



**In the Matter of:**

**JAMES M. MINNE,**

**ARB CASE NOS. 09-066  
09-082**

**and**

**ALJ CASE NO. 2004-STA-026**

**ROBERT W. PRIVOTT,**

**DATE: July 30, 2012**

**COMPLAINANTS,**

**v.**

**STAR AIR, INC.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainants:*

**Bruce B. Elfvin, Esq., Barbara Kaye Besser, Esq., *Elfvin & Besser,*  
Cleveland, Ohio**

**Before: Paul M. Igasaki, *Chief Administrative Appeals Judge;* E. Cooper Brown,  
*Deputy Chief Administrative Appeals Judge;* and Luis A. Corchado, *Administrative  
Appeals Judge.***

**ORDER AWARDING ATTORNEY'S FEES**

On December 19, 2011, the Administrative Review Board (ARB or Board) issued a Final Decision and Order affirming the Administrative Law Judge's (ALJ's) Recommended Decision and Order in this case. We concurred with the ALJ's determination that Star Air, Inc. violated the employee protection provisions of the Surface Transportation Assistance Act of 1982 (STAA)<sup>1</sup> and its implementing

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<sup>1</sup> These cases initially arose under a previous version of the STAA, 49 U.S.C.A. § 31105 (Thomson/West 2007), which Congress amended in 2007 as part of the Implementing

regulations at 29 C.F.R. Part 1978, when it retaliated against Complainants James M. Minne and Robert W. Privott. Before us now is the Complainants' Supplemental Application for Fees and Costs for work performed before this Board. The Complainants served this current fee petition on Star Air, and the company did not file any opposition. We therefore review the petition for compliance with applicable standards.

The STAA provides: "If the Secretary issues an order [finding a STAA violation] and the complainant requests, the Secretary may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint . . ." 49 U.S.C.A. § 31105(a)(3)(B). The ARB has endorsed the lodestar method for calculating attorney's fees. This method requires multiplying the number of hours reasonably expended in bringing the litigation by a reasonable hourly rate. *See, e.g., Scott v. Roadway Express*, ARB No. 01-065, ALJ No. 1998-STA-008, slip op. at 5 (ARB May 29, 2003).

An attorney seeking a fee award must submit 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. In addition, the attorney must demonstrate the reasonableness of his 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. *Cefalu v. Roadway Express, Inc.*, ARB Nos. 04-103, -161; ALJ No. 2003-STA-055, slip op. at 3 (ARB Apr. 3, 2008). Even though the fee petition was unopposed, we have an obligation to ensure that it follows applicable standards. *Moder v. Village of Jackson*, ARB Nos. 01-095, 02-039; ALJ No. 2000-WPC-005, slip op. at 1 (ARB Oct. 28, 2003).

We have reviewed the fee petition submitted and find that the services rendered are adequately described, and that the number of hours is reasonable in view of the issues in this case. Also, the fee petition provides evidence that the attorneys' hourly rates are in line with fees prevailing in the community. Accordingly, we award to counsel for the Complainants and against Star Air \$9,839.00 in fees and costs.

**SO ORDERED.**

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

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

**LUIS A. CORCHADO**  
**Administrative Appeals Judge**

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Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, 121 Stat. 266 (Aug. 3, 2007).