

VAN RAY BALTAZAR )  
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 Claimant-Petitioner )  
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 v. )  
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 GREENE'S ENERGY GROUP, LLC ) DATE ISSUED: 07/26/2012  
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 and )  
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 LOUISIANA WORKERS' )  
 COMPENSATION CORPORATION )  
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 Employer/Carrier- )  
 Respondents ) DECISION and ORDER

Appeal of the Compensation Order Award of Attorney's Fees and Amended Compensation Order Award of Attorney Fees on Reconsideration of David A. Duhon, District Director, United States Department of Labor.

Warren A. Perrin and Douglas R. Summerlin (Perrin, Landry, de Launay, Dartez & Ouellet), Lafayette, Louisiana, for claimant.

Before: DOLDER, Chief Administrative Appeals Judge, HALL and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Compensation Order Award of Attorney's Fees and Amended Compensation Order Award of Attorney Fees on Reconsideration of District Director David A. Duhon (Case No. 07-171508) 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 Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984).

Claimant sustained a work-related injury on July 18, 2004. Employer voluntarily paid compensation under the workers' compensation laws of Louisiana. Claimant sought compensation under the Act. The parties settled this claim in April 2011. *See* 33 U.S.C. §908(i). Employer accepted jurisdiction under the Act and agreed to pay claimant a lump sum of \$100,000, as well as an annual payment of \$4,760 for future injury-related medical treatment and prescriptions beginning on May 8, 2012 for 28 years so long as claimant is alive. Employer also provided a Medicare set-aside of \$29,889.

Claimant was represented by two attorneys, Elizabeth Smyth Rambin and Warren Perrin. Mr. Perrin was a partner at all relevant times with the firm of Perrin, Landry, deLaunay, Dartez & Ouellet (Perrin). Ms. Rambin worked for Chopin, Wagar, Richard & Kutcher (Chopin) until February 1, 2008, after which she worked for Taylor, Wellons, Politz & Duhe (Taylor). Chopin submitted to the Office of Workers' Compensation Programs (OWCP) a fee petition requesting \$6,883.20 for time expended by Ms. Rambin while she was in the firm's employ, as well as for paralegal services, and for costs of \$246.13. On September 28, 2009, Ms. Rambin submitted a fee petition to the district director, requesting a fee of \$10,583.29 for time expended by the Taylor firm from February 4, 2008 to August 25, 2009, representing 44.75 hours of attorney time at \$225 per hour, plus costs of \$514.64. On October 20, 2009, Ms. Rambin submitted to the district director the fee petition of her co-counsel, Mr. Perrin, requesting a fee of \$8,987.50, for time he expended from July 20, 2004 to May 29, 2009, representing 71.9 hours of attorney time at \$125 per hour. On March 22, 2011, Ms. Rambin submitted a supplemental fee petition requesting \$3,313.01 for time she expended from September 11, 2009 to February 18, 2010, representing 13.25 hours of attorney time at \$225 per hour, plus costs of \$151.76. Employer filed objections to the fee petitions.

In his fee order, the district director addressed the fee petitions filed by Ms. Rambin, wherein she requested a total fee of \$13,896.30 for her work at the Taylor firm and \$8,987.50 for Mr. Perrin. The district director found that employer is liable for a fee under Section 28(a), 33 U.S.C. §928(a), for services rendered from October 29, 2007, when employer was served with the claim. *See Weaver v. Ingalls Shipbuilding, Inc.*, 282 F.3d 357, 36 BRBS 12(CRT) (5<sup>th</sup> Cir. 2002). The district director misattributed Mr. Perrin's fee petition as itemizing work performed by Ms. Rambin while in the employ of Perrin. Therefore, the district director disallowed the fees charged by Mr. Perrin's firm after February 3, 2008, since he believed that Ms. Rambin no longer worked there. The district director awarded the Taylor firm a fee of \$10,136.42, representing 42.875 hours expended by Ms. Rambin at the rate of \$225, and costs of \$489.54. The district director awarded the Perrin firm a fee of \$100, which he stated "represents .8 hours of work by Ms. Rambin while at that firm." Compensation Order Award of Attorney's Fees at 3.

Ms. Rambin requested reconsideration of the fee award. Specifically, she asked that the district director “revisit the denial” of the fee petitions submitted by Chopin and by Mr. Perrin. Ms. Rambin asserted that she was a partner in Chopin, but she was never an attorney with the Perrin firm, and that Mr. Perrin was her co-counsel in this case. Employer responded that all charges by Mr. Perrin should be disallowed since there is no indication that he represented claimant before the OWCP or the Office of Administrative Law Judges. Employer also submitted new objections to the Taylor and Chopin fee petitions.

In his amended order, the district director summarily stated that the \$100 fee awarded to the Perrin firm should have been awarded to the Chopin firm, and he amended his order accordingly. In all other respects, the prior fee order was unchanged.

On appeal, claimant challenges the denial of a fee to Mr. Perrin. Claimant requests a fee for Mr. Perrin for time he expended after October 29, 2007, the date the district director stated employer was served with the claim.<sup>1</sup> Claimant asserts that Mr. Perrin worked extensively on vocational rehabilitation issues, whereas Ms. Rambin was added as co-counsel to address coverage and compensation issues under the Act, and that, so long as the work is not duplicative, there is no basis to deny payment of an attorney’s fee to co-counsel. Employer did not file a response brief.

It is well established that there is nothing inherently objectionable to several attorneys participating in the litigation of a claim where the complexity of the case or other factors warrant it. *See O’Kelley v. Dep’t of the Army/NAF*, 34 BRBS 39 (2000); *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). The district director has never addressed Mr. Perrin’s entitlement to a fee award. Instead, Mr. Perrin’s fee petition has been addressed only in the mistaken context that the work was performed at the Perrin firm by Ms. Rambin. Accordingly, the case must be remanded for the district director to address Mr. Perrin’s request for a fee for time expended after October 29, 2007. *See n.1, supra*.

On remand, the district director also must address employer’s objections to the fee petition on that ground that all charges by Mr. Perrin should be disallowed since there is

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<sup>1</sup> Mr. Perrin requests a fee of \$862.50, representing 6.9 hours at \$125 per hour for time expended from November 5, 2007 to May 29, 2009, while the case was before the OWCP. *See Cl. Br. at 7.*

no indication that he represented claimant before the OWCP. *See* 20 C.F.R §702.131(a);<sup>2</sup> *see also Christensen v. Director, OWCP*, 576 F.3d 976, 978, 43 BRBS 37, 38(CRT) (9<sup>th</sup> Cir. 2009) (employer must timely object to an attorney’s representation). We note that the key factor in determining whether an attorney’s work is compensable is whether, at the time the service was rendered, the legal work provided was reasonable and necessary to the ultimately successful prosecution of the claim. *See* 20 C.F. R. §702.132; *O’Kelley*, 34 BRBS 39.

Accordingly, the case is remanded to the district director for further proceedings concerning the Perrin fee petition consistent with this opinion. The district director’s fee awards to the Taylor and Chopin firms are affirmed.

SO ORDERED.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge

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<sup>2</sup>Section 702.131(a) provides:

Claimants, employers and insurance carriers may be represented in any proceedings under the Act by an attorney or other person previously authorized in writing by such claimant, employer or carrier to so act.