UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Bobby Walker,
Appellant,

v. **No. 17-4460**
Robert L. Wilkie,
Secretary of Veterans Affairs,
Appellee.

APPELLANT'S APPLICATION FOR AN AWARD OF REASONABLE ATTORNEY FEES AND EXPENSES

Mr. Walker asks the Court to award reasonable attorney fees and expenses under the Equal Access to Justice Act ("EAJA") in the amount of $25,565.33 (of which $25,381.51 is fees and $183.82 is expenses).[1]

Throughout this petition, Mr. Walker cites to and discusses Court memorandum decisions, for their persuasive value, not for their precedential value. Because EAJA reasonableness determinations are made on a case-by-case basis, there are few clear precedents addressing many of the relevant factors.

1. Mr. Walker meets the basic criteria for an EAJA award.

To receive an award of attorney fees and expenses, Mr. Walker must establish he was a "prevailing party" in the underlying suit, unless the Secretary's position was substantially justified or special circumstances

[1] 28 U.S.C. § 2412(d).

make an award unjust.[2] Mr. Walkeris a prevailing party if he "succeed[s] on any significant issue in litigation which achieves some of the benefit the parties sought" on appeal.[3] Mr. Walker establishes prevailing party status when his remand is "predicated upon administrative error."[4]

Mr. Walker must prove 4 elements to successfully plead entitlement to EAJA fees: (1) An assertion he is a prevailing party as defined by EAJA; (2) An assertion his net worth is not more than $2 million; (3) An allegation the Secretary's position at the administrative or litigation levels was not substantially justified; and, (4) inclusion of an itemized statement of the fees and expenses in an affidavit of Mr. Walker's counsel.[5] The third element requires only a mere allegation that the Secretary's position at the administrative or litigation stage(s) was not substantially justified – the burden then shifts to the Secretary to prove his position at both stages was substantially justified.[6] Neither the correctness of the parties' positions, nor the success of specific arguments (or even whether arguments were reached) are the focus of evaluating substantial justification; instead, the Court assesses whether the Secretary's position at both stages has a "reasonable

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[2] 28 U.S.C. § 2412(d)(1)(A).
[3] *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)(internal quotations omitted).
[4] *Zuberi v. Nicholson*, 19 Vet. App. 541, 544 (2006).
[5] 28 U.S.C. §2412(d); *Cullens v. Gober,* 14. Vet. App. 234 (2001)(en banc).
[6] *Swiney v. Gober*, 14 Vet. App. 65, 70 (2000).

basis both in law and fact."[7]

1.1 Mr. Walker is a prevailing party under EAJA.

Mr. Walker is a prevailing party because the parties agree that the BVA erred by, *inter alia*, relying on GAF scores in a C&P exam opinion conducted when DSM-5 was in effect.[8]

1.2 Mr. Walker's net worth does not exceed $ 2 million.

Mr. Walker's net worth was less than $2 million at the time the appeal was filed.[9]

1.3 The Secretary's position, at the agency or the BVA, did not have a reasonable basis in law or fact.

Mr. Walker alleges that the Secretary's position, at the agency or the BVA, was not substantially justified, and that there are no special circumstances that would render an award of fees unjust.

1.4 Mr. Walker's itemized billing is supported by his attorney's affidavit.

Mr. Walker attached an itemized invoice of the hours billed by his attorney in this matter, supported by an affidavit from Mr. Walker's counsel.[10]

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[7] *Pierce v. Underwood*, 487 U.S. 552, 566 (1988); *Cullens,*14 Vet. App at 240; *citing, Stillwell v. Brown,* 6 Vet. App. 291, 302 (1994).
[8] *Joint Motion to Remand,* page 1 – 3.
[9] *Appendix ("App")* at 1.
[10] *App*. at 24 – 36.

Shorthand references are used in that invoice. Time entries which have "CA" in the "Role" column indicate the work was performed by attorney of record Chris Attig who has been licensed to practice law in Maryland (since 2003) and Texas (since 2006).[11] Time entries which have "JS" in the "Role" column indicate the work was performed by attorney Jennifer Steel who has been licensed to practice law in Arkansas (since 1995) and Texas (since 1998).[12] Time entries which have "AC" in the "Role" column indicate the work was performed by attorney Alexandra Curran, who has been licensed to practice law in Rhode Island (since 2011) and Massachusetts (since 2011).[13]

In the attached itemization, time entries which have the following initials in the "attorney" column are individuals who performed work that was paralegal in nature: "AW," "BR," "JT," "KH," "SH1," "SH2," "SW". All paralegal work in this appeal was performed in the law firm's Little Rock, Arkansas, office. The qualifications and experience of each person performing work that is paralegal in nature is listed in attorney Attig's affidavit.[14] Each individual's experience is listed with the initials used to record their billing time in the affidavit. Their actual names are with-held

[11] *App.* at 2 – 3.
[12] *App.* at 3 – 4.
[13] *App.* at 4 – 5.
[14] *App.* at 5 – 8.

not only for privacy, security, and safety reasons, but also because the names of individuals performing paralegal work is not relevant to the establishment of a reasonable hourly rate for those individuals.[15]

Mr. Walker alleges that paralegal work requires no certification or licensure by any state or federal government, and that there is no license for becoming a "paralegal." In fact, paralegal work is defined not by the qualifications of the person who performs the work, but by the nature of the work performed. The Court has noted that the work of staff may be billed at paralegal rates if the affidavit explains the experience and education of the individual, a description of the work performed, and the standard billing rate for such staff.[16]

Mr. Walker is aware of no federal court decision which has ever required individuals performing work that is paralegal in nature be identified by name for purposes of an EAJA application; indeed, he argues that because paralegal work requires no certification or licensure, the name

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[15] *See App.* at 11 – 12.

[16] *Teixeira v. Nicholson*, 21 Vet. App. 77 (2006),*citing*, *Baldridge*, 19 Vet. App. at 236, *quoting Role Models Am., Inc. v. Brownlee*, 353 F.3d 962, 970 (D.C. Cir. 2004).

of the individual who performed paralegal work is not relevant to a request for EAJA fees for their work.[17]

2. This application seeks reasonable fees and costs under EAJA because the hourly rate and hours billed are both reasonable.

Mr. Walker bears the burden of demonstrating reasonableness of the EAJA application.[18] A reasonable fee is generally the product of reasonably billed hours and a reasonable hourly rate.[19] Reasonable fees are those "that would normally be charged to and paid by a private client", and the Court's focus is on whether each billing entry may be reasonably billed to the government.[20] Reasonableness is demonstrated by such factors as: (1) whether particular hours billed are unreasonable on their face, (2) whether the fee sought is contraindicated by factors itemized in *Hensley* or *Ussery;* or, (3) whether the fee is persuasively opposed by the Secretary.[21]

In *Hensley*, the Supreme Court said it will assess the reasonableness of an EAJA application on a case-by-case basis.[22] The Court noted in *Vidal* that

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[17] *App.* at 11 – 12; *see, Role Models America, Inc. v. Brownlee*, 353 F.3d 962, 974 (D.C. Cir. 2004); *Hyatt v. Barnhart*, 315 F.3d 239 (4th Cir. 2002); *Miller v. Alamo*, 983 F.2d 856 (8th Cir. 1993).
[18] *See, Andrews v. Principi*, 17 Vet. App. 319, 321 (2003); *Baldridge v. Nicholson*, 19 Vet. App. 227 (2005).
[19] *Blum v. Stenson*, 465 U.S. 886, 897 (1984), *quoting Hensley*, 461 U.S. at 434.
[20] *Baldridge v. Nicholson*, 19 Vet. App. 227, 234 (2005).
[21] *McCormick v. Principi*, 16 Vet. App. 407, 413 (2002). *Hensley,* 461 U.S. at 430 (1983); *Ussery,* 10 Vet. App. at 53.
[22] *See Hensley*, 461 U.S. at 429.

"[E]ach case stands on its own evaluation and is not easily comparable with any other case," and that the Court would not engage in an "exercise of hypothetical comparability of seemingly endless possibilities" to compare fees across multiple appeals.[23] The facts of a case determine the reasonableness of the fee in that case.[24] Even though reasonableness is defined within the four corners of a given case, the Court's memorandum decisions offer insight into the reasoning used to evaluate reasonableness. In *Jones v. Shulkin*, for example, the Court declined the Secretary's request to compare the fee sought in that appeal to other "single-issue cases with similar sized records."[25] Instead, it applied *Vidal* to conclude that the Secretary's comparison to other appeals did not render the 50.2 hours claimed to be facially excessive or unreasonable.[26]

Since Mr. Walker was ultimately successful on appeal, he may recover compensation for "time reasonably spent on an unsuccessful argument in support of a successful claim," in part because denying fees for "zealous advocacy that was appropriately provided …would be at odds with the norms

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[23] *Vidal*, 8 Vet. App. at 493.
[24] *Hensley*, at 429; *Baldridge*, 19 Vet. App. at 233.
[25] *Jones v. Shulkin*, No. 16-0838(E), 2018 U.S. App. Vet. Claims LEXIS 260, at *7 (March 1, 2018).
[26] *Jones*, 2018 U.S. App. Vet. Claims LEXIS 260, at *7 – 8, *citing Vidal*, 8 Vet. App. at 493.

of professional responsibility."[27] So long as an unsuccessful argument is "made in good faith," it constitutes "effort reasonably expended in advancing" an appeal.[28]

2.1 Mr. Walker's proposed hourly rate is reasonable.

Mr. Walker is entitled to recover the EAJA base hourly rate of $125 per hour for attorneys, adjusted to compensate for cost-of-living changes since that base rate was established. To calculate the hourly rates for the attorneys in this case, Mr. Walker chose the month prior to the month in which his JMR was filed (April 2019) as the litigation mid-point upon which to adjust base this adjustment.[29]

Mr. Walker asserts attorneys Attig and Steel are entitled to the regional rate for the South Region, using the new 2018 BLS regional divisions as attorney work was exclusively performed in the law firm's office in Little Rock, Arkansas.[30] Mr. Walker therefore seeks a $125 hourly rate for attorneys Attig and Steel, increased to adjust for the cost of living in the Southern Region, based on the cost-of-living adjustment for the stated region at the aforementioned midpoint, yielding an hourly attorney rate of $202.47

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[27] *See Chesser*, 11 Vet. App. at 503-04, *quoting Jaffee v. Redmond*, 142 F.3d 409, 414 (7th Cir. 1998).
[28] *Hensley v. Principi*, 16 Vet. App. 491, 499 (2002).
[29] *Elcyzyn v. Brown*, 7 Vet. App. 170, 179-181 (1994).
[30] *See App.* at 2 – 5.

per hour for Attig and Steel.[31] Mr. Walker asserts Ms Curran is entitled to the regional rate for the Northeast Region, using the new 2018 BLS regional divisions as attorney work she performed was exclusively performed in her remote office in Providence, Rhode Island.[32] Mr. Walker therefore seeks a $125 hourly rate for attorney Curran, increased to adjust for the cost of living in the Northeast Region, based on the cost-of-living adjustment for the stated region at the aforementioned midpoint, yielding an hourly attorney rate of $220.69 per hour. Where an attorney performed work that was paralegal in nature, their time was reduced, in the exercise of billing discretion, to the applicable paralegal rate.

Individuals performing work that is paralegal in nature are compensated under EAJA at prevailing market rates, not the cost to the firm.[33] In *Garrison,* the Court upheld its practice of awarding paralegal fees based on the prevailing market rate.[34] U.S. Attorney's "Laffey Matrix" identifies prevailing market rates for paralegals, and is a "reliable indicator of fees").[35] The Department of Justice's paralegal rate in the "Laffey Matrix"

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[31] *See App.* at 5.
[32] *See App.* at 4 – 5; *accord Speigner v. Shinseki,* 2019 U.S. App. Vet. Claims LEXIS 309 (February 28, 2019).
[33] *Richlin Sec. Serv. Co., v. Chertoff*, 553 US 571 (2008).
[34] *Garrison v. Peake,*22 Vet. App. 192, 194 (2010); *accord Sandoval,* 9 Vet. App. at 181.
[35] *App.* at 8 – 9; *Wilson v. Principi*, 16 Vet. App. 509, 213 (2002) *vacated on other grounds by* 391 F.3d 1203 (Fed. Cir. 2004); *Laffey v. Northwest Airlines,*

is a reasonable indicator of the prevailing market rate for individuals performing work that is paralegal in nature under EAJA and this Court has used the U.S. Attorney's Office's "Laffey Matrix" as an indicator of prevailing market rate.[36]

To corroborate the reasonableness of the Laffey Matrix rate, Mr. Walker has included a private study that found that the *average* market rate for a non-lawyer in an Arkansas law firm was $150 per hour in 2018.[37] He has included relevant pages showing prevailing market rates for paralegals in various spectrums, as published in the 2018 National Utilization and Compensation Survey Report prepared by "NALA – The Paralegal Association."[38] That report indicates that average ranges of $129 to $150 per hour are the prevailing market paralegal rates for firms with 2 to 5 attorneys, paralegals with various years of experience, paralegals with various training backgrounds, and paralegals in the Southeast geographic region.[39]

Inc., 572 F. Supp. 354 (D.D.C. 1983), *aff 'd in part by* 746 F.2d.4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985).

[36] *Kiddey v. Shinseki,* 22 Vet. App. 367, 373 (2009), *citing Baldridge and Sandoval v. Brown,* 9 Vet. App. 177, 181 (1996).

[37] *App.* at 8 – 9, 23.

[38] *App.* at 8 – 9, 37 – 47

[39] *Id; App.* at 9.

The rate Mr. Walker seeks for paralegals is slightly higher than the average prevailing market rates from those various sources, because there is a shortage of paralegals, and heavy competition for paralegals, in the Little Rock, Arkansas, market.[40]

Further, the Secretary has routinely approved the *Laffey* rate for and "ascertain[ed] the reasonableness" of the Laffey Matrix paralegal rate, even when knowing nothing but the name of the paralegal, and absent any discussion of their experience or location, for attorneys performing work in Rhode Island, Colorado, New Jersey, South Carolina, Virginia, Wisconsin, and the District of Columbia.[41] The Court can "take judicial notice of the Secretary's contrary positions."[42]

As such, based on the 2018 – 2019 edition of the Laffey Matrix, Mr. Walker seeks paralegal fees at the rate of $164 per hour for their work on his appeal in FY 2018, and $166 per hour for their work on his appeal in FY 2019.[43] There is no windfall to Mr. Walker by seeking application of the above rates in this case.

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[40] *App.* at 9 – 10.
[41] Uncontested Applications for EAJA Fees, *Jamison v. Wilkie*, #17-1231 (Rhode Island); *Simpson v. McDonald*, No. 15-2661 (Washington, D.C.); *Hooks v. Wilkie*, #18-1546 (Colorado); *Hamilton v. McDonald*, #16-0939 (New Jersey); *McPherson v. Wilkie*, #17-2908 (South Carolina); *Lewis v. Shulkin*, #15-3021 (Virginia); *Rawson v. Wilkie*, #17-0681 (Wisconsin).
[42] *Correia v. McDonald,* 28 Vet. App. 158, 163 n.3 (2016).
[43] *App.* at 18.

2.2 Hours claimed by Mr. Walker's counsel are reasonable, as counsel thoroughly exercised and explained his billing discretion.

Mr. Walker contends the hours billed to his appeal was time reasonably expended and hours reasonably billed. As explained below, attorney Attig exercised his billing discretion, for the time billed for himself, attorney Steel, and attorney Curran, and individuals performing work that is paralegal in nature as follows. First, attorney Attig reviewed individual line item entries and daily billing totals.[44] Second, he reviewed the total hours expended on the case in distinct phases of this appeal.[45] Third, he considered the relation of the total amount billed to the outcome achieved for Mr. Walker.[46] Notation of any reductions to time entries are found in the individual time entry in which the reduction occurred.

Mr. Walker considered time spent by individuals performing paralegal work on tasks related to the filing and receipt of motions, orders and pleadings in this case; he considers these to be legal tasks necessary to obtain the results achieved, properly delegated to an individual performing work that is paralegal in nature and properly billed to a private client and the government under EAJA.[47] When a portion of attorney or paralegal time

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[44] *App.* at 12 – 14.
[45] *Id.*
[46] *Id.*
[47] *Id.*

spent on purely clerical work, or a clerical act necessary to the completion of a legal task or would otherwise not be billed to a private client, Mr. Walker's attorney reduced time spent on these tasks.[48] Additionally, where time was spent conferring on, drafting and filing motions for extension, that time was eliminated only where the extension would have been unnecessary "had the appellant's counsel more efficiently managed his workload[.]"[49] As the Court in *Hensley* noted, there is no *per-se* bar to EAJA compensation for hours spent preparing motions for extension of time, recognizing "that on occasion, circumstances beyond the appellant's control make timely performance difficult, if not impossible."[50]

Mr. Walker contends the total amounts billed for each employee in each phase of this litigation are reasonable on their face. He specifically addresses the reasonableness of paralegal work in the "Record Review Phase." The task of record review and comparison is necessary and reasonable because a Court rule requires the record on appeal consist of everything in the claims file at the time of the BVA decision.[51] The record on appeal is the most critical document in any appeal, and its review and comparison to the record in the lower court or tribunal is the type of work traditionally performed by

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[48] *Id*.
[49] *Hensley v. Principi,* 16 Vet. App. 491, 499 (2002).
[50] *Id*, at 498.
[51] U.S. Vet. App. R. 10.

an appellate attorney. An attorney's priority in an appeal is to "organize the thousands of disjointed bits and pieces of evidence from the trial record into a coherent unit that fosters favorable resolution of the legal issues on appeal."[52] Before any statement of facts can be written in a brief or statement of issues, "the record must be mastered."[53] The late Justice Scalia encourages "mastery of the record" for appellate attorneys, so that their knowledge of the proceedings below is " utterly complete and meticulously organized."[54] The so-called "bible" of federal appellate practice "cannot overstate the importance of the contents of the record on appeal: It is, quite literally, the playing field (or battlefield) upon which the appeal will be fought, and its boundaries are, by and large, those of the appeal itself."[55] The Court has found that "judicial efficiency is not increased when counsel enters into a joint motion for remand before reviewing a client's claims file or record and fails to provide guidance to the Board concerning its responsibilities on remand."[56]

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[52] SENIOR CIRCUIT COURT JUDGE RUGGIERO ALDISERT, Winning on Appeal: Better Briefs and Oral Advocacy 167 (2d ed. 2003).
[53] *Id.*
[54] JUSTICE ANTONIN SCALIA & BRYAN A. GARNER, Making Your Case: The Art of Persuading Judges 151 – 152 (2008).
[55] MAYER BROWN, Federal Appellate Practice 204 (2d ed. 2013).
[56] *Carter v. Shinseki*, 26 Vet. App. 534, 546 (2014).

The task of record review is not duplicative, because the work involves reviewing both the RBA and C-File, and comparing the former to the latter. The RBA and C-File are distinct and separate files. Though it is true that some pages appear in both files, this does not make the task of record review duplicative. The Court has, in *Parrott* and in *Thompson,* rejected arguments that review of the RBA and comparison to the C-file is duplicative.[57] In *Parrott*, the Court did not reduce record review time, reasoning that even though the review of the files was "necessarily duplicative," a reduction would penalize an attorney's diligence in ensuring the accuracy and completeness of the record on appeal.[58] In *Thompson*, where the appellant argued that review of the RBA and C-File were distinct tasks reflecting review of two distinct documents, the Court agreed that appellant did not bill for "the exact same task," and was "satisfied that a reduction [was] not warranted."[59]

Nor is Mr. Walker's billing for time spent on record review and comparison "block-billing." The practice of "block-billing" is characterized by descriptions of large blocks of time.[60] Block-billed time is not *per se*

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[57] *Parrott*, 2015 U.S. App. Vet. Claims LEXIS 1386, at *13-14. *Thompson*, 2017 U.S. App. Vet. Claims LEXIS 723, at *10.
[58] Parrott, 2015 U.S. App. Vet. Claims LEXIS 1386, at *14.
[59] Thompson, 2017 U.S. App. Vet. Claims LEXIS 723, at *10.
[60] *See Baldridge*, 19 Vet. App. at 235.

unreasonable and is subject to reduction only when the descriptions are vague and prevent judicial review of the billed time.[61] The critical factor in reviewing "block-billed" time is the "level of detail" in the billing statement.[62] For example, the Court accepted "block-billed" time entries of 3.75 – 6.75 hours because the entry provided "sufficient detail" of the various tasks performed.[63] The Court accepted a "block-billed" 7.2 hours of record review because the task itself was straightforward.[64] And when an attorney did not bill more than 3 hours of uninterrupted time on a particular task, and indicated the precise work performed, a reduction of "block-billed" time was not warranted.[65] Even in *Andrews*, where the Court rejected "block-billed" time because "it was not clear what work the appellant's counsel was undertaking," and because counsel had "not indicated whether any hours spent on these activities were excluded based on the exercise of billing judgment," the Court did not rule that any entry greater than 3 hours is presumptively excessive.[66] *Andrews* cautions attorneys to heed "clear

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[61] *Id.*
[62] *Teixeira v. Nicholson*, 21 Vet. App. 77 (2006).
[63] *Sohl v. Nicholson*, 2006 U.S. App. Vet. Claims LEXIS 462 at *5 – 8 (June 7, 2006).
[64] *Bailey v. Nicholson*, 2006 U.S. App. Vet. Claims LEXIS 469 at *9 – 11 (May 25, 2006)
[65] *Kratzer v. Shinseki*, Nos. 06-0400, 08-11468(E), 2009 U.S. App. Vet. Claims LEXIS 1575, at *12-13 (Sep. 8, 2009).
[66] Andrews v. Principi, 17 Vet. App. 319, 322 (2003).

guidance [from the Court] regarding the appropriate level of specificity," warning them that block-billing may evidence unreasonableness if an attorney repeatedly fails "to provide sufficient detail" of a task, or relies on block-billing as his predominant billing practice.[67]

Mr. Walker's billing invoice identifies the precise task paralegals performed during record review, which paralegal performed the task, and sufficiently describes the work performed, broken down into uninterrupted increments of 3 hours or less. The task of record review is straightforward, and the time entries are sufficiently detailed that the Court can assess how the time billed compares to the task performed.

Mr. Walker contends the time spent on record review and comparison was reasonable, necessary and productive of the results obtained. The Court has found record review rates of 43 – 120 pph to be reasonable or plausible.[68]

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[67] *Andrews*, 17 Vet. App. at 322; *Rockefeller v. Nicholson*, 2006 U.S. App. Vet. Claims LEXIS 461, *4 – 5 (May 17, 2006).

[68] *See Thompson v. Shulkin*, No. 14-2356E, 2017 U.S. App. Vet. Claims LEXIS 723 (May 19, 2017) (in case involving Mr. Attig as counsel, comparing 810 page RBA to 353 page file provided by prior attorney at 105 pages per hour (hereinafter, "pph") is not duplicative or unreasonable); *Parrott v. McDonald*, No. 14-3209E, 2015 U.S. App. Vet Claims LEXIS 1386 (October 14, 2015) (in case involving Mr. Attig as counsel, record review and comparison is not clerical, and Court will not reduce billing and penalize claimant for attorney's diligence in ensuring record on appeal was accurate and complete by comparing 918 page C-file to 1,102 page RBA at rate of 120 pph); *Gordon*, 22 Vet. App. 265 (2008) (43 pph for record review is "plausibly reasonably"); *Canada v. Shinseki*, No. 09-2203E, 2012 U.S. App. Vet. Claims LEXIS 1566 at *9 (July 24, 2012) (rate of review of 2 pages per minute to

Accordingly, Mr. Walker contends the full amount of attorney and paralegal time billed for record review is reasonable and necessary, and requests the Court not penalize Mr. Walker for his attorney's diligence in ensuring the record before the agency was accurate and complete.

3. Mr. Walker asks the Court to award $25,386.16 in fees and $183.82 in expenses.

When Mr. Walker meets all the eligibility requirements for EAJA fees and expenses, the Court "shall award" them.[69] The following table of hours by attorney or paralegal, and their rate, appears in the billing invoice. *App.* at 35 – 36.

review 6,000 page record is "eminently reasonable on its face"); *Strazzella v. Shinseki*, No. 07-2864E, 2011 U.S. App. Vt. Claims LEXIS 257, *8 (February 8, 2011) (73 pph rate by attorney to review and compare claims file and RBA totaling more than 4,000 pages is not unreasonable); *Sperry v. Shinseki*, 24 Vet. App. 1, 7 (2010) (102 pph is not unreasonable rate to review 844 page record); *Mynes v. Shinseki*, 09-4438E, 2011 U.S. App. Vet. Claims LEXIS 905 (111 pph for record review is "plausibly reasonable" amount of time to review the record: the task is "time consuming, but it is necessary"); *Lawson v. Peake*, 05-2313E, 2008 U.S. App. Vet. Claims LEXIS 1524 (December 19, 2008) (74 pph for record review is reasonable because "with a record nearing 2,000 pages, such review can be complicated by the inherent tedium of simply matching and identifying documents.").

[69] *Gavette v. Office of Personnel Management*, 808 F.2d 1456, 1466 (Fed. Cir. 1986)(en banc).

Time Keeper	Position	Quantity	Rate	Total
Chris Attig	Attorney	91.8	$202.47	$18,586.79
Chris Attig	Attorney	0.1	$166.00	$16.60
Chris Attig	Attorney	2.9	$164.00	$475.60
Alexandra Curran	Attorney	1.2	$220.69	$264.83
Jennifer Steel	Attorney	5.3	$202.47	$1,073.09
SH2 [redacted]	Non-Attorney	0	$164.00	$0.00
SH2 [redacted]	Non-Attorney	2.1	$166.00	$348.60
SH1 [redacted]	Non-Attorney	0.4	$166.00	$66.40
KH [redacted]	Non-Attorney	1.9	$164.00	$311.60
BR [redacted]	Non-Attorney	2.4	$166.00	$398.40
JT [redacted]	Non-Attorney	0.1	$166.00	$16.60
JT [redacted]	Non-Attorney	1.0	$164.00	$164.00
AW [redacted]	Non-Attorney	21.2	$164.00	$3,476.80
SW [redacted]	Non-Attorney	0.9	$166.00	$149.40
SW [redacted]	Non-Attorney	0.2	$164.00	$32.80

Accordingly, Mr. Walker respectfully requests the Court grant this petition for attorney fees and award a total amount of $25,565.33 (of which $25,381.51 is fees and $183.82 is expenses).

DATED: MAY 31, 2019

Respectfully Submitted,
ATTIG | STEEL, PLLC

BY: */s/ Chris Attig*

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the United States of America that on May 31, 2019, I caused this motion to be served on the Secretary by and through the Court's E-Filing system:

SECRETARY, DEPARTMENT OF VETERANS AFFAIRS
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