

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Department of Employment Services**  
**Labor Standards Bureau**



Office of Hearings and Adjudication  
Administrative Hearings Division

(202) 671-2233-Voice  
(202) 673-6938-Fax

IN THE MATTER OF, )  
 )  
ROBERT E. GRIMES, JR., )  
 )  
Claimant, )  
 )  
v. )  
 )  
DISTRICT OF COLUMBIA DEPARTMENT )  
OF FINANCE AND REVENUE, )  
 )  
Employer. )

AHD No. PBL 93-048  
DCP No. 163626

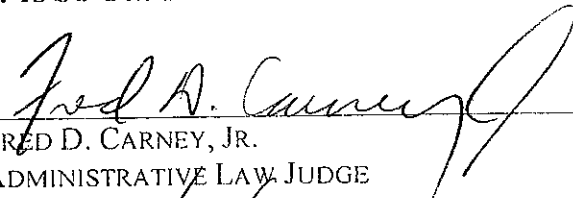
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**ORDER TO SHOW CAUSE**

On April 14, 2008, the Administrative Hearings Division (hereinafter, AHD) received from Harold L. Levi, Esquire (hereinafter, counsel), as counsel for Robert Grimes, Jr. (hereinafter, claimant), a Petition for an Order. Therein, counsel requested an assessment of an attorney's fee in the above-captioned matter. In support of said Petition, counsel has filed computations of the time spent thereon, for the services rendered before this forum, for a fee of \$23,550.00 and costs in the amount of \$405.25 based upon 157.00 hours of work performed before AHD.

Claimant shall file his written objections to the counsel's Petition no later than May 21, 2008. Upon timely receipt of claimant's response, an Order will be entered. Failure to timely respond will likewise result in the issuance of an Order.

IT IS SO ORDERED.

  
\_\_\_\_\_  
FRED D. CARNEY, JR.  
ADMINISTRATIVE LAW JUDGE

DATE 5/6/08

Parties Served :

HAROLD L LEVI, ESQUIRE  
ANDREA G. COMENTALE, ESQUIRE  
ROBERT E. GRIMES, JR., CLAIMANT

Enclosures: Copy of Fee Petition.

DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES  
OFFICE OF HEARINGS AND ADJUDICATIONS

In the Matter of )  
)  
ROBERT E. GRIMES, JR. )  
Claimant )  
) AHD No. PBL 93-048  
) DCP No. 163626  
) Hon. Fred Carney  
DISTRICT OF COLUMBIA DEPARTMENT )  
OF FINANCE AND REVENUE )  
Employer )  
)

FEE PETITION

Claimant, by his counsel, Harold L. Levi, respectfully submits this Fee Petition along with an itemized schedule of (1) the dates of all legal services performed by counsel, (2) the aggregate time expended by counsel each day in which he provided services, (3) the fees and reimbursable expenses incurred, and (4) a description of the legal services rendered for each period. The legal services provided in this matter were all performed by Harold L. Levi, Esquire, a sole practitioner licensed in the District of Columbia and the State of Maryland in connection with the successful prosecution of Claimant's claim for the reinstatement of workers' compensation benefits. Claimant requests approval of his fees and expenses to be paid by Claimant. Claimant has evidenced in writing that Counsel's fees are reasonable and will be paid by him. The Office of the Attorney General has indicated that it will not oppose such fees and expenses where paid by the Claimant.

Claimant and his counsel respectfully seek an order approving legal fees of \$23,550.00 for the successful reinstatement of benefits that were terminated in 1998. The

time for appeal has passed and DCP has not appealed the rulings in the Compensation Order.

On December 31, 2007, Honorable Administrative Law Judge Fred D. Carney, Jr. issued the CO in this matter. The Order granted Claimant's claim for the full retroactive restoration of his medical and compensation benefits and for the provision of prospective causally-related medical treatment. Based upon the CO, Claimant is entitled to the retroactive restoration of compensation benefits for the period beginning October of 1998. The amount of benefits owed for retroactive compensation, which has yet to be paid or even determined, is approximately \$400,000. The amount of prospective benefits is not known at this time.

In addition, Claimant has several thousand dollars of outstanding medical expenses which Employer has failed or refused to pay and he has not had medical treatment for some time relating to his workplace injuries. It is understood that Claimant will now be able to obtain medical services relating to his injuries.

In accordance with this Petition, Claimant and his counsel respectfully request approval of an Order awarding \$23,550.00 of attorney fees and \$405.25 of reimbursable expenses for the successful reinstatement of Claimant's benefits. This amount is well under 20% of the total benefit conferred on Claimant as a result of Counsel's services.

In determining whether to approve this Petition the hearing officer is required to consider among other factors, (a) the nature and complexity of the claim; (b) the actual time spent on development and presentation of the claim; (c) the amount of compensation accrued and potential future payments to which the Claimant may be entitled; (d) the customary local charges for similar services; and (e) the professional qualifications of the

representative. Counsel considers the (a), (c) and (e) factors immediately below.

Factors (b) and (d) are included in the enumerated sections that follow:

Counsel began representing Claimant more than three years ago, in 2005, and entered into a fee agreement at that time in which Claimant agreed to pay counsel \$150.00 per hour. Counsel stands by that agreement despite the fact that his rates and expenses have gone up considerably since that time.

Counsel has been an attorney at law since 1972 and a member of the District of Columbia bar since 1975. He has been doing extensive Federal and District of Columbia worker's compensation work for eleven years. Counsel's prevailing hourly rate for the commercial and other legal services which he performs in Maryland and the District of Columbia is now between \$240.00 and \$300.00, and he routinely receives the industry-standard 33.33 percent for the contingent fee work he performs. Counsel's hourly rates are well below those being charged by many lawyers in this community, and his rates charged for District of Columbia government employee workers' compensation matters reflect a significant reduction as to both Counsel's prevailing hourly rates and industry standards.

In order to further aid in the consideration of this Petition, Counsel includes the following considerations in conformance with Section 7-109 of the Municipal Regulations:

I. The Dates that Services Began and Ended and all Dates on which Conferences were held, Documents and Letters prepared, Telephone calls made, etc.

As noted above, Counsel began representing Claimant in October of 2005 and he has continued to represent Claimant without compensation to this date without

compensation for his services.

Before proceeding to the final hearing in this matter, Counsel expended time in meetings and conferences with Claimant, researching, preparing and discussing discovery requests with opposing counsel, reviewing the extensive medical documentation and hearing preparation and attending prehearing conferences and attending to other pre-hearing matters. After the hearing, Counsel expended additional time dealing with further drafting, concluding and follow up matters and preparing for appellate proceedings that Employer ultimately opted not to commence. Counsel has continued to represent Claimant because in light of the termination and subsequent delay in payment of his benefits.

II. A description of each service rendered with the amount of time spent on each service rendered and with the amount of time on each type of service rendered.

The attached invoice addressed to Claimant which Claimant has reviewed and determined to be reasonable, shows the amount of time expended on each service during the periods of time referenced above. Counsel has determined that during the course of his representation of Claimant in this matter he spent time on the following services and for the following total time periods:

Review Case History	13.00
Conferences and Meetings with Client	20.00
Correspondence and Other Conferences	20.00
Review Medical Reports	14.00
Legal research, Discovery, Hearing Preparation,	25.00
Hearing Attendance and Post-Hearing Document	65.00
Preparation	
	<hr/>
	157.00

III. The amount of the fee which Counsel desires for the services performed.

Counsel seeks an attorney fee award of \$23,550 for the services he rendered to Claimant in the successful establishment of Claimant's continued right to compensation and medical treatment. As noted, Claimant reviewed Counsel's statement of charges and reimbursable expenses and has affirmed that Counsel's fees are reasonable and will be paid by Claimant upon receipt of the back pay award.

IV. The amount of fees requested, charged, or received for services rendered on behalf of the Claimant before any State or Federal court or agency in a similar matter.

Counsel has not represented Claimant before any State or Federal agency or court in a similar or related matter.

V. A statement explaining the basis for the amount of the fee requested.

Counsel is seeking an attorney fee award based upon a total of 157 hours of work performed solely by Counsel and no other attorney, paralegal or secretary. Counsel's current hourly rate for legal services in connection with District of Columbia employee workers compensation matters is now \$225.00; however, Counsel's fee agreement with Claimant, entered into in 2005, called for payment of \$150.00 per hour. This hourly rate is far below Counsel's normal hourly rates for the corporate and other services he performs in the District of Columbia and Maryland. Counsel's fees for those services range from \$240.00 to \$300.00. Moreover, Counsel's hourly rate for workers compensation matters is well below the typical hourly rates charged by practicing lawyers in this area with specializations and with as many as the ten years of professional expertise which Counsel has in this area of law.

