

R.C.	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
COASTAL GREAT SOUTHERN, INCORPORATED	)	DATE ISSUED: 07/24/2008
	)	
and	)	
	)	
SIGNAL MUTUAL INDEMNITY ASSOCIATION, LIMITED	)	
	)	
Employer/Carrier- Respondents	)	DECISION and ORDER

Appeal of the Order Awarding Attorney and Paralegal Fees of Alan L. Bergstrom, Administrative Law Judge, United States Department of Labor.

Gregory E. Camden (Montagna Klein Camden L.L.P.), Norfolk, Virginia, for claimant.

G. Mason White and James D. Kreyenbuhl (Brennan, Harris & Rominger LLP), Savannah, Georgia, for employer/carrier.

Before: SMITH, HALL and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Order Awarding Attorney and Paralegal Fees (2006-LHC-01263) of Administrative Law Judge Alan L. Bergstom rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). The amount of an attorney's fee award is discretionary and will not be set aside unless shown by the challenging party to be arbitrary, capricious, an abuse of discretion or not in accordance with law. *See Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant filed a hearing loss claim based on an audiogram administered on December 8, 2005. Employer controverted the claim and the case was transferred to the Office of Administrative Law Judges on May 1, 2006. Prior to the hearing on the claim, employer agreed to pay permanent partial disability benefits and medical benefits for claimant's hearing loss and the administrative law judge remanded the case to the district director for the entry of an award. Thereafter, claimant's counsel submitted an attorney's fee petition for work performed before the administrative law judge. Counsel requested a fee in the amount of \$7,923.60, representing 36.35 hours of legal services at the hourly rate of \$250, and 2.88 hours of paralegal services at the hourly rate of \$95. Counsel also sought costs in the amount of \$864.93. Employer filed objections to counsel's fee petition. Subsequently, claimant's counsel requested an additional fee of \$562.50 for responding to employer's objections.

In his Order Awarding Attorney and Paralegal Fees, the administrative law judge found that counsel is not entitled to a fee for time spent traveling between his office in Norfolk, Virginia and Savannah, Georgia, the area where claimant resided. The administrative law judge also disallowed or reduced a number of other specific entries, and he found that claimant's counsel is entitled to a fee for 20.73 hours of legal services and 2.38 hours of paralegal services. The administrative law judge approved the hourly rates of \$250 for attorney services and \$95 for paralegal services as they are appropriate in the Savannah, Georgia, area for the level of service provided. Lastly, the administrative law judge disallowed the \$453.09 counsel requested for travel expenses as he found that the May 30, 2006, expense entry lacked the specificity necessary to establish that the expenses were in excess of those that should be included in counsel's overhead. Therefore, the administrative law judge awarded claimant's counsel a fee in the amount of \$5,783.60, plus costs in the amount of \$411.84, payable by employer.

On appeal, claimant's counsel contends that the administrative law judge erred in denying the amount requested for travel expenses, \$453.09, as it is reasonable and was necessary for the prosecution of this case. Employer responds, urging affirmance of the administrative law judge's decision.

Claimant's counsel practices in the Norfolk, Virginia area and the formal hearing was scheduled in Savannah, Georgia, where claimant resided. Claimant's counsel avers that the administrative law judge erred in disallowing the \$453.09 billed for "travel expenses." The administrative law judge disallowed this expense because the fee petition lacked sufficient specificity for the administrative law judge to ascertain whether the expense exceeded that which would be included as an overhead expense. Order at 8. We affirm this finding, as counsel has not established that the administrative law judge abused his discretion in this regard. 33 U.S.C. §928(d); see *Richardson v. Continental Grain Co.*, 336 F.3d 1103, 37 BRBS 80(CRT) (9<sup>th</sup> Cir. 2003) (claimant bears burden of

showing entitlement to an attorney's fee); *see also Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (where documentation is inadequate, fee award may be reduced). *See generally Bauml v. Marinette Marine Corp.*, 40 BRBS 5 (2006); *Parks v. Newport News Shipbuilding & Dry Dock Co.*, 32 BRBS 90 (1998), *aff'd mem.*, 202 F.3d 259 (4<sup>th</sup> Cir. 1999) (table). Therefore, we affirm the denial of the claimed travel expenses.

Accordingly, the administrative law judge's Order Awarding Attorney and Paralegal Fees is affirmed.

SO ORDERED.

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ROY P. SMITH  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge