



BRB No. 19-0374  
Case No. 2015-LDA-00785  
OWCP No. 02-231613

SHAHWALI SHAH	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
WORLDWIDE LANGUAGE RESOURCES,	)	
INCORPORATED	)	
	)	DATE ISSUED: 10/28/2019
and	)	
	)	
ALLIED WORLD NATIONAL	)	
ASSURANCE COMPANY/BROADSPIRE	)	
	)	
Employer/Carrier-	)	
Respondents	)	ORDER

Claimant appeals the Attorney Fee Order on Remand and the Order Denying Reconsideration (2015-LDA-00785) of Administrative Law Judge Christopher Larsen rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*, as extended by the Defense Base Act, 42 U.S.C. §1651 *et seq.* (the Act). On July 26, 2019, the parties filed with the Board a joint stipulation containing their agreement to modify the hourly rate for the work performed by Jeffrey Winter before the administrative law judge. They ask the Board to modify the administrative law judge's fee award to reflect their agreement and to affirm the fee award in all other respects.

We grant the parties' motion and modify the administrative law judge's fee award to reflect an hourly rate of \$425 for work performed by Mr. Winter.<sup>1</sup> The administrative law judge's Attorney Fee Order on Remand is affirmed in all other respects.

Claimant's counsel has filed an itemized fee petition for services rendered before the Board in the prior appeals in this case, *Shah v. Worldwide Language Resources, Inc.*, BRB Nos. 15-0360, 15-0496 (May 23, 2016), *rev'd and remanded*, 703 F. App'x 624, 51 BRBS 37(CRT) (9th Cir. 2017), *decision on remand*, BRB Nos. 15-0360, 15-0496 (Apr. 30, 2018).<sup>2</sup> 33 U.S.C. §928; 20 C.F.R. §802.203. Counsel seeks an attorney's fee totaling \$6,601.25, representing 12.25 hours of attorney work at an hourly rate of \$515, and 2.25 hours of paralegal work at an hourly rate of \$130. In support of the requested hourly rates, counsel provided: his declaration and those of Attorneys Timothy Bricton and Ronald L. Burdge, attesting to counsel's qualifications and the reasonableness of the requested rates, CXs 1, 2, and 6; prior fee awards to counsel by the United States Court of Appeals for the Ninth Circuit and United States District Court for the Southern District of California, CXs 3, 5; the Laffey Matrix and a 2015 – 2018 version of the Matrix prepared by the United States Attorney's Office for the District of Columbia, CXs 7, 8; and a report entitled "2015 – Real Rates for Partners and Associates" in the San Diego, California market, CX 9.

Employer has filed objections to counsel's fee petition. Employer contends counsel's requested hourly rates are unreasonable given the lack of any novel or difficult issues and because counsel's evidence of the relevant community market rate is vague, ambiguous, and irrelevant to Longshore claims. Employer maintains that hourly rates not to exceed \$385 for attorney work and \$110 for paralegal services are reasonable in light of recent hourly rates awarded counsel in other longshore cases.

An attorney's reasonable hourly rate is to be calculated "according to the prevailing market rates in the relevant community." *Blum v. Stenson*, 465 U.S. 886, 895 (1984). The burden is on the fee applicant to provide evidence to establish that the requested hourly rates are in line with those prevailing in the community for similar services by lawyers of comparable skill, experience, and reputation. *See Shirrod v. Director, OWCP*, 809 F.3d 1082, 49 BRBS 93(CRT) (9th Cir. 2015); *Christensen v. Stevedoring Services of America*, 557 F.3d 1049, 43 BRBS 6(CRT) (9th Cir. 2009).

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<sup>1</sup>The parties agree that this results in claimant's counsel's entitlement to an additional attorney's fee of \$4,316 for work performed before the Office of Administrative Law Judges.

<sup>2</sup>By virtue of the Ninth Circuit's decision, counsel's initial appeals to the Board were ultimately successful.

The Ninth Circuit's award of an attorney's fee in the appeal of this case, *Shah v. Worldwide Language Resources, Inc.*, No. 16-72307 (9th Cir. Oct. 4, 2018), provided a thorough and reasoned analysis of the current market rate for counsel's services. The court discussed the evidence submitted in support of the requested rates, which included some of the same evidence as that submitted to the Board with counsel's fee petition. The court stated that the most relevant evidence of the prevailing market rate for Mr. Winter is "past decisions setting [his] hourly rate, the rates they charge, and court decisions setting hourly rates for San Diego area attorneys with experience similar to [his] who perform services similar" to those in the case. *Id.*, slip op. at 10. The court concluded that hourly rates of \$460 for Mr. Winter's services and \$125 for paralegal services were appropriate. We therefore rely on the Ninth Circuit's decision to award claimant's counsel an attorney's fee in this case. See *Christensen*, 557 F.3d at 1055, 43 BRBS at 9(CRT) (a new rate need not be made in every case as long as fee awards are based on current market conditions). Consequently, we award an hourly rate of \$460 for attorney services and \$125 for paralegal services in this case.<sup>3</sup> 20 C.F.R. §802.203(d)(4).

Employer objects to the minimum quarter-hour billing increment used by counsel as excessive and contends multiple entries should be reduced or denied in their entirety because they are excessive or the descriptions of the work performed are vague and/or ambiguous. Employer maintains that the requested hours for counsel's work should be reduced by 5.525 hours and for paralegal work by 1.125 hours. Employer thus suggests that counsel is entitled to 6.725 hours for his work and 1.125 hours for paralegal work.

The regulation governing fee petitions to the Board states that entries should be reported in quarter-hour increments. 20 C.F.R. §802.203(d)(3); *Neeley v. Newport News Shipbuilding & Dry Dock Co.*, 19 BRBS 138 (1986); see also *Eastern Associated Coal Corp. v. Director, OWCP*, 724 F.3d 561 (4th Cir. 2013). We thus reject employer's contention regarding counsel's quarter-hour minimum billing method.

After review of employer's objections to counsel's itemized entries, we deny the .25 hours requested for paralegal work on October 16, 2018, to "file a notice of appeal." Claimant did not file an appeal with the Board on or around that date.<sup>4</sup> Employer's remaining objections lack merit, as the other entries are sufficiently documented and

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<sup>3</sup>Contrary to employer's objection, counsel provided sufficient supporting evidence regarding the hourly rate for paralegal work in this case by virtue of counsel's submission of the Ninth Circuit's decision.

<sup>4</sup>The appeals in BRB Nos. 15-0360 and 15-0495 were filed respectively on June 26 and September 9, 2015, and were consolidated on November 5, 2015.

reasonably commensurate with the necessary work performed before the Board. 20 C.F.R. §802.203(e); *Smith v. Alter Barge Line, Inc.*, 30 BRBS 87 (1996). We therefore award counsel 12.25 hours for his work and 2 hours for paralegal work. Accordingly, we award claimant's counsel an attorney's fee for work performed before the Board in BRB Nos. 15-0360 and 15-0495, totaling \$5,885, representing 12.25 hours of attorney work at an hourly rate of \$460 and 2 hours of paralegal work at an hourly rate of \$125.

Accordingly, the administrative law judge's Attorney Fee Order on Remand is modified to reflect an hourly rate of \$425 for work performed by Mr. Winter. We affirm the administrative law judge's fee award in all other respects. We award claimant's counsel an attorney's fee of \$5,885 for work performed before the Board in BRB Nos. 15-0360 and 15-0495, to be paid directly to claimant's counsel by employer. 33 U.S.C. §928; 20 C.F.R. §802.203.

SO ORDERED.

JUDITH S. BOGGS, Chief  
Administrative Appeals Judge

GREG J. BUZZARD  
Administrative Appeals Judge

JONATHAN ROLFE  
Administrative Appeals Judge