

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

VETERANS LEGAL ADVOCACY  
GROUP,

Petitioner,

v.

DENIS MCDONOUGH,  
Secretary of Veterans Affairs,  
Respondent.

Docket No. 20-8291

**VetLAG's Application for Attorney's Fees and Expenses**

Under the EAJA—28 U.S.C. § 2412(d)—VetLAG applies for **\$52,430.48** in attorney's fees and expenses.

**Procedural History**

VetLAG filed a petition for extraordinary relief on December 2, 2020. Harold Hoffman, Britney Sutton, Meghan Gentile, and Thomas Strong entered their appearances for VetLAG on December 2, 2020, December 2, 2020, July 30, 2021, and March 15, 2022, respectively.

After a Court Order for a supplemental memorandum of law regarding VetLAG's standing and jurisdiction, VetLAG responded to the Court on January 13, 2021. The VA responded on March 2, 2021, and VetLAG replied on March 30, 2021. On May 14, 2021, the VA responded to the Court's April 9, 2021, order to answer the Court's questions. VetLAG replied on June 14, 2021.

The parties discussed a Stipulated Agreement to terminate the petition on October 22, 2021, but did not agree to the terms. The parties argued the case on October 29, 2021.

On November 5, 2021, the Court ordered VetLAG to give the VA a list of all of its clients with cases pending at the VA and for the VA to explain whether the address is correct for each of VetLAG's clients. VetLAG sent the VA its client list and responded to the Court's order on November 12, 2021.

After fixing VetLAG's address for VetLAG's clients, the VA responded on January 11, 2022. After more than a year of litigation, including orders from the Court to the VA to ensure its databases were correct, the Veterans Court found that the VA's actions in response to the Court's November 5 order satisfied the Court that VetLAG had received the relief it sought. It dismissed the petition as moot on February 14, 2022.

VetLAG disagreed that the case was moot and appealed to the Federal Circuit on April 21, 2022. The Federal Circuit agreed with the Veterans Court that VetLAG received the relief it sought in the petition and affirmed its decision. The Veterans Court issued its mandate effective September 12, 2023.

### **VetLAG is a Prevailing Party**

A party prevails when they obtain success "on any significant issue in litigation which achieve[d] some of the benefit . . . sought in bringing the suit."<sup>1</sup>

VetLAG's success meets the *Buckhannon*<sup>2</sup> Court's definition. VetLAG asked the Court to make the VA stop regularly sending mail to one of VetLAG's old addresses.<sup>3</sup> The VA refused to correct the problem while the parties litigated it at the Court, and it was only after more than a year and the Court's November 5, 2021 Order that the VA changed its behavior. VetLAG prevailed because the Court's November 5 Order made the VA fix the problem, changing the parties' legal relationship to one another.

#### *The Parties Were Adverse*

After VetLAG complained that the VA refused to correct VetLAG's address, the VA denied there was a problem and refused to change its behavior.<sup>4</sup> After a year of refusing to fix the problem, only in response to the Court's Order did the VA manually change VetLAG's address for its clients.

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<sup>1</sup> *Shalala v. Schaefer*, 113 S. Ct. 2625, 2632 (1993).

<sup>2</sup> *Buckhannon Bd. and Care Home, Inc. v. West Virginia Dep't of Health and Human Res.*, 121 S. Ct. 1835 (2001).

<sup>3</sup> December 2, 2020 Petition.

<sup>4</sup> The Secretary's March 2, 2021 Response to the Petition pages 13-15; the Secretary's Response to the Court's April 9, 2021 Order pages 3-9.

The VA denied VetLAG a resolution for over a year while the petition was being litigated at the Court, following several years of VetLAG trying to get the VA to fix the problem before it filed the petition. A few days before the oral argument, the VA offered to fix VetLAG's clients' addresses, but the parties did not agree on how much the Court would be involved following a stipulated agreement. Only after the Court's November 5 Order and because of the Court's authority, the VA finally responded that it "updated petitioner's addresses within the VA central database for all identified attorneys and clients."<sup>5</sup>

The parties were adverse because VetLAG wanted the VA to do something it was unwilling to do: update VetLAG's client's addresses in the VA database and stop mis-mailing VetLAG's clients' correspondence.

### *VetLAG Prevailed*

The Court sanctioned the VA's correction when it found "no further Court action is warranted given the steps taken by VA to resolve [VetLAG's] concerns."<sup>6</sup>

Thus, "in response to a Court order, the Secretary provided the Court with proof that VA has updated its databases to reflect petitioner's correct address in Arlington."<sup>7</sup>

But for the November 5 Order, the VA would still be sending VetLAG's mail to the wrong address. After each response to the Court claiming there was no problem to fix,<sup>8</sup> the VA mailed many VetLAG documents to the wrong address.<sup>9</sup> The VA continued sending documents to the incorrect address while the parties litigated this petition and refused to fix it until the Court's November 5 Order. By the VA fixing the problem because of a Court order, VetLAG became a prevailing party—even if it did not win on what the VA might consider to be the merits given that the VA mooted the problem.

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<sup>5</sup> February 14, 2022 Court Order page 5.

<sup>6</sup> February 14, 2022 Court Order page 6.

<sup>7</sup> February 14, 2022 Court Order page 1

<sup>8</sup> The VA's March 2, 2021 Response to the Petition pages 13-15; the VA's Response to the Court's April 9, 2021 Order pages 3-9.

<sup>9</sup> March 30, 2021 Reply to the VA's Response; June 14, 2021 Reply to the VA's Response.

Success in a merits decision is unnecessary for an EAJA award.<sup>10</sup> The Supreme Court has made clear that the EAJA is for *legal* victories. Legal victories do not include winning on an interlocutory appeal or successfully defending on jurisdiction, which the Supreme Court said “is not the stuff of which legal victories are made.”<sup>11</sup> Instead, a legal victory reshapes the parties’ legal relationship. VetLAG’s case looks exactly how a legal victory—for petitioners—should:

1. The respondent acts poorly.
2. The petitioner is hurt.
3. The petitioner asks the respondent to fix the harm.
4. The respondent refuses.
5. The petitioner files a petition.
6. The respondent fights the petition’s merits, saying it will not fix any complained-of behavior.
7. The Court orders the respondent to do something about the problem.
8. The respondent fixes the problem to satisfy a court order.
9. The problem ceases.

That’s a win in any attorney’s book, and it’s what happened here.<sup>12</sup> VetLAG won this case by any measure when the Court’s November 5 Order forced the VA to fix the problem that was hurting VetLAG. Congress never intended for the government to be relieved from paying EAJA fees by finally behaving well after years of playing unfairly, including a year in the Court where the VA refused to fix the complained-of behavior.

If VetLAG had never filed the petition, the VA would never have updated its systems to send mail to VetLAG correctly. Because this Court’s authority was the “agent of action,” VetLAG was a prevailing party under the EAJA.

### *The Parties’ Legal Relationship Materially Changed*

The parties remained adverse until the VA corrected its behavior after the Court’s November 5 order. The Order spurred the VA into action. After the Court order, the VA took VetLAG’s clients’ names, ensured each had VetLAG’s correct address in her file, and fixed any incorrect ones. The Court

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<sup>10</sup> *Maier v. Gagne*, 448 U.S. 122 (1980), *see also* *Buckhannon* at 1846-1848 (Justice Scalia concurring).

<sup>11</sup> *Buckhannon* at 1840.

<sup>12</sup> *See Parham v. Southwestern Bell Tel. Co.*, 433 F.2d 421 (C.A.8 1970).

found that the VA's actions resolved VetLAG's concerns.<sup>13</sup> Once resolved, the VA correctly mailed VetLAG's documents as required under 38 U.S.C. §§ 5104(a), 5701(b), 5904(a); 38 C.F.R. §§ 14.629, 14.636; and *Rosinski v. Wilkie*, 31 Vet. App. 1 (2019). Thus, the Court's November 5 Order triggered a "material alteration of the legal relationships of the parties necessary to permit an award of attorney's fees."<sup>14</sup>

### **The Government's Position Was Not Substantially Justified**

Courts grant fees under the EAJA when the government's position is not substantially justified. To be substantially justified, the government's position must have a "reasonable basis both in law and fact" to be substantially justified.<sup>15</sup>

The VA's error began with mismailing documents. The mistake became a problem when the number of mismailed documents increased, and the VA ignored and rejected VetLAG's attempts to fix the errors at the agency. The mistake was compounded by the VA refusing to admit and fix the problem during the petition's litigation.

The VA's failure had no basis in fact or law and was not substantially justified. The VA was wrong whenever it claimed that there was no problem or that it was up to VetLAG to correct it. The VA is required to mail the documents to VetLAG under 38 U.S.C. §§ 5104(a), 5701(b), 5904(a); 38 C.F.R. §§ 14.629, 14.636; and *Rosinski v. Wilkie*, 31 Vet. App. 1 (2019).

The VA's errors had no basis in fact or law and were not substantially justified.

### **EAJA Fees Are Warranted**

VetLAG's net worth did not exceed \$2,000,000 at the time it filed its Notice of Appeal with this Court—nor did it own an unincorporated business, partnership, corporation, association, unit of local government, or organization with a net worth exceeding \$7,000,000 and having greater than

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<sup>13</sup> February 14, 2022 Court Order page 6.

<sup>14</sup> *Buckhannon* at 1840 (2001).

<sup>15</sup> *Pierce v. Underwood*, 487 U.S. 552, 565 (1988).

500 employees.<sup>16</sup> VetLAG’s counsel is eligible to receive an award under 28 U.S.C. § 2412(d)(2)(B).

The claimed hourly rate is reasonable. VetLAG was forced to retain Counsel to appeal a BVA decision that failed to comply with the required procedure. No special circumstances—as defined by 28 U.S.C. § 2412(d)(1)(A)—exist in this case that would make an attorney’s fee award unjust. This case was not a first impression involving a good faith argument or a new and more stringent requirement for adjudication.

## **I. VetLAG U.S. Based Counsel Rate**

In determining the equitable regular hourly rate, U.S.-based counsel for VetLAG used the fixed starting rate under the EAJA—\$125.00—plus the cost of living calculated under the CPI-U for the following areas:

- 1) Washington-Arlington-Alexandria-DC-VA-MD-WV—as published by the Bureau of Labor Statistics for February 2022—the month in which the Court issued its decision on this petition. The CPI-U was 158.4 as of March 29, 1996; for February 2022, it was 286.678.<sup>17</sup> It increased by ~81%. After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Harold Hoffman<sup>18</sup> is \$226.23.
- 2) South—Size Class B/C—as published by the Bureau of Labor Statistics for February 2022—the month the Court issued its decision on this petition. The CPI-U was 100.0 as of March 29, 1996; for February 2022, it was 173.657.<sup>19</sup> It increased by ~74%. After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Megan Gentile is \$217.07.

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<sup>16</sup> See *Bazalo v. Brown*, 9 Vet. App. 304, 309, 311 (1996).

<sup>17</sup>[https://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUURS35ASA0,CUUSS35ASA0](https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS35ASA0,CUUSS35ASA0) (last accessed Sept. 28, 2023).

<sup>18</sup> Harold Hoffman lived and worked in Washington, D.C., until August 30, 2021. He worked from Washington, D.C., from October 25-November 5, 2021, February 6-11, 2022, August 24-September 3, 2022, September 29-October 6, 2022, April 28-May 3, 2023, and June 6-12, 2023.

<sup>19</sup>[https://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUURN300SA0,CUURN300SA0](https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURN300SA0,CUURN300SA0) (last accessed Sept. 28, 2023).

## II. VetLAG Counsel Abroad Rate

Megan Hoffman and Harold Hoffman live in Madrid, Spain. Spain does not have BLS CPI-U data for the *Elcyszyn*<sup>20</sup> formula to calculate cost-of-living (COL) changes, but Spain does have its own CPI data. A COL change can and should be calculated into EAJA rates for counsel living abroad.

The Spanish Madrid CPI data should be used to calculate a COL increase for work performed in Spain. The Spanish method for computing the CPI is nearly identical to the BLS method. Spain's National Statistics Institute—or Instituto Nacional de Estadística—calculates its CPI data month-to-month using the prices of 479 consumer items.<sup>21</sup> This is much like the method the United States Bureau of Labor Statistics uses, which compares the prices of 243 basic consumer items monthly.<sup>22</sup> And because Madrid has regional CPI data that goes back to March 1996, COL changes in Madrid can be calculated using the *Elcyszyn* method. Plus, as the Madrid CPI data captures the actual COL changes counsel experience, it satisfies all reasons the Court determined local CPI data should be used in *Elcyszyn* and *Mannino*.

To calculate a COL increase for counsel living abroad, one should use the fixed starting rate under the EAJA—\$125.00—plus the cost of living calculated under the:

- 1) Madrid CPI from the Spanish National Institute of Statistics has increased by 72.1% from March 1996 to February 2022—the month the Court issued its decision on this petition.<sup>23</sup> After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Megan Hoffman and Harold Hoffman<sup>24</sup> is \$215.13.

## III. Paralegal Rates

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<sup>20</sup> *Elcyszyn v. Brown*, 7 Vet. App. 170, 179 (1994).

<sup>21</sup> [https://www.ine.es/dyngs/INEbase/en/operacion.htm?c=Estadistica\\_C&cid=1254736176802&menu=metodologia&idp=1254735976607](https://www.ine.es/dyngs/INEbase/en/operacion.htm?c=Estadistica_C&cid=1254736176802&menu=metodologia&idp=1254735976607) (last accessed January 14, 2022).

<sup>22</sup> <https://www.bls.gov/opub/hom/cpi/calculation.htm> (last accessed July 14, 2022).

<sup>23</sup> <https://www.ine.es/varipc/index.do?L=1> (last accessed Sept. 28, 2023).

<sup>24</sup> Megan Hoffman and Harold Hoffman live and work in Madrid, Spain, beginning August 31, 2021.

The *Laffey* Matrix rate for paralegals working for attorneys in the USA for 2021-2022 is \$180.00.<sup>25</sup> Courts have found the DC *Laffey* rates reasonable.<sup>26</sup> The DoJ's policy is not to oppose the *Laffey* rates: ". . . although the USAO will no longer issue an updated *Laffey* Matrix computed using the prior methodology, it will not oppose using the prior methodology (if properly applied) to calculate reasonable attorney's fees under applicable fee-shifting statutes for periods after May 2015, provided that methodology is used consistently to calculate the entire fee amount."<sup>27</sup> The hourly rate for Parker Low is \$180.00.

#### **IV. Market Rates**

Every attorney who billed hours has at least five years of being licensed by a state bar. Thus, the market rate for each exceeds the EAJA rate requested.<sup>28</sup>

#### **Conclusion**

VetLAG's attorneys reviewed strategy and arguments and edited each other's work to ensure a good work product. The time for conversations between VetLAG's attorneys is properly billed because both attorneys' efforts were distinct and required to generate a well-argued and well-written product. Attorneys in all practices should confer, and it is proper to bill for discussions involving strategy and argument. All attorneys should also have filings edited before submission. Improving another attorney's work product through conferring and editing is billable. No time is billed in this application for training or any other labor not specific to this appeal or unnecessary to producing the best product.

The total billable hours were 227.45:

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<sup>25</sup> <http://laffeymatrix.com/see.html>; *McDowell v. District of Columbia*, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); *Salazar v. Dist. of Col.*, 123 F.Supp.2d 8 (D.D.C. 2000).

<sup>26</sup> *Smith v. District of Columbia*, 466 F. Supp. 2d 151, 156 (D.D.C. 2006).

<sup>27</sup> <https://www.justice.gov/usao-dc/file/796471/download>, fn 5.

<sup>28</sup> <https://www.justice.gov/usao-dc/page/file/1189846/download> (last accessed February 8, 2022).



- Harold Hoffman: 117.85 (DC at \$226.23) and 19.50 (Madrid at \$215.13)
- Meghan Gentile: 62.60 (South B/C at \$217.07)
- Megan Hoffman: 1.50 (Madrid at \$215.13)
- Parker Low: 26.00 (\$180.00)

Expenses totaled \$2,982.96. The total amount of fees, costs, and expenses is \$52,430.48. I included an itemized statement broken down into detailed case tasks intertwined to preparing the entire case.<sup>29</sup>

VetLAG requests that the Court award **\$52,430.48** in attorney's fees and expenses.

October 10, 2023.

Submitted,

/s/ Harold Hoffman

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<sup>29</sup> Exhibit 1.

## Itemized Veterans Legal Advocacy Group Staff Hours For 20-8291

<b>Date</b>	<b>By</b>	<b>Description of Work</b>	<b>Time Spent</b>	<b>Time Billed</b>
18-Nov-2020	HHDC	Gather evidence for the petition.	4.25	4.25
18-Nov-2020	HHDC	Format doc. Outline the petition with petition headings.	1.00	1.00
19-Nov-2020	HHDC	Draft facts about individuals affected.	2.75	2.75
19-Nov-2020	HHDC	Draft remainder of facts section.	1.75	1.75
20-Nov-2020	HHDC	Draft “Order” section.	2.00	1.50
23-Nov-2020	HHDC	Research “sanctions.”	1.50	0.00
23-Nov-2020	HHDC	Draft sanctions section.	1.50	0.00
24-Nov-2020	HHDC	Review. Add to facts and arguments.	1.00	1.00
24-Nov-2020	HHDC	Draft conclusion.	0.25	0.25
24-Nov-2020	HHDC	Draft intro.	1.75	1.50
30-Nov-2020	HHDC	Edit the entire petition.	1.50	1.25
1-Dec-2020	HHDC	Final review and edits.	1.00	0.75
2-Dec-2020	PL	Review Address Petition and compile exhibits for HHH.	1.25	1.25
2-Dec-2020	HHDC	File the new petition with docs.	0.25	0.25
2-Dec-2020	HHDC	Enter appearance.	0.10	0.10
3-Dec-2020	PL	Review Court Docketing notice, and add docket number to logs and files.	0.10	0.00
4-Dec-2020	HHDC	Scan and file DFH.	0.10	0.00

7-Dec-2020	PL	Review the assignment of the judge and add to logs.	0.10	0.00
8-Dec-2020	HHDC	Review the Court order to file a supplemental memo.	0.10	0.10
10-Dec-2020	HHDC	Draft and file motion to extend time to respond to Court order.	0.25	0.25
11-Jan-2021	HHDC	Research “standing.”	2.75	2.75
11-Jan-2021	HHDC	Format response with header and signature. Outline response by drafting headings.	0.50	0.50
12-Jan-2021	HHDC	Draft intro.	0.25	0.25
12-Jan-2021	HHDC	Draft “VetLAG has standing.”	1.00	1.00
12-Jan-2021	HHDC	Draft direct standing.	0.25	0.25
12-Jan-2021	HHDC	Draft third-party standing.	1.25	1.25
12-Jan-2021	HHDC	Add to "VetLAG has standing."	1.00	1.00
12-Jan-2021	HHDC	Draft conclusion.	0.1	0.1
13-Jan-2021	HHDC	Edit the entire response.	1.00	1.00
13-Jan-2021	HHDC	File response to original Court order.	0.10	0.10
15-Jan-2021	HHDC	Review Court order requiring a response from the Secretary.	0.10	0.10
4-Mar-2021	HHDC	Review the Secretary’s response to the Court order.	1.00	1.00
5-Mar-2021	HHDC	Draft and file motion for leave to file.	0.25	0.25
25-Mar-2021	PL	Gather docs and compile them into one PDF for HH to use as exhibits.	2.25	1.50
29-Mar-2021	HHDC	Outline response.	0.50	0.50
29-Mar-2021	HHDC	Format document. Draft headings.	1.00	0.75
29-Mar-2021	HHDC	Draft jurisdiction response.	1.25	1.25

29-Mar-2021	HHDC	Draft standing response.	1.50	1.50
29-Mar-2021	HHDC	Draft sanctions response.	0.50	0.00
29-Mar-2021	HHDC	Draft conclusion.	0.50	0.50
29-Mar-2021	HHDC	Edit. Rearrange. Add to arguments.	1.75	1.50
30-Mar-2021	HHDC	Order and organize exhibits.	1.00	1.00
30-Mar-2021	HHDC	Final edits.	0.50	0.50
30-Mar-2021	HHDC	File Response to Secretary.	0.10	0.10
9-Apr-2021	HHDC	Review Court order requiring the Secretary to respond to the Court's questions.	0.25	0.25
17-May-2021	HHDC	Review the Secretary's response to the Court order. Take notes.	1.50	1.50
17-May-2021	HHDC	Research exhibits attached to sec filing. Email other attorneys about issues.	1.75	1.75
17-May-2021	HHDC	Outline the response to the Secretary's response and court order.	2.25	2.25
28-May-2021	HHDC	Draft and file a motion for an extension to reply to the Secretary's latest response.	0.75	0.00
2-Jun-2021	HHDC	Detailed instructions to PL re: what I need for exhibits.	0.50	0.50
2-Jun-2021	HHDC	Format response. Turn the outline into response headings.	0.50	0.50
2-Jun-2021	HHDC	Draft section about one system not controlling them all.	3.25	3.25
3-Jun-2021	HHDC	Draft M-21 section.	1.00	1.00
4-Jun-2021	PL	Look for clients who hired us in Virginia, but the VA is sending mail to Alaska/Indiana.	0.25	0.25
8-Jun-2021	PL	Continue to look for clients who hired us in Virginia, but the VA is sending mail to Alaska/Indiana.	1.50	0.75
8-Jun-2023	HHDC	Draft section about needing a new 21-22a.	2.75	2.75
9-Jun-2021	PL	Redact client information from pdf of 2122a's and contradicting client mail, highlight all VetLAG addresses	2.00	2.00

		in blue, and create a spreadsheet of clients' names, attorneys, and document dates.		
9-Jun-2021	HHDC	Continue drafting the section about needing a new 21-22a.	1.00	1.00
9-Jun-2021	HHDC	Add stuff from NOVA email and MW email.	0.50	0.50
10-Jun-2021	PL	Search emails for correspondence from the VA fee coordinator about checking addresses before they mail anything. Send to HHH.	0.10	0.10
11-Jun-2023	HHDC	Add a subsection about the continuing problem. Draft table for section.	1.50	1.50
11-Jun-2023	HHDC	Draft intro.	1.25	1.25
11-Jun-2023	HHDC	Draft conclusion.	0.75	0.75
11-Jun-2021	PL	Phone call with HHH.	0.10	0.10
11-Jun-2023	PL	Redact client names and file numbers from Exhibits.	0.50	0.50
14-Jun-2021	HHDC	Edit the entire response.	2.25	1.75
14-Jun-2021	HHDC	Get exhibits/cites in order.	0.50	0.50
14-Jun-2021	PL	Read the response by the petitioner.	0.25	0.25
14-Jun-2021	HHDC	Go over PL comments. Final edits. File.	0.75	0.75
16-Jul-2021	PL	Review the Court's assignment of the case to a panel of judges and add to logs.	0.10	0.10
19-Jul-2021	HHDC	Review Court notice announcing oral argument.	0.10	0.00
28-Jul-2021	HHDC	Review Court notice scheduling time of oral argument.	0.10	0.00
30-Jul-2021	MG	Enter appearance.	0.10	0.10
23-Aug-2021	HHDC	Review Court notice announcing oral argument will be virtual.	0.10	0.00
21-Oct-2021	HHSP	Review OGC's filing of supplemental authorities under Rule 30(b). Research the case and decide whether to respond	1.50	1.50

21-Oct-2021	HHSP	Find and print all cases, laws, etc., cited in filings. Print all filings. Create an OA binder.	3.25	3.25
22-Oct-2021	MG	Phone call with HHH discussing merits of stipulated agreement offer.	0.50	0.50
22-Oct-2021	MG	Emailed a summary of my thoughts re the stipulated agreement and why to reject it.	0.25	0.25
22-Oct-2021	HHSP	Phone call with MG discussing merits of stipulated agreement offer.	0.50	0.50
22-Oct-2021	HHSP	Emails re: thoughts re stipulated agreement, why to reject.	1.00	1.00
22-Oct-2021	HHSP	Emails w./ OGC re: stipulated agreement.	0.25	0.25
25-Oct-2021	HHDC	Travel to DC (while reviewing for the case).	12.00	12.00
25-Oct-2021	MG	Travel to DC for OA.	6.00	6.00
25-Oct-2021	MG	OA prep (moot, practice, discuss, research).	6.00	6.00
26-Oct-2021	MG	OA prep (moot, practice, discuss, research).	12.00	10.00
26-Oct-2021	PL	Compile all bad address hours, and answer HHH emailed questions to prepare for oral argument.	0.50	0.50
26-Oct-2021	HHDC	Draft oral argument script.	3.00	3.00
26-Oct-2021	HHDC	Work on opening statement script. Start whittling down the OA script into bullet points.	2.25	2.25
26-Oct-2021	HHDC	Discuss leaving sanctions out of OA.	0.50	0.00
26-Oct-2021	HHDC	Review the Secretary's arguments with other attorneys. Discussing as we go along.	1.00	1.00
26-Oct-2021	HHDC	Draft what we think the Secretary's argument will be.	2.50	2.50
26-Oct-2021	HHDC	Discuss case. Run through some tough spots.	2.75	2.75
26-Oct-2021	HHDC	Moots without questions, working on script.	1.00	1.00
27-Oct-2021	MG	OA prep (moot, practice, discuss, research).	12.00	10.00
27-Oct-2021	HHDC	Practice opening statement. Continue refining.	2.75	2.75

27-Oct-2021	HHDC	Open-ended moots with opening statement script, bullet points argument, closing script.	1.75	1.75
27-Oct-2021	PL	OA - Read and highlight the GAO Report from the Oversight Subcommittee.	0.50	0.50
27-Oct-2021	HHDC	Review OGC notice of appearance.	0.10	0.00
27-Oct-2021	HHDC	Moots with questions. Timed.	1.50	1.50
27-Oct-2021	HHDC	Discuss the case, questions likely to come up, changes to OA points to hit, strategy with the Secretary's likely argument.	2.25	2.25
27-Oct-2021	HHDC	Research recurring issues.	1.00	1.00
27-Oct-2021	HHDC	Timed moots.	1.75	1.75
27-Oct-2021	PL	Review previously filed exhibits (182 pages) to look for unredacted social security numbers, discuss with MG and HHH, redact information, and send to HHH to refile.	2.00	2.00
27-Oct-2021	PL	OA - Work with HHH on the opening statement.	0.75	0.75
27-Oct-2021	PL	File Motion for Leave to File Amended Exhibits for HHH.	0.25	0.00
27-Oct-2021	PL	OA - Continue to work with HHH on the opening statement.	0.75	0.75
27-Oct-2021	PL	OA - Continue to work with HHH on the opening statement. Act as a judge and ask possible questions. Poke holes in as many arguments as possible.	2.00	2.00
28-Oct-2021	MG	OA prep (moot, research).	12.00	10.00
28-Oct-2021	HHDC	Write out case and law summaries of important cases, laws, and regs.	2.00	2.00
28-Oct-2021	HHDC	Take questions possible to arise in OA.	2.25	2.25
28-Oct-2021	HHDC	Research questions I don't have a good answer for.	2.00	2.00
28-Oct-2021	HHDC	Review answers to questions. Work on answers being crisper.	2.25	2.25
28-Oct-2021	HHDC	Moots.	1.50	1.50
28-Oct-2021	HHDC	Discuss structure. Make changes to the opening statement, argument order, and closing.	1.25	1.25

28-Oct-2021	HHDC	Moots.	1.75	1.75
28-Oct-2021	PL	OA - Pull relevant documents for Austin Hardin's case as they apply to the petition. Look up CAVC Appeals to determine if the Board decision sent to Alaska affected him.	0.50	0.50
28-Oct-2021	PL	OA - Download and save receipts.	0.10	0.00
28-Oct-2021	PL	OA - Look up new regulation number for veteran's right to an attorney.	0.25	0.25
28-Oct-2021	PL	OA - Look up regulations about individuals vs. law firms representing veterans, searching for mail sent to VetLAG, not a client, Trautvetter SSOC.	0.75	0.75
28-Oct-2021	PL	OA - Review and highlight fee agreement with language re: agreeing with VetLAG, not attorney.	0.10	0.10
28-Oct-2021	PL	OA - Work with HHH on the opening statement. Make it smoother.	1.00	1.00
28-Oct-2021	PL	OA - Serve as a moot court judge for HHH, and ask questions on the process and possible sanctions, standing, and ramifications.	2.00	2.00
28-Oct-2021	PL	OA - Work with HHH on the opening statement.	0.50	0.50
29-Oct-2021	MG	OA prep (moot, practice, discuss, research).	12.00	12.00
29-Oct-2021	MG	OA.	1.75	1.75
29-Oct-2021	PL	OA - Final Oral Argument prep. Set up office and technology. Final run-throughs of opening, argument, and closing.	4.00	0.00
29-Oct-2021	HHDC	OA - prepare for, argue, and review.	2.75	2.75
29-Oct-2021	PL	OA - Watch Oral Argument.	1.00	0.00
30-Oct-2021	HHDC	Return travel from DC.	11.00	11.00
5-Nov-2021	MG	Return travel from DC.	6.00	6.00
6-Nov-2021	HHSP	Review court order. Email PL.	0.25	0.25
8-Nov-2021	PL	Make a list of clients with 21/22a.	2.25	2.25



9-Nov-2021	PL	Continue making the client list.	3.00	3.00
12-Nov-2021	PL	Discuss the list of clients with HH.	0.25	0.25
12-Nov-2021	HHSP	Review list of clients. Clarify any with PL that needed it. Send to Opposing counsel.	1.25	1.25
12-Nov-2021	HHSP	Draft and file CoS/order compliance.	0.25	0.25
2-Dec-2021	HHSP	Answer request by OGC for MFE.	0.10	0.00
27-Dec-2021	HHSP	Response to OGC re: additional info needed for fixing the problem.	2.25	2.25
5-Jan-2022	HHSP	Response to OGC re: additional info needed for fixing the problem.	0.25	0.25
11-Jan-2022	PL	Read response/affidavit from Secretary and update logs for response.	0.10	0.00
13-Jan-2022	HHSP	Review the Secretary's response to the November 2021 Court order.	0.50	0.50
8-Feb-2022	PL	Compile Petition Documents for HHH.	0.25	0.00
15-Feb-2022	HHSP	Review per curiam order dismissing the petition as moot because relief was granted. Discuss the next steps.	1.25	1.25
3/1-3/7-2022	HHSP	MFR - outline, draft, gather evidence, add to draft, edit, file.	23.25	0.00
2022-2023	CM	Federal Circuit appeal.	3.00	0.00
2022-2023	FE	Federal Circuit appeal.	7.50	0.00
2022-2023	HHSP	Federal Circuit appeal.	97.60	0.00
2022-2023	JH	Federal Circuit appeal.	17.00	0.00
2022-2023	LS	Federal Circuit appeal.	0.50	0.00
2022-2023	MH	Federal Circuit appeal.	8.50	0.00
2022-2023	PL	Federal Circuit appeal.	21.85	0.00
2022-2023	TS	Federal Circuit appeal.	2.00	0.00

14-Jun-2023	HHSP	Calculate the mandate and EAJA application deadline based on 81 days from the decision. Add to CAVC case calendar.	0.10	0.00
22-Aug-2023	PL	EAJA - add hours to Exhibit 1.	0.10	0.10
20-Sep-2023	MG	EAJA - compile hours.	0.25	0.00
20-Sep-2023	PL	EAJA - Add MG's hours and expenses to Exhibit 1. Edit the spreadsheet/timetable because hours aren't adding up.	0.25	0.25
22-Sep-2023	HHSP	EAJA - add hours. Review EAJA hours and exercise billing discretion by reducing unreasonable or excessive hours not properly billed to clients.	2.25	2.25
26-Sep-2023	PL	Call the CAVC Clerk's office and ask them to reopen the case so we can file for EAJA.	0.10	0.00
26-Sep-2023	PL	Receive call back from clerk's office, take notes, pass notes on to HHH about case having been closed.	0.10	0.00
28-Sep-2023	PL	EAJA - draft EAJA Application.	1.00	1.00
9-Oct-2023	HHSP	EAJA - research. Continue drafting the EAJA Application with the argument on success.	2.75	2.75
10-Oct-2023	HHSP	EAJA - finish drafting the EAJA Application with the argument on success.	1.50	1.50
10-Oct-2023	PL	EAJA - calculate all rates across all indices. Add final numbers to the application.	0.75	0.75
10-Oct-2023	MH	Edit the entire EAJA app.	1.50	1.50
10-Oct-2023	HHSP	EAJA - review edits, final review. Convert. File EAJA Application.	0.50	0.50

By	Factors	Rate	Spent	Billed	Totals
HHDC	Attorney Washington, DC	\$226.23	125.35	117.85	\$26,661.21
HHSP	Attorney Madrid, Spain	\$215.13	140.55	19.50	\$4,195.04
MG	Attorney Albany, GA	\$217.07	68.85	62.60	\$13,588.58
MH	Attorney Madrid, Spain	\$215.13	10.00	1.50	\$322.70
JH	Attorney Washington, DC	\$226.23	17.00	0.00	\$0.00
CM	Attorney Okinawa, Japan	\$134.32	3.00	0.00	\$0.00
TS	Attorney Gambrills, MD	\$233.86	2.00	0.00	\$0.00
LS	Attorney Cadiz, Spain	\$212.63	0.50	0.00	\$0.00
PL	Paralegal Washington, DC	\$180.00	55.45	26.00	\$4,680.00
FE	Paralegal Washington, DC	\$180.00	7.50	0.00	\$0.00
<b>Fees Total</b>					<b>\$49,447.52</b>
Westlaw					\$35.46
HH Covid Tests for int'l travel					\$296.90
HH Flight					\$844.76
MG Flight					\$593.30
MG and HH - Ubers, cabs					\$92.44
Fed Circ Printing, OA flight, and hotel, assigned costs. (\$2305.51)					\$0.00
Air BnB					\$1,120.10
<b>Expenses Total</b>					<b>\$2,982.96</b>
<b>Fees and Expenses Total</b>					<b>\$52,430.48</b>

I certify that I have (1) reviewed the combined billing statement and am satisfied that it accurately reflects the work performed by all representatives and (2) considered and eliminated all excessive or redundant time. This itemized statement lists detailed case tasks intertwined to preparing the entire case.

October 10, 2023.

Submitted,

/s/ Harold Hoffman

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