

In the Matter of the Compensation of
STEPHEN K. SIMONS, Claimant
WCB Case No. 14-03807
ORDER ON REVIEW
Moore Jensen, Claimant Attorneys
MacColl Busch Sato PC, Defense Attorneys

Reviewing Panel: Members Weddell and Johnson.

The self-insured employer requests review of Administrative Law Judge (ALJ) Donnelly's order that: (1) set aside its denial of claimant's new/omitted medical condition claim for a sprain/strained neck, whiplash injury; and (2) awarded an assessed attorney fee of \$12,000. Claimant cross-requests review, contesting the ALJ's \$12,000 employer-paid attorney fee award. On review, the issues are compensability and attorney fees.

We adopt and affirm the ALJ's order.

Claimant's attorney is entitled to an assessed fee for services on review. ORS 656.382(2). After considering the factors set forth in OAR 438-015-0010(4) and applying them to this case, we find that a reasonable fee for claimant's attorney's services on review is \$6,000, to be paid by the employer. In reaching this conclusion, we have particularly considered the time devoted to the case (as represented by claimant's respondent's brief, his counsel's fee submission, and the employer's objections), the complexity of the issues, the value of the interests involved, and the risk that claimant's counsel might go uncompensated.

Claimant is awarded reasonable expenses and costs for records, expert opinions, and witness fees, if any incurred in finally prevailing over the denial, to be paid by the employer. *See* ORS 656.386(2); OAR 438-015-0019; *Gary E. Gettman*, 60 Van Natta 2862 (2008).

ORDER

The ALJ's order dated August 12, 2015 is affirmed. For services on review, claimant's counsel is awarded an assessed fee of \$6,000, payable by the employer. Claimant is awarded reasonable expenses and costs for records, expert opinions, and witness fees, if any, incurred in finally prevailing over the denial, to be paid by the employer.

Entered at Salem, Oregon on April 8, 2016