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

No. 20-4372

SHERRY CRAIG-DAVIDSON,

Appellant,

v.

DENIS MCDONOUGH,
Secretary of Veterans Affairs,

Appellee.

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APPLICATION FOR AWARD OF ATTORNEYS' FEES & EXPENSES**

<u>EXHIBIT #</u>	<u>DESCRIPTION</u>	<u>PAGINATION</u>
Exhibit 1	Declaration of Appellant Sherry Craig-Davidson	Found at PDF pages 2-4
Exhibit 2	Declaration of Attorney Eliseo R. Puig	Found at PDF pages 5-8
Appendix A to Exhibit 2	Table of Time Details Report	Found at PDF pages 9-14
Appendix B to Exhibit 2	Table of Costs Details Report	Found at PDF pages 15-16

EXHIBIT 1

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

No. 20-4372

SHERRY CRAIG-DAVIDSON,

Appellant,

v.

DENIS MCDONOUGH,
Secretary of Veterans Affairs,

Appellee.

**APPELLANT'S APPLICATION FOR
AWARD OF ATTORNEYS' FEES & EXPENSES**

Eliseo R. Puig
Thomas W. Stoever, Jr.
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thomas.stoever@arnoldporter.com

Date: December 6, 2023

Counsel for Appellant

Appellant, Sherry Craig-Davidson, hereby declares and states:

1. I am the appellant named in this appeal. This declaration is based upon my personal knowledge.

2. At the time this civil action was filed, my personal net worth did not exceed \$2,000,000 (two million dollars); nor did I own any unincorporated business, partnership, corporation, association, unit of local government, or organization, the net worth of which exceeded \$7,000,000 (seven million dollars) and which had more than 500 employees.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 5th, 2023, at Kansas City, Missouri, United States of America.


Sherry Craig-Davidson

EXHIBIT 2

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

No. 20-4372

SHERRY CRAIG-DAVIDSON,

Appellant,

v.

DENIS MCDONOUGH,
Secretary of Veterans Affairs,

Appellee.

DECLARATION OF ELISEO R. PUIG

Eliseo R. Puig
Thomas W. Stoever, Jr.
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thomas.stoever@arnoldporter.com

Counsel for Appellant

I, Eliseo R. Puig, declare as follows:

1. I am an attorney associated with the law firm of Arnold & Porter Kaye Scholer LLP and counsel of record for the Appellant, Mrs. Sherry Craig-Davidson. I am licensed to practice law in the State of Colorado and admitted to practice before the Court of Appeals for Veterans Claims. I make this declaration in support of Appellant's Application for Award of Attorneys' Fees & Expenses.

2. On December 3, 2023, I visited the website of the U.S. Department of Labor, Bureau of Labor Statistics (the "BLS Website"). On the BLS Website, I viewed historical data for the "Consumer Price Index – All Urban Consumers" (the "CPI-U") for the "Denver-Aurora-Lakewood, CO" region (the "Denver Region") for the years 1996 to 2023, with a base period of "1982-84=100."¹

3. In 1996, the annual CPI-U in the Denver Region was 153.1. In January 2022, it was 293.58. I calculate this to be a 91.8% increase. I applied this increase to the \$125.00 hourly rate provided by the EAJA to calculate an adjusted hourly rate of \$239.70 for attorneys and paralegals.

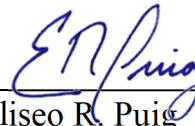
4. I assembled a table (see Appendix A) of attorney and paralegal time entries from timekeeping records maintained as business records by Arnold & Porter LLP. I have exercised my judgment to determine whether an activity might be not properly billable.

¹ BLS Website, CPI-U for "Denver-Aurora-Lakewood, CO" region, *available at* https://data.bls.gov/timeseries/CUURS48BSA0?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true

5. I assembled a table (see Appendix B) of costs and expenses from disbursement records maintained as business records by Arnold & Porter LLP. I have exercised my judgment to determine whether an expense might be not properly billable.

I declare and state under penalty of perjury under the laws of the United States of America that the information set forth in this application, declaration, and following appendices is true and correct.

Executed on December 6, 2023, at Denver, Colorado.



Eliseo R. Puig
ARNOLD & PORTER LLP
Counsel for Appellant

APPENDIX A

Veterans Consortium Pro Bono Program/Sherry A. Craig-Davidson #0090586.00032

TKPR Name	Date	Description	Time
Golz, Rebecca A.	7/20/2021	Legal Assistant Services for T. Stoever: review court documents in preparation for drafting a response to the show cause order.	0.20
Golz, Rebecca A.	8/2/2021	Legal Assistant Services for T. Stoever: discuss upcoming deadline to file response to show cause order.	0.10
Golz, Rebecca A.	8/3/2021	Legal Assistant Services for T. Stoever: prepare a draft motion for extension of time to respond to court order of June 21, 2021.	0.70
Golz, Rebecca A.	8/4/2021	Legal Assistant Services for T. Stoever: revise, file and serve motion for extension of time to respond to the court order of June 21, 2021.	0.40
Golz, Rebecca A.	8/5/2021	Legal Assistant Services for T. Stoever: revise and maintain the case calendar and formal papers.	0.10
Golz, Rebecca A.	8/16/2021	Legal Assistant Services for T. Stoever: review and maintain client documents.	0.20
Golz, Rebecca A.	9/20/2021	Legal Assistant Services for T. Stoever: revise, file and serve motion for extension of time to respond to court order.	0.40
Golz, Rebecca A.	9/21/2021	Legal Assistant Services for T. Stoever: revise the case calendar.	0.10
Stoever, Thomas W.	10/6/2021	Legal research and drafting of brief on standing for CAVC; revisions to client's declaration.	3.00
Golz, Rebecca A.	10/7/2021	Legal Assistant Services for T. Stoever: review case materials and court documents; assist with preparation of declaration and response to court order of June 21, 2021; telephone call with client regarding declaration.	3.60
Jelsma, David S.	10/8/2021	Research whether a surviving spouse has standing to independently appeal an adverse Board decision.	3.50
Golz, Rebecca A.	10/8/2021	Legal Assistant Services for T. Stoever: Continue to assist with preparation of declaration and response to court order of June 21, 2021; telephone call with client regarding revised declaration.	6.00
Stoever, Thomas W.	10/8/2021	Revisions to client's declaration and legal research for brief on standing.	1.50
Golz, Rebecca A.	10/9/2021	Legal Assistant Services for T. Stoever: Further assist with preparation of declaration and response to court order of June 21, 2021; telephone call with client regarding declaration.	1.80
Stoever, Thomas W.	10/9/2021	Legal research and revisions to brief on standing and client's declaration for CAVC.	2.00
Golz, Rebecca A.	10/10/2021	Legal Assistant Services for T. Stoever: Finalize declaration attached to response to court order of June 21, 2021.	0.50
Stoever, Thomas W.	10/10/2021	Legal research and revisions to brief on standing for CAVC.	2.50
Stoever, Thomas W.	10/11/2021	Finalize brief and declaration for filing with CAVC.	1.50
Golz, Rebecca A.	10/11/2021	Legal Assistant Services for T. Stoever: finalize, file and serve appellant's response to court order of June 21, 2021.	2.20
Stoever, Thomas W.	10/18/2021	Respond to correspondence from VA; call with client.	1.20

Veterans Consortium Pro Bono Program/Sherry A. Craig-Davidson #0090586.00032

TKPR Name	Date	Description	Time
Golz, Rebecca A.	10/28/2021	Legal Assistant Services for T. Stoever: revise and maintain case formal papers.	0.10
Golz, Rebecca A.	10/29/2021	Legal Assistant Services for T. Stoever: review and maintain case calendar and formal papers.	0.20
Stoever, Thomas W.	11/5/2021	Review brief from Veterans Affairs and correspond with Veterans Affairs attorneys.	1.00
Golz, Rebecca A.	12/2/2021	Legal Assistant Services for T. Stoever: review sample motions for leave to file a reply to the appellee's response to court order.	0.50
Golz, Rebecca A.	12/21/2021	Legal Assistant Services for T. Stoever: review court order and rules of practice regarding oral argument.	0.20
Golz, Rebecca A.	12/22/2021	Legal Assistant Services for T. Stoever: prepare a draft motion to extend date for oral argument.	0.60
Golz, Rebecca A.	12/28/2021	Legal Assistant Services for T. Stoever: revise, file and serve motion to postpone oral argument.	0.50
Golz, Rebecca A.	12/30/2021	Legal Assistant Services for T. Stoever: revise and maintain the case calendar.	0.10
Stoever, Thomas W.	1/17/2022	Review briefing and cases to prepare for oral argument.	3.00
Stoever, Thomas W.	2/23/2022	Correspond with court about 3/16 hearing; review recent pleadings.	1.00
Golz, Rebecca A.	3/2/2022	Legal Assistant Services for E. Puig: assemble background materials and briefing for reference in preparation for oral argument.	0.40
Puig, Eliseo R.	3/2/2022	Review Craig-Davidson appeal materials, including record, orders and briefs, and certain caselaw cited therein.	3.50
Stoever, Thomas W.	3/4/2022	Prepare for oral argument.	1.70
Stoever, Thomas W.	3/9/2022	Prepare for oral argument next week.	1.60
Puig, Eliseo R.	3/9/2022	Research legal issues concerning standing of accrued-benefits claimants in veterans appeals for use in preparing for oral argument.	2.50
Puig, Eliseo R.	3/10/2022	Further legal research concerning standing of accrued-benefits claimants in veterans appeals for use in preparing for oral argument.	4.00
Golz, Rebecca A.	3/11/2022	Legal Assistant Services for T. Stoever: assist with preparations for upcoming oral argument; prepare and submit application for pro hac admission for E. Puig.	1.00
Puig, Eliseo R.	3/11/2022	Further legal research concerning standing of accrued-benefits claimants in veterans appeals for use in preparing for oral argument.	3.70
Golz, Rebecca A.	3/14/2022	Legal Assistant Services for T. Stoever: Further assist with preparation for the upcoming oral argument.	0.50
Stoever, Thomas W.	3/14/2022	Pre-argument hearing with court clerk; prepare for argument on Wednesday.	2.50

Veterans Consortium Pro Bono Program/Sherry A. Craig-Davidson #0090586.00032

TKPR Name	Date	Description	Time
Puig, Eliseo R.	3/14/2022	Attend pre-oral argument hearing.	0.50
Golz, Rebecca A.	3/15/2022	Legal Assistant Services for T. Stoever: further assist with preparations for the upcoming oral argument.	0.10
Stoever, Thomas W.	3/15/2022	Prepare for oral argument tomorrow.	3.00
Stoever, Thomas W.	3/16/2022	Prepare for and argue in CAVC.	3.00
Puig, Eliseo R.	3/16/2022	Prepare for and attend oral argument.	1.60
Stoever, Thomas W.	5/16/2022	Review decision from CAVC and send same to client.	1.00
Puig, Eliseo R.	5/16/2022	Review and analyze order denying motion to dismiss.	1.00
Golz, Rebecca A.	6/13/2022	Legal Assistant Services for T. Stoever: discuss status of service of the record before the agency and next steps.	0.20
Golz, Rebecca A.	6/23/2022	Legal Assistant Services for T. Stoever: review the record before the agency.	0.30
Golz, Rebecca A.	6/27/2022	Legal Assistant Services for T. Stoever: review the record before the agency for any objections.	1.00
Golz, Rebecca A.	7/13/2022	Legal Assistant Services for T. Stoever: revise and maintain the case calendar.	0.40
Puig, Eliseo R.	7/25/2022	Draft Rule 33 statement and several conferrals with R. Golz and T. Stoever concerning the same.	2.90
Golz, Rebecca A.	7/25/2022	Legal Assistant Services for E. Puig: assist with revisions to Rule 33 summary of issues; submit Rule 33 summary of issues to staff attorney;	2.00
Golz, Rebecca A.	8/4/2022	Legal Assistant Services for T. Stoever: revise and maintain the case calendar.	0.10
Golz, Rebecca A.	8/29/2022	Legal Assistant Services for T. Stoever: revise and maintain the case calendar.	0.10
Stoever, Thomas W.	9/6/2022	Prepare for Rule 33 conference tomorrow.	0.50
Puig, Eliseo R.	9/6/2022	Prepare for Rule 33 conference.	1.50
Golz, Rebecca A.	9/7/2022	Legal Assistant Services for E. Puig: communicate with opposing counsel and court staff attorney regarding upcoming Rule 33 staff conference.	0.40
Puig, Eliseo R.	9/7/2022	Prepare for and attend Rule 33 conference.	1.00
Golz, Rebecca A.	9/23/2022	Legal Assistant Services for E. Puig: prepare a draft motion to extend time to file opening brief.	0.50
Puig, Eliseo R.	9/26/2022	Review and revise motion for extension of time to file opening brief in advance of filing.	0.50

Veterans Consortium Pro Bono Program/Sherry A. Craig-Davidson #0090586.00032

TKPR Name	Date	Description	Time
Golz, Rebecca A.	9/26/2022	Legal Assistant Services for E. Puig: File and serve motion for extension of time to file opening brief.	0.20
Puig, Eliseo R.	11/14/2022	Research legal issues for use in drafting opening merits brief.	2.50
Golz, Rebecca A.	11/15/2022	Legal Assistant Services for E. Puig: circulate case records for reference in preparation of draft opening brief.	0.50
Puig, Eliseo R.	11/15/2022	Draft opening merits brief.	4.50
Puig, Eliseo R.	11/17/2022	Review and consider T. Stoever's comments on opening merits brief.	0.80
Golz, Rebecca A.	11/21/2022	Legal Assistant Services for E. Puig: revise, file and serve appellant's opening brief.	1.40
Puig, Eliseo R.	11/21/2022	Revise, finalize, and file opening merits brief.	2.20
Golz, Rebecca A.	1/10/2023	Legal Assistant Services for T. Stoever: revise case calendar and formal papers file.	0.20
Stoever, Thomas W.	3/6/2023	Review draft brief.	1.00
Golz, Rebecca A.	3/9/2023	Legal Assistant Services for T. Stoever: review appellee's response brief.	0.20
Puig, Eliseo R.	3/14/2023	Review and analyze VA response brief and cases cited therein.	2.40
Stonehill, Elizabeth M.	3/15/2023	Confer with E. Puig regarding case overview and research assignment; research the effect of an improperly denied medical examination and veteran death on presumptions that might go in favor of a claimant on appeal.	3.60
Puig, Eliseo R.	3/15/2023	Draft reply brief and conduct legal research for use in the same.	4.20
Puig, Eliseo R.	3/16/2023	Review comments to reply brief and confer with T. Stoever regarding the same.	0.90
Golz, Rebecca A.	3/20/2023	Legal Assistant Services for T. Stoever: finalize, file and serve appellant's reply brief.	1.00
Puig, Eliseo R.	3/20/2023	Revise and finalize reply brief in advance of filing; conferrals with R. Golz concerning filing.	1.20
Golz, Rebecca A.	3/21/2023	Legal Assistant Services for E. Puig: revise, file and serve a correct reply brief.	0.40
Puig, Eliseo R.	3/21/2023	Revise reply brief to address court order and confer with R. Golz regarding filing of corrected version.	0.60
Golz, Rebecca A.	3/28/2023	Legal Assistant Services for D. Menichetti: coordinate with IT regarding upcoming call to the client.	0.20
Puig, Eliseo R.	9/13/2023	Review and analyze Court's order on appeal and emails with T. Stoever regarding the same.	0.90
Puig, Eliseo R.	9/15/2023	Confer with T. Stoever regarding next steps in appeal and draft update email to client.	0.90

Veterans Consortium Pro Bono Program/Sherry A. Craig-Davidson #0090586.00032

TKPR Name	Date	Description	Time
		Rebecca A. Golz Total Hrs.	29.60
		David S. Jelsma Total Hrs.	3.50
		Eliseo R. Puig Total Hrs.	43.80
		Thomas W. Stoever, Jr. Total Hrs.	31.00
		Elizabeth M. Stonehill Total Hrs.	3.60
Grand Total			111.50

APPENDIX B

Veterans Consortium Pro Bono Program/Sherry A. Craig-Davidson #0090586.00032

Date	Narrative	Cost Description	Base Amt
3/14/2022	PRINT Job made on 03142022 at \\DNPFS01\DN-Xerox-44011-02-printer0 by 27153 Rebecca Golz TOTAL PAGES: 5	Duplicating	\$0.50
5/11/2022	COPY Job made on 05112022 at DN-Xerox-3122-02-copier0 by 27153 Rebecca Golz TOTAL PAGES: 4	Duplicating	\$0.40
		Copies/Duplicating Total	\$0.90
7/22/2021	Westlaw computer research by GOLZ BECKY MULTI-SEARCH WEST REPORTER IMAGE	Westlaw Research	\$39.00
7/22/2021	Westlaw computer research by GOLZ BECKY MULTI-SEARCH TRANSACTIONAL SEARCHES	Westlaw Research	\$103.20
10/8/2021	Westlaw computer research by GOLZ BECKY MULTI-SEARCH WEST REPORTER IMAGE	Westlaw Research	\$39.00
10/8/2021	Westlaw computer research by GOLZ BECKY MULTI-SEARCH TRANSACTIONAL SEARCHES	Westlaw Research	\$103.20
3/15/2022	Westlaw computer research by GOLZ BECKY MULTI-SEARCH WEST REPORTER IMAGE	Westlaw Research	\$39.00
3/15/2022	Westlaw computer research by GOLZ BECKY MULTI-SEARCH TRANSACTIONAL SEARCHES	Westlaw Research	\$103.20
3/14/2022	Westlaw computer research by GOLZ BECKY MULTI-SEARCH WEST REPORTER IMAGE	Westlaw Research	\$117.00
		Computer Research Total	\$543.60
		Grand Total	\$544.50