between $480.00 and $550.00 to senior litigation counsel in an employment discrimination case with NYCHRL claims); *Lewis v. American Sugar Refining, Inc.*, No. 14-cv-02302 (CRK), 2019 WL 116420, at *4 (S.D.N.Y. Jan. 2, 2019) (collecting cases) (stating that Southern District courts have "approved hourly rates of $250[.00] to $600[.00] for

[2] As discussed *infra*, Respondent's opposition does not raise a specific objection to the hourly rate sought for Complainant's counsel. As such, the Commission will not address Respondent's opposition in this section.

civil rights attorneys with over ten years of experience[,]" and awarding hourly rates of $450.00 and $500.00 to partners in an employment discrimination case with NYCHRL claims).[3]

The Commission may consider various case-specific factors in determining a fee award, including that a case was handled on a contingency fee basis. *See Lilly*, 934 F.3d at 228, 230 (stating that "whether the fee is fixed or contingent" is one of many factors used to determine a reasonable hourly rate). Here, Complainant's retainer agreement shows that Stoll handled her case on a contingency fee basis. (*See* Ex. 1). Although Complainant ultimately prevailed in this matter, the Commission notes that when an attorney is retained on a contingency fee basis, they engage in representation without any guarantee of payment. *See Ravina*, 2020 WL 1080780, at *6 (finding that legal representation on a contingency fee basis "counsels in favor of a larger fee award"). Reasonable fee awards can incentivize representation in individual anti-discrimination cases and encourage enforcement of statutes like the NYCHRL "by induc[ing] a capable attorney to undertake the representation of a meritorious civil rights case." *Restivo v. Hessemann*, 846 F.3d 547, 589 (2d Cir. 2017) (quoting *Perdue*, 559 U.S. at 552).

The Commission finds that an hourly rate of $400.00 is reasonable because Sethi has many years of specialized experience with employment discrimination cases, her requested rate is consistent with current market rates, and the Firm handled Complainant's case on a contingency fee basis.

2. Reasonableness of Hours Expended on the Case

The Commission must also determine the hours reasonably expended on the case, which involves assessing the novelty and difficulty of the issues presented and the party's degree of success, among other factors. *See* N.Y.C. Admin. Code § 8-120(a)(10)(i); 47 RCNY § 1-82. Potential policy change is one way to measure a party's degree of success. *See* 47 RCNY § 1-82.

a. Novelty and Difficulty of the Issues Presented in the Case

The underlying case involved gender-based harassment, workers' rights, and gender equality in the workplace as well as policies and systems to prevent and respond to allegations of harassment, all of which are critically important to address persistent inequities. *See*, *e.g.*, Jocelyn Frye, *Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment Across Industries Affects All Workers*, CTR. FOR AM. PROGRESS (Nov. 20, 2017), https://www.americanprogress.org/article/not-just-rich-famous/ (finding that sexual harassment "occur[s] on a daily basis and across all industries[,]" and that "women—particularly women of color—are more likely to work lower-wage jobs, where power imbalances are often more pronounced and where fears of reprisals or losing their jobs can deter victims from coming forward"). The legal issues were typical of gender-based harassment cases, but there were

[3] The Commission notes that the hourly rates awarded in these cases would likely be higher today if adjusted for inflation. *See*, *e.g.*, *Ravina*, 2020 WL 1080780, at *6-7 (adjusting fee awards in similar cases for inflation as part of court's evaluation of requested rates).

complex issues of fact that required additional consideration. Witness testimony and corroborating evidence demonstrated that (1) Complainant endured sexual harassment by one of Respondent's managerial employees; (2) Respondent's managerial employees failed to prevent or adequately respond to Complainant's allegations; and (3) the hostile work environment persisted over time. *See generally* D&O. Considering the size and nature of the litigation, this factor supports the finding that the time expended by Complainant's counsel was reasonable.

b. Degree of Success Ultimately Achieved

The degree of success ultimately achieved is another important factor in assessing the time reasonably spent on a case. *See* 47 RCNY § 1-82. The Commission evaluates the degree of success by considering "[b]oth the quantity and quality of the relief obtained, as compared to what the plaintiff sought to achieve as evidenced in [the] complaint." *Ravina*, 2020 WL 1080780, at *4 (quoting *Barfield v. New York City Health & Hosps. Corp.*, 537 F.3d 132, 152 (2d Cir. 2008)).

