

## PART XI

### ATTORNEY FEES

#### **B. ATTORNEY FEES FOR SERVICES PERFORMED BEFORE THE BOARD**

A petition for attorney fees for services performed before the Board will be approved only if claimant is ultimately successful and is awarded benefits. 20 C.F.R. §802.203; ***Bryant v. Lambert Coal Co.***, 9 BLR 1-166 (1986). A request for approval of a fee before the Board may not include time spent in services at another level of the adjudication process. See 20 C.F.R. §§725.366(a), 802.203(d); ***Neal v. Clinchfield Coal Co.***, 1 BLR 1-427 (1978). Compensation for those services must be fixed by the adjudication officer before whom they were performed, and the Board may advise counsel to seek an award before the appropriate office. *Id.*; see preceding section.

Section 802.203(c) provides that counsel may file an application for a fee with the Board within sixty days of the Board's issuance of a favorable decision or non-interlocutory order, within 60 days of an administrative law judge's decision on remand awarding benefits, or within 60 days of a Court of Appeals decision awarding benefits on appeal. 20 C.F.R. §802.203(c). The regulation also allows any party to respond to the application within ten days of its receipt. 20 C.F.R. §802.203(g).

To receive an attorney fee from the Board, counsel must submit a complete, itemized fee application in compliance with 20 C.F.R. §802.203(d). ***Leonard v. Republic Steel Corp.***, 2 BLR 1-571 (1979); ***Workman v. Director, OWCP***, 6 BLR 1-1281 (1984). This request must be filed with the Board and served on all other parties. 20 C.F.R. §802.203(c), (g). The Board will compensate counsel only for work performed before the Board. ***Workman***, *supra*.

### **CASE LISTINGS**

### **DIGESTS**