

In the Matter of the Compensation of  
**LAUREN A. JOHNSON, Claimant**

WCB Case No. 13-03480

ORDER ON REVIEW

Ronald A Fontana, Claimant Attorneys  
Sather Byerly & Holloway, Defense Attorneys

Reviewing Panel: Members Johnson and Weddell.

The self-insured employer requests review of those portions of Administrative Law Judge (ALJ) Dougherty's order that: (1) set aside its denial insofar as it pertained to claimant's injury claim for a low back condition; and (2) awarded a \$25,000 assessed attorney fee. Claimant cross-requests review of that portion of the ALJ's order that upheld the employer's denial insofar as it pertained to an occupational disease claim for a low back condition. 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 regarding the compensability of his injury claim for a low back condition. ORS 656.382(2). After considering the factors set forth in OAR 438-015-0010(4) and applying them to this issue, we find that a reasonable fee for claimant's attorney's services on review is \$4,500, payable by the employer. In reaching this conclusion, we have particularly considered the time devoted to the issue (as represented by claimant's respondent's brief, his counsel's fee submission, and the employer's objection), the complexity of the issue, the value of the interest involved, and the risk that claimant's counsel might go uncompensated.<sup>1</sup>

Finally, claimant is awarded reasonable expenses and costs for records, expert opinions, and witness fees, if any, incurred in finally prevailing over the denial insofar as it pertains to his injury claim, to be paid the employer. *See* ORS 656.386(2); OAR 438-015-0019; *Gary Gettman*, 60 Van Natta 2862 (2008). The procedure for recovering this award, if any, is prescribed in OAR 438-015-0019(3).

---

<sup>1</sup> Claimant's attorney is not entitled to an attorney fee for services on review related to the attorney fee issue and claimant's unsuccessful appeal of the denial insofar as it pertained to an occupational disease claim. *See Dotson v. Bohemia, Inc.*, 80 Or App 233 (1986).

## ORDER

The ALJ's order dated November 5, 2014 is affirmed. For services on review, claimant's attorney is awarded an assessed fee of \$4,500, 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 insofar as it pertains to the injury claim, to be paid by the employer.

Entered at Salem, Oregon on June 25, 2015