

EXHIBIT 19

LAFFEY MATRIX

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *McDowell v. District of Columbia*, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); *Salazar v. Dist. of Col.*, 123 F.Supp.2d 8 (D.D.C. 2000).

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

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In general, American courts operate under what is known as the "American Rule" which requires each party to bear the burden for its own legal fees. The Supreme Court has upheld this principle on many occasions for a number of reasons. For example, the knowledge that a loss means paying the other side's legal fees might prohibit plaintiffs from bringing suit or defendants from defending themselves. Nor should a party be penalized for bringing suit or defending itself. Determining proper fees would become an administrative nightmare. Fee awards might also drive attorneys fees up, by removing the pressure of the market and replacing it with the force of the bench.

In certain circumstances, however, both the courts and Congress have found it appropriate to authorize fee-shifting. Especially in the area of Civil Rights and Environmental Law, fee-shifting provisions have been built into statutes. The expense of quality legal counsel should not prohibit private citizens from bringing suit to uphold these laws which are for the common good. There are more than 150 statutes that allow for fee-shifting, among them the Clean Air Act, the Americans with Disabilities Act, the Individuals with Disabilities Education Act, the Rehabilitation Act, the Civil Rights Act, and the Back Pay act.

After years of wrangling over the matter of attorney fee hourly rates, the Court in *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp. 354, 371 (D.D.C. 1983) ruled that hourly rates for attorneys practicing civil law in the Washington, DC metropolitan area could be categorized by years in practice and adjusted yearly for inflation.

The Department of Justice (DOJ) crafted its own rules for, and maintains, its version of the Laffey Matrix (see http://www.usdoj.gov/usao/dc/Divisions/Civil_Division/Laffey_Matrix_7.html)

After scrutinizing the DOJ's methodology of setting and adjusting hourly rates for the Matrix, reviewing recent court decisions and contacting an expert economist, many firms in the Baltimore-Washington area (and due to FLRA/MSPB rulings, around the country) now utilize the [Adjusted Laffey Matrix](#) .

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[Markay v Perez](#) Decision by Judge Beryl A. Howell, US District Court for the District of Columbia supporting the use of the Adjusted Laffey Matrix.

See Ricks v. Barnes, No. 05-1756 HHK/DAR, 2007 U.S. Dist. LEXIS 22410, at *16 (D.D.C. Mar. 28, 2007) (finding Updated Matrix rates reasonable); *Smith v. District of Columbia*, 466 F. Supp. 2d 151, 156 (D.D.C. 2006) (concluding that use of the Updated Matrix is reasonable and noting that the Updated Matrix is more accurate than the Laffey Matrix because the Updated Matrix is “based on increases/decreases in legal services rather than increase[s]/decreases in the entire CPI which includes price changes for many different goods and services”); *Kempf v. Barrett Bus. Servs.*, No. C-06-3161 SC, 2007 U.S. Dist. LEXIS 89447 (N.D. Cal. Nov. 20, 2007) (finding attorneys’ requested fees reasonable when compared to rates in the Updated Matrix).

[Gregory V. Chiron, et al; Plaintiff's response to Order](#)

[Smith v DC et al; Memorandum Opinion](#)

The Third Circuit Court of Federal Appeals adopted the Adjusted Laffey Matrix. *Interfaith Community Organization v. Honeywell International, Inc.*, 426 F.3d 694 (3rd Cir. 2005). (“In updating the matrix to account for inflation from 1989-2003, ICO relied on the legal services component of the nationwide Consumer Price Index (“the Legal Services Index”), a measure of inflation in the cost of legal services maintained by the Bureau of Labor Statistics.”). The Court of Appeals noted that the District Court “reviewed both indices [the DOJ Matrix and the Adjusted Laffey Matrix] and decided that [the Adjusted Laffey Matrix] represented a better measure of prevailing rates in Washington, DC. In so doing, it relied on a decision by the District Court for the District of Columbia, *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C.2000), which compared the U.S. Attorney's Laffey Matrix with a matrix similar to that put forward by ICO in this case and concluded that the latter method was superior. *Salazar* is one of the few decisions approving the use of this approach, and it is, according to ICO, the only decision (prior to the District Court decision in this case) comparing the two approaches.” The Fourth Circuit has implicitly supported the use of the legal services component of the CPI, rather than the general CPI itself, for determining attorney's fees under 28 U.S.C. § 2412(b). See *Sullivan v. Sullivan*, 958 F.2d 574, 577 & n.8 (4th Cir. 1992). The US District Court for the District of North Carolina has adopted the Adjusted Laffey Matrix as well. *North Carolina Alliance for Transportation Reform, Inc. v. United States Department of Transportation*, 168 F. Supp. 2d 569 (D.NC 2001) (“Plaintiffs adjust the matrix's billing rates by applying the annual inflationary factor for legal services as reported in the United States Department of Labor's Consumer Price Index (“CPI”)”).

Some California Federal courts have accepted the same methodology, adjusting the Laffey Matrix upwards based upon the higher costs of living in Los Angeles and other California cities. *In Re HPL Technologies, Inc. Securities Litigation*, 366 F.Supp.2d 912, 921 (N. Dist. Cal. 2005). See also “It is the practice of the undersigned judge, however, to rely on official data to determine appropriate hourly rates, not on an attorney's self-proclaimed rates or declarations regarding hourly rates charged by law firms. One reliable official source for rates that vary by experience levels is the Laffey matrix used in the District of Columbia.” *Garnes v. Barnhardt*, 2006 U.S. Dist. LEXIS 5938 (N. Dist. Cal. 2006).

"The initial estimate of a reasonable attorney's fee "--the so-called lodestar fee--" [sic] is properly calculated by multiplying the number of hours reasonably expended on the litigation times a reasonable hourly rate." **Sexcius v. District of Columbia**, 839 F. Supp. 919, 921 (D.D.C. 1993) [*4] (quoting **Blum v. Stenson**, 465 U.S. 886, 888, 79 L. Ed. 2d 891, 104 S. Ct. 1541 (1984)) aff'd **Covington v. District of Columbia**, 313 U.S. App. D.C. 16, 57 F.3d 1101 (D.C. Cir. 1995) (**Covington II**). **Hensley v. Eckerhart**, 461 U.S. 424 (1983).

Normally, a prevailing party must establish a reasonable hourly rate, usually with affidavits and other evidence of the market rate. **Kling v. Department of Justice**, MSPB Dkt. No. AT075299048 (July 22, 1980)). "Affidavits are a particularly appropriate means of establishing the reasonableness of the amount of fees claimed. **Kling, supra**. A reasonable hourly rate may also be established by affidavits from other attorneys in the community with similar experience stating the rates that they charge fee-paying clients in similar cases. **See Montreuil v. Department of the Air Force**, 55 M.S.P.R. 685, 690-91 (1992) (citing **Swanson v. Defense Logistics Agency**, 35 M.S.P.R. 115, 119 (1987)).

In addition to affidavits and prior fee settlements, the **Laffey Matrix** is very useful as a guide to Market Rate attorney fees for the Baltimore / Washington area. The **Laffey Matrix** has been cited as good evidence of the Market Rate for attorneys practicing in federal employment arbitration matters. **See Department of Health and Human Services, Social Security Administration and AFGE**, 93 FLRR 1-4011 (1993); **Department of the Treasury, Internal Revenue Service, Washington, DC and NTEU**, 93 FLRR 1-1283, 48 FLRA No. 100, 48 FLRA 931 (1993); **Hatfield v. Garrett**, 90 FEOR 1046 (EEOC 1989). **Laffey v. Northwest Airlines, Inc.**, 572 F.Supp. 354, 371 (D.D.C. 1983); **Save Our Cumberland Mountains v. Hodel**, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc).

Regarding the "updated version of the Laffey matrix," the Court in **McDowell v. District of Columbia**, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001) stated in part:

"Plaintiffs may point to such [*9] evidence as an updated version of the **Laffey matrix** or the U.S. Attorney's Office matrix, or their own survey" to demonstrate the prevailing market rates in the community. n5 **Covington II**, 57 F.3d at 1109. Moreover, the plaintiffs may supplement any matrix that has been offered with "evidence of recent fees awarded by the court." **Id.** "Finally, the defendants may challenge plaintiff attorneys' market data, in an effort to show that the submitted market rates are inaccurate." **Id.** at 1110; **see also Covington v. District of Columbia**, 839 F. Supp. 894, 898 (D.D.C. 1993) (**Covington I**) (permitting defendants a chance to persuade court on what prevailing market rates are) aff'd **Covington II**, 313 U.S. App. D.C. 16, 57 F.3d 1101; Cf. **Oil and Chemical Workers**, 2001 WL 427287, at *7 (allowing the defendant to propose alternate methods of compensation for attorneys who did not meet the other factors for receiving compensation).

n5 The matrix may be found in **Laffey v. Northwest Airlines, Inc.**, 572 F. Supp. 354 (D.D.C. 1983)

Here, while the plaintiffs do not give an updated **Laffey matrix**, they do cite the matrix. n6 (Plaintiffs' Motion for fees at 3). Moreover, plaintiffs also supplement their motion by presenting cases that show an increase in the **Laffey scale**. For example, the plaintiffs attached **Dorsett** to show an increase of fees to \$ 280 per hour. (Plaintiffs' Unpublished Cases); **Dorsett v. District of Columbia**, No. 00- 212, slip op. (D.D.C. Sep. 12, 2000). The plaintiffs also included **Wingfield** to justify a fee award of \$ 335 per hour. n7 (Plaintiffs' Notice of Supp. Case); **Wingfield v. District of Columbia**, No. 00-121, slip op. at 6 (D.D.C. Apr. 13, 2001). Finally, recent cases such as **Salazar** have justified an award of \$ 444 per hour and \$ 369 per hour based on an updated version of the **Laffey matrix**. **Salazar v. District of Columbia**, 123 F. Supp. 2d 8, 13 (D.D.C. 2000)."

The Court in **Salazar** approved an updated version of the **Laffey** matrix, which is provided as **Exhibit 1** hereto. The **Laffey** matrix is computed by multiplying a base hourly rate by an Adjustment Factor. The updated **Laffey** matrix uses more accurate, recent base hourly rates and a more accurate Adjustment Factor. The updated **Laffey** matrix has been cited with approval. **See, e.g., McDowell v. District of Columbia**, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001) **citing Salazar v. District of Columbia**, 123 F. Supp. 2d 8, 13 (D.D.C. 2000).

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Michael Kavanaugh is an economist from Batavia, OH. Dr. Kavanaugh holds a Ph. D in economics from the University of Cincinnati (1975) and a B.A. in economics from Xavier University (1970). He has taught economics at the University of Cincinnati and at Northern Kentucky University. He has worked as a natural resource and environmental economist for a variety of clients, including the U.S. Department of Justice, the U.S. Environmental Protection Agency, environmental groups and private industry for over 20 years. He has been qualified as an expert in Federal court on financial and economic matter on a number of occasions. He is the economist credited by the D.C. Circuit in the *Salazar* case. His explanation of the advantages of the Adjusted Laffey Matrix are as follows:

The **Laffey** matrix was updated to 1988-1989 rates in connection with the **Save Our Cumberland Mountains v. Hodel**, 857 F.2d 1516 (D.C. Cir. 1988) (**en banc**) litigation. The Consumer Price Index for U.S. City Average, Legal Service Fees (“Legal Services Index”) maintained by the U.S. Department of Labor, Bureau of Labor Statistics **is a better measure** of the change in prices for legal services in Washington, D.C., than the Consumer Price Index for Washington, D.C., Maryland, Virginia, All Items (“DC Metro CPI”). He has reviewed both the update to the **Laffey** matrix which uses the Legal Services Index to bring 1988-1989 rates forward to present, and the update referred to as the United States Attorneys’ Office **Laffey** matrix, which utilizes the DC Metro CPI to bring 1981-1982 rates forward to present.

Both the Legal Services Index and the DC Metro CPI are readily available and are maintained by the U.S. Department of Labor, Bureau of Labor Statistics. The underlying data are collected by the U.S. Department of Commerce, Census Bureau as part of its quinquennial census and its annual surveys. Economists use as specific an index as possible to determine changes in prices in a part of an industry, such as here changes of prices in legal services in the Baltimore- Washington area. To measure changes in an industry’s prices, it is far preferable to use a specific index rather than a broad index.

The Legal Services Index is a national index that includes the metropolitan Baltimore-Washington, D.C., area. Adjusting the **Laffey** matrix with a national index assumes that the rate of change of prices for legal services is about the same everywhere. This is not the same thing as prices being the same everywhere. Even if prices differ in different places, the rate of change in prices is likely to be about the same. With resource mobility and the ability to communicate easily over distances, this is a plausible assumption. While it is possible for prices for the same good or service to change at different rates in different places, this is most likely to happen for goods or services for which there is only a local market because their transport is expensive relative to their value (e.g., fast food) or because communication is difficult.

The market for legal services in federal litigation in the Baltimore- Washington, D.C. area is not a local market. Therefore, it would be more appropriate to use the Legal Services Index, which captures supply and demand factors particular to the legal services market as well as inflation, as compared to the Baltimore-Washington Metro CPI, which chiefly captures inflation effects.

The **Laffey** matrix prepared by Dr. Kavanaugh is preferable to the United States Attorneys’ Office **Laffey** matrix for an additional reason. The **Adjusted Laffey matrix** updated is based on observations from 1988-1989, while the United States Attorneys’ Office **Laffey matrix** uses 1981-1982 rates as a base. In general, the more contemporary the observations, the

less possibility exists for forecasting errors. Thus, the *Adjusted Laffey matrix* is more likely to be an accurate forecast of rates because it applies an index to more recent observations to bring rates forward to the present as contrasted to the United States Attorneys' Office *Laffey* matrix which uses an index to bring forward much earlier observations.

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