

**United States Department of Labor  
Employees' Compensation Appeals Board**

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<b>In the Matter of P.C., claiming as widow of R.C.,</b>	)	
<b>Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 20-1546</b>
	)	<b>Issued: March 4, 2024</b>
	)	
<b>DEPARTMENT OF THE AIR FORCE,</b>	)	
<b>MONTANA AIR NATIONAL GUARD,</b>	)	
<b>Great Falls, MT, Employer</b>	)	
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*Appearances:*  
William O. Branson, Esq., for the appellant  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER GRANTING FEE PETITION**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

Counsel for appellant has filed a fee petition in the amount of \$1,189.16.<sup>1</sup> The Board notes that all petitions for approval of fees for a representative's services are considered under the Board's statutory authority found at section 8127 of the Federal Employees' Compensation Act (FECA)<sup>2</sup> and under its *Rules of Procedure* found at 20 C.F.R. § 501.9(e).<sup>3</sup>

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<sup>1</sup> FECA (5 U.S.C. § 8127(b)) and its implementing regulations (20 C.F.R. § 501.9) clearly require the Board to review each fee petition on its own merits and with regard to the unique facts and issues of each appeal. The recognition that each appeal to the Board has unique aspects is reflected in the Board's orders granting or denying fee petitions.

<sup>2</sup> *Id.* at § 8127.

<sup>3</sup> 20 C.F.R. § 501.9(e).

Pursuant to its regulation, the Board considered the fee petition under the following criteria:

- “(1) The usefulness of the Representative’s services;<sup>4</sup>
- “(2) The nature and complexity of the appeal;<sup>5</sup>
- “(3) The capacity in which the Representative has appeared;<sup>6</sup>
- “(4) The actual time spent in connection with the Board appeal;<sup>7</sup> and
- “(5) Customary local charges for similar services.<sup>8</sup>”

The requested fees pertain to services performed before the Board in the above-referenced appeal. The Board issued an order on May 4, 2021 which reversed the February 26, 2020 decision of the Office of Workers’ Compensation Programs (OWCP).

On June 30, 2021 counsel filed a fee petition and statement of services requesting approval of fees totaling \$1,189.16.

OWCP’s decision on appeal was dated February 26, 2020 and the appeal was filed with the Board on August 21, 2020. The fee petition requests approval of services from August 19, 2020 through May 7, 2021 and documents 5.7 hours spent in connection with the appeal before the Board at \$200.00 an hour for William O. Bronson, Esquire. It also documents expenses totaling \$49.16. The fee petition described the specific services provided for the amounts of time claimed.

As required by the Board’s regulations, appellant has been afforded written notice of the fee requested and provided an opportunity to comment on the fee petition.<sup>9</sup> No response was

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<sup>4</sup> The Board’s consideration of “usefulness” includes, but is not limited to, the frequency and quality of communication by the attorney with the client, the factual evidence and legal argument offered by the attorney and written pleadings filed in the case. The Board will also consider the usefulness of an attorney’s work as it aided the Board in its consideration and decision of the issue appealed.

<sup>5</sup> The Board’s evaluation of the “nature and complexity” of an appeal includes, but is not limited to, whether the issue appealed is novel or required extensive or unusual factual evidence or legal argument. The Board recognizes that not all complex issues are cases of first impression. However, the attorney must establish the complex or unusual nature of the appeal.

<sup>6</sup> The Board’s consideration of the “capacity” in which an attorney appears includes, but is not limited to, whether the attorney obtained a written retainer and fee agreement.

<sup>7</sup> The Board’s evaluation of an attorney’s itemized statement of work and charges includes, but is not limited to, whether the statement is clear, detailed and describes those aspects of the appeal which merit the fee claimed and whether counsel has personally affirmed the correctness of the fee. No stipulated or contingent fee will be approved by the Board. 20 C.F.R. § 501.9(e).

<sup>8</sup> The Board’s consideration of customary, local fees recognizes that attorneys often have clients in several state and that local custom must be balanced against national practice in the FECA appeals.

<sup>9</sup> *Supra* note 3.

received. The Board has reviewed the fee petition and finds that it meets the requirements of section 501.9(e) of the Board's *Rules of Procedure*.<sup>10</sup> The Board concludes that the fee requested is reasonable.

The Board notes that under 20 C.F.R. § 501.9(e) “[n]o claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board.” Under 18 U.S.C. § 292, collecting a fee without the approval of the Board may constitute a misdemeanor, subject to fine or imprisonment up to a year or both.

**IT IS HEREBY ORDERED THAT** the fee petition is granted in the amount of \$1,189.16.

Issued: March 4, 2024  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>10</sup> *Id.*