



**In the Matter of:**

**DANIEL LEIVA,**

**COMPLAINANT,**

**v.**

**UNION PACIFIC RAILROAD  
COMPANY, INC.,**

**RESPONDENT.**

**ARB CASE NOS 14-016  
14-017**

**ALJ CASE NO. 2013-FRS-019**

**DATE: September 4, 2015**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

***For the Complainant:***

**Jerry Easley, Esq.; Rome, Arata & Baxley, L.L.C.; Pearland, Texas**

***For the Respondent:***

**Fred S. Wilson, Esq.; Union Pacific Railroad Company, Inc.; Houston, Texas**

**BEFORE: Paul M. Igasaki, Chief Administrative Appeals Judge; E. Cooper Brown, Deputy Chief Administrative Appeals Judge; and Joanne Royce, Administrative Appeals Judge**

### **ORDER AWARDING ATTORNEY'S FEES**

This case arises under the Federal Railroad Safety Act of 1982 (FRSA).<sup>1</sup> On May 29, 2015, the Administrative Review Board (ARB or Board) issued a decision affirming an Administrative Law Judge (ALJ) decision that Union Pacific violated the STAA when it took adverse action against Leiva, because his protected activity contributed to Union Pacific's decision to take that adverse action. We remanded the case for the ALJ to consider punitive damages.

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<sup>1</sup> 49 U.S.C.A. § 20109 (Thomson/West Supp. 2015). See also 29 C.F.R. Part 1982 (2014).

The FRSA regulations state that if the Board decides that an employer has violated the statute, we shall order the employer “to take appropriate affirmative action to make the employee whole, including, where appropriate . . . compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney’s fees.”<sup>2</sup>

On July 1, 2015, Leiva’s counsel filed a petition for fees with exhibits requesting \$6,670.00 in attorney’s fees for litigation before the Board. Union Pacific has not objected to the amount of this request. We have examined the petition and find the attorney’s fee request to be well documented, reasonable, and not excessive. Accordingly, we **GRANT** Leiva’s request and order Union Pacific to pay attorney’s fees in the amount of \$6,670.00 for services provided by Leiva’s counsel before the Board.

**SO ORDERED.**

**JOANNE ROYCE**  
**Administrative Appeals Judge**

**E. COOPER BROWN**  
**Deputy Chief Administrative Appeals Judge**

**PAUL M. IGASAKI**  
**Chief Administrative Appeals Judge**

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<sup>2</sup> 29 C.F.R. § 1982.110(d).