

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

Appeal of the Compensation Order of Jeana F. Jackson, District Director, United States Department of Labor.

Mitchell G. Lattof, Sr. (Lattof & Lattof, P.C.), Mobile, Alabama, for claimant.

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 Compensation Order (Case No. 06-128275) of District Director Jeana F. Jackson 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. *See Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984).

Claimant sustained a hearing loss due to his exposure to noise during the course of his employment. Claimant and employer agreed to settle the claim for disability and medical benefits pursuant to Section 8(i) of the Act, 33 U.S.C. §908(i) (1988); however, agreement was not reached with respect to an attorney's fee. After the district director approved the settlement in her Decision and Order Approving Compromise Settlement, claimant's counsel filed a petition for a fee for work performed before the district director. He requested a total fee of \$2,932.50, representing 16.25 hours of services at a rate of \$150 per hour and 4.5 hours of services at a rate of \$110 per hour. Employer filed objections, and the district director awarded a fee of \$2,481.25, representing 16.25 hours at \$125 per hour and 4.5 hours at \$100 per hour. Findings of Fact at 2. Employer appeals this award, incorporating by reference the objections is made below, and claimant responds, urging

affirmance.

Employer first contends the fee awarded is excessive in light of the degree of claimant's success before the district director. Additionally, employer contends the district director erred in awarding a fee based on the quarter-hour minimum billing method, as that method conflicts with the rulings 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]*, 46 F.3d 66 (5th Cir. 1995) (table). Because employer did not raise these contentions below they will not be addressed for the first time on appeal. *Bullock v. Ingalls Shipbuilding, Inc.*, 27 BRBS 90 (1993) (*en banc*) (Brown and McGranery, JJ., concurring and dissenting), *modified on recon. en banc*, 28 BRBS 102 (1994), *aff'd mem. sub nom. Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995); *Clophus v. Amoco Production Co.*, 21 BRBS 261 (1988).

After considering employer's remaining objections to the specificity of the entries, and the number of hours and hourly rates awarded, we reject employer's contentions, as it has not shown an abuse of discretion by the district director in this regard. *See Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995); *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Forlong v. American Security & Trust Co.*, 21 BRBS 155 (1988).

Accordingly, the district director's fee award is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge