

DECLARATION OF BOBBY WALKER

STATE OF FLORIDA §
COUNTY OF LEE §

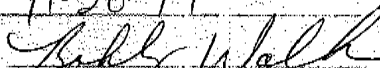
Pursuant to 28 U.S.C. 1746, I, Bobby Walker, declare under penalty of perjury that the following is true and correct:

1. My name is Bobby Walker.
2. I am more than eighteen years of age, of sound mind, and fully competent to make this declaration.
3. I have personal knowledge of the matters set forth below and they are all true and correct.
4. I am the Appellant in this appeal.
5. At the time that my appeal to the Court of Appeals for Veterans Claims was filed, my personal net worth did not exceed \$2 million dollars; nor did I own any unincorporated business, partnership, corporation, association, unit of local government, or organization, of which the net worth exceeded \$2 million dollars and which had more than 500 employees.

Executed on

11-20-17

Signature:



Bobby Walker, Appellant

DECLARATION OF CHRIS ATTIG, ATTORNEY

STATE OF ARKANSAS §

COUNTY OF PULASKI §

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

"My name is Chris Attig, Attorney. I am more than eighteen years of age, of sound mind, and fully competent to make this affidavit. I am lead attorney for Appellant in the below styled and numbered cause, and in that capacity I have personal knowledge of the following itemization, and it is true and accurate:

1. Time claimed in this itemization was tracked as it occurred. I have reviewed the attached billing statement and am satisfied that it accurately reflects the work performed on behalf of the client in this matter.

2. Three attorneys billed time to this case.

- 2.1. Time entries which have "CA" in the "Attorney" column indicate the work was performed by attorney Chris Attig. I graduated from South Texas College of Law (2003), and am licensed to practice law in Maryland (since 2003) and Texas (since 2006). I spent one semester of law school at the University of Texas School of Law, while serving as a law clerk to Chief Justice Thomas Phillips of the Texas Supreme Court. I have practiced before U.S. Federal District Courts in the Northern and Eastern Districts of Texas, and have briefed and orally argued employment cases on behalf of US Veterans before the Court of Appeals for Veterans Claims, the U.S. Court of Appeals for the Federal Circuit, and the U.S. Court of Appeals for the Fifth Circuit. I am admitted to the Bar of the

Supreme Court of the United States. I have handled a variety of cases in which I have billed private clients on an hourly basis, including but not limited to family law, employment law (for both employers and employees), appeals before the federal Merit Systems Protection Board (MSPB) and the Equal Employment Opportunity Commission (EEOC); these forums have awarded me hourly rates as high as \$375 per hour for my appellate legal work, pursuant to the fee-shifting statutes that govern those federal tribunals. I am admitted to practice before the US Court of Veterans Appeals since September 2007, and have been an accredited VA Attorney since 2008. I serve on the Board of Directors for the National Organization of Veterans Advocates (2015 - present), and have published several paper and electronic books on the VA Claims Process and the law of VA Claims. My primary role in cases at the firm is to set the strategy and directing the course of representation in this appeal; communicate with the client about the case, verifying and studying the record on appeal, assessing and deciding on legal strategies, the status of the appeal, and the impact of the appeal on the proceedings below; directly supervising the work of multiple individuals performing work that is paralegal nature; reviewing and verifying the accuracy of the record before the agency; preparing the Rule 33 brief and participating in the Rule 33 Conference; preparing the opening brief, negotiating the JMR; and, exercising billing discretion in the preparation of the EAJA petition. Based on the above information, a reasonable hourly rate for my services in an appeal to a federal appellate court is in excess of \$375/hr. I performed work in this appeal exclusively in the firm's Little Rock, Arkansas, office of ATTIG | STEEL, PLLC.

- 2.2. Time entries which have "JS" in the "Attorney" column indicated the work was performed by attorney Jennifer Steel. Ms Steel graduated from the Bowen School of Law

in Little Rock, Arkansas (1993), and is licensed to practice law in Arkansas (since 1995) and Texas (since 1998). She was in private practice from 1995-2010, practicing medical malpractice and injury law. Ms. Steel was admitted to practice before the United States Court of Appeals for Veterans Claims in April 2010 and has been an accredited VA Attorney since 2010. Ms. Steel's primary role at the law firm of ATTIG | STEEL, PLLC, is that of Managing Attorney. Her duties in cases at the firm include, but are not limited to, hiring, training and managing staff, directly supervising the work of paralegals and staff, reviewing and editing briefs and other pleadings filed with the Court, ensuring that all deadlines are docketed and met, and communicating with clients about the facts of their case, the status of their appeal and responding to questions about appellate procedure. Based on the above information, a reasonable hourly rate to be charged for Ms Steel's time, if it were billed to a private client, would be no less than \$400 per hour. Any work performed in this appeal occurred out of the firm's Little Rock, Arkansas office.

- 2.3. Time entries which have "AC" in the "Attorney" column indicated the work was performed by attorney Alexandra Curran. Ms Curran graduated from Roger Williams University Law School in 2010. She clerked with the Rhode Island Workers' Compensation Court. Since 2012, she has represented veterans as an appellate attorney in numerous appeals before the U.S. Courts of Appeals for Veterans Claims. She was admitted to the Court's bar in 2012, is licensed to practice law in Rhode Island (2011) and Massachusetts (2011), has been an accredited VA attorney since 2014, and is admitted to practice before the U.S. District Court for the District of Rhode Island. She serves as an attorney mentor for attorneys representing veterans through the TVC Pro-Bono Consortium. Her primary role in appeals at this firm include coordinating the strategy and course of representation; communicating

with the client about the facts, law, procedural posture, and status of the case, verifying and studying the record on appeal, mapping the case in the record before the agency and/or the veteran's claims file, assessing and deciding on legal strategies; directly supervising the work of multiple individuals performing work that is paralegal nature; reviewing and verifying the accuracy of the record before the agency; preparing the Rule 33 brief and participating in the Rule 33 Conference; preparing the opening brief and reply brief, negotiating the JMR; drafting and filing motions for reconsideration, panel review, en banc review; preparing for oral arguments and appearing before the Court in oral arguments as either first or second chair; and, exercising billing discretion in the preparation of the EAJA petition. Based on the above information, a reasonable hourly rate to be charged for Ms Curran's time, if it were billed to a private client, would be no less than the Rhode Island prevailing market rate of \$417 per hour. Any work performed in this appeal by Ms Curran occurred in Providence, Rhode Island.

3. The hourly attorney rates for attorneys Attig, Curran and Steel were determined by adjusting the \$125 per hour statutory EAJA rate by the increase in the cost of living as determined by the Consumer Price Index-U for the Northeast (for Attorney Curran) and for the South Region (for Attorneys Attig and Steel). *See Mannino v. West*, 12 Vet. App. 242, 243 (1999). The increase was calculated for the period from March 29, 1996 (the start date for the EAJA rate) to the midpoint month noted in the EAJA petition, using the method described in *Elczyn v. Brown*, 7 Vet. App. 170, 181.
4. At various points in this case, various paralegals billed time. Attorney Attig employed multiple individuals who performed work that is paralegal in nature in the Little Rock, Arkansas office of the law firm. Paralegals are defined by the nature of the work that they do, and work was assigned to paralegals who had sufficient experience and/or had received substantial on the job training to be

able to perform tasks that are typically performed by an attorney. Each individual performing paralegal work is supervised by Attorney Attig, Steel and Curran in this case. The following paralegals billed time to this case.

- 4.1. Entries marked with “KH” refer to a paralegal who graduated the Paralegal Program at the University of Arkansas (Fayetteville) in 1995, served as a paralegal and judicial assistant to a federal court bankruptcy judge for 16 years.
- 4.2. Entries marked “JT” refer to a paralegal who is a graduate of Everest College in Dallas, Texas and a graduate of the Medical Assistant Diploma program, with extensive experience with client management in her prior positions in the medical field. She was provided extensive training on the job in performing work such as managing client files, client communications, filing electronic documents with the Court, motion drafting and maintaining and updating the firm’s deadline and attorney calendars. She was supervised by attorneys Jennifer Steel and Chris Attig while performing work that is paralegal in nature and that would typically be performed by an attorney.
- 4.3. Entries marked “SW” refer to a paralegal with a B.S. in Legal Studies from the American Military University, and an Associate degree from Pulaski Technical College, and who had relevant experience maintaining and verifying the integrity of financial and employee and other business data with Toyota North America for 5 years. She received substantial on the job training, performing work that is paralegal in nature and on tasks that would normally be performed by an attorney, under the direct supervision of attorneys Chris Attig and Jennifer Steel, performing work such as managing client files, client communications, filing electronic documents

with the Court, motion drafting, and maintaining and updating the firm's deadline and attorney calendars.

- 4.4. Entries marked "SH1" refers to a paralegal who is a student at the University of Arkansas Little Rock, with an anticipated graduation date of May 2020, with a degree in Business Administration with relevant experience: a) maintaining and reviewing/comparing the accuracy and completeness of voter and election records in the Arkansas Secretary of State office; b) reviewing and verifying the accuracy of information in residential loan applications for a mortgage broker for 2 years; and, c) providing records and program support in a position with the US Dept. of Agriculture for 5 years. This individual has received extensive on the job training by performing work such as maintaining firm's digital records, managing client files, client communications, filing electronic documents with the Court, and maintaining and updating the firm's deadline and attorney calendars, and record review because of her extensive experience maintaining, researching, verifying, comparing detailed business and government agency records. This individual is supervised by attorneys Attig and Steel to perform record review and other work that is paralegal in nature, that would typically be performed by an attorney.
- 4.5. Entries marked "AW" refer to a paralegal who is beginning his second year at Hendrix College, with an anticipated graduation date of May 2022. This individual has been employed by the firm since 2016, initially fulfilling functions other than work that is paralegal in nature. He received substantial training in the firm's systems and process, and because of this employee's intelligence (a National Merit semi-finalist who placed at or above the 99th percentile of high school students nationwide in both the SAT and multiple ACTs), critical thinking skills, attention to detail, accuracy, technical

knowledge, and rapid grasp of concepts of VA disability law and procedure, he has been promoted and works on a part-time basis performing tasks that are paralegal in nature and that would normally be performed by an attorney, under the supervision of attorneys Chris Attig and Jennifer Steel.

4.6. Entries marked “SH2” refer to a paralegal who has 19 years experience working at law firms, including the past 16 years as a paralegal. Her experience during that time includes providing support to 4 - 6 attorneys at a time as a paralegal at firms that appear before the Arkansas Supreme Court and Courts of Appeal and various state agencies, supporting attorneys with commercial litigation, environmental law, employment disability law, trusts & estate law, family law and general civil and criminal practices. Her experience includes drafting and filing motions and briefs, legal research, maintaining firm and attorney calendars, managing and organizing attorney dockets, editing, case planning, client support and relationships, time/billing/payroll, providing IT support, and more. She is supervised in this work by attorneys Attig, Steel, and Curran.

5. The Laffey Matrix rate is an appropriate and accurate measure of the prevailing market rate for a paralegal working with the law firm of Attig | Steel, PLLC, in the Little Rock market. The Laffey Matrix is included in this appendix and shows the rates from 2016 – present. The reasonableness of this rate is corroborated by the following:

5.1. In 2018, a private company published a study that shows that in Arkansas, the “real hourly rates” for non-lawyers and paralegals (which I understand to be the rate that reflects actual purchasing power, in other words, the prevailing market rate), was an average of \$150 per hour. *See e.g.*, Legal Trends Report (2018), found at <https://www.clio.com/wp-content/uploads/2018/10/Legal-Trends-Report-2018.pdf> at

page 51, 66 (last visited December 18, 2018). Page 66 has been attached as last page of this appendix. On that chart, the “adjusted” rates demonstrate the actual purchasing power, or prevailing market rate.

5.2. In 2018, an organization known as “NALA – The Paralegal Association” published its National Utilization and Compensation Survey Report. Since 1986, NALA has conducted research at a national level to understand the paralegal profession, including surveys of compensation levels and billing rates. The section of this extensive study and report that pertains to Compensation and Billing Rates has been included in this appendix, as cited in the petition. That document indicates that in 2018, the average hourly billing rate for paralegals in the Southeast geographic region, where Attig | Steel is located, was \$148/hr. In 2018, the average hourly billing rate for paralegals in firms with 2 – 5 attorneys, such as Attig | Steel, was \$137/hr. In 2018, the average hourly billing rate for paralegals with 1 to 5 years experience was \$129/hr, and the average hourly billing rate for paralegals with 16 – 20 years of experience was \$143/hr. In 2018, the average hourly billing rate for paralegals who never participated in a paralegal training program was \$144/hr. In 2018, the average hourly billing rate for paralegals who had received a “paralegal certificate” was \$150/hr.

5.3. The rates listed in 5.1 and 5.2 are average rates. The local prevailing rate I seek in this case, the Laffey Matrix rate, is slightly higher than the average noted in those studies and reports. Attig | Steel is located in the state capital. Our office is within blocks of the Arkansas State Supreme Court, the Arkansas legislature, and many government agencies which employ paralegals; the demand for paralegal labor in this market is high. The supply of paralegals in the market is comparatively low. According to the Bureau of Labor Statistics “May 2018

Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates for Little Rock, North Little Rock and Conway, Arkansas” there are only 770 paralegals and legal assistants available in the entire market, to support 1,760 attorneys. *See* https://www.bls.gov/oes/current/oes_30780.htm By contrast, in Ft. Smith, Arkansas, there are 170 paralegals and legal assistants to support 140 lawyers. *See* https://www.bls.gov/oes/current/oes_22900.htm

- 5.4. Consequently, the Little Rock, Arkansas, market for firms seeking paralegals, particularly those who have the experience to perform, or the skill to be trained to perform, appellate law support is a “seller’s market.” Because the demand is high, and the supply low, our prevailing market rate is higher than the statewide averages.
- 5.5. Based on my experience as an attorney working in the legal profession as an attorney since 2003, and based on my research and knowledge of the paralegal markets in Texas and Arkansas, the majority of paralegals in law firms do not get training from formal schooling (certificates, associate, bachelor or master degrees, etc.) The majority of paralegals became qualified for their position as the result of on-the-job training in a law firm. For example, this chart from the State Bar of Texas Department of Research and Analysis’ “2014 Paralegal Division Compensation Survey”, at page 18, (found online at www.texasbar.com, shows that in 2014, more than 55% of paralegals were trained to perform their job on the job:

Table 21
Paralegal Training

Paralegal Training			
	2010 Percentage All Districts (N = 1,425)	2014 Percentage All Districts (N = 1,094)	2010 to 2014 Difference
Associate's Degree in Paralegal Studies	25.1%	26.0%	0.9%
Bachelor's Degree in Paralegal Studies	5.6%	6.8%	1.2%
Master's degree in Paralegal Studies	1.2%	1.8%	0.6%
On the job training	54.9%	55.6%	0.7%
Courses in a paralegal program	22.3%	22.7%	0.4%
Completed paralegal certificate program	44.4%	43.1%	-1.3%
Legal courses at college while obtaining a degree	12.6%	12.5%	-0.1%
Other	13.8%	12.5%	-1.3%
None	1.1%	1.1%	0.0%

- 5.6. Individuals performing work that is paralegal in nature have been trained by attorneys at ATTIG | STEEL, PLLC. Those tasks include but are not limited to: client communication, case and docket management, drafting motions, editing motions and briefs, record review, electronic filing, internal firm digital file management, legal and other research, case planning, calendar management, deadline management and calendaring, and more. But for the use of individuals performing record review in this case, I, or the lead attorney in a given case, would perform the tasks we have billed at paralegal rates, particularly record review.
- 5.7. Throughout the time of this appeal, and before, I have never disclosed any of the physical locations of the offices of this law firm. This is due to a desire to ensure that employees and/or contractees of the firm, many of whom work alone, have a secure work environment. In representing a community that, unfortunately, all-too-often suffers from destabilizing mental health conditions, many of which go unnoticed, undiagnosed and/or untreated, it is not uncommon for the firm, its employees, and its contractees to receive death threats and other threats of violence from veterans who were declined representation or who have confused our firm with others

that have declined them. Some have threatened to “blow up our offices” or to “come after” our employees. In August 2015, a mentally ill combat veteran told an employee of my firm he intended to “...find and kill” the employee. A similar scenario occurred in January 2017.

5.8. Additionally, I protect the names and identities of our paralegals and other staff for safety and privacy reasons, since all filings at the Court are public record, and there is no need for the general public to know – or have access to – the names of paralegals and other staff who work for our law firm. Since there is no federal or state paralegal license, identifying the names of individuals who performed work that is paralegal in nature does not tend to prove or disprove the reasonableness of the hourly rate used to bill their time. I bill all paralegals at the same hourly rate because the substantial majority of their competence and experience comes from extensive on the job training in Court process, VA benefits law, VA claims and appeals processes, and other paralegal work not unique to veterans law.

6. I exercised my billing discretion in 3 “Tiers.”

6.1. In Tier I, I reviewed individual line item entries and daily billing totals. I eliminated all time that I believe: was excessive or redundant; benefitted the firm or other clients beyond the instant case; was repetitive, duplicative, or redundant; was clerical; involved tasks I would not bill to a private client; was unreasonable; was unproductive or unnecessary; or was for the education of the attorney; etc. I indicated in a particular time entry when and where I made particular reductions in the exercise of billing discretion.

6.2. In Tier II, I reviewed the total hours expended on the case in distinct phases of this appeal, and considered whether the total amount billed in each distinct phase of

the appeal was unreasonable, excessive or otherwise justified a reduction. I also considered the total spent for all employees in each distinct phase of this appeal. After reviewing the time in this case, and comparing it to the facts, issues and law in the case, and the results achieved for the client, I believe that the remaining time spent in each phase of this appeal was reasonably expended and/or billed. Our firm internally refers to the phases of the appeal as:

A: File & Docket (from first contact by the client until the matter was docketed at the Court);

B: Record Review and Comparison (from docketing at the Court until the conclusion of record disputes or the record dispute time period);

C: Rule 33/Pre-Briefing (from the conclusion of the time to dispute the record through the final Rule 33 Conference);

D: Briefing (from the issuance of the 60-day briefing notice until the assignment of a single judge or agreement to join a JMR, as appropriate);

E: JMR Phase (from the issuance of the Rule 33 “Conference Held” Notice through the issuance of the Court’s mandate on a joint motion to remand);

F: Original EAJA Fee Petition (from the date of issuance of the Court’s decision through the filing of the original EAJA Petition);

G: Oral Argument Phase (from the issuance of the oral argument notice through the day of completion of oral argument and any supplemental briefing);

H: Reconsideration and Appeal Phase (from the

issuance of the Court's memorandum decision until the issuance of the CAVC Mandate on the merits); and,

I: Supplemental EAJA Fee Petition (from the date of the filing of the original EAJA petition until the issuance of the CAVC EAJA Mandate).

- 6.3. In Tier III, I assessed the reasonableness of the overall amount billed for the entirety of the case, considered the reductions identified above, and compared the value of the total amount billed to the outcome achieved for the client, I did not make any further across-the-board reduction to the remaining time billed in this appeal as the remainder of our time billed is reasonable, necessary, and productive of an ideal outcome for the client.
- 6.4. Specifically, in the Record Review phase of the appeal, my firm follows the requirements of U.S. Vet. App. R. 10 by first requesting a copy of the Appellant's C-File from the Secretary's Record Management Center under the Freedom of Information Act (FOIA). Upon receipt of the C-File from the RMC, and the RBA from the Secretary's attorney in this appeal, paralegals perform record review work that would normally be performed by an attorney. They compare the contents of the C-file to the contents of the RBA to ensure that all documents in the C-File were added to the RBA. The purpose of this task is to ensure that the record before the Court is the complete record. This is an arduous task because the files are not organized the same, and do not contain all pages of all documents. They may, in certain cases, review the RBA at the direction of an attorney, to summarize and analyze various aspects of the record relevant to the issues on appeal. They may in certain cases review the RBA for internal consistency, by ensuring that documents mentioned in each adjudicatory document in a given claim stream are in the RBA. They review and

summarize medical documents relevant to the conditions and issues raised in the appeal. They may, in certain appeals, casemap the substantive issues in claims related documents and medical.

6.5. I am unable to access VBMS in my client's cases, because the Secretary allows only one attorney at a time to have VBMS access, and the majority of my firm's clients have another attorney assisting them at the VA Regional Office or Board of Veterans Appeals. Submitting a VA Form 21-22a and accessing VBMS would kick those attorneys out of the case and disrupt their representation of their clients. The Secretary does not submit any business records affidavit to certify who assembled the RBA, how it was gathered, or that it is a true and accurate representation of the record before the BVA at the time of its decision. The only way for me to verify that the RBA proposed by the Secretary is the complete record from the veteran's claims file is to request a copy of the C-File under the FOIA and compare it directly to the RBA. This comparison may, or may not, result in a dispute; it is still necessary because one cannot verify the RBA is complete and accurate without comparing it to a C-File.

6.6. Resolving the disparity between what the Secretary's "left hand" represented before the Court as the RBA and what his "right hand" asserted was the contents of the C-File at the time of the BVA decision in a FOIA response, and then assessing the legal implications to my client and to this appeal is a critical legal task and not clerical in nature, and is necessary to achieve the results obtained. To have ignored this disparity, or to have trusted it to untrained clerical workers, would require me to disregard my duties of loyalty and competence to my client, and to "cut corners" on my duty of candor to the tribunal. The disparity between the two files is more than just the page count, it involves filtering through different,

and differently unorganized, files to ensure that every document the RMC says was before the BVA, and every document that is mentioned in the RBA, is included in the RBA.

6.7. I believe that all of the time spent in review of the record in this case is reasonable.

6.8. In private practice, when I billed private clients on an hourly basis for appellate work before the U.S. Court of Appeals for the Federal Circuit, and the U.S. Court of Appeals for the 5th Circuit, I billed my client for record review time, including comparison of the transcripts submitted by lower courts and tribunals during those appeals. It is, in my experience, the type of task that is traditionally performed by attorneys, and that is traditionally billed, without reduction, to private clients.

6.9. I periodically consult with attorneys at other appellate law firms in non-veteran civil practice areas to confirm how they bill private clients for a review of the trial or hearing record in a state or federal intermediate court of appeal. The amount of time our firm bills in this petition is consistent with what private state and federal appellate lawyers might bill their private fee-paying clients in situations with a voluminous record on appeal that is not prepared for the appellate court by the lower court. No attorney has ever told me that they reduce the time spent on record review. Record review is the type of time that is traditionally billed, without reduction, to private clients. The record is the most critical document in an intermediate appellate court, and having an incomplete, inaccurate, illegible or otherwise insufficient record can threaten the client's recovery, and detrimentally affect the efficiency of the court.

7. All time worked by attorneys and paralegals on this case was billed contemporaneous to the performance of the work by entry into our

firm's case management software. My billing invoice included in this appendix is a true and accurate accounting of the time billed by attorneys and paralegals in this appeal, and a true and accurate accounting of the time eliminated from the billing in the exercise of my billing discretion. I am the custodian of records for my firm, with knowledge of how the document is created.

Originally Executed on May 30, 2019.

By: /s/ Chris Attig
Chris Attig

USAO ATTORNEY'S FEES MATRIX — 2015-2019*Revised Methodology starting with 2015-2016 Year*

Years (Hourly Rate for June 1 – May 31, based on change in PPI-OL since January 2011)

Experience	2015-16	2016-17	2017-18	2018-19
31+ years	568	581	602	613
21-30 years	530	543	563	572
16-20 years	504	516	536	544
11-15 years	455	465	483	491
8-10 years	386	395	410	417
6-7 years	332	339	352	358
4-5 years	325	332	346	351
2-3 years	315	322	334	340
Less than 2 years	284	291	302	307
Paralegals & Law Clerks	154	157	164	166

Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia (USAO) to evaluate requests for attorney's fees in civil cases in District of Columbia courts. The matrix is intended for use in cases in which a fee-shifting statute permits the prevailing

party to recover “reasonable” attorney’s fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412(b) (Equal Access to Justice Act). The matrix has not been adopted by the Department of Justice generally for use outside the District of Columbia, or by other Department of Justice components, or in other kinds of cases. The matrix does **not** apply to cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).

2. A “reasonable fee” is a fee that is sufficient to attract an adequate supply of capable counsel for meritorious cases. *See, e.g., Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010). Consistent with that definition, the hourly rates in the above matrix were calculated from average hourly rates reported in 2011 survey data for the D.C. metropolitan area, which rates were adjusted for inflation with the Producer Price Index-Office of Lawyers (PPI-OL) index. The survey data comes from ALM Legal Intelligence’s 2010 & 2011 Survey of Law Firm Economics. The PPI-OL index is available at <http://www.bls.gov/ppi>. On that page, under “PPI Databases,” and “Industry Data (Producer Price Index - PPI),” select either “one screen” or “multi-screen” and in the resulting window use “industry code” 541110 for “Offices of Lawyers” and “product code” 541110541110 for “Offices of Lawyers.” The average hourly rates from the 2011 survey data are multiplied by the PPI-OL index for May in the year of the update, divided by 176.6, which is the PPI-OL index for January 2011, the month of the survey data, and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).
3. The PPI-OL index has been adopted as the inflator for hourly rates because it better reflects the mix of legal services that law firms collectively offer, as opposed to the legal services that typical consumers use, which is what the CPI-Legal Services index measures. Although it is a national index, and not a local one, *cf. Eley v. District of Columbia*, 793 F.3d 97, 102 (D.C. Cir. 2015) (noting criticism of national inflation index), the PPI-OL index has historically been generous relative to other possibly applicable inflation indexes, and so its use should minimize disputes about whether the inflator is sufficient.
4. The methodology used to compute the rates in this matrix replaces that used prior to 2015, which started with the matrix of hourly rates developed in *Laffey v. Northwest Airlines, Inc.* 572 F. Supp. 354 (D.D.C. 1983), *aff’d in part, rev’d in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021

(1985), and then adjusted those rates based on the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Baltimore (DC-MD-VA-WV) area. Because the USAO rates for the years 2014-15 and earlier have been generally accepted as reasonable by courts in the District of Columbia, *see* note 9 below, the USAO rates for those years will remain the same as previously published on the USAO's public website. That is, the USAO rates for years prior to and including 2014-15 remain based on the prior methodology, *i.e.*, the original *Laffey* Matrix updated by the CPI-U for the Washington-Baltimore area. *See Citizens for Responsibility & Ethics in Washington v. Dep't of Justice*, 142 F.Supp. 3d 1 (D.D.C. 2015) and Declaration of Dr. Laura A. Malowane filed therein on Sept. 22, 2015 (Civ. Action No. 12-1491, ECF No. 46-1) (confirming that the USAO rates for 2014-15 computed using prior methodology are reasonable).

5. Although the USAO will not issue recalculated *Laffey* Matrices for past years using the new methodology, it will not oppose the use of that methodology (if properly applied) to calculate reasonable attorney's fees under applicable fee-shifting statutes for periods prior to June 2015, provided that methodology is used consistently to calculate the entire fee amount. Similarly, although the USAO will no longer issue an updated *Laffey* Matrix computed using the prior methodology, it will not oppose the use of 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.

6. The various "brackets" in the column headed "Experience" refer to the attorney's years of experience practicing law. Normally, an attorney's experience will be calculated starting from the attorney's graduation from law school. Thus, the "Less than 2 years" bracket is generally applicable to attorneys in their first and second years after graduation from law school, and the "2-3 years" bracket generally becomes applicable on the second anniversary of the attorney's graduation (*i.e.*, at the beginning of the third year following law school). *See Laffey*, 572 F. Supp. at 371. An adjustment may be necessary, however, if the attorney's admission to the bar was significantly delayed or the attorney did not otherwise follow a typical career progression. *See, e.g., EPIC v. Dep't of Homeland Sec.*, 999 F. Supp. 2d 61, 70-71 (D.D.C. 2013) (attorney not admitted to bar compensated at "Paralegals & Law Clerks" rate); *EPIC v. Dep't of Homeland Sec.*, 982 F. Supp. 2d 56, 60-61 (D.D.C. 2013) (same). The various

experience levels were selected by relying on the levels in the ALM Legal Intelligence 2011 survey data. Although finer gradations in experience level might yield different estimates of market rates, it is important to have statistically sufficient sample sizes for each experience level. The experience categories in the current USAO Matrix are based on statistically significant sample sizes for each experience level.

7. ALM Legal Intelligence's 2011 survey data does not include rates for paralegals and law clerks. Unless and until reliable survey data about actual paralegal/law clerk rates in the D.C. metropolitan area become available, the USAO will compute the hourly rate for Paralegals & Law Clerks using the most recent historical rate from the USAO's former *Laffey* Matrix (*i.e.*, \$150 for 2014-15) updated with the PPI-OL index. The formula is \$150 multiplied by the PPI-OL index for May in the year of the update, divided by 194.3 (the PPI-OL index for May 2014), and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).
8. The USAO anticipates periodically revising the above matrix if more recent reliable survey data becomes available, especially data specific to the D.C. market, and in the interim years updating the most recent survey data with the PPI-OL index, or a comparable index for the District of Columbia if such a locality-specific index becomes available.
9. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (*en banc*). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the USAO as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n.14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Most lower federal courts in the District of Columbia have relied on the USAO's *Laffey* Matrix, rather than the so-called "*Salazar* Matrix" (also known as the "LSI Matrix" or the "Enhanced *Laffey* Matrix"), as the "benchmark for reasonable fees" in this jurisdiction. *Miller v. Holzmann*, 575 F. Supp. 2d 2, 18 n.29 (D.D.C. 2008) (quoting *Pleasants v. Ridge*, 424 F. Supp. 2d 67, 71 n.2 (D.D.C. 2006)); *see, e.g., Joaquin v. Friendship Pub. Charter Sch.*, 188 F. Supp. 3d 1 (D.D.C. 2016); *Prunty v. Vivendi*, 195 F. Supp. 3d 107 (D.D.C. 2016); *CREW v. U.S. Dep't of Justice*, 142 F. Supp. 3d 1 (D.D.C. 2015); *McAllister v. District of Columbia*, 21 F. Supp. 3d 94 (D.D.C. 2014);

Embassy of Fed. Republic of Nigeria v. Ugwuonye, 297 F.R.D. 4, 15 (D.D.C. 2013); *Berke v. Bureau of Prisons*, 942 F. Supp. 2d 71, 77 (D.D.C. 2013); *Fisher v. Friendship Pub. Charter Sch.*, 880 F. Supp. 2d 149, 154-55 (D.D.C. 2012); *Sykes v. District of Columbia*, 870 F. Supp. 2d 86, 93-96 (D.D.C. 2012); *Heller v. District of Columbia*, 832 F. Supp. 2d 32, 40-49 (D.D.C. 2011); *Hayes v. D.C. Public Schools*, 815 F. Supp. 2d 134, 142-43 (D.D.C. 2011); *Queen Anne's Conservation Ass'n v. Dep't of State*, 800 F. Supp. 2d 195, 200-01 (D.D.C. 2011); *Woodland v. Viacom, Inc.*, 255 F.R.D. 278, 279-80 (D.D.C. 2008); *American Lands Alliance v. Norton*, 525 F. Supp. 2d 135, 148-50 (D.D.C. 2007). *But see, e.g., Salazar v. District of Columbia*, 123 F. Supp. 2d 8, 13-15 (D.D.C. 2000). Since initial publication of the instant USAO Matrix in 2015, numerous courts similarly have employed the USAO Matrix rather than the *Salazar* Matrix for fees incurred since 2015. *E.g., Electronic Privacy Information Center v. United States Drug Enforcement Agency*, 266 F. Supp. 3d 162, 171 (D.D.C. 2017) (“After examining the case law and the supporting evidence offered by both parties, the Court is persuaded that the updated USAO matrix, which covers billing rates from 2015 to 2017, is the most suitable choice here.”) (requiring re- calculation of fees that applicant had computed according to *Salazar* Matrix); *Clemente v. FBI*, No. 08-1252 (BJR) (D.D.C. Mar. 24, 2017), 2017 WL 3669617, at *5 (applying USAO Matrix, as it is “based on much more current data than the *Salazar* Matrix”); *Gatore v. United States Dep't of Homeland Security*, 286 F. Supp. 3d 25, 37 (D.D.C. 2017) (although plaintiff had submitted a “great deal of evidence regarding [the] prevailing market rates for complex federal litigation’ to demonstrate that its requested [*Salazar*] rates are entitled to a presumption of reasonableness, . . . the Court nonetheless concludes that the defendant has rebutted that presumption and shown that the current USAO Matrix is the more accurate matrix for estimating the prevailing rates for complex federal litigation in this District”); *DL v. District of Columbia*, 267 F. Supp. 3d 55, 70 (D.D.C. 2017) (“the USAO Matrix ha[s] more indicia of reliability and more accurately represents prevailing market rates” than the *Salazar* Matrix). The USAO contends that the *Salazar* Matrix is fundamentally flawed, does not use the *Salazar* Matrix to determine whether fee awards under fee-shifting statutes are reasonable, and will not consent to pay hourly rates calculated with the methodology on which that matrix is based. The United States recently submitted an appellate brief that further explains the reliability of the USAO Matrix vis-à-vis the *Salazar* matrix. *See Br. for the United States as Amicus Curiae Supporting Appellees, DL v. District of Columbia*, No. 18-7004 (D.C. Cir. filed July 20, 2018).

Hourly and adjusted hourly rates by state (1)

State	Actual lawyer rate	Adjusted lawyer rate	Actual non-lawyer rate	Adjusted non-lawyer rate	Actual law firm rate	Adjusted law firm rate
AL	\$197	\$224	\$111	\$126	\$185	\$211
AR	\$226	\$259	\$131	\$150	\$213	\$243
AZ	\$251	\$260	\$131	\$136	\$225	\$233
CA	\$311	\$277	\$161	\$143	\$284	\$253
CO	\$247	\$242	\$136	\$134	\$225	\$221
CT	\$317	\$291	\$227	\$209	\$306	\$281
DC	\$327	\$277	\$159	\$134	\$306	\$259
DE	\$271	\$266	\$161	\$158	\$242	\$238
FL	\$283	\$286	\$151	\$153	\$257	\$259
GA	\$264	\$287	\$147	\$160	\$245	\$266
IA	\$154	\$171	\$113	\$125	\$150	\$167
ID	\$203	\$217	\$119	\$127	\$192	\$206
IL	\$280	\$278	\$161	\$159	\$262	\$261
IN	\$220	\$241	\$122	\$133	\$206	\$225
KS	\$187	\$206	\$111	\$122	\$177	\$195
KY	\$207	\$233	\$112	\$126	\$197	\$222
LA	\$222	\$243	\$101	\$111	\$207	\$227
MA	\$258	\$241	\$158	\$148	\$249	\$232

1711.00099-Walker



Date: 05/30/2019

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1711.00099-Walker**Services**

Date	Attorney	Notes	Quantity	Rate	Total
11/02/2017	KH	Gather BVA decision, relevant documents, and client info from referral firm, open case file	0.40	\$164.00	\$65.60
11/03/2017	CA	Review BVA decision, C&P opinions, 2015 BVA decision, atty briefs to BVA, notes as to possible legal issues, questions for referring attorney and PNC	1.20	\$202.47	\$242.96
11/09/2017	CA	Consultation with client, discuss errors, scope of appeal, relief from court, fees, timelines, answer PNC questions	0.90	\$202.47	\$182.22
11/14/2017	KH	Draft onboarding docs (CAVC Form 1, 3, 4, fee agreement, privacy act waivers, other supplemental authority and regulatory/ethical compliance data, deliver same to client; update file w/client info (.7)	0.70	\$164.00	\$114.80
11/21/2017	CA	Review and sign representational and appeal documents (.1)	0.10	\$202.47	\$20.25

12/20/2017	KH	rec'd consent form, discuss same with client	0.20	\$164.00	\$32.80
12/21/2017	KH	Review ECF BVA decision, compare/verify same as to copy sent by client referral firm	0.30	\$164.00	\$49.20
01/22/2018	KH	Receive ECF Notice OGC Appearance; upload to file and update case file and notes	0.10	\$164.00	\$16.40
01/29/2018	AW	Upload RBA to file, deliver copy to client (via administrative atty) by mail	0.20	\$164.00	\$32.80
01/29/2018	KH	Contact the VA Records Management Center to followup re: CFile	0.20	\$164.00	\$32.80
02/08/2018	AW	ECF Activity: File and calendar deadlines associated with order granting RBA dispute extension	0.10	\$164.00	\$16.40
02/21/2018	AW	Uploaded C-File (3,348 pp) and deliver copy of same to client through remand attorney; Bates-stamp file	0.30	\$164.00	\$49.20
02/26/2018	AW	Index C-File pages 1 - 1000 (AW) [Originally Billed 3.0 hours, but in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.50	\$164.00	\$246.00
02/26/2018	AW	Index C-File pages 1000 - 2000 (AW) [[Originally billed 1.0 hours, in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.50	\$164.00	\$246.00
02/27/2018	AW	Index C-File pages 2000 - 3000 (AW) [Originally billed 3.0 hours, in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.50	\$164.00	\$246.00
02/27/2018	AW	Index C-File pages 3000 - 3348 (AW) [Originally billed 1.0 hours, in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.00	\$164.00	\$164.00

02/28/2018	AW	Index RBA pages 1 - 1000 (AW) [Originally billed 3.0 hours, but in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.50	\$164.00	\$246.00
02/28/2018	AW	Index RBA pages 1000 - 2000 (AW) [Originally billed 3.0 hours, but in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.50	\$164.00	\$246.00
03/01/2018	AW	Index RBA (3451 pages) pages 2000 - 3000 (AW) [Originally billed 3.0 hours, but in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	1.50	\$164.00	\$246.00
03/01/2018	AW	Index RBA (3451 pages) pages 3000 - 3451 (AW) [Originally billed 1.4 hours, but in exercise of billing discretion, reduce by 50% to account for portion of time that could be considered clerical in nature]	0.70	\$164.00	\$114.80
03/02/2018	CA	Compare C-File and RBA indices: locate all docs in C-File in the RBA and compare contents and page numbers to ensure they are the same document (pages 1 - 2000 of C-File) [originally billed 1.6 hours, but In exercise of billing discretion, reduce by 50% to account for any clerical time]	0.80	\$202.47	\$161.98
03/05/2018	CA	Compare C-File and RBA indices: locate all docs in C-File in the RBA and compare contents and page numbers to ensure they are the same document (pages 2000 - 3451 of RBA) [Originally billed 1.2 hrs, but In exercise of billing discretion, reduce by 50% to account for any clerical time]	0.60	\$202.47	\$121.48
03/12/2018	CA	Review RBA for internal consistency by ensuring presence of each document referenced in BVA decision, and each document referenced in an adjudicatory action in "PTSD claim stream"	2.90	\$164.00	\$475.60
03/13/2018	AW	Review RBA for internal consistency by ensuring presence of each document referenced in BVA decision, and each	2.20	\$164.00	\$360.80

		document referenced in an adjudicatory action in "TDIU claim stream"			
03/15/2018	AW	Per atty instructions summarize record references to GAF scores and references to contemporaneous MH symptomatology	2.70	\$164.00	\$442.80
03/16/2018	AW	Per atty instructions, summarize record references to homelessness, indicating which are connected to mental health treatment RBA Pages 1 - 2100	3.00	\$164.00	\$492.00
03/16/2018	AW	Per atty instructions, summarize record references to homelessness, indicating which are connected to mental health treatment RBA Pages 2100 - 3451	1.90	\$164.00	\$311.60
03/30/2018	JT	ECF File and Calendar deadlines associated with 60 day Briefing notice	0.10	\$166.00	\$16.60
04/19/2018	JT	ECF File and Calendar deadlines associated with Rule 33 conference scheduling notice	0.10	\$164.00	\$16.40
04/23/2018	CA	Read/respond to OGC email to reschedule Rule 33	0.10	\$202.47	\$20.25
04/25/2018	AW	ECF Activity: Calendar deadlines associated with rescheduling Rule 33	0.10	\$164.00	\$16.40
05/08/2018	CA	Research case law, summarize facts, and rough draft issue #1 in Rule 33	1.80	\$202.47	\$364.45
05/08/2018	CA	Research case law, summarize fact, and rough draft Issue #2 in Rule 33	1.70	\$202.47	\$344.20
05/15/2018	CA	Finish Rule 33 brief	3.50	\$202.47	\$708.65
05/17/2018	JT	T/C Client status update on appeal	0.30	\$164.00	\$49.20
05/29/2018	CA	Prep for rule 33 (.5); conference (.2); followup notes and points made by counsel, document followup possibility (.3)	1.00	\$202.47	\$202.47
05/29/2018	JT	ECF Activity: Conference held memo to file and calendar associated deadlines	0.20	\$164.00	\$32.80
06/26/2018	JT	Draft Motion to Extend Opening Brief	0.20	\$164.00	\$32.80

06/26/2018	JS	Confer re Brief extension	0.10	\$202.47	\$20.25
06/27/2018	JT	File RFE-45 to extend opening brief deadline	0.10	\$164.00	\$16.40
06/28/2018	JT	ECF Activity: file and calendar deadlines associated with principal brief extension grant order	0.10	\$164.00	\$16.40
07/10/2018	JS	Updated client re: going to briefs and answer questions re same	0.30	\$202.47	\$60.74
07/23/2018	CA	Comparing BVA Decision Review, CFile and RBA Reviews to refresh on issues of fact and law that will be raised in Brief, consolidate list of issues	1.80	\$202.47	\$364.45
07/24/2018	CA	Research standard of review for Issue #1, documenting key mem dec, panel and Circuit court opinions illustrating use of standard of review in similar facts, how the Secretary has argued the standard of review in similar cases, and identifying facts and arguments critical to application of standard of review	1.90	\$202.47	\$384.69
07/25/2018	CA	Research standard of review for Issue #2, documenting key mem dec, panel and Circuit court opinions illustrating use of standard of review in similar facts, how the Secretary has argued the standard of review in similar cases, and identifying facts and arguments critical to application of standard of review	1.60	\$202.47	\$323.95
07/28/2018	CA	Draft Issue 1(GAF)	2.30	\$202.47	\$465.68
07/28/2018	CA	Draft Issue 2 (homelessness/exam/etc)	2.90	\$202.47	\$587.16
07/28/2018	CA	Research standard of review for Issue #3, documenting key mem dec, panel and Circuit court opinions illustrating use of standard of review in similar facts, how the Secretary has argued the standard of review in similar cases, and identifying facts and arguments critical to application of standard of review	1.50	\$202.47	\$303.71

07/28/2018	CA	Research and assemble overview of the critical USC, CFR and precedential caselaw regarding Issue 1, 2, and 3	2.70	\$202.47	\$546.67
08/03/2018	CA	Draft Issue 3	2.50	\$202.47	\$506.18
08/05/2018	CA	Draft facts and statement of case	2.60	\$202.47	\$526.42
08/06/2018	CA	Draft summary of argument and statement of issues	2.60	\$202.47	\$526.42
08/10/2018	CA	Draft Relief; draft and edit section headers	1.90	\$202.47	\$384.69
08/10/2018	CA	Build table of authorities for opening brief	2.00	\$202.47	\$404.94
08/10/2018	CA	Copy edit entire draft	2.60	\$202.47	\$526.42
08/13/2018	CA	Final revisions incorporating proofreading notes, and file brief [3.4 originally billed, but In exercise of billing discretion, reduce by 50% to account for any editing that may be redundant]	1.70	\$202.47	\$344.20
08/13/2018	JS	Proof read principal brief	1.90	\$202.47	\$384.69
10/11/2018	CA	Confer with OGC re extending response brief deadline	0.10	\$202.47	\$20.25
10/12/2018	SW	ECF Activity: review order granting extension to response brief, update deadlines re same	0.10	\$164.00	\$16.40
10/15/2018	SW	ECF Activity: File and Calendar associated deadlines; Stamp order Granting extension of OGC Response Brief	0.10	\$164.00	\$16.40
11/26/2018	SW	ECF Activity: upload OGC response brief, alert attorney and calendar deadlines re same	0.10	\$166.00	\$16.60
11/27/2018	SW	ECF Activity: File and calendar deadlines associated with OGC Response Brief	0.10	\$166.00	\$16.60
11/28/2018	SW	Draft/prepare MTE for Reply Brief DL	0.20	\$166.00	\$33.20
12/06/2018	CA	Skim response brief, outline secretary's arguments, flag caselaw to review	1.30	\$202.47	\$263.21

12/06/2018	SW	Draft and file RFE-45 to extend reply brief filing deadline (PL)	0.10	\$166.00	\$16.60
12/07/2018	SW	ECF Activity: Calendar Deadlines and File MTE(Reply Brief), Clerk Stamp Order Granting MTE(Reply Brief)	0.10	\$166.00	\$16.60
12/14/2018	CA	Read cases to distinguish in reply and take notes (Fugere, Burton) (.7); outline distinguishing criteria in Fugere (.4), same for Burton (.3) Review parties' briefs and relevant orders in Burns case cited by Secretary(.8)	2.20	\$202.47	\$445.43
01/17/2019	CA	Draft Reply Section 1	1.60	\$202.47	\$323.95
01/17/2019	CA	Draft Reply Section 2	1.40	\$202.47	\$283.46
01/21/2019	CA	Draft Reply Section 3	1.80	\$202.47	\$364.45
01/21/2019	CA	Draft Reply Section 4	1.10	\$202.47	\$222.72
01/21/2019	CA	Draft Reply Section 5	0.80	\$202.47	\$161.98
01/22/2019	CA	Build table of authorities for reply brief	0.70	\$202.47	\$141.73
01/23/2019	CA	Draft Summary of Argument in Reply	1.30	\$202.47	\$263.21
01/23/2019	CA	Build TOA for reply, add relief, statement of issues (1.1)	1.10	\$202.47	\$222.72
01/24/2019	JS	Proof read reply brief	1.10	\$202.47	\$222.72
01/24/2019	CA	File reply brief [In exercise of billing discretion, bill time at paralegal rate, though performed by attorney]	0.10	\$166.00	\$16.60
01/24/2019	CA	Copy edit full reply brief	1.50	\$202.47	\$303.71
01/24/2019	CA	Final revisions of reply incorporating proof read	0.90	\$202.47	\$182.22
01/25/2019	SW	ECF Activity, Upload Reply Brief, calendar deadlines associated with filing	0.10	\$166.00	\$16.60
02/06/2019	SW	ECF Activity: File and calendar associated deadlines for OGC Opposed Motion to Strike & ROP	0.10	\$166.00	\$16.60

02/07/2019	CA	Read motion to strike, outline OGC arguments that will be addressed in response	0.70	\$202.47	\$141.73
02/07/2019	CA	Draft response to motion to strike	1.80	\$202.47	\$364.45
02/07/2019	CA	Edit response to motion to strike; shepardize cases and verify citations	1.40	\$202.47	\$283.46
02/08/2019	SW	ECF Activity: file response to motion to strike, calendar deadlines re same	0.10	\$166.00	\$16.60
02/08/2019	CA	Final edits to motion to strike	0.50	\$202.47	\$101.24
02/20/2019	BR	Review ROP for completeness: index, compare to TOA in briefs, search record cites in body of brief	1.20	\$166.00	\$199.20
02/20/2019	CA	Draft and send email with concerns re contents of ROP to OGC (.3)	0.10	\$202.47	\$20.25
02/20/2019	BR	File Appellant response to ROP	0.10	\$166.00	\$16.60
02/25/2019	BR	review corrected ROP, note concerns with non ROP material in ROP	1.10	\$166.00	\$182.60
03/08/2019	SH1	ECF Activity: notice of Judge assigned, alert attorney re same	0.10	\$166.00	\$16.60
03/12/2019	SH1	ECF Activity: notice of assignment of panel, alert attorney re same	0.10	\$166.00	\$16.60
03/12/2019	CA	T/C with client to explain panel decisions and oral argument, discuss judges assigned, range of outcomes, (.5); similar discussion with client's agency (referring) attorney (.3)	0.80	\$202.47	\$161.98
03/21/2019	SH1	ECF Activity: notice of date of oral argument, calendar deadlines re same	0.10	\$166.00	\$16.60
04/02/2019	CA	Multiple emails with OGC discussing joint motion for clarification	0.20	\$202.47	\$40.49
04/03/2019	CA	Review draft joint motion for clarification drafted by OGC	0.10	\$202.47	\$20.25
04/09/2019	CA	Discuss appeal with AC to seek help with mooted issues before oral arguments	0.20	\$202.47	\$40.49

04/09/2019	CA	Review order clarification of issues, notes with questions re same for research; review key briefs/filings and decision in Williams to discern what Court is referring to that pertains to this appeal. Download oral arguments.	1.10	\$202.47	\$222.72
04/09/2019	CA	T/C and email to 2 attorneys with substantial CAVC experience, discuss case and identify areas of preparation for oral argument in this specific appeal. Call #1 lasted .5; Email and Call #2 lasted .7)	1.40	\$202.47	\$283.46
04/09/2019	CA	T/C with veteran practitioner in PTSD claims to understand how various arguments in case would affect different factual presentations to evaluate proposed rule for court at oral argument (.8)	0.80	\$202.47	\$161.98
04/12/2019	AC	Prepared and filed notice of appearance as co-counsel in connection with attendance at oral argument	0.20	\$220.69	\$44.14
04/12/2019	CA	Listen to Williams oral arguments to identify possible lines of questioning from Court that might pertain to this appeal, pausing to take notes throughout	1.90	\$202.47	\$384.69
04/15/2019	CA	Review appellant briefs, pleadings, record and case law to prepare to participate in oral argument	2.40	\$202.47	\$485.93
04/19/2019	CA	Review appellee briefs, pleadings, record and case law to prepare to participate in oral argument	1.90	\$202.47	\$384.69
04/23/2019	CA	Review issues from panel perspective and formulate lines of questioning in areas likely to be raised at oral argument.	1.70	\$202.47	\$344.20
04/23/2019	CA	Read email from national VSO central office discussing practical consequences of various rules of law in response to court's question	0.40	\$202.47	\$80.99
04/25/2019	CA	Review key pleadings in Golden, court's panel decision, listen to oral arguments, noting in particular lines of questioning from overlapping panel judges	1.90	\$202.47	\$384.69

05/01/2019	SH2	Assemble docs attorney will need in oral argument binder and send to printer for assembly and binding.(.5) order 2 copies ... 1 for CA and 1 for AC	0.50	\$166.00	\$83.00
05/01/2019	CA	Detailed review of the ROP, focusing on medical records relating to homelessness, GAF scores, TDIU,	1.90	\$202.47	\$384.69
05/02/2019	CA	Detailed review of the ROP, focusing on pleading documents, timeline, and begin outline to memorize location and contents of critical language in key documents.	2.30	\$202.47	\$465.68
05/06/2019	CA	Prepare podium notes folder with major points for oral argument presentation.	1.30	\$202.47	\$263.21
05/08/2019	CA	Practice oral presentation of major points	0.70	\$202.47	\$141.73
05/09/2019	AC	Reviewed JMR offer, Appellant's and Secretary's briefs and CAVC argument clarification order in connection with assessment of JMR offer [originally billed 2.1 hours, reduced to .6 hours to account for unfamiliarity with case]	0.60	\$220.69	\$132.41
05/09/2019	CA	Discuss JMR with OGC (.2); ask AC to review JMR offer to prepare me for client contact. (.1)	0.30	\$202.47	\$60.74
05/10/2019	AC	Reviewed JMR for CA due to his unavailability; provided feedback to CA re certain language contained in JMR per his request	0.40	\$220.69	\$88.28
05/10/2019	CA	T/C with client to discuss offer, explain how this affects on remand, criteria to evaluate the offer, and attorney recommendation; answer client's many questions (.6); discuss JMR/offer with agency (referring) attorney (.2)	0.80	\$202.47	\$161.98
05/10/2019	JS	Send written draft JMR to AC and discuss per CA request due to CA unavailability	0.30	\$202.47	\$60.74
05/10/2019	CA	Communicate acceptance to OGC, review final draft and sign same for filing (.4)	0.40	\$202.47	\$80.99

05/13/2019	SH1	ECF Activity: File Oral Argument revocation order and remove dates from calendar	0.10	\$166.00	\$16.60
05/16/2019	SH2	Drafted coverletter to send to client, along with copy of JMR. Email is not an option.	0.20	\$166.00	\$33.20
05/16/2019	JS	Case closing discussion with client, impact of decision, timeline, etc.	0.40	\$202.47	\$80.99
05/22/2019	CA	Prepare for EAJA filing, download time records for case; research and calculate CPI-U/EAJA rates; draft motion template for attorney for EAJA petition, update and organize billing affidavit, verify time, update case law as needed, deliver same to attorney for review	1.70	\$202.47	\$344.20
05/24/2019	CA	Exercise Billing discretion by reviewing each individual entry, and reducing individual entries that are not properly billed to client, where the # of hours for a task is excessive, where the # of hours on a day is unreasonable, plus unnecessary, duplicative and other reasons to exclude; research court mem decs involving billing for oral argument to assess what time might or might not be reasonable.	2.10	\$202.47	\$425.19
05/24/2019	CA	Assemble facts, specific arguments as to reasonableness - individual entries, review for reasonableness of hours & total fee by phase of appeal, explain exercise of billing discretion - into template of brief, review and edit same (1.9)	1.90	\$202.47	\$384.69
05/28/2019	CA	Final review of pleading for coherence/consistency, notes of final edits/changes, direct paralegal to file petition	1.00	\$202.47	\$202.47
05/29/2019	JS	Review EAJA Invoice and Affidavit.	1.20	\$202.47	\$242.96
05/31/2019	SH2	Edit petition for grammar, fact-check calculations, assemble exhibits and prepare for filing	1.40	\$166.00	\$232.40

1711.00099-Walker

Quantity Subtotal 131.5

Services Subtotal \$25,381.51

Expenses

Type	Date	Notes	Quantity	Rate	Total
Expense	05/01/2019	Binding and printing, 2 copies of oral argument binders	1.00	\$148.79	\$148.79
Expense	05/07/2019	EXPENSE UPS to ship oral argument binders to AC before argument. UPS 3 day.	1.00	\$35.03	\$35.03
Expenses Subtotal					\$183.82

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	Non-Attorney	0	\$164.00	\$0.00
SH2	Non-Attorney	2.1	\$166.00	\$348.60
SH1	Non-Attorney	0.4	\$166.00	\$66.40
KH	Non-Attorney	1.9	\$164.00	\$311.60
BR	Non-Attorney	2.4	\$166.00	\$398.40
JT	Non-Attorney	0.1	\$166.00	\$16.60
JT	Non-Attorney	1.0	\$164.00	\$164.00
AW	Non-Attorney	21.2	\$164.00	\$3,476.80
SW	Non-Attorney	0.9	\$166.00	\$149.40
SW	Non-Attorney	0.2	\$164.00	\$32.80

1711.00099-Walker

Quantity Total	131.5
Subtotal	\$25,381.51
Total	\$25,565.33



**2018
National
Utilization &
Compensation
Survey Report**

Prepared for:

NALA – The Paralegal Association

Prepared by:

Data Point Consulting LLC

2018 National Utilization & Compensation Survey Report

Findings at a Glance

Trending

Since 1986, NALA has conducted research at a national level to better gain insights on the educational backgrounds, work environments, duties & responsibilities, and compensation levels of paralegals, which has been invaluable for those in this profession. The current report depicts various topics as noted above from the data collected in 2018, along with trends where appropriate.

As reported by the US Department of Labor¹ in 2016, the paralegal profession comprises of 285,600 jobs and is projected to grow by 15% from 2016 to 2026, which equates to an employment change of an additional 41,800 jobs. The paralegal profession's job outlook is projected to increase much faster than the average job sector. Given the number of 2018 survey respondents² (n = 1,112), this study provides a generalization of the paralegal profession.

Survey Respondents

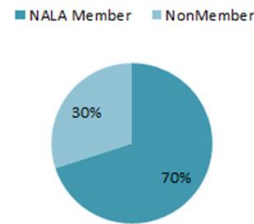
Similar to NALA's study completed in 2016, the majority of respondents were female (96%), a NALA member (70%), and about 50 years old. Approximately 70% of respondents indicated that they were a certified paralegal, 9% of them have their CLAS and 30% of them obtained the ACP credential. The majority of respondents were from the southeast region of the U.S., including states such as Florida (17%), the Carolina's (7%), and Tennessee (3%). Of

¹ US DOL <http://www.bls.gov/ooh/Legal/Paralegals-and-legal-assistants.htm>

² This study is specifically for market research purposes and not intended to price fix on the open market.

the respondents, more than half of them work in a city with less than 500,000 people and have earned a Bachelor's degree. Bachelor's degrees are projected to grow in the next few years among paralegals. Precisely 50% of respondents received a certificate in a paralegal program, which is up 6% since 2016.

Membership



Employment & Responsibilities

Similar results were seen in 2016 and 2018 when it came to employment and responsibilities of paralegals. The majority of paralegals are employed by companies while a small percentage is self-employed/business owners (3%). Only 5% of paralegals work in a non-profit sector while 70% work private. Although roughly half of employers offer some type of flexible work arrangement, the data shows a decline in the percentage of arrangements in 2018 compared to 2016 (down 4%). These flexible work arrangements consist of telecommuting, which has specifically increased substantially since 2014 (up 11%) and summer hours. *Paralegal* continues to be the most common job title given to respondents since 2014. Roughly 30% of paralegals work alongside 2 to 5 attorneys, which has been consistent since 2012 with the majority of paralegals working full-time (30 plus hours).

Roughly 50% of paralegals do not have secretarial (administrative) assistance available to them, which has been a continuous trend since 2010. Meanwhile almost 80% of paralegals are seeing an

increase in duties and responsibilities where majority of the increase is due to the level of sophistication.

Overall, paralegals are supervised and their work load is assigned by attorneys or office administrators/managers. Typically, paralegals who supervise others have more than 25 years of legal experience, which has been consistent since 2014.

When looking into several specialty areas in which paralegals work, roughly 30% spend 80-100% of their time in the following areas:

- Litigation-civil (38%)
- Family law/Domestic relations (29%)
- Personal injury (28%)

Over the last several years, 90% of paralegals attend legal education seminars for professional growth, and over half of them seek certification and get involved in associations like NALA.

Compensation & Billing

Half of paralegals are primarily paid hourly, while the other half are salaried. On average, paralegals work 40 hours per week where 29 of those hours are billable, which continues to be the trend since 2016. About 55% of firms bill paralegal time, yet 58% of paralegals are not expected to produce a set number of billable hours per week. Slightly over half of paralegals sometimes work in excess of their normal working hours, yet 45% of them never receive overtime (up 6% from 2016).

Hourly Billing Rate

In regard to paralegal hourly billing rates, which have been consistent since 2010, the Far West region continues to report the highest hourly billing rate averaging \$139 an hour, which includes states like California, Oregon, and Nevada. Paralegals in the Rocky Mountain continue to average the lowest hourly billing rate of \$107 since 2010. Data continues to show that, on average, firms that have more attorneys, have a higher hourly billing rate for

paralegals. Also, as one would suspect, the more years of legal experience, the higher hourly billing rate one charges, which has averaged \$148 per hour since 2014.

Compensation

Total compensation³ continues to grow, on average 6%, from 2002 to 2018, which is well above the national trend of 2-3%. In 2018, on average, a paralegal's annual compensation totaled \$67,578, which is notably higher at 10% compared to 2016 at \$61,671. Not surprising, paralegals compensation generally increases due to having more years of legal experience, education, and working with more attorneys. For those who receive bonuses, paralegals should anticipate an additional \$4,000 each year.

Those living in the Far West continue to see the highest compensation averaging \$65,029 since 2004 while those living in the Plains States average the lowest at \$53,194. On average, paralegals earned 6% more money with a Bachelor's degree compared to an Associate degree and 13% more money for those who earned a Master's degree compared to a Bachelor's degree. There has been a notable increase in compensation over the years as paralegals receive more educational degrees.

Employee Benefits

Since 2014, there has been little fluctuation in employee benefits as 80% of paralegals indicated that their employer provides and contributes to a retirement and/or pension plan for their employees and about 35% of employers provide a profit sharing plan. Top five paid benefits employers offer remain the consistent, including, conference fees, professional dues, health & life insurance, and parking.

³ Compensation includes salary, overtime, & bonuses

2018 National Utilization & Compensation Survey Report

Report Overview

This study was conducted to better understand the educational backgrounds, work environments, duties and responsibilities, billing, and compensation levels of paralegals. The research provided is invaluable to those working in the paralegal profession as it provides several years of market research data for compare and contrast purposes.

Methodology

NALA hired Data Point Consulting LLC as a third party contractor to develop, administer, analyze, and provide a report of the survey results. The anonymous survey was administered electronically to both NALA members and non-members through direct and forwarded emails as well as social media platforms (Facebook, LinkedIn) during the months of June and July of 2018. Multiple reminders were sent to increase the response rate. This study has been conducted every two years since 1986. A total of 1,112 individuals responded to the survey in 2018, 1,226 in 2016, 1069 in 2014, 1330 in 2012, and 1451 in 2010.

Although there is no standard response rate across research, the higher the response rate, the better. Given the number of individuals that responded in 2018 and the comparable demographic makeup of survey respondents who were members of NALA, the survey sample is representative of the NALA's paralegal population. This study is specifically for market research purposes and not intended to price fix on the open market.

The report is divided into four sections, including: demographics, employment and responsibilities, compensation & billing rates, and employee benefits.



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Respondent Demographics

2018

Results



Compensation & Billing Rates

2018

Results

Compensation & Billing Rates

2018 Average hours per week (billable & non-billable): 40 hours

2018 Average billable hours per week: 29 hours

2018 Average billing rate per hour: \$145

Figure 27: Primary Compensation

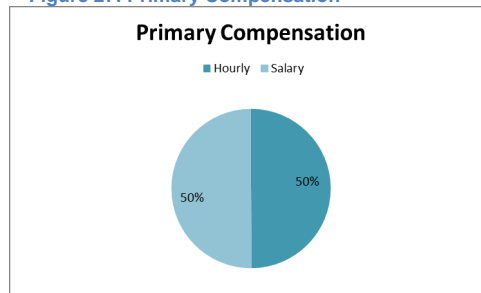


Table 3: Billing Rates

Billing Rate Ranges	2010	2012	2014	2016	2018
Less than \$30	2%	2%	2%	2%	0%
\$31 to 35	1%	1%	0%	1%	0%
\$36 to 40	0%	0%	1%	0%	0%
\$40 to 45	1%	0%	0%	0%	0%
\$46 to 50	2%	1%	0%	1%	0%
\$51 to 55	1%	1%	0%	0%	0%
\$56 to 60	1%	1%	1%	0%	0%
\$61 to 65	4%	1%	1%	1%	1%
\$66 to 70	2%	2%	2%	1%	1%
\$71 to 75	9%	9%	6%	5%	4%
\$76 to 80	2%	3%	3%	3%	2%
\$81 to 85	4%	4%	3%	3%	2%
\$86 to 90	6%	7%	4%	5%	4%
\$91 to 95	5%	4%	4%	4%	3%
\$96 to 100	10%	10%	11%	11%	7%
\$101 to 105	1%	1%	0%	1%	0%
\$106 to 110	4%	3%	5%	3%	5%
\$111 to 115	1%	1%	2%	1%	1%
\$116 to 120	1%	1%	2%	2%	2%
\$121 to 125	9%	11%	9%	12%	11%
\$126 to 130	2%	2%	2%	2%	2%
\$131 to 135	3%	3%	3%	4%	2%
\$136 to 140	3%	3%	2%	2%	3%
\$141 to 145	0%	0%	2%	2%	2%
\$146 to 150	2%	2%	8%	8%	13%
\$151 to 155	1%	7%	1%	1%	1%
\$156 to 160	1%	1%	1%	2%	2%
\$161 to 165	1%	1%	2%	2%	1%
\$166 to 170	1%	1%	0%	1%	1%
\$171 to 175	2%	1%	4%	3%	6%
\$176 to 180	1%	4%	2%	1%	2%
\$181 to 185	1%	12%	2%	1%	3%
\$186 to 190	1%	7%	1%	0%	1%
\$191 to 195	1%	10%	1%	3%	2%
\$196 to 200	1%	10%	2%	2%	3%
\$201 to 205	0%	1%	0%	0%	1%
\$206 to 210	0%	4%	1%	1%	0%
\$211 to 215	1%	3%	1%	0%	1%
More than \$215	-	-	-	8%	12%

*% of respondents that fall within billing rate range; Green indicates top 10 billing rate ranges in each year

Compensation & Billing Rates

Figure 28: Average Hourly Billing Rates by Region

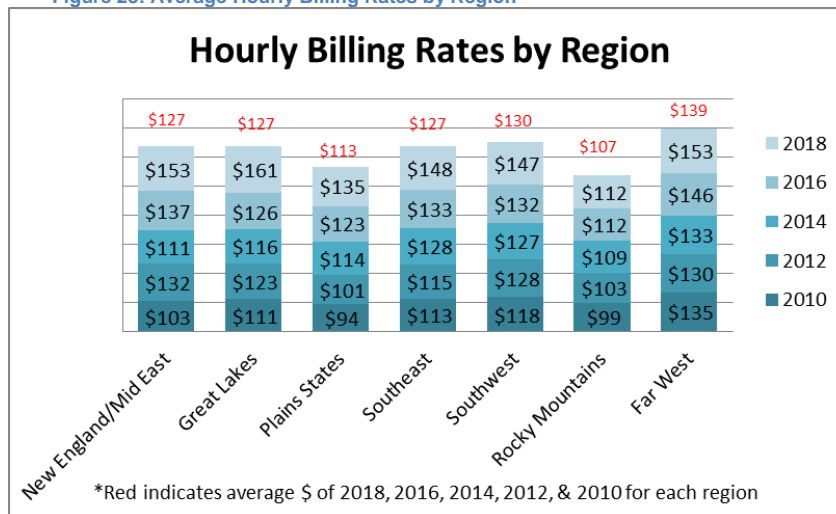
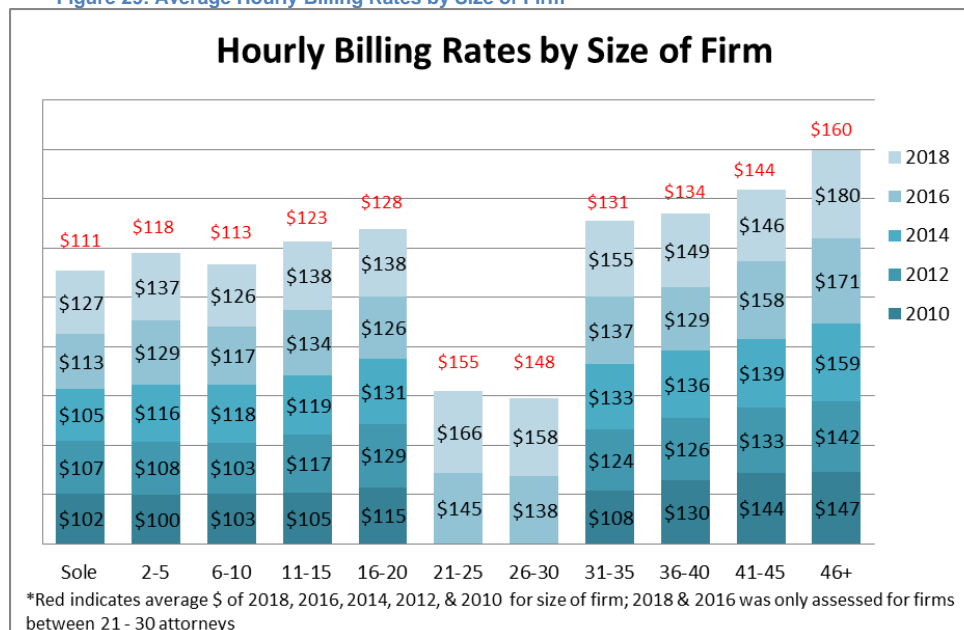


Figure 29: Average Hourly Billing Rates by Size of Firm



Compensation & Billing Rates

Figure 30: Average Hourly Billing Rates by Total Years Legal Experience

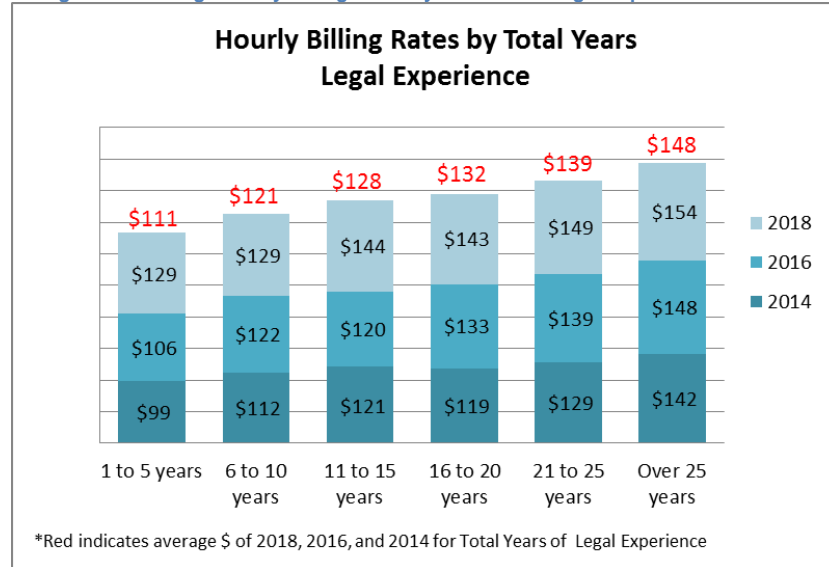


Figure 31: Average Hourly Billing Rates by Type of Paralegal Program

