

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

VINCENT C. GRAY
MAYOR



F. THOMAS LUPARELLO
ACTING DIRECTOR

COMPENSATION REVIEW BOARD

In Re: Petition for Approval of Attorney's Fees

CRB No. 14-020 (A)

**ELLIOTT AUSTIN,
Claimant,**

v.

**UNITED PARCEL SERVICE and LIBERTY MUTUAL INSURANCE CO.,
Employer/Carrier.**

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2014 AUG 13 AM 9 27

Bruce M. Bender for the Claimant
Donald P. Maiberger for the Employer/Carrier

Before: HENRY W. MCCOY, MELISSA LIN JONES, and JEFFREY P. RUSSELL, *Administrative Appeals Judges.*

HENRY W. MCCOY for the Compensation Review Board.

ORDER APPROVING PETITION FOR ATTORNEY'S FEES

On June 13, 2013, Claimant's attorney filed an application for an attorney's fee, requesting the Compensation Review Board (CRB) approve the award of an attorney's fee pursuant to D.C. Code § 32-1530, to be paid by the Employer in the amount of two thousand six hundred ninety-four dollars and fifty cents (\$2,694.50) for 14.6 hours of work that was asserted to have been performed by Claimant's counsel in this appeal before the CRB, plus expenses and advances in the amount of two hundred sixty one dollars and sixty-six cents (\$261.66), for a total award of \$2,956.16.

A review of the pleadings and documents on file reveal a Compensation Order was issued on January 30, 2014 which granted Claimant's request for disability benefits. Employer appealed to the CRB. In a June 5, 2014 Decision and Order (DO), the CRB affirmed the CO.¹ As the CRB's decision was not a final order at the time the fee petition was filed, the petition was dismissed

¹ *Austin v United Parcel Service*, CRB No. 14-020 (June 5, 2014).

without prejudice with the right to request reinstatement of the petition within ninety (90) calendar days after the DO became final.

On July 11, 2014, Claimant's counsel filed a request to have his fee petition reinstated insofar as the CRB's DO had become final after the passage of 30 days with no appeal having been filed. Also submitted was Employer's previously filed statement that the fee petition had been reviewed with no objection made as it was considered to be "fair and reasonable."²

Upon careful review of Claimant's counsel's fee petition, the employer/carrier's consent to the requested fee and expenses as fair and reasonable, and in consideration of D.C. Official Code § 32-1530 *et seq.*, 7 DCMR §§ 224 and 269 and the May 12, 2005 *Department of Employment Services Policy Directive Clarifying the Award of Attorney Fees in Workers' Compensation Cases*, it is hereby **ORDERED**:

Subject to the condition that the total attorney fees awarded and payable for all work performed before the Department of Employment Services' Office of Workers' Compensation, Administrative Hearings Division, and the Compensation Review Board, is limited to and does not exceed twenty percent (20%) of the actual benefits secured through the efforts of claimant's counsel with respect to the issues arising from OWC No. 703110, AHD No. 13-542, and CRB No. 14-020, as provided by D.C. Official Code § 32-1530(f) and 7 DCMR § 224, claimant's counsel's request for an attorney's fee in the amount of two thousand six hundred ninety-four dollars and fifty cents (\$2,694.50) plus expenses in the amount of two hundred sixty-one dollars and sixty-six cents (\$261.66) for total sum amount of two thousand nine hundred fifty-six dollars and sixteen cents (\$2,956.16) is approved for services performed by claimant's counsel in the appeal before the CRB and is assessed against and payable by the employer, United Parcel Service, directly to claimant's counsel, Bruce Bender, Esq.

FOR THE COMPENSATION REVIEW BOARD:


HENRY W. MCCOY
Administrative Appeals Judge

August 13, 2014

DATE

² Employer's Counsel's June 24, 2014 letter initially was filed on June 27, 2014.