Based upon the considerations in D.C. law and in the Municipal Regulations, Counsel requests a reduced attorney fee award of \$23,550 plus reimbursable expenses of \$405.25. This claim for legal services is far less than 20% of the total benefit conferred on Claimant as a result of Counsel's services.

The above submission clearly complies with the requirements of 7 DCMR Sections 109. It provides a complete statement of the extent and character of the necessary work done, describes with particularity as to the attorney who provided all of the work. It further contains the attorney's normal billing rate in the area of the work and other areas in which he performs, and lastly it totals the hours devoted by the sole attorney involved here as to the sole category of work performed.

Respectfully submitted,



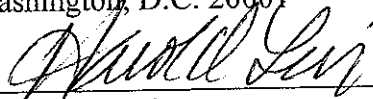
Harold L. Levi  
1803 Research Boulevard  
Suite 602  
Rockville, Maryland 20850  
(301) 610-9680

Counsel for Claimant

#### CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2008, I served a copy of this Fee Application on:

Andrea G. Comentale, Esquire  
Assistant Attorney General  
441 Fourth Street, N.W., Room 1060-N  
Washington, D.C. 20001



Harold L. Levi

HAROLD L. LEVI  
1803 Research Boulevard, Suite 602  
Rockville, Maryland 20850

(301)-610-9680

March 12, 2008

Mr. Robert E. Grimes  
120 54<sup>th</sup> Street, SE  
Washington, DC 20019

For professional services regarding workers' compensation claim:

10/17/05 Review Middleton, ECAB, decisions and OAG correspondence; prepare chronology	3.0
10/19/05 Meeting with Grimes; review records	2.5
11/8/05 Review 1993 order; conference with Grimes; call to Thelma Brown; review Carney order	2.0
11/9/05 Conferences with Grimes; review files; prepare notice and memorandum	5.0
11/10/05 Conference with Grimes; conference with Donna Cooper; complete petition for expedited ruling; conference with DCEJ	2.0
1/3/06 Conference with Grimes	.25
1/14/06 Review request for expedited determination; conference with Carney's office; review matters regarding mandamus	.25
1/6/06 Conference with Grimes; research mandamus and begin preparation of mandamus	3.25

1/31/06	Conferences with Grimes and Carney	.50
2/1/06	Conference with Grimes	.25
2/14-2/15/06	Preparation for conference; meeting with Grimes; attend conference	4.5
2/16/06	Review documentation; prepare requests for production	1.50
2/17/06	Begin summary judgment review; review order	3.25
2/22/06	Summary judgment research	2.0
2/28/06	Conference with Grimes	.25
3/6/06	Work on summary judgment motion	2.0
3/14/06	Call and email correspondence to T. Brown re hearing; prepare prehearing order	2.5
3/15/06	Revise summary judgment; conferences with Brown, Carney; correspondence to Carney; conference with Brown; conference with Grimes	1.75
3/16/06	Research Lightfoot; research case law re notice and summary judgment; revise summary judgment memo	3.75
3/20/06	Review response to request for production; conference with Grimes; finalize Motion for summary judgment; meeting with Grimes; correspondence to Carney	3.75
4/14/06	Conference with Carney; review correspondence from Brown; reply to Brown correspondence	1.0
4/19/06		

Conference with Carney and Brown; conference with Grimes	1.75
4/20/06 Revise prehearing order and transmit to Brown; correspondence to Brown	.75
4/21/06 Conference with Brown; research regarding due process	1.75
4/24/06 Review directors decision in Lee-Williams; correspondence to Conti	.50
5/2/06 Review Lee-Williams brief and decision	.50
5/8/06 Begin preparation for hearing; prepare exhibits, list of exhibits; closing Argument; conference with Grimes	4.0
5/11/06 Meeting with Grimes	2.75
5/12/06 Attend hearing	7.5
5/15/06 Prepare closing	4.75
5/16/06 Complete closing statement; conference with Grimes	3.0
5/17/06 Meeting with Grimes	.75
6/9/06 Conference with Grimes	.25
6/14/06 Conference with Grimes; revisit Lightfoot issues; correspondence to Conti and review response	1.0
6/21/06 Meeting with Grimes	.25
8/18/06 Conference with Hawkins; review docket sheet; conference with Grimes	.75

8/21/06	Review docket sheet; conference with Hawkins	.25
9/8/06	Conference with Grimes	.25
11/30/06	Conference with Romaniuk and correspondence to Romaniuk regarding COLA	.25
1/10/07	Review correspondence from Grimes; conference with Grimes	.50
2/15/07	Conference with Grimes	.50
4/5/07	Conference with Carney	.25
5/16/07	Conference with Grimes; legal research	1.0
6/11/07	Review letter; conference with Grimes	.50
7/24/07	Review decision; Conferences with Grimes; review decision	3.0
1/07	Prepare findings; research	3.0
8//07	Revise findings	1.0
8/6/07	Conference with Thelma Brown; conference with Grimes	1.0
8/14/07	Conference with Grimes	.25
8/15/07	Conference with Grimes	.25
8/16/07	Conference with Brown	.25
8/22/07		

Conferences with Phillips and Grimes	.25
9/4/07 Call to Brown; prepare motion to compel, motion for ex parte relief	2.25
9/7/07 Ex parte motion; correspondence to Brown	1.75
9/11/07 Attend prehearing conference	3.5
9/14/07 Review PHO from Brown; complete PHO; conference with Grimes	.75
9/17/07 Begin hearing preparation, exhibits	1.50
9/25/07 Correspondence to Brown	.50
10/2/07 Meeting with Brown; review discovery requests; conference with Grimes	1.0
10/3/07 Hearing preparation; review discovery requests	2.0
10/4/07 Meeting with Grimes; finalize discovery responses; review transcript of 1990 hearing; prepare outline of documents needed; prepare for hearing; prepare Grimes	4.75
10/9/07 Conference with Grimes; review interrogatory response; correspondence to Brown	.75
10/16/07 Begin closing arguments; complete first direct and cross review; Complete review of discovery documents; final review of exhibits; provided Employer responses to discovery	5.5
10/18/07 Conference with Grimes	.50
10/19/07 preparation and review; conference with Grimes; review documentation; hearing preparation	4.0

10/22/07	Final preparation; legal research; meeting with Grimes; attend hearing; post-hearing meeting with Grimes; prepare closing	8.0
10/23/07	Complete closing preparation	4.5
11/7/07	Meeting with Grimes	.50
12/3/07	Conference with Grimes	.25
1/2/08	Conference with Grimes; review Compensation Order	1.25
1/3/08	Conference with Fleming; conference with Grimes	.50
1/8/08	Conference with Grimes	.25
1/23/08	Review petition for review of Compensation Order; research standard; Begin preparation of background section for opposition to petition for review	4.75
1/24 /08	Continuing research regarding findings and conclusions of law; begin preparation of discussion of legal issues; draft conclusion	5.25
1/30/08	Conference with Grimes	.25
2/1/08	Conference with CRB	.25
2/4/08	Meeting with Grimes; prepare affidavit; review Federal wage reports	1.75
2/5/08	Conference with Grimes; meeting at CRB; correspondence to Fleming	1.25
2/8/08	Conference with Grimes; correspondence	.50
2/11/08		

2/11/08	Conference with Grimes; call to Fleming; conference with Grimes; conference with Comentale	2.0
2/18/08	Review earnings data; conference with Grimes; conference with Grimes; letter to Bosely	1.75
2/25/08	Conference with Grimes	.50
2/28/08	Conference with Hill; research; correspondence to Hill; call to Grimes	1.0
2/29/08	Grimes	.25
3/1/08	Conference with Grimes; research COLAs	1.25
3/4/08	Conference with Hill; conference with Grimes	.50
3/5/08	Conference with Hill;	.25
3/12/08	Conference with Grimes; correspondence to Hill; review tax records; review additional reports	2.25

157.0 hours @ \$150.00		\$23,550.00
Copies	\$ 65.00	
Postage	\$ 25.25	
Computer research time	\$325.00	
		\$ 405.25
Amount due		\$23,955.25

ROBERT E. GRIMES, JR.

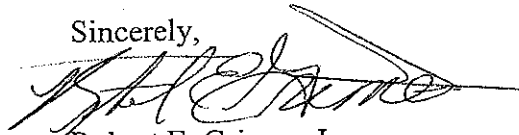
February 12, 2008

Mr. Harold L. Levi, Esquire  
1803 Research Boulevard, Suite 602  
Rockville, Maryland 20850

Dear Mr. Levi:

I have reviewed your itemized invoice for legal fees plus expenses rendered in connection with my workers' compensation claim. Your statement of fees and expenses is reasonable and I will pay those fees upon receipt of the back pay which is owing to me. I understand that you will be submitting a fee application to the Office of Hearings and Adjudications.

Sincerely,

A handwritten signature in black ink, appearing to read "R. E. Grimes, Jr.", with a long horizontal flourish extending to the right.

Robert E. Grimes, Jr.