In this case, Complainant succeeded on the merits of her hostile work environment claim,[4] which resulted in the Commission awarding Complainant $45,000.00 in emotional distress damages and assessing a $60,000.00 civil penalty against Respondent. *See* D&O at 15, 17. Furthermore, the Decision and Order requires Respondent to (1) mandate all of its New York City-based employees to attend the Commission's Human Rights Law Overview training; (2) create, implement, and distribute new, Commission-approved anti-discrimination and anti-sexual harassment policies to all current and future New York City-based employees; (3) create an effective process to monitor oral and written harassment complaints; and (4) post the Commission's Notice of Rights poster and Anti-Sexual Harassment Notice in all of Respondent's New York City locations. *Id.* at 17. This affirmative relief aims to generate significant policy change at the workplace where Complainant experienced discrimination while underscoring what New York City employers must do to adequately comply with the NYCHRL's protections against gender-based discrimination. The various remedies ordered by the Commission illustrate the success of litigating Complainant's case and support the reasonableness of the hours spent on this matter.

c. Sufficiency of Counsel's Time Records

As part of its assessment of the hours reasonably expended on the case, the Commission also considers attorney time records. 47 RCNY § 1-82(b). An attorney's time records must

[4] Although Complainant did not prevail on her constructive discharge claim, *see* D&O at 8-9, her claims "involve[d] a common core of facts [and] . . . related legal theories." *Green v. Torres*, 361 F.3d 96, 98 (2d Cir. 2004) (alterations added) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983)). Given that the claims are "inextricably intertwined[,]" attorney's fees can be awarded on the unsuccessful constructive discharge claim as well as the successful hostile work environment claim. *See Quaratino*, 166 F.3d at 425; *see also Wilson v. Nomura Sec. Int'l, Inc.*, 361 F.3d 86, 90-91 (2d Cir. 2004) (finding that where a plaintiff "fails to prove one of two overlapping claims—e.g. a discriminatory discharge—but prevails on the other—e.g. retaliation for complaining of discrimination—the plaintiff may recover fees for all the legal work").

contain "sufficient particularity" to allow the Commission to assess the accuracy of the records and the reasonableness of the proffered hours. *Id.* Fee awards should reflect whether time records adequately describe the nature of the work performed, *id.*, and whether time billed is excessive, redundant, or otherwise unnecessary. *Id.* § 1-82(a). The Commission also evaluates whether any work billed at an attorney rate is clerical or administrative in nature. *Id.* Clerical and administrative work must be billed at a paralegal or administrative rate, regardless of whether an attorney performs those tasks. *See id.*

Adjudicators like the Commission may consider their "overall sense" of a case and "use estimates in calculating and allocating an attorney's time[]" when reviewing time records. *Fox v. Vice*, 536 U.S. 826, 838 (2011). Where concerns arise, such as vagueness or redundancy, the Commission can reduce fees based on individual time entries or "make across-the-board percentage cuts in the number of hours claimed." *Maldonado v. La Nueva Rampa, Inc.*, No. 10 Civ. 8195(LLS)(JLC), 2012 WL 1669341, at *14 (S.D.N.Y. May 14, 2012); *see also Mayo-Coleman v. American Sugars Holding, Inc.*, No. 14 Civ. 0079 (PAC), 2019 WL 1034078, at *5 (S.D.N.Y. Mar. 5, 2019) (stating that courts "typically apply an across the board reduction to the hours billed" in response to vague, duplicative, or unnecessary billing entries). Rather than relying on hindsight to evaluate time records, the Commission must consider whether "a reasonable attorney would have engaged in similar time expenditures" at the time that the work was performed. *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992).

i. The Parties' Briefing

Complainant's Application asserts that Sethi billed a total of 163.8 hours since Complainant retained the Firm on October 16, 2016. (*See* Sethi Aff. ¶¶ 1, 8). Over the course of a nine-year representation, Sethi "zealously" represented Complainant throughout all stages of litigation including, but not limited to, "contacting witnesses and developing evidence, preparing [Complainant] and her witnesses for testimony at . . . trial, conducting and preparing for depositions, participating in trial strategy and preparation, [and] participating in the [] trial . . . all of which were necessary and commensurate with ensuring that [Complainant's] rights as an intervenor . . . were prioritized." (Mem. at 4). The Application emphasizes that Sethi's representation was of critical significance "in initially framing Complainant's claims and readying her for the Commission's interview, as these actions led to the finding of Probable Cause[,]" as well as drafting Complainant's comments to the Office of the Chair, wherein she sought additional emotional distress damages. (*Id.* at 4-5). The Application asserts that Sethi's "legal advocacy resulted in an upward increase of [Complainant's] emotional distress damages to $45,000[.00]." (*Id.* at 5).

Respondent opposes Complainant's Application for attorney's fees, claiming that "Complainant's attorney had a minimal, almost non-existent role in the presentation of this matter at hearing." (Fee Opp'n at 2). Respondent argues that it would be "extraordinarily unfair and punitive" to "compel a small employer . . . to pay for the services of an attorney who had no

role in litigating this case, and who had agreed in writing to accept a contingency fee from the Complainant." (*Id.*)[5]

Complainant submitted a Reply to further support her Application, asserting that Sethi litigated the case alone from October 2016 until late 2021, when "lawyers at the [Bureau] became involved in prosecuting this matter." (Reply ¶ 4). Further, the Bureau prepared for trial "by working closely with [Sethi] to familiarize themselves with the factual landscape of the case, the legal basis and the strategy behind the claims alleged, introduction to the witnesses, and exposure to the vulnerabilities in the case." (*Id.* ¶ 5). The Reply then reiterates the various ways in which Sethi worked "hand-in-hand with lawyers from the [Bureau] between November 2021 and May 2022[.]" (*Id.*)

ii. The Commission's Findings

Pursuant to 47 RCNY § 1-82 and relevant caselaw, the Commission has comprehensively reviewed Rita Sethi's time records and all other party submissions. Although the Commission generally finds Sethi's time expenditures to be reasonable, there are several factors that weigh in favor of a fee award lower than the $65,520.00 in fees requested by Complainant. As set forth below, the Commission finds that an across-the-board reduction of the requested amount by thirty percent (30%) is appropriate.

According to Sethi's time records, the most significant time expenditures involved preparation for, and participation in, witness depositions and the OATH trial. (*See* Ex. 2). Other large time expenditures included preparing Complainant for her initial interview with the Bureau, preparing Complainant's damages calculation, drafting a closing trial brief on constructive discharge, and drafting comments to the Office of the Chair. (*See id.*) Many of counsel's time entries included communications between Complainant and the Bureau, with most of these entries accounting for minimal increments of billed time. (*See id.*) Since the Bureau was the named Petitioner in the underlying case, Sethi's ongoing communications with Complainant and the Bureau, as well as the other tasks mentioned, constitute core aspects of representing an individual in Commission proceedings. *See*, *e.g.*, *Hnot v. Willis Grp. Holdings Ltd.*, No. 01 Civ. 6558(GEL), 2008 WL 1166309, at *7 (S.D.N.Y. Apr. 7, 2008) (stating that "it is often reasonable for a second attorney to assist in a deposition or hearing[,]" and that an attorney's review of certain briefs and motions drafted by co-counsel is the "normal practice of any responsible lawyer working in collaboration with another").

Although the nature of Sethi's work is typical of individual representations before the Commission, a considerable number of the time entries are vague, undercutting the Commission's ability to assess the reasonableness of the hours. For example, Sethi rarely indicated the subject of her communications with Complainant, the Bureau, Respondent, and

[5] As discussed *infra*, Respondent also raises a financial burden argument in its opposition, which will be addressed separately.

witnesses, simply logging her activity with entries like "email NYCCHR[,]" "email client[,]" "call witnesses[,]" or "email defense." (*See* Ex. 2). The Commission was able to substantiate a subset of these entries by looking to the surrounding context, *see*, *e.g.*, *Raniola v. Bratton*, No. 96 Civ. 4482(MHD), 2003 WL 1907865, at *4 (S.D.N.Y. Apr. 21, 2003) (finding that terms like "case preparation" or "meeting" are "sufficiently concrete, when viewed in context, to permit the court to make a judgement about the reasonableness of the total hours claimed"), but many remained difficult to assess for reasonableness. Since many of Sethi's email entries do not indicate "the subject matter of the email message . . . or the relationship[,] if any[,] the email message had to the litigation[,]" *Vargas Garcia v. Park*, No. 18-CV-10650 (KNF), 2019 WL 6117596, at *4 (S.D.N.Y. Nov. 18, 2019), these entries are too vague to "substantiate a claimed expenditure of time." *Id. See also M.C. ex rel. K.C. v. New York City Dep't of Educ.*, No. 24-CV-1772 (RA) (RWL), 2025 WL 3096552, at *12 (S.D.N.Y. Aug. 1, 2025) (finding that email entries without "any description of the subject matter" were too vague to evaluate for reasonableness), *report and recommendation adopted sub nom.*, *M.C. v. New York City Dep't of Educ.*, No. 24-CV-1772 (RA), 2025 WL 2784189 (S.D.N.Y. Sept. 30, 2025).

Sethi also engaged in block billing, which is the "practice of aggregating multiple tasks into one billing entry." *Wise v. Kelly*, 620 F. Supp. 2d 435, 450 (S.D.N.Y. 2008) (internal citation and quotation marks omitted). Block billing is not "*per se* prohibited, but where such entries make it hard to discern the reasonableness of time allotted to a given task, courts do consider its prevalence in deciding whether reduction is appropriate." *Mayo-Coleman*, 2019 WL 1034078, at *5. *See also Marchuk v. Faruqi & Faruqi LLP*, 104 F. Supp. 3d 363, 370 (S.D.N.Y. 2015) (finding that law firm's practice of "block billing a significant portion of its time . . . [made] it difficult for the [c]ourt to isolate areas of excess"); *Thai-Lao Lignite (Thailand) Co. v. Government of Lao People's Democratic Republic*, No. 10 Civ. 05256(KMW)(DF), 2012 WL 5816878, at *10 (S.D.N.Y. Nov. 14, 2012) (stating that it is difficult for a court to "evaluate whether time spent on a given task was excessive where the attorney has grouped different tasks together in a single time entry").

The Commission's review has determined that numerous time entries reflect some form of block billing. Specific examples of block billing include 4.5 hours to "deposition of Haque; email NYCCHR and defense[;]" 1.5 hours to "post query on NELA listserv, research NYCCHR, draft letter of intent, email NYCCHR[;]" and 7.6 total hours to "prepare fee application."[6] (Ex. 2). Sethi also block billed several hours to tasks vaguely described as "deposition preparation" and "prepare for trial." (*Id.*) "Sufficient particularity" is vital for the Commission to determine whether the time expended was reasonable. 47 RCNY § 1-82(b). Given that Sethi's time records and the trial transcript reflect extensive collaboration between Sethi and the Bureau's attorneys, the block-billed entries in Sethi's records do not reach this standard, which weighs in favor of a fee reduction. *See*, *e.g.*, *Mason Tenders Dist. Council Welfare Fund v. Gibraltar Contracting,*

[6] In the Second Circuit, it is well settled that prevailing civil rights plaintiffs are "entitled to recover a reasonable fee for preparing and defending a fee application." *Hines v. City of Albany*, 862 F.3d 215, 223 (2d Cir. 2017). Thus, the Commission will not consider reductions specific to the time spent on preparing Complainant's Application.

Inc., No. 18-CV-3668 (MKV) (JLC), 2020 WL 5904357, at *7 (S.D.N.Y. Oct. 6, 2020) (stating that entry entitled "deposition prep . . . without any information about whose deposition the attorney was preparing for . . . [was] too vague" for the court's reasonableness analysis), *report and recommendation adopted*, 2020 WL 6363960 (S.D.N.Y. Oct. 29, 2020); *Thai-Lao*, 2012 WL 5816878, at *10-11 (finding that a fee reduction was appropriate where time records included many vague and block-billed entries); *Reiter v. Metropolitan Transp. Auth. of New York*, No. 01 Civ. 2762(GWG), 2007 WL 2775144, at *15 (S.D.N.Y. Sept. 25, 2007) (referring to "trial preparation" as a form of block billing that "make[s] it impossible for the [c]ourt to determine if the 'trial preparation' involved compensable tasks (such as drafting questions for witness examinations) or non-compensable tasks (such as photocopying of exhibits)").

Lastly, there are a handful of time entries that appear to include clerical or administrative tasks billed at an attorney rate. There is no precise definition of what constitutes an administrative task, but they tend to be tasks that a client would not be willing to pay an attorney to perform. *See Lilly*, 934 F.3d at 234 (restating that the key inquiry in determining an attorney's reasonable hourly rate and hours billed is "whether a paying client would be willing to pay the fee"). Such tasks can include sending and receiving faxes, requesting and receiving medical records, *id.*, scheduling a court reporter*, see Chauca v. Park Mgmt. Sys., LLC*, No. 10-CV-05304 (ENV) (RER), 2016 WL 8117953, at *4 (E.D.N.Y. July 18, 2016), preparing documents for electronic filing, *see E.S. v. Katonah-Lewisboro School Dist.*, 796 F. Supp. 2d 421, 431-32 (S.D.N.Y. 2011), or organizing documents. *See Tenecora v. Ba-kal Rest. Corp.*, No. CV 18-7311 (DRH) (AKT), 2020 WL 8771256, at *31 (E.D.N.Y. Nov. 30, 2020), *report and recommendation adopted in part*, 2021 WL 424364 (E.D.N.Y. Feb. 8, 2021). In her time records, Sethi billed 0.3 hours to "[d]raft [r]etainer[,]" 0.6 hours to "prepare witness texts to provide to NYCCHR[,]" 0.5 hours to "organize client documents for transfer to NYCCHR[,]" and 0.6 hours to research Complainant's employment and family background. (*See* Ex. 2). These tasks are administrative in nature, and Complainant did not provide any information that demonstrates otherwise. Where clerical or administrative tasks have been improperly billed at an attorney's hourly rate, the Commission can "either reduce an attorney's hourly rate for time spent on clerical tasks or apply an across-the-board reduction to the hours billed or total fee award to account for time spent on clerical tasks[.]" *See Lilly*, 934 F.3d at 234.

In sum, the Commission finds that the nature of the work performed by Complainant's counsel is generally consistent with individual representations in Commission proceedings. However, the Commission's review of counsel's time records has revealed several instances of vagueness, block billing, and billing of administrative tasks at an attorney rate that weigh in favor of a fee reduction. The Commission thus applies an across-the-board percentage reduction of thirty percent (30%) to the hours billed by Complainant's counsel. *See*, *e.g.*, *Kirsch v. Fleet Street, Ltd.*, 148 F.3d 149, 172-73 (2d Cir. 1998) (upholding lower court's decision to reduce attorney hours by twenty percent based on vagueness and other deficiencies in time records); *Alson v. City of New York*, No. 22 CV 3665 (ENV)(RML), 2024 WL 5715313, at *4 (E.D.N.Y. Oct. 23, 2024) (reducing attorney hours by thirty percent to "account for entries that appear

excessive, vague, or clerical in nature"); *Marchuk*, 104 F. Supp. 3d at 370 (reducing fees by forty percent to account for lack of billing judgment and significant block billing in a NYCHRL hostile work environment case).

Complainant's attorney is therefore entitled to recover fees on 114.66[7] hours at an hourly rate of $400.00, which amounts to a total of $45,864.00 in attorney's fees.

iii. Respondent's Financial Burden Argument

In its opposition, Respondent also alleges that compliance with the Commission's October 30, 2025 Decision & Order—which requires Respondent to pay $45,000.00 in emotional distress damages to Complainant and "an extraordinarily large civil fine of $60,000.[00]"— "will cause [Respondent] extraordinary financial distress and may very well cause the business to close, rendering the twenty five (25) people employed there without work and without an income." (Fee Opp'n at 1). In response, Complainant posits that Respondent is a "stable fixture" that is "not in any danger of closing its doors" since it has "offered no evidence whatsoever of [its] financial condition[,]" and its website "boasts of 14 retail stores[,] including [locations] in New Jersey and Florida, which is 6 more than it operated in 2022, during the trial." (Reply ¶ 7 (citing Trial Tr. and the "Locations" tab of Respondent's website)).

The Commission finds that Respondent's financial burden argument is unsupported by the posture of this case. Although the Commission could consider Respondent's ability to pay because "'[f]ee awards are at bottom an equitable matter,'" *NAACP v. East Ramapo Cent. Sch. Dist.*, No. 17 Civ. 8943 (CS) (JCM), 2020 WL 7706783, at *10 (S.D.N.Y. Dec. 29, 2020) (quoting *Faraci v. Hickey-Freeman*, 607 F.2d 1025, 1028 (2d Cir. 1979)), courts in the Second Circuit have considered "parties' relative wealth almost exclusively when awarding fees *against plaintiffs* who bring *frivolous or sanctionable* claims." *Crews v. County of Nassau*, No. 06-CV-2610 (JFB)(GRB), 2019 WL 6894469, at *12 (E.D.N.Y. Dec. 18, 2019) (collecting cases) (emphasis added). It is rare, if not completely unheard of, for a court to reduce a "successful civil rights plaintiff's fee award based on a defendant's relative wealth." *Id.* The Second Circuit has provided a clear pathway for the Commission's evaluation of the Application. Complainant prevailed on her hostile work environment claim based on the combined efforts of her counsel and the Bureau. (*See supra* Section II(B)(2)(b)). *See also* D&O. As a successful party, Complainant is thus entitled to a fee award, irrespective of the state of Respondent's finances or its impression that her emotional distress damages award constitutes a "windfall." (Fee Opp'n at 2).

Furthermore, as Complainant suggests, Respondent raises this financial burden argument for the first time in its opposition to the instant Application. (Reply ¶ 7). Beyond a passing statement at trial that Respondent was impacted by the pandemic (*see* Trial Tr. vol. 2, 266:15-20), Respondent never raised the issue of financial burden at trial, in its closing brief, or in its comments to the Office of the Chair. Respondent's opposition also fails to provide any evidence

[7] Thirty percent of 163.8 total hours results in a reduction of 49.14 hours.

that it is experiencing "real or extreme hardship." *Crews*, 2019 WL 6894469, at *12 (citing cases where courts focused on a party's finances because that party was in extreme financial distress). On the contrary, Respondent's business appears to have expanded since the trial, and it continues to operate several locations in New York City. (*See* Reply ¶ 7 n.1). As such, the suggestion of a financial burden at this stage of the proceedings does not impact the Commission's ultimate findings as to the Application.

III. CONCLUSION

For the reasons set forth herein, Complainant's application is granted in part and denied in part, and the Commission orders Respondent to pay Complainant's reasonable attorney's fees in the amount of $45,864.00.

FOR THE REASONS DISCUSSED HEREIN, IT IS HEREBY ORDERED that no later than five (5) calendar days after service of this Order, Respondent pay the Complainant's attorney a total of $45,864.00 by sending to the New York City Commission on Human Rights, 22 Reade Street, New York, New York 10007, Attn: General Counsel, a bank certified or business check made payable to Stoll, Glickman & Bellina LLP and including a written reference to OATH Index No. 434/22.

Failure to timely comply with the foregoing provision shall constitute non-compliance with a Commission Order. Respondent shall pay a penalty of $100.00 per day for each day that the violation continues. N.Y.C. Admin. Code § 8-124. Furthermore, failure to abide by this Order may result in criminal penalties. *Id.* § 8-129.

Civil penalties are paid to the general fund of the City of New York.

Dated: New York, New York
12-30, 2025

SO ORDERED:
New York City Commission on Human Rights

Annabel Palma
Commissioner/Chair