

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

JERRIAN O. LOCKETT, SR.,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 18-4499
)	
ROBERT L. WILKIE,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

**TABLE OF CONTENTS FOR APPELLANT’S APPLICATION
FOR AWARD OF REASONABLE ATTORNEYS’ FEES AND
EXPENSES PURSUANT TO 28 U.S.C. § 2412(d)**

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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

JERRIAN O. LOCKETT, SR.,)
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Appellant,)
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v.)
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ROBERT L. WILKIE,)
Secretary of Veterans Affairs,)
)
Appellee.)

Vet. App. No. 18-4499

**APPELLANT’S APPLICATION FOR AWARD OF REASONABLE
ATTORNEYS’ FEES AND EXPENSES PURSUANT TO 28 U.S.C. § 2412(d)**

Pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and U.S. Vet. App. Rule 39, Appellant, Jerrian O. Lockett, Sr. applies for an award of reasonable attorneys’ fees and expenses in the amount of **\$ 11,586.79.**

PROCEDURAL HISTORY

On April 24, 2018 the Board of Veterans’ Appeals (Board) issued a decision that, *inter alia*, denied Appellant’s claims for entitlement to service connection for a sleep disorder, headaches, and an eye disability.¹ Appellant filed a timely notice of appeal with this Court on August 20, 2018.

¹ The part of the decision in which the Board granted entitlement to service connection for low back and bilateral knee disabilities was not before the Court, as the finding was favorable to Appellant. See *Medrano v. Nicholson*, 21 Vet. App. 165, 170 (2007). Further, the Board remanded the claims of entitlement to service connection for a (1) bilateral leg disability; (2) bilateral foot disability; and (3) bilateral ankle disability, and the merits of those issues were not before the Court. See *Breeden v. Principi*, 17 Vet. App. 475, 478 (2004).

On November 27, 2018, the Secretary served on Appellant's counsel the 1,374-page Record Before the Agency (RBA). On December 18, 2018, the Court issued an Order to file Appellant's brief within sixty days. On January 11, 2019, the Court issued an Order scheduling a February 13, 2019 Rule 33 Staff Conference.

Pursuant to the Court's Order, Appellant's counsel prepared a detailed Rule 33 Summary of the Issues addressing the legal errors committed by the Board in the decision on appeal, which he served on counsel for the Secretary and Central Legal Staff (CLS) counsel on January 30, 2019. On February 13, 2019, the Rule 33 Staff Conference was held as scheduled, but the parties failed to arrive at a joint resolution.

On April 29, 2019 Appellant filed his 15-page initial brief (hereinafter, App. Br.) with the Court. In his brief, Appellant argued that the Board erred by failing to provide an adequate statement of reasons or bases for finding Appellant did not have a current headache disability. See 38 U.S.C. § 7104(d)(1); App. Br. at 5–9. Specifically, the Board failed to address why Appellant's headaches did not result in "functional impairment of earning capacity" that would qualify his condition as a disability for the purposes of 38 U.S.C. § 1110 under the binding legal principles set forth in *Saunders v. Wilkie*, 886 F.3d 1356 (Fed. Cir. 2018). See App. Br. at 5–9.

With regarding to Appellant's eye disability claim, Appellant argued that the the Board erred by failing to provide an adequate statement of reasons or bases for finding he did not have a current eye disability. See 38 U.S.C. § 7104(d)(1);

App. Br. at 9–11. Specifically, the Board failed to adjudicate the reasonably raised issue of whether Appellant is entitled to service-connection for dry eye syndrome, despite favorable evidence of record. See *Roberson v. Principi*, 251 F.3d 1378 (Fed. Cir. 2001); App. Br. at 9–11. Finally, Appellant argued the Board erred by failing to adjudicate whether he was entitled to service connection for hepatitis as part of his claim for service connection for his sleep disorder. See 38 U.S.C. § 7104(d)(1); App. Br. at 11–14. Specifically, the record reasonably raised the issue of whether Appellant’s claim for sleep disorder actually encompassed a claim for service connection for hepatitis, due to his in-service hepatitis exposure. See, 251 F.3d at 1378; App. Br. at 11–14.

On June 13, 2019, the Secretary filed a joint motion to stay proceedings for 30 days, until July 15, 2019, for a possible alternative disposition. On July 29, 2019, the Secretary filed a motion to extend the time to file his brief until September 13, 2019, which the Court granted. On September 12, 2019, the Secretary filed his responsive brief (hereinafter, Sec. Br.) with the Court. In his brief, the Secretary argued that the Board was not required to discuss service connection for headaches absent a diagnosis because the medical evidence did not show Appellant suffered from frequent headaches that caused functional loss, despite the holding in *Saunders*, 886 F.3d at 1356. See Sec. Br. at 7–10. The Secretary argued that the Board provided an adequate statement of reasons or bases for its denial of service connection for a sleep disorder because the matter of service connection for hepatitis was not reasonably encompassed within Appellant’s claim for a sleep disorder, and

the Board did not need to discuss entitlement to service connection for hepatitis. See Sec. Br. at 11–16. The Secretary conceded only that the Board’s decision regarding service connection for dry eye syndrome should be remanded because the Board failed to discuss whether Appellant’s dry eye syndrome was at least less likely as not related to his military service. See Sec Br. at 11.

On November 12, 2019, Appellant filed his 8-page Reply Brief (hereinafter, App. Rep. Br.) with the Court. In his reply, responding to the Secretary’s argument, Appellant explained that the Court should vacate and remand the Board’s decision regarding headache disability because the it never made a finding concerning whether his headaches cause functional impairment in earning capacity, as required under *Saunders*, or a finding that he did not suffer from headaches. See 886 F.3d at 1356; App. Rep. Br. at 1–5. Furthermore, Appellant explained the Court should vacate and remand the Board’s decision regarding entitlement to a sleep disorder because the record expressly raised the issue of Appellant’s sleeping disorder being caused by hepatitis, and the Board failed to adjudicate this reasonably raised issue. See *Roberson*, 251 F.3d at 1384; App. Rep. Br. at 5–8.

On November 15, 2019, the Secretary filed the Record of Proceedings with the Court. On April 29, 2020, the Court issued its Memorandum Decision (hereinafter, Mem. Dec.). In the decision, the Court vacated the relevant part of the April 2018 Board decision and remanded the matters for further adjudication based on administrative error because the Board (1) erred by failing to adequately address whether Appellant was entitled to service connection for a dry eye syndrome;

(2) erred by failing to address whether service connection was warranted for headache disorder, under *Saunders*; and (2) erred by failing to provide an statement or reasons or bases for finding a medical examination was not warranted for Appellant's sleep disorder. Mem. Dec. at 3-4.

The Court entered Judgment on May 21, 2020. The Court entered Mandate under Rule 41(b) of the Court's Rules of Practice and Procedure, effective July 20, 2020.

ARGUMENT

I. APPELLANT IS A PREVAILING PARTY AND ELIGIBLE TO RECEIVE AN AWARD.

Under 28 U.S.C. § 2412(d), a court shall award to a prevailing party fees and other expenses incurred by that party in any civil action, including proceedings for judicial review of agency action. To obtain "prevailing party" status, a party need only to have obtained success "on any significant issue in litigation which achieve[d] some of the benefit ... sought in bringing the suit." *Shalala v. Schaefer*, 509 U.S. 292, 302 (1993) (quoting *Texas State Teachers Assn. v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 791-92 (1989)).

In this case, Appellant is a prevailing party entitled to an award of fees and costs because the Court vacated the relevant part of the Board's April 24, 2018 decision based on administrative error and remanded the matter for readjudication consistent with its decision. See *Zuberi v. Nicholson*, 19 Vet. App. 541 (2006); *Sumner v. Principi*, 15 Vet. App. 256 (2001) (en banc). The Court-ordered relief

creates the “material alteration of the legal relationship of the parties’ necessary to permit an award of attorney’s fees.” *Buckhannon Bd. & Care Home, Inc. v. West Virginia Dep’t of Health and Human Res.*, 532 U.S. 598, 604 (2001) (quoting *Garland Indep. Sch. Dist.*, 489 U.S. at 792).

Appellant is a party eligible to receive an award of reasonable fees and expenses because his net worth did not exceed \$2 million (two million dollars) at the time this civil action was filed. As an officer of the Court, the undersigned counsel hereby states that Appellant’s net worth did not exceed \$2 million (two million dollars) at the time this civil action was filed, nor did he own any unincorporated business, partnership, corporation, association, unit of local government, or organization, of which the net worth exceeded \$7 million (seven million dollars) and which had more than 500 employees. See *Bazalo v. Brown*, 9 Vet. App. 304, 309, 311 (1996). In addition, Appellant submitted a Declaration of Financial Hardship, which was accepted for filing by the Court on October 30, 2018. See *Owens v. Brown*, 10 Vet. App. 65, 67 (1997).

II. THE POSITION OF THE SECRETARY OF VETERANS AFFAIRS WAS NOT SUBSTANTIALLY JUSTIFIED.

The Secretary can defeat Appellant’s application for fees and costs only by demonstrating that the government’s position was substantially justified. See *Brewer v. American Battle Monument Comm’n*, 814 F.2d 1564, 1566-67 (Fed. Cir. 1987); *Stillwell v. Brown*, 6 Vet. App. 291, 301 (1994). The U.S. Supreme Court has held that for the position of the government to be substantially justified, it must have a

“reasonable basis both in law and fact.” *Pierce v. Underwood*, 487 U.S. 552, 565 (1988); *accord Beta Sys. v. United States*, 866 F.2d 1404, 1406 (Fed. Cir. 1989).

In this case, the Secretary’s administrative and litigation positions were not substantially justified. As described in the “Procedural History,” *supra*, the Court vacated and remanded the relevant part of the Board’s April 24, 2018 decision including because the Board erred by failing to adequately address whether Appellant was entitled to service connection for a headache disorder and failing to adequately address whether a medical examination was warranted for Appellant’s sleep disorder. These errors and others committed by the Board, had no reasonable basis in fact or in law.

In addition, the litigation position of the Secretary, defending the Board’s decision despite the aforementioned errors, had no basis in fact or law.

III. ITEMIZED STATEMENT OF SERVICES RENDERED AND AMOUNTS OF REASONABLE FEES AND EXPENSES

An itemized statement of the services rendered and the reasonable fees and expenses for which Appellant seeks compensation is attached to this application as Exhibit A. Included in Exhibit A is a certification that lead counsel has “(1) reviewed the combined billing statement and is satisfied that it accurately reflects the work performed by all counsel and (2) considered and eliminated all time that is excessive or redundant.” *Baldrige and Demel v. Nicholson*, 19 Vet. App. 227, 240 (2005). In the exercise of billing judgment, Appellant has eliminated **1.2** hours of attorney time and **0.2** hours of paralegal and law clerk time from this itemized statement and this

fee petition.

Appellant seeks attorneys' fees at the following rates for representation in the Court of Appeals for Veterans Claims:²

<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Fee Amount</u>
Barton F. Stichman (1974 law graduate)	\$ 209.22	3.2	\$ 669.50

² A rate in excess of \$125 per hour for the attorneys for Appellant in this case is justified based on the increase in the cost of living since the EAJA was amended in March 1996. See 28 U.S.C. § 2412(d)(2)(A)(ii). The \$125 attorney fee rate, adjusted for inflation for the Washington Metropolitan Area, was \$ 209.22 in April 2019, the month the initial brief was filed. See Bureau of Labor Statistics Data, CPI-U (Exhibit B). This rate was calculated by using the CPI-U for the Washington-Arlington-Alexandria, DC-VA-MD-WV area adjusted for inflation between March 1996 and April 2019, using the average of the data for the months prior to and after initial brief was filed. See Exhibit B; *Mannino v. West*, 12 Vet. App. 242 (1999); see also *Apodackis v. Nicholson*, 19 Vet. App. 91, 95 (2005). Related to the work of Patrick Berkshire, the \$125 attorney fee rate, adjusted for inflation for the Augusta, Georgia area, was \$ 198.34 in April 2019, the month the parties filed the Joint Motion. See Bureau of Labor Statistics Data, CPI-U (Exhibit B). This rate was calculated by using the CPI-U for the South adjusted for inflation between March 1996 and December 1996 and the South B/C area adjusted for inflation between December 1996 and April 2019. The market rates for Appellant's attorneys exceeded the requested rates per hour during the relevant time period. See *Covington v. District of Columbia*, 839 F. Supp. 894, 904–05 (D.D.C. 1993), *aff'd*, 58 F.3d 1101 (D.C. Cir. 1995). The prevailing market rate for the work done by paralegals and law clerks was at least \$166.00 from June 1, 2018 to May 31, 2019, and at least \$173.00 from June 1, 2019, to the present. See USAO Attorney's Fees Matrix, 2015-2020 (Exhibit C) ("The methodology used to compute the rates in this matrix replaces that used prior to 2015, which started with the matrix of hourly rates developed in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985), and then adjusted those rates based on the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Baltimore . . . area."); see also *Sandoval v. Brown*, 9 Vet. App. 177, 181 (1996); *Richlin Sec. Serv. Co. v. Chertoff*, 553 U.S. 571 (2008).

Christine Cote Hill (1996 law graduate)	\$ 209.22	2.9	\$ 606.74
Richard V. Spataro (2005 law graduate)	\$ 209.22	1.0	\$ 209.22
Patrick Berkshire (2009 law graduate)	\$ 198.34	43.9	\$ 8,707.13
Angela Nedd (paralegal)	\$ 166.00 \$ 173.00	2.0 0.7	\$ 332.00 \$ 121.10
Janee LeFrere (paralegal)	\$ 166.00 \$ 173.00	1.5 0.5	\$ 249.00 \$ 86.50
Alexandra Gonsman (law clerk)	\$ 173.00	2.7	\$ 467.10
Brianna LeFrere (law clerk)	\$ 173.00	0.5	\$ 86.50

SUBTOTAL: \$ 11,534.79

The reasonable expenses for which Appellant seeks compensation are:

<u>Nature of Expense</u>	<u>Expense Amount</u>
Federal Express and USPS Charges	\$ 41.00
Duplication Charges	\$ 11.00

SUBTOTAL: \$ 52.00

TOTAL: \$ 11,586.79

WHEREFORE, Appellant respectfully requests that the Court award attorneys' fees and expenses in the total amount of **\$ 11,586.79.**

Respectfully submitted,

FOR APPELLANT:

Date: August 5, 2020

/s/ Christine Cote Hill
Christine Cote Hill
Barton F. Stichman
National Veterans Legal
Services Program
1600 K Street, NW, Suite 500
Washington, DC 20006-2833
(202) 621-5674

Counsel for Appellant

EXHIBIT A

**NVLSP Staff Hours for Jerrian O. Lockett, Sr.
Vet. App. No. 18-4499**

Date: 6/22/2018 0.1 Staff: Richard V. Spataro
Review and analyze Board of Veterans' Appeals (BVA) decision and identify issues to raise on appeal.

Date: 6/25/2018 0.1 Staff: Richard V. Spataro
Review and analyze BVA decision and identify issues to raise on appeal.

Date: 7/7/2018 0.8 Staff: Richard V. Spataro
Draft memorandum regarding issues to raise on appeal and conduct legal research regarding same.

Date: 7/11/2018 0.2 Staff: Angela Nedd
Draft correspondence to client regarding BVA decision and issues to raise on appeal.

Date: 7/16/2018 0.2 Staff: Angela Nedd
Finalize correspondence to client regarding BVA decision and issues to raise on appeal.

Date: 7/27/2018 0.2 Staff: Angela Nedd
Email exchange with client regarding case status.

Date: 8/3/2018 0.3 Staff: Angela Nedd
Draft and finalize correspondence to client regarding case status.

Date: 8/8/2018 0.3 Staff: Angela Nedd
Draft correspondence to client regarding case initiation, including documents for client to execute and return.

Date: 8/9/2018 0.2 Staff: Angela Nedd

Finalize correspondence to client regarding case initiation, and documents to be executed and returned by client.

Date: 8/20/2018 0.2 Staff: Angela Nedd

Draft Notice of Appeal and Notices of Appearance and provide to attorney to finalize (0.1); draft email to Clerk of the Court regarding case initiation, with attachments (0.1).

Date: 9/24/2018 0.0 Staff: Angela Nedd

Draft and finalize correspondence to client regarding case initiation, including documents for client to execute and return. **[0.2 eliminated in the exercise of billing judgment]**

Date: 12/4/2018 3.0 Staff: Patrick A. Berkshire

Review and analyze the 1,374-page Record Before the Agency (RBA) to ensure legibility and completeness.

Date: 1/30/2019 5.2 Staff: Patrick A. Berkshire

Begin review and analysis of 1,374-page RBA for preparation of Rule 33 Summary of the Issues; tab relevant pages (2.0); draft Rule 33 Summary of the Issues (2.5); review and finalize same (0.4); draft and finalize Rule 33 Certificate of Service; draft email to VA counsel and Court Central Legal Staff regarding Rule 33 Staff Conference and Rule 33 Summary of the Issues, with attachment (0.3).

Date: 4/22/2019 10.0 Staff: Patrick A. Berkshire

Review and analyze tabbed RBA for outstanding issues for preparation of initial brief, through page 500 (3.0); through page 1,000 (2.5); through end (2.5); outline initial brief argument (2.0).

Date: 4/24/2019 9.3 Staff: Patrick A. Berkshire

Draft argument I for initial brief (2.0); draft argument II for initial brief (2.0); draft argument III for initial brief (1.5); draft Statement of Facts for initial brief (2.0); draft initial brief (0.8); add inserts to initial brief argument (1.0).

Date: 4/25/2019 1.5 Staff: Janee LeFrere

Update legal citations for P. Berkshire to bolster legal argument. (1.0); finalize Table of Authorities. (0.5)

Date: 4/25/2019 0.4 Staff: Angela Nedd
Draft and finalize correspondence to client regarding case status and initial brief for review, with enclosure.

Date: 4/28/2019 1.7 Staff: Barton F. Stichman
Draft Summary of Argument for P. Berkshire and inserts to Arguments I and II for P. Berkshire.

Date: 4/29/2019 0.6 Staff: Barton F. Stichman
Review and prepare final insert to Argument III of initial draft brief for P. Berkshire.

Date: 4/29/2019 3.0 Staff: Patrick A. Berkshire
Review B. Stichman initial brief argument inserts **[0.5 eliminated in the exercise of billing judgment]**; draft style edits to add persuasive value to legal argument and finalize 15-page initial brief.

Date: 6/12/2019 1.1 Staff: Patrick A. Berkshire
Review VA counsel proposed bases for remand (limited) and evaluate same (0.4); review Hepatitis A risk factors to evaluate same (0.6); draft email to VA counsel to clarify proposed bases for remand (limited) (0.1).

Date: 6/24/2019 0.1 Staff: Patrick A. Berkshire
Draft email to client regarding case status.

Date: 7/11/2019 0.6 Staff: Patrick A. Berkshire
Draft email to VA counsel regarding proposed settlement with edits (0.2); teleconference with client regarding proposed bases for remand (0.2); draft email to C. Hill regarding advice on proposed bases for remnd (limited) and evaluate same (0.2).

Date: 7/17/2019 0.2 Staff: Patrick A. Berkshire

Email exchange with C. Hill regarding proposed bases for remand (limited) and evaluate same.

Date: 7/17/2019 0.0 Staff: Christine Cote Hill
Review proposed bases for remand (limited) and legal advice regarding same.
[0.4 eliminated in the exercise of billing judgment]

Date: 9/13/2019 0.2 Staff: Patrick A. Berkshire
Teleconference with client regarding case status.

Date: 9/26/2019 0.0 Staff: Patrick A. Berkshire
Draft and finalize motion for extension of time to file reply brief. **[0.2 eliminated in the exercise of billing judgment]**

Date: 11/4/2019 3.0 Staff: Patrick A. Berkshire
Review 17-page responsive brief and initial brief for preparation of reply brief argument outline; review caselaw cited by Secretary in order to respond to argument (2.0); outline reply brief argument (1.5).

Date: 11/6/2019 7.2 Staff: Patrick A. Berkshire
Draft reply brief (1.0); draft preliminary statement of reply brief (0.4); draft argument I of reply brief (2.5); draft argument II of reply brief (2.5); review and revise reply brief (0.8).

Date: 11/6/2019 0.3 Staff: Angela Nedd
Draft and finalize correspondence to client regarding case status and reply brief for review, with enclosure.

Date: 11/7/2019 0.2 Staff: Angela Nedd
Finalize correspondence to client regarding case status and reply brief for review, with enclosures.

Date: 11/11/2019 0.9 Staff: Barton F. Stichman
Draft additional final insert to argument for reply brief for P. Berkshire.

Date: 11/12/2019 0.5 Staff: Janee LeFrere
Finalize Table of Authorities for reply brief.

Date: 11/12/2019 1.0 Staff: Patrick A. Berkshire
Add legal authority to bolster legal argument (0.5); Draft style edits to add persuasive value to legal argument and finalize 8-page reply brief. (0.5)

Date: 2/2/2020 0.1 Staff: Angela Nedd
Draft correspondence to client regarding case status.

Date: 2/6/2020 0.1 Staff: Angela Nedd
Finalize Notice of Appearance.

Date: 2/7/2020 0.0 Staff: L. Michael Marquet
Draft Notice of Appearance and motion to withdraw representative in appeal.
[0.1 eliminated in the exercise of billing judgment]

Date: 2/7/2020 0.2 Staff: Christine Cote Hill
Email exchange with client regarding status of appeal.

Date: 5/8/2020 0.9 Staff: Christine Cote Hill
Review Memorandum Decision in order to provide update to client (0.5); email exchange with client regarding case status and Memorandum Decision (0.4).

Date: 7/23/2020 2.7 Staff: Alexandra Gonsman
Draft application for reasonable attorneys' fees and expenses under the Equal Access to Justice Act (EAJA), including recitation of relevant procedural history (2.0); prepare list of itemized hours to be attached as exhibit to EAJA application (0.7).

Date: 8/5/2020 1.8 Staff: Christine Cote Hill
Add insertion to application for reasonable attorneys' fees and expenses under the EAJA, and elimination of hours in the interest of billing judgment. (1.3); Draft letter to client regarding close of case and recommendations regarding

Memorandum Decision (0.5)

Date: 08/11/2020 0.5 Staff: Brianna LeFrere
Finalize application for C. Hill, to include adding detail to application and
itemized list.

CERTIFICATION

As lead counsel in this appeal, I have reviewed the combined billing statement above and I am satisfied that it accurately reflects the work performed by all counsel and others entitled to be included above and I have considered and eliminated all time that I believe could be considered excessive or redundant.

Date: August 5, 2020

/s/ Christine Cote Hill
Christine Cote Hill

EXHIBIT B



Databases, Tables & Calculators by Subject

Change Output Options:

From:

1996 ▼

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☐ include graphs ☐ include annual averages

[More Formatting Options](#) ➡

Data extracted on: June 10, 2020 (3:34:48 PM)

CPI for All Urban Consumers (CPI-U)

Series Id: CUURS35ASA0,CUUSS35ASA0
Not Seasonally Adjusted
Series Title: All items in Washington-Arlington-Alexandria, DC-VA-MD-WV, all urban consumers, not seasonally adjusted
Area: Washington-Arlington-Alexandria, DC-VA-MD-WV
Item: All items
Base Period: 1982-84=100

Download: [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
1996	156.8		158.4		159.0		160.1		160.8		161.2		159.6	158.3	160.8
1997	161.6		161.9		162.1		162.9		163.6		161.8		162.4	162.0	162.8
1998	162.5		163.5		163.6		164.9		165.2		164.5				
1999	165.4		165.9		167.0		168.3		169.8		169.1				
2000	169.8		173.2		172.5		174.8		175.0		175.3				
2001	175.9		177.2		178.0		179.2		180.9		179.5				
2002	180.0		181.9		183.6		184.2		185.8		185.4				
2003	186.3		188.8		188.7		190.2		190.8		190.4				
2004	190.7		192.8		194.1		195.4		196.5		197.2				
2005	198.2		200.4		201.8		202.8		205.6		204.3				
2006	205.6		206.4		209.1		211.4		211.2		210.1				
2007	211.101		214.455		216.097		217.198		218.457		218.331				
2008	220.587		222.554		224.525		228.918		228.871		223.569				
2009	221.830		222.630		223.583		226.084		227.181		226.533				
2010	227.440		228.480		228.628		228.432		230.612		230.531				
2011	232.770		235.182		237.348		238.191		238.725		238.175				
2012	238.994		242.235		242.446		241.744		244.720		243.199				
2013	243.473		245.477		245.499		246.178		247.838		247.264				
2014	247.679		249.591		250.443		250.326		250.634		249.972				
2015	247.127		249.985		251.825		250.992		252.376		251.327		250.664	249.828	251.500
2016	250.807		252.718		254.850		254.305		253.513		253.989		253.422	253.049	253.795
2017	254.495		255.435		255.502		255.518		257.816		257.872		256.221	255.332	257.110
2018	260.219		260.026		261.770		262.016		263.056		261.120		261.445	260.903	261.987
2019	262.304		264.257		265.967		265.170		265.500		265.026		264.777	264.252	265.301
2020	266.433		265.385		265.733										

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Databases, Tables & Calculators by Subject

Change Output Options:

From: 1996 ▼ To: 2020 ▼

☐ include graphs ☐ include annual averages

[More Formatting Options](#)

Data extracted on: July 16, 2020 (2:43:53 PM)

CPI for All Urban Consumers (CPI-U)

Series Id: CUURN300SA0,CUUSN300SA0
Not Seasonally Adjusted
Series Title: All items in South - Size Class B/C, all urban consumers, not seasonally adjusted
Area: South - Size Class B/C
Item: All items
Base Period: DECEMBER 1996=100

Download: [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
1996												100.0			
1997	100.3	100.6	100.9	101.1	101.0	101.3	101.3	101.4	101.5	101.8	101.9	101.3	101.2	100.9	101.5
1998	101.5	101.6	101.8	102.0	102.2	102.3	102.4	102.5	102.5	102.8	102.8	102.8	102.3	101.9	102.6
1999	102.9	103.0	103.3	103.9	104.1	104.1	104.3	104.4	104.8	105.1	105.1	105.2	104.2	103.6	104.8
2000	105.4	106.0	107.0	107.2	107.2	107.6	107.8	107.8	108.1	108.1	108.2	108.1	107.4	106.7	108.0
2001	108.6	109.2	109.4	109.9	110.1	110.3	109.8	109.8	110.2	109.7	109.4	108.9	109.6	109.6	109.6
2002	109.2	109.3	110.0	110.8	110.7	110.9	111.0	110.9	111.2	111.6	111.9	111.6	110.8	110.2	111.4
2003	111.7	112.5	113.3	113.3	112.8	113.1	113.1	113.4	113.8	113.6	113.3	113.3	113.1	112.8	113.4
2004	113.8	114.3	114.9	115.6	116.4	117.0	116.9	116.9	116.9	117.4	117.4	117.1	116.2	115.3	117.1
2005	117.1	117.7	118.4	119.3	119.4	119.7	120.2	120.9	122.3	122.5	121.4	121.2	120.0	118.6	121.4
2006	122.0	122.1	123.0	124.1	124.6	125.0	125.5	125.4	124.4	123.7	123.4	123.8	123.9	123.5	124.4
2007	123.817	124.521	125.726	127.000	127.893	128.265	128.226	127.833	128.263	128.600	129.556	129.368	127.422	126.204	128.641
2008	129.937	130.351	131.442	132.516	133.714	134.980	135.643	135.004	135.093	133.285	130.324	129.099	132.616	132.157	133.075
2009	129.615	130.380	130.873	131.370	131.777	133.056	132.736	132.729	132.722	133.035	133.342	133.252	132.074	131.179	132.969
2010	133.517	133.575	134.363	134.606	134.500	134.173	134.130	134.335	134.658	134.890	134.892	135.240	134.407	134.122	134.691
2011	135.925	136.625	138.211	139.177	139.833	139.639	139.783	140.378	140.471	140.303	140.218	139.838	139.200	138.235	140.165
2012	140.388	141.133	142.056	142.718	142.161	141.906	141.774	142.432	143.088	142.927	142.219	142.009	142.068	141.727	142.408
2013	142.543	143.758	144.293	143.935	144.071	144.627	144.851	145.056	145.098	144.825	144.377	144.382	144.318	143.871	144.765
2014	144.668	145.341	146.254	147.265	147.499	147.733	147.559	147.178	147.257	146.905	145.976	144.952	146.549	146.460	146.638
2015	143.769	144.591	145.392	145.939	146.482	147.126	147.095	146.695	146.361	146.314	145.974	145.378	145.926	145.550	146.303
2016	145.209	145.279	146.263	146.907	147.507	148.037	147.629	147.934	148.202	148.435	148.071	148.254	147.311	146.534	148.088
2017	149.312	149.643	149.675	149.998	149.962	150.192	149.951	150.509	151.547	151.270	151.121	150.825	150.334	149.797	150.871
2018	151.752	152.413	152.888	153.429	153.842	154.051	154.097	153.964	153.924	154.301	153.813	152.891	153.447	153.063	153.832
2019	153.212	154.019	155.168	155.916	155.595	155.687	156.192	155.873	155.717	156.136	156.176	156.171	155.489	154.933	156.044
2020	156.673	156.872	156.768	155.508	155.055	156.135								156.169	

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EXHIBIT C

USAO ATTORNEY'S FEES MATRIX — 2015-2020

Revised Methodology starting with 2015-2016 Year

Years (Hourly Rate for June 1 – May 31, based on change in PPI-OL since January 2011)

Experience	2015-16	2016-17	2017-18	2018-19	2019-20
31+ years	568	581	602	613	637
21-30 years	530	543	563	572	595
16-20 years	504	516	536	544	566
11-15 years	455	465	483	491	510
8-10 years	386	395	410	417	433
6-7 years	332	339	352	358	372
4-5 years	325	332	346	351	365
2-3 years	315	322	334	340	353
Less than 2 years	284	291	302	307	319
Paralegals & Law Clerks	154	157	164	166	173

Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia (USAO) to evaluate requests for attorney's fees in civil cases in District of Columbia courts. The matrix is intended for use in cases in which a fee-shifting statute permits the prevailing party to recover "reasonable" attorney's fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412(b) (Equal Access to Justice Act). The matrix has not been adopted by the Department of Justice generally for use outside the District of Columbia, or by other Department of Justice components, or in other kinds of cases. The matrix does **not** apply to cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).
2. A "reasonable fee" is a fee that is sufficient to attract an adequate supply of capable counsel for meritorious cases. *See, e.g., Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010). Consistent with that definition, the hourly rates in the above matrix were calculated from average hourly rates reported in 2011 survey data for the D.C. metropolitan area, which rates were adjusted for inflation with the Producer Price Index-Office of Lawyers (PPI-OL) index. The survey data comes from ALM Legal Intelligence's 2010 & 2011 Survey of Law Firm Economics. The PPI-OL index is available at <http://www.bls.gov/ppi>. On that page, under "PPI Databases," and "Industry Data (Producer Price Index - PPI)," select either "one screen" or "multi-screen" and in the resulting window use "industry code" 541110 for "Offices of Lawyers" and "product code" 541110541110 for "Offices of Lawyers." The average hourly rates from the 2011 survey data are multiplied by the PPI-OL index for May in the year of the update, divided by 176.6, which is the PPI-OL index for January 2011, the month of the survey data, and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).
3. The PPI-OL index has been adopted as the inflator for hourly rates because it better reflects the mix of legal services that law firms collectively offer, as opposed to the legal services that typical consumers use, which is what the CPI-