

THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

CASE FILE NO.: 20-7254

RUSSELL E. COOLEY,
Appellant,

v.

DENIS MCDONOUGH,
Secretary of Veterans Affairs,
Appellee.

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

Appellant, Mr. Cooley, hereby applies to this honorable Court for an award of his attorney's fees and expenses in the amount of **\$4,815.21**. 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 June 25, 2020, the Board of Veterans' Appeals (Board) entered a decision that denied increased rating (1) for osteoarthritis of the right knee, rated as 0% disabling, effective November 26, 2013, and 10% disabling, effective August 26, 2015 (right knee disability); (2) higher than 20% for intervertebral disc syndrome (IVDS) of the right sciatic nerve, effective May 1, 2011; (3) higher than 20% for IVDS of the right sciatic nerve, effective August 23, 2013; (4) higher than 20% for IVDS of the left sciatic nerve, effective May 1, 2011; and a (5) higher than 20% for IVDS of the left sciatic nerve, effective August 23, 2013; and denied entitlement to an increased rating for osteoarthritis of the right ankle, rated at 0% disabling, effective, May 1, 2011, and 10%

disabling, effective August 23, 2013, and separate ratings for intervertebral disc syndrome (IVDS) of the right and left femoral nerves. A conference was held on April 2, 2021, the appellant filed his opening brief on June 17, 2021, and the appellant filed his reply brief on November 29, 2021. Subsequently, the parties entered into negotiations, reached an agreement, and entered into a Joint Motion for Partial Remand and Joint motion to terminate the appeal with stipulated agreement, which was filed with the Court on June 28, 2022, and approved by the Court on July 11, 2022. The parties agreed that a remand was necessary because the Board did not provide adequate reasons and bases for its decision.

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

II. AVERMENTS

Mr. Cooley 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. Cooley's appeal to the Board of Veterans' Appeals;
- (5) This Court has jurisdiction over the underlying appeal under 38 U.S.C. § 7252;
- (6) Mr. Cooley is a "party" to this action within the meaning of 28 U.S.C. § 2412(d)(2)(B);

- (7) Mr. Cooley is a “prevailing party” in this matter within the meaning of 28 U.S.C. § 2412(d)(1)(a);
- (8) Mr. Cooley is not the United States;
- (9) Mr. Cooley 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. Cooley submits below an itemized statement of the fees and expenses for which he applies. The attached itemization shows the time counsel spent representing Mr. Cooley on his appeal to the Court. Accordingly, Mr. Cooley 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. Cooley 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). The declaration set forth in paragraph 4A in the Attorney-Client Fee Contract filed with the Court and served upon the Secretary on October 19, 2020, establishes this fact.

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. Cooley is a “prevailing party” entitled to an award of fees and expenses. For this assertion, Mr. Cooley relies upon the following to satisfy the *Sumner* criteria:

The parties agreed that the VA will award (a) 10% for osteoarthritis of the right ankle, effective May 1, 2011, pursuant to 38 C.F.R. § 4.71a, Diagnostic Code 5003; and (b) separate ratings for intervertebral disc syndrome of the right and left femoral nerves, each effective from May 1, 2011. As this issue was in dispute, and the Secretary agreed to reinstate the full benefit sought, Mr. Cooley is a prevailing party.

Further, the Joint Motion for Remand was predicated upon administrative errors committed by the VA: the Board failed to provide adequate reasons or bases for its conclusion that (1) "the record shows...no objective findings of [LOM] on the January 2014 VA examination" for the right knee, and (2) separate ratings were not warranted for Mr. Cooley's superficial peroneal and deep peroneal nerves. See 38 U.C.S. § 7104(d)(1)). The parties agree that remand is warranted.

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. Cooley 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. Cooley seeks compensation, Exhibit B. See 28 U.S.C. § 2412(d)(1)(B).

Mr. Cooley's counsel seeks compensation for attorney's fees and expenses incurred at the following rate and in the amounts shown¹ for representation in this Court:

Attorney & Administrative Services	Rate:	Hours:	Fee:	Totals:
Kenneth H. Dojaquez, Attorney	\$202.91	21.17	\$4,294.88	\$4,294.88
Paralegal	\$170.00	2.77	\$470.33	\$470.33
Total for Services				\$4,765.21
Total for Expenses				\$50.00
Total for Application				\$4,815.21

F. Calculation of Rate of Fees

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

I. 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.

¹ 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.

2. Reasonableness of Lawyer's Rate.

Widely followed tabulations establish that the lawyer's hourly rate billed in this application is well below the prevailing rate. See the "*Laffey*² 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. Cooley's 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 Reply Brief was filed, November 29, 2021, as the mid-point of representation. *Elczyn v. Brown*,

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

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:

$$\begin{array}{l} \$125 \times \frac{\text{CPI-U [Southern Region, (November 2019)]}^3}{\text{CPI-U (Southern Region, March 1996)}} = \$125 \times \frac{247.385}{152.4} = \$202.91 \end{array}$$

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. The lawyer also seeks to assure sound “billing judgment” by reducing, where appropriate, 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

³ 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

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.

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 tenth 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. Cooley since November 2013, through the filing of this appeal, and will 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. Cooley recognizes that the Secretary is privileged to oppose this application. Such a dispute may require that Mr. Cooley file responsive pleadings. In those instances, Mr. Cooley 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. Cooley 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. Cooley by:

/s/ Kenneth H. Dojaquez

Kenneth H. Dojaquez, Esq.
Attorney for Appellant
Carpenter Chartered
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Topeka, KS 66601
Telephone: 785-357-5251
Email: kenny@carpenterchartered.com

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.: 20-7254

RUSSELL E. COOLEY,
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v.

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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 October 29, 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 19, 2020.

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. Cooley 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. Cooley's 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: July 22, 2022.

/s/ Kenneth H. Dojaquez

Kenneth H. Dojaquez, Esq.
Attorney for Appellant
Carpenter Chartered
P. O. Box 2099
Topeka, KS 66601
Telephone: 785-357-5251
Email: kenny@carpenterchartered.com

Appellant Russell Cooley CAVC (20-7254)

	Start	End	Time	Hours	
2020					
23-Sep-20	11:50	12:43	0:53	0.88	Reviewed BVA decision for possible errors.
2021					
28-Feb-21	5:30	9:00	3:30	3.50	RBA review
19-Mar-21	8:00	8:30	0:30	0.50	Draft R33 memo: facts
	8:30	9:13	0:43	0.72	Draft R33 memo: Argument - knees and ankle
	10:00	11:30	1:30	1.50	Draft R33 memo: Argument - knees and ankle
	11:30	14:00	2:30	2.50	Draft R33 memo: argument - nerves
29-Mar-21	12:13	12:28	0:15	0.25	Paralegal: prepare and redact RBA cites in memo
2-Apr-21	9:00	9:30	0:30	0.50	Prepare for R33 conf call
	9:30	9:45	0:15	0.25	R33 conf call
17-Jun-21	8:15	9:23	1:08	1.13	Draft brief: facts
	9:23	9:45	0:22	0.37	Draft brief: argument - 5110(b)(1)
	10:40	13:00	2:20	2.33	Draft brief: argument - rating arthritis
	13:30	14:00	0:30	0.50	Draft brief: argument - rating arthritis
	14:00	15:10	1:10	1.17	Draft brief: argument - nerves
	16:00	16:45	0:45	0.75	Paralegal: finalized TOC/TOA and file brief
			0:00		Attorney KMC: draft reply brief
23-Nov-21	16:16	16:47	0:31	0.52	Paralegal: converted draft to word doc and updated TOC/TOA
27-Nov-21	6:30	8:15	1:45	1.75	edit and revise reply brief
29-Nov-21	11:13	11:31	0:18	0.30	Paralegal: finalized and filed reply brief
13-Dec-21	13:30	15:10	1:40	1.67	Draft motion for initial panel review
17-Dec-21	12:25	12:42	0:17	0.28	Paralegal: reviewed ROP and notified attorney of errors
20-Dec-21	12:43	12:51	0:08	0.13	Paralegal reviewed amended ROP and filed response
2022					
8-Jun-22	14:20	15:00	0:40	0.67	Review file in response to OGC offer of settlement/JMR
17-Jun-22	7:27	8:40	1:13	0.22	Reviewed email from OGC ref settlement. Went back thru the record; and drafted email to client on settlement negotiations.
23-Jun-22	11:15	11:38	0:23	0.38	Review settlement offer. Called client and discussed.
27-Jun-22	7:30	8:08	0:38	0.63	Reviewed draft JMR/JMT from OGC. Reviewed file and prepared revisions to JMR.
19-Jul-22	12:32	13:04	0:32	0.53	Paralegal: prepare EAJA application
				21.17	Total Hours (Attorney)

Appellant Russell Cooley CAVC (20-7254)

				202.91	Rate
				4294.88	Total Fee (Attorney)
				2.77	Total Hours (Paralegal)
				170.00	Rate
				470.33	Total Fee (Paralegal)
				4765.21	Total Fee
Expenses					
				50.00	CAVC filing fee
				0.00	Postage
Total for application					
				4815.21	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: 2012 ▼ To: 2022 ▼ 

☐ include graphs ☐ include annual averages

[More Formatting Options](#) ➡

Data extracted on: July 19, 2022 (11:05:17 AM)

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
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	268.360	269.263	261.259	256.498	266.020
2022	271.634	274.688	278.598	279.879	283.307	287.427									279.256

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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-