

# DRAFT

## 2B-1.0045 Award of Attorney's Fees.

~~(1) If the Commission determines that a complainant has filed a complaint against a respondent with a malicious intent to injure the reputation of such respondent by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of Chapter 104 or 106, Florida Statutes, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the complaint, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees.~~

~~(2) To claim costs and attorney's fees, the respondent shall file a petition with the Commission clerk within no later than 30 days following dismissal of the complaint. The petition shall state with particularity the facts and grounds that prove entitlement to the respondent is entitled to an award of costs and attorney's fees from the complainant. The Commission clerk shall forward a copy of the petition to the complainant ~~by certified mail~~ at the most recent address on file with the Commission.~~

~~(3) (2) At a hearing its next regularly scheduled meeting, the Commission shall determine whether the petition contains sufficient facts and grounds to support a claim states a prima facie case for costs and attorney's fees. If the Commission finds that the petition does not contain sufficient facts and grounds to support such a claim state a prima facie case for costs and attorney's fees, the Commission shall dismiss the petition. If the Commission finds that the petition contains sufficient facts and grounds to support such a claim states a prima facie case for costs and attorney's fees, the Commission shall enter an order a setting the petition for a hearing involving disputed issues of material fact be held before the Commission or a Commissioner or before one or more Commissioners designated appointed by the Commission Chairman, or refer the petition to before the Division of Administrative Hearings for a formal hearing for the entry of a final order determining whether respondent is entitled to an award of attorney's fees and costs and, if so, what amount is due.~~

~~(4) The parties to the claim shall be the respondent and the complainant. The respondent shall prove by clear and convincing evidence that he or she is entitled to an award of costs and attorney's fees. The Commission shall review the recommended order of the designated Commissioner or Commissioners or the administrative law judge and the parties' exceptions before entering a final order.~~

*Specific Authority 106 24(5) 106 26 FS Law Implemented 106 265(5) (6) FS. History--New 4-24-05*