



In the Matter of:

CYNTHIA FERGUSON,

ARB CASE NO. 12-053

COMPLAINANT,

ALJ CASE NO. 2009-STA-047

v.

DATE: February 14, 2013

NEW PRIME, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

For the Complainant:

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

For the Respondent:

Charles A. Cox, III, Esq.; *Cox, Goudy, McNulty & Wallace, P.L.L.P.*; Minneapolis, Minnesota

Before: Paul Igasaki, *Chief Administrative Appeals Judge*; E. Cooper Brown, *Deputy Chief Administrative Appeals Judge*; and Lisa Wilson Edwards, *Administrative Appeals Judge*

ORDER AWARDING ATTORNEY'S FEES

On November 30, 2012, the Administrative Review Board (ARB or Board) issued a Final Decision and Order affirming the Administrative Law Judge's (ALJ's) Decision and Order on Remand in this case. *Ferguson v. New Prime, Inc.*, ARB No. 12-053, ALJ No. 2009-STA-047. We concurred with the ALJ's finding that the Complainant is entitled to back pay in the amount of \$27,911.53, and punitive damages in the amount of \$19,000, as well as reaffirmed the ALJ's award of compensatory damages in the amount of \$50,000 and order of reinstatement. *Id.* Subsequently, the Complainant filed this current fee petition, with service of a copy on New

Prime, Incorporated (New Prime). New Prime has not filed any opposition. We therefore review the fee petition for compliance with applicable standards.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 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 New Prime, \$3,051.15 in fees and costs.

SO ORDERED:

PAUL M. IGASAKI
Chief Administrative Appeals Judge

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

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).