



**Issue Date: 14 May 2009**

**CASE NO.: 2006-LHC-1158**

**OWCP NO.: 07-171470**

**IN THE MATTER OF**

**K. C.,<sup>1</sup>**

**Claimant**

**v.**

**NORTHROP GRUMMAN SHIP SYSTEMS, INC.,**

**Employer**

**SECOND SUPPLEMENTAL DECISION AND ORDER  
AWARDING ATTORNEY'S FEES**

**BACKGROUND**

Following her successful representation of Claimant in this matter, by Supplemental Decision and Order dated September 11, 2007, I awarded Claimant's Counsel, Sue Esther Dulin, a fee of \$10,716.67 for her services from April 10, 2006 to May 21, 2007, plus expenses of \$639.31. A motion to reconsider that decision was filed by Employer and denied on October 11, 2007. Subsequently, Employer appealed the award of attorney's fees to the Benefits Review Board, who on September 15, 2008, reversed my determination that Employer was liable for Claimant's Counsel's fee. The matter was then remanded for me to consider an attorney fee payable by the claimant, taking into account the amount of benefits awarded and the financial circumstances of the claimant, all pursuant to 20 C.F.R. §702.132. Thereafter, by letter dated October 22, 2008, Claimant's Counsel announced that she and Claimant had stipulated to and agreed to a lien against his recovery of \$4,000.00 plus expenses of \$950.00 for a total agreed lien of \$4,950.00. Attached to the letter was such an agreement signed by both parties and reciting the terms enumerated.

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<sup>1</sup> Pursuant to a policy decision of the Department of Labor, the Claimant's initials rather than full name are used to limit the impact of the Internet posting of agency adjudicatory decisions for benefit claim programs.

## **DISCUSSION AND FINDINGS**

20 C.F.R. §702.133(A) provides a fee shall be reasonable and commensurate with the work done, legal issues involved and benefits awarded. If assessed against claimant, the financial circumstances of the claimant must be considered, and no contract pertaining to the fees shall be recognized.

For the reasons stated in my Supplemental Decision and Order of September 11, 2007, for the work done from April 10, 2006 until May 21, 2007, I continue to believe Claimant's Counsel earned the fee of \$10,716.67. Having so said, however, if that amount cannot be imposed, as I think it should be, on Employer, and in consideration of the general statement of assets and monthly income of Claimant presented to me on December 15, 2008,<sup>2</sup> I find, despite any agreement between the parties, that Claimant's financial circumstances are such that he cannot afford more than a one-third of the fee previously awarded. Therefore, it is my finding that Claimant's Counsel, Sue Esther Dulin, shall recover from Claimant a fee in the amount of \$3,572.22 plus the previously awarded out of pocket costs of \$639.31, which unless otherwise satisfied shall become a total lien upon the compensation due of \$4,211.53.

**So ORDERED** this 14th day of May, 2009, at Covington, Louisiana.

**A**

**C. RICHARD AVERY**  
**Administrative Law Judge**

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<sup>2</sup> For privacy purposes I will not detail the financial information provided me by claimant. The same is part of the file, however, should it need be reviewed.