

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

In the Matter of)	CASE NO.: AB 2021-018
Attorney's Fees Pertaining to)	DCD No.: 2-08-01341
DENNIS W.S. CHANG, ESQ.,)	
Appellee, Deceased,)	D/A: January 20, 2008
In the Case of)	
AMANDA K. GOMES,)	May 26 2026, 11:25 am
Claimant-Appellant,)	FILED _{akw}
vs.)	Labor and Industrial Relations
WAHIAWA GENERAL HOSPITAL,)	Appeals Board
Employer-Appellee,)	
and)	
HAWAII EMPLOYERS' MUTUAL)	
INSURANCE COMPANY,)	
Insurance Carrier-)	
Appellee,)	
and)	
SPECIAL COMPENSATION FUND,)	
Appellee.)	

DECISION AND ORDER

INTRODUCTION

This workers' compensation case is before the Labor and Industrial Relations Appeals Board on appeal by Claimant AMANDA K. GOMES from the

December 22, 2020 Approval of Attorney’s Fees for DENNIS W.S. CHANG, ESQ. (“Attorney”) by the Disability Compensation Division (“DCD”) for the Director of Labor and Industrial Relations.

For the reasons stated below, the Board MODIFIES the DCD’s Approval of Attorney’s Fees.

ISSUE

Pursuant to the August 18, 2021 Pretrial Order, the sole issue to be determined on this appeal is “What are reasonable attorney’s fees that should be awarded for legal services rendered at the Disability Compensation Division in this case.”

PARTIES' CONTENTIONS

On this appeal, Claimant argued that the DCD’s approval of the Attorney’s fees in the amount of \$25,000.00 was inappropriate and improper.

Attorney argued that the DCD’s approval of his fees was proper because the \$25,000.00 he requested was approved by the Director. Attorney also argued that Claimant did not object to any specific billing entries contained in the invoice attached to his fee request.

PROCEDURAL HISTORY

On September 8, 2021, a stipulation was filed by the parties stipulating that Employer WAHIAWA GENERAL HOSPITAL and Insurance Carrier HAWAII EMPLOYERS' MUTUAL INSURANCE COMPANY (collectively, “Employer”) and the SPECIAL COMPENSATION FUND (“SCF”) be dismissed as parties to the appeal because Claimant’s appeal of the December 22, 2020

Approval of Attorney's Fees does not involve the rights of the Employer and SCF.

Trial before the Board proceeded on September 30, 2021 and then continued to and concluded on February 24, 2022 with Claimant and Attorney appearing.

On February 25, 2022, the Board issued a Post Trial Order that allowed Claimant to submit a written statement by March 28, 2002; that allowed Attorney to respond to Claimant's written statement by April 11, 2022; and that allowed the submission of simultaneous post-trial briefs by May 2, 2022.

On March 17, 2022, Claimant filed her written statement with several documents.

On April 11, 2022, Attorney filed his response to Claimant's written statement.

On May 2, 2022, Attorney filed his Closing Argument with exhibits.

On September 8, 2023, Attorney passed away.

On December 30, 2025, the Board issued an Order Holding Case in Abeyance, holding this appeal in abeyance pending the Board's receipt of a written appearance by a court-appointed personal representative or special administrator of Attorney's Estate.

No such court-appointed personal representative or special administrator of Attorney's Estate having made an appearance in this appeal, on May 26, 2026, the Board issued an Order Regarding Proceedings on Appeal.

FINDINGS OF FACT

1. On December 4, 2020, Attorney filed with the DCD a Request for Approval of Attorney's Fee, dated August 30, 2018 ("Fee Request"), requesting approval of \$25,000.00 for fees and costs. Attorney attached an 18-page itemized billing statement to his fee request.

2. The Fee Request states that Claimant and Employer WAHIAWA GENERAL HOSPITAL were served with the Fee Request on August 30, 2018, pursuant to LAB Rules § 12-47-55 and DCD Rule § 12-10-69.

3. No objections were filed to Attorney's Fee Request.

4. On December 22, 2020, the DCD issued an Approval of Attorney's Fees for Attorney ("DCD Approval of Fees") in the amount of \$25,000.00. The DCD determined that the fees awarded were reasonable and that the "fee is made a lien on any future income and indemnity benefits due claimant in this matter. In the event no income or indemnity benefits are awarded, claimant shall be liable for the approved fee."

5. By letter dated January 1, 2021, Claimant indicated that she wanted to appeal the DCD Approval of Fees. In Claimant's letter, she objected to the DCD's approval of fees because Attorney removed himself from her case; Attorney provided no communication guidance or relief; Attorney did not deserve \$25,000.00 for his lack of representation and lack of duty; and Attorney was irresponsible and unprofessional and, at times, demeaning.

6. Claimant's objections did not specifically address any of the billing entries contained in Attorney's itemized billing statement in the Fee

Request and did not address Attorney's hourly rate. Claimant's objections concerned her interactions with Attorney insofar as it was difficult to communicate, contact, and make appointments with Attorney.

7. In Claimant's March 17, 2023 written statement, she strongly opposed to Attorney being paid \$20,000.00 for work performed from 2008 through 2019. Claimant reasoned that Attorney received three checks from Pacific Guardian Life on her behalf and that Attorney did not provide a sufficient explanation to her about these checks. She stated:

Everything in my case was never address[ed] the way I strongly feel it should have been addressed. Professional and unethical in his law [firm] in dealing for my case should be considered strongly!

8. Attorney's 18-page itemized billing statement described work he performed from April 26, 2010 to August 28, 2018.

9. The itemized billing statement reflects that Attorney billed 2.3 hours at an hourly rate of \$155.00, for services rendered between April 26, 2010 through June 14, 2010; billed 44.0 hours at an hourly rate of \$165.00, for services rendered between September 20, 2010 through November 16, 2015; and billed 80.0 hours at an hourly rate of \$210.00 for services rendered between December 12, 2015 through August 28, 2018, for a total fee amount of \$24,584.50. Attorney also charged taxes of \$1,158.42 (using the tax rate of 4.71%) and billed for costs of \$396.84 (\$47.60 for courier services, \$281.20 for photocopies, and \$68.04 for postage). The fees, taxes, and costs totaled \$26,139.76.

10. Although Attorney's itemized fees and costs totaled \$26,139.76, Attorney requested only \$25,000.00 for his fees and costs.

11. Attorney's Fee Request thus reflected a discount. Considering Attorney's fixed costs of \$396.84 and tax calculated at the rate of 4.71%, Attorney's Fee Request of \$25,000.00 is calculated as follows:

Attorney's Fees Requested	\$23,496.48
Tax of 4.71% on fees	\$ 1,106.68
Costs Requested	\$ 396.84
Total fees and costs requested	\$25,000.00

12. Attorney's Fee Request thus reflected that he was requesting approval of \$23,496.48 for fees.

13. Attorney's itemized billing statement described legal work performed that included but were not limited to communications and meetings with opposing attorneys, doctors, insurance carriers and Claimant; reviewing and drafting of medical documents, correspondences, pleadings, and files; and preparing and attending hearings.

14. There are approximately 180 entries for which Attorney did not bill any time for legal work performed, many of which concerned communications with Claimant and the opposing attorneys.

15. There is no evidence showing that Attorney was paid for legal services pursuant to his Fee Request.

16. Attorney's Fee Request stated that he has:

- a. 40+ years of experience handling workers' compensation cases;

- b. Participated in approximately 400 cases before the DCD over the previous 3 years; and
- c. Participated in approximately 100 cases before the Board over the previous 3 years.

17. Attorney certified that his Fee Request and the information submitted were done “in good faith and is true and accurate to the best of [his] knowledge and belief.”

18. Attorney’s Fee Request is for the period from April 26, 2010 through August 28, 2018 and represents that the fees sought were for legal work conducted before the DCD. Attorney’s representations are not fully credited in this regard, as explained below.

19. Attorney’s fees for legal services conducted while the case is not before the DCD may not be approved by the Director. The Director does not have the jurisdiction to approve fees incurred while a workers’ compensation matter is not before him.

20. The case was before the Board for the following periods:

- a. From April 21, 2010 (filing date of Claimant’s Notice of Appeal of the April 12, 2010 DCD Decision) through April 5, 2011 (date of the Board’s Order of Dismissal);
- b. From June 28, 2012 (filing date of Claimant’s Notice of Appeal of the June 8, 2012 DCD Decision) through November 5, 2012 (date of the Board’s Order of Dismissal);
- c. From April 1, 2015 (filing date of Claimant’s Notice of Appeal of the March 16, 2015 DCD Decision) through November 6, 2015 (date of the Board’s Order Granting Dismissal); and
- d. From August 28, 2018 (filing date of Claimant’s Notice of Appeal of the August 20, 2018 DCD Decision) through March 1, 2019 (date of Attorney’s withdrawal from

Claimant as counsel).

21. Attorney's Fee Request thus improperly requested the Director's approval of and the Director erroneously approved 5.4 hours of billable time, totaling \$881.50 in fees for the following billing entries and fees incurred while the case was not before the DCD:

Date	Type	Billing Description	Rate	Time
4/26/10	Mail	<IC interim reports 3/31/10 by dr. hodel and 12/31/09 by dr. tang	155.00	0.2
4/27/10	TC	9:46:34 AM 4/27/2010 pc<clt: you guys sent two letters, I don't really understand what they are about, anything important?	155.00	0.1
5/3/10	TC	3:02:31 PM 5/3/2010 pc<clt: did you guys send dr. mccaffrey the decision? JH: Yes by fax on april 21	155.00	0.1
5/3/10	Mail	5/3 re-fax: (1st time failed) 4/21 >dr. mccaffrey: 4/13/10 decision	155.00	0.2
5/19/10	TC	11:53:31 AM - pc< clt: did you find out about checkyet? JH: no i LM but will call you when I get response	155.00	0.1
5/21/10	Mail	5/19/2010> calma/hernic: Amanda Gomes is collecting Social Security Disability Insurance ("SSD1"), which is requesting information regarding her temporary total disability ("TTD")	155.00	0.2
5/25/10	Mail	5/25> LAB: appeal AF to have fees approved (only approved for \$52.10 Er to pay costs)	155.00	0.5
5/26/10	TC	9:13:03 AM 5/26/2010 pc> clt your check will come today or tomorrow, they called me yesterday afternoon and said they would rush it. They apologized it "slipped through the cracks" bc their	155.00	0.2
6/1/10	TC	9:45:47 AM 6/1/2010 pc< clt: the check didn't come until saturday, but confusing me bc one week late bc I supposed to get another one this Saturday. 1 am confused, I usually get check Saturday	155.00	0.1
6/8/10	Mail	6/8/2010>hemic : 2nds req: 5/19/2010> calmahemic: Amanda Gomes is collecting Social Security Disability Insurance ("SSDI"), which is requesting information regarding her temporary	155.00	0.2
6/8/10	Mail	6/8/2010< ic: MR1(5/12/10) degenerative cervck disease; fell off van in 200910 sl streaignin of cervical lordosis due to spasm? no acute compression fracture or locked facet joint.	155.00	0.2
6/14/10	TC	6/14110 9am <clt called lm vm pls call back	155.00	0.1
6/14/10	TC	6/15/102:07:02 PM>clt check ; decision; H vh: Talked to ly about games check situation. Decision did not 'award' gomes \$15,000, it pretty	155.00	0.1
9/20/10	CA	rev'd file and tagging letter to clt ¹	165.00	2.8

¹ This entry is also vague and ambiguous, and block billed.

Date	Type	Billing Description	Rate	Time
8/28/18	Mail	8/28/2018 HD> LAB: appeal decision did 8/20/18	210.00	0.2
8/28/18	Mail	8/28/2018 hd < Perrich/HEI/IIIC: (8/22/18) MRS (9pp)	210.00	0.1
		Total fee and hours not before the DCD	\$881.50	5.4

22. Activities that are clerical in nature are not recoverable as attorney's fees. The Board finds that Attorney's fee request contained 2.3 hours of billable time associated with clerical work, totaling \$450.00 in fees, as reflected in the following entries that are described as "Mail"², which is indicative of Attorney having billed for mailing or transmitting documents which is a clerical activity:

Date	Type	Billing Description	Rate	Time
7/3/13	Mail	7/3/13>atty: AF reminder ltr	165.00	0.1
7/11/13	Mail	7/11/13 cc>clt: 7/8/13<choy: response to DC's ltr (6/26/13) re: immediate prescription approval request" Prescriptions approved If any other questions, pls contact us.	165.00	0.1
1/29/14	Mail	1/29/2014 cc>clt: 1/23/14<choy>dr garde: er/ic conditionally approves dr garcia's bc plan dted 1/17/14 requesting authorization for injections and a follow up visit, treatment approved but plan	165.00	0.1
3/25/14	Mail	3/25/2014 2 cc>clt: 2 ltrs; 3/19/14<ic>dr garcia (3117/14) request for interim physician's.rpt; 3/19/14<ic>mccaffrey (3/17/14): request for interim physician's rpt	165.00	0.1
5/2/14	Mail	5/2/14>cit; 4/26/14<ic:mrs: McCaffrey tx plan requesting office visits (4/14/14) (approved by ic).	165.00	0.1
8/7/14	Mail	cc>clt 7/22<Choy 7/22/14>Dr. Inam Rahman: Approval of Rqt for Med Consultation – med consult w/Dr. Leon Liam for lumbar region is approved	165.00	0.1
10/29/14	Mail	cc>clt 10/23 <Choy 10/23/14: Notice of Act 66 Termination of Benefits, Rqt for Credit & Approval of MRI Scan Study any pymt after 10/14/14 will be credit against future award -	165.00	0.1
10/29/14	Mail	cc>clt 10/16 <Choy 10/15/14> Dr. Irish; rqt for repeat lumbar MRI approved – ths does not constitute auth for potential neuroconsult w/Dr. Liem -- also, ER/IC has not accepted any other	165.00	0.1
12/15/14	Mail	cc>clt 12/6<DCD 12/4/14: Notice of Hrg 2/4/15 @ 1PM (lhr/Davidson) to determine further temp disb, further liability, other issues as appropriate	165.00	0.1
1/20/15	Mail	cc>clt 1/13/15 1/5/15: WC-3 (2014 year end)	165.00	0.1
2/12/15	Mail	2/12/15>dcd: 1/30<cit: mrs; Scott McCaffrey, MD work note 1/29/15	165.00	0.1

² After a review of the itemized invoice, the Board interpreted Attorney's symbols to mean that ">" indicates that the mail was directed to either a named person, the DCD, an "ic"=insurance company, or "clt"=claimant.

Date	Type	Billing Description	Rate	Time
3/27/15	Mail	cc>clt 3/18<DCD 3/16/15: Supplemental DECISION 1) additional TTD denied	165.00	0.1
4/22/16	Mail	4/22/16 fax>Irish, DO 4/18/16<Choy 4/15/16 Tx Plan Approval: Tx plans issued by Margaret Irish DO/Fred Brenner, MD for a pain management referral to Jerald Garcia, MD and cervical and	210.00	0.1
4/25/16	Mail	4/23/16>olt: TS 4/19/16<Choy EMAILS>DC 4/16/16 Tx Plan Approval -Attached is a copy of our 4/15/18 letter acknowledging the tx plan request for diagnostic studies and a pain	210.00	0.1
10/19/17	Mail	10/18/17 tan s>clt: FYI: 10/03/17<larnrs: APPROVED Garcia tx plan 9/18/17 rqtng bilateral thoracic facet joint injection under fluoroscopic guidance (x2) & f/u office visits as	210.00	0.1
12/11/17	Mail	12/11/17 cc>clt: 12/05/17 <HEMIC 12/04/17 mrs (4p): Tx Plan DENIAL Jerald Garcia MD 11/29/17 as attending physician Scott McCaffrey has already ordered and claimant has already	210.00	0.1
1/3/18	Mail	1/3/18 cc>clt: ts 11/14/17 <HEMIC (11/06/17):mrs: Approved Dr Badke Tx Plan 11106/17 for flu OV, Rxs, & random UDS	210.00	0.1
3/1/18	Mail	3/1/2018 CC > Clt: wc-3 2017	210.00	0.1
3/15/18	Mail	3/15/2018 cc>Cl: 3/13/2018<HEMIC: Tx plan (3/7/18) Richard Badke for 3/14/2018-7/14/2018 apprvd	210.00	0.1
5/2/18	Mail	5/2/2018 cc>Gomes: 4/17/18<Atty/Choy: Rqt for Hearing, issues: determine the terminatio of TDD, credit for overpayment of TDD after VR closed, permanent disability and disfigurement,	210.00	0.1
5/10/18	Mail	5/10/2018> Professional image: mrs to make copies	210.00	0.1
5/15/18	Mail	5/15/18<Professional image: (5/15/18) Invoice for \$278.16 for file copies	210.00	0.1
5/30/18	Mail	5/30/2018> clt: invoice and mis copies	210.00	0.1
6/19/18	Mail	6/19/2018 cc>Gomes: 6/13/2018<DCD: (6/12/18) ER Notice of Hearing on 7117/18 @ 1 prn HO: Davidson, purpose: to determine permanent disability, temporary disability period, disfigurement,	210.00	0.1
		Total fee and hours of tasks that was clerical in nature.	\$450.00	2.3

23. A fee applicant, such as Attorney, should maintain billing records in a manner that enables an individual to easily identify and determine if the hours expended are reasonable. The Board finds that Attorney's Fee Request contained the following entries, totaling 17.8 hours and \$3,684.00 in fees, that are vague, ambiguous, generic, incomplete, and/or lacking in information to decide whether the billed time was reasonably expended.

Date	Type	Billing Description	Rate	Time
10/15/14	Appt	per dc, tc>DC 10/15/2014 11:00am update Cell: 699-6917 previous rev in morning	165.00	1.2
12/21/16	CA	CA: review of file and need to request updates	210.00	1.3
12/21/16	CA	CA: detailed rev of file going back to last decision	210.00	1.5
6/27/18	CA	CA: final version; then final editing CA: spent literally all of the day till 1233 am on Thurs – at least 10 hours organizing and going over the letter and hopefully last letter	210.00	11.0
7/17/18	CA	UNBILLED (TIME KEEPING) – rcm at hearing with dwsc	210.00	2.8
		Total fee and hours that are vague and ambiguous entries	\$3,684.00	17.8

24. Thus, \$5,015.50 in fees and 25.5 hours of time as billed by Attorney for his services performed while this matter was before the Director were not reasonable.

25. Attorney’s fees in the amount of \$18,480.98 plus taxes calculated at the same rate as used by Attorney in his Fee Request (rate of 4.71%), for a total \$19,351.43 are reasonable for this case, while before the Director between April 26, 2010 and August 28, 2018.

26. Costs in the amount of \$396.84, as billed by Attorney, are reasonable for this case, while before the Director between April 26, 2010 and August 28, 2018.

27. The total amount of \$19,748.27, including fees and costs, is reasonable for this case, while before the Director between April 26, 2010 and August 28, 2018.

28. The approved sum of \$19,748.27 is made a lien upon compensation payable by Employer to Claimant.

PRINCIPLES OF LAW

McLaren v. Paradise Inn Hawai’i, 132 Hawaii 320, 331 (2015)

states that "the LIRAB reviews a DCD award of attorney's fees and costs for abuse of discretion, but does so after a full hearing de novo, pursuant to HRS § 386–87."

Hawai'i Revised Statutes § 386-94 provides, in relevant part:

Claims for services shall not be valid unless approved by the director or, if an appeal is had, by the appellate board or court deciding the appeal. Any claim so approved shall be a lien upon the compensation in the manner and to the extent fixed by the director, the appellate board, or the court.

HRS § 386-94 further directs the Board to approve only those fees that are reasonable:

In all cases, reasonable attorney's fees shall be awarded.

The Supreme Court of the State of Hawai'i has also interpreted this sentence to mean that the Board is "require[d] . . . to reduce an attorney's hourly rate if it is unreasonably high." *Botelho v. Atlas Recycling Center*, 146 Haw. 435, 444, 463 P.3d 1092, 1101 (2020). The same applies to the Director.

The legislative history of HRS § 386-94 makes clear that regulation of the attorney's fees of claimants was necessary to protect claimants against "any excessive charges," since such fees have the potential of being enforced as a lien against compensation awarded to the claimant. *Id.*

The Supreme Court of Hawai'i has determined that the most useful starting point for determining attorneys' fees, which carries a "strong

presumption” of a reasonable fee, is the lodestar³ method or approach by which “the number of hours reasonably expended are multiplied by a reasonable hourly rate.” *Gurrobat v. HTH Corp.*, 135 Haw. 128, 138-39, 346 P.3d 197, 207-208 (2015) (citations and quotations omitted). *Accord Kaleikini v. Yoshioka*, 129 Haw. 454, 469, 304 P.3d 252, 267 (2013); *Schefke v. Reliable Collection Agency*, 96 Haw. 408, 446, 32 P.3d 52, 90 (2001).

The Director and the Board may not rely upon a “predetermined hourly rate.” It is well-settled that the legislative history of HRS § 386-94 demonstrates that the legislature intended to give the Director and the Board the ability to adjust attorneys’ requested hourly rates when approving attorneys’ fees. *Botelho*, 146 Haw. at 446, 448-449, 463 P.3d at 1103, 1105-1106. The Supreme Court of Hawai‘i has recognized that “an attorney’s requested hourly rate can be adjusted by the director, LIRAB, or a court when approving attorneys’ fees.” *Botelho*, 146 Haw. at 446, 463 P.3d at 1103.

In making its determination as to the reasonableness of fees requested by an attorney, the Director and the Board may consider several factors. HRS § 386-94 provides, in relevant part:

In approving fee requests, the director, appeals board, or court may consider factors such as the attorney’s skill and experience in state workers’ compensation matters, the amount of time and effort required by the complexity of the case, the novelty and difficulty of issues involved, the

³ The factors in determining the hourly rate are established in Hawai‘i workers’ compensation statutes and case law as exemplified by the Hawai‘i Supreme Court in *Botelho v. Atlas Recycling Center*, 146 Haw. 435, 463 P.3d 1092 (2020).

amount of fees awarded in similar cases, benefits obtained for the claimant, and the hourly rate customarily awarded attorneys possessing similar skills and experience.

(Emphasis added.) *See also Botelho*, 146 Haw. at 446, 450-451, 463 P.3d at 1103, 1107-1108 (HRS § 386-94 allows the Director to consider the hourly rates customarily awarded to attorneys possessing similar experience and skills to determine what is a reasonable attorney's fee).

Additionally, Rule 1.5(a) of the Hawai'i Rules of Professional Conduct mandates that attorneys shall not charge or collect fees and expenses that are "unreasonable":

(a) Reasonableness of Fee. A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent, and in contingency fee cases the risk of no recovery and the conscionability of the fee in light of the net recovery to the client.

(Boldface in original; underline added.)

Additionally, the Hawai'i Supreme Court has directed that, in order to be approved as reasonable, attorneys' fees should reflect that legal services were discharged in a cost-effective manner. *Schefke*, 96 Haw. at 458, 32 P.3d at 102, citing *Missouri v. Jenkins*, 491 U.S. 274, 288, 109 S.Ct. 2463 (1989). Thus, courts should "reduce an award of attorney's fees for. . . performance of clerical functions." *Id.* Similarly, in addition to reviewing fees for clerical functions, the Court indicated that fees may be reviewed for those that are duplicative or insufficiently documented. *Kaleikini*, 129 Haw. at 471, 304 P.3d at 269.

The Board and the Director are further guided by the Hawai'i Supreme Court's disdain for "block billing," wherein activities are lumped together in a single entry with no indication how much time was spent on each task. *Hawai'i Ventures, LLC v. Otaka*, 116 Haw. 465, 475, 173 P.3d 1122, 1132 (2007). Because this type of billing practice can make it impossible for a reviewing body to determine the reasonableness of the hours spent on each task, it "quite correctly raise[s] suspicions about whether all the work claimed was actually accomplished or whether it was necessary." *Id.*, quoting *Robinson v. City of Edmond*, 160 F.3d 1275, 1284 (10th Cir. 1998); see *Gurrobat*, 135

Haw. at 135, 346 P.3d at 204. However, where 0.1 hour is charged, block-billing is generally permissible as 0.1 hour is the shortest generally accepted unit of attorney time for billing purposes. *Gurrobat*, 135 Haw. at 135, 346 P.3d at 204.

In considering whether an attorney's fees are reasonable, HRS § 386-94 does not limit the Board or the Director's considerations to submitted evidence. *Botelho*, 146 Haw. at 451, 463 P.3d at 1108. To be clear, the Supreme Court of Hawai'i explained:

Rather, HRS § 386-94 provides a non-exhaustive list of factors the director, LIRAB, or courts may consider, including the "amount of fees awarded in similar cases,["] and "the hourly rate customarily awarded attorneys possessing similar skills and experience." Therefore, while LIRAB should consider the record in awarding attorneys' fees, its considerations are not limited to the evidence.

Id.

ANALYSIS/DISCUSSION

Attorney requested approval of a rate of \$155.00 - \$210.00 and approval of fees and costs of \$25,000.00 for legal services and costs that he incurred that amounted to \$26,139.76 which is detailed as follows:

1. \$356.50 for \$155.00 per hour x 2.3 hours for services rendered between April 26, 2010 through June 14, 2010;
2. \$7,260.00 for \$165.00 per hour x 44.0 hours for services rendered between September 20, 2010 through November 16, 2015;
3. \$16,968.00 for \$210.00 per hour x 80.0 hours for services rendered between December 12, 2015 through August 28,

2018;

4. Taxes of \$1,158.42 (using the tax rate of 4.71%); and
5. Costs of \$396.84 (\$47.60 for courier services, \$281.20 for photocopies, and \$68.04 for postage).

Reasonableness of the Requested Hourly Rate

Consistent with the Hawai'i Supreme Court's directive in *Botelho*, the Director must evaluate the reasonableness of an attorney's billing rate anew in each case. It would be inappropriate to award an attorney the same billing rate in every case, regardless of the level of complexity, the result obtained, and the other factors listed by the court. *Id.* In short, an attorney could be approved a different billing rate in each case in which they appeared.

The Director approved a total of \$25,000.00, without any explanation as to the hourly rate or hours approved.

Attorney requested approval of an hourly rates of \$155.00 for the period between April 26, 2010 through June 14, 2010; \$165.00 for the period between September 20, 2010 through November 15, 2015; and \$210.00 for the period between December 12, 2015 through August 28, 2018. The Board approved Attorney's requested hourly rates for the periods specified, as explained below.

ATTORNEY'S SKILL, EXPERIENCE, REPUTATION AND ABILITY. Consistent with the legislative direction, the Director may properly consider an attorney's skill and experience in state workers' compensation matters, as well as an attorney's reputation and ability.

Attorney, having been admitted to the Hawai'i Bar in 1977, represents that he has 40+ years of experience handling workers' compensation cases. According to Attorney, in the three years before his request, he participated in approximately 400 cases before the DCD.

COMPLEXITY OF CASE AND NOVELTY AND DIFFICULTY OF ISSUES

INVOLVED. In considering the complexity of the case and the novelty and difficulty of issues involved and in order to ascertain an attorney's hourly rate, the Board understands that the more complex, novel, or difficult a case is, there is more reason to approve a higher hourly rate for that particular case.

While the case was before the DCD, the issues that Attorney addressed included but were not limited to issues concerning compensability, treatment plans, medicine, medical examinations, temporary disability benefits and permanent disability benefits. These issues are typical for a workers' compensation case.

BENEFITS OBTAINED FOR CLAIMANT. No benefits were awarded to Claimant by the DCD, and no settlement was reached before the Attorney withdrew his representation.

HOURLY RATE CUSTOMARILY AWARDED ATTORNEYS WITH SIMILAR SKILLS AND EXPERIENCE. The Board considered the hourly rate customarily awarded to attorneys possessing similar skills and experience in its assessment of the Director's approval of Attorney's fee request.

The hourly rates of \$155.00 for the period between April 26, 2010 through June 14, 2010; \$165.00 for the period between September 20, 2010

through November 15, 2015; and \$210.00 for the period between December 12, 2015 through August 28, 2018 are similar to the hourly rate customarily awarded to attorneys possessing similar skills and experience for similar work performed on a DCD case and occurring around the same period.

Reasonableness of the Time Billed

In this case, Attorney billed 127.1 hours for legal services and requested fees of \$23,496.48 (inclusive of a discount) that comprised of hourly rates of \$155.00, \$165.00, and \$210.00 for different periods.

The Board determined, after its review of the billing entry descriptions contained in Attorney’s itemized billing statement, that 25.5 hours of time billed and the related fee amount of \$5,015.50 were not reasonable or necessary because fees were billed for services while this matter was not before the Director, for services that were clerical in nature, and for entries that were vague and ambiguous⁴ as follows:

Not Reasonable or Necessary	Hours Billed	Fee Charged	Finding of Fact No.
Fees billed for services performed while this matter was not under the Director’s jurisdiction	5.4	\$881.50	21

⁴ The Board, to ensure that all fees approved are reasonable, will not engage in pure conjecture or speculation where an attorney’s billing description is relatively devoid of reasonably expected details or specifics. A fee applicant should maintain billing records in a manner that enables a reviewing body to easily identify the hours reasonably expended. Entry descriptions should be understandable and descriptive of the work conducted. Entry descriptions that are vague, generic, incomplete, and/or lacking specific information may be reduced if it cannot be determined whether the billed time was reasonably expended.

Not Reasonable or Necessary	Hours Billed	Fee Charged	Finding of Fact No.
Fees billed for clerical activities	2.3	\$450.00	22
Fees billed for billing entries that are vague, ambiguous, generic, incomplete, and/or lacking in information.	17.8	\$3,684.00	23

ATTORNEY’S APPROVED FEE AND FEES AWARDED IN SIMILAR CASES. A

total of 101.6 hours and a fee of \$18,480.98⁵ were thus reasonably required while this case was before the DCD. The attorney’s fee of \$18,480.98 is reasonable and is similar to fees awarded in DCD cases, occurring around the same period, and involving attorneys possessing skills and years of experience similar to those of Attorney.

Reasonableness of Costs Billed

Costs in the amount of \$396.84 for courier services, postage, and photocopying, as billed by Attorney are reasonable.

Reasonable Attorney’s Fees and Costs

The reasonable attorney’s fees and costs that should be awarded for services rendered at the Disability Compensation Division in this case is \$19,748.27, calculated as follows:

Attorney Hours:	101.6
<u>Attorney fee:</u>	<u>\$18,480.98</u>
Tax (4.71%) ⁶	\$ 870.45
Subtotal	\$19,351.43
<u>Costs</u>	<u>\$ 396.84</u>
Total	\$19,748.27

⁵ \$23,496.48 less \$5,015.50.

⁶ Taxes were calculated at the same rate as used by Attorney in his fee request (rate of 4.71%).

CONCLUSION OF LAW

1. Based on the foregoing, it is concluded that Attorney's fees in the amount of \$18,480.98 plus taxes calculated at the same rate as used by Attorney in his Fee Request (rate of 4.71%), for a total \$19,351.43 are reasonable for this case, while before the Director between April 26, 2010 and August 28, 2018.

2. Costs in the amount of \$396.84, as billed by Attorney, are reasonable for this case, while before the Director between April 26, 2010 and August 28, 2018.

3. The total amount of \$19,748.27, including fees and costs, is reasonable for this case, while before the Director between April 26, 2010 and August 28, 2018.

4. The approved sum of \$19,748.27 is made a lien upon compensation payable by Employer to Claimant.

5. Having considered the foregoing, and being fully advised in the premises, the Board concludes that the Director abused his discretion in awarding attorney's fees of \$25,000.00.

ORDER

In accordance with the foregoing, the Director's December 22, 2020 Approval of Attorney's Fees is MODIFIED as to the amount awarded to DENNIS W.S. CHANG, ESQ. for fees and costs.

If any part of this Decision and Order should have been set forth as a Finding of Fact or Conclusion of Law, then it shall be deemed as such.

Dated: Honolulu, Hawai'i,

May 26 2026



DAMIEN A. ELEFANTE, Chair



MARIE C.L. LADERTA, Member

EXCUSED

HARRY YEE, Member

APPEAL: Pursuant to Section 386-88, Hawaii Revised Statutes (“HRS”), the Decision and Order of the Board shall be final and conclusive, except as provided in HRS Section 386-89, unless within 30 days after mailing of a certified copy of the Decision and Order, a party appeals to the Intermediate Court of Appeals of Hawai‘i by filing a written notice of appeal with the Board or by electronically filing a notice of appeal.

In the Matter of Attorney’s Fees Pertaining to Dennis W.S. Chang, Esq. in the Case of Amanda K. Gomes v. Wahiawa General Hospital, et al.; AB 2021-018; Decision and Order

A digital copy of the Board's Decision and Order was also posted on the Board's website and will remain on the Board's website for at least 180 days from the date of filing.

Amanda K. Gomes
For Claimant-Appellant

A certified copy of the foregoing was served upon the above-captioned parties or their legal representatives on the date of filing noted above. Mailed on 05/26/2026.

LABOR APPEALS BOARD - 830 PUNCHBOWL ST, RM 404, HONOLULU, HI 96813 - (808)586-8600

If you need a language interpreter or if you need an auxiliary aid/service or other accommodation due to a disability, please contact the Board at (808) 586-8600 and/or dlir.appealsboard@hawaii.gov as soon as possible, preferably at least ten (10) business days prior to your hearing or conference date. Requests made as early as possible have a greater likelihood of being fulfilled. If a request is received after the reply date, the Board will try to obtain the interpreter, auxiliary aid/service, or accommodation, but the Board cannot guarantee that the request will be fulfilled.

Upon request, this notice is available in alternate/accessible formats such as large print, Braille, or electronic copy.

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In the Matter of Attorney's Fees Pertaining to Dennis W.S. Chang, Esq. in the Case of Amanda K. Gomes v. Wahiawa General Hospital, et al.; AB 2021-018; Decision and Order

This certifies that the foregoing is a full, true, and correct copy of the original on file in this office.

/s/ A. Watanabe for LIRAB