

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Employment Services**

MURIEL BOWSER  
MAYOR



DEBORAH A. CARROLL  
ACTING DIRECTOR

COMPENSATION REVIEW BOARD

**CRB No. 14-049(A)(2)**

**In Re: Application for Approval of an Attorney's Fee Assessment**

**DEIDRE BERRY,**  
**Claimant,**

v.

**DISTRICT OF COLUMBIA DEPARTMENT OF PUBLIC WORKS,**  
**Employer.**

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2015 MAR 16 PM 1 47

Harold L. Levi for the Claimant  
Lindsay M. Neinast for the Employer

Before MELISSA LIN JONES, LINDA F. JORY, and JEFFREY P. RUSSELL, *Administrative Appeals Judges.*

MELISSA LIN JONES, *Administrative Appeals Judge*, on behalf of the Compensation Review Board:

**ORDER GRANTING AN ATTORNEY FEE AWARD**

Following a formal hearing, an administrative law judge ("ALJ") issued a Compensation Order awarding Ms. Deidre Berry temporary total disability benefits and medical benefits as a result of her compensable right hand injury. *Berry v. D.C. Department of Public Works*, AHD No. PBL13-012, PSWCP No. 3012048291-0001 (March 31, 2014). The District of Columbia Department of Public Works ("Employer") appealed, and the Compensation Review Board ("CRB") affirmed the Compensation Order. *Berry v. D.C. Department of Public Works*, CRB No. 14-049, AHD No. PBL13-012, PSWCP No. 3012048291-0001 (December 12, 2014).

On January 6, 2015, Harold L. Levi (Ms. Berry's attorney) filed a fee petition. Mr. Levi requested the CRB approve a fee in the amount of \$3,120.00 for 13.0 hours of work at a rate of \$240.00 per hour. Employer opposed the petition, and on February 3, 2015, the CRB denied Mr. Levi's petition without prejudice because as the requesting party he had the burden of proving the amount of benefit secured as a result of his representation and he had not done so.

On February 6, 2015, pursuant to D.C. Code § 1-623.27(b) and 7 DCMR §§ 224 and 269, Mr. Levi filed an Amendment to Fee Petition Demonstrating Actual Benefit Secured for Claimant

("Petition"). Mr. Levi now requests approval of an attorney's fee in the amount of \$9,944. In support of his Petition, Mr. Levi has attached medical invoices and wage information indicating he secured for Ms. Berry benefits totaling \$49,721.48.

In response to the Order to Show Cause dated February 18, 2015, Employer raises no objection to Mr. Levi's proof of benefits secured. Instead, Employer contends that 2.25 hours of Mr. Levi's time is unreasonable because it was expended after Mr. Levi filed Claimant's Opposition to the Application for Review:

In this matter, Claimant filed her Opposition to the Application of Review with the CRB on May 6, 2014. Yet, according to the bill attached to the Petition, 2.25 of the itemized hours are dated July 23, 2014, December 12, 2014, and December 15, 2014, and thus appear after the Opposition was filed. Since none of the services subsequent to the Opposition being filed could have contributed to the actual benefit secured, the hours listed for those services must be excluded.

Employer's Opposition to Amended Fee Petition, p. 3

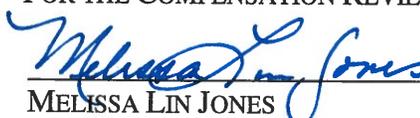
After filing the opposition, Mr. Levi conferenced with his client and reviewed the decisions issued in this matter; ethically, an attorney would be remiss if he simply ceased working on a matter because an opposition had been filed. The CRB finds no merit to Employer's argument that Mr. Levi should not be compensated for his time spent after May 6, 2014.

Mr. Levi spent 13.0 hours in the successful prosecution of this claim. At a rate of \$240.00 an hour, the total is \$3,120.00, an amount less than 20% of the benefits secured. Thus, it hereby is

**ORDERED:**

Subject to the condition that the total attorney fee awarded and payable for all work performed before the Office of Hearings and Adjudication's Administrative Hearings Division and the CRB is limited to and does not exceed twenty percent (20%) of the actual benefits secured as a result of Mr. Levi's efforts with respect to the issues arising from AHD No. PBL13-012 and PSWCP No. 3012048291-0001, an award of a reasonable attorney's fee in the amount of \$3,120.00 is assessed against Employer and is payable directly to Harold L. Levi, Esq.

FOR THE COMPENSATION REVIEW BOARD:

  
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MELISSA LIN JONES  
*Administrative Appeals Judge*

\_\_\_\_\_  
March 16, 2015  
Date