



BRB No. 20-0021 BLA

CANDITA GOODE)	
(o/b/o THE ESTATE OF BRUCE E.)	
GOODE))	
)	
Claimant-Respondent)	
)	
v.)	
)	
AMERICAN ENERGY, LLC)	
)	
and)	DATE ISSUED: 6/28/2022
)	
ROCKWOOD CASUALTY INSURANCE)	
COMPANY)	
)	
Employer/Carrier-)	
Petitioners)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	ORDER AWARDING AN
Party-in-Interest)	ATTORNEY'S FEE

Claimant’s counsel filed an itemized petition requesting an attorney’s fee for legal services performed in this appeal pursuant to 20 C.F.R. §802.203. *Goode v. Am. Energy, LLC*, BRB No. 20-0021 (Feb. 25, 2021), *recon. denied* (May 24, 2022) (unpub.). Counsel requests a fee of \$1,050.00 representing \$262.50 for 0.75 hours of attorney services performed by Joseph E. Wolfe at an hourly rate of \$350.00, \$350.00 for 1.75 hours of attorney services performed by Brad. A. Austin at an hourly rate of \$200.00, \$112.50 for 0.75 hours of attorney services performed by Rachel Wolfe at an hourly rate of \$150.00, and \$325.00 for 3.25 hours of legal assistant services at an hourly rate of \$100.00. Employer objects to the hourly rate requested by Mr. Wolfe.

In support of his fee petition, counsel provided a list of black lung cases in which the Office of Administrative Law Judges, the Benefits Review Board, and the United States Court of Appeals for the Fourth Circuit awarded him an hourly rate of \$350.00.

The United States Court of Appeals for the Fourth Circuit has recognized that evidence of fees received in the past may be an appropriate consideration in establishing a market rate. *See E. Assoc. Coal Corp. v. Director, OWCP [Gosnell]*, 724 F.3d 561, 572 (4th Cir. 2013); *Westmoreland Coal Co. v. Cox*, 602 F.3d 276, 290 (4th Cir. 2010); *see also B & G Mining, Inc. v. Director, OWCP [Bentley]*, 522 F.3d 657, 664 (6th Cir. 2008). Thus, we find the hourly rate of \$350.00 for Mr. Wolfe to be reasonable based on the evidence submitted and the prevailing market rate in the area.

As we find the attorney's fee requested to be reasonable and commensurate with the necessary services performed in defending Claimant's award of benefits, we approve the requested fee of \$1,050.00, to be paid directly to Claimant's counsel by Employer. 33 U.S.C. §928, as incorporated by 30 U.S.C. §932(a); 20 C.F.R. §802.203.

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge