

**THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**CASE FILE NO.: 19-7214**

**TIMOTHY DAVIS,**  
**Appellant,**

**v.**

**DENIS MCDONOUGH,**  
**Secretary of Veterans Affairs,**  
**Appellee.**

**APPELLANT'S APPLICATION  
FOR AWARD OF  
ATTORNEY'S FEES AND  
EXPENSES**

Appellant, Mr. Davis, hereby applies to this honorable Court for an award of his attorney's fees and expenses in the amount of **\$8,443.90**. This application is made pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), and this Court's Rule 39.

**I. PROCEDURAL HISTORY**

On July 25, 2019, the Board of Veterans' Appeals (Board) entered a decision that denied an effective date earlier than January 7, 2016, for (1) the award of a 70% disability rating for schizoaffective disorder, alternatively diagnosed as bipolar disorder, with post-traumatic stress disorder (PTSD); (2) a total disability rating based on individual unemployability (TDIU); and (3) dependents' educational assistance (DEA) benefits. Mr. Davis filed a timely notice of appeal to this court on October 18, 2019. The attorney (with respect to whose fees this application is concerned) entered his appearance on October 18, 2019.

This case was litigated. It was necessary for Mr. Davis to (A) examine, inventory, and analyze the claim file; (B) review and inventory the Secretary's designation and (C) counter-designate additional contents of the record on appeal, (D) inspect and inventory the record when it was filed, (E) file an opening brief, (F) reviewed for response the appellee's brief, (G) file a reply brief, and (H) present oral argument. This Court's dispositive decision was dated August 17, 2021, about 22 months after counsel entered his appearance.

This application is timely under 28 U.S.C. § 2412(d)(1)(B).

## **II. AVERMENTS**

Mr. Davis avers—

- (1) This matter is a civil action;
- (2) This action is against an agency of the United States, namely the Department of Veterans Affairs;
- (3) This matter is not in the nature of tort;
- (4) This matter sought judicial review of an agency action, namely the prior disposition of Mr. Davis' appeal to the Board of Veterans' Appeals;
- (5) This Court has jurisdiction over the underlying appeal under 38 U.S.C. § 7252;
- (6) Mr. Davis is a "party" to this action within the meaning of 28 U.S.C. § 2412(d)(2)(B);
- (7) Mr. Davis is a "prevailing party" in this matter within the meaning of 28 U.S.C. § 2412(d)(1)(a);

- (8) Mr. Davis is not the United States;
- (9) Mr. Davis is eligible to receive the award sought;
- (10) The position of the Secretary was not substantially justified; and
- (11) There are no special circumstances in this case which make such an award unjust.

Mr. Davis submits below an itemized statement of the fees and expenses for which he applies. The attached itemization shows the time counsel spent representing Mr. Davis on his appeal to the Court. Accordingly, Mr. Davis contends that he is entitled to an award of attorney's fees and expenses in this matter in the total amount itemized.

### **III. ARGUMENT**

The assessment of the "jurisdictional adequacy" of a petition for EAJA fees is controlled by the factors summarized and applied in, e.g., *Cullens v. Gober*, 14 Vet. App. 234, 237 (2001) (*en banc*).

#### **A. "Court"**

This Court is a court authorized to award attorney's fees and expenses as sought herein. 28 U.S.C. § 2412(d)(2)(F). This Court has exclusive jurisdiction of this matter. 38 U.S.C. § 7252(a).

#### **B. Eligibility: "Party"**

Mr. Davis is a party eligible to receive an award of fees and expenses because his net worth does not exceed \$2 million. See 28 U.S.C. § 2412(d)(2)(B). Mr. Davis

submitted a Declaration of Financial Hardship, which was accepted for filing by the Court on October 18, 2019. See *Owens v. Brown*, 10 Vet. App. 65, 67 (1997). Mr. Davis thus is a party eligible to receive an award of reasonable fees and expenses.

### **C. “Prevailing”**

To be a “prevailing party” within the meaning of the statute, a party need only have succeeded “on any significant issue in litigation which achieve[d] some of the benefit . . . sought in bringing suit.” *Texas Teachers Association v. Garland Independent School District*, 489 U.S. 782, 791-92, 109A S.Ct. 1486, 1493, 103 L.Ed.2d 866, 876 (1989)).

The “prevailing party” requirement is satisfied by a remand. *Stillwell v. Brown*, 6 Vet. App. 291, 300 (1994). See *Employees of Motorola Ceramic Products v. United States*, 336 F.3d 1360 (Fed. Cir. 2003) (remand because of alleged error and court does not retain jurisdiction). This Court sharpened the criteria for “prevailingness” in *Sumner v. Principi*, 15 Vet. App. 256, 260-61 (2001) (*en banc*). “Prevailingness” now depends on the presence of either a finding by the Court or a concession by the Secretary of “administrative error.” Mr. Davis is a “prevailing party” entitled to an award of fees and expenses. For this assertion, Mr. Davis relies upon the following to satisfy the *Sumner* criteria:

The Court agreed with Appellant’s argument that “The Board’s decision is unclear about how it assessed the scope of the appellant’s claims for service connection for mental disorders in the late 1990s.” Memo Dec., at 6.

Ultimately, the Court set aside the portion of the July 25, 2019, Board decision denying an effective date earlier than January 7, 2016. The Court does not retain any jurisdiction, and the remand order requires the Board to perform additional actions consistent with the remand order. Specifically, the Board must provide adequate reasons and bases for its effective-date determination for the grant of service connection for schizoaffective disorder. Therefore, Mr. Davis is the prevailing party and entitled to EAJA fees.

This remand was not predicated upon a change in law after the Board's decision or upon the need for the Board to consider a newly raised issue or new evidence discovered while the case was on appeal. See *Zuberi v. Nicholson*, 19 Vet. App. 541, 547 (2006). Instead, this remand was based upon the Board's violations of its statutory duties, and the Court recognized the administrative errors by expressly incorporating the terms of the Joint Motion for Remand in the Court's order granting the motion. See *Zuberi*, 19 Vet. App. at 547; see also *Cycholl v. Principi*, 15 Vet. App. 355, 358-59 (2001).

#### **D. The Position of the Secretary Was Not Substantially Justified**

To defeat this application for fees and expenses the Secretary must show that the Government's position was "substantially justified." *Brewer v. American Battle Monument Commission*, 814 F.2d 1564, 1566 (Fed. Cir. 1987); *Stillwell v. Brown*, 6 Vet. App. 291, 301 (1994) (92-205), *appeal dismissed*, 46 F.3d 1111 (Fed. Cir. 1995) (94-7090). See 28 U.S.C. § 2412(d)(1)(B). The Government must show its position to have had a "reasonable basis both in law and fact." *Pierce v. Underwood*, 487 U.S. 552, 563-68, 108B S.Ct. 2541, 2549-51, 101L.Ed.2d. 503-506 (1988); *Beta Systems v. United States*, 866 F.2d 1404, 1406 (Fed. Cir. 1989).

"Substantial justification" is in the nature of an affirmative defense: If the Secretary wishes to have its benefit, he must carry the burden of proof on the issue. *Clemmons v. West*, 12 Vet. App. 245, 246 (1999) (97-2138), *appeal dismissed*, 206 F.3d 1401 (Fed. Cir. 2000) (99-7107), *rehrg denied*, \_\_ F.3d \_\_ (May 2, 2000). It is sufficient for Mr. Davis simply to aver this element.

#### **E. Itemized Statement of Fees and Expenses**

Annexed to this application are the required declaration of the lawyer, Exhibit A, and an itemized statement of the services rendered and the fees and expenses for which Mr. Davis seeks compensation, Exhibit B. See 28 U.S.C. § 2412(d)(1)(B).

Mr. Davis' counsel seeks compensation for attorney's fees and expenses incurred at the following rate and in the amounts shown<sup>1</sup> for representation in this Court:

<b>Attorney &amp; Administrative Services</b>	<b>Rate:</b>	<b>Hours:</b>	<b>Fee:</b>	<b>Totals:</b>
Kenneth H. Dojaquez, Attorney	\$202.77	39.53	\$8,015.50	\$8,015.50
Paralegal	\$170.00	2.52	\$428.40	\$428.40
<b>Total for Services</b>				<b>\$8,443.90</b>
<b>Total for Expenses</b>				<b>\$0.00</b>
<b>Total for Application</b>				<b>\$8,443.90</b>

## **F. Calculation of Rate of Fees**

The fees in this case were calculated using the maximum hourly rate permitted under EAJA.

### *1. Lawyer's Standard Rates.*

At the Court, Mr. Dojaquez' standard fee agreement states he shall be entitled to the greater of 20% of the gross amount of any past due benefits recovered for the appellant or an award of attorneys fees under EAJA. At the agency level, Mr. Dojaquez similarly limits his fee to a 20% contingency fee. Mr. Dojaquez' practice is limited to veteran benefits law; thus, Mr. Dojaquez considers his standard hourly rate to be commensurate with the "EAJA" rate in effect at the time Mr. Dojaquez provides services. However, based upon his geographical area, years of practice, and experience in veterans benefits law, a reasonable hourly rate for his services in other types of cases would be at least \$200.00.

### *2. Reasonableness of Lawyer's Rate.*

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<sup>1</sup> The chart summarizes hours, fees, and expenses. The chart only reflects hours of work performed for which the applicant is seeking compensation. Exhibit B is an itemized list of all fees and expenses—even those for which the applicant is not seeking compensation.

Widely followed tabulations establish that the lawyer's hourly rate billed in this application is well below the prevailing rate. See the "*Laffey*<sup>2</sup> matrix" and a similar table attributed to the United States Attorney, both of which appeared in *Covington v. District of Columbia*, 839 F. Supp. 894, 904 (D.D.C.) in 1993; and see a similar version of the "*Laffey* matrix" from BARTON F. STICHMAN & RONALD B. ABRAMS, THE VETERANS BENEFITS MANUAL, p. 1634 (2009). The *Covington* and VBM versions of the "*Laffey* matrix" have been adjusted for inflation. One readily finds that the lawyer's rate for attorney fees in this case is well below the rates shown in the tabulations.

Also, in Exhibit A, the applicant's lawyer declares the billing rate utilized in Mr. Davis' case is less than the prevailing market rate for similar services performed by attorneys in Columbia, South Carolina.

### 3. Calculation of "EAJA Cap."

As the Court is aware, the statutory maximum rate for lawyer fees under EAJA is now \$125.00 per hour. 28 U.S.C. § 2412(d)(2)(A). It may be adjusted for inflation by using the United States Department of Labor's Consumer Price Index for All Urban Consumers (published by the Bureau of Labor Statistics) appropriate to the region, *Mannino v. West*, 12 Vet. App. 242, 244 (1999) (97-784), for the approximate mid-point of the representation. For this case, we used the date on which the Appellant's Brief was filed, June 12, 2020, as the mid-point of representation. *Elczyn v. Brown*, 7 Vet. App. 170, 181 (1994). Exhibit C. The rate-cap for the fees for lawyer services used in this application has been calculated as follows:

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<sup>2</sup> *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp. 354 (D.D.C. 1983).



$$\begin{array}{lcl}
 \$125 \times \frac{\text{CPI-U [Southern Region, (June 2020)]}^3}{\text{CPI-U (Southern Region, March 1996)}} & = & \$125 \times \frac{247.223}{152.4} = \$202.77
 \end{array}$$

#### 4. *Rate Applied.*

Mr. Dojaquez is the only person who performed work on this case, so only one billing rate was used.

#### 5. *Billings Herein & “Billing Judgment.”*

The lawyer has also reviewed the itemization to exercise “billing judgment” by determining whether the activity or expense might be an overhead expense or, for any other reason, not properly billable. In particular, the lawyer did not charge for work done on theories that either were not a basis for remand, or were related to issues that are not billable (e.g. inextricably intertwined). The lawyer also seeks to assure sound “billing judgment” by reducing the number of billable hours of work performed that might be considered excessive and by seeking less than the “EAJA-CPI rate.” However, the lawyer will be grateful to have brought to his attention any mistakes which might remain.

#### 6. *Paralegal*

The prevailing market rate for the work done by paralegals in the Columbia, SC area was at least \$180.00 from June 1, 2020, to the present. See USAO Attorney’s Fees Matrix, 2015-2021 (Exhibit D) (“The methodology used to compute the rates in this

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<sup>3</sup> The CPI-U is available at the Internet web site of the Bureau of Labor Statistics, <http://www.bls.gov/ro3/cpiso.htm>. The graph used for this application was found at: [http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUUR0300SA0,CUUS0300SA0](http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=dropmap&series_id=CUUR0300SA0,CUUS0300SA0)

matrix replaces that used prior to 2015, which started with the matrix of hourly rates developed in *Laffey v. Nw. 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). The CPI-U for the Southern Region, encompassing Mrs. Blackwelder’s location in Columbia, South Carolina, in May 2021 was 259.343. See Exhibit D. The product of \$180.00 and the ratio of 259.343 to 275.822 equals \$169.25. In other recent EAJA applications, however, Carpenter Chartered clients have claimed the reasonable value of Mrs. Blackwelder’s time at the hourly rate of \$150.00. Mr. Davis does so here without prejudice.

## **G. Expenses**

All expenses are claimed at the actual cost incurred, with no “mark ups” or premiums.

## **H. Reasonableness of the Fee**

Finally, it is necessary to show the reasonableness of the award sought on the basis of the 12 factors summarized in *Hensley v. Eckerhart*, 461 U.S. 424, 430 n. 3, 103A S.Ct. 1933, 76 L.Ed.2d 40 (1983):

1. *The time and labor* required is reported in the attached itemization.
2. *The novelty and difficulty of the questions.* This factor did not affect this engagement.
3. *The skill requisite to perform the legal service properly.* Veterans disability is a species of law of its own, requiring specialization, continuing education, and experience.
4. *The preclusion of employment by the attorney due to acceptance of the case.* This factor did not affect this engagement.
5. *The customary fee.* There are no lawyers known to the applicant and counsel who accept clients in veterans’ benefits matters on the basis of a “flat rate” or “customary fee.”
6. *Whether the fee is fixed or contingent.* The engagement agreement in this case is contingent upon sufficient success on the merits. Pursuant to the agreement, the attorney shall be entitled to an award of attorneys fees under EAJA.

7. *Time limitations imposed by the client or the circumstances.* This engagement was not affected by unusual urgency.

8. *The amount involved and the results obtained.* The amount for which the application is made is stated earlier. The amount of the veteran's benefits in controversy is not regarded by the applicant as relevant for the purposes of this application.

9. *The experience, reputation, and ability of the attorney.* The lawyer whose fees are sought is now in his ninth year in the practice of veteran's benefits law. He is a member and an active participant in the National Organization of Veterans' Advocates.

10. *The "undesirability" of the case.* This engagement was not affected by this factor.

11. *The nature and length of the professional relationship with the client.* Undersigned counsel has represented Mr. Davis since October 2019 through the filing of this appeal, but will not represent him on the remand to the Board.

12. *Awards in similar cases.* EAJA awards in veterans benefits cases are not collected in a counterpart of a jury award digest, but decisions of this Court reveal awards over \$20,000.00. *E.g., Perry v. West*, 11 Vet. App. 319 (1998) (\$20,430 award approved); *Ussery v. Brown*, 10 Vet. App. 51 (1997) (93-0696) (approved application for \$21,898).

### **I. Wrap-Up Application**

Mr. Davis recognizes that the Secretary is privileged to oppose this application. Such a dispute may require that Mr. Davis file responsive pleadings. In those instances, Mr. Davis asks that he be permitted to supplement this application with a single, final “wrap-up” application which would include fees and expenses incurred after the date of this application.

### **IV. Prayer for Relief**

Mr. Davis respectfully moves for an order awarding to appellant his attorney’s fees and expenses as set forth herein. This application for attorney’s fees and expenses is—

Respectfully submitted for Mr. Davis by:

/s/ Kenneth H. Dojaquez

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Kenneth H. Dojaquez, Esq.  
Attorney for Appellant  
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**ANNEXED**

Exhibit A ..... Lawyer’s Declaration

Exhibit B ..... Itemized List of Services, Fees, and Expenses

Exhibit C ..... CPI-U Chart

Exhibit D.....*Laffey Matrix*

**THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**CASE FILE NO.: 19-7214**

**TIMOTHY DAVIS,**  
**Appellant,**

**v.**

**DENIS MCDONOUGH,**  
**Secretary of Veterans Affairs,**  
**Appellee.**

**ATTORNEY'S  
DECLARATION  
RE: ITEMIZATION OF  
FEES AND EXPENSES**

Kenneth H. Dojaquez, attorney for the appellant, hereby declares and states:

1. I am the lawyer who represents the appellant named in this appeal. This declaration is based upon my personal knowledge as stated herein.

2. On September 4, 2019, the appellant signed an engagement agreement for me to represent him with a pending appeal before the Court. I have represented appellant in this matter continuously since that date. I entered my appearance in this case on October 18, 2019.

3. I worked on this case for a period of time before filing the Notice of Appeal in expectation that an appeal to the court would be filed, and that work is itemized in the attached statement of fees and expenses.

4. The engagement agreement in this case is contingent upon sufficient success on the merits. Pursuant to the agreement, I will be entitled to an award of attorneys fees under EAJA. I explained to Mr. Davis that, if we were successful at the Court, I would apply for my fees under EAJA.

5. To ensure my billing rates are reasonable, I consulted with other practitioners. Based upon my personal experience at a private firm in Columbia, South Carolina, and inquiry to other practitioners, the billing rates charged by me in Mr. Davis' case are consistent with or less than the prevailing market rates for similar services performed by attorneys in Columbia, South Carolina.

6. The attached itemization of fees and expenses is based on entries made contemporaneously with the work or expenditure. Fees for time are based on measured time or reasonably accurate estimates sometimes rounded to hundredths of an hour. I have reviewed the itemized billing statement of fees and expenses to ensure they are correct. I am satisfied that the statement accurately reflects the work I performed. I know of no errors or misrepresentations in the statement. I have considered and eliminated all time that is excessive or redundant.



Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed in Columbia, South Carolina, this the following date: December 7, 2021.

/s/ Kenneth H. Dojaquez

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Kenneth H. Dojaquez, Esq.  
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P. O. Box 2099  
Topeka, KS 66601  
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Email: kenny@carpenterchartered.com

Appellant Timothy Davis CAVC (19-7214)

	Start	End	Time	Hours	
2019					
26-Jul			0:00	0.75	Estimate: reviewed BVA decision for possible errors.
30-Aug	9:58	10:31	0:33	0.55	Call to vet to discuss representation and appeal. Explained terms of K and the appeal process. Also discussed errors on appeal
2020					
19-Feb	15:00	17:07	2:07	2.12	RBA (18,000 pages)
20-Feb	11:44	16:45	5:01	5.02	RBA (18,000 pages)
29-Apr	11:46	12:37	0:51	0.85	Draft R33 memo: facts
	13:45	15:10	1:25	1.42	Draft R33 memo: argument
29-Apr			0:00		Paralegal: prepare and redact RBA cites in memo
13-May	9:00	9:20	0:20	0.33	Prepare for R33 call
	10:00	10:25	0:25	0.42	R33 call. Draft email to Sec. Draft note to file
10-Jun	11:20	12:02	0:42	0.70	Review file and outline arguments. Legal research on 5108
11-Jun	12:48	14:06	1:18	1.30	Draft brief: facts
	14:06	14:50	0:44	0.73	legal research. Call with Attorney Carpenter to discuss issues
12-Jun	8:48	9:51	1:03	1.05	Draft brief: argument 5108
	9:51	13:17	3:26	3.43	Draft brief: argument 5101 & 5110. additional legal research on legislative history of 5101 & 5110
	13:17	13:40	0:23	0.38	Draft brief: argument 3.103
	13:40	14:53	1:13	1.22	Draft brief: edit and revise
	14:17	14:45	0:28	0.47	Paralegal: prepare TOC/TOA
	14:45	15:58	1:13	1.22	Paralegal: final review; file brief
20-Nov	13:15	14:30	1:15	1.25	Review Sec brief and outline reply arguments. Legal research
22-Nov	6:20	7:00	0:40	0.67	Draft reply brief: NME conceded
	7:00	8:04	1:04	1.07	Draft reply brief: intent not needed
	8:04	8:40	0:36	0.60	Draft reply brief: 5110
23-Nov	8:45	10:44	1:59	1.98	Draft reply brief: 5110
	10:44	11:30	0:46	0.77	Draft reply brief: edit and revise. TOC/TOA
4-Dec	12:45	13:06	0:21	0.35	Paralegal: review ROP
2021					
1-Jul	11:00	11:10	0:10	0.17	Pre-OA zoom meeting with CAVC clerk
7-Jul	9:45	11:00	1:15	1.25	Oral argument prep: review briefs and Sears
	12:50	14:00	1:10	1.17	Oral argument prep: review briefs and Sears. Review order from Court
8-Jul	9:00	9:43	0:43	0.72	Draft notice of supplemental authority

Appellant Timothy Davis CAVC (19-7214)

	9:43	13:00	3:17	3.28	Oral argument prep: outline arguments to present. Review pertinent caselaw
9-Jul	5:40	9:00	3:20	3.33	Oral argument prep: revise argument. Rehearse argument
	9:30	11:00	1:30	1.50	Oral argument and draft notes to file
10-Aug			0:00	0.10	Draft notice of supplemental authority
20-Sep	14:20	14:50	0:30	0.50	Review memo decision for possible appeal to CAFC
12-Oct			0:00	0.50	Estimate: communication with client thru his POA for position on appeal. Opted not to appeal
2-Dec	10:29	10:58	0:29	0.48	Paralegal: draft EAJA application
7-Dec	12:15	12:40	0:25	0.42	Edit and revise EAJA application.
				39.53	Total Hours (Attorney)
				202.77	Rate
				8015.50	Total Fee (Attorney)
				2.52	Total Hours (Paralegal)
				170.00	Rate
				428.40	Total Fee (Paralegal)
				8443.90	Total Fee
Expenses					
				0.00	Postage
Total for application					
				8443.90	Total

Start and end times are depicted as in the 24 hr clock

Time is depicted as hour:minutes

Hours depicted as fractions of hours (e.g. 1.25 is one hour 15 minutes)



## Databases, Tables & Calculators by Subject

Change Output Options: From: 2011 ▼ To: 2021 ▼ 

☐ include graphs ☐ include annual averages

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Data extracted on: December 1, 2021 (6:57:08 PM)

### CPI for All Urban Consumers (CPI-U)

**Series Id:** CUUR0300SA0, CUUS0300SA0

Not Seasonally Adjusted

**Series Title:** All items in South urban, all urban consumers, not seasonally adjusted

**Area:** South

**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
2011	213.589	214.735	217.214	218.820	219.820	219.318	219.682	220.471	220.371	219.969	219.961	219.469	218.618	217.249	219.987
2012	220.497	221.802	223.314	224.275	223.356	223.004	222.667	223.919	225.052	224.504	223.404	223.109	223.242	222.708	223.776
2013	223.933	225.874	226.628	226.202	226.289	227.148	227.548	227.837	227.876	227.420	226.811	227.082	226.721	226.012	227.429
2014	227.673	228.664	230.095	231.346	231.762	232.269	232.013	231.611	231.762	231.131	229.845	228.451	230.552	230.302	230.802
2015	226.855	227.944	229.337	229.957	230.886	232.026	231.719	231.260	230.913	230.860	230.422	229.581	230.147	229.501	230.793
2016	229.469	229.646	230.977	231.975	232.906	233.838	233.292	233.561	234.069	234.337	234.029	234.204	232.692	231.469	233.915
2017	235.492	236.052	236.154	236.728	236.774	237.346	236.942	237.892	239.649	239.067	238.861	238.512	237.456	236.424	238.487
2018	239.772	241.123	241.595	242.486	243.279	243.770	243.776	243.605	243.640	244.163	243.484	242.150	242.737	242.004	243.470
2019	242.547	243.856	245.554	246.847	246.667	246.515	247.250	246.953	246.891	247.423	247.385	247.289	246.265	245.331	247.199
2020	248.005	248.412	248.136	246.254	245.696	247.223	248.619	249.639	250.193	250.542	250.255	250.693	248.639	247.288	249.990
2021	252.067	253.386	255.319	257.207	259.343	261.668	263.013	263.728	264.593	267.160					256.498

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## USAO ATTORNEY'S FEES MATRIX — 2015-2021

*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	2020-21
31+ years	568	581	602	613	637	665
21-30 years	530	543	563	572	595	621
16-20 years	504	516	536	544	566	591
11-15 years	455	465	483	491	510	532
8-10 years	386	395	410	417	433	452
6-7 years	332	339	352	358	372	388
4-5 years	325	332	346	351	365	380
2-3 years	315	322	334	340	353	369
Less than 2 years	284	291	302	307	319	333
Paralegals & Law Clerks	154	157	164	166	173	180

### *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-