

HAYES A. REID)	
)	
Claimant-Respondent)	
)	
v.)	
)	DATE ISSUED:_____
INGALLS SHIPBUILDING,)	
INCORPORATED)	
)	
Self-Insured)	
Employer-Petitioner)	DECISION and ORDER

Appeal of the Supplemental Decision and Order Awarding Attorney Fees and the Order Denying Employer's Motion for Reconsideration of Richard D. Mills, Administrative Law Judge, United States Department of Labor.

Traci M. Castille (Franke, Rainey & Salloum), Gulfport, Mississippi, for self-insured employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH and DOLDER, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Supplemental Decision and Order Awarding Attorney Fees and the Order Denying Employer's Motion for Reconsideration (90-LHC-2572) of Administrative Law Judge Richard D. Mills 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). The amount of an attorney's fee award is discretionary and will not be set aside unless shown by the challenging party to be arbitrary, capricious, an abuse of discretion or not in accordance with the law. *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$5,035.75, representing 39 hours of services at a rate of \$125 per hour, and \$160.75 in expenses, for work performed before the administrative law judge in connection with claimant's hearing loss claim. The administrative law judge awarded counsel a fee of \$3,341.25, representing 30.375 hours at an hourly rate of \$110, plus \$160.75 in expenses. Employer appeals the fee award, incorporating by reference the arguments it made below. Claimant's counsel has not responded to the appeal.

We reject employer's objections to the number of hours and the hourly rate awarded, as it has

not shown that the administrative law judge abused his discretion in this regard.¹ See *Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995); *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Cabral v. General Dynamics Corp.*, 13 BRBS 97 (1981). We also reject employer's specific objection to counsel's method of billing in minimum increments of one-quarter hour, as the administrative law judge considered this objection, and his award conforms to the criteria set forth in the decisions of the United States Court of Appeals for the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990) (unpublished), and *Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, No. 94-40066 (5th Cir. Jan. 12, 1995) (unpublished).

Accordingly, the administrative law judge's Supplemental Decision and Order is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

¹We reject employer's argument that the administrative law judge erred in approving a fee for 9.75 hours for travel to and from and attendance at a deposition. The administrative law judge discussed this objection in depth on employer's motion for reconsideration and accepted claimant's counsel's explanation of the time assessment. Employer has not shown an abuse of discretion in awarding this time.