



In the Matter of:

JOHN YOUNGERMANN,

ARB CASE NO. 11-056

COMPLAINANT,

ALJ CASE NO. 2010-STA-047

v.

DATE: June 5, 2013

UNITED PARCEL SERVICE, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearance:

For the Complainant:

Paul O. Taylor, Esq.; *Truckers Justice Center*, Burnsville, Minnesota

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

ORDER AWARDING ATTORNEY'S FEES

On February 27, 2013, the Administrative Review Board (ARB or Board) issued a Final Decision and Order affirming the Administrative Law Judge's (ALJ's) punitive damages award of \$100,000 under the Surface Transportation Assistance Act (STAA), 49 U.S.C.A. § 31105 (Thomson Reuters 2013). *Youngermann v. UPS, Inc.*, ARB No. 11-056, ALJ No. 2010-STA-047 (ARB Feb. 27, 2013). On March 26, 2013, the Complainant's counsel filed a Verified Petition for Fees and Costs, with service on the Respondent. The Respondent has not filed any opposition. We therefore review the fee petition for compliance with applicable standards.¹

¹ 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).

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).

We have reviewed the fee petition submitted and find that the legal 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 attorney and the non-attorney practitioner’s hourly rates are in line with fees prevailing in the community. Accordingly, we award to counsel for the Complainant, and against the Respondent, \$7,881.25 in attorney fees, \$462.50 in non-attorney fees, and \$151.19 in costs, for a total award of \$8,494.94.

SO ORDERED:

JOANNE ROYCE
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge