

**EXHIBIT E**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON
Plaintiff,
v.
U.S. DEPARTMENT OF VETERANS
AFFAIRS,
Defendant.
Civil Action No. 08-1481 (PLF)

DECLARATION OF DR. LAURA A. MALOWANE

I, Laura A. Malowane, declare as follows:

- 1. I am a Vice President of Economists Incorporated, an economic consulting firm in Washington, D.C. I have been employed at Economists Incorporated since 1998. Prior to that I was an economic consultant for Princeton Economics Group and a lecturer in Economics and Statistics at Princeton University, both located in Princeton, NJ. I have testified about economic and statistical issues by declaration, at deposition, before administrative bodies and at trial. I have extensive experience in analyzing and testifying on issues related to the awarding of attorney's fees.
2. I received my Ph.D. in Economics from Princeton University in 1998 where my areas of specialization were microeconomics and industrial organization. I also earned a Masters degree in Economics from Princeton University in 1995, LL.B. and M.B.A. degrees from York University in 1991, and a Bachelors degree in Economics from York University in 1987. A copy of my curriculum vitae is attached as Appendix 1.
3. I have been asked by defendants to review the Motion by Plaintiff CREW for an Award of Attorneys Fees and Costs and its supporting declaration and materials (collectively

“Plaintiff’s Motion”), and to provide my opinion about the appropriate attorney rate matrix to use for the calculation of reasonable attorney’s fees.

4. In my opinion the attorney fee matrix issued and updated by the United States Attorney’s Office for the District of Columbia, otherwise known as the “USAO Laffey Matrix,” is the appropriate matrix to use for purposes of determining plaintiff’s attorney’s fees.
5. In formulating my opinions I have reviewed the Plaintiff’s Motion, a 2013 declaration of Michael Kavanaugh, Ph.D., in a separate matter, the Declarations of Daniel S. Alcorn and Anne L. Weismann, as well as publicly available data and materials. A full list of the materials I have reviewed is attached as Appendix 2.<sup>1</sup> I reserve the right to revise my opinions based on additional information that is made available to me and to respond to any additional declarations submitted by Plaintiff.

## **BACKGROUND**

6. Plaintiff, Citizens for Responsibility and Ethics in Washington (“CREW”), is a nonprofit organization that addresses ethics and accountability in government. In 2008, CREW submitted a Freedom of Information Act (FOIA) request to the defendant, the Department of Veterans Affairs’ (“VA”), for records relating to guidance on post-traumatic stress disorder diagnoses. The VA denied CREW’s document request and CREW then filed a complaint under the FOIA. After numerous filings, the court granted the VA’s most recent motion for summary judgment and ordered the defendant to show why a sanction in the form of attorney’s fees should not be entered.<sup>2</sup> Plaintiffs subsequently filed a motion for attorney’s fees and costs.<sup>3</sup>
7. Plaintiff’s attorneys are Daniel S. Alcorn and Anne L. Weisman, both with 20+ years of experience practicing law.<sup>4</sup> Mr. Alcorn appears to be a sole practitioner based in Mclean,

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<sup>1</sup> The materials listed in Appendix 2 are the kinds of facts or data on which economists reasonably rely in forming opinions regarding the calculation of reasonable attorney’s fees for purposes of a fee shifting statute.

<sup>2</sup> *Citizens for Responsibility and Ethics in Washington v. U.S. Department of Veterans Affairs*, Opinion, September 24, 2014.

<sup>3</sup> *Citizens for Responsibility and Ethics in Washington v. U.S. Department of Veterans Affairs*, Motion by Plaintiff CREW for an Award of Attorneys Fees and Costs, October 7, 2014.

<sup>4</sup> Declaration of Daniel S. Alcorn, and Declaration of Anne L. Weismann.

Virginia, while Ms. Weisman is CREW's Chief Counsel. CREW is located in Washington, DC, and currently employs ten individuals, two of whom are attorneys.<sup>5</sup> In their request for attorney's fees, plaintiff's counsel seek to apply the Salazar Matrix to determine appropriate billing rates, citing it as superior to the commonly used USAO Laffey Matrix. The Salazar matrix would provide for a 2014 per hour fee of \$789 for each attorney's work in this matter. In what follows, I describe the origins and differences of these two matrices and explain why the USAO Laffey Matrix is the superior matrix to use for determining reasonable attorney's fees.

### **USAO LAFFEY AND SALAZAR MATRICES**

8. For many years the United States Attorney's Office for the District of Columbia ("USAO") has used a specific matrix as a basis for determining reasonable attorney's fees in litigation claims. This USAO matrix was first introduced by the District Court for the District of Columbia to determine reasonable attorney's fees for work performed in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354, (D.D.C. 1983), aff'd 746 F.2d 4 (D.C. Cir. 1984) ("*Laffey*"). The attorney fees awarded in that case were for work done primarily in 1981 and 1982.
9. To adjust the attorney rates provided in the *Laffey* case for later years, the USAO looked to the Bureau of Labor Statistics ("BLS") tracking of relevant pricing changes over time. The BLS publishes a monthly Consumer Price Index ("CPI"), which is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services.<sup>6</sup> The BLS also regularly publishes CPI indexes specific to certain local areas, including one for the Washington-Baltimore area. This index is referred to as the Consumer Price Index for All Urban Consumers for the Washington-Baltimore area ("CPI-Washington"). As suggested by the BLS, local area indexes such as this can illustrate and explain the impact of local economic conditions on consumers' experience with price changes.<sup>7</sup>
10. To determine reasonable attorney rates for periods following the *Laffey* case, the USAO has adjusted the original *Laffey* rates in accordance with changes in the CPI-Washington.

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<sup>5</sup> <http://www.citizensforethics.org/pages/staff/>

<sup>6</sup> <http://www.bls.gov/cpi/cpifaq.htm>

<sup>7</sup> <http://www.bls.gov/cpi/cpifaq.htm>

The result has been a regularly updated matrix which provides hourly rates, based on years of experience, for attorneys, paralegals and law clerks in the Washington, D.C. area. This table, known as the USAO Laffey Matrix, is presented in Appendix 3.

11. Plaintiff's attorneys in this case propose an alternative table of hourly rates be used, the Salazar Matrix, to calculate compensation for the attorney services rendered. This matrix was introduced in *Salazar v. District of Columbia*, 123 F.Supp.2d 8, 13-14 (D.D.C. 2000). The Salazar Matrix begins with a 1989 template of hourly billing rates for attorney services and then proposes to use a national index, the U.S. City Average of the Consumer Price Index for Legal Services ("CPI-US Legal Services"), to update these hourly billing rates. The CPI-US Legal Services averages out pricing changes for basic, personal legal services in several urban centers in the United States. The specific services tracked by the CPI-US Legal Services are simple, non-commercial, legal services provided to household consumers, such as basic wills, uncontested divorces, powers of attorney, and traffic violations. For each of these pre-defined services, the BLS seeks to measure changes in the price for the entire procedure (otherwise known as a "flat-fee").<sup>8</sup> The Salazar Matrix is presented in Appendix 4.
12. Plaintiff's attorneys state that the Salazar Matrix (which they alternately refer to as the "Updated Laffey Matrix" or just the "Laffey Matrix") is the appropriate basis for determining attorney's fees. The sole rationale that counsel offers for using this matrix is that it is based on the Legal Services component for the Consumer Price Index.<sup>9</sup> Counsel cites to a 2013 declaration by Dr. Kavanaugh in a separate matter as a document that describes the Salazar Matrix.<sup>10</sup> As I explain below, counsel's rationale for their preferred matrix is flawed. The USAO Laffey Matrix is the appropriate table to use to determine reasonable attorney hourly rates.

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<sup>8</sup> Bureau of Labor Statistics, Industry Synopsis: NAICS 541110 – Offices of Lawyers. p. 13.

<sup>9</sup> Plaintiff's Motion for Attorneys' Fees and Costs, p. 19.

<sup>10</sup> Declaration of Michael Kavanaugh, Citizens for Responsibility and Ethics in Washington v. U.S. Department of Justice, Civ. No. 11-0754 (GK), December 11, 2013 (hereafter the "Declaration of Michael Kavanaugh")

## ANALYSIS

### **D) The CPI-US Legal Services Does Not Accurately Capture the Relevant Services or Geographic Region**

13. At the heart of counsel's and Dr. Kavanaugh's argument is that the Salazar Matrix is preferred because it uses the CPI-US Legal Services to update attorney rates, while the USAO Laffey Matrix uses the CPI-Washington to update its rates. Counsel and Dr. Kavanaugh mistakenly believe that the use of the CPI-US Legal Services will better approximate changes in attorney rates for federal court litigation in the Washington, DC area than the CPI-Washington.
14. Dr. Kavanaugh states in his declaration, and I agree, that when using indices to update prices economists try to use the most specific index available.<sup>11</sup> He states that this is because there are two strong forces that exert pressure on a product's prices over time: inflation, and supply and demand. In these regards, an index that tracks pricing changes for federal litigation services in the Washington, DC area would be ideal. Since such an index is not available, it is necessary to seek the next best alternative, which, as I explain in more detail below, is the CPI-Washington.
15. While the CPI-Washington does not specifically track pricing changes for federal litigation services, it does track overall inflationary trends in the relevant region of greater Washington, DC. By comparison, the CPI-US Legal Services suggested by counsel and Dr. Kavanaugh, tracks neither regional inflationary trends, nor supply and demand induced pricing changes of the relevant services.
16. The CPI-US Legal Services is a sub-component of the broader national CPI published by the BLS. The national CPI is a measure of the changes in prices paid by urban consumers for a market basket of consumer goods and services. "Legal services" is one such consumer service in the CPI's market basket, and pricing changes over time for these services are what is being measured in the CPI-US Legal Services used by Dr. Kavanaugh. Despite the generic title of "Legal Services" used by the BLS and Dr. Kavanaugh, the CPI-US Legal Services does not purport to measure the types of legal

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<sup>11</sup> Declaration of Michael Kavanaugh, par. 19.

services at issue in this matter, or in any case in federal litigation.<sup>12</sup> Instead, the CPI-US Legal Services is based on price movements for basic, personal legal services in several urban centers in the United States. The specific services tracked by the CPI-US Legal Services are simple legal services that may be used by typical household consumers in a given year, such as basic wills, uncontested divorces, powers of attorney, and traffic violations.<sup>13</sup>

17. Despite Dr. Kavanaugh's assertion otherwise, in measuring pricing changes for consumer legal services, the CPI-US Legal Services does not track the forces of supply and demand for federal litigation services. The demand for the types of personal legal services covered by the CPI-US Legal Services come from people who need help with particular kinds of cases (such as uncontested divorce), and the supply of personal legal services comes from lawyers with knowledge of local rules for those kinds of cases. By contrast, the demand for federal litigation comes from individuals or corporations who need help with such intricate issues as public-interest litigation, and the supply of legal services for these cases comes from lawyers with experience in those areas. Because of legal specialization and the skills necessary to supply specific legal services, there is no reason to expect that lawyers who supply federal litigation services also supply basic, personal, legal services.
18. Due to these intricacies in both demand and supply, the CPI-US Legal Services can and should be used only to measure average urban price changes for simple and consumer driven legal services.<sup>14</sup> There is no justification for using the CPI-US Legal Services to

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<sup>12</sup> Dr. Kavanaugh acknowledges in his declaration that the CPI-US Legal Services “does not and cannot include the fees charged for every possible service rendered by lawyers.” (Declaration of Michael Kavanaugh, par. 17)

<sup>13</sup> The BLS states “The consumer price index program (CPI) calculates price indexes for legal services fees. These price indexes are primarily based on the price movement of the following specific flat-fee legal services. These pre-selected services are non-business related and include: 1. Preparing a brief, 2. Attending a deposition, 3. No fault or uncontested divorce, 4. Prenuptial agreement, 5. Wills and trusts, 6. Living wills, 7. Power of attorney, 8. Driving under the influence (DUI), 9. Traffic Violations, 10. Personal Bankruptcy, 11. Immigration/work visas.” (Bureau of Labor Statistics, Industry Synopsis: NAICS 541110 – Offices of Lawyers, p. 13.)

<sup>14</sup> In fact, the BLS itself makes a distinction in its Producer Price Index (“PPI”) between “Legal Services” and services provided by “Offices of Lawyers.” It further breaks down its “Offices of Lawyers” PPI into sub-indexes for the legal specialties of Corporate, Real Estate, Civil Negligence, Banking and Commercial, Insurance, Wills, Estate Planning and Probate, and Other Legal Services. If the producer pricing changes within each of these law specialties followed similar patterns it would be redundant for the BLS to track the indexes separately. ([www.bls.gov/ro3/ppilegal.htm](http://www.bls.gov/ro3/ppilegal.htm))

measure price changes for other products or services such as complex federal litigation services. But this is exactly how the Salazar Matrix uses the CPI-US Legal Services.

19. Not only does counsel's suggested CPI-US Legal Services not measure pricing changes in the services at issue, it also does not measure pricing changes in the region at issue. The CPI-US Legal Services averages price changes for specific flat-fee services across certain US cities. As I explain below, there is no reason to expect that this average is representative of any particular city, including Washington, DC.
20. Due to the importance of local rules as well as the convenience of the client, basic, consumer legal services tend to be regional in nature. An individual seeking legal assistance for a traffic violation or an uncontested divorce, for example, will most commonly seek a local attorney. There is no reason to believe that an attorney in Chicago, for example, would (or even could) provide these types of services to an individual in Los Angeles, or that an individual consumer in Los Angeles would seek an out-of-state attorney for such personal services.
21. Moreover, the specific components necessary to provide a basic legal service may also differ by region. A no-fault divorce, for example, may require different attorney time and expense commitments in one region versus another because of local laws. Thus the flat-fee charged for such a service (which is what the CPI-US Legal Services measures) may be different by locality simply because the services required are different.
22. Because of the regional nature of personal legal services as well as differences in local legal requirements, consumer legal fees are unlikely to be uniform nationwide. The CPI-US Legal Services, by averaging price changes across many different cities, is simply providing a national urban average. There is no reason to expect that this average appropriately reflects the Washington, DC area or any other particular city.
23. Also of importance is that the purpose of the USAO Laffey Matrix and the Salazar Matrix is to measure reasonable hourly rates of lawyers. The CPI-US Legal Services used by the Salazar Matrix does not measure pricing changes in hourly rates. Instead, the CPI-US Legal Services is "primarily based on the price movements of the specific flat-fee legal services."<sup>15</sup> (Emphasis added) To determine prices for the CPI-US Legal Services, the BLS contacts consumer-oriented attorneys and records prices they charge for a

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<sup>15</sup> Bureau of Labor Statistics, Industry Synopsis: NAICS 541110 – Offices of Lawyers, p. 13.



defined “procedure” (such as a basic will). In other words, the CPI-US Legal Services tracks fees for an entire service, not hourly rates that are merely one component of that flat-fee.

24. The flat-fee tracked by the CPI-US Legal Services covers all the time spent to provide the service and may include other charges, such as travel expenses, document and filing fees, and postage costs. A change in local laws, such as requirements to obtain a divorce, may entail a change in the amount of time or expense necessary to render the service. Thus, the flat-fee charged for a specific legal service can change simply because of changes in the expected time and expenses needed to perform the service, rather than because of any change in hourly rates. For these reasons, a flat-fee index such as the CPI-US Legal Services can change at a different rate than hourly prices – even for the exact same type of legal service being performed.<sup>16</sup>
25. At most law firms, standard hourly billing rates account for the vast majority of gross billings.<sup>17</sup> For example, in a 1998 national law survey, only 12% of firms in Washington, DC received more than 10% of their income from flat-fee services.<sup>18</sup> Put another way, 88% of Washington, DC law firms surveyed received 10% or less of gross billings in the form of flat-fees.
26. A more recent survey of law firms provides similar findings. In a 2009 National Law Journal Survey, firms were asked whether they provide alternatives to hourly billing rates (such as flat-fees) and, if so, what percentage of their revenue the alternative billings represent. For those firms that provide flat-fee and other alternative billings, an average of 11% of their revenue comes from such billings. For firms that provide alternative billings whose main office is in Washington, DC, only 8% of revenue is received through such billings. Since this survey did not separate out flat-fee billings from other alternative billings (such as discount fees) it is not determinable what percentage of these firms’ revenue come from flat-fee billings alone. Despite this lack of specific data, it can be said with certainty that Washington, DC law firms that offer flat-fee billings receive at most

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<sup>16</sup> The BLS states that firms change their hourly rates annually or bi-annually, while flat fees do not change as often. (Bureau of Labor Statistics, Industry Synopsis: NAICS 541110 – Offices of Lawyers., p. 13)

<sup>17</sup> Partner, Associate & Legal Assistant Billing Rate Survey for Law Firms, National Edition, June 1, 1998, p. xi. This survey was cited in the *Salazar v. District of Columbia* decision.

<sup>18</sup> Partner, Associate & Legal Assistant Billing Rate Survey for Law Firms, p. xi.

8% of their revenue from such billings and, in all likelihood, something much less.<sup>19</sup> Of course, Washington, DC law firms that do not offer flat-fee services at all receive 0% of their revenue from such billings.

27. These surveys reveal that hourly billing rates are overwhelmingly more commonplace than flat-fee pricing for attorney services. The CPI-US Legal Services primarily measures price changes in the types of fees a very small minority of law firms charge and from which few law firms derive any significant revenue.

## **II) The CPI-US Legal Services Does Not Accurately Capture the Relevant Pricing Changes**

28. The inapplicability of the CPI-US Legal Services to the service, region and billing method at issue is apparent when one compares the rate of changes of attorney fees in the Salazar Matrix between 2008 and 2011 and the rate of changes in actual average hourly billing rates in the Washington, DC metro area for the same time period.<sup>20</sup> To do this comparison I use actual data that is obtained by ALM Legal Intelligence, in its annual Survey of Law Firm Economics.<sup>21</sup> This survey reveals billing rates from law offices of all sizes and types, and represents the most recent data available for such firms in the Washington, DC area. Table 1 below shows that while the Salazar Matrix rates increased between 2008 and 2011 by approximately 10% for all experience levels, actual average rates in the DC area changed anywhere between a decline of 1.6% and an increase of 6%. By comparison, rates for the USAO Laffey Matrix increased by varying amounts between approximately 6% and 8% during this time period. Thus, although rates in both matrices increased faster than actual average billing rates in Washington, DC, the USAO Laffey Matrix better approximates the changes in these rates.<sup>22</sup>

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<sup>19</sup> The small number of surveyed firms that cite flat or fixed-fee billing as their only method of alternative billing receive 5% of revenue from such billings. 2009 National Law Journal Billing Survey.

<sup>20</sup> 2011 rates are the most recent billing rates commercially available for firms in the Washington, DC area. As I discuss later, there are 2014 rates that are commercially available for the largest 350 firms in the country.

<sup>21</sup> These data are available for purchase through the firm ALM Legal Intelligence. ([www.almlegalintel.com](http://www.almlegalintel.com))

<sup>22</sup> By increasing faster than actual average billing rates, both matrices have the potential to provide rates that overcompensate attorneys. However, since the CPI-Washington better tracks actual changes in prevailing attorney rates in Washington, DC, the USAO Laffey Matrix will have the tendency to overcompensate by a lesser amount than the Salazar Matrix.

<b>Table 1</b>			
<b>2008-2011 Change in Rates</b>			
<b>Laffey and Salazar v. Actual</b>			
<b>Years Since Law School</b>	<b>Salazar Matrix<sup>1</sup></b>	<b>USAO Laffey Matrix<sup>2</sup></b>	<b>Average Billing Rates (Washington, DC)<sup>3</sup></b>
20+ years	9.9%	8.0%	6.0%
11-19	9.9%	7.7%	-1.6%
8-10	9.9%	6.3%	2.4%
4-7	9.7%	7.8%	5.4%
1-3	9.7%	7.0%	1.9%

Source: <sup>1</sup> Plaintiff's Motion for Attorneys' Fees and Costs  
<sup>2</sup> [http://www.justice.gov/usao/dc/divisions/Laffey\\_Matrix\\_2003-2013.pdf](http://www.justice.gov/usao/dc/divisions/Laffey_Matrix_2003-2013.pdf)  
<sup>3</sup> ALM Legal Intelligence, Survey of Law Firm Economics, 2008 and 2011

29. In his declaration, Dr. Kavanaugh states that the Salazar Matrix and its use of an index specific to legal services “is more likely to reflect the rate of change in prevailing billing rates for legal services than a general consumer price index.”<sup>23</sup> (Emphasis added) While Dr. Kavanaugh estimates the likelihood of the Salazar Matrix reflecting reality, he does not provide data or an analysis to determine if his matrix and the CPI-US Legal Services do in fact reflect the changes in prevailing billing rates at issue. As Table 1 reveals, the USAO Laffey Matrix and its use of the CPI-Washington is superior for tracking actual changes in prevailing average attorney rates in the Washington, DC area.

### **III) The USAO Laffey Matrix Better Reflects Actual Average Attorney Rates**

30. The USAO Laffey Matrix uses the CPI-Washington to update attorney rates observed in 1982, while the Salazar Matrix uses the CPI-US Legal Services to update attorney rates observed in 1989. In his 2013 declaration on a different matter, Dr. Kavanaugh states that the matrix he helped create is the correct one to use because it is based on a more recent survey of attorney rates than the USAO Laffey Matrix. Dr. Kavanaugh states that the more contemporary the observation the less possibility exists for forecasting error.<sup>24</sup>

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<sup>23</sup> Declaration of Michael Kavanaugh, par. 18.

<sup>24</sup> Declaration of Michael Kavanaugh, par. 23.

31. The purpose of using a matrix for determining attorney's fees in particular cases is, of course, to approximate the reasonable average hourly rates collected in the local community by attorneys with similar qualifications working on comparable cases, (i.e. the "market rate"). Regardless of whether a matrix begins with actual rates in one year or another and then updates those annually, closely approximating reasonable current rates is the ultimate goal.
32. With this objective in mind, I have reviewed the 2011 Survey of Law Firm Economics, which provides data of actual average billing rates of attorneys in the Washington, DC area, from law offices of all sizes and types. Table 2 below compares the 2011 average billing rates of attorneys in the Washington, DC metro area with the rates listed in the Salazar Matrix and the USAO Laffey Matrix. This table reveals that the USAO Laffey Matrix attorney rates are approximately the same as (or slightly higher or lower than) the overall billing rates of firms in the DC area, while the Salazar Matrix rates are consistently higher than the actual average billing rates of firms in this region.

<b>Years Since Law School</b>	<b>Salazar Matrix<sup>1</sup></b>	<b>USAO Laffey Matrix<sup>2</sup></b>	<b>Average Billing Rates (Washington, DC)<sup>3</sup></b>
20+ years	\$709	\$475	\$459
11-19	\$589	\$420	\$418
8-10	\$522	\$335	\$338
4-7	\$361	\$275	\$295
1-3	\$294	\$230	\$270

Source: <sup>1</sup> Plaintiff's Motion for Attorneys' Fees and Costs  
<sup>2</sup> [http://www.justice.gov/usao/dc/divisions/Laffey\\_Matrix\\_2003-2013.pdf](http://www.justice.gov/usao/dc/divisions/Laffey_Matrix_2003-2013.pdf)  
<sup>3</sup> ALM Legal Intelligence, Survey of Law Firm Economics, 2011

33. Table 3 shows, in percentage terms, how much greater (or smaller) each of the respective matrices rates are in comparison to actual average billing rates. The USAO Laffey Matrix rates range between 15% lower and 3% higher than actual Washington, DC average billing rates. By contrast, the Salazar Matrix rates range between 9% and 54% higher than actual average billing rates. For the specific attorneys in this matter, the USAO Laffey Matrix provides a rate that is 3% higher than average local rates, while the Salazar Matrix provides a rate that is 54% higher. Thus, the USAO Laffey Matrix rates better approximate the actual average billing rates of DC area attorneys such as plaintiff's counsel than the estimated rates offered in the Salazar Matrix.

<b>Years Since Law School</b>	<b>Salazar Matrix Greater (Less) Than Actual <sup>1,3</sup></b>	<b>Laffey Matrix Greater (Less) Than Actual <sup>2,3</sup></b>
20+ years	54%	3%
11-19	41%	0%
8-10	54%	-1%
4-7	22%	-7%
1-3	9%	-15%

Source: <sup>1</sup> Plaintiff's Motion for Attorneys' Fees and Costs  
<sup>2</sup> [http://www.justice.gov/usao/dc/divisions/Laffey\\_Matrix\\_2003-2013.pdf](http://www.justice.gov/usao/dc/divisions/Laffey_Matrix_2003-2013.pdf)  
<sup>3</sup> ALM Legal Intelligence, Survey of Law Firm Economics, 2011

34. In his declaration, Dr. Kavanaugh states that he favors the Salazar Matrix and its adjustments using the CPI-US Legal Services because “it is a better estimator of the market prices” and in his “opinion these rates better reflect prevailing market rates.”<sup>25</sup> Yet, Dr. Kavanaugh draws this conclusion without ever providing or analyzing data of actual market prices. Without analyzing such data it is impossible to conclude which index is the better estimator of actual prices. Dr. Kavanaugh also states that the matrix he

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<sup>25</sup> Declaration of Michael Kavanaugh, pars. 14 and 24.

helped create is the correct one to use because it is based on a more “recent” survey of attorney rates than the USAO Laffey Matrix. The recent survey he is referring to is one that was performed in 1989. Assessing the accuracy of the respective matrices using “actual” and “recent” data from 2011 (and 2014 below), as I have done, shows that in fact the USAO Laffey Matrix better reflects prevailing market rates.

35. If indeed the USAO Laffey Matrix did not approximate a reasonable rate for attorneys in federal litigation cases in the Washington, DC area, one would expect to see most attorneys in such matters request of the courts to award rates that are higher than the USAO Laffey Matrix provides. I’ve seen no evidence of this occurring.

#### **IV) Actual Attorney Rates Vary Across Firm Size**

36. For experienced attorneys such as the plaintiff’s counsel in this case, the Salazar Matrix provided rates in 2011 that were 54% higher than actual average billing rates of attorneys at firms in Washington, DC. In 2014 dollar amounts, that would be an overcompensation of approximately \$277 per hour.

37. There exists a further reason why the Salazar Matrix would provide even greater overcompensation to the plaintiff’s attorneys. Law firm billing rates generally differ with the size, region and scope of the firm. Billing rates at a sole practitioner regional office, such as that of Mr. Alcorn, are not comparable to those at large multi-office multinational law firms.<sup>26</sup> Small law firms presumably do not have the same overhead as larger firms and, as a result, attorneys at small firms may be able to offer services at lower fees (but not necessarily lower profits) than those at their larger firm counterparts.<sup>27</sup> Similarly, larger multinational firms may be able to command higher fees due to, among other reasons, an offering of more services, having a better national or international reputation, having the capacity to take on bigger or more complicated matters, or being located in a higher rent and higher profile area of the region. Clients seeking lower cost alternatives to the large firms may seek out attorneys from smaller firms.

38. Exhibit 1 shows that, holding experience levels constant, 2014 attorney billing rates do in fact increase with the number of lawyers at the attorney’s law firm. This positive

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<sup>26</sup> See, for example, Partner, Associate & Legal Assistant Billing Rate Survey for Law Firms, National Edition, June 1, 1998; and, 2014 Survey of Law Firm Economics.

<sup>27</sup> Some of the overhead that may be higher at larger firms include staff wages, former partner compensation, and occupancy expense.

correlation between billing rate and office size is observed across almost all firm sizes and experience levels of attorneys in the country.

39. Indeed, 2014 data indicate that the Salazar Matrix rates that the plaintiff's attorneys are requesting more accurately reflect the billing rates of partners at the largest firms in Washington, DC rather than an average of all DC law firms as a whole. The National Law Journal ("NLJ") 350 Annual Survey is a comprehensive survey that the NLJ performs each year. It encompasses billing rates of the 350 largest firms in the nation, who have offices dispersed throughout the country as well as internationally. For most law firms surveyed, the NLJ provides information on the firm's number of attorneys, principal or largest office location, and attorney billing rates. Partner and associate attorney billing rates are provided separately, with the minimum, maximum and average rates for each group being shown.
  
40. I examined the 2014 NLJ survey to gather billing rate data of the nation's largest firms that have their main office location in Washington, DC. Overall, twelve such firms provided billing data for the survey's largest 350 firms in the nation. These firms range in size from 272 lawyers to 2,280 lawyers. Table 4 below compares the 2014 actual billing rates of partners in these twelve largest firms headquartered in Washington, DC metro area with the 2014 rates that the plaintiff's attorneys would receive under the Salazar Matrix. As the table shows, the billing rate of \$789 per hour that the plaintiff's attorneys are requesting is higher than the average billing rate of partners at the nation's largest law firms headquartered in the Washington DC area. In fact, nine of the twelve firms surveyed have average partner billing rates that are lower than the plaintiff's attorneys requested rate. Moreover at one such firm, Patton Boggs, the maximum billing rate of any partner at the entire firm is lower than the rate plaintiff's attorneys are requesting. Wiley Rein, the smallest Washington, DC firm in the survey of the nation's largest firms, has 272 lawyers in its sole office in Washington, DC and has an average partner billing rate of \$665; much smaller than the plaintiff's attorneys requested hourly rate of \$789.

**Table 4**  
**Salazar Matrix Fees v.**  
**Partner Rates at Largest DC Firms**

Salazar Matrix <sup>1</sup>	Partner Rate: Largest DC Firms (272-2,280 Lawyers) <sup>2</sup>	Highest Partner Rate: DC Firm Patton Boggs (485 Lawyers) <sup>2</sup>	Partner Rate: DC Firm Wiley Rein (272 Lawyers) <sup>2</sup>
\$789	\$728	\$780	\$665

Source: <sup>1</sup> Plaintiff's Motion for Attorneys' Fees and Costs  
<sup>2</sup>2014 National Law Journal 350: Annual Survey of Nation's Largest Firms

41. The role that firm size plays in attorney billing rates was addressed by this court in 2011 in the matter of *Dick Anthony Heller v. District of Columbia*, Civil Action No. 03-213 (EGS) (“*Heller*”). In that case, I submitted an affidavit regarding attorney’s fees and Dr. Kavanaugh submitted a declaration in response to my affidavit. In its Memorandum Opinion the Court found it “significant” that Dr. Kavanaugh did not dispute my assertions regarding the impact that firm size may have on an attorney’s hourly rate, nor my statements regarding the ability of small and medium size firms to offer services at lower rates than those attorneys at their larger firm counterparts.<sup>28</sup> For these reasons, the Court stated that it was unwilling to award the high rates suggested by Dr. Kavanaugh (using the Salazar Matrix) absent specific evidence that those rates are, indeed, the prevailing markets rates for attorneys engaged in complex federal litigation outside of the District of Columbia’s largest law firms.<sup>29</sup> Significantly, in his 2013 declaration cited by plaintiff’s counsel Dr. Kavanaugh once again does not address the issue of firm size or offer evidence of actual billing rates, despite that very suggestion by this Court in 2011.

**V) Salazar Matrix Does Not Represent Rates of the Vast Majority of Attorneys**

42. As discussed above, the Salazar Matrix rates are as high as, or higher than, most partner rates of the Washington, DC firms that are included in the nation’s largest 350 firms.

<sup>28</sup> *Dick Anthony Heller v. District of Columbia*, Memorandum Opinion, footnote 12.

<sup>29</sup> *Dick Anthony Heller v. District of Columbia*, Memorandum Opinion, page 29.



Recent data indicate that approximately 128,000 attorneys work in the country's 350 largest law firms.<sup>30</sup> According to the American Bar Association, there exist approximately 1.27 million attorneys in the United States. Thus, attorneys at the largest law firms in the country represent less than 10% of nation's total available attorneys.

43. Since the Salazar Matrix rates are similar or higher than fees charged by the absolute largest firms in the country its rates represent, at most, 10% of the attorneys in the country and likely a much smaller percentage than that.<sup>31</sup> As this Court has stated in the *Heller* matter, Dr. Kavanaugh has failed to provide "specific evidence that [the Salazar Matrix] rates are, indeed, the prevailing market rates for attorneys engaged in complex federal litigation outside the District of Columbia's largest law firms."<sup>32</sup>

## CONCLUSION

44. The Salazar Matrix adjusted by the CPI-US Legal Services, and its rates therein, does not accurately capture the relevant services or geographic region for attorney's fees in federal litigation cases in the Washington, DC area. Actual data reveal that the USAO Laffey Matrix, adjusted by the CPI-Washington, better reflects current actual average billing rates as well as inflationary changes in such rates. The Salazar Matrix, in contrast, reflects rates charged by the absolute largest firms in the country and, as a result, a very small fraction of the nation's total attorneys. The USAO Laffey matrix is the preferred matrix to use to determine reasonable attorney's fees in federal litigation cases in the Washington, DC area.

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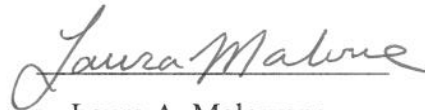
<sup>30</sup> <http://www.law360.com/articles/518950/law360-reveals-400-largest-us-law-firms>

<sup>31</sup> As discussed in paragraph 40, the Salazar Matrix rate that plaintiff's counsel are requesting is higher than nine out of twelve of the country's largest law firms headquartered in Washington, DC. For this reason, the Salazar Matrix rates likely represent rates at a small fraction of even the largest 350 firms in the country.

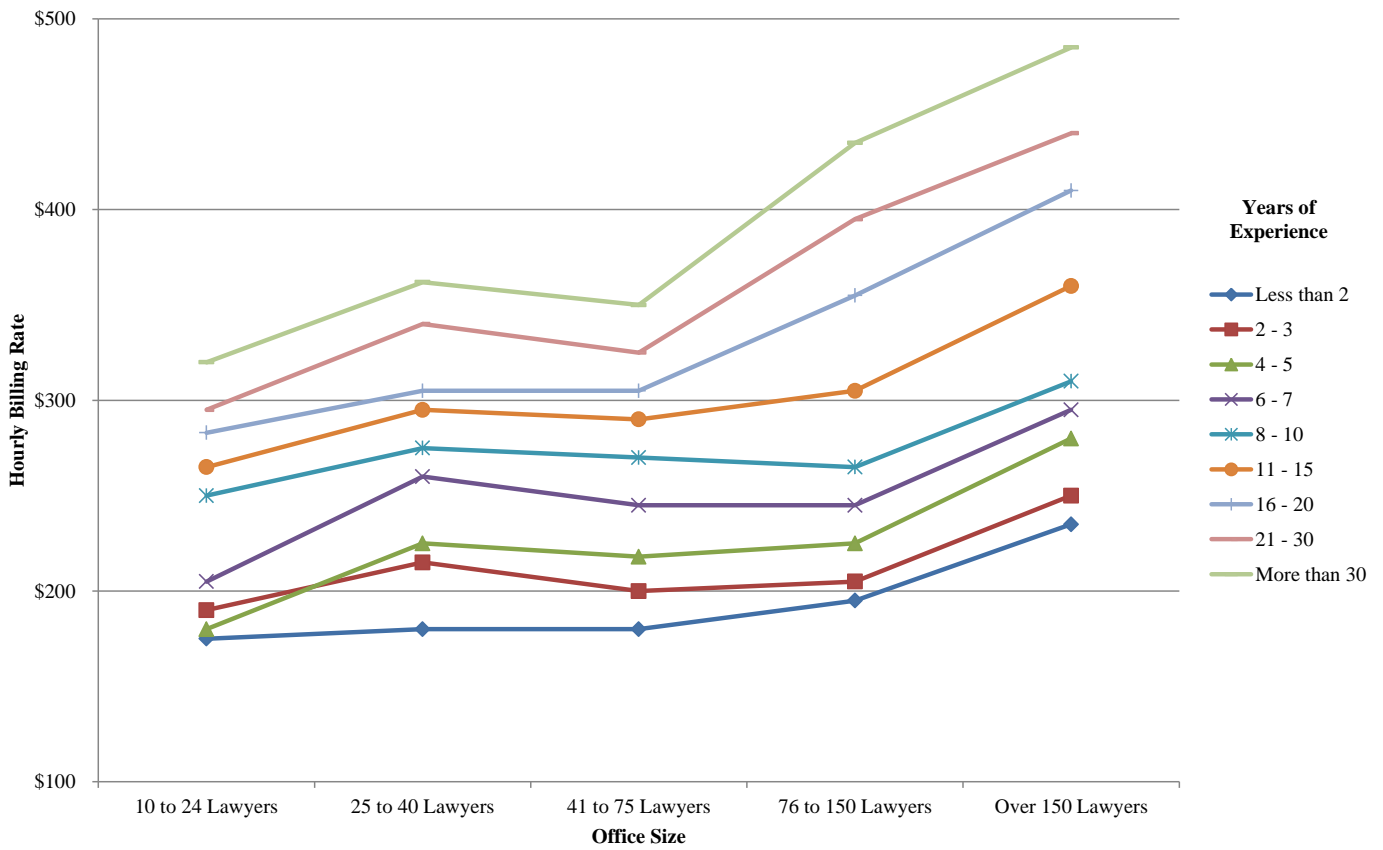
<sup>32</sup> *Dick Anthony Heller v. District of Columbia*, Memorandum Opinion, page 29.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 4, 2014

  
Laura A. Malowane

### Exhibit 1 2014 Hourly Billing Rates by Years of Legal Experience and Office Size



**Appendix 1**  
**Curriculum Vitae of Dr. Laura A. Malowane**

## **LAURA A. MALOWANE**

### **Office Address**

Economists Incorporated  
2121 K Street, NW  
Suite 1100  
Washington, DC 20037  
(202) 223-4700  
Fax: (202) 296-7138  
[malowane.l@ei.com](mailto:malowane.l@ei.com)

### **Home Address**

5103 Brookeway Drive  
Bethesda, MD 20816

### **Education**

Ph.D. Economics, 1998  
Princeton University

M.A. Economics, 1995  
Princeton University

MBA, 1991  
York University, Schulich School of Business

LL.B., 1991  
York University, Osgoode Hall Law School

B.A. Economics, 1987  
York University

### **Professional Experience**

2005-Present: Vice President, Economists Incorporated

1998-2005: Senior Economist, Economists Incorporated

1997-1998: Lecturer, Princeton University, Woodrow Wilson School of  
Public Policy

1994-1997: Senior Economist, Princeton Economics Group

**Professional Experience (continued)**

- 1992-1993: Law Clerkship, McMillan Binch, Barristers & Solicitors
- 1989: Economic Analyst, Environment Canada, Government of Canada
- 1988: Economic Analyst, Department of Regional Industrial Expansion, Government of Ontario

**Articles and Papers**

“Supreme Court Ruling Concerns Antitrust Fines and Evidence of Economic Effects,” *Economists Ink*, Fall 2012.

“Calculating Awards of Attorney Fees,” *Economists Ink*, Summer 2011.

“Resale Price Maintenance and the Rule of Reason,” ABA Section of Antitrust Law, *Economics Committee Newsletter*, Volume 10, Number 1, Summer 2010 (with Allison Holt).

“Assessing Monopolization Claims in the Face of Innovation,” *Economists Ink*, December 2009 (with Barry C. Harris and Matthew B. Wright).

“Resale Price Maintenance and the Rule of Reason,” *Economists Ink*, Summer 2008.

“Geographic Market Definition In Markets with Imports: Evolution of Antitrust Agency Analysis,” *The Threshold*, 2007 (with Philip Nelson and Robert Kneuper).

“Imports and Geographic Market Definition,” *Economists Ink*, Spring 2007.

“The Deterrence Value of Punitive Damages,” *Economists Ink*, Fall 2001 (with Jonathan Walker).

“Exporters to the U.S. Apparel Industry: The Significance of Geographic Proximity,” *Economists Ink*, Fall 1998.

“Foreign Competition, Domestic Market Power and Antitrust Policy: A Survey and Analysis,” (Princeton University, Spring 1998).

**Articles and Papers (continued)**

“International Competition, Antitrust Policy and Asymmetric Information: When are Foreign Firms a Sufficient Competitive Discipline?” (Princeton University, Fall 1997).

“Foreign Competition in the U.S. Apparel Industry,”(Princeton University, Spring 1998).

**Testimony**

*Gary Martin v. United States of America* – Provided expert report on behalf of defendant regarding damages in a wrongful death claim, in the United States District Court for the District of New Hampshire, No. 11-CV-593-JL, 2013.

*Elizabeth Abel, et al. v. CSX Transportation, et al.* – Provided declaration on behalf of defendants regarding punitive damages in a railway accident matter, in the Philadelphia County Court of Common Pleas, No. 000769, 2013.

*Fred E. Evans, et al. v. United States, and Edward L. Bright, II et al. v. United States* – Provided declaration on behalf of plaintiffs regarding the competitive market rates of attorneys, in the United States Court of Appeals for the Federal Circuit, No. 2010-1303 and No. 2010-1385, 2012.

*Cynthia Hyland v. Raytheon Company, Raytheon Technical Services Company, Heidrick & Struggles, Inc., Bryan J. Even, and Laura Miller* – Provided report and trial testimony on behalf of defendant regarding damages in retrial of defamation and wrongful termination case, in the Circuit Court for Fairfax County at Law No. 221038.

*Michael Akosile v. Armed Forces Retirement Home* – Provided report on behalf of defendants with respect to the state of the job market for health care workers, in the United States District Court for the District of Columbia, No. 09-CV-173 (RBW), 2012.

*Steven J. Hatfill, M.D., v. John Ashcroft, et al.* – Provided report and deposition testimony on behalf of the Department of Justice regarding damages stemming from alleged violation of constitutional rights of an individual labeled as a person of interest in the investigation of the mailing of lethal Anthrax letters in the United States, United States District Court for the District of Columbia, Civ.A. No.03-1793 (RBW).

**Testimony (continued)**

*Beth M. Norden v. G. Wayne Clough, Secretary, Smithsonian Institution* – Provided affidavit on behalf of the Smithsonian Institution addressing acceptable methods for assessing attorneys’ fees, in the United States District Court for the District of Columbia, Case No. 05-1232 (RMC).

*Dorothy L. Biery, et al, and Jerramy and Erin Pankratz, et al., v. The United States* – Provided declaration on behalf of plaintiffs regarding the relevant market for attorney fees and the reasonableness of current billing rates, in the United States Court of Federal Claims, No. 07-693L and 07-675L, 2012.

*Mohammed Amin Kakeh v. United Planning Organization* – Provided affidavit regarding the appropriate method to use to value attorney fees, in the United States District Court for the District of Columbia, No. 1:05-CV-1271 (GK/JMF).

*Reginald G. Moore, et al. v. U.S. Department of Homeland Security* – Provided declaration on behalf of the Department of Homeland Security regarding appropriate statistical methods in relation to a discrimination matter of Secret Service employees, in the United States District Court for the District of Columbia, Civ. No. 000-953 (RWR/OAR), 2010.

*Gist and Herlin Press, et al. v. Jeffery D. Poland and The Pension Service, Inc. -* Provided economic analysis and deposition testimony on behalf of plaintiffs regarding damages stemming from erroneous pension funding estimates, in the Superior Court for the Judicial District of Waterbury, No: X10 UWY-CV-05-40101305.

*Cynthia Hyland v. Raytheon Company and Raytheon Technical Services Company* – Provided report, trial and deposition testimony on behalf of defendant regarding damages in defamation and wrongful termination case, in the U.S. District Court for the Eastern District of Virginia (Alexandria Division), No. 1:04CV1273, 2005; Circuit Court for Fairfax County at Law No. 221038.

*Victoria Gray v. American Academy of Achievement* – Provided affidavit on behalf of defendants regarding analysis of damages from breach of services contract, Superior Court of the District of Columbia, No. 04ca003012, 2005.

*Neurology Services v. Fairfax Medical* – Provided affidavit on behalf of defendant regarding economic losses in a breach of contract case, in the Circuit Court for Fairfax County, No. L220451, 2005.



**Testimony (continued)**

*Mario Panayutidis v. Bill Page Imports* – Provided report on behalf of defendants regarding damages in a wrongful termination case, in the U.S. District Court for the Eastern District of Virginia (Alexandria Division), No. 1:05CV604, 2005.

*Kevin T. Keleghen v. Sears, Roebuck and Co.* – Provided affidavit and deposition testimony on analysis of economic losses on behalf of plaintiff in defamation and breach of contract case, Circuit Court of the Nineteenth Judicial Circuit Lake County, Illinois, No. 02L938, 2005.

*World Trade Center, Victims Compensation Fund: Raymond Murphy* – Co-authored written report and provided oral expert testimony before the Victims Compensation Fund regarding economic losses to the family of a New York firefighter that died on 9/11.

*World Trade Center, Victims Compensation Fund: Dennis McHugh* – Co-authored written report and provided oral expert testimony before the Victims Compensation Fund regarding economic losses to the family of a New York firefighter that died on 9/11.

*World Trade Center, Victims Compensation Fund: Robert Crawford* – Co-authored written report and provided oral expert testimony before the Victims Compensation Fund regarding economic losses to the family of a New York firefighter that died on 9/11.

*World Trade Center, Victims Compensation Fund: Thomas Farino* – Co-authored written report and provided oral expert testimony before the Victims Compensation Fund regarding economic losses to the family of a New York firefighter that died on 9/11.

*World Trade Center, Victims Compensation Fund: James Corrigan* – Co-authored written expert testimony to the Victims Compensation Fund regarding economic losses to the family of a retired New York firefighter that died on 9/11.

*World Trade Center, Victims Compensation Fund: John Moran* – Co-authored written expert testimony to the Victims Compensation Fund regarding economic losses to the family of a New York firefighter that died on 9/11.

*World Trade Center, Victims Compensation Fund: Nathaniel Webb* – Co-authored written expert testimony to the Victims Compensation Fund regarding economic losses to the family of a Port Authority police officer that died on 9/11.

**Testimony (continued)**

*Section 201 Steel*- Co-authored written expert testimony for the International Trade Commission regarding the financial and economic state of the domestic steel industry, 2001 (No. 201-TA-073).

*Lockheed Martin/COMSAT* – Co-authored written expert testimony to the Federal Communications Commission regarding an analysis of the competitive impact of a proposed merger in the satellite industry, 1999.

**Honors and Awards**

Princeton University Full Graduate Fellowship – 1997, 1996, 1995, 1994, 1993  
Ontario Graduate Scholarship – 1991, 1990, 1988  
York University Business School Dean’s Honor Roll – 1991, 1990, 1988  
York University Business School Proctor & Gamble Entrance Scholarship – 1987  
York University Scholarship – 1987, 1986, 1985  
York University Economics Award – 1987

**Professional Societies**

Bar of Ontario, admitted 1993  
American Bar Association  
Canadian Law and Economic Association

**Selected Consulting Matters**

*Asbestos and RICO Litigation* – Performed damage analysis on behalf of plaintiff in a claim under the Racketeer Influenced and Corrupt Organizations Act (RICO), 2012.

*Sue O’Brien et. al. v. Leegin Creative Leather Products, Inc.* – Assistance with liability and damages in resale price maintenance case, in the Eighteenth Judicial District Court, Sedgwick County, Kansas, Civil Department, No. 04CV1688.

*Patrick J. Cunningham and Anton N. Zanki v. International Business Machines Corporation* – Provided liability and damage analysis on behalf of defendant concerning alleged breach of contract of employee retirement benefits.

*Unions and RICO Litigation* – Performed damage analysis on behalf of plaintiff regarding contract interference and allegations under the Racketeer Influenced and Corrupt Organizations Act (RICO), 2011.

**Selected Consulting Matters (continued)**

*In Re: Ideal Mortgage Bankers, Ltd.* – Performed damage analysis on behalf of defendant in class action case involving alleged violation of the Fair Labor Standards Act, 2008.

*Lead Paint Litigation* – Provided assistance in several individual cases with the estimation of damages from the use of lead in paints and pigments, 2007.

*UPMC Acquisition of Mercy Hospital Assisted in Hart-Scott-Rodino and Pennsylvania Attorney General* - Reviewed hospital transaction in Pittsburgh, Pennsylvania, 2007.

*Arizona Nursing Services Investigation and Litigation* – Economic analysis on behalf of defendants in government investigation and private litigation of alleged monopsony purchasing of temporary nursing services, 2006.

*Amazon Study: Taxation of E-commerce* - Performed studies on effects of taxation on internet transactions of various sized firms, 2004, 2009, 2012.

*John Jonson, et. al., v. Big Lots Stores, Inc.* – Assisted in analysis on behalf of defendant concerning alleged violation of Fair Labor Standards Act, 2008.

*In Re: Lockheed Meridian, MS Shooting Incident* – Assisted with estimate on behalf of defendant regarding damages, 2006.

*In Re: Robin Singh d/b/a Test Masters* – Assisted on behalf of plaintiff concerning damages in standardized testing preparation industry, 2007, 2009.

*Harrah's Entertainment, Inc./Caesars Entertainment, Inc. Merger* – Assisted in Casino Control Commission, State of New Jersey, review of competition related to casino merger, 2005.

*Estate of Peter Haskos, et al vs. Lee Jung, M.D. et al* - Provided damage analysis for defendant in claim of wrongful death, State of Connecticut Superior Court Judicial District of New Haven, No. CV-01-0448262-5, 2004.

*HealthAmerica v. Susquehanna Health System* – Provided competition analysis for defendant in claim of monopolization, US District Court for the Middle District of Pennsylvania, No.4:CV-00-1525, 2001.

*Alan Glazer et al. v. Dressbarn* – Provided estimate of damages for women's apparel catalog retailer regarding unfair business practices, State of Connecticut Superior Court, No. CV-01-01690755, 2002.

**Selected Consulting Matters (continued)**

*Anderson v. Washington Post* – Analysis of economic losses on behalf of defendants in employment discrimination case, US District Court for the District of Columbia, No. 02-0002718, 2002.

*DataSafe, Inc. and David F. Muller v. Federal Express Corporation et al.* – Provided estimate of damages on behalf of defendants concerning damages to internet security provider from breach of contract, commonwealth of Massachusetts, Middlesex Superior Court, No. 01-2590, 2001.

*Ertha Mae Williams v. CSX Transportation, Inc., et al.* – Assisted with analysis on behalf of defendants concerning the economics of punitive damages, State of South Carolina, County of Hampton, No. 04-CP-25-267, 2004.

*White v. Calomiris* – Analysis for defendant concerning damages in wrongful injury case, Superior Court of the District of Columbia, No. 03-1833-mw, 2005.

*Legi-Slate Inc. v. Thomson Information Services Inc.* – Provided economic support on behalf of plaintiffs concerning damages to on-line content provider from breach of contract, US District Court for the District of Columbia, No. 99-1570, 2000.

*Gordon v. Lewistown Hospital* – Analysis for defendant in restraint of trade and tying claims of ophthalmologist, in the US District Court for the Middle District of Pennsylvania, No.1: CV99-1100, 2000.

*Pineapple Antitrust Litigation* – Assisted in analysis of alleged monopolization in pineapple industry, 2003, 2005.

*Dow Chemical/Union Carbide Merger* – Assisted in Hart-Scott-Rodino review of competition related to chemical merger, 1999-2000.

*State of Alabama v. Exxon Corporation* – Assisted in the estimation and economics of punitive damages arising from a royalty and lease dispute, 2001.

*Roll International Corporation and Paramount Farms, Inc. v. Unilever United States, Inc., et al.* – Provided economic support on behalf of defendants regarding business valuation and damages to a snack food manufacturer in a breach of contract and fraudulent misrepresentation suit, 2001.

*Ronald O. Lewis v. Booz-Allen & Hamilton, Inc.* – Assisted in liability and damage issues concerning a discrimination suit, US District Court for the District of Columbia, No. 1:99CV00713, 2000.

**Selected Consulting Matters (continued)**

*Emad Kowatli, M.D. v. Russell County Medical Center, et al.* – Provided damage analysis for defendant in matter of physician's loss of hospital privileges, in the US District Court in the Western District of Virginia, No. 98-142-A, 1999.

*Ahold/Pathmark Proposed Acquisition* - Assisted in Hart-Scott-Rodino review of competition related to grocery chain acquisition, 2002.

*Greenlawn Funeral Home vs. Gobblers Knob Cemetery, et al.* Provided economic support concerning claims of monopolization and tying in the cemetery industry, in the US District Court for the Western District of Missouri, Southern Division, No. 01-3258-CV-S-BB, 2002.

*Section 201 Steel* – Provided expert testimony before the ITC regarding the financial condition of the American steel industry, 2001.

*Dr. Michael J. Galvin v. The New York Racing Association, Inc., et al.* – Provided economic support on behalf of defendant regarding commercial damages in breach of due process and tortious interference suit, 2000.

*Willie Brown, Jr., et al. v. General Motors Corporation, et al.* – Performed economic analysis concerning lost NFL player earnings, 1999.

*Compuware/Viasoft Proposed Acquisition* – Competitive analysis for Compuware's attempted acquisition of Viasoft in the mainframe software industry, 1999.

*Transocean/R&B Falcon Proposed Acquisition* – Assisted in Hart-Scott-Rodino review of competitive impact of a proposed merger in the drilling rig industry, 2000.

*R&D Business Systems et al. v. Xerox Corporation* – Provided antitrust consulting for defendants in a class action suit alleging tying and monopolization in the copier and printer industries, 1996.

*Re Brand Name Prescription Drug Antitrust Litigation* – Assisted in economic analysis for selected defendants regarding Robinson-Patman litigation in prescription drug industry, 1999.

*Roanoke Neurosurgeons* – Analysis of competitive effect of proposed merger of neurosurgery practices, 2000.

**Selected Consulting Matters (continued)**

*Integrated Payment Systems, Inc. v. Travelers Express Company* – Analysis of alleged predatory practices in the money order industry, 1999.

*Missouri HMOs* – Analysis of product market and competitive effect of proposed merger of HMOs, 2000.

*Regional Snacks Acquisitions* – Analysis of antitrust implications of an investment group purchasing several salty snack manufacturers, 2000.

*Oshkash/McNeilus Acquisition* – Assisted in competitive analysis of acquisition in concrete mixer industry, 1999.

## Appendix 2

### Materials Reviewed

2009 National Law Journal Billing Survey

2014 National Law Journal Billing Survey

2014 National Law Journal 350: Annual Survey of Nation's Largest Firms

ALM Legal Intelligence, Survey of Law Firm Economics, 2008

ALM Legal Intelligence, Survey of Law Firm Economics, 2011

ALM Legal Intelligence, Survey of Law Firm Economics, 2014

Partner, Associate & Legal Assistant Billing Rate Survey for Law Firms, National Edition, June 1, 1998

Declaration of Anne L. Weismann

Declaration of Daniel S. Alcorn

Declaration of Michael Kavanaugh, *Citizens for Responsibility and Ethics in Washington v. U.S. Department of Justice*, Civ. No. 11-0754 (GK), December 11, 2013

*Citizens for Responsibility and Ethics in Washington v. U.S. Department of Veterans Affairs*, Motion by Plaintiff CREW for an Award of Attorneys' Fees and Costs, October 7, 2014

*Citizens for Responsibility and Ethics in Washington v. U.S. Department of Veterans Affairs*, Opinion, September 24, 2014

*Dick Anthony Heller v. District of Columbia*, Civil Action No. 03-213, Memorandum Opinion

Plaintiff's Motion for an Award of Attorneys' Fees and Costs

Reply in Support of Motion to Enlarge Time to Oppose Motion for Attorneys' Fees

<http://www.bls.gov/cpi/cpifaq.htm>

<http://www.citizensforethics.org/pages/staff>

[http://www.justice.gov/usao/dc/divisions/Laffey\\_Matrix\\_2003-2013.pdf](http://www.justice.gov/usao/dc/divisions/Laffey_Matrix_2003-2013.pdf)

<http://www.law360.com/articles/518950/law360-reveals-400-largest-us-law-firms>

[www.almlegalintel.com](http://www.almlegalintel.com)

[www.bls.gov/ro3/ppilegal.htm](http://www.bls.gov/ro3/ppilegal.htm)

Bureau of Labor Statistics, Industry Synopsis: NAICS 541110 - Offices of Lawyers

attorneys fees ddc survey.xlsx