

BRB No. 05-0767

RODNEY BARNES)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
KINDER MORGAN BULK TERMINALS)	DATE ISSUED: 01/23/2007
)	
and)	
)	
THE GRAY INSURANCE COMPANY)	
)	
Employer/Carrier-)	ORDER on MOTION for
Respondents)	RECONSIDERATION

Claimant has filed a timely motion for reconsideration of the Board's Decision and Order in the captioned case. *Barnes v. Kinder Morgan Bulk Terminals*, BRB No. 05-0767 (May 24, 2006); 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407(a). In addition, claimant has filed a petition seeking an attorney's fee for work performed before the Board.

After consideration of claimant's contentions, claimant has not established grounds for reconsidering the Board's decision in this case. Claimant was not fully successful in obtaining all of the benefits sought. Pursuant to *Hensley v. Eckerhart*, 461 U.S. 424, 435-436 (1983), when a claimant achieves only partial success, the fee award should be for an amount that is reasonable for the results obtained, notwithstanding that counsel may be denied a fee for otherwise necessary services. The district director thus did not err in reducing the fee based on *Hensley*. Moreover, the district director did not abuse her discretion in reducing the hourly rate based in part on the complexity of the case, as that factor is specifically enumerated in the applicable regulation, 20 C.F.R. §702.132. In addition, the Ninth Circuit has rejected the "*Laffey* matrix." *Maldonado v. Lehman*, 811 F. 2d 1341 (9th Cir. 1987), *cert. denied*, 484 U.S. 990 (1987). Therefore, claimant's motion for reconsideration is denied and the Board's decision is affirmed. 33 U.S.C. §921(b)(5); 20 C.F.R. §§801.301(b), 802.409.

As the case was remanded to the district director for further consideration on several issues, we cannot ascertain the degree of claimant's success at this time. Thus,

the fee petition for work performed before the Board is premature, and will be addressed with claimant's appeal of the decision on remand, BRB No. 06-0742.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge