



**In the Matter of:**

**JAMES SIMPSON,**

**ARB CASE NO. 2019-0010**

**COMPLAINANT,**

**ALJ CASE NO. 2017-STA-00076**

**v.**

**DATE: September 24, 2020**

**EQUITY TRANSPORTATION  
COMPANY, INC.,**

**RESPONDENT.**

**Appearances:**

**For the Complainant:**

**Jack W. Schulz, Esq.; Elizabeth A. Gotham, Esq.; *Schulz Gotham, PLC*; Detroit, Michigan**

**For the Respondent:**

**Michael D. Ward, Esq.; *Ward Law, P.C.*; Grand Rapids, Michigan**

**Before: James A. Haynes, Thomas H. Burrell, and Heather C. Leslie,  
*Administrative Appeals Judges***

**ORDER AWARDING ATTORNEY'S FEES**

This case arises under the employee protection provisions of the Surface Transportation Assistance Act of 1982 (STAA) as amended. 49 U.S.C. § 31105(a) (2007); *see also* 29 C.F.R. Part 1978 (2019) (the STAA's implementing regulations). James Simpson filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration alleging that Equity

Transportation Company, Inc. (Equity) violated the STAA by discharging him in retaliation for refusing to drive a vehicle with defective brakes. On November 7, 2018, an Administrative Law Judge (ALJ) issued a Decision and Order in which he concluded that Simpson's discharge violated the STAA. Equity appealed to the Administrative Review Board (ARB or Board), which affirmed the ALJ's decision.

The STAA provides: "If the Secretary of Labor issues an order [finding a STAA violation] and the complainant requests, the Secretary of Labor may assess against the person against whom the order is issued the costs (including attorney fees) reasonably incurred by the complainant in bringing the complaint."<sup>1</sup> On June 9, 2020, Simpson's attorney submitted an Application for Fees and Costs (Application).

The ARB has endorsed the lodestar method for calculating attorney's fees.<sup>2</sup> This method requires multiplying the number of hours reasonably expended in bringing the litigation by a reasonable hourly rate.<sup>3</sup> An attorney seeking a fee award must submit evidence documenting the hours worked and the rates claimed, as well as records identifying the date, time, and duration necessary to accomplish each specific activity and all claimed costs. In addition, the attorney must demonstrate the reasonableness of his hourly fee by producing evidence that the requested rate is in line with fees prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation.<sup>4</sup>

We have reviewed the fee petition submitted and find that the legal services rendered are adequately described, and that the number of hours is reasonable in view of the issues in this case. Also, the hourly rates identified in the Application

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<sup>1</sup> 49 U.S.C. § 31105(a)(3)(B).

<sup>2</sup> See, e.g., *Scott v. Roadway Express*, ARB No. 2001-0065, ALJ No. 1998-STA-00008, slip op. at 5 (ARB May 29, 2003).

<sup>3</sup> *Id.*

<sup>4</sup> *Cefalu v. Roadway Express*, ARB Nos. 2004-0103, -0161, ALJ No. 2003-STA-00055, slip op. at 3 (ARB Apr. 3, 2008).

are in line with fees prevailing in the community. Accordingly, we award to counsel for Simpson and against Equity, \$6,612.90 in fees.<sup>5</sup>

**SO ORDERED.**

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<sup>5</sup> We disallow the estimated cost of “between \$8.00-12.00” identified on page 2 of the Application for mailing documents. *See Eash v. Roadway Express, Inc.*, ARB Nos. 2002-0008, -0064, ALJ No. 2000-STA-00047, slip op. at 3 (ARB June 27, 2003) (photocopying and postage are traditional clerical costs and are therefore not recoverable).