



In the Matter of:

CHRISTOPHER BALA,

ARB CASE NO. 12-048

COMPLAINANT,

ALJ CASE NO. 2010-FRS-026

v.

DATE: March 5, 2014

**PORT AUTHORITY
TRANS-HUDSON CORP.,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearance:

For the Complainant:

Charles C. Goetsch, Esq., New Haven, Connecticut

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

ORDER AWARDING ATTORNEY'S FEES

This case arises under the employee protection provisions of the Federal Rail Safety Act of 1982 (FRSA), 49 U.S.C.A. § 20109 (Thomson/West Supp. 2013), as implemented by 29 C.F.R. Part 1982 (2013) and 29 C.F.R. Part 18, Subpart A (2013). Christopher Bala filed a complaint with the Department of Labor alleging that his employer, Port Authority Trans-Hudson Corp. (PATH), violated FRSA by suspending him for three days due to his absence from work pursuant to orders from his doctor. On February 10, 2012, an Administrative Law Judge (ALJ) entered an order holding PATH liable for violating the Act and ordered relief. PATH petitioned the Administrative Review Board (ARB) for review. We entered an order on September 27, 2013, affirming the ALJ's decision. On December 9, 2013, Bala petitioned the ARB for attorney's fees. PATH did not respond to the petition.

DISCUSSION

Bala petitions for an award of attorney's fees in the amount of \$26,118.75 for legal work provided by attorney Charles Goetsch representing Bala in proceedings before the ARB. Petition for Attorney's Fees at 2. The amount is based on 49.75 hours of legal work at an hourly rate of \$525.00. *Id.*; see also Charles Goetsch Affidavit at Attachment 1. Bala does not seek reimbursement for litigation costs. Petition at 13.

Regulations implementing FRSA state:

If the ARB concludes that the respondent has violated the law, the final order will order the respondent to take appropriate affirmative action to make the employee whole, including . . . compensation for . . . reasonable attorney's fees.

29 C.F.R. § 1982.110(d). In calculating attorney's fees, the ARB employs the "lodestar method which requires multiplying the number of hours reasonably expended in bringing the litigation by a reasonable hourly fee." *Jenkins v. U.S. EPA*, No. 1992-CAA-006 (Sec'y Dec. 7, 1994) (citing *Hensley v. Eckerhart*, 461 U.S. 424 (1983)); see also *Smith v. Lake City Enters.*, ARB Nos. 12-112, -113; ALJ No. 2006-STA-032 (ARB Sept. 12, 2013). "A petition for attorney's fees requires evidence documenting the hours worked and the rates claimed, as well as records identifying the date, time, and duration necessary to accomplish each specific activity and all claimed costs." *Cefalu v. Roadway Express, Inc.*, ARB Nos. 04-103, -161; ALJ No. 2003-STA-055, slip op. at 3 (ARB Apr. 3, 2008). "The burden of proof is also on the petitioning party to demonstrate the reasonableness of the hourly fee by producing evidence that the requested rate is in line with fees prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation." *Id.* Bala satisfies that burden here.

In support of the hourly rate amount, Bala submits affidavits detailing the attorney's extensive federal trial and appellate litigation experience generally, and specifically as it relates to handling employment matters in the railroad industry. See Goetsch Aff. at 1-4; Richard Renner Declaration at 4-6. See also Joseph D. Garrison Affidavit at 2 (affidavit dated June 1, 2009, stating that \$500 hourly rate is a prevailing market rate in Connecticut for comparable trial attorney with Goetsch's experience and qualifications). In *Barati v. Metro-North R.R. Co.*, 939 F. Supp. 2d 153 (D. Conn. 2013), the district court awarded Goetsch an hourly rate of \$525 in a case where Goetsch represented the employee in an FRSA action and the Federal Employee Liability Act, 45 U.S.C. 51, et seq. After a six-day trial, a jury returned a verdict in favor of the employee. In *Santiago v. Metro-North Commuter R.R. Co.*, ALJ No. 2009-FRS-011, slip op. at 3, 5 (ALJ Supplemental Decision and Order Awarding Attorney Fees) (issued July 11, 2013), the ALJ awarded Goetsch an hourly rate of \$500 for representing a complainant/employee in a FRSA proceeding. This evidence supports Bala's contention that the requested \$525.00 hourly rate for the work of attorney Goetsch "is in line with fees prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation." *Cefalu*, slip op. at 3. The number of hours sought – 49.75 – is well documented with the "date, time, and duration necessary to accomplish each specific activity." *Id.*; see also Goetsch Aff. at Attachment 1.

CONCLUSION

For the foregoing reasons, Bala's petition for award of attorney's fees in the amount of \$26,118.75 is **GRANTED**.

SO ORDERED.

LISA WILSON EDWARDS
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge