

BRB Nos. 00-0429, 00-0429A,
00-0666 and 00-0666A

GEORGE AHUNA)
)
 Claimant-Respondent)
 Cross-Petitioner)
)
 v.)
)
STEVEDORING SERVICES)
OF AMERICA) DATE ISSUED: Jan. 5, 2001
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 and)
)
HOMEPORT INSURANCE COMPANY)
)
 Employer/Carrier-)
 Petitioners)
 Cross-Respondents)
)
)
JONES OREGON)
STEVEDORING COMPANY)
)
 Employer-Respondent)
)
OCEAN TERMINALS)
)
 and)
)
SAIF CORPORATION)
)
 Employer/Carrier-)
 Respondents) DECISION and ORDER

Appeals of the Decision and Order Awarding Benefits, Decision and Order Granting Motion for Reconsideration, Order Granting SSA/Homeport's Motion for Reconsideration, Supplemental Decision and Order Awarding Attorney's Fees, and Order Denying Claimant's Motion for Reconsideration Regarding Costs of Alfred Lindeman, Administrative Law Judge, United States Department of Labor, and the Compensation Order Approval of Attorney Fees of Karen P. Staats, District Director, United States Department of Labor.

Charles Robinowitz, Portland, Oregon, for claimant.

John Dudrey (Williams Frederickson, LLC), Portland, Oregon, for Stevedoring Services of America and Homeport Insurance Company.

William M. Tomlinson (Lindsay, Hart, Neil & Weigler, LLP), Portland, Oregon, for Jones Oregon Stevedoring Company.

Norman Cole, Salem, Oregon, for Ocean Terminals and SAIF Corporation.

Before: SMITH and McGRANERY, Administrative Appeals Judges, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Employer appeals and claimant cross-appeals the Decision and Order Awarding Benefits, Decision and Order Granting Motion for Reconsideration, Order Granting SSA/Homeport's Motion for Reconsideration, Supplemental Decision and Order Awarding Attorney's Fees, and Order Denying Claimant's Motion for Reconsideration Regarding Costs (98-LHC-1978, 1979) of Administrative Law Judge Alfred Lindeman, and the Compensation Order Approval of Attorney Fees (Case Nos. 14-120393, 123602) of District Director Karen P. Staats rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3). The amount of an attorney's fee award is discretionary and may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant began working as a longshoreman in 1957. In 1964 or 1965, claimant injured his left knee during the course of his employment. On April 6, 1965, Dr. Smith operated on claimant's left knee and removed the medial meniscus. Claimant reported left knee symptoms to Dr. Smith during the 1970's and in January 1982. Dr. Freudenberg performed a left knee arthroscopy in February 1982 to relieve work-related irritation and swelling. Extensive degenerative changes were noted. Claimant reported left knee complaints in 1990 to Dr. Smith and claimant reported pain symptomatology in both knees in 1994 to Dr. Freudenberg. Claimant wrenched his right knee on August 31, 1995, during the course of his employment for Stevedoring Services of America (SSA) as a slingman. Claimant continued working, including a shift for SSA as a winch driver on September 6, 1995. On September 7, 1995, claimant was paid for two hours of work as a linesman for Ocean Terminals (Ocean) prior to his having both knees examined that day by Dr. Freudenberg. Dr. Freudenberg diagnosed bilateral degenerative joint disease, and

he recommended total replacement of the left knee joint. Claimant returned to longshore work. His last day of employment was on October 19, 1995, when he worked for Jones Oregon Stevedoring Company (Jones Oregon) as a crane operator. On October 20, 1995, Dr. Freudenberg performed a total replacement of claimant's left knee joint. Dr. Freudenberg released claimant to return to work on May 23, 1996, based on his left knee condition; however, Dr. Freudenberg rescinded the release on May 30, 1996, based upon claimant's right knee locking, right ankle pain, and inability to climb ladders. On August 2, 1996, claimant underwent arthroscopic surgery on his right knee. Dr. Freudenberg observed significant degenerative joint disease, on which basis he recommended that claimant retire from longshore employment.

The administrative law judge initially found timely claimant's notice of injury and claim for a left knee injury. 33 U.S.C. §§912, 913. The administrative law judge accepted the parties' stipulation that claimant has a 37 percent left knee impairment and a 30 percent right knee impairment. The administrative law judge found that claimant is unable to return to his usual employment as a crane operator as a result of both work-related knee injuries and that SSA, Jones Oregon, and Ocean failed to establish the availability of suitable alternate employment. The administrative law judge next found Jones Oregon to be the responsible employer based on his finding that claimant's favoring his left knee during the course of his employment prior to October 19, 1995, aggravated claimant's right knee condition. Accordingly, Jones Oregon was found liable for compensation and medical benefits except for a period of temporary total disability and past medical expenses related to claimant's right knee condition, for which SSA was found responsible pursuant to SSA's pre-hearing stipulation. Finally, the administrative law judge determined claimant's average weekly wage, 33 U.S.C. §910, found Jones Oregon additionally liable, *inter alia*, for future medical expenses related to both knee conditions, 33 U.S.C. §907, and found Jones Oregon entitled to Section 8(f) relief, 33 U.S.C. §908(f).

On reconsideration, the administrative law judge granted Jones Oregon's motion and vacated his finding that Jones Oregon is the responsible employer, concluding that SSA is the responsible employer. The administrative law judge determined that claimant's ultimate disability from his left and right knee conditions resulted from the natural progression of his August 31, 1995, injury and his conditions of employment on September 6, 1995, while working for SSA, and would have occurred notwithstanding claimant's subsequent employment with Ocean and Jones Oregon. SSA was found liable for all benefits due, including medical care, and the administrative law judge substituted SSA for Jones Oregon as the recipient of Section 8(f) relief. Finally, the administrative law judge issued an Order granting SSA's motion to vacate the award of Section 8(f) relief on the basis that SSA never applied to the district director for Section 8(f) relief, nor did SSA request such relief before the administrative law judge. 33 U.S.C. §908(f)(3). Accordingly, SSA was found liable for temporary total disability compensation, 33 U.S.C. §908(b), from October 20, 1995, to May 23, 1996, for claimant's left knee injury, and from May 24, 1996 to October 24, 1996, for claimant's right knee injury; thereafter, SSA was found liable for continuing permanent total disability benefits resulting from

both knee injuries, 33 U.S.C. §908(a), and for medical benefits related to claimant's left knee condition.

Claimant's counsel subsequently submitted a fee petition to the administrative law judge requesting a fee of \$21,581.25, representing 105 hours of attorney services at \$200 per hour and 7.75 hours of paralegal services at \$75 per hour, plus costs of \$9,749.25. The administrative law judge awarded the requested fee of \$21,581.25. However, in awarding costs, the administrative law judge reduced from \$120 to \$100 the requested hourly rate for 72.2 hours of services provided by Scott Stipe, a vocational consultant. Claimant's motion for reconsideration of this cost reduction was denied.

Claimant's counsel also submitted a fee petition to the district director requesting a fee of \$3,993.75, representing 18.75 hours of attorney services at \$200 per hour and 3.25 hours of paralegal services at \$75 per hour, plus costs of \$40. The district director reduced the hourly rate for attorney services to \$190 and disallowed one-quarter hour from the 1.25 hours requested to prepare the fee petition. Claimant's counsel was therefore awarded a fee of \$3,758.75, plus costs of \$40.

On appeal, SSA challenges the administrative law judge's finding that it is the responsible employer, and the finding that claimant is unable to return to his usual employment. SSA also appeals the fee awards issued by the administrative law judge and district director. Claimant also appeals the fee awards of the administrative law judge and the district director. Specifically, claimant appeals the administrative law judge's reduction of the reimbursable hourly rate for services provided by Scott Stipe from \$120 to \$100. Claimant also appeals the district director's reduction of counsel's requested hourly rate from \$200 to \$190.

We initially address SSA's contention that the administrative law judge erred by finding that SSA is the employer responsible for compensation for disability related to both work-related knee injuries. Specifically, SSA asserts there is no evidence supporting the administrative law judge's finding that claimant aggravated his left knee during the course of his employment with SSA, and that there is no evidence that the right knee injury which did occur while claimant was employed with SSA aggravated the left knee

¹Prior to the formal hearing, SSA had accepted liability for temporary total disability from August 2 to October 24, 1996 resulting from claimant's right knee injury, and for medical benefits related to claimant's August 31, 1995, right knee injury. Decision and Order Awarding Benefits at 11 n.13.

²By Orders issued on April 27, 2000, and May 10, 2000, the Board consolidated for purposes of decision SSA's appeals of the administrative law judge's Decision and Order Awarding Benefits, BRB No. 00-0429, the administrative law judge's fee award, BRB No. 00-0429S, and the district director's fee award, BRB No. 00-0666, and claimant's appeals of the administrative law judge's fee award, BRB No. 00-0429A, and the district director's fee award, BRB No. 00-0666A.

condition. Moreover, SSA alleges error because it was not claimant's last longshore employer relative to the left knee injury, *i.e.*, claimant worked for Ocean on September 7, 1995, which is the date Dr. Freudenberg advised claimant he needed a total replacement of his left knee joint, and claimant worked for Jones Oregon on his last day of longshore employment prior to his knee replacement, October 19, 1995.

On reconsideration, the administrative law judge found SSA to be the responsible employer for claimant's left knee condition and for compensation resulting from claimant's inability to work due to his left and right knee injuries. The administrative law judge reasoned that: the day after claimant worked for SSA, September 6, 1995, Dr. Freudenberg examined both knees, and recommended a total knee replacement of claimant's left knee; claimant's left knee did not worsen after August 31, 1995, when claimant worked for SSA and injured his right knee, based on evidence that claimant's left knee had already deteriorated by that time to the greatest possible extent; Dr. Freudenberg attributed claimant's inability to return to work to claimant's right knee condition after claimant's left knee reached maximum medical improvement in May 1996, and SSA admitted liability for the right knee injury; and, no medical expert opined that claimant's right knee condition was aggravated during the course of claimant's employment with Jones Oregon on October 18 and 19, 1995. The administrative law judge therefore concluded that claimant's ultimate disability resulted from the natural progression of claimant's August 31 and September 6, 1995, injuries and work exposures with SSA, and would have occurred notwithstanding claimant's subsequent longshore employment. Decision and Order Granting Motion for Reconsideration at 2.

In determining the responsible employer in the case of multiple traumatic injuries, if the disability results from the natural progression of an initial injury, then the initial injury is the compensable injury and accordingly the employer at the time of that injury is responsible for the payment of benefits. If, on the other hand, a subsequent injury aggravates, accelerates, or combines with claimant's prior injury, thus resulting in claimant's disability, then the subsequent injury is the compensable injury and the subsequent employer is fully liable. *Foundation Constructors, Inc. v. Director, OWCP*, 950 F.2d 621, 25 BRBS 71(CRT) (9th Cir. 1991); *Kelaita v. Director, OWCP*, 799 F.2d 1308 (9th Cir. 1986); *Buchanan v. Int'l Transportation Services*, 33 BRBS 32 (1999); *Steed v. Container Stevedoring Co.*, 25 BRBS 210 (1991).

In the instant case, SSA was found liable under the Act for each injury and, consequently, was the employer responsible for providing claimant compensation and medical benefits for his knee injuries. The administrative law judge found that claimant's permanent total disability resulted from the natural progression of claimant's August 31, 1995, right knee injury, and the aggravation of claimant's left knee condition by his employment for SSA on August 31, 1995, and September 6, 1995. Moreover, the administrative law judge found that claimant's left knee was not subsequently aggravated at work on September 7, 1995, or thereafter. The uncontradicted evidence of record establishes that claimant's left knee degenerated over the course of claimant's longshore employment after claimant sustained a work-related left knee injury in 1964 or 1965,

which was treated by removing the medial meniscus. *See, e.g.*, SAIF EX 52. There is no record of any treatment for the left knee from October 17, 1994, when claimant reported on his last office visit to a physical therapist that his left knee was “feeling ok,” CX 11 at 31, until September 7, 1995, when claimant presented to Dr. Freudenberg, who diagnosed bilateral degenerative joint disease and recommended a total left knee replacement. CX 10 at 28. The administrative law judge credited the opinions of Drs. Freudenberg and Vessely that there was no further worsening of claimant’s left knee between September 7, 1995, and October 20, 1995, when Dr. Freudenberg replaced claimant’s left knee joint. *See* Tr. at 189-190; CX 24 at 66; *see also* CX 24 at 71-72, 75, 77. Dr. Freudenberg stated on deposition that claimant’s work after September 5, 1995, probably caused no further worsening of claimant’s left knee condition. SAIF EX 53 at 180. The uncontradicted evidence of record establishes that claimant worked approximately 10 minutes for Ocean as a let-go linesman the morning of September 7, 1995, prior to his examination by Dr. Freudenberg. SAIF EX 28, 29. Claimant has no recollection of his actual job duties that day; however, claimant testified that the duties of a let-go linesman involve taking up line slack and that it is a preferred longshore job. Tr. at 95-96. Dr. Vessely unequivocally stated in his deposition that none of claimant’s work activities after August 31, 1995, aggravated claimant’s left knee condition. SAIF EX 57 at 307, 314. Inasmuch as the credited evidence provides ample support for the administrative law judge’s finding that claimant’s left knee had deteriorated to its fullest extent as of September 6, 1995, we affirm the administrative law judge’s finding that SSA is the responsible employer for claimant’s left knee condition. *See McKnight v. Carolina Shipping Co.*, 32 BRBS 165, *aff’d on recon. en banc*, 32 BRBS 251 (1998); *Steed*, 25 BRBS at 220.

Regarding claimant’s August 31, 1995, right knee injury, SSA accepted liability before the administrative law judge for claimant’s right knee injury. *See* n.1. SSA does not appeal the administrative law judge’s finding that there is no medical evidence that claimant’s right knee was aggravated during the course of his employment with Jones Oregon on October 18 and 19, 1995. Accordingly, we affirm the administrative law

³SSA argues that, pursuant to the Board’s decision in *Buchanan v. Int’l Transportation Services*, 33 BRBS 32 (1999), as a matter of law, the last longshore employer, in this case Jones Oregon, is the responsible employer when prior longshore employers establish that there was not a distinct worsening of claimant’s condition during the course of claimant’s employment for them. Alternatively, if only the potential for injury need be shown, then SSA asserts that either Ocean is liable because claimant worked for Ocean on September 7, 1996, when Dr. Freudenberg recommended a total knee replacement, or that Jones Oregon is liable because it was claimant’s last longshore employer on October 19, 1995. In *Buchanan*, the Board held that “in the unlikely event” that an administrative law judge is unable to find any one employer’s evidence entitled to greater weight in a traumatic injury case, assigning liability to the last longshore employer is appropriate. In the instant case, substantial evidence supports the administrative law judge’s finding that claimant’s left knee was not further aggravated after August 31 and September 6, 1995, and SSA has not attempted to establish the liability of an earlier employer. *See Buchanan*, 33 BRBS at 36.

judge's finding that SSA is the responsible employer for disability resulting from claimant's left and right knee impairments. *See id.*

SSA next challenges the administrative law judge finding that claimant is unable to return to his usual employment due to his knee injuries. SSA contends the administrative law judge erred by failing to address evidence that claimant is capable of returning to work as a lift truck operator. Specifically, SSA contends that the administrative law judge failed to consider evidence that, whereas Dr. Freudenberg rescinded his work release on May 30, 1996, due to concerns caused by claimant's right knee locking, claimant's right knee improved after arthroscopic surgery on August 2, 1996. Moreover, employer asserts that in finding that claimant is not capable of returning to his usual employment as a crane operator, the administrative law judge erred by failing to consider evidence that claimant is capable of performing several longshore jobs that constituted part of claimant's regular employment. Finally, employer argues that claimant failed to carry his burden of showing that he is unable to return to his usual longshore employment because claimant's expert witness, Scott Stipe, did not address claimant's ability to work as a longshoreman.

To establish a *prima facie* case of total disability, claimant must show that he is unable to return to his usual employment due to his work-related disability. *See Hairston v. Todd Shipyards Corp.*, 849 F.2d 1194, 21 BRBS 122(CRT) (9th Cir. 1988). If claimant succeeds in establishing that he is unable to perform his usual work duties, the burden shifts to employer to demonstrate the availability of suitable alternate employment. In order to meet this burden the United States Court of Appeals for the Ninth Circuit, within whose jurisdiction the present case arises, has held that employer must demonstrate that specific job opportunities, which claimant could perform considering his age, education, background, work experience, and physical restrictions, are realistically and regularly available in claimant's community. *See Edwards v. Director, OWCP*, 999 F.2d 1374, 27 BRBS 81(CRT) (9th Cir. 1993); *Bumble Bee Seafoods v. Director, OWCP*, 629 F.2d 1327, 12 BRBS 660 (9th Cir. 1980).

In his Decision and Order Awarding Benefits, the administrative law judge found that claimant is unable to return to his usual employment as a crane operator. The administrative law judge credited the opinion of Dr. Freudenberg that claimant is physically unable to work as a crane operator over the opinion of Dr. Vessely, that

⁴SSA asserts its contention is evidenced by the following: Dr. Freudenberg's releasing claimant for normal activity on October 24, 1996; claimant's testimony that the knee felt better post-surgery; claimant's exercise regimen, which indicates little concern for falling and damaging his left knee prosthesis as well as indicating right knee fitness; and, claimant's pre-retirement willingness to drive hundreds of miles each year to other ports to obtain work.

⁵SSA argues that claimant's usual employment included work as a lift truck operator, auto and truck driver, and in the grain elevators, as well as that of a crane operator.

claimant could climb a vertical ladder into and out of a crane once or twice a day. The administrative law judge reasoned that Dr. Freudenberg had treated claimant for more than ten years while claimant was examined on only one occasion by Dr. Vessely. The administrative law judge credited two letters from Dr. Freudenberg to claimant's attorney in which he opined that the danger of claimant's injuring his left knee prosthesis if he were to slip and fall made employment on the docks unsafe. Moreover, Dr. Freudenberg responded to claimant's attorney that claimant should not work as a longshoreman, either on the docks or as a crane operator because claimant should not climb ladders or work on uneven ground. He attributed claimant's insecurity about climbing ladders to diminished proprioception from the total replacement of claimant's left knee joint.

The administrative law judge next addressed whether SSA, Jones Oregon, and Ocean established the availability of suitable alternate employment. The administrative law judge summarized the labor market surveys and testimony of employers' vocational consultants, Areta Sturges and Roy Katzen. The administrative law judge specifically listed the longshore positions of lift truck operator, tractor truck driver, clerk, and supervising clerk, which Mr. Katzen opined that claimant is capable of performing. The administrative law judge also summarized claimant's rebuttal evidence, consisting of the report and testimony of Scott Stipe, a vocational consultant. The administrative law judge quoted Mr. Stipe's testimony that it is unrealistic to expect that claimant could perform longshore work in the Coos Bay area considering claimant's restrictions and that the work is on wet, slippery surfaces or forklifts that require climbing on and off several steps. Moreover, the administrative law judge noted Mr. Stipe's testimony, that there has been little longshore work since 1998 in Coos Bay, that office jobs are highly desirable and difficult to obtain, and that checker jobs require standing most of the day and would expose claimant to significant slip and fall hazards. In conclusion, the administrative law judge stated Mr. Stipe's exceptional qualifications and credited his more detailed report over the more generalized reports of Ms. Sturges and Mr. Katzen. The administrative law judge found it unlikely that claimant will obtain any of the identified positions, some of which are outside his work restrictions, and many of which are competitive in claimant's small, economically depressed community. Accordingly, the administrative law judge concluded that employers' evidence failed to establish the availability of suitable alternate employment.

We affirm the administrative law judge's finding that claimant is totally disabled. While the administrative law judge did not address SSA's argument that claimant could return to work as a lift operator and could perform other longshoring jobs, the

⁶Dr. Freudenberg described "proprioception" as the ability to perceive joint position, straight or degree bent, without looking at it. He stated that an artificial joint negatively affects this ability. CX 24 at 70. The administrative law judge also credited claimant's inability to work from October 20, 1995, due to the left knee surgery, and his inability to work from May 30, 1996, due to right knee problems, which culminated in Dr. Freudenberg's recommendation on August 8, 1996, that claimant retire from longshore employment.

administrative law judge considered claimant's ability to perform other longshore work in his discussion of suitable alternate employment. Specifically, the administrative law judge credited Dr. Freudenberg's opinion that claimant should not return to any longshore employment because claimant should not walk on uneven ground where he might slip and fall, thereby damaging his left knee prostheses. Decision and Order Awarding Benefits at 8; *see* CXS 21, 22. Moreover, the administrative law judge credited Mr. Stipe's testimony that the longshore work identified by employers as evidence of suitable alternate employment is performed under wet, slippery conditions and that claimant must step on and off a forklift. Decision and Order Awarding Benefits at 9; *see* CX 29 at 104-105. In adjudicating a claim, it is well-established that the administrative law judge is entitled to weigh the evidence, and is not bound to accept the opinion or theory of any particular witness. *See generally Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 1335, 8 BRBS 744, 747 (9th Cir.1978), *cert. denied*, 440 U.S. 911 (1979). In the instant case, we hold that the administrative law judge's decision to credit the opinions of Dr. Freudenberg and Mr. Stipe that claimant cannot return to any longshore employment is rational and supported by substantial evidence. *See Johnson v. Director, OWCP*, 911 F.2d 247, 24 BRBS 3(CRT) (9th Cir. 1990), *cert. denied*, 499 U.S. 959 (1991). Accordingly, we affirm the administrative law judge's continuing award of benefits for permanent total disability, payable by SSA.

Employer's only contention on appeal regarding the fee awards of the administrative law judge and district director is that they should be vacated in the event the Board vacates the administrative law judge's award of benefits. Inasmuch as we have affirmed the award of benefits, we likewise affirm the fee awards. 33 U.S.C. §928.

Finally, we address claimant's appeals of the fee awards issued by the administrative law judge and the district director. In his Supplemental Decision and Order Awarding Attorney's Fees, the administrative law judge reduced from \$120 to \$100 the compensable hourly rate for services rendered by claimant's vocational consultant, Scott Stipe. The administrative law judge found the requested hourly rate excessive in comparison to the rate charged by other vocational consultants in cases decided by the administrative law judge in the Portland area, and the \$100 per hour rate charged in the instant case by employers' vocational consultants. Claimant's motion for reconsideration, based on the contention that employers' counsel in other cases have agreed to pay \$120 per hour for Mr. Stipe's services, was rejected. In her Compensation Order Approval of Attorney Fees, the district director reduced the requested hourly rate for attorney services from \$200 to \$190. The district director found an hourly rate of \$190 reasonable given the types of services provided by the attorney prior to referral of the claim to the Office of Administrative Law Judges.

On appeal, claimant asserts that the administrative law judge abused his discretion because Mr. Stipe is exceptionally qualified and that \$120 per hour is his customary rate. Claimant also asserts the district director abused her discretion because the administrative law judge's fee award based on an hourly rate of \$200 should be construed by the district director as the law of the case.

Claimant's assertions on appeal are rejected. Section 28(d) of the Act, 33 U.S.C. §928(d), specifically states that the "reasonableness of the fees of expert witnesses must be approved" by the administrative law judge. In the instant case, the administrative law judge's basis for reducing the fee of Mr. Stipe is rational, and claimant has not established an abuse of the administrative law judge's discretion in this regard. Thus, the administrative law judge's award of costs at the reduced hourly rate is affirmed. *See generally Topping v. Newport New Shipbuilding & Dry Dock Co.*, 16 BRBS 40 (1983).

Moreover, we affirm the hourly rate awarded by the district director as her analysis reveals that the factors contained in the regulatory criteria at Section 702.132, 20 C.F.R. §702.132, were considered, and as claimant has not established an abuse of discretion. *See generally Moyer v. Director, OWCP*, 124 F.3d 1378, 31 BRBS 134(CRT) (10th Cir. 1997). Contrary to claimant's contention, the district director need not award a fee at the same hourly rate as that approved by the administrative law judge in the same case, as each adjudicatory body has the discretion to determine the reasonableness of the fee request before it.

Accordingly, the administrative law judge's Decision and Order Awarding Benefits, Decision and Order Granting Motion for Reconsideration, Order Granting SSA/Homeport's Motion for Reconsideration, Supplemental Decision and Order Awarding Attorney's Fees, and Order Denying Claimant's Motion for Reconsideration Regarding Costs, BRB Nos. 00-0429, 00-429A, and the district director's Compensation Order Approval of Attorney Fees, BRB Nos. 00-0666, 00-0666A, are affirmed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge