

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
_____)	

**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S PETITION FOR FEES AND COSTS**

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Pursuant to Federal Rule of Civil Procedure 54(d), this Court’s August 9, 2019 order granting summary judgment, ECF No. 229, and this Court’s order dated October 9, 2021, ECF No. 248, Plaintiff Gavin Grimm submits the following petition for \$1,284,735.75 in attorney’s fees, as set forth in Appendix A, and \$27,467.85 in litigation expenses and costs.

BACKGROUND

This Court has already “trace[d] the arduous journey this case has followed since its inception.” *Grimm v. Gloucester Cty. Sch. Bd.*, 400 F. Supp. 3d 444, 462 (E.D. Va. 2019). On December 9, 2014, the Gloucester County School Board (the “Board”) passed a new policy excluding Gavin from using the same restrooms as other boys and forcing Gavin to use an “alternative” restroom created for students “with gender identity issues.” *Id.* at 450. Gavin filed this lawsuit in June 2015, arguing that the Board’s new restroom policy violated his rights under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.*, and the Equal Protection Clause of the Fourteenth Amendment. *See id.* at 451.

This Court initially dismissed Gavin’s Title IX claim from the bench, ECF No. 47, and denied Gavin’s Motion for a Preliminary Injunction because Gavin had failed to present evidence of irreparable harm that would have been admissible under the Federal Rules of Evidence. ECF Nos. 53, 57. But after an interlocutory appeal, the Fourth Circuit reversed the dismissal of Gavin’s Title IX claim and vacated the denial of Gavin’s Motion for a Preliminary Injunction. *See G.G. v. Gloucester Cty. Sch. Bd.*, 822 F.3d 709 (4th Cir. 2016). Deferring to an *amicus* brief from the United States, the Fourth Circuit held that when a school provides sex-separated restrooms, the school must allow students who are transgender to use facilities consistent with their gender identity. *See id.* at 722-23. The Fourth Circuit also vacated the denial of Gavin’s Motion for a Preliminary Injunction because the Federal Rules of Evidence do not apply to such motions. *See id.* at 725-26. After the Fourth Circuit denied the Board’s petition for rehearing en banc and issued

its mandate, this Court granted Gavin's Motion for a Preliminary Injunction on June 23, 2016, in time for Gavin to use the boys' restrooms at the beginning of his senior year. ECF No. 69.

The Fourth Circuit's decision was the first time a federal court had held that Title IX protects the rights of transgender students to use restrooms consistent with their gender identity. The decision had an immediate and dramatic impact. Relying on the Fourth Circuit's decision, the Department of Justice and the Department of Education issued guidance documents on May 13, 2016, advising schools across the country that Title IX and its regulations do not authorize schools to exclude transgender students from sex-separated facilities and activities consistent with their gender identity. *See* Dear Colleague Letter on Transgender Students (May 13, 2016), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

Following the release of its guidance, the Department of Justice also brought litigation in North Carolina to prevent the state from enforcing a new statute prohibiting transgender people from using restroom and locker facilities that did not match their birth certificate. *See, e.g.*, Complaint, ECF No. 1, *United States v. McCrory*, No. 1:16-cv-00425 (M.D.N.C. May 9, 2016). Across the country, transgender students who had been prohibited from using common restrooms filed new lawsuits in the wake of Gavin's victory. *See* Complaint, ECF No. 1, *A.W. v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, No. 2:16-cv-00943 (E.D. Wis., July 19, 2016); Jane Doe Motion to Intervene as Third-Party Plaintiff, ECF No. 15, *Bd. of Educ. of the Highland Local Sch. Dist. v. U.S. Dep't of Educ.*, No. 2:16-cv-00524 (S.D. Ohio, July 21, 2016); Complaint, ECF No. 1, *Evancho v. Pine-Richland Sch. Dist.*, No. 2:16-cv-01537 (E.D. Pa., Oct. 6, 2016).

But the Board continued to steadfastly oppose allowing Gavin to use the boys' restroom. Before the new school year began, the Board filed an application with the Supreme Court to recall and stay the Fourth Circuit's mandate and to stay the preliminary injunction issued by this Court

on remand. *See* Sup. Ct. Dkt, No. 16-273.¹ In accordance with the Supreme Court’s standards for granting such stays, the Board argued there was “(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay.” *Hollingsworth v. Perry*, 558 U.S. 183, 189 (2010) (per curiam). Only four Justices concluded that the Board had satisfied the criteria for a stay, but Justice Breyer nevertheless provided a fifth vote granting the application “as a courtesy” to other members of the Court. *Gloucester Cty. Sch. Bd. v. G.G. ex rel. Grimm*, 136 S. Ct. 2442 (2016) (Mem.).

The Board then filed a petition for a writ of certiorari, and the Supreme Court granted that petition on October 28. *See Gloucester Cty. Sch. Bd. v. G.G. ex rel. Grimm*, 137 S. Ct. 369 (2016) (Mem.). The questions presented by the Board’s petition and accepted by the Supreme Court for review were whether the Fourth Circuit properly deferred to the government’s interpretation of Title IX and its regulations, and whether that interpretation was correct. *See* Questions Presented, No. 16-273.² Neither the petition nor the Board’s subsequent merits briefs made any argument relating specifically to Gavin’s request for injunctive relief.

Gavin’s case was scheduled for oral argument to be heard on March 28, 2017. *See* Sup. Ct. Dkt, No. 16-273.³ But after the incoming Trump administration confirmed a new Attorney General and a new Secretary of Education, the Department of Justice and Department of Education withdrew the interpretation of Title IX to which the Fourth Circuit had deferred. On March 6, 2017, the Supreme Court vacated and remanded the case to the Fourth Circuit for further consideration in light of the government’s new actions. *See Gloucester Cty. Sch. Bd. v. G.G. ex*

¹ <https://www.supremecourt.gov/search.aspx?filename=/docketfiles/16-273.htm>

² <https://www.supremecourt.gov/qp/16-00273qp.pdf>.

³ <https://www.supremecourt.gov/search.aspx?filename=/docketfiles/16-273.htm>

rel. Grimm, 137 S. Ct. 1239 (2017) (Mem.). Before the case was remanded, Gavin’s attorneys had been forced to spend hundreds of hours preparing the merits brief, recruiting and working with supportive *amici curiae*, and preparing for oral argument. Block Decl. ¶¶ 20-23 and Ex. A.

By the time the case was remanded, there was also insufficient time for the Fourth Circuit to rule before Gavin would graduate from high school in the spring of 2017. The Fourth Circuit vacated the district court’s preliminary injunction, which had been based on the Fourth Circuit’s now-vacated opinion. *See G.G. v. Gloucester Cty. Sch. Bd.*, 853 F.3d 729 (4th Cir. 2017) (Mem.). But Judge Davis, joined by Judge Floyd, wrote separately, noting that “[t]oday [Gavin] adds his name to the list of plaintiffs whose struggle for justice has been delayed and rebuffed; as Dr. King reminded us, however, ‘the arc of the moral universe is long, but it bends toward justice.’ [Gavin’s] journey is delayed but not finished.” *Id.* at 730. A few months later, the Fourth Circuit remanded the case back to the district court to determine whether Gavin’s claims for injunctive relief had been mooted by graduation. *See Grimm v. Gloucester Cty. Sch. Bd.*, 869 F.3d 286 (4th Cir. 2017).

On remand, Gavin filed an Amended Complaint to add new allegations about events that occurred at Gloucester since his case was first filed. ECF No. 133. The Amended Complaint explained that Gavin had received gender-affirming chest surgery, obtained on order from Virginia state court recognizing him as male, and obtained an updated birth certificate from the Virginia Department of Vital Records recognizing him as male in accordance with the state court order. But despite all this, the Board had refused to update Gavin’s school records to match his birth certificate and continued to exclude him from using the same restrooms as other boys. The Amended Complaint also clarified that Gavin’s damages claim sought only nominal damages. Although the Amended Complaint initially sought permanent injunctive relief, Gavin agreed to have that request voluntarily dismissed. *See* ECF No. 132.

This Court denied the Board's request to dismiss Gavin's claim for nominal damages for lack of an Article III case or controversy, *see Grimm v. Gloucester Cty. Sch. Bd.*, No. 4:15-CV-54, 2017 WL 9882602 (E.D. Va. Dec. 12, 2017), and then denied the Board's motion to dismiss for failure to state a claim, *see Grimm v. Gloucester Cty. Sch. Bd.*, 302 F. Supp. 3d 730 (E.D. Va. 2018). Revisiting the previous decision to dismiss Gavin's Title IX claim, this Court noted that "there has been a significant change in the applicable law since the Motion to Dismiss the Title IX claim was initially considered in 2015." *Grimm*, 302 F. Supp. 3d at 741. Reviewing the issues de novo, this Court held that Gavin had stated valid claims under both Title IX and the Equal Protection Clause. *See id.* at 742-52.

Discovery commenced in earnest, and a few months later, Gavin moved for leave to file a Second Amended Complaint, which this Court ultimately granted over the Board's opposition. *See* ECF No. 170, 176-77. The Second Amended Complaint added new claims under Title IX and the Equal Protection Clause based on the Board's continued refusal to provide Gavin with an accurate school transcript that matched his updated birth certificate. For these new claims, the Second Amended Complaint sought additional declaratory relief, nominal damages, and an injunction requiring the Board to provide Gavin with an updated and accurate school transcript.

Finally, on August 9, 2019—after ninth months of discovery and cross-motions for summary judgment—this Court granted Gavin's motion for summary judgment and provided Gavin with all the relief requested in the Second Amended Complaint. *See Grimm v. Gloucester Cty. Sch. Bd.*, 400 F. Supp. 3d 444 (E.D. Va. 2019). As part of its decision, this Court ordered that "[t]he Board shall pay Mr. Grimm's reasonable costs and attorneys' fees pursuant to 42 U.S.C. § 1988." *Id.* at 464.

A year later, on August 26, 2020, the Fourth Circuit affirmed this Court's decision in its entirety. *See Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020). The Board petitioned for rehearing en banc, which the Fourth Circuit denied on September 9, 2020. *Grimm v. Gloucester Cty. Sch. Bd.*, 976 F.3d 399 (4th Cir. 2020). The Board then filed another petition for a writ of certiorari, which the Supreme Court denied on June 28, 2021. *See Gloucester Cty. Sch. Bd. v. Grimm*, No. 20-1163, 2021 WL 2637992 (U.S. June 28, 2021).

By agreement of the parties, and pursuant to this Court's order dated October 9, 2020, ECF No. 248, Gavin's petition for fees and costs is due 30 days after the denial of a petition for a writ of certiorari.

ARGUMENT

I. Gavin's Award of Nominal Damages Entitles Him to Attorney's Fees.

When a plaintiff is awarded nominal damages, the court must make an initial assessment to determine whether the victory justifies an award of attorney's fees. In some cases, "when a plaintiff's victory is purely technical or *de minimis*, a district court need not go through the usual complexities involved in calculating attorney's fees" because "the appropriate fee in such a case is no fee at all." *Farrar v. Hobby*, 506 U.S. 103, 117, 122 (1992) (O'Connor, J., concurring). In determining whether an award of nominal damages entitles a prevailing plaintiff to a fee award, courts in the Fourth Circuit must consider (1) the degree of the plaintiff's overall success, (2) the significance of the legal issue on which the plaintiff prevailed, and (3) the public purpose served by the litigation. *See Mercer v. Duke Univ.*, 401 F.3d 199, 204 (4th Cir. 2005). All three of the *Mercer* factors strongly support Gavin's entitlement to attorney's fees in this case.

Under the first *Mercer* factor, Gavin obtained an extremely high degree of success and received all of the relief requested in his Second Amended Complaint.⁴ “Unlike the plaintiff in *Farrar*,”—who sought \$17 million and received only \$1—Gavin “never sought any extravagant or personal financial benefit.” *Project Vote/Voting for Am., Inc. v. Dickerson*, 444 F. App’x 660, 664 (4th Cir. 2011). Gavin sought nominal damages to vindicate important dignitary harms for himself and other transgender students, which cannot easily be measured by money. “Because damages awards do not reflect fully the public benefit advanced by civil rights litigation, Congress did not intend for fees in civil rights cases, unlike most private law cases, to depend on obtaining substantial monetary relief.” *City of Riverside v. Rivera*, 477 U.S. 561, 575 (1986) (plurality). As the Fourth Circuit recognized when it affirmed summary judgment in Gavin’s favor, “winning nominal damages under 42 U.S.C. § 1983 allows for a recovery of attorney’s fees under 42 U.S.C. § 1988, thereby allowing plaintiffs with insufficient funds to hire an attorney at market rate, and with little prospect of a great recovery, to be matched with a civil rights attorney.” *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586, 604 n.6 (4th Cir. 2020).

Under the second *Mercer* factor, the legal issues on which Gavin prevailed were all significant matters of first impression for the Fourth Circuit. Gavin’s 2016 victory in the Fourth Circuit was the first case in which a federal court held that Title IX protects the rights of transgender students to use restrooms consistent with their gender identity. Although federal courts across the country have now reached that conclusion, those cases were all filed in the wake of Gavin’s victory. *See Grimm*, 302 F. Supp. 3d at 741 (noting that “there has been a significant

⁴ As discussed below, Gavin’s high degree of success is not diminished by the fact that his graduation ultimately mooted his claims for injunctive relief with respect to using the restrooms.

change in the applicable law since the Motion to Dismiss the Title IX claim was initially considered in 2015” and listing cases that were all filed after Gavin’s Fourth Circuit victory).

Gavin’s second victory before the Fourth Circuit in 2020 was equally momentous. Gavin established in this Circuit that the Supreme Court’s reasoning in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), applies to Title IX and protects transgender students from discrimination. *Grimm*, 972 F.3d at 616. Gavin established that discrimination against transgender people is subject to heightened scrutiny both because it discriminates based on sex and because transgender status independently constitutes a quasi-suspect classification. *See id.* at 613. He established that treating transgender individuals based on their sex assigned at birth instead of their gender identity is a form of discriminatory and unequal treatment under both the Equal Protection Clause and Title IX. *See id.* at 609, 618-19. He established that students may challenge discriminatory refusals to update school records without exhausting alleged remedies under the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232g. *See id.* at 605. And he established that such refusals violate the Equal Protection Clause and Title IX as well. *See id.* at 615-16, 619.⁵

Any one of these legal issues of first impression would be important enough to merit attorney’s fees under *Mercer*. *Cf. Mercer*, 401 F.3d at 206 (holding that the legal issues in the case were important because: “*Mercer*’s case established that the contact-sports exemption does not permit a school to discriminate against women that the school has allowed to participate in contact sports. *Mercer*’s case was the first to so hold, and it will serve as guidance for other schools facing

⁵ By contrast, in a case with similar facts, the Eleventh Circuit recently issued a revised opinion resolving the case on more limited grounds. *See Adams v. Sch. Bd. of St. John’s Cty.*, No. 18-13592, 2021 WL 2944396 (11th Cir. July 14, 2021). Unlike the original panel opinion, the revised opinion declined to address whether a policy excluding a transgender student from the restroom violated Title IX, declined to address whether the policy constituted discrimination against transgender students, and declined to address what level of scrutiny would apply to such discrimination.

the issue.”); *Doe v. Kidd*, 656 F. App’x 643, 653 (4th Cir. 2016) (holding that legal issue was important for purposes of awarding attorney’s fees because the case “was the first to establish in this Circuit that a litigant can enforce their rights under the Medicaid Act through § 1983” and because it “has served as guidance to courts and parties facing this issue and similar issues that have arisen under the Medicaid Act, and will continue to do so”).

Finally, under the third *Mercer* factor, Gavin’s victory served a public purpose. “In our legal system, with its reliance on *stare decisis* and respect for precedent, a case involving the claim of a single individual, without any request for wide-ranging declaratory or injunctive relief, can have a profound influence on the development of the law and on society.” *Mercer*, 401 F.3d at 208. Gavin’s case was ground-breaking litigation that changed the landscape of legal protections for transgender students in the Fourth Circuit and throughout the country. As Judge Davis explained:

[Gavin’s] case is about much more than bathrooms. It’s about a boy asking his school to treat him just like any other boy. It’s about protecting the rights of transgender people in public spaces and not forcing them to exist on the margins. It’s about governmental validation of the existence and experiences of transgender people, as well as the simple recognition of their humanity. His case is part of a larger movement that is redefining and broadening the scope of civil and human rights so that they extend to a vulnerable group that has traditionally been unrecognized, unrepresented, and unprotected.

G. G., 853 F.3d at 730 (Davis, J., concurring, joined by Floyd, J.). And when the Fourth Circuit affirmed this Court’s decision granting summary judgment, the court compared Gavin’s case to some of “[t]he proudest moments of the federal judiciary . . . when we affirm the burgeoning values of our bright youth, rather than preserve the prejudices of the past.” *Grimm*, 972 F.3d at 620.

Like the lawsuit in *Mercer*, Gavin’s case “marked a milestone in the development of the law under Title IX” and “likewise serve[d] a significant public purpose, by furthering Title IX’s goal of eliminating discrimination in educational institutions.” *Mercer*, 401 F.3d at 207-08. Both as a direct result of the Fourth Circuit’s holdings, and as a result of the case’s influence on other

courts, Gavin’s case “opened the courthouse doors” for transgender students in the Fourth Circuit and across the country. *Doe*, 656 F. App’x at 653. A case that so manifestly serves a greater public interest “is the very form of litigation Congress wished to encourage by enacting § 1988.” *Project Vote/Voting for Am., Inc.*, 444 F. App’x at 664.

II. Gavin’s Requested Attorney’s Fees Are Reasonable and Should Be Granted.

“The proper calculation of an attorney’s fee award involves a three-step process. First, the court must determine the lodestar figure by multiplying the number of reasonable hours expended times a reasonable rate.” *McAfee v. Boczar*, 738 F.3d 81, 88 (4th Cir. 2013) (cleaned up). In calculating the lodestar figure, “the court is bound to apply the factors set forth in *Johnson v. Georgia Highway Express Inc.*, 488 F.2d 714, 717–19 (5th Cir. 1974).” *Id.* (footnote omitted).⁶ But “the Court need not address all twelve *Johnson* factors independently because many of these considerations are subsumed in the calculation of the hours reasonably expended and the reasonableness of the hourly rate.” *Galloway v. Williams*, No. 3:19-CV-470, 2020 WL 7482191, at *6 (E.D. Va. Dec. 18, 2020).

“Next, the court must subtract fees for hours spent on unsuccessful claims unrelated to successful ones.” *McAfee*, 738 F.3d at 88 (cleaned up). “Finally, the court should award some

⁶ The *Johnson* factors are:

- (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.

Id. at 88 n.5.

percentage of the remaining amount, depending on the degree of success enjoyed by the plaintiff.” *Id.* (cleaned up). In performing this task, “[w]hat the court must ask is whether the plaintiff achieved a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award.” *Id.* at 92 (cleaned up).

A. The Hours Requested Are Reasonable.

In determining whether the number of requested hours is reasonable, “trial courts need not, and indeed should not, become green-eyeshade accountants. The essential goal in shifting fees (to either party) is to do rough justice, not to achieve auditing perfection.” *Fox v. Vice*, 563 U.S. 826, 838 (2011). “[T]rial courts may take into account their overall sense of a suit, and may use estimates in calculating and allocating an attorney’s time.” *Id.*; *accord BiotechPharma, LLC v. W.H.P.M., Inc.*, No. 1:11-CV-00444 TSE, 2012 WL 253090, at *2 (E.D. Va. Jan. 26, 2012). “[I]t is not the function of the courts in reviewing fees to second guess every minute detail of time spent by an attorney in working on a case.” *Courthouse News Serv. v. Schaefer*, 484 F. Supp. 3d 273, 279 (E.D. Va. 2020) (cleaned up).

Gavin seeks to recover reasonable fees for the following hours, as set forth in Block Decl. Exhibits. A-D, and Heilman Decl. Exhibits A-E:

Joshua Block	1,321.93 hours (from 2015 – 2021)
Rebecca Glenberg	52.33 hours (2015)
Gail Deady	149.47 hours (from 2015 – 2018)
Shayna Medley	328.25 hours (from 2018 – 2019)
Eden Heilman	145 hours (from 2018 – 2021)
Jennifer Safstrom	81.45 hours (from 2018-2019)

In calculating the number of hours reasonably expended, Gavin has voluntarily excluded hundreds of hours from the ACLU's current and former national Legal Director, the ACLU's Deputy Legal Director, the ACLU's LGBTQ & HIV Project Director, and other senior ACLU attorneys who helped work on the case once it reached the Supreme Court in 2016-2017 and 2020-2021. *See* Block Decl. ¶¶ 20-21, 27. Plaintiff has also excluded (a) hours spent by another attorney at the ACLU national office who reviewed drafts and provided feedback, (b) hours from the former legal director of the ACLU of Virginia in 2016 and 2017, (c) approximately 70 hours from an attorney with 2 to 5 years of experience at the ACLU of Virginia, and (d) all hours spent by paralegals at the national ACLU and ACLU of Virginia. *See* Block Decl. ¶ 19; Heilman Decl. ¶ 15.

As a result of the foregoing exclusions, the hours encompassed in the fee petition reflect a case that was staffed leanly and “in house,” without the need to recruit additional law firms as co-counsel. *See* Perrelli Decl. ¶ 11 (“In my experience, both the staffing structure from 2015 to 2018 and post June 2018 as well as the amount of hours total from those periods were extraordinarily lean for this type of matter.”); Sellers Decl. ¶ 12 (“The legal team handled this case in a highly efficient manner.”); *cf. Tanco v. Haslam*, No. 3:13-CV-01159, 2016 WL 1171058, at *5 (M.D. Tenn. Mar. 25, 2016) (recounting the large number of attorneys and multiple law firms staffed on each of the four cases consolidated as *Obergefell v. Hodges*, 576 U.S. 644 (2015)).⁷

⁷ Although Mr. Block was lead counsel and the primary drafter of legal briefs, the litigation also required close collaboration and contact between attorneys at the national ACLU who were admitted *pro hac vice* and attorneys at the ACLU of Virginia who have been admitted to practice in this Court. Heilman Decl. ¶ 13 Even when counsel from the national ACLU took primary responsibility for particular tasks, counsel from the ACLU of Virginia were required under Local Civil Rule 83.1(D)(2)-(3) and (F) to personally appear at every court appearance and personally file and sign every document submitted to this Court. ACLU of Virginia attorneys also had to be sufficiently prepared “that the Court [could] deal with the attorney alone in all matters connected with the case,” if necessary. Local Civil Rule 83.1(D)(3).

The hours for which Gavin seeks compensation are reasonable for a case of this duration and complexity. This Court has already “trace[d] the arduous journey this case has followed since its inception.” *Grimm v. Gloucester Cty. Sch. Bd.*, 400 F. Supp. 3d 444, 462 (E.D. Va. 2019). In total, this case has spanned six years of litigation, including a motions hearing before the district court; a successful appeal to the Fourth Circuit; briefing before the Supreme Court regarding the Board’s motion to stay and recall the mandate, the Board’s petition for a writ of certiorari, and the merits brief after certiorari was granted; further briefing on remand to the Fourth Circuit; another round of briefing on the Board’s motion to dismiss; discovery with depositions of lay and expert witnesses; more briefing on a motion for leave to file a Second Amended Complaint; summary judgment briefing and a motions hearing; another appeal to the Fourth Circuit; and further briefing at the Supreme Court opposing the Board’s second petition for a writ of certiorari. And throughout the course of the litigation, the Board has opposed Gavin every step of the way. Gavin’s attorneys even had to obtain a declaration from the Virginia Registrar to rebut the Board’s baseless assertions that his legal documents were invalid. *See Grimm*, 400 F. Supp. 3d at 458 (“[T]he Board’s continued recalcitrance in the face of Ms. Rainey’s Declaration and the court order from the Gloucester County Circuit Court is egregious.”).

In light of this litigation’s long history, the number of hours spent by Gavin’s attorneys over the course of six years simply reflects the fact that “the litigation was vigorously contested by the [Board] at every step.” *Rum Creek Coal Sales, Inc v. Caperton*, 31 F.3d 169, 180 (4th Cir. 1994); *cf. Mercer*, 401 F.3d at 211 (“Given the nature of this litigation, which was hard fought by both sides, has been on-going for more than seven years, and is now in the middle of its third appeal, we cannot conclude merely from the size of the fee award that the award is unreasonable.”); *Doe*, 656 Fed. Appx. at 657 (affirming fee award and noting that “the litigation was vigorously

contested by the defendants at every step” and plaintiff “was required to appeal twice to this Court, each time succeeding in her effort”).

A “[d]efendant cannot fight the case to its last breath, and then complain that the attorneys’ fees are disproportionate.” *Courthouse News Serv.*, 484 F. Supp. at 273 (cleaned up). In the face of the Board’s implacable opposition, the hours spent by Gavin’s attorneys were reasonable.

B. The Hourly Rates Are Reasonable.

A spreadsheet calculating the requested lodestar amounts for each attorney is attached as Appendix A. Gavin requests that fees be awarded at the following hourly rates, with a 50% discount for hours spent on travel:

Name	Years of Experience	Rate
Joshua Block	10 (in 2015) – 16 (in 2021)	\$650 (before 6/1/16); \$750 (after 6/1/16)
Rebecca Glenberg	18 (in 2015)	\$650
Eden Heilman	12 (in 2018) – 15 (in 2021)	\$650
Gail Deady	4 (in 2015) – 7 in (2018)	\$450
Shayna Medley	1 (in 2018) – 2 (in 2019)	\$350
Jennifer Safstrom	< 1 (in 2018- 2019)	\$300

In accordance with Fourth Circuit precedent, the requested hourly rates reflect the current market rates instead of historical ones. “In awarding attorney fees, a district court is required to account for ‘the effect of delay in payment on the value of the fee.’” *Ohio River Valley Env’t Coal., Inc. v. Green Valley Coal Co.*, 511 F.3d 407, 419 (4th Cir. 2007) (quoting *Daly v. Hill*, 790 F.2d 1071, 1081 (4th Cir.1986)). “The delay factor may be accounted for either by using a fee rate based on the current market or by using the historical fee rate with reasonable interest added.” *Id.* “[I]n a typical case, using current market rates is “an appropriate way to compensate for a delay in

payment for attorney's fees," *Reaching Hearts Intern., Inc. v. Prince George's Cty.*, 478 F. App'x 54, 60 (4th Cir. 2012), and may also "simplify the task of the district court," *Daly*, 790 F.2d at 1081 (quotations omitted); accord *Stuart v. Walker-McGill*, No. 1:11-CV-804, 2016 WL 320154, at *17 n.54 (M.D.N.C. Jan. 25, 2016) (using current rates).

1. The Rates Requested for Mr. Block Are Reasonable.

Gavin seeks fees for Joshua Block at a rate of \$650 per hour for work performed before June 1, 2016, and \$750 per hour for work performed after June 1, 2016. Mr. Block is a Senior Staff Attorney at the ACLU's LGBTQ & HIV Project in New York. Block Decl. ¶ 8. He was lead counsel on this case through every stage of the proceedings. *Id.* at ¶ 18. Mr. Block was the primary drafter of all memoranda of law, appellate briefs, and Supreme Court filings in the case. *Id.* He presented oral argument twice before the district court, and twice before the Fourth Circuit. *Id.* As discussed below, the rates requested for Mr. Block are reasonable in light of his level of experience, his specialized expertise, and the excellent representation provided in this case.

Mr. Block graduated from Yale Law School in 2005 and clerked the following year for Judge Robert D. Sack on the U.S. Court of Appeals for the Second Circuit. Block Decl. ¶¶ 2-3. From 2006 to 2010, Mr. Block was a litigation associate at the law firm Jenner & Block LLP in their New York office, where he worked on complex commercial litigation, internal investigations, white-collar defense, and appellate litigation at the United States Courts of Appeals and the Supreme Court. *Id.* at ¶¶ 4-7.

Mr. Block joined the ACLU's LGBTQ & HIV Project in 2010 and has worked there for the past 11 years. Block Decl. ¶ 8. As a senior litigator at the ACLU, Mr. Block has litigated landmark cases about the legal protections for LGBTQ people throughout the country, including *United States v. Windsor*, 570 U.S. 744 (2013); *Obergefell v. Hodges*, 576 U.S. 644 (2015); and

Stone v. Trump, 280 F. Supp. 3d 747 (D. Md. 2017), *stay denied*, No. 17-2398, 2017 WL 9732004 (4th Cir. Dec. 21, 2017). *See* Block Decl. ¶¶ 9-10 (discussing other examples).

Mr. Block has extensive experience litigating on behalf of students and people who are transgender, and he has developed particular expertise protecting transgender students from being excluded from restrooms, locker rooms, or other sex-separated education activities. *See* Block Decl. ¶¶ 9-11; *B.P.J. v. W.V. State Bd. of Educ.*, 2:21-cv-00316, 2021 WL 3081883 (S.D.W. Va. July 21, 2021) (representing girl who is transgender who was excluded from middle school athletics team); *Soule v. Conn. Ass'n of Sch., Inc.*, No. 3:20-CV-00201 (RNC), 2021 WL 1617206 (D. Conn. Apr. 25, 2021) (representing girls who are transgender in attempt to exclude them from high school athletics team); *M.A.B. v. Bd. of Educ. of Talbot Cty.*, 286 F. Supp. 3d 704 (D. Md. 2018) (represented boy who is transgender and was excluded from the locker rooms); *Priv. Matters v. U.S. Dep't of Educ. Doe*, No. 16-CV-3015 (WMW/LIB), 2016 WL 6436658 (D. Minn. Oct. 27, 2016) (represented girl who is transgender in case attempting to exclude her from locker rooms).

In determining a reasonable hourly rate for Mr. Block, the Court may properly consider the prevailing market rates, not only in Richmond, but also in New York and D.C. Under the Fourth Circuit's decision in *Rum Creek*, “[t]he relevant market for determining the prevailing rate is ordinarily the community in which the court where the action is prosecuted sits,” but out-of-market rates may be awarded when “the complexity and specialized nature of a case may mean that no attorney, with the required skills, is available locally,” and “the party choosing the attorney from elsewhere acted reasonably in making the choice.” 31 F.3d. at 175.

Gavin's decision to retain counsel at the national ACLU's LGBTQ & HIV Project in New York was reasonable and necessary under *Rum Creek*. *See* Perrelli Decl. ¶¶ 10-11; Sellers Decl. ¶ 11. There are no attorneys in the Virginia legal market with the same depth and breadth of

experience in litigating the constitutional rights of LGBTQ people. Heilman Decl. ¶ 17. And unlike attorneys at private law firms, Mr. Block and the ACLU were able to represent Gavin throughout the course of the litigation without payment or the prospect of a significant financial recovery through a contingency fee. *See Stuart*, 2016 WL 320154, at *16 (awarding out-of-market rates because “there is no evidence that there were any experienced constitutional lawyers in the state who were as familiar with the confluence of reproductive rights and First Amendment law as the out-of-state attorneys hired by the plaintiffs Nor is there any evidence that these hypothetical lawyers would have taken on such a labor-intensive pro bono representation.”).

Retaining Mr. Block and the ACLU was also reasonable because the legal issues in this case were novel and complex, raising cutting-edge questions about the rights of transgender students under Title IX and the Constitution. At the time the case was first filed, no other federal court had previously held that Title IX protects the rights of transgender students to use restrooms consistent with their gender identity. Against the backdrop of a changing legal landscape, Gavin’s case required creativity, specialized knowledge, and expertise. *See Perrelli Decl.* ¶ 10 (“Because of its critical national importance and its unusually complex procedural path, this is the sort of complex constitutional litigation that requires highly-skilled counsel who understand not only the substantive constitutional and administrative law but also appellate and Supreme Court procedure.”); *Sellers Decl.* ¶ 11 (“This type of complex constitutional litigation requires highly-skilled counsel who understand administrative and constitutional law, complex trial and appellate procedure, and who can handle the immense pressure of litigating a case attracting intense media and other interest.”). And because of his expertise and prior knowledge, Mr. Block was also able to perform tasks quickly, efficiently, and at minimal cost. *Cf. Blum v. Stenson*, 465 U.S. 886, 898 (1984) (“[W]here the experience and special skill of the attorney will require the expenditure of

fewer hours than counsel normally would be expected to spend on a particularly novel or complex issue . . . the special skill and experience of counsel should be reflected in the reasonableness of the hourly rates.”).

In similar circumstances, courts in this Circuit have repeatedly recognized that the specialized nature of complex constitutional litigation justifies an award based on out-of-market rates for out-of-market attorneys. See *Courthouse News Serv.*, 484 F. Supp. 3d at 279 (awarding out-of-market rates because “[t]he issues presented in this case go beyond basic issues of First Amendment law” and “[i]t is entirely reasonable that Plaintiff should be entitled to recover fees for the use of lawyers that have familiarity with both the Plaintiff’s media practices and the complex intricacies that are involved in these right of access for the press cases”); *Fisher-Borne v. Smith*, No. 1:12-CV-589, 2018 WL 3581705, at *4 (M.D.N.C. July 25, 2018) (awarding out-of-market rates because “[t]hese cases presented complex constitutional issues in a quickly evolving area of law, justifying the services of skilled, experienced counsel”).

“[T]he lodestar method” is designed to “roughly approximate[] the fee that the prevailing attorney would have received if he or she had been representing a paying client who was billed by the hour in a comparable case.” *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 551 (2010) (emphasis omitted). Here, Gavin seeks a fee award for Mr. Block’s hours at a rate of \$650 per hour for work performed before June 1, 2016, and \$750 per hour for work performed after June 1, 2016. The requested rates for Mr. Block are at or below the market rates for litigation in D.C. as reflected in the Adjusted Laffey Matrix (also known as the LSI Laffey Matrix).⁸ According to the Adjusted

⁸ “The Laffey matrix was established by the D.C. courts to assess presumptively reasonable local market rates for D.C.-based attorneys and is updated periodically.” *Stuart*, 2016 WL 320154, at *17. “[T]here are two formulations of the Laffey Matrix: the LSI model and the more conservative U.S. Attorney’s Office model.” *Smith v. Loudoun Cty. Pub. Sch.*, No. 1:15CV956 (JCC/TCB), 2017 WL 176510, at *3 (E.D. Va. Jan. 17, 2017). Courts within the Fourth Circuit

Laffey Matrix, the prevailing market rate in D.C. for an attorney with 8-10 years of experience is \$672, and the prevailing market rate for an attorney with 11-19 years of experience is \$759. *See* <http://www.laffeymatrix.com/see.html>.

As explained in the declarations of Mr. Perrelli and Mr. Sellers, the requested hourly rates for Mr. Block “are not only reasonable but significantly less than the prevailing rates for this kind of work in the legal markets in Washington, D.C. and New York,” where attorneys engaged in similar complex constitutional litigation are often compensated at rates “at least 50% higher than the rates at which compensation is sought here.” Sellers Decl. ¶ 14. Indeed, attorneys with the same level of experience engaged in such litigation “would typically be billed at a rate of approximately \$1,000 or more.” Perrelli Decl. ¶ 15. In other words, the actual rate that an attorney comparable to Mr. Block would receive from a paying client in a comparable case is “well above the market rates for complex constitutional litigation in D.C. as reflected in the Adjusted Laffey Matrix.” Perrelli Decl. ¶ 16.

Moreover, even if the Court were to focus exclusively on market rates in Virginia, the requested rates for Mr. Block are also within the range of rates charged by Richmond law firms. As discussed below in connection with the rates for other counsel, the market rates at large Richmond firms in 2019 ranged from \$585 for junior partners to \$937 for senior partners. *See Bethune-Hill v. Va. State Bd. of Elections*, No. 3:14-CV-852, 2020 WL 5577824, at *8-*9 (E.D. Va. Sept. 17, 2020). Mr. Block’s expertise in this area of law and his high quality of representation would justify a fee award at the “high end” of the market range. *See Blum*, 465 U.S. at 899 (“The

have relied upon the Adjusted Laffey Matrix as “more accurate” when determining the prevailing market rates for litigation in D.C. *Id.* Although some courts had previously favored the U.S. Attorney’s Office model, the D.C. Circuit recently held that the U.S. Attorney’s Office model did not accurately reflect the market rates for complex civil litigation in D.C. and should not be relied upon. *D.L. v. District of Columbia.*, 924 F.3d 585, 591 (D.C. Cir. 2019).

‘quality of representation,’ . . . generally is reflected in the reasonable hourly rate.”); *Perdue*, 559 U.S. at 554-55 (explaining that “if the hourly rate is determined by a formula that takes into account only a single factor (such as years since admission to the bar)” the hourly rates may be increased to “measure the attorney’s true market value”); *cf. Page v. Va. State Bd. of Elections*, No. 3:13-CV-678, 2015 WL 11256614, at *7 (E.D. Va. Mar. 11, 2015) (explaining that an award of “high-end rates to these attorneys is justified given their extensive political law and redistricting litigation experience, which proved essential to Plaintiffs’ success in a case that was vigorously defended” and “[t]he Court’s hourly rate award will thus reflect counsel’s high quality of representation”).

Considering all the relevant factors, the requested rates for Mr. Block are reasonable and should be granted.

2. The Rates Requested for Ms. Medley and ACLU of Virginia Attorneys Are Reasonable.

For many of the same reasons that apply to Mr. Block, the rates requested for Ms. Medley and the ACLU of Virginia attorneys are reasonable in the Richmond market. The extensive credentials and years of experience for each of these attorneys is recounted in Block Decl. ¶¶ 24, Medley Decl. ¶¶ 2-5, and Heilman Decl. ¶¶ 1-8, 10-11.

- Rebecca Glenberg is the former Legal Director of the ACLU of Virginia. Ms. Glenberg graduated from the University of Chicago School of Law in 1997 and served as Legal Director at the ACLU of Virginia from 1999 until November 2015. Since 2015, Ms. Glenberg has worked at the ACLU of Illinois as Senior Civil Liberties Staff Counsel. *See* Heilman Decl. ¶ 11.
- Eden Heilman is the current Legal Director of the ACLU of Virginia. She graduated from Loyola University New Orleans College of Law in 2006. Before joining the ACLU of Virginia in 2018, Ms. Heilman served as the Managing Attorney of the

Southern Poverty Law Center's office in New Orleans where she directed the organization's litigation and policy advocacy efforts in Louisiana, with a specific emphasis on children's rights, education, and juvenile justice. *See* Heilman Decl. ¶¶ 1-8.

- Gail Deady was an attorney at the ACLU of Virginia when she worked on Gavin's case. She graduated from Washington & Lee University School of Law in 2011 and worked as a litigation associate at McCandlish Holton in Richmond before joining the ACLU of Virginia in 2015. She is currently a staff attorney at the Center for Reproductive Rights in New York. *See* Heilman Decl. ¶ 11.
- Shayna Medley worked at the ACLU LGBTQ & HIV Project for two years as a Skadden fellow following her graduation from Harvard Law School in 2017. She began working on Gavin's case during the second year of her fellowship and had already developed significant litigation experience defending the ability of transgender students to use restrooms consistent with their gender identity. Ms. Medley is currently working as a legal fellow at the Center for Reproductive Rights in New York. *See* Block Decl. ¶ 24; Medley Decl. ¶¶ 2-5.
- Jennifer Safstrom worked as a legal fellow at the ACLU of Virginia following her graduation from Georgetown University Law Center in 2018. She currently works as Counsel at the Institute for Constitutional Advocacy and Protection at Georgetown University Law Center. *See* Heilman Decl. ¶ 10.

Gavin seeks hourly rates for these attorneys based on the prevailing legal market in Richmond, where the ACLU of Virginia is located. As noted above in connection with the rates for Mr. Block, there is no comparable law firm in Norfolk that would have the same expertise in

civil rights litigation and that would be financially able to represent Gavin over the course of six years without payment or the prospect of a contingency fee. *See* Heilman Decl. ¶ 17; *Stuart*, 2016 WL 320154, at *16. Moreover, as with the rates for Mr. Block, rates at the higher end of the legal market are warranted based on counsel’s high quality of representation and the excellent results they obtained. *Cf. Page*, 2015 WL 11256614, at *7.

The requested rates are well within the range of rates for the Richmond legal market. In *Bethune-Hill v. Virginia State Bd. of Elections*, No. 3:14-CV-852, 2020 WL 5577824, at *8-*9 (E.D. Va. Sept. 17, 2020), a three-judge court accepted declarations from attorneys at McGuireWoods and Troutman Sanders as reliable evidence of the prevailing market rates in Richmond for purposes of awarding attorney’s fees. According to one of those declarations, Richmond market rates for McGuireWoods between 2017-2019 were between \$870 and \$937 for senior partners, between \$732 and \$760 for junior partners, between \$496 and \$534 for senior associates, between \$368 and \$432 for junior associates, and between \$260 and \$281 for paralegals. *See* Haynes Decl. from *Bethune-Hill* ¶ 6 (attached as Block Decl. Ex. E). According to the other declaration, Richmond markets rates in 2019 for Troutman Sanders were between \$585 and \$855 for partners, between \$370 and \$550 for associates, and between \$145 and \$270 for paralegals. *See* Angle Decl. from *Bethune-Hill* ¶ 12 (attached as Block Decl. Ex. F).

The requested rates for all of Gavin’s attorneys are either below—or squarely within—the market rates accepted in *Bethune-Hill*:

Name	Years	Requested Rate	McGuireWoods 2017-19 Rate	Troutman Sanders 2019 Rate
Joshua Block	10– 16	\$650 until 6/1/16 \$750 after 6/1/16	\$732 to \$937	\$585 to \$855
Rebecca Glenberg	18-20	\$650	\$870 to \$937	\$585 to \$855

Eden Heilman	12– 15	\$650	\$732 to \$937	\$585 to \$855
Gail Deady	4– 7	\$450	\$496 to \$543	\$370 to \$550
Shayna Medley	1– 2	\$350	\$368 to \$432	\$370 to \$550
Jennifer Safstrom	< 1	\$300	\$368 to \$432	\$370 to \$550

Considering all relevant factors, the requested hourly rates are reasonable and should be granted.

III. There Are No Unrelated, Unsuccessful Claims to Subtract from the Lodestar Amount.

After calculating the proper lodestar amount, the court must then “subtract fees for hours spent on unsuccessful claims unrelated to successful ones.” *Robinson v. Equifax Info. Servs., LLC*, 560 F.3d 235, 244 (4th Cir. 2009) (cleaned up). But this step applies only when a plaintiff presents “distinctly different claims for relief that are based on different facts and legal theories” and “counsel’s work on one claim [is] unrelated to his work on another claim.” *Hensley v. Eckerhart*, 461 U.S. 424, 434-35 (1983). It does not apply when “the plaintiff’s claims for relief [involve] a common core of facts or [are] based on related legal theories.” *Id.* at 435. “Such a lawsuit cannot be viewed as a series of discrete claims. Instead the district court should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.” *Id.*

Because Gavin prevailed on all of his claims, and because those claims all revolved around a common core of facts, there are no “unsuccessful” or “unrelated” claims to subtract from the lodestar amount. Although Gavin graduated before he was able to obtain a permanent injunction allowing him to resume using the boys’ restrooms, a plaintiff’s failure to obtain a particular form of relief is taken into account by the court in “step three” of the “three-step process,” *McAfee*, 738 F.3d at 88, when evaluating the plaintiff’s overall degree of success—not in “step two” when

subtracting hours for unrelated claims. Moreover, as discussed below, a plaintiff who obtains excellent results may recover a full fee award even if they “did not receive all the relief requested.” *Hensley*, 461 U.S. at 435 n.11.

There is also no basis to subtract fees for allegedly “unsuccessful” hours spent by counsel at the Supreme Court opposing the Board’s application to stay and recall the mandate, opposing the Board’s petition for a writ of certiorari, and filing a brief on the merits before the Supreme Court remanded the case to the Fourth Circuit for further consideration. “[A] plaintiff is not to be denied full attorneys’ fees merely because he lost some interim rulings en route to ultimate success.” *Alliance to End Repression v. City of Chicago*, 356 F.3d 767, 770 (7th Cir. 2004) (citations omitted). Rather, “a plaintiff who is unsuccessful at a stage of litigation that was a necessary step to [his] ultimate victory is entitled to attorney’s fees even for the unsuccessful stage.” *Cabrales v. Cty. of Los Angeles*, 935 F.2d 1050, 1053 (9th Cir. 1991).

The Ninth Circuit’s decision in *Cabrales* is directly on point. The plaintiff in *Cabrales* prevailed in the Ninth Circuit, but the defendant filed a petition for a writ of certiorari, and the Supreme Court vacated and remanded the decision for further consideration. On remand, the plaintiff again prevailed before the Ninth Circuit and successfully opposed the defendant’s second petition for a writ of certiorari. The Ninth Circuit held that the plaintiff was entitled to attorney’s fees for the work opposing *both* petitions for writs of certiorari, including the “unsuccessful” work opposing certiorari the first time around. The court explained that “[i]f a plaintiff ultimately wins on a particular claim, she is entitled to all attorney’s fees reasonably expended in pursuing that claim—even though she may have suffered some adverse rulings. Here, although the Supreme Court vacated our judgment, the Court’s order was simply a temporary setback on the way to a complete victory for plaintiff.” *Cabrales*, 935 F.2d at 1053.

The Seventh Circuit reached the same conclusion in *Jaffee v. Redmond*, 142 F.3d 409 (7th Cir. 1998), when it held that a plaintiff who prevailed on her section 1983 claim was entitled to recover fees for time she spent at the Supreme Court unsuccessfully arguing against recognition of a psychotherapist-patient privilege in *Jaffee v. Redmond*, 518 U.S. 1 (1996). Agreeing with the Ninth Circuit's decision in *Cabrales*, the Seventh Circuit explained that "the adverse rulings" on the psychotherapist-patient privilege "that she suffered along the way were merely temporary setbacks on her way to victory. That these setbacks did not contribute to Jaffee's ultimate success is not completely determinative; what is critical is whether the argument, and the extent to which Jaffee pursued it, was reasonable." *Jaffee*, 142 F.3d at 414 (citations omitted).

As in *Cabrales* and *Jaffee*, Gavin's "unsuccessful" briefing before the Supreme Court in 2016 and 2017 was "simply a temporary setback on the way to a complete victory." *Cabrales*, 935 F.2d at 1053. Indeed, Gavin's entitlement to attorney's fees is even stronger than the right to attorney's fees in *Jaffee* because—unlike Jaffee—Gavin was the party defending the judgment below, not the party who sought out the Supreme Court's review. "[W]hen the defendant appeals and the plaintiff incurs expenses in defending against the appeal . . . he should be entitled to reimbursement of those fees" because "he had no choice but to incur them or forfeit his victory." *Ustrak v. Fairman*, 851 F.2d 983, 990 (7th Cir. 1988).

The number of hours spent by Gavin's attorneys defending his victory at the Supreme Court was also reasonable. In an exercise of billing judgment, Gavin's counsel has already limited the requested fees for the ACLU to hours spent by Mr. Block, who was the primary drafter of the briefs. The fee petition excludes hundreds of hours spent by other ACLU attorneys reviewing and editing various drafts, planning legal strategy, coordinating and reviewing *amicus* briefs, and

helping Mr. Block prepare for oral argument. Block Decl. ¶¶ 10-21.⁹ Especially with these reductions, the number of hours reflected in this fee petition is well within the range of hours typically incurred for Supreme Court litigation. *See* Sellers Decl. ¶ 13 (“The hours Mr. Grimm’s attorneys devoted to litigating the case in the Supreme Court appear lower than is typical for litigation in that Court, and reflect highly efficient work.”).

Excluding or further reducing hours spent at the Supreme Court would also be inappropriate because the time invested by Gavin’s attorneys at the Supreme Court paid dividends throughout the rest of the litigation. Block Decl. ¶ 23. Using the Supreme Court brief as a starting point, Gavin’s attorneys were able to reduce the hours spent when drafting briefs later in the case. *Id.* The Board is now able to reap the benefits of those reduced hours in the form of reduced attorney’s fees. If the Court were to exclude hours litigating before the Supreme Court from Gavin’s fee award, it would give the Board a windfall by allowing the Board to enjoy the benefits of time Gavin’s attorneys invested at the Supreme Court without paying for the cost of the investment.

IV. Gavin Should Be Awarded the Full Lodestar Amount Without Further Reductions.

The final step in calculating a fee award is to determine whether “the plaintiff achieve[d] a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award.” *Hensley*, 461 U.S. at 434. “A proper computation of the lodestar fee will, in the great majority of cases, constitute the ‘reasonable fee’ contemplated by [Section] 1988.” *Daly v. Hill*,

⁹ Fees for these hours would typically be fully recoverable as part of Supreme Court litigation. *See Bourke v. Beshear*, No. 3:13-CV-00750-CRS, 2016 WL 164626, at *3 (W.D. Ky. Jan. 13, 2016) (awarding fees for 390.95 hours spent by eight additional attorneys who reviewed the drafts of Supreme Court briefs because “[b]rief writing is often a collaborative process” and “it is reasonable to have multiple individuals revising and reworking a draft brief”); *id.* at *6 (awarding fees for time spent coordinating amicus briefs because “[a] paying client would expect an attorney to seek out a variety of amici that could assist in the case’s presentation”).

790 F.2d 1071, 1078 (4th Cir. 1986). “Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee,” and the award “should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit.” *Hensley*, 461 U.S. at 435.

The fact that Gavin graduated from high school before he was able to obtain permanent injunctive relief with respect to using the restroom does not undermine his degree of overall success or justify departing from the lodestar amount. The Supreme Court in *Hensley* explained that when a plaintiff obtains excellent results it is not “necessarily significant that a prevailing plaintiff did not receive all the relief requested.” *Id.* at 435 n.11. “For example, a plaintiff who failed to recover damages but obtained injunctive relief, *or vice versa*, may recover a fee award based on all hours reasonably expended if the relief obtained justified that expenditure of attorney time.” *Id.* (emphasis added). Instead of “view[ing]” the lawsuit “as a series of discrete claims,” the court “should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.” *Id.* at 435; *accord Jones v. Southpeak Interactive Corp. of Del.*, 777 F.3d 658, 676 (4th Cir. 2015) (court did not abuse its discretion in declining to reduce the lodestar figure even though plaintiff obtained only one-third of the damages sought); *see also Ohio Valley Env’t Coal., Inc. v. Wheeler*, No. CV 3:15-0271, 2020 WL 247312, at *4 (S.D.W. Va. Jan. 15, 2020).

Reducing the lodestar amount would be particularly unwarranted in this case because Gavin’s inability to obtain permanent injunctive relief before graduation “did not turn on the court’s judgment as to the merits of the case.” *Project Vote/Voting for Am., Inc. v. Dickerson*, 444 F. App’x 660, 663–64 (4th Cir. 2011). Gavin successfully obtained a preliminary injunction on June 23, 2016. Although the Supreme Court subsequently stayed that injunction pending disposition of the Board’s petition for a writ of certiorari, the Supreme Court grants such stays

based on merely “a fair prospect” of reversal. *Hollingsworth v. Perry*, 558 U.S. 183, 189 (2010). And under the unique facts of this case, a majority of Justices did not agree that a stay was warranted but Justice Breyer nevertheless provided a fifth vote for the stay merely “as a courtesy.” The injunction was subsequently vacated, not based on the Supreme Court’s assessment of the merits of the case, but based on the Trump administration’s unilateral withdrawal of guidance that the Fourth Circuit had relied upon.

For all these reasons, the fact that Gavin graduated before he could receive a second injunction does not detract from his extraordinary level of success. “Despite his youth and the formidable power of those arrayed against him at every stage of these proceedings,” *G.G.*, 853 F.3d at 731 (Davis, J., concurring), Gavin ultimately won a landmark victory that completely vindicated his legal claims and awarded all the relief requested in the Second Amended Complaint. The Fourth Circuit’s ruling affirming summary judgement vindicated each and every one of Gavin’s legal arguments, resolved several important questions of first impression, and was a landmark victory that will continue to shape the landscape of legal protections for transgender students.¹⁰ That overwhelming victory amply “justified th[e] expenditure of attorney time” over the long life of this hard-fought litigation. *Hensley*, 461 U.S. at 435 n.11. Because Gavin achieved “excellent results,” he “should recover a fully compensatory fee.” *Id.* at 435.¹¹

¹⁰ By contrast, as noted above, the Eleventh Circuit recently issued a revised opinion resolving the *Adams* case on more limited grounds. *See Adams v. Sch. Bd. of St. John’s Cty.*, No. 18-13592, 2021 WL 2944396 (11th Cir. July 14, 2021).

¹¹ Even if a reduction were otherwise appropriate, such a reduction has already been factored into the lodestar amount because—as discussed above—plaintiff has already excluded hundreds of hours spent by other ACLU attorneys who worked on Gavin’s case at the Supreme Court. In light of those very substantial exclusions, any further reduction to the lodestar would be improper.

V. Gavin’s Requested Litigation Costs Are Reasonable and Should Be Granted.

A plaintiff who is entitled to attorney’s fees is also entitled to recover reasonable litigation expenses. *See Daly*, 790 F.2d at 1084. These reasonable expenses include “supplemental secretarial costs, copying, telephone costs and necessary travel.” *Wheeler v. Durham City Bd. of Educ.*, 585 F.2d 618, 623-24 (4th Cir. 1978). “[T]ravel expenses and meals [that] coincide with appearances before [the] Court and deposition dates . . . fall squarely within the definition of ‘necessary travel.’” *Page*, 2015 WL 11256614, at *14.

As set forth in Block Decl. Ex. G (totaling \$24,889.14 in expenses) and Heilman Decl. Ex. F (totaling \$2,578.71 in expenses), Gavin is entitled to \$27,467.85 in recoverable litigation expenses and costs.

VI. Gavin Should Be Awarded Fees for Time Preparing the Fee Petition.

“Time spent defending entitlement to attorney’s fees is properly compensable in a § 1988 fee award.” *Daly*, 790 F.2d at 1080. Gavin’s award of attorney’s fees should include the hours preparing this petition and supporting documents, as set forth in Block Decl. Ex. C and Heilman Decl. Ex. A. Using billing judgment, Gavin has reduced the number of hours actually spent preparing the petition and seeks an award based on 35 hours from Mr. Block and 15 hours for Ms. Heilman. Gavin also seeks fees at a reduced rate of \$550 per hour for both attorneys. Applying that reduced rate, this Court should award additional attorney’s fees in the amount of \$27,500, which is well within the range of what other courts in this district have found reasonable. *Cf. Courthouse News Serv.*, 484 F. Supp. 3d at 280 (finding that 219.9 hours is an excessive amount of time to devote to a fee petition and reducing requested fees on fees from \$135,747.50 to \$50,000).

CONCLUSION

The Court should award a total of \$1,284,735.75 in attorney's fees, as set forth in Appendix A, and \$27,467.85 in litigation expenses and costs.

Dated: July 26, 2021

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF VIRGINIA, INC.

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

/s/

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Counsel for Plaintiff Gavin Grimm

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of July 2021, I filed the foregoing Memorandum of Law in Support of Petition for Fees and Costs with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

 /s/ Eden B. Heilman

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APPENDIX A
LODESTAR CALCULATION

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Block non-travel hours before June '16	281.49	\$650/hr	\$182,968.50
Block travel hours before June '16	14	\$325/hr	\$4,550.00
Block non-travel hours June '16 to Oct '18	647.9	\$750/hr	\$485,925.00
Block travel hours June '16 to Oct '18	26.1	\$375/hr	\$9,787.50
Block non-travel beginning Oct '18	322.4	\$750/hr	\$241,800.00
Block travel hours beginning Oct '18	29.5	\$375/hr	\$11,062.50
Block Lodestar Amount	1321.39		\$936,093.50
Glenberg non-travel hours	44.58	\$650/hr	\$28,977.00
Glenberg travel hours	7.75	\$325/hr	\$2,518.75
Glenberg Lodestar Amount	52.33		\$31,495.75
Heilman non-travel hours	133.6	\$650/hr	\$86,840.00
Heilman travel hours	11.4	\$375/hr	\$4,275.00
Heilman Lodestar Amount	145		\$91,115.00
Deady non-travel hours	138.47	\$450/hr	\$63,796.50
Deady travel hours	11	\$225/hr	\$2,475.00
Deady Lodestar Amount	149.47		\$66,271.50
Medley non-travel hours	291.75	\$350/hr	\$102,112.50
Medley travel hours	36.5	\$175/hr	\$6,387.50
Medley Lodestar Amount	328.25		\$108,500.00
Safstrom non-travel hours	76.95	\$300/hr	\$23,085.00
Safstrom travel hours	4.5	\$150/hr	\$675.00
Safstrom Lodestar Amount	81.45		\$23,760.00
TOTAL LODESTAR AMOUNT	2077.89		\$1,257,235.75

FEES FOR PREPARING FEE PETITION

	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Block fee petition hours	35	\$550/hr	\$19,250.00
Heilman fee petition hours	15	\$550/hr	\$8,250.00
TOTAL FEES FOR PREPARING PETITION			\$27,500.00

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
_____)	

DECLARATION OF JOSHUA A. BLOCK

1. I, Joshua A. Block, based on my personal knowledge, provide this declaration in support of Plaintiff’s petition for attorney’s fees and costs.

PROFESSIONAL BACKGROUND AND EXPERIENCE

2. I graduated from Amherst College in 2001 and from Yale Law School in 2005.

3. Following law school, I clerked for Judge Robert D. Sack on the U.S. Court of appeals for the Second Circuit from 2005 to 2006.

4. From 2006 to 2010, I worked as a litigation associate at the New York offices of Jenner & Block LLP.¹

5. As an associate, I worked on complex commercial litigation, internal investigations, white-collar defense, and appellate litigation in the United States Courts of Appeals and the United States Supreme Court.

¹ Although we share the same last name, I am not related to the firm’s named partner, Samuel W. Block.

6. During my time at Jenner & Block, my work before the Supreme Court included: representing the respondent in *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196 (2008); representing LGBT legal organizations as *amici* in *Engquist v. Oregon Dep't of Agr.*, 553 U.S. 591 (2008); representing journalist organizations as *amici* in *Munaf v. Geren*, 553 U.S. 674 (2008); representing the Illinois State Bar Association as *amicus* in *Dupuy v. McEwen*, 554 U.S. 902 (2008) (mem.); representing the Center for Inquiry and Council for Secular Humanism as *amici* in *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460 (2009); representing law professors as *amici* in *al-Marri v. Spagone*, 555 U.S. 1220 (2009); representing the Brennan Center for Justice as *amicus* in *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193 (2009); representing respondent in *Steinbeck v. Penguin Grp. (USA) Inc.*, 556 U.S. 1253 (2009) (mem.); representing free speech organizations as *amici* in *United States v. Stevens*, 559 U.S. 460 (2010); representing respondent in *QSI Holdings, Inc. v. Alford*, 558 U.S. 1148 (2010) (mem.); and representing petitioner in *Hui v. Castaneda*, 559 U.S. 799 (2010).

7. In 2008, I received the firm's Albert E. Jenner Pro Bono award in recognition of my pro bono appellate work and my work assisting in a court-appointed monitorship of the operations of multiple gun dealers, pursuant to settlement agreements between the gun dealers and New York City.

8. I joined the ACLU's LGBTQ & HIV Project in 2010 and have worked there for the past 11 years. As a senior staff attorney at the ACLU, I have litigated landmark cases about the legal protections for LGBTQ people throughout the country. I have also served as a Visiting Lecturer in Law at Yale Law School, where I taught a seminar on LGBT Rights Litigation.

9. I was a key member of the ACLU team litigating *United States v. Windsor*, 570 U.S. 744 (2013); *Obergefell v. Hodges*, 576 U.S. 644 (2015); and *Fulton v. City of Philadelphia*,

141 S. Ct. 1868 (2021), at the Supreme Court. I was also the ACLU's lead attorney in cases protecting the freedom to marry for same-sex couples in Kansas, Missouri, Utah, and Virginia. *See Marie v. Moser*, 65 F. Supp. 3d 1175 (D. Kan. 2014); *Lawson v. Kelly*, 58 F. Supp. 3d 923 (W.D. Mo. 2014); *Evans v. Utah*, 21 F. Supp. 3d 1192 (D. Utah 2014); *Harris v. Rainey*, No. 5:13-CV-00077, 2014 WL 1292803 (W.D. Va. Mar. 31, 2014); *Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014) (as intervenors on behalf of the *Harris* class).

10. As part of my work at the ACLU, I have extensive experience litigating on behalf of people who are transgender. In 2017, I successfully challenged President Trump's directive to exclude transgender people from serving in the military in *Stone v. Trump*, 280 F. Supp. 3d 747 (D. Md. 2017) (granting preliminary injunction), *stay denied*, No. 17-2398, 2017 WL 9732004 (4th Cir. Dec. 21, 2017). I have also been on the legal forefront challenging discriminatory exclusions of health care coverage for transgender people in Medicare and other government-funded health insurance programs. *See* Decision No. 2576, *NCD 140.3, Transsexual Surgery*, Docket No. A-13-87, HHS Departmental Appeals Board (May 30, 2014) (invalidating Medicare's ban on coverage); *Robinson v. Dignity Health*, No. 4:16-cv-03035-YGR (N.D. Cal.); *Bruce v. South Dakota*, 5:17-cv-05080-JLV (D.S.D.); *Toomey v. Arizona*, No. CV-19-00035-TUC-RM-LAB, 2019 WL 7172144 (D. Ariz. Dec. 23, 2019); *Hammons v. Univ. of Md. Med. Sys. Corp.*, 1:20-cv-02088 (D. Md.).

11. I have deep experience litigating on behalf of students. Early in my career at the ACLU, I brought groundbreaking litigation protecting the rights of students to access LGBT-supportive websites at school, and I successfully challenged attempts to remove books with LGBT characters from school libraries. *See Parents, Fams., & Friends of Lesbians & Gays, Inc. v.*

Camdenton R-III Sch. Dist., 853 F. Supp. 2d 888 (W.D. Mo. 2012); *A.W. v. Davis Sch. Dist.*, No. 1:12-cv-00242-EJF (D. Utah).

12. I have developed particular expertise protecting transgender students from being excluded from restrooms, locker rooms, or other sex-separated education activities. *See, e.g.*, *B.P.J. v. W.V. State Bd. of Educ.*, 2:21-cv-00316, 2021 WL 3081883 (S.D.W. Va. July 21, 2021) (representing girl who is transgender who was excluded from middle school athletics team); *Soule v. Conn. Ass'n of Sch., Inc.*, No. 3:20-CV-00201 (RNC), 2021 WL 1617206 (D. Conn. Apr. 25, 2021) (representing girls who are transgender in a case attempting to exclude them from high school athletics team); *M.A.B. v. Bd. of Educ. of Talbot Cty.*, 286 F. Supp. 3d 704 (D. Md. 2018) (represented boy who is transgender and was excluded from the locker rooms); *Priv. Matters v. U.S. Dep't of Educ.*, No. 16-CV-3015 (WMW/LIB), 2016 WL 6436658 (D. Minn. Oct. 27, 2016) (represented girl who is transgender in case attempting to exclude her from locker rooms).

ATTORNEY HOURS FOR GAVIN'S CASE

13. I have served as lead counsel on this case through every stage of the proceedings. Attached as Exhibits A, B, and C are spreadsheets for my attorney hours on this case from April 2015 through September 2017, from October 2017 through May 19, 2021, and from July 1, 2021 until today. The spreadsheets reflect hours that were contemporaneously recorded, with several reductions made as part of billing judgment.² In total, the spreadsheets reflect 1,321.39 hours spent litigating the case from its inception until the Supreme Court denied the Board's second petition for a writ of certiorari on June 28, 2021. In addition, I spent over 55.85 hours preparing the fee

² I preparing the fee petition, I have also relied upon the contemporaneously recorded time records of co-counsel to provide the specific times for some meetings, depositions, or court appearances that we both attended. I have marked those entries on Exhibits A and B with an "*" to indicate that the times were contemporaneously recorded by co-counsel in the first instance.

petition and accompanying materials but have reduced that amount to 35 hours as a matter of billing judgment.

14. I began representing Gavin in November 2014, after the Gloucester County School Board held its first meeting about whether to adopt a new policy to exclude Gavin from using the restrooms.

15. On December 5, 2014, I authored a letter on behalf of the ACLU and the ACLU of Virginia explaining to the Board why the new policy under consideration would violate Gavin's rights under Title IX and the Equal Protection Clause.

16. After the Board adopted its new policy, I filed an administrative complaint with the U.S. Department of Justice's Civil Rights Division on December 18, 2014, arguing that the new policy violated Title IX. On April 29, 2015, the Board informed the Department of Justice that it would not voluntarily rescind its policy or otherwise allow Gavin to use the same restroom facilities as other boys.

17. Beginning in April 2015, we began preparing to file litigation on behalf of Gavin in federal court. The hours reflected in Exhibit A begin in April 2015 with work performed as part of preparing the complaint and motion for a preliminary injunction.

18. As lead counsel for Gavin, I have been the primary drafter of all memoranda of law, appellate briefs, and Supreme Court filings in the case. I presented oral argument twice before this Court and twice before the Fourth Circuit.

19. As a result of my prior knowledge and expertise, we were able to staff Gavin's case leanly "in house" without additional assistance from a law firm as cooperating counsel. From April 2015 until July 2017, when the Board filed its stay application with the Supreme Court, the case was staffed almost entirely by one or two attorneys at the ACLU of Virginia and myself. The fee

petition does not seek to recover for additional hours spent by my ACLU colleague, Leslie Cooper, for reviewing drafts of briefs and discussing the case with me, or for hours spent by paralegals at the ACLU national office.

20. Consistent with the ACLU's general practice, the legal team expanded once Gavin's case reached the Supreme Court. As counsel of record, I continued to work as the primary drafter of the legal briefs, but other senior members of the ACLU legal department participated in reviewing, drafting, and discussing legal strategy. These attorneys included the ACLU's former national Legal Director, Steve Shapiro; the ACLU's current national Legal Director, David Cole; Deputy Legal Director Louise Melling; and LGBTQ & HIV Project Director James Esseks. In addition, Paul Smith, a former partner at Jenner & Block LLP who was working at Georgetown University Law Center, provided additional review and input. Several other attorneys at the ACLU's LGBTQ & HIV Project took on the laborious task of reviewing amicus briefs filed in support of the Board and coordinating dozens of amicus briefs filed in support of Gavin.

21. These additional attorneys invested hundreds of hours working on Gavin's case. But as a matter of billing judgment, plaintiff has not included those hours as part of the fee petition and seeks recovery only for my own hours and for the hours spent by Gail Deady at the ACLU of Virginia. In addition, as a matter of billing judgement, I have also excluded any hours from my own time and from other attorneys' time that may have been excessive, redundant, or unnecessary.

22. Gavin's case was the first time the Supreme Court would have been considering an antidiscrimination case brought by someone who is transgender. Although there was substantial lower-court precedent protecting transgender people, none of those decisions would have been binding on the Supreme Court when it considered these questions for the first time. Preparing the

Supreme Court briefs required us to rethink the case from the ground-up and present arguments in a manner that would be most persuasive to the Justices.

23. The hours spent drafting and revising briefs at the Supreme Court paid dividends throughout the rest of the litigation. Using the Supreme Court brief as a starting point, I was able to draft two supplemental briefs for the Fourth Circuit in only 46.69 hours. And using the supplemental Fourth Circuit briefs as a starting point, I was able to spend only 25.8 hours in this Court opposing the Board's motion to dismiss the Amended Complaint.

24. After this Court denied the Board's motion to dismiss the Second Amended Complaint and discovery began in earnest, more attorneys joined the litigation team. At the national ACLU, I was joined by Shayna Medley, who was serving a two-year Skadden fellowship with the ACLU LGBTQ & HIV Project following her graduation from Harvard Law School in 2017. Ms. Medley began working on Gavin's case during the second year of her fellowship and had already developed significant litigation experience defending the ability of transgender students to use restrooms consistent with their gender identity.

25. Attached as Exhibit D are Ms. Medley's contemporaneous time records for her work on Gavin's case, which she sent to me at the end of her fellowship. As a matter of billing judgment, I have made adjustments to those records to exclude any hours that may have been excessive, redundant, or unnecessary.

26. After the Fourth Circuit affirmed this Court's grant of summary judgment to Gavin, the Board filed another petition for a writ of certiorari. In accordance with the ACLU's usual practice, additional ACLU attorneys and senior members of the ACLU legal department once again participated in reviewing, drafting, and discussing legal strategy in connection with opposing

the petition. As a matter of billing judgment, I have once again excluded their hours from this fee petition.

DOCUMENTS FROM *BETHUNE-HILL*

27. In *Bethune-Hill v. Virginia State Bd. of Elections*, No. 3:14-CV-852, 2020 WL 5577824, at *7-*8 (E.D. Va. Sept. 17, 2020), a three-judge court found that two declarations submitted by Dion W. Hayes from McGuireWoods LLP and Robert A. Angle from Troutman Sanders LLP provided “reliable” testimony regarding reasonable market rates in Richmond, Virginia.

28. For the Court’s convenience, I have downloaded copies of the *Bethune-Hill* declarations from PACER and have attached a copy of Mr. Hayes’ *Bethune-Hill* declaration as Exhibit E and a copy of Mr. Angle’s *Bethune-Hill* declaration as Exhibit F.

LITIGATION EXPENSES AND COSTS FOR GAVIN’S CASE

29. Attached as Exhibit G, is a spreadsheet of the national ACLU’s reasonable litigation expenses and costs incurred in Gavin’s case, which was drawn from data extracted from the ACLU’s billing system.

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

July 26, 2021

/s/ Joshua A. Block

Joshua A. Block

Name	Date	Hours	Subject of Work	
<u>BEFORE JUNE 1, 2016</u>				
Joshua A. Block	4/8/2015	0.83	Review of school board meeting	DCT
Joshua A. Block	4/8/2015	0.43	Research of Fourth Circuit case law	DCT
Joshua A. Block	4/14/2015	0.32	Research of Fourth Circuit case law	DCT
Joshua A. Block	4/14/2015	3.25	Legal research on Title IX/EP	DCT
Joshua A. Block	4/16/2015	3.82	Research and drafting for PI	DCT
Joshua A. Block	4/18/2015	0.83	Research and drafting for PI	DCT
Joshua A. Block	4/19/2015	2.33	Research and drafting for PI	DCT
Joshua A. Block	4/20/2015	3.50	Research and drafting for PI	DCT
Joshua A. Block	4/21/2015	3.37	Research and drafting for PI	DCT
Joshua A. Block	4/21/2015	1.25	Research on psychotherapist privilege	DCT
Joshua A. Block	4/22/2015	0.50	Research on psychotherapist privilege	DCT
Joshua A. Block	4/22/2015	7.78	Research and drafting for PI	DCT
Joshua A. Block	4/23/2015	1.63	Research and drafting for PI	DCT
Joshua A. Block	4/24/2015	1.43	Research and drafting for PI	DCT
Joshua A. Block	4/29/2015	1.30	Research and drafting for PI	DCT
Joshua A. Block	4/29/2015	1.33	Phone call with Dr. Ettner re: expert evaluation	DCT
Joshua A. Block	4/30/2015	1.48	Research and drafting for PI	DCT
Joshua A. Block	5/1/2015	3.50	Research and drafting for PI	DCT
Joshua A. Block	5/2/2015	1.50	Research and drafting for PI	DCT
Joshua A. Block	5/4/2015	4.57	Research and drafting for PI	DCT
Joshua A. Block	5/5/2015	5.88	Research and drafting for PI	DCT
Joshua A. Block	5/6/2015	6.12	Research and drafting for PI	DCT
Joshua A. Block	5/6/2015	0.25	Review of expert report from Doe case	DCT
Joshua A. Block	5/7/2015	0.67	Review of school board transcript	DCT
Joshua A. Block	5/7/2015	2.98	Research and drafting for PI	DCT
Joshua A. Block	5/8/2015	2.32	Research and drafting for PI	DCT
Joshua A. Block	5/11/2015	0.75	Call with Dr. Ettner re: expert report	DCT
Joshua A. Block	5/11/2015	2.20	Research and drafting for PI	DCT
Joshua A. Block	5/12/2015	3.80	Research and drafting for PI	DCT
Joshua A. Block	5/13/2015	3.98	Research and drafting for PI	DCT
Joshua A. Block	5/13/2015	2.25	Revisions and editing draft PI	DCT
Joshua A. Block	5/14/2015	0.83	Revisions and editing draft PI	DCT
Joshua A. Block	5/14/2015	1.17	Review of draft expert report	DCT
Joshua A. Block	5/14/2015	1.50	Review of draft complaint	DCT
Joshua A. Block	5/15/2015	1.35	Review of and revisions to complaint	DCT
Joshua A. Block	5/15/2015	0.22	Discussion of draft expert report with L Cooper	DCT
Joshua A. Block	5/15/2015	2.50	Review and revisions to draft PI	DCT
Joshua A. Block	5/15/2015	3.00	Review and comments on draft expert report	DCT
Joshua A. Block	5/17/2015	3.10	Review and revisions to draft PI	DCT
Joshua A. Block	5/18/2015	0.75	Phone call with Dr. Ettner re: expert evaluation	DCT
Joshua A. Block	5/18/2015	0.10	Review and revisions to draft complaint	DCT
Joshua A. Block	5/18/2015	0.55	Review of bibliography of expert report	DCT
Joshua A. Block	5/19/2015	0.30	Review of draft expert report	DCT
Joshua A. Block	5/20/2015	1.33	Edits and revisions to draft PI brief	DCT
Joshua A. Block	5/20/2015	1.00	Phone call with client re: draft complaint	DCT
Joshua A. Block	5/21/2015	1.03	Drafting of affidavit for Gavin	DCT
Joshua A. Block	5/28/2015	1.50	Review and editing of draft expert report	DCT
Joshua A. Block	5/28/2015	0.88	Edits and revisions to draft PI brief	DCT
Joshua A. Block	5/30/2015	1.90	Review and revisions to PI brief	DCT
Joshua A. Block	5/31/2015	0.40	Review and revisions for Grimm declaration	DCT
Joshua A. Block	5/31/2015	0.60	Review and revisions for Ettner declaration	DCT
Joshua A. Block	5/31/2015	0.50	Review and revisions to draft complaint	DCT
Joshua A. Block	6/1/2015	0.27	Review and revisions to PI brief	DCT
Joshua A. Block	6/1/2015	0.58	Edits and revisions to expert declaration	DCT
Joshua A. Block	6/23/2015	0.60	Research for PI reply	DCT
Joshua A. Block	6/24/2015	2.33	Research and drafting PI reply	DCT
Joshua A. Block	6/26/2015	1.18	Research and drafting PI reply	DCT
Joshua A. Block	6/29/2015	1.15	Research and drafting PI reply	DCT
Joshua A. Block	6/30/2015	1.02	Research on opposition to MTD	DCT
Joshua A. Block	7/1/2015	2.65	Research and drafting PI reply	DCT
Joshua A. Block	7/2/2015	2.92	Research and drafting opposition to MTD	DCT
Joshua A. Block	7/2/2015	1.58	Research and drafting PI reply	DCT

Joshua A. Block	7/4/2015	0.67	Drafting PI reply	DCT
Joshua A. Block	7/5/2015	2.20	Drafting PI reply	DCT
Joshua A. Block	7/7/2015	6.10	Reviewing opposition to PI and drafting PI reply	DCT
Joshua A. Block	7/8/2015	4.38	Drafting PI reply	DCT
Joshua A. Block	7/8/2015	0.43	Call with DOJ	DCT
Joshua A. Block	7/10/2015	0.33	Preparation for moot argument for PI hearing	DCT
Joshua A. Block	7/10/2015	1.42	Moot argument for PI hearing	DCT
Joshua A. Block	7/10/2014	1.33	Drafting and editing PI reply	DCT
Joshua A. Block	7/28/2015	2.00	PI hearing*	DCT
Joshua A. Block	8/3/2015	6.25	Drafting CA4 brief	CA4
Joshua A. Block	8/4/2015	3.35	Drafting CA4 brief	CA4
Joshua A. Block	8/5/2015	2.67	Drafting CA4 brief	CA4
Joshua A. Block	8/6/2015	2.25	Drafting CA4 brief	CA4
Joshua A. Block	8/7/2015	3.50	Drafting CA4 brief	CA4
Joshua A. Block	8/9/2015	2.00	Drafting CA4 brief	CA4
Joshua A. Block	8/10/2015	2.45	Drafting CA4 brief	CA4
Joshua A. Block	8/11/2015	1.97	Drafting CA4 brief	CA4
Joshua A. Block	8/13/2015	0.78	Drafting CA4 brief	CA4
Joshua A. Block	8/17/2015	0.72	Drafting CA4 brief	CA4
Joshua A. Block	8/19/2015	0.83	Drafting CA4 brief	CA4
Joshua A. Block	8/20/2015	2.73	Drafting CA4 brief	CA4
Joshua A. Block	8/26/2015	1.75	Drafting and revising CA4 brief	CA4
Joshua A. Block	8/28/2015	1.40	Drafting and revising CA4 brief	CA4
Joshua A. Block	9/1/2015	0.75	Research for CA4 brief	CA4
Joshua A. Block	9/9/2015	1.52	Drafting reply brief	CA4
Joshua A. Block	9/9/2015	2.17	Drafting CA4 brief	CA4
Joshua A. Block	9/10/2015	0.68	Drafting motion to expedite	CA4
Joshua A. Block	9/18/2015	7.27	Drafting CA4 brief	CA4
Joshua A. Block	9/19/2015	2.62	Drafting CA4 brief	CA4
Joshua A. Block	9/20/2015	0.85	Drafting CA4 brief	CA4
Joshua A. Block	9/28/2015	4.50	Drafting CA4 brief	CA4
Joshua A. Block	9/29/2015	4.35	Revisions to CA4 brief	CA4
Joshua A. Block	9/30/2015	1.45	Drafting reply brief	CA4
Joshua A. Block	9/30/2015	3.35	Revisions to CA4 brief	CA4
Joshua A. Block	10/1/2015	2.52	Drafting reply brief	CA4
Joshua A. Block	10/2/2015	1.27	Revisions to CA4 brief	CA4
Joshua A. Block	10/2/2015	4.97	Drafting CA4 brief	CA4
Joshua A. Block	10/5/2015	0.83	Drafting reply brief	CA4
Joshua A. Block	10/8/2015	1.40	Revisions and edits to CA4 brief	CA4
Joshua A. Block	10/9/2015	1.75	Drafting reply brief	CA4
Joshua A. Block	10/14/2015	0.50	Researching for CA4 brief	CA4
Joshua A. Block	10/14/2015	1.25	Review of CA4 brief	CA4
Joshua A. Block	10/15/2015	1.88	Edits to CA4 brief	CA4
Joshua A. Block	10/15/2015	1.92	Drafting reply brief	CA4
Joshua A. Block	10/19/2015	3.55	Drafting CA4 brief	CA4
Joshua A. Block	10/20/2015	2.50	Drafting CA4 brief	CA4
Joshua A. Block	10/22/2015	1.18	Drafting CA4 reply brief	CA4
Joshua A. Block	10/23/2015	0.50	Phone mediation*	CA4
Joshua A. Block	10/26/2015	2.75	Drafting CA4 reply brief	CA4
Joshua A. Block	10/30/2015	4.83	Drafting CA4 reply brief	CA4
Joshua A. Block	10/30/2015	0.25	Phone call with co-counsel and DOJ attorneys*	CA4
Joshua A. Block	11/1/2015	1.45	Drafting CA4 reply brief	CA4
Joshua A. Block	11/2/2015	0.42	Drafting Motion for Expedited Calendaring	CA4
Joshua A. Block	11/2/2015	0.75	Drafting CA4 reply brief	CA4
Joshua A. Block	11/10/2015	0.23	Drafting CA4 reply brief	CA4
Joshua A. Block	11/12/2015	1.60	Drafting CA4 reply brief	CA4
Joshua A. Block	11/23/2015	1.67	Review of School Board CA4 brief	CA4
Joshua A. Block	11/30/2015	7.97	Review of amicus briefs	CA4
Joshua A. Block	1/6/2016	2.75	Preparation for oral argument	CA4
Joshua A. Block	1/15/2016	1.5	Moot for CA4 oral argument	CA4
Joshua A. Block	1/20/2016	1.5	Moot for CA4 oral argument	CA4
Joshua A. Block	1/25/2016	0.75	Moot for CA4 oral argument	CA4
Joshua A. Block	1/27/2016	1	Registration at clerk's office and prep for oral argument	CA4
Joshua A. Block	1/27/2016	0.75	CA4 oral argument	CA4
Joshua A. Block	5/5/2016	6.76	Drafting response to en banc petition	CA4
Joshua A. Block	5/6/2016	5.7	Drafting response to en banc petition	CA4

Joshua A. Block	5/7/2016	3.75	Drafting response to en banc petition	CA4
Joshua A. Block	5/8/2016	3.25	Drafting response to en banc petition	CA4
Joshua A. Block	5/9/2016	2.93	Drafting response to en banc petition	CA4
Joshua A. Block	5/10/2016	1.25	Reviewing amicus briefs for en banc and drafting edits to response	CA4
Joshua A. Block	5/11/2016	0.53	Drafting en banc response	CA4
Joshua A. Block	5/13/2016	1.92	Editing en banc petition response	CA4
Joshua A. Block	5/16/2016	3.25	Finalizing response to petition for rehearing	CA4

Non-Travel Hours pre-6/1/2016 281.49

Joshua A. Block	7/26/2015	3.50	Travel to Norfolk for PI hearing	DCT
Joshua A. Block	7/28/2015	3.50	Travel Norfolk to NYC after PI hearing	DCT
Joshua A. Block	1/26/2016	3.5	Travel to Richmond for CA4 oral argument	CA4
Joshua A. Block	1/27/2016	3.5	Travel from Richmond to NYC after oral argument	CA4

Travel Hours pre-6/1/2016 14.00

AFTER JUNE 1, 2016

Joshua A. Block	6/1/2016	0.4	Research re Opp to Stay	DCT
Joshua A. Block	6/5/2016	1.67	drafting supplemental submissions for PI on remand	DCT
Joshua A. Block	6/7/2016	1.03	Drafting stay opposition	DCT
Joshua A. Block	6/8/2016	4.37	Research for Stay Opposition	DCT
Joshua A. Block	6/9/2016	1.75	Drafting stay opposition	DCT
Joshua A. Block	6/9/2016	4.367	Drafting response to Stay	DCT
Joshua A. Block	6/11/2016	2.6	Drafting Stay Reponse	DCT
Joshua A. Block	6/12/2016	0.75	Drafting response to stay application	DCT
Joshua A. Block	6/21/2016	2.23	drafting supplemental memorandum in support of PI	DCT
Joshua A. Block	6/21/2016	0.7	Phone call with Gail and David Corrigan*	DCT
Joshua A. Block	6/22/2016	4.483	drafting supplemental memorandum in support of PI	DCT
Joshua A. Block	6/22/2016	0.25	conference call with co-counsel	DCT
Joshua A. Block	6/28/2016	0.167	Call with opposing counsel re status conference	DCT
Joshua A. Block	6/29/2016	0.5	Scheduling conference	DCT
Joshua A. Block	6/29/2016	2.22	Draft Opp to Stay in District Court	DCT
Joshua A. Block	6/30/2016	2.17	Drafting Opp to EDVA Stay Motion	DCT
Joshua A. Block	7/5/2016	2.85	Draft discovery requests and initial disclosures	DCT
Joshua A. Block	7/6/2016	0.5	Drafting correspondence to potential witness	DCT
Joshua A. Block	7/6/2016	0.85	drafting correspondence to opposing counsel re 26(f)	DCT
Joshua A. Block	7/6/2016	0.86	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/6/2016	4.45	Drafting CA4 stay response	CA4
Joshua A. Block	7/6/2016	0.53	preparing for anticipated discovery requests	DCT
Joshua A. Block	7/7/2016	0.98	drafting discovery requests	DCT
Joshua A. Block	7/7/2016	0.35	research re legislative privilege and jury trial	DCT
Joshua A. Block	7/7/2016	1.72	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/8/2016	0.35	Call with opposing counsel re discovery issues	DCT
Joshua A. Block	7/11/2016	2	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/12/2016	0.25	Call with co-counsel*	DCT
Joshua A. Block	7/12/2016	0.63	Drafting Protective Order	DCT
Joshua A. Block	7/13/2016	9.1	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/14/2016	0.4	Draft stipulation re Jury Demand	DCT
Joshua A. Block	7/16/2016	1.8	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/16/2016	1.62	Editing Stay Opposition	SCOTUS
Joshua A. Block	7/18/2016	0.32	Revision to SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/19/2016	0.27	Drafting supplemental disclosures and email re scheduling depositions	DCT
Joshua A. Block	7/19/2016	0.32	Revision to SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/22/2016	1.15	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/26/2016	1.23	Drafting SCOTUS stay opposition	SCOTUS
Joshua A. Block	7/28/2016	0.33	Call with Gail and David Corrigan*	DCT
Joshua A. Block	8/5/2016	1.25	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/6/2016	4.5	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/7/2016	0.75	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/8/2016	3.25	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/11/2016	3.95	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/12/2016	1.18	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/15/2016	0.25	Call with Gail and David Corrigan*	DCT

Joshua A. Block	8/15/2016	1.73	Drafting Opposition to Motion to Extend Time	DCT
Joshua A. Block	8/15/2016	0.25	Edits to Joint Motion to Hold CA4 appeal in abeyance	CA4
Joshua A. Block	8/16/2016	2.63	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/17/2016	0.25	Call with Gail and David Corrigan*	DCT
Joshua A. Block	8/17/2016	2.03	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/19/2016	2.13	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/22/2016	0.25	Call with Gail and opposing counsel*	DCT
Joshua A. Block	8/25/2016	1.38	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/26/2016	0.75	Drafting Cert Opposition	SCOTUS
Joshua A. Block	8/29/2016	6.5	Reviewing Cert Petition and Drafting BIO	SCOTUS
Joshua A. Block	8/30/2016	2.75	Drafting BIO	SCOTUS
Joshua A. Block	9/1/2016	1	Conference call with SS, JDE, LM, LC and GD to discuss BIO	SCOTUS
Joshua A. Block	9/2/2016	4.5	Revisions to BIO	SCOTUS
Joshua A. Block	9/3/2016	1.25	Revisions to BIO	SCOTUS
Joshua A. Block	9/5/2016	4.25	Revising Cert Opposition Brief	SCOTUS
Joshua A. Block	9/6/2016	0.5	Drafting Chart of Potential Amicus Briefs	SCOTUS
Joshua A. Block	9/6/2016	2.5	Revising Cert Opposition Brief	SCOTUS
Joshua A. Block	9/7/2016	2.52	Revising Cert Opposition Brief	SCOTUS
Joshua A. Block	9/8/2016	1	Meeting for revisions and edits to cert opposition	SCOTUS
Joshua A. Block	9/8/2016	3.5	edits and revisions to cert opposition	SCOTUS
Joshua A. Block	9/8/2016	1	Call to plan amicus strategy	SCOTUS
Joshua A. Block	9/12/2016	0.75	Edits to Cert Opposition Brief	SCOTUS
Joshua A. Block	10/14/2016	2.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/15/2016	1.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/16/2016	3.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/20/2016	0.86	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/21/2016	1.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/22/2016	1.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/28/2016	1.75	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/29/2016	4	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/30/2016	4.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	10/31/2016	0.75	Call with other organizations re coordinating amicus briefs	SCOTUS
Joshua A. Block	10/31/2016	1.35	Organizational Chart of Amicus Briefs	SCOTUS
Joshua A. Block	10/31/2016	2.567	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/1/2016	1.33	Organizational Chart of Amicus Briefs and related emails	SCOTUS
Joshua A. Block	11/1/2016	4.37	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/2/2016	6.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/2/2016	1.17	Conference calls re amicus briefs	SCOTUS
Joshua A. Block	11/2/2016	0.75	Meeting with SS, LM, and CS re amicus briefs	SCOTUS
Joshua A. Block	11/3/2016	1.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/4/2016	0.5	Conference call with team re amicus briefs	SCOTUS
Joshua A. Block	11/4/2016	6.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/6/2016	6.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/7/2016	0.75	Meeting with CS and JE re merits brief	SCOTUS
Joshua A. Block	11/7/2016	5.73	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/7/2016	1	Meeting with SS, LM, DC, and CS	SCOTUS
Joshua A. Block	11/7/2016	0.5	Call with NWLC re amicus	SCOTUS
Joshua A. Block	11/8/2016	2	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/9/2016	3.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/9/2016	1	Amicus Coordination Call	SCOTUS
Joshua A. Block	11/10/2016	6.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/14/2016	0.75	Call with JE, CS, EG re amicus briefs	SCOTUS
Joshua A. Block	11/14/2016	5.75	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/15/2016	5.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/16/2016	8.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/16/2016	1	Conference calls re amicus briefs	SCOTUS
Joshua A. Block	11/21/2016	6.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/22/2016	13.18	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/22/2016	1.5	Legal team meeting to discuss draft/theory	SCOTUS
Joshua A. Block	11/23/2016	6.35	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/24/2016	6.5	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/25/2016	8	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/26/2016	7	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/27/2016	1.4	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/28/2016	2.75	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	11/28/2016	1	Team Meeting re Brief Outline	SCOTUS

Joshua A. Block	11/29/2016	2	Researching and Drafting new outline and summary	SCOTUS
Joshua A. Block	11/29/2016	0.75	Meeting to Review revised outline	SCOTUS
Joshua A. Block	12/2/2016	3.25	Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/5/2016	7.53	Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/6/2016	1.7	Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/6/2016	6	Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/6/2016	1	Meeting with Solicitor General Office	SCOTUS
Joshua A. Block	12/7/2016	6.5	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	12/7/2016	1	Amicus team call	SCOTUS
Joshua A. Block	12/7/2016	1	Discussion with Professor re: legal theories	SCOTUS
Joshua A. Block	12/8/2016	7.25	Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/9/2016	5.75	Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/11/2016	6.15	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/12/2016	2.17	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	12/13/2016	7.92	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	12/21/2016	1.5	Meeting with DC, LM, JE, and CS to discuss draft	SCOTUS
Joshua A. Block	12/21/2016	3	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	12/22/2016	4.5	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	12/23/2016	3.22	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	12/27/2016	4.82	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	12/28/2016	6.82	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/3/2017	4.62	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/4/2017	5.37	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/5/2017	5.92	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/6/2017	4.7	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/6/2017	1	Team phone call to discuss Petitioner brief	SCOTUS
Joshua A. Block	1/7/2017	4.25	Editing and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/8/2017	1.25	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/9/2017	3.98	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/10/2017	6.77	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/10/2017	0.88	Review of Petitioner Amicus Briefs	SCOTUS
Joshua A. Block	1/10/2017	0.5	Team meeting	SCOTUS
Joshua A. Block	1/11/2017	2.68	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/14/2017	4	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/15/2017	1	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/16/2017	1	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/17/2017	0.58	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/17/2017	0.9	Team call re amicus briefs	SCOTUS
Joshua A. Block	1/18/2017	1.35	Draft and reseraaching letter re lodging document with Court	SCOTUS
Joshua A. Block	1/18/2017	0.95	Drafting and editing SCOTUS merits brief	SCOTUS
Joshua A. Block	1/24/2017	1	Legal team meeting for merits brief	SCOTUS
Joshua A. Block	1/25/2017	4.8	Drafting and revising SCOTUS merits brief	SCOTUS
Joshua A. Block	1/26/2017	3.42	Drafting response to motion for divided argument	SCOTUS
Joshua A. Block	1/26/2017	0.47	Review of draft amicus brief from AAP	SCOTUS
Joshua A. Block	1/26/2017	1.93	Revisions to merits brief	SCOTUS
Joshua A. Block	1/26/2017	8.25	Researching and Drafting SCOTUS merits brief	SCOTUS
Joshua A. Block	1/26/2017	1	Conference call re amicus briefs	SCOTUS
Joshua A. Block	1/27/2017	6.15	Revisions to draft brief	SCOTUS
Joshua A. Block	1/27/2017	1.1	Revisions to opposition to divided argument	SCOTUS
Joshua A. Block	1/31/2017	1.6	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/1/2017	4.27	Reviewing and responding to edits and feedback on draft brief	SCOTUS
Joshua A. Block	2/1/2017	0.53	Call with amici	SCOTUS
Joshua A. Block	2/2/2017	2.05	Edits and revisions to merits brief	SCOTUS
Joshua A. Block	2/2/2017	0.43	Review of amicus draft	SCOTUS
Joshua A. Block	2/3/2017	5.57	Review of feedback/edits on SCOTUS merits brief	SCOTUS
Joshua A. Block	2/3/2017	1	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/4/2017	1.5	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/5/2017	0.85	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/6/2017	1.6	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/6/2017	2.63	Team meeting to discuss draft	SCOTUS
Joshua A. Block	2/8/2017	0.83	Edits to G.G. Brief	SCOTUS
Joshua A. Block	2/8/2017	0.5	Amicus team call	SCOTUS
Joshua A. Block	2/10/2017	6.7	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/10/2017	0.83	Call with amici	SCOTUS
Joshua A. Block	2/12/2017	2.5	Revisions to SCOTUS merits brief	SCOTUS
Joshua A. Block	2/13/2017	3.5	Edits and revisions to SCOTUS merits brief	SCOTUS

Joshua A. Block	2/14/2017	5.4		Edits to brief	SCOTUS
Joshua A. Block	2/14/2017	1.92		Edits to section 1.A of merits brief	SCOTUS
Joshua A. Block	2/15/2017	8.5		Revisions to brief	SCOTUS
Joshua A. Block	2/16/2017	14.7		Revisions to brief	SCOTUS
Joshua A. Block	2/17/2017	6		Revisions to brief	SCOTUS
Joshua A. Block	2/17/2017	0.75		Team meeting re merits brief	SCOTUS
Joshua A. Block	2/18/2017	10.5		Revisions to brief	SCOTUS
Joshua A. Block	2/18/2017	1		Legal team call re changes to merits brief	SCOTUS
Joshua A. Block	2/19/2017	1.7		Revisions to merits brief	SCOTUS
Joshua A. Block	2/24/2017	7.4		Drafting letter in response to clerk request	SCOTUS
Joshua A. Block	3/2/2017	3.23		Preparing Q&A for moot/argument	SCOTUS
Joshua A. Block	3/2/2017	0.75		Edits to clerk letter	SCOTUS
Joshua A. Block	3/3/2017	2.5		Review of amicus briefs	SCOTUS
Joshua A. Block	3/3/2017	0.75		Meeting with team to discuss moot questions	SCOTUS
Joshua A. Block	3/3/2017	0.38		Revisions to Q&A for oral argument	SCOTUS
Joshua A. Block	3/8/2017	3.5		Drafting motion for expedited briefing and argument	CA4 - Remand
Joshua A. Block	4/10/2017	2.75		Drafting CA4 supp brief	CA4 - Remand
Joshua A. Block	4/12/2017	0.1		Reviewing dist ct stay brief from defendants	CA4 - Remand
Joshua A. Block	4/12/2017	2		Drafting of CA4 supp brief	CA4 - Remand
Joshua A. Block	4/13/2017	3.24		Drafting of supplemental CA4 brief	CA4 - Remand
Joshua A. Block	4/14/2017	3.75		Drafting of supplemental CA4 brief	CA4 - Remand
Joshua A. Block	4/15/2017	6.1		Drafting of supplemental CA4 brief	CA4 - Remand
Joshua A. Block	4/17/2017	6.6		Drafting of CA4 supplemental brief	CA4 - Remand
Joshua A. Block	4/18/2017	2.33		Drafting of supplemental CA4 brief	CA4 - Remand
Joshua A. Block	4/21/2017	0.21		Email with opposing counsel regarding supplemental joint appendix	CA4 - Remand
Joshua A. Block	4/24/2017	1.9		Drafting CA4 supp brief	CA4 - Remand
Joshua A. Block	4/24/2017	0.57		Work on choosing contents of JSA	CA4 - Remand
Joshua A. Block	4/25/2017	3.16		Revisions to CA4 supplemental brief	CA4 - Remand
Joshua A. Block	4/25/2017	0.75		Research regarding substitutions of parties on appeal	CA4 - Remand
Joshua A. Block	4/26/2017	1.1		Edits tp CA4 supplemental brief	CA4 - Remand
Joshua A. Block	4/26/2017	1.55		Draft motion to change caption	CA4 - Remand
Joshua A. Block	5/30/2017	3.4		Review of CA4 Supp Reply	CA4 - Remand
Joshua A. Block	6/1/2017	0.4		Review of CA4 Supp Reply	CA4 - Remand
Joshua A. Block	6/1/2017	1		Discussing Whitaker decision with Highland team	CA4 - Remand
Joshua A. Block	6/2/2017	0.9		Review of School board sup reply	CA4 - Remand
Joshua A. Block	6/13/2017	0.8		Drafting 28(j) letter	CA4 - Remand
Joshua A. Block	7/21/2017	0.2		Review of new case re Oncale	CA4 - Remand
Joshua A. Block	8/2/2017	0.75		Research on leave to file amended complaint and law of the case	DCT - AM
Joshua A. Block	8/3/2017	1.5		Drafting amended complaint	DCT - AM
Joshua A. Block	8/4/2017	1.55		Drafting amended complaint	DCT - AM
Joshua A. Block	8/4/2017	1.5		Drafting motion for leave to file amended complaint	DCT - AM
Joshua A. Block	8/7/2017	2.25		Drafting amended complaint	DCT - AM
Joshua A. Block	8/7/2017	0.4		Drafting motion for leave to file amended complaint	DCT - AM
Joshua A. Block	8/7/2017	0.5		Draft stipulation of dismissal	DCT - AM
Joshua A. Block	8/11/2017	0.4		Review of draft amended complaint	DCT - AM
Joshua A. Block	8/16/2017	0.6		Drafting of joint position statement	DCT - AM
Joshua A. Block	8/17/2017	1		Drafting opp to MTD	DCT - AM
Joshua A. Block	9/11/2017	1.6		Drafting MTD Op	DCT - AM
Joshua A. Block	9/13/2017	0.7		Drafting MTD Opp	DCT - AM
Joshua A. Block	9/15/2017	2		Drafting MTD Opp	DCT - AM
Joshua A. Block	9/18/2017	3		Drafting Opp to MTD	DCT - AM
Joshua A. Block	9/22/2017	1.25		Drafting response to MTD amended complaint	DCT - AM
Joshua A. Block	9/23/2017	2.75		Drafting Opp to MTD	DCT - AM
Joshua A. Block	9/24/2017	2.25		Drafting Opp to MTD	DCT - AM
Joshua A. Block	9/25/2017	0.9		Drafting Opp to MTD	DCT - AM
Joshua A. Block	9/26/2017	5.2		Drafting opp to MTD	DCT - AM
Joshua A. Block	9/27/2017	0.75		Drafting Opp to MTD amended complaint	DCT - AM
Joshua A. Block	10/27/2017	4.3		Drafting of motion re injunctive relief claims	DCT - AM
Joshua A. Block	11/16/2017	3.1		Drafting opposition to MTD re mootness	DCT - AM
Joshua A. Block	11/16/2017	4.5		Drafting reply to vacate supplemental briefing	DCT - AM
Joshua A. Block	12/13/2017	1.2		Edits for opp to amended MTD	DCT - AM
Joshua A. Block	12/14/2017	1		Edits for opp to amended MTD	DCT - AM
Joshua A. Block	12/29/2017	1.9		Edits to MTD opposition	DCT - AM
Joshua A. Block	1/5/2018	0.1		Edits to MTD Opp	DCT - AM
Joshua A. Block	1/8/2018	0.2		Drafting Opp to MTD	DCT - AM
Joshua A. Block	7/27/2018	1.75		Review of medical records for production	DCT - AM

Joshua A. Block	9/4/2018	.4	Meet with Shayna about discovery, depositions *	DCT - AM
Joshua A. Block	9/4/2018	.7	Call with opposing counsel re: discovery*	DCT - AM
Joshua A. Block	9/6/2018	.6	Call with ACLU VA legal team*	DCT - AM
Joshua A. Block	9/7/2018	.7	Meet with Shayna about deposition prep*	DCT - AM
Joshua A. Block	9/11/2018	2.5	Review of documents produced by defendants	DCT - AM
Joshua A. Block	9/11/2018	1	Call with potential expert*	DCT - AM
Joshua A. Block	9/12/2018	.5	Consult with ACLU legal team (Shayna and Leslie) re: discovery*	DCT - AM
Joshua A. Block	9/13/2018	.5	Call with legal team*	DCT - AM
Joshua A. Block	9/14/2018	2.1	Drafting Collins deposition outline	DCT - AM
Joshua A. Block	9/17/2018	1.5	Attending scheduling conference and debriefing	DCT - AM
Joshua A. Block	9/17/2018	0.75	Drafting Clemons deposition outline	DCT - AM
Joshua A. Block	9/21/2018	7	Depositions of Collins and Clemons	DCT - AM
Joshua A. Block	9/24/2018	0.05	Review of draft responses to discovery requests	DCT - AM
Joshua A. Block	9/25/2018	0.10	Review of draft settlement memo	DCT - AM
Joshua A. Block	9/26/2018	0.04	Review of draft responses to discovery requests	DCT - AM

Non-Travel Hours post-6/1/2016 647.90

SCOTUS Hours 492.52

Non-SCOTUS Hours 155.38

Joshua A. Block	6/28/2016	3.5	Travel to Norfolk for scheduling conference and PI hearing	DCT
Joshua A. Block	6/29/2016	4	Travel from Norfolk to NYC	DCT
Joshua A. Block	12/6/2016	2.8	Travel to DC for meeting with Solicitor General office	SCOTUS
Joshua A. Block	12/6/2016	2.8	Travel back to NYC from SG meeting	SCOTUS
Joshua A. Block	9/16/2018	3	Travel for scheduling conference	DCT - AM
Joshua A. Block	9/17/2018	3	Travel home from scheduling conference	DCT - AM
Joshua A. Block	9/20/2018	3.5	Travel for depositions	DCT - AM
Joshua A. Block	9/21/2018	3.5	Travel home from depositions	DCT - AM

Total Travel Hours post-6/1/2016 26.10

User	Start date	Duration	Description
Jblock	10/1/2018	0:48	drafting discovery responses
Jblock	10/1/2018	0:25	drafting discovery responses
Jblock	10/2/2018	0:01	Phone message for counsel re settlement conference
Jblock	10/2/2018	0:26	Phone call with counsel re settlement conference
Jblock	10/2/2018	0:24	Meet with Shayna and Leslie to discuss settlement conference*
Jblock	10/3/2018	0:18	Review of documents produced by Defendants
Jblock	10/4/2018	0:49	Drafting deposition outlines
Jblock	10/4/2018	0:24	Call with legal team*
Jblock	10/4/2018	0:12	Review deposition outlines with Shayna
Jblock	10/10/2018	4:30	Lord, Wagner, Durr depositions*
Jblock	10/15/2018	1:00	Call with Gavin and legal team*
Jblock	10/18/2018	6:00	Settlement conference*
Jblock	10/18/2018	2:00	Deposition prep with Gavin and Deirdre*
Jblock	10/19/2018	6:30	Depositions of Gavin and Deirdre*
Jblock	10/20/2018	0:52	Drafting of Motion to Strike Jury Demand
Jblock	10/20/2018	0:27	Drafting of Motion to Strike Jury Demand
Jblock	10/20/2018	1:01	Drafting of 2d Am Complaint
Jblock	10/20/2018	0:28	Drafting Dr Penn expert report
Jblock	10/21/2018	1:20	Drafting Dr Penn expert report
Jblock	10/22/2018	0:32	Drafting Dr Penn expert report
Jblock	10/23/2018	0:19	Edits to draft amended complaint
Jblock	10/26/2018	0:33	Editing motion for leave to amend complaint
Jblock	12/10/2018	0:25	Edits to document re expert testimony
Jblock	12/19/2018	0:58	Drafting discovery letter re interrogatory responses
Jblock	12/19/2018	0:30	Check in with Shayna re: expert disclosures, 30(b)(6) notice*
Jblock	12/19/2018	0:30	Call with Magistrate re: settlement*
Jblock	12/19/2018	0:33	Edits to draft 30b6 notice
Jblock	12/20/2018	1:02	Call with Dr Penn
Jblock	12/20/2018	0:35	Edits to draft 30b6 deposition
Jblock	12/24/2018	1:55	Reply ISO Motion for Leave to Amend
Jblock	12/24/2018	0:33	Reply ISO Motion for Leave to Amend
Jblock	12/26/2018	1:36	Reply ISO Motion for Leave to Amend
Jblock	12/26/2018	0:31	Reply ISO Motion for Leave to Amend
Jblock	1/9/2019	0:30	Call with legal team*
Jblock	1/10/2019	0:50	Review of draft expert report
Jblock	1/11/2019	0:18	Call with opposing counsel*
Jblock	1/11/2019	0:44	Response letter to Def 30b6 Objections
Jblock	1/12/2019	0:18	Response letter to Def 30b6 Objections
Jblock	1/12/2019	0:03	Response letter to Def 30b6 Objections
Jblock	1/12/2019	0:57	Response letter to Def 30b6 Objections
Jblock	1/14/2019	0:20	Response letter to Def 30b6 Objections
Jblock	1/14/2019	0:49	Response letter to Def 30b6 Objections
Jblock	1/14/2019	0:46	Review of draft expert report
Jblock	1/14/2019	0:18	Drafting discovery stipulations
Jblock	1/16/2019	0:18	Call with Gavin and legal team*
Jblock	1/16/2019	0:12	Call with Magistrate re: settlement*

Jblock	1/18/2019	0:18	Calculating hours for settlement discussions
Jblock	1/18/2019	0:12	Meet with Shayna about SJ motion*
Jblock	1/22/2019	0:24	Call with opposing counsel re: settlement, 30(b)(6) depos*
Jblock	1/29/2019	0:29	Review of Collins deposition for SJ
Jblock	1/30/2019	0:12	Legal team call with Shayna and Jennifer*
Jblock	2/4/2019	0:11	Review of Collins deposition for SJ
Jblock	2/6/2019	0:06	Call with legal team*
Jblock	2/11/2019	0:36	Meet with national team - James, Leslie, Chase, Shayna*
Jblock	2/11/2019	0:30	Call with ACLU of VA*
Jblock	2/11/2019	0:24	call with Gavin and Shayna*
Jblock	2/12/2019	0:30	Call with David, Eden, and Shayna*
Jblock	2/12/2019	0:36	call with magistrate judge*
Jblock	2/13/2019	0:30	Call with ACLU of VA*
Jblock	2/15/2019	0:36	Call with magistrate re settlement*
Jblock	2/20/2019	1:01	Edits to Summary Judgment Fact Section
Jblock	2/20/2019	0:24	Edits to Summary Judgment Fact Section
Jblock	2/20/2019	0:30	Call with co-counsel to discuss school board hearing*
Jblock	2/21/2019	1:40	Review of Gavin Deposition for draft declaration
Jblock	2/22/2019	0:19	Edits to Summary Judgment Fact Section
Jblock	2/22/2019	2:58	Edits to Summary Judgment Fact Section
Jblock	2/23/2019	0:02	Edits to Summary Judgment Fact Section
Jblock	2/23/2019	0:12	Edits to Summary Judgment Fact Section
Jblock	2/23/2019	1:36	Edits to Summary Judgment Fact Section
Jblock	2/23/2019	0:01	Edits to Summary Judgment Fact Section
Jblock	2/23/2019	0:43	Edits to Summary Judgment Fact Section
Jblock	2/24/2019	0:34	Draft of SJ argument section
Jblock	2/25/2019	0:40	Draft of SJ argument section
Jblock	2/25/2019	0:12	Meeting with Shayna re summary judgment preparation*
Jblock	2/25/2019	1:58	Review of Gavin Deposition for draft declaration
Jblock	2/26/2019	0:04	Review of Gavin Deposition for draft declaration
Jblock	2/26/2019	0:08	Review of Gavin Deposition for draft declaration
Jblock	2/26/2019	0:09	Review of Gavin Deposition for draft declaration
Jblock	2/26/2019	0:04	Review of Gavin Deposition for draft declaration
Jblock	2/27/2019	0:18	legal team call *
Jblock	2/28/2019	0:23	Call with Dr. Penn
Jblock	2/28/2019	0:44	Draft reubttal declaration for Dr. Penn
Jblock	3/1/2019	0:23	Draft of SJ argument section
Jblock	3/1/2019	0:24	Draft of SJ argument section
Jblock	3/1/2019	0:13	Draft of SJ argument section
Jblock	3/1/2019	1:02	Research for Van Meter deposition
Jblock	3/1/2019	0:59	Draft of SJ argument section
Jblock	3/2/2019	0:39	30(b)(6) deposition outline
Jblock	3/3/2019	1:35	Draft of SJ argument section
Jblock	3/4/2019	1:26	Review of transcript of school board meeting
Jblock	3/4/2019	0:03	Draft of statement of facts
Jblock	3/4/2019	3:25	Draft of statement of facts
Jblock	3/5/2019	0:19	Draft of statement of facts

Jblock	3/5/2019	0:32 Draft of statement of facts
Jblock	3/5/2019	2:10 Draft of statement of facts
Jblock	3/5/2019	0:55 30(b)(6) deposition outline
Jblock	3/6/2019	0:43 Draft of SJ argument section
Jblock	3/6/2019	0:38 Draft of SJ argument section
Jblock	3/6/2019	1:12 Draft of SJ argument section
Jblock	3/6/2019	0:30 Draft of SJ argument section
Jblock	3/7/2019	0:56 Preparation call with Dr. Penn
Jblock	3/7/2019	0:45 Call with Gavin about declaration
Jblock	3/7/2019	0:43 outline for van meter deposition
Jblock	3/8/2019	0:21 Draft of SJ argument section
Jblock	3/8/2019	0:30 Draft of SJ argument section
Jblock	3/8/2019	0:15 Draft of SJ argument section
Jblock	3/8/2019	0:12 Draft of SJ argument section
Jblock	3/8/2019	0:58 Draft of SJ argument section
Jblock	3/8/2019	0:43 Draft of SJ argument section
Jblock	3/9/2019	0:30 Draft of SJ argument section
Jblock	3/9/2019	0:20 30(b)(6) deposition outline
Jblock	3/10/2019	0:29 outline for van meter deposition
Jblock	3/10/2019	0:09 outline for van meter deposition
Jblock	3/10/2019	0:49 outline for van meter deposition
Jblock	3/10/2019	0:03 outline for van meter deposition
Jblock	3/10/2019	0:45 outline for van meter deposition
Jblock	3/11/2019	0:59 Review of objections to subpoena duces tecum
Jblock	3/11/2019	0:49 Edits to Deirdre's declaration
Jblock	3/11/2019	0:25 Review of SJ exhibits
Jblock	3/11/2019	0:50 Draft of SJ argument section
Jblock	3/12/2019	0:33 Draft of SJ argument section
Jblock	3/12/2019	2:24 30(b)(6) deposition
Jblock	3/13/2019	0:35 Draft of statement of facts
Jblock	3/13/2019	2:19 Draft of statement of facts
Jblock	3/14/2019	3:00 Deposition of Dr. Penn
Jblock	3/14/2019	2:24 Draft of SJ argument section
Jblock	3/14/2019	1:53 Draft of statement of facts
Jblock	3/16/2019	0:36 Draft of statement of facts
Jblock	3/16/2019	0:39 Draft of statement of facts
Jblock	3/16/2019	0:43 Draft of statement of facts
Jblock	3/17/2019	1:11 Draft of SJ argument section
Jblock	3/18/2019	0:15 Draft of SJ argument section
Jblock	3/18/2019	0:28 Draft of SJ argument section
Jblock	3/18/2019	5:30 Van Meter deposition*
Jblock	3/19/2019	0:11 Motion to file brief with extra pages
Jblock	3/19/2019	0:02 Draft of SJ argument section
Jblock	3/19/2019	0:29 Letter re supplemental disclosures
Jblock	3/19/2019	1:25 Draft of SJ argument section
Jblock	3/20/2019	1:24 Draft of SJ argument section
Jblock	3/21/2019	0:07 Review of draft brief

Jblock	3/28/2019	1:10 Draft opposition to SJ
Jblock	3/28/2019	0:30 Meet with Shayna about SJ reply*
Jblock	3/28/2019	0:30 Draft opposition to SJ
Jblock	3/28/2019	0:38 Draft opposition to SJ
Jblock	3/29/2019	2:22 Draft opposition to SJ
Jblock	3/29/2019	2:47 Draft opposition to SJ
Jblock	3/31/2019	1:38 Draft opposition to SJ
Jblock	3/31/2019	0:28 Draft opposition to SJ
Jblock	3/31/2019	0:29 Draft opposition to SJ
Jblock	3/31/2019	0:09 Draft opposition to SJ
Jblock	4/1/2019	1:14 Draft opposition to SJ
Jblock	4/1/2019	0:21 Draft opposition to SJ
Jblock	4/1/2019	1:22 Draft opposition to SJ
Jblock	4/1/2019	0:31 Draft opposition to SJ
Jblock	4/1/2019	0:04 Draft opposition to SJ
Jblock	4/1/2019	0:27 Draft opposition to SJ
Jblock	4/1/2019	0:30 Draft opposition to SJ
Jblock	4/1/2019	0:45 Draft opposition to SJ
Jblock	4/1/2019	2:45 Draft opposition to SJ
Jblock	4/1/2019	2:00 Draft opposition to SJ
Jblock	4/2/2019	0:28 Edits to response to SUMF
Jblock	4/2/2019	1:23 Edits to response to SUMF
Jblock	4/2/2019	0:04 Edits to response to SUMF
Jblock	4/2/2019	1:29 Draft opposition to SJ
Jblock	4/2/2019	1:08 Draft opposition to SJ
Jblock	4/3/2019	1:13 Draft opposition to SJ
Jblock	4/4/2019	0:39 Draft opposition to SJ
Jblock	4/5/2019	0:30 Draft opposition to SJ
Jblock	4/5/2019	1:04 Draft opposition to SJ
Jblock	4/8/2019	0:47 Draft opposition to SJ
Jblock	4/8/2019	0:12 Draft opposition to SJ
Jblock	4/9/2019	0:55 Draft opposition to SJ
Jblock	4/9/2019	1:52 Review of GCSB Opp to MTD
Jblock	4/9/2019	5:13 Draft SJ Reply
Jblock	4/10/2019	4:09 Draft SJ Reply
Jblock	4/10/2019	0:09 Draft SJ Reply
Jblock	4/10/2019	2:58 Draft SJ Reply
Jblock	4/10/2019	3:32 Draft SJ Reply
Jblock	4/11/2019	1:35 Draft SJ Reply
Jblock	4/11/2019	0:57 Draft SJ Reply
Jblock	4/11/2019	2:08 Draft SJ Reply
Jblock	4/12/2019	2:34 Draft SJ Reply
Jblock	4/15/2019	0:59 Review of draft SJ reply
Jblock	4/15/2019	1:00 Review of draft motion to seal
Jblock	4/30/2019	0:20 Review Board's Motion to Strike
Jblock	5/1/2019	0:32 Draft response to motion to strike
Jblock	5/1/2019	3:10 Draft response to motion to strike

Jblock	5/1/2019	1:40 Draft response to motion to strike
Jblock	5/1/2019	2:34 Draft response to motion to strike
Jblock	5/2/2019	0:59 Draft response to motion to strike
Jblock	5/2/2019	1:43 Draft response to motion to strike
Jblock	5/3/2019	0:07 Draft response to motion to strike
Jblock	5/3/2019	1:01 Draft response to motion to strike
Jblock	5/3/2019	0:37 Draft response to motion to strike
Jblock	5/3/2019	0:13 Draft response to motion to strike
Jblock	5/13/2019	0:22 Review of Motion to Strike Reply
Jblock	5/20/2019	0:47 Research for opp to motion to stay
Jblock	5/21/2019	1:31 Draft opp to motion to stay
Jblock	5/23/2019	0:38 Draft opp to motion to stay
Jblock	5/23/2019	0:45 Draft opp to motion to stay
Jblock	5/23/2019	0:06 Draft opp to motion to stay
Jblock	5/23/2019	1:07 Draft opp to motion to stay
Jblock	5/24/2019	0:08 Draft opp to motion to stay
Jblock	5/24/2019	0:25 Draft opp to motion to stay
Jblock	5/24/2019	1:14 Draft opp to motion to stay
Jblock	5/24/2019	0:07 Draft opp to motion to stay
Jblock	5/30/2019	0:23 Draft opp to motion to stay
Jblock	7/16/2019	1:30 Research for oral argument prep
Jblock	7/19/2019	0:48 Moot for SJ hearing
Jblock	7/19/2019	0:06 Preparation for SJ hearing
Jblock	7/23/2019	2:00 Prepare for and present argument SJ hearing
Jblock	8/13/2019	0:46 Drafting motion to defer petition for fee and costs
Jblock	8/13/2019	0:08 Drafting motion to defer petition for fee and costs
Jblock	8/14/2019	0:05 Drafting motion to defer petition for fee and costs
Jblock	8/16/2019	0:32 Research on standard for staying case at CA4
Jblock	9/16/2019	0:34 Draft opposition to motion to hold in abeyance
Jblock	9/16/2019	0:20 Draft opposition to motion to hold in abeyance
Jblock	9/17/2019	0:33 Draft opposition to motion to hold in abeyance
Jblock	9/17/2019	0:22 Draft opposition to motion to hold in abeyance
Jblock	9/18/2019	1:46 Draft opposition to motion to hold in abeyance
Jblock	9/18/2019	0:03 Draft opposition to motion to hold in abeyance
Jblock	9/18/2019	0:43 Draft opposition to motion to hold in abeyance
Jblock	9/19/2019	1:16 Draft opposition to motion to hold in abeyance
Jblock	9/27/2019	0:24 contacting amici about briefing schedule
Jblock	9/27/2019	0:21 drafting CA4 brief
Jblock	9/27/2019	2:05 drafting CA4 brief
Jblock	9/27/2019	0:42 drafting CA4 brief
Jblock	10/4/2019	0:33 drafting CA4 brief
Jblock	10/6/2019	1:48 drafting CA4 brief
Jblock	10/7/2019	0:30 drafting CA4 brief
Jblock	10/7/2019	0:09 drafting CA4 brief
Jblock	10/7/2019	0:16 drafting CA4 brief
Jblock	10/7/2019	0:39 drafting CA4 brief
Jblock	10/8/2019	0:25 drafting CA4 brief

Jblock	10/8/2019	0:38 drafting CA4 brief
Jblock	10/8/2019	0:28 drafting CA4 brief
Jblock	10/10/2019	0:29 drafting CA4 brief
Jblock	10/10/2019	1:03 drafting CA4 brief
Jblock	10/10/2019	0:24 drafting CA4 brief
Jblock	10/11/2019	1:05 drafting CA4 brief
Jblock	10/11/2019	0:51 drafting CA4 brief
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Jblock	10/15/2019	0:25 drafting CA4 brief
Jblock	10/15/2019	0:19 drafting CA4 brief
Jblock	10/15/2019	2:03 drafting CA4 brief
Jblock	10/16/2019	0:17 drafting CA4 brief
Jblock	10/16/2019	1:13 drafting CA4 brief
Jblock	10/16/2019	1:19 drafting CA4 brief
Jblock	10/17/2019	0:39 drafting CA4 brief
Jblock	10/17/2019	0:03 drafting CA4 brief
Jblock	10/17/2019	0:11 drafting CA4 brief
Jblock	10/17/2019	0:16 drafting CA4 brief
Jblock	10/17/2019	1:12 drafting CA4 brief
Jblock	10/17/2019	1:19 selecting documents for JA
Jblock	10/18/2019	0:15 drafting CA4 brief
Jblock	10/18/2019	1:08 drafting CA4 brief
Jblock	10/18/2019	0:46 drafting CA4 brief
Jblock	10/18/2019	0:47 drafting CA4 brief
Jblock	10/19/2019	0:27 drafting CA4 brief
Jblock	10/20/2019	1:38 drafting CA4 brief
Jblock	10/20/2019	0:40 drafting CA4 brief
Jblock	10/21/2019	1:31 drafting CA4 brief
Jblock	10/22/2019	3:30 drafting CA4 brief
Jblock	10/23/2019	0:30 drafting CA4 brief
Jblock	10/23/2019	0:55 drafting CA4 brief
Jblock	10/23/2019	0:58 drafting CA4 brief
Jblock	10/23/2019	0:39 drafting CA4 brief
Jblock	10/23/2019	1:14 drafting CA4 brief
Jblock	10/24/2019	0:59 drafting CA4 brief
Jblock	10/24/2019	0:44 drafting CA4 brief
Jblock	10/25/2019	0:04 drafting CA4 brief
Jblock	10/25/2019	0:34 drafting CA4 brief
Jblock	10/30/2019	0:16 Reseach for CA4 brief
Jblock	10/30/2019	1:01 drafting CA4 brief
Jblock	10/31/2019	0:39 drafting CA4 brief
Jblock	10/31/2019	0:35 drafting CA4 brief
Jblock	10/31/2019	0:00 drafting CA4 brief
Jblock	10/31/2019	0:16 drafting CA4 brief
Jblock	11/1/2019	1:07 drafting CA4 brief

Jblock	11/1/2019	1:09 drafting CA4 brief
Jblock	11/8/2019	1:03 Editing CA4 brief
Jblock	11/8/2019	0:20 Editing CA4 brief
Jblock	11/13/2019	0:27 Editing CA4 brief
Jblock	11/15/2019	0:24 Editing CA4 brief
Jblock	1/11/2020	0:36 Call with legal team*
Jblock	2/12/2020	1:04 Review of Parents for Privacy decision
Jblock	4/27/2020	0:02 28j letter re NY Rifle
Jblock	5/6/2020	0:47 Preparing for CA4 oral argument
Jblock	5/21/2020	1:30 Moot for CA4 argument*
Jblock	5/25/2020	1:30 Second moot for CA4 arguments*
Jblock	5/26/2020	1:54 Present CA4 oral argument and debrief*
Jblock	6/15/2020	0:25 Drafting supplemental brief re Bostock
Jblock	6/15/2020	0:12 Drafting supplemental brief re Bostock
Jblock	6/15/2020	1:09 Drafting supplemental brief re Bostock
Jblock	6/16/2020	0:55 Drafting supplemental brief re Bostock
Jblock	6/16/2020	0:20 Drafting supplemental brief re Bostock
Jblock	6/16/2020	0:20 Drafting supplemental brief re Bostock
Jblock	6/16/2020	1:01 Drafting supplemental brief re Bostock
Jblock	6/17/2020	0:30 Drafting supplemental brief re Bostock
Jblock	6/17/2020	0:25 Drafting motion for supplemental briefing
Jblock	6/18/2020	0:09 finalizing supplemental briefing
Jblock	6/18/2020	0:15 finalizing supplemental briefing
Jblock	9/10/2020	0:16 Draft response to en banc petition
Jblock	10/1/2020	0:35 Drafting stipulation re delaying date for attorneys fees
Jblock	2/21/2021	1:25 Drafting cert opp
Jblock	2/21/2021	1:39 Drafting cert opp
Jblock	2/21/2021	1:27 Drafting cert opp
Jblock	2/21/2021	0:06 Drafting cert opp
Jblock	2/21/2021	0:34 Drafting cert opp
Jblock	2/22/2021	0:45 Drafting cert opp
Jblock	2/22/2021	3:01 Drafting cert opp
Jblock	2/22/2021	0:35 Drafting cert opp
Jblock	2/22/2021	0:26 Drafting cert opp
Jblock	2/23/2021	1:22 Drafting cert opp
Jblock	2/23/2021	0:04 Drafting cert opp
Jblock	2/23/2021	0:54 Drafting cert opp
Jblock	2/24/2021	0:07 Drafting cert opp
Jblock	2/24/2021	1:36 Drafting cert opp
Jblock	2/25/2021	0:32 Drafting cert opp
Jblock	2/27/2021	0:56 Drafting cert opp
Jblock	3/1/2021	1:12 Drafting cert opp
Jblock	3/2/2021	0:19 Drafting cert opp
Jblock	3/2/2021	0:19 Drafting cert opp
Jblock	3/2/2021	0:24 Drafting cert opp
Jblock	3/2/2021	0:27 Drafting cert opp
Jblock	3/2/2021	0:13 Drafting cert opp

Jblock	3/2/2021	0:10 Drafting cert opp
Jblock	3/3/2021	0:27 Drafting cert opp
Jblock	3/3/2021	1:03 Drafting cert opp
Jblock	3/4/2021	0:17 Drafting cert opp
Jblock	3/4/2021	0:30 Drafting cert opp
Jblock	3/5/2021	0:46 Drafting cert opp
Jblock	3/5/2021	0:38 Drafting cert opp
Jblock	3/5/2021	0:51 Drafting cert opp
Jblock	3/5/2021	0:52 Drafting cert opp
Jblock	3/5/2021	1:02 Drafting cert opp
Jblock	3/5/2021	0:55 Drafting cert opp
Jblock	3/6/2021	0:55 Drafting cert opp
Jblock	3/11/2021	1:16 Drafting cert opp
Jblock	3/11/2021	1:03 Drafting cert opp
Jblock	3/11/2021	0:07 Drafting cert opp
Jblock	3/11/2021	1:41 Drafting cert opp
Jblock	3/13/2021	0:46 Drafting cert opp
Jblock	3/17/2021	0:58 Drafting cert opp
Jblock	3/18/2021	1:36 Drafting cert opp
Jblock	3/22/2021	0:38 Drafting cert opp
Jblock	3/22/2021	0:27 Drafting cert opp
Jblock	3/24/2021	0:51 Drafting cert opp
Jblock	3/28/2021	1:11 Drafting cert opp
Jblock	4/7/2021	0:59 Edits to cert opp
Jblock	4/21/2021	0:30 Edits to cert opp
Jblock	4/21/2021	0:30 Edits to cert opp
Jblock	4/22/2021	1:00 Edits to cert opp
Jblock	5/4/2021	1:34 Edits to draft cert opp
Jblock	5/5/2021	3:07 Edits to draft cert opp
Jblock	5/11/2021	0:25 Edits to draft cert opp
Jblock	5/11/2021	0:50 Edits to draft cert opp
Jblock	5/11/2021	0:11 Edits to draft cert opp
Jblock	5/11/2021	0:11 Edits to draft cert opp
Jblock	5/11/2021	0:12 Edits to draft cert opp
Jblock	5/11/2021	0:07 Edits to draft cert opp
Jblock	5/14/2021	0:38 Edits to draft cert opp
Jblock	5/17/2021	0:54 Edits to draft cert opp
Jblock	5/19/2021	0:42 Edits to draft cert opp

Total Non-Travel Time: 322:24:00

Jblock	10/9/2018	3:30 Travel to depositions*
Jblock	10/10/2018	4:00 Travel from depositions*
Jblock	10/17/2018	3:30 Travel to settlement conference and depositions*
Jblock	10/19/2018	3:30 Travel back from depositions*
Jblock	3/13/2019	4:00 Travel to Richmond for Dr Penn deposition*
Jblock	3/14/2019	4:00 Travel to NY from Penn deposition*

Jblock	7/22/2019	3:30 Travel to VA for SJ hearing
Jblock	7/23/2019	3:30 Travel from VA to NY*

Travel Time **29:30:00**

User	Start date	Duration	Description
Jblock	7/1/2021	1:03:00	Drafting fee petition
Jblock	7/1/2021	1:18:22	Drafting fee petition
Jblock	7/1/2021	0:28:35	Drafting fee petition
Jblock	7/1/2021	1:07:07	Drafting fee petition
Jblock	7/2/2021	0:04:57	Drafting fee petition
Jblock	7/2/2021	1:47:31	Drafting fee petition
Jblock	7/2/2021	1:02:40	Drafting fee petition
Jblock	7/4/2021	1:42:29	Drafting fee petition
Jblock	7/4/2021	1:09:24	Drafting fee petition
Jblock	7/5/2021	0:49:47	Drafting fee petition
Jblock	7/6/2021	0:14:44	Review of hours for fee petition
Jblock	7/6/2021	1:54:02	Drafting fee petition
Jblock	7/6/2021	1:12:29	Drafting fee petition
Jblock	7/7/2021	2:34:28	Drafting fee petition
Jblock	7/7/2021	0:38:32	Drafting fee petition
Jblock	7/8/2021	0:32:51	Drafting fee petition
Jblock	7/8/2021	0:26:00	Call with attorney re market rates in VA
Jblock	7/8/2021	1:21:14	Drafting fee petition
Jblock	7/9/2021	0:17:02	Research re market rates in VA
Jblock	7/9/2021	0:14:36	Drafting fee petition
Jblock	7/9/2021	3:00:07	Drafting fee petition
Jblock	7/9/2021	0:30:39	Drafting fee petition
Jblock	7/9/2021	1:04:27	Drafting fee petition
Jblock	7/9/2021	0:47:50	Drafting fee petition
Jblock	7/10/2021	2:03:00	Research and drafting of fee petition
Jblock	7/11/2021	0:03:50	Research and drafting of fee petition
Jblock	7/11/2021	0:06:47	Research and drafting of fee petition
Jblock	7/11/2021	2:04:53	Research and drafting of fee petition
Jblock	7/12/2021	0:47:00	Draft declaration in support of fee petition
Jblock	7/12/2021	1:26:57	Draft declaration in support of fee petition
Jblock	7/12/2021	0:30:59	Draft declaration in support of fee petition
Jblock	7/12/2021	0:22:39	Call with Eden about fee petition
Jblock	7/12/2021	0:54:20	Draft declaration in support of fee petition
Jblock	7/12/2021	1:51:59	Drafting fee petition
Jblock	7/12/2021	0:54:28	Drafting fee petition
Jblock	7/12/2021	1:13:57	Drafting fee petition
Jblock	7/13/2021	3:01:07	Drafting fee petition
Jblock	7/13/2021	0:14:26	Draft declaration in support of fee petition
Jblock	7/13/2021	0:15:35	Draft declaration in support of fee petition
Jblock	7/13/2021	0:57:54	Drafting fee petition
Jblock	7/13/2021	0:07:02	Edits and revisions to fee petition
Jblock	7/13/2021	1:03:15	Edits and revisions to fee petition
Jblock	7/14/2021	0:50:37	Edits to fee petition declaration
Jblock	7/14/2021	1:59:00	Edits and revisions to fee petition
Jblock	7/14/2021	2:47:19	Review of time/billing records
Jblock	7/14/2021	0:33:28	Review of time/billing records
Jblock	7/14/2021	0:51:16	Review of time/billing records
Jblock	7/14/2021	0:22:59	Edits to Block declaration

Jblock	7/15/2021	1:06:16 Research on fees on fees
Jblock	7/15/2021	0:20:15 Edits and revisions to fee petition
Jblock	7/16/2021	0:37:21 Edits and revisions to fee petition
Jblock	7/16/2021	0:52:15 Preparing declaration for Shayna Medley-Warsoff to review
Jblock	7/20/2021	0:16:41 Review of Heilman declaration
Jblock	7/20/2021	0:26:55 Review draft motion for fees and costs
jblock	7/21/2021	1:24:02 Edits and revisions to fee petition

TOTAL FEE PETITION TIME	55:51:25
REDUCTION FOR BILLING JDGMT	35 HOURS

Grimm

Attorney time for Shayna Medley-Warsoff

<u>Date</u>	<u>Time</u>	<u>Description</u>
8/8/2018		1 attorneys fees memo for settlement conference
8/9/2018		3 attorneys fees memo for settlement conference
8/10/2018		1 attorneys fees memo for settlement conference
8/13/2018		3 attorneys fees memo for settlement conference
8/14/2018		2 attorneys fees memo for settlement conference
8/20/2018		4.2 discovery review
8/20/2018		1 draft Bruce declaration
8/21/2018		3.4 discovery review
8/21/2018		1 draft Aberli declaration
8/21/2018		0.2 call with potential witness - Thomas Aberli
8/22/2018		0.8 redact medical documents
8/22/2018		4.2 discovery review
8/29/2018		3 discovery review
8/30/2018		1 Aberli declaration
8/30/2018		4 research and drafting settlement memo
8/31/2018		0.2 email updates to Josh on research
8/31/2018		0.5 edits to settlement memo
8/31/2018		0.4 call with potential expert
9/4/2018		0.4 meeting with Josh about discovery docs, depositions
9/4/2018		0.2 work on depo outlines
9/4/2018		0.5 email about experts to team
9/4/2018		0.7 call with opposing counsel about discovery docs
9/4/2018		0.2 discovery review
9/4/2018		3 document redactions
9/5/2018		0.4 upload and mail out discovery docs
9/5/2018		0.1 email and scheduled team meeting
9/5/2018		0.1 email potential experts
9/6/2018		0.1 book travel for settlement conf, depositions
9/6/2018		4 deposition drafting for Collins
9/6/2018		1 expert research
9/6/2018		0.6 legal team call with ACLU of VA
9/6/2018		1 drafting deposition notice
9/7/2018		0.7 meeting with Josh about depositions
9/7/2018		0.8 uploading and mailing discovery docs
9/10/2018		2.8 sorting discovery docs
9/10/2018		2 30(b)(6) notice draft
9/11/2018		1.4 incorporate edits to timeline, 30b6 notice from Josh
9/11/2018		0.5 prep for expert call
9/11/2018		1.5 deposition outline drafting
9/11/2018		1 potential expert call
9/11/2018		0.5 pull important docs for depositions
9/11/2018		0.5 review discovery docs
9/12/2018		1.7 review discovery docs
9/12/2018		0.5 meet with Josh and Leslie to discuss docs and strategy
9/12/2018		2.5 deposition outline drafting
9/13/2018		0.5 deposition outline drafting
9/13/2018		1 scheduling order draft
9/13/2018		0.5 call with legal team

9/14/2018	0.5 scheduling order drafting
9/14/2018	2 deposition drafting
9/17/2018	1 review docs
9/18/2018	5.2 print and gather docs for depositions
9/19/2018	3.2 drafting answer to interrogatories
9/20/2018	0.9 attorney's fees research
9/21/2018	7 Collins and Clemons depositions
9/24/2018	3.5 settlement memo research and drafting
9/24/2018	0.5 deposition outline drafting - Durr
9/25/2018	1.3 deposition outline drafting - Durr
9/25/2018	1 fees research
9/25/2018	0.3 review Josh's edits to settlement memo
9/25/2018	0.6 deposition outline drafting - Lord
9/25/2018	0.7 deposition outline drafting - Wagner
9/25/2018	0.2 call potential fact witness
9/26/2018	0.4 initial disclosures
10/1/2018	0.9 contact potential fact witnesses
10/1/2018	2.4 compile docs for response to RFD
10/1/2018	2.6 initial disclosures and response to int
10/2/2018	0.9 interview potential fact witness
10/2/2018	0.4 meet with Josh and Leslie to discuss settlement conference
10/2/2018	1.2 pull documents for discovery
10/2/2018	0.6 deposition drafting
10/3/2018	2.2 prep deposition exhibits
10/3/2018	0.3 read Ds document production
10/3/2018	1.7 deposition drafting
10/3/2018	0.6 prep exhibits
10/4/2018	0.9 prep exhibits
10/4/2018	0.2 review depo outlines with josh
10/4/2018	0.4 team call with Josh, Eden, and Nicole
10/4/2018	2.8 depo outline edits
10/5/2018	0.7 document production
10/5/2018	2.5 deposition outline drafting - Wagner
10/10/2018	4.5 depositions - Durr, Lord, Wagner
10/11/2018	0.8 document production
10/15/2018	1 call with Gavin and legal team
10/15/2018	1.3 compile documents for production
10/16/2018	1 call with and discussion about potential expert
10/18/2018	6 settlement conference
10/18/2018	2 deposition prep
10/19/2018	6.5 depositions - Gavin and Dierdre
10/22/2018	1.5 draft interrogatories
10/23/2018	0.8 incorproate edits to interrogatories
10/23/2018	1 review amended complaint
10/29/2018	0.5 review/edit motion to strike jury demand
10/29/2018	0.7 edits to interrogatories
11/13/2018	0.5 read objections to interrogatories
11/13/2018	0.5 meet with Leslie to discuss experts, discovery
11/27/2018	1.4 call with expert
11/27/2018	1.2 edit expert report
11/28/2018	1.8 edit expert report
11/29/2019	0.2 call with ACLU VA team

12/19/2018	0.5 settlement call with Judge Miller
12/19/2018	0.5 check in with Josh about expert disclosures, 30b6 notice
12/19/2018	0.5 call with magistrate re: settlement
12/19/2018	0.4 draft expert identification
12/19/2018	0.8 draft 30(b)(6) notice
12/20/2018	1 call with expert
12/20/2018	0.5 update expert report
1/9/2019	0.9 update expert report
1/9/2019	0.5 team call with Josh and ACLU VA
1/11/2019	0.3 call with opposing counsel
1/11/2019	0.3 draft email update to legal team
1/12/2019	0.2 review draft of letter from Josh to David about objections to interrogatories
1/15/2019	0.3 email expert with final report and retainer to review
1/16/2019	0.3 call with Gavin and legal team
1/17/2019	0.2 review proposed settlement language and email legal team
1/17/2019	0.1 email firm about fact witness declarations
1/18/2019	0.1 email follow up with expert about report
1/18/2019	0.2 meet with Josh about SJ motion
1/22/2019	1.7 summary judgment fact sections, compiling exhibits
1/22/2019	0.4 call with Josh and opposing counsel about 30b6 depositions and settlement
1/22/2019	1.1 work on SJ facts and exhibits
1/23/2019	0.3 prepare expert report and exhibits
1/24/2019	2.8 calculating hours for settlement discussions
1/25/2019	0.4 call with outside counsel about fact declarations
1/28/2019	0.7 prepare expert report and exhibits, email to opposing counsel
1/28/2019	1.2 summary judgment fact section drafting
1/30/2019	0.2 legal team call with Josh and Jennifer
1/31/2019	3.3 summary judgment fact section drafting
2/1/2019	1.4 summary judgment fact section drafting
2/6/2019	0.7 30(b)(6) depo draft outline
2/6/2019	0.1 call with legal team
2/7/2019	2.5 summary judgment fact section drafting
2/8/2019	2.7 summary judgment fact section drafting
2/11/2019	0.8 review Gavin and Dierdre declarations
2/11/2019	0.6 call with legal team
2/11/2019	0.1 left message for David with Josh
2/11/2019	0.8 review Gavin and Dierdre declarations
2/11/2019	0.6 meet with national team - Josh, James, Leslie, Chase
2/11/2019	1.4 summary judgment fact section drafting
2/11/2019	0.4 call with Gavin and Josh
2/12/2019	0.5 call with David, Josh, Eden
2/12/2019	0.5 call with magistrate
2/13/2019	0.5 call with affiliate
2/25/2019	0.2 meet with Josh
2/25/2019	3.6 edit Gavin's declaration
2/26/2019	1.8 edit Deirdre's declaration
2/27/2019	0.5 review declaration edits
2/27/2019	0.3 legal team call
2/27/2019	0.5 edit declarations
2/28/2019	0.4 call with expert
2/28/2019	4.6 edits to summary judgment fact section
2/28/2019	0.3 edits to rebuttal report

3/1/2019	0.7 edit rebuttal report
3/1/2019	0.2 review Leslie's edits to rebuttal
3/1/2019	0.4 edit declaratiosn for Gavin and Deirdre, email to team
3/1/2019	1.8 edits to summary judgment fact section
3/7/2019	0.6 review declaration edits from Josh and Leslie
3/7/2019	0.9 call with expert for depo prep
3/7/2019	0.75 call with Gavin for declaration
3/7/3019	0.8 call with Deirdre for declaration
3/7/2019	0.6 edit Deirdre's declaration
3/8/2019	1.1 compile SJ exhibits
3/8/2019	0.8 Gavin's declaration
3/8/2019	3.8 compile SJ exhibits
3/8/2019	0.8 SJ fact section - fill in cites
3/11/2019	0.5 edit Deirdre declaration
3/11/2019	3.7 compile SJ exhibits
3/11/2019	0.5 edit Gavin's declaration
3/11/2019	0.5 SJ motion
3/11/2019	0.5 deposition prep
3/12/2019	2.6 30(b)(6) deposition
3/12/2019	2.5 SJ research
3/12/2019	0.5 call with Eden
3/12/2019	1 review discovery docs
3/13/2019	0.5 call with expert
3/14/2019	3 Dr. Penn deposition
3/14/2019	2.5 SJ research and draft edits
3/15/2019	0.3 edit Deirdre's declaration
3/15/2019	0.7 SJ fact section edits
3/15/2019	0.3 discussion on fact declarations
3/15/2019	0.8 compile SJ exhibits
3/15/2019	2.7 transcribe hearings
3/15/2019	0.7 call with Deirdre
3/15/2019	0.5 edit SJ fact section
3/15/2019	0.8 edits to SJ argument
3/15/2019	0.3 edits to Deidre's declaration
3/16/2019	1 edit sj fact section citations
3/17/2019	0.8 edit SJ motion
3/18/2019	5.5 Van Meter deposition
3/18/2019	0.7 review declarations
3/18/2019	0.8 compile SJ exhibits
3/18/2019	1.2 motion for page extension
3/19/2019	0.8 motion for page extension
3/19/2019	2.2 argument section of SJ
3/19/2019	0.5 argument section of SJ
3/19/2019	0.6 supplemental disclosure
3/20/2019	0.8 finalize Gavin's declaration
3/20/2019	0.7 edit SJ motion
3/20/2019	0.5 SJ exhibits
3/20/2019	0.6 SJ research
3/20/2019	2.2 edit SJ brief
3/21/2019	0.7 SJ attorney dec
3/21/2019	3 SJ mem edits
3/22/2019	1.1 finalize attorney affidavit

3/22/2019	1.4 edit SJ memo
3/22/2019	0.8 edit exhibits
3/22/2019	0.8 review Dr Penn depo
3/28/2019	0.5 meet with josh about SJ reply
4/1/2019	4.3 reply to fact section of SJ
4/2/2019	1.9 edits to SJ reply
4/3/2019	3.7 edits to SJ reply
4/4/2019	3.5 attorney declaration
4/9/2019	2.4 proofread of SJ opposition
4/12/2019	3.2 edits to SJ reply
4/15/2019	1.9 SJ reply edits
4/16/2019	4.2 SJ reply edits, compiling exhibits
5/20/2019	2.3 Daubert motion draft
6/4/2019	0.8 review and highlight medical docs for supporting statements for oral argument on motions
6/17/2019	0.5 draft supplemental authority
7/18/2019	1.5 prep questions for Josh's moot
7/19/2019	0.8 moot for SJ hearing
7/23/2019	2 prep for and attend summary judgment hearing

Non-Travel Time 291.75

9/20/2018	3.5 travel from NY to VA for depositions
9/21/2018	3.5 travel from VA to NY
10/9/2018	3.5 travel from NY to VA for depositions
10/10/2018	4 travel from VA to NY
10/17/2018	3.5 travel to Richmond for settlement conference and deposition
10/19/2018	3.5 travel - return to NY
3/13/2019	4 travel to Richmond for deposition
3/14/2019	4 travel to NY
7/22/2019	3.5 travel from NY to VA for SJ hearing
7/23/2019	3.5 travel from VA to NY

Travel time 36.5

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

GOLDEN BETHUNE-HILL, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF
ELECTIONS, *et al.*,

Defendants,

v.

VIRGINIA HOUSE OF DELEGATES, *et al.*,

Intervenor-Defendants.

Civil Action No. 3:14-cv-00852-
REP-GBL-BMK

DECLARATION OF DION W. HAYES

I, Dion W. Hayes, state that I have personal knowledge of the matters set forth in this declaration and, if sworn as a witness, would testify as follows:

1. I am a partner in the law firm of McGuireWoods LLP (“McGuireWoods”) and submit this declaration (the “Declaration”) in support of the Revised Second Motion for Attorneys’ Fees and Litigation Expenses (the “Motion”) filed by the above-captioned plaintiffs (collectively, the “Plaintiffs”) seeking a fee award for the services performed by Perkins Coie LLP (“Perkins Coie”) in the above-captioned case. Specifically, Perkins Coie has asked me to address how the billable hourly rates in the Motion compare with Richmond, Virginia billable hourly rates for attorneys of similar experience and skills during the years 2017-2019.

2. I received by B.A. in History from the University of Virginia in 1989 and my J.D. from William & Mary Law School in 1992. Since my admission to practice before the courts of

the Commonwealth of Virginia, the United States District Court for the Eastern District of Virginia, and the United States Court of Appeals for the Fourth Circuit in 1992, I have practiced bankruptcy law and commercial litigation at the Richmond, Virginia office of McGuireWoods. In addition to Virginia, I am admitted to the bars of the District of Columbia and the States of Maryland and New York. I am a Fellow in the American College of Bankruptcy. I have an AVTM Rating with Martindale-Hubbell and have been recognized in *Chambers USA* for Bankruptcy/Restructuring (Virginia) (2016-2020); *Virginia Super Lawyers* for Bankruptcy & Creditor/Debtor Rights, Banking, Business Litigation (2007-2019); *The Best Lawyers in America* for Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law (2006-2020) and Litigation - Bankruptcy (2017-2020); and *Virginia Business* “Legal Elite”, Bankruptcy Law (2007-2019).

3. I served as Chair of the Restructuring and Insolvency Department of McGuireWoods from 2012 until August 2017, when I became Deputy Managing Partner for Litigation of McGuireWoods, a position I hold presently. As the Deputy Managing Partner for Litigation, I oversee the nine (9) litigation departments of the firm, which are comprised of 497 attorneys and 79 paralegals, for a total of 576 litigation timekeepers located in nineteen (19) offices in the United States and one in London, England.

4. One of my responsibilities as Deputy Managing Partner for Litigation is to participate in setting the hourly rates at which McGuireWoods attorneys and paralegals bill for litigation matters, including those in the Richmond, Virginia legal market. Each of our timekeepers has a standard or “rack” rate, which I participate in setting every year, and I must approve any engagement where such rates are proposed to be discounted by more than six percent (6%). During my prior five-year service as Chair of the firm’s Restructuring & Insolvency Department, I participated in setting the rates annually of the approximately thirty-five (35)

professionals in that department and also had to approve any standard rate discounting of any magnitude. I have been involved in setting the rates of our firm's attorneys in one capacity or another continuously for the past eight (8) years.

5. Through my twenty-eight years of experience practicing law in the Richmond office of McGuireWoods and several years of experience in setting rates for McGuireWoods attorneys, I have become very familiar with the rates charged by both McGuireWoods' Richmond attorneys and in the Richmond legal market overall. In my experience, federal courts in Richmond routinely award partner rates in excess of \$1,000 per hour for specialized legal work. *See In re Toys "R" Us, Inc., et al.*, Case No. 17-34665 (KLP) (Bankr. E.D. Va.), *Order Granting Final Fee Application of Kirkland & Ellis LLP and Kirkland & Ellis International LLP, Attorneys for the Debtors and Debtors in Possession, for the Period from September 18, 2017 Through and Including December 17, 2018* [Docket No. 7019] (granting final fee application with average hourly rate for partners of \$1,221); *see also In re The Gymboree Corporation, et al.*, Case No. Case No. 17-32986 (KLP) (Bankr. E.D. Va.), *Order Granting Final Fee Application of Kirkland & Ellis LLP and Kirkland & Ellis International LLP, Attorneys for the Debtors and Debtors in Possession, for the Period from June 11, 2017 Through and Including September 7, 2017* [Docket No. 851] (granting final fee application with average hourly rate for partners of \$1,153); *see also In re Penn Virginia Corporation, et al.*, Case No. 16-32395 (KLP) (Bankr. E.D. Va.), *Order Granting Final Fee Application of Kirkland & Ellis LLP and Kirkland & Ellis International LLP, Attorneys for the Reorganized Debtors, for the Period From May 12, 2016 Through and Including September 12, 2016* [Docket No. 717] (granting final fee application with average hourly rate for partners of \$1,075).

6. Further, the average standard hourly rate for McGuireWoods senior partners in Richmond performing complex civil litigation work during 2017-19 ranged from as low as \$870

in 2017 to as high as \$937 in 2019, while the average standard hourly rate for McGuireWoods junior partners in Richmond performing complex civil litigation work ranged from as low as \$732 in 2017 to as high as \$760 in 2019. Similarly, the average standard hourly rate for senior associates in Richmond performing complex civil litigation work ranged from as low as \$496 in 2017 to as high as \$534 in 2019, while the average standard hourly rate for junior associates in Richmond performing complex civil litigation work ranged from as low as \$368 in 2017 to as high as \$432 in 2019, and the average standard hourly rate for McGuireWoods paralegals in Richmond performing complex civil litigation work ranged from as low as \$260 to as high as \$281.

7. I have reviewed the Motion and related materials, including the biographical information for the attorneys referenced therein. Per the Motion, the average hourly rate for Perkins Coie's senior partners for the above-captioned case ranged from as low as \$675 in 2017 to as high as \$750 in 2019, while the average hourly rate for Perkins Coie's junior partners for the above-captioned case ranged from as low as \$504 in 2017 to as high as \$584 in 2019. Similarly, the average hourly rate for Perkins Coie's senior associates for the above-captioned case ranged from as low as \$415 in 2017 to as high as \$480 in 2019, while the average hourly rate for Perkins Coie's junior associates for the above-captioned case ranged from as low as \$370 in 2018 to as high as \$400 in 2019, and the average hourly rate for Perkins Coie's paralegals for the above-captioned case ranged from as low as \$230 in 2017 to as high as \$250 in 2019.

8. Thus, I find the Perkins Coie rates to be reasonable and comparable to or below the rates for McGuireWoods’ Richmond professionals performing similar work per the following:

Title (Years of Experience)	2017 MW Average Richmond Standard Rate	2018 MW Average Richmond Standard Rate	2019 MW Average Richmond Standard Rate	2017 PC Average Richmond Rate	2018 PC Average Richmond Rate	2019 PC Average Richmond Rate
Senior Partner (26+)	\$870	\$879	\$937	\$675	\$715	\$750
Junior Partner (up to 25)	\$732	\$736	\$760	\$504	\$544	\$584
Senior Associate (5+)	\$496	\$507	\$534	\$415	\$430	\$480
Junior Associate (0-4)	\$368	\$404	\$432	N/A	\$370	\$400
Paralegal	\$260	\$267	\$281	\$230	\$235	\$250

9. Based on my knowledge of the Richmond, Virginia legal market, I conclude that the Perkins Coie hourly rates in the Motion are reasonable and at or below market rate for Richmond attorneys of similar experience and reputations for complex civil litigation of the kind at issue here. Given the high quality of Perkins Coie’s legal services, its expertise and efficiency, and what I understand to be the successful result obtained for the client, a fee award to Perkins Coie based on the rates referenced in the Motion would be fair and reasonable in my opinion.¹

10. I am being compensated in the amount of \$837 an hour for the time devoted to enable me to prepare this Declaration expressing my opinions. My compensation is not contingent in any way on the outcome of the Motion or upon the content of this Declaration. With the exception of my engagement in this matter, I have no business or financial relationship with Perkins Coie. I have never represented Plaintiffs in my practice of law, and McGuireWoods has no ongoing relationship with Plaintiffs.

¹ I do not express an opinion regarding the appropriateness of the time expended on the tasks described in the Motion.

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

Executed on May 8, 2020.

/s/ Dion W. Hayes
Dion W. Hayes

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

GOLDEN BETHUNE-HILL, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF
ELECTIONS, *et al.*,

Defendants,

v.

VIRGINIA HOUSE OF DELEGATES, *et al.*,

Intervenor-Defendants.

Civil Action No. 3:14-cv-00852-
REP-GBL-BMK

DECLARATION OF ROBERT A. ANGLE

I, Robert A. Angle, declare and state as follows:

1. I am licensed to practice law in the Commonwealth of Virginia and am a member of the Virginia State Bar (VSB No. 37691). I am a partner at the law firm Troutman Sanders LLP (“Troutman Sanders”). My principal areas of practice are complex commercial litigation and intellectual property litigation.

2. The Court in this matter has directed that Plaintiffs file a “truncated fee award calculation using Richmond, Virginia rates, with supporting affidavit and exhibits, if needed....” Dkt. 423. Counsel for Plaintiffs in this matter, Perkins Coie LLP (“Perkins Coie”), has asked me to address how the billable hourly rates Plaintiffs seek to recover in

this matter compare with Richmond, Virginia billable hourly rates for attorneys of similar experience and skills during the years 2017-2019.

3. I understand that Plaintiffs do not seek to recover Perkins Coie’s standard billable hourly rates for the attorneys and paralegals who participated in this matter. Instead, Plaintiffs only seek to recover the “Richmond Rates” for the attorneys and paralegals as shown on Exhibit 1 hereto. Hence, my analysis below only addresses the Richmond Rates for the attorneys and paralegals shown on Exhibit 1.

Qualifications

4. I received my Bachelor of Arts from the University of Virginia in 1991 and my Juris Doctor from the University of Virginia School of Law in 1994. I passed the Virginia Bar Examination in 1994 and was licensed to practice in the Commonwealth of Virginia in 1995. From August 1994 through August 1995, I served as a law clerk to the Honorable James C. Cacheris, then the Chief Judge of the United States District Court for the Eastern District of Virginia. Following my clerkship with Judge Cacheris, I joined the Richmond office of the law firm Mays & Valentine, LLP, which subsequently merged with Troutman Sanders. I have practiced law with Troutman Sanders (and its predecessor) continuously since September 1995. I became a partner with Troutman Sanders in 2001.

5. I am admitted to practice before the Supreme Court of Virginia and have appeared in the Supreme Court of Virginia and the circuit and general district courts throughout the Commonwealth of Virginia. I am also admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Fourth Circuit, the United States Court of Appeals for the Federal Circuit, the United States District

Court for the Eastern District of Virginia, the United States District Court for the Western District of Virginia, and the United States Bankruptcy Court for the Eastern District of Virginia. In addition, I have appeared or been admitted *pro hac vice* by the United States Court of Appeals for the Eighth Circuit, the United States District Court for the District of Delaware, the United States District Court for the District of Idaho, the United States District Court for the District of Iowa, the United States District Court for the District of Maryland, the United States District Court for the District of Minnesota, the United States District Court for the Eastern District of North Carolina, the United States District Court for the District of New Jersey, the United States District Court for the Eastern District of Texas, the United States District Court for the Western District of Texas, the Patent Trial and Appeal Board of the United States Patent and Trademark Office, and the Trademark Trial and Appeal Board of the United States Patent and Trademark Office.

6. I am a member of the Litigation Section of both the Virginia State Bar and the Virginia Bar Association. I am also a present or past member of the Virginia State Bar, Business Litigation Section, Board of Governors (2017-present); the Virginia State Bar, Intellectual Property Law Section, Chair (2013-14), Chair Elect (2012-13), Vice Chair (2011-12), Secretary (2010-11), Board of Governors (2006-2010); the Virginia Bar Association, Civil Litigation Section, Council Member (2014-present); the Virginia Bar Association, Intellectual Property & Information Technology Section, Chair (2011-2012), Council Member (2006-2011); the Federal Bar Association, Richmond Chapter, Past-President (2019); President (2017-18); Vice President (2016-2017); Treasurer (2015-16); Secretary (2014-15), Board Member (2012-present); and the Greater Richmond Intellectual Property Law Association, Board Member (2012-2016).

7. I have an AVTM Rating with Martindale-Hubbell and have been recognized in *Chambers USA* for Intellectual Property (Southern Virginia) (2009-2020); *Super Lawyers - Corporate Counsel Edition* for Intellectual Property Litigation and in *Virginia Super Lawyer* for Intellectual Property Litigation (2009-present); *The Best Lawyers in America* for Intellectual Property and Litigation - Patent (2010-present); *Virginia Business* “Legal Elite”, Civil Litigation (2005-2018) and Intellectual Property (2005-2019); *Benchmark Litigation Survey* as Virginia Local Litigation Star - Antitrust (2014 -2016); *AmLaw Litigation Daily* “Litigator of the Week” (April 17, 2014); and nominated in *Benchmark Litigation* as “Virginia Litigator of the Year” for 2012.

8. I regularly represent parties in complex commercial litigation and intellectual property litigation in the Richmond Division of the United States District Court for the Eastern District of Virginia (the “Eastern District of Virginia”). I also speak and write on topics relating to litigation in the Eastern District of Virginia. I have been a regular panelist on Virginia CLE’s bi-annual conference on litigating cases in the Eastern District of Virginia since 2006. See “The Rocket Docket: Trying Cases in the Eastern District of Virginia,” Virginia CLE (2006, 2008, 2010, 2012, 2014, 2016, 2018). I am also a co-author of *Federal Civil Practice in Virginia* (Virginia CLE 2018). I have been a frequent presenter on federal court practice in the Eastern District of Virginia, including *A Guide To The Eastern District of Virginia for Infrequent or Reluctant Federal Court Practitioners* (2017), and an *Introduction to the Federal Courthouse* (2014, 2013), sponsored by the Federal Bar Association, Richmond Chapter.

9. I have served previously as an expert witness on the reasonableness of attorneys’ fees and offered an opinion that was accepted and relied upon by the United

States District Court for the Eastern District of Virginia (*Signature Flight Support Corp. v. Landow Aviation LP*, Case No. 1:08cv955 (E.D. Va. 2009)), and the United States District Court for the Western District of Virginia. See *Silver Spring Splint Co. v. Digisplint, Inc.*, 567 F. Supp. 2d 847 (W.D. Va. 2008). I have also litigated issues relating to the recovery of reasonable attorneys' fees and costs in this Court. See, e.g., *Cobalt Boats, LLC v. Brunswick Corp.*, 296 F. Supp. 3d 791 (E.D. Va. 2017), *rev'd on other grounds*, 773 Fed. Appx. 611 (Fed. Cir. 2019); *Corinthian Mortg. Corp. v. ChoicePoint Precision Mktg., LLC*, Civil Action No. 1:07cv832-JCC, 2009 U.S. Dist. LEXIS 723 (E.D. Va. 2009). In addition, I have co-authored an article relating to attorneys' fees issues. See *Preserving Your Client's Claim for Attorneys' Fees: Recognizing When a Simple Claim for Attorneys' Fees Is Not So Simple*, *VBA News Journal* (October/November 2005).

10. Through my years of practicing law in the Commonwealth of Virginia, I have become and remain familiar with the prevailing market rates for attorneys who practice in the Eastern District of Virginia, including attorneys in the Richmond region, as well as the prevailing market rates for attorneys who practice complex litigation matters such as those at issue in this action. In my role as the head of one of the litigation practice teams in Richmond, I participate in preparing budgets and proposals for clients and potential clients, which often involves reviewing our billable rates and understanding the billable rates charged by comparable firms for similar services. I also review the billable rates of other litigators within the Richmond office and am aware of the billable rates of the attorneys and paralegals who practice in the Eastern District of Virginia.

Reasonableness of Richmond Rates Sought by Plaintiffs

11. The Court’s analysis of the reasonableness of the billable hourly rates sought by Plaintiffs in this matter is guided by the prevailing market rates in the market in which the court sits for similar services by attorneys of reasonably comparable skill, experience and reputation. *Trimper v. City of Norfolk*, 58 F.3d 68, 76 (4th Cir. 1995), *cert. denied*, 516 U.S. 997 (1995). The Court should determine whether the requested rates are consistent with the prevailing market rate in the relevant community. *See Plyler v. Evatt*, 902 F.2d 273, 277 (4th Cir. 1990). “This determination is fact intensive and is best guided by what attorneys earn from paying clients for similar services in similar circumstances.” *Rum Creek Coal Sales v. Caperton*, 31 F.3d 169, 175 (4th Cir. 1994) (citation omitted). “While evidence of fees paid to attorneys of comparable skill in similar circumstances is relevant, so too is the rate actually charged by the petitioning attorneys when it is shown that they have collected those rates in the past from the client.” *Id.* (citing *Gusman v. Unisys Corp.*, 986 F.2d 1146 (7th Cir. 1993) (recognizing that attorney's actual billing rate provides a “starting point” for purposes of establishing a prevailing market rate)).

12. In my opinion, the hourly rates charged by Plaintiffs’ attorneys and other professionals fall within the range of prevailing market rates for large law firms in the Richmond region. For example, in the case of my own firm, which is a law firm of approximately 650 attorneys with multiple offices located around the country, the hourly rates of the attorneys and other professionals in our Richmond offices are consistent with the hourly rates charged by Perkins Coie in this matter. For example, in our Richmond office, the billable rates for our partners in 2019 ranged from \$585/hour to \$855/hour; the billable rates for associates ranged from \$370/hour to \$550/hour; and the billable rates for

paralegals ranged from \$145/hour to \$270/hour. In 2018, in our Richmond office, the billable rates for partners ranged from \$475/hour to \$830/hour; the billable rates for associates ranged from \$190/hour to \$525/hour; and the billable rates for paralegals ranged from \$140/hour to \$310/hour. In 2017, in our Richmond office, the billable rates for partners ranged from \$385/hour to \$810/hour; the billable rates for associates ranged from \$180/hour to \$475/hour; and the billable rates for paralegals ranged from \$130/hour to \$300/hour.

13. In setting our billable rates each year, Troutman Sanders subscribes to reports prepared by various third parties, such as PriceWaterhouseCoopers (“PWC”) and Thomson Reuters, that provides billable rate information obtained from surveys conducted each year. The reports provided by these third parties contain survey information, obtained on a confidential basis, from comparable large law firms with offices in Richmond.

14. The PWC reports, and the surveys upon which they are based, provide reliable information about the billable rates charged by attorneys in large law firms with a presence in Richmond. Troutman Sanders relies upon reports like these, to some degree, in making determinations regarding the billable rates that Troutman Sanders charges its clients.

15. Much like the confidential surveys conducted by PWC, Thomson Reuters administers a legal benchmark tool, *Peer Monitor*, that collects annual billable rates and provides a report based upon information collected from responding firms. The *Peer Monitor* report includes information collected from 5 large national law firms that are comparable to Perkins Coie – Troutman Sanders, McGuireWoods LLP, Hunton Andrews

Kurth LLP, Vinson & Elkins LLP, and Frost Brown Todd LLP – and have offices in Richmond.

16. I have also reviewed the “Richmond Rates” of the attorneys and paralegals reflected on Perkins Coie’s invoices in this matter. In my opinion, the hourly rates charged for these attorneys and other professionals were reasonable, within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of attorneys and legal assistants of comparable experience and expertise. The following chart, comparing Perkins Coie’s Richmond Rates to the billable hourly rate data provided by PWC,¹ *Peer Monitor*,² and Troutman Sanders’ own rates for Richmond partners, associates and paralegals in 2017, supports this conclusion:

Position	Timekeeper	2017 Richmond Rate	2017 PWC Data	2017 Peer Monitor Data	2017 Troutman Sanders (Richmond)
Partner	Hamilton, Kevin J.	\$675.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Spiva, Bruce V.	\$675.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Elias, Marc E.	\$675.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Roche, John K.	\$465.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Frost, Elisabeth C.	\$490.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Khanna, Abha	\$510.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Spear, Ryan M.	\$510.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Partner	Stafford, William B.	\$505.00	\$460 - \$823	\$430 - \$761	\$385 - \$810
Associate	Branch, Aria C.	\$410.00	\$275 - \$405	\$317 - \$479	\$180 - \$475
Associate	Louijeune, Ruthzee	\$420.00	\$275 - \$405	\$317 - \$479	\$180 - \$475
Paralegal	Marino, Patricia	\$230.00	\$218 - \$285	\$125 - \$248	\$130 - \$300
Paralegal	Roberts, Rachel M.	\$180.00	\$218 - \$285	\$125 - \$248	\$130 - \$300

¹ The PWC data set for the tables in paragraph 16 reflects: (1) the low to high ranges for the 1st quartile of the “All Partner” Category; (2) 3rd quartile to 1st quartile rates for the “All Associate” category; and (3) the low to high ranges for the 1st quartile of the “Paralegal” Category.

² The *Peer Monitor* data set for the tables in paragraph 16 reflects: (1) for partner ranges, the All Partner 3rd quartile to 1st quartile; (2) for the associate ranges, the All Associate 3rd quartile to 1st quartile; and (3) for the paralegal range, the Paralegal 3rd quartile to 1st quartile.

The same comparison is provided for the 2018 calendar year:

Position	Timekeeper	2018 Richmond Rate	2018 PWC Data	2018 Peer Monitor Data	2018 Troutman Sanders (Richmond)
Partner	Hamilton, Kevin J.	\$715.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Partner	Spiva, Bruce V.	\$715.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Partner	Elias, Marc E.	\$715.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Partner	Frost, Elisabeth C.	\$530.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Partner	Khanna, Abha	\$550.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Partner	Spear, Ryan M.	\$550.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Partner	Stafford, William B.	\$545.00	\$705 -\$814	\$433 - \$744	\$475 - \$830
Associate	Branch, Aria C.	\$430.00	\$310 - \$434	\$337 - \$500	\$190 - \$525
Associate	Louijeune, Ruthzee	\$430.00	\$310 - \$434	\$337 - \$500	\$190 - \$525
Associate	Gitt Webster, Mallory	\$370.00	\$310 - \$434	\$337 - \$500	\$190 - \$525
Paralegal	Depass, Michelle	\$235.00	\$228 - \$303	\$130 - \$265	\$140 - \$310
Paralegal	Marino, Patricia	\$235.00	\$228 - \$303	\$130 - \$265	\$140 - \$310
Paralegal	Roberts, Rachel M.	N/A	N/A	N/A	N/A

The same comparison is provided for the 2019 calendar year:

Position	Timekeeper	2019 Richmond Rate	2019³ PWC Data	2019 Peer Monitor Data	2019 Troutman Sanders (Richmond)
Partner	Hamilton, Kevin J.	\$750.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Partner	Spiva, Bruce V.	\$750.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Partner	Elias, Marc E.	\$750.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Partner	Frost, Elisabeth C.	\$570.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Partner	Khanna, Abha	\$590.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Partner	Spear, Ryan M.	\$590.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Partner	Stafford, William B.	\$585.00	\$705 -\$814	\$467 - \$788	\$585 - \$855
Associate	Branch, Aria C.	\$480.00	\$310 - \$434	\$282 - \$ 498	\$370 - \$550
Associate	Louijeune, Ruthzee	\$480.00	\$310 - \$434	\$282 - \$ 498	\$370 - \$550
Associate	Gitt Webster, Mallory	\$400.00	\$310 - \$434	\$282 - \$ 498	\$370 - \$550
Paralegal	Depass, Michelle	\$250.00	\$228 - \$303	\$135 - \$284	\$150 - \$365
Paralegal	Marino, Patricia	\$250.00	\$228 - \$303	\$135 - \$284	\$150 - \$365
Paralegal	Roberts, Rachel M.	N/A	N/A	N/A	N/A

³ PWC lacked data for 2019 and thus the 2019 chart includes the same PWC data from 2018. In my experience, billable rates would have increased from 2018 to 2019, and thus the PWC data understates the billable rates that would have been applicable in 2019.

17. With respect to the reasonableness of the Richmond Rates charged by Perkins Coie in this matter, I have considered the PWC reports and the *Peer Monitor* surveys discussed above, the billable rates charged by my own firm as discussed above, and my experience as outlined above in this declaration. Based on the foregoing, it is my opinion that:

i. in view of the complexity of this matter and significance of the dispute to the parties, Plaintiffs were reasonable in choosing Messrs. Hamilton, Elias, Spiva and the experienced team of Perkins Coie litigators to represent them in this matter.

ii. the hourly rates charged during the relevant period for an attorney like Mr. Hamilton, a partner with Perkins Coie, with more than thirty years of experience (as of 2017) with election and political law, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

iii. the hourly rates charged during the relevant period for an attorney like Mr. Elias, a partner with Perkins Coie, with more than twenty-four years of experience (as of 2017) with litigation involving politics, campaign finance, voting rights, and significant experience representing clients in the Eastern District of Virginia, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

iv. the hourly rates charged during the relevant period for an attorney like Mr. Spiva, a partner with Perkins Coie, with twenty-five years of experience (as of 2017) with election and political law were reasonable, well within the prevailing market

range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

v. the hourly rates charged during the relevant period for an attorney like Mr. Roche, a partner with Perkins Coie, with more than thirteen years of experience (as of 2017) with complex commercial litigation, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

vi. the hourly rates charged during the relevant period for an attorney like Ms. Frost, a partner with Perkins Coie, with ten years of experience (as of 2017) with redistricting, voting rights, and campaign finance litigation, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

vii. the hourly rates charged during the relevant period for an attorney like Ms. Khanna, a partner with Perkins Coie, with ten years of experience (as of 2017) with complex litigation including intellectual property, antitrust, commercial contract disputes, constitutional issues, and political law, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

viii. the hourly rates charged during the relevant period for an attorney like Mr. Spear, a partner with Perkins Coie, with ten years of experience (as of 2017)

handling complex litigation involving free speech, privacy, and security, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

ix. the hourly rates charged during the relevant period for an attorney like Mr. Stafford, a partner with Perkins Coie, with ten years of experience (as of 2017) handling complex litigation involving labor and employment, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

x. the hourly rates charged during the relevant period for an attorney like Ms. Branch, an associate with Perkins Coie, with five years of experience (as of 2017) within the firm's political law practice, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

xi. the hourly rates charged during the relevant period for an attorney like Ms. Louijeune, an associate with Perkins Coie, with three years of experience (as of 2017) within the firm's political law practice, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

xii. the hourly rates charged during the relevant period for an attorney like Ms. Webster, an associate with Perkins Coie, with two years of experience (as of 2017) in business litigation and labor & employment law, were reasonable, well within

the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

xiii. the hourly rates charged during the relevant period for Ms. Depass, Ms. Marino, and Ms. Roberts, experienced paralegals with 18, 19, and 4 years of experience, respectively, handling complex litigation with Perkins Coie, were reasonable, well within the prevailing market range in Richmond, and in line with rates charged by comparable law firms in the Richmond area for the services of an attorney of comparable experience and expertise.

18. In sum, based on the foregoing, I believe the Richmond Rates sought by Plaintiffs in this matter are reasonable and consistent with the billable hourly rates charged by comparable law firms in the Richmond area for the services of attorneys and paralegals of comparable experience and expertise.

19. I am being compensated in the amount of \$895 an hour for the time devoted to enable me to prepare this Declaration expressing my opinions. My compensation is not contingent in any way on the outcome of Plaintiffs' application for attorneys' fees or upon the content of this affidavit. With the exception of my engagement in this matter, I have no business or financial relationship with the Plaintiffs' counsel. I have never represented Plaintiffs in my practice of law, and Troutman Sanders has no ongoing relationship with Plaintiffs.

20. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on May 8, 2020.

/s/ Robert A. Angle

Robert A. Angle

EXHIBIT 1

Timekeeper	2017 Richmond Rate	2018 Richmond Rate	2019 Richmond Rate
Branch, Aria C.	\$410.00	\$430.00	\$480.00
Depass, Michelle	n/a	\$235.00	\$250.00
Elias, Marc E.	\$675.00	\$715.00	\$750.00
Frost, Elisabeth C.	\$490.00	\$530.00	\$570.00
Gitt Webster, Mallory	n/a	\$370.00	\$400.00
Hamilton, Kevin J.	\$675.00	\$715.00	\$750.00
Khanna, Abha	\$510.00	\$550.00	\$590.00
Louijeune, Ruthzee	\$420.00	\$430.00	\$480.00
Marino, Patricia	\$230.00	\$235.00	\$250.00
Roberts, Rachel M.	\$180.00	n/a	n/a
Roche, John K.	\$465.00	n/a	n/a
Spear, Ryan M.	\$510.00	\$550.00	\$590.00
Spiva, Bruce V.	\$675.00	\$715.00	\$750.00
Stafford, William B.	\$505.00	\$545.00	\$585.00

Employee Last Name	Expense Amount (rpt)	Transaction Date	Expense Type	Vendor
<u>LITIGATION EXPENSES AND COSTS</u>				
TRAVEL EXPENSES FOR BLOCK				
EXPENSES FOR JULY 26, 2015 HEARING				
Block	523.10	Jul 16, 2015	Airfare	United Airlines
Block	333.24	Jul 16, 2015	Airfare	American Airlines
Block	22.86	Jul 26, 2015	Hotel Tax	Courtyards
Block	149.00	Jul 26, 2015	Hotel	Courtyards
Block	26.54	Jul 26, 2015	Dinner	Courtyards
Block	9.31	Jul 26, 2015	Dinner	RESTAURANT
Block	5.79	Jul 27, 2015	Dinner	STARBUCKS A 001058152
Block	40.30	Jul 27, 2015	Taxi	GTM TAXI MANAGEMENT CORP
SUBTOTAL	1,110.14			
EXPENSES FOR CA4 ORAL ARGUMENT ON JANUARY 27, 2016				
Block	98.10	Dec 8, 2015	Airfare	DELTA AIRLINES
Block	98.10	Dec 8, 2015	Airfare	JETBLUE ARC
Block	121.00	Jan 26, 2016	Hotel	COMMONWEALTH PARK SUITES
Block	16.09	Jan 26, 2016	Hotel Tax	COMMONWEALTH PARK SUITES
Block	27.91	Jan 26, 2016	Lunch	CIBO BISTRO WINE AND BAR
Block	2.31	Jan 27, 2016	Lunch	HUDSON NEWS
Block	71.88	Jan 27, 2016	Taxi	TAXI CREDIT CARD CORP
SUBTOTAL	435.39			
EXPENSES FOR JUNE 29, 2016 STATUS CONFERENCE				
Block	460.20	Jun 23, 2016	Airfare	American Airlines
Block	26.61	Jun 28, 2016	Hotel Tax	WYNDAM GARDEN NORFOLK DOW
Block	175.75	Jun 28, 2016	Hotel	WYNDAM GARDEN NORFOLK DOW
Block	10.00	Jun 29, 2016	Parking	WYNDAM GARDEN NORFOLK DOW
Block	13.71	Jun 28, 2016	Breakfast	AU BON PAIN 723 C
Block	4.24	Jun 28, 2016	Lunch	AUNTIE ANNE'S LGA
Block	3.26	Jun 28, 2016	Lunch	AU BON PAIN 723 C
Block	12.00	Jun 29, 2016	Breakfast	BLACK TUNA
Block	5.38	Jun 29, 2016	Lunch	GREAT AMERICAN BAGEL 131
Block	5.18	Jun 29, 2016	Lunch	STARBUCKS A 001058152
Block	3.99	Jun 28, 2016	Lunch	HUDSON NEWS
Block	42.30	Jun 29, 2016	Taxi	JTL MANAGEMENT INC
SUBTOTAL	762.62			
EXPENSES FOR MEETING WITH SOLICITOR GENERAL ON DECEMBER 16, 2016				
Block	458.00	Dec 2, 2016	Train	AMTRAK AGENCY X
Block	6.41	Dec 6, 2016	Taxi	UBER
Block	11.88	Dec 6, 2016	Breakfast	SBUX07759
Block	4.22	Dec 6, 2016	Lunch	HUDSON NEWS
Block	19.03	Dec 6, 2016	Lunch	B02 PAUL PENN
Block	7.96	Dec 6, 2016	Dinner	JAMBA JUICE JJ WASH #1286
Block	2.25	Dec 6, 2016	Dinner	AMTRAK POS F&B
SUBTOTAL	509.75			
EXPENSES FOR SEPTEMBER 17, 2018 SCHEDULING CONFERENCE				
Block	887.00	Sep 6, 2018	Airfare	Delta Air Lines
Block	27.23	Sep 16, 2018	Hotel Tax	TRAVEL RESERVATION US
Block	139.20	Sep 16, 2018	Hotel	TRAVEL RESERVATION US
Block	10.00	Sep 17, 2018	Parking	WYNDAM GARDEN NORFOLK DOW
Block	23.01	Sep 16, 2018	Dinner	BLACK TUNA
Block	4.40	Sep 17, 2018	Lunch	CIBO EXPRESS V
Block	57.74	Sep 16, 2018	Taxi	LYFT.COM
Block	42.89	Sep 18, 2018	Taxi	LYFT.COM
SUB-TOTAL	1,191.47			
EXPENSES FOR SEPTEMBER 22, 2018 DEPOSITIONS OF COLLINS AND CLEMONS				
Block	314.80	Sep 6, 2018	Airfare	Delta Air Lines
Block	331.39	Sep 6, 2018	Airfare	United Airlines
Block	62.64	Sep 21, 2018	Car Rental	Avis
Block	95.20	Sep 20, 2018	Hotel	TRAVEL RESERVATION US
Block	16.47	Sep 20, 2018	Hotel Tax	TRAVEL RESERVATION US
Block	23.92	Sep 20, 2018	Dinner	MEXICO RESTAURANT INNSBROOK
Block	3.11	Sep 21, 2018	Breakfast	SBUX00738
Block	21.26	Sep 21, 2018	Dinner	EMPIRE TAVERN
Block	45.43	Sep 21, 2018	Taxi	LYFT.COM
Block	59.02	Sep 22, 2018	Taxi	LYFT.COM
SUBTOTAL	973.24			
EXPENSES FOR OCTOBER 10, 2018 DEPOSITIONS OF LORD, WAGNER, AND DURR				

Block	417.88	Oct 1, 2018	Airfare	American Airlines
Block	115.72	Oct 9, 2018	Hotel	Homewood Suites
Block	15.39	Oct 9, 2018	Hotel Tax	Homewood Suites
Block	13.32	Oct 9, 2018	Lunch	RUDY TUESDAY
Block	5.25	Oct 9, 2018	Lunch	E STARBUCKS #156
Block	3.50	Oct 9, 2018	Dinner	Homewood Suites
Block	5.28	Oct 10, 2018	Dinner	C FRESH ATTRACTIONS #460
Block	7.24	Oct 10, 2018	Lunch	BURGER KING
Block	3.15	Oct 10, 2018	Lunch	HUDSON NEWS
Block	2.58	Oct 10, 2018	Lunch	RICHMOND AIRPORT
Block	64.86	Oct 9, 2018	Taxi	LYFT.COM
Block	58.43	Oct 11, 2018	Taxi	LYFT.COM
SUB-TOTAL	712.60			
EXPENSES FOR OCTOBER 18, 2018 SETTLEMENT CONFERENCE AND OCTOBER 19, 2018 DEPOSITIONS				
Block	194.52	Sep 6, 2018	Airfare	Delta Air Lines
Block	198.20	Sep 6, 2018	Airfare	American Airlines
Block	149.59	Oct 18, 2018	Hotel	Hampton Inns
Block	7.93	Oct 18, 2018	Hotel Tax	Hampton Inns
Block	149.59	Oct 19, 2018	Hotel	Hampton Inns
Block	7.93	Oct 19, 2018	Hotel Tax	Hampton Inns
Block	15.00	Oct 18, 2018	Parking	Hampton Inns
Block	15.00	Oct 19, 2018	Parking	Hampton Inns
Block	19.86	Oct 17, 2018	Dinner	BELLE AND JAMES
Block	3.72	Oct 19, 2018	Breakfast	AMS-BW NEWARK JV
Block	6.57	Oct 19, 2018	Breakfast	SEFTON COFFEE CO
Block	4.42	Oct 19, 2018	Dinner	RICHMOND AIRPORT
Block	54.83	Oct 20, 2018	Taxi	LYFT.COM
SUB-TOTAL	827.16			
EXPENSES FOR MARCH 14, 2018 DEPOSITION OF DR PENN				
Block	748.03	Mar 6, 2019	Airfare	United Airlines
Block	19.90	Mar 14, 2019	Hotel Tax	Hampton Inn & Suites
Block	149.59	Mar 14, 2019	Hotel	Hampton Inn & Suites
Block	16.04	Mar 13, 2019	Dinner	Belle
Block	17.89	Mar 13, 2019	Lunch	Gateside Market
Block	25.51	Mar 14, 2019	Business Meals w/Attendees	Maya Downtown
Block	63.31	Mar 13, 2019	Taxi	Lyft
Block	22.25	Mar 13, 2019	Taxi	Lyft
Block	21.26	Mar 13, 2019	Taxi	Lyft
Block	33.33	Mar 14, 2019	Taxi	Lyft
Block	15.70	Mar 14, 2019	Taxi	Lyft
SUBTOTAL	1,132.81			
EXPENSES FOR JULY 23, 2019 SUMMARY JUDGMENT HEARING				
Block	281.44	Jun 14, 2019	Airfare	Delta Air Lines
Block	155.59	Jul 24, 2019	Car Rental	Hertz
Block	3.34	Jul 23, 2019	Gasoline	WAWA GAS STORE 8633
Block	149.00	Jul 22, 2019	Hotel	TRAVEL RESERVATION US
Block	28.45	Jul 22, 2019	Hotel Tax	TRAVEL RESERVATION US
Block	18.00	Jul 23, 2019	Parking	RESIDENCE INN
Block	18.00	Jul 23, 2019	Parking	RESIDENCE INN
Block	3.32	Jul 23, 2019	Breakfast	SBUX07478
Block	2.76	Jul 23, 2019	Lunch	STARBUCKS CONC B#151
Block	24.74	Jul 23, 2019	Dinner	EMPIRE TAVERN
Block	51.19	Jul 23, 2019	Taxi	LYFT
Block	45.16	Jul 24, 2019	Taxi	LYFT
SUBTOTAL	780.99			
TOTAL TRAVEL EXPENSES FOR BLOCK	8,436.17			
TRAVEL EXPENSES FOR MEDLEY				
EXPENSES FOR SEPTEMBER 23 DEPOSITIONS OF COLLINS AND CLEMONS				
Medley-Warsoff	445.30	Sep 7, 2018	Airfare	Delta Air Lines
Medley-Warsoff	331.39	Sep 7, 2018	Airfare	United Airlines
Medley-Warsoff	116.62	Sep 21, 2018	Hotel	HILTON GARDEN INN RICHMON
Medley-Warsoff	15.51	Sep 21, 2018	Hotel Tax	HILTON GARDEN INN RICHMON
Medley-Warsoff	23.93	Sep 20, 2018	Dinner	MEXICO RESTAURANT INNSBROOK
Medley-Warsoff	7.48	Sep 21, 2018	Breakfast	SBUX00738
Medley-Warsoff	7.22	Sep 21, 2018	Lunch	CIBO MARKET SHUTTLE
Medley-Warsoff	145.20	Sep 22, 2018	Taxi	IKE'S CAR SERVICE
SUBTOTAL	1,092.65			
EXPENSES FOR OCTOBER 10, 2018 DEPOSITIONS OF LORD, WAGNER, AND DURR				
Medley-Warsoff	314.80	Oct 1, 2018	Airfare	Delta Air Lines

Medley-Warsoff	208.94	Oct 1, 2018	Airfare	American Airlines
Medley-Warsoff	15.39	Oct 9, 2018	Hotel Tax	HOMEWOOD SUITES RICHMOND
Medley-Warsoff	115.72	Oct 9, 2018	Hotel	HOMEWOOD SUITES RICHMOND
Medley-Warsoff	21.15	Oct 9, 2018	Dinner	GRUBHUB
Medley-Warsoff	4.98	Oct 9, 2018	Lunch	NEWSLINK 28 BOS
Medley-Warsoff	2.52	Oct 10, 2018	Lunch	HUDSON NEWS
Medley-Warsoff	4.58	Oct 10, 2018	Breakfast	SBUX00738
Medley-Warsoff	33.81	Oct 10, 2018	Dinner	RICHMOND AIRPORT
Medley-Warsoff	26.99	Oct 9, 2018	Taxi	UBER
Medley-Warsoff	30.46	Oct 9, 2018	Taxi	UBER
Medley-Warsoff	124.30	Oct 10, 2018	Taxi	TAXI-NEWARK.COM 2
SUBTOTAL	903.64			

EXPENSES FOR OCTOBER 18 SETTLEMENT CONFERENCE AND OCTOBER 19 DEPOSITIONS

Medley-Warsoff	198.20	Sep 8, 2018	Airfare	American Airlines
Medley-Warsoff	194.52	Sep 8, 2018	Airfare	Delta Air Lines
Medley-Warsoff	22.40	Oct 17, 2018	Hotel Tax	Hampton Inns
Medley-Warsoff	168.40	Oct 17, 2018	Hotel	Hampton Inns
Medley-Warsoff	168.40	Oct 18, 2018	Hotel	Hampton Inns
Medley-Warsoff	22.40	Oct 18, 2018	Hotel Tax	Hampton Inns
Medley-Warsoff	4.40	Oct 18, 2018	Lunch	COTTO MARKET
Medley-Warsoff	16.93	Oct 17, 2018	Dinner	BELLE AND JAMES
Medley-Warsoff	2.52	Oct 19, 2018	Lunch	HUDSON NEWS
Medley-Warsoff	27.37	Oct 19, 2018	Dinner	GRUBHUB
Medley-Warsoff	118.30	Oct 20, 2018	Taxi	TAXI-NEWARK.COM
SUBTOTAL	943.84			

EXPENSES FOR MARCH 14, 2019 DEPOSITION OF DR PENN

Medley-Warsoff	754.19	Mar 7, 2019	Airfare	United Airlines
Medley-Warsoff	130.77	Mar 13, 2019	Hotel	Hilton Hotels
Medley-Warsoff	17.39	Mar 13, 2019	Hotel Tax	Hilton Hotels
Medley-Warsoff	9.98	Mar 13, 2019	Lunch	Hudson News
Medley-Warsoff	13.78	Mar 13, 2019	Dinner	Belle
Medley-Warsoff	2.00	Mar 14, 2019	Breakfast	Sefton Coffee
Medley-Warsoff	11.02	Mar 14, 2019	Lunch	Maya Downtown
Medley-Warsoff	2.52	Mar 14, 2019	Dinner	Hudson News
Medley-Warsoff	123.10	Mar 14, 2019	Taxi	
SUBTOTAL	1,064.75			

EXPENSES FOR SUMMARY JUDGMENT HEARING ON JULY 23, 2019

Medley-Warsoff	281.44	Jun 14, 2019	Airfare	Delta Air Lines
Medley-Warsoff	28.45	Jul 22, 2019	Hotel Tax	TRAVEL RESERVATION US
Medley-Warsoff	149.00	Jul 22, 2019	Hotel	TRAVEL RESERVATION US
Medley-Warsoff	8.55	Jul 23, 2019	Lunch	FOOD HALL C
Medley-Warsoff	5.01	Jul 23, 2019	Lunch	SBUX07478
Medley-Warsoff	3.81	Jul 23, 2019	Breakfast	STARBUCKS CONC B#151
Medley-Warsoff	96.46	Jul 22, 2019	Taxi	UBER
Medley-Warsoff	58.68	Jul 23, 2019	Taxi	UBER
SUBTOTAL	631.40			

TOTAL TRAVEL EXPENSES FOR MEDLEY 4,636.28

GRAND TOTAL TRAVEL EXPENSES 13,072.45

OTHER COURT EXPENSES

N/A	1,499.84	6/3/2021	Record Press, Inc. 108614-Printing and binding of SCOTUS brief in Grimm v. Gloucester (GG013)
	2,313.15	9/21/2018	Depo Tr Collins and Clemons Planet Depos, LLC (Transcripts in mtrr Gavin v. Gloucester)
	1,558.05	10/10/2018	Depo Tr Lord Durr Wagner Planet Depos, LLC (Deposition transcripts)
	935.10	10/19/2018	Depo Tr Gavin and Deirdre Planet Depos, LLC (Deposition transcripts Nov'18)
	1,342.60	3/12/2019	Depo Tr Anderson Planet Depos, LLC
	2,866.00	3/18/2019	Depo Tr Van Meter Planet Depos, LLC (Deposition transcripts)
	540.00	3/18/2019	Depo Tr Van Meter - Video Conf Fe Planet Depos, LLC (Deposition transcripts)
	761.95	3/14/2019	Depo Tr Dr. Penn Planet Depos, LLC (Deposition transcripts)

TOTAL OTHER EXPENSES 11,816.69

GRAND TOTAL ALL EXPENSES 24,889.14

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
_____)	

DECLARATION OF EDEN B. HEILMAN

In support Plaintiff’s application for an award of attorneys’ fees and costs, I, Eden B. Heilman, declare under penalty of perjury that the following is true:

Professional Background and Experience

1. I graduated with my J.D. from Loyola University New Orleans College of Law in 2006, master’s degree in social work from Tulane University School of Social Work in 2002, and bachelor’s degree from the University of Florida in 2000.
2. From 2006 to 2007, I worked as a law fellow at the Juvenile Justice Project of Louisiana. As a law fellow, I represented youth in administrative proceedings before school boards and the Louisiana Department of Education, in juvenile court, and in federal court.
3. From July 2007 to March 2018, I was employed by the Southern Poverty Law Center working on civil rights litigation, first as a staff attorney, then as a senior staff attorney, managing attorney, and the director of the organization’s Louisiana office.
4. As a staff attorney and senior staff attorney for the Southern Poverty Law Center from 2007 to 2013, I gained deep experience representing children and youth, particularly in the

education setting. My specific practice areas were children’s rights, education, juvenile justice, and children’s mental health. I led the organization’s public advocacy efforts and brought impact litigation before both administrative and federal courts on issues such as disability discrimination against youth, school-based arrests, and failure to provide mental health services for at-risk youth, including serving as the lead attorney on the class action *Berry, et al v. Pastorek*, No. 2:10-cv-04049 (E.D. La. filed Oct. 26. 2010).

5. As the managing attorney and director of the Louisiana office of the Southern Poverty Law Center, I oversaw our public advocacy and litigation in Louisiana on additional issues such as immigrant justice, criminal justice reform, LGBTQ rights, and economic justice.

6. Since June 2018, I have served as legal director for the American Civil Liberties Union (“ACLU”) of Virginia (“ACLU-VA”). As legal director, I oversee the organization’s litigation docket on issues such as criminal justice reform, gender equity and sex discrimination, free speech and religious liberty, voting, and privacy and technology. The vast majority of the ACLU-VA’s litigation is before the federal courts of Virginia and the Fourth Circuit. My work since 2018 has included cases such as: *Reyes v. Clarke*, No. 3:18CV611 (W.D. Va. filed Sept. 4, 2018) (representing plaintiff); *Thorpe, et al. v. Va. Dep’t of Corrections, et al.*, No. 2:20-cv-00007 (W.D. Va. filed May 6, 2019) (representing plaintiff class); *Whorley, et al. v. Northam, et al.*, No. 3:20-cv-002555 (E.D. Va. filed April 8, 2020) (representing plaintiffs); *League of Women Voters, et al. v. Va. State Bd. of Elections, et al.*, No. 6:20-cv-00024 (W.D. Va. filed April 17, 2020) (representing plaintiffs); *Updegrove, et al. v. Herring*, No. 1:20-cv-01141 (E.D. Va. filed Sept. 28, 2020) (as amici); *Mullins v. Town of Richlands, et al.*, No. 1:19-cv-00017 (W.D. Va. filed April 4, 2019) (representing plaintiff); *Housing Opportunities Made Equal of Virginia, Inc. v. Wisely Properties, et al.*, No. 3:19-cv-413 (E.D. Va. filed June 4, 2019) (representing plaintiff);

Shiyanbade, et al. v. Executive Health Group, et al., No. 3:19-cv-00726 (E.D. Va. filed Oct. 2, 2019) (representing plaintiffs); *Falls Church Medical Center, et al. v. Oliver, et al.*, No. 3:18-cv-00428) (E.D. Va. filed June 20, 2018) (representing plaintiffs); *Porter v. Clarke*, No. 18-6257 (4th Cir. August 28, 2018) (as *amici*); *Latson v. Clarke*, No. 18-2457 (4th Cir. Feb. 11, 2019) (as *amici*); *Tun-Cos, et al. v. Perrotte, et al.*, 18-1451 (4th Cir. July 1, 2019) (as *amici*); and *Mathena v. Malvo*, 18-217 (U.S. 2019) (representing federal court scholars as *amici*).

7. I am admitted to practice before the state and federal courts of Virginia and Louisiana, the United States Court of Appeals for the Fourth Circuit, the United States Court of Appeals for the Fifth Circuit, and the Supreme Court of the United States.

8. I serve as a member of the Special Committee on Lawyer Referrals for the Virginia State Bar; I have taught both law school courses and continuing legal education on issues such as education law, disability law, poverty law, and community justice; and I have presented on these issues before national agencies and organizations such the U.S. Department of Justice Civil Rights Division, the American Bar Association, the Federal Bar Association, the National Disability Rights Network, the National Juvenile Justice Network, and the Council of Parent Attorneys and Advocates.

ACLU-VA Attorney Hours for Gavin Grimm's Case

9. I have served as the primary counsel for the ACLU-VA on this case since I began as the organization's legal director in June 2018. Attached as Exhibit A is the spreadsheet for my hours spent litigating this case, kept contemporaneously. In sum, the spreadsheet indicates I have spent 145 hours litigating this case from June 2018 until the Supreme Court denied the Gloucester County School Board's second petition for certiorari. In addition, I spent over 28 hours preparing

the fee petition and accompanying materials but have reduced that amount to 15 hours as a matter of billing judgment.

10. In September 2018, I was joined by Jennifer Safstrom, who was serving a two-year Dunn fellowship with the ACLU-VA following her graduation from Georgetown Law School in May 2018. Attached as Exhibit B are Ms. Safstrom's contemporaneous time records for her work on this case, which she provided at the conclusion of her fellowship in June 2020. Her declaration in support of her time records is attached as Exhibit C. Ms. Safstrom is currently employed as counsel at Georgetown University Law Center's Institute for Constitutional Advocacy and Protection. As a matter of billing judgment, I have adjusted those records to exclude any hours that may have been excessive, redundant, or unnecessary. Ms. Safstrom spent 81.45 hours working on this case.

11. Prior to my arrival at the ACLU-VA, this case was staffed locally by former ACLU-VA legal director Rebecca Glenberg and advocacy counsel Gail Deady. Ms. Glenberg graduated from the University of Chicago Law School in 1997, worked at the Legal Aid Society of Hawaii from 1997 to 1999, and served as legal director of the ACLU-VA from June 1999 to November 2015. She is currently employed as the Senior Civil Liberties Staff Counsel at the ACLU of Illinois. Ms. Deady graduated from Washington and Lee University School of Law in 2011, worked as an attorney at the firm of McCandlish Holton from 2011 to 2015, and served as advocacy counsel for the ACLU-VA from March 2015 to April 2018. She is currently employed as a staff attorney at the Center for Reproductive Rights. Attached as Exhibit D is Ms. Glenberg's contemporaneous time record for her work on this case, kept in the ACLU-VA's case management software. Attached as Exhibit E are Ms. Deady's contemporaneous time records for her work on this case, saved on the ACLU-VA's legal server. As a matter of billing judgment, both sets of records have

been adjusted to reduce excessive, redundant, or unnecessary billing entries. Ms. Glenberg's hours total 52.33 and Ms. Deady's total 149.47.

12. From its beginning in 2015 through the present, this case has been entirely staffed in house by the national ACLU and the ACLU-VA without the support of a law firm or other outside legal assistance. The national ACLU provided significant subject matter and litigation expertise while the ACLU-VA contributed its Virginia-based civil rights litigation experience as well as its geographic proximity to the client and his family, the Gloucester County School Board, relevant witnesses, and the Court.

13. Work on this litigation required close collaboration and communication between the attorneys at national ACLU, who were admitted *pro hac vice*, and our attorneys at the ACLU-VA who were admitted to practice directly before this Court. Counsel for the ACLU-VA played a significant supporting role in drafting pleadings, preparing records and exhibits, communicating with the client, fact and expert discovery, participating in settlement conferences, and other relevant litigation responsibilities. Even when counsel from national ACLU took primary responsibility for completing specific litigation tasks, counsel from the ACLU-VA were required under Local Rule 83.1(D)(2)-(3) and (F) to personally appear at every court appearance and personally file and sign every document submitted to this Court. In addition, ACLU-VA attorneys also had to be sufficiently informed of the details of the case such that "the Court [could] deal with the [local] attorney alone in all matters connected with the case," if necessary. Local Civil Rule 83.1(D)(3).

14. Nevertheless, this case been staffed as leanly as possible without compromising the ability to effectively prosecute the case. With the subject matter and legal expertise of our lead

counsel, Josh Block, from national ACLU, the ACLU-VA has been able to keep its staffing levels to no more than one or two attorneys at any given time.

15. The fee petition does not seek to recover for additional hours spent by several ACLU-VA colleagues, including 70.85 hours for our advocacy counsel Nicole Tortoriello who worked on the case from September 2018 through February 2021, and additional hours for Rebecca Glenberg who served in a “of counsel” role after she left the ACLU-VA from November 2015 until 2017. We are also not seeking to recover hours spent by two paralegals at the ACLU-VA.

16. As described in the supporting memorandum for the fee petition, Plaintiff seeks hourly rates for the ACLU-VA attorneys based on the prevailing legal market in Richmond, which is where the ACLU of Virginia is located. In my time as legal director of the ACLU-VA, I have become informed of the hourly rates charged by attorneys and law firms who provide civil litigation services in Virginia, including those who practice before the Eastern District of Virginia’s Richmond division. I have gathered this information by speaking with other attorneys and by periodically reviewing court decisions where attorneys’ fees are discussed. In my time serving as a supervisor of legal programs for two legal services organizations, I have also become familiar with the level of effort needed to provide reasonable and necessary legal services, particularly on complicated civil rights or constitutional matters. The rates proposed in Plaintiff’s petition are commensurate with the experience and ability of the ACLU-VA attorneys who worked on this case, and in line with the prevailing rate of attorneys of comparable skill, experience, and reputation performing similar services. Further, the hours billed by the ACLU-VA attorneys were reasonably necessary in scope and materiality to the litigation of this case and to advance the client’s interests.

17. The ACLU-VA's legal work and policy advocacy on issues impacting LGBTQ people in Virginia has also allowed me to become familiar with the other individuals, attorneys and organizations working in this space in the Commonwealth. To my knowledge, there are no other attorneys or legal advocacy organizations in Virginia with the depth and breadth of experience litigating the constitutional rights of LGBTQ people like the ACLU. In addition, as with all of our cases, the national ACLU and the ACLU-VA undertook this case on a *pro bono* basis without the client's assumption of any financial liability for attorneys' fees and subject to the risk that, if we did not prevail, we would receive no reimbursement for our time and expenses. We will receive payment for our time and expenses only to the extent that it is paid for by the Defendants. Attorneys at private law firms in the Norfolk market and throughout Virginia would be unable to litigate this case for six years without advance payment from the client or the prospect of a significant financial recovery through a contingency fee arrangement.

ACLU-VA Litigation Costs and Expenses

18. Attached as Exhibit F is a summary of the costs and expenses, exported from the ACLU-VA's billing system, incurred in this case by Plaintiff and advanced by the ACLU-VA. These expenses total \$2,578.71 and were reasonably necessary to litigate this case.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

July 26, 2021

/s/ Eden B. Heilman

Eden B. Heilman

Eden Heilman Time Records		
Date	Time	Description
6/4/2018	0.4	Review district court decision on motion to dismiss
7/31/2018	1.3	Review case file and past pleadings
8/13/2018	1.6	Compile list of ACLU-VA attys/paralegals who worked on case; hours; case costs
8/16/2018	0.6	Review memo from co-counsel re: attorneys fees
9/4/2018	0.3	Review CV and materials from potential expert
9/6/2018	0.6	Co-counsel phone call
9/10/2018	0.2	Emailed w/ opposing counsel
9/10/2018	0.2	Reviewed cv of potential expert
9/11/2018	0.8	Complete PHV application and work w/ Nicole to file and remove Claire
9/11/2018	1	Call w/ potential expert
9/13/2018	0.5	Co-counsel phone call
9/13/2018	1.2	Draft and send notices for depositions for Collins and Clemons and arrange court reporter
9/17/2018	1.5	Attend scheduling conference and debrief in Norfolk
9/17/2018	0.5	Review depo outlines and materials for Collins and Clemons depositions
9/19/2018	1	Review depo outlines and materials for Collins and Clemons depositions
9/19/2018	0.9	Research on VA school bathroom policies
9/20/2018	0.6	Meeting w/ N. Tortoriello re: case logistics
9/20/2018	0.5	Review materials for potential expert
9/21/2018	3.5	Attend deposition of Collins
9/27/2018	0.3	Review emails exchanged with opposing counsel
10/1/2018	1.9	Review settlement memo, initial disclosures, and responses to discovery requests
10/2/2018	1.2	Review records for production
10/3/2018	1.4	Review transcripts of Clemons and Collins depositions
10/4/2018	0.4	Co-counsel phone call
10/5/2018	0.8	Research on depo expense and travel reimbursements
10/5/2018	0.4	Draft and send notices for depositions of Durr, Lord, and Wagner
10/9/2018	0.2	Review Dfs initial disclosures
10/11/2018	1.3	Review transcripts of Durr, Lord, and Wagner depositions
10/15/2018	1	Call w/ Gavin and legal team re: prep for settlement conference
10/15/2018	0.3	Review emails produced by opposing counsel
10/18/2018	6	Settlement conference at E.D.V.A.
10/18/2018	2	Deposition prep for Gavin, Deidre, and David Grimm
10/19/2018	6.5	Deposition of Gavin and Deidre Grimm
10/23/2018	1.3	Reviewed and edited draft of amended complaint

10/25/2018	0.9	Drafted and edited motion for leave to amend complaint
10/25/2018	0.3	Reviewed and edited expert engagement letter
10/25/2018	0.4	Reviewed and edited draft interrogatories
10/29/2018	0.8	Edited and filed motion to strike jury demand
11/14/2018	0.2	Reviewed Dfs objections to Pls interrogatories
11/19/2018	0.8	Review updated draft of expert report
11/19/2018	0.2	Review emails re: proposed policy resolution from Dfs
11/26/2018	0.2	Emails w/ co-counsel and Gavin re: proposed policy
11/27/2018	1.4	Call w/ expert re: report
11/27/2018	1.2	Reviewed expert report and drafted comments
11/28/2018	0.2	Emails w/ co-counsel re expert report
11/29/2018	0.2	Co-counsel phone call
12/3/2018	0.9	Edited motion for leave and 2nd amended complaint
12/3/2018	0.2	Call w/ Gavin re: settlement
12/3/2018	0.3	Emails w/ co-counsel re: settlement
12/4/2018	0.2	Call w/ Magistrate re: amending complaint and settlement
12/5/2018	0.3	Emails w/ co-counsel and opposing counsel re: amended complaint and settlement
12/7/2018	1.2	Reviewed and edited motion for leave and amended complaint. Drafted proposed order and filed.
12/19/2018	0.5	Call w/ Magistrate re: settlement
12/20/2018	1	Call w/ expert re: report
12/20/2018	0.2	Emails w/ co-counsel re: expert report
12/21/2018	0.8	Reviewed expert report; reviewed and edited 30(b)(6) notice
12/21/2018	0.3	Reviewed Dfs opposition to motion for leave
12/27/2018	0.7	Edited reply on motion for leave to file amended complaint and filed
1/9/2019	0.5	Co-counsel phone call
1/11/2019	0.3	Emails w/ co-counsel re: settlement, 30(b)(6) deps
1/12/2019	0.5	Reviewed Dfs objections to 30(b)(6) notice and Josh's draft letter in response
1/14/2019	0.3	Emails w/ co-counsel re: MSJ prep
1/16/2019	0.3	Call w/ Gavin and legal team
1/16/2019	0.2	Call w/ Magistrate re: settlement
1/17/2019	0.6	Look through photos for potential exhibits
1/17/2019	0.4	Review Magistrate's proposed language and emailed w/ Josh and Shayna
1/29/2019	0.5	Review Gavin's draft declaration and make comments
1/31/2019	0.6	Review Deirdre's draft declaration and make comments
2/5/2019	0.3	Emails w/ co-counsel re: settlement and discovery deadline

2/6/2019	0.1	Co-counsel phone call
2/7/2019	1.3	Review Gavin and Deirdre's updated declarations
2/8/2019	0.3	Emails w/ co-counsel re: settlement and 30b6 dep
2/11/2019	0.5	Co-counsel call to discuss settlement
2/12/2019	0.5	Call w/ David Corrigan to discuss board meeting, settlement.
2/12/2019	0.6	Call w/ Magistrate re: settlement of attys fees issue
2/13/2019	0.5	Call w/ co-counsel to discuss strategy re: board hearing
2/15/2019	0.6	Call w/ Magistrate re: settlement of attys fees issue
2/15/2019	0.7	Review draft decs from school administrators
2/19/2019	0.4	Emails w/ co-counsel re: board meeting and discovery deadlines
2/19/2019	3	School board meeting to consider policy change
2/20/2019	0.5	Co-counsel call to discuss board hearing and next steps
2/21/2019	0.4	Emails w/ co-counsel and opposing counsel re: Board's planned vote
2/21/2019	0.7	Review press release from school board; emails w/ co-counsel re: next steps
2/21/2019	0.9	Review edits/changes to Gavin and Deirdre's declarations
2/26/2019	0.9	Review dfs expert disclosure and expert report; email w/ co-counsel
2/28/2019	0.9	Review draft expert rebuttal; review our experts impressions of dfs expert report
3/1/2019	0.8	Review Deirdre and Gavin's updated declarations; list of questions for follow up
3/1/2019	1	Review Dfs answer to amended complaint and email w/ co-counsel
3/4/2019	0.3	Emails w/ co-counsel re: depo scheduling
3/5/2019	0.8	Review Dfs doc production
3/5/2019	0.9	Review 30b6 dep outline
3/5/2019	0.6	Comments to 30b6 dep outline
3/6/2019	0.2	Work w/ Marcie re: obtaining court reporter in Atlanta
3/7/2019	0.5	Review updated draft of Deirdre's dec; finalize
3/10/2019	2.2	Draft objections and responses to sub duces tecum of Dr. Penn
3/11/2019	0.6	Coordinate declaration from photographer
3/11/2019	0.4	Review updated draft of Gavin's dec; finalize
3/12/2019	0.2	Phone call w/ Josh and Shayna re: 30b6 depo
3/12/2019	0.5	Edit Van Meter depo notice and obj/resp to sub duces tecum of Dr. Penn
3/12/2019	0.2	Emails w/ co-counsel re: rule 45 subpoena
3/13/2019	0.3	Phone call w/ AG's office re: declaration
3/13/2019	0.2	Phone call w/ Josh about AG call re: declaration

3/13/2019	0.3	Emails w/ AG's office about declaration
3/13/2019	0.9	Review Anderson depo transcript
3/13/2019	0.2	Review draft dec from Janet Rainey
3/13/2019	0.3	Coordinate w/ Jennifer re dec from photographer; review draft
3/15/2019	0.2	Review draft notice of motion for summary judgment
3/15/2019	0.3	Emails w/ AG re: Rainey declaration
3/18/2019	0.2	Edit motion for summary judgment
3/18/2019	0.3	Emails w/ AG re: Rainey declaration; emails w/ co- counsel re: same
3/18/2019	0.9	Review rough transcript from Van Meter depo
3/19/2019	0.8	Edit draft motion for excess pages and draft proposed order and file
3/19/2019	0.3	Review final dec from Rainey; email w/ AG
3/19/2019	0.2	Review supplemental disclosures and letter
3/21/2019	2.9	Review and edit MSJ motion and memo
3/21/2019	0.9	Draft proposed order for MSJ
3/21/2019	1.4	Edit MSJ briefing
3/22/2019	0.8	Review correspondence and draft brief from Amicus school boards
3/22/2019	0.9	Review Penn depo transcript
3/26/2019	1.8	Do final edit of MSJ docs, downloaded exhibits and prepared for filing
3/26/2019	1.2	motion, memo, exhibits
3/27/2019	0.9	Review Dfs motion for summary judgment
3/29/2019	0.2	Emails w/ co-counsel re proposed schedule changes
4/7/2019	1.9	Review and edit Opp to Dfs MSJ
4/9/2019	2.2	Finalize exhibits and edit file draft and file Opp to Dfs MSJ
4/10/2019	1.2	Research issue re: redacted medical records, talk w/ Jennifer re: drafting decs and contacting custodians
4/10/2019	0.6	Meet w/ Marcie re: contacting custodians
4/11/2019	0.9	Edit draft declarations and follow up w/ Jennifer re: next steps
4/15/2019	3.2	Draft motion to file under seal, memo, notice, and proposed order
4/15/2019	0.9	Edit draft reply memorandum
4/16/2019	0.4	Incorporate edits into motion to seal memo
4/16/2019	0.9	Do final edit of reply docs and motion to seal docs
4/16/2019	1.1	Finalize reply docs and file on ECF; finalize motion to seal docs and file on ECF
4/17/2019	0.2	Phone calls to clerks office about deficient filing notice
4/17/2019	0.4	Help get paper copies of all documents prepared to file under seal w/ court

4/30/2019	0.5	Review Dfs Motion to strike exhibits from Pls MSJ
5/5/2019	0.9	Review and edit Pls opp to Dfs Motion to strike exhibits
5/6/2019	0.8	Edit opp to Dfs motion to strike
5/20/2019	0.3	Emails w/ co-counsel re: Daubert motion, MIL prep
5/20/2019	0.2	Emails w/ co-counsel re: Dfs filing motion to stay
5/21/2019	0.2	Emails w/ co-counsel re: responding to the court's questions re: oral arg
5/31/2019	0.3	Edit opp to Dfs motion to stay; file on ECF
6/6/2019	0.4	Review Dfs response in support of motion to stay
6/17/2019	0.4	Review and edit draft notice of supp authority - Karnoski
6/18/2019	0.3	File notice of supp authority
6/21/2019	0.3	Review Court's order re: denial of motion to stay
7/19/2019	0.8	Participate in moot for SJ oral arg
7/23/2019	1.8	Attend SJ arg in EDVA
8/9/2019	0.8	Review & makes notes on SJ decision
8/14/2019	0.2	Review and edit motion to defer fees and costs
8/16/2019	0.3	Prep for and participate in call w/ David and Josh re: fees and costs, transcript, etc.
8/16/2019	0.2	Finalize and file motion to defer fees & costs
8/21/2019	0.3	Review, finalize and file motion to withdraw for Shayna
9/6/2019	0.3	Prepare and file notice of appearance in 4th Circuit
9/13/2019	0.4	Review Dfs motion to hold appeal in abeyance
9/20/2019	0.5	Review and edit opp to Dfs motion to hold appeal in abeyance
9/25/2019	0.3	Emails w/ Marcie and court reporter about transcript from SJ hearing
9/26/2019	0.2	Emails w/ co-counsel re: 4th Cir denying abeyance motion
9/27/2019	0.3	Coordinate w/ Marcie re: SJ oral arg transcript
10/29/2019	2.2	Review and edit 4th Cir. opening brief
11/26/2019	2.4	Review all amicus briefs filed in 4th Cir
2/13/2020	0.3	Review and edit 28j letter re: Parents for Privacy in 9th Cir
2/26/2020	0.2	Meet w/ Marcie to discuss filings, paper copies, etc.
4/27/2020	0.2	Review and edit 28j letter re: NY State Rifle Assoc. case
5/21/2020	1.5	Participate in moot for 4th Circuit args
5/25/2020	1.5	Participate in second moot for 4th Circuit args
5/26/2020	1.9	Attend 4th Circuit args and debrief w/ co-counsel after
6/17/2020	1.2	Review and make notes on Bostock decision
6/18/2020	0.4	Review and edit supplemental briefing on Bostock
6/23/2020	0.2	Review Jennifer's motion to withdraw
8/8/2020	0.5	Review new decision from 11th Cir in Adams case

8/26/2020	0.8	Review and make notes on 4th Cir decision
9/8/2020	0.7	Compile hours from past ACLU-VA staff and expenses
9/9/2020	0.2	Emails w/ co-counsel about Dfs filing for rehearing en banc
9/30/2020	0.2	Emails w/ co-counsel re: GCSB filing cert petition w/ SCOTUS
10/2/2020	0.4	Review draft of motion to defer fee petition; email w/ co-counsel re same
10/8/2020	0.3	Finalize and file motion to defer fees & costs
4/9/2021	0.5	Review opp to cert petition
	133.6	
Total Non-Travel Time (in Hours)	133.6	
9/17/2018	4.5	Travel to and from Norfolk for scheduling conference
2/19/2019	1.2	Drive from RVA to Gloucester for board meeting
2/19/2019	1.2	Drive from Gloucester to RVA
7/22/2019	2.5	Travel to Norfolk for SJ arg
7/23/2019	2	Return travel from Norfolk after SJ arg
Total Travel Time (in Hours)	11.4	
Fee Petition		
9/1/2020	0.9	Begin compiling hours and expenses for fee petition
7/12/2021	0.3	Call w/ Josh re: fee petition
7/12/2021	1.6	Pull my time-keeping records; make adjustments to reduce hours
7/12/2021	0.4	Emails w/ Marcie re: formatting and exporting spreadsheet from Legal Files
7/12/2021	1.4	Emails w/ Ed re: fees expert; pull prior decs and fee petitions and review
7/12/2021	0.4	Email w/ Josh; break out sub-categories of time
7/13/2021	1.2	Pull time records for Jennifer; make adjustments to reduce hours
7/13/2021	0.3	Emails w/ Josh; review research
7/13/2021	1.1	Review research on billing rates
7/13/2021	0.4	Emails w/ Marcie and Cynthia re pulling expenses
7/13/2021	0.5	Scan server for expense records; receipts; compile

7/14/2021	1.3	Emails w/ Marcie and Mateo re: LF server; pull time for past employees; email w/ IT assts
7/14/2021	1.1	Pull time records for Nicole; make reductions and adjustments; send to Josh
7/14/2021	1.2	Pull time records for Gail; make reductions; send corrected copy to Josh
7/14/2021	0.6	Research re fee petition; emails w/ Josh
7/14/2021	1.3	Pull time records for Rebecca, Samantha, and Marcie; review and make reductions
7/15/2021	0.8	Make reductions and adjustments for time records
7/15/2021	0.3	Emails w/ IT re server access for Legal Files and expense reports
7/15/2021	0.2	Check in w/ Mary re: fee petition
7/16/2021	1.9	Pull entries from Legal Files for prior employees; review; reduce hours
7/16/2021	0.8	Update spreadsheet of costs and expenses; make adjustments; send to Josh
7/16/2021	0.2	Emails w/ Josh re: Rebecca's time records
7/19/2021	0.3	Review declarations from firms; email Josh
7/19/2021	1.8	Draft my declaration; send to Josh
7/19/2021	1.1	Draft motion for fees and costs; send to Josh
7/20/2021	0.8	Review and incorporate edits to draft motion; finalize
7/20/2021	0.2	Emails re: capping time on fee petition
7/21/2021	0.4	Emails w/ Josh re: decs; email w/ Jennifer re: declaration
7/21/2021	0.9	Edit draft of my declaration; send to Josh
7/21/2021	1.8	Review and edit draft memo in support of fee petition
7/23/2021	0.8	Review declaration from Jennifer; edit; emails with Jennifer; finalize
7/23/2021	0.4	Emails w/ Josh re: final docs for filing; review attachments
7/24/2021	0.6	Edit Josh's declaration; prep docs for filing
7/25/2021	0.9	Do final proof of motion, memo and decs
Total Fee Petition Time (in hours)	28.2	

Jennifer Safstrom

Date	Time	Description
9/10/2018	4	Review of case documents and history
9/11/2018	1	Potential expert call
9/13/2018	0.5	Call w/ legal team
9/21/2018	2.7	Clemons Deposition
10/4/2018	0.4	Call w/ legal team
10/15/2018	1	Call with Gavin and legal team
10/18/2018	4	Settlement conference
10/18/2018	2	Deposition prep
10/19/2018	6.5	Depositions Gavin and Deirdre Review amended complaint, motions, draft report
10/25/2018	4	
11/19/2018	0.3	Emails re: GCSB policy
11/20/2018	0.5	Review and comment on expert report draft
11/26/2018	0.2	Emails w/ team re: policy res
11/27/2018	1.4	Call with expert
12/4/2018	1.2	Edit amended complaint and mtn for leave Emails w/ team re: settlement and amended complaint
12/5/2018	0.4	Final line edit of amended complaint and motion; help w/ filing
12/7/2018	0.4	
12/20/2018	1	Call with expert
12/27/2018	1	Review 30b6, reply brief
1/9/2019	0.5	Call w/ legal team
1/11/2019	0.5	Emails w/ team re: settlement and 30b6
1/14/2019	0.2	Reviewed emails w/ team re: MSJ
1/17/2019	0.4	Begin reviewing photos for use in MSJ
1/19/2019	1.7	Work on draft declarations for MSJ Review emails from co-counsel re: settlement and discovery
2/5/2019	0.3	
2/8/2019	2	Depo prep
2/11/2019	0.5	Co-counsel call
2/13/2019	0.5	Co-counsel call re: board hearing
2/18/2019	0.75	Review decs for Bruce and Aberli
2/18/2019	2	Work on draft declarations for MSJ Review emails from co-counsel re: settlement and discovery
2/19/2019	0.4	
2/21/2019	0.4	Emails w/ co-counsel re settlement
2/26/2019	0.5	Review GCSB expert report
3/2/2019	0.9	Review GCSB answer to amended complaint
3/4/2019	0.4	Emails w/ team about depo scheduling Call with Gail, photographer research, email photographer, draft declaration
3/13/2019	3	

3/13/2019	1	Work on draft declarations for MSJ
		Update declaration update; follow up re:
3/14/2019	0.5	correspondence with Gail
3/14/2019	4	Penn Deposition
3/15/2019	1	Call Loving, correspondence to him
		Research and draft notice of motion for
3/15/2019	2	summary judgment
3/18/2019	4	Van Meter Deposition
3/21/2019	1	Edit MSJ brief
		Assist w/ finalizing docs, exhibit preparation,
3/26/2019	3	and MSJ filing
4/8/2019	2	Edit and finalize docs on MSJ opp
		Notice of motion and sealing motion review
		and edits, FU on certifications of medical
4/15/2019	2	records (VCU), Scans of mail re: Griffin/Sherie
4/16/2019	1.5	Edits, FU re: letters/certifications (VCU)
		Edit, review and finalize reply on MSJ and
4/16/2019	2.5	motion to seal and exhibits and help w/ filing
4/17/2019	0.5	Courtesy copy prep/review w/ Marcie
5/27/2019	0.5	Edit reply to motion to stay
7/19/2019	1.5	Prep for oral arg moot
7/19/2019	0.8	Oral arg moot
7/23/2019	1.7	MSJ oral argument
8/9/2019	1	Review and make notes on MSJ decision
8/13/2019	0.3	Review of stay of fees
9/19/2019	0.5	Review opposition to abeyance
5/21/2020	1.5	Moot for oral arg
5/25/2020	1.5	Second moot for oral arg
5/26/2020	2	Oral arg and post-arg debrief
6/23/2020	0.6	Prep and file motion to withdraw
	76.95	

**Total Non-Travel
Time (in hours) 76.95**

7/22/2019	2.5	Travel to Norfolk for SJ arg
7/23/2019	2	Return travel from Norfolk after SJ arg

**Total Travel Time
(in hours) 4.5**

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,

Plaintiff,

v.

Civil Case No. 4:15-cv-54-AWA-DEM

GLOUCESTER COUNTY SCHOOL BOARD,

Defendant.

DECLARATION OF JENNIFER SAFSTROM

1. I, Jennifer Safstrom¹, based on my personal knowledge, provide this declaration in support of Plaintiff's petition for attorney's fees and costs.

PROFESSIONAL BACKGROUND AND EXPERIENCE

2. I graduated from the University of Miami in 2011 with my Bachelor of Arts degree and from Georgetown University Law Center with my J.D. in 2018.

3. After graduating law school, I joined the American Civil Liberties Union (ACLU) of Virginia as the Dunn Legal Fellow in September 2018.

4. During my time at the ACLU of Virginia, I worked on array of civil rights issues, including LGBTQ and educational equity matters, among others. During my fellowship, I assisted with litigation in federal and state court, legislative advocacy before the Virginia Legislature, and community education activities.

5. I currently work as Counsel at the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown Law, a position I have held since July 2020.

¹ My notice of appearance was entered under the name Jennifer Marie Safstrom on March 7, 2019.

ATTORNEY HOURS FOR GAVIN'S CASE

6. I worked on Gavin's case during the course of my fellowship at the ALCU of Virginia, which extended from September 2018 to June 2020.

7. I maintained contemporaneous records of my time working on Gavin's case, which I provided to Eden Heilman before the end of my fellowship on June 26, 2020.

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

July 22, 2021



Jennifer Safstrom

Rebecca Glenberg

Date	Time in Minutes	Description
4/24/2015	150	Meeting w/ client
4/29/2015	76	Meeting w/ client
4/30/2015	20	Conference call w/ co-counsel and Dr. Ettrick re: expert report
4/30/2015	15	Phone call w/ DG and CG re: appt for expert evaluation, getting med records, factual matters
4/30/2015	10	Emails w/ co-counsel re: obtaining med records and additional facts for complaint
5/7/2015	60	Emails w/ Dr. Ettrick re: setting date for eval of CG Prepared medical records request to all client's providers
5/11/2015	120	Edit draft preliminary injunction brief
5/11/2015	40	Conference call w/ Randi Ettner
5/11/2015	75	Draft complaint
5/12/2015	110	Draft complaint
5/13/2015	375	Draft complaint
5/18/2015	30	Draft complaint; review edits
5/18/2015	30	Phone call w/ co-counsel and Dr. Ettrick re: expert dec Review edits to draft complaint; call w/ Gavin to review
5/20/2015	60	Conf call w/ Gavin to review complaint
5/21/2015	45	PI motion - draft fact section
5/26/2015	150	Draft fact section of PI brief Meet with Gavin and Deirdre re tasks to complete before lawsuit
5/26/2015	30	Edit PI brief
6/1/2015	30	Edit draft PI brief
6/1/2015	30	Phone call with DOJ attorneys
6/4/2015	30	Phone call w/ DOJ attys
6/4/2015	15	Phone call w/ DOJ attys
6/4/2015	15	Conference call w/ co-counsel re: litigation strategy and timeline
6/15/2015	15	Emails w/ co-counsel re: filing Telephone judge's clerk re docketing of case, use of G's full name, email co-counsel re same
6/15/2015	15	Review order re redaction; emails w/ co-counsel; address complaint and PI redaction
6/16/2015	70	Call w/ chambers re: scheduling PI
6/17/2015	10	Emails w/ co-counsel re: filing corrected versions of PI
6/17/2015	10	

		Emails w/ co-counsel re: scheduling PI hearing w/ opp counsel
6/23/2015	10	
6/23/2015	10	Call w/ opposing counsel re: scheduling PI
6/29/2015	20	Review DOJ statement of interest
		Phone call w/ opposing counsel re: setting hearing for PI motion; phone call w/ chambers re: same
6/29/2015	20	
6/29/2015	20	Draft response to motion to extend time
		Emails w/ co-counsel and opp counsel re: hearing on PI
6/30/2015	10	
6/30/2015	10	Email client re updates on case
7/7/2015	70	Review dfs opp brief to PI and MTD
		Call w/ opposing counsel re: hearing date on MTD
7/8/2015	5	
		Review dfs MTD and Motion for expedited briefing; edit brief in opp
7/9/2015	105	
7/16/2015	15	Emails re: hearing on PI and motion to dismiss
7/16/2015	15	Email to chambers re: change of hearing date
		Review emails re: denial of motion to expedite hearing; rescheduling; reply brief
7/17/2015	45	
7/17/2015	45	Call w/ client to prep for hearing
7/27/2015	90	Attend hearing on PI and MTD
7/27/2015	45	Post-hearing debrief
7/30/2015	20	Emails w/ co-counsel re timing and Title IX claim
		Review motion to expedite appeal; emails w/ co-counsel re: Ettner and GG decs
9/10/2015	60	
9/17/2015	20	Review court opinion denying PI
9/22/2015	44	Review and make edits to draft appellant brief
Total Minutes	2675	

Total Non-Travel Time (in Hours) 44.58

4/24/2015	105	Travel to and from Gloucester County Drive Dr. Ettner to and from Gloucester for psych eval
5/26/2015	150	
7/27/2015	210	Travel to and from Norfolk for PI and MTD hearing
Total Minutes	465	

Total Travel Time (in Hours) 7.75

Date	Description	Billable Minutes
4/29/2015	Emails with co-counsel and Gavin re: information for Complaint/state ID	10
4/30/2015	Develop plan for obtaining Gavin's relevant medical records; email to co-counsel and paralegal outlining plan	15
5/4/2015	Emails with Samantha and Rebecca re: updated info for Gavin's doctors	4
5/5/2015	Review letter to Deirdre (drafted by Samantha) re: HIPAA release	10
5/8/2015	Phone call with Gavin re: state ID; left voicemail.	3
5/11/2015	Emails with co-counsel regarding Rule 5.2 and whether Gavin's name must be redacted from court filings	5
5/11/2015	Phone call with Gavin re: state ID; school map/photos of restrooms; left voicemail	3
5/12/2015	Email to Gavin re: state ID; school map/photos of restrooms	7
5/13/2015	Email to Gavin re: VA ID card application, appt w/ Dr. Ettner, and school map/bathroom pictures	15
5/13/2015	Phone call with Gavin re: VA ID card application, appt w/ Dr. Ettner, and school map/bathroom pictures	10
5/14/2015	Review RKG draft Complaint.	30
5/14/2015	Review emails from Josh Block/Gavin and video of school restroom	5
5/14/2015	Emails with Josh re: status of medical records	5
5/15/2015	Edit complaint/review RKG edits	45
5/15/2015	Review Dr. Ettner's draft expert declaration	30
5/15/2015	Review medical records received from Children's Specialty Group	10
5/15/2015	Review medical records received from West Point Family Medicine	15
5/15/2015	Email to Josh and Rebecca re: medical records received and next steps	8
5/18/2015	Review addendum to expert declaration received from Dr. Ettner.	25
5/18/2015	Review version 5 of Dr. Ettner's expert declaration incorporating changes discussed during phone conference.	20
5/18/2015	Call to Gavin re: state ID; left voicemail.	3
5/19/2015	Emails/follow up with Samantha to confirm status of medical records.	10
5/19/2015	Email to Gavin re: school map and state ID card	15
5/19/2015	Phone call with Gavin re: school map and state ID card	10
5/19/2015	Follow up email to Gavin regarding state ID application forms	5
5/20/2015	Emails with Samantha re: status of requested medical records	3
5/21/2015	Emails with Gavin and co-counsel regarding state ID	3
5/27/2015	Review Rebecca's edits to PI brief and version 5 of Dr. Ettner's declaration	30
5/28/2015	Edit PI brief/review RKG comments	45
6/4/2015	Review final version of complaint	35
6/16/2015	Emails with co-counsel regarding court rejection of filings/requirement to redact Gavin's name	15
6/16/2015	Review court order re: redacting Gavin's name from court filings	5

6/16/2015	Draft letter to process server re: redacted copies of Complaint/PI/etc.	15
6/17/2015	Review memo in support of PI and correct spacing errors	75
6/17/2015	Email to process server re: update on service	5
6/17/2015	Emails to Josh/Rebecca re: filing corrected versions of PI, etc. to fix spacing errors and typo	15
6/17/2015	Emails with Josh regarding edits/corrections to PI/Mem Supp PI/accompanying exhibits	15
6/18/2015	Final review of PI/Mem Supp PI and accompanying exhibits; file with court via ECF	45
6/18/2015	Email to county attorney attaching	6
6/18/2015	File Request for Hearing on PI via ECF.	5
6/22/2015	Emails with co-counsel and county attorney re: assignment of law firm for defendant	5
6/23/2015	Emails with co-counsel regarding contact with opposing counsel re: scheduling hearing on PI	5
6/29/2015	Review DOJ statement of interest	30
6/30/2015	Emails with court, co-counsel, and opposing counsel regarding hearing on motion for PI.	20
7/1/2015	Emails with Rebecca and Josh regarding strategy for hearing on motion to dismiss	15
7/7/2015	Review defendant's brief in opposition to PI	60
7/16/2015	Review emails between co-counsel and opposing counsel regarding hearing on PI and Motion to Dismiss	10
7/16/2015	Re-file PI reply with COS	15
7/16/2015	Emails from court/co-counsel regarding denial of motion to expedite hearing on MTD and rescheduling hearing on all outstanding motions	5
7/23/2015	Email from counsel at Alliance Defending Freedom re: amicus brief and emails with co-counsel re: our response	10
7/27/2015	Attend hearing on PI and MTD	120
7/29/2015	Review transcript of hearing on PI and MTD	45
7/30/2015	Emails with co-counsel and Paul Smith re: timing for filing NOA for Title IX claim dismissal	15
7/31/2015	Review court order re: redacted transcript and sealing directive	5
8/14/2015	Emails with co-counsel re: timing for appealing denial of Title IX claim re: PI	5
9/11/2015	Review motion to expedite appeal	15
9/12/2015	Emails with Rebecca and Josh re: correcting Ettner and GG Declaration spacing issues	10
9/14/2015	Legal research regarding procedure for changing gender marker on birth certificate	25
9/15/2015	Emails with Rebecca and Josh re: filing corrected copies of GG and Ettner declarations	10
9/17/2015	Review court opinion denying PI	30
9/19/2015	Review draft appellant brief (version 14)	45
9/22/2015	Review and edit draft motion to correct redactions	15

9/22/2015	Review Rebecca's edits to appellant brief (version 16)	15
9/22/2015	Emails with co-counsel and opposing counsel re: content of JA	10
9/22/2015	File motion to file corrected declarations via ECF and prepare courtesy copies for mailing	15
9/23/2015	Review/edit/bluebook updated version of appellate brief (version 16)	70
9/25/2015	Emails with co-counsel/opposing counsel re: contents of JA	5
9/28/2015	Emails with court/co-counsel/opposing counsel re: scheduling mediation	5
9/30/2015	Emails with court/co-counsel/opposing counsel re: re-scheduling mediation	5
10/1/2015	Phone call with amicus group re: summary of briefs, next steps	20
10/5/2015	Emails with co-counsel and Kathy Greenier regarding outreach to Virginia medical associations for amicus brief	10
10/5/2015	File corrected declarations for Gavin and Dr. Ettner via ECF	10
10/9/2015	Review draft appellant brief and JA	60
10/10/2015	Edit and cite check appellant brief	160
10/11/2015	Edit and cite check appellant brief	195
10/23/2015	Phone mediation	30
10/27/2015	Receive, review, and edit draft reply brief.	105
10/27/2015	Receive and review draft email to mediator; draft reply email to Josh Block.	6
10/28/2015	Receive, review, and summarize amicus brief by National Women's Law Center.	50
10/28/2015	Receive, review, and summarize amicus brief by medical professionals.	50
10/28/2015	Receive, review, and summarize amicus brief by DOJ.	65
10/28/2015	Receive, review, and summarize amicus brief by Gender Benders.	45
10/30/2015	Phone call w/ Josh, Rebecca, DOJ attorneys.	15
11/2/2015	Receive, review, and edit draft motion to expedite argument.	30
11/3/2015	Complete final edits/revisions to motion to expedite and file via ECF.	20
11/16/2015	Receive, review, and respond to email from Liberty Counsel requesting permission to file amicus brief.	6
11/17/2015	Review Fourth Circuit local rules in response to court notice re: insufficient copies of brief; supervise paralegal to ensure additional briefs are prepared and delivered to the court.	25
11/23/2015	Receive, review, and analyze appellee brief in response; annotate.	70
11/25/2015	Review draft reply brief.	30
11/30/2015	Receive and review amicus brief filed by state of South Carolina.	30
11/30/2015	Receive and review amicus brief filed by Judith Reisman et al.	30
11/30/2015	Receive and review amicus brief filed by VA Family Foundation.	30
12/1/2015	Receive and review amicus brief filed by Eagle Forum.	30
12/1/2015	Receive, review, and edit draft reply brief incorporating responses & cites to amicus briefs.	30
12/2/2015	Receive and review redline version of reply brief with group edits incorporated.	15

	Receive and review email and letter from South Carolina Deputy Attorney General Emory Smith.	6
12/4/2015	Review final draft of reply brief and make final typographic edits; draft certificate of service and certificate of compliance.	30
1/15/2016	Participate in moot oral argument by phone.	80
3/18/2016	Receive, review, and analyze D. Ct. opinion re: plain meaning of sex w/r/t 28j letter.	30
4/19/2016	Receive, review, and analyze CA4 opinion.	45
5/1/2016	Receive and review Fourth Circuit Mandate.	5
5/3/2016	Draft/revise unopposed motion to amend caption in EDVA case.	15
5/3/2016	Receive, review, and analyze School Board's Petition for Rehearing en banc.	35
5/4/2016	Receive and review court order requesting response to School Board's motion for rehearing en banc.	5
5/10/2016	Review draft response in opposition to rehearing en banc.	30
5/10/2016	Receive, review, and analyze amicus brief filed by Gloucester students et al. in support of rehearing en banc.	20
5/10/2016	Receive, review, and analyze amicus brief filed by state attorneys general in support of rehearing en banc.	20
5/10/2016	Receive, review, and analyze amicus brief filed by Eagle Forum in support of rehearing en banc.	15
5/10/2016	Receive, review, and analyze amicus brief filed by Public Advocates in support of rehearing en banc.	10
5/11/2016	Receive and review email from RKG regarding draft brief in opposition to en banc review.	5
5/11/2016	Review updated version of brief in opposition to en banc review; complete edits and merge changes with other reviewer versions.	55
5/16/2016	Review FRAP 28j submission of supplemental authorities filed by School Board.	15
5/16/2016	Review Josh's proposed amendment to section of brief in response to account for 28j letter and draft email in response.	6
6/7/2016	RRA motion to stay CA4 mandate.	25
6/7/2016	RRA court order staying mandate pending resolution of motion to stay.	2
6/9/2016	RRA court order denying motion to stay mandate	2
6/10/2016	Receive, review, and make edits to draft SCOTUS stay response.	30
6/16/2016	Receive and review co-counsel emails re: date mandate to issue.	4
6/17/2016	RR court order issuing mandate.	2
6/21/2016	Phone call with Josh and David Corrigan.	40
6/21/2016	Receive and review emails from Josh re: briefing schedule/plan moving forward.	6
6/22/2016	Receive and review email from the court re: Rule 16b conference.	2
6/22/2016	Receive, review, and respond to emails re: scheduling 16b hearing; phone call w/ Josh and RKG.	30
6/23/2016	Receive and review court order granting preliminary injunction; emails w/ co-counsel.	5
6/24/2016	Emails w/ Josh and RKG re: strategy.	10

6/24/2016	Emails w/ David Corrigan and Josh re: phone call.	10
7/4/2016	Receive and review email from Kyle Duncan re: intent to file emergency stay of appeal in CA4.	2
7/5/2016	Receive and review email from Josh re: discovery plan and strategy, draft initial disclosures, draft RFPs.	5
7/5/2016	Review and make preliminary suggested edits to draft initial disclosures and RFPs.	40
7/6/2016	Review court order requesting response to motion for stay pending appeal by 2 pm 7/7/16.	2
7/6/2016	Draft notices of appearance for GMD, RKG and corporate disclosure statements.	40
7/6/2016	Review and edit draft stay opposition; cite check cases, references, and pin cites.	75
7/12/2016	Receive, review, and analyze opposing counsel's response to Josh's discovery proposals; discuss with team.	15
7/12/2016	Review draft protective order.	40
7/12/2016	Phone call with Josh and Rebecca.	15
7/13/2016	Review and analyze defendant's application for recall and stay of 4th Cir mandate.	10
7/14/2016	Review draft unopposed motion to strike.	15
7/14/2016	Receive email from Josh re: discovery plan; respond through multiple emails.	15
7/18/2016	Review and edit draft SCOTUS stay response.	30
7/19-21/2016	Scheduling emails with opposing counsel and Josh re: site inspection.	15
7/22/2016	Review and analyze defendant's RFP objections.	20
7/26/2016	Emails re: opposing counsel objections to Josh attending site inspection by video chat, splitting photographer costs, etc.	20
7/26/2016	Review and analyze draft letter to opposing counsel re: FERPA & leg priv.; f/u research.	20
7/27/2016	Review and analyze defendant's initial disclosures.	25
7/28/2016	Phone call w/ Josh and David.	20
7/28/2016	Email to client re: site inspection.	10
7/28/2016	Prepare for site inspection.	85
7/29/2016	Review and analyze School Board's SCOTUS stay application.	45
7/30/2016	Review photos from site visit and begin exhibit preparation; email to Josh with explanations.	90
7/30-8/1/16	Emails/discussion re: IT storage and sharing of photos.	25
8/1/2016	Scheduling emails re: depositions.	20
8/3/2016	Emails with opposing counsel re: photos, sharing files, photographer fees, etc.	20
8/3/2016	Receive, review, and organize client medical records.	40
8/15/2016	Review Josh edits to Joint Motion to Hold Appeal (EDVA)	10
8/15/2016	Review team emails re: School Board 30-day extension request.	10
8/15/2016	Phone call with Josh and David Corrigan.	15
8/16/2016	Review email from court re: keeping trial date; review team and opposing counsel response emails.	10

8/17/2016	Phone call with Josh and David Corrigan.	15
8/17/2016	Review opposing counsel edits to protective order	15
8/18/2016	Draft/revise stipulated motion for protective order and memorandum in support; circulate and receive feedback from team and opposing counsel; implement edits.	70
8/19/2016	Review and edit draft cert opposition.	70
8/19/2016	Review and edit revised memo, motion, protective order; circulate to group.	15
8/21/2016	Review updated version of cert opp.; transfer edits into new doc.	50
8/22/2016	Phone call with Josh, opposing counsel.	15
8/29/2016	Review and analyze School Board's Writ of Certiorari	75
8/30/2016	Review and edit draft brief in opposition to certiorari.	90
8/31/2016	Review Texas amicus brief filed in HB2 (per Steve S.)	40
9/1/2016	Litigation team phone call re: cert opposition	60
9/5/2016	Review revised brief in opposition.	55
9/8/2016	Team phone call re: brief in opposition.	60
9/12/2016	Review newly revised brief in opposition (pfollowing meeting); edit.	75
9/22/2016	Receive and review amicus brief filed by Life, Liberty, Law Found.	35
9/22/2016	Receive and review amicus brief filed by FF.	15
9/23/2016	Receive and review amicus brief filed by Eagle Forum.	30
9/26/2016	Discussion with CGG re: birth certificate issue; email Josh to schedule follow up phone call.	15
9/28/2016	Receive and review amicus brief filed by National Orgs Marriage	20
9/28/2016	Receive and review amicus brief filed by Women's Liberation Front	30
10/1/2016	Receive and review amicus brief filed by Missouri	10
10/1/2016	Receive and review amicus brief filed by West Virginia	30
10/1/2016	Receive and review amicus brief filed by WILL	20
10/1/2016	Receive and review amicus brief filed by CATO Institute	30
10/1/2016	Receive and review amicus brief filed by Cardinal Newman Society	15
10/1/2016	Receive and review amicus brief filed by Bookbinders	20
10/1/2016	Receive and review amicus brief filed by Bennett	15
10/1/2016	Receive and review amicus brief filed by Members of Congress	15
10/2/2016	Receive and review amicus brief filed by Students/Grandparents etc	35
10/2/2016	Receive and review amicus brief filed by Clarmont Institute	20
1/16/2017	Review and edit/annotate SCOTUS brief draft 1-11	85
1/19/2017	Review and edit/annotate SCOTUS brief draft 1-18	105
1/23/2017	Emails re: states seeking to participate in oral argument	15
1/24/2017	Legal team meeting re: merits brief	60
1/24/2017	Legal team emails re: redaction, EDVA order	15
1/26/2017	Skim WV motion for leave to participate	8
2/3/2017	Legal team emails re: involving PS	5
2/7/2017	Telephone call re amicus strategy	57
2/15/2017	Review, annotate GG SCOTUS BR 2-15	75
2/16/2017	Review, annotate two rewrites with options for revisions; edits to Josh.	130

2/17/2017	Legal team call re: brief.	40
2/17/2017	SCOTUS Brief cite check - Draft 2-17 (start)	150
2/17/2017	Review emails/edits/feedback from David Cole, Paul, Louise	15
2/18/2017	Legal team phone call re: brief	60
2/18/2017	Review emails from James and David Cole re: feedback from partners, potential changes to structure	15
2/19/2017	Review early am email re: structure/reframing; incorporate into cite check (transfer edits where necessary)	35
2/19/2017	Review revised paragraph I.B	5
2/19/2017	Receive and review updated version of the brief.	70
2/19/2017	Cite check.	390
2/20/2017	Legal team emails re: strategy/structure/potential revisions	20
2/21/2017	Review near-final brief.	40
2/26/2017	Review draft letter to Court re: how case should proceed; edits; subsequent emails/feedback.	20
3/4-5/2017	Review and annotate all amicus briefs filed in support of appellee	270
3/6/2017	Review Court order vacating and remanding to CA4.	5
3/8/2017	Review and edit draft motion to expedite briefing/oral argument	20
3/8/2017	File Motion to Expedite Briefing, sched. Oral argument	10
3/14/2017	Review School Board's opposition to motion to expedite	15
3/14/2017	Receive, review draft reply to School Board's opposition to motion to expedite; review edits by Leslie C and James; make edits; circulate to team.	20
3/14/2017	Receive and review final version of reply to School Board's opposition to motion to expedite; make final edits; add cert of service; file via ECF.	25
4/7/2017	Receive and review official SCOTUS judgment vacating CA4 opinion and remanding.	2
4/7/2017	Receive and review CA4 opinion.	10
4/11/2017	Receive and review proposed briefing schedule.	5
4/26/2017	Review and edit draft motion to amend caption.	18
4/26/2017	Review and edit draft motion to amend caption.	12
5/1/2017	Update signature blocks in Joint Appendix to reflect RKG withdrawal and appearance of Kyle Duncan and Stephen Schwartz for defendants; email all counsel for approval.	20
5/3/2017	File Motion to Withdraw and Draft Order for Rebecca Glenberg in Fourth Circuit and EDVA.	30
5/3/2017	Draft/revise EDVA Motion to Withdraw and Proposed Order for Rebecca Glenberg.	15
5/3/2017	Draft/revise Fourth Circuit Motion to Withdraw and Proposed Order for Rebecca Glenberg.	15
5/3/2017	Receive and review Fourth Circuit Order granting RKG Motion to Withdraw as counsel.	5
5/8/2017	Correct/reformat Joint Appendix PDF to correct initial typographical errors and reflect new signature blocks of counsel; email to attorneys for approval.	35

5/8/2017	Review final revised PDF of Joint Appendix.	15
5/8/2017	File Supplemental Opening Brief and Appendix in Fourth Circuit via ECF; hand-deliver to court clerk.	30
5/8/2017	Receive, review, and analyze appellee's supplemental opening brief.	40
5/6/2016	Receive, review, and analyze amicus/intervenor brief filed by Foundation for Moral Law.	25
5/10/2016	Hand-deliver supplemental response brief to clerk's office.	20
5/12/2016	Receive, review, and analyze amicus/intervenor brief filed by North Carolina Values Coalition et al.	30
5/12/2016	Receive, review, and analyze amicus/intervenor brief filed by the Constitutional Accountability Center.	20
5/28/2017	Review and edit CA4 reply brief.	60
5/30/2017	Emails re: mootness issue.	15
5/31/2017	Emails re: declaration	10
6/2/2017	Review School Board reply brief.	50
6/3/2017	Review final version of reply brief; accept all track changes and correct formatting; confirm cover color; print copies and prepare for binding; file supp brief in CA4.	60
6/15/2017	File 28j letter in CA4; hand-deliver courtesy copies.	25
8/6/2017	Review/edit check amended complaint, draft memorandum of law in support of filing an amended complaint, and draft memorandum of law in support of reconsidering the T9 dismissal.	120
8/7/2017	Draft/revise motion to reconsider T9 claim and motion to file amended complaint	60
8/17/2017	Emails with opposing counsel re: content of motions, etc.	15
8/17/2017	Review and edit draft position statement.	15
8/18/2017	File position statement in ECF.	10
9/22/2017	Review and analyze School Board's amended motion to dismiss.	45
9/28/2017	Add TOC and TOA to opposition brief.	150
9/29/2017	Fix formatting issues in TOC and TOA	130
10/11/2017	Review School Board's response to opposition to MTD	40
10/31/2017	Review draft motion to voluntarily dismiss injunction; edit	30
11/1/2017	File motion to voluntarily dismiss injunction	10
11/1/2017	Review draft notice of supplemental authority re: Doe 1 v. Trump; edit; file via ECF.	20
11/2/2017	File motion to vacate order re: supplemental briefing on mootness	10
11/2/2017	Draft motion to vacate order	25
11/15/2017	Emails w/ Josh re: timing of reply brief	15
11/16/2017	Review School Board's opposition to motion to vacate order	15
11/17/2017	Review, revise, and file reply re: SB opposition to motion to vacate order	60
11/20/2017	Emails w/ Josh and opposing counsel re: waiving hearing	15
11/20/2017	Review and file notice of waiver of hearing	15
11/28/2017	Receive and review draft 28j letter and supplemental case law; prepare for filing; file via ECF.	35
12/6/2017	Phone call w/ Gavin re: updated HIPAA	15

12/13/2017	Review court order and related emails.	15
12/22/2017	Emails with Josh and David Corrigan re: briefing schedule	15
1/5/2018	Review and analyze School Board's amended motion to dismiss.	25
1/8/2018	Emails with Josh re: filing logistics	10
1/9/2018	Review draft opposition to MTD and edit	45
1/16/2018	File Motion in Opposition to MTD	5
3/6/2018	Receive, review, and file notice of supplemental authority.	50
3/13/2017	Receive, review, and file notice of supplemental authority.	45
Total Non-Travel Time (in hours)		138.47
7/27/2015	Travel to/from Norfolk for hearing on PI and MTD	210
7/28/2016	Travel to/from and attend site inspection.	450
Total Travel Time (in hours)		11

Accrual Basis

Transaction Detail by Account

All Transactions

Date	Name	Memo	Amount
03/11/2020	Grimm	The Lex Group (Reply brief printing and filing fee)	81.50
03/31/2020	Grimm	Reclass Jody Stewart invoice (SJ hearing transcript)	250.70
04/17/2019	Grimm	U.S. Post Office (Grimm SJ mailing)	25.80
07/24/2019	Grimm	Residence Inn by Marriott (hotel & parking for Grimm SJ hearing)	254.70
07/24/2019	Grimm	Freemason Abbey (Jennifer, Eden, and Nicole dinner Grimm SJ Hearing)	76.00
07/24/2019	Grimm	Mileage (Mileage for travel to Norfolk for Grimm SJ Hearing)	90.40
07/24/2019	Grimm	City of Richmond Parking (On-street parking for rental during load-up)	3.00
07/29/2019	Grimm	7-ELEVEN (Gas for rental car upon return)	31.34
10/19/2018	Grimm	Dunkin Donuts (coffee boxes for depositions)	45.39
09/11/2018	Grimm	U.S. District Court (pro hac vice fee - Heilman)	75.00
09/11/2018	Grimm	U.S. District Court (pro hac vice fee - Medley-Warsoff)	75.00
12/10/2015	Grimm	Superior Document Services (doc binding)	13.16
09/08/2015	Grimm	U.S. District Court (notice of appeal)	505.00
07/30/2015	Grimm	Court reporter	358.90
06/30/2015	Grimm	Medical records for GG from Melinda Penn, MD	41.33
06/13/2015	Grimm	UPS documents for filing in EDVA (Norfolk)	60.26
06/17/2015	Grimm	U.S. District Court (pro hac vice fee - Block)	75.00
06/17/2015	Grimm	U.S. District Court (pro hac vice fee - Cooper)	75.00
06/11/2015	Grimm	U.S. District Court (filing fee)	400.00
05/28/2015	Grimm	Fee for copying medical records	24.50
05/16/2015	Grimm	UPS (sending docs to expert)	16.73
Total			\$ 2,578.71

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
_____)	

DECLARATION OF SHAYNA MEDLEY

1. I, Shayna Medley¹, based on my personal knowledge, provide this declaration in support of Plaintiff's petition for attorney's fees and costs.

PROFESSIONAL BACKGROUND AND EXPERIENCE

2. I graduated from Brandeis University in 2012 and from Harvard Law School in 2017. While attending Harvard Law School, I worked as a legal intern at the ACLU LGBTQ & HIV Project, GLBTQ Advocates and Defenders, and the Center for Reproductive Rights.

3. After graduating law school, I joined the national ACLU's LGBTQ & HIV Project for a two-year fellowship sponsored by the Skadden Foundation.

4. During my time at the ACLU, my work focused on legal protections for transgender and gender-nonconforming students. In addition to my work on Gavin's case, I represented transgender students in two other cases to protect their ability to use restroom facilities consistent with their gender identity. *See Parents for Priv. v. Dallas Sch. Dist. No. 2*, 326 F. Supp. 3d 1075

¹ I entered an appearance in this case in 2018 under the name Shayna Medley-Warsoff. My name has since been changed legally, including with the New York bar, to Shayna Medley.

(D. Or. 2018), *aff'd sub nom. Parents for Priv. v. Barr*, 949 F.3d 1210 (9th Cir. 2020); *Reynolds v. Talberg*, No. 1:18-CV-69, 2020 WL 6375396, at *10 (W.D. Mich. Oct. 30, 2020). I also wrote demand letters and engaged in informal advocacy on behalf of more than 20 other transgender students who had been excluded from using restroom facilities or otherwise discriminated against because they were transgender.

5. After my fellowship ended in 2019, I clerked for Judge Algenon L. Marbley on the U.S. District Court for the Southern District of Ohio. I am currently working as a Litigation Fellow at the Center for Reproductive Rights. In the fall of 2021, I will be serving as a Lecturer on Law at Harvard Law School teaching legal research and writing.

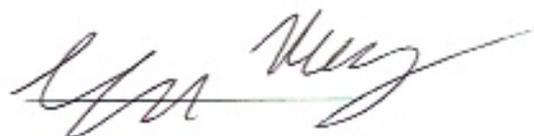
ATTORNEY HOURS FOR GAVIN'S CASE

6. I worked on Gavin's case during the second year of my fellowship, from August 2018 to July 2019.

7. I maintained contemporaneous records of my time working on Gavin's case, which I provided to Joshua Block on July 30, 2019, at the close of my fellowship.

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

July 18, 2021



Shayna Medley

The IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
_____)	

DECLARATION OF JOSEPH M. SELLERS

I, Joseph M. Sellers, hereby declare as follows:

1. I am a Partner at Cohen Milstein, Chair of the Firm’s Executive Committee, and Chair and founder of the Firm’s Civil Rights and Employment Practice Group. In a career spanning nearly four decades, I have developed a deep commitment and broad background in fighting discrimination in all its forms, including representing clients in litigation to enforce their civil rights, participating in drafting and efforts to pass landmark civil rights legislation, testifying before Congress on various civil rights issues, training government lawyers on the trial of civil rights cases, teaching civil rights law at various law schools, and lecturing extensively on civil rights and employment matters.
2. From my work as a partner, as Chair of my Firm’s Executive Committee, and as Chair of our Civil Rights and Employment Practice Group, I am familiar with and have personal knowledge of the market rates for complex civil rights and constitutional litigation. While my practice is based in the District of Columbia, my cases tend to be filed in a wide variety of different markets. I am certainly familiar with the market in New York and I am generally familiar with the market for this kind of work nationwide.
3. My clients have included persons denied the rights and opportunities of employment because of race, national origin, religion, age, disability and sex, including sexual orientation and identity. I have represented victims of race discrimination in the denial of equal access to credit, in the rates charged for insurance, and in the equal access to health clubs, retail stores, restaurants and other public places. I have challenged housing discrimination on the basis of race and the denial of housing and public accommodations to people with disabilities.

4. I have tried to judgment before courts and juries several civil rights class actions and a number of individual cases and have argued more than thirty appeals in the federal and state appellate courts, including the United States Supreme Court where I delivered the argument in *Walmart v. Dukes* on behalf of a class of women who alleged sex discrimination in pay and promotions in a case establishing new rules governing class certification and in *Randolph v. Greentree Financial* on behalf of a consumer challenging enforcement of arbitration agreement in a case establishing rules governing the enforceability of arbitration agreements.
5. Prior to joining Cohen Milstein, I served for over 15 years as the Director of the Employment Discrimination Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, an organization providing pro bono representation in a broad range of civil rights and related poverty issues.
6. I served on the Clinton/Gore Transition Team in 1992 and 1993, where I headed the teams reviewing the operations of the U.S. Equal Employment Opportunity Commission ("EEOC"), the Office of the Assistant Attorney General for Civil Rights, and various sections of the Civil Rights Division of the Department of Justice ("DOJ"). I served as a Co-Chair of the Special Committee on Race and Ethnicity of the D.C. Circuit Task Force on Gender, Race and Ethnic Bias to which I was appointed by the judges of the D.C. Circuit Court of Appeals and the U.S. District Court for the District of Columbia. In 2018, I was appointed by the Chief Justice of the United States to the Advisory Committee on Civil Rules of the Judicial Conference of the United States.
7. I helped to draft and worked for the passage of the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990 and the Lily Ledbetter Fair Pay Restoration Act of 2009. I have testified more than twenty times before the Committees of the United States Senate and House of Representatives on various civil rights matters. I also trained lawyers at the EEOC and the DOJ on the trial of civil rights cases.
8. I was an Adjunct Professor at the Washington College of Law at American University, where I taught Employment Discrimination law, and at the Georgetown University Law Center, where I taught a course on Professional Responsibility.
9. I graduated from Case Western Reserve School of Law in 1979, and I am admitted to practice in the District of Columbia. I am also admitted to practice before the following: District of Columbia Court of Appeals; United States Supreme Court; United States Courts of Appeal for the 2nd, 3rd, 4th, 5th, 6th, 7th, 9th, 11th and D.C. Circuits; United States District Courts for the District of Columbia, Maryland, Northern District of Illinois and Colorado. This declaration is submitted in support of Plaintiff's Motion for an Award of Attorneys' Fees and Expenses.
10. I am deeply familiar with the work of the American Civil Liberties Union ("ACLU") given my time at the Washington Lawyers' Committee for Civil Rights and Urban Affairs and in the civil rights community more broadly. The ACLU has an exceptional

reputation for its legal advocacy and skillful litigation on behalf of many different clients and causes, including LGBTQ rights.

11. I am also familiar with this litigation. The very public nature of this case required an experienced attorney capable of handling this type of matter. Not only was the case of high visibility, but also set an important precedent applying Title IX to transgender students using restrooms that align with their gender identity. The litigation also led the Department of Education to update its guidance nationally based in part on the ACLU's outstanding advocacy. This type of complex constitutional litigation requires highly-skilled counsel who understand administrative and constitutional law, complex trial and appellate procedure, and who can handle the immense pressure of litigating a case attracting intense media and other interest.
12. Given the complexity and duration of this case, I find the volume of hours as well as the counsel team structure to be reasonable. Cases that move through the appellate courts, including the Supreme Court, and back to the trial court frequently require a vast number of deliverables on a rapid timeline. The legal team handled this case in a highly efficient manner.
13. Litigation before the Supreme Court often requires the expenditure of extensive resources that are substantially greater than required before courts of appeals, as materials submitted must account for authority throughout the country, the litigation typically requires extensive coordination and the cases typically involve novel and complex legal issues about which there is widespread debate. The time that Mr. Grimm's attorneys devoted to litigating the case in the Supreme Court appear lower than is typical for litigation in that Court, and reflect highly efficient work.
14. I understand that the plaintiff is seeking an award of attorneys' fees for Mr. Block at rates of \$650 per hour for work performed before Jun 1, 2016, and \$750 per hour for work performed after June 1, 2016. In light of Mr. Block's substantial experience and the high quality of work performed, I find the rates for which Mr. Block is seeking to be compensated are not only reasonable but significantly less than the prevailing rates for this kind of work in the legal markets in Washington, D.C. and New York. Indeed, lawyers practicing before the Supreme Court or handle other complex, high-stakes matters often are compensated that are at least 50% higher than the rates at which compensation is sought here.
15. Upon reviewing the biographical information of the other attorneys, I find the rates at which compensation is sought for time expended by Ms. Heilman, Ms. Glenberg, Ms. Deady, Ms. Medley, Ms. Safstrom, to be reasonable given my knowledge of market rates and given their years of experience, expertise, and a case of this complexity and importance.

16. I have no interest in the outcome of these proceedings and am not associated with or employed by plaintiffs, defendants, or their attorneys. Nor will I receive any compensation for this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 21, 2021

A handwritten signature in black ink, appearing to read "Joe Sellers", written over a horizontal line.

Joseph M. Sellers

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL BOARD,)	
)	
Defendant.)	
)	

DECLARATION OF THOMAS J. PERRELLI

I, Thomas J. Perrelli, hereby declare as follows:

1. I am Chair of Jenner & Block LLP (“Jenner”) and serve as the founder and co-chair of the Firm’s Government Controversies and Public Policy Litigation Practice. In this role, I represent individuals, businesses, governmental entities and their leaders in high-stakes matters where litigation, investigations, public policy and media scrutiny intersect. These matters frequently involve complex and multi-faceted elements of constitutional and/or administrative law.

2. Prior to rejoining Jenner as a partner in 2012, I served for three years as Associate Attorney General of the United States—nominated in 2009 by President Obama and confirmed by the Senate. In that capacity, I was responsible for overseeing the Department of Justice’s Civil, Antitrust, Civil Rights, Environment and Natural Resources, and Tax Divisions, the United States Trustee Program, the Office of Justice Programs and the Office on Violence Against Women, among others. In that role, I oversaw the work of the hundreds of lawyers at the U.S. Department of Justice, both bringing civil rights enforcement litigation and defending challenges to U.S. government action.

3. I began my practice as an associate at Jenner & Block in 1992. I left the firm in 1997 to serve as counsel to then-U.S. Attorney General Janet Reno, rising to the position of Deputy Assistant Attorney General in charge of the Federal Programs Branch of the Civil Division of the Department of Justice before

returning to Jenner & Block in 2001. The Federal Programs Branch represents the Executive Branch in civil litigation in district courts throughout the United States that involved constitutional and administrative law challenges to federal government action. As DAAG, I personally oversaw dozens of lawsuits attacking the legality of government policies and decisions.

4. I graduated magna cum laude from Harvard Law School in 1991. I am admitted to practice in the District of Columbia and am an associate member of the Virginia bar. I also have been admitted to practice before the U.S. Supreme Court, the U.S. Court of Appeals for the Federal Circuit, the U.S. District Court for the District of Columbia, and the Supreme Court of Virginia.
5. I have deep experience in Supreme Court litigation, including most recently overseeing a litigation team that achieved a significant Supreme Court victory on behalf of Maria Peralas Sanchez, Microsoft, and Princeton University in litigation over the Deferred Action for Childhood Arrivals (“DACA”) program. Additional Supreme Court litigation experience includes *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, *McDonnell Douglas Corp. v. United States*, and *Vieth v. Jubelirer*.
6. I have a range of experience in both the public and private sectors working to advance civil rights. During my time at Jenner, I have advocated for voting rights—representing voters and public officials in redistricting cases in Texas, Oklahoma, and Pennsylvania – and spent a career inside and outside of government advocating for the rights of Native Americans. I also served as counsel to Terri Schiavo in the landmark litigation related to the right to refuse life-sustaining medical treatment.
7. As Chair of Jenner, I work with the firm’s leadership to further advance Jenner’s client-driven strategy, focusing on delivering excellence for companies and individuals around the world with their most challenging and consequential legal matters. This includes helping make decisions about what rates Jenner should charge depending on the market, which gives me great familiarity with the legal markets in both New York and D.C., two of the cities in which we have offices, as well as the rates for complex constitutional litigation.
8. This declaration is submitted in support of Plaintiff’s Motion for an Award of Attorneys’ Fees and Expenses.
9. I am familiar with the work of The American Civil Liberties Union (“ACLU”). The ACLU has a longstanding record and reputation for defending

constitutional rights and freedoms for all individuals, including a project that specializes in the protection of LGTBQ rights. This focus affords the ACLU extensive experience in the area of transgender rights. The ACLU has an excellent reputation for its legal work.

10. I am also familiar with this litigation, which set a critical precedent applying the protections of Title IX to transgender individuals. It helped lead the Department of Education to issuing guidance about the right of transgender students to use the restrooms that align with their gender identity. I am also familiar with the unusual path this litigation took, traveling up to the Supreme Court and back several times and changing course when different political administrations took different approaches to the questions presented. Having served at the beginning of an administration that changed numerous policies from its predecessor, I am well aware of the impact that such changes of policy have on individual pieces of litigation, as well as the parties to them. Because of its critical national importance and its unusually complex procedural path, this is the sort of complex constitutional litigation that requires highly-skilled counsel who understand not only the substantive constitutional and administrative law but also appellate and Supreme Court procedure. There are very few attorneys in the United States sufficiently experienced and capable of successfully handling litigation of this type.
11. I have reviewed the hours for which Mr. Grimm seeks compensation and find them to be reasonable for a case of this complexity and duration. Litigation traveling up to the Supreme Court and back several times requires intense briefing, frequently on a short time frame. Here, it also appears that the Defendant fought Mr. Grimm at every turn with great intensity, and Mr. Grimm's legal team responded with zeal but also with efficiency. In my experience, both the staffing structure from 2015 to 2018 and post June 2018 as well as the amount of hours total from those periods were extraordinarily lean for this type of matter. That is particularly true given that Mr. Grimm is not seeking compensation for everyone who worked on his legal team, but only for a subset.
12. Mr. Block has strong academic credentials, held a federal clerkship (Second Circuit), served as a Visiting Lecturer in Law at Yale Law School where he taught the school's LGBT Rights Litigation Seminar, and has litigated a number of landmark LGBT civil rights cases at the Supreme Court, including *United States v. Windsor*, 570 U.S. 744 (2013); *Obergefell v. Hodges*, 576 U.S. 644 (2015); and *Stone v. Trump*, 280 F. Supp. 3d 747 (D. Md. 2017), *stay denied*, No. 17-2398, 2017 WL 9732004 (4th Cir. Dec. 21, 2017). Mr. Block also worked as an attorney at Jenner before joining the ACLU, where his work was very highly regarded and he received the Albert E. Jenner Pro

Bono Award. I should note that I may have worked with him a bit during his time at Jenner, but we did not have a close relationship and did not stay in touch.

13. Ms. Heilman joined the ACLU of Virginia as Legal Director in 2018 after spending eleven years at the Southern Poverty Law Center's office in New Orleans. I am familiar with both organizations, which have outstanding reputations for excellence. I have reviewed Ms. Heilman's experience and she appears experienced in the integrated advocacy strategies of impact litigation and public education in the areas of children's rights, civil rights, civil liberties, and education.
14. Ms. Glenberg is the former Legal Director of the ACLU of Virginia. I understand that Ms. Glenberg graduated from University of Chicago School of Law in 1997 and served as Legal Director at the ACLU of Virginia from 1999 until November 2015. Since 2015, Ms. Glenberg has worked at the ACLU of Illinois as Senior Civil Liberties Staff Counsel. As with Ms. Heilman, I have reviewed Ms. Glenberg's experience and she appears highly experienced in impact litigation, civil rights and civil liberties, and complex constitutional litigation.
15. I am familiar with the market rates in New York and D.C. for attorneys practicing in complex constitutional litigation of national importance, including attorneys at my own firm and at peer firms. Attorneys with the same level of experience as Mr. Block, Ms. Heilman, and Ms. Glenberg would typically be billed at a rate of approximately \$1,000 or more for complex constitutional litigation.
16. I understand that, according to the Adjusted Laffey Matrix, the prevailing market rate in D.C. for an attorney with 8-10 years of experience is \$672, and the prevailing market rate for an attorney with 11-19 years of experience is \$759. Given Mr. Block's complex constitutional and civil rights litigation specialization and Ms. Heilman and Ms. Glenberg's experience as Legal Director of the ACLU of Virginia, each would command a rate well above the market rates for complex constitutional litigation in D.C. as reflected in the Adjusted Laffey Matrix. In other words, in my experience, the Adjusted Laffey Matrix understates the market rates for complex constitutional and civil litigation.
17. In my experience, it is reasonable for Mr. Block to request rates of \$650 per hour prior to June 2016 and \$750 per hour after June 2016 and for Ms. Heilman to request a rate of \$650 per hour.

18. I have reviewed the experience and credentials of the other attorneys and paralegal who worked on the litigation for Mr. Grimm. Ms. Deady would command a senior associate rate, and Ms. Medley and Ms. Safstrom would command a junior associate rate.

19. With the exception of Mr. Block, it is my understanding Mr. Grimm seeks rates set forth in the Richmond market. While I do not have as much familiarity with the Richmond market as D.C. and New York, I have worked with counsel in Richmond for matters and, upon review, I believe the rates Mr. Grimm seeks to be well within the range of attorneys and paralegals within similar years of experience in the Richmond market.

20. I have no interest in the outcome of these proceedings and am not associated with or employed by any party or their attorneys. Nor will I receive any compensation for this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 26, 2021



Thomas J. Perrelli