

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

MICHAEL WEBB,
Appellant,

v.

DENIS MCDONOUGH,
Secretary of Veterans Affairs,
Appellee.

Docket No. 21-7148

Mr. Webb’s Application for Attorney’s Fees and Expenses

Under the EAJA—28 U.S.C. § 2412(d)—Mr. Webb applies for **\$19,000.00** in attorney’s fees and expenses.

Procedural History

Mr. Webb timely appealed an August 13, 2021, Board Decision on November 3, 2021. Counsel for Mr. Webb filed their appearances on November 3, 2021 (Harold Hoffman and Megan Hoffman), November 22, 2021 (Zenobia Lockhart), and March 29, 2022 (Jennifer Healy). The Secretary sent the RBA to Mr. Webb on February 17, 2022. The Rule 33 memo was delivered to the Secretary on May 5, 2022. The parties attended the Rule 33 conference on May 19, 2022. Mr. Webb filed his brief on August 4, 2022. The Secretary filed his brief on December 6, 2022. Mr. Webb replied on February 2, 2023. On April 5, 2023, the Court ordered oral argument to be held on June 1, 2023, which was rescheduled for October 11, 2023. However, on October 6, 2023, the parties filed a joint motion to terminate the appeal and cancel oral argument. On October 10, 2023, the Court granted the motion—terminating the appeal without prejudice according to the terms of the agreement. The Court issued its mandate that same day.

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.”¹ Mr. Webb prevailed because the Court granted the stipulated agreement that awarded him a 30% disability rating for service-connected ulnar and median neuropathy of the left hand, previously rated as partial loss, distal phalanx, left (non-dominant middle finger), effective February 27, 2013. On October 10, 2023, the Court granted the stipulated agreement arising from the August 2021 Board decision and remanded for action consistent with its decision. This Court-ordered relief triggered a “material alteration of the parties’ legal relationships necessary to permit an award of attorney’s fees.”²

The Government’s Position Was Not Substantially Justified

Courts grant EAJA fees under 28 U.S.C. § 2412(d) 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.”³

The Court in this case granted a 30% disability rating for service-connected ulnar and median neuropathy of the left hand, previously rated as partial loss, distal phalanx, left (non-dominant middle finger), effective February 27, 2013. The VA Secretary agreed to promptly notify the VA upon final disposition by the Court about the agreement with instructions that the VA take prompt action to implement the grant of benefits.⁴ The Secretary also agreed not to contest that Mr. Webb was a prevailing party and that the Secretary’s position was not substantially justified.⁵

The government’s errors had no basis in fact or law and were not substantially justified. They became the basis on which the Court relied in granting Mr. Webb’s claim and remanding for further adjudication.

¹ *Shalala v. Schaefer*, 113 S. Ct. 2625, 2632 (1993).

² *Buckhannon Bd. and Care Home, Inc. v. West Virginia Dep’t of Health and Human Res.*, 121 S. Ct. 1835, 1840 (2001).

³ *Pierce v. Underwood*, 487 U.S. 552, 565 (1988).

⁴ Joint Motion to Terminate Appeal at 4.

⁵ Joint Motion to Terminate Appeal at 5.

EAJA Fees Are Warranted

Mr. Webb's net worth did not exceed \$2,000,000 at the time he filed his Notice of Appeal with this Court—nor did he 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 500 employees.⁶ Mr. Webb's counsel is eligible to receive an award under 28 U.S.C. § 2412(d)(2)(B).

The claimed hourly rate is reasonable. Mr. Webb 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 Mr. Webb 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) Urban Hawaii—as published by the Bureau of Labor Statistics for August 2022—the month in which Mr. Webb filed his brief. The CPI-U was 170.5 as of March 29, 1996; for August 2022, it was 319.197.⁷ It increased by 87%. After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Zenobia Lockhart⁸ is \$234.02.

⁶ See *Bazalo v. Brown*, 9 Vet. App. 304, 309, 311 (1996).

⁷https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS49FSA0,CUURS49FSA0 (last accessed Oct. 20, 2023).

⁸ Zenobia Lockhart began living and working in Honolulu, Hawaii, on June 19, 2022.

- 2) Washington-Arlington-Alexandria-DC-VA-MD-WV—as published by the Bureau of Labor Statistics for August 2022—the month in which Mr. Webb filed his brief. The CPI-U was 158.4 as of March 29, 1996; for August 2022, it was 299.937.⁹ It increased by ~89%. After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for and Jennifer Healy¹⁰ is \$236.69.
- 3) South—Size Class B/C—as published by the Bureau of Labor Statistics for August 2022—the month in which Mr. Webb filed his brief. The CPI-U was 100.0 as of March 29, 1996; for August 2022, it was 181.459.¹¹ It increased by ~81%. After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Clare Malinowski is \$226.82.

II. VetLAG Counsel Abroad Rate

Megan Hoffman and Harold Hoffman live in Madrid, Spain. Lea Suarez lives in Cadiz, Andalusia, Spain. Jennifer Healy and Christina Zahara Noh live/lives/lived in Stuttgart, Germany. Spain and Germany do not have BLS CPI-U data for the *Elcyszyn*¹² formula to calculate cost-of-living (COL) changes but each country 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

⁹https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS35ASA0,CUUSS35ASA0 (last accessed Oct. 20, 2023).

¹⁰ Jennifer Healy began living and working in the Washington, D.C., area on August 1, 2022.

¹¹https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURN300SA0,CUURN300SA0 (last accessed Oct. 20, 2023).

¹² *Elcyszyn v. Brown*, 7 Vet. App. 170, 179 (1994).

Estadística—calculates its CPI data month-to-month using the prices of 479 consumer items.¹³ This is much like the method the United States Bureau of Labor Statistics uses—which compares the prices of 243 basic consumer items monthly.¹⁴ 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 of the reasons the Court determined local CPI data should be used in *Elcyszyn* and *Mannino*.

The German Stuttgart CPI data should likewise be used to calculate a COL increase for work performed in Germany. The German Statistical Agency—or Statistisches Bundesamt—compiles the prices of around 650 types of goods and services every month and utilizes the standard “basket of goods” methodology that most economists and economic agencies use.¹⁵ The prices for the items in the “basket” for each German region—representative of “all goods and services purchased by each household in Germany”—are collected monthly and compiled into an index using weighted values. Stuttgart also has a regional CPI with data that goes back to March 1996. So, COL changes in Stuttgart can also be calculated using the *Elcyszyn* method. The Stuttgart CPI data also satisfies all of the reasons that 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 81.1% from March 1996 to August 2022—

¹³https://www.ine.es/dyngs/INEbase/en/operacion.htm?c=Estadistica_C&cid=1254736176802&menu=metodologia&idp=1254735976607 (last accessed January 14, 2022).

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

¹⁵ https://www.destatis.de/EN/Themes/Economy/Prices/Consumer-Price-Index/Methods/VPI_e.html

the month in which Mr. Webb filed his brief.¹⁶ After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Megan Hoffman and Harold Hoffman is \$226.38.

- 2) Andalusia CPI from the Spanish National Institute of Statistics has increased by 80.7% from March 1996 to August 2022—the month in which Mr. Webb filed his brief.¹⁷ After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Lea Suarez is \$225.88.
- 3) Baden-Wurttemberg CPI from the German Federal Statistical Office for August 2022—the month in which Mr. Webb filed his brief. The CPI under base 2015 was indexed at 75.9¹⁸ as of March 29, 1996; the CPI for August 2022 was 118.60.¹⁹ It increased by ~56%. After applying this increase to the \$125.00 hourly rate provided by EAJA, the current hourly rate for Zenobia Lockhart²⁰ and Christina Zahara Noh is \$195.32.

III. Paralegal Rates

The *Laffey* Matrix rate for paralegals working for attorneys in the USA for 2022-2023 was \$225.00.²¹ Courts have found the DC *Laffey* rates reasonable.²² The DoJ's policy is to not oppose the *Laffey* rates: " . . . although the USAO will no longer issue an updated *Laffey* Matrix

¹⁶ <https://www.ine.es/varipc/index.do?L=1> (last accessed Oct. 20, 2023).

¹⁷ <https://www.ine.es/varipc/index.do?L=1> (last accessed Oct. 20, 2023).

¹⁸ Exhibit 2.

¹⁹ Exhibit 2.

²⁰ Zenobia Lockhart lived and worked in Stuttgart, Germany until June 18, 2022.

²¹ <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).

²² *Smith v. District of Columbia*, 466 F. Supp. 2d 151, 156 (D.D.C. 2006).

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."²³ The hourly rate for Parker Low and Farron Eckhoff is \$239.00.

IV. Market Rates

Every attorney that has 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.²⁴

Conclusion

Mr. Webb's attorneys worked together in reviewing strategy and arguments and editing each other's work to ensure a good work product. The time for conversations between Mr. Webb'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 a billable event. 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 hours expended were 100.30:

- Zenobia Lockhart: 26.10 (Germany at \$195.32) and 4.75 (Urban Hawaii at \$234.02)
- Megan Hoffman: 31.25 (Madrid at \$226.38)
- Harold Hoffman: 19.05 (Madrid at \$226.38)

²³ <https://www.justice.gov/usao-dc/file/796471/download>, fn 5.

²⁴ <https://www.justice.gov/usao-dc/page/file/1189846/download> (last accessed February 8, 2022).

- Jennifer Healy: 0.10 (Germany at \$195.32) and 2.50 (DC at \$236.69)
- Christina Zahara Noh: 4.00 (Germany at \$195.32)
- Clare Malinowski: 2.50 (South B/C at \$226.82)
- Lea Suarez: 2.00 (Andalucía at \$225.88)
- Parker Low: 6.80 (\$225.00)
- Farron Eckhoff: 1.25 (\$225.00)

Expenses totaled \$35.46. The total amount of fees, costs, and expenses is \$21,854.42. As part of the stipulated agreement, Mr. Webb agreed to not apply for an EAJA award in an amount exceeding **\$19,000.00**. I have included an itemized statement broken down into detailed case tasks intertwined to preparing the entire case.²⁵

Mr. Webb requests that the Court award **\$19,000.00** in attorney's fees and expenses.

October 23, 2023.

Submitted,

/s/ Harold Hoffman

Harold H. Hoffman III
 haroldhoffman@vetlag.org
 Veterans Legal Advocacy Group
 2776 S. Arlington Mill Drive,
 Suite 804
 Arlington, VA 22206

²⁵ Exhibit 1.

EXHIBIT 1

**Itemized Veterans Legal Advocacy Group Staff Hours
For 21-7148**

Date	By	Description of Work	Time Spent	Time Billed
9-Sep-2021	FE	Call with Michael Webb. Take notes. Pass to HH.	0.25	0.25
19-Oct-2021	HH	Review BVA decision, old arguments, law, notes.	0.50	0.50
19-Oct-2021	HH	Phone call with client re: case and representation.	0.25	0.25
19-Oct-2021	PL	Draft and send engagement agreement paperwork to client.	0.25	0.25
2-Nov-2021	PL	Review executed engagement agreement, scan, and email NOA, CAVC appearances, DFH, CTR, fee agreement.	0.50	0.50
2-Nov-2021	PL	Send CTR to OGC.	0.10	0.10
2-Nov-2021	PL	Draft and send letter to client re: appearance entered, what to expect.	0.10	0.10
3-Nov-2021	PL	Resend Notice of Appeal fax to Court. First attempt the day before failed on their end.	0.10	0.10
3-Nov-2021	PL	Resend Notices of Appeal. Second faxes failed on their end. Send to e-submissions email instead.	0.25	0.25
22-Nov-2021	ZLDE	Enter appearance.	0.10	0.10
29-Nov-2021	HH	Check to make sure right BVA decision - multiples in this case.	0.10	0.10
5-Jan-2022	PL	Resend CTR to OGC.	0.10	0.10
14-Feb-2022	PL	Resend CTR to OGC.	0.10	0.10
28-Feb-2022	HH	RBA - Rule 10 review for accuracy, completeness, and legibility.	0.50	0.50
10-Mar-2022	PL	Review briefing schedule notice. Add deadlines to CAVC case calendar.	0.10	0.10

9-Mar-2022	ZLDE	Reviewed record 1-9, built claims file log.	0.50	0.50
14-Mar-2022	ZLDE	Reviewed record 9-382, built claims file log.	3.00	3.00
15-Mar-2022	ZLDE	Reviewed record 383-1035, built claims file log.	2.50	2.50
29-Mar-2022	JHDE	Enter appearance.	0.10	0.10
4-Apr-2022	HH	Motion - gather schedules, draft motion to reschedule conference.	0.50	0.50
5-Apr-2022	HH	Motion - file motion to reschedule conference.	0.10	0.10
29-Apr-2022	HH	Gather old <i>Webb</i> briefing, condense, include some old research, draft SOI memo outline, send to Zenobia.	2.25	2.25
2-May-2022	ZLDE	SOI memo - outline. Format document with header, signatures, tables.	0.25	0.25
2-May-2022	ZLDE	SOI memo - draft facts.	1.25	1.25
2-May-2022	ZLDE	SOI memo - draft argument: Board erroneously applied amputation rule.	3.50	1.25
3-May-2022	ZLDE	SOI memo - draft conclusion.	1.00	1.00
4-May-2022	HH	SOI memo - substantive review, edits, comments for entire memo.	1.00	0.00
4-May-2022	ZLDE	SOI memo - review and incorporate edits and comments.	1.50	0.00
4-May-2022	ZLDE	SOI memo - create records cited table.	0.25	0.25
5-May-2022	HH	SOI memo - edit entire memo.	0.75	0.75
5-May-2022	FE	SOI memo - put together record of evidence cited to send to CLS and OGC.	0.25	0.25
5-May-2022	FE	SOI memo - Draft Rule 33 Certificate of Service and file.	0.25	0.25
5-May-2022	HH	SOI memo - email to OGC and CLS.	0.10	0.10

19-May-2022	ZLDE	Prepare for, attend, take notes on Rule 33 Conference.	0.50	0.50
28-May-2022	ZLDE	Reread previous briefing and take more detailed notes & research 38 CFR 4.68.	0.75	0.75
3-Jun-2022	ZLDE	Research amputation rule; musculoskeletal v. nerve system; 38 CFR 4.124a	2.00	2.00
3-Jun-2022	ZLDE	Review previous brief and internet research on amputation rule.	1.50	1.00
7-Jun-2022	ZLDE	Case law research: <i>Aqua Products, Correia, Glycine & More, Payne v. Wilkie; Sullivan, Massie, King, Barrett, Smith</i> ; and more.	1.50	1.50
7-Jun-2022	ZLDE	Opening brief - outline. Format document with header, signatures, tables.	1.00	1.00
7-Jun-2022	ZLDE	Draft Issues Presented and Statement of the Case.	0.50	0.50
7-Jun-2022	ZLDE	Draft Facts, Board Decision.	2.50	1.25
8-Jun-2022	ZLDE	Draft Argument I: the Amputation Rule only applies to combined ratings and non-amputations.	1.50	1.00
8-Jun-2022	ZLDE	Draft Argument II: the Amputation Rule is ambiguous - sections A and B.	3.00	1.50
8-Jun-2022	ZLDE	Continue drafting Argument II - section C.	2.00	1.00
9-Jun-2022	ZLDE	Draft Harmless Error Section.	1.25	0.50
9-Jun-2022	ZLDE	Draft Conclusion.	0.50	0.50
13-Jun-2022	HH	Review substance. Suggest changes.	1.50	0.50
13-Jun-2022	ZLDE	Review HH's changes.	0.50	0.00
13-Jun-2022	ZLDE	Case law research: <i>Auer v. Robbins; Seminole Rock</i> ; and others.	1.50	1.50

13-Jun-2022	FE	Draft and file motion to extend brief deadline.	0.25	0.25
13-Jun-2022	HH	Review and approve MTE.	0.10	0.10
14-Jun-2022	ZLDE	Case law research: <i>Kisor</i> ; <i>Baude</i> , <i>Chevron</i> .	1.50	1.50
3-Jul-2022	ZLHI	Research: Yale Law Review re: <i>Kisor & Procopio v. Wilkie</i> .	0.75	0.75
5-Jul-2022	ZLHI	Read VetLAG case Luanne Wolfe Fed. Cir Brief for regulatory interpretation guidelines.	0.75	0.75
10-Jul-2022	ZLHI	Continued research for Pro-Vet section and update draft section and edit.	1.50	0.50
10-Jul-2022	ZLHI	Continued research for Pro-Vet section and update draft section and edit.	1.00	0.25
10-Jul-2022	ZLHI	Updated draft with relevant case law.	2.00	1.00
10-Jul-2022	ZLHI	Re-draft Argument Section II.	1.75	0.00
11-Jul-2022	HH	Opening brief - substantive review, edits, comments for entire argument section.	1.25	0.50
12-Jul-2022	ZLHI	Review and incorporate notes from HHH into draft.	1.00	0.50
13-Jul-2022	HH	Opening brief - substantive review, edits, comments for entire brief other than argument section.	0.75	0.25
14-Jul-2022	ZLHI	Review edits and notes from HHH.	0.75	0.00
14-Jul-2022	ZLHI	Update draft fact section.	0.50	0.25
27-Jul-2022	ZLHI	Draft Argument Summary and intro into the argument section.	0.75	0.75
1-Aug-2022	HH	Opening brief - substantive review, edits, comments for entire brief.	2.25	2.25
2-Aug-2022	HH	Opening brief - continue substantive review, edits, comments for entire brief.	1.50	1.50

2-Aug-2022	PL	Opening brief - draft table of contents, table of authorities, table of records, table of cited records.	1.50	1.50
4-Aug-2022	HH	Opening brief - final read through, cite check, convert, file.	1.00	1.00
4-Nov-2022	HH	Email w. OGC re: JMR. Research case to advise Webb.	0.50	0.50
8-Nov-2022	HH	Speak w. Webb, explain JMR and effect.	0.25	0.25
9-Nov-2022	HH	Email OGC to say no to JMR.	0.10	0.10
19-Dec-2022	FE	Motion - draft motion to extend.	0.25	0.25
19-Dec-2022	HH	Review and approve MTE.	0.10	0.10
25-Jan-2023	MH	Reply brief - review Board decision, opening brief, Secretary's brief, take notes.	1.50	1.50
26-Jan-2023	HH	Discuss previous JMR with MH.	0.50	0.50
26-Jan-2023	HH	Gather and send previous JMR emails and drafts to MH.	0.50	0.50
26-Jan-2023	MH	Discuss previous JMR with HHH; review previous JMR language; review previous emails re JMR negotiations.	1.50	1.50
26-Jan-2023	MH	Research effect of agreement in JMR on future litigation; read <i>Atencio v. O'Rourke</i> , <i>Carter v. Shinseki</i> , <i>Carter v. McDonald</i> , <i>Breeden v. Principi</i> .	3.00	3.00
26-Jan-2023	HH	Make appendix of JMR negotiations.	0.75	0.75
26-Jan-2023	MH	Reply brief - outline; format document with header, signatures, tables, headings.	1.00	1.00
26-Jan-2023	MH	Reply brief - draft argument headings.	0.25	0.25
26-Jan-2023	MH	Reply brief - draft recap.	1.25	1.25

27-Jan-2023	MH	Reply brief - draft summary of briefing.	0.50	0.50
27-Jan-2023	MH	Reply brief - draft argument summary.	0.25	0.25
27-Jan-2023	MH	Reply brief - draft argument: Mr. Webb never agreed the Amputation Rule applies.	3.00	3.00
27-Jan-2023	MH	Reply brief - draft argument: "law of the case" cannot be applied to a JMR.	2.50	2.50
30-Jan-2023	MH	Reply brief - draft argument: applying the Amputation Rule makes no sense.	2.75	2.75
30-Jan-2023	MH	Reply brief - draft conclusion.	0.25	0.25
1-Feb-2023	CZN	Reply brief - edit entire brief.	1.75	1.75
1-Feb-2023	HH	Review CZN edits, accepting/rejecting, further edits.	1.00	1.00
1-Feb-2023	PL	Reply brief - draft table of contents, table of authorities, table of records, table of cited records.	0.50	0.50
2-Feb-2023	HH	Reply brief - final read through with cite checks, convert, file.	0.50	0.50
16-Feb-2023	PL	ROP - review.	0.50	0.50
16-Feb-2023	PL	ROP - draft and file response to accept ROP.	0.10	0.10
16-Feb-2023	HH	Approve ROP filing.	0.10	0.10
3-Oct-2023	MH	Attend pre-OA web meeting.	0.50	0.50
4-Oct-2023	MH	OA - read briefing, take notes, write questions for OA moot.	4.00	4.00
4-Oct-2023	MH	OA - re-read Amputation Rule; re-read <i>Atencio v. O'Rourke</i> ; re-read relevant M21-1 Manual sections.	1.50	1.50
5-Oct-2023	MH	OA - begin drafting opening statement.	1.25	1.25
5-Oct-2023	MH	OA - discuss OA strategy, most important points to hit on w/HH.	1.00	1.00

5-Oct-2023	MH	OA - continue to write OA questions based on briefing and conversations with HH.	2.00	2.00
5-Oct-2023	MH	OA - Discuss surplusage argument with HH; evaluate strengths and weaknesses.	1.50	1.50
5-Oct-2023	MH	OA - re-read <i>Kisor v. Wilkie</i> and <i>Chevron</i> .	1.00	1.00
5-Oct-2023	CZN	OA - read briefing; researched application of amputation rule and the law of the case doctrine in VA claims; and wrote moot questions on amputation rule, the law of the case doctrine, and factual elements of case.	2.25	2.25
5-Oct-2023	JH	OA - read briefing; researched application of amputation rule and the law of the case doctrine in VA claims; and wrote moot questions on amputation rule, the law of the case doctrine, and factual elements of case.	2.50	2.50
5-Oct-2023	CM	OA - read briefing; researched application of amputation rule and the law of the case doctrine in VA claims; and wrote moot questions on amputation rule, the law of the case doctrine, and factual elements of case.	2.50	2.50
5-Oct-2023	LS	OA - read briefing; researched application of amputation rule and the law of the case doctrine in VA claims; and wrote moot questions on amputation rule, the law of the case doctrine, and factual elements of case.	2.00	2.00
5-Oct-2023	PL	OA - read briefing; researched application of amputation rule and the law of the case doctrine in VA claims; and wrote moot questions on amputation rule, the law of the case doctrine, and factual elements of case.	0.75	0.75
5-Oct-2023	PL	Receive phone message from Anita Koepcke, urgent, email HHH.	0.10	0.00

5-Oct-2023	PL	Call Anita, agree that she will wait to hear from HHH directly.	0.10	0.10
5-Oct-2023	HH	Phone call w/ OGC re: settlement.	0.10	0.10
6-Oct-2023	MH	Settlement evaluation with HH.	0.50	0.50
6-Oct-2023	HH	Settlement evaluation with MH.	0.50	0.50
6-Oct-2023	MH	EAJA - add hours to Exhibit 1.	0.25	0.25
6-Oct-2023	PL	EAJA - add hours to Exhibit 1.	0.25	0.25
6-Oct-2023	HH	EAJA - Add HH hours. Add ZL hours. Add estimated hours. Add hours from JH, LS, CZN, CM. Review EAJA hours and exercise billing discretion by reducing unreasonable or excessive hours, hours not properly billed to client.	1.00	1.00
6-Oct-2023	PL	EAJA - calculate all rates across all indices. Add final numbers to application.	0.25	0.25
6-Oct-2023	HH	Draft email to OGC re: Stipulated Agreement, with docs for including fees in SA.	0.25	0.25
6-Oct-2023	HH	Phone call with Mr. Webb about stipulated agreement.	0.25	0.25
6-Oct-2023	HH	Stipulated agreement - review SA draft. Email signed SA to OGC.	0.25	0.25
6-Oct-2023	HH	Draft letter to client explaining the CAVC decision, what happens next, and what we will argue to the VA.	1.00	1.00
22-Oct-2023	PL	EAJA - draft EAJA Application.	1.00	1.00
22-Oct-2023	PL	EAJA - calculate all rates across all indices. Add final numbers to application.	0.25	0.25

23-Oct-2023	HH	EAJA - review, edit, and approve EAJA Application and Exhibit 1. Convert. File EAJA Application.	0.25	0.25
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Total Hours

BY	RATE	RATE	TIME SPENT	TIME BILLED	TOTAL
Zenobia Lockhart	Attorney, Stuttgart, Germ.	\$195.32	35.85	26.10	\$5,097.85
	Attorney, Honolulu, HI	\$234.02	10.75	4.75	\$1,111.60
Megan Hoffman	Attorney, Madrid, Spain	\$226.38	31.25	31.25	\$7,074.38
Harold Hoffman	Attorney, Madrid, Spain	\$226.38	22.30	19.05	\$4,312.54
Jennifer Healy	Attorney, Stuttgart, Germ.	\$195.32	0.10	0.10	\$19.53
	Attorney, Washington, DC	\$236.69	2.50	2.50	\$591.73
Christina Zahara Noh	Attorney, Stuttgart, Germ.	\$195.32	4.00	4.00	\$781.28
Clare Malinowski	Attorney, Norfolk, VA	\$226.82	2.50	2.50	\$567.05
Lea Suarez	Attorney, Cadiz, Spain	\$225.88	2.00	2.00	\$451.76
Parker Low	Paralegal, Washington, DC	\$225.00	6.90	6.80	\$1,530.00
Farron Eckhoff	Paralegal, Washington, DC	\$225.00	1.25	1.25	\$281.25
Total					\$21,818.96

Expense	Amount	TOTAL
Westlaw ²⁶	1	\$35.46
Total		\$35.46

²⁶ This figure is derived from total Westlaw expense prorated per client, charged only in cases where Westlaw research is necessary and listed in Itemized Hours.

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 is an itemized statement broken down into detailed case tasks that are intertwined to the preparation of the entire case.

October 23, 2023.

Submitted,

/s/ Harold Hoffman

Harold H. Hoffman III
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Arlington, VA 22206

EXHIBIT 2

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Start Statistics (tables) Table structure **Result**

Table

DIAGRAM

MAP

Downloads:

Options:

Consumer price index: Länder, months

Consumer price index for Germany		
Consumer price index (2015=100)		
Year	Baden-Württemberg	
Months		
1996	March	75.9

Explanation of symbols

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Result 61111-0011

Search database[Home page](#) [table structure](#) [result](#)**tabel**

DIAGRAM

MAP

Downloads:

Options:

Consumer price index: federal states, months

Consumer Price Index for Germany Consumer Price Index (2015=100)

year months		Baden-Wuerttemberg
2021	January	106.8
	February	107.5
	March	108.1

Consumer Price Index for Germany Consumer Price Index (2015=100)

year		Baden-Wuerttemberg
months		
2022	April	108.7
	May	109.2
	June	109.6
	July	110.5
	August	110.5
	September	110.5
	October	111.1
	November	111.0
	December	111.7
	January	111.7
	February	112.6
	March	114.9
	April	116.3
	May	117.3
	June	117.4
	July	118.3
	August	118.6
	September	***
	October	***
	November	

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Explanation of symbols

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