

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION

THE RELIGIOUS SISTERS OF
MERCY, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants.

No. 3:16-cv-386

THE CATHOLIC BENEFITS ASSOCI-
ATION; DIOCESE OF FARGO; CATH-
OLIC CHARITIES NORTH DAKOTA;
and CATHOLIC MEDICAL ASSOCIA-
TION,

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants.

No. 3:16-cv-432

**THE CATHOLIC BENEFITS ASSOCIATION PLAINTIFFS' MEMORANDUM IN
SUPPORT OF THEIR MOTION FOR ATTORNEY'S FEES AND EXPENSES**

As prevailing parties in this litigation, Plaintiffs the Catholic Benefits Association, Diocese of Fargo, Catholic Charities of North Dakota, and Catholic Medical Association (collectively "CBA Plaintiffs" or "Plaintiffs") seek recovery of their reasonable attorney's fees, costs, and expert expenses. In considering this request, it is helpful to recall the nature of this litigation.

This case began more than seven years ago when the Department of Health and Human Services and the Equal Employment Opportunity Commission reinterpreted Section 1557 of the

Affordable Care Act and Title VII of the Civil Rights Act to require healthcare providers to perform and employers to insure gender-transition services (the “Mandate”). The Mandate compels even those healthcare providers and employers, like CBA Plaintiffs, whose sincerely held religious beliefs and medical judgment forbid them from facilitating gender-transition services. Religious organizations, including the United States Conference of Catholic Bishops, have repeatedly implored Defendants to provide a religious exemption—as required by RFRA, Title VII, and Section 1557. Yet Defendants refused. Defendants instead forced CBA Plaintiffs to an existential choice: violate their faith by providing and insuring gender-transition surgeries and cross-sex hormones or face organization-ending scandal, fines, and civil and criminal penalties. As the Court explained, “[u]nder the prevailing interpretations of Section 1557 and Title VII, refusal to perform or cover gender-transition procedures would result in the Catholic Plaintiffs losing millions of dollars in federal healthcare funding and incurring civil and criminal liability.” *Religious Sisters of Mercy v. Azar*, 513 F. Supp. 3d 1113, 1147 (D.N.D. 2021).

Defendants would not relent, so CBA Plaintiffs sued. And they won. They won a stay of the Mandate. They won a permanent injunction on summary judgment. And they won an Eighth Circuit appeal. Yet CBA Plaintiffs not only prevailed against HHS, they won cutting-edge relief against EEOC. Three cases were filed nationwide challenging the Mandate. In the other two, the religious plaintiffs sought relief against HHS alone. Only CBA Plaintiffs’ suit secured an injunction against HHS’s interpretation of Section 1557 *and* EEOC’s interpretation of Title VII to require coverage of gender-transition services. After seven years of complex litigation, three presidential administrations, numerous rule changes, and myriad lawsuits challenging those rule changes, CBA

Plaintiffs now have permanent protection against HHS's and EEOC's illegal and dangerous attempt to force them to violate their consciences.

As prevailing parties, Plaintiffs now request reasonable attorney's fees. Over six years of litigation, counsel expended 2,344 hours after courtesy discounts made each month. In the further exercise of billing judgment, counsel has cut 243.25 hours from this total, or 10.4%. Based on prevailing market rates adjusted for the time-value of money, Plaintiffs request fees of \$1,022,378, expert fees of \$37,693.50, and costs of \$4979.45. This request is well-supported by evidence and precedent.

ARGUMENT

CBA Plaintiffs are prevailing parties in this litigation and thus entitled to recover attorney's fees and expenses under 42 U.S.C. § 1988(b) ("Section 1988"). *See* ECF No. 124, 170. Counsel's request for fees and expenses is reasonable based on the hours expended and market rates.

1. Plaintiffs are entitled to attorney's fees.

Section 1988, which applies against federal agencies under 28 U.S.C. § 2412(b), authorizes attorney's fees for the prevailing party "[i]n any action or proceeding to enforce . . . the Religious Freedom Restoration Act." 42 U.S.C. § 1988(b); *N. Cheyenne Tribe v. Jackson*, 433 F.3d 1083, 1085 (8th Cir. 2006). This was an action to enforce RFRA, ECF No. 124, so Section 1988(b) applies.

"[A] plaintiff 'prevails' when [1] actual relief on the merits of his claim [2] materially alters the legal relationship between the parties [3] by modifying the defendant's behavior in a way that directly benefits the plaintiff." *Advantage Media, L.L.C. v. City of Hopkins, Minn.*, 511 F.3d 833, 836 (8th Cir. 2008). Here, CBA Plaintiffs met this test by prevailing on their RFRA claim against HHS and EEOC at summary judgment and by obtaining permanent injunctive relief prohibiting Defendants from forcing CBA Plaintiffs to cover or perform gender-transition services. ECF Nos. 124,

170. Because they prevailed against Defendants, CBA Plaintiffs are entitled to “a reasonable attorney’s fee.” 42 U.S.C. § 1988(b).

2. Plaintiffs’ attorney’s fees are reasonable.

Courts employ a two-step analysis for determining a reasonable attorney’s fee award. *Burton v. Nilkanth Pizza Inc.*, 20 F.4th 428, 431 (8th Cir. 2021). At step one, the Court must “calculate the lodestar by multiplying the number of hours of work by the prevailing hourly rate.” *Id.* (cleaned up). At step two, the Court considers whether the factors from *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974) require modification of the lodestar amount. *Avalon Cinema Corp. v. Thompson*, 689 F.2d 137, 140 (8th Cir. 1982). The *Johnson* factors are: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) The undesirability of the case; (11) the nature and length of the professional relationship with the client; (12) awards in similar cases. “If these factors lead the court to change the basic or lodestar figure, usually (but not always) the change will be an increase.” *Avalon*, 689 F.2d at 140. A court also has discretion to enhance a fee because of the public importance or other feature of a case. *See, e.g., Taylor v. Jones*, 653 F.2d 1193, 1206 (8th Cir. 1981) (20% enhancement approved).

Finally, counsel is entitled to recover its fees and costs related to preparing its motion for attorney’s fees. *Jones v. MacMillan Bloedel Containers, Inc.*, 685 F.2d 236, 239 (8th Cir. 1982). This is because “[i]t would be inconsistent with the purpose of the Fees Act to dilute a fees award by refusing to compensate the attorney for the time reasonably spent in establishing and negotiating

his rightful claim to the fee.” *Id.* Under *Jones*, “it is beyond peradventure that such fees [incurred litigating a fee award] are recoverable.” *Hixon v. City of Golden Valley*, 2007 WL 4373111, at *4 (D. Minn. 2007). The fees the CBA Plaintiffs incurred related to preparation of the petition including the recruiting and informing of the three fee experts is set forth in Exhibit 1-P.

2.1. Counsel’s hours are reasonable.

To calculate the reasonable number of hours expended, courts determine whether the total number of hours claimed are reasonable and whether specific hours claimed are reasonably expended. *Vines v. Welspun Pipes Inc.*, 9 F.4th 849, 856 (8th Cir. 2021). Contemporaneous billing records are acceptable documentation for determining reasonable hours. *MacDissi v. Valmont Indus., Inc.*, 856 F.2d 1054, 1061 (8th Cir. 1988); *see also* Ex. 1-B (contemporaneous billing records).

2.1.1. Total hours

After seven years of litigation, CBA Plaintiffs won permanent injunctive relief against HHS and EEOC’s Mandate. At the outset of this litigation, CBA Plaintiffs and their members were on the brink of being forced to violate their consciences or incur millions in civil penalties under the Mandate. They filed a motion for a preliminary injunction, and the Court stayed the Mandate for nearly five years. *See Catholic Benefits Ass’n v. Burwell*, 16-cv-432, ECF Nos. 3-4, 6. In that time, Defendants sought and received thirteen stays of the case to fix the issues with the Mandate identified by CBA Plaintiffs.¹ When Defendants failed to do so, CBA Plaintiffs sought, and won,

¹ *See Religious Sisters of Mercy et al. v. Becerra et. al.*, 3:16-cv-386 (D.N.D.), ECF No. 45 (May 26, 2017) (request to stay), ECF No. 46 (May 26, 2017) (request to extend stay), ECF No. 61 (May 21, 2018) (request to extend stay), ECF No. 62 (July 20, 2018) (request to extend stay), ECF No. 64 (Oct. 18, 2018) (request to extend stay), ECF No. 67 (Jan. 15, 2019) (request to stay), ECF No. 70 (Feb. 19, 2019) (request to extend stay), ECF No. 71 (May 31, 2019) (request to extend stay), ECF No. 76 (Oct. 4, 2019) (request to extend stay), ECF No. 78 (Jan. 2, 2020) (request to extend stay), ECF No. 81 (Apr. 3, 2020) (request to extend stay), ECF No. 83 (Jul. 6, 2020) (request to extend stay), ECF No. 86 (Aug. 5, 2020) (request to extend stay), ECF No. 88 (Oct. 5, 2020) (request to extend stay).

permanent injunctive relief, prohibiting HHS and EEOC from enforcing their illegal Mandate. *Religious Sisters of Mercy v. Azar*, 513 F. Supp. 3d 1113, 1153-55 (D.N.D. 2021). Counsel then prevailed on the merits of the dispute before the Eighth Circuit, including that EEOC's interpretation of Title VII to require Catholic employers to cover gender-transition procedures violated their religious beliefs. *Religious Sisters of Mercy v. Becerra*, 55 F.4th 583, 602-09 (8th Cir. 2022).

This excellent result took more than seven years, spanning three presidential administrations, and a trip to the Eighth Circuit. Counsel presented oral argument to this Court on Plaintiffs' motion for summary judgment and on Defendants' appeal to the Eighth Circuit. Counsel had to brief a motion for preliminary injunction, cross motions for summary judgment, and an appeal to the Eighth Circuit. Counsel had to perform cutting-edge, extensive research to show that EEOC is in fact interpreting Title VII to require religious employers to insure gender-transition procedures in their health plans in coordination with HHS. Counsel had to carefully track Defendants' shifting regulatory positions, and the complicated, overlapping injunctions won against Defendants' 2020 Rule and the implications of the *Franciscan Alliance* vacatur order.

Counsel expended 2,344 hours litigating this matter over seven years, as documented in the contemporaneous billing records in Exhibits 1-B and 1-C. That amount is reasonable given the prolonged and complex nature of the litigation. *See* Ex. 1 (Nussbaum Decl.) ¶¶ 31-46; Ex. 3 (Baine Decl.) ¶¶ 10-15, 29-31; Ex. 4 (Eid Decl.) ¶¶ 16-22. Indeed, in the closely related, if more procedurally complex, litigation in *Franciscan Alliance v. Burwell*, the court there found that "3,197.25 hours [to be] reasonable" and awarded fees based on that figure. *Franciscan All., Inc. v. Becerra*, at *6 (N.D. Tex. July 11, 2023). But even if this figure were not reasonable, counsel, in the exercise of

billing judgment, has significantly reduced the total number of hours by 243.25, or 10.4%, leaving a total of 2,100.75 hours. *See* Nussbaum Decl. ¶¶ 18-20; Ex. 1-D.

2.1.2. Billing judgment

To show the reasonableness of the hours billed, counsel seeking fees must exercise “billing judgment,” which requires documentation of the hours charged and of the hours written off as excessive or redundant. *See Henderson v. Crimmins*, 147 F. Supp. 3d 780, 789 (N.D. Iowa 2015). Counsel exercised billing judgment in four ways.

First, counsel exercised billing judgment each month it invoiced its clients, cutting redundant and excessive time from its invoices. Nussbaum Decl. ¶ 18. The Nussbaum Declaration states, “as the billing attorney, I reviewed each monthly bill before we sent it to [CBA Plaintiffs]. When doing that, I routinely deleted or reduced specific entries if I felt the work was inefficient or unproductive.” *Id.* This kind of “courtesy discount” is sufficient to satisfy the billing judgment requirement. *Lawn Managers, Inc. v. Progressive Lawn Managers, Inc.*, at *3 (E.D. Mo. Aug. 31, 2018) (collecting cases) (“The Court concludes that the ‘courtesy discount’ plaintiff’s counsel applied to its statements was reasonable and reflects the application of counsel’s own billing judgment.”).

Second, counsel eliminated all hours related to the Mandate from September 8, 2015 through May 12, 2016. Nussbaum Decl. ¶ 18. The notice of proposed rulemaking regarding the 2016 Rule was issued on September 8, 2015, at which point counsel expended substantial time researching and advising the client. *Id.* By May 12, 2016, CBA Plaintiffs determined litigation was necessary, and a litigation file was opened. *Id.* Notwithstanding the significant amount of work between September 8, 2015 through May 12, 2016 regarding the Mandate, counsel has eliminated that time. *Id.*

Third, counsel eliminated time spent by attorneys who worked little on the case. This included 42.3 hours for Deion Kathawa, 6.25 hours for Prof. Helen Alvaré, and 4.8 hours for Ed Gleason.

Id.; *see also* Ex. 1-C (showing total hours billed); Ex. 1-D (showing net hours billed after billing judgment deletions).

Fourth, counsel cut duplicative or nonproductive time or time not directly related to advancing the goals of the lawsuit. Nussbaum Decl. ¶ 18; *see also* Ex. 1-B (detailed billings, reflecting adjustments); *Dorr v. Weber*, 741 F. Supp. 2d 1022, 1030 (N.D. Iowa 2010) (“Counsel for the prevailing party should make a good-faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary.”). These hours include billing entries for internal meetings or entries that could be cut or reduced because, in hindsight, they may have taken longer than necessary to accomplish the relevant task. Nussbaum Decl. ¶ 18.

Counsel cut 243.25 hours or 10.4% of counsel’s hours billed to the client in addition to the first and second cuts described above. Nussbaum Decl. at ¶¶ 18-20; Ex. 1-D (Net Hours Billed After Billing Judgment Deletions). Courts in the Eighth Circuit consistently find that reductions of this nature satisfy the billing-judgment requirement. *Glenn v. Astrue*, 2011 WL 2135454, at *3 (W.D. Mo. May 31, 2011); *U.S. ex rel. Rille v. Hewlett Packard Co.*, 2011 WL 4625646, at *3 (E.D. Ark. Oct. 5, 2011). After taking into account counsel’s reasonable exercise of billing judgment, the Court should find that counsel’s 2,100.75 hours to be reasonable.

2.2. Counsel’s hourly rates are reasonable.

“A reasonable hourly rate is usually the ordinary rate for similar work in the community where the case has been litigated.” *Emery v. Hunt*, 272 F.3d 1042, 1048 (8th Cir. 2001). But in certain circumstances, out-of-town counsel will be entitled to a higher rate than the local rate. *See Avalon Cinema Corp. v. Thompson*, 689 F.2d 137, 140 (8th Cir.1982). “In a case where the plaintiff does not use local counsel, the court is not limited to the local hourly rate, if plaintiff has shown that, in spite of his diligent, good faith efforts, he was unable to find local counsel able and willing to take

the case.” *Emery*, 272 F.3d at 1048. In addition, attorneys specializing in complex areas of the law may be entitled to a higher, non-local rate. *See Planned Parenthood, Sioux Falls Clinic v. Miller*, 70 F.3d 517, 519 (8th Cir. 1995). “To limit rates to those prevailing in a local community might have the effect of limiting civil rights enforcement to those communities where the rates are sufficient to attract experienced counsel.” *Casey v. City of Cabool, Mo.*, 12 F.3d 799, 806 (8th Cir. 1993).

Here, no local counsel was available for this case. This is established by the declaration of North Dakota attorney Thomas B. Bair. *See* Ex. 2. Mr. Bair is a long-time North Dakota attorney, who has experience in litigation and transactional work, and most importantly has served as counsel for religious clients in North Dakota. *Id.* at ¶¶ 1-4. Mr. Bair states that no local attorney could have handled this case with the same level of expertise. *Id.* at ¶¶ 5-6. He knows of no “attorney or law firm in North Dakota that could have undertaken advocacy on the level of the Nussbaum firm in obtaining the result” here. *Id.* at ¶ 5. Mr. Bair states that this case “involve[s] a sophistication and expert understanding on many issues,” including “religious liberty constitutional litigation, complex issues related to HHS regulations implementing the Affordable Care Act, litigation across the country related to those regulations, current EEOC interpretations of Title VII, Catholic ethics with regard to the emerging medical practice of assisting with gender transition, and federal court practice and procedure.” *Id.* Because there was no local counsel available to handle this kind of civil-rights litigation, rates for similar kinds of national litigation are the appropriate yardstick here.

Non-local rates are also warranted because counsel are “leaders in the field with extensive experience.” *Miller v. Dugan*, 764 F.3d 826, 831 (8th Cir. 2014). Specialized religious-liberty expertise is crucial in litigating difficult cases involving the intersection of RFRA, the Affordable Care Act, and Title VII, and “there are only a handful of lawyers in the country with [this] experience

and expertise.” Ex. 3 ¶ 9 (Baine Decl.). Kevin Baine, a leading Washington D.C. litigator at the firm of Williams & Connolly LLP, who has successfully litigated religious liberty disputes as lead counsel at all levels of the federal judiciary including at the Supreme Court states, “[o]ther than my own firm, Martin Nussbaum’s firm and The Becket Fund for Religious Liberty [counsel for Plaintiffs in 16-cv-386] are the two sets of attorneys to whom I would look to handle this kind of case.” *Id.* at ¶ 11. Indeed, CBA Plaintiffs’ counsel has been recognized by Chambers and Partners in the area of First Amendment (Religious Liberty) Litigation nationwide. Ex. 1, Nussbaum Decl. ¶ 7. CBA Plaintiffs’ counsel has litigated to victory key religious liberty cases involving the church-autonomy doctrine (*Bryce v. Episcopal Church in the Diocese of Colorado*, 289 F.3d 648 (10th Cir. 2002)), the First Amendment privilege for statements made in a religious tribunal (*Purdum v. Purdum*, 301 P.3d 718, 720 (Kan. App. 2013)); the First Amendment protections for church property (*Harvest Worship Ctr. v. Resound Church*, 2023 WL 6377511, at *10 (D. Colo. Sept. 29, 2023)); the requirement of evenhanded treatment in public scholarship programs (*Colorado Christian Univ. v. Weaver*, 534 F.3d 1245, 1250 (10th Cir. 2008)); and the Religious Land Use and Institutionalized Persons Act (*Christian Growth Center v. Pueblo*, No. 22-cv-460 (D. Colo.)). And counsel regularly serves in an advisory role regarding religious liberty issues at the highest level, including to the United States Conference of Catholic Bishops. Nussbaum Decl. at ¶¶ 8, 10. Perhaps most importantly, counsel successfully obtained preliminary and permanent injunctive relief in similar litigation involving a challenge by CBA Plaintiffs to Defendants’ “contraceptive” mandate. *Cath. Benefits Ass’n LCA v. Sebelius*, 24 F. Supp. 3d 1094 (W.D. Okla. 2014). As Mr. Baine states, “Other national major law firms would have the resources and staff needed to litigate a case like this, but

few if any of those firms would have the expertise and experience that Martin Nussbaum’s firm has.” Ex. 3, Baine Decl. ¶ 11.

Given this need for specialized, out-of-district counsel, the only remaining question is whether counsel’s home rates are reasonable compared to what similar attorneys charge. *Casey v. City of Cabool, Mo.*, 12 F.3d 799, 805 (8th Cir. 1993) (“A national market or a market for a particular legal specialization may provide the appropriate market.”); *Dorr v. Weber*, 741 F. Supp. 2d 1022, 1033 (N.D. Iowa 2010) (“In specialized areas of law, such as civil rights, the national market may provide a reasonable hourly rate.”). Counsel’s actual rates are as follows:

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023
Eric Kniffin ('03)	\$355	\$370	\$395	n/a	n/a	n/a	n/a	n/a
Matthew Mellema ('13)	\$260	\$260	n/a	n/a	n/a	n/a	n/a	n/a
Andrew Nussbaum ('16)	n/a	n/a	n/a	n/a	n/a	\$400	\$410	\$425
Martin Nussbaum ('85)	\$510	\$510	\$550	\$560	\$575	\$585	\$595	\$595
Ian Speir ('11)	\$310	\$350	\$380	\$395	\$425	\$450	\$475	\$475
Paralegals	\$210	\$215	n/a	\$250	\$125	\$125	\$150	\$150

Nussbaum Decl. at ¶ 21 (attaching Exhibit 1-E, primary timekeepers’ hourly rates).

The reasonableness of counsel’s rate is usually established by “affidavits of comparable attorneys who attest to their rates and the reasonableness of the rates claimed.” *Baker v. John Morrell & Co.*, 263 F. Supp. 2d 1161, 1192 (N.D. Iowa 2003), *aff’d*, 382 F.3d 816 (8th Cir. 2004). Here, Mr. Baine’s declaration states that counsel’s rates are reasonable for similar kinds of religious-liberty

litigation and are, in fact, much lower than comparable attorneys would charge. Ex. 3, Baine Decl. ¶¶ 11, 23, 24. Mr. Baine's rate in a case like this would have been \$1,000, a junior partner's rate would have been \$800, and a mid-level associate would have charged \$550. *Id.* at ¶ 23. Counsel's rates are also reasonable in their home market of Colorado's front range. Troy Eid, a shareholder in the Denver office of Greenberg Traurig and the former United States Attorney for the District of Colorado attests that regional Colorado firms have recently been awarded fee awards based on rates ranging from \$475 for associates to \$885 for partners. Ex. 4 ¶ 25 (Eid Declaration). Mr. Eid's hourly rate is \$935, and his associates charge between \$550 and \$850 per hour. *Id.* at ¶ 29. Because counsel's rates are substantially lower than rates charged by similar practitioners, their rates are reasonable.

Perhaps most importantly, in similar religious-liberty cases courts have awarded significantly higher rates. For example, in the *Franciscan Alliance* litigation, Plaintiffs requested \$2,319,003.50 in attorney's fees, and the Court awarded 95% of that, \$2,203,053.32, in a case granting injunctive relief against the HHS-aspect of the Mandate. *Franciscan All., Inc.*, 2023 WL 4462049, at *8. Notably, plaintiffs in *Franciscan Alliance* only obtained injunctive relief against HHS, not EEOC. The *Franciscan Alliance* court found reasonable rates of \$860 and \$1,000 in 2016, and \$1,000 and \$1,200 in 2020 for lawyers with 12 and 16 years of experience in 2016. *See* Pl. Mem. Supp. Mot. Award Att'y's Fees and Expenses, *Franciscan Alliance v. Beccerra*, No. 7:16-cv-00108-0, Exs. 1-E, 1-F (N.D. Tex. 2022); Ex. 1, Nussbaum Decl. ¶ 49.

Similarly, in *Intervarsity Christian Fellowship v. University of Iowa* and *Business Leaders in Christ v. University of Iowa*, the United States District Court for the Southern District of Iowa, sitting in Davenport, held that a public university violated the constitutional rights of religious student

organizations by selectively deregistering them based on their religious beliefs. The court awarded attorney's fees and found that a rate of \$914/hour for a Becket Fund attorney with twenty-one years of experience and a rate of \$759/hour for a Becket Fund attorney with thirteen years of experience was reasonable. *Intervarsity Christian Fellowship v. Univ. of Iowa*, No. 18-cv-80, ECF No. 101 at 2 n.1 (S.D. Iowa Nov. 18, 2021); *BLinC v. Univ. of Iowa*, No. 17-cv-80, ECF No. 147 at 3 (S.D. Iowa, Nov. 10, 2021). The court explained that “[a]lthough the rates requested for Plaintiff’s out of state counsel are significantly higher, between \$759 and \$914 for the two attorneys, they are reasonable given the complex nature of the issues in this case and the extensive experience Plaintiff’s counsel has in constitutional litigation.” *BLinC*, No. 17-cv-80, ECF No. 147 at 3. And in this case, the Defendants settled with the Religious Sisters of Mercy Plaintiffs for \$950,000 in fees. Ex. 1, Nussbaum Decl. ¶ 50. Notably, the Religious Sisters of Mercy Plaintiffs only won relief against HHS, whereas CBA Plaintiffs won relief against HHS *and* EEOC. Because the rates of counsel for CBA Plaintiffs are lower than those awarded in these similar cases, their rates are reasonable.

Finally, counsel are entitled to recover fees based on their current, 2023 billing rates, or an inflation-corrected amount. This is a matter of essential fairness: “Clearly, compensation received several years after the services were rendered—as it frequently is in complex civil rights litigation—is not equivalent to the same dollar amount received reasonably promptly as the legal services are performed, as would normally be the case with private billings.” *Missouri v. Jenkins*, 491 U.S. 274, 283-84 (1989); *see also Planned Parenthood Minnesota v. Rounds*, 2006 WL 1889163, at *4 (D.S.D. July 7, 2006) (“Courts compensate for this delay either by basing the award on current rates or by adjusting the fee based on historical rates to reflect its present value.”); *Tabech v. Gunter*, 869 F. Supp. 1446, 1462 (D. Neb. 1994) (“calculating the lodestar” by “using the current rates

I believe reasonable” thereby “compensate[ing] counsel for any delay in payment”). Counsel requests fees for all attorneys who did work on the case in 2023 at their 2023 rate. Ex. 1, Nussbaum Decl. at ¶ 25. For those attorneys who worked on the case in 2016 and 2017 but not thereafter, counsel requests, and has applied, a CPI inflation adjustment to their 2016 and 2017 rates. *Id.* at ¶ 26; *see also* Exs. 1-G, 1-H.

2.3. The lodestar amount is reasonable.

Based on the hours reasonably expended in this litigation and counsel’s reasonable home rates, the lodestar amount is \$1,022,378. *See* Ex. 1-H. As explained, these rates are reasonable.

After calculating the lodestar, courts move to the second stage and consider whether to enhance or reduce the award based on unaccounted *Johnson* factors. When considering the *Johnson* factors, this Court “has discretion to enhance a fee because of the public importance or other extraordinary feature of a case.” *Avalon*, 689 F.2d at 140. And the Eighth Circuit has granted enhancements of 20% when a plaintiff achieved exceptional results and the case involved unusual complexity. *Taylor v. Jones*, 653 F.2d 1193, 1206 (8th Cir. 1981); *see also Shipes v. Trinity Indus.*, 46 F.3d 67 (5th Cir. 1995) (affirming 33% enhancement).

Counsel are not requesting any *Johnson* enhancement, although it would be well within the Court’s discretion to award one. This case took seven years to litigate to completion. The issues involved include complex, cutting-edge questions regarding RFRA, Title VII, the ACA, the APA, and standing. Few lawyers and firms in the country have the requisite skill, experience, and willingness to tackle this kind of controversial case. The results were exceptional. *See* Ex. 1, Nussbaum Declaration at ¶¶ 31-46; Ex. 3, Baine Declaration at ¶¶ 10-15; Ex. 4 Eid Declaration at ¶¶ 15-21. The CBA Plaintiffs are permanently protected from ruinous fines—and they achieved first-in-the-nation relief against EEOC. The subject matter is intensely controversial, involving the conscience

rights of Catholic organizations regarding gender-transition procedures. Few, if any, large law firms would handle such controversial cases. And rates and awards in similar cases are substantially higher than those requested here.

3. Plaintiffs' expenses are reasonable.

Under 42 U.S.C. § 1988(b), a prevailing party may recover “[a]ll reasonable out-of-pocket expenses, including charges for photocopying, paralegal assistance, travel, and telephone, are plainly recoverable in section 1988 fee awards because they are part of the costs normally charged to a fee-paying client.” *Associated Builders & Contractors, Inc. v. Orleans Parish School Bd.*, 919 F.2d 374, 380 (5th Cir. 1990); *see also Houghton v. Sipco, Inc.*, 828 F. Supp. 631, 651 (S.D. Iowa 1993) (same), *vacated on other grounds*, 38 F.3d 953 (8th Cir. 1994).

Here, Plaintiffs seek costs totaling \$4,340.80. That amount consists of \$730.38 for airfare, \$278.45 for ground transportation, \$396.96 for lodging, \$234.41 for meals, \$1,290.65 for research, and \$1,409.95 in court filing fees. The travel, meal, and lodging expenses are related to the December 15, 2021 oral argument before the Eighth Circuit. Nussbaum Decl. ¶ 17. The research costs were incurred in relation to the briefing and analysis before this Court and the Eighth Circuit. *Id.*

Plaintiffs also seek expenses totaling \$37,693.50 in expert fees for their motion for attorney’s fees. Nussbaum Decl. at ¶¶ 27-30. Given the substantial amount of professional fees being requested here, it was important to engage experts to provide testimony regarding the results and the reasonableness of rates and hours. *Id.* ¶¶ 26-28. Indeed, “affidavits of comparable attorneys who attest to their rates and the reasonableness of the rates claimed” is usually required to establish the reasonableness of an attorney’s fees. *Baker*, 263 F. Supp. 2d at 1192. CBA Plaintiffs acknowledge there is a split of authority regarding whether a fee expert’s fees are a recoverable expense. In this regard, the opinions in *American Charities for Reasonable Fundraising Regulation, Inc. v. Pinellas*

County., 278 F. Supp. 2d 1301, 1329 (M.D. Fla. 2003) and *American Atheists, Inc. v. City of Starke*, 509 F. Supp. 2d 1221, 1229 (M.D. Fla. 2007) are persuasive. In *American Charities*, the Court held that a fee expert's fees were a compensable expense because the defendants challenged the reasonableness of the requested rates and fees. 278 F. Supp. 2d at 1329. And in *American Atheists*, the Court ruled that a fee expert's fees were compensable because his services were necessary for plaintiff's motion for fees. 509 F. Supp. 2d at 1229. *But see Corral v. Montgomery Cnty.*, 91 F. Supp. 3d 702, 721 (D. Md. 2015) (holding expert fees are not compensable under 42 U.S.C. § 1988).

Accordingly, the Court should grant Plaintiffs' reasonable costs and expert expenses in the total amount of \$42,034.30.

CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs' motion for attorney's fees of \$1,022,378 and expenses of \$42,034.30.

Respectfully submitted December 11, 2023,

/s/ L. Martin Nussbaum

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**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
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THE RELIGIOUS SISTERS OF
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No. 3:16-cv-386

**EXHIBIT 1 - DECLARATION OF
L. MARTIN NUSSBAUM**

CATHOLIC BENEFITS
ASSOCIATION; DIOCESE OF FARGO;
CATHOLIC CHARITIES NORTH DA-
KOTA; and CATHOLIC MEDICAL AS-
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Defendants.

No. 3:16-cv-432

1. My name is L. Martin Nussbaum. I am over eighteen and have personal knowledge of the contents of this declaration.

2. I have served as General Counsel for the Catholic Benefits Association (“CBA”) since its incorporation in 2013. I have served as lead litigation counsel for the CBA in this action

from September 8, 2015 when HHS issued its notice of proposed rulemaking, “Nondiscrimination in Health Programs & Activities,” 80 Fed. Reg. 54,172 (Sept. 8, 2015) (“NPRM”). This NPRM was the prequel to HHS’s final rule “Nondiscrimination in Health Programs & Activities,” 81 Fed. Reg. 31376 (November 7, 2016) (“2016 HHS Rule”) that, along with the United States Equal Employment Opportunity Commission’s similar actions and pronouncements provided the subject matter for this lawsuit (“EEOC Mandate”). I served as lead counsel for CBA, Diocese of Fargo, Catholic Charities North Dakota. and Catholic Medical Association throughout this lawsuit.

3. My then-law firm, Lewis Roca Rothgerber Christie LLP, with its largest offices based in Denver, filed suit for the named plaintiffs on December 28, 2016. At that time, my team and I were in the Colorado Springs office. After my partner, Ian Speir, and I started a boutique firm in Colorado Springs serving religious institutions nationwide, in November 2018, we continued to serve as lead litigation counsel. Our firm, called Nussbaum Speir PLLC subsequently became Nussbaum Speir Gleason PLLC and, thereafter, Nussbaum Gleason PLLC. Throughout these changes, I served as lead litigation counsel in this case. The litigation of this case continued through eight calendar years until this Court entered its Amended Final Judgment on October 11, 2023.

4. CBA Plaintiffs seek payment from Government Defendants of \$1,022,378 for time-adjusted fees for 2,100.75 hours of work reasonably expended by our attorneys and paralegals as set forth in Exhibit 1-H, the Lodestar Calculation Based on Time-Valued Hourly Rates Time Net Hours Billed. In addition, they seek payment from the government for \$4,340.80 in costs and \$37,693.50 for expert witness fees for the three experts who provided declarations in support of this fee petition. These sums total \$1,064,412.30.

5. The attached exhibits in support of this declaration are:

Ex. 1 Declaration of L. Martin Nussbaum

Ex. 1-A Costs

Ex. 1-B Detailed Billings Reflecting Adjustments

Ex. 1-C Total Hours Billed (by attorney and year)

Ex. 1-D Net Hours Billed After Billing Judgment Deletions (by attorney and year)

Ex. 1-E Primary Timekeepers Actual Hourly Rate by Year

Ex. 1-F Lodestar Calculation based on Actual Hourly Rates Time Net Hours Billed

Ex. 1-G Inflation Rated Based on Consumer Price Index (2017 through October 2023)

Ex. 1-H Lodestar Calculation Based on Time-Valued Hourly Rate Times Net Hours Billed

Ex. 1-I Resume of L. Martin Nussbaum

Ex. 1-J Resume of Ian Speir

Ex. 1-K Resume of Andrew M. Nussbaum

Ex. 1-L Resume of Eric N. Kniffin

Ex. 1-M Resume of Matthew Mellema

Ex. 1-N Williams and Connolly (Kevin Baine) billing statement

Ex. 1-O Greenburg Traurig (Troy Eid) billing statement

Ex. 1-P Fees Related to Fee Petition

Ex. 1-Q Resume of Alec Afarian

In addition, the fee petition includes these additional exhibits from experts.

Ex. 2 Declaration of Thomas B. Bair, esq.

Ex. 3 Declaration of Kevin T. Baine, esq.

Ex. 4 Declaration of Troy A. Eid, esq.

6. Exhibits 1-I, 1-J, 1-K, 1-L, 1-M, and 1-P are, respectively, the resumes of the primary attorney timekeepers Eric Kniffin, Matthew Mellema, Andrew Nussbaum, myself, and Ian Speir.

Qualifications and Expertise

7. I served as a partner and as chair of the Religious Institutions practice group at Lewis Roca Rothgerber Christie for twenty years. Ian Speir and I are the founding partners of Nussbaum Gleason PLLC. My practice has focused exclusively on advising and advocating for religious institutions and religious liberty for decades. I have detailed my body of professional work over the

past thirty-eight years in my resume attached as Exhibit 1-I, including admissions in seven courts including the United States Supreme Court; *pro hac vice* admissions in nineteen courts; twenty published opinions along with other notable cases; sixty-one published articles; and scores of presentations on legal issues mostly related to the First Amendment and the law affecting religious institutions. Exhibit 1-I also references a number of honors I have received including graduating with a baccalaureate degree from the University of Notre Dame *summa cum laude*, Phi Beta Kappa, and as the winner of the Cavanaugh Award for the top theology student; graduating with a juris doctor degree from the University of Texas School of Law as Weaver Fellow and as the top second year law student; twice being named as the top non-profit institution lawyer in Colorado, and as being listed as a Chambers recognized lawyer in First Amendment Litigation nationwide.

8. I have served as a consultant to the United States Conference of Bishops Religious Liberty Committee from its inception in 2011 and on the Executive Committee of the National Diocesan Attorneys Association since 2016. I also served on the Christian Legal Society's Case Selection Committee from 1999 to 2011.

9. I have advocated or argued or submitted briefs in courts at all levels—from county courts to the United States Supreme Courts, *see* Ex. 1-I at 3-8, and I have been on the winning side in well over 90% of my cases, including an Episcopal Church secessionist congregation dispute that lasted three-and-one-half weeks and thereby became the longest church trial in Colorado history.

10. I have been frequently asked to provide comment on religious liberty issues and have been quoted in Christian Post, Christianity Today, Crux, Denver Post, Deseret News, Intermountain Jewish News, Los Angeles Times, Milwaukee Sentinel, National Catholic Register, National Public Radio, New York Times, The Pillar, Wall Street Journal, Washington Examiner, and

Washington Post. The Washington Times has described Mr. Speir's and my advocacy as "brilliant." See Rebecca Hagelin, "Apathy, ignorance for First Amendment attack our freedoms," Washington Times (December 16, 2018) (<https://www.ijn.com/first-nussbaum-fights-freedom-worship/>).

11. Ian Speir provided outstanding analysis, research, and briefing on this case from its inception, and he argued it at the United States Court of Appeals for the Eighth Circuit. Ian was the co-founder and original Managing Partner of our firm. He was Order of the Coif at the Georgetown University Law Center. Ian graduated *summa cum laude*, *cum laude*, *magna cum laude*, respectively, in bachelor's, master's, and juris doctor degree programs at Oral Roberts University, University of Texas A&M, and Georgetown Law Center. He clerked for Judge Jerome Homes on the Tenth Circuit, and he has been involved in numerous instances of successful amicus advocacy at the United States Supreme Court and as lead counsel before U.S. Courts of Appeal, the Colorado Supreme and Appellate Courts, and various trial courts. Ian is a lecturer in constitutional law at the University of Colorado at Colorado Springs. He has published articles on religious freedom, federal court procedure, and other topics in Providence, Public Discourse, the Journal of Appellate Practice, and other publications. Ian also was the principal writer of a brief and dossier that persuaded United States Secretary of State John Kerry to make the country's second declaration of genocide related to the treatment of Christians by Iraq, Syria and Libya (available at <https://www.kofc.org/un/en/resources/communications/genocide-report.pdf>). For more detail, see Exhibit 1-J.

12. Andrew Nussbaum graduated first in his class at the Tulane Law School. He won numerous other awards from that institution for outstanding legal scholarship. He thereafter served

as law clerk for William J. Pryor Jr., the Chief Judge for the United States Court of Appeals for the Eleventh Circuit. Andrew served as litigation associate counsel at Hogan Lovells, an international firm with 2,500 lawyers. He then served as the first clerk for newly-appointed United States District Court Judge for the District of Colorado, Daniel Domenico. Andrew is the Managing Partner at Nussbaum Gleason PLLC. His practice includes both religious liberty advocacy for Evangelical, Catholic, and Jewish organizations and commercial litigation. He has prevailed in every religious liberty case he has undertaken. Andrew's amicus advocacy to the United States Supreme Court has included representing the premier First Amendment scholar in the nation, Professor Michael McConnell. For more detail, *see* Exhibit 1-K.

13. Eric Kniffin, a partner, was quite active on this case during 2016 and 2017. Eric, a former United States District Court clerk and *cum laude* graduate of the Notre Dame Law School, was already a seasoned religious liberty advocate after years of work at the Becket Fund for Religious Liberty where he helped draft the merits briefs on two landmark United States Supreme Court cases: *Hosanna-Tabor v. E.E.O.C.*, 565 U.S. 171 (2012) and *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014). Eric has served as an expert commentator for many publications including Wall Street Journal, National Review, Huffington Post, National Catholic Register, Inside Higher Ed, and Washington Times. Eric is now a fellow at the Ethics and Public Policy Institute where he is counsel in its HHS Accountability Project. Additional information regarding Eric's extensive religious liberty advocacy is detailed in Ex. 1-L and in his EPPC professional biography at https://eppc.org/author/eric_kniffin/.

14. Matthew Mellema, an associate, worked on this case during 2016, two years after he had graduated from Yale Law School where he was an editor on two journals, and one year after

he completed his clerkship for Colorado Supreme Court Justice Allison Eid. Matt primarily assisted with legal research. Matt was an active member of the firm's Religious Institutions Group at that time. For more detail, *see* Exhibit 1-M.

15. Alec Afarian, an associate, worked on this case during 2023, shortly after he graduated from Notre Dame Law School where was a dual degree recipient in law and technology. Alec primarily assisted with legal research. For more detail, *see* Exhibit 1-Q

Calculation of Lodestar Amounts

16. The CBA Plaintiffs engaged my firm, first at Lewis Roca and then at Nussbaum Gleason, for the purpose of protecting them from HHS's application of Section 1557 of the Affordable Care Act to require them to cover and, if competent, to perform gender transition services and abortion services and for the purpose of protecting those same institutions from the EEOC's interpretation of Title VII to impose a similar coverage mandate. Collectively, I refer to HHS's and EEOC's respective interpretations of Section 1557 and Title VII as the "Mandate."

17. Exhibit 1-A "Costs" details the expenses that plaintiffs seek totaling \$4,340.80. The costs listed on Exhibit 1-A are a true and accurate reflection of the out-of-pocket expenses incident to this litigation that were incurred by our firm and our former firm and were reimbursed by the CBA. They include, among others, expenses for reasonable travel, lodging, and meals for Ian Speir and me associated with our travel from Colorado Springs to St. Paul, Minnesota for December 15, 2021 oral argument before the Eighth Circuit. The research costs were incurred in relation to the briefing and analysis before this Court and the Eighth Circuit.

18. Exhibit 1-B "Detailed Billings Reflecting Adjustments" includes contemporaneous time records accurately detailing the tasks and amount of time our personnel spent representing

the plaintiffs in litigating this case. We billed for all this time in the “Hours” column based on our regular billing rates. The hours billed in the “Net Hours” column is the balance left after four types of reduction. First, HHS’s NPRM, discussed in paragraph two of the declaration, was published on September 8, 2015. After that issued, we had substantial discussion among our team and with our client along with analysis to begin to assess whether the CBA Plaintiffs would need to file suit. By May 13, 2016, the CBA had determined that a lawsuit was necessary and we opened a litigation file within our firm. Thus, the first reduction is that the “Hours” column does not include any of the hours billed for the legal work performed from September 8, 2015 through May 12, 2016. Second, as the billing attorney, I reviewed each monthly bill before we sent it to the client. When doing that, I routinely deleted or reduced specific entries if I felt the work was inefficient or unproductive. Thus, the column entitled “Hours” reflects the net hours actually billed to the client after my monthly edits during the regular billing cycle. Third, this exhibit reflects a number of redactions or adjustments that I made as part of this fee application process to eliminate duplicative or nonproductive time or time not directly related to advancing the goals of the lawsuit. Fourth, I also eliminated all the hours for those timekeepers who billed few hours on this case and did not significantly advance the litigation. They are Professor Helen Alvaré, Deion Kathawa, and Ed Gleason. I refer to the remaining timekeepers (Ian Speir, Andrew Nussbaum, Eric Kniffin, Matthew Mellema, and myself) along with our paralegals as the “primary timekeepers.” The third and fourth types of reductions are reflected in the column entitled “Adjustments.” There are also a few additional redactions of the text with regard to names and identifying information within Exhibit 1-B to protect the anonymity of CBA members other than the named plaintiffs. Finally, there are a few redactions providing detail related to strategy considerations not previously disclosed to the government.

There is no reduction in hours billed with regard to either of the latter two types of redaction. Finally, this exhibit includes a column entitled “Net Hours.” It represents the difference between the “Hours” column and the “Adjustments” column. All of the Lodestar calculations below are based on the Net Hours Column for the primary timekeepers.

19. Exhibit 1-C “Total Hours Billed (by attorney and year)” reports the total number of hours billed by all attorneys along with the total number of hours billed by paralegals for each year after the first and second adjustments described in paragraph seventeen. After multiplying the net hours worked for each timekeeper by the applicable rates, the CBA paid those fees.

20. Exhibit 1-D “Net Hours Billed After Billing Judgment Deletions (by primary timekeeper and year)” reports the net number of hours billed, after all adjustments, by primary timekeeper or paralegal for each year.

21. Exhibits 1-C and 1-D also indicate the bar date for the lawyer timekeepers.

22. Exhibit 1-E lists “Primary Timekeepers Actual Hourly Rate by Year”. These rates are our regular billing rates for each primary timekeeper by year. The are:

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023
Eric Kniffin (2003)	\$355	\$370	\$395	n/a	n/a	n/a	n/a	n/a
Matthew Mel- lema (2013)	\$260	\$260	n/a	n/a	n/a	n/a	n/a	n/a
Andrew Nuss- baum (2016)	n/a	n/a	n/a	n/a	n/a	\$400	\$410	\$425
Martin Nuss- baum (1985)	\$510	\$510	\$550	\$560	\$575	\$585	\$595	\$595

Ian Speir (2011)	\$310	\$350	\$380	\$395	\$425	\$450	\$475	\$475
Paralegals	\$210	\$215	n/a	\$250	\$125	\$125	\$150	\$150

23. Exhibit 1-F is the “Lodestar Calculation Based on Actual Hourly Rates Times Net Hours Billed.” This chart multiplies the net hours worked for each of the primary timekeepers by that timekeeper’s rate for the year when the hours were worked. It is important to note that this chart does not take the time-value of money into account and, therefore, an award based on this number would not make the CBA whole. The total fees calculated through this chart’s methodology is \$880,917.

24. The sum in the previous paragraph includes fees billed in October, November, and December 1 through December 7, 2023. Much of the billings for those months—but not all—were incurred for legal work preparing this fee petition. Because the amount of “fees on fees” was not known at the time the experts prepared their declarations, they did not opine on the reasonableness of the “fees on fees.” The total hours and fees for preparing this fee petition are listed in Exhibit 1-P entitled “Fees Related to Fee Petition.”

25. The law related to attorney fees applications recognizes that, for lawsuits litigated over several years, the use of actual billing rates, year by year, does not make the prevailing party whole because of the time value of money. To address this inequity, the law commends (1) multiplying each attorney’s rate for the final year of the litigation times his or her net hours billed; or (2) adjusting an attorney’s past rate for inflation. *Missouri v. Jenkins*, 491 U.S. 274, 283-84 (1989). The former approach acceptably addresses the time value of fees billed by Martin Nussbaum, Ian Speir, Andrew Nussbaum, and the paralegals who worked on the case during 2023. It does adequately address the time value of money for fees billed by Eric Kinffin whose last work on this case was in

2018 or for Matthew Mellema whose last work in this case was in 2017. In our fee petition, we recommend that the court approve a just rate for those two timekeepers calculated by inflating their respective final year rates by the increases in the consumer price index for each year after the attorney ended his work on this case. Exhibit 1-G is the “Inflation Rate Based on Consumer Price Index (2017 through October 2023). See https://inflationdata.com/Inflation/Inflation_Rate/HistoricalInflation.aspx.

Year	Inflation Rate
2017	2.13%
2018	2.44%
2019	1.81%
2020	1.24%
2021	4.7%
2022	8.01%
2023*	4.22%

26. Exhibit 1-H is the “Lodestar Calculation Based on Time-Valued Hourly Rate Times Net Hours Billed.” The time-valued rate is the 2023 rate for those timekeepers active in 2023. Because there is no 2023 rate for Messrs. Kniffin and Mellema, the time-valued rate is his most recent annual billing rate adjusted by the inflation rate based on the consumer price index. Thus, the time-valued rate for Eric Kniffin is his 2018 rate times the inflation rate for each year from 2019 through 2023 or $\$395 \times (1.0181)(1.0124)(1.047)(1.0801)(1.0422) = \$395 \times 1.215 = \$480$. For Matthew Mellema, his time-valued rate is his 2017 rate times the inflation rate for each year from 2017 through 2023 or $\$260 \times (1.0244)(1.0181)(1.0124)(1.047)(1.0801)(1.0422) = \$260 \times 1.244 = \$323$. The total calculated through this chart’s methodology is \$1,022,378.

Fees of Expert Witnesses in Support of Fee Application

27. Because proof of the reasonableness of fees requires “affidavits of comparable attorneys” testifying to the same, *see Baker v. John Morrell & Co.*, 263 F.Supp.2d 1161, 1192 (N.D. Iowa 2003), *aff’d*, 382 F.3d 816 (8th Circ. 2004), it was critical to engage experts to provide testimony regarding the results and the reasonableness of our rates and hours. Accordingly, we acquired the services of Thomas Bair, a deeply experienced North Dakota lawyer with experience representing religious institutions. Mr. Bair’s resume is attached to our fee petition as Exhibit 2. Mr. Bair waived fees for his services.

28. We also acquired the expert witness services of Kevin Baine, Senior Counsel at Williams and Connolly LLP in Washington, D.C. Mr. Baine has deep experience advocating for religious institutions. His regular hourly rate is \$1,550 per hour. Mr. Baine often discounts that rate to \$1,000 per hour for religious institution clients. Mr. Baine’s declaration is attached to our fee petition as Exhibit 3. His billing statement is in the amount of \$ 17,500 for his expert services in support of this fee petition. It is attached as Ex. 1-N. This sum is the net amount after an additional courtesy discount of \$4,200.

29. Finally, we retained Troy Eid, a partner at Greenburg Traurig’s Denver office, as an expert witness. Mr. Eid has deep experience, regionally and nationally, in complex and constitutional litigation. His regular hourly rate is \$935 per hour. In January, it will increase to \$1,015. As a courtesy, Mr. Eid discounted that rate for his services here to \$841.50 per hour. Mr. Eid’s resume is attached to our fee petition as Exhibit 3. His billing statement in the amount of \$20,193.30 for his expert services in support of this fee petition is attached as Ex. 1-O. This sum is the net amount after an additional courtesy discount of \$2,243.70.

30. The sum of Mr. Baine's expert witness fee and Mr. Eid's expert witness fee in support of this fee application is \$37,693.50.

Results Achieved

31. The CBA Plaintiffs have received final, permanent, and excellent results in this litigation and thus merit attorney's fees.

32. Through this litigation, we successfully invoked the Religious Freedom Restoration Act to acquire declaratory and permanent injunctive relief against HHS from its Mandate interpreting Section 1557 of the Affordable Care Act ("ACA"). The Mandate requires employers, insurers, and third-party administrators to cover in their health plans gender transition services and medical providers to perform such services. "Gender transition services" includes puberty blockers, cross-sex hormones, all forms of gender transition surgeries and related counseling. Including such services in their health plans would violate the values of the Catholic employers we represented in this litigation. Those protected through the relief we acquired included the named plaintiffs in 16cv-432: the Catholic Benefits Association, the Diocese of Fargo, Catholic Charities North Dakota, and the Catholic Medical Association. CBA Plaintiffs' suit was one of only three lawsuits in the country to achieve this result.

33. CBA Plaintiffs also acquired the same relief against the EEOC from its interpretation of Title VII to require employers (with fifteen or more employees) to cover gender transition services ("GTS") in their health plans. CBA Plaintiffs was the first and only lawsuit in the country to acquire such relief against the EEOC.

34. CBA Plaintiffs filed this lawsuit on December 18, 2016 through my law firm at that time, Lewis Roca Rothgerber Christie LLP with principal offices in Denver and Phoenix. Our

attorneys worked out of Colorado Springs offices. In November 2018, my colleague, Ian Speir, and I left the Lewis Roca firm and founded a new boutique firm, Nussbaum Speir PLLC, that focused on serving religious institutions. We continued to represent the CBA plaintiffs from our new firm without further involvement from the Lewis Roca firm.

35. A second group of plaintiffs-State of North Dakota, The Religious Sisters of Mercy; Sacred Heart Mercy Health Care Center (Jackson, MN); Sacred Heart Mercy Health Care Center (Alma, MI); SMP Health System; and the University of Mary—represented by Becket Law—had previously filed a similar lawsuit in the same division (collectively, the “RSM Plaintiffs”). The RSM Plaintiffs sought similar relief against HHS as did the CBA Plaintiffs with regard to HHS. The RSM Plaintiffs did not sue the EEOC. The Court consolidated the two cases. As a result, substantial strategizing and coordination between the CBA and RSM legal teams was thereafter necessary.

36. Given the significance of the case, the American Civil Liberties Union filed amicus briefs to oppose the plaintiffs’ arguments.

37. One of the unusual aspects of this lawsuit is that it was conducted against the backdrop of a constantly developing legal terrain including the decisions in the related case, *Franciscan Alliance v. Becerra*, No. 7:16-cv-0010, the HHS’s promulgation of a complicated new regulation during Trump administration (“the 2020 Rule”) that initially ameliorated some of the issues of concerns of the CBA Plaintiffs, the Supreme Court’s *Bostock* decision that made the 2020 Rule less helpful; and the five lawsuits challenging the 2020 Rule. These closely related developments required significant legal resources to monitor and analyze them because they had substantial bearing on the CBA lawsuit.

38. CBA Plaintiffs initially feared that the 2016 HHS mandate also required health plan coverage of abortion services. The Court ruled that HHS's mandate did not require coverage of abortion services.

39. The District Court issued an opinion in favor of our plaintiffs. *See Religious Sisters of Mercy v. Azar*, 513 F.Supp.3d 1113 (D. N.D. 2021).

40. The Eighth Circuit did likewise. *See Religious Sisters of Mercy v. Becerra*, 55 F.4th 583 (8th Cir. 2022).

41. These opinions protected not only our plaintiffs but their respective insurers and third-party administrators who were themselves subject to the 2016 coverage mandates even though they were not parties to the lawsuit.

42. On August 4, 2022, HHS published a notice of proposed rulemaking that proposed to substantially expand its implementation of ACA § 1557. See Nondiscrimination in Health Programs and Activities, Fed. Reg. 47,824. We anticipate that this proposed rule will be made final in the winter of 2024. The proposed rule will substantially expand HHS's 2016 gender transition services coverage mandate to include not only "gender transition services" but "gender-affirming care." The latter will include additional mandates related to social affirmation, gender-affirming cosmetic surgery and, likely, surgical and chemical abortion. It appears that the wording of the injunction we acquired for our named plaintiffs is broad enough to protect them from the forthcoming gender-affirming care mandate.

43. While we were unsuccessful in acquiring injunctive relief for the unnamed members of the CBA, that portion of our lawsuit was dismissed without prejudice. We did acquire protection for them over the eight calendar years that this lawsuit was active. Importantly, the precedents we

won for our named plaintiffs at the Eighth Circuit on the substantive issues will inure to the benefit of the CBA's unnamed members in a new lawsuit we filed for their benefit on October 13, 2023. *See Catholic Benefits Ass'n v. Becerra*, No. 3:23-cv-00203-PDW-ARS (D. N.D.).

44. This litigation was undertaken by the plaintiffs and the CBA's members at considerable risks to them, and the greatest of this risk was that of giving moral scandal. As Catholic institutions, they preach respect for life and the ordering of all humankind as men and women, boys and girls. Paying for or performing medical services seeking to reverse this order would give rise to scandal. Scandal, especially for religious institutions, undercut every other aspect of their missions.

45. In addition to the risk of scandal, CBA Plaintiffs faced significant legal risk, including ruinous fines, criminal sanctions, civil-enforcement actions, loss of federal financial assistance. These penalties were existential for CBA Plaintiffs.

46. This was hard fought litigation conducted over three administrations during eight calendar years. It included an appeal to the United States Court of Appeals for the Eighth Circuit and further litigation upon remand.

Rates

47. It is my opinion and that of the Catholic Benefits Association and the rates and hours billed for this litigation were reasonable. Indeed, as explained in the declarations of Kevin Baine and Troy Eid, the rates are well below market for litigation requiring the particular expertise necessary in this case.

48. While I will not repeat the analysis of Messrs. Eid and Baine, I will comment on the fees received by the Becket Fund in two related lawsuits, *Franciscan Alliance, Inv. v. Becerra*. ___ F.4th ___, 2022 WL 2700044 (5th Cir. 2022), and this consolidated case, *Religious Sisters of Mercy*

v. Becerra. In both, the Becket Fund's clients sought relief from the HHS-portion of the Mandate but not from the EEOC portion. Thus, the EEOC was not a defendant in the Becket cases. While the Fifth Circuit case made several trips to the Fifth Circuit, the issues related to the HHS 2016 Rule were the same.

49. In the Fifth Circuit case, the Court, after discounting fees 5% because of block billing, approved \$2,203,053.23 in attorney's fees plus \$4,209.28 in costs. What is most relevant is the hourly rates approved by the Court in that case for successful advocacy on issues of the same complexity of that addressed by CBA's counsel. The court approved the following hourly rates for Becket work in 2022:

Daniel Chen (2016)	\$700
Joseph Davis (2014)	\$790
Luke Goodrich (2004)	\$1,000
Mark Rienzi (2000) ¹	\$1,250
Paralegals	\$210

See Franciscan Alliance v. Becerra, No. 7:16-cv-001087-O, ECF 224, Plaintiff's Memorandum in Support of Their Motion for Award of Attorneys Fees and Expenses, 14 (N.D. Tex., Wichita Falls Div. dec. 23, 2022).

50. The government and Becket settled Becket's request for attorneys fees in the *Religious Sisters of Mercy* companion case for \$950,000. That case, while quite similar to ours with regard to the 2016 HHS Mandate, was less complicated than the CBA case because Becket did not sue the EEOC with regard to its interpretation of Title VII imposing a similar coverage mandate, and it did not seek to establish associational standing. Thus, Becket attorneys did no briefing or argument related to Title VII, the EEOC's interpretation of the same, or associational standing.

¹ Prof. Rienzi's rate is for 2021.

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

Date: December 11, 2023


L. Martin Nussbaum

**EXHIBIT 1-A
COSTS**

Date	Amount	Category	Description
6/28/2016	\$9.90	Research	Westlaw
7/26/2016	\$21.80	Research	Westlaw
7/26/2016	\$9.90	Research	Westlaw
8/20/2016	\$9.90	Research	Westlaw
8/9/2016	\$19.80	Research	Westlaw
8/16/2016	\$23.60	Research	Westlaw
8/16/2016	\$29.70	Research	Westlaw
10/15/2016	\$9.90	Research	Westlaw
11/30/2016	\$23.60	Research	Westlaw
12/2/2016	\$5.90	Research	Westlaw
12/2/2016	\$9.90	Research	Westlaw
12/13/2016	\$29.70	Research	Westlaw
12/13/2016	\$9.90	Research	Westlaw
12/14/2016	\$9.90	Research	Westlaw
12/15/2016	\$29.50	Research	Westlaw
12/15/2016	\$69.30	Research	Westlaw
12/19/2016	\$19.80	Research	Westlaw
12/22/2016	\$1,093.00	Court Fees	Filing Fees
12/24/2016	\$9.90	Research	Westlaw
12/26/2016	\$29.70	Research	Westlaw
12/27/2019	\$9.90	Research	Westlaw
12/27/2019	\$23.60	Research	Westlaw
12/27/2019	\$9.90	Research	Westlaw
12/29/2019	\$39.60	Research	Westlaw
12/29/2019	\$19.80	Research	Westlaw
12/30/2016	\$19.80	Research	Westlaw
1/9/2017	\$9.90	Research	Westlaw
1/24/2017	\$19.80	Research	Westlaw
1/27/2017	\$78.02	Research	Pacer Fees
4/13/2017	\$35.51	Research	Pacer Fees
6/19/2017	\$19.80	Research	Westlaw
7/17/2017	\$19.80	Research	Westlaw
7/28/2017	\$28.30	Research	Pacer Fees
7/27/2018	\$34.00	Research	Westlaw
7/27/2018	\$23.80	Research	Westlaw
8/17/2018	\$11.90	Research	Westlaw
8/23/2018	\$11.90	Research	Westlaw
2/3/2020	\$27.60	Court Fee	Federal Court Fees

6/4/2020	\$3.90	Court Fee	Federal Court Fee Case Review
9/15/2020	\$16.10	Research	Pacer Fee
10/30/2020	\$5.70	Research	Pacer Fee
11/23/2020	\$5.20	Research	Pacer Fee
9/10/2021	\$462.01	Printing	Printing
12/14/2021	\$730.38	Airfare	Airline tickets (Martin Nussbaum & Ian Speir) round trip to St. Paul for Eighth Circuit argument
12/14/2021	\$396.96	Hotel	Hotel, 2 rooms in St. Paul for Eighth Circuit argument
12/14/2021	\$52.20	Ground Transp.	Transportation in St. Paul for Eighth Circuit argument
12/14/2021	\$62.86	Meals	Meals in St. Paul for Eighth Circuit argument
12/14/2021	\$171.55	Meals	Meals in St. Paul for Eighth Circuit argument
12/15/2021	\$24.71	Meals	Meals in St. Paul for Eighth Circuit argument
12/15/2021	\$48.30	Ground Transp.	Transportation in St. Paul for Eighth Circuit argument
12/15/2021	\$97.95	Mileage Reimbursement	Mileage from COS - DIA for Eighth Circuit argument
12/15/2021	\$60.00	Parking	Airport Parking DIA for Eighth Circuit argument
3/31/2021	\$238.00	Court Fee	Attorney admission application fee
8/21/2023	\$47.45	Court Fee	Transcript of July 17th, 2023, Status Conference
Total Expenses	\$4,340.80		

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
5/13/2016	Martin Nussbaum	Review email from Mr. E. Kniffin re new regulation; email to clients and Messrs. Kniffin and I. Speir re same.	1	0	1
5/20/2016	Eric Kniffin	Review HHS press release and related docs concerning final rules on Section 1557 of the ACA defining sex discrimination.	1.2	0	1.2
5/22/2016	Eric Kniffin	Review HHS Final Rule on ACA Section 1557, sex discrimination.	1	0	1
5/23/2016	Eric Kniffin	Review final rules on Section 1557 of the ACA; notes regarding same	3.7	0	3.7
5/25/2016	Eric Kniffin	Draft memorandum outlining final rules regarding Section 1557 of the ACA and the rules' potential impact on CBA members.	4.3	0	4.3
5/26/2016	Eric Kniffin	Draft memorandum outlining final rules regarding Section 1557 of the ACA and the rules' potential impact on CBA members.	4.3	0	4.3
5/27/2016	Martin Nussbaum	Conference with Mr. E. Kniffin re research as to new mandate; review article re same.	0.3	0	0.3
5/27/2016	Eric Kniffin	Draft memorandum outlining final rules regarding Section 1557 of the ACA and the rules' potential impact on CBA members; conversations with Mr. M. Nussbaum regarding research and outstanding issues regarding how Section 1557 relates to CBA members; conversations with Mr. W. Mahaffey regarding interpretation of terms in Final Rules and Section 1557's place in the ACA; research caselaw interpreting Section 1557.	6.6	0	6.6
5/28/2016	Eric Kniffin	Draft memorandum outlining final rules regarding Section 1557 of the ACA and the rules' potential impact on CBA members.	1	0	1
30-May	Eric Kniffin	Draft memorandum outlining final rules regarding Section 1557 of the ACA and the rules' potential impact on CBA members.	2.1	0	2.1
5/31/2016	Martin Nussbaum	Conference with Mr. E. Kniffin re research into new regulation.	0.3	0	0.3
5/31/2016	Eric Kniffin	Conversation with Mr. M. Nussbaum regarding discrimination on the basis of "termination of pregnancy" and ACA prohibitions on abortion coverage; research comments on abortion and Section 1557 final rules; email to Mr. R. Severino at Heritage Foundation regarding his commentary on proposed rules under Section 1557.	2.4	0	2.4
6/2/2016	Eric Kniffin	Research appearance and application of discrimination on the basis of "termination of pregnancy" in federal regulations and caselaw; [REDACTED]	1.6	-1	0.6
6/3/2016	Martin Nussbaum	Conference with Mr. E. Kniffin re new regulation.	0.5	0	0.5
6/3/2016	Eric Kniffin	Conversation with Mr. M. Nussbaum regarding memo, status of abortion coverage under Section 1557 and final rules; review medical procedures and treatments for gender transition; draft memorandum.	3.2	0	3.2
6/4/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	2.4	0	2.4
6/5/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	1.4	0	1.4
6/6/2016	Martin Nussbaum	Conference with Mr. E. Kniffin re analysis of the new regulation related to the transgender services mandate.	0.3	0	0.3
6/6/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	4.3	0	4.3
6/7/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	7	0	7
6/8/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	2.7	0	2.7
6/9/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	5.7	0	5.7
6/10/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	6	0	6
6/11/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	4.1	0	4.1
6/12/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	1.6	0	1.6
6/13/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	8.2	0	8.2
6/14/2016	Martin Nussbaum	Phone conference with Mr. E. Kniffin re research as to final regulation and avenues to take with possible litigation.	0.8	0	0.8
6/14/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research.	10.1	0	10.1
6/15/2016	Eric Kniffin	Draft memorandum on Section 1557 final rules and related recommendations for CBA; related legal research; deliver memorandum to M. Nussbaum.	11.6	0	11.6
6/16/2016	Martin Nussbaum	Research re § 1557 final regulation re gender assignment services mandate and related issues.	2.5	0	2.5
6/17/2016	Eric Kniffin	Review HHS proposed rule regarding nondiscrimination requirements for hospitals participating in Medicaid and Medicare.	0.6	0	0.6
6/17/2016	Martin Nussbaum	Report to Mr. D. Wilson and Ms. N. Matthews re final regulation as to sex discrimination prohibition.	0.3	0	0.3
6/17/2016	Eric Kniffin	Review HHS proposed rule regarding nondiscrimination requirements for hospitals participating in Medicaid and Medicare; prepare summary of rule.	3.3	0	3.3
6/20/2016	Eric Kniffin	[REDACTED]	1.1	-1.1	0
6/23/2016	Martin Nussbaum	Review Mr. E. Kniffin's research memorandum re Section 1557; conference with Messrs. Kniffin and I. Speir re same and re requesting a shortened memorandum from Mr. Speir.	2.3	0	2.3
6/23/2016	Ian Speir	Review memorandum by Mr. E. Kniffin analyzing transgender mandate; office conference with Messrs. M. Nussbaum, W. Mahaffey, and E. Kniffin re same.	2.1	0	2.1
6/23/2016	Eric Kniffin	[REDACTED]	2.8	-2.8	0
6/24/2016	Eric Kniffin	Review HHS letter to ADF interpreting Weldon amendment as related to California abortion mandate; email to Messrs. M. Nussbaum, I. Speir, and W. Mahaffey summarizing HHS position and relevance to potential abortion mandate under Section 1557.	2	0	2

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
6/27/2016	Ian Speir	Review HHS regulations and guidance on Section 1557 of Affordable Care Act; review Mr. E. Kniffin's memo re same; draft condensed memo on regulations and their application to CBA members.	2.7	0	2.7
6/27/2016	Eric Kniffin	Conversation with Mr. I. Speir regarding memorandum on Section 1557 and comparisons between HHS final rule and Title IX law and regulations; review Civil Rights.	1.5	0	1.5
6/28/2016	Ian Speir	Review HHS regulations and guidance on Section 1557 of Affordable Care Act; review Mr. E. Kniffin's memo re same; draft condensed memo on regulations and their application to CBA members.	6.9	0	6.9
6/28/2016	Eric Kniffin	Conversation with Mr. I. Speir regarding memo on Section 1557 final rules; review email and attachment regarding summary memorandum.	0.6	0	0.6
6/29/2016	Eric Kniffin	Review Mr. I. Speir email; review abbreviated memorandum on Section 1557 mandate; conversation with Mr. Speir regarding same.	1.1	0	1.1
6/30/2016	Martin Nussbaum	Email to ██████████, counsel for ██████████ re clinical trial mandate; review § 1557 regulation; conference with Mr. E. Kniffin re same; continue research re § 1557 regulation.	4.8	-0.6	4.2
6/30/2016	Eric Kniffin	Conversation with Mr. M. Nussbaum regarding Section 1557 memo and reach of nondiscrimination requirements as to TPAs; retrieve sections of final rule on TPAs for Mr. Nussbaum review.	1.2	0	1.2
7/1/2016	Martin Nussbaum	Conference with Mr. W. Mahaffey re analysis of new regulation; conference with Messrs. E. Kniffin and M. Mellema re further research into remedies available for breach of regulation; review section 1557 regulation.	3	0	3
7/1/2016	Eric Kniffin	Meeting with Messrs M. Nussbaum and M. Mellema regarding research needs and case strategy; follow-up research regarding Section 1557 and final rule; follow-up conversation with Mr. Mellema regarding same; ██████████	2.4	-0.5	1.9
7/1/2016	Eric Kniffin	██████████	0.5	-0.5	0
7/1/2016	M. Mellema	Discuss research issues with Mr. M. Nussbaum re enforcement mechanisms for federal regulations; research federal regulations pertaining to section 1557 and Title IX.	3.3	0	3.3
7/2/2016	Eric Kniffin	██████████	2.1	-2.1	0
7/3/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research.	2.3	0	2.3
7/4/2016	Martin Nussbaum	Review moral analysis from Catholic Hospital Association and from National Catholic Bioethics Center re gender identity and transition; review also the moral teachings collected by the United States Conference of Bishops on the subject; email to Messrs. I. Speir and E. Kniffin re same.	1.3	0	1.3
7/4/2016	Eric Kniffin	██████████ HHS transgender mandate on Christian schools with nursing programs; review email from Mr. M. Nussbaum regarding USCCB, NCBC, and CHA position statements on transgender issues; review linked materials.	1.9	-0.9	1
7/4/2016	M. Mellema	Research memo for Mr. M. Nussbaum re remedies available for private rights of action under Title IX; outline said memo; draft said memo; revise said memo.	5.8	0	5.8
7/5/2016	Martin Nussbaum	Continue revising memorandum summarizing § 1557 final rule; conference with Mr. E. Kniffin re several issues; conference with Mr. I. Speir re issue; review federal false claims act; review form notice; email to Archbishop Lori, Messrs. D. Wilson, B. Baird and Ms. N. Matthews re same.	4.5	0	4.5
7/5/2016	Ian Speir	Review Catholic moral analysis of transgender issues, sex-change operations, and related healthcare issues; review Mr. M. Mellema's memo re remedies available for violations of Title IX/Section 1557; analyze HHS Final Rule on transgender discrimination and draft analysis to Mr. E. Kniffin regarding scope of rule's nondiscrimination requirements; review Mr. E. Kniffin analysis of new "conditions of participation" for Medicaid and Medicare programs, and related nondiscrimination requirements, and confer with Messrs. Kniffin and M. Nussbaum re same.	3	0	3
7/5/2016	Eric Kniffin	Review Mr. M. Mellema's memo regarding Title IX remedies; conversation with Mr. I. Speir regarding HHS assurance of compliance document and legal significance; conversation with Mr. Speir regarding Section 1557 final rule and its different treatment of discrimination in health care coverage compared to health care services; legal research and notes regarding same; email to Mr. M. Nussbaum summarizing HHS proposed rule on Medicaid and Medicare participation requirements and impact on proposed litigation.	5.3	0	5.3
7/5/2016	M. Mellema	Research memo for Mr. M. Nussbaum re remedies available for private rights of action under Title IX; outline said memo; draft said memo; revise said memo.	2.5	0	2.5
7/6/2016	Martin Nussbaum	Attention to research; conference call with Archbishop Lori, Messrs. D. Wilson, and B. Baird re Section 1557 mandate and proposed consultations with the doctrine committee and NCCB committee; conference with Messrs. E. Kniffin and I. Speir re preparation of memorandum to assist with consultations and re researching the basis for claims to avoid application of the mandate.	3.5	0	3.5
7/6/2016	Ian Speir	Review and analyze HHS transgender rule for applicability to health care providers and health insurers and correspond with Mr. E. Kniffin re same; confer with Messrs. M. Nussbaum and E. Kniffin re HHS transgender rule, anticipated lawsuit, and litigation strategy.	3.6	0	3.6
7/6/2016	Eric Kniffin	Review Mr. M. Nussbaum email to CBA leadership and attached memorandum summarizing Section 1557 final rule; correspondence with Mr. I. Speir regarding final rule and discrimination in provision of health care services.	6.8	0	6.8
7/7/2016	Ian Speir	Analyze HHS section 1557 rule; correspond with Mr. E. Kniffin re HHS's failure to incorporate Title IX religious exemption and legal arguments to challenge; correspond with Mr. M. Mellema to assign research project on Title VII remedies; and draft memo to CBA ethics committee, USCCB, and NCBC re clinical trial mandate and ██████████	4.3	-0.5	3.8
7/7/2016	Eric Kniffin	Conversation with Mr. I. Speir regarding potential legal arguments against Section 1557 legal rule; review R. Doerflinger analysis of HHS position on Weldon amendment; email to Messrs. M. Nussbaum and Speir regarding same and explaining impact on Section 1557 litigation; drafting memoranda on Section 1557 litigation strategy.	5.5	0	5.5
7/7/2016	M. Mellema	Research Title VII remedies in order to draft memo for Mr. M. Nussbaum.	4.7	0	4.7

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
7/8/2016	Ian Speir	Draft memo to CBA ethics committee, USCCB, and NCBC re clinical trial mandate and section 1557 rule.	3.5	0	3.5
7/8/2016	Eric Kniffin	Conversation with Mr. I. Speir regarding interpretations of final rule and related litigation strategy; drafting memoranda on Section 1557 litigation strategy; related legal research.	4.7	0	4.7
7/8/2016	M. Mellema	Research Title VII remedies in order to draft memo for Mr. M. Nussbaum.	6.1	0	6.1
7/9/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research.	0.4	0	0.4
7/10/2016	Eric Kniffin	Legal research comparing Section 1557 to Title IX; email to Mr. I. Speir regarding same.	3.6	0	3.6
7/11/2016	Martin Nussbaum	Review office of general counsel analysis of Section 1557; review email from Mr. A. Picarello and Archbishop Lori re same; conference with Messrs. E. Kniffin and I. Speir to discuss same; phone conference with Ms. N. Matthews re Section 1557 regulation and next steps; phone conference with Mr. D. Wilson re same.	3	0	3
7/11/2016	Ian Speir	Review Atlantic article on apotemnophilia and its relationship to gender identity disorder; draft [REDACTED]	1.6	-1.6	0
7/11/2016	Eric Kniffin	Review email from Mr. A. Picarello to Archbishop Lori; review USCCB Law Brief on Section 1557 mandate; notes regarding same; meeting with Messrs. M. Nussbaum and I. Speir regarding memorandum and anticipated meeting with Mr. Picarello regarding Section 1557 mandate; follow up conversation with Mr. Speir and notes regarding same; review caselaw regarding California abortion mandate and HHS action regarding same.	4.7	0	4.7
7/11/2016	M. Mellema	Research for Mr. M. Nussbaum re remedies available pursuant to Title VII.	5.2	0	5.2
7/12/2016	Ian Speir	[REDACTED]	1.3	-1.3	0
7/12/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research	3.8	0	3.8
7/12/2016	M. Mellema	Outline memo re remedies available under Title VII for Mr. M. Nussbaum.	0.9	0	0.9
7/13/2016	Martin Nussbaum	Email to Mr. A. Picarello re analysis, research, and timing issues.	0.2	0	0.2
7/13/2016	Ian Speir	Draft memo to CBA ethics committee, USCCB, and NCBC re clinical trial mandate and section 1557 rule, and correspond with Messrs. M. Nussbaum, E. Kniffin, and M. Mellema re same.	3.7	0	3.7
7/13/2016	Eric Kniffin	Conversation with Ms. D. Bordlee of Bioethics Defense Fund regarding ethical and moral issues related to mandate.	0.4	0	0.4
7/13/2016	Eric Kniffin	Conversation with Messrs. M. Nussbaum and I. Speir; review correspondence from Mr. Nussbaum to Mr. A. Picarello; review Mr. Speir's memorandum regarding Section 1557 mandate, notes regarding same; legal research regarding standing and ripeness issues in Eighth Circuit.	4.2	0	4.2
7/14/2016	Eric Kniffin	[REDACTED]	5.4	-5.4	0
7/14/2016	M. Mellema	Outline memo for Mr. M. Nussbaum re remedies available for Title VII violations.	2.7	0	2.7
7/15/2016	Eric Kniffin	Legal research regarding standing and ripeness issues in Eighth Circuit and other federal jurisdictions; notes regarding same.	2.1	0	2.1
7/16/2016	Eric Kniffin	Legal research regarding standing and ripeness related to Section 1557 litigation: notes regarding same.	1.5	0	1.5
7/17/2016	Eric Kniffin	Legal research on standing, ripeness issues; legal research on declaratory judgment actions against federal regulations.	3.6	0	3.6
7/18/2016	Eric Kniffin	Legal research on declaratory judgment actions against federal regulations; draft memoranda on Section 1557 litigation strategy.	6.6	0	6.6
7/18/2016	M. Mellema	Draft memo for Mr. M. Nussbaum re Title VII remedies.	2	0	2
7/19/2016	Martin Nussbaum	Conference with Mr. E. Kniffin re status of research reclaims and ripeness.	0.3	0	0.3
7/16/2016	Eric Kniffin	Legal research on declaratory judgment actions against federal regulations; draft memoranda on Section 1557 litigation strategy.	4	0	4
7/19/2016	M. Mellema	Revise memo re Title VII remedies for Mr. M. Nussbaum.	3.5	0	3.5
7/20/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research.	4.6	0	4.6
7/21/2016	Ian Speir	Review Department of Education decisions regarding religious exemption under Title IX, and teleconference and correspondence with Mr. J. Spears re research project for same; office conferences with Messrs. M. Nussbaum and E. Kniffin re claims and legal strategy in anticipated lawsuit challenging rules under Section 1557.	2.2	0	2.2
7/21/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research.	4	0	4
7/22/2016	Ian Speir	Review Mr. M. Mellema's memo on Title VII remedies, review recent EEOC actions and decisions re application of Title VII to gender identity discrimination, and correspond with Messrs. M. Nussbaum, E. Kniffin, and M. Mellema re impact of EEOC's interpretation of Title VII and its powers under Title VII on CBA members.	1.8	0	1.8
7/22/2016	Eric Kniffin	Review Mr. I. Speir's email on limitation strategy; review Mr. M. Mellema's memorandum regarding remedies available under Title VII.	2.4	0	2.4
7/22/2016	M. Mellema	Revise memo re Title VII remedies for Mr. I. Speir.	0.7	0	0.7
7/25/2016	Eric Kniffin	Review DOJ amicus brief in Fourth Circuit Title IX transgender case; notes regarding same related to potential interpretations of final rule.	2.5	0	2.5
7/26/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research.	5.9	0	5.9
7/27/2016	Martin Nussbaum	[REDACTED]	0.3	-0.3	0
7/27/2016	Ian Speir	Office conference with Messrs. M. Nussbaum and E. Kniffin re preparations for lawsuit.	0.5	0	0.5
7/27/2016	Eric Kniffin	Draft memoranda on Section 1557 litigation strategy; related legal research.	1.8	0	1.8
7/27/2016	J. Spears	[REDACTED]	2.5	-2.5	0
7/28/2016	J. Spears	[REDACTED]	5	-5	0
7/28/2016	J. Spears	[REDACTED]	8.5	-8.5	0
8/1/2016	Ian Speir	[REDACTED]	0.2	-0.2	0
8/1/2016	J. Spears	[REDACTED]	2	-2	0
8/1/2016	J. Spears	[REDACTED]	6.9	-6.9	0
8/2/2016	Ian Speir	Draft memorandum on transgender healthcare mandate (based in Title VII, Title IX, and Section 1557); review memorandum on Title IX "jurisprudence" by Mr. J. Spears; confer with Mr. E. Kniffin re same.	4.2	0	4.2
8/2/2016	J. Spears	[REDACTED]	3.9	-3.9	0

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
8/3/2016	Ian Speir	Prepare memo on gender transition mandate as applied through Title VII, Title IX, and Section 1557.	4	0	4
8/4/2016	Ian Speir	Prepare memo on gender transition mandate as applied through Title VII, Title IX, and Section 1557.	1	0	1
8/8/2016	Ian Speir	Prepare memo on gender transition mandate as applied through Title VII, Title IX, and Section 1557.	5.3	0	5.3
8/8/2016	Eric Kniffin	Conversation with Mr. I. Speir regarding strategy for Section 1557 memorandum to USCCB and background on USCCB concerns.	0.4	0	0.4
8/8/2016	Ian Speir	Prepare memo on gender transition mandate as applied through Title VII, Title IX, and Section 1557.	3.3	0	3.3
8/9/2016	Eric Kniffin	[REDACTED]	1.1	-1.1	0
8/13/2016	Eric Kniffin	[REDACTED]	0.8	-0.8	0
8/15/2016	Eric Kniffin	[REDACTED]	2.8	-2.8	0
8/16/2016	Eric Kniffin	[REDACTED]	3.2	-3.2	0
8/17/2016	Eric Kniffin	[REDACTED]	1.7	-1.7	0
8/18/2016	Eric Kniffin	[REDACTED]	1.2	-1.2	0
8/23/2016	Eric Kniffin	Review Becket Fund complaint in first lawsuit against ACA transgender mandate; communication with Becket attorneys and Messrs. I. Speir, and M. Nussbaum regarding same.	1	0	1
9/7/2016	Eric Kniffin	Review Becket Fund complaint and related commentary regarding first Transgender Mandate lawsuit; notes regarding same.	3	0	3
9/9/2016	Eric Kniffin	Review Becket Fund complaint and related commentary regarding first Transgender Mandate lawsuit; notes regarding same.	2	0	2
9/10/2016	Eric Kniffin	[REDACTED]	5.6	-5.6	0
9/10/2016	Eric Kniffin	[REDACTED]	4	-4	0
9/12/2016	Martin Nussbaum	Review and revise master memorandum.	2.3	0	2.3
9/13/2016	Martin Nussbaum	Conference with Messrs. I. Speir and E. Kniffin re numerous issues in the master memorandum.	1.5	0	1.5
9/13/2016	Eric Kniffin	Review and prepare outline summary of Becket Fund's complaint in Section 1557 challenge.	2.6	0	2.6
9/14/2016	Ian Speir	Confer with Mr. E. Kniffin re memo on Section 1557 and gender identity discrimination by health care providers.	0.2	0	0.2
9/14/2016	Eric Kniffin	Phone call with Mr. L. Goodrich regarding Becket Fund's Section 1557 litigation and interpretation of final rule; follow up email conversation regarding rule's mandate for health care providers and related legal strategy issues.	2	0	2
9/15/2016	Eric Kniffin	Email conversation with Mr. L. Goodrich regarding interpretation of Section 1557 final rules and legal strategy regarding same.	0.7	0	0.7
9/19/2016	Ian Speir	Review Mr. E. Kniffin's updated memorandum analyzing transgender mandate and other requirements of Section 1557; review The Becket Fund's press release re transgender mandate lawsuit.	0.5	0	0.5
9/19/2016	Eric Kniffin	Review email from Mr. L. Goodrich regarding ACLU effort to intervene in Section 1557 lawsuit; review ACLU brief; notes regarding same.	1.4	0	1.4
9/22/2016	Eric Kniffin	Email correspondence with Mr. M. Rienzi regarding Becket Fund's analysis of comments in response to government's RI; review Mr. M. Rienzi's summary and attached selected comments.	1.5	0	1.5
9/26/2016	Martin Nussbaum	[REDACTED]	0.5	-0.5	0
10/4/2016	Martin Nussbaum	Exchange emails with Ms. B. Elfrey re gender transition mandate; phone call with Archbishop Lori's office; review and index Becket Fund complaint; review and revise master memorandum re transgender services mandate.	4	0	4
10/5/2016	Martin Nussbaum	Phone conference with Archbishop Lori re § 1557 memorandum, review with USCCB Doctrine Chair and with NCBC, and re request of Diocese of Baton Rouge; review documentation from Catholic Health Association re § 1557; voice mail to Ms. N. Matthews.	0.5	-0.5	0
10/7/2016	Martin Nussbaum	Continue drafting and revising memorandum re transgender services and surgical abortion mandates.	0.5	0	0.5
10/10/2016	Martin Nussbaum	Continue drafting and revising memorandum re transgender services and surgical abortion mandates.	6.3	0	6.3
10/10/2016	Eric Kniffin	Review D. Wilson email regarding transgender mandate efforts with CBA; review related email from M. Nussbaum; draft response to questions posed by M. Nussbaum.	0.6	0	0.6
10/11/2016	Martin Nussbaum	Continue drafting and revising memorandum re transgender services and surgical abortion mandates.	2.5	0	2.5
10/12/2016	Ian Speir	Review and respond to Mr. M. Nussbaum's questions regarding lawsuit and legal strategy.	1	0	1
10/12/2016	Eric Kniffin	Review I. Speir email with responses to Mr. M. Nussbaum questions; draft comments in response to Mr. I. Speir email; review Section 1557 regulation.	1.4	0	1.4
10/13/2016	Martin Nussbaum	[REDACTED]	2.8	-2.8	0
10/13/2016	Eric Kniffin	Meeting with Messrs. D. Wilson and M. Nussbaum regarding Transgender/Abortion Mandate, memorandum to USCCB regarding Mandate, and related legal strategy.	1.5	0	1.5
10/14/2016	Martin Nussbaum	[REDACTED]	4.8	-4.8	0
10/14/2016	Eric Kniffin	Email communications with Messrs. I. Speir and M. Nussbaum regarding legal strategy related to transgender mandate challenge; conversation with Mr. Nussbaum regarding memorandum to Archbishop Lori; review and edit current version of memorandum to Archbishop Lori.	7.4	0	7.4

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
10/15/2016	Eric Kniffin	Review and edit current version of memorandum to Archbishop Lori; legal research regarding current status of other litigation against administration's efforts to expand federal civil rights laws to cover gender identity; notes regarding same; email to Mr. I. Speir regarding Seventh Circuit decision to vacate opinion denying Title VII covers sexual orientation and granting en banc review of same.	4.6	0	4.6
10/16/2016	Eric Kniffin	Review and edit transgender mandate memorandum.	1	0	1
10/17/2016	Martin Nussbaum	Review memorandum from Mr. W. Mahaffey commenting on draft memorandum for Archbishop Lori, USCCB, Doctrine Committee, and NCBC; conference with Mr. Mahaffey re same; conference with Messrs. Mahaffey and E. Kniffin re revision of master memorandum; further revisions of memorandum in light of conversation.	4	0	4
10/17/2016	Ian Speir	Office conference with Mr. M. Nussbaum summarizing status of memo on transgender mandate; review Mr. E. Kniffin's comments on questions regarding potential lawsuit and litigation strategy.	0.2	0	0.2
10/17/2016	Eric Kniffin	Conversation with Mr. M. Nussbaum regarding transgender mandate memorandum; review Mr. W. Mahaffey email with comments on memorandum, notes regarding same meeting with Messrs. Mahaffey and Nussbaum to discuss transgender mandate, memorandum, and litigation strategy.	3.6	0	3.6
10/18/2016	Martin Nussbaum	Continue drafting and revising master memorandum regarding the HHS/DOD/EOC transgender services regulation.	4.3	0	4.3
10/18/2016	Eric Kniffin	Review draft memorandum on transgender mandate; notes regarding same.	0.5	0	0.5
10/19/2016	Martin Nussbaum	Email to Archbishop [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	3.3	-3.05	0.25
10/19/2016	Ian Speir	Review memo from Mr. M. Nussbaum to board and ethics committee re transgender mandate	0.2	0	0.2
10/19/2016	Eric Kniffin	Review draft memorandum on transgender mandate for Mr. M. Nussbaum; submit proposed edits to memorandum to Mr. Nussbaum for review; conversation with Mr. Nussbaum regarding same.	3.6	0	3.6
10/20/2016	Martin Nussbaum	Phone conference with Ms. B. Elfrey re Section 1557 regulation.	0.5	0	0.5
10/20/2016	Ian Speir	Review memo from Mr. M. Nussbaum to board and ethics committee re transgender mandate.	0.4	0	0.4
10/21/2016	Ian Speir	Review Mr. Nussbaum's correspondence with Abp. W. Lori re transgender surgery insurance rider (Diocese of Baton Rouge), and review Mr. E. Kniffin's analysis of whether a TPA would be willing to exclude such benefits from a policy under Section 1557.	0.3	0	0.3
10/24/2016	Eric Kniffin	Review Becket Fund's brief for partial summary judgment or preliminary injunction in Section 1557 litigation; notes regarding same; email to Messrs. M. Nussbaum and I. Speir regarding same.	3.1	0	3.1
10/25/2016	Martin Nussbaum	[REDACTED] [REDACTED] [REDACTED]	1.3	-1.3	0
10/27/2016	Martin Nussbaum	Conference call with Archbishop Lori and Mr. D. Wilson re Mr. A. Picarello and his reaction to the memorandum re the transgender services mandate; prepare memorandum and resolution for ethics committee.	3.3	0	3.3
10/28/2016	Martin Nussbaum	Prepare email and attachments to Ethics Committee as predicate for lawsuit.	0.8	0	0.8
10/28/2016	Ian Speir	Receive and review Mr. M. Nussbaum's email correspondence to CBA ethics committee re transgender mandate and review draft resolution re same.	0.2	0	0.2
10/31/2013	Martin Nussbaum	[REDACTED]	0.8	-0.8	0
11/1/2016	Eric Kniffin	[REDACTED]	0.8	-0.8	0
11/2/2016	Eric Kniffin	Review Hadley Arkes article on natural law and litigation strategy; email to Messrs. M. Nussbaum and I. Speir summarizing recommendations and proposing drafting strategy for transgender mandate litigation; conversation with Mr. Nussbaum regarding same.	1.7	0	1.7
11/3/2016	Martin Nussbaum	Prepare template memorandum for members re the mandate.	0.5	0	0.5
11/7/2016	Eric Kniffin	Review press release and complaint in Becket Fund's second Section 1557 lawsuit, filed in North Dakota; notes regarding same.	1.1	0	1.1
11/8/2016	Martin Nussbaum	Conference with Mr. E. Kniffin re analysis and revision of memorandum.	0.3	0	0.3
11/9/2016	Eric Kniffin	Conversation with Mr. M. Nussbaum regarding 2017 litigation budget and related litigation strategy issues; research prospects of religious liberty reprieve under Trump administration, conversation with Mr. Nussbaum regarding same.	1.4	0	1.4
11/10/2016	Martin Nussbaum	Draft email to Archbishops Hebda, Sartain and Naumann re ethics committee resolution.	0.8	0	0.8
11/11/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate	5.2	0	5.2
11/12/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate	2	0	2
11/14/2016	Martin Nussbaum	Legal research.	1	0	1
11/14/2016	Ian Speir	Confer with Mr. E. Kniffin and correspond with Messrs. E. Kniffin and M. Nussbaum re Church Amendment	0.2	0	0.2
11/14/2016	Eric Kniffin	Email communications with Mr. M. Nussbaum regarding application of Church Amendment to Section 1557 transgender mandate; related legal research; prepare and email memorandum to Mr. Nussbaum in response; review Becket Fund complaint in North Dakota Section 1557 challenge; notes regarding same.	5.7	0	5.7
11/15/2016	Martin Nussbaum	Legal research re abortion mandate and whether there are ready statutory defenses against it; phone conference with Mr. W. Mahaffey re same; second phone conference with Mr. Mahaffey re the "termination of pregnancy" language in the final regulation.	2.5	0	2.5
11/15/2016	Eric Kniffin	Review email from Mr. M. Nussbaum regarding CBA board meeting and approval for litigation against transgender/abortion mandate; notes regarding same.	5.3	0	5.3
11/16/2016	Martin Nussbaum	Conference with Father Fuller re ethical issues underlying proposed lawsuit; conference call with Messrs. E. Kniffin and I. Speir re issues in preparation of lawsuit.	2	0	2
11/16/2016	Ian Speir	Teleconference with Messrs. M. Nussbaum and E. Kniffin re authorization for lawsuit and legal strategy	0.6	0	0.6

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
11/16/2016	Eric Kniffin	Conference call with M. Nussbaum regarding CBA Board meeting and approval for Section 1557 lawsuit; review related legal memoranda and Becket Fund filings; notes regarding same	6.9	0	6.9
11/17/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate transgender/abortion mandate; phone conversation with Messrs. M. Nussbaum and I. Speir regarding same; review recent opinion holding that Title VII bars discrimination based on sexual orientation.	7.4	0	7.4
11/18/2016	Ian Speir	Review correspondence and press release related to Section 1557 (ACTS) Mandate and Becket Fund's lawsuits challenging same.	0.2	0	0.2
11/18/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate; finalizing and emailing to Mr. M. Nussbaum memorandum on Section 1557 abortion mandate.	8.5	0	8.5
11/19/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate.	5	0	5
11/20/2016	Martin Nussbaum	Draft FAQs for communications with members and others explaining the ACTS Mandate and the planned lawsuit.	2.8	0	2.8
11/21/2016	Martin Nussbaum	Prepare frequently asked questions to explain lawsuit to members; email to Archbishop Lori, D. Wilson, N. Matthews, and B. Baird re same and re next steps [REDACTED]	3.6	-0.6	3
11/21/2016	Ian Speir	Office conferences with Messrs. M. Nussbaum and E. Kniffin re lawsuit and litigation strategy	0.8	0	0.8
11/21/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate	6.4	0	6.4
11/22/2016	Martin Nussbaum	Draft letter from Mr. D. Wilson to members explaining the ACT lawsuit; draft email messages re same; second phone conversation with Mr. Wilson re marketing related to the ACT lawsuit; prepare draft letter from Mr. Wilson to members.	2.3	0	2.3
11/22/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate.	9.6	0	9.6
11/23/2016	Martin Nussbaum	Continue drafting letters explaining ACTS mandate and proposed lawsuit along with FAQs; numerous related communications.	5	0	5
11/23/2016	Eric Kniffin	Review decisions by TX district court judge on Title IX and DOE attempt to expand same to include gender identity; notes regarding same; related legal research and outline transgender mandate legal challenge.	6.9	0	6.9
11/25/2016	Martin Nussbaum	Legal research re whether Section 1557 can be fairly read as an abortion mandate; review related law under the Church amendment, the Hyde amendment, the Obama executive order re abortion funding under the Affordable Care Act, and the Danforth amendment.	3.3	0	3.3
11/25/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate.	4.9	0	4.9
11/25/2016	Eric Kniffin	Legal research and notes for preparing CBA lawsuit against transgender/abortion mandate	6	0	6
11/28/2016	Martin Nussbaum	Conference with Mr. D. Wilson re issues related to filing of the lawsuit and communications with members; [REDACTED] email to [REDACTED] re ethics resolutions and [REDACTED] suit [REDACTED]; phone conference with Mr. C. Goldberg re local counsel issue; voice mail message to Ms. Goode; conference call with Mr. Wilson and Ms. N. Matthews re numerous communications issues related to the ACTS mandate lawsuit; numerous revisions to letters to the ordinaries, fiscal managers, the diocesan counsel, and others; multiple other calls with Mr. Wilson and others re notices; conferences with Messrs. Kniffin and Speir to discuss scope of remedies in complaint.	3.8	-1.9	1.9
11/28/2016	Ian Speir	[REDACTED]	3.7	-3.7	0
11/28/2016	Eric Kniffin	Email and phone communications with Mr. L. Goodrich of The Becket Fund regarding its own transgender mandate challenges, legal strategy considerations regarding same, including application of Weldon and Church Amendments; conversation with Mr. M. Nussbaum regarding application of Weldon and Church Amendments; prepare and send email summary of analysis to Mr. Nussbaum.	7.4	0	7.4
11/29/2016	Martin Nussbaum	Email to [REDACTED] and Ms. N. Matthews reporting on conversations with [REDACTED] and [REDACTED], and [REDACTED]; email to Mr. Wilson and Ms. Matthews forwarding copy EEOC's finding of probable cause in the [REDACTED] case; attention to numerous issues re mailings to [REDACTED].	5.5	-0.75	4.75
11/29/2016	Ian Speir	Review Mr. E. Kniffin's analysis of Weldon and Church Amendments, and research sources of Medicare funding; confer with Messrs. E. Kniffin and M. Nussbaum re scope of relief in lawsuit and effect on private plaintiff lawsuits.	1.2	0	1.2
11/29/2016	Eric Kniffin	Research and prepare summary of APA law on the power of administrative agencies to issue regulations that bypass the normal notice and comment process and are effective immediately; email summary to Messrs. M. Nussbaum and I. Speir; review Becket Fund transgender mandate complaints and CBA/CEA CASC Mandate complaints; outline and draft CBA complaint for transgender mandate challenge.	8.1	0	8.1
11/30/2016	Ian Speir	Research remedies to seek in lawsuit and impact of issue preclusion arguments in suits against Catholic employers by private parties	2.5	0	2.5
11/30/2016	Eric Kniffin	Review Becket Fund motions for preliminary injunctions and government/amicus response briefs; notes regarding same; outline complaint and motion for TRO for CBA legal challenge; notes regarding same	7.6	0	7.6
12/1/2016	Martin Nussbaum	Phone conference with Bishop Folda, Diocese of Fargo re [REDACTED] the lawsuit; phone conference with Mr. D. Wilson re member communications issues; conference with Mr. E. Kniffin re issues under the complaint; conference with Messrs. I. Speir and E. Kniffin re architectural issues in the complaint.	3	0	3

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/1/2016	Ian Speir	Review government's response in opposition to motion for preliminary injunction in The Becket Fund's Section 1557 lawsuit; office conference with Messrs. M. Nussbaum and E. Kniffin re legal strategy for CBA lawsuit; Research remedies to seek in lawsuit and impact of issue preclusion arguments in suits against Catholic employers by private parties	3.6	0	3.6
12/1/2016	Eric Kniffin	Prepare for and participate in meeting with Messrs. M. Nussbaum and I. Speir regarding litigation strategy; research availability of attorney fee award for APA claims; email to Mr. Nussbaum and Mr. Speir regarding same	5.9	0	5.9
12/2/2016	Martin Nussbaum	Draft email to the [REDACTED] ethics committee re the revised ethics resolution and conversations with [REDACTED] on behalf of the [REDACTED] email to Archbishop [REDACTED] offering to provide him with a [REDACTED] briefing re lawsuit; email to Archbishop Lori and officers re attorney's fees under the APA claim; review memorandum re final rules that take effect immediately; legal research re Dignity Health pleadings; review research re Weldon amendment and Church amendment.	4	0	4
12/2/2016	Ian Speir	Research remedies to seek in lawsuit and impact of issue preclusion arguments [REDACTED] Attention to correspondence from Mr. E. Kniffin re attorney fees available to successful plaintiffs under APA.	4.5	0	4.5
12/2/2016	Eric Kniffin	Review Mr. I. Speir's memorandum on available remedies under ACTS Mandate; related legal research on obtaining injunctive relief relevant to private civil rights actions against CBA members; notes regarding same.	3.6	0	3.6
12/3/2016	Martin Nussbaum	Legal research in preparation for webinar; begin outline for members webinar re ACTS mandate.	4	0	4
12/5/2016	Martin Nussbaum	Continue drafting and revising PowerPoint slides for members-only webinar re ACTS mandate; coordination with assistant re technical issues for webinar; rehearsal with Messrs. Kniffin, Wilson and Ms. N. Matthews; presentation during members only webinar re ACTS mandate.	7	0	7
12/5/2016	Eric Kniffin	Legal research regarding availability of attorneys fees under the Administrative Procedure Act; draft complaint for CBA ACTS Mandate lawsuit.	6.6	0	6.6
12/6/2016	Martin Nussbaum	Prepare for webinar presentation; presentation during members- only webinar; post-webinar evaluation; review order in Dignity Health case; forward same to Archbishop Lori, Doug Wilson, and Nancy Matthews; exchange email messages with Mike Moses.	3.3	0	3.3
12/6/2016	Ian Speir	Research pre-enforcement challenges and ripeness problems; review docket and EEOC argument's in Robinson v. Dignity Health case; correspond with Messrs. E. Kniffin and M. Nussbaum re same [REDACTED]	2.9	-0.9	2
12/6/2016	Eric Kniffin	Prepare for and participate in CBA member webinar; review Mr. I. Speir's research regarding ripeness; related legal research; draft complaint for CBA ACTS Mandate lawsuit.	7.5	0	7.5
12/7/2016	Martin Nussbaum	[REDACTED]	6.5	-6.5	0
12/7/2016	Ian Speir	Confer with Messrs. M. Nussbaum and E. Kniffin re lawsuit and litigation strategy.	2	0	2
12/7/2016	Eric Kniffin	[REDACTED] meeting with Messrs. M. Nussbaum and I. Speir to review litigation strategy; draft complaint for CBA ACTS Mandate lawsuit.	8.9	-2	6.9
12/8/2016	Martin Nussbaum	[REDACTED]	1.8	-1.8	0
12/8/2016	Ian Speir	[REDACTED]	0.1	-0.1	0
12/8/2016	Eric Kniffin	Correspondence with Ms. N. Matthews regarding membership details; correspondence with Messrs. M. Rienzi and E. Rassbach (Becket) regarding Becket's complaint in related Section 1557 challenge; draft complaint for CBA ACTS Mandate lawsuit.	8.1	0	8.1
12/9/2016	Martin Nussbaum	[REDACTED]	0.8	-0.8	0
12/9/2016	Eric Kniffin	[REDACTED]	7.8	-7.8	0
12/10/2016	Eric Kniffin	Correspondence with Messrs. M. Nussbaum and I. Speir regarding Section 1557 regulation adopting exemptions from other cited civil rights statutes.	0.3	0	0.3
12/12/2016	Ian Speir	[REDACTED]	0.3	-0.3	0
12/12/2016	Eric Kniffin	[REDACTED]	8.6	-0.6	8
12/13/2016	Martin Nussbaum	Review Mr. I. Speir memorandum re remedies [REDACTED] conference with Mr. E. Kniffin re same; email to Mr. Speir re same; review portions of Becket Fund brief in support of its motion for preliminary injunction.	2	0	2
12/13/2016	Ian Speir	[REDACTED]; Review and edit draft complaint; Review gender dysphoria coverage provisions of insurance policy, general exclusions of example policies, and draft exclusionary language related to gender dysphoria treatments.	2.7	-0.7	2
12/13/2016	Eric Kniffin	[REDACTED]; review Mr. I. Speir's proposed gender transition services exclusion language; email correspondence regarding same; draft CBA brief in support of motion for TRO.	9	-4	5
12/14/2016	Martin Nussbaum	[REDACTED]	3	-3	0
12/14/2016	Martin Nussbaum	[REDACTED]	2	-2	0

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/14/2016	Ian Speir	conference with Messrs. M. Nussbaum and E. Kniffin re re legal strategy and character of relief to seek [REDACTED].	4.1	3.1	7.2
12/14/2016	Eric Kniffin	[REDACTED] review Mr. I. Speir's proposed press release for CBA ACTS Mandate lawsuit; draft CBA brief in support of motion for TRO.	6.6	-3	3.6
12/15/2016	Martin Nussbaum	[REDACTED] numerous phone calls to gather additional facts from the various plaintiffs; multiple conversations with Fargo area plaintiffs; develop facts re same.	3	-0.8	2.2
12/15/2016	Ian Speir	Research legal precedents on [REDACTED] Research Diocese of Fargo, Catholic Charities of North Dakota, and [REDACTED] and draft descriptive allegations re each for complaint.	4.2	0	4.2
12/15/2016	Eric Kniffin	Correspondence with Mr. I. Speir regarding obtaining relief for CBA members [REDACTED]; draft CBA brief in support of motion for TRO; review Mr. Speir's draft factual allegations regarding named CBA members in complaint.	9.6	0	9.6
12/16/2016	Martin Nussbaum	Voice mail message to Mr. A. Noah, diocesan attorney for the Diocese of Fargo re joint defense common interest privilege agreement and background for lawsuit; phone conference with [REDACTED] and [REDACTED] voice mail message to [REDACTED], president of the [REDACTED] network; phone conference with [REDACTED]	3	0.5	3.5
12/16/2016	Ian Speir	Review Mr. M. Nussbaum's memo to members re exclusion from policy for gender transition services; update allegations re Diocese of Fargo to include description of North Dakota Catholic Conference; Review draft brief in support of TRO; confer with Mr. E. Kniffin re same.	2.5	0	2.5
12/16/2016	Eric Kniffin	Draft CBA brief in support of motion for TRO; review Mr. I. Speir's comments on complaint; review Mr. Speir's draft factual allegations regarding named CBA members in complaint.	4.4	0	4.4
12/17/2016	Martin Nussbaum	Revise ACTS PowerPoint for distribution to members.	0.3	0	0.3
12/17/2016	Ian Speir	Review complaint and edit and comment on same.	1.6	0	1.6
12/17/2016	Eric Kniffin	Draft and edit brief in support of TRO.	1.8	0	1.8
12/18/2016	Martin Nussbaum	Review email from Mr. M. Moses and provide response and related research, also accept his offer to review the pleadings; continue drafting and revising FAQs for communications; draft and revise press release; draft and revise PowerPoint slides; draft and revise FAQs; research as part of the effort; email to communications committee re same.	4.3	0	4.3
12/19/2016	Martin Nussbaum	Phone conference with Ms. D. Nechiporenko and Mr. S. Lies of Catholic Charities of North Dakota re participation in lawsuit and related issues; review email from Mr. D. Wilson re draft press release; revision of same; email same to team; review emails; respond to same; phone conference with Mr. Wilson re conference calls and re communication strategy.	3.3	0	3.3
12/19/2016	Ian Speir	Correspond with Messrs. M. Nussbaum, E. Kniffin, and M. Moses (USCCB) re EEOC's interpretation of Title VII and recent enforcement actions on behalf of transgender individuals; Research judicial review of executive orders; Revise complaint with allegations re EEOC.	3.9	0	3.9
12/19/2016	Eric Kniffin	Review correspondence between Messrs. M. Nussbaum, I. Speir, and M. Moses (USCCB); conversations with Messrs. Nussbaum and Speir regarding edits and strategy in lawsuit documents; draft and review brief in support of TRO and complaint.	5.9	0	5.9
12/20/2016	Martin Nussbaum	Begin review of brief in support of motion for temporary restraining order; conference with Mr. E. Kniffin re treatment of Title IX and of executive order 11246 in the complaint and motion for TRO; conference call with communications [REDACTED] [REDACTED] [REDACTED] [REDACTED] phone conference with D. Nechiporenko re Catholic Charities North Dakota serving as a named plaintiff; review and respond to email from [REDACTED] at the [REDACTED] re the ACTS mandate and related lawsuit; voice mail message to [REDACTED] review email from [REDACTED]	8.5	-3.5	5
12/20/2016	Arlene Martinez	Meetings with Ms. A. McGuire and Ms. L. Sutton re new filing in North Dakota and procedures going forward; several communications with court clerk re fees and acceptance of filings; communications with Mr. I. Speir and Mr. E. Kniffin re same; draft applications for admittance for Mr. M. Nussbaum, Mr. E. Kniffin and Mr. I. Speir; draft civil cover sheet.	4.8	0	4.8
12/20/2016	Ian Speir	Draft allegations re EEOC's interpretation and litigation efforts re gender [REDACTED] and teleconference with [REDACTED] re effective date of Section 1557 regulations; Teleconference and office conferences with Ms. A. Martinez re procedure for filing lawsuit; attention to oaths [REDACTED] Correspond with Mr. M. Nussbaum re press release.	2.7	0	2.7
12/20/2016	Eric Kniffin	Draft and revise complaint and brief in support of motion for TRO; conversations with Ms. A. Martinez and Ms. A. McGuire regarding filing preparations and details	5.4	0	5.4
12/21/2016	Martin Nussbaum	[REDACTED]	8.3	-8.3	0

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/29/2016	Eric Kniffin	Review transcript from oral argument from related lawsuit in Texas; prepare for oral argument on TRO motion; review correspond from Judge Erickson regarding recusal; conversations with Messrs. Nussbaum, I. Speir, and M. Rienzi (Becket) regarding same; follow up conversation with Mr. Nussbaum regarding CBA member and leadership communications.	6.5	0	6.5
12/29/2016	M. Mellema	Research re past rulings of Judge; discussion of same with Mr. M. Nussbaum.	1.8	0	1.8
12/30/2016	Martin Nussbaum	Provide interview to North Dakota radio station; attention to other press issues; exchange and Mr. D. Wilson re same; email to Mr. I. Kincaide re posting of pleadings on website; review sealed order staying enforcement; draft report to clients re legal events of the previous three days; PC M. Rienzi re court order and responses.	4	-0.5	3.5
12/30/2016	Eric Kniffin	Review transcript from oral argument in related Section 1557 litigation, notes regarding same; review sealed order from court; conversation with Messrs. M. Nussbaum and M. Rienzi (Becket) regarding same.	3	0	3
12/30/2016	M. Mellema	Research re past rulings of Judge; discussion of same with Mr. M. Nussbaum.	2.6	0	2.6
12/31/2016	Ian Speir	Review Judge Erickson's sealed order staying enforcement of 1557 Rule, attention to judicial recusal issues, and correspond with Messrs. M. Nussbaum and E. Kniffin re same.	0.4	0	0.4
12/31/2016	Eric Kniffin	Review docket in ND Texas Becket Fund lawsuit over Section 1557; review district court decision issuing national injunction; email communications with Messrs. M. Nussbaum, I. Speir, and M. Rienzi (Becket) regarding same.	1.1	0	1.1
12/31/2016	M. Mellema	Draft email re findings on judge's rulings.	0.2	0	0.2
1/1/2017	Martin Nussbaum	Closely review the decision in Franciscan Alliance with regard to its challenge against the Section 1557 rule; outline issues re opinion.	1.8	0	1.8
1/2/2017	Martin Nussbaum	review press inquiries re CBA lawsuit and Franciscan Alliance decision; review email from S. Hall, counsel from the re remedies sought under the lawsuit; conference with Mr. I. Speir re implications of Franciscan Alliance decision; Phone conference with Mr. D. Wilson re same and re others association issues. respond to same; respond to press inquiries; speak with reporter from World News; conference with Mr. E. Kniffin re the Franciscan Alliance decision; email to Mr. M. Rienzi re same; conference call with Messrs. Rienzi and Kniffin re same and implications for North Dakota litigation; research re Catholic Medical Association; email to Bishop Conley re requesting introduction to same; review email from Mr. communications task force; respond to same; email to Bishop Conley re Catholic Medical Association; review his response; email to past and former president and executive director of the Catholic Medical Association re role in the ACTS mandate litigation.	7.8	-2	5.8
1/2/2017	Ian Speir	Review Northern District of Texas decision granting nationwide injunction against transgender health mandate; confer with Mr. M. Nussbaum re same and impact on our lawsuit.	2.7	0	2.7
1/2/2017	Eric Kniffin	Conference calls with Messrs. M. Nussbaum and M. Rienzi (Becket) regarding Texas district court decision on Section 1557 and implications for Becket and CBA North Dakota cases.	0.8	0	0.8
1/2/2017	M. Mellema	Draft email re findings on judge's rulings.	1.2	0	1.2
1/3/2017	Martin Nussbaum	Review press reports; voice mail message to Mr. M. Dickerson, executive director of the Catholic Medical Association; conference call with Mr. D. Wilson and Ms. N. Matthews re reporting to members through webinar; correspondence to clerk re disqualification; conference with Mr. E. Kniffin re same.	1.8	-0.5	1.3
1/3/2017	Arlene Martinez	Receipt and review of Entries of Appearances by Ms. E. Nestler, Mr. A. Grogg, Mr. B. Heaps; review all documents filed and prepare docket for same	1	0	1
1/3/2017	Eric Kniffin	Review preliminary injunction on Section 1557 Rule from Franciscan Alliance case; prepare for anticipated oral argument on motion for TRO; review Becket Fund proposed notice of supplemental authority regarding Franciscan Alliance decision; email correspondence with Mr. M. Rienzi regarding same; prepare and submit Waiver of Disqualification Letter with district court.	5.6	0	5.6
1/4/2017	Martin Nussbaum	Revision of notice of supplementary authority reporter re ; attempts to contact Catholic Medical Association; exchange emails with counsel for ; draft webinar notice for members.	3.1	-0.5	2.6
1/4/2017	Arlene Martinez	Review docket report to confirm deadlines for complaint, motion and sealed order; update docket; receipt and review of withdrawal of counsel; review case file to confirm all changes to counsel have been completed.	0.7	0	0.7
1/4/2017	Ian Speir	Review entries of appearance by DOJ counsel and Mr. D. Wilson's email to members re webinar.	0.2	0	0.2
1/4/2017	Ian Speir	Attention to government's request for consent motion re clarification or stay order; office conferences with Messrs. M. Nussbaum and E. Kniffin re government's request, Judge Erickson's recusal, supplemental authority based on N.D. Texas case granting nationwide injunction, and position of the Becket Fund in related case.	0.5	0	0.5
1/4/2017	Eric Kniffin	Review preliminary injunction on Section 1557 Rule from Franciscan Alliance case; prepare for anticipated oral argument on motion for TRO; email correspondence with DOJ counsel regarding government's proposed motion to modify court's order.	6.6	0	6.6
1/5/2017	D. Kulesa		0.2	-0.2	0

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
1/5/2017	Martin Nussbaum	Review email from DOJ attorney Mr. A. Grogg re proposed DOJ motion; review related email correspondence from Messrs. E. Kniffin and M. Rienzi re same; phone conference with Mr. L. Goodrich re DOJ's proposed motion; conference call with DOJ attorneys Messrs. Goodrich and Rienzi to discuss same and related issues; second phone conference with Messrs. Goodrich and Rienzi re conversation with DOJ; set time for follow up call after review of DOJ's draft motion for clarification; review DOJ's draft motion for clarification; email to Messrs. I. Speir and E. Kniffin re same; phone conference with Mr. S. Hoselton re local counsel; review notice of nationwide injunction issued by HHS Office of Civil Rights; further review of draft motion from DOJ; analyze same; phone conference with Mr. Rienzi re same; draft proposed response; forward same to Mr. Rienzi; email to Mr. Grogg at DOJ re timing; phone conference with Catholic Medical Association.	6.5	0	6.5
1/5/2017	Ian Speir	Review government's proposed consent motion and correspond with Messrs. M. Nussbaum and E. Kniffin re same.	0.2	0	0.2
1/5/2017	Eric Kniffin	Review preliminary injunction on Section 1557 Rule from Franciscan Alliance case; prepare for anticipated oral argument on motion for TRO; email and phone communications with Becket attorneys in advance of phone conference with DOJ; phone conference with DOJ; follow up conversations and emails regarding strategy.	4.8	0	4.8
1/6/2017	Martin Nussbaum	Final preparation for members webinar reporting on status of lawsuit; presentation during webinar re same; leave message for M. Dickerson, executive director of Catholic Medical Association; email to Mr. A. Grogg at DOJ re urgency of their request; review email from Mr. W. Mahaffey re regulation related to "termination of pregnancy;" review numerous email messages; review [REDACTED]	4.3	-0.5	3.8
1/6/2017	Arlene Martinez	Review North Dakota motions practice and update docket.	0.7	0	0.7
1/6/2017	Ian Speir	Correspondence with Messrs. M. Nussbaum and E. Kniffin re repeal of Affordable Care Act and limited insurance options for CBA members.	0.1	0	0.1
1/6/2017	Eric Kniffin	Review emails from CBA members regarding ACTS Mandate related problems with insurers and TPAS; email communications with Messrs. D. Wilson and M. Nussbaum regarding same; email communications with Mr. Nussbaum regarding CBA member webinar.	1.1	0	1.1
1/9/2017	Martin Nussbaum	Review order transferring case; email to clients re same; conference with Mr. E. Kniffin re amendment of complaint; prepare and initiate recruitment of Catholic Medical Association; voice mail message to Catholic Medical Association executive director; review Mr. I. Speir's memo re Tricare and gender transition services.	1.6	0	1.6
1/9/2017	Arlene Martinez	Receipt and review of case assignment to Chief Judge Daniel L. Hovland; update docket to include all deadlines; communications with Messrs. M. Nussbaum, E. Kniffin and I. Speir re same; review background information on Chief Judge including practice standards; review and revise docket.	1	0	1
1/9/2017	Ian Speir	Correspond with [REDACTED] at [REDACTED] re communication with insurer on gender transition rider; review government's motion to amend stay order, and court's order reassigning case to Judge Hovland; Research law applicable to TRICARE, new rules relating to transgender health coverage, and provide analysis of same to Messrs. M. Nussbaum and E. Kniffin.	4.9	0	4.9
1/9/2017	Eric Kniffin	Prepare for CBA webinar regarding ACTS Mandate lawsuit and related developments.	1.9	0	1.9
1/10/2017	Martin Nussbaum	Prepare and then provide report to [REDACTED]; conference with Mr. E. Kniffin re filing of supplementary authority.	1.6	0	1.6
1/10/2017	Ian Speir	Correspond with Messrs. M. Nussbaum and E. Kniffin re use of TRICARE in amended complaint.	0.8	0	0.8
1/10/2017	Eric Kniffin	Review Mr. I. Speir's memo on TRICARE and provision of gender transition services; preparation for CBA update webinar regarding ACTS Mandate; communications with Messrs. N. Matthews and D. Wilson regarding same.	5.9	0	5.9
1/11/2017	Arlene Martinez	Receipt and review of communications from court re additional payment options; communications with Mr. I. Speir re same; receipt and review of Notice for Motion for Temporary Restraining Order; update docket.	0.8	0	0.8
1/11/2017	Eric Kniffin	Preparation for and participation in CBA update webinar regarding ACTS Mandate; follow up correspondence with CBA members; drafting and filing notice of supplemental authority regarding Franciscan Alliance preliminary injunction against Section 1557 Rule.	6.5	0	6.5
1/12/2017	Eric Kniffin	Prepare for anticipated oral argument on motion for TRO; follow up with CBA members impacted by ACTS mandate; notes regarding same.	4.8	0	4.8
1/13/2017	Martin Nussbaum	Review email from Mr. A. Grogg at the Department of Justice; conference with Mr. E. Kniffin re same; email to Mr. Grogg re agreed to protocol should the HHS inadvertently begin enforcement action against an employer that was, unknown to the DOJ, to be a CBA member.	0.5	0	0.5
1/13/2017	Eric Kniffin	Prepare for anticipated oral argument on TRO; correspondence with DOJ attorney regarding scope of injunction and protocol if HHS initiates enforcement actions against CBA members.	3.8	0	3.8
1/16/2017	Martin Nussbaum	Lengthy email to [REDACTED], a [REDACTED], re ACTS lawsuit [REDACTED]	2.5	-1	1.5
1/17/2017	Martin Nussbaum	Prepare for interview on Real Presence Radio by Fr. Brian Gross; participate in interview.	1.5	-1.5	0
1/17/2017	Martin Nussbaum	Conference with Mr. I. Speir re filing motion for protecting the latest clients of CBA members.	0.3	0	0.3
1/17/2017	Eric Kniffin	Review docket in Franciscan Alliance (ND Texas) case, filings from ACLU and DOJ concerning DOJ's intentions to appeal nationwide injunction; legal research and related preparation for anticipated oral argument.	4.1	0	4.1
1/18/2017	Martin Nussbaum	Phone conference with Colorado Springs representative of the Catholic Medical Association; phone conversation with Mario Dickerson, Executive Director of the Catholic Medical Association; third phone conference with Dr. Michelle Stanford, board member of the Catholic Medical Association; email to Dr. Stanford and Mr. Dickerson, providing copy of PowerPoint presentation; phone conversation with Mr. D. Wilson re conversations with Catholic Medical Association executives; email to CMA executive director Mr. M. Dickerson regarding joining the CBA and becoming named party to lawsuit.	2.8	0	2.8
1/18/2017	Eric Kniffin	Draft language for amended complaint; related background research.	2.6	0	2.6
1/19/2017	Eric Kniffin	Draft language for amended complaint in CBA ACTS Mandate case; notes regarding same.	5	0	5

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
1/20/2017	Martin Nussbaum	Phone conference with ██████████ re status of litigation; conference with Mr. E. Kniffin; review Becket Fund's draft response to DOJ motion for technical correction; attention to response for CBA.	1.5	0	1.5
1/20/2017	Arlene Martinez	Receipt and review Response to Modify or Correct Sealed Order; update docket to include reply date.	0.2	0	0.2
1/20/2017	Eric Kniffin	Draft response to government motion to correct injunction; correspondence with Messrs. M. Rienzi and M. Nussbaum regarding same; finalize and file response with district court.	5.5	0	5.5
1/21/2017	Eric Kniffin	Prepare for anticipated status conference with court; review CBA member issues related to ACTS Mandate.	2.6	0	2.6
1/23/2017	Martin Nussbaum	Review orders from Judge Hovland; conference with Mr. E. Kniffin re same; conference call with Messrs. Kniffin and M. Rienzi re same; email to CBA officers providing litigation update; phone conference with Dr. Stanford re question raised by Catholic Medical Association board. Respond to her email re same; post-board meeting; phone conference with Dr. Stanford re CMA board meeting; email to Mario Dickerson and Dr. Boursiquot re conference call; attention to emails.	3.8	0	3.8
1/23/2017	Arlene Martinez	Receipt and review of orders from court; review docket to determine upcoming deadlines.	0.3	0	0.3
1/23/2017	Ian Speir	Review CBA's response to government's motion for clarification of stay order, and court's order granting government's motion.	0.3	0	0.3
1/23/2017	Eric Kniffin	Email correspondence with Mr. M. Nussbaum and CMA leadership regarding ACTS Mandate litigation; review court order amending order staying enforcement; review court order consolidating CBA case with Becket Fund case; communications with Messrs. Nussbaum and I. Speir regarding same; communications with Mr. M. Rienzi regarding same.	5.2	0	5.2
1/24/2017	Martin Nussbaum	Review draft motion for telephonic case management conference and substantially revise the same; email to Mr. E. Kniffin re same; review various orders from Judge Hovland and response to same; message to Mr. M. Dickerson, executive director of the Catholic Medical Association; attention to emails.	2.5	0	2.5
1/24/2017	Eric Kniffin	Email correspondence with Mr. M. Nussbaum regarding CMA leadership and decision whether to join ACTS Mandate litigation; draft and revise motion for telephonic status conference; communications with Mr. Nussbaum regarding same.	6	0	6
1/25/2017	Eric Kniffin	Correspondence with Messrs. M. Rienzi and L. Goodrich regarding conference call to discuss case strategy.	5.5	0	5.5
1/26/2017	Martin Nussbaum	Conference call with officers of the Catholic Medical Association and Mr. D. Wilson re lawsuit and related issues; draft email to M. Dickerson, Drs. Boursiquot and Schirger re issues for amended complaint; revise motion for case management conference.	4	0	4
1/26/2017	Eric Kniffin	Email correspondence with Messrs. M. Nussbaum and I. Speir regarding CMA decision to join CBA and CBA lawsuit.	0.3	0	0.3
1/27/2017	Eric Kniffin	Correspondence with Messrs. M. Nussbaum, M. Rienzi and L. Goodrich regarding motion for telephonic status conference and scheduling conference call with Becket Fund to discuss case strategy.	0.3	0	0.3
1/28/2017	Martin Nussbaum	Email to ██████████ general counsel re phone conversation.	0.2	0	0.2
1/30/2017	Martin Nussbaum	Conference call with Messrs. M. Rienzi, L. Goodrich and E. Kniffin re issues for case management conference; email to Mr. A. Grogg and Ms. S. Lieber at DOJ requesting a conference call; email to ██████████ at ██████████; Conference call with Mr. M. Dickerson, Dr. Michelle Stanford, Dr. Marie-Aberte Boursiquot, and Dr. John Schirger-all of the Catholic Medical Association and with Mr. E. Kniffin re factual issues for amended complaint.	2.7	0	2.7
1/30/2017	Eric Kniffin	Review Catholic Medical Association provided materials; conference call with Messrs. D. Wilson, M. Nussbaum, and representatives from CMA; strategy phone call with Messrs. Nussbaum, M. Rienzi, and L. Goodrich; prepare CMA related paragraphs for amended complaint.	6	0	6
1/31/2017	Martin Nussbaum	Conference with Mr. E. Kniffin re motion for case management; phone conference with ██████████ at ██████████ re court's stay; phone conference with Mr. M. Rienzi re imminent conference call and approach to use with DOJ attorneys; conference call with Messrs. Rienzi, L. Goodrich, Kniffin, S. Lieber, E. Nester, and A. Grogg re possible stipulations as to stay and as to amended complaint.	1.8	0	1.8
1/31/2017	Eric Kniffin	Prepare for and participate in conference call with Mr. M. Nussbaum, Becket attorneys, and DOJ attorneys regarding case management issues; follow up conversations with Mr. Nussbaum regarding strategy; draft follow up correspondence to DOJ attorneys; prepare draft amended complaint.	6.4	0	6.4
2/2/2017	Martin Nussbaum	Review email from Archbishop Lori re draft religious freedom executive order; review press reports re the same; acquire and review copy of the draft executive order; phone conference with Professor C. Esbeck re same; analyze implications for CBA CASC lawsuit and ACTS lawsuit; email to officers re implications of draft executive order upon the Catholic Benefits Association.	2.3	0	2.3
2/3/2017	Martin Nussbaum	Review P. McHugh brief re bad science undergirding the ACTS mandate; email to N. Matthews re same; note to E. Kniffin re same; strategy session with E. Kniffin.	2	0	2
2/3/2017	Eric Kniffin	Review CMA materials forwarded from Ms. M. Stanford for use in CBA amended complaint; notes regarding same; draft emails to DOJ regarding 3rd party relief and EEOC claims; submit emails to M. Nussbaum for review.	3.3	0	3.3
2/5/2017	Martin Nussbaum	██████████	0.2	-0.2	0
2/6/2017	Eric Kniffin	Email and phone communications with M. Rienzi of Becket regarding follow up communications with DOJ attorneys; email to Mario Dickerson of CMA regarding CMA's Promise of the Catholic Doctor; prepare amended complaint.	3.6	0	3.6
2/7/2017	Eric Kniffin	Prepare proposed follow-up emails to DOJ and draft amended complaint; review CMA provided materials for amended complaint, notes regarding same.	5.9	0	5.9
2/8/2017	Eric Kniffin	Review CMA provided materials; related background research.	1.3	0	1.3
2/10/2017	Eric Kniffin	Review DOJ Fifth Circuit filing in Texas "Dear Colleague" case regarding administration's position on interpretation of Title IX; correspondence regarding same; communications with CMA leadership.	1.1	0	1.1

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
2/11/2017	Eric Kniffin	Review government filing in Sixth Circuit Title VII case regarding gender identity arguments; communications with I. Speir and M. Nussbaum regarding government filings on Title VII and Title IX.	0.5	0	0.5
2/13/2017	Eric Kniffin	Review email and attachment from CBA member [REDACTED]	0.4	0	0.4
2/14/2017	Eric Kniffin	Email and phone communications with CBA member [REDACTED] regarding concerns related to insurance plan renewal and gender transition mandate; draft and review language for CBA amended complaint.	2.8	0	2.8
2/15/2017	Martin Nussbaum	Review and revise proposed amendments to complaint for inclusion of the Catholic Medical Association; review and revise emails to A. Grogg re the scope of injunctive relief.	0.5	0	0.5
2/15/2017	Eric Kniffin	Phone call with CBA member regarding correspondence with insurer over gender transition coverage; collect and review proposed response information to government and proposed amended complaint; meeting with M. Nussbaum to discuss case strategy and proposed email communications to DOJ regarding 3rd party relief and EEOC claims; forward proposed DOJ emails to L. Goodrich and M. Rienzi of Becket for comment.	6.5	0	6.5
2/16/2017	Eric Kniffin	Review email from L. Goodrich in response to LRRC proposed emails to DOJ; communications with CMA leadership regarding proposed additions to amended complaint.	1.5	0	1.5
2/17/2017	Eric Kniffin	Strategy conversation with M. Nussbaum regarding Luke Goodrich email and CBA amended complaint.	0.4	0	0.4
2/20/2017	Martin Nussbaum	Review email from L. Goodrich at the Becket Fund re proposed motion; conference with E. Kniffin re same; phone conference with D. Wilson re same.	1	0	1
2/20/2017	Eric Kniffin	Strategy conversation with M. Nussbaum regarding response to L. Goodrich email.	0.3	0	0.3
2/21/2017	Eric Kniffin	Review email from L. Goodrich; conversation with M. Nussbaum regarding same.	0.2	0	0.2
2/22/2017	Eric Kniffin	Review DOJ and DOE joint Dear Colleague letter on application of Title IX to gender transition issues; email to M. Nussbaum and I. Speir regarding same.	0.4	0	0.4
2/23/2017	Martin Nussbaum	Review W. Mahaffey's memo and forward same to D. Wilson.	0.3	0	0.3
2/27/2017	Eric Kniffin	Review email from DOJ attorney requesting 90 extension of time.	0.2	0	0.2
2/28/2017	Ian Speir	Review correspondence from Sister Mary Peter Muehlenkamp re insurer's request for indemnification in connection with transgender services exclusion, and correspond with Messrs. M. Nussbaum, E. Kniffin, and Sr. Mary re same; confer with Mr. E. Kniffin re same.	0.4	0	0.4
2/28/2017	Eric Kniffin	Email communication with I. Speir regarding proper language when communicating with CBA members regarding gender transition riders in insurance plans.	0.4	0	0.4
3/1/2017	Eric Kniffin	Strategy conversation with M. Nussbaum and I. Speir; email communications with DOJ securing consent to amend complaint and add CMA as co-plaintiff and giving consent to DOJ request for 90-day extension; email correspondence with L. Goodrich regarding same.	0.5	0	0.5
3/2/2017	Ian Speir	Review government's motion for extension of time to respond to operative complaint, and order granting same; correspond with Ms. A. Martinez re docketing.	0.2	0	0.2
3/6/2017	Martin Nussbaum	Review notices re Supreme Court's decision to vacate fourth circuit Gloucester County School Board case; email to clients re same.	0.3	0	0.3
3/6/2017	Eric Kniffin	Correspondence with CMA leadership regarding proposed allegations for amended verified complaint.	0.3	0	0.3
3/7/2017	Eric Kniffin	Correspondence with CMA leadership regarding draft allegations for the amended verified complaint.	0.2	0	0.2
3/8/2017	Eric Kniffin	Communicate with CMA leadership regarding amended complaint.	0.1	0	0.1
3/9/2017	Eric Kniffin	Correspondence with M. Dickerson regarding CMA information and amended complaint; review updated Promise of a Catholic Doctor document and revise draft amended complaint accordingly.	0.3	0	0.3
3/10/2017	Eric Kniffin	Review emails from CMA leadership with comments on proposed allegations; revise CMA statements in CBA amended complaint.	0.7	0	0.7
3/13/2017	Eric Kniffin	Incorporating CMA edits into amended complaint; reviewing CMA-related allegations in amended complaint.	1.3	0	1.3
3/14/2017	Martin Nussbaum	Conference with E. Kniffin re status of amendment and communications with Catholic Medical Association.	0.3	0	0.3
3/14/2017	Eric Kniffin	Review email from M. Nussbaum regarding approval of CBA bylaws; conversation with I. Speir regarding filings in CASC Mandate case and ACTS Mandate case; review and update allegations in amended verified complaint related to CBA bylaws; correspondence with named plaintiffs to secure permission for verified complaint.	3.5	0	3.5
3/15/2017	Martin Nussbaum	[REDACTED]	0.5	-0.5	0
3/15/2017	Ian Speir	Confer with Mr. E. Kniffin and review relevant portions of amended complaint that include allegations re Catholic Medical Association.	0.3	0	0.3
3/15/2017	Eric Kniffin	Conversation with M. Nussbaum regarding filing; email and phone correspondence with named plaintiffs to secure permission for verifications.	0.6	0	0.6
3/16/2017	Martin Nussbaum	Conference with E. Kniffin and I. Speir re amendment of complaint and prayer for relief.	0.3	0	0.3
3/16/2017	Ian Speir	Confer with Messrs. E. Kniffin and M. Nussbaum re amended complaint; provide written comments to Mr. E. Kniffin re same.	0.8	0	0.8
3/16/2017	Eric Kniffin	Prepare for meeting with M. Nussbaum and I. Speir to review CMA allegations for amended complaint; meeting; follow up conversation with I. Speir regarding same; edit amended complaint.	2.5	0	2.5
3/17/2017	Eric Kniffin	Email correspondence with CMA and Catholic Charities North Dakota seeking verifications for amended complaint.	0.3	0	0.3
3/18/2017	Eric Kniffin	Correspondence with M. Dickerson of CMA regarding signature for verified complaint.	0.2	0	0.2
3/20/2017	Martin Nussbaum	Conference with Messrs. Speir and Kniffin reviewing and revising amended complaint and the addition of CMA as party.	0.3	0	0.3
3/20/2017	Eric Kniffin	Email correspondence with I. Speir regarding docket and case deadlines.	0.3	0	0.3
3/27/2017	Ian Speir	Attention to 90-day deadline for service of complaint and correspondence with Mr. E. Kniffin and Ms. A. Martinez re same; Review insurance Group Agreement for [REDACTED] s, and correspond with [REDACTED] re insurer's request for indemnification re transgender exclusion.	0.4	0	0.4

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
3/28/2017	Eric Kniffin	Email and phone correspondence with M. Dickerson of Catholic Medical Association; email correspondence with M. Nussbaum for approval to file amended verified complaint; final review of amended verified complaint, motion related to same, and exhibits related to same; oversee filing of above by A. McGuire.	1.2	0	1.2
3/30/2017	Martin Nussbaum	Review numerous notices from court; email to Catholic Medical Association leadership re court's acceptance of amended complaint and filing of same; review Speir memorandum re Tricare's treatment of ACTS services.	0.2	0	0.2
4/3/2017	Arlene Martinez	Receipt and review of Amended Complaint; communications with Mr. I. Speir and E. Kniffin re issue with exhibits	0.3	0	0.3
4/3/2017	Ian Speir	Correspond with Messrs. M. Nussbaum and E. Kniffin re expectation of indemnity by insurance company re request by [REDACTED] for transgender exclusion; review motion for leave to file amended complaint, court's order granting same, and amended complaint as filed by court clerk; correspond with Mr. E. Kniffin and Ms. A. Martinez re lack of exhibits filed with amended complaint.	0.9	0	0.9
4/4/2017	Eric Kniffin	Call to clerk's office in North Dakota District Court to have exhibits attached to amended verified complaint.	0.2	0	0.2
4/5/2017	Eric Kniffin	Review Title VII decision from the Seventh Circuit expanding law to outlaw all sexual orientation discrimination; prepare for and participate in CBA conference call to discuss legal developments and plan for upcoming webinars; follow up conversation with D. Wilson regarding request for CBA member form letters related to HHS mandates.	4.8	0	4.8
4/6/2017	Ian Speir	Attention to clerk's filing of amended complaint with exhibits, and correspond with Mr. E. Kniffin re same.	0.1	0	0.1
4/29/2017	Ian Speir	Correspond with Mr. E. Kniffin re [REDACTED] and requested indemnification of its insurer.	0.1	0	0.1
5/3/2017	Martin Nussbaum	Review government brief in Wichita Falls case and announcement of new corrective rule making by HHS; email to D. Wilson re same and implications for CBA lawsuit and CBA membership.	0.8	0	0.8
5/3/2017	Eric Kniffin	Review Becket filings in Texas Section 1557 case and related news coverage; conversation with M. Nussbaum regarding same; draft summary of development for M. Nussbaum.	1.4	0	1.4
5/9/2017	Eric Kniffin	Phone call with M. Nussbaum regarding EEOC; background research for M. Nussbaum on EEOC composition, authority, and turnover; email EEOC summary to M. Nussbaum for review; Prepare and review PowerPoint slides for CBA member webinar; related legal research; submit to M. Nussbaum for review.	3.4	0	3.4
5/23/2017	Martin Nussbaum	Review email from DOJ attorney A. Grogg re imminent motion to remand; phone conference with D. Wilson re same; review pleadings re same in the Texas and the North Dakota litigation; conference with E. Kniffin and I. Speir re same; phone conference with D. Wilson re same; conference call with E. Kniffin, L. Goodrich, and M. Renzi at the Becket Fund re same; review second email from L. Goodrich; outline argument for motion re scope temporary restraining order; phone conference with D. Wilson re communications with Becket Fund and DOJ.	2.5	0	2.5
5/23/2017	Ian Speir	Receive and review correspondence from Adam Grogg (DOJ) re motion to remand regulation for reconsideration by HHS; confer with Messrs. M. Nussbaum and E. Kniffin re same.	0.7	0	0.7
5/23/2017	Eric Kniffin	Review A. Grogg email; conversation with M. Nussbaum regarding same; meetings with M. Nussbaum to discuss case strategy; email and voice communications with L. Goodrich and M. Renzi of Becket regarding same; review Becket opposition to DOJ motion for remand and stay filed in Texas Franciscan Alliance case; notes regarding same; draft motion for additional stay regarding Title VII claims in response to anticipated DOJ motion for remand and stay.	5	0	5
5/24/2017	Martin Nussbaum	Conference with E. Kniffin re procedural issue with DOJ; exchange email message with D. Wilson.	0.3	0	0.3
5/24/2017	Ian Speir	Attention to correspondence among counsel re government's proposed motion for remand and stay.	0.1	0	0.1
5/24/2017	Eric Kniffin	Draft motion for additional stay regarding Title VII claims in response to anticipated DOJ motion for remand and stay; strategy conversations with M. Nussbaum and L. Goodrich regarding same.	5.2	0	5.2
5/25/2017	Martin Nussbaum	Review email from A. Grogg; review email from L. Goodrich.	0.3	0	0.3
5/25/2017	Ian Speir	Attention to correspondence among counsel re government's proposed motion for remand and stay.	0.1	0	0.1
5/26/2017	Martin Nussbaum	Review collected court filings; review emails from DOJ and Becket re proposed remand; outline CBA's arguments; conference E. Kniffin re same.	1	0	1
5/29/2017	Martin Nussbaum	Review and revise CBA motion for additional stay in response to DOJ's motion to remand; email to E. Kniffin re same.	2.5	0	2.5
5/29/2017	Eric Kniffin	Email correspondence with M. Nussbaum regarding edits to CBA motion for additional stay; review M. Nussbaum edits; final edits to motion; file motion with court.	3.4	0	3.4
5/30/2017	Martin Nussbaum	Review final filings with the court; conference with E. Kniffin re same.	0.5	0	0.5
5/31/2017	Arlene Martinez	Review Plaintiffs' Motion for Additional Stay; update docket; review deadline report.	0.3	0	0.3
6/1/2017	Martin Nussbaum	Review request from DOJ for extension of time on filing answer; conference with E. Kniffin re same; email to Mr. Grogg agreeing to extension subject to requirements.	2.8	0	2.8
6/1/2017	Eric Kniffin	Review email correspondence from A. Grogg inquiring on CBA position on DOJ request for extension; conversations with M. Nussbaum and I. Speir regarding same; review government filing; conversation with M. Nussbaum about drafting response to government motion; edit and prepare response for filing.	1.9	0	1.9
6/2/2017	Martin Nussbaum	Review CBA response to DOJ motion for extension of time; email to D. Wilson re same.	0.3	0	0.3
6/2/2017	Eric Kniffin	Edit, finalize, and file response to government motion for extension of time; follow up strategy conversation with M. Nussbaum regarding same.	1.7	0	1.7
6/7/2017	Martin Nussbaum	Review court order granting extension of time for government to file answer to complaint.	0.3	0	0.3
6/7/2017	Eric Kniffin	Review court order granting government request for extension of time until after court rules on Defendants' pending motion for voluntary remand and stay; notes regarding same.	0.8	0	0.8
6/8/2017	Arlene Martinez	Update docket to include extension request; review report.	0.2	0	0.2
6/9/2017	Eric Kniffin	Review Becket response brief to DOJ motion for remand.	0.4	0	0.4
6/9/2017	Eric Kniffin	Edit draft letter from LRRC to CBA insurer who has asked for indemnification in order to exclude gender transition services; forward same to M. Nussbaum for review.	0.7	0	0.7

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
6/13/2017	Martin Nussbaum	Review EEOC's response for motion for additional time; conference with E. Gleason re same; begin outlining argument in response.	1	0	1
6/13/2017	Ed Gleason		0.3	-0.3	0
6/13/2017	Eric Kniffin	Review EEOC response brief in opposition to CBA motion for additional stay; correspondence with M. Nussbaum and I. Speir regarding same.	0.9	0	0.9
6/14/2017	Martin Nussbaum	Revision of outline of reply brief in support of granting a temporary enforcement stay against the EEOC; conference with E. Kniffin re same.	0.8	0	0.8
6/14/2017	Ian Speir	Review EEOC's opposition to CBA's motion for additional stay.	0.3	0	0.3
6/14/2017	Eric Kniffin	Review EEOC response brief; strategy meeting with M. Nussbaum regarding same; notes regarding same.	1.2	0	1.2
6/15/2017	Martin Nussbaum	Prepare and give presentation to the board of directors re status of litigation.	0.8	0	0.8
6/15/2017	Arlene Martinez	Update docket to include Response to Motion.	0.2	0	0.2
6/15/2017	Eric Kniffin	Legal research for reply brief in support of motion for additional stay against EEOC; notes regarding same.	2.4	0	2.4
6/16/2017	Eric Kniffin	Draft and edit reply in support of motion for additional stay as to EEOC; related legal and online research.	4	0	4
6/17/2017	Eric Kniffin	Draft and edit reply in support of motion for additional stay against EEOC.	0.6	0	0.6
6/19/2017	Eric Kniffin	Draft and edit reply in support of motion for additional stay as to EEOC; related legal and online research.	7.9	0	7.9
6/20/2017	Eric Kniffin	Draft and edit reply in support of motion for additional stay as to EEOC; meetings with I. Speir and M. Nussbaum regarding same; edit draft in light of comments from M. Nussbaum; related legal research; finalize and file reply brief with court.	12.2	0	12.2
6/28/2017	Ian Speir	Review proposed changes to the District of North Dakota's local rules for potential impact on lawsuit.	0.1	0	0.1
6/28/2017	Eric Kniffin	Review new posted legal position from U.S. Dept of Education on interpretations of Title IX; notes regarding same.	1	0	1
7/12/2017	Eric Kniffin	Review government filing with notice of supplemental authority; email to M. Nussbaum and I. Speir summarizing brief and proposing strategy in response.	2.2	0	2.2
7/13/2017	Ian Speir	Review Mr. E. Kniffin's analysis of Franciscan Alliance case and impact on CBA case.	0.1	0	0.1
7/13/2017	Eric Kniffin	Email communications with M. Nussbaum and I. Speir related to government notice of supplemental authority and proposed case strategy related to same.	0.8	0	0.8
8/14/2017	Eric Kniffin	Review filing and article related to forthcoming regulatory fix to transgender mandate; email communications with M. Nussbaum and I. Speir regarding same.	0.3	0	0.3
8/15/2017	Ian Speir	Review news report re repeal of transgender mandate regulations.	0.1	0	0.1
8/15/2017	Eric Kniffin	Review news article regarding forthcoming regulation to protect conscience related to Section 1557 transgender mandate; email communications with M. Nussbaum and I. Speir regarding same; review court filings; email I. Speir and M. Nussbaum regarding same; email E. Rassbach regarding same.	0.5	0	0.5
8/18/2017	Eric Kniffin	Email communications with M. Moses of USCCB regarding developments in related Franciscan Alliance litigation.	0.3	0	0.3
8/24/2017	Eric Kniffin	Review court order on HHS's motion for stay or remand; follow up email communications with M. Nussbaum and I. Speir regarding same.	0.5	0	0.5
9/11/2017	Martin Nussbaum	Conference with M. Dickerson, CEO of the Catholic Medical Association to provide an update re status of the litigation.	0.3	0	0.3
11/22/2017	Ian Speir	Receive and review government's status report.	0.1	0	0.1
11/22/2017	Eric Kniffin	Review DOJ status report informing court of intent to submit proposed rule related to ACTS mandate; correspondence with M. Nussbaum regarding same.	0.5	0	0.5
2/20/2018	Martin Nussbaum	Review Department of Justice's status report; conference with E. Kniffin re same and re content of the CBA status report.	0.5	0	0.5
2/20/2018	Eric Kniffin	Review Defendants' status report; conversation with M. Nussbaum regarding same; review docket and draft response to Defendants' status report; correspondence with M. Nussbaum and D. Wilson regarding case strategy.	1.1	0	1.1
2/23/2018	Martin Nussbaum	Revise status report.	0.3	0	0.3
2/23/2018	Eric Kniffin	Communication with M. Nussbaum regarding proposed text of response to government's status update; prepare response brief; oversee filing of response.	0.8	0	0.8
4/24/2018	Martin Nussbaum	Review articles in Christian Post and New York Times regarding regulation addressing Section 1557 transgender services mandate; email to clients re same and likely next steps.	0.8	0	0.8
4/24/2018	Ian Speir	Review Mr. Nussbaum's correspondence with Mr. D. Wilson and related news articles regarding new, proposed rule on transgender services mandate.	0.1	0	0.1
4/24/2018	Eric Kniffin	Review news articles on forthcoming regulation on Section 1557 of ACA; forward same to M. Nussbaum by email.	0.5	0	0.5
5/21/2018	Eric Kniffin	Review government status report.	0.1	0	0.1
6/12/2018	Martin Nussbaum		0.4	-0.4	0
7/20/2018	Martin Nussbaum	Review status report filed by HHS.	0.1	0	0.1
7/20/2018	Martin Nussbaum	Review status report found by HHS.	0.1	0	0.1
7/20/2018	Ian Speir	Receive and review government's status update regarding pendency of proposed rule.	0.1	0	0.1
7/23/2018	Ian Speir	Receive and review magistrate judge's order re amended caption.	0.1	0	0.1
7/23/2018	Eric Kniffin	Review order and DOJ status report; notes regarding same.	0.5	0	0.5
7/23/2018	Eric Kniffin	Review government status update regarding regulatory process for replacing transgender mandate; conversation with M. Nussbaum regarding same.	0.2	0	0.2
8/17/2018	Martin Nussbaum	Phone conference with Bishop Folda reporting on status of case.	0.5	0	0.5
10/18/2018	Eric Kniffin	Review government status report and related posting regarding status of regulatory fix of ACTS Mandate.	0.1	0	0.1
10/22/2018	Ian Speir	Review government's status report.	0.1	0	0.1
Date	Timekeeper	Description	Hours	Adjustments	Net Hours

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/10/2018	Ian Speir	Confer with Mr. Nussbaum re drafting letter to Alex Haas (DOJ) re status of litigation and motion for permanent injunction.	0.1	0	0.1
1/14/2019	Ian Speir	Teleconference with Rhett Martin (DOJ) re indefinite stay in case in light of government shutdown (0.1); confer with Mr. M. Nussbaum re same (0.1); send email to Mr. Martin re same (0.1).	0.3	0	0.3
1/22/2019	Ian Speir	Review government's motion to stay case and court's order declaring the same moot, and correspond with Mr. M. Nussbaum and Ms. A. Martinez re same (0.3).	0.3	0	0.3
1/28/2019	Ian Speir	Receive and review government's status report re resumption of appropriations (0.1).	0.1	0	0.1
2/1/2019	Ian Speir	Receive and review government's notice of restoration of appropriations, and email same to Mr. M. Nussbaum (0.1).	0.1	0	0.1
2/26/2019	Ian Speir	Review government's status report filed February 19, review pending cert petition cases cited by government, and advise Mr. D. Wilson re same (0.6).	0.6	0	0.6
2/27/2019	Ian Speir	Teleconference with Messrs. D. Wilson and M. Nussbaum re activating case and strategies and next steps to accomplish same (0.3).	0.3	0	0.3
2/28/2019	L. Martin Nussbaum	Review notes for call with Mark Rienzi; leave multiple messages (0.25).	0.25	0	0.25
3/1/2019	Ian Speir	Teleconference with Messrs. M. Nussbaum and Mark Rienzi re activating case and urging judge to rule (0.30).	0.3	0	0.3
3/6/2019	Arlene Martinez	Phone conference with Mark Rienzi and Luke Goodrich re options for activating judge (0.50).	0.5	0	0.5
5/2/2019	L. Martin Nussbaum	Begin drafting memo to members re Supreme Court granting of cert and HHS regulation as they relate to case (2.0).	2	0	2
5/2/2019	Ian Speir	Confer with Mr. M. Nussbaum re filing amicus brief in Title VII cases at Supreme Court related to interpretation of "sex" (0.10).	0.1	0	0.1
5/3/2019	Ian Speir	Confer with Mr. M. Nussbaum re CBA meeting and amicus brief in Title VII cases at Supreme Court (0.2); review HHS final rule on protecting conscience rights in health care and complaint by City of San Francisco seeking to enjoin same; send email to Mr. M. Nussbaum with preliminary analysis of the rule and impact on ACTS mandate case and complaints submitted to HHS re state CASC mandates and clinical trial mandate (0.7).	0.9	0	0.9
5/29/2019	L. Martin Nussbaum	Begin review of proposed rule modifying requirement under ACA §1557; phone conference with Doug Wilson re same (0.75).	0.75	0	0.75
6/8/2019	L. Martin Nussbaum	Review HHS summary of its revised interpretation of ACA §1557 (0.25).	0.25	0	0.25
8/9/2019	Ian Speir	Attention to court orders reassigning case to Judge Peter D. Welte	0.1	0	0.1
10/2/2019	Ian Speir	Review clerk's email requesting filing of status reports and email Mr. M. Rienzi re same (0.30).	0.3	0	0.3
10/5/2019	Ian Speir	Review government's status report and email Mr. Wilson re same (0.30).	0.3	0	0.3
10/9/2019	Ian Speir	Attention to magistrate's order requiring HHS and EEOC to file status reports every 90 days (0.10).	0.1	0	0.1
10/10/2019	Ian Speir	Review CBA template letter re ACTS mandate decision and confer with Mr. Nussbaum re same (0.40).	0.4	0	0.4
1/9/2020	Ian Speir	Review government's latest status report and send same to Mr. Wilson with comments (0.20).	0.2	0	0.2
1/29/2020	Ian Speir	Respond to Mr. Wilson's email re Judge O'Connor's (N.D. Tex.) ruling in Franciscan Alliance case vacating HHS's rule imposing the ACTS mandate (0.40).	0.4	0	0.4
1/31/2020	Ian Speir	Confer with Mr. Nussbaum re meeting with HHS and strategy with respect to ACTS mandate litigation (0.10)	0.1	0	0.1
2/3/2020	Arlene Martinez	Communications with Mr. Nussbaum re briefing in the Texas transgender case; review court docket and filing; prepare briefing documents of permanent injunction for review by Mr. Nussbaum (2.30).	2.3	0	2.3
2/6/2020	L. Martin Nussbaum	[REDACTED]	1.25	-1.25	0
2/7/2020	L. Martin Nussbaum	Phone conversation with Doug Wilson re action steps; phone call with Eric Treene at the Department of Justice re activating case; research re Brinton Lucas at the Department of Justice; begin research re order and pleadings and briefing in the Franciscan Alliance case in the federal court in Wichita Falls (2.75).	2.75	0	2.75
2/10/2020	L. Martin Nussbaum	Research relevant cases re transgender services mandate; review notes in preparation for activating case (3.00).	3	0	3
2/11/2020	L. Martin Nussbaum	Research re effect of regulation-vacatur in Franciscan Alliance case; email to Mark Rienzi (1.00).	1	0	1
2/17/2020	L. Martin Nussbaum	Phone conversation with Doug Wilson re whether the Franciscan Alliance case renders a portion of the CBA lawsuit moot and necessary related research; draft email to Deion Kathawa, law clerk, providing background for legal research re effect of vacatur order in the Franciscan Alliance law suit; email same to Mr. Kathawa (1.25).	1.25	0	1.25
2/18/2020	L. Martin Nussbaum	Conference with Deion Kathawa re research related to whether the vacatur order in Franciscan Alliance made the CBA case moot (0.25).	0.25	0	0.25
2/19/2020	L. Martin Nussbaum	Phone conference with Deion Kathawa re research as to mootness issue (0.25).	0.25	0	0.25
2/25/2020	L. Martin Nussbaum	Phone conference with Doug Wilson (0.50).	0.5	0	0.5
2/25/2020	Ian Speir	[REDACTED]	0.2	-0.2	0
2/26/2020	Deion Kathawa	[REDACTED]	0.65	-0.65	0
2/27/2020	Deion Kathawa	[REDACTED]	0.6	-0.6	0
2/28/2020	Deion Kathawa	[REDACTED]	0.35	-0.35	0
2/29/2020	Deion Kathawa	[REDACTED]	1.9	-1.9	0
3/3/2020	Deion Kathawa	[REDACTED]	0.75	-0.75	0
3/4/2020	Deion Kathawa	[REDACTED]	0.3	-0.3	0
3/7/2020	Deion Kathawa	[REDACTED]	2.4	-2.4	0
3/16/2020	Deion Kathawa	[REDACTED]	1	-1	0

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
3/17/2020	Deion Kathawa	[REDACTED]	5.2	-5.2	0
3/18/2020	Deion Kathawa	[REDACTED]	2.2	-2.2	0
3/19/2020	Deion Kathawa	[REDACTED]	2.6	-2.6	0
3/20/2020	L. Martin Nussbaum	Email to Deion Kathawa re vacatur memorandum (0.10).	0.1	0	0.1
3/20/2020	Deion Kathawa	[REDACTED]	0.1	-0.1	0
3/31/2020	Ian Speir	Confer with Mr. Nussbaum and email him re scope of Section 1557 Rule, Title VII's definition of "sex," Section 702 exemption, pending Supreme Court cases pertaining to this issue, and impact on CBA members (0.40).	0.4	0	0.4
3/31/2020	L. Martin Nussbaum	Confer with Mr. Speir re scope of Section 1557 Rule, Title VII's definition of "sex," Section 702 exemption, pending Supreme Court cases pertaining to this issue, and impact on CBA members (0.40).	0.4	0	0.4
4/5/2020	Ian Speir	Review government's latest status report, compare with prior report, and email Mr. Wilson re same (0.20).	0.2	0	0.2
4/6/2020	Ian Speir	Email Mr. Wilson re federal government's fiscal year and timing of anticipated new Section 1557 rule (0.10).	0.1	0	0.1
4/25/2020	Deion Kathawa	[REDACTED]	0.75	-0.75	0
4/26/2020	Deion Kathawa	[REDACTED]	0.5	-0.5	0
4/27/2020	Deion Kathawa	[REDACTED]	1	-1	0
5/20/2020	L. Martin Nussbaum	Review Kathawa memorandum re vacature order; confer with Ian Speir re preparing analysis as to next steps (1.50).	1.5	0	1.5
5/20/2020	Ian Speir	Office conference with Mr. Nussbaum to discuss legal research re case and relationship to Franciscan Alliance case (0.20)	0.2	0	0.2
5/21/2020	Ian Speir	Research status of Franciscan Alliance case and appeal, status of CBA's case, and legal doctrines applicable to same (including legal effect of vacatur vs. injunction); begin drafting memo analyzing these issues and making recommendation on how to proceed in CBA case (3.50).	3.5	0	3.5
5/21/2020	Arlene Martinez	Communications with Mr. I. Speir re status reports; review database and court website and provide copies of all status reports to Mr. I. Speir; update database to include additional report found (1.20)	1.2	0	1.2
5/26/2020	Ian Speir	Continue drafting memo analyzing legal issues pertaining to ACTS Mandate case (1.20).	1.2	0	1.2
5/27/2020	Ian Speir	Continue drafting memo analyzing legal issues pertaining to ACTS Mandate case (3.00)	3	0	3
5/28/2020	Ian Speir	Finalize draft of memo analyzing legal issues re ACTS Mandate case and email draft to Mr. Nussbaum (1.60).	1.6	0	1.6
5/29/2020	L. Martin Nussbaum	Review draft memorandum from Mr. Speir re case status, Franciscan Alliance case, and proposed action steps; confer with Mr. Speir re revision of same (1.85).	1.85	0	1.85
5/29/2020	Ian Speir	Confer and correspond with Mr. Nussbaum re states with transgender coverage mandates; attention to Mr. Nussbaum's correspondence with David Hyams (HHS) re status of complaints re various state coverage mandates (0.20).	0.2	0	0.2
6/10/2020	Ian Speir	Office conference with Mr. Nussbaum re ACTS Mandate case, memo re same, and pending complaints with HHS; prepare for and participate in telephone conference with HHS personnel re same (1.80).	1.8	0	1.8
6/15/2020	Ian Speir	Review HHS press release re new Section 1557 Rule and email Mr. Wilson re same; teleconference with Eric Treene at Department of Justice re administrative complaint re state transgender mandates (0.50).	0.5	0	0.5
6/16/2020	Ian Speir	Continue review of Bostock and consider effects on religious employers, including CBA members, the potential impact on the Title VII religious employer exemption, the applicability of RFRA and the Free Exercise Clause to such claims, and the viability of an expressive association defense for religious organizations; review related case law; begin drafting memo for use in advising client re these issues and in preparation for future webinars for members, and incorporate prior research on ministerial exception and use of arbitration agreements (4.50).	4.5	0	4.5
6/17/2020	L. Martin Nussbaum	Closer review of Bostock, Harris Funeral Homes, related commentary, and related USCCB amicus; conversations with Mr. Speir to assess how to proceed with case (1.75).	1.75	0	1.75
6/17/2020	Ian Speir	Begin review of new HHS Section 1557 rule and make notes re same, with attention to impact of Bostock ruling thereon (0.60).	0.6	0	0.6
6/18/2020	Ian Speir	Continue review and analysis of revised Section 1557 rule and begin composing overview re same for client (4.70).	4.7	0	4.7
6/19/2020	Ian Speir	Continue review of new HHS Section 1557 rule and draft memo analyzing impact of new rule and of Bostock on ACTS Mandate case; email draft memo to Mr. Nussbaum (3.60).	3.6	0	3.6
6/22/2020	L. Martin Nussbaum	Confer with Ian Speir re Bostock and next steps in case (0.25).	0.25	0	0.25
6/23/2020	L. Martin Nussbaum	Confer with Ian Speir and re next steps in case (0.50).	0.5	0	0.5
6/24/2020	Ian Speir	Review Ms. Cox's email and news coverage re new lawsuit challenging HHS's revised Section 1557 Rule, and correspond with client re same (0.20).	0.2	0	0.2
7/2/2020	L. Martin Nussbaum	Review email from Brad Humphreys at DOJ and responses from other parties (0.20); phone conference with Luke Goodrich at Becket (0.25); email to Mr. Humphreys re CBA's openness to settlement discussions (0.30).	0.75	0	0.75
7/7/2020	Ian Speir	Review government's status report filed on July 2 and court's order in response to same setting next status report deadline (0.15); docket status report deadline (0.10); email Luke Goodrich of Becket Law seeking feedback on the joint call with DOJ (0.15).	0.4	0	0.4
7/28/2020	Ian Speir	Confer with Mr. Nussbaum re scheduling meeting to discuss next steps in case (0.10); email Mr. Nussbaum with analysis of revised 1557 Rule and recent lawsuits challenging it (0.10).	0.2	0	0.2
7/29/2020	Ian Speir	Office conference with Mr. Nussbaum to discuss my prepared summary of revised Section 1557 Rule, impact of Bostock, recent lawsuits, and strategy for reviving case; related teleconference with Mr. Wilson (1.2); begin drafting memo re same (0.2).	1.4	0	1.4

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
7/29/2020	L. Martin Nussbaum	Review amended complaint (0.30); confer with Ian Speir re analysis (0.10); research re issues related to revival of case (1.35).	1.75	0	1.75
7/30/2020	Ian Speir	Confer with Mr. Nussbaum re additional content for memo to Mr. Wilson and board members re activating case (0.10)	0.1	0	0.1
8/3/2020	L. Martin Nussbaum	Review and revise research memorandum; forward same to client. (1.00).	1	0	1
8/3/2020	Ian Speir	Update and revise memo re revised Section 1557 Rule, impact of Bostock, recent lawsuits, and strategy for reviving case (3.90).	3.9	0	3.9
8/4/2020	L. Martin Nussbaum	Conference call with Ian Speir and Doug Wilson re developments commending activation of case; conference call with Luke Goodrich and Ian Speir re same; review complaints in other cases; email to Mr. Speir re same; review articles re recent arguments; phone conference Diane Nechiporenko of Catholic Charities; voice mail to [REDACTED] voice mail message to Bishop Folda; phone conference with Bishop Folda; voice mail message to Mario Dickerson; exchange emails with Brad Humphreys at DOJ.(2.75).	2.75	0	2.75
8/4/2020	Ian Speir	Teleconference with Messrs. Wilson and Nussbaum re memo and activating case; follow-up teleconference with Mr. Nussbaum re same; leave voicemail for, email, then confer by telephone with Luke Goodrich of Becket to discuss reactivation of case; exchange emails with DOJ attorney Brad Humphreys to schedule telephone call to discuss case status in light of status report deadline; draft CBA Plaintiffs' status report and email to Mr. Nussbaum (4.70).	4.7	0	4.7
8/5/2020	L. Martin Nussbaum	Conference call with DOJ counsel, Brad Humphreys, and with Luke Goodrich, and Ian Speir; email to Mr. Humphreys requesting clarification of EEOC's position; revise CBA status report in light of comments from Mr. Goodrich; confer with Ian Speir re same. (2.50).	2.5	0	2.5
8/5/2020	Ian Speir	Teleconference with Messrs. Nussbaum, Goodrich (Becket), and Humphreys (DOJ) re next steps in case; follow-up teleconferences with Mr. Nussbaum re same and revisions to CBA Plaintiffs' status report; make revisions to status report and exchange emails with Becket re same; email Mr. Humphreys seeking agreement on next status report deadline; finalize and file CBA Plaintiffs' status report (2.50).	2.5	0	2.5
8/6/2020	Ian Speir	Review government's status report and court's response thereto; docket next status report deadline of October 5, 2020 (0.20).	0.2	0	0.2
8/7/2020	L. Martin Nussbaum	Email to Doug Wilson, Archbishop Lori, and lawyers on board re analysis of next steps; research re Judge Hovland and his successor, Judge Traynor; review status reports; email to Ian re judges and re action plan; call to Mario Dickerson's office; email to Doug Wilson, Mario Dickerson, Bishop Folda, and Diane Nechiporenko re case status. (2.00).	2	0	2
8/7/2020	Ian Speir	Attention to Mr. Nussbaum's email to clients re status reports in case and next steps (0.10).	0.1	0	0.1
8/17/2020	L. Martin Nussbaum	Attention to various emails and new court decision. (0.50).	0.5	0	0.5
8/17/2020	Ian Speir	Review email from Luke Goodrich (Becket) re Eastern District of New York's injunction against 2020 Rule, and email Mr. Goodrich re same. (0.10).	0.1	0	0.1
8/18/2020	L. Martin Nussbaum	Review decision striking down 2020 regulation and reinstating regulation; confer with Ian Speir re same; conference call with Mr. Wilson and Mr. Speir re same. (1.25).	1.25	0	1.25
8/18/2020	Ian Speir	Review Eastern District of New York's injunction against 2020 Rule; office conferences with Mr. Nussbaum re same; teleconference with Messrs. Wilson and Nussbaum re same; follow-up research re other cases challenging the rule and status of preliminary injunction motions filed therein, and email Mr. Nussbaum reporting on such updates (1.80).	1.8	0	1.8
8/24/2020	Ian Speir	Update memo re next steps in ACTS Mandate case in light of recent injunction against 2020 Rule and other legal challenges to that rule, and send updated memo to Mr. Nussbaum for review (1.30).	1.3	0	1.3
9/13/2020	L. Martin Nussbaum	Review new case decision striking down 2020 Regulations; email to Ian Speir re same (0.50).	0.5	0	0.5
9/14/2020	Ian Speir	Review Mr. Nussbaum's email and begin revising memo re ACTS mandate and recent cases enjoining the 2020 Rule (0.10).	0.1	0	0.1
9/15/2020	Ian Speir	Review district court's decision in Whitman Walker Clinic enjoining the 2020 Rule and revise and update memo re next steps in ACTS Mandate lawsuit (2.10).	2.1	0	2.1
9/25/2020	Ian Speir	Review USCCB Religious Liberty Committee's documentation on cases and administrative actions involving Section 1557 and state transgender mandates; email to Mr. Nussbaum re activating ACTS Mandate case in North Dakota; email Messrs. Rienzi and Goodrich at Becket to request phone call next week (0.50).	0.5	0	0.5
9/25/2020	L. Martin Nussbaum	Exchange emails with Mr. Wilson (0.50).	0.5	0	0.5
9/26/2020	Ian Speir	Reply to Mr. Goodrich and circulate calendar invite for call on Friday (0.10).	0.1	0	0.1
10/1/2020	L. Martin Nussbaum	Multiple communications in preparation for meeting with Becket counsel (0.25).	0.25	0	0.25
10/2/2020	L. Martin Nussbaum	Review Ian Speir memorandum re reactivating the ACTS lawsuit (0.75); phone conference with Luke Goodrich, Joe Davis, and Mark Rienzi to strategize re next steps and reactivation of North Dakota law suit (1.0); review 70 page brief filed by Becket in Franciscan Alliance re need for permanent injunctive relief in addition to vacatur order (1.50); report to Doug Wilson re same (0.50).	5.25	0	5.25
10/2/2020	Ian Speir	Teleconference with Becket re activating case and strategy re same (0.7); follow-up correspondence with Messrs. Goodrich and Davis of Becket re scheduling follow-up call after receipt of client approval and draft email to Brad Humphreys re Monday's status report deadline (0.3); send such email to Mr. Humphreys (0.1); review prior motions practice and orders entered in the case and identify the nature of the relief granted by the court, and email Messrs. Goodrich and Davis commenting on same and its relationship to legal strategy in reactivated case proceedings (1.2).	2.3	0	2.3
10/5/2020	Ian Speir	Draft status report, including discussion of recent legal developments and district court injunctions against 2020 Rule, and email draft to Becket colleagues (2.40); exchange further emails with Becket re filing status report (.30); teleconference with Mr. Nussbaum re status report (.20); make revisions to status report and file; (.40) send two emails to Mr. Wilson with our, the government's, and Becket's status reports (.20)	3.5	0	3.5
10/6/2020	Ian Speir	Receive and review magistrate judge's order re status reports and docket next status report deadline (0.10).	0.1	0	0.1
10/8/2020	Ian Speir	Teleconference with Messrs. Goodrich and Davis of Becket to discuss reactivation of case and justiciability challenges (0.80).	0.8	0	0.8

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
10/12/2020	L. Martin Nussbaum	Update memorandum analyzing reasons for reviving the case (2.45); draft email to Mr. Wilson and litigation committee re same (.30); phone conference with Doug Wilson re numerous issues including status of ACTS litigation (.50).	3.25	0	3.25
10/12/2020	Ian Speir	Attention to Mr. Wilson's emails; office conference with Mr. Nussbaum re same (0.20).	0.2	0	0.2
10/19/2020	Ian Speir	Attention to emails re scheduling call re reactivation of case (0.10).	0.1	0	0.1
10/20/2020	Ian Speir	Attention to emails and accept calendar invite re call with Becket and DOJ on Wednesday, October 21 (.10); review file and identify CBA members who had received in 2016 the gender dysphoria riders (.20); email Mr. Nussbaum re communications with named plaintiffs re case reactivation and members who received the riders (.20); email Mr. Wilson re CBA members in receipt of such riders (.20).	0.7	0	0.7
10/21/2020	Ian Speir	Teleconference with Luke Goodrich, Joe Davis (both Becket), and Brad Humphreys of DOJ re lifting stay in case and government's position re same (0.20).	0.2	0	0.2
10/22/2020	L. Martin Nussbaum	Conference call with Doug Wilson, Ian Speir, and members of the CBA litigation committee; conference with Ian Speir (1.25).	1.25	0	1.25
10/22/2020	Ian Speir	Participate in Zoom call with CBA's Litigation Committee re reactivation of case, and send follow-up email to Mr. Nussbaum after call (1.00).	1	0	1
10/23/2020	Ian Speir	Review prior amended verified complaint filed by CBA and begin drafting second amended complaint as part of reactivated case (1.30).	1.3	0	1.3
10/28/2020	L. Martin Nussbaum	Phone conference with Mr. Wilson (.15); conference with Mr. Speir to prepare budget for reactivating lawsuit (.20); email to Mr. Wilson re same; conference call with Archbishop Lori, Ms. Matthews, and Mr. Wilson re proposed re-activation of case (.50).	1	0	1
10/28/2020	Ian Speir		0.2	-0.2	0
10/29/2020	L. Martin Nussbaum	Inform Ian of Archbishop Lori's decision; email to Luke Goodrich re draft motion (0.20).	0.2	0	0.2
10/30/2020	L. Martin Nussbaum	Review draft joint motion to lift stay and related emails (.50); confer with Ian Speir re same (.60); attention to various emails (.30); revise engagement letter to Diocese of Fargo, Catholic Charities North Dakota; Catholic Medical Association (.65); forward each to clients; multiple conversations with Mario Dickerson's office (.50).	2.75	0	2.75
10/30/2020	Ian Speir	Review Becket's draft motion to lift stay (.50), confer with Mr. Nussbaum re same (.60); edit motion and email to Becket (.90).	1.8	0	1.8
11/2/2020	Ian Speir	Email Mr. Coon and Ms. Syzek CBA members' receipt of gender dysphoria riders and attention to Ms. Syzek's follow-up emails re same (0.10).	0.1	0	0.1
11/3/2020	Ian Speir	Attention to CBA email seeking information on coverage riders (0.10).	0.1	0	0.1
11/4/2020	L. Martin Nussbaum	Emails to Mario Dickerson and Bishop Folda re engagement and re re-activating lawsuit (0.25).	0.25	0	0.25
11/5/2020	L. Martin Nussbaum	Review email and revised draft motion from Bradley Humphreys re DOJ's position as to joint motion to live stay (0.10); email to team re same (0.10).	0.2	0	0.2
11/10/2020	L. Martin Nussbaum	Conference call with Luke Goodrich, Mark Rienzi, and Ian Speir re procedural and tactical issues (0.50); phone conference with Doug Wilson reporting on same (0.50); research re EEOC (0.50).	1.5	0	1.5
11/10/2020	Ian Speir	Teleconference with Becket and second teleconference with Mr. Wilson re procedure and timing for amending complaints and seeking injunctive relief (0.80).	0.8	0	0.8
11/11/2020	Ian Speir	Review relevant law and legal developments and revise complaint (5.20).	5.2	0	5.2
11/12/2020	Ian Speir	Continue to review relevant law and legal developments and revise complaint (7.80).	7.8	0	7.8
11/13/2020	Ian Speir	Continue to review relevant law and legal developments and revise complaint (3.50); communicate with clients/plaintiffs re allegations in complaint (0.70); begin drafting motion for summary judgment (2.00).	6.2	0	6.2
11/15/2020	Ian Speir	Continue drafting motion for summary judgment (14.10).	14.1	0	14.1
11/16/2020	L. Martin Nussbaum	Review and revise summary judgment brief; conference with Ian Speir re same (1.50).	1.5	0	1.5
11/16/2020	Ian Speir	Continue drafting motion for summary judgment (4.00); communications with Mr. Nussbaum re same (0.40); email draft summary judgment brief to Becket (0.40).	4.8	0	4.8
11/17/2020	Ian Speir	Continue revising Second Amended Complaint, with attention to Title VII issues, effect of 2020 Rule and preliminary injunctions against it, and client verifications (7.50).	7.5	0	7.5
11/18/2020	Ian Speir	Continue revising Second Amended Complaint and brief in support of summary judgment (4.50).	4.5	0	4.5
11/19/2020	Ian Speir	Continue revising Second Amended Complaint and brief in support of summary judgment (4.20).	4.2	0	4.2
11/20/2020	L. Martin Nussbaum	Phone conference with Doug Wilson re briefing (0.25); attention to summary judgment brief (0.25).	0.5	0	0.5
11/20/2020	Ian Speir	Review Becket's draft brief in support of summary judgment (0.90); revise CBA brief in light of same (1.00); email colleagues at Becket re their draft (0.20).	2.1	0	2.1
11/21/2020	L. Martin Nussbaum	Revise summary judgment brief (2.00); phone conference with Mr. Speir re same (0.40); email to Mr. Dickerson at Catholic Medical Association re scope of relief requested (0.20).	2.6	0	2.6
11/22/2020	Ian Speir	Finalize second amended complaint, brief in support of summary judgment (with accurate citations to second amended complaint), and separate motion for summary judgment (2.75); email Becket colleagues with additional comments on their brief (0.30); two teleconferences with Mr. Nussbaum (0.25).	3.3	0	3.3
11/23/2020	L. Martin Nussbaum	Phone conference with Mr. Speir re additional exhibit in support of motion for summary judgment; revise exhibit and forward to Mr. Speir (0.25).	0.25	0	0.25
11/23/2020	Ian Speir	Proofread second amended complaint, motion for summary judgment, and brief in support (5.00); make additional revisions based on comments from Mr. Nussbaum (0.50); assemble exhibits for second amended complaint (0.40); file all documents (6.30).	6.3	0	6.3
11/30/2020	Ian Speir	Review court docket and clerk's numerous additional entries and corrections after we and Becket filed amended complaints, motions for summary judgment, and briefs in support; draft and send emails to clients and to CBA's litigation committee attaching filings and providing commentary thereon (1.40).	1.4	0	1.4
12/10/2020	Ian Speir	Exchange several emails with Becket and DOJ re DOJ's intent to file motion for extension of time to respond to motions for summary judgment (0.20).	0.2	0	0.2
12/11/2020	Ian Speir	Review Becket's draft response to government's motion for extension of time; provide comments to Becket re same (0.20).	0.2	0	0.2
12/16/2020	L. Martin Nussbaum	Research re summary judgment cases (0.25).	0.25	0	0.25

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/22/2020	Grace Alcalá		0.2	-0.2	0
12/22/2020	Ian Speir	Email Becket re scheduling conference call prior to January 5, 2021 status conference (0.20).	0.2	0	0.2
12/28/2020	Ian Speir	Teleconference with Joe Davis of Becket re plan and strategy for response/reply brief; email Mr. Nussbaum re same (0.40).	0.4	0	0.4
12/29/2020	Ian Speir	Email clients attaching government's recent briefing and outlining strategy and timing for our response; begin review of government's briefs (1.20).	1.2	0	1.2
1/2/2021	Ian Speir	Begin drafting combined response-reply in support of summary judgment (2.60); related legal research (0.60).	3.2	0	3.2
1/4/2021	L. Martin Nussbaum	Review email from Court; confer with Ian Speir re oral argument and dates (0.10); email to clerk with dates (0.10); voicemail message to Mr. Wilson (0.50).	0.35	0	0.35
1/4/2021	Ian Speir	Continue drafting combined response-reply in support of summary judgment (7.00); related legal research (2.50).	9.5	0	9.5
1/5/2021	Grace Alcalá	Docket telephonic hearing per court order on 1/4/2021 (0.10).	0.1	0	0.1
1/5/2021	L. Martin Nussbaum	Representation during status conference (0.30); phone conference with Doug Wilson (0.45).	0.75	0	0.75
1/5/2021	Ian Speir	Continue drafting combined response-reply in support of summary judgment (3.80); brief telephonic status conference with court (.30); review Becket's brief (0.80); circulate draft of our brief to Becket and to clients (0.30).	5.2	0	5.2
1/5/2021	L. Martin Nussbaum		0.4	-0.4	0
1/6/2021	L. Martin Nussbaum	Review Becket, DOJ, and CBA briefs related to dispositive motion (3.70); confer with Ian Speir re suggested edits of same (0.80).	4.5	0	4.5
1/6/2021	Ian Speir	Continue drafting combined response-reply in support of summary judgment (5.90); exchange several emails with Becket re same (0.50); office conference with Mr. Nussbaum to revise brief (0.30); revise and restructure brief in light of Mr. Nussbaum's comments (0.70); finalize and file brief (0.50).	8.4	0	8.4
1/7/2021	Ian Speir	Save all recent filings to file (0.20); send emails to clients and to CBA litigation committee with updates on filings and case (0.30).	0.5	0	0.5
1/8/2021	L. Martin Nussbaum	Review notice of new LGBTQ rule from HHS (0.10); email to Mr. Speir re same and request analysis whether it constitutes supplemental authority in support of present briefing (0.05).	0.15	0	0.15
1/12/2021	L. Martin Nussbaum	Phone conference with Doug Wilson oral argument (0.25).	0.25	0	0.25
1/12/2021	Ian Speir	Begin preparing for oral argument, reviewing 8th Circuit cases, and creating argument outline (2.70).	2.7	0	2.7
1/13/2021	L. Martin Nussbaum	Review briefs and prepare issue list for oral argument (0.75); assist Mr. Speir in preparing for his oral argument (1.00).	1.75	0	1.75
1/13/2021	Ian Speir	Continue preparing for oral argument, review relevant cases, and drafting argument outline (4.00); telephonic moot session with Mr. Nussbaum (1.00); continue revising and refining arguments (1.90).	6.9	0	6.9
1/14/2021	L. Martin Nussbaum	Phone conference with Ian Speir prior to argument (0.40); attend argument; conference call with Ian Speir, Luke Goodrich, and Joe Davis at Becket Law re same (1.70); conference call with Doug Wilson and Ian Speir re same (1.65).	3.75	0	3.75
1/14/2021	Ian Speir	Continue preparing for oral argument, review parties' briefs re summary judgment motions and motion to dismiss (2.15), and brief teleconference with Mr. Nussbaum re preparation (0.40); participate in and present oral argument to district court (1.70); follow-up teleconferences with Mr. Nussbaum, Becket lawyers, and Mr. Wilson (1.65).	5.9	0	5.9
1/19/2021	L. Martin Nussbaum	Conference with Ian Speir re order entering permanent injunction (0.40); scan order (0.80); report same to Doug Wilson; review order in detail (1.30).	2.5	0	2.5
1/19/2021	Ian Speir	Briefly review court's order granting partial summary judgment and confer with Mr. Nussbaum re same; attention to emails to client re same (0.40).	0.4	0	0.4
1/20/2021	L. Martin Nussbaum	Draft email to Doug Wilson detailing court's holding and implications of same (4.00); email to Anthony Picarello and other in OGC re same (0.80); email to Diocesan counsel re same (0.95); phone conference Archbishop Lori re opinion and related communications issues (1.00).	6.75	0	6.75
1/20/2021	Ian Speir	Review in detail court's order granting partial summary judgment (1.20); office conference with Mr. Nussbaum re same and implications for CBA members (0.50); teleconference with Becket re next steps (0.50).	2.2	0	2.2
1/21/2021	L. Martin Nussbaum	Review email from Ian Speir re his conversation with Becket attorneys and procedural options in light of Court's decision (0.75); confer with Mr. Speir re same (1.00).	1.75	0	1.75
1/21/2021	Ian Speir	Email Mr. Nussbaum with advice and recommendations re next steps in case and entry of final judgment (0.60); exchange follow-up emails with Mr. Nussbaum and with Mr. Goodrich re same (0.50); confer with Mr. Nussbaum (1.00).	2.1	0	2.1
1/22/2021	L. Martin Nussbaum	Communication with members re permanent injunction (0.25); review press report (0.25); exchange emails with Robert Vega at USCCB (0.25).	0.75	0	0.75
1/22/2021	Ian Speir	Office conference with Mr. Nussbaum re recruitment of new CBA members in light of win (0.30).	0.3	0	0.3
1/25/2021	L. Martin Nussbaum	Outline presentation for board of directors re permanent injunction order (2.40); coordinate with Ian Speir re same (1.00); report to board of directors re permanent injunction order (1.20).	3.6	0	3.6
1/25/2021	Ian Speir	Teleconference with Messrs. Nussbaum and Wilson in preparation for board meeting (1.00); prepare notes for board meeting (0.20); participate in board meeting (1.20).	2.4	0	2.4
1/27/2021	Ian Speir	Teleconference with Mr. Davis re finalizing judgment and government's position on Rule 54(b) certification vs. voluntary dismissal of remaining claims; brief legal research re this issue (0.30); follow-up email to Messrs. Goodrich and Davis re same (0.30).	0.6	0	0.6
1/28/2021	Ian Speir		0.1	-0.1	0
1/29/2021	L. Martin Nussbaum	Conference call with Ian Speir and Doug Wilson re webinar re ACTS case and re possible dismissal without prejudice of remaining claims (0.90); attention to various emails (0.40).	1.3	0	1.3

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
1/29/2021	Ian Speir	Teleconference with Mr. Davis re government's position on voluntary dismissal of remaining claims and entry of final judgment (0.40); office conference with Mr. Nussbaum re same (0.20); reply to Brad Humphreys' email re extension of time for government to file answer (0.10).	0.7	0	0.7
2/1/2021	L. Martin Nussbaum	Revise proposed draft order of judgment; confer with Ian Speir re same; further revision of same; second conversation with Mr. Speir (1.00).	1	0	1
2/1/2021	Ian Speir	Receive and review government's motion for extension of time to file answers to complaints; review documents drafted by Mr. Davis (voluntary dismissal, motion for entry of judgment, and proposed final judgment), and send to Mr. Wilson for comment; follow-up emails and teleconference with Mr. Davis re government's concerns re compliance with injunction; attention email from Brad Humphreys of DOJ re same (1.00).	1	0	1
2/2/2021	Grace Alcalá	Docket 2/2/2021 court order (0.1).	0.1	0	0.1
2/2/2021	L. Martin Nussbaum	Email to Mr. Wilson re possible language for proposed order; email to Ian Speir re same; review email from HHS/EEOC counsel; conference call with Becket attorneys re next steps (1.75).	1.75	0	1.75
2/2/2021	Ian Speir	Exchange several emails with Messrs. Davis and Goodrich of Becket re language of proposed final judgment; exchange emails with Brad Humphreys of DOJ re scheduling call to discuss government's compliance with injunction; teleconference with Messrs. Humphreys, Davis, Goodrich, and Nussbaum re same; review modified voluntary dismissal, motion for entry of judgment, and proposed final judgment provided by Mr. Davis; draft suggested language to accommodate government's concerns re compliance with injunction; teleconference with Mr. Wilson re same; exchange emails with Messrs. Davis and Goodrich re same; send suggested language to Mr. Humphreys (3.10).	3.1	0	3.1
2/5/2021	Grace Alcalá	Docket Status Conference Call for Feb. 22, 2021 (0.10).	0.1	0	0.1
2/9/2021	Ian Speir	Email Mr. Humphreys seeking update; exchange emails with Becket re same; office conference with Mr. Nussbaum to discuss presentation outline and responsibilities (0.60).	0.6	0	0.6
2/9/2021	L. Martin Nussbaum	Outline webinar for members re transgender mandates; confer with Ian Speir re same; phone conference with Doug Wilson re webinar and registrations (2.50).	2.5	0	2.5
2/12/2021	Ian Speir	Create slides for my portion of presentation to CBA members re court's ruling enjoining mandate (3.80).	3.8	0	3.8
2/13/2021	L. Martin Nussbaum	Research and preparation of power point slides for members webinar re decision (7.25).	7.25	0	7.25
2/15/2021	Ian Speir	Correspondence and office conference with Mr. Nussbaum in preparation for presentation to CBA members re transgender mandate and revisions to same; provide Mr. Nussbaum additional materials for presentation; review DOJ's proposed language for final judgment and email Messrs. Goodrich and Davis re same (1.90).	1.9	0	1.9
2/16/2021	L. Martin Nussbaum	Review communications related to DOJ's request for clarification related to judgment; conference with Mr. Speir re same; conference call with Brad Humphreys, Luke Goodrich, and Mr. Speir re same; conference call with Mr. Wilson and Mr. Speir re same; second call with Messrs. Humphreys, Speir, and Goodrich to finalize wording for judgment (2.25).	2.25	0	2.25
2/16/2021	Ian Speir	[REDACTED] to client for review; exchange numerous emails with Becket, DOJ, and Mr. Nussbaum re language of proposed judgment; office conference with Mr. Nussbaum re same; two teleconferences with DOJ and Becket re same; draft updated versions of voluntary dismissal, motion for entry of judgment, and proposed judgment, and email updated drafts to Becket for review (4.70).	4.7	-1	3.7
2/17/2021	Ian Speir	Review Becket's edits to voluntary dismissal, motion for entry of judgment, and proposed judgment and exchange emails with Mr. Davis re same (0.20).	0.2	0	0.2
2/18/2021	Ian Speir	Exchange emails with Becket re filing of voluntary dismissal, motion for entry of judgment, and proposed judgment (0.20).	0.2	0	0.2
2/18/2021	L. Martin Nussbaum	Numerous communications with management before webinar; presentation during webinar for members; respond to numerous member emails following webinar (4.75).	4.75	0	4.75
2/19/2021	Grace Alcalá	Docket new deadlines per court orders and Federal Rules (0.15)	0.15	0	0.15
2/19/2021	Ian Speir	Attention to court's orders entering judgment and email Ms. Alcalá re docketing same (0.20).	0.2	0	0.2
2/22/2021	Grace Alcalá	Update docket to reflect accurate dates and court events (0.15).	0.15	0	0.15
4/5/2021	L. Martin Nussbaum	Review several notices from the Court (0.20).	0.2	0	0.2
4/19/2021	Ian Speir	Review docket for appeal deadline; review court's entry of final judgment for fees/costs deadline; email Mr. Wilson reminding him of these deadlines; email Ms. Alcalá re docketing fees/costs deadline (0.40).	0.4	0	0.4
4/20/2021	L. Martin Nussbaum	Review notice of appeal; conference with Ian Speir re same; conference with Doug Wilson and Mandy Cox re same (1.00).	1	0	1
4/20/2021	Ian Speir	Review government's notice of appeal; communicate with Mr. Nussbaum and with client re same; initial review of appellate rules to identify immediate tasks and deadlines, and email Ms. Alcalá re same (1.90).	1.9	0	1.9
4/21/2021	Ian Speir	Participate in videoconference with client to discuss strategy for appeal, communications issues, membership recruitment, and other matters; review Fifth Circuit's decision remanding Franciscan Alliance case and email client with commentary on same; review rules re corporate disclosure statement and email Ms. Alcalá re preparation of same (2.00)	2	0	2
4/22/2021	L. Martin Nussbaum	Attend to issues related to admission to the 8th Circuit; calls to attorneys to "vouch" for Speir and Nussbaum as applicants (0.50).	0.5	0	0.5
4/22/2021	Ian Speir	Work with Ms. Alcalá to submit entries of appearance in appeal; attention to court's instructions re appellate tasks and deadlines; work with Ms. Alcalá to draft corporate disclosure statement (1.40).	1.4	0	1.4
4/23/2021	Ian Speir	Email clients re corporate disclosure statement; receive feedback re same (0.60).	0.6	0	0.6
4/26/2021	Ian Speir	Leave voicemail for Ms. Nechiporenko; receive email from her; attend to filing of corporate disclosure statement (0.80).	0.8	0	0.8
4/27/2021	Grace Alcalá	Docket court dates (0.20)	0.2	0	0.2
4/28/2021	Ian Speir	Email Becket re assembly of appendix for appeal and necessity of transcript (0.10)	0.1	0	0.1
5/4/2021	L. Martin Nussbaum	Review government's statement of issues on appeal; confer with Mr. Speir re same (0.35).	0.35	0	0.35
5/4/2021	Ian Speir	Attend to emails among counsel re government's decision not to do joint appendix for appeal; correspond with Becket re that issue and additional requirements for appeal (0.70).	0.7	0	0.7

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
5/5/2021	Ian Speir	Review government's statement of issues for appeal and email to Mr. Wilson; continue drafting insert for memo re CASC mandate explaining history and current status of judicial decisions and administrative rulemaking re mandate (1.10).	1.1	0	1.1
5/10/2021	Ian Speir	Review Ms. Cox's email and Fox News article; review HHS statements and draft federal register notice re revision to Section 1557 Rule; correspond with client re same; teleconference and office conference with Mr. Nussbaum re HHS "Notification" re Section 1557 and updates to his memo to Mr. Wilson re CBA's solution to immoral mandates; correspond with Mr. Wilson and set up call re communication to members re HHS Notification; exchange emails and set up call with Becket to discuss same (1.50).	1.5	0	1.5
5/11/2021	Ian Speir	Research re HHS Notification and similar action by executive agencies in prior cases; teleconference with Becket to discuss HHS Notification; review Ms. Nussbaum's memo and Mr. Wilson's email to CBA board re CBA's solution to immoral mandates; follow-up correspondence with Becket re Franciscan Alliance case and related matter; draft communication to members re HHS Notification and email same to Mr. Wilson and Ms. Cox (3.00).	3	0	3
6/3/2021	Ian Speir	Email clients re extension of deadline for filing transcript and government's opening brief (0.30).	0.3	0	0.3
6/15/2021	Ian Speir	Review ADF's 8th Circuit appeal in College of the Ozarks case re HUD transgender housing directive; email Mr. Wilson and Becket colleagues re same (0.40).	0.4	0	0.4
6/16/2021	Ian Speir	Attention to government's submission of opening brief and related filings (0.20).	0.2	0	0.2
6/17/2021	Ian Speir	Attention to 8th Circuit's notice re record deficiency (0.10).	0.1	0	0.1
6/21/2021	Ian Speir	Review government's opening brief; email Ms. Alcalá re docketing response deadline (1.40).	1.4	0	1.4
6/22/2021	Ian Speir	Email opening brief to clients with commentary; review process of government's filing of briefs and record and email Ms. Alcalá re preparation for filing, communicating with printer, and other matters (1.00).	1	0	1
6/25/2021	Ian Speir	Read prior briefing in North Dakota case, particularly summary judgment briefs (2.70).	2.7	0	2.7
6/26/2021	Ian Speir	Continue reviewing summary judgment briefing in district court; review district court's order granting permanent injunction; review relevant Supreme Court and 8th Circuit cases on standing and make notes re same (3.50).	3.5	0	3.5
6/27/2021	Ian Speir	Begin drafting appellate brief (2.80).	2.8	0	2.8
6/28/2021	Ian Speir	Continue drafting appellate brief; exchange emails with Daniel Chen at Becket re seeking extension of briefing deadline (4.70).	4.7	0	4.7
6/29/2021	Ian Speir	Continue drafting response brief; attention to email request seeking government's position on extending briefing deadline (3.00).	3	0	3
6/30/2021	Ian Speir	Continue drafting response brief; email client re extension of briefing deadline (1.80).	1.8	0	1.8
7/1/2021	Ian Speir	Continue drafting response brief; teleconference with Becket attorneys to discuss brief and briefing strategy; exchange emails with Mr. Chen of Becket re Becket's arguments in Franciscan Alliance (3.50).	3.5	0	3.5
7/6/2021	Grace Alcalá	Docket changed Appellees reply brief date per court's 7.6.2021 order (0.30).	0.3	0	0.3
7/12/2021	Ian Speir	Review court's order granting extension of answering brief deadline and attention to docketing of same; review court reporter's motion for extension of deadline to file transcript (0.20).	0.3	0	0.3
7/16/2021	Grace Alcalá	Save and docket new deadlines imposed by 7.15.2021 order (0.30).	0.3	0	0.3
7/26/2021	Ian Speir	Review 9th Circuit's decision in Cedar Park Assembly of God v. Kreidler and add to notes for 8th Circuit brief (0.10).	0.1	0	0.1
8/6/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (1.80); Continue drafting answer brief to 8th Circuit (1.80)	3.6	0	3.6
8/7/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (1.70).	1.7	0	1.7
8/9/2021	L. Martin Nussbaum	Review Franciscan Alliance decision; email to Jason Coon, Doug Wilson, and Mandy Cox re same (0.60).	0.6	0	0.6
8/9/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (3.80).	3.8	0	3.8
8/10/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (5.10).	5.1	0	5.1
8/11/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (5.50).	5.5	0	5.5
8/12/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (8.20).	8.2	0	8.2
8/13/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (10.70).	10.7	0	10.7
8/14/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (4.80).	4.8	0	4.8
8/15/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (5.30).	5.3	0	5.3
8/16/2021	Ian Speir	Continue drafting answer brief to 8th Circuit (2.40).	2.4	0	2.4
8/19/2021	Ian Speir	Email preliminary draft of answering brief to clients (0.20).	0.2	0	0.2
8/26/2021	Ian Speir	Confer with Ms. Alcalá re creation of Table of Authorities for brief (0.10).	0.1	0	0.1
8/27/2021	Ian Speir	Revise and update 8th Circuit answering brief (1.40).	1.4	0	1.4
8/28/2021	Ian Speir	Continue to revise and update 8th Circuit answering brief, and email co-counsel at Becket re same (2.30).	2.3	0	2.3
8/31/2021	Ian Speir	Exchange emails with Becket attorneys re answering briefs; review Becket's comments on our brief (1.00).	1	0	1
9/1/2021	L. Martin Nussbaum	Review DOJ brief; review and revise CBA's draft response; conference call with Ian Speir and Becket attorneys re same (3.25).	3.25	0	3.25
9/1/2021	Ian Speir	Continue revisions to 8th Circuit answer brief (5.60).	5.6	0	5.6
9/2/2021	Grace Alcalá	Complete table of authorities for Appellees Brief (4.00).	4	0	4
9/2/2021	Ian Speir	Make additional edits to 8th Circuit answer brief and transmit draft to Ms. Alcalá for creation of Table of Authorities (1.30).	1.3	0	1.3
9/3/2021	Grace Alcalá	Make necessary edits and finalize table of authorities (3.50).	3.5	0	3.5
9/3/2021	Ian Speir	Finalize and file 8th Circuit answer brief (4.50).	4.8	0	4.8
9/7/2021	Ian Speir	Review court clerk's order accepting brief and setting deadline for paper copies (0.20).	0.2	0	0.2
9/8/2021	Ian Speir	Attention to court's acceptance of brief; draft certificate of service of paper copies; provide instructions to Ms. Wig re printing and mailing briefs to court and counsel (1.00).	1	0	1
9/9/2021	Ian Speir	Confer with Ms. Wig re printing and mailing of answer briefs (0.20).	0.2	0	0.2
9/23/2021	Ian Speir	Attention to court order re oral argument scheduling and review my calendar for conflicts (0.2); email Mr. M. Nussbaum and teleconference with him re same (0.2)	0.4	0	0.4
10/1/2021	L. Martin Nussbaum	Attention to emails re 8th Circuit argument and related list of dates; prepare response to Court's request for argument dates; email to Ian Speir re same (1.00).	1	0	1

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
10/1/2021	Ian Speir	Attention to letters re oral argument scheduling filed by government and by Becket; teleconference with Mr. Nussbaum re same, and draft letter re same; direct staff to file (0.30).	0.3	0	0.3
10/12/2021	Ian Speir	[REDACTED]	0.4	-0.4	0
10/13/2021	Ian Speir	[REDACTED]	0.6	-0.6	0
10/20/2021	Ian Speir	Review government's reply brief on appeal and send to client with comments on same (0.60).	0.6	0	0.6
10/21/2021	Ian Speir	Research positions taken by DOJ/HHS in parallel litigation involving the 2016 and 2020 Rules; review memo from Leadership Conference attached to DOJ brief in Whitman-Walker litigation and identify important material from litigation-strategy perspective; email client re same; confer with Mr. Nussbaum re Leadership Conference memo and send additional email to client re same (3.40).	3.4	0	3.4
10/21/2021	L. Martin Nussbaum	[REDACTED]	2.25	-2.25	0
10/23/2021	L. Martin Nussbaum	[REDACTED]	1	-1	0
10/24/2021	L. Martin Nussbaum	[REDACTED]	1.5	-1.5	0
10/26/2021	L. Martin Nussbaum	[REDACTED]	1.2	-1.2	0
10/26/2021	Ian Speir	[REDACTED]	0.3	-0.3	0
10/27/2021	L. Martin Nussbaum	[REDACTED]	2.5	-2.5	0
10/28/2021	L. Martin Nussbaum	[REDACTED]	3	-3	0
10/30/2021	L. Martin Nussbaum	[REDACTED]	2	-2	0
10/31/2021	L. Martin Nussbaum	[REDACTED]	7.25	-7.25	0
11/1/2021	Andrew Nussbaum	[REDACTED]	0.8	-0.8	0
11/1/2021	L. Martin Nussbaum	[REDACTED]	5.5	-5.5	0
11/1/2021	Ian Speir	[REDACTED]	1	-1	0
11/2/2021	L. Martin Nussbaum	[REDACTED]	1.25	-1.25	0
11/8/2021	L. Martin Nussbaum	[REDACTED]	4	-4	0
11/10/2021	L. Martin Nussbaum	[REDACTED]	4	-4	0
11/11/2021	L. Martin Nussbaum	[REDACTED]	1.55	-1.55	0
11/13/2021	L. Martin Nussbaum	Review and calendar 8th Circuit notice of oral argument; research judges; email to clients re same; email to Ian w/ questions re forthcoming surgical abortion mandate (0.70).	0.7	0	0.7
11/14/2021	Ian Speir	Review court's order re oral argument; respond to Martin's email re scope of injunction and application to surgical abortion mandate (0.30).	0.3	0	0.3
11/14/2021	L. Martin Nussbaum	[REDACTED]	2.5	-2.5	0
11/15/2021	Grace Alcala	Fill form required for oral argument, send to Mr. Speir (0.15).	0.15	0	0.15
11/15/2021	Ian Speir	Review court's order re oral argument and associated policies and Oral Argument Response Form; communicate with Ms. Alcala re completing form; communicate with Ms. Wig re coordinating details for trip, including hotel; exchange emails with Luke Goodrich re call to discuss oral argument; email Mr. Wilson re oral argument details (1.20).	1.2	0	1.2
11/16/2021	Ian Speir	Teleconference with Mr. Nussbaum re oral argument (0.10).	0.1	0	0.1
11/17/2021	Ian Speir	Exchange emails with Matt Bowman (ADF) re his College of the Ozarks oral argument to the 8th Circuit; teleconference with Luke Goodrich (Becket) in preparation for our oral argument to the 8th Circuit, splitting time, moots, etc.; review Politico's summary of the Ozarks argument; exchange follow up emails with Mr. Goodrich re same and re moots (0.90).	0.9	0	0.9
11/17/2021	Ian Speir	[REDACTED]	0.5	-0.5	0

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
11/17/2021	L. Martin Nussbaum	[REDACTED]	2	-2	0
11/18/2021	Grace Alcalá	[REDACTED]	0.15	-0.15	0
11/18/2021	L. Martin Nussbaum	[REDACTED]	2.25	-2.25	0
11/18/2021	L. Martin Nussbaum	Exchange emails with Messrs. Bowman and Goodrich to schedule call to discuss Mr. Bowman's 8th Circuit argument in College of the Ozarks case; attention to completing and filing oral argument form; [coordinate with Ms. Wig re trip to Washington, D.C. for moot court with Becket; office conference with Mr. Nussbaum re oral argument preparation. (1.30)]	1.3	-0.3	1
11/19/2021	L. Martin Nussbaum	[REDACTED]	4.8	-4.8	0
11/19/2021	Ian Speir	[Review press release re "Leadership Conference memo," and email Mr. Nussbaum re same]; teleconference with Messrs. Bowman, Goodrich, and Chen re Mr. Bowman's argument in College of the Ozarks case, in preparation for our 8th Circuit oral argument; follow-up teleconference with Messrs. Goodrich and Chen re same (1.00).	1	-0.5	0.5
11/22/2021	Grace Alcalá	Review Whitman-Walker Clinic v. Department of Health docket for information regarding status reports and court orders re same (0.30).	0.3		0.3
11/22/2021	L. Martin Nussbaum	[REDACTED]	7.75	-7.75	0
11/22/2021	Ian Speir	[REDACTED]	0.2	-0.2	0
11/23/2021	L. Martin Nussbaum	[REDACTED]	5.25	-5.25	0
11/23/2021	Ian Speir	[REDACTED]	0.5	-0.5	0
11/24/2021	L. Martin Nussbaum	[REDACTED]	1	-1	0
11/24/2021	L. Martin Nussbaum	[REDACTED]	1.5	-1.5	0
11/24/2021	Ian Speir	Review and analyze Judge O'Connor's decision in Bear Creek Bible Church v. EEOC; draft and send email to client and colleagues describing and analyzing decision with focus on application to CBA members (3.30)	3.3	0	3.3
11/29/2021	L. Martin Nussbaum	[Phone conference with [REDACTED] for webinar; research re Biden administration statements and re details of 2020 Rule; prepare slides for webinar (5.65).	5.65	-0.65	5
11/29/2021	Ian Speir	Review briefs in preparation for oral argument (1.40).	1.4	0	1.4
11/30/2021	L. Martin Nussbaum	Continue preparing slides and presentation for webinar; research numerous related issue; review New York phone conference with Doug Wilson re webinar; email final slides to Jason Coon (7.85).	7.85	0	7.85
12/1/2021	Andrew Nussbaum	Begin preparing for moot argument of I. Speir by carefully reviewing government's brief and part of the CBA's brief (2.00).	2	0	2
12/1/2021	Ian Speir	Review briefs in preparation for oral argument (3.10).	3.1	0	3.1
12/2/2021	Andrew Nussbaum	Continue preparing for moot of I. Speir by finishing review of CBA brief, Becket brief, and reply brief of government, and formulating questions likely posed by Eighth Circuit (3.0); attend moot argument of I. Speir (1.8).	1.8	0	1.8
12/2/2021	Ed Gleason	[REDACTED]	4.5	-4.5	0
12/2/2021	L. Martin Nussbaum	Review briefs and prepare questions for moot court; participation as a judge in moot court for Ian Speir (3.25).	3.25	0	3.25
12/2/2021	Ian Speir	Continue to prepare for internal moot court argument; participate in internal moot with Messrs. M. Nussbaum, Gleason, and A. Nussbaum (4.50).	4.5	0	4.5
12/6/2021	Ian Speir	Revise oral argument outline; research additional EEOC actions re Title VII, Bostock, and gender identity discrimination; continue to prepare for oral argument (6.60).	6.6	0	6.6
12/7/2021	Ian Speir	Continue oral argument preparation (0.20).	0.2	0	0.2
12/8/2021	Ian Speir	Fly to D.C. for moot court with Becket; continue preparation for oral argument; read relevant 8th Circuit cases and make notes re same (Per diem rate) (8.00).	8	0	8
12/9/2021	Andrew Nussbaum	Prepare for moot (8.00).	0.7	0	0.7
12/9/2021	L. Martin Nussbaum	Participate in moot court for Eighth Circuit hearing; attention to numerous emails (1.30).	1.3	0	1.3
12/9/2021	Ian Speir	Prepare for and participate in moot court with Luke Goodrich and other attorneys from Becket and elsewhere; follow-up conversations with Mr. Goodrich and others to refine and strengthen oral argument presentation; fly back from D.C. (December 10) (Per diem rate) (8.00).	8	0	8
12/10/2021	Ian Speir	Read Supreme Court's opinion in Whole Women's Health v. Jackson with attention to discussion of standing in a pre-enforcement challenge; make notes re same for 8th Circuit oral argument; teleconference with Mr. Nussbaum re preparation for oral argument (2.00).	2	0	2

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/11/2021	Ian Speir	Oral argument and moot court prep (1.80).	1.8	0	1.8
12/12/2021	Ian Speir	Continue oral argument and moot court prep (1.70).	1.7	0	1.7
12/13/2021	Grace Alcalá	Review court docket for information re appendices (0.10).	0.1	0	0.1
12/13/2021	L. Martin Nussbaum	Moot court to prepare Ian Speir and Becket for Eighth Circuit argument (1.75).	1.75	0	1.75
12/13/2021	Ian Speir	Continue oral argument and moot court prep; participate in moot court via Zoom with Becket and other attorneys; revise oral argument outline and review additional cases (6.20).	6.2	0	6.2
12/14/2021	L. Martin Nussbaum	Transit to St. Paul; confer with Ian Speir re argumentation. (Per diem rate) (8.00).	8	0	8
12/14/2021	Ian Speir	Transit to St. Paul. (Per diem rate) (8.00).	8	0	8
12/15/2021	L. Martin Nussbaum	Representation during argument before U.S. Court of Appeals for the Eighth Circuit; phone conference with Doug Wilson re same. Transit to Colorado Springs. (Per diem rate) (8.00).	8	0	8
12/15/2021	Ian Speir	Per diem rate for oral argument and travel to Colorado Springs, including 1.5 hours of additional prep time (8.00).	8	0	8
3/4/2022	Ian Speir	Review HHS's March 2, 2022 guidance on Section 1557, and email Becket attorneys re potential impact on case (0.20).	0.2	0	0.2
3/29/2022	Ian Speir	Teleconference with Mr. Goodrich of Becket; review government's opening brief in Franciscan Alliance case; email Mr. Wilson re Becket's request that CBA file amicus brief in support of Franciscan Alliance (0.90).	0.9	0	0.9
5/4/2022	Ian Speir	Review Mr. M. Nussbaum's email re impact of Dobbs on HHS rulemaking and CBA's cases and issues more generally; consider same and review Elizabeth Deutsch's law review article about Section 1557 as a "federal counterweight to conscience protections"; email Messrs. M. Nussbaum and A. Nussbaum re impact of Dobbs and inevitable tensions between federal and state law and preemption analyses (0.90).	0.9	0	0.9
5/17/2022	Ian Speir	Briefly review CEA's preliminary injunction decision in North Dakota and email Mr. Goodrich (Becket) re Rule 28(j) notice to 8th Circuit (0.20).	0.2	0	0.2
5/18/2022	Ian Speir	More in-depth review of CEA's preliminary injunction against transgender mandate in North Dakota; exchange emails with Mr. Goodrich re decision and potential for Rule 28(j) notice to 8th Circuit; compile all decisions awarding relief to present and future members of association and make notes re same; email Mr. M. Nussbaum with analysis of CEA decision for inclusion in his communications with client (1.50).	1.5	0	1.5
6/16/2022	Grace Alcalá	Organize documents filed with the court (0.10).	0.1	0	0.1
6/17/2022	Andrew Nussbaum		0.6	-0.6	0
6/21/2022	Andrew Nussbaum	Email correspondence with Mr. M. Nussbaum regarding June 15 Executive Order (0.10).	0.1	0	0.1
6/21/2022	L. Martin Nussbaum	Review order from 8th Circuit re possibly delaying case; email same to Mr. Wilson; confer with Doug Wilson re same (0.50).	0.5	0	0.5
6/22/2022	Ian Speir	Correspond with Luke Goodrich re 8th Circuit supplemental briefing; confer with Mr. M. Nussbaum re same (0.20).	0.2	0	0.2
6/22/2022	Grace Alcalá	Docket July 6 deadline for reply to new HHS proposed rule (0.10).	0.1	0	0.1
6/23/2022	Ian Speir	Teleconference with Mr. Wilson re preparation of memo outlining response to 8th Circuit's order for additional briefing; draft memo; send to Mr. Wilson; review Ms. Cox's email to board members re same (1.70)	1.7	0	1.7
6/23/2022	L. Martin Nussbaum	Review Mr. Speir's memo re proposed CBA argument in response to notice from the Court re possible delay to await the new HHS rule; review Doug Wilson email re same (0.25).	0.25	0	0.25
6/24/2022	Ian Speir	Brief review of Department of Education's recently issued Title IX notice of proposed rule making to protect gender identity (0.20).	0.2	0	0.2
6/28/2022	Ian Speir	Review emails from client; review letter from HHS, Labor, and Treasury threatening enforcement of contraceptive mandate against insurers and TPAs; analyze related FAQs and CBA's injunction; email Mr. Wilson with advice re same; teleconference with Mr. Wilson re requirement of status reports by parties in Whitman-Walker case; review docket and gather status reports; email Mr. Wilson re same; review status of other cases challenging 2020 Rule (BAGLY, New York v. HHS, and Washington v. HHS), gather status reports, and email Mr. Wilson re same (1.90).	1.9	0	1.9
6/30/2022	Ian Speir	Review Supreme Court's decision in West Virginia v. EPA for relevance to our 8th Circuit appeal; email Becket re incorporating arguments from this case into our forthcoming brief; similar email to Mr. Wilson and others (1.10).	1.1	0	1.1
6/30/2022	L. Martin Nussbaum	Review email exchange between Doug Wilson and Ian Speir re regulatory state decision and possible additional argument to 8th Circuit; review also related WSJ commentary (0.25).	0.25	0	0.25
7/4/2022	Ian Speir	Review Becket's draft of joint response to 8th Circuit's order; email them and client re same; make edits to draft and send redline to Becket (1.20).	1.2	0	1.2
7/4/2022	L. Martin Nussbaum	Review and revise response brief related to court's proposed continuance; email to Ian Speir re same (0.50).	0.5	0	0.5
7/5/2022	Andrew Nussbaum	Review and analyze supplemental brief drafted by I. Speir (0.20).	0.2	0	0.2
7/5/2022	Ian Speir	Review Becket's latest draft of joint response to 8th Circuit's order; review comments from Messrs. M. Nussbaum and A. Nussbaum; make additional edits to joint response; email Becket with commentary on same (1.40).	1.4	0	1.4
7/6/2022	Ian Speir	Exchange emails with Becket and attend to finalizing of joint response to 8th Circuit order; review government's brief; Zoom call with Becket to discuss final edits (0.70).	0.7	0	0.7
7/7/2022	Andrew Nussbaum	Briefly review government response brief and email correspondence with Mr. I. Speir regarding same (0.10).	0.1	0	0.1
7/7/2022	Grace Alcalá	Organize documents received from court (0.10)	0.1	0	0.1
7/7/2022	Ian Speir	Review filings from Becket and government; email them to Mr. Wilson and others with comments; email to Mr. Roth with comments.	0.4	0	0.4
8/15/2022	Grace Alcalá	Organize documents received from the court (0.20).	0.2	0	0.2
8/15/2022	Ian Speir	Review Becket's Rule 28(j) letters to 8th Circuit and government's response to same; teleconference with Mr. Nussbaum re same; teleconference with Mr. Wilson re same (1.00).	1	0	1
8/26/2022	Ian Speir	Review Brandt v. Rutledge decision from the 8th Circuit; exchange emails with Becket re impact on our case (0.30).	0.3	0	0.3
8/27/2022	Ian Speir	Review 5th Circuit's decision in Franciscan Alliance; exchange emails with Mr. Nussbaum re same (0.40).	0.4	0	0.4

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
8/29/2022	Ian Speir	Review Mr. Nussbaum's emails re Franciscan Alliance decision from 5th Circuit; consider impact on our case in the 8th Circuit and email Mr. Nussbaum re same; email Becket attorneys re Rule 28(j) letter to update 8th Circuit on 5th Circuit's decision (0.60).	0.6	0	0.6
8/30/2022	L. Martin Nussbaum	Review email from Ian Speir re the law related to challenging a statute v. challenging a regulation enforcing a statute; respond pointing out HHS's promise "robust enforcement" of ACA section 1557 as part of CBA's Rule 28(j) submission (0.50).	0.5	0	0.5
8/30/2022	Ian Speir	Draft Rule 28(j) letter re Franciscan Alliance decision (3.10).	3.1	0	3.1
8/31/2022	Andrew Nussbaum	Revise 28j letter on Franciscan Alliance (0.10).	0.1	0	0.1
8/31/2022	L. Martin Nussbaum	Review Rule 28(j) notice; confer with Mr. Speir re revision of same (0.30).	0.3	0	0.3
9/1/2022	Ian Speir	Update Rule 28(j) letter; exchange numerous emails with Becket re same and re delaying filing to "reply" to DOJ (0.40).	0.4	0	0.4
9/2/2022	Ian Speir	Review DOJ's Rule 28(j) letter re Franciscan; exchange emails with Becket; redraft our Rule 28(j) letter to respond to points made by DOJ; confer further with Becket; file Rule 28(j) letter providing supplemental authority (3.30).	3.3	0	3.3
9/3/2022	Ian Speir	Email Mr. Wilson all Rule 28(j) letters re Franciscan and organize file (0.30).	0.3	0	0.3
11/1/2022	Ian Speir	Teleconference with Mr. Wilson re [REDACTED] (0.20).	0.2	0	0.2
11/16/2022	Ian Speir	Review Mr. Goodrich's email about 8th Circuit decision on en banc petition in Brandt v. Rutledge (transgender case), review concurring and dissenting opinions from judges on our panel (0.30).	0.3	0	0.3
11/29/2022	Ian Speir	Review Becket's 28(j) letter re expiration of certiorari deadline on Franciscan Alliance; office conference with Mr. Nussbaum re same; email client re same (0.30).	0.3	0	0.3
11/29/2022	L. Martin Nussbaum	Review Becket notice to Court re running of appeal deadline in Franciscan Alliance; conference with Ian Speir re EEOC enforcement against [REDACTED]; leave messages for [REDACTED], attorney for [REDACTED] (0.50).	0.5	0	0.5
12/2/2022	Andrew Nussbaum	Carefully review Eighth Circuit's opinion, briefly analyze associational standing holding vis a vis existing law (0.80)	0.8	0	0.8
12/9/2022	L. Martin Nussbaum	Multiple calls with Ian Speir and Doug Wilson re Eighth Circuit decision; review press report (1.25).	1.25	0	1.25
12/9/2022	Ian Speir	Review Eighth Circuit's opinion; consider implications; email client re same; teleconference with Mr. Goodrich re opinion and petition for rehearing on associational standing issue; teleconferences with Mr. Wilson and Mr. Nussbaum re same (2.10).	2.1	0	2.1
12/11/2022	Andrew Nussbaum	Begin research and analysis of caselaw related to 8th Circuit's associational-standing ruling (1.00).	1	0	1
12/11/2022	L. Martin Nussbaum	Close review of 8th Circuit decision (1.25).	1.25	0	1.25
12/12/2022	Andrew Nussbaum	Conference with Mr. I. Speir and Mr. M. Nussbaum regarding case status and strategy; further conference with Mr. D. Wilson regarding same; draft talking points regarding Eighth Circuit's ruling (3.40).	3.4	0	3.4
12/12/2022	L. Martin Nussbaum	Phone conference with Doug Wilson; analysis re implications of 8th Circuit ruling for members; conference call with Doug Wilson, Jason Coon, Mandy Cox, Isaac Cuevas, Mary Beth Barry, Andrew Nussbaum, and Ian Speir re same; begin drafting memo for members re opinion (4.75).	4.75	0	4.75
12/12/2022	Ian Speir	Office conference with Messrs. M. Nussbaum and A. Nussbaum to discuss strategy re 8th Circuit's ruling and the associational standing issue and teleconference with Mr. Wilson re same (1.6); follow-up correspondence with Becket to discuss same and schedule meeting (0.2); [REDACTED] (0.2).	2.2	-0.2	2
12/13/2022	Grace Alcalá	Docket deadlines according to FRAP 40 (1.00).	1	0	1
12/13/2022	L. Martin Nussbaum	Conference call with Doug Wilson re 8th Circuit decision and other issues related to HHS's notice of proposed rulemaking; phone conference with Doug Wilson and Mandy Cox re scope of protection provided by 2021 injunction and issues related to 8th Circuit decision; exchange emails with Michael Moses re 8th Circuit decision; draft memo providing observations re 8th Circuit ruling to distribute to members (1.75).	1.75	0	1.75
12/14/2022	Andrew Nussbaum	Review pleadings regarding Eighth Circuit's decision in St. Joseph case and email correspondence with Mr. I. Speir regarding same (0.10).	0.1	0	0.1
12/14/2022	L. Martin Nussbaum	Phone conference with attorney, Will Crowley, re disclosure of EEOC enforcement action to the court (0.50).	0.5	0	0.5
12/14/2022	Ian Speir	[REDACTED]	0.4	-0.4	0
12/19/2022	Andrew Nussbaum	Review approximately 170 8th Circuit decisions regarding their analysis of associational standing; draft summary of approximately 30 of those decisions to demonstrate that Eighth Circuit's decision was clearly erroneous; begin review of other circuit's jurisprudence on associational standing (6.80).	6.8	0	6.8
12/19/2022	L. Martin Nussbaum	Closely review 8th Circuit decision; prepare PowerPoint for webinar reporting on same to CBA members (4.50).	4.5	0	4.5
12/20/2022	Andrew Nussbaum	Prepare for and attend phone conference with Becket to strategize regarding petition for rehearing en banc (.75); review and analysis of other circuit's case law regarding whether those circuits require an association to name its members. (1.5).	2.25	0	2.25
12/20/2022	L. Martin Nussbaum	Final preparation before webinar reporting to members on 8th Circuit decision; conference call with Andrew Nussbaum, Ian Speir, Luke Goodrich, and Becket team re 8th Circuit decision and approaches to talk in petition for rehearing and rehearing en banc; transit to and from Castle Rock; report, via webinar, to CBA members re 8th Circuit decision (3.50).	3.5	0	3.5
12/20/2022	Ian Speir	Teleconference with Becket and Messrs. M. Nussbaum and A. Nussbaum re petition for rehearing and other strategic considerations (0.60).	0.6	0	0.6
12/21/2022	Andrew Nussbaum	Continue research of other circuits' case law regarding associational standing (1.80)	1.8	0	1.8
12/21/2022	L. Martin Nussbaum	Transit to and from Castle Rock; present, via webinar, report to CBA members re 8th Circuit decision (3.00).	3	0	3
12/22/2022	Grace Alcalá	Review files for receipt for bill of costs; review 8th Circuit rules and forms for bill of costs information or form (0.40).	0.4	0	0.4
12/23/2022	Andrew Nussbaum	Review and provide comments on motion for costs and fees drafted by Mr. I. Speir (0.10).	0.1	0	0.1

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
12/23/2022	Ian Speir	Office conference with Mr. A. Nussbaum re his research on associational standing, and strategy for crafting petition for rehearing (0.2); review Mr. A. Nussbaum's email and preliminary analysis of associational standing decisions from other circuits and review [REDACTED] (0.2).	0.2	0	0.2
12/23/2022	Ian Speir	Research 8th Circuit rules and case law on motion for appellate attorney fees and printing costs; exchange emails with Becket re same; draft motion for remand of attorney fee issue to district court and circulate to colleagues; receive edits and feedback from Becket; finalize motion and file (2.40).	2.4	0	2.4
1/3/2023	Grace Alcalá	Update pleadings folder with documents uploaded with the court (0.30).	0.3	0	0.3
1/3/2023	L. Martin Nussbaum	Phone conference with Doug Wilson re HHS's notice of proposed rulemaking re conscience rule (0.25).	0.25	0	0.25
1/3/2023	Ian Speir	Review government's response to motion for attorney fee remand (0.10).	0.1	0	0.1
1/6/2023	Ian Speir	Briefly review Hammons summary judgment decision and email Mr. Roth re same (0.20).	0.2	-0.2	0
1/9/2023	Ian Speir	Begin drafting petition for rehearing (0.60).	0.6	0	0.6
1/10/2023	Ian Speir	Continue drafting petition for rehearing, and conduct related legal research (6.70).	6.7	0	6.7
1/11/2023	Ian Speir	Continue legal research and drafting petition for rehearing (5.90).	5.9	0	5.9
1/12/2023	Ian Speir	Continue legal research and drafting petition for rehearing; email draft to colleagues and co-counsel (4.10).	4.1	0	4.1
1/13/2023	Ian Speir	Create redacted version of letter and affidavits pertaining to EEOC enforcement against unnamed member in western U.S. (0.40).	0.4	0	0.4
1/16/2023	L. Martin Nussbaum	Research, review, edit, and rewrite portions of the draft motion for reconsideration for the Eighth Circuit; email to Andrew Nussbaum and Ian Speir re same (4.00).	4	0	4
1/16/2023	Ian Speir	Review Mr. M. Nussbaum's edits to rehearing petition, and email him with additional comments and strategy re filing petition (0.20).	0.2	0	0.2
1/17/2023	Ian Speir	Perform detailed review and propose detailed edits to rehearing petition (2.00).	2	0	2
1/17/2023	Ian Speir	Email to Ian Speir and Andrew Nussbaum re edits to motion for reconsideration (0.25).	0.25	0	0.25
1/18/2023	Ian Speir	Teleconference with Mr. Wilson and Abp. Lori re petition for rehearing and impact on St. Joseph's case in district court in Maryland; implement Mr. Nussbaum's edits to petition for rehearing (1.30).	1.3	0	1.3
1/19/2023	Ian Speir	Continue to revise petition for rehearing based on feedback from Mr. A. Nussbaum and Becket (2.10).	2.1	0	2.1
1/20/2023	Grace Alcalá	Attention to brief and begin preparing table of authorities (5.00).	5	0	5
1/20/2023	Ian Speir	Make further revisions to petition for rehearing to incorporate additional research on associational standing (1.70).	1.7	0	1.7
1/21/2023	Andrew Nussbaum	Review and provide comments on final draft of rehearing petition (0.25).	0.25	0	0.25
1/21/2023	Ian Speir	Make further revisions to petition for rehearing (0.50).	0.5	0	0.5
1/23/2023	Grace Alcalá	Finalize table of authorities and review; email to Ian Speir re same; prepare entry of appearance for Andrew Nussbaum; phone call with 8th Circuit CM/ECF re linking Andrew Nussbaum's PACER account (4.80).	4.8	0	4.8
1/23/2023	Ian Speir	Edit entry of appearance (0.10); Finalize petition for rehearing; instruct Ms. Alcalá re filing (1.20).	1.3	0	1.3
1/25/2023	Andrew Nussbaum	Phone conference with clerk of 8th Circuit regarding supplementing the record and other issues; conference with Andrew Nussbaum and Ian Speir to strategize as to how to proceed regarding clerk's request; brief legal research regarding rules concerning supplementing the record (0.50); Conference with clerk of 8th Circuit regarding supplementing the record and other issues; strategize with Ian Speir and Martin Nussbaum regarding how to respond to clerk's request; brief legal research regarding same (0.50).	1	0	1
1/25/2023	Grace Alcalá	Attention to voicemail from 8th Circuit clerk regarding questions for the brief; email to Ms. Mandy Cox with filed brief; discussion with Andrew Nussbaum and Martin Nussbaum re voicemail from clerk (0.80).	0.8	0	0.8
1/25/2023	Ian Speir	Teleconference with Andrew Nussbaum and exchange of emails re clerk's comments on attachment to our rehearing petition (0.20).	0.2	0	0.2
2/7/2023	Andrew Nussbaum	Receive order of the Court regarding response from government to petition for rehearing and email correspondence with Doug Wilson regarding same (0.10).	0.1	0	0.1
2/8/2023	Grace Alcalá	Attention to order filed by the court and docket relevant deadlines (0.20).	0.2	0	0.2
2/17/2023	Andrew Nussbaum	Careful review and analysis of Government's response in opposition to petition for rehearing (1.3); phone conference with Mr. I. Speir regarding same (.3); phone conference with Mr. M Nussbaum regarding same (.3); review and analysis of procedure to move to file reply brief in support of petition (.4).	2	0	2
2/17/2023	Ian Speir	Phone conference with Mr. A. Nussbaum regarding government's response in opposition to petition for rehearing (0.30).	0.3	0	0.3
2/17/2023	L. Martin Nussbaum	Review government response to CBA's motion for rehearing; research underlying cases (1.50).	1.5	0	1.5
2/18/2023	L. Martin Nussbaum	Review record and Catholic Charities North Dakota website and Form 990 filings re whether it received HHS funds; email to Andrew Nussbaum re same (1.10).	1.1	0	1.1
2/20/2023	Andrew Nussbaum	Prepare for and attend conference with Messrs. Wilson and M. Nussbaum regarding reply brief (.5); and follow-up conferences with Mr. Nussbaum regarding same (1.0).	1.5	0	1.5
2/20/2023	L. Martin Nussbaum	Review government response to CBA's motion for rehearing; conference call with Doug Wilson and Andrew Nussbaum re same and re CBA's proposed response; further research re underlying facts and cases cited in government's response; outline same and potential problem CBA; confer with Andrew Nussbaum re same (4.25).	4.25	0	4.25
2/22/2023	Andrew Nussbaum	Begin developing arguments for reply brief (1.30).	1.3	0	1.3
2/23/2023	Andrew Nussbaum	Finish first draft of reply in support of petition for rehearing (4.6); multiple conferences with Mr. M. Nussbaum regarding same (.3); draft motion for leave to file reply (.6).	5.5	0	5.5
2/23/2023	L. Martin Nussbaum	Review draft reply; confer with Andrew Nussbaum re additions and edits (0.35).	0.35	0	0.35
2/24/2023	Andrew Nussbaum	Finalize and file motion for leave to file reply and reply in support of petition for rehearing (1.70).	1.7	0	1.7
2/25/2023	L. Martin Nussbaum	Review brief and motion filed with 8th Circuit; email to Andrew Nussbaum re same; email to Doug Wilson re same (0.15).	0.15	0	0.15
2/27/2023	Kelly Callender	Receive court stamped documents and organize pleading folder (0.20).	0.2	0	0.2
3/21/2023	Andrew Nussbaum	Receive Court's order denying petition for rehearing and multiple conferences with Mr. M. Nussbaum regarding same (.7); conference with Mr. I. Speir regarding same (.3).	1	0	1

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
3/22/2023	Andrew Nussbaum	Close research and analysis of relevant statutes, regulations, guidance, Court orders, and pleadings to determine criteria for identifying a member plaintiff on remand that will confer associational standing on the CBA (2.50).	2.5	0	2.5
3/22/2023	L. Martin Nussbaum	Review Judge Welte's opinion, 8th Circuit opinion, and related case law re evidentiary requirement for associational standing; prepare chart summarizing same (3.50).	3.5	0	3.5
3/23/2023	Andrew Nussbaum	Conference with Mr. M. Nussbaum regarding declarants and declaration form, and strategy for district court proceedings on remand (.2).	0.2	0	0.2
3/23/2023	L. Martin Nussbaum	Phone conference with Dr. Michelle Stanford of Centennial Pediatrics re submitting a declaration; review rule re formal requirements for a declaration; begin drafting same; phone conference with ██████████ re acquiring declaration from ██████████ Inc.; email to Doug Wilson re acquiring copy of its membership application; draft "talking points" email to ██████████ re needed declarations; legal research re requirements for association standing; initial phone conference with ██████████ re possibly providing a declaration in the 8th Circuit litigation; email to Mr. ██████████ re inquiring of ██████████ of the exclusions from its health plan; phone conference with Kris Haycraft, executive director for Catholic Charities North Dakota (6.50).	6.5	0	6.5
3/24/2023	L. Martin Nussbaum	Exchange emails with Kris Haycraft, interim executive director for Catholic Charities North Dakota re providing a declaration; review membership application for ██████████; research content of declarations sufficient to establish standing in the Franciscan Alliance case; review comments in 8th Circuit opinion re same; review email from ██████████ at ██████████; multiple calls with Doug Wilson re recruitment of declarants; review ██████████ website to assess suitability of acquiring a declaration; review ACLU site with briefing and declarations in Franciscan Alliance related to standing of Christian Medical and Dental Association; email to Andrew Nussbaum re same; exchange emails with ██████████ and ██████████ related to ██████████ update master list of declarant candidates.(6.00).	6	0	6
3/26/2023	Andrew Nussbaum	Research and analysis of relevant authority regarding scope of mandate rule and authority of district court to reopen record on remand (2.3)	2.3	0	2.3
3/27/2023	Andrew Nussbaum	Continue research and analysis of procedures on remand and draft summary memorandum of same for file (2.2).	0.2	0	0.2
3/28/2023	Andrew Nussbaum	Receive Eighth Circuit's formal mandate (.1); conference with Mr. M. Nussbaum regarding strategy in identifying affiants and other issues (.2).	0.3	0	0.3
3/28/2023	L. Martin Nussbaum	Review 8th Circuit mandate; conference with Andrew Nussbaum re his research related to procedure on remand, re identity of declarants and content of their declarations, and re attorneys fees; review Mr. Nussbaum's research memorandum re procedure; email to Ian Speir re conference call and related agenda; outline issues addressed in each declaration submitted in Religious Sisters of Mercy case. (3.75).	3.75	0	3.75
3/29/2023	Andrew Nussbaum	Prepare for and attend conference with Mr. M. Nussbaum and Mr. Speir regarding strategy going forward in the district court litigation (1.4); review Court's orders regarding attorneys' fees and strategize regarding same (.2)	1.6	0	1.6
3/29/2023	Kelly Callender	Prepare attorney admissions forms for the United States District Court for the District of North Dakota and for the Northern District of Texas (1.5).	1.5	0	1.5
3/29/2023	L. Martin Nussbaum	Conference call with Andrew Nussbaum and Ian Speir to discuss 8th Circuit holding and rationale, especially with regard to evidentiary deficiencies; email to Becket attorneys re conference call to coordinate re remand; exchange emails with ██████████ re her declaration; phone conference with Doug Wilson re recruitment of declarants and re his declaration related to confidentiality; phone conference with ██████████ re providing a declaration on behalf of ██████████ voice mail message to Christophe Arth, Archdiocesan counsel re same; phone conference with Mandy Cox re developing list of additional candidate declarants; review her report re same; begin researching same; second phone conference with Ms. Cox re candidates and contacts to approach each; review history of communications with ██████████ (7.00).	7	0	7
3/30/2023	Kelly Callender	Gather supporting documents for application for attorney fees (3.00).	3	0	3
3/30/2023	L. Martin Nussbaum	Phone conference with Helen Alvaré re procedural posture of case and assistance with declarations related to confidentiality and to associational standing; phone conference with ██████████ re assistance with declaration for ██████████; phone conference with Luke Goodrich re conference call as to next steps in U.S. District Court in Fargo; phone conference with ██████████ re acquiring declaration from his ██████████ draft email to ██████████ to share with Archbishop ██████████ re same (3.00).	3	0	3
3/30/2023	Helen Alvaré	Review the 8th Circuit decision (0.50).	0.5	-0.5	0
3/31/2023	Andrew Nussbaum	Prepare for and attend video-teleconference with Becket attorneys regarding case status and strategy on remand (.5); research, review, and analysis of Becket attorneys' fee petition in Franciscan Alliance case (.5); attention to email correspondence with DOJ counsel regarding procedure on remand (.2).	1.2	0	1.2
3/31/2023	Kelly Callender	Communications with Case Administrator Sarah Cook for the U.S. District Court for the District of North Dakota regarding attorney admission application and payment (0.5).	0.5	0	0.5
3/31/2023	L. Martin Nussbaum	Outline issues on remand for discussion with Becket attorneys; conference call with Andrew Nussbaum, Luke Goodrich, Joe Davis, and Daniel Chen re 8th Circuit opinion, procedure on remand, declarants and their declarations, amicus advocacy, attorneys fees petitions and related issues; briefly review Becket petition for attorneys fees in Franciscan Alliance case; brief post-call conference with Andrew Nussbaum re same (2.25).	2.25	0	2.25
4/3/2023	Andrew Nussbaum	Attention to pleadings and correspondence related to entry of appearance.	0.2	0	0.2
4/3/2023	Kelly Callender	Draft and revise entry of appearance for Mr. Nussbaum	0.5	0	0.5
4/3/2023	Helen Alvaré	██████████	0.5	-0.5	0
4/4/2023	Kelly Callender	File entry of appearance for Mr. Nussbaum; Gather supporting documents for application of attorney fees.	2.25	0	2.25

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
4/4/2023	L. Martin Nussbaum	Review notes and research to draft template declarations related to facts supporting associational standing; forward same to Helen Alvaré; phone conference with Prof. Alvaré re same; return to drafting declaration for Dr. Stanford and Centennial Pediatrics.	3.5	0	3.5
4/5/2023	Andrew Nussbaum	Prepare for and attend conference with counsel for government, B. Humphreys, regarding procedure on remand; follow-up email correspondence with Mr. Humphreys regarding case law supporting general remand.	0.8	0	0.8
4/5/2023	Kelly Callender	Gather supporting documents for application of attorney fees.	1.5	0	1.5
4/6/2023	Andrew Nussbaum	Edit draft declaration created by Mr. Nussbaum.	0.3	0	0.3
4/6/2023	Helen Alvaré	[REDACTED]	1.25	-1.25	0
4/11/2023	Kelly Callender	Gather supporting documents for application of attorney fees (1.0).	1	0	1
4/11/2023	L. Martin Nussbaum	Exchange emails with Helen Alvaré re issue with declaration for Catholic Charities North Dakota; phone conference Doug Wilson; Phone conference with Helen Alvaré re declarations.	0.6	0	0.6
4/11/2023	Helen Alvaré	[REDACTED]	3.5	-3.5	0
4/12/2023	Helen Alvaré	[REDACTED]	0.5	-0.5	0
4/14/2023	Kelly Callender	Gather supporting documents for application of attorney fees (2.00)	2	0	2
4/17/2023	Andrew Nussbaum	Email correspondence with Mr. Humphreys regarding case status (.1).	0.1	0	0.1
4/17/2023	Kelly Callender	Gather supporting documents for application of attorney fees (3.00)	3	0	3
4/17/2023	L. Martin Nussbaum	Attention to preparation of declarations.	2.5	0	2.5
4/18/2023	L. Martin Nussbaum	Phone conference with Dr. Michelle Stanford re content of her declaration.	0.5	0	0.5
4/19/2023	Andrew Nussbaum	Conference with Mr. M. Nussbaum to strategize regarding Government's assertion regarding certiorari to the Supreme Court (.3); draft detailed email to Becket law firm regarding same (.2); conference with Mr. Wilson regarding same (.2); phone conference with Mr. Goodrich regarding same (.2); email correspondence with Mr. Wilson regarding conversation with Becket and next steps (.1).	1	0	1
4/19/2023	Kelly Callender	Gather supporting documents for application of attorney fees (3.00); Review bar application for Mr. L. Nussbaum and Mr. A. Nussbaum, send to sponsors for signatures (0.50).	3.5	0	3.5
4/19/2023	L. Martin Nussbaum	Review email from Brad Humphreys re possible DOJ cert petition and re related procedural issues; confer with Andrew Nussbaum re same; conference call with Luke Goodrich re same.	3.75	0	3.75
4/21/2023	L. Martin Nussbaum	Prepare and revise draft declaration for Kris Haycraft of Catholic Charities of North Dakota; forward same to Ms. Haycraft for editing; email to Dr. Michelle Stanford re meeting to revise her declaration.	0.75	0	0.75
4/27/2023	Andrew Nussbaum	Review Becket's motion to clarify time to file attorneys' fees and related email correspondence.	0.1	0	0.1
4/28/2023	L. Martin Nussbaum	Phone conference with Doug Wilson; exchange emails with Kris Haycraft re her declaration for Catholic Charities North Dakota; first and second phone conference with Melissa Nelson re content of declaration for Dr. Sherman, executive director of Holy Family Catholic Clinic.	2.25	0	2.25
4/28/2023	L. Martin Nussbaum	Continue drafting Dr. Sherman declaration.	0.75	0	0.75
4/29/2023	Andrew Nussbaum	Attention to email correspondence between Messrs. Goodrich and Humphreys regarding motion to clarify attorneys' fees deadline.	0.1	0	0.1
4/29/2023	L. Martin Nussbaum	Review numerous documents from Holy Family Catholic Clinic relevant to preparation of declaration; continue drafting and revising Dr. Michael Sherman's declaration; review requested edits from Dr. Stanford; make the same; forward revised declaration to Dr. Stanford; email to Andrew Nussbaum providing two draft declarations; email to Melissa Nelson forwarding copy of draft declaration for Dr. Sherman.	4.25	0	4.25
4/30/2023	Andrew Nussbaum	Edit declarations of CBA members who receive federal financial assistance.	0.4	0	0.4
5/1/2023	L. Martin Nussbaum	Review declarations; and begin preparing draft of same.	0.5	0	0.5
5/2/2023	L. Martin Nussbaum	Email to Will Crowley re Catholic Charities of Seattle; email to Melissa Nelson re Dr. Sherman's declaration.	4	0	4
5/3/2023	L. Martin Nussbaum	Phone conference with Dr. Michelle Stanford and her practice manager regarding edits to her declaration; revise declaration accordingly and forward to Dr. Stanford for execution; phone conference with Doug Wilson re his declaration; email to Kris Haycraft re revision of her draft declaration; review exchange emails with Melissa Nelson re edits to Dr. Michael Sherman's declaration; revise his declaration accordingly; email revised declaration to Ms. Nelson for Dr. Sherman's execution; phone conference with Chris Baechle re content of his declaration; begin researching and drafting same; email to Tom Buckley re Chris Baechle's declaration; email to Mandy Cox re date Cardinal Ritter group joined the CBA.	7	0	7
5/4/2023	Andrew Nussbaum	Draft motion for status conference and related research.	1.8	0	1.8
5/4/2023	L. Martin Nussbaum	Review email from Dr. Stanford with additional correction to draft declaration; revise it accordingly and return it to Dr. Stanford for execution; continue drafting and revising draft declaration for Chris Baechle, CEO of the Cardinal Ritter Seniors Services and its affiliates; email to Mr. Baechle forwarding same; review and revise motion for status conference; confer with A. Nussbaum re same.	3.5	0	3.5
5/5/2023	Andrew Nussbaum	Review email from Dr. Stanford with additional correction to draft declaration; revise it accordingly and return it to Dr. Stanford for execution; continue drafting and revising draft declaration for Chris Baechle, CEO of the Cardinal Ritter Seniors Services and its affiliates; email to Mr. Baechle forwarding same; review and revise motion for status conference; confer with A. Nussbaum re same.	0.5	0	0.5
5/5/2023	L. Martin Nussbaum	Review email from Kris Haycraft; revise declaration accordingly; phone conference with Ms. Haycraft re additional edits; forward revised declaration to Deacon Anthony Ternes; phone conference with Deacon Ternes re same; review edits from Chris Baechle; revise his declaration accordingly and forward it to him for execution; brief call with Mr. Baechle re same; finalize execution of Dr. Stanford's declaration.	3	0	3

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
5/6/2023	L. Martin Nussbaum	Review email from ██████████; further revision of Chris Baechle declaration; email to Messrs. Buckley and Baechle re same; voice mail message to Mr. Buckley; email to Andrew Nussbaum re same; research issues on Missouri Secretary of State website; email to Andrew Nussbaum re remaining issues.	1.25	0	1.25
5/8/2023	Andrew Nussbaum	Email correspondence with Mr. M. Nussbaum regarding outstanding items on declarations.	0.1	0	0.1
5/20/2023	Andrew Nussbaum	Edits and related email correspondence regarding Cardinal Ritter Services affidavit.	0.2	0	0.2
5/23/2023	Andrew Nussbaum	Phone conference with ██████████ and C. Baechle regarding Cardinal Ritter Senior Services.	0.3	0	0.3
5/24/2023	Andrew Nussbaum	Email correspondence with ██████████ regarding Chris Baechle declaration.	0.1	0	0.1
6/9/2023	L. Martin Nussbaum	Confer with Andrew Nussbaum re activating court; email to Mr. Nussbaum re same.	0.1	0	0.1
6/15/2023	Andrew Nussbaum	Review status of docket and pending motions.	0.2	0	0.2
6/23/2023	Andrew Nussbaum	Email correspondence with Mr. Humphreys regarding case status and next steps.	0.2	0	0.2
6/27/2023	Andrew Nussbaum	Draft statement on effect of Government's decision not to seek certiorari and related email conference with Mr. M. Nussbaum.	0.6	0	0.6
6/28/2023	Andrew Nussbaum	Phone conference with Messrs. Wilson and M. Nussbaum regarding scope of Eight Circuit decision.	0.3	0	0.3
6/29/2023	Andrew Nussbaum	Draft and file renewed motion for telephonic status conference.	0.5	0	0.5
7/1/2023	Andrew Nussbaum	Attention to various orders of Court regarding motion for telephonic status conference and related email correspondence with client.	0.2	0	0.2
7/3/2023	Andrew Nussbaum	Email correspondence with Mr. Goodrich regarding case status.	0.1	0	0.1
7/5/2023	Kelly Callender	Receive notice of status conference, update pleadings folder (.1).	0.1	0	0.1
7/6/2023	Andrew Nussbaum	Email correspondence with Luke Goodrich regarding case status.	0.1	0	0.1
7/10/2023	Andrew Nussbaum	Conference with Mr. M. Nussbaum regarding strategy for call with co-plaintiffs (.2); conference with Mr. Wilson regarding same (.2); prepare for phone conference by reviewing docket, relevant filings, and deadlines (.2); attend phone conference with counsel for co-plaintiffs (.4); follow-up phone conference with Messrs. Wilson and M. Nussbaum (.2).	1.2	0	1.2
7/10/2023	Kelly Callender	Conference with Mr. Nussbaum re Student for Fair Admissions case and research goals related to associational standing; locate and pull cited documents from opinion for review; read through documents for other supporting references (2.7).	2.7	0	2.7
7/10/2023	L. Martin Nussbaum	Conference call with Luke Goodrich and Joe Davis re upcoming status conference, CBA's proposed motion for summary judgment, and Becket's petition for attorney's fees; review discussion of organizational standing in Students for Fair Admissions v. Harvard; conference with paralegal to research Harvard and University of North Carolina cases with regard to verifications or declarations deemed sufficient to establish standing.	2.25	0	2.25
7/12/2023	Andrew Nussbaum	Review fee petition order from Franciscan Alliance case.	0.2	0	0.2
7/16/2023	Andrew Nussbaum	Prepare for status conference with Judge Welte, including review of Eighth Circuit decision, case law research on general remand, docket, and relevant pleadings (1.0).	1	0	1
7/17/2023	Andrew Nussbaum	Prepare for telephonic hearing, including review case law on associational standing, Eighth Circuit's opinion, Court's orders, and law on general remand (2.4); attend status conference (.8) begin research of case law to identify relevant cases regarding addressing standing upon a general remand (2.0).	5.2	0	5.2
7/17/2023	Kelly Callender	Receive clerk minutes for telephonic status conference and calendar set deadlines (.1).	0.1	0	0.1
7/17/2023	L. Martin Nussbaum	Identify and summarize four declarations and prepare comments for Andrew Nussbaum presentation during status conference; representation during status conference with Judge Welte; begin researching and outlining argument as to why the District Court has jurisdiction on remand.	4.6	0	4.6
7/18/2023	Andrew Nussbaum	Continue research and analysis of case law to identify analogous and helpful or relevant cases regarding cases remanded for lack of standing (2.5); multiple conferences to discuss case law and strategy for supplemental filing with Mr. Nussbaum (.5).	3	0	3
7/18/2023	L. Martin Nussbaum	Further effort outlining argument re court's standing on remand; conference with Andrew Nussbaum re same.	1.25	0	1.25
7/19/2023	Andrew Nussbaum	Continue research and analysis of case law on scope of general remand (1.0); begin drafting brief supplementing response to Court's question regarding authority to reopen record (2.5).	3.5	0	3.5
7/20/2023	Andrew Nussbaum	Finish first draft of supplemental brief regarding proceedings on remand (3.3); draft motion to seal and related research (1.2).	4.5	0	4.5
7/21/2023	Andrew Nussbaum	Finalize motion to seal and related exhibits for filing (1.5); finalize supplemental response to Court's question regarding authority on remand (1.5); multiple conferences with Messrs. M. Nussbaum and K. Callender regarding same (.7); review Government's and Religious Sister of Mercy's supplemental briefing (.5).	4.2	0	4.2
7/21/2023	Kelly Callender	Redact personal and identifying information from declarations (1.9); prepare declarations for filing (.5); review supplemental response and motion to seal and exhibits (.7); file documents (.4); update pleadings folder (.1); receive defendant's supplemental filing and update pleadings folder (.1); receive supplement by Religious Sisters of Mercy and update pleadings folder (.1).	3.8	0	3.8
7/21/2023	L. Martin Nussbaum	Review and revise supplemental argument and motion to file redacted declarations; multiple conferences with Andrew Nussbaum re same; phone conference with Doug Wilson re providing declaration; edit draft of same and forward it to Mr. Wilson; review filing by DOJ; confer with Andrew Nussbaum re same; email to Doug Wilson re same.	3.25	0	3.25
7/24/2023	Andrew Nussbaum	Email correspondence with Mr. Humphreys regarding case sealed declarations.	0.1	0	0.1
7/26/2023	Andrew Nussbaum	Prepare for and attend phone conference with Mr. Humphreys regarding case status and document sealing (.6); follow up research regarding venue and related matters (.6).	1.2	0	1.2
7/26/2023	L. Martin Nussbaum	Review recent briefing including government's response re procedure on remand; review redacted declaration; confer with Andrew Nussbaum re objectives for call with DOJ attorney, Brad Humphreys; outline issues for call; conference call with Brad Humphreys; research re types of entities receiving Medicare and Medicaid.	3.75	0	3.75
7/27/2023	L. Martin Nussbaum	Email to Bishop Folda re types of entities receiving Medicare and Medicaid funding; draft email of advice re same.	0.5	0	0.5

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
8/2/2023	L. Martin Nussbaum	Review email from Mandy Cox re CBA members in ND; phone conference with Doug Wilson and Bishop Folda re same; review three websites of these candidates for backstop plaintiffs; phone conference with Sisters Christine at the Sisters of Belling; email to Doug Wilson, Mandy Cox, and Andrew Nussbaum re same and re date on which Sisters Sara Marie and Donna Welder return from Germany.	1.5	0	1.5
8/4/2023	L. Martin Nussbaum	Review defendants' opposition to motion to seal; attention to file; email to Doug Wilson commenting on same.	0.5	0	0.5
8/6/2023	Andrew Nussbaum	Review government's response in opposition to motion to seal and calendar related deadline for reply (.2).	0.2	0	0.2
8/9/2023	Andrew Nussbaum	Draft reply in support of motion to seal (2.2) and related research on proceeding pseudonymously and right of association (1.0).	3.2	0	3.2
8/11/2023	Andrew Nussbaum	Conference with Mr. M. Nussbaum regarding reply in support of motion to seal (.3); revise reply in support of motion to seal declarations (1.7).	2	0	2
8/11/2023	Kelly Callender	Gather 2019-present invoices and begin to prepare as exhibits for attorneys fees (1.2); Review and file CBA's reply in support of motion to seal declarations and exhibit, organize pleadings folder (.5).	1.7	0	1.7
8/11/2023	L. Martin Nussbaum	Review and revise reply brief in support of motion to seal (1.00); legal research re same (0.50); confer with Andrew Nussbaum re same (0.25).	1.75	0	1.75
8/14/2023	Kelly Callender	Continue to prepare invoices as exhibits for attorneys fees (2.2).	2.2	0	2.2
8/16/2023	Andrew Nussbaum	Review deadlines for CBA plaintiffs to file petition for attorneys' fees (.2); email correspondence with Mr. Humphreys regarding same (.1).	0.3	0	0.3
8/18/2023	Andrew Nussbaum	Draft motion for extension of time to file fee petition (.6).	0.6	0	0.6
8/21/2023	Kelly Callender	Receive Religious Sisters of Mercy's unopposed Motion for Extension of Time and organize pleadings folder (.2); receive order granting extension of time and organize pleadings folder (.2).	0.4	0	0.4
8/21/2023	Andrew Nussbaum	Receive Court's order granting motion for extension of time to file petition for attorneys' fees.	0.1	0	0.1
8/21/2023	L. Martin Nussbaum	Review court's order re enlargement of time related to attorney's fees.	0.25	0	0.25
8/30/2023	Andrew Nussbaum	Receive Religious Sisters of Mercy motion for extension of time to file dismissal papers.	0.1	0	0.1
8/30/2023	Kelly Callender	receive Motion for extension of time and organize pleadings folder (.1).	0.1	0	0.1
9/15/2023	Andrew Nussbaum	Receive Court's order regarding dismissal of claim of associational standing and conferences with Mr. Nussbaum and Mr. Wilson regarding same (.9); identify divisions of the District of North Dakota (.1)	1	0	1
9/15/2023	Kelly Callender	Receive order denying motion and update pleadings folder (0.1).	0.1	0	0.1
9/15/2023	L. Martin Nussbaum	Closely review Judge Welte's decision dismissing case without prejudice.	0.5	0	0.5
9/18/2023	L. Martin Nussbaum	Communications with paralegal re documentation and analysis required for fee application (0.10); research re relevant fee application in Fifth Circuit (0.10); phone conference with Doug Wilson re engagement of Gene Schaerr as expert witness (0.10); email to Gene Schaerr re same (0.15).	0.45	0	0.45
9/19/2023	Andrew Nussbaum	Draft proposed amended final judgment.	0.8	0	0.8
9/20/2023	L. Martin Nussbaum	Revise proposed judgment and email same to Mr. A. Nussbaum (0.50).	0.5	0	0.5
9/21/2023	Andrew Nussbaum	Finalize amended judgment (.3), and attention to email with Mr. Humphreys regarding same and other matters (.2)	0.5	0	0.5
9/21/2023	L. Martin Nussbaum	Review and revise proposed final judgment and forward same to Andrew Nussbaum (0.75).	0.75	0	0.75
9/22/2023	Andrew Nussbaum	Finalize amended judgment (.1); and correspondence with Court regarding same (.1).	0.2	0	0.2
9/22/2023	L. Martin Nussbaum	Review email from Andrew Nussbaum to Clerk of the Court. (0.10); review Brad Humphreys proposed changes to draft judgment and communicate with Andrew Nussbaum re same (0.25).	0.35	0	0.35
10/9/2023	Lynzee Wig	Establish an expenditures chart, and complete the figures and classifications for the fee request (1.50).	1.5	0	1.5
10/11/2023	Kelly Callender	Receive final judgement and calendar deadline and reminders to file attorneys fees and expenses (.3); meeting to review petition for fees (.5); begin drafting petition for fees (4.2).	5	0	5
10/11/2023	Alec Afarian	Conference with M. Nussbaum, K. Callender, and L. Wig to review petition for attorney's fees and costs (0.5); conference with M. Nussbaum regarding precedent research for calculating attorney's fees and costs (0.1).	0.6	0	0.6
10/11/2023	Martin Nussbaum	Conference with Andrew Nussbaum re contacting clerk re final order (0.20); phone conference with Luke Goodrich re fee application issues and Becket's discussions with the Depart of Justice re same (0.60); voice mail message to Gene Schaerr re serving as expert re fees (0.25); voice mail messages to Messrs. Speir and Kniffin re resumes in support of fee application (0.35); phone conference with Mr. Mahaffey re same (0.40); phone conference with Mr. Kniffin re same (0.40); emails, respectively to Messrs. Mahaffey and Kniffin providing exemplars from Franciscan Alliance case (0.35); legal research of Eighth Circuit decisions re award of attorneys fees (2.20).	4.75	0	4.75
10/12/2023	Kelly Callender	Continue to prepare attorneys fees analysis (1.5).	1.5	0	1.5
10/13/2023	Kelly Callender	Finish imputing time entries for attorneys fees (1.2).	1.2	0	1.2
10/13/2023	Lynzee Wig	Incorporate fees into the chart from the services and expenses provided by Lewis Roca firm (2.0).	2	0	2
10/13/2023	Martin Nussbaum	Legal research re treatment of fee request by Fifth Circuit in related case, Franciscan Alliance (1.5).	1.5	0	1.5
10/14/2023	Ian Speir		0.1	-0.1	0
10/16/2023	Kelly Callender	Create expenses table and finalize amounts and categories for petition of fees (.6).	0.6	0	0.6
10/16/2023	Martin Nussbaum	Conference with Ed Gleason re strategic issues and possible experts related to fee application (0.75); conference with Alec Afarian re research re fees (0.50); confer with paralegal re same (0.75); outreach to possible experts (0.50).	2.5	0	2.5
10/17/2023	Alec Afarian	Conference with M. Nussbaum regarding research on block billing (0.1); research and analyze caselaw and previous opinions on attorney fees from relevant trial court judge (1.0).	1.1	0	1.1
10/17/2023	Martin Nussbaum	Conference with paralegals re fee application and preparation of master and summary exhibits (1.5).	0.8	0	0.8
10/18/2023	Lynzee Wig	Continue generating separate charts to facilitate a more transparent representation of both timekeepers and the hours that have been billed, thereby enhancing comprehension.	1.7	0	1.7
10/19/2023	Lynzee Wig	Proceed with the process of importing fees into the necessary charts for attorney rates, total time, and the breakdown of attorney time and billable rates (2.75).	2.75	0	2.75

EXHIBIT 1-B
DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
10/20/2023	Alec Afarian	Research and analyze caselaw on 8th Circuit approach to attorney fees, including lodestar factors and appropriate standard of review (3.1); begin drafting memo sections regarding same (0.3).	3.4	0	3.4
10/23/2023	Alec Afarian	Continue drafting memo regarding 8th Circuit caselaw for calculating attorney fees (2.9); conduct additional research and analysis on same, particularly focusing on unsuccessful claims, reasonable rates, block-billing, and costs (2.2).	5.1	0	5.1
10/24/2023	Alec Afarian	Update research based on M. Nussbaum feedback and questions regarding Johnson Factors such as preclusion of employment, undesirability of case, and nature of relationship (2.0).	2	0	2
10/24/2023	Kelly Callender	Research entry of appearances by DOJ attorneys (.6).	0.6	0	0.6
10/24/2023	Martin Nussbaum	Review data re legal fees and begin identifying cuts (0.50); conference with paralegal re same and re format of charts (0.40); review legal memorandum re 8th Circuit law related to legal fees (0.40); legal research re 8th Circuit law related to legal fees (1.00); confer with Alec Afarian re areas of additional needed research (0.30); research re Kevin Baine as possible expert (0.50); research re Colorado front range fee expert (0.40); email to and, subsequently, phone conference with Mr. Baine re case and re legal fees (0.50).	4	0	4
10/26/2023	Alec Afarian	Research and analyze caselaw on treatment of costs and block-billing in attorney fees (1.0).	1	0	1
10/28/2023	Martin Nussbaum	Attention to issues related to fee application (.1).	0.1	0	0.1
10/31/2023	Martin Nussbaum	Communications with Bill Leone's office re possibly serving as an expert witness (0.25).	0.25	0	0.25
11/1/2023	Alec Afarian	Research and analyze caselaw of Johnson Factor: preclusion of other employment (1.0).	1	0	1
11/1/2023	Martin Nussbaum	Multiple communications with Bill Leone's office re serving as expert (0.30); email and voice message re phone call with Troy Eid re serving as an expert (0.50); phone conference with Mr. Eid re case and re possibly serving as an expert (0.50); review email from Mr. Eid and respond to questions re role and potential conflicts (0.35); begin drafting case narrative to facilitate fee experts understanding of the case (1.90); review email from Troy Eid re his engagement as a fee expert (0.35); email to Mr. Eid providing him with more information related to the litigation (0.60).	4.5	0	4.5
11/2/2023	Alec Afarian	Research reasonable hourly rate and prevailing market rate determinations (1.0).	1	0	1
11/2/2023	Martin Nussbaum	Research and draft narrative case history; revise same; forward same to two fee experts: Kevin Baine and Troy Eid; email to Tom Bair providing copy of same (6.05); exchange emails with Ian Speir re need for his resume (0.15); confer with Andrew Nussbaum re same (0.10).	6.25	0	6.25
11/6/2023	Ian Speir	Review emails from Brad Humphreys (DOJ) and Luke Goodrich (Becket) re motion to lift stay (0.10); review updated motion (0.05); email Mr. Goodrich approving filing (0.05).	0.2	0	0.2
11/6/2023	Lynzee Wig	Compile detailed PDF time entries for Martin, carefully organize them, and arrange a meeting to thoroughly deliberate and establish an ongoing list for the allocation of fees, ensuring precision and effective communication.	0.3	0	0.3
11/6/2023	Martin Nussbaum	Legal research re law related to attorney's fees and especially taking into account the time value of same (1.3); review draft summaries of relevant fees and confer with paralegal re same (1.25); phone conference with former EEOC executive re possible declaration related to the fee application and research related ethical issues (1); phone conference with Matt Mellema re submitting resume (0.20)	3.75	0	3.75
11/7/2023	Alec Afarian	Continued research and drafting of memo on attorney fee calculations (4.6).	4.6	0	4.6
11/8/2023	Andrew Nussbaum	Multiple conferences with Martin Nussbaum regarding billing entries (.5); research regarding rules for content of billing entries (.6).	1.1	0	1.1
11/8/2023	Martin Nussbaum	Email resumes of principal timekeepers to fee experts (0.50); review exemplar motions for attorneys fees and organization of data (0.75); continue review and redaction of detailed billings (2.25); outline six charts analyzing hours and fees and calculating lodestar amounts in support of motion for attorneys fees and forward same to paralegal (1.00).	4.5	0	4.5
11/8/2023	Alec Afarian	Continued research and drafting of memo on attorney fee calculations (0.8); and conferences with M. Nussbaum regarding same (0.2).	1	0	1
11/9/2023	Martin Nussbaum	Conference with paralegal re fee charts in support of motion for attorney's fees (.50); review memorandum of law related to award of attorney's fees (.15).	0.65	0	0.65
11/10/2023	Martin Nussbaum	Conference with paralegal re specific redactions of bills (.50); review various draft summary charts; email to paralegal re necessary corrections and edits (.9); conference with associate attorney re additional focused research re addressing time-value in award of attorney's fees (.10).	1.5	0	1.5
11/13/2023	Martin Nussbaum	Research law re whether fees are compensable with regarding to Non prevailing claims (.5); phone conference with Alec Afarian re same (.25); review email from Kevin Baine and draft, revise, and email lengthy response related to research the reasonableness of rates and also providing copies of filings from the Franciscan Alliance case and the Fitzpatrick Matrix (1.50); draft and revise similar email for Troy Eid (.25).	2.25	0	2.25
11/13/2023	Alec Afarian	Complete follow-up research on recoverability of attorney fees for unsuccessful claims (0.3).	0.3	0	0.3
11/14/2023	Andrew Nussbaum	Attention to numerous email correspondences between experts and Mr. M. Nussbaum regarding fee petition.	0.1	0	0.1
11/14/2023	Martin Nussbaum	Review email from Troy Eid related to base documents for forming opinion (.2); conference with paralegal re billing records and summary charts (.3).	0.5	0	0.5
11/15/2023	Andrew Nussbaum	Prepare for and attend Zoom conference with Mr. Eid regarding expert fee declaration (.5).	0.5	0	0.5
11/15/2023	Martin Nussbaum	Conference with fee expert Troy Eid and his associate, Harriet Retford, describing case history and relevant documents (1.5); legal research re Eighth Circuit law re compensable legal fees (1.25).	2.75	0	2.75
11/15/2023	Alec Afarian	Research and analyze federal case law and assorted treatises regarding recovery of interest on attorney fees for civil rights claims (4.5).	4.1	0	4.1
11/16/2023	Alec Afarian	Continued research and analysis of federal case law and assorted treatises on recovery of attorney fees in civil rights cases, focusing on recovery of interest to compensate for delayed payment (1.8).	1.8	0	1.8
11/17/2023	Andrew Nussbaum	Conference with Mr. M. Nussbaum regarding final lodestar calculations.	0.2	0	0.2

DETAILED BILLINGS REFLECTING ADJUSTMENTS

Date	Timekeeper	Description	Hours	Adjustments	Net Hours
11/17/2023	Martin Nussbaum	Outline form of six charts related to lodestar fee calculation (.75); review paralegal's calculations re same to ensure accuracy (.5); draft, revise, and forward emails to fee experts, Kevin Baine and Troy Eid, explaining charts and providing relevant law (1.25); email to Doug Wilson re calculation (.25); legal research re appropriate time-value adjustment for specific attorneys fees billed six and seven years before entry of final judgment (1.65); legal research re Johnson factors and related commentary (.75); exchange emails with North Dakota declarant, Tom Bair; provide Mr. Bair with template declaration (.5); review email from Mr. Eid's associate (0.10); review research memorandum re recovery of legal fees (0.25).	6	0	6
11/17/2023	Alec Afarian	Complete research on court's discretion to apply interest to attorney fee award in civil rights cases (1.8); draft report on how to calculate lodestar using interest and add it to existing memo (0.5); send case caption to expert counsel and memo to A. Nussbaum (0.1).	2.4	0	2.4
11/20/2023	Andrew Nussbaum	Attention to multiple email correspondences with Mr. Baine regarding pleadings and Becket fee award.	0.3	0	0.3
11/20/2023	Martin Nussbaum	Legal research re compensability of fees charged by lawyers commenting on reasonableness of fees and email to associate re performing limited follow-up research re same (.85); review and respond to email from Kevin Baine re request for additional documents (.1); confer with paralegal re summarizing recoverable costs (.15); email to Brad Humphreys re fee petition (.15); respond to factual questions from Kevin Baine (.25); exchange emails with Mr. Eid (.25).	1.5	0	1.5
11/21/2023	Andrew Nussbaum	Review and comment on draft expert report of Troy Eid.	0.2	0	0.2
11/22/2023	Andrew Nussbaum	Review and provide comments on draft declaration of Kevin Baine.	0.3	0	0.3
11/22/2023	Martin Nussbaum	Exchange emails with Troy Eide re his declaration and re updating of charts and Lodestar calculations through time billed through December 7.	0.25	0	0.25
11/27/2023	Martin Nussbaum	Review Mr. Bair's declaration and email Mr. Bair re same (.25); phone conference with Mr. Wilson re research related to attorneys fees award and proposed approach for the briefing (.5); visit with Andrew Nussbaum re issues and arguments related to attorney fees application (.25)	1	0	1
11/28/2023	Alec Afarian	Research and analysis of recoverability of fees for attorney fee experts (2.0); draft email to M. Nussbaum regarding same (0.2).	2.2	0	2.2
11/28/2023	Martin Nussbaum	Communications with Troy Eid re his declaration.	0.5	0	0.5
11/29/2023	Andrew Nussbaum	Review and analysis of cases identified by Mr. Afarian regarding recovery of expert fees on fee petition (.3).	0.3	0	0.3
11/29/2023	Martin Nussbaum	Communications with Kevin Baine related to his declaration.	0.5	0	0.5
12/1/2023	Martin Nussbaum	Research factual issue and exchange emails with Mr. Baine re same (.5)	0.5	0	0.5
12/2/2023	Martin Nussbaum	Communications with team re final time entries related to attorneys fees application (.1); communication with Harriet Retford in Troy Eid's office re same (.1)	0.2	0	0.2
12/3/2023	Martin Nussbaum	Begin researching and writing lead counsel declaration in support of application for attorneys fees.	3.6	0	3.6
12/4/2023	Andrew Nussbaum	Research and draft sections of motion for attorneys' fees on lodestar, Johnson factors, reasonableness of total hours, and billing judgment.	2.2	0	2.2
12/4/2023	Lynzee Wig	Continue to revise the time entries to ensure that they are correctly documented.	0.45	0	0.45
12/4/2023	Martin Nussbaum	Exchange emails with Kevin Baine re fees (.15).	0.15	0	0.15
12/5/2023	Andrew Nussbaum	Continue drafting motion for attorney's fees and related factual and legal research.	4.2	0	4.2
12/5/2023	Martin Nussbaum	Continue drafting declaration personal declaration (1.0) .	1	0	1
12/6/2023	Andrew Nussbaum	Finish first draft of motion for attorneys fees and related legal research (3.2); conference with Mr. M. Nussbaum regarding lodestar calculations, structure of motion, and underlying data (.8).	4	0	4
12/6/2023	Lynzee Wig	Finish the revision of the expense charts for M. Nussbaum's review, incorporating expenses from both Lewis Roca and Nussbaum Gleason.	0.75	0	0.75
12/6/2023	Martin Nussbaum	Conference with Andrew Nussbaum re host of issues related to fee application (1.25); continue researching and drafting personal declaration (3.00).	4.25	0	4.25
12/7/2023	Alec Afarian	Research and analysis of federal and local rules to determine filing deadline for motion for attorney fees (0.7); determine government's deadline to reply to our motion for attorney fees (0.1).	0.8	0	0.8
12/7/2023	Lynzee Wig	Update time entries for October, November, and December. Additionally, edit the detailed billing information, comparing it to Lodestar charts to ensure accuracy.	1	0	1
12/7/2023	Andrew Nussbaum	Verify deadline for filing fee petition (.1); conference with Mr. M. Nussbaum regarding motion and related declarations and exhibits (.8).	0.9	0	0.9
12/7/2023	Martin Nussbaum	Continue researching, drafting, and revising declaration in support of fee application (4); review and revise draft brief in support of motion for attorneys fees and confer with Andrew Nussbaum re same (2.ar); draft email to Brad Humphreys in response to his request for extension of time to respond to fee petition and initiating settlement discussions (.5).	6.75	0	6.75

**EXHIBIT 1-C
TOTAL HOURS BILLED**

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023	Total
Prof. Helen Alvaré (1984)	0	0	0	0	0	0	0	6.25	6.25
Ed Gleason (1979)	0	0.3	0	0	0	4.5	0	0	4.8
Deion Kathawa	0	0	0	0	20.3	0	0	0	20.3
Eric Kniffin (2003)	531.3	196.3	3.3	0	0	0	0	0	730.9
Matthew Mellema (2013)	42	1.2	0	0	0	0	0	0	43.2
Andrew Nussbaum (2016)	0	0	0	0	0	5.3	17.35	78.25	100.9
Martin Nussbaum (1985)	209.3	75	2.7	3.25	51.1	156.8	23.3	170.7	692.15
Ian Speir (2011)	141.6	14.5	0.4	4.2	129.5	249.8	30.6	28.15	598.75
Alec Afarian (2023)	0	0	0	0	0	0	0	32.40	32.4
Paralegals (various)	37.4	5.9	0	3.5	5.7	9.6	1.9	50.35	114.35
Total	961.6	293.2	6.4	10.95	206.6	426	73.15	366.1	2344

EXHIBIT 1-D
NET HOURS BILLED AFTER BILLING JUDGMENT DELETIONS

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023	Total
Prof. Helen Alvaré (1984)	0	0	0	0	0	0	0	0	0
Ed Gleason (1979)	0	0	0	0	0	0	0	0	0
Deion Kathawa	0	0	0	0	0	0	0	0	0
Eric Kniffin (2003)	473.2	196.3	3.3	0	0	0	0	0	672.8
Matthew Mellema (2013)	42	1.2	0	0	0	0	0	0	43.2
Andrew Nussbaum (2016)	0	0	0	0	0	4.5	16.75	78.25	99.5
Martin Nussbaum (1985)	154.55	68.3	2.3	3.25	59.85	91.4	23.3	170.7	573.65
Ian Speir (2011)	134.7	14.5	0.4	4.2	129.1	244.7	30	27.85	585.45
Alec Afarian (2023)	0	0	0	0	0	0	0	32.40	32.4
Paralegals	8.6	5.7	0	3.5	4	9.45	1.9	60.6	93.75
Total	813.05	286	6	10.95	192.95	350.05	71.95	369.8	2100.75

EXHIBIT 1-E
PRIMARY TIMEKEEPERS' ACTUAL HOURLY RATE BY YEAR

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023
Eric Kniffin (2003)	\$355	\$370	\$395	n/a	n/a	n/a	n/a	n/a
Matthew Mellema (2013)	\$260	\$260	n/a	n/a	n/a	n/a	n/a	n/a
Andrew Nussbaum (2016)	n/a	n/a	n/a	n/a	n/a	\$400	\$410	\$425
Martin Nussbaum (1985)	\$510	\$510	\$550	\$560	\$575	\$585	\$595	\$595
Ian Speir (2011)	\$310	\$350	\$380	\$395	\$425	\$450	\$475	\$475
Alec Afarian (2023)	n/a	\$300						
Paralegals	\$210	\$215	n/a	\$250	\$125	\$125	\$150	\$150

EXHIBIT 1-F
LODESTAR CALCULATION BASED ON ACTUAL HOURLY RATES
TIMES NET HOURS BILLED

(For each timekeeper: lodestar amount is the sum of the products of net hours billed by year times the actual rate for that year)

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023	Sum of Hours
Eric Kniffin (2003)	\$167,986	\$72,631	\$1,303	\$0	\$0	\$0	\$0	\$0	\$241,920
Matthew Mellema (2013)	\$10,920	\$312	\$0	\$0	\$0	\$0	\$0	\$0	\$11,232
Andrew Nussbaum (2016)	\$0	\$0	\$0	\$0	\$0	\$1,800	\$6,868	\$33,256	\$41,924
Martin Nussbaum (1985)	\$78,821	\$34,833	\$1,265	\$1,820	\$34,414	\$53,469	\$13,864	\$101,567	\$320,053
Ian Speir (2011)	\$41,757	\$5,075	\$152	\$1,659	54,868	\$110,115	\$14,250	\$13,229	\$241,105
Alec Afarian (2023)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$9,720	\$9,720
Paralegals	\$1,806	\$1,226	\$0	\$875	\$500	\$1,181	\$285	\$9,090	\$14,963
Totals	\$301,290	\$114,077	\$2,720	\$4,354	\$89,782	\$166,565	\$35,267	\$166,862	\$880,917

EXHIBIT 1-G

INFLATION RATE BASED ON CONSUMER PRICE INDEX

Source: at https://inflationdata.com/Inflation/Inflation_Rate/HistoricalInflation.aspx

Year	Inflation Rate
2017	2.13%
2018	2.44%
2019	1.81%
2020	1.24%
2021	4.7%
2022	8.01%
2023*	4.22%

*The average 2023 inflation rate through October 2023 is 4.22%.

EXHIBIT 1-H
LODESTAR CALCULATION BASED ON
TIME-VALUED HOURLY RATE
TIMES NET HOURS BILLED*

Timekeeper	Net Hours	Rate	Total
Eric Kniffin	672.8	\$480.00	\$322,944
Matthew Mellema	43.2	\$323.00	\$13,954
Andrew Nussbaum	99.5	\$425.00	\$42,288
Martin Nussbaum	573.65	\$595.00	\$341,322
Ian Speir	585.45	\$475.00	\$278,089
Alec Afarian	32.4	\$300.00	\$9,720
Paralegals	93.75	\$150.00	\$14,063
Total			\$1,022,378

*The time-valued rate is the 2023 rate for those timekeepers active in 2023. If there was no 2023 rate for the particular timekeeper, the time-valued rate is their most recent annual billing rate adjusted by the inflation rate based on the consumer price index. Thus, the time-valued rate for Eric Kniffin is his 2018 rate of \$395 x (1.0181)(1.0124)(1.047)(1.0801)(1.0422) = \$395 x 1.215 = \$480. For Matthew Mellema, his time-valued rate is his 2017 rate of \$260 times (1.0244) (1.0181) (1.0124) (1.047) (1.0801) (1.0422) = \$260 x 1.244 = \$323

RESUME OF L. MARTIN NUSSBAUM

L. MARTIN NUSSBAUM

Nussbaum Speir Gleason PLLC
2 N. Cascade Avenue, Suite 1430
Colorado Springs, CO 80903
719-822-0711; martin@nussbaumspeir.com

PROFESSIONAL

Nussbaum Gleason PLLC
Founder and partner, 2018 to present

Lewis Roca Rothgerber Christie LLP
Colorado Springs, Colorado
Partner, 1997 to 2018
Founder and co-chair, Religious Institution Group, 1997 to 2018
Member, Employment Law Group, 1997 to 2018
Editor-in-chief, *The First Freedom*, 1998 to 2005
Webmaster, The RJ&L Religious Liberty Archive at www.churchstatelaw.com

Sparks Dix, P.C.
Colorado Springs, Colorado
Director, Employment Law and Human Resources Group
Partner, 1989 to 1997
Associate, 1985 to 1989
(employment law, religious institution law, litigation)

EDUCATION

University of Texas School of Law, J.D. 1985
Baker & Botts Prize (Outstanding Second-Year Student)
President and Founder, Texas Federalist Society of Law & Public Policy
Dean's Award for Academic Distinction
Weaver Fellow

University of Notre Dame, B.A. 1974
Phi Beta Kappa
Cavanaugh Award (Outstanding Senior in Theology Department)
Summa cum laude
Notre Dame Debate
Notre Dame Scholar

RESUME OF L. MARTIN NUSSBAUM

COURT ADMISSIONS

Colorado Courts, 1985
United States District Court, District of Colorado, 1985
United States Bankruptcy Court, District of Colorado, 1987
United States Supreme Court, April 18, 1994 (Bar No. 206777)
United States Court of Appeals for the Tenth Circuit, 1998
United States District Court, New Mexico, 2020
United States Court of Appeals for the Eighth Circuit, 2021

Pro Hac Vice Admissions

Wyoming District Court, 1999
United States Court of Appeals for the Sixth Circuit, 2001
Texas District Court, 2001
Massachusetts Supreme Judicial Court, 2002
Massachusetts Superior Court, 2003
United States District Court, Southern District of California, 2004
Mississippi Supreme Court, 2004
United States Bankruptcy Court, District of Oregon, 2004
United States Court of Appeals for the Ninth Circuit, 2008
Connecticut Superior Court, Waterbury District, 2010
District Court of Johnson County, Kansas, 2011
Connecticut Superior Court, New Haven District, 2011
Circuit Court of the City of St. Louis, Missouri, 2013
United States District Court, Western District of Oklahoma, 2014
Michigan Court of Appeals, 2014
Michigan Supreme Court, 2014
United States District Court, North Dakota, 2016
Connecticut Court of Appeals, 2022
Connecticut Supreme Court, 2023

HONORS AND AWARDS

Chambers USA, First Amendment litigation—nationwide, 2016 to present
Catholic Press Association 2015 Award for Best Coverage of Religious Liberty Issues for
“Severing the Roots of the Tree of Liberty,” by L. Martin Nussbaum and Eric Kniffin
Best Lawyers in America (Non-Profit/Charities Law), 2007 to present
 2021 Denver Lawyer of the Year in Non-Profit & Charities Law
 2014 Denver Lawyer of the Year in Non-Profit & Charities Law
BTI Client Services All Star, 2014 (for outstanding client services to a Fortune 1000
company)
Colorado Super Lawyer (constitutional law), 2006 to present
Martindale Hubbell (AV preeminent rating), 1994 to present
Charles Goldberg Heavy Lifting Award for Outstanding Client Service, 2007
Colorado Springs Style Top Attorney-Church Law, 2017
Dove of Peace Award, Center for Christian Jewish Dialogue, 2006

RESUME OF L. MARTIN NUSSBAUM

Who's Who in American Law (8th ed. 1993)

NOTABLE REPRESENTATIONS, CASES, AND LEGISLATION

Religious Sisters of Mercy v. Becerra, 55 F.4th 583 (8th Cir. 2022) aka Catholic Benefits Association v. Becerra (affirms permanent injunctive relief, now for over 80 dioceses and over 1,200 Catholic employers HHS gender transition services coverage and performance mandates and from EEOC's application of Title VII to enforce gender transition services coverage mandates and declaratory relief eliminating billions in accumulated excise taxes; second case in the nation to acquire such relief).

Religious Sisters of Mercy v. Azar, 513 F.Supp.3d 1113 (D. N.D. 2021) aka Catholic Benefits Association v. Azar (HHS) and Dhillio (EEOC), No. 3:16-cv-00386 (D.N.D. 2021) (permanent injunction relief for 74 dioceses and archdioceses and over 1,100 other Catholic employers from HHS gender transition services coverage and performance mandates and from EEOC's application of Title VII to enforce gender transition services coverage mandates and declaratory relief eliminating billions in accumulated excise taxes; first case in the nation to acquire such relief from the EEOC).

List Interactive v. Knights of Columbus, No. 2017-CV-210-RBJ (D. Colo. 2019) (successful defense of Knights of Columbus in three week jury trial in which plaintiff sought \$108 million in damages and received less than 0.5% of this amount; highlights include: dismissal of claim challenging federal tax exempt status; dismissal of RICO claims; jury verdict against claims of promissory estoppel, misappropriation of trade secrets, tortious interference, and fraud; court's rejection of plaintiff's effort to discover names of 1.9 million members; court's rejection of proposed jury instruction seeking to identify Catholic members of the jury panel along with information related to the intensity of their faith).

Catholic Benefits Association v. Sebelius, No. 14-CV-685-R (W.D. Okla. 2018) (granting permanent injunction against federal agencies from enforcing their regulation mandating health care plans for 1,000 Catholic employers to include coverage for contraceptives, abortion inducing drugs and devices, sterilization, and related counseling; injunction also protects insurers and third party administrators; providing declaratory relief eliminating \$5.9 billion in accumulated excise taxes; ordering the future CBA members automatically benefit from same injunction and declaratory relief, and awarding \$720,000 in fees and costs).

Knights of Columbus & In Defense of Christians: Christian Genocide Project (prepare data base of actions by ISIS constituting genocide against Christians in Syria, Iraq, and Libya; counsel of record for legal brief to Secretary of State John Kerry; assisted preparation of the 277 page report, GENOCIDE AGAINST CHRISTIANS IN THE MIDDLE EAST (March 9, 2016); published articles in National Review and Politico as part of successful effort to cause the United States Department of State issue genocide declaration for religious groups, including Christians, in ISIS-controlled territories; on March 14, 2016, the House of Representatives voted unanimously in favor of this genocide declaration; on March 17, 2016, Secretary Kerry issued the declaration).

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Catholic Benefits Association v. Sebelius, No. 14-CV-685-R (W.D. Okla. 2014) (granting temporary restraining order against federal agencies from enforcing their regulatory mandate that health care plans for 156 Catholic employers include, at no cost to the employee, coverage for contraceptives, abortion inducing drugs and devices, sterilization, and related counseling).

Catholic Benefits Association v. Sebelius, ___ F.Supp.2d ___, 2014 WL 2522357 (W.D. Okla. 2014) (recognizing associational standing and applying the Religious Freedom Restoration Act to grant preliminary injunction against federal agencies from enforcing regulatory mandate that health care plans for 420 Catholic employers include, at no cost to the employee, coverage for contraceptives, abortion inducing drugs and devices, sterilization, and related counseling).

Chabad-Lubavitch of Michigan v. Schuchman, 853 N.W.2d 390 (Mich. Ct. App. 2014) (equitable tolling during exhaustion of ecclesiastical remedies including thirteen years of litigation before three rabbinic panels; Michigan follows *Watson v. Jones* deference approach for resolving hierarchical religious society's property dispute with rebellious congregation), *rev'd*, 862 N.W.2d 648 (Mich. 2015), *cert. denied* (U.S. 2016).

Lindeman v. Corporation of the President of the Church of Jesus Christ of Latter-day Saints, 43 F.Supp. 2d 1197 (D. Colo. 2014) (summary judgment for church in situation where Sunday School teacher had intercourse with 15-year old girl, holding that there is no fiduciary relationship between Sunday School teacher and visiting student, there is no legal duty for church to hire or to supervise with concern as to teachers after hours, off premises misconduct; perpetrator's prior domestic strife does not constitute notice of potential heightened risk of child sexual abuse).

Dobson v. Sebelius, 38 F.Supp.3d 1245 (D.Colo. 2014) (preliminary injunction granted because Religious Freedom Restoration Act requires exemption for the benefit of Dr. James Dobson and his ministry, Family Talk, from HHS abortifacient mandate).

Catholic Benefits Association and Catholic Insurance Company (general counsel for both, incorporator for Catholic Insurance Company) (2013).

Purdum v. Purdum, 301 P.3d 718 (Kan. App. 2013) (First Amendment Establishment Clause and related Doctrine of Church Autonomy deprive court of subject matter jurisdiction to adjudicate wife's allegedly defamatory statement made in her petition for annulment of sacramental marriage filed in the tribunal of the Archdiocese of Kansas City in Kansas).

Spencer v. World Vision, 633 F.3d 723 (2010) (*per curiam*) (Title VII religious organization exemption applies to international Christian aid agency so that it may lawfully terminate atheist employees) (amicus advocacy on behalf of Christian Legal Society, Association of Gospel Rescue Missions, Center for Public Justice, National Association of Evangelicals, Samaritan's Purse, and Union of Orthodox Jewish Congregations of America).

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J.C. v. Dungarvin Colorado, LLC, 252 P.3d 41, 2010 WL 3035220 (Colo. App. 2010) (immunity statute for community centered board serving developmentally disabled, convicted sex offender bars negligent supervision and related claims arising from sexual assault on a child).

Grace Church & St. Stephen's v. Bishop and Diocese of Colorado, Case No. 07CV1971 (El Paso County Dist. Ct., Colorado 2009) (successful lead counsel for Episcopal Church parish and Diocese of Colorado in five week trial in a secessionist congregation dispute).

Colorado Christian University v. Weaver, 534 F.3d 1245 (10th Cir. 2008) (First Amendment advocacy successfully challenging constitutionality of statute that deprived students of public financial assistance if they attended a “pervasively sectarian” institution).

In Roman Catholic Archbishop of Portland in Oregon, and Successors, a Corporation Sole, dba Archdiocese of Portland in Oregon, 345 B.R. 230 (Bankr. D. Or. 2006) (archdiocesan self-settled trust corpus is not part of debtor’s estate; debtor’s beneficial interest in trust is part of the estate but is subject to conditions on use of income in declaration of trust).

In Roman Catholic Archbishop of Portland in Oregon, and Successors, a Corporation Sole, dba Archdiocese of Portland in Oregon 335 B.R. 815 (Bankr. D. Or. 2005), 335 B.R. 868 (Bankr. D. Or. 2005), 345 B.R. 686 (Bankr. D. Or. 2006) (First Amendment and charitable trust counsel for the Archdiocese of Portland in the first bankruptcy of Catholic diocese in American history).

Melanie H v. Sisters of the Most Precious Blood (Case No. 04CV1596 WQH (JFS), U.S. Dist. Ct., S.D. Cal. 2004) (challenging constitutionality of California statute which suspended statute of repose in childhood sexual abuse case and permitted 1,000 to be filed against Catholic institutions).

Morrison v. Roman Catholic Diocese of Jackson, (Case No. 2003-M-00744, Mississippi Supreme Court 2005) (First Amendment challenge to claims that Catholic bishop negligently supervised his priest).

House Bill 03-1363 (eliminating the previous requirements in the Colorado Educational and Cultural Facilities Act which limited tax exempt bond financing to § 501(c)(3) educational and cultural facilities other than those which were pervasively sectarian).

James M. Hogan, et al., v. The Roman Catholic Archbishop Of Boston, et al. (Case No. 02-1296H, Suffolk County Superior Court, Massachusetts 2003) (Omnibus motion and argument on behalf of Archdiocese of Boston, Bernard Cardinal Law, Bishop McCormack, Bishop Daily, and over fifteen other church representatives challenging on First Amendment grounds the subject matter jurisdiction of the court to determine a reasonably prudent bishop standard as required to adjudicate over 400 pending lawsuits)

Kahwajy v. Catholic Diocese of Richmond, (Case No. LP2077-4, Richmond Circuit Court, Virginia 2003) (Ms. Kahwajy, a former Catholic school principal, alleged defamation and

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wrongful termination. After filing a motion to dismiss which contended that the First Amendment Doctrine of Church Autonomy deprived the Circuit Court of subject matter jurisdiction and which was supported by an affidavit establishing that a Catholic school principal is engaged in the ministry of education, the plaintiff voluntarily dismissed her lawsuit.)

Colorado v. Sue, (Case Number: 2000CR37, Park County District Court, Colorado 2002) (In triple murder case, District Court, observing the First Amendment Doctrine of Church Autonomy as regards church communications, grants motion to quash subpoena duces tecum filed by Lutheran pastor. Defendant's counsel had served subpoena to acquire testimony and documents based upon Lutheran pastor's counseling and penitential communications with defendant's alleged co-conspirator and upon pastor's counseling of co-conspirators' parents.)

Robinson v. City of Colorado Springs (Case No. 02SC529, Colo. 2002) (Colorado Supreme Court denies certiorari as regards Colorado Court of Appeals decision affirming propriety of zoning for multi-purpose service center for the indigent and homeless)

In Re: Grand Jury Subpoena to The Custodian of Records, Catholic Diocese of El Paso (District Court of El Paso County, Texas, 168th Judicial District) (2002) (Diocese of El Paso invokes the Church Communications branch of the First Amendment Doctrine of Church to cause the District Attorney to withdraw a grand jury subpoena for a priest's personnel file).

Hiles v. Episcopal Diocese of Massachusetts, 437 Mass. 505, 773 N.E.2d 929 (Mass. 2002) (reversing Court of Appeals and holding that First Amendment Doctrine of Church Autonomy bars civil court jurisdiction over defamation, civil rights, and other claims brought by Episcopal priest and his wife and arising from a church disciplinary process; also holding that plaintiff has burden of proving subject matter jurisdiction).

Steele v. Industrial Development Board of the Metropolitan Government of Nashville and Davidson County, 301 F.3d 401 (6th Cir. 2002) (reversing District Court and holding that the Establishment Clause does not preclude local government from providing tax exempt bond financing for Lipscomb University, a Church of Christ college) (amicus advocacy on behalf of the Christian Legal Society, Union of Orthodox Jewish Congregations of America, Association of Christian Schools International, Council for Christian Colleges and Universities, and National Association of Evangelicals).

Bryce v. Episcopal Church in the Diocese of Colorado, 289 F.3d 648 (10th Cir. 2002) (affirming dismissal of Title VII and 42 U.S.C. § 1983 claims of youth minister and her partner because First Amendment Religion Clauses' Doctrine of Church Autonomy deprives civil courts of jurisdiction to hear such claims; affirming that 1993 Smith decision does not affect Doctrine of Church Autonomy; rejecting application of any balancing test; and, finally, affirming that an Episcopal judge need not recuse himself because of his religion).

Williams v. Episcopal Diocese of Massachusetts, 436 Mass. 574, 766 N.E.2d 820 (2002) (affirming dismissal of Episcopal priest's civil rights claims alleging gender discrimination,

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harassment, and retaliation for lack of subject matter jurisdiction under the First Amendment Religion Clauses; affirming that such claims involve no balancing test; and affirming that the plaintiff has the burden of proving subject matter jurisdiction).

Bryce v. Episcopal Church in The Diocese of Colorado, 121 F.Supp. 2d 1327 (D. Colo. 2000), aff'd, 289 F.3d 648 (10th Cir. 2002) (dismissing statutory discrimination claims of a youth minister and her life partner for lack of subject matter jurisdiction under the First Amendment Doctrine of Church Autonomy and rejecting attempt to disqualify judge due to his religious affiliations).

Johnson v. Econ. Dev. Corp. of the County of Oakland, 241 F.3d 501 (6th Cir. 2000) (holding that tax exempt financing benefitting non-pervasively sectarian religious school does not violate the Establishment Clause) (amicus advocacy on behalf of the Christian Legal Society, National Association of Evangelicals, National Catholic Education Association, Association of Christian Schools International, Union of Orthodox Jewish Congregations of America, and others).

Boussu v. Diocese of Wyoming (Wyo. D. Ct. 1998) (a Wyoming minister misconduct case of first impression dismissing claims of negligent management, breach of fiduciary duty, and vicarious liability against a denomination on common law and First Amendment grounds).

Ayon v. Gourley, 47 F.Supp.2d 1246, (D. Colo. 1998), aff'd on other grounds, 185 F.3d 873 (10th Cir. 1999) (rejecting sexual misconduct claims of negligent supervision, fiduciary duty, and outrageous conduct on First Amendment and statute of limitations grounds).

Moses v. Diocese of Colorado, 863 P.2d 310 (Colo. 1993), cert. denied, (U.S. 1993) (amicus brief for a coalition of churches and denominations in support of application for certiorari requesting that the United States Supreme Court apply the First Amendment to bar judicial consideration of a negligent supervision claim involving a denomination and its minister).

McClellan v. Colorado Department of Corrections (D. Colo. 1993) (allowing an Episcopal inmate access to the eucharistic cup during Sunday services notwithstanding a Department of Corrections rule against drinking alcoholic beverages and subsequently cited in Senate debates over the passage of the Religious Freedom Restoration Act of 1993 regarding the religious liberty of prisoners).

Myers v. Diocese of Colorado Springs (El Paso County D. Ct., Colo. 1993) (holding that the Fair Labor Standards Act and its overtime premium pay provisions are inapplicable for employees of a Catholic parish).

House Bill 92-1034 (acquired exemption for persons “engaged in the practice of religious ministry” from the Colorado Mental Health Act, codified at Colo. Rev. Stat. § 12-43-215(1) and (5)).

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Destefano v. Grabrian, 763 P.2d 275 (Colo. 1988) (rejecting minister misconduct claims of clergy malpractice and vicarious liability on common law, First Amendment, and heart balm grounds).

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Media coverage related to filing of Catholic Benefits Association lawsuits against EEOC and HHS resulting in articles published in Associated Press, Breitbart, Crux, National Catholic Register, National Public Radio, Pittsburgh-Post Gazette, Washington Examiner, Washington Post, Washington Times, WND, and others (December 2016).

Judy Roberts, “Benedict and Clergy Sexual Abuse: Decisive and Aggressive Action: Holy Father’s record refutes critics’ claims that he mishandled the explosive issue,” National Catholic Register (March 5, 2013).

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“Colorado churches: Shutdown or social distancing?”, Colorado Springs Gazette Telegraph (May 24, 2020).

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“Fallen Pastors,” *The First Freedom* (Spring 2008).

“Predators in public jobs still get a pass,” *Colorado Springs Gazette Telegraph* A19 (March 1, 2008).

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Colorado Springs Business Journal 16 (February 20, 2004).

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Minister Employment Dispute,” The First Freedom (Winter 2001).

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RJL Employment Law (Summer 1998).

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“Treasured Religious Freedoms Under Attack by the Courts,” Colorado Springs Gazette Telegraph B7 (April 3, 1991).

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“Religious Freedom and the Assault on Catholic Healthcare,” Order of Malta, Oklahoma City (February 3, 2023).

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“Constantine, Canossa, Culpeper County, the Constitution, the Council, and ‘Contraceptives’--The Foundations of and Current Assaults on Religious Freedom and Why It Matters,” Diocese of Springfield Fortnight of Freedom, Springfield, IL (June 28, 2014)

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“Keeping the Faith: Staffing on a Religious Basis While Serving the Needy,” Focus on the Family Group of Faith-Based Social Services Agencies (October 4, 2005).

“Pastoral Confidences and Child Abuse Reporting,” National Association of Church Business Administrators (July 11, 2005).

“The Doctrine of Church Autonomy and its Applications to Minister-Church Disputes and to Claims Against Churches Arising from Sexual Misconduct by Ministers,” Episcopal Church National Chancellors Conference, Orlando, Florida (October 21, 2004).

“Churches, Political Activity, and Federal Tax Exempt Status,” RJ&L Religious Institutions Law Day (October 7, 2004).

“The ABCs of the Regulation and Exemption of Church Preschool Programs,” RJ&L Religious Schools Law Day (March 15, 2004).

“The Federal Marriage Amendment: Background and Policy,” Convention of the National Association of Evangelicals (March 11, 2004).

“The NAE Human Resources Project,” National Association of Evangelicals (March 11, 2004).

“Church Communications and the Constitution,” RJ&L Religious Institutions Law Day (November 14, 2003)

“Contracts for Church Workers,” RJ&L Religious Institutions Law Day (November 14, 2003)

“Church Autonomy and the Episcopal Trilogy--*Bryce, Williams, and Hiles*: the Application of Church Autonomy Doctrine to Claims Arising from Church-Minister Employment Disputes, from Church Communications, and from Supervision of Priests and Other Ministers,” Episcopal Church Province IV Bishop and Chancellors Conference, Greensboro, North Carolina (October 3, 2003)

“An Introduction To the History, Theory, Scope, and Importance Of the First Amendment Doctrine of Church Autonomy,” Episcopal Church Province IV Bishop and Chancellors Conference, Greensboro, North Carolina (October 3, 2003)

“The Constitution and Private Schools: Parental Rights and Government Programs Benefitting Private Schools,” RJ&L Religious Schools Law Day (February 11, 2003)

“Pastoral Counseling and the Civil Law,” Woodmen Valley Chapel Pastoral Counseling Symposium (September 26, 2002)

RESUME OF L. MARTIN NUSSBAUM

“Advanced Management Techniques for the Risk of Sexual Misconduct in the Church,”
RJ&L Religious Institutions Law Day (April 18, 2002)

“Managing the Risk of Sexual Misconduct in the Church,” Rocky Mountain Classis of
the Christian Reformed Church (March 5, 2002)

“Religious Institution Briefing on The Status of Church-State Relations in America,”
Capin Crouse & Company Breakfast Group (September 26, 2001)

“*Watson v. Jones*: Its Social History, Rationale, and Application in Contemporary
Church-Minister Disputes,” Western Chancellors Conference of the Episcopal Church,
Phoenix (April 27, 2001)

“Invocation of the Doctrine of Church Autonomy to Challenge a Court’s Subject Matter
Jurisdiction in Church-Minister Employment Disputes: Tactical Advantages and
Substantive Considerations,”
Rocky Mountain Regional Christian Management Institute (September 12, 2001)
RJL Church-State Law Institute (April 19, 2001)

“An Introduction to Charitable Choice,” RJL Church-State Law Institute (April 19, 2001
and October 9, 2001)

“Religion in Public Schools Panel Discussion,” Citizens’ Project (January 26, 2001)

“Non-Profits in the Cross Hairs: The Need for Legislative Reform of Colorado’s
Fiduciary Duty Law,” 10th Annual Institute on Advising Non-Profits, Colorado Bar
Association, Denver (October 20, 2000)

“A Procedurally-Advantaged Defense of Religious Organizations in Church-Minister
Employment Disputes,” Regional Meeting of National Diocesan Attorneys Association,
Salt Lake City (September 22, 2000)

“A Whirlwind Introduction to Church Law for Pastors and Church Business
Administrators,” Iliff Seminary, Denver (August 3, 2000)

“Judicial Regulation of Religious Speech, Sacramental Practices, And Other
Ecclesiastical Activities Through Colorado’s Unique Fiduciary Duty Law,” Diocese of
Colorado Springs (April 13, 2000)

“Misconduct Investigations: Land Mines, and Techniques,”
Colorado Springs Society of Human Resource Management (October 7, 1999)
RJ&L Religious School Law Day (February 11, 2003)

RESUME OF L. MARTIN NUSSBAUM

“The Use of Statewide Coalitions to Beneficially Influence Litigation and Legislation Affecting Churches,” Rocky Mountain Conference of the National Diocesan Attorneys Association (October 2, 1999)

“Church Employment Law 101,” National Association of Church Facilities Managers, Divide, CO (September 14, 1999)

“The Unique Colorado Problem for Churches--The Demise of the Right of Church Autonomy Due to the 'Fiduciarization' of the Common Law,” Pikes Peak Chapter of the National Association of Church Business Administrators (January 21, 1999)

“Sexual Misconduct Policy for Churches,” RJI Employer Institute (October 20, 1998)

“Separations and the Employee Handbook,” RJI Employer Institute (October 13, 1998 and October 20, 1998)

“Workers' Compensation and the Employee Handbook,” RJI Employer Institute (October 13, 1998)

“Alternative Dispute Resolution of Employment Disputes: Implications for Employee Handbooks,” RJI Employer Institute (October 13, 1998 and October 20, 1998)

“Employment at Will: A Foundational Document in Decline,” RJI Employer Institute (October 13, 1998, October 20, 1998, October 18, 2000)

“The Problem Parishioner,” Pikes Peak Chapter of the National Association of Church Business Administrators (March 24, 1998)

“Releases and Exculpatory Agreements for Churches,” Pikes Peak Chapter of National Association of Church Business Administrators (March 24, 1998)

“Gender Discrimination Problems,” Lorman Education Series Employment and Labor Law Seminar (March 10, 1998)

“An Unromantic View of Romance in the Workplace:
Protecting Workers from Unwanted Advances while Protecting Privacy Interests,”
Colorado Association of Realtors Annual Convention (October 14, 1998)
Lorman Education Series Employment and Labor Law Seminar (March 10, 1998)
Rothgerber, Appel, Powers & Johnson Hot Topics in Employment Law (February 10, 1998)
Rothgerber, Appel, Powers & Johnson Annual Employment Law Update (Denver, December 11, 1997)

RESUME OF L. MARTIN NUSSBAUM

“No Fair Pushing: A Few Principles Regarding End of Life Medical Treatment,”
Colorado Springs Christian Physicians, (October 18, 1997)

“Watson v. Jones, Its Progeny, and the Right of Church Autonomy,” Denver Christian
Legal Society (Glen Eyrie, April 5, 1997)

“Employment in Technology Companies: Agreements and Hiring Issues,” Sparks Dix,
P.C. Technology Group (February 11, 1997)

“Investigations of Embezzlement,” American Electronics Association (Denver, January
16, 1997)

“Religious Liberty Update '96: Early Decision under the Religious Freedom Restoration
Act, Religious Workers under Title VII, Religious Access in Public Schools,” 6th Annual
Institute On Advising Nonprofit Organizations In Colorado (Denver, October 18, 1996).

“A Critique of the Property Tax Initiative of 1996,”
Colorado Association of Non-Profit Organizations (May 14, 1996)
National Association of Church Business Administrators--Pikes Peak Chapter
(September 13, 1996)
West Side Churches (August 22, 1996)
GOP Club (debate with Mr. Murphy, October 21, 1996)

“The First Amendment Right of Church Autonomy as Bar to Negligent Management
Claims Arising from Instances of Ministerial Misconduct,” National Diocesan Attorneys
Association, Washington, D.C. (April 23, 1996)

“Progressive Discipline, Handbook Disclaimers, and the Doctrine of Employment At
Will,” Colorado Springs Employer Academy (April 9, 1996)

“Peacemaking Outside the Courthouse,” Colorado Springs Employer Academy (April 9,
1996)

“Searching Employees,” Colorado Springs Employer Academy (March 12, 1996,
February 13, 1997)

“The Family and Medical Leave Act of 1993,” Colorado Springs Employer Academy
(November 3, 1995)

“The Americans with Disabilities Act--Employment Title,”
Rothgerber, Appel, Powers & Johnson Annual Employment Law Update
(February 10, 1998)
Colorado Springs Employer Academy (November 3, 1995)

RESUME OF L. MARTIN NUSSBAUM

“A Biblical-Civil Model for Employment Contracts and for Resolving Employment Disputes in Christian Organizations,” Colorado Springs Christian Management Association Conference (October 23, 1995)

“Ministerial Misconduct: Claims, Risk Management, and Defenses,” Continuing Legal Education in Colorado, Inc. Fifth Annual Institute on Advising Nonprofit Organizations in Colorado (Denver, October 20, 1995)

“The Employment Agreement,” Colorado Springs Employer Academy (October 5, 1995 and October 10, 1996)

“Drug Testing During the Hiring Process,” Colorado Springs Employer Academy (October 5, 1995, and October 10, 1996)

“Freeing the Reluctant Reference,” Colorado Springs Employer Academy (October 5, 1995, and October 10, 1996)

The Employment Application,” Colorado Springs Employer Academy (October 5, 1995, and October 10, 1996)

“Applications, Interviews, and ‘Forbidden Questions,’” Colorado Springs Employer Academy (October 5, 1995, and October 10, 1996)

“Religion in the Workplace: Working Together Despite Our Deepest Differences,”
Colorado Springs Employer Academy (March 12, 1996)
El Paso County Bar Association Employment Law Committee (Colorado Springs,
March 29, 1995)

“An Unromantic View of Romance in the Workplace,”
American Payroll Association (August 10, 1995)
Downtown Rotary (January 27, 1995)

“High Risk Ministries,” (Panelist with Bishop Richard Hanifen and Young Life Executive, Cliff Anderson) Colorado Springs Association of Evangelicals (January 17, 1995)

“A Report on the Second Chance Ministries Raid,” Colorado Springs Association of Evangelicals (January 17, 1995)

“Second Chance Ministries--Due Process, Parental Rights, and Religious Freedom,”
Denver Christian Legal Society (Denver, November 10, 1994)

RESUME OF L. MARTIN NUSSBAUM

“Religious Accommodation of Prisoners Under the Religious Freedom Restoration Act of 1993,” Colorado Department of Corrections (Arrowhead Correctional Center, Canon City, September 1, 1994)

“Adoption: Myths, Reality, and Law,” Catholic Community Services Symposium for Guardians ad Litem (August 31, 1994)

“Lay Investiture, Negligent Ordination, and Moses’ Assault on the Right of Church Autonomy,” Colorado Springs Christian Legal Society (June 9, 1994)

“A Non-Profit’s Guide to Managing the Risk of Sexual Harassment,”
Grant Thornton’s Non-Profit Organization Seminar (May 24, 1994)
Grant Thornton Exempts Group (Washington, D.C., June 7, 1994)

“Moses’ Assault on the Right of Religious Autonomy,” University of Denver School of Law (April 13, 1994)

“A Primer on Civil Rights and Sexual Harassment,” Downtown Rotary Club (April 8, 1994)

“Ish and Isha: Men and Women Working Together,” Diocesan Employee Day (February 18, 1994)

“Primum Non Nocere: Protecting the Church from Sexual Misconduct,” Colorado Springs Association of Evangelicals (January 11, 1994)

“How to Protect Your Volunteers from Liability,” Colorado Association of Non-Profit Organizations (Arvada, Colorado, November 10, 1993)

“Employer Briefing on the Family and Medical Leave Act of 1993,” (November 10, 1993)

“A Comparison of Pastoral Counseling Misconduct and Sexual Harassment by Pastors or Is the Church Always Liable for Sexual Harassment by Pastors?”, Rocky Mountain Diocesan Attorneys Association (Denver, October 23, 1993)

“The Religion Clauses--Then and Now,”
Pikes Peak Community College Peterson Air Force Base, Colorado (September 11, 1993)
Pulpit Rock Church (October 25, 1993)

“After Acquired Evidence of Resume Fraud: The Employer’s Universal Defense?”, El Paso County Bar Association Employment Law Committee (March 23, 1993)

RESUME OF L. MARTIN NUSSBAUM

“An Employer’s Primer on Civil Rights Laws,” Colorado Subway Sandwiches Franchisees (Northglenn, Colorado, March 18, 1993)

“The Establishment Clause: Helping the Cause of Religion or Building a Wall Separating Church and State?”, Coloradans for Excellence in Education (A debate with the ACLU) (Colorado College, January 25, 1993)

“Limits on Political Activity for § 501(c)(3) Organizations under the Internal Revenue Code,” Colorado Springs Association of Evangelicals Annual Legal Seminar (January 12, 1993)

“The Demise of the Free Exercise of Religion,”
Denver Christian Legal Society (Denver, July 22, 1993)
Colorado Springs Association of Evangelicals Annual Legal Seminar (January 12, 1993)

“A Wall of Separation Between Church and State: Constitutional Principle or Mere Rhetoric,” Colorado Family Coalition (December 7, 1992)

“Pastoral Counseling Misconduct--Claims, Defenses, and Fiduciary Obligations,” National Diocesan Attorney’s Association (Washington, D.C., May 19, 1992)

“The Church, Its Buildings, and the Americans with Disabilities Act,” Diocese of Colorado Springs Business Managers (March 3, 1992)

“Matthew, Paul, and the Employment Relationship: A Biblical Model for Employment Contracts and for Resolving Employment Disputes,”
Catholic School Teachers of the Diocese of Colorado Springs (August 26, 1992)
Colorado Springs Association of Evangelicals Annual Legal Seminar (January 7, 1992)

“Employment Law and the Americans with Disabilities Act,”
Pikes Peak Mechanical Contractors Association (March 31, 1992)
Colorado Association of Community Centered Boards (Denver, March 20, 1992)

Grant Thornton Non-Profit Organization Seminar (Colorado Springs and Denver, November 19 and 20, 1991)
Sparks Dix Enoch, P.C. Client Seminar (November 13, 1991)

“The Rise and Fall of the Free Exercise of Religion,” Big 8 Conference of the National Diocesan Attorneys Association (Omaha, October 25, 1991)

“The Gratuitous Servant: Liability Issues Related to the Use of Volunteers,”
Directors of Volunteers in Agencies (October 17, 1997)

RESUME OF L. MARTIN NUSSBAUM

Metro-North Region of the Diocese of Colorado Springs (September 4, 1996)
Grant Thornton Non-Profit Organization Seminar (June 29, 1993)
Aspen Foundation and the Center for Information and Voluntary Action
(Glenwood Springs, November 5, 1992)
Association of Volunteer Administrators Region XII Conference (Denver, May 8,
1992)
City of Colorado Springs Parks and Recreation Department (February 20, 1992)
Colorado Springs Association of Evangelicals Legal Seminar (January 7, 1992)
Association of Volunteer Administrators (Castle Rock, October 3, 1991)
Society of Animal Welfare Administrators National Convention (Denver,
September 13, 1991)
Grant Thornton Non-Profit Organization Seminar (Colorado Springs, January 23,
1991, and Denver, February 28, 1991)

“Taxing the Religious Organization: Unrelated Business Taxable Income, Property
Taxes, Sales Taxes, and Other Evils,” Diocese of Colorado Springs Business Managers
(September 11, 1990)

“Holmes, the Common Law, Sexual Misconduct, and the Religious Organization,”
Institute for Ministry and Health--Penrose/St. Francis Hospital (May 10, 1990)
Colorado Springs Association of Evangelicals Legal Seminar (January 7, 1992)

“Vicarious Liability for Torts of Volunteers,” Rocky Mountain Diocesan Attorneys
Association (October 13, 1989)

“Rendering Unto Caesar: Colorado Property Tax Exemptions for Religious Groups,” at
“Wise as Serpents, Innocent as Doves--A Practical Seminar on the Law Affecting
Religious Groups” Colorado Council of Churches and Colorado Springs Association of
Evangelicals (Colorado Springs and Denver, September 14 and 17, 1987)

“An Overview of Parochial Law,” Seminar on Private Education in the 1990's in
Colorado (October 18, 1985)

PROFESSIONAL ASSOCIATIONS

United States Conference of Catholic Bishops
Ad Hoc Committee on Religious Liberty, consultant 2011 to present
Office of General Counsel Legislative Task Force on Civil Legislation regarding
Statutes of Limitation, 2008
Task Force on Civic Engagement, 2004 to 2005

National Diocesan Attorneys Association
Member, 1988 to present
Litigation Committee, 2001 to 2012
Executive Committee, 2016 to present

RESUME OF L. MARTIN NUSSBAUM

Director, Rocky Mountain Region of Diocesan Attorneys, 2015 to present

Christian Legal Society

Center for Law and Religious Freedom

Case selection committee member, 1999 to 2011

Director-Colorado Springs Christian Legal Society, 1992-1994

Religious Organizations and Law Treatise Advisory Board

Member, 2011 to 2013

Colorado Supreme Court Nominating Commission

Commissioner, 2006 to 2011

Harvard Journal of Law and Public Policy

Cambridge, Massachusetts

Federalist Society Editor 1984-1985

Executive Editor 1983-1984

Fourth Judicial District Nominating Commission

Commission member, 1996-2001

Continuing Legal Education in Colorado, Inc.

Advising Nonprofit Organizations in Colorado

Planning Committee and Faculty, 1995 to 1998

Western Center for Law and Religious Freedom

Director, 1996 to 1999

Rocky Mountain Family Legal Foundation

Vice President, 1995 to 1996

Director, 1991 to 1996

El Paso County Citizenship Campaign, Fall 1992

Colorado Springs Christian Management Association

Member 1991 to 1996

El Paso County Bar Association

Member 1985 to 2010

Trustee 1991-1992

Program Chairman 1989-1991, 1994-1995

Employment Law Committee 1988 to 1995

Mock Trial Coach 1992 and 1993

Federalist Society of Law and Public Policy

RESUME OF L. MARTIN NUSSBAUM

Washington, D.C.
Ex-officio Director 1985-1986
Member 1983 to 1990, 2008 to 2012

Colorado Bar Association
Member 1985 to present

MISCELLANY

Knights of Columbus, 2013 to present
Fourth degree, May 18, 2014
Insured member, 2017

Center for Christian-Jewish Dialogue
Board of Directors, 1996 to 2011
Moderator of Annual Dialogue, 2005-2006

John Suthers Campaign for Attorney General
Agent, 1997-1998

University of Colorado at Colorado Springs
College of Letters, Arts & Science
Dean's Advisory Committee, 1987 to 1991

Colorado Springs Association of Evangelicals
Member, 1988 to 1995
Law Day Chair, 1994 and 1995

Coloradans for School Choice
El Paso County Media Chairperson, Fall 1992

Catholic Charities of Colorado Springs
Adoption Committee, 1987-1992
Board of Directors, 1988-1989
Family Committee, 1988-1989
Marian House Campaign, Chair of Marian House Pastors Committee, 2006-2008

RESUME OF IAN SPEIR

Ian Speir

PROFESSIONAL EXPERIENCE

Covenant Law PLLC

Founder and Principal, 2023-present

- Law practice focused on religious organizations, First Amendment freedoms, public interest litigation, and general counsel to religious, nonprofit, and business clients.
- Representation of religious organizations and individuals in federal and state court and administrative proceedings to protect rights of free exercise, association, and free speech.

Nussbaum Speir Gleason PLLC

Partner and Co-founder, 2018-2023

- Law practice focused on religious organizations, First Amendment freedoms, public interest litigation, and general counsel to religious, nonprofit, and business clients.

University of Colorado at Colorado Springs

Lecturer in Constitutional Law, 2017-2022

- Designed and taught First Amendment and constitutional law courses to undergrads.

Providence

Contributor and Editorial Advisor, 2017-2019

- Foreign policy journal focused on international religious freedom, Middle East policy, and international law.

Lewis Roca Rothgerber Christie LLP

Associate Attorney, 2012-2018

- Religious freedom, commercial and civil litigation, and general counsel to religious, nonprofit, and business clients.

Hon. Jerome A. Holmes, U.S. Court of Appeals for the Tenth Circuit

Judicial Clerk, 2011-2012

Mayer Brown LLP

International Tax Economist, 2007-2011

- Analysis and valuation of international tax transactions in support of firm's tax practice.

EDUCATION

Georgetown University Law Center, J.D., magna cum laude, 2011

- Order of the Coif
- Law Review (*Georgetown Law Journal*)

RESUME OF IAN SPEIR

Texas A&M University, M.A. International Affairs, *cum laude*, 2007

- Robert M. Gates/Heep Endowed Fellow
- *Atlantic Affairs Journal; The Ember*

Oral Roberts University, B.S Mathematics, *summa cum laude*, 2005

- National Merit Finalist
- Departmental honors

REPRESENTATIVE LITIGATION

U.S. SUPREME COURT

Seattle's Union Gospel Mission v. Woods (2021)

- Cert-stage amicus brief in support of religious ministry's First Amendment right to choose employees based on faith standards.

Little Sisters of the Poor v. Pennsylvania (2020)

- Merits amicus brief in support of religious employers' right under RFRA to avoid objectionable insurance coverage mandate.

Chiafalo v. Washington (2020)

- Merits amicus brief regarding constitutional and federalism principles in presidential selection procedures.

Zubik v. Burwell, 136 S. Ct. 1557 (2016)

- Amicus briefs in support of religious employers' right under RFRA to avoid objectionable insurance coverage mandate.

U.S. COURTS OF APPEALS

Religious Sister of Mercy & Catholic Benefits Ass'n v. Becerra, 55 F.4th 583 (8th Cir. 2022)

- Briefed and argued successful appeal on behalf of religious employers' right under RFRA to avoid participation in and coverage of objectionable health services.

Billard v. Charlotte Catholic High School (4th Cir. 2022)

- Amicus brief in support of religious school's First Amendment right to choose its leaders.

Starkey v. Archdiocese of Indianapolis, 41 F.4th 931 (7th Cir. 2022)

- Amicus brief in support of religious school's First Amendment right to choose its leaders.

David v. Sirius Computer Solutions, 779 F.3d 1209 (10th Cir. 2015) (Gorsuch, J.)

- Briefed and argued appeal in commercial and employment dispute.

RESUME OF IAN SPEIR

STATE SUPREME COURT AND COURT OF APPEALS

Scardina v. Masterpiece Cakeshop (cert granted, Colo. 2023)

- Cert-stage amicus brief in support of First Amendment right of artists to avoid conveying messages with which they disagree.

Education reEnvisioned BOCES v. Colo. Springs School District 11 (Colo. 2023)

- Cert- and merits-stage amicus briefs in support of expanding school choice in Colorado.

ILM Properties LLC v. Tibbetts (Colo. App. 2023)

- Briefed and argued successful appeal defending right of online free speech under First Amendment and Colorado anti-SLAPP law.

Morris v. Centura Health Corporation (Colo. App. 2023)

- Briefed and argued appeal regarding religious hospital's First Amendment right to avoid compelled participation in assisted-suicide procedures.

Leonard v. Interquest North Business Improvement District, 519 P.3d 387 (Colo. App. 2022)

- Briefed and argued successful appeal vindicating public right of access to government records.

Korean New Life Methodist Ch. v. Korean Methodist Ch., 474 P.3d 143 (Colo. App. 2020)

- Argued appeal in church property dispute between local church and denomination.

Allonhill, LLC v. Aurora Commercial Corp. (Colo. App. 2016), cert. denied (Colo. 2017)

- Briefed contract and fraud issues regarding foreclosure review practices.

Nickerson v. Network Solutions, LLC, 339 P.3d 526 (Colo. 2014)

- Briefed original proceeding in Colorado Supreme Court on forum selection clauses.

Aspen Mortg. Corp. v. Fountain Village Townhomes Lender, LLC (Colo. App. 2014)

- Briefed and argued appeal in real estate dispute.

TRIAL COURTS

Christian Employers Alliance v. Azar, 2019 WL 2130142 (D.N.D. 2019)

- Preliminary and permanent injunctions under RFRA for association of hundreds of religious employers against objectionable insurance coverage mandate.

Catholic Benefits Association v. Sebelius, 24 F. Supp. 3d 1094 (W.D. Okla. 2014)

- Preliminary and permanent injunctions under RFRA for association of thousands of religious employers against objectionable insurance coverage mandate.

Dobson v. Sebelius, 38 F. Supp. 3d 1245 (D. Colo. 2014)

- Preliminary and permanent injunctions under RFRA for religious ministry and its leader against objectionable insurance coverage mandate.

RESUME OF IAN SPEIR

PUBLICATIONS / PRESENTATIONS

Academic articles and essays:

"Religious Freedom and the Kingdom of God: A Review of Andrew T. Walker's *Liberty for All*," *Providence*, Apr. 21, 2021, <https://providencemag.com/2021/04/religious-freedom-kingdom-god-book-review-andrew-t-walker-liberty-for-all/>.

"'A Beacon on our Coast': Religious Freedom as the First Freedom at Home and Abroad," *Providence*, Spring 2018, http://ssrn.com/abstract_id=3064709.

"The Calvinist Roots of American Social Order: Calvin, Witherspoon, and Madison," *Public Discourse*, Apr. 13, 2017, <http://www.thepublicdiscourse.com/2017/04/19116/>.

Corporations, the Original Understanding, and the Problem of Power, 10 GEO. J.L. & PUB. POL'Y 115 (2012).

Preservation Rules in the Federal Courts of Appeals, 16 J. APP. PRAC. & PROCESS 281 (2015).

Pulling Back the Covers: Saleh v. Titan Corp. and (Near-) Blanket Immunity for Military Contractors in War Zones, 1 U. MIAMI NAT'L SEC. & ARMED CONFLICT L. REV. 100 (2011).

African Capacity Building for Meat Exports: Lessons from the Namibian and Botswanan Beef Industries, 19-WTR CURRENTS: INT'L TRADE L.J. 55 (2010).

Microfinance and the Knowledge Paradigm: Overcoming Barriers to Commercial Downscaling, 18 LBJ J. PUB. AFFAIRS 7 (2007).

Popular essays:

"A special kind of hatred," *Juicy Ecumenism*, Nov. 6, 2023, <https://juicyecumenism.com/2023/11/06/a-special-kind-of-hatred/>.

"The State Department's Ministerial on Religious Freedom: Reflections and the Path Ahead," *Providence*, Aug. 2018, <https://providencemag.com/2018/08/the-state-departments-ministerial-on-religious-freedom-reflections-and-the-path-ahead/>.

"The 2018 International Religious Freedom Reports: 5 Things to Know," *Providence*, June 5, 2018, <https://providencemag.com/2018/06/2018-international-religious-freedom-reports-5-things-know/>.

"We Must Prioritize the Persecuted," *Providence*, Feb. 1, 2017, <https://providencemag.com/2017/02/we-must-prioritize-persecuted/>.

"How the Trump Administration Can Support Christians in the Middle East," *Providence*, Jan. 6, 2017, <https://providencemag.com/2017/01/trump-administration-can-support-middle-east-christians/>.

"Remembering Those Who Suffer," *Ethika Politika*, May 31, 2016, <https://ethikapolitika.org/2016/05/31/remembering-those-who-suffer/>.

RESUME OF IAN SPEIR

Other papers and projects:

Religion Freedom Institute, *Crisis Toolkit for Religious Institutions: Institutional Governance* (Sep. 2022), <https://religiousfreedominstitute.org/rfi-crisis-toolkit-for-religious-institutions-institutional-governance/>.

"Genocide Against Christians in the Middle East," Mar. 9, 2016, <http://www.stopthechristianguenocide.org/scg/en/resources/Genocide-report.pdf>.

Select speeches and presentations:

"Emerging Trends in Tech & AI Law," Navigate 2023 Conference, Colorado Springs, Oct. 4, 2023.

"The Supreme Court's 2020 Term: What it Means for Us," Accord Network, Sep. 8, 2020.

"Promoting Religious Freedom Abroad," J. Reuben Clark Law Society Annual Conference, University of Utah, Salt Lake City, Feb. 16, 2018.

"Confident Pluralism: Surviving and Thriving Through Deep Difference," Sep. 29, 2017, Colorado Springs. Host and moderator of conversation with Prof. John Inazu (Washington University in St. Louis) on First Amendment and religious freedom.

"'A Beacon on our Coast': Religious Freedom as the First Freedom at Home and Abroad," International Religious Liberty and Human Rights in Trump Administration (Institute on Religion & Democracy), Apr. 19, 2017, Nat'l Press Club, Washington, D.C.

"ISIS, the Secretary, and Genocide," *Your Weekly Constitutional* (Podcast from PRX and James Madison's Montpelier), Oct. 2, 2016, <http://bit.ly/2DmZitd>.

PROFESSIONAL ASSOCIATIONS

State bar: Colorado (2013-present)

Court admissions: U.S. Supreme Court, U.S. Court of Appeals for the Fourth, Seventh, Eighth, and Tenth Circuits, U.S. District Courts for Districts of Colorado, North Dakota, and Court of Federal Claims

Professional associations: Colorado Bar Association, Federalist Society, El Paso County Bar Association

RESUME OF ANDREW M. NUSSBAUM

ANDREW MARTIN NUSSBAUM

2 N. Cascade Ave., Suite 1430 | Colo. Spgs., CO | 80903 | 719-428-2386 |
andrew@nussbaumgleason.com

EDUCATION

Tulane University Law School | New Orleans, Louisiana

Juris Doctor, summa cum laude, May 2016

Honors: **First in class of 196**; Order of the Coif; awarded Faculty Medal for highest academic achievement in full course of study, Dean's Medal for highest academic achievement in third-year courses, and Federal Bar Association Award for greatest distinction in study of federal law; recipient of Joseph Modeste Sweeney Scholarship

Activities: *Tulane University Law Review*, Notes and Comments Editor
Fellow, Legal Research and Writing (assisted instruction of 1L writing seminar)
Instructor, Tax Jazz (taught tax course to local high school students)

Saint Olaf College | Northfield, Minnesota

Bachelor of Arts in History, May 2010

Honors: Member of Blue Key Honor Society and Leadership in Community and Church Scholar

Activities: Captain of Cross Country and Track and Field Teams
President and Founder of the Wendell Berry House
Graduate of the Great Conversation (a special course of study in the western canon)

CLERKSHIPS

Law Clerk | The Honorable Daniel D. Domenico, U.S. District Court for the District of Colorado
Denver, Colorado, January 2020–Present

Law Clerk | The Honorable William H. Pryor Jr., U.S. Court of Appeals for the Eleventh Circuit
Birmingham, Alabama, August 2016–August 2017

EXPERIENCE

Partner | Nussbaum Gleason PLLC

Colorado Springs, Colorado, September 2021–Present

- Represented religious institutions, public figures, non-profits, and businesses in all stages of litigation, including summary proceedings, administrative hearings, trial, and appeal
- Example litigations and appeals
 - *Catholic Benefits Association et al. v. Becerra* (injunction against Obama-era regulation under Section 1557 of the Affordable Care Act affirmed by United States Court of Appeals for the Eighth Circuit)
 - *Carson v. Makin* (drafted amicus brief on behalf of Professor Michael McConnell regarding original public meaning of Free Exercise Clause)
 - *303 Creative v. Elenis* (drafted amicus brief in support of certiorari regarding official hostility toward free speech)
 - *Andrew Wommack Ministries v. City of Woodland Park, Colorado* (successfully defended tax-exempt status of large religious college)
 - *Christian Growth Center v. Pueblo* (successfully defended RV Hospitality Ministry of evangelical church in RLUIPA dispute)
 - *Pikes Peak Energy LLC v. Joseph Saliba* (won preliminary injunction in trade secrets case)

RESUME OF ANDREW M. NUSSBAUM

- *Resound Church v. Harvest Worship Center* (received favorable report and recommendation in church split case on First Amendment grounds)

EXPERIENCE CONTINUED

Litigation Associate | Hogan Lovells US LLP

Denver, Colorado, September 2017—January 2020

- Handled complex litigations from pleadings to trial; drafted, argued, and won numerous dispositive motions; defended and took expert and non-expert depositions
- Example litigation: *Shada v. City of Manitou Springs* (drafted and won motion for summary judgment on constitutional issue involving the Manitou and Pikes Peak Cog Railway)

Extern | The Honorable Sarah Vance, U.S. District Court for the Eastern District of Louisiana

New Orleans, Louisiana, 2015–2016

Research Assistant | Professor Stephen Griffin, Tulane University Law School

New Orleans, Louisiana, 2015–2016

- Researched questions of federalism, war powers, and constitutional interpretation

Research Assistant | Professor Marjorie Kornhauser, Tulane University Law School

New Orleans, Louisiana, 2015–2016

- Researched questions of tax and tax history

Summer Associate | Hogan Lovells US LLP

Denver, Colorado, Summer 2015

Summer Associate | Stinson Leonard Street LLP

Minneapolis, Minnesota, Summer 2014

Summer Intern | Office of the Solicitor General of Colorado

Denver, Colorado, Summer 2014

- Example litigation: *Gessler v. Grossman* (drafted brief defending Secretary of State Scott Gessler in ethics case)

Faculty Member | Trinity School at River Ridge

Saint Paul, Minnesota, 2010–2013

- Taught courses on ancient Greek philosophy and early Christian theology; Old Testament; and Medieval history
- Coached cross country and track and field teams

PUBLICATIONS

And the Answer Is?: The Department of Education's Most Recent Equivocation On the Legality of Single-Sex Education, 20 Holy Cross Journal of Law & Public Policy 39 (2016)

MEMBERSHIPS

Bar of the State of Colorado, 2016–present

National Diocesan Attorneys Association, 2021–present

INTERESTS

The early films of Terrence Malick; restoring vintage bicycles; small-stream trout fishing in the Greenhorn Valley of Colorado; Minnesota Intercollegiate Athletic Association men's cross country; high-route backpacking; the New Orleans Saints

RESUME OF ERIC N. KNIFFIN

ERIC N. KNIFFIN

719-212-4391

eric@kniffin.law

Scholar; Experienced Trial and Appellate Litigator; Counsel to Religious Institutions

EXPERIENCE

ETHICS AND PUBLIC POLICY CENTER, FELLOW (2023 - present)

- Writing and speaking on public policy and religious liberty
- Developing proposals and strategy to protect and strengthen religious liberty as part of EPPC's HHS Accountability Project
- Directing think tank's *amicus* advocacy efforts

KNIFFIN LAW, PLLC, PRINCIPAL (2023 - present)

- National expert on helping religious organizations understand and maximize their religious liberty protections
- Representing clients in high-profile religious liberty cases

LEWIS ROCA, PARTNER (2014 - 2023)

- Represented clients in trial and appellate courts, including nationwide litigation challenging HHS contraception and transgender services mandates
- Advised religious organizations on strategies to deter and defend against lawsuits and enforcement actions

THE BECKET FUND FOR RELIGIOUS LIBERTY, LEGAL COUNSEL (2009 - 2014)

- Represented clients in high-profile religious liberty cases at trial, on appeal, and before the United States Supreme Court

UNITED STATES DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION (2005 - 2009)

- Conducted investigations and litigation to enforce the Fair Housing Act, RLUIPA, and CRIPA
- Successfully represented the United States in three appeals before the Ninth Circuit Court of Appeals

THE HON. THERESA L. SPRINGMANN, U.S. DIST. CT., N.D. INDIANA (2003 - 2005)
Judicial Clerk

EDUCATION

UNIVERSITY OF NOTRE DAME LAW SCHOOL, J.D., *cum laude* (2003)

Dean's List; Dean's Award

Notre Dame Journal of Law, Ethics & Public Policy, Solicitation Editor

GORDON-CONWELL THEOLOGICAL SEMINARY, M.A., Theology, *cum laude* (2000)

Teaching Assistant, Philosophy

Additional coursework at Harvard University

WHEATON COLLEGE (IL), B.A., Philosophy, *cum laude* (1998)

Dean's list; Varsity Baseball; Dorm President

RESUME OF ERIC N. KNIFFIN

REPRESENTATIVE LITIGATION

SUPREME COURT

Hosanna-Tabor v. E.E.O.C., 132 S. Ct. 694 (2012)

Helped draft merits brief in unanimous decision affirming First Amendment ministerial exception

Burwell v. Hobby Lobby Stores, Inc., 573 U.S. 682 (2014)

Helped draft merits brief in victory upholding rights of for-profit religious employers under Religious Freedom Restoration Act

COURTS OF APPEALS

Moss, Freedom From Religion Foundation v. Spartanburg Cty. Sch. Dist. No. 7, 683 F.3d 599 (4th Cir. 2012)

Directed discovery and helped draft merits brief in victory upholding district policy in Establishment Clause case of first impression

Singh v. Holder, 301 F. App'x 676 (9th Cir. 2008)

Successfully represented United States in case interpreting the Convention Against Torture

TRIAL COURTS

Nick Rolovich v. Washington State Univ. (E.D. Wash., No. 2:22-cv-319)

Representing former WSU head football coach who was terminated “for cause” after asserting religious objection to Governor’s vaccine mandate

Stormans Inc. v. Selecky, 844 F. Supp. 2d 1172 (W.D. Wash. 2012)

Served as co-counsel in two-week bench trial resulting in favorable free exercise ruling for religious pharmacy and pharmacists

Catholic Benefits Association v. Burwell, 24 F. Supp. 3d 1094 (W.D. Okla. 2014)

Secured permanent injunctive relief for hundreds of Catholic employers from HHS contraception mandate

United States v. Donald Sterling, et al., 2:06-cv-48805 (C.D. Cal.)

Directed electronic discovery, conducted investigations and depositions, co-authored briefing, culminating in section’s largest-ever settlement in a housing discrimination matter

AMICUS ADVOCACY

Brief for the Ethics and Public Policy Center as *Amici Curiae*, *Mahmoud v. McKnight* (No. 23-1890, Fourth Circuit Court of Appeals).

Brief for the United States Conference of Catholic Bishops *et al.* as *Amici Curiae*, *303 Creative v. Elenis*, 243 S. Ct. 2298 (2023).

RESUME OF ERIC N. KNIFFIN

Brief for the United States Conference of Catholic Bishops and Pennsylvania Catholic Conference as *Amici Curiae*, *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021).

Brief for the Knights of Columbus as *Amicus Curiae*, *Little Sisters of the Poor v. Pennsylvania*, 140 S. Ct. 2367 (2020).

PRE-LITIGATION CONSULTATIONS

MISSION AUDITS

Leading targeted and institution-wise projects to help religious institutions understand their legal exposure and improve their religious liberty defenses in the face of hostile legal and cultural developments

CLERGY COMMUNICATION PRIVILEGE LITIGATION

National expert on legality of state efforts to infringe on the longstanding clergy communications privilege;
Representing and advising bishops and Catholic conferences in efforts to defeat proposed legislation that would invade this privilege.

SEXUAL ABUSE INVESTIGATIONS

Developing constitutional and statutory defenses for Catholic dioceses anticipating and responding to grand jury and attorney general investigations.

REPRESENTATIVE PUBLICATIONS

- Eric Kniffin, *Attacks on the Seal of the Confessional*, First Things, March 30, 2023.
- Eric Kniffin, *Federal Departments Propose New Regulations for Contraceptive Services Mandate*, Federalist Society, March 29, 2023.
- Eric Kniffin, *Beyond the Headlines: What recent Supreme Court cases say about religious liberty's future*, Influence Magazine, Oct. 2020.
- Eric Kniffin, *The threadbare case against Little Sisters of the Poor: The administration's argument misrepresents Congress' intent*, Washington Times, May 10, 2016.
- Eric Kniffin, *Protecting Your Right to Serve: How Religious Ministries Can Meet New Challenges without Changing Their Witness*, The Heritage Foundation, Nov. 9, 2015.
- Eric Kniffin, *Are American Muslims Entitled to the Same Free Exercise Rights as Other Americans?*, The Huffington Post, May 26, 2011.

RESUME OF ERIC N. KNIFFIN

REPRESENTATIVE PRESENTATIONS

- “Lisencephaly, Public Policy, and the Truth of the Human Person,” de Nicola Center for Ethics and Culture, Univ. of Notre Dame (Nov. 2023).
- “Racial Reconciliation, Mask Mandates, and Preferred Pronouns: The Use and Misuse of Religious Exemptions and the Future of Religious Liberty,” Converge, Global Christian School Leadership Summit (March 10, 2022).
- “Assaults Against the First Amendment and Free Exercise Clause and the Pursuit of Justice in the Church,” Canon Law Society of America, 83rd Annual Convention (Oct. 2021).
- “Recent Developments in Religious Liberty Litigation,” Catholic Bar Association, Annual Convention (Oct. 2019).
- “Strategies & Solutions Workshop: Addressing the Crisis in Middle America,” The Heritage Foundation (May 2017).
- “Protecting Public Protecting your right to serve: How religious ministries can meet new challenges without changing their witness,” Common Ground Christian Network (Oct. 2015).
- “Engaging Cultural Questions about Sexual Identity: Theological, Relational, and Practical Issues for Churches and Ministries,” Institute of Theology and Public Life, Reformed Theological Seminary (June 2015).

BAR ADMISSIONS

Colorado, District of Columbia, Illinois; United States Supreme Court; Various Federal Courts of Appeals and District Courts

Updated November 2023

RESUME OF MATTHEW MELLEMA

Matthew Mellema

1311 W. Cucharras Street, Colorado Springs, CO 80904 • (719) 244-0989 • mellemd@gmail.com

EDUCATION

Yale Law School New Haven, Connecticut
Juris Doctor May 2014

Activities: Submissions Editor, *Yale Law & Policy Review*; Editor, *Yale Journal of International Law*

Pepperdine University School of Law Malibu, California

First Year, 2011-2012 (Transferred to Yale Law School)

Class Rank/GPA: 2 out of 192 / 4.14

Honors/Awards: President's Scholarship (full-tuition merit-based scholarship)

Activities: Selected for *Pepperdine Law Review* based on first-year grades

John Brown University Siloam Springs, Arkansas

Bachelor of Arts, magna cum laude, English (Writing Concentration) May 2009

Honors: Graduated with Presidential (highest) Honors; Honors Scholars Program

Study Abroad: Student at Wycliffe Hall, Oxford University

WORK EXPERIENCE

Jeremy Maline & Associates (Employees of State Farm) Colorado Springs, Colorado

In-House Attorney

Handle several dozen cases in active litigation. Advise claims representatives on status of case. Lead settlement negotiations. Guide clients through litigation process. First-chair at trials with over a million dollars in dispute. Run all aspects of discovery, including records review, depositions, and motions practice. Review language of releases and other contracts proposed by opposing counsel.

Lewis Roca Rothgerber Christie Colorado Springs, Colorado

Associate

September 2015 – January 2019

Advise employers on issues involving HR policies, risk management, constitutional rights claims, contract disputes, and other employee relations matters. Present on pressing employment law issues to HR professionals. Lead defense litigation before state and federal agencies. Participate in every aspect of litigation, including motions practice, discovery, factual investigation, and drafting lead appellate briefs.

Justice Allison Eid, Colorado Supreme Court Denver, Colorado

Law Clerk

August 2014 – July 2015

Draft court opinions. Compose memoranda evaluating certiorari petitions. Conduct detailed legal research on criminal justice issues of first impression. Regularly consult with Justice Eid on those same issues.

Colorado Office of the Attorney General Denver, Colorado

Legal Intern

May 2013 – August 2013

Draft formal Attorney General opinion. Assist in the formalizing of new regulations for Colorado industries with strong federalism implications. Prepare motions and other legal documents before courts.

Slate Magazine New Haven, Connecticut

Research Assistant / Legal Writer

September 2013 – July 2014

Compile research and statistics on criminal justice topics for *Slate* articles. Draft and publish four articles. Interview experts for *Slate* law and policy investigations.

WILLIAMS AND CONNOLLY (KEVIN BAINE) BILLING STATEMENT

LAW OFFICES
WILLIAMS & CONNOLLY^{LLP*}

KEVIN T. BAINE
(202) 434-5010
kbaine@wc.com

680 MAINE AVENUE SW
WASHINGTON, DC 20024
(202) 434-5000
WWW.WC.COM

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

December 4, 2023

Martin Nussbaum
Catholic Benefits Association
2 N. Cascade Avenue, Suite 1430
Colorado Springs, CO 90903

Re: CBA vs. HHS

Dear Martin:

Enclosed is our statement for professional services rendered to the Catholic Benefits Association through the end of November 2023 in connection with the *CBA vs. HHS* matter.

If you have any questions, please do not hesitate to call me.

Sincerely,



Kevin T. Baine

Enclosure

WILLIAMS AND CONNOLLY (KEVIN BAINE) BILLING STATEMENT
LAW OFFICES

WILLIAMS & CONNOLLY^{LLP}*

680 MAINE AVENUE SW
WASHINGTON, DC 20024
(202) 434-5000
WWW.WC.COM

December 4, 2023

PRIVILEGED AND CONFIDENTIAL

Invoice Number: 559080

Martin Nussbaum
Catholic Benefits Association
2 N. Cascade Avenue, Suite 1430
Colorado Springs, CO 80903

Matter Description: *CBA vs. HHS*

BILLING STATEMENT

Professional Services Rendered thru November 30, 2023	\$21,700.00
Less Courtesy Discount per Kevin T. Baine	(\$4,200.00)
TOTAL PROFESSIONAL FEES	<hr/> \$17,500.00
CURRENT FEES AND EXPENSES DUE.....	<hr/> \$17,500.00
TOTAL BALANCE DUE AS OF THIS DATE.....	<hr/> \$17,500.00

WILLIAMS AND CONNOLLY (KEVIN BAINE) BILLING STATEMENT

CLIENT NO. 49506
INVOICE NO. 559080
December 4, 2023

Matter No. 49506.0002 – CBA vs. HHS

TIMEKEEPER SUMMARY

TIMEKEEPER	TITLE	HOURS	RATE	AMOUNT
Kevin T. Baine	Senior Counsel	21.70	1,000.00	21,700.00
		<u>21.70</u>		<u>\$21,700.00</u>
			Less Discount per Kevin T. Baine:	(\$4,200.00)
			Professional Fees Due:	\$17,500.00

Date	Timekeeper	Narrative	Hours	Amount
10/31/23	Baine	Begin to draft declaration in support of fee application in CBA v. HHS.	1.40	1,400.00
11/13/23	Baine	Study district court and court of appeals opinions, chronology of case; continue to draft Declaration in support of petition.	3.00	3,000.00
11/14/23	Baine	Review Fitzpatrick Matrix; emails to/from library, others in firm re research on hourly rates.	0.80	800.00
11/16/23	Baine	Review research on attorneys' fees; emails to library re additional research.	0.70	700.00
11/17/23	Baine	Work on declaration; emails to/from M. Nussbaum re same; emails re additional research on fees awarded in other cases.	0.80	800.00
11/18/23	Baine	Research on attorneys fees recovered in other cases; review litigation history of this case.	4.00	4,000.00
11/19/23	Baine	Study case docket and history, district court and court of appeals rulings, Fitzpatrick Matrix, other fee awards; drafting and revising declaration.	3.50	3,500.00
11/20/23	Baine	Research fees in Franciscan Alliance, Intervarsity Christian Fellowship/Business Leaders cases; study briefs; revise declaration.	2.50	2,500.00
11/21/23	Baine	Review fee decisions in McAfee, Winston, Zeleny, Valdez, Rosen, Michigan State A. Philip Randolp Inst., McCarty, IMS Health, Harvey, Finch, Field, Dowd, Gartland, Casey, and Alicea cases; revise Declaration.	1.80	1,800.00
11/24/23	Baine	Proofreading and rechecking facts of cited cases in declaration.	2.00	2,000.00

WILLIAMS AND CONNOLLY (KEVIN BAINE) BILLING STATEMENT

CLIENT NO. 49506
INVOICE NO. 559080
December 4, 2023

Matter No. 49506.0002 – CBA vs. HHS

Date	Timekeeper	Narrative	Hours	Amount
11/29/23	Baine	Cite checking and edits; conf w/ M.Nussbaum re hours in October and November.	1.20	1,200.00

TOTAL PROFESSIONAL SERVICES: \$21,700.00

Less Discount per Kevin T. Baine: (\$4,200.00)

Professional Fees Due: \$17,500.00

EXHIBIT 1-N

WILLIAMS AND CONNOLLY (KEVIN BAINE) BILLING STATEMENT

WILLIAMS & CONNOLLY^{LLP}

680 MAINE AVENUE SW
WASHINGTON, DC 20024
(202) 434-5000
WWW.WC.COM

REMITTANCE PAGE

Client Name: Catholic Benefits Association
Matter Number: 49506.0002
Invoice Number: 559080
Invoice Date: December 4, 2023
Billing Attorney: Kevin Baine

Matter Description: CBA vs. HHS

Note: Payment is due within 30 days from the date of this invoice

CURRENT FEES AND EXPENSES DUE	\$17,500.00
PRIOR BALANCE DUE	\$0.00
TOTAL BALANCE DUE AS OF THIS DATE.....	\$17,500.00

FOR WIRE OR ACH TRANSFERS OF FUNDS INTO OUR ACCOUNT:

	<u>For Wire Transfers</u>	<u>For ACH Transfers</u>
Beneficiary Bank:	Bank of America	Bank of America
ABA Routing #:	026009593	054001204
Account #:	001918423668	001918423668

Williams & Connolly LLP International Swift Code: BOFAUS3N
Bank of America Reference Address: 222 Broadway, New York, NY 10038
Please provide the invoice number(s), client name and matter number(s) being paid

Remittance Email Address: AccountsReivable@wc.com
Tax ID: 52-0851221

IF YOU WISH TO PAY BY CHECK, PLEASE REMIT TO THE ADDRESS BELOW*:

US Mailing Address
Williams & Connolly LLP
Chicago Lockbox
P.O. Box 7410903
Chicago, IL 60674-0903

Overnight Mailing Address
Williams & Connolly LLP
Chicago Lockbox 10903
540 W. Madison, 4th Floor
Chicago, IL 60661

**All payments should be made payable to: Williams & Connolly LLP.*

TO PROTECT AGAINST FRAUD, the Firm will not change its wiring instructions via email



Invoice No. : 1000514701
File No. : 221421.010100
Bill Date : December 6, 2023

Troy A. Eid, Expert Witness
2 North Cascade Avenue, Suite 1430
Colorado Springs, CO 80903

Attn: Attn: Martin L. Nussbaum

INVOICE

Re: Expert Witness on Legal Rates and Fees

Legal Services through November 30, 2023:

	\$	22,437.00
Less Courtesy Discount:	\$	<u>(2,243.70)</u>
Total Fees:	\$	20,193.30
Current Invoice:	\$	<u>20,193.30</u>

TAE:SS
Tax ID: 13-3613083



Invoice No.: 1000514701
File No.: 221421.010100

Important: If you receive a request to change the manner or location of your payment to Greenberg Traurig, please immediately contact Greenberg Traurig's accounting team at 305-418-6503. To assure that your payment is made and received correctly, please do not make any payment per the requested change until you verbally confirm with Greenberg Traurig that the change is legitimate.

Note: Payment is Due 30 Days from Date of Invoice

**FOR YOUR CONVENIENCE,
PAYMENT INSTRUCTIONS FOR GT FIRM ACCOUNT
FOR FEES & COSTS ARE AS FOLLOWS:**

For Wire Instructions:

Bank: WELLS FARGO BANK
ABA #: 121000248

For ACH Instructions:

Bank: WELLS FARGO BANK
ABA#: 063107513

CREDIT TO: GREENBERG TRAUIG DEPOSITORY ACCOUNT
ACCOUNT #: 2000014648663

PLEASE

REFERENCE: **CLIENT NAME:** TROY A. EID, EXPERT WITNESS
 FILE NUMBER: 221421.010100
 INVOICE NUMBER: 1000514701*
 BILLING
 PROFESSIONAL: Troy A. Eid

IF YOU WISH TO PAY BY CHECK PLEASE REMIT TO THE ADDRESS BELOW:

**Greenberg Traurig
PO Box 936769
ATLANTA GA 31193-6769**

Wire fees may be assessed by your bank.

*** If paying more than one invoice, please reference all invoice numbers in wiring instructions.**
Please contact acct-cashreceipts@gtlaw.com for any payment related questions.

TAE:SS
Tax ID: 13-3613083

Invoice No.: 1000514701
 Re: Expert Witness on Legal Rates and Fees
 Matter No.: 221421.010100

Description of Professional Services Rendered:

<u>DATE</u>	<u>TIMEKEEPER</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>AMOUNT</u>
11/03/23	Troy A. Eid	Prepare for and confer with Martin Gleason of Nussbaum Gleason regarding expert witness engagement, including scope of work, and draft retention agreement for client.	2.20	2123.00
11/14/23	Troy A. Eid	After analyzing materials provided by counsel, begin outlining declaration and framing targeted legal research and analysis to support it.	2.90	2798.50
11/15/23	Troy A. Eid	After analyzing case law, confer with Andrew Nussbaum and Martin Nussbaum to refine scope of opinion requested by client.	2.30	2219.50
11/16/23	Harriet Retford	Research recent Colorado state and federal cases regarding reasonable fees; obtained and reviewed 2022 sample with facts and circumstances closely parallel to our matter.	1.60	1048.00
11/17/23	Harriet Retford	Draft declaration of T.Eid.	1.60	1048.00
11/20/23	Troy A. Eid	After engaging in targeted legal research and analysis, as well as surveying Front Range rate comparables and metrics, provide draft Expert's Opinion to client.	5.70	5500.50
11/20/23	Harriet Retford	Proofread and format declaration of T. Eid; circulate to T.Eid with comments.	0.70	458.50
11/21/23	Troy A. Eid	After engaging in additional targeted legal research and analysis, edit Declaration after conferring with counsel to client.	2.90	2798.50
11/21/23	Harriet Retford	Review edits from co-counsel/client;	0.30	196.50
11/28/23	Troy A. Eid	After engaging in additional targeted legal research and analysis, draft and edit Declaration and, after conferring with client, finalize expert's opinion.	4.40	4246.00
			<u>Total Time:</u>	24.60
			<u>Total Fees:</u>	\$22,437.00

Invoice No.: 1000514701
Re: Expert Witness on Legal Rates and Fees
Matter No.: 221421.010100

Page 2

Description of Expenses Billed:

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
-------------	--------------------	---------------

No expenses charged to this file

**EXHIBIT 1- P TOTAL FEES ON FEES CALCULATION ON
TOTAL HOURS AND TOTAL FEES**

Timekeeper	Total hours	Rate	Total Fees
Alec Afarian (2023)	32.4	\$300.00	\$9,720.00
Andrew Nussbaum (2016)	15.9	\$425.00	\$6,757.50
Martin Nussbaum (1985)	71.0	\$595.00	\$42,245.00
Paralegals	37.7	\$150.00	\$5,655.00
Total	157.0		\$64,377.50

RESUME OF ALEC AFARIAN

Alec A. Afarian

alec@nussbaumgleason.com | (719) 428-2448
2 N. Cascade Ave., Suite 1430 | Colorado Springs, CO 80903

- EDUCATION**
- University of Notre Dame**, Notre Dame Law School, South Bend, INMay 2023
J.D., GPA: 3.10
Faculty Award for Excellence in Information Technology Law
Best Speaker Award for Excellence in Oral Argument, Legal Writing II
de Nicola Center for Ethics and Culture, Sorin Fellow
Program on Church, State, and Society, Summer Fellow
Mental Health and Wellness Committee Representative, Student Bar Association
Saint Thomas More Society, Vice President
Jus Vitae, Vice President
Married Law Students Organization, President
Lone Star Lawyers, President
- University of Notre Dame**, The Graduate School, South Bend, IN.....May 2023
M.S., Engineering, Science, and Technology Entrepreneurship, GPA: 3.45
Capstone Thesis Project, Whirlpool Corporation
- University of California, Irvine**, Irvine, CAJune 2018
B.A., Psychology, GPA: 3.91, *magna cum laude*
International Honor Society in Psychology (Psi Chi), President
Dean’s Honor List (four quarters) while working 25 hours per week
- Fullerton College**, Fullerton, CA.....May 2016
A.A., Interdisciplinary Studies: Social Science, GPA: 4.00, *with high honors*
Associated Students, Senator
Men’s Varsity Soccer, Captain
Honors Program Graduate
Dean’s Honor List (three semesters) while working 25 hours per week
- EXPERIENCE**
- Nussbaum Gleason PLLC**, Colorado Springs, CO October 2023--present
Associate
Law Clerk June 2023—October 2023
- Spero Law**, Dallas, TX (remote) Summer 2022
Summer Associate
Researched and drafted memoranda on appellate litigation issues including emergency motions to vacate, the Presidential removal power, and the First Amendment
- Napa Legal Institute**, South Bend, IN (remote)..... Summer 2021
Summer Legal Fellow
Analyzed developments in nonprofit, corporate, and tax-exempt organization law
Drafted communications regarding current legal and tax issues for exempt organizations
- Fusion Academy**, Huntington Beach, CAAugust 2019–July 2020
Director of Homework Café
- ADDITIONAL**
- Semi-Professional Soccer**, Hamburg, GermanySummers 2016–2018

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

THE RELIGIOUS SISTERS OF MERCY, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of United
States Department of Health and Human
Services, *et al.*,

Defendants.

No. 3:16-cv-386

**DECLARATION OF
THOMAS B. BAIR**

THE CATHOLIC BENEFITS ASSOCIATION; *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of United
States Department of Health and Human
Services, *et al.*,

Defendants.

No. 3:16-cv-432

1. I was admitted to the Bar of the State of North Dakota on September 29, 1985, and have practiced law in North Dakota continuously since that time, a period of over thirty-seven years.

2. North Dakota is a small state with a population of under 780,000.

3. My practice includes transactional work and litigation. I have advocated on behalf of clients in the North Dakota state courts at all levels and in the United States District Court for North Dakota.

4. My practice has included serving as lead outside counsel for various religious ministries, including the Diocese of Bismarck. This work requires that I keep informed regarding church-state and religious liberty issues, including the identity of lawyers serving religious institutions in North Dakota. From time-to-time, issues materialize in these areas that require legal knowledge beyond my level of expertise. My first call is to Martin Nussbaum, who invariably offers prudent and expert advice. It becomes quite clear quite quickly that the members of the Nussbaum firm are preeminent in these areas of the law.

5. I have reviewed the published opinions in favor of the Catholic Benefits Association in its litigation against the United States Department of Health and Human Services and the United States Equal Opportunity Commission, specifically, *Religious Sisters of Mercy v. Azar*, 513 F.Supp.3d 1113 (D. N.D. 2021) and *Religious Sisters of Mercy v. Becerra*, 55 F.4th 583 (8th Cir. 2022).

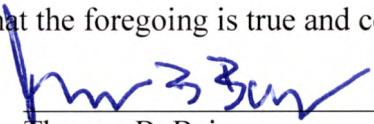
6. I do not know and am not aware of any attorney or law firm in North Dakota that could have undertaken advocacy on the level of the Nussbaum firm in obtaining the result that Martin Nussbaum and his team acquired in these cases. These cases involve a sophistication and expert understanding of many issues. These include religious liberty constitutional litigation, complex issues related to HHS regulations implementing the Affordable Care Act, litigation across the country related to those regulations, current EEOC interpretations of Title VII, Catholic ethics with regard to the emerging medical practice of assisting with gender transition, and federal court practice and procedure.

7. I know of no lawyer or firm in North Dakota with knowledge or experience in these areas and no lawyer or firm in North Dakota that could have successfully undertaken this litigation. There is no lawyer or law firm in the state of North Dakota with anywhere near the knowledge and expertise of the Nussbaum firm related to these issues.

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

Date:

11-27-2023

A handwritten signature in blue ink, appearing to read "T Bair", written over a horizontal line.

Thomas B. Bair
Bair Law Firm
210 First Avenue, N.W.
Mandan, ND 58554-0100
tbair@bairlawfirm.com
701-663-6568

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

THE RELIGIOUS SISTERS OF MERCY,
et al.,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of United
States Department of Health and Human
Services, *et al.*,

Defendants.

No. 3:16-cv-386

THE CATHOLIC BENEFITS
ASSOCIATION; *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of United
States Department of Health and Human
Services, *et al.*,

Defendants.

No. 3:16-cv-432

DECLARATION OF KEVIN T. BAINE

I, Kevin T. Baine, hereby declare as follows:

1. I am an attorney and Senior Counsel at Williams & Connolly LLP in Washington, D.C. I submit this Declaration in support of the fee application filed by the attorneys for the Plaintiffs in the second of these consolidated cases—The Catholic Benefits Association, the Diocese of Fargo, Catholic Charities North Dakota, and the Catholic Medical Association (hereinafter “the CBA plaintiffs”).

I. My Professional Background and Experience

2. I am admitted to practice and have appeared before the following courts: the Supreme Court of the United States, the United States Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth and Federal Circuits; the United States District Courts for the District of Columbia, District of Maryland, Southern District of New York, and Northern District of New York; and the courts of the District of Columbia, New York, and Maryland. I have also been admitted *pro hac vice* in a number of other state courts.

3. I received my Juris Doctor degree *magna cum laude* from the University of Pennsylvania Law School in 1974. I served as a law clerk in 1974-75 for Judge Edward Weinfeld in the United States District Court for the Southern District of New York, and as a law clerk in 1975-76 for Associate Justice Thurgood Marshall of the United States Supreme Court.

4. I joined the law firm of Williams & Connolly as an associate in 1976. I was a partner in the law firm from January 1, 1981 until December 31, 2019, when I assumed the position of Senior Counsel.

5. My legal practice over the years has focused primarily on two areas: freedom of religion and freedom of the press. I have advised and represented religious organizations in numerous cases raising issues of religious freedom and church autonomy in state and federal courts—including, for example, cases establishing that government funds may be used to provide remedial instruction and instructional materials for the benefit of students in church-related schools, *see, e.g., Agostini v. Felton*, 521 U.S. 203 (1997); *Walker v. San Francisco Unified School District*, 46 F.3d 1449 (9th Cir. 1995); *Barnes v. Cavazos*, 966 F.2d 1056 (8th Cir. 1992) (per curiam); *Pulido v. Cavazos*, 934 F.2d 912 (8th Cir. 1991); that a constitutionally-based ministerial exception required dismissal of a pastor's age discrimination suit challenging a

church's mandatory retirement policy, *Hankins v. New York Annual Conference of United Methodist Church*, 351 F. App'x. 489 (2d Cir. 2009); that application of a county land use regulation preventing a church's expansion violated the Religious Land Use and Institutionalized Persons Act, *Rocky Mountain Christian Church v. Board of County Commissioners*, 613 F.3d 1229 (10th Cir. 2010); that the issuance of tax exempt bonds to finance construction of buildings for a church-related school did not violate the Establishment Clause, *Johnson v. Economic Development Corporation*, 241 F.3d 501 (6th Cir. 2001); and that a Catholic university had the right to remove a theology professor from its School of Religious Studies based on a declaration by the Pope that he was no longer eligible to teach Catholic Theology, *Curran v. Catholic University of America*, Civil Action No. 1562-87 (D.C. Superior Court, 1989).

6. I have represented the interests of religious organizations in a number of cases in the United States Supreme Court. In 1997 I was lead counsel for a group of parents and students who successfully petitioned the United States Supreme Court to overrule an earlier decision holding that it was a violation of the Establishment Clause to use government funds to provide remedial instruction to economically and educationally deprived students on the premises of church-related schools. *Agostini v. Felton, supra*. In a case claiming that the group tax exemption granted to Catholic entities throughout the country should be revoked because some Catholic entities had allegedly violated the restriction against political activity, I successfully argued that the United States Catholic Conference could resist a subpoena for records on the ground that the plaintiff lacked standing to bring the underlying case—a position that ultimately led to the dismissal of the case. *See U.S. Catholic Conference v. Abortion Rights Mobilization, Inc.*, 487 U.S. 72 (1988); *U.S. Catholic Conference v. Baker (In re U.S. Catholic Conference)*, 885 F.2d 1020 (2d Cir. 1989). Twice I petitioned the Supreme Court to reverse state Supreme

Court rulings rejecting constitutional challenges to state laws requiring Catholic Charities to include contraceptives in their employee prescription drug plans. *See Catholic Charities of Sacramento, Inc. v. Superior Court*, 85 P.3d 67, *cert. denied*, 125 S. Ct. 53 (Cal. 2004); *Catholic Charities of the Diocese of Albany v. Serio*, 859 N.E.2d 459 (N.Y. 2006), *cert. denied sub nom. Catholic Charities of Diocese of Albany v. Dinallo*, 552 U.S. 816 (2007). Those petitions were denied, but similar arguments were later accepted by the Supreme Court, applying the Religious Freedom Restoration Act, in *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014), a case in which I filed a Brief *Amicus Curiae*. I also filed a Brief *Amicus Curiae* in the case in which the Supreme Court held that the First Amendment required recognition of a ministerial exception to employment discrimination laws. *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171 (2012).

7. In addition to the work I have done in the area of religious freedom, I have served as lead counsel in numerous cases involving freedom of the press and freedom of speech in state and federal courts around the country. *See, e.g., Blankenship v. NBC Universal, LLC*, 60 F.4th 744 (4th Cir. 2023), *cert. denied*, No. 22-1125, 2023 WL 6558383 (U.S. Oct. 10, 2023); *Speech First, Inc. v. Schlissel*, 939 F.3d 756 (6th Cir. 2019); *Virginia Citizens Defense League v. Couric*, 910 F.3d 780 (4th Cir. 2018); *Abbas v. Foreign Policy Group, LLC*, 783 F.3d 1328 (D.C. Cir. 2015); *Marshall County Coal Co. v. Oliver*, 2017 U.S. Dist. LEXIS 2324398 (N.D.W. Va., Aug. 10, 2017).

II. Reasonableness of the Attorneys' Fees Requested

8. I have been asked to provide my opinion of the reasonableness of the hourly rates requested in the fee petition submitted by the attorneys for the CBA plaintiffs in this case and on the number of hours spent by those attorneys in bringing the case to a successful conclusion.

Relevant to those questions is an assessment of the complexity of the case, the experience and expertise of counsel, and the quality of counsel's representation and advocacy. I have reviewed the district court dockets in the consolidated cases and the following materials in particular: the Second Amended Complaint, the motion for a temporary restraining order, the government's motion to dismiss, the motion for summary judgment and permanent declaratory and injunctive relief, the briefs on appeal, and the opinions of the district court and the court of appeals in the case. *Religious Sisters of Mercy v. Becerra*, 55 F.4th 583 (8th Cir. 2022), *aff'g in part sub nom Religious Sisters of Mercy v. Azar*, 513 F. Supp.3d 1113 (D.N.D. 2021).

9. My opinions, as more fully explained below, are that this case involved difficult and complicated issues of religious freedom, standing, and ripeness that required the attention of counsel with knowledge and experience in those areas; that Martin Nussbaum and his colleagues are uniquely qualified by virtue of their experience to address those issues; that there are only a handful of lawyers in the country with the experience and expertise that they possess in the area of religious freedom; that these attorneys provided representation and advocacy of the highest level; that the hourly rates for which they seek recovery are not only reasonable for lawyers of their skill and experience, but considerably lower than the hourly rates charged by others with comparable skill and experience; and that the number of hours spent by counsel was reasonable given the challenges and complexity of the case.

A. Complexity of the Case

10. Plaintiffs in this case successfully invoked the Religious Freedom Restoration Act to establish their right to an exception from statutory and regulatory requirements that they cover gender transition services in their health plans. They secured declaratory and injunctive relief against implementation of a regulation implementing the Affordable Care Act ("ACA") that

would have required them to provide those services. They also secured the same relief against the EEOC and its interpretation of Title VII to require employers with fifteen or more employees to cover gender transition services in their health plans.

11. There are only a handful of attorneys in the United States with substantial experience and expertise litigating the kinds of issues that were presented in this case. Other than my own firm, Martin Nussbaum's firm and The Becket Fund for Religious Liberty are the two sets of attorneys to whom I would look to handle a case of this kind. Other national major law firms would have the resources and staff needed to litigate a case like this, but few if any of those firms would have the expertise and experience that Martin Nussbaum's firm has, and the hourly rates charged by those firms would be considerably higher than the rates charged by Mr. Nussbaum and his colleagues.

12. This case required familiarity with the body of law that exists under the Religious Freedom Restoration Act and the First Amendment relating to what constitutes a substantial burden on the exercise of religion and what constitutes a compelling governmental interest sufficient to justify a substantial burden on religious exercise. Those issues are complicated and often hotly contested, as evidenced by the opposing arguments advanced by the American Civil Liberties Union in this case.

13. This case also required familiarity with, and expertise related to, the principles of standing and ripeness as they have been developed by the Supreme Court. I have litigated issues of standing before the Supreme Court and the federal courts of appeals. *See Abortion Rights Mobilization, Inc.*, 487 U.S. 72; *In re U.S. Catholic Conference*, 885 F.2d 1020; *Speech First, Inc.*, 939 F.3d 756. Standing issues are complicated and often do not admit of easy resolution, as

evidenced by the fact that in the cases just cited, district court decisions on standing were reversed by the courts of appeals.

14. This case was complicated by an ever-shifting administrative landscape. I note that the government sought continued stays of these proceedings no less than twelve times because of ongoing administrative proceedings. Plaintiff's counsel had to analyze the effect of material changes to the applicable regulations.

15. Finally, litigation of this case was complicated by the need to monitor and analyze the effect of other ongoing litigation—including the Supreme Court's decision in *Bostock v. Clayton County*, 140 S. Ct. 1731 (U.S. 2020), and the decisions in other cases involving similar legal challenges. *See, e.g., Franciscan Alliance, Inc. v. Becerra*, 47 F.4th 368 (5th Cir. 2022), *aff'g in part Franciscan Alliance, Inc. v. Becerra*, 553 F.Supp.3d 361 (N.D. Tex. 2021); *Franciscan Alliance, Inc. v. Azar*, 414 F. Supp. 3d 928 (N.D. Tex. 2019); *Franciscan Alliance, Inc. v. Burwell*, 227 F. Supp.3d 660 (N.D. Tex. 2016); *Whitman-Walker Clinic, Inc. v. U.S. Dep't of Health & Human Servs.*, 485 F. Supp.3d 1 (D.D.C. 2020); *Washington v. U.S. Dep't of Health & Human Servs.*, 482 F. Supp. 3d 1104 (W.D. Wash. 2020); *Boston Alliance of Gay, Lesbian, Bisexual & Transgender Youth v. U.S. Dep't of Health & Hum. Servs.*, 557 F. Supp.3d 224 (D. Mass. 2021); *Walker v. Azar*, 480 F. Supp.3d 417 (E.D.N.Y. 2020).

B. Experience and Expertise of Counsel

16. Based on my experience, and based on my familiarity with the experience and expertise of Mr. Nussbaum and his colleagues, I can say without reservation that they were uniquely qualified to advance the interests of their clients in this case and to assist the Court in reaching a just resolution.

17. The counsel who worked on this matter for the CBA plaintiffs are highly qualified and experienced in litigating cases involving religious freedom.

a. L. Martin Nussbaum received his B.A. degree *summa cum laude* in 1974 from the University of Notre Dame and his J.D. degree with Academic Distinction in 1985 from the University of Texas Law School. He has been counsel for religious institutions in dozens of cases over the past four decades, and he has written and presented extensively on a variety of subjects related to the religious freedom of individuals and institutions. He is, without question, one of the leading attorneys in the country when it comes to the defense of religious freedom against governmental intrusion.

b. Ian Speir has worked on this case since its inception with Martin Nussbaum. He received his J.D. *magna cum laude* from the Georgetown University Law Center in 2011 and clerked for Judge Jerome Holmes on the United States Court of Appeals for the Tenth Circuit in 2011-12. His law practice since then has focused on the representation of religious organizations and religious freedom, and he has taught courses on the First Amendment and the Constitution to undergraduates at the University of Colorado.

c. Eric Kniffin, who worked on this case from 2016 to 2018, is a 2003 *cum laude* graduate of the University of Notre Dame Law School. He clerked for Judge Theresa Springman in the United States District Court for the Northern District of Indiana. He spent 4 years at the Department of Justice, where some of his experience involved litigation under the Religious Land Use and Institutionalized Persons Act, which is similar to the law at issue in this case, the Religious Freedom Restoration Act. Mr. Kniffin then spent five years as legal counsel for The Becket Fund for Religious Liberty, where he represented clients in high-profile religious liberty at trial, on appeal, and at the Supreme Court. He continued that work until early this year

as a partner at Lewis Roca. When he began his work on this case, he had roughly ten years of experience in matters involving religious liberty.

d. Andrew Martin Nussbaum received his J.D. *summa cum laude* from the Tulane University Law School in 2016, graduating first in his class. He has clerked for Judge Daniel Domenico of the United States District Court for the District of Colorado and Judge William Pryor of the United States Court of Appeals for the Eleventh Circuit. He worked as an associate for over two years at a leading national law firm, Hogan Lovells US LLP, and has been a partner since 2021 at Nussbaum Gleason PLLC, where he has worked on this case and other cases involving issues of religious liberty.

18. In sum, each of the attorneys for the CBA plaintiffs has focused on issues of religious liberty in his legal practice, and together they provided a level of expertise and experience in the area that made them uniquely qualified to represents the interests of their clients in this litigation. One sees evidence of their expertise and experience in the sophistication and compelling clarity of the arguments advanced in their briefs in this case.

C. Hourly Rates and Hours Billed

19. I am familiar with the billing rates at my firm for attorneys involved in federal court litigation at the trial and appellate levels. I am also generally familiar with the billing rates charged by attorneys at other major firms in complex litigation, which I consider this case to be.

20. I have reviewed the billing rates for which the attorneys for the CBA plaintiffs seek recovery in this case. In my opinion, those rates are reasonable for lawyers with the skill and experience that they brought to bear in the case.

21. The hourly rates sought in this petition are as follows:

PRIMARY TIMEKEEPERS' ACTUAL HOURLY RATE BY YEAR

Timekeeper	2016	2017	2018	2019	2020	2021	2022	2023
Eric Kniffin (2003)	\$355	\$370	\$395	n/a	n/a	n/a	n/a	n/a
Matthew Mellema (2013)	\$260	\$260	n/a	n/a	n/a	n/a	n/a	n/a
Andrew Nussbaum (2016)	n/a	n/a	n/a	n/a	n/a	\$400	\$410	\$425
Martin Nussbaum (1985)	\$510	\$510	\$550	\$560	\$575	\$585	\$595	\$595
Ian Speir (2011)	\$310	\$350	\$380	\$395	\$425	\$450	\$475	\$475
Paralegals	\$210	\$215	n/a	\$250	\$125	\$125	\$150	\$150

22. These rates are very reasonable considering the experience and expertise of counsel. At the time that he was billing at the hourly rate of \$355 (2016), Mr. Kniffin had 13 years of experience. Ian Speir had over ten years of experience when he was billing at a rate of \$475 in 2023. Andrew Nussbaum had five years of experience when he was billing at \$400 in 2021. Martin Nussbaum had over 20 years of experience, and was recognized as one of the leading lawyers in the country in this area, when he was billing at \$510 in 2016.

23. The rates requested by these attorneys are considerably lower than the rates that my firm and other major law firms would have charged in this case. My current hourly rate is \$1,550 per hour. My firm provides a discount of as much as 35% to religious, non-profit organizations that I represent in litigation. That brings my current hourly rate down to \$1,000 per hour for cases like this one, and that is the rate at which I am being compensated to prepare

this declaration. With similar discounts, the current hourly rates of a junior partner in my firm would be approximately \$800 and that of a mid-level associate would be approximately \$550.

24. The hourly rates at my firm are in line with the hourly rates of other national law firms with the resources, staff, and complex litigation experience required to handle a case like this one.

25. Cases involving legal challenges to federal regulations are often brought in the United States District Court for the District of Columbia. The Department of Justice has developed a matrix of hourly rates, by years of experience, to assist with resolving requests for attorney's fees in complex civil cases that are handled by the Civil Division of the United States Attorney's Office for the District of Columbia. *See* Ex. A to this Declaration. The hourly rates reflected in that matrix—known as the Fitzpatrick Matrix—are considerably higher than the actual hourly rates charged by the attorneys in this case. For the years 2021-2023, for example, a comparison of the hourly rates charged in this case with the hourly rates approved in the Fitzpatrick Matrix, by years of experience, shows the following:

Martin Nussbaum	Rate Charged	Fitzpatrick Matrix
2021 (26 years)	\$585	\$708
2022 (27 years)	\$595	\$736
2023 (28 years)	\$595	\$787
Ian Speir		
2021 (10 years)	\$450	\$570
2022 (11 years)	\$475	\$601
2023 (12 years)	\$475	\$652
Andrew Nussbaum		
2021 (5 years)	\$400	\$504
2022 (6 years)	\$410	\$535
2023 (7 years)	\$425	\$584

As this comparison shows, the rates approved by the Justice Department for complex civil litigation in the District of Columbia are higher than the rates charge by the attorneys in this case by a factor of 20% or more in 2021 and 30% or more in 2023.

26. The hourly rates sought in this case are considerably lower than the rates that have been sought and recovered by The Becket Fund in in similar cases.

a. Earlier this year, the United States District Court for the Northern District of Texas awarded The Becket Fund over \$2 million in attorneys' fees for their work in a RFRA case very similar to this one, in which injunctive relief was entered against the HHS rule requiring the provision of abortion and gender transition services. *Franciscan Alliance v. Beccerra*, No. 7:16-cv-00108-O, 2023 WL 4462059, at *9 (N.D. Tex. 2023). The Court found that the case, which (like this one) involved a claimed "right to a religious exemption," was "a highly complex case" requiring counsel from outside the area "with specialized experience." *Id.* at *7-8. It therefore awarded fees based on rates in Washington, D.C., where The Becket Fund is located. For lawyers with 12 and 16 years of experience in 2016, the court approved rates \$860 and \$1,000 in 2016, and \$1,000 and \$1,200 in 2020. *See* Pl. Mem. Supp. Their Mot. Award Att'y's Fees and Expenses, *Franciscan Alliance v. Beccerra*, No. 7:16-cv-00108-O, Exs. 1-E, 1-F, 2(¶20) (N.D. Tex. Dec. 23, 2022). Those lawyers had roughly half the 31 years of experience that Martin Nussbaum had in 2016. Yet the rates that they recovered were as much as two times the rate sought by Martin Nussbaum in this case (\$510 in 2016 and \$575 in 2020).

b. In 2021, the United States District Court for the Southern District of Iowa awarded attorneys' fees to The Becket Fund in a case in which they had successfully argued that a public university had violated the constitutional rights of religious student organizations by selectively deregistering them based on their religious beliefs. The court approved hourly rates

of \$914 for an attorney with 20 years of experience (Eric Baxter) and \$759 for an attorney with 13 years of experience (Daniel Blomberg). *Intervarsity Christian Fellowship v. Univ. of Iowa*, No. 18-cv-80, Dkt. No. 101 (S.D. Iowa Nov. 18, 2021); *Business Leaders in Christ v. Univ. of Iowa*, No. 17-cv-80, Dkt. No. 147 (S.D. Iowa Nov. 10, 2021). The Court found that those rates were “reasonable given the complex nature of the issues in this case and the extensive experience Plaintiff’s counsel has in constitutional litigation.” *Business Leaders, supra*, at 3. Again, the rates approved as reasonable in those cases are much higher than the rates sought by the attorneys with comparable experience in this case (\$510-\$595 for Martin Nussbaum based on 21-28 years of experience, and \$355-\$395 for Eric Kniffin based on 13-15 years of experience).

27. The hourly rates sought in this case are in line with hourly rates that have been approved in fee awards in other cases involving successful constitutional challenges in courts across the country. For example:

a. In an excessive force case tried in 2021 in the United States District Court for the District of Colorado, the United States Court of Appeals for the Tenth Circuit upheld hourly rates of \$575 and \$595 for partner-level attorneys with “decades of criminal and civil trial experience” but no apparent expertise in civil rights litigation, and \$375 hours for associates with roughly a decade of experience. *Valdez v. MacDonald*, 66 F.4th 796, 838, 840-41 (10th Cir. 2023).

b. In a case establishing the unconstitutional vagueness of a city’s permitting process, the United States District Court for the Northern District of California approved hourly rates of \$550 to \$800 for lawyers with experience ranging from 15 years to 40 years. *Zeleny v. Becerra*, No. 17-cv-07357-RS, 2022 WL 562824, at *3 (N.D. Cal. Feb. 24, 2022), *appeal*

dismissed sub nom. Zeleny v. City of Menlo Park, No. 22-15449, 2022 WL 4459901 (9th Cir., May 6, 2022).

c. In a case of unlawful arrest and excessive force, the United States District Court for the Southern District of New York in 2021 awarded fees at an hourly rate of \$500 to a lawyer with more than 20 years of experience in civil rights cases, and \$400 to a lawyer with four years of experience as an Assistant District Attorney and five years of experience in civil rights cases. *Field v. Metropolitan Transportation Authority*, No. 20-cv-928 (RA), 2021 WL 22817 (S.D.N.Y. Jan. 4, 2021).

d. In a case establishing that correctional officers' deliberate indifference to an inmate's medical needs violated the Constitution, the United States District Court for the Middle District of Alabama in 2020 awarded \$300,000 in fees based on a 50% contingency fee arrangement, even though that was more than 5 times the fee that would have resulted from lodestar rates of \$500 and \$400 per hour for the two attorneys in the case. *Casey v. Gartland*, No. 2:18cv890-MHT, 2020 WL 4470444 (M.D. Ala. Aug. 4, 2020).

e. In a case successfully challenging the constitutionality of a Michigan law eliminating straight-ticket voting 2019, the United States District Court for the Eastern District of Michigan approved an hourly rate of \$500 for two lead counsel with 35 and 44 years of experience. *Mich. State A. Philip Randolph Inst. v. Johnson*, No. 16-cv-11844, 2019 WL 2314861, at *5-7 (E.D. Mich., Southern Div., May 31, 2019).

f. In a Fifth Amendment takings case, the United States Court of Federal Claims approved fees for work in 2016-17 based on a matrix utilized by the United States Attorney's Office at the time: \$543-\$581 for attorneys with 20+ years of experience, \$465-516 for attorneys

with 11-19 years of experience, and \$395 for attorneys with 8-10 years of experience. *McCarty v. United States*, 142 Fed. Cl. 616, 624 (Ct. Cl. 2019).

g. In a false arrest/excessive use of force case in 2017, the United States District Court for the Southern District of New York awarded hourly rates of \$625 for the experienced (27 years) civil rights attorney who tried the case, \$550 for an experienced lawyer who assisted in preparing the case and observed the trial, and \$500 for a 14-year associate who had participated in the trial. *Alicea v. City of New York*, 272 F. Supp.3d 603 (S.D.N.Y. 2017).

h. In a case of false arrest, the United States District Court for the Eastern District of Virginia in 2012 held that rates of \$585 for experienced lead counsel and \$365 for a senior associate were reasonable. *McAfee v. Boczar*, 906 F. Supp.2d 484 (E.D. Va. 2012).

i. In a case involving a successful First Amendment challenge to ordinances regulating vending and expressive activity on a beach boardwalk and a city council's rules of decorum, the United States District Court for the Central District of California in 2014 awarded attorney's fees at hourly rates of \$775 for a lawyer with significant experience litigating First Amendment cases during his four 43 years of practice; \$675 for a lawyer with 35 years of experience including 26 years assisting in litigating First Amendment cases; \$375 for a lawyer with five year of experience; and \$200 for an attorney with less than one year of experience. *Dowd v. City of Los Angeles*, 28 F. Supp.3d 1019, 1052-58 (C.D. Cal. 2014).

j. In a case challenging a warrantless search, the United States District Court for the District of Minnesota in 2014 approved rates of \$450 for an attorney with over 20 years of experience and \$225 for an attorney with three years of experience. *Rosen v. Wentworth*, 13 F. Supp. 3d 944, 951 (D. Minn. 2014).

k. In a case in which counsel achieved a settlement of a claim challenging delays in hearings afforded to subjects of child abuse allegations, the United States District Court for the Southern District of New York in 2012 awarded fees of \$450 per hour to a lawyer with 42 years of experience at a small firm who did most of the work by himself, including work that would be done by junior associates at other firms. *Finch v. N.Y. State Office of Child. & Fam. Servs*, 861 F. Supp. 2d 145, 153-54 (S.D.N.Y. 2012).

l. In a §1983 case against the District of Columbia and a group home, the United States District Court for the District of Columbia in 2013 awarded fees based on the matrix then in use in civil cases in the District (the *Laffey* Matrix): \$445 per hour for an attorney with 17-19 years of experience, and \$505 per hour for attorneys with more than 20 years of experience. *Harvey v. Mohammed*, 951 F. Supp. 2d 47, 55-56 (D.D.C. 2013).

m. In an excessive force case tried in 2012, the United States District Court for the Northern District of Illinois approved hourly rates of \$535 for lead counsel, “a highly accomplished trial attorney”; \$450 for a litigator with “impressive credentials and experience” in areas other than civil rights; and \$225 for a second-year associate. *Winston v. O’Brien*, 951 F. Supp. 2d 1004, 1007, 1009 (N.D. Ill. 2013).

n. In a case involving a successful First Amendment challenge to a state law that allowed physicians to opt out of providing prescribing information to intermediaries, the United States District Court for the District of Maine, recognizing the need to hire counsel from outside the district, approved hourly rates for partners based in the District of Columbia, Florida, and North Carolina under the District of Columbia-based *Laffey* Matrix: \$440-495 for work performed in 2007-2011. *IMS Health Corp. v. Schneider*, 901 F. Supp. 2d 172, 196 (D. Me. 2012).

28. In sum, the hourly rates requested by counsel for the CBA plaintiffs in this fee petition are lower than the rates that would have been charged by my firm and other major national firms, lower than the rates awarded to The Becket Fund in other cases, and well within the range of fees awarded in other cases involving the vindication of constitutional rights. Considering the experience, expertise, and skill of the counsel involved, the hourly rates requested in this matter are, in my opinion, quite reasonable.

29. I have reviewed the billing records of the lawyers in this case through the end of September 2023. Those records reflect some downward adjustments that I understand have been made to account for inefficiency or duplication of effort. I make similar adjustments in the bills that I prepare for clients. The resulting hours for which compensation is being sought appear reasonable to me in light of the complexity of the issues and the length and complexity of the litigation.

30. There are only three attorneys for these Plaintiffs who have devoted more than 100 hours to the case in the 7 years that it was pending—Eric Kniffin (731 hours, mostly in 2016 and 2017, when he carried most of the load); Ian Speir (669 hours through the end of September) and Martin Nussbaum (625 hours through the end of September). To me this indicates that there was not any unnecessary duplication of effort. Significantly, in 2020 and 2021, when the lawyers briefed and argued the appeal and the motion for summary judgment and permanent declaratory and injunctive relief, there were only two lawyers who spent any considerable time on the matter (a third spent a total of 4 hours), and those two lawyers billed a total of 516 hours. This is a reasonable number of hours for the substantial effort that went into those briefs and arguments.

31. In sum, it is my opinion that the number of hours for which counsel seek compensation is reasonable given the length and complexity of the litigation.

D. Conclusion

32. For the foregoing reasons, it is my opinion that the hours and hourly rates claimed in the petition are reasonable given the qualifications and skill of the attorneys, the need for counsel with the experience and expertise that they brought to bear, the opposition that they faced, the length and complexity of the issues, and the result that they achieved.

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



Kevin T. Baine

Date: December 4, 2023

EXHIBIT A

THE FITZPATRICK MATRIX

Hourly Rates (\$) for Legal Fees for Complex Federal Litigation in the District of Columbia

Years Exp. / Billing Yr.	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
35+	535	563	591	619	647	675	703	731	736	760	807
34	534	562	590	618	646	674	702	729	734	758	805
33	532	560	588	616	644	672	700	728	733	757	804
32	530	558	586	614	642	670	698	726	730	754	801
31	527	555	583	611	639	667	695	723	728	752	799
30	524	552	580	608	636	664	692	720	725	749	795
29	521	549	577	605	633	661	689	717	721	745	791
28	517	545	573	601	629	657	685	713	717	741	787
27	512	540	568	596	624	652	680	708	713	736	782
26	508	536	564	592	620	648	676	704	708	731	776
25	502	530	558	586	614	642	670	698	703	726	771
24	497	525	553	581	609	637	665	693	697	720	765
23	491	519	547	575	603	630	658	686	691	714	758
22	484	512	540	568	596	624	652	680	684	707	751
21	477	505	533	561	589	617	645	673	677	699	742
20	470	498	526	553	581	609	637	665	670	692	735
19	462	490	518	546	574	602	630	658	662	684	726
18	453	481	509	537	565	593	621	649	653	675	717
17	445	473	500	528	556	584	612	640	645	666	707
16	435	463	491	519	547	575	603	631	635	656	697
15	426	454	482	510	538	566	593	621	626	647	687
14	416	443	471	499	527	555	583	611	615	635	674
13	405	433	461	489	517	545	573	601	605	625	664
12	394	422	450	478	506	534	562	590	594	614	652
11	382	410	438	466	494	522	550	578	582	601	638
10	371	399	427	455	483	510	538	566	570	589	625
9	358	386	414	442	470	498	526	554	558	576	612
8	345	373	401	429	457	485	513	541	545	563	598
7	332	360	388	416	444	472	500	528	532	550	584
6	319	347	375	403	431	458	486	514	518	535	568
5	305	332	360	388	416	444	472	500	504	521	553
4	290	318	346	374	402	430	458	486	489	505	536
3	275	303	331	359	387	415	443	471	474	490	520
2	260	287	315	343	371	399	427	455	458	473	502
1	244	272	300	328	356	384	412	439	442	457	485
0	227	255	283	311	339	367	395	423	426	440	467
P*	130	140	150	160	169	179	189	199	200	207	220

* = Paralegals/Law Clerks

Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared to assist with resolving requests for attorney's fees in complex civil cases in District of Columbia federal courts handled by the Civil Division of the United States Attorney's Office for the District of Columbia. It has been developed to provide "a reliable assessment of fees charged for complex federal litigation in the District [of Columbia]," as the United States Court of Appeals for the District of Columbia Circuit urged. *DL v. District of Columbia*, 924 F.3d 585, 595 (D.C. Cir. 2019). The matrix has not been adopted by the Department of Justice generally for use outside the District of Columbia, nor has it been adopted by other Department of Justice components.
2. The matrix is intended for use in cases in which a fee-shifting statute permits the prevailing party to recover "reasonable" attorney's fees. *E.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412(b). A "reasonable fee" is a fee that is sufficient to attract an adequate supply of capable counsel for meritorious cases. *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010). The matrix is not intended for use in cases in which the hourly rate is limited by statute. *E.g.*, 28 U.S.C. § 2412(d).
3. For matters in which a prevailing party agrees to payment pursuant to this fee matrix, the United States Attorney's Office will not request that a prevailing party offer the additional evidence that the law otherwise requires. *See, e.g., Eley v. District of Columbia*, 793 F.3d 97, 104 (D.C. Cir. 2015) (quoting *Covington v. District of Columbia*, 57 F.3d 1101, 1109 (D.C. Cir. 1995) (requiring "evidence that [the] 'requested rates are in line with those prevailing in the community for similar services'")).
4. The years in the column on the left refer to an attorney's years of experience practicing law. Normally, an attorney's experience will be calculated based on the number of years since an attorney graduated from law school. If the year of law school graduation is unavailable, the year of bar passage should be used instead. Thus, an attorney who graduated from law school in the same year as the work for which compensation is sought has 0 years of experience. For all work beginning on January 1 of the calendar year following graduation (or bar admission), the attorney will have 1 year of experience. (For example, an attorney who graduated from law school on May 30 will have 0 years of experience until December 31 of that same calendar year. As of January 1, all work charged will be computed as performed by an attorney with 1 year of experience.) Adjustments may be necessary if an attorney did not follow a typical career progression or was effectively performing law clerk work. *See, e.g., EPIC v. Dep't of Homeland Sec.*, 999 F. Supp. 2d 61, 70-71 (D.D.C. 2013) (attorney not admitted to bar compensated at "Paralegals & Law Clerks" rate).
5. The data for this matrix was gathered from the dockets of cases litigated in the U.S. District Court for the District of Columbia using the following search in July 2020 in Bloomberg Law: keywords ("motion n/5 fees AND attorney!") + filing type ("brief," "motion," or "order") + date ("May 31, 2013 – May 31, 2020" under "Entries (Docket and Documents)"). This returned a list of 781 cases. Of those, cases were excluded if there was no motion for fees filed, the motions for fees lacked necessary information, or the motions involved fees not based on hourly rates, involved rates explicitly or implicitly based on an existing fee matrix, involved rates explicitly or implicitly subject to statutory fee caps (e.g., cases subject to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d)), or used lower rates prescribed by case law (e.g., *Eley*, 793 F.3d at 105 (Individuals with Disabilities in Education Act

cases)). After these excisions, 86 cases, many of which included data for multiple billers (and 2 of which only provided hourly rate data for paralegals), remained.

6. The cases used to generate this matrix constitute complex federal litigation—which caselaw establishes as encompassing a broad range of matters tried in federal court. *E.g.*, *Reed v. District of Columbia*, 843 F.3d 517, 527-29 (D.C. Cir. 2016) (Tatel, J., concurring) (noting that cases arising under the Freedom of Information Act, Title VII, the Americans with Disabilities Act, Constitutional Amendments, antitrust statutes, and others have been deemed complex, and even “relatively small” cases can constitute complex federal litigation, as they too require “specialized legal skills” and can involve “complex organizations,” such as “large companies”); *Miller v. Holzmann*, 575 F. Supp. 2d 2, 14-16, 17 (D.D.C. 2008) (prevailing market rates for complex federal litigation should be determined by looking to “a diverse range of cases”). That the attorneys handling these cases asked the court to award the specified rates itself demonstrates that the rates were “adequate to attract competent counsel, [while] not produc[ing] windfalls to attorneys.” *West v. Potter*, 717 F.3d 1030, 1033 (D.C. Cir. 2013) (quoting *Blum v. Stenson*, 465 U.S. 886, 897 (1984)). As a consequence, the resulting analysis yields the “prevailing market rate[] in the relevant community” for complex litigation undertaken in federal courts in the District of Columbia. *See Blum*, 465 U.S. at 895.
7. From these 86 complex federal cases, the following information was recorded for 2013 and beyond: hourly rate, the calendar year the rate was charged, and the number of years the lawyer was out of law school when the rate was charged (or, if law school graduation year was unavailable, years since bar passage), as defined above. If the graduation or bar passage year was not stated in a motion or its exhibits, then the lawyer’s biography was researched on the internet. Although preexisting fee matrices for the District of Columbia provide for mid-year rate changes, very few lawyers in the data submitted rates that changed within a calendar year. For this reason, the matrix was modeled using one rate for each calendar year. On the occasions when a lawyer expressed an hourly rate as a range or indicated the rate had increased during the year, the midpoint of the two rates was recorded for that lawyer-year.
8. The matrix of attorney rates is based on 675 lawyer-year data points (one data point for each year in which a lawyer charged an hourly rate) from 419 unique lawyers from 84 unique cases. The lawyer-year data points spanned from years 2013 to 2020, from \$100 to \$1250, and from less than one year of experience to 58 years.
9. Paralegal/law clerk rates were also recorded. The following titles in the fee motions were included in the paralegal/law clerk data: law clerk, legal assistant, paralegal, senior legal assistant, senior paralegal, and student clerk. The paralegal/law clerk row is based on 108 paralegal-year data points from 42 unique cases. They spanned from 2013 to 2019 and from \$60 to \$290. (It is unclear how many unique persons are in the 108 data points because paralegals were not always identified by name.)
10. The matrix was created with separate regressions for the lawyer data and the paralegal data. For the paralegal data, simple linear least-squares regression was used with the dependent variable hourly rate and the independent variable the year the rate was charged subtracted from 2013; years were

combined into one variable and subtracted from 2013 rather than modeled as separate indicator variables to constrain annual inflation to a constant, positive number. The resulting regression formula was $\text{rate} = 129.8789 + 9.902107 * (\text{year}-2013)$. For the lawyer data, least-squares regression was used with the dependent variable hourly rate and independent variables the year the rate was charged and the number of years of experience of the lawyer when the rate was charged. The year the rate was charged was subtracted from 2013 and modeled linearly as with the paralegal data. The number of years out of law school (or since year of bar passage) was modeled with both linear and squared terms, as is common in labor economics to account for non-linear wage growth (e.g., faster growth earlier in one's career than at the end of one's career). See, e.g., Jacob Mincer, *Schooling, Experience, and Earnings* (1974). The resulting regression formula was $\text{rate} = 227.319 + 16.54492 * \text{experience} - 0.2216217 * \text{experience}^2 + 27.97634 * (\text{year}-2013)$. Regressions were also run with log transformed rates and with a random-effect model (to account for several lawyers appearing more than once in the data), but both alternatives resulted in mostly lower rates than those reflected here; in order to minimize fee disputes, these models were therefore rejected in favor of the more generous untransformed, fixed-effect model. Rates from one case comprised 20% of the data; the regression was also run without that case, but the resulting rates were mostly lower and therefore rejected, again to minimize fee disputes.

11. The data collected for this matrix runs through 2020. To generate rates for 2021 and subsequent years, an inflation adjustment (rounded to the nearest whole dollar) was added. The United States Attorney's Office determined that, because courts and many parties have employed the legal services index of the Consumer Price Index to adjust attorney hourly rates for inflation, this matrix will do likewise. E.g., *Salazar v. District of Columbia*, 809 F.3d 58, 64-65 (D.C. Cir. 2015); *Eley*, 793 F.3d at 101-02; *DL*, 924 F.3d at 589-90.
12. This matrix was researched and prepared by Brian Fitzpatrick, the Milton R. Underwood Chair in Free Enterprise and Professor of Law at Vanderbilt Law School, with the help of his students.
13. This matrix and an alternative, preexisting matrix were extensively examined, and, based on that analysis, this matrix was the one selected for computation of the hourly rates for the attorneys' fees awarded in *J.T. v. District of Columbia*, Civ. A. No. 19-0989, 2023 WL 355940 (D.D.C. Jan. 23, 2023) (Howell, C.J.).

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

THE RELIGIOUS SISTERS OF MERCY,
et al.,

Plaintiffs,

v.

XAVIER BECERRA, Secretary of the
United States Department of Health and
Human Service, *et al.*,

Defendants.

No. 3:16-cv-386

CATHOLIC BENEFITS
ASSOCIATION, *et al.*

Plaintiffs,

v.

XAVIER BECERRA, Secretary of the
United States Department of Health and
Human Service, *et al.*,

Defendants.

No. 3:16-cv-432

**DECLARATION OF TROY A. EID IN SUPPORT OF PLAINTIFFS' MOTION FOR
ATTORNEY FEES**

Troy A. Eid, being of full age, certifies as follows:

1. I am a Shareholder with the law firm of Greenberg Traurig LLC ("GT Law"), an international law firm which has more than 2,650 attorneys in 47 locations in the United States, Europe, the Middle East, Latin America and Asia. I have twice been a Shareholder at GT Law: From 2003 to 2006, and again from 2009 to the present. During the interim, I served with the United States Department of Justice as explained below.

2. I am located in GT Law's office in Denver, CO and have both a local Colorado practice and a national practice. As such, I am familiar with local, regional and national law firm hourly rates, and with the rates charged by attorneys located in Colorado who offer specialized services on a regional and nationwide basis.

3. Since January 2009, I have co-chaired GT Law's American Indian Law Practice Group, an intra-firm network of more than two dozen attorneys from GT offices across the United States. I also maintain a significant national practice dealing with internal corporate and institutional investigations, often triggered when our clients receive federal grand jury subpoenas probing possible criminal activity.

4. In addition to representing GT clients, I have increasingly been appointed by federal courts around the United States, especially during the past decade, to mediate complex disputes between Indian tribes and multi-national energy companies, and between tribes and state governments. By way of illustration, I recently spent three years mediating a pipeline dispute between one of the world's largest crude-oil pipeline companies and a federally recognized Native American tribe in the Upper Midwest that involved more than 20 different attorneys and 35 experts specializing in various aspects of water quality, environmental protection and remediation, emergency response, and pipeline systems integrity.

5. From 2006 to 2009, I served as Colorado's 40th United States Attorney, appointed by President George W. Bush. During the Obama Administration, I was appointed by the United States Senate to chair the Indian Law and Order Commission, the national advisory board to the President and Congress for strengthening public safety and criminal justice for all 574 federally recognized Native American and Alaska Native tribes in the United States.

6. Before first joining GT in October 2003, I served on the cabinet of former Colorado Governor Bill Owens as Chief Legal Counsel to the Governor and later as the Executive Director of the Colorado Department of Personnel & Administration, where I directed Colorado's 72,000-member civil service system and supervised the cabinet department that provided business, financial, technology, procurement, real estate, administrative adjudication, and operational services to the state's \$8 billion government.

7. As part of my practice at GT Law, for a combined total of more than 17 years as a shareholder in the firm's Denver office, I have worked extensively as co-counsel with other many other law firms and attorneys based in the Colorado Front Range, as well as with lawyers practicing in various jurisdictions outside of Colorado and the Rocky Mountain West and Midwest, under circumstances in which I have been required to review and approve other lawyers' hourly billing rates. Based on the above, I am familiar with the range of attorney hourly rates routinely charged for handling complex constitution and administrative litigation in Colorado; the Rocky Mountain West and Midwest; and in many of the major metropolitan centers on the East and West Coasts.

8. I have broad experience with the legal market both in the Colorado Front Range and nationwide. GT's American Indian law practice, roughly half of which involves energy development, also frequently brings me to the Western Plains states, particularly North Dakota. Consequently, I am familiar with the reasons why counsel located in Colorado are selected for matters in those jurisdictions and the customary rates for those services.

9. The Denver-Colorado Springs legal market is the regional center for the Rocky Mountain West and extends to the Western Plains states. It is common for clients across that entire region to retain Colorado attorneys when they have complex matters or complicated disputes that would benefit from specialized legal services, but do not wish to retain an attorney from one of the even larger legal markets on the East and West Coasts and pay coastal rates.

10. I am also familiar with the billing rates charged by expert attorneys who practice constitutional law at the trial and appellate levels. As part of our American Indian Law Practice Group at GT Law, for instance, I have co-authored dozens of *amicus curiae* briefs for the United States Supreme Court and various federal courts of appeals. We often coordinate in these representations (on behalf of one or more Indian tribes) with many other regional and national law firms specializing in federal litigation that has national legal and public policy implications.

11. When this case was filed on December 18, 2016, Plaintiffs were represented by L. Martin Nussbaum and Ian Speir of Lewis Roca Rothgerber Christie LLP ("Lewis Roca"), with assistance from more junior attorneys. Mr. Nussbaum and Mr. Speir subsequently left Lewis Roca and created Nussbaum Gleason, a boutique law firm that specializes in representing religious institutions and other non-profit organizations in constitutional matters, commercial litigation, and issues related to real estate, entity structure and governance, employment, and intellectual property. This matter accompanied Nussbaum and Speir to their new firm.

12. I am familiar with Nussbaum Gleason, and with the practice group at Lewis Roca that preceded it. It has extensive experience and expertise relevant to this litigation and is a reasonable choice to handle this matter. Many if not most attorneys of comparable experience and reputation in this field are located in Washington, DC and charge rates higher than those charged by Nussbaum Gleason. The matter is of sufficient complexity and importance that it required the services of a substantial firm. Furthermore, the subject matter is highly controversial, and in my experience most major national and international firms tend to be increasingly reluctant to undertake the matter and prosecute it with the necessary vigor.

13. Although the firm is headquartered in Colorado Springs, Colorado, it is a sophisticated firm with a nationwide practice and is best understood as part of the greater Colorado Front Range legal market, not as a local Colorado Springs firm.

14. The stakes of the litigation were very high for the members of the Catholic Benefits Association, who were facing the prospect of choosing between their ability to participate in federal programs that were, in many cases, their primary source of revenue and performing medical

procedures that their religion teaches are gravely immoral. *See* Nondiscrimination in Health Programs and Activities, Fed. Reg. 47,824. This was quite literally “bet the hospital” litigation in my estimation.

15. Although they did not ultimately prevail on every point, Nussbaum Gleason achieved an excellent outcome for its clients. First, they successfully established standing in the District of North Dakota, which had favorable precedent from earlier case that raised similar issues, and obtained an emergency stay of the regulation. Both the District Court and the United States Court of Appeals for the Eighth Circuit ruled in their favor, *Religious Sisters of Mercy v. Azar*, 513 F.Supp.3d 1113 (D. N.D. 2021) and *Religious Sisters of Mercy v. Becerra*, 55 F.4th 583 (8th Cir. 2022).

16. The litigation was complex. The original complaint was 73 pages, 391 averments, 6 exhibits, and 15 separate causes of action. (Case no. 3:16-cv-00432).

17. It was also greatly complicated by the evolving regulatory environment. On June 6, 2019, the U.S. Department of Health and Human Services issued a notice of proposed rulemaking that promised to correct many of the issues with the previous rule, and which became final on June 19, 2020. Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority, 85 Fed. Reg. 37,160. This rule became the target of a new wave of litigation, which had to be closely monitored for its potential to influence the above-captioned case. This rule was then subsequently rescinded and replaced by the Biden Administration.

18. In my experience, regulatory developments and related litigation require significant resources to monitor and can greatly complicate and delay the progress of litigation.

19. Ultimately, the case was a complete victory for all the named Plaintiffs. *Religious Sisters of Mercy v. Becerra*, 55 F.4th 583 (8th Cir. 2022).

20. The only issue where Plaintiffs did not prevail was organizational standing, a jurisdictional defect that will likely prove curable. The dismissal of those particular plaintiffs was without prejudice.

21. This was an excellent result for Nussbaum Gleason’s clients. Even the unnamed members of the Catholic Benefits Association that did not ultimately establish standing obtained a five-year reprieve from a rule that could have substantially burdened their ability to operate. They also obtained a favorable and likely controlling precedent on the merits that should inure to their benefit in a subsequent lawsuit recently filed on their behalf.

22. I have reviewed the billing records that have been prepared by Nussbaum Gleason and Lewis Roca and find them to be very reasonable. They are appropriate to the complexity of the litigation and its importance.

23. I have also reviewed the rates and find them reasonable for the Front Range legal market, for matters of this nature and scope.

24. In considering the reasonableness of these rates I looked to my own experience in private and public law practice, along with decisions from the District of Colorado regarding reasonable attorney rates and the rates commonly charged by our firm.

25. Courts seeking to establish reasonable rates in the Front Range market have historically relied on a survey that was conducted by the National Law Journal in 2010, at which time Denver law firms were billing between \$285-\$810/hr. for partners and between \$170-\$540/hr. for associates. *See Miller v. Bahakel Commc'ns*, Civil Action 20-cv-0791-WJM-KMT, at *4 (D. Colo. May 9, 2022); *Biax v. Nvidia*, 2013 WL 4051908 (D. Colo. 2013). Rates have risen considerably in the decade since that survey was conducted.

26. In support of the rates in *Miller v. Bahakel*, a partner at the Denver law firm Wheeler Trigg O'Donnell, which maintains a high-profile regional and national law practice in addition to practicing in Colorado, submitted an expert report stating that in 2020, his firm charged standard hourly rates ranging from \$455 to \$850 /hr for partners, rising to \$475 and \$885 in 2021. Declaration of Edward Stewart in Support of Bahakel's Motion for Sanctions, *Miller v. Bahakel Commc'ns*, Civil Action 20-cv-0791-WJM-KMT, Dkt. 42-1 at ¶ 7, attached to this Declaration as an Exhibit. He also attested that they charged between \$415 to \$430 for associates with approximately five years of experience. *Id.* at ¶ 8. "The Court agrees with Mr. Stewart's analysis." *Miller*, *supra*, at *4.

27. As a longtime GT Law Shareholder, I am familiar with the process by which our law firm sets rates. It does so in part by using survey data from PricewaterhouseCoopers, broken down by market and practice group, when available, and then adjusted based on our own market experience. Shareholders at GT Law are responsible for setting their own rates within these market parameters. In 2023, for example, my standard hourly rate is \$935 per hour, set to rise to \$1,015/hour this January 1st. My practice with new clients is to discount these rates by 10 percent.

28. While GT Law's rates for all our attorneys are not public information, I can say that my own hourly rate is consistent with that of most other shareholders of my years of practice experience in our Denver office, who charge between \$800 and \$1,600 per hour depending on their particular area of specialized law practice. Senior associates in our firm's office in Denver typically charge between \$550 and \$850 per hour.

29. In conclusion, based on my knowledge and experience litigating cases in Colorado and nationwide, my familiarity with the hourly rates charged by firms in these legal markets, the qualifications of the Nussbaum Gleason attorneys involved in this litigation, the nature and complexity of this litigation, and the success obtained for the client, it is my opinion that the Nussbaum Gleason's requested rates are reasonable.

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

Dated: November 28, 2023

A handwritten signature in blue ink, appearing to read "Tim A. Eio", is written above a horizontal line.