



In the Matter of:

PETER P. CEFALU,

ARB CASE NO. 09-070

COMPLAINANT,

ALJ CASE NO. 2003-STA-055

v.

DATE: March 17, 2011

ROADWAY EXPRESS, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

**Paul O. Taylor, Esq., *Truckers Justice Center, Burnsville, Minnesota;*
Amanda Cefalu, Esq., *McGrann, Shea, Anderson, Carnival, Straughn & Lamb,*
Minneapolis, Minnesota**

For the Respondent:

Lisa A. McGarrity, Esq., *Franczek Sullivan, P.C., Chicago, Illinois*

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

Peter P. Cefalu ultimately prevailed in his whistleblower complaint against Roadway Express, Inc., arising under the employee protection provisions of the Surface Transportation Assistance Act (STAA), 49 U.S.C.A. § 31105 (Thomson/West Supp.

2010), and its implementing regulations, 29 C.F.R. Part 1978 (2010).¹ A Department of Labor (DOL) administrative law judge (ALJ) awarded further fees to his attorneys. The case is now before the Administrative Review Board (ARB) on automatic review. *See* 29 C.F.R. § 1978.109(c)(1).

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 ALJ granted unopposed petitions for attorney’s fees from Attorneys Taylor and Cefalu, but reduced the requested rate of two paralegals from \$125.00 to \$100.00 an hour. *Cefalu v. Roadway Express, Inc.*, ALJ No. 2003-STA-055 (Feb. 9, 2009). He awarded \$10,026.25 in fees to Attorney Taylor for 30.85 hours of services and \$5,118.75 in fees to Attorney Cefalu for 26.25 hours of services. The ALJ also awarded \$700.00 for paralegal services.

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 Taylor and Cefalu fee petitions were unopposed, we have an obligation to ensure that they follow 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 petitions attorneys Taylor and Cefalu submitted and find that the services rendered are adequately described and that the number of hours is reasonable in view of the issues raised on remand to the ALJ. Also, the fee petitions provide evidence that the attorneys’ hourly rates are in line with fees prevailing in the community. Because substantial evidence supports the ALJ’s findings that the hourly rates charged and the hours expended on this case were reasonable, we affirm the ALJ’s award of attorney’s fees.

¹ For the protracted history of this case, *see Cefalu v. Roadway Express, Inc.*, ARB Nos. 04-103, -161, ALJ No. 2003-STA-055 (ARB Jan. 6, 2010).

In sum, we award to Attorney Taylor and against Roadway \$10,726.25 in fees and to Attorney Cefalu and against Roadway \$5,118.75 in fees. Because of the delay in the awards and payment, we award pre-judgment interest from the date of the petitions and post-judgment interest from the date of this decision, both at the statutory rate found at 26 U.S.C. § 6621(a)(2).

SO ORDERED.

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

LUIS A. CORCHADO
Administrative Appeals Judge