

APPEAL NO. 152489  
FILED FEBRUARY 18, 2016

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). In a Texas Department of Insurance, Division of Workers' Compensation (Division) Order for Attorney's Fees (Order) Sequence No. 4, dated November 24, 2015, (hearing officer), a hearing officer with the Division, approved an attorney fee request submitted by respondent 1 (attorney) for 8.00 hours of attorney's fees at \$150.00 an hour and .50 hours legal assistant fees at \$50.00 an hour for a total attorney fee award of \$1,225.00. The appellant (claimant) appealed the award of attorney's fees which were submitted for the following services:

2.50 hours on October 26, 2015, to prepare a proceeding;

2.00 hours for attending a contested case hearing (CCH) on October 28, 2015;

2.50 hours for receiving/reviewing documents on October 21, 22, and 23, and on November 10, 2015;

.50 hours for reviewing the file on November 11, 2015; and

.50 hours for telephone conferences with a legal assistant on October 23 and November 5, 2015.

The claimant contends that although the CCH on October 28, 2015, lasted a little over an hour, the attorney requested and was granted fees for 2.00 hours for attendance at such CCH. The claimant further contends that other services for which attorney's fees were granted were either not performed, were improperly performed or required less time than the amount awarded. Neither respondent 2 (carrier) nor the attorney responded.

DECISION

Affirmed in part and reversed and remanded in part.

The standard for review in an attorney's fees case is abuse of discretion. Appeals Panel Decision (APD) 061189, decided July 24, 2006.

We affirm that portion of the Order awarding: (1) 2.50 hours of attorney's fees at \$150.00 an hour on October 26, 2015, for preparing for a CCH held on October 28, 2015; (2) 1.0 hours of attorney's fees at \$150.00 an hour for receiving and reviewing

documents on October 21, 2015; (3) .50 hours of attorney's fees at \$150.00 an hour for receiving and reviewing documents on October 22, 2015; (4) .50 hours of attorney's fees at \$150.00 an hour for receiving and reviewing documents on October 23, 2015; (5) .50 hours of attorney's fees at \$150.00 an hour for receiving and reviewing documents on November 10, 2015; (6) .50 hours of attorney's fees at \$150.00 an hour for reviewing the file on November 11, 2015; (7) .25 hours of legal assistant fees at \$50.00 an hour for a telephone conference on October 23, 2015; (8) .25 hours of legal assistant fees at \$50.00 an hour for a telephone conference on November 5, 2015; and (9) .50 hours of attorney's fees at \$150.00 an hour for travel time to attend a proceeding on October 28, 2015, for a total attorney fee award of \$925.00.

The Order for Sequence No. 4, dated November 24, 2015, additionally awards an attorney's fee to the claimant's attorney for 2.00 hours service for attendance at a CCH held on October 28, 2015. Division records indicate that a CCH was held in Houston, Texas, on October 28, 2015, and lasted 85 minutes. Given the discrepancy between the length of the CCH reflected in Division records and the length of time for which fees were approved by the hearing officer for the attorney's attendance at the CCH, we reverse that portion of the Order awarding an attorney's fee for 2.00 hours at \$150.00 per hour for attending the October 28, 2015, CCH and remand the Order to the hearing officer for a hearing regarding these requested fees.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **ARCH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS, TEXAS 75201-3136.**

K. Eugene Kraft  
Appeals Judge

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CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge