

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: 18-cv-1041-GJH

Hon. George J. Hazel

**PLAINTIFFS' MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS**

Plaintiffs respectfully move this Court for an award of reasonable attorney's fees and costs in the amount of \$7,256,747.66 pursuant to 28 U.S.C. § 2412(b) or \$2,791,141.50 pursuant to 28 U.S.C. § 2412(d). In support of this Motion, Plaintiffs submit the attached Memorandum of Points and Authorities and Declaration of Shankar Duraiswamy, with accompanying Exhibits.

Dated: August 15, 2019

Respectfully Submitted,  
/s/ Daniel Grant (Bar. No. 19659)

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**CERTIFICATE OF SERVICE**

I certify that on this 15th day of August 2019, I caused a copy of the foregoing Motion and all accompanying filings to be sent to all parties receiving CM/ECF notices in this case.

By:     /s/                                    

Daniel T. Grant

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**PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
APPLICATION FOR AWARD OF ATTORNEYS' FEES**

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## INTRODUCTION

After extensive, high-intensity litigation including a consolidated trial and significant post-trial proceedings before this Court, the *Kravitz* plaintiffs (“Plaintiffs”) prevailed outright against Defendants as a matter of law, and achieved this lawsuit’s fundamental objective: to enjoin Defendants from inquiring about citizenship as part of the 2020 decennial Census. The *Kravitz* plaintiffs’ pro bono counsel, Covington & Burling LLP (“Covington”), devoted thousands of hours of its lawyers’ time and bore substantial costs incurred in this effort.

As pro bono counsel to indisputably “prevailing parties” under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, Covington is clearly entitled—at a minimum—to a fee award equal to its total timekeeper hours times the EAJA statutory rate plus a standard cost-of-living increase, as well as its litigation-related costs in full. *Id.* § 2412(d). There can be no doubt that Defendants’ position in this litigation was not “substantially justified” under EAJA § 2412(d). This Court ruled, *inter alia*, that the Secretary’s stated reasons for adding the citizenship question were a fabricated “pretext,” Dkt. ECF No. 154 at \*97–98, and the U.S. Supreme Court agreed that his rationale was so “contrived” as to be unsustainable under the Administrative Procedure Act (“APA”), *Dep’t of Commerce v. New York*, \_\_\_ U.S. \_\_\_ at \*28 (June 27, 2019) (slip opinion). Almost by definition, a spurious, pretextual justification for an agency action lacks any “substantial[.]” foundation.

Plaintiffs respectfully submit, however, that the willfulness and severity of Defendants’ misconduct in adopting and then defending the Secretary’s unlawful action easily meets the high standard of “bad faith” supporting an award of Covington’s fees, pursuant to EAJA § 2412(b), at the higher, prevailing market rates for private attorneys. The Secretary of Commerce took his unlawful action willfully—in the face of the unanimous contrary recommendation of the sitting

Director of the U.S. Census Bureau, its Chief Scientist, and other Census Bureau experts—and then misled both Congress and the public about the true impetus for the decision. Defendants compounded this manipulation and corruption of the administrative process with attempts in this litigation to improperly curate the administrative record and insulate the Secretary’s real reasons for the decision from effective review. As described further below, the circumstances of this case amply warrant this Court’s award of fees to Covington at prevailing market rates pursuant to § 2412(b).

Covington’ firm policy requires that any fees it receives as a result of its pro bono representation of Plaintiffs here shall be donated to charitable public interest or legal services organizations, after a portion is deducted to help cover expenses in pro bono matters. *See* Decl. of Shankar Duraiswamy ¶ 23. This fee award will thus serve to vindicate and promote the public interest. Based on the supporting declarations and documents submitted with this motion, and for the reasons explained below, Plaintiffs respectfully request an award of fees and expenses pursuant to EAJA § 2412(b), in the amount of \$7,256,747.66. At a minimum, Plaintiffs are entitled to recover Covington’s fees and expenses under § 2412(d), in the amount of \$2,791,142.50.

## ARGUMENT

### **I. Plaintiffs Should Receive an Award of Fees at Prevailing Market Rates Under § 2412(b) Because Defendants Acted in Bad Faith.**

Section 2412(b) of the EAJA provides that the Court may award reasonable fees and expenses to the “prevailing party” in an action against the United States, which “shall be liable for such fees and expenses to the same extent that any other party would be liable under the common law . . . .” 28 U.S.C. § 2412(b); *see also* § 2412(d) (providing for award of attorneys’ fees and expenses to the “prevailing party”). Because Plaintiffs achieved the critical objective of their lawsuit—preventing Defendants from inquiring about citizenship as part of the 2020

decennial Census—it is beyond dispute that the *Kravitz* and *LUPE* plaintiffs are the “prevailing parties” in this litigation. *See Shalala v. Schaefer*, 509 U.S. 292, 302 (1993) (noting that a prevailing party needs only to have obtained success ““on any significant issue in litigation which achieve[d] some of the benefit . . . sought in bringing the suit””) (quoting *Hudson, Texas State Teachers Ass’n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 791–92 (1989)); *see also Role Models Am., Inc. v. Brownlee*, 353 F.3d 962, 966 (D.C. Cir. 2004) (plaintiffs who obtained permanent injunction securing “the precise relief [they] sought” were “prevailing parties”).

Moreover, it is well-recognized that the common law allows the award of attorneys’ fees where the losing party has acted in bad faith. *See Alyeska Pipeline Serv. Co. v. Wilderness Soc’y*, 421 U.S. 240, 257–60 (1975); *Hyatt v. Shalala*, 6 F.3d 250, 254 (4th Cir. 1993). As prevailing parties, Plaintiffs are therefore entitled to an award of fees under § 2412(b) based on prevailing market rates, if this Court finds that the government acted in bad faith. *See Hyatt v. Shalala*, 6 F.3d 250, 254 (4th Cir. 1993); *Sullivan v. Sullivan*, 958 F.2d 574, 577 n.8 (4th Cir. 1992). In light of this Court’s prior factual findings, and because the record in this case as a whole is replete with proof of Defendants’ egregious bad-faith conduct and improper behavior, a fee award to Plaintiffs’ counsel under § 2412(b) should be granted here.

**A. Defendants Acted in Bad Faith.**

A finding of bad faith under § 2412(b) is a factual determination within the discretion of this Court. *See Hyatt*, 6F.3d at 255 (affirming “bad faith” determination under “clearly erroneous” standard). In contrast to the standard under EAJA § 2412(d), *see* part II below, Plaintiffs bear the burden of establishing Defendants’ bad faith for purposes of § 2412(b). *See NC Alliance*, 151 F. Supp. 2d at 674.

Bad faith conduct may be found when an agency, ““confronted with a clear statutory or judicially imposed duty towards another, is so recalcitrant in performing that duty that the



injured party is forced to undertake otherwise unnecessary litigation to vindicate plain legal rights.” *N. Carolina All. for Transp. Reform, Inc. v. U.S. Dep’t of Transp.*, 151 F. Supp. 2d 661, 674 (M.D.N.C. 2001) (hereinafter, “*NC Alliance*”) (quoting *Amer. Hosp. Ass’n v. Sullivan*, 938 F.2d 216, 220 (D.C. Cir. 1991)); *see also Hyatt v. Shalala*, 6 F.3d 250, 255 (4th Cir. 1993) (upholding bad-faith finding where agency repeatedly failed to comply with controlling circuit precedent). Courts have awarded fees under § 2412(b) on the basis of underlying bad-faith action by an agency leading to the litigation, as well as bad-faith conduct in the context of the litigation itself. *See Nepera Chem., Inc. v. Sea-Land Serv., Inc.*, 794 F.2d 688, 701 n.102 (D.C. Cir. 1986) (citing as support, *inter alia*, *Rolax v. Atlantic Coast Line R.R.*, 186 F.2d 473, 481 (4th Cir. 1951)); *cf.* EAJA § 2412(d)(2)(D) (defining “position of the United States” to include both litigation position and “the action or failure to act by the agency upon which the civil action is based”). *But see Lamb Eng’g & Const. Co. v. Nebraska Pub. Power Dist.*, 103 F.3d 1422, 1435 (8th Cir. 1997) (finding that awards of attorney’s fees cannot be based on the bad faith of the pre-litigation conduct).

Indeed, “it is clear that [through EAJA], Congress intended to address governmental misconduct whether that conduct preceded litigation, compelling a private party to take legal action, or occurred in the context of an ongoing case through prosecution or defense of unreasonable positions.” *Roanoke River Basin Ass’n v. Hudson*, 991 F.2d 132, 138 (4<sup>th</sup> Cir. 1993). For example, the district court in *NC Alliance* found that the Federal Highway Administration (“FHWA”) had acted in bad faith by approving a proposed a record of decision (“ROD”) one day after its submission, in “complete disregard” of a statutory requirement that the agency take a “hard look” at the proposal’s environmental consequences. *See* 151 F. Supp.2d at 676. The evidence established that the agency had deliberately breached the “hard look”

requirement to accelerate approval and avoid the consequences of an upcoming announcement of non-conformity with the Clean Air Act. *See id.* at 675. The district court found that a fee award under § 2412(b) was warranted in light of the agency’s “bad faith in performing a statutorily imposed duty.” *Id.* at 676. Similarly, in *Hyatt* the Fourth Circuit upheld a fee award under § 2412(b) based upon the district court’s determination that the Secretary of Health and Human Services’ was not “marginally justifiable, and it may fairly be characterized as outrageous, at best, both *before this case was filed* and during the course of this suit . . . .” 6 F.3d at 255 (quoting district court). In each of the foregoing cases, the court’s bad-faith determination was clearly anchored in the agency’s underlying conduct.

Defendants will doubtless protest that a finding of bad faith under § 2412(b) is “punitive” and reserved for “exceptional cases and for dominating reasons of justice,” which require “more than a showing of a weak or legally inadequate case.” *United States v. Bailey*, No. 1:11-CR-00010-MR-DLH, 2015 WL 1893610, at \*35 (W.D.N.C. Apr. 27, 2015) (quoting *F.T.C. v. Kuykendall*, 466 F.3d 1149, 1152 (10th Cir. 2006)) (internal quotation marks omitted). But it is no overstatement or hyperbole to say that the Secretary acted “wantonly . . . or for other improper reasons,” *id.* (quoting *Kuykendall*, 466 F.3d at 1152), in manufacturing—“contriv[ing]”—a spurious request for the citizenship question and then dissimulating before Congress in an effort to evade inquiry into the true impetus for his decision. The enormity of Defendants’ bad faith in necessitating Plaintiffs’ filing of this litigation permeates the entire case, even if the professional conduct of the Department of Justice attorneys charged with defending it was generally honorable. Plaintiffs respectfully submit that the circumstances of this case are exceptional and easily satisfy even the demanding standard of § 2412(b).

This Court is already steeped in the factual proof supporting the Court’s previous finding of bad faith by Defendants, and Plaintiffs do not repeat every chapter and verse here. The evidence concerning the conduct of the Secretary and senior Commerce Department officials that led to the challenged agency action reveal a Cabinet-level secretary abdicating his statutory responsibility to disclose the true basis for his decision, and a deliberate and concerted effort to devise a spurious façade to conceal it. As this Court previously found, the Department of Justice’s request to add the citizenship question was a mere pretext, and the Secretary’s failure to disclose the true motive for the decision crossed the high threshold of bad faith. Dkt. ECF No. 154 at \*97–98 (“The Court is now able to conclude that its previous threshold finding of bad-faith has matured into a factual finding of bad faith or pretext.”). The Supreme Court agreed, holding that the stated rationale for the decision was “contrived,” and plaintiffs had made the “strong showing of bad faith or improper behavior” required to obtain extra-record discovery. *Dep’t of Commerce v. New York*, \_\_\_ U.S. \_\_\_ at \*24–25, 28 (June 27, 2019) (slip opinion). As these prior rulings reflect, the odor of bad faith permeates the record of Defendants’ actions in this case.

Indeed, the record demonstrates that Secretary was willing to resort again and again to improper means in order to put the citizenship question on the 2020 decennial Census:

- The Secretary claimed that the decision was made in response to a request from DOJ. Dkt. ECF No. 154, ¶ 5. In fact, it was revealed during litigation that the decision was made first by the Secretary and that Commerce Department officials *then* embarked on a months-long campaign to get another government agency to formally request the addition of a citizenship question so that they could conceal their true motives for the action. *See* Dkt. ECF No. 154, ¶ 9–20, 54–58.
- When the DOJ finally agreed after the Secretary personally intervened and met with Attorney General Sessions, the stated rationale—that the citizenship question *specifically* was needed to enforce the Voting Rights Act, rather than some other avenue of getting more specific data—was counter to DOJ personnel’s longstanding, unimpaired enforcement of the VRA using the current data available. *See* Dkt. ECF No. 154, ¶ 20–

21, 56.

- When Census Bureau staff attempted to discuss solutions with DOJ that might obviate the need to modify the Census questionnaire to meet the DOJ's stated request, the Secretary and the Attorney General prevented them from doing so. Dkt. ECF No. 154, ¶ 28, 62–64.
- Throughout this litigation and before Congress, the Secretary continued to perpetuate the lie that DOJ had “initiated” the request, to which he had merely responded. *See* Dkt. ECF No. 154, ¶ 53, citing PX-491, PX-480.
- In his quest to add the citizenship question to the census, the Secretary flagrantly disregarded established procedures and practices for testing and validating new census questions, thereby putting the accuracy and validity of the decennial census at risk. Dkt. ECF No. 154, ¶ 65–68.

If the above facts in the trial record were not enough, additional explosive evidence emerged after trial strongly indicating that the Secretary's true motive was in fact based in unconstitutional, discriminatory animus. Dkt. ECF No. 175 at \*3–4, 5–10; ECF No. 162-1. This evidence was powerful and disturbing enough for this Court to grant Plaintiffs' 60(b) motion and obtain a partial remand from the Fourth Circuit to conduct further proceedings on Plaintiffs' Equal Protection Clause claim. *See* Dkt. ECF No. 174. As this Court noted, “it is becoming difficult to avoid seeing that which is increasingly clear. As more puzzle pieces are placed on the mat, a disturbing picture of the decisionmakers' motives takes shape.” Dkt. ECF No. 175 at \*13.

Throughout this litigation, the government continued to defend Defendants' actions by pretending that the pretextual justification was real or—without any plausible legal justification—irrelevant. Although Defendants were well aware that the decision was initially made for other reasons, they continued to argue in court that the decision was made because of DOJ's request. The government continued to argue that the VRA rationale was valid unless Plaintiffs could prove that Ross disbelieved it, but refused to make Secretary Ross available to testify about what he believed. *See* Defendants' Opposition to Plaintiffs' Motion to Compel

Defendants to Produce Secretary of Commerce Wilbur L. Ross, Jr. for Deposition, ECF No. 320, No. 18-cv-2921, *State of New York, et al., v. U.S. Department of Commerce, et al.* (Sept. 13, 2018). Additionally, throughout the litigation, the Government insisted that Secretary Ross was the sole decisionmaker, and was able to defeat attempts to obtain discovery of third parties on this basis. *See* Defendants' Opposition to Plaintiffs' Letter Seeking Leave to Depose a Third-Party, Kansas Secretary of State Kris Kobach, ECF No. 300, No. 18-cv-2921, *State of New York, et al., v. U.S. Department of Commerce, et al.* (Sept. 13, 2018). As became abundantly clear after the Supreme Court's decision, the President and presumably others were very much involved in the decisionmaking around this issue. Unable to defend the indefensible, the government resorted to impermissible post hoc rationales for the Secretary's decision that were not reflected in the contemporaneous record or the Secretary's decision memo. Dkt. ECF No. 154 at \*102.

Defendants made these arguments even while the government made concerted efforts to shield from discovery Defendants' real reasons for adding the citizenship question. The Government initially put forward a meager administrative record that kept hidden the behind-the-scenes machinations that led to the DOJ request. *See* Findings of Fact, *State of New York v. U.S. Dep't of Commerce*, No. 18-CV-2921 (S.D.N.Y. January 15, 2019), ECF No. 574 at \*29–30. They made overbroad privilege assertions, with several of those claims ultimately being rejected by the district court. *See* Hearing, *State of New York v. U.S. Dep't of Commerce*, No. 18-CV-2921, at 9:19–10:18 (Sept. 14, 2018). They tried to argue that Mark Neuman was both an unconnected third party who should not be deposed, and also a trusted advisor to Secretary Ross, entitling him to assert the deliberative process privilege over his communications with other

Commerce Department officials. *See* Pretrial Conference, *State of New York v. U.S. Dep’t of Commerce*, No. 18-CV-2921, at 8:10–18 (Nov. 1, 2018).

Perhaps most egregiously, the government repeatedly represented to this Court, and to the Supreme Court and other district courts presiding over parallel cases, that June 30, 2019 was the drop-dead deadline for determining census questionnaire content; but it then effectively discarded that claim once the Supreme Court had issued its decision. *See* Dkt. ECF No. 164 at 2; Dkt. ECF No. 166 at 10, 32; Dkt. ECF No. 168-1 at 3; Petition for a Writ of Certiorari Before Judgment, *Dep’t of Commerce v. New York*, at \*13–14 (asserting that “the government *must* finalize the decennial census questionnaire for printing by the end of June 2019”) (emphasis added). Just one day after Defendants’ counsel represented to this Court that the census questionnaire had gone to print without the citizenship question and the case was over, that representation was contradicted as “fake news” and the roller coaster started yet again. This kind of whipsaw litigation tactic only compounded the bad faith instantiated by the Secretary’s original decision.

**B. Plaintiffs Are Entitled to Recover Prevailing Market Rates.**

Because the Government acted in bad faith, Plaintiffs are entitled to fees at prevailing market rates. *Sullivan v. Sullivan*, 958 F.2d 574, 577 n.8 (4th Cir. 1992). The Court looks to “the prevailing market rates in the relevant community for the type of work for which [Plaintiffs] seek[] an award,” as shown by attorney affidavits or other evidence. *EEOC v. Freeman*, 126 F. Supp. 3d 560, 575 (D. Md. 2015). The actual market rates for Plaintiffs’ counsel that are generally paid by clients are set forth in the declaration of Shankar Duraiswamy. *See* Decl. of Shankar Duraiswamy ¶¶ 2–15. These rates are the prevailing rates in the legal market for attorneys and legal professionals at Covington and other large and respected law firms engaging in highly complex litigation like this case. *See* Decl. of Shankar Duraiswamy ¶ 16.

The prevailing market rates applicable in this case are higher than the guidelines rates that are set forth in Appendix B of this Court’s Local Rules. Those guidelines rates, although “presumptively reasonable,” “are non-binding” and should be adjusted as appropriate. *Freeman*, 126 F. Supp. 3d at 575. Specifically, the guidelines rates should be adjusted based on the following factors:

(1) the time and labor expended; (2) the novelty and difficulty of the questions raised; (3) the skill required to properly perform the legal services rendered; (4) the attorney’s opportunity costs in pressing the instant litigation; (5) the customary fee for like work; (6) the attorney’s expectations at the outset of the litigation; (7) the time limitations imposed by the client or circumstances; (8) the amount in controversy and the results obtained; (9) the experience, reputation and ability of the attorney; (10) the undesirability of the case within the legal community in which the suit arose; (11) the nature and length of the professional relationship between attorney and client; and (12) attorneys’ fees awards in similar cases.

*Robinson v. Equifax Info. Servs., LLC*, 560 F.3d 235, 243–44 (4th Cir. 2009).

These adjustment factors strongly favor rates for Plaintiffs’ counsel in this case that are well above the Appendix B guideline rates.

- *The amount in controversy and the results obtained.* — Plaintiffs’ counsel obtained the precise relief sought by Plaintiffs: a permanent injunction of the government’s unlawful action. The effective “amount in controversy” was enormous, including a decade of intrastate vote dilution, U.S. congressional malapportionment, and billions of dollars in federal funding. *See* Dkt. 154 at 61–81. Courts have concluded that the degree of success obtained is “the most critical factor” in determining the reasonableness of an award of attorneys’ fees. *Lipenga v. Kambalame*, No. GJH-14-3980, 2017 WL 2493101 at \*3 (D. Md. June 8, 2017) (citing *Ford v. Rigidply Rafters, Inc.*, 999 F. Supp. 647, 651 (D. Md. 1998)).
- *The novelty and difficulty of the questions raised, and the skill required to properly perform the legal services rendered.* — This case presented an historic challenge to a scheme, cloaked by pretext and obfuscation, to warp the once-in-a-decade census. Plaintiffs’ counsel needed legal mastery of an array of complex constitutional and statutory issues, including justiciability, political questions, Article III standing, the Enumeration Clause, and numerous issues under the Administrative Procedure Act — many of which were novel and were not directly controlled by prior precedent involving this unique fact pattern. Plaintiffs’ counsel also needed technical mastery of complex

scientific and statistical issues, including regression analyses, data imputation, survey methodology, and population projections.

- *The time limitations imposed by the client or circumstances.* — The litigation timeline in this case was extremely compressed for a case of this magnitude and complexity: less than one year from the filing of the complaint through fact and expert discovery, trial, and judgment.
- *The attorney's opportunity costs in pressing the instant litigation.* — The substantial time that Plaintiffs' counsel dedicated to this case limited their ability to handle additional, paid work at Plaintiffs' counsel's customary rates. Plaintiffs' counsel dedicated thousands of hours to this case.
- *The customary fee for like work, and the experience, reputation and ability of the attorney.* — Covington is a highly regarded firm with expertise in complex litigation. Plaintiffs' counsel's customary fees are substantially higher than the Appendix B guidelines rates. Courts in this district often adjust rates above the guidelines in cases involving complex issues and skilled attorneys whose customary rates are higher. *See E.E.O.C. v. Freeman*, 126 F. Supp. 3d 560, 576 (D. Md. 2015); *Life Technologies Corp. v. Life Technologies Corp.*, No. 10-cv-3527, 2012 WL 4748080 (D. Md. Oct. 2, 2012) (allowing rates above the Guidelines where the increase is “commensurate with the expertise, skills, and customary fees of the attorneys at a large, private law firm”).

The twelve factors that the Court must use for guidance in determining the appropriate rates overwhelmingly establish that the reasonable and prevailing market rates for this case are well above the guidelines rates. At a minimum, the Court should apply the rates in the *Laffey* Matrix used by the U.S. Attorney's Office for the District of Columbia, given that Plaintiffs' counsel are based in Washington, D.C. *See Duraiswamy Decl. Exhibit 5.*

**II. Even Absent a Finding of Bad Faith, Plaintiffs Are Entitled to an Award of Attorney's Fees Under 28 U.S.C. § 2412(d), at the Statutory Rate Plus a Cost-of-Living Increase.**

As set forth above, the record in this case squarely supports a finding of bad faith under § 2412(b), entitling Plaintiffs to recover attorneys' fees at the prevailing market rates. However, even if this Court declines to make such a finding, Plaintiffs are nonetheless entitled to recover



their attorney's fees under 28 U.S.C. § 2412(d), at the statutory rate plus an appropriate cost-of-living increase.

**A. The Government's Position Was Not "Substantially Justified," Nor Are There Any Special Circumstances That Would Make an Award Here Unjust.**

As prevailing parties in this action, Plaintiffs are entitled to an award of attorney's fees and other expenses under § 2412(d) of the EAJA, "unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A).<sup>1</sup> Defendants, not Plaintiffs, bear the burden of demonstrating that their position was substantially justified or that special circumstances exist that would make an award unjust. *See United States v. 515 Granby, LLC*, 736 F.3d 309, 316 (4th Cir. 2013).

"Substantially justified" means "justified to a degree that could satisfy a reasonable person' or having a 'reasonable basis both in law and fact.'" *Hyatt v. Barnhart*, 315 F.3d 239, 244 (4th Cir. 2002) (quoting *Pierce v. Underwood*, 487 U.S. 552, 565 (1988)). Moreover, under § 2412(d)(1)(B), "[w]hether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought." In determining "whether the government acted reasonably in causing the litigation or in taking a stance during the litigation," the Court must consider the "totality of the circumstances." *Id.*; *Roanoke River Basin*, 991 F.2d at 139. The government's position must be substantially justified on both the facts and the law. *Hill v. Colvin*, No. GLR-14-2872, 2015 WL 5895786, at \*3 (D. Md. Oct. 5, 2015).

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<sup>1</sup> As set forth in the attached declarations, Plaintiffs are individuals whose net worth did not exceed \$2,000,000 when this lawsuit was filed, and therefore qualify for a fee award under § 2412(d). *See Duraiswamy Decl.*, Ex. 6.

Furthermore, “when the government’s unjustified prelitigation position forces a lawsuit, the petitioner may recover fees under the EAJA for the entire suit, even if the government’s litigation position was reasonable.” *United States v. 515 Granby, LLC*, 736 F.3d 309, 316 (4th Cir. 2013) (citing *Thompson v. Sullivan*, 980 F.2d 280, 281 (4th Cir. 1992)). While the ultimate rulings in the case on the merits do not conclusively establish lack of substantial justification, they “are the most powerful available indicators of the strength, hence reasonableness, of the ultimately rejected position” and must be taken into account when determining whether the government’s position was substantially justified. *Acosta v. Ameriguard Sec. Servs., Inc.*, No. CV-1S-3484, 2019 WL 498846, at \*2 (D. Md. Feb. 8, 2019).

Here, Defendants cannot possibly establish a substantial justification for the Secretary’s attempt to shoehorn a citizenship question into the 2020 Census questionnaire, or for the government’s unsuccessful efforts to defend the blatant pretext advanced by Defendants as the purported basis for his action. As set forth in detail in part I.A. above, the Secretary’s decision to add the citizenship question was hatched in an incubator of bad faith: even if this Court concludes that the proven artifice and dissimulation that led to that decision, and the tortuous and transparent arguments that Defendants offered to explain it, are not enough to constitute “bad faith” for purposes of § 2412(b), Defendant cannot plausibly contend that the government’s position in this case was substantially justified. A fee award is therefore mandatory under § 2412(d).

**B. The Applicable Statutory Capped Rate for Plaintiffs’ Counsel Should Be Increased by Applying a Cost-of-Living Adjustment to the Base Rate.**

Under § 2412(d), the recoverable rate for attorneys’ fees is capped at a base rate of \$125 adjusted upward to account for “an increase in the cost of living or a special factor,” if the Court concludes that such a higher fee is justified. 28 U.S.C. § 2412(d)(2)(A). Because the statutory

base rate was set more than 20 years ago, in March 1996, courts routinely approve cost-of-living adjustments. *See, e.g., Hyatt v. Barnhart*, 315 F.3d 239, 251 n.4 (4th Cir. 2002); *Acosta v. Ameriguard Sec. Servs., Inc.*, No. CV-1S-3484, 2019 WL 498846, at \*3 (D. Md. Feb. 8, 2019). This Court should likewise apply a cost-of-living adjustment here.

A standard cost-of-living adjustment results in statutory capped rates of \$206.25 for services performed in 2018 and \$208.47 for services performed in 2019. These cost-of-living adjustments for 2018 and 2019 are determined by comparing the consumer price index (“CPI”) when and where the relevant work was done with the average U.S. consumer price index when the \$125 base rate took effect. *See generally Peterson v. Astrue*, No. CIV.A. 1:04CV76, 2008 WL 183726, at \*8 (N.D. W. Va. Jan. 18, 2008); *see also Acosta v. Ameriguard Sec. Servs., Inc.*, No. CV JKB-1S-3484, 2019 WL 498846, at \*3 (D. Md. Feb. 8, 2019) (calculating cost-of-living increased based on the CPI Inflation Calculator provided by the Department of Labor).

Here, the relevant economic geography is the Washington-Arlington-Alexandria, DC-MD-VA-WV metropolitan statistical area, for which the U.S. Department of Labor’s Bureau of Labor Statistics maintains historical tables of the Consumer Price Index for All Urban Consumers (“CPI-U”). All but three of Plaintiffs’ attorneys worked at Covington’s Washington, D.C. office, *see Duraiswamy Decl.* ¶¶ 2–15, and the proceedings were in Greenbelt, Maryland. Both of these locations are within the Washington-Arlington-Alexandria, DC-MD-VA-WV metropolitan statistical area.<sup>2</sup> Plaintiffs’ attorneys performed legal services on this matter in 2018 and 2019. *See id.*

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<sup>2</sup> *See, e.g., Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas*, OMB Bulletin No. 18-04, at 70 (Sept. 14, 2018), *available at* <https://www.whitehouse.gov/wp-content/uploads/2018/09/Bulletin-18-04.pdf>.

Accordingly, the cost-of-living increase is calculated as follows:

- The average Washington/Greenbelt CPI-U figures for 2018 and 2019, respectively, are 261.37 and 264.176. *See Duraiswamy Decl., Ex. 4.*
- The average U.S. CPI-U in March 1996 was 156.9. *See Duraiswamy Decl., Ex. 4.*
- Dividing the applicable 2018 and 2019 CPI-U figures by the 1996 CPI-U results in adjustment factors of 1.6658 for 2018 and 1.6837 for 2019.
- Multiplying those adjustment factors by the base statutory rate of \$125 results in the cost-of-living adjusted statutory rates for the relevant years: \$208.22 for 2018 and \$210.46 for 2019. *See id.*

These adjusted statutory caps should be applied to the hours expended by each of Plaintiffs' billing attorneys and legal professionals. Once adjusted, the statutory rate is still well below the market hourly rates in Washington, D.C., even for the least experienced of Plaintiffs' attorneys. *See Duraiswamy Decl.* ¶¶ 2–15 (noting Covington attorneys' and legal professionals' standard billing rates ranging from \$255 to \$1120 per hour); *see also id.*, Ex. 4 (matrix of reasonable hourly rates prepared by the Civil Division of the U.S. Attorney's Office for the District of Columbia for 2015–2019).

### **III. The Hours Expended By Plaintiffs' Counsel and the Fees Requested Are Reasonable.**

The Supreme Court has explained that where, as here, “a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation, and indeed in some cases of exceptional success an enhanced award may be justified.” *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983); *see also Hyatt v. Barnhart*, 315 F.3d 239, 254 (4th Cir. 2002) (“The extent of a plaintiff's success is an important factor to consider when determining the reasonableness of the fees requested.”). Here, the complexity and far-reaching significance of this case fully warranted the substantial number

of hours Plaintiffs' counsel expended, and they achieved a complete victory in overturning the challenged agency action and preserving the integrity of the 2020 Census questionnaire.

Moreover, Plaintiffs' counsel has made a number of downward adjustments to the number of hours requested that reflect the exercise of billing judgment and to comply with the principles set forth in Appendix B of the Local Rules. In making these adjustments, a conservative approach was taken, often resulting in downward adjustments even when such adjustments were, in the billing judgment of the supervising partner, not necessary. *See* Duraiswamy Decl. ¶¶ 20–22 (explaining downward adjustments in greater detail). In total, Plaintiffs' counsel spent more than 10,700 hours on this case. *Id.* ¶ 18. After the aforementioned substantial voluntary adjustments, Plaintiffs' counsel is requesting attorney's fees for a total of 9,423.70 hours on this case, which is approximately a 12% reduction from the hours Plaintiffs' counsel actually spent. These hours are plainly reasonable given the case's complexity, its stakes, and its successful outcome.

The reasonableness of the time spent in order to achieve a successful outcome in this complex and important case is underscored by the following factors:

- The case involved complex and novel legal arguments on an array of important constitutional and statutory issues, which were highly contested and had to be considered from every angle, given the certainty of close scrutiny — not only by skilled attorneys at the Department of Justice, the White House and, the Department of Commerce, but also by an array of other interested parties, including state solicitors general, activist organizations, and other potential amici curiae.
- The case involved complex technical arguments on an array of factual issues, which required Plaintiffs' counsel to develop a sufficient understanding of sophisticated statistical models, survey methodology, Census operations, population projections, determinants of funding under complex federal programs, and numerous other issues.
- The case involved an expedited timeline to meet the government's unalterable deadline for printing Census forms, and required multiple rounds of review of the Administrative Record because the government repeatedly and inexplicably produced only selected portions of the record rather than the entire record.

- Plaintiffs' core litigation team included twelve attorneys because, in part, of the financial constraints placed on any attorney performing work pro bono. Because their attorneys have been working on a pro bono basis, with no certainty of recovery and potentially subject to EAJA fee caps, Plaintiffs' Covington attorneys were required to balance their work on this case with their work for paying clients, which resulted in spreading the work among a number of attorneys.
- Because Covington's representation in this case is pro bono, Covington policy requires that any fees that Covington recovers in a pro bono case must be donated to charitable public interest or legal services organizations after the deduction of amounts necessary to cover expenses in the instant case and contribute to expenses incurred in the firm's other pro bono matters. *See Duraiswamy Decl.* ¶ 23.

In light of the foregoing, the requested 9,423.70 hours are reasonable. Therefore, Plaintiffs respectfully request, as detailed in Exhibit 1 to Mr. Duraiswamy's declaration, \$6,436,840 in fees under § 2412(b) should the Court find that Defendants acted in bad faith. At a minimum, Plaintiffs are entitled \$1,971,233.84 in fees under § 2412(d), as detailed in Exhibit 2 to Mr. Duraiswamy's declaration.

#### **IV. Plaintiffs' Submitted Costs and Other Expenses Are Reasonable.**

Under the EAJA, Plaintiffs are also entitled to an award of reasonable costs and other expenses. Such expenses include the reasonable expenses of expert witnesses and the reasonable cost of any "study, analysis, engineering report, test, or project" necessary to preparing Plaintiffs' case. 28 U.S.C. § 2412(d)(2)(A). The EAJA provides that "no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States." 28 U.S.C. § 2412(d)(2)(A). Here, the government's expert witness, Dr. Stuart Gurra, was compensated at a rate of \$575/hour. Rule 26(A)(2)(B) Expert Report and Declaration of Stuart D. Gurra, Ph.D, at \*2 (October 19, 2018). Almost all of Plaintiffs' experts were compensated at a lower rate, and Plaintiffs have applied that rate as a cap for those who were not. *See Duraiswamy Decl., Ex. 7.*

Cost awards may include travel, printing, telephone calls, delivery services, and fees for the court reporter, the clerk, and witnesses. *See* 28 U.S.C. § 2412(a)(1); 28 U.S.C. § 1920; *see, e.g., United States v. McHan*, 11 F. App'x 304, 306 (4th Cir. 2001). Reasonable travel costs, including airfare and hotel rooms, may be reimbursed under the EAJA. *See Bunn v. Bowen*, 637 F. Supp. 464, 477 & n.20 (E.D.N.C. 1986) (citing *Int'l Woodworkers of Am., AFL-CIO, Local 3-98 v. Donovan*, 769 F.2d 1388, 1392 (9th Cir. 1985), *amended*, 792 F.2d 762 (9th Cir. 1985)); *Int'l Woodworkers*, 769 F.2d at 1392 (affirming an “award of costs for telephone calls, postage, air courier and attorney travel expenses” because “awards of such costs—costs that are ordinarily billed to a client—are routine under all other fee statutes” and “noting that the expenses enumerated in Section 2412(d)(2)(A) are set forth as examples, not as an exclusive list”); *see also Impresa Construzioni Geom. Domenico Garufi v. United States*, 100 Fed. Cl. 750, 769 (2011) (awarding costs of “airfare, lodging, and food expenses for [] three attorneys”). In an exercise of their billing judgment, Plaintiffs have removed meals and certain transportation costs from their list of costs and are not seeking reimbursement for such costs.<sup>3</sup>

In sum, Plaintiffs’ counsel are requesting \$819,907.66 in actual costs and expenses. These costs and other expenses are reasonable and Plaintiffs’ counsel should be fully reimbursed for those amounts.

### CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court award Plaintiffs’ attorneys’ fees, expenses, and costs in the amount of \$7,256,747.66 as set forth above and in the accompanying declaration and exhibits.

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<sup>3</sup> Note that Plaintiffs’ expert witness costs were paid by the National Redistricting Foundation (“NRF”), a 501(c)(3) organization. Accordingly, any recovery for expert costs will be reimbursed to NRF.

Dated: August 15, 2019

Respectfully Submitted,  
/s/ Daniel Grant (Bar. No. 19659)

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: 18-cv-1041-GJH

Hon. George J. Hazel

**DECLARATION OF SHANKAR DURAI SWAMY**

1. This Declaration is being made in support of Plaintiffs' Motion for Award of Attorney's Fees and Costs in the above-captioned case.

**A. The Attorneys In This Application.**

2. I am an attorney duly licensed in the District of Columbia and am a partner with the firm of Covington & Burling, LLP ("Covington") in Washington, D.C. Throughout the course of the litigation in the above-captioned action, including pre-suit factual investigation and legal analysis (the "Relevant Period"), I principally (but not exclusively) supervised and directed Covington's litigation activities on behalf of the Plaintiffs. My work on this matter included directing assignments; reviewing and revising completed work product, including almost all court filings; managing communications with opposing counsel and counsel in related actions; consulting with the Covington attorneys engaged on this matter, including the core team members identified below; leading fact discovery efforts, including coordination with other plaintiff groups involved in related actions and taking depositions of government witnesses; working with outside experts, particularly those

whose opinions supported Plaintiffs' standing argument, including preparation for and defense of depositions; arguing dispositive and other key motions in Court; leading trial efforts, including preparation and examination of witnesses and closing argument; and providing strategic direction. I graduated law school in 2005. My standard billing rates in 2018 and 2019 were, respectively, \$825 and \$895 per hour.

3. Benjamin Duke is a partner at Covington in New York, New York. During the Relevant Period, Mr. Duke principally (but not exclusively) reviewed and revised key court filings; developed legal and factual strategy regarding Plaintiffs' APA claim; led related discovery of certain government witnesses; worked with outside experts, particularly those whose work supported Plaintiffs' APA claims; examined witnesses at trial and argued evidentiary issues; and handled summary judgment and closing argument on APA claims. Mr. Duke graduated law school in 1993. Mr. Duke's standard billing rates in 2018 and 2019 were, respectively, \$1070 and \$1120 per hour.
4. Karun Tilak was an associate at Covington in Washington, D.C. and San Francisco, California until August 2, 2019. During the Relevant Period, until his departure in August 2019, Mr. Tilak principally (but not exclusively) researched Plaintiffs' claims; researched and analyzed a wide range of substantive and procedural issues; researched and drafted several pleadings, and dispositive and procedural motions; took depositions of Census Bureau witnesses; examined the Census Bureau's lead witness at trial; worked with and supported deposition and trial preparation of expert witnesses whose opinions were relevant to standing issues; researched, briefed, negotiated, and argued evidentiary issues for trial; researched and drafted portions of post-trial filings. Mr. Tilak graduated law

school in 2014. Mr. Tilak's standard billing rates in 2018 and 2019 were, respectively, \$590 and \$670 per hour.

5. Daniel Grant is an associate at Covington in Washington, D.C. During the Relevant Period, Mr. Grant principally (but not exclusively) researched Plaintiffs' claims; researched and analyzed a wide range of substantive and procedural issues; researched and drafted portions of several pleadings, and dispositive and procedural motions; managed and conducted review of government documents productions; participated and coordinated with counsel in related actions on multiple depositions of government witnesses; supported the deposition and trial preparation of expert witnesses whose opinions were relevant to plaintiffs' APA claims; researched, briefed, negotiated, and argued evidentiary issues for trial; researched and drafted portions of post-trial filings; and reviewed, edited, and coordinated all court filings. Mr. Grant graduated law school in 2015. Mr. Grant's standard billing rates in 2018 and 2019 were, respectively, \$560 and \$625 per hour.
6. Bianca Nunes is an associate at Covington in Washington, D.C. During the Relevant Period, Ms. Nunes principally (but not exclusively) researched and analyzed key legal issues, particularly those related to regulatory processes, federal funding formulas, VRA enforcement, and standing; worked with outside experts on federal funding, reapportionment, and VRA enforcement issues, including deposition and trial preparation. Ms. Nunes graduated law school in 2014. Ms. Nunes's standard billing rates in 2018 and 2019 were, respectively, \$590 and \$670 per hour.
7. Dustin Cho is an associate at Covington in Washington, D.C. During the Relevant Period, Mr. Cho principally (but not exclusively) managed and conducted a wide range of fact

and expert discovery relevant to Plaintiffs' standing argument, particularly issues related to undercount analyses; provided strategic input on procedural and appellate strategy; and examined witnesses and argued evidentiary issues at trial. Mr. Cho graduated law school in 2011. Mr. Cho's standard billing rates in 2018 and 2019 were, respectively, \$690 and \$770 per hour.

8. Tina Thomas is an associate at Covington in Washington, D.C. During the Relevant Period, Ms. Thomas principally (but not exclusively) researched factual issues relevant to Plaintiffs' claims and standing arguments; managed communications with Plaintiffs, preparation of Plaintiff testimony, and analysis of relevant Plaintiff facts; researched and briefed discovery issues; managed fact discovery related to the Department of Justice; worked on expert discovery and trial preparation relevant to Plaintiffs' standing argument, including undercount analyses and voting impact; and researched, briefed, and argued evidentiary issues. Ms. Thomas graduated law school in 2014. Ms. Thomas's standard billing rates in 2018 and 2019 were, respectively, \$590 and \$670 per hour.
9. B.J. Altvater is an associate at Covington in Washington, D.C. During the Relevant Period, Mr. Altvater principally (but not exclusively) worked on fact discovery and analysis regarding government conduct, including reviewing documents produced by the government; supported preparation for multiple depositions of government witnesses; researched and drafted pleadings regarding Plaintiffs' equal protection claim; monitored and analyzed developments in NY trial; worked on expert discovery and trial preparation with experts whose opinions related to the government's conduct; prepared deposition designations for trial; researched a range of procedural and substantive issues; and worked on drafting post-trial submissions. Mr. Altvater graduated law school in 2018.

Mr. Altvater's standard billing rates in 2018 and 2019 were, respectively, \$495 and \$525 per hour.

10. Ameer Frodle is an associate at Covington in Washington, D.C. During the Relevant Period, Ms. Frodle principally (but not exclusively) researched and briefed key evidentiary issues; monitored and analyzed developments in NY trial; supported the deposition and trial preparation of Plaintiffs' lead undercount expert; prepared Plaintiffs' exhibit list; worked on drafting post-trial submissions; and researched, analyzed, and prepared Plaintiffs' request for fees and costs. Ms. Frodle graduated law school in 2018. Ms. Frodle's standard billing rates in 2018 and 2019 were, respectively, \$495 and \$525 per hour.
11. Marianna Jackson is an associate at Covington in Washington, D.C. During the Relevant Period, Ms. Jackson principally (but not exclusively) conducted research on pretrial and evidentiary issues; drafted Plaintiffs' summary judgment brief; and drafted substantive pretrial and post-trial filings. Ms. Jackson graduated law school in 2011. Ms. Jackson's standard billing rates in 2018 and 2019 were, respectively, \$630 and \$700 per hour.
12. Lawrence Hobel is a senior counsel at Covington in San Francisco, California. During the Relevant Period, Mr. Hobel principally (but not exclusively) provided analysis and strategic guidance on legal issues relevant to all dispositive motions, post-trial submissions, and trial evidentiary issues; and provided strategic guidance on discovery of the Census Bureau. Mr. Hobel graduated law school in 1976. Mr. Hobel's standard billing rates in 2018 and 2019 were, respectively, \$1000 and \$1040 per hour.
13. José Arvelo is a special counsel at Covington in Washington, D.C. During the Relevant Period, Mr. Arvelo principally (but not exclusively) worked with expert witnesses whose

opinions were relevant to Plaintiffs' federal funding standing argument, including preparation for and defense of depositions and preparation for and examination at trial.

Mr. Arvelo graduated law school in 2007. Mr. Arvelo's standard billing rates in 2018 and 2019 were, respectively, \$775 and \$820 per hour.

14. Eric Xie was a paralegal at Covington in Washington, D.C. until April 24, 2019. During the Relevant Period, until his departure in April 2019, Mr. Xie principally (but not exclusively) was responsible for a wide range of tasks supporting the efforts of the above attorneys, including the management of trial logistics. Mr. Xie's standard billing rates in 2018 and 2019 were, respectively, \$255 and \$265 per hour.

15. Rebecca Mooney is a paralegal at Covington in Washington, D.C. During the Relevant Period, Ms. Mooney principally (but not exclusively) was responsible for a range of tasks supporting the efforts of the above attorneys, including trial support. Ms. Mooney's standard billing rates in 2018 and 2019 were, respectively, \$255 and \$265 per hour.

**B. Reasonableness of Rates.**

16. The hourly rates reflected above are reasonable hourly rates for legal professionals of the same experience at firms similar to Covington.

17. Covington reviews attorney and legal professional billing rates each year to ensure that they are consistent with those charged by attorneys with similar experience in the legal community. Covington rates are generally consistent with prevailing market rates. Covington's rates are reasonable, considering the rates charged by attorneys and other legal professionals of similar ability and experience in the local legal marketplace and the responsibilities assumed in this case.

**C. Exercise of Billing Judgment**

18. Covington attorneys and legal professionals worked more than 10,700 hours on this case, from pre-suit factual development and legal analysis through the preparation of this motion for fees and costs.
19. I have reviewed all of the time records and billing entries reflecting this work.
20. For purposes of Plaintiffs' motion for fees and costs, a number of downward adjustments have been made that reflect the exercise of billing judgment and to comply with the principles set forth in Appendix B of the Local Rules. In making these adjustments, a conservative approach was taken, often resulting in downward adjustments even when such adjustments were, in my billing judgment, not necessary.
21. As an initial matter, all hours worked by any individual who worked fewer than 100 hours on this matter were removed, even where an attorney's work reflected unique and specialized expertise such as appellate expertise.
22. After reducing the hours to a core team of attorneys and paralegals, additional reductions were made based on various criteria, including but not limited to the following:
  - a. Travel time;
  - b. Time spent by new attorneys on the case to learn the case background;
  - c. Time for more than one attorney attending standing team meetings and depositions;
  - d. Time for more than one attorney on external calls unless each attorney on the call had an important and unique role;
  - e. Duplicative or inefficient work;

- f. Generic time entries where I was unable to discern the nature of the work performed;
- g. Work that was not necessary to the advancement of the case based on the individual's role and responsibilities (e.g., reviewing news reports or court filings in related actions that did not relate to some specific responsibility in this case); and
- h. Time spent by an attorney for clerical work that does not require the exercise of legal expertise or judgment.

**D. Use of Fees**

23. As a matter of firm policy, any fees that Covington recovers in a pro bono case must be donated to charitable public interest or legal services organizations after the deduction of amounts necessary to cover expenses in the instant case and contribute to expenses incurred in the firm's other pro bono matters.

**E. Exhibits Supporting This Application**

24. Attached hereto as Exhibit 1 is a statement of the hours worked by each legal professional for whom Plaintiffs seek to recover fees and a calculation of total fees per professional based on two different hourly rates: (a) Covington's standard rates, and (b) the rates set forth in the *Laffey* matrix used by the U.S. Attorney's Office for the District of Columbia.
25. Attached hereto as Exhibit 2 is a statement of the hours worked by each legal professional for whom Plaintiffs seek to recover fees and a calculation of total fees per professional based on the statutory rate permitted under 28 U.S.C. § 2412(d).



26. Attached hereto as Exhibit 3 is a statement of the costs and expenses incurred during the Relevant Period, recoverable under both 28 U.S.C. § 2412(b) and (d). Additional detail on expert fees and expenses is set forth in Exhibit 7.
27. Attached hereto as Exhibit 4 is a true and correct copy of the U.S. Department of Labor's Bureau of Labor Statistics ("BLS") historical tables of the Consumer Price Index for All Urban Consumers for Washington-Arlington-Alexandria, DC-MD-VA-WV geographical area (CPI), and the average CPI-U for all U.S. cities. These tables are available at [https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical\\_washingtondc\\_table.htm](https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_washingtondc_table.htm) and <https://www.bls.gov/cpi/tables/historical-cpi-u-201709.pdf> (last visited Aug. 13, 2019).
28. Attached hereto as Exhibit 5 is a true and correct copy of the Laffey Matrix used by the U.S. Attorney's Office for the District of Columbia for 2015–2019. The Matrix is available at <https://www.justice.gov/usao-dc/file/796471/download> (last visited Aug. 13, 2019).
29. Attached hereto as Exhibit 6 are declarations from Plaintiffs attesting to their financial eligibility under 28 U.S.C. § 2412(d).<sup>1</sup>

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<sup>1</sup> To counsel's knowledge, all individual plaintiffs satisfied § 2412(d)'s financial eligibility requirements at the date of filing and subsequently thereafter. Plaintiffs' counsel has received declarations from most of the plaintiffs, and will continue reaching out to receive them from all, to the extent the Court requires such declarations to be submitted.

30. Attached hereto as Exhibit 7 is a statement of expert fees and expenses incurred on behalf of Plaintiffs, which are true and correct copies of documentation supporting Plaintiffs' request for expert fees and expenses.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 15<sup>th</sup> day of August, 2019.

*/s/ Shankar Duraiswamy*

Shankar Duraiswamy

**Exhibit 1 — Rates Awarded Under 28 U.S.C. § 2412(b) Upon Showing of Bad Faith**

Name	Title	Law School Graduation Year	Hours Worked	Standard Rates <sup>1</sup>		USAO <i>Laffey</i> Matrix for D.C. <sup>2</sup>	
				Rate	Total Fees	Rate	Total Fees
P. Benjamin Duke	Partner	1993	1,466.40	\$1070; \$1120	\$1,602,403.00	\$563; \$572	\$837,567.60
Shankar Duraiswamy	Partner	2005	1,396.10	\$825; \$895	\$1,185,858.50	\$483; \$491	\$683,359.50
Karun Tilak	Associate	2014	1,268.50	\$590; \$670	\$787,351.00	\$346; \$351	\$444,221.00
Bianca Nunes	Associate	2014	855.40	\$590; \$670	\$518,854.00	\$346; \$351	\$299,123.90
Daniel Grant	Associate	2015	830.70	\$560; \$625	\$491,244.00	\$334; \$340	\$281,750.40
Eric Xie	Paralegal	N/A	791.10	\$255; \$265	\$205,178.50	\$164; \$166	\$131,240.40
Dustin Cho	Associate	2011	644.20	\$690; \$770	\$470,130.00	\$352; \$358	\$230,329.60
Tina Thomas	Associate	2014	610.10	\$590; \$670	\$374,143.00	\$346; \$351	\$213,432.60
Amee Frodle	Associate	2018	426.20	\$495; \$525	\$215,559.00	\$307	\$128,141.80

<sup>1</sup> Pursuant to Covington's regular billing practices, rates change on January 1 of each year.

<sup>2</sup> Pursuant to the USAO's *Laffey* matrix, rates increased on June 1 for attorneys who worked on this litigation both before and after June 1, 2018. However, if an attorney moved up a level of seniority during the litigation, Plaintiffs use the lower rate for the entirety of the litigation. Because the June 1, 2019 rates have not been announced, Plaintiffs continued using the rates from 2018 for work done after June 1, 2019.

				Standard Rates <sup>1</sup>		USAO <i>Laffey</i> Matrix for D.C. <sup>2</sup>	
Name	Title	Law School Graduation Year	Hours Worked	Rate	Total Fees	Rate	Total Fees
Rebecca Mooney	Paralegal	N/A	384.90	\$255; \$265	\$101,706.50	\$166	\$63,893.40
Bradley Altvater	Associate	2018	375.60	\$495; \$525	\$187,219.50	\$307	\$113,804.90
Marianna Jackson	Associate	2011	172.30	\$630; \$700	\$113,792.00	\$358	\$61,683.40
José Arvelo	Special Counsel	2007	101.90	\$775; \$820	\$82,009.00	\$491	\$50,036.40
Lawrence Hobel	Senior Counsel	1976	100.30	\$1000; \$1040	\$101,392.00	\$602; \$613	\$61,408.00
<b>Total</b>			9,423.70		\$6,436,840.00		\$3,599,992.90

<b>Appendix B Category</b>	<b>Number of Hours</b>
Case development, background investigation, and case administration (includes initial investigations, file setup, preparation of budgets, and routine communications with client, co-counsel, opposing counsel, and the Court)	2624.6
Pleadings	258.6
Interrogatories, document production, and other written discovery	85.2
Depositions (includes time spent preparing for depositions)	975.7
Motions practice	1624.6
Attending court hearings	30.3
Trial preparation and post-trial motions	343.3
Attending trial	272.2
Fee petition preparation	119.5
<b>Total</b>	<b>9423.70</b>

**Exhibit 2 — Rates Awarded Under 28 U.S.C. § 2412(d)**

Name	Title	Law School Graduation Year	Hours Worked	EAJA Statutory Rate (with Cost of Living Adjustment) and Total Fees	
				2018: \$208.22	2019: \$210.46
P. Benjamin Duke	Partner	1993	1,466.40	\$166,430.25	\$140,397.87
Shankar Duraiswamy	Partner	2005	1,396.10	\$189,334.45	\$102,451.93
Karun Tilak	Associate	2014	1,268.50	\$162,786.40	\$102,430.88
Bianca Nunes	Associate	2014	855.40	\$139,778.09	\$38,745.69
Daniel Grant	Associate	2015	830.70	\$89,513.78	\$84,352.37
Eric Xie	Paralegal	N/A	791.10	\$92,928.59	\$72,566.61
Dustin Cho	Associate	2011	644.20	\$67,421.64	\$67,431.38
Tina Thomas	Associate	2014	610.10	\$89,617.89	\$37,819.66
Amee Frodle	Associate	2018	426.20	\$24,819.82	\$64,611.22
Rebecca Mooney	Paralegal	N/A	384.90	\$6,080.02	\$74,860.62
Bradley Altvater	Associate	2018	375.60	\$51,347.05	\$27,149.34
Marianna Jackson	Associate	2011	172.30	\$20,280.63	\$15,763.45
José Arvelo	Special Counsel	2007	101.90	\$7,183.59	\$14,185.00
Lawrence Hobel	Senior Counsel	1976	100.30	\$15,200.06	\$5,745.56
<b>Total</b>			9,423.7	\$1,971,233.84	

**Exhibit 3 – Statement of Costs and Expenses**

<b>Cost Category</b>	<b>Total</b>
Copying, Printing, and Duplicating	\$52,378.47
Computer and Library Research	\$18,557.08
Couriers and Messengers	\$3,918.14
Court Reporter	\$3,316.36
Depositions and Transcripts	\$70,218.12
Trial Support Services Equipment	\$34,233.93
Expert Fees	\$535,706.91
Shipping	\$906.15
Court and Filing Fees	\$2,459.46
Long Distance Phone Calls	\$1,320.89
Travel (airfare, non-local transportation, lodging, including for trial)	\$93,722.06
Supplies	\$3,170.09
<b>Total:</b>	\$819,907.66

# **Exhibit 4**



**Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items**

(1982-84=100, unless otherwise noted)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
1913	9.8	9.8	9.8	9.8	9.7	9.8	9.9	9.9	10.0	10.0	10.1	10.0
1914	10.0	9.9	9.9	9.8	9.9	9.9	10.0	10.2	10.2	10.1	10.2	10.1
1915	10.1	10.0	9.9	10.0	10.1	10.1	10.1	10.1	10.1	10.2	10.3	10.3
1916	10.4	10.4	10.5	10.6	10.7	10.8	10.8	10.9	11.1	11.3	11.5	11.6
1917	11.7	12.0	12.0	12.6	12.8	13.0	12.8	13.0	13.3	13.5	13.5	13.7
1918	14.0	14.1	14.0	14.2	14.5	14.7	15.1	15.4	15.7	16.0	16.3	16.5
1919	16.5	16.2	16.4	16.7	16.9	16.9	17.4	17.7	17.8	18.1	18.5	18.9
1920	19.3	19.5	19.7	20.3	20.6	20.9	20.8	20.3	20.0	19.9	19.8	19.4
1921	19.0	18.4	18.3	18.1	17.7	17.6	17.7	17.7	17.5	17.5	17.4	17.3
1922	16.9	16.9	16.7	16.7	16.7	16.7	16.8	16.6	16.6	16.7	16.8	16.9
1923	16.8	16.8	16.8	16.9	16.9	17.0	17.2	17.1	17.2	17.3	17.3	17.3
1924	17.3	17.2	17.1	17.0	17.0	17.0	17.1	17.0	17.1	17.2	17.2	17.3
1925	17.3	17.2	17.3	17.2	17.3	17.5	17.7	17.7	17.7	17.7	18.0	17.9
1926	17.9	17.9	17.8	17.9	17.8	17.7	17.5	17.4	17.5	17.6	17.7	17.7
1927	17.5	17.4	17.3	17.3	17.4	17.6	17.3	17.2	17.3	17.4	17.3	17.3
1928	17.3	17.1	17.1	17.1	17.2	17.1	17.1	17.1	17.3	17.2	17.2	17.1
1929	17.1	17.1	17.0	16.9	17.0	17.1	17.3	17.3	17.3	17.3	17.3	17.2
1930	17.1	17.0	16.9	17.0	16.9	16.8	16.6	16.5	16.6	16.5	16.4	16.1
1931	15.9	15.7	15.6	15.5	15.3	15.1	15.1	15.1	15.0	14.9	14.7	14.6
1932	14.3	14.1	14.0	13.9	13.7	13.6	13.6	13.5	13.4	13.3	13.2	13.1
1933	12.9	12.7	12.6	12.6	12.6	12.7	13.1	13.2	13.2	13.2	13.2	13.2
1934	13.2	13.3	13.3	13.3	13.3	13.4	13.4	13.4	13.6	13.5	13.5	13.4
1935	13.6	13.7	13.7	13.8	13.8	13.7	13.7	13.7	13.7	13.7	13.8	13.8
1936	13.8	13.8	13.7	13.7	13.7	13.8	13.9	14.0	14.0	14.0	14.0	14.0
1937	14.1	14.1	14.2	14.3	14.4	14.4	14.5	14.5	14.6	14.6	14.5	14.4
1938	14.2	14.1	14.1	14.2	14.1	14.1	14.1	14.1	14.1	14.0	14.0	14.0
1939	14.0	13.9	13.9	13.8	13.8	13.8	13.8	13.8	14.1	14.0	14.0	14.0
1940	13.9	14.0	14.0	14.0	14.0	14.1	14.0	14.0	14.0	14.0	14.0	14.1
1941	14.1	14.1	14.2	14.3	14.4	14.7	14.7	14.9	15.1	15.3	15.4	15.5
1942	15.7	15.8	16.0	16.1	16.3	16.3	16.4	16.5	16.5	16.7	16.8	16.9
1943	16.9	16.9	17.2	17.4	17.5	17.5	17.4	17.3	17.4	17.4	17.4	17.4
1944	17.4	17.4	17.4	17.5	17.5	17.6	17.7	17.7	17.7	17.7	17.7	17.8
1945	17.8	17.8	17.8	17.8	17.9	18.1	18.1	18.1	18.1	18.1	18.1	18.2
1946	18.2	18.1	18.3	18.4	18.5	18.7	19.8	20.2	20.4	20.8	21.3	21.5
1947	21.5	21.5	21.9	21.9	21.9	22.0	22.2	22.5	23.0	23.0	23.1	23.4
1948	23.7	23.5	23.4	23.8	23.9	24.1	24.4	24.5	24.5	24.4	24.2	24.1
1949	24.0	23.8	23.8	23.9	23.8	23.9	23.7	23.8	23.9	23.7	23.8	23.6
1950	23.5	23.5	23.6	23.6	23.7	23.8	24.1	24.3	24.4	24.6	24.7	25.0
1951	25.4	25.7	25.8	25.8	25.9	25.9	25.9	25.9	26.1	26.2	26.4	26.5
1952	26.5	26.3	26.3	26.4	26.4	26.5	26.7	26.7	26.7	26.7	26.7	26.7
1953	26.6	26.5	26.6	26.6	26.7	26.8	26.8	26.9	26.9	27.0	26.9	26.9
1954	26.9	26.9	26.9	26.8	26.9	26.9	26.9	26.9	26.8	26.8	26.8	26.7
1955	26.7	26.7	26.7	26.7	26.7	26.7	26.8	26.8	26.9	26.9	26.9	26.8
1956	26.8	26.8	26.8	26.9	27.0	27.2	27.4	27.3	27.4	27.5	27.5	27.6
1957	27.6	27.7	27.8	27.9	28.0	28.1	28.3	28.3	28.3	28.3	28.4	28.4
1958	28.6	28.6	28.8	28.9	28.9	28.9	29.0	28.9	28.9	28.9	29.0	28.9
1959	29.0	28.9	28.9	29.0	29.0	29.1	29.2	29.2	29.3	29.4	29.4	29.4
1960	29.3	29.4	29.4	29.5	29.5	29.6	29.6	29.6	29.6	29.8	29.8	29.8
1961	29.8	29.8	29.8	29.8	29.8	29.8	30.0	29.9	30.0	30.0	30.0	30.0
1962	30.0	30.1	30.1	30.2	30.2	30.2	30.3	30.3	30.4	30.4	30.4	30.4
1963	30.4	30.4	30.5	30.5	30.5	30.6	30.7	30.7	30.7	30.8	30.8	30.9
1964	30.9	30.9	30.9	30.9	30.9	31.0	31.1	31.0	31.1	31.1	31.2	31.2
1965	31.2	31.2	31.3	31.4	31.4	31.6	31.6	31.6	31.6	31.7	31.7	31.8
1966	31.8	32.0	32.1	32.3	32.3	32.4	32.5	32.7	32.7	32.9	32.9	32.9
1967	32.9	32.9	33.0	33.1	33.2	33.3	33.4	33.5	33.6	33.7	33.8	33.9
1968	34.1	34.2	34.3	34.4	34.5	34.7	34.9	35.0	35.0	35.3	35.4	35.5
1969	35.6	35.8	36.1	36.3	36.4	36.6	36.8	37.0	37.1	37.3	37.5	37.7

See footnotes at end of table.

**Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued**

(1982-84=100, unless otherwise noted)

Year	Semiannual averages		Annual avg.	Percent change from previous	
	1st half	2nd half		Dec.	Annual avg.
1913	-	-	9.9	-	-
1914	-	-	10.0	1.0	1.0
1915	-	-	10.1	2.0	1.0
1916	-	-	10.9	12.6	7.9
1917	-	-	12.8	18.1	17.4
1918	-	-	15.1	20.4	18.0
1919	-	-	17.3	14.5	14.6
1920	-	-	20.0	2.6	15.6
1921	-	-	17.9	-10.8	-10.5
1922	-	-	16.8	-2.3	-6.1
1923	-	-	17.1	2.4	1.8
1924	-	-	17.1	.0	.0
1925	-	-	17.5	3.5	2.3
1926	-	-	17.7	-1.1	1.1
1927	-	-	17.4	-2.3	-1.7
1928	-	-	17.1	-1.2	-1.7
1929	-	-	17.1	.6	.0
1930	-	-	16.7	-6.4	-2.3
1931	-	-	15.2	-9.3	-9.0
1932	-	-	13.7	-10.3	-9.9
1933	-	-	13.0	.8	-5.1
1934	-	-	13.4	1.5	3.1
1935	-	-	13.7	3.0	2.2
1936	-	-	13.9	1.4	1.5
1937	-	-	14.4	2.9	3.6
1938	-	-	14.1	-2.8	-2.1
1939	-	-	13.9	.0	-1.4
1940	-	-	14.0	.7	.7
1941	-	-	14.7	9.9	5.0
1942	-	-	16.3	9.0	10.9
1943	-	-	17.3	3.0	6.1
1944	-	-	17.6	2.3	1.7
1945	-	-	18.0	2.2	2.3
1946	-	-	19.5	18.1	8.3
1947	-	-	22.3	8.8	14.4
1948	-	-	24.1	3.0	8.1
1949	-	-	23.8	-2.1	-1.2
1950	-	-	24.1	5.9	1.3
1951	-	-	26.0	6.0	7.9
1952	-	-	26.5	.8	1.9
1953	-	-	26.7	.7	.8
1954	-	-	26.9	-.7	.7
1955	-	-	26.8	.4	-.4
1956	-	-	27.2	3.0	1.5
1957	-	-	28.1	2.9	3.3
1958	-	-	28.9	1.8	2.8
1959	-	-	29.1	1.7	.7
1960	-	-	29.6	1.4	1.7
1961	-	-	29.9	.7	1.0
1962	-	-	30.2	1.3	1.0
1963	-	-	30.6	1.6	1.3
1964	-	-	31.0	1.0	1.3
1965	-	-	31.5	1.9	1.6
1966	-	-	32.4	3.5	2.9
1967	-	-	33.4	3.0	3.1
1968	-	-	34.8	4.7	4.2
1969	-	-	36.7	6.2	5.5

See footnotes at end of table.

**Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued**

(1982-84=100, unless otherwise noted)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
1970	37.8	38.0	38.2	38.5	38.6	38.8	39.0	39.0	39.2	39.4	39.6	39.8
1971	39.8	39.9	40.0	40.1	40.3	40.6	40.7	40.8	40.8	40.9	40.9	41.1
1972	41.1	41.3	41.4	41.5	41.6	41.7	41.9	42.0	42.1	42.3	42.4	42.5
1973	42.6	42.9	43.3	43.6	43.9	44.2	44.3	45.1	45.2	45.6	45.9	46.2
1974	46.6	47.2	47.8	48.0	48.6	49.0	49.4	50.0	50.6	51.1	51.5	51.9
1975	52.1	52.5	52.7	52.9	53.2	53.6	54.2	54.3	54.6	54.9	55.3	55.5
1976	55.6	55.8	55.9	56.1	56.5	56.8	57.1	57.4	57.6	57.9	58.0	58.2
1977	58.5	59.1	59.5	60.0	60.3	60.7	61.0	61.2	61.4	61.6	61.9	62.1
1978	62.5	62.9	63.4	63.9	64.5	65.2	65.7	66.0	66.5	67.1	67.4	67.7
1979	68.3	69.1	69.8	70.6	71.5	72.3	73.1	73.8	74.6	75.2	75.9	76.7
1980	77.8	78.9	80.1	81.0	81.8	82.7	82.7	83.3	84.0	84.8	85.5	86.3
1981	87.0	87.9	88.5	89.1	89.8	90.6	91.6	92.3	93.2	93.4	93.7	94.0
1982	94.3	94.6	94.5	94.9	95.8	97.0	97.5	97.7	97.9	98.2	98.0	97.6
1983	97.8	97.9	97.9	98.6	99.2	99.5	99.9	100.2	100.7	101.0	101.2	101.3
1984	101.9	102.4	102.6	103.1	103.4	103.7	104.1	104.5	105.0	105.3	105.3	105.3
1985	105.5	106.0	106.4	106.9	107.3	107.6	107.8	108.0	108.3	108.7	109.0	109.3
1986	109.6	109.3	108.8	108.6	108.9	109.5	109.5	109.7	110.2	110.3	110.4	110.5
1987	111.2	111.6	112.1	112.7	113.1	113.5	113.8	114.4	115.0	115.3	115.4	115.4
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525
2016	236.916	237.111	238.132	239.261	240.229	241.018	240.628	240.849	241.428	241.729	241.353	241.432
2017	242.839	243.603	243.801	244.524	244.733	244.955	244.786	245.519	246.819	-	-	-

See footnotes at end of table.

**Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued**

(1982-84=100, unless otherwise noted)

Year	Semiannual averages		Annual avg.	Percent change from previous	
	1st half	2nd half		Dec.	Annual avg.
1970	-	-	38.8	5.6	5.7
1971	-	-	40.5	3.3	4.4
1972	-	-	41.8	3.4	3.2
1973	-	-	44.4	8.7	6.2
1974	-	-	49.3	12.3	11.0
1975	-	-	53.8	6.9	9.1
1976	-	-	56.9	4.9	5.8
1977	-	-	60.6	6.7	6.5
1978	-	-	65.2	9.0	7.6
1979	-	-	72.6	13.3	11.3
1980	-	-	82.4	12.5	13.5
1981	-	-	90.9	8.9	10.3
1982	-	-	96.5	3.8	6.2
1983	-	-	99.6	3.8	3.2
1984	102.9	104.9	103.9	3.9	4.3
1985	106.6	108.5	107.6	3.8	3.6
1986	109.1	110.1	109.6	1.1	1.9
1987	112.4	114.9	113.6	4.4	3.6
1988	116.8	119.7	118.3	4.4	4.1
1989	122.7	125.3	124.0	4.6	4.8
1990	128.7	132.6	130.7	6.1	5.4
1991	135.2	137.2	136.2	3.1	4.2
1992	139.2	141.4	140.3	2.9	3.0
1993	143.7	145.3	144.5	2.7	3.0
1994	147.2	149.3	148.2	2.7	2.6
1995	151.5	153.2	152.4	2.5	2.8
1996	155.8	157.9	156.9	3.3	3.0
1997	159.9	161.2	160.5	1.7	2.3
1998	162.3	163.7	163.0	1.6	1.6
1999	165.4	167.8	166.6	2.7	2.2
2000	170.8	173.6	172.2	3.4	3.4
2001	176.6	177.5	177.1	1.6	2.8
2002	178.9	180.9	179.9	2.4	1.6
2003	183.3	184.6	184.0	1.9	2.3
2004	187.6	190.2	188.9	3.3	2.7
2005	193.2	197.4	195.3	3.4	3.4
2006	200.6	202.6	201.6	2.5	3.2
2007	205.709	208.976	207.342	4.1	2.8
2008	214.429	216.177	215.303	.1	3.8
2009	213.139	215.935	214.537	2.7	-4
2010	217.535	218.576	218.056	1.5	1.6
2011	223.598	226.280	224.939	3.0	3.2
2012	228.850	230.338	229.594	1.7	2.1
2013	232.366	233.548	232.957	1.5	1.5
2014	236.384	237.088	236.736	.8	1.6
2015	236.265	237.769	237.017	.7	.1
2016	238.778	241.237	240.007	2.1	1.3
2017	244.076	-	-	-	-

- Data not available.

NOTE: Index applies to a month as a whole, not to any specific date.

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### Consumer Price Index Historical Tables for Washington-Arlington-Alexandria, DC-MD-VA-WV

#### CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U)

ALL ITEMS (1982-84=100)	Washington-Arlington-Alexandria, DC-VA-MD-WV											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>Consumer Price Index</b>												
<b>2009</b>	221.830		222.630		223.583		226.084		227.181		226.533	
<b>2010</b>	227.440		228.480		228.628		228.432		230.612		230.531	
<b>2011</b>	232.770		235.182		237.348		238.191		238.725		238.175	
<b>2012</b>	238.994		242.235		242.446		241.744		244.720		243.199	
<b>2013</b>	243.473		245.477		245.499		246.178		247.838		247.264	
<b>2014</b>	247.679		249.591		250.443		250.326		250.634		249.972	
<b>2015</b>	247.127		249.985		251.825		250.992		252.376		251.327	
<b>2016</b>	250.807		252.718		254.850		254.305		253.513		253.989	
<b>2017</b>	254.495		255.435		255.502		255.518		257.816		257.872	
<b>2018</b>	260.219		260.026		261.770		262.016		263.056		261.120	
<b>2019</b>	262.304		264.257		265.967							
<b>Percent change from 12 months ago</b>												
<b>2009</b>	0.6		0.0		-0.4		-1.2		-0.7		1.3	
<b>2010</b>	2.5		2.6		2.3		1.0		1.5		1.8	
<b>2011</b>	2.3		2.9		3.8		4.3		3.5		3.3	
<b>2012</b>	2.7		3.0		2.1		1.5		2.5		2.1	
<b>2013</b>	1.9		1.3		1.3		1.8		1.3		1.7	
<b>2014</b>	1.7		1.7		2.0		1.7		1.1		1.1	
<b>2015</b>	-0.2		0.2		0.6		0.3		0.7		0.5	
<b>2016</b>	1.5		1.1		1.2		1.3		0.5		1.1	
<b>2017</b>	1.5		1.1		0.3		0.5		1.7		1.5	
<b>2018</b>	2.2		1.8		2.5		2.5		2.0		1.3	
<b>2019</b>	0.8		1.6		1.6							

#### CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS (CPI-W)

ALL ITEMS (1982-84=100)	Washington-Arlington-Alexandria, DC-VA-MD-WV											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>Consumer Price Index</b>												
<b>2009</b>	215.915		217.108		218.819		221.871		222.916		222.479	
<b>2010</b>	223.541		224.671		224.778		224.497		226.741		226.717	
<b>2011</b>	229.417		232.274		235.423		235.189		236.093		235.191	
<b>2012</b>	235.659		239.314		239.858		239.119		242.380		240.618	
<b>2013</b>	240.616		242.694		242.240		243.197		244.881		243.777	
<b>2014</b>	244.428		245.970		246.907		247.057		247.515		246.082	
<b>2015</b>	242.957		245.834		247.266		247.199		248.273		247.009	
<b>2016</b>	246.383		248.424		250.506		249.806		249.429		249.636	
<b>2017</b>	250.567		251.407		251.336		251.187		253.697		253.547	
<b>2018</b>	256.800		256.019		258.281		258.410		259.538		257.293	
<b>2019</b>	258.392		259.906		262.018							
<b>Percent change from 12 months ago</b>												
<b>2009</b>	-0.1		-0.5		-0.7		-1.1		-0.7		1.9	
<b>2010</b>	3.5		3.5		2.7		1.2		1.7		1.9	
<b>2011</b>	2.6		3.4		4.7		4.8		4.1		3.7	
<b>2012</b>	2.7		3.0		1.9		1.7		2.7		2.3	

ALL ITEMS (1982-84=100)	Washington-Arlington-Alexandria, DC-VA-MD-WV											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2013	2.1		1.4		1.0		1.7		1.0		1.3	
2014	1.6		1.3		1.9		1.6		1.1		0.9	
2015	-0.6		-0.1		0.1		0.1		0.3		0.4	
2016	1.4		1.1		1.3		1.1		0.5		1.1	
2017	1.7		1.2		0.3		0.6		1.7		1.6	
2018	2.5		1.8		2.8		2.9		2.3		1.5	
2019	0.6		1.5		1.4							

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[www.bls.gov/regions/mid-atlantic](http://www.bls.gov/regions/mid-atlantic) | Telephone: 1-215-597-DATA (or 3282) | [Contact Mid-Atlantic Region](#)

# **Exhibit 5**

**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 recalculation 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).

# **Exhibit 6**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF LAUREN  
RACHEL BERMAN**

**DECLARATION OF LAUREN RACHEL BERMAN**

I, Lauren Rachel Berman, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 9, 2019 at Dallas, Texas.

  
\_\_\_\_\_  
Lauren Rachel Berman

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

<p>ROBYN KRAVITZ, <i>et al.</i></p> <p><i>Plaintiffs,</i></p> <p>v.</p> <p>UNITED STATES DEPARTMENT OF COMMERCE, <i>et al.</i></p> <p><i>Defendants.</i></p>	<p>Case No.: GJH-18-1041</p> <p>Hon. George J. Hazel</p> <p><b>DECLARATION OF ELIZABETH BUCHANAN</b></p>
--	--

**DECLARATION OF ELIZABETH BUCHANAN**

I, Elizabeth Buchanan, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

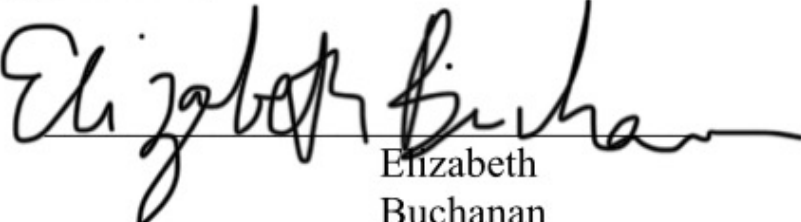
1. I am over the age of eighteen years and make this declaration of my own personal knowledge.

2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.

3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 12, 2019 at  
Los Angeles, CA.

  
Elizabeth  
Buchanan

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF ALEJANDRO  
CHAVEZ**

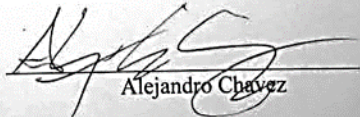
**DECLARATION OF ALEJANDRO CHAVEZ**

I, Alejandro Chavez, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters state on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 14, 2019 at \_\_\_\_\_.

  
Alejandro Chavez

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

<p>ROBYN KRAVITZ, <i>et al.</i></p> <p><i>Plaintiffs,</i></p> <p>v.</p> <p>UNITED STATES DEPARTMENT OF COMMERCE, <i>et al.</i></p> <p><i>Defendants.</i></p>	<p>Case No.: GJH-18-1041</p> <p>Hon. George J. Hazel</p> <p><b>DECLARATION OF JACOB CUNNINGHAM</b></p>
--	--

**DECLARATION OF JACOB CUNNINGHAM**

I, Jacob Cunningham, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

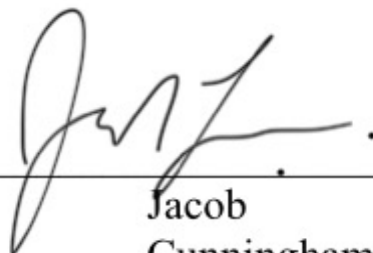
1. I am over the age of eighteen years and make this declaration of my own personal knowledge.

2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.

3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 12, 2019 at  
Los Angeles, CA.

  
\_\_\_\_\_  
Jacob  
Cunningham

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

---

ROBYN KRAVITZ, *et al.*

*Plaintiffs.*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

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Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF VIRGINIA  
GARCIA**

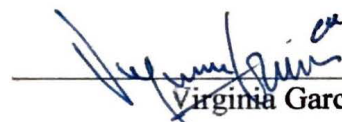
**DECLARATION OF VIRGINIA GARCIA**

I, Virginia Garcia, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 12, 2019 at Laredo, Texas.

  
\_\_\_\_\_  
Virginia Garcia



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF MICHAEL  
KAGAN**

**DECLARATION OF MICHAEL KAGAN**

I, Michael Kagan, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.

2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.

3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on Aug. 9, 2019 at Las Vegas NV.



Michael Kagan

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF ROBYN KRAVITZ**

**DECLARATION OF ROBYN KRAVITZ**

I, Robyn Kravitz, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 10, 2019 at 3506 Stewart Rd, District Heights MD 20747

  
Robyn Kravitz

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF MICHAEL  
KRAVITZ**

**DECLARATION OF MICHAEL KRAVITZ**

I, Michael Kravitz, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on Aug 11, 2019 at 3506 Stewart Rd District Heights MD 20747

  
Michael Kravitz

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF MARTHA  
SANCHEZ**

**DECLARATION OF MARTHA SANCHEZ**

I, Martha Sanchez, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

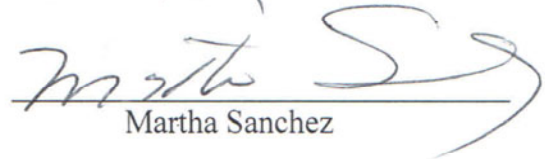
1. I am over the age of eighteen years and make this declaration of my own personal knowledge.

2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.

3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 8, 2019 at San Juan TX 78589

  
Martha Sanchez

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, et al.,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, et al.,

*Defendants.*

Case No. GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF RICHARD  
MCCUNE**

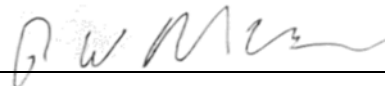
**DECLARATION OF RICHARD MCCUNE**

I, Richard McCune, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on 14 August, 2019 at 3:58 pm p.m.

  
\_\_\_\_\_

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF CATHERINE  
NWOSU**

**DECLARATION OF CATHERINE NWOSU**

I, Catherine Nwosu, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 12, 2019 at 8004 18<sup>th</sup> Ave Hyattsville, MD 20783

  
Catherine Nwosu

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF NNABUGWU  
NWOSU**

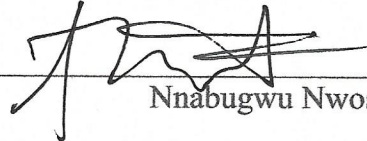
**DECLARATION OF NNABUGWU NWOSU**

I, Nnabugwu Nwosu, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on 12<sup>th</sup> of August, 2019 at 804 18<sup>th</sup> Ave Hyattsville MD 20783

  
Nnabugwu Nwosu

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF T. CARTER ROSS**

**DECLARATION OF T. CARTER ROSS**

I, T. Carter Ross, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

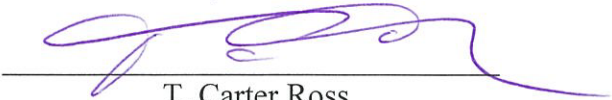
1. I am over the age of eighteen years and make this declaration of my own personal knowledge.

2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.

3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on August 8, 2019 at Hyattsville, Maryland

  
T. Carter Ross



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF SONIA CASAREZ  
SHAFER**

**DECLARATION OF SONIA CASAREZ SHAFER**

I, Sonia Casarez Shafer, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on Aug. 14, 2019 at San Juan, TX.

  
\_\_\_\_\_  
Sonia Casarez Shafer

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: GJH-18-1041

Hon. George J. Hazel

**DECLARATION OF JOANNE WILSON**

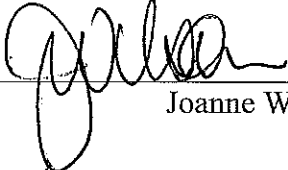
**DECLARATION OF JOANNE WILSON**

I, Joanne Wilson, pursuant to the provisions of 28 U.S.C. § 1746, declare under penalty of perjury that the foregoing is true and correct:

1. I am over the age of eighteen years and make this declaration of my own personal knowledge.
2. I submit this declaration in support of Plaintiffs' motion for attorneys' fees. I am an individual plaintiff.
3. As an individual, my net worth is and has been since the time of filing this lawsuit on April 11, 2018, less than \$2 million dollars.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge except those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I would competently testify thereto.

Executed on 8.12, 2019 at 700 PROFESSIONAL DR, GIBBS 20879.

  
\_\_\_\_\_  
Joanne Wilson

# **Exhibit 7**



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, *et al.*

*Defendants.*

Case No.: 18-cv-1041-GJH

Hon. George J. Hazel

**[PROPOSED] ORDER**

Upon Plaintiffs' Motion for Award of Attorneys' Fees, dated August 15, 2019, the Court having considered the submissions of the parties, IT IS HEREBY ORDERED that the Motion is GRANTED;

Plaintiffs are AWARDED reasonable attorney's fees and costs in the amount of \$\_